

TORONTO TRANSIT COMMISSION

as Landlord

- and -

**OPG INVESTMENT HOLDINGS GP INC.
as general partner for and on behalf of
OPG INVESTMENT HOLDINGS LIMITED PARTNERSHIP**

- and -

**CT REIT (YONGE EGLINTON) GP CORP.
as general partner for and on behalf of
CT REIT (YONGE EGLINTON) LIMITED PARTNERSHIP**

- and -

**CANSQUARE (CANADA 8) GP LIMITED
as general partner for and on behalf of
CANSQUARE (CANADA 8) LIMITED PARTNERSHIP**

collectively, as Tenants

CONSOLIDATED AMENDED AND RESTATED GROUND LEASE

YONGE-EGLINTON CANADA SQUARE

April 30, 2019

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CONSOLIDATED AMENDED AND RESTATED GROUND LEASE

THIS LEASE is made as of the 30th day of April, 2019.

BETWEEN:

TORONTO TRANSIT COMMISSION

(hereinafter called the "**Landlord**")

OF THE FIRST PART,

- and -

OPG INVESTMENT HOLDINGS GP INC.
as general partner for and on behalf of
OPG INVESTMENT HOLDINGS LIMITED PARTNERSHIP

(hereinafter called "**OPG**")

- and -

CT REIT (YONGE EGLINTON) GP CORP.
as general partner for and on behalf of
CT REIT (YONGE EGLINTON) LIMITED PARTNERSHIP

(hereinafter called "**CT LP**")

- and -

CANSQUARE (CANADA 8) GP LIMITED
as general partner for and on behalf of
CANSQUARE (CANADA 8) LIMITED PARTNERSHIP

(hereinafter called "**Cansquare**" and together with
OPG and CT LP collectively called the "**Tenants**" and each a "**Tenant**")

OF THE SECOND PART.

WHEREAS:

General:

- A. The Landlord is the registered owner of the Lands described in Schedule "A".
- B. The Landlord is a city board of the City of Toronto continued pursuant to section 394 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A.

Phase I Lands:

- C. The Landlord, as lessor, and Yonge-Eglinton Building Limited, as lessee ("**YEBL**"), together with Loblaw Groceterias Co. Limited and Promenade Swiss Corporation Limited, previously entered into a certain lease made May 12, 1961 with respect to certain lands and premises more particularly described therein comprising a portion of the Lands (herein referred to as the "**Original Phase I Lands**"), notice of which was registered in the Land Registry Office for the Registry Division of Toronto (the "**LRO**") as Instrument No. EN91666 (the "**Original Phase I Lease**").
- D. The Original Phase I Lease was amended by a lease amending agreement dated June 1, 1972 between the Landlord, YEBL and The Penn Mutual Life Insurance Company, notice of which lease amending agreement was registered in the LRO as Instrument No. EN120984 (the "**Phase I Lease Amending Agreement**" and the Original Phase I Lease as so amended the "**Amended Phase I Lease**").
- E. The Phase I Lease Amending Agreement, among other things, amended, the description of the Original Phase I Lands, which Original Phase I Lands, as so amended, are referred to herein as the "**Amended Phase I Lands**".
- F. A notice of claim under subsection 113 (2) of the *Registry Act* (Ontario) in respect of the Amended Phase I Lease was registered in the LRO as Instrument No. CA621807.
- G. The Landlord, as lessor, and YEBL, as lessee, and Promenade Swiss Corporation Limited, as guarantor, also previously entered into a certain lease made February 1, 1964 with respect to certain lands and premises more particularly described therein (herein referred to as the "**Driveway Lands**") to be used as a delivery driveway to the building at 2200 Yonge Street, notice of which was registered in the LRO as Instrument No. EN96241 (the "**Driveway Lease**").
- H. The Landlord, as lessor, and YEBL, as lessee, also previously entered into a certain lease made October 1, 1975 with respect to certain lands and premises more particularly described therein (herein referred to as the "**Pavilion Lands**"), to be used for the construction of a banking pavilion and construction of the subway entrance at the corner of Yonge Street and Eglinton Avenue, notice of which was registered in the LRO as Instrument No. CA665385 (herein referred to as the "**Pavilion Lease**").
- I. The Landlord, as lessor, and YEBL, as lessee, also previously entered into a certain lease made May 15, 1984, notice of which was registered in the LRO as Instrument No. CA665386 (herein referred to as the "**Subway Access Agreement**"), to increase the amount of retail space on the subway concourse level and subsequently, pursuant to the Amended Phase I Lease, the descriptions of the T.T.C. Public Areas, T.T.C. Service/Utility Area, T.T.C. Subway/Bus Retail Areas, Tenants' Service/Utility Areas and the Tenants' Subway Retail Areas (as such terms are defined in the Amended Phase I Lease) were amended to conform the demising lines for such spaces to the actual allocations and occupation of space on the subway concourse level.

- J. The Landlord, as landlord, and YEBL, as tenant, entered into a consolidated and re-stated lease made as of October 12, 2001, to amend, consolidate and restate the Amended Phase I Lease, the Pavilion Lease and the Subway Access Agreement and to incorporate the Driveway Lands and the Pavilion Lands as part of the Amended Phase I Lands, notice of which was registered in the Land Registry Office for the Land Titles Division of Toronto (the "**LTO**") as Instrument No. AT584913 (the "**Consolidated Phase I Lease**").

Boiler Room Lands and Steam Room Lands:

- K. The Landlord, as lessor, and YEBL, as lessee, and Promenade Swiss Corporation Limited, as guarantor, also previously entered into a certain conditional sale agreement and lease made August 15, 1962 with respect to certain lands and premises more particularly described therein (herein referred to as the "**Boiler Room Lands**"), to be used to for the operation of a boiler plant and the supply of steam, notice of which was registered in the LRO as Instrument No. EN98257 (herein referred to as the "**Boiler Room Lease**").
- L. The Landlord, as lessor, and YEBL, as lessee, also previously entered into a certain lease made June 1, 1972 with respect to certain lands and premises more particularly described therein (herein referred to as the "**Steam Room Lands**"), to be used to house certain steam room equipment, notice of which was registered in the LRO as Instrument No. EN121007 (herein referred to as the "**Steam Room Lease**").

Phase II Lands:

- M. The Landlord, as lessor, and Transortium Realty Limited, as lessee ("**Transortium**"), previously entered into a certain lease made October 22, 1970 with respect to certain lands and premises more particularly described therein comprising a portion of the Lands (herein referred to as the "**Phase II Lands**"), notice of which was registered in the LRO as Instrument No. EN120985 (the "**Original Phase II Lease**").
- N. The Original Phase II Lease was amended by a lease amending agreement dated as of October 12, 2001 between the Landlord and Transortium, notice of which lease amending agreement was registered in the LTO as Instrument No. AT584914 (the Original Phase II Lease as so amended the "**Amended Phase II Lease**").

Phase III Lands:

- O. The Landlord, as lessor, and Transplex Building Corporation Limited, as lessee, ("**Transplex**"), previously entered into a certain lease made June 11, 1971 with respect to certain lands and premises more particularly described therein comprising a portion of the Lands (herein referred to as the "**Phase III Lands**"), notice of which was registered in the LRO as Instrument No. CA651947 (the "**Original Phase III Lease**").
- P. The Original Phase III Lease was amended by a lease amending agreement dated as of October 12, 2001 between the Landlord and Transplex and YEBL, notice of which lease amending agreement was registered in the LTO as Instrument No. AT584915 (the Original Phase III Lease as so amended the "**Amended Phase III Lease**").

Assignment of the Leases:

- Q. YEBL transferred and assigned its interest in each of the Consolidated Phase I Lease, the Driveway Lease, the Subway Access Agreement, the Pavilion Lease, the Steam Room Lease and the Boiler Room Lease to 2200 Yonge (Canada 8) Holdings Limited by assignments of lease each dated October 1, 2004, notices of which were registered in the LTO as Instruments No. AT620711, AT620712, AT620713, AT620714, AT620749 and AT620750, respectively.
- R. Transortium transferred and assigned its interest in the Amended Phase II Lease to 2180 Yonge (Canada 8) Holdings Limited by an assignment of lease dated October 1, 2004, notice of which was registered in the LTO as Instrument No. AT620715.
- S. Transplex transferred and assigned its interest in the Amended Phase III Lease to 2190 Yonge (Canada 8) Holdings Limited by an assignment of lease dated October 1, 2004, notice of which was registered in the LTO as Instrument No. AT620716.
- T. By assignments of lease dated July 17, 2014, 2200 Yonge (Canada 8) Holdings Limited, transferred and assigned an undivided 1/3 interest in each of the Consolidated Phase I Lease, the Driveway Lease, the Subway Access Agreement, the Pavilion Lease, the Boiler Room Lease and the Steam Room Lease, respectively, to each of:
- (a) Oxford Properties Office GP Inc. as general partner for Oxford Properties Office Limited Partnership, notices of which were registered in the LTO as Instruments No. AT3637320, AT3637321, AT3637322, AT3637323, AT3637325 and AT3637326; and
 - (b) CT REIT (Yonge Eglinton) Inc., notices of which were registered in the LTO as Instruments No. AT3637329, AT3637330, AT3637331, AT3637332, AT3637334 and AT3637335.
- U. By assignments of lease dated July 17, 2014, 2180 Yonge (Canada 8) Holdings Limited transferred and assigned an undivided 1/3 interest in the Amended Phase II Lease to each of:
- (a) Oxford Properties Office GP Inc. as general partner for Oxford Properties Office Limited Partnership, notice of which was registered in the LTO as Instrument No. AT3637324; and
 - (b) CT REIT (Yonge Eglinton) Inc., notice of which was registered in the LTO as Instrument No. AT3637333.
- V. By assignments of lease dated July 17, 2014, 2190 Yonge (Canada 8) Holdings Limited transferred and assigned an undivided 1/3 interest in the Amended Phase III Lease to each of:

- (a) Oxford Properties Office GP Inc. as general partner for Oxford Properties Office Limited Partnership, notice of which was registered in the LTO as Instrument No. AT3637327; and
 - (b) CT REIT (Yonge Eglinton) Inc., notice of which was registered in the LTO as Instrument No. AT3637336.
- W. CT REIT (Yonge Eglinton) Inc. holds its interest in the property as nominee for CT LP.
- X. Effective September 1, 2014, Oxford Properties Office GP Inc. changed its name to OPG Investment Holdings GP Inc. and Oxford Properties Office Limited Partnership changed its name to OPG Investment Holdings Limited Partnership.

T.T.C. Development Lands

- Y. The Landlord, as lessor, and the Tenants, as lessee, have entered into a lease dated as of the date hereof with respect to the T.T.C. Development Lands (the "**T.T.C. Development Lands Lease**").
- Z. Concurrently with the execution of the T.T.C. Development Lands Lease, the Tenants, as sublandlord, and the Landlord, as subtenant, have entered into a sublease (the "**T.T.C. Temporary Operations Sublease**") dated as of the date hereof with respect to a portion of the T.T.C. Development Lands, being the areas described in Schedule "B-2" (the "**T.T.C. Temporary Operations Lands**").

This Agreement:

- AA. Each of Cansquare, OPG and CT LP now holds an undivided 1/3 beneficial interest, as tenants in common, under each of the Consolidated Phase I Lease (and each of the Driveway Lease, the Subway Access Agreement and the Pavilion Lease, if and to the extent still in force), the Boiler Room Lease, the Steam Room Lease, the Amended Phase II Lease and the Amended Phase III Lease (collectively, the "**Original Leases**").
- BB. 2180 Yonge (Canada 8) Holdings Limited, 2190 Yonge (Canada 8) Holdings Limited and 2200 Yonge (Canada 8) Holdings Limited, collectively, hold an undivided 1/3 registered interest under the Original Leases as nominee for and on behalf of Cansquare.
- CC. Pursuant to lease amending agreements each made as of the date hereof, the Landlord and the Tenants agreed to extend the term of each of the Original Leases (collectively, the "**Extension Agreements**").
- DD. The Landlord and the Tenants have agreed to enter into this Lease to amend, restate and consolidate each of the Original Leases, as extended pursuant to the Extension Agreements, and the T.T.C. Development Lands Lease as hereinafter provided, with the intention that: (i) each of the Original Leases, as extended pursuant to the Extension Agreements, and the T.T.C. Development Lands Lease, shall be and remain in full force and effect without novation and all parties to the Original Leases and the T.T.C. Development Lands Lease or the assignees thereof, as the case may be, retain all rights as

between themselves under the Original Leases and the T.T.C. Development Lands Lease with respect to that period of time prior to the Commencement Date; and (ii) this Lease will continue the leasehold interest created by the Original Leases, as extended pursuant to the Extension Agreements, and the T.T.C. Development Lands Lease as hereby amended, restated and consolidated, and the terms and provisions of such Original Leases and T.T.C. Development Lands Lease shall be superseded by the terms and provisions set forth herein without novation, such that the terms and provisions contained in the Original Leases and in the T.T.C. Development Lands Lease shall be of no further force or effect from and after the Commencement Date.

EE. The T.T.C. Temporary Operations Sublease shall be and remain in full force and effect from and after the Commencement Date until its expiry or earlier termination.

NOW THEREFORE in consideration of the covenants, agreements and conditions herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto), the Parties hereby covenant, agree and declare as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Lease, unless there is something in the subject matter or the context inconsistent therewith:

"10 Year Extension Period" has the meaning ascribed thereto in Subsection 6.7(b).

"2016 Specifications" has the meaning ascribed thereto in Subsection 7.1(a).

"Accepting Tenants" has the meaning ascribed thereto in Subsection 14.2(c) or Schedule "C", as applicable.

"Additional Improvements" means (i) any New Buildings which are constructed upon or affixed to the Lands after the Commencement Date; and (ii) any alterations, extensions, additions, redevelopment, reconstruction or replacement of any Existing Buildings or any New Buildings, which are constructed upon or affixed to the Lands after the Commencement Date and which have the result of adding any net additional GFA to the Buildings on the Lands.

"Additional Rent" means any amount payable by the Tenants to the Landlord pursuant to this Lease in addition to Base Rent, other than HST.

"Adjusted Applicable Unit Rate" has the meaning ascribed thereto in Subsection 3.6.

"Adjusted Initial FMVL" has the meaning ascribed thereto in Subsection 3.5(a)(ii).

"Adjusted Residential Base Rent Per Square Foot" has the meaning ascribed thereto in Subsection 3.7(a).

"**Affiliate**" means, with respect to any Person, any other Person that:

- (i) directly or indirectly, through one or more intermediaries, Controls or is Controlled by such first Person and such first Person has not less than 50% of the economic interests, directly or indirectly, in the other Person, or vice versa; or
- (ii) is directly or indirectly, through one or more intermediaries, Controlled by a Person that directly or indirectly, through one or more intermediaries, Controls such first Person and has not less than 50% of the economic interests, directly or indirectly, in the first Person and the other Person,

provided that, in addition to the foregoing:

- (iii) in respect of OPG, "Affiliate" shall also mean any Person in which: (A) Ontario Municipal Employees Retirement System ("**OMERS**") beneficially owns, directly or indirectly, not less than 97% of the issued and outstanding voting and non-voting securities and interests (including any warrants, options or other rights to purchase such securities or interests and securities or obligations convertible into or exchangeable for such securities or interests) of such Person; or (B) OMERS possesses, or has the right to acquire at any time, direct or indirect control in fact of such Person through ownership of or control over (whether by way of contract or otherwise), not less than 97% of the issued and outstanding voting and non-voting securities or interests (including any warrants, options or other rights to purchase such securities or interests and securities or obligations convertible into or exchangeable for such securities or interests) of such Person; and
- (iv) in respect of CT LP, "Affiliate" shall also mean: (A) any Person in which CT REIT and/or CTC owns, directly or indirectly, not less than 50% of the issued and outstanding voting securities, interests and units (including any warrants, options or other rights to purchase such securities, interests or units and securities or obligations convertible into or exchangeable for such securities, interests or units) of such Person; or (B) any Person in which CT REIT and/or CTC possesses, or has the right to acquire at any time, direct or indirect control in fact of such Person through ownership of or control over (whether by way of contract or otherwise), not less than 50% of the issued and outstanding voting securities, interests and units (including any warrants, options or other rights to purchase such securities, interests or units and securities or obligations convertible into or exchangeable for such securities, interests or units) of such Person; or (C) CT REIT and/or CTC, so long as CT REIT and/or CTC owns, directly or indirectly not less than 50% of the issued and outstanding voting securities, interests and units (including any warrants, options or other rights to purchase such securities, interests or units and securities or obligations convertible into or exchangeable for such securities, interests or units) of CT LP.

"**Amended Phase I Lands**" has the meaning ascribed thereto in Recital E.

"**Amended Phase I Lease**" has the meaning ascribed thereto in Recital D.

"**Amended Phase II Lease**" has the meaning ascribed thereto in Recital N.

"**Amended Phase III Lease**" has the meaning ascribed thereto in Recital P.

"**Anchor Tenant Office Lease**" means a lease with an anchor Space Tenant to lease the entire office component of the First Phase of the Development (excluding, for certainty, the retail, residential and other ancillary uses in the First Phase of the Development, if any).

"**Annual Economic Force Majeure Deadline**" has the meaning ascribed thereto in Subsection 6.8(d)(iii).

"**Applicable Laws**" means all applicable federal, provincial, municipal and local laws, statutes, regulations, ordinances, by-laws, codes and all orders, directives and decisions rendered by, and any policies, guidelines or similar guidance or requirements of any Governmental Authority (in each case having the force of law) and any requirements or obligations arising under the common law, including Environmental Laws.

"**Applicable Unit Rate**" means:

(a) during the Initial Development Period:

- (i) in the case of premises used for residential uses, \$85.00 per square foot of GFA used for residential uses as such rate may be adjusted in accordance with Section 3.6, if applicable; and
- (ii) in the case of premises used for non-residential uses, \$55.00 per square foot of GFA used for non-residential uses; and

(b) during the 10 Year Extension Period:

- (i) if the Revised Forecasted NPV is \$161,000,000 or above, as determined by the Landlord and the Tenants pursuant to Subsection 6.7(c), then:
 - (A) in the case of premises used for residential uses, \$85.00 per square foot of GFA as such rate may be adjusted in accordance with Section 3.6, if applicable; and
 - (B) in the case of premises used for non-residential uses, \$55.00 per square foot of GFA; and
- (ii) if the Revised Forecasted NPV is below \$161,000,000, as determined by the Landlord and the Tenants pursuant to Subsection 6.7(c), then:
 - (A) in the case of premises used for residential uses, the amount determined by multiplying \$85.00 per square foot of GFA (as such rate may be adjusted in accordance with Section 3.6, if applicable) by one plus the cumulative percentage increase in the CPI from the Commencement Date to the last day of the Initial Development Period; and

- (B) in the case of premises used for non-residential uses, \$55.00 per square foot of GFA.

"**Approved Bank**" means one of the Canadian chartered banks listed in Schedule "R" hereto or such other Canadian chartered bank, loan or trust corporation, credit union or insurance company which: (i) has an office in Toronto, Ontario; (ii) is permitted to accept and hold deposits in Canada; and (iii) has a Tangible Net Worth or assets under management of not less than \$2,000,000,000.

"**Arbitration Notice**" has the meaning ascribed thereto in Subsection 19.4(a).

"**Article**", "**Recital**", "**Section**", "**Subsection**" and "**Schedule**" means the specified article, recital, section, subsection or schedule of this Lease.

"**Assigned Interest**" has the meaning ascribed thereto in Subsection 13.2(a).

"**Base Rent**" has the meaning ascribed thereto Section 3.1.

"**Base Rent Adjustment Date**" means:

- (i) during the Development Period only, the date on which an Existing Building becomes an Unoccupied Building for the purposes of redeveloping such Existing Building or constructing a New Building;
- (ii) the date which is six (6) months after the Substantial Completion of each Additional Improvement on the Lands, in each case whether constructed pursuant to the Master Development Plan during the Development Period or otherwise after the Development Period;
- (iii) the date which is six (6) months after the Substantial Completion of any Building that is Materially Damaged or Destroyed and that is reconstructed or replaced and which has the result of changing the GFA of the Buildings on the Lands, in each case whether reconstructed or replaced during the Development Period or after the Development Period.

"**Base Rent Period**" means each of the following periods:

- (i) the period from the Execution Date to the day preceding the Commencement Date;
- (ii) the Initial Development Period commencing on the Commencement Date and ending on the day preceding the 20th anniversary of the Commencement Date;
- (iii) following expiry of the Initial Development Period, each subsequent 20 year period during the Initial Term (save for the last 19 year period of the Initial Term);
- (iv) the final 19 year period of the Initial Term;

- (v) if applicable, the Extension Term First Base Rent Period;
- (vi) if applicable, following the Extension Term First Base Rent Period, each subsequent 20 year period during the Extension Term (save for the last 19 year period of the Extension Term); and
- (vii) if applicable, the final 19 year period of the Extension Term.

"Base Rent Per Square Foot" has the meaning ascribed thereto Subsection 3.5(b)(ii)(B).

"Base Rent Reset Date" means the date immediately following the expiry of each Base Rent Period and being the date of commencement of the next following Base Rent Period.

"Base Rent Reset Period" means each Base Rent Period commencing on or after the expiry of the Initial Development Period.

"Baseline Assessments" has the meaning ascribed thereto in Subsection 9.3(a).

"Boiler Room Lands" has the meaning ascribed thereto in Recital K.

"Boiler Room Lease" has the meaning ascribed thereto in Recital K.

"Building Consultant" means an independent third party architect, engineer or other qualified professional appointed pursuant to Section 15.2.

"Buildings" means, collectively, all Existing Buildings and all Additional Improvements from time to time constructed or located on the Lands.

"Burdened Residential Uses" has the meaning ascribed thereto in Section 3.6.

"Bus Terminal and Related Concourse Plans" has the meaning ascribed thereto in Subsection 7.1(a).

"Bus Terminal Lands" means a strata portion of the Lands on which the T.T.C. Bus Terminal is to be built in accordance with Section 7.1 in the approximate location shown on Schedule "H".

"Business Day" means any day which is not a Saturday or Sunday or a statutory holiday in the Province of Ontario.

"Canada Bond Yield" means, as at each Base Rent Adjustment Date, the yield on a 20 year Government of Canada Bond having a term to maturity which corresponds to the term to expiry of the then applicable Base Rent Period expressed as a percentage, provided that for the purposes of determining the Base Rent during the Development Period, the Canada Bond Yield shall be subject to a maximum amount of 2.50%.

"Cansquare" means Cansquare (Canada 8) GP Limited acting as general partner for and on behalf of Cansquare (Canada 8) Limited Partnership, and its permitted successors and permitted assigns as a Tenant hereunder.

"**Change of Control**" means, in the case of any corporation or partnership, the transfer or issue by sale, assignment, subscription, transmission on death, mortgage, charge, security interest, operation of law (including amalgamation) or otherwise (including any change in the constitution of a partnership) of any shares, voting rights, securities or interests which would result in any change in the effective Control of such corporation or partnership, unless such change occurs as a result of trading in the securities of an entity listed on a recognized stock exchange in Canada or the United States.

"**City**" means The Corporation of the City of Toronto.

"**City Housing Requirements**" has the meaning ascribed thereto in Section 3.6.

"**Claim**" means any claim made by a Person against another (including directives and orders by any lawful Governmental Authority) for any Losses and any suits, actions or proceedings involving any such claim, including costs of legal counsel or other professional advisors, consultants and experts in the defense, investigation, and resolution of such claim and costs of any remedial or other management action related thereto.

"**Closing Date**" has the meaning ascribed thereto in Subsection 16.1(d).

"**Collateral Charge**" means a mortgage or charge given by any Tenant over its interest in the Property to the other Tenants to secure such Tenant's several obligations to the other Tenants in respect of the Property.

"**Commence Construction**", "**Commencement of Construction**" and similar expressions mean the commencement of any demolition, excavation, shoring or construction activities on or in any part of the Lands.

"**Commencement Agreement**" means the commencement agreement entered into as of the date hereof between the Landlord and the Tenants.

"**Commencement Date**" means the date on which all of the provisions of this Lease come into full force and effect (other than the Effective Provisions, which shall be in full force and effect from and after the Execution Date), such date being the date confirmed by the Landlord and the Tenants in writing pursuant to the terms of Commencement Agreement.

"**Competing Business**" has the meaning ascribed thereto in Subsection 13.10(a)(ii).

"**Completed Improvements**" has the meaning ascribed thereto in Subsection 6.7(d).

"**Confirmatory Baseline Assessment**" has the meaning ascribed thereto in Subsection 9.3(c).

"**Consolidated Phase I Lease**" has the meaning ascribed thereto in Recital J.

"**Construction Deadline**" means the last day of the Initial Development Period, being the day preceding the 20th anniversary of the Commencement Date.

"**Construction Work**" means:

- (i) construction of any Additional Improvements upon the Lands;
- (ii) structural modifications to any of the Buildings which require a building permit;
- (iii) construction of the new T.T.C. Bus Terminal and the T.T.C. Station Entrances;
- (iv) changes to the location, configuration, connections or layout of the new T.T.C. Bus Terminal, the T.T.C. Station Entrances or Metrolinx Station Entrances, or any of the T.T.C. Areas or Metrolinx Areas; and
- (v) any other demolition, excavation, construction, redevelopment, reconstruction or rebuilding work which (A) requires a building or demolition permit or (B) pursuant to the Developer's Guide, is subject to a Technical Review, and which, in either such case, is performed by or on behalf of the Tenants in or upon the Lands during the Term whether in connection with the Master Development Plan or otherwise,

but, for greater certainty, excluding interior decoration, and interior non-structural alterations and improvements, including for the purposes of demising and configuring premises to be sublet to Space Tenants and leasehold improvements made to Space Tenants' premises by the Tenants or Space Tenants or third parties on their behalf.

"Control" means in respect of a Person: (i) the ownership, directly or indirectly, of voting shares or interests in such Person carrying more than 50% of the votes attached to all voting shares or interests of such Person and which if exercised are sufficient to elect a majority of the board of directors, general partner(s) or trustee(s) of such Person; or (ii) the possession of the power or right to direct or cause the direction of the management and policies of such Person for day-to-day decision-making (excluding typical major decisions), whether directly or indirectly, and whether through ownership of voting shares or interests, by contract or otherwise; and **"Controlled"** and **"Controlling"** have corresponding meanings.

"Conversion Date" has the meaning ascribed thereto in Section 3.9.

"Co-Tenant's Mortgagee" means a mortgagee under a Co-Tenant's Separate Mortgage and includes a trustee named in a deed of trust and mortgage, and if the lenders under a Co-Tenant's Separate Mortgage are a syndicate, means the administrative agent and/or the security agent, as applicable, holding such Co-Tenant's Separate Mortgage on behalf of such lenders.

"Co-Tenant's Separate Mortgage" has the meaning ascribed thereto in Section 13.9.

"Covenant Default" has the meaning ascribed thereto in Subsection 17.1(a)(ii).

"CPI" means the Consumer Price Index (All items) for the Province of Ontario (2002=100) published by Statistics Canada (or by a successor or other governmental agency) or if the Consumer Price Index is no longer published, such other index published in substitution therefore by Statistics Canada (or by any successor or other governmental agency) or if no such substitute index is published any other similar index agreed upon by the Landlord and the

Tenants, each acting reasonably. If a substituted index is used as aforesaid, all necessary conversion will be made to reflect the intent of this Lease.

"Creditworthy Person" means any Person that has a Tangible Net Worth of not less than:

- (i) in the case of a Person that owns an interest in the Property, the amount obtained by multiplying such Person's proportionate interest in the Property by \$100,000,000; and
- (ii) in the case of any Person that does not own an interest in the Property, \$25,000,000.

Notwithstanding the foregoing, the dollar amounts referenced in this definition shall be increased, effective as of the fifth anniversary of the Execution Date by multiplying such amounts by one plus the cumulative percentage increase in the CPI, if any, from the Execution Date to such fifth anniversary; and thereafter the dollar amounts (taking into account any prior adjustment(s) pursuant to this provision) shall be adjusted on every fifth anniversary of the Execution Date thereafter by the cumulative percentage increase in CPI, if any, from the date of the last adjustment to the date immediately prior to the applicable fifth anniversary of the Execution Date.

"CTC" means Canadian Tire Corporation, Limited.

"CT LP" means CT REIT (Yonge Eglinton) GP Corp. acting as general partner for and on behalf of CT REIT (Yonge Eglinton) Limited Partnership, and its permitted successors and permitted assigns as a Tenant hereunder.

"CT REIT" means CT Real Estate Investment Trust.

"Default" means any event specified in Subsection 17.1(a).

"Default Notice" has the meaning ascribed thereto in Section 17.2.

"Defaulting Tenant" has the meaning ascribed thereto in Subsection 17.2(d).

"Developer's Guide" means the document issued by the T.T.C. outlining the submission requirements of any developer constructing a development or project within the T.T.C. development review zone relating to any Transit Facilities, as amended or replaced from time to time.

"Development" means the development, financing, construction, marketing, leasing or sale and operation on the Lands of Additional Improvements in accordance with and subject to this Lease and the Master Development Plan, as the same may be modified or redeveloped from time to time in accordance with the terms hereof.

"Development Factors" has the meaning ascribed thereto in Subsection 6.8(c)(ii).

"Development Period" means the Initial Development Period and, if the Tenants exercise their right to obtain an extension thereof in accordance with Subsection 6.7(b), the 10 Year Extension Period.

"Development Schedule" has the meaning ascribed thereto in Subsection 6.7(a) hereof.

"Dispute" means any disagreement, controversy or claim in the position taken by either of the Landlord or the Tenants (acting together) with respect to any matter arising under, or with respect to, this Lease or the interpretation hereof.

"Dispute Notice" has the meaning ascribed thereto in Section 19.2.

"Dispute Resolution Procedures" means the procedures and process for resolving a Dispute as set forth in ARTICLE 19.

"Driveway Lands" has the meaning ascribed thereto in Recital G.

"Driveway Lease" has the meaning ascribed thereto in Recital G.

"Economic Force Majeure" has the meaning set out in Subsection 6.8(a).

"Economic Force Majeure Notice" has the meaning set out in Subsection 6.8(a).

"Economic Force Majeure Outside Date" has the meaning set out in Subsection 6.8(e)(i).

"Effective Provisions" means the provisions set out in Sections 2.1, 3.3, 6.1, 6.2, 6.4 and 7.6 and Subsections 6.6(b) and 9.3(a), ARTICLE 19, Sections 20.1 through 20.10 inclusive and Sections 20.12 through 20.17 inclusive, and such other provisions as the Parties mutually agree in writing shall be effective as of the Execution Date.

"Emergency" means any situation, event or occurrence on or about the Property or any Transit Facilities that, either individually or collectively: (i) poses an immediate threat to the health and/or safety of Persons or risk of damage to property or the Environment; (ii) has already caused loss of life, health detriments, or damage to property or the Environment; or (iii) has a high probability of escalating to cause immediate danger to life or health or damage to property or the Environment.

"Enabling Costs" means a fixed amount of \$25,000,000.00.

"Entrance and Related Concourse Plans" has the meaning ascribed thereto in Subsection 7.2(a).

"Entrance Work" has the meaning ascribed thereto in Subsection 7.2(a).

"Environment" means the ambient air, all layers of the atmosphere, surface water, underground water, all land, all animals, plants and living organisms and the interacting natural systems that include components of air, land, water, organic and inorganic matter, animals, plants and living organisms, and includes indoor spaces.

"Environmental Audit" has the meaning ascribed thereto in Subsection 9.3(d).

"Environmental Claim" means any action, proceeding, order, direction, complaint, summons, citation, notice, directive, investigation or Claim of any nature or kind or any letter or other communication making any demand or requiring any action be undertaken, made or issued or given by or from any Governmental Authority or any third party in connection with or relating to any violation or alleged violation of Environmental Laws, Environmental Permits or any other environmental matters in connection with the Property or any part thereof or the use, maintenance or operation thereof or the presence of any Hazardous Substances or Release on, at or from the Property or any part thereof, in each case, in violation of Environmental Laws.

"Environmental Consultant" has the meaning ascribed thereto in Subsection 9.3(d).

"Environmental Laws" means all Applicable Laws relating to the protection of the Environment, human health and safety and/or natural resources or which regulate the manufacture, processing, distribution, use, treatment, storage, presence, disposal, packaging, labeling, recycling, handling, transportation, containment, clean-up or other remediation or corrective action of or in respect of any Hazardous Substance.

"Environmental Permits" means all applicable permits, licenses, consents, certificates, registrations, approvals and other authorizations required pursuant to Environmental Laws with respect to the use, occupation, maintenance and operation of the Property or any part thereof, including certificates of approval.

"Event of Default" means any Default which is specified in a Default Notice delivered by the Landlord to the Tenants and any Tenant Mortgagees under Section 17.2 and which is not cured or remedied in the manner and within the time permitted in such Section.

"Excluded Damages" means, in respect of a Person, all Claims or Losses that are: (i) indirect, consequential, remote or speculative damages of any nature whatsoever; and (ii) special, punitive, exemplary, aggravated and similar damages, in each case of the foregoing clauses (i) and (ii), whether incurred or sustained by such Person, or whether claimed against such Person by another Person.

"Execution Date" means the date on the first page of this Lease.

"Existing Buildings" means all buildings, structures and other improvements located upon or affixed to the Lands as at the Commencement Date and all plant and fixtures therein and thereon including all office, commercial and retail areas and common areas and facilities, and all associated underground structures and exterior common areas, but excluding, however, for certainty: (i) any Transit Facilities; (ii) leasehold improvements, trade fixtures and other similar fixtures removable by Space Tenants in accordance with their Space Leases; (iii) movable personal property; and (iv) Additional Improvements constructed after the Commencement Date.

"Existing Leasehold Mortgage" means the mortgage by each of the Tenants of their respective interest in this Lease and their undivided leasehold interest in the Lands created hereunder in favour of Wells Fargo Bank, N.A., Canadian Branch that is registered on title to the Property as of the Execution Date as Instruments No. AT3763587, AT3763588, AT3763589, AT3763590,

AT3763591, AT3763592, AT376359, AT3763594, as amended by an agreement amending charge made as of March 29, 2017 that is registered on title to the Property as of the Execution Date as Instruments No. AT4522600, AT4522601, AT4522602, AT4522603, AT4522604, AT4522605, AT4522606, AT4522607 and AT452260, as the same may be further amended prior to the Commencement Date.

"**Existing Transit Facilities**" has the meaning ascribed thereto in Subsection 7.7(c).

"**Expected Development Returns**" has the meaning ascribed thereto in Subsection 6.8(c)(ii)(F).

"**Extended Annual Economic Force Majeure Deadline**" has the meaning ascribed thereto in Subsection 6.8(f)(iii).

"**Extended Construction Deadline**" has the meaning ascribed thereto in Subsection 6.7(b).

"**Extension Agreements**" has the meaning ascribed thereto in Recital CC.

"**Extension Condition**" has the meaning ascribed thereto in Section 15.1.

"**Extension FMVL**" has the meaning ascribed thereto in Subsection 15.4(a).

"**Extension Notice**" has the meaning ascribed thereto in Subsection 15.3(b)

"**Extension Option**" has the meaning ascribed thereto in Section 15.3.

"**Extension Term**" has the meaning ascribed thereto in Section 15.3.

"**Extension Term Base Rent Per Square Foot**" has the meaning ascribed thereto in Subsection 15.4(a).

"**Extension Term First Base Rent Period**" has the meaning ascribed thereto in Subsection 15.4(e).

"**Extension Term Non-Residential Base Rent Per Square Foot**" has the meaning ascribed thereto in Subsection 15.4(e).

"**Extension Term Residential Base Rent Per Square Foot**" has the meaning ascribed thereto in Subsection 15.4(e).

"**Fair Wage Policy**" has the meaning ascribed thereto in Subsection 6.13(c).

"**Fee Purchase Option**" has the meaning ascribed thereto in Subsection 16.1(b).

"**Fee Purchaser**" has the meaning ascribed thereto in Subsection 16.1(d).

"**Final Base Rent Adjustment Date**" has the meaning ascribed thereto in Subsection 3.5(b)(i).

"**First Base Rent Reset Period**" has the meaning ascribed thereto in Subsection 3.8(a).

"First Phase of the Development" means the first Phase of the Development pursuant to the Master Development Plan.

"Forecasted NPV" means the forecasted net present value of the Base Rent to be realized by the Landlord during the Initial Term based on the economic model included in Schedule "E".

"Form of APS" has the meaning ascribed thereto in Subsection 14.2(a) or Schedule "C", as applicable.

"Freehold Mortgage" means a mortgage, including a deed of trust and mortgage, by the Landlord of its interest in the Lands.

"Freehold Mortgagee" means a mortgagee under a Freehold Mortgage and includes a trustee named in a deed of trust and mortgage.

"Freehold Transfer" has the meaning ascribed thereto in Section 14.4.

"Freehold Transferee" has the meaning ascribed thereto in Section 14.4.

"Gateway Lease" means the "TTC Market Shops Lease" dated April 13, 2018 between T.T.C. as landlord, and Tobmar Investments International Inc. (o/a Gateway on the Go), as tenant, as the same may be amended, restated, supplemented, extended, renewed or replaced from time to time.

"GFA" means, at any time, the total gross floor area of all floors of each Building which has been constructed on the Lands at the relevant time, whether above or below grade, measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the Building from an adjacent and abutting development or building; provided that "GFA" shall exclude any: (i) room or enclosed area, including its enclosing walls, used exclusively to accommodate heating, cooling, ventilating, electrical, mechanical and/or telecommunication equipment that service the Property or any Building thereon, including for greater certainty any mechanical penthouse; (ii) loading and receiving areas; (iii) all above-grade parking areas existing on the Lands as of the Execution Date (together with ancillary driveways, ramps and parking booths (if any) associated therewith); (iv) all parking areas located below-grade (together with ancillary driveways, ramps and parking booths (if any) associated therewith located at or above-grade); (v) occupant and visitor bicycle parking areas, including shower and change facilities; (vi) elevator shafts, garbage shafts and exit stairwells; (vii) residential amenity space required by the applicable zoning by-law; and (viii) part of the Building below-grade that is used for storage, washrooms or other accessory use.

"Governmental Authority" means any federal, provincial, municipal or local government, regulatory authority, government agency, ministry, department, minister, director, commission, board, tribunal or court having jurisdiction in respect of the Property or any part thereof.

"Gross Revenues" means, without any duplication, all revenues, consideration, income, and receipts of whatever nature derived directly or indirectly by or on behalf of the Tenants from the Property and the use made of the Property or any part thereof, including all basic, minimum, additional and percentage rentals and expense recoveries payable by Space Tenants, parking revenues and other consideration for rights granted with respect to the Property or any part

thereof, revenues from carbon offsets or carbon credits, and all insurance proceeds received under policies of insurance insuring against loss of rents or revenues from the Property. For greater certainty, basic and/or minimum rent payable by Space Tenants will be included in Gross Revenues on a straight-line basis to reflect the Space Tenants' average rents over their lease term, in accordance with accrual accounting principles.

"Hazardous Substances" means any substances, pollutants, contaminants, chemicals, materials or products which are now or hereafter defined or designated as hazardous, toxic, radioactive, dangerous, corrosive, deleterious, noxious or regulated wastes, substances or materials or which are otherwise prohibited, controlled or regulated under Environmental Laws including asbestos containing materials, mould, lead-based paint, waste of any kind (including subject waste, liquid industrial waste, other industrial waste, toxic waste and hazardous waste), flammable or explosive substances, halon, radon or other radioactive materials, polychlorinated biphenyls, urea-formaldehyde foam insulation, fuels, petroleum and petroleum-derived products.

"HST" means any harmonized sales tax, goods and services tax, value added tax, use, consumption or other similar taxes of whatever name imposed by the Government of Canada or by any provincial or local government including any tax imposed under Part IX of the *Excise Tax Act* (Canada) or under any similar provincial legislation.

"Impositions" has the meaning ascribed thereto in Section 4.7.

"Initial Development Period" means the 20 year period commencing on the Commencement Date and ending on the day preceding the 20th anniversary of the Commencement Date.

"Initial FMVL" means, at each Base Rent Adjustment Date during the Development Period, the value of the Lands which shall be equal to the sum of the values determined on a Building by Building basis calculated by multiplying the Total GFA of each Building on the Lands as at such date by the Applicable Unit Rate for each use of premises in the Buildings on the Lands as at that date (specifically residential and non-residential).

"Initial Term" means a period of 99 years from the Commencement Date.

"Initiating Party" means a Party desiring arbitration who gives an Arbitration Notice in accordance with Section 19.4.

"Insolvency Event" has the meaning ascribed thereto in Subsection 17.1(b).

"Insurance Trust Agreement" means an agreement between the Landlord, the Tenants, the Insurance Trustee and, if required by any Tenant Mortgagee or Freehold Mortgagee, any Tenant Mortgagees and/or Freehold Mortgagee, as the case may be, substantially in the form attached as Schedule "Q" hereto, subject to Section 20.13 and reasonable amendments requested by a Tenant Mortgagee or Freehold Mortgagee from time to time.

"Insurance Trust Threshold" has the meaning ascribed thereto in Section 10.11.

"Insurance Trustee" means:

- (a) an Approved Bank;
- (b) a loan or trust corporation, credit union or an insurance company which: (i) has an office in Toronto, Ontario; (ii) has a Tangible Net Worth or assets under management of not less than \$500,000,000; and (iii) agrees to hold funds received pursuant to the Insurance Trust Agreement in an escrow account with an Approved Bank in Toronto, Ontario; or
- (c) a Leasehold Mortgagee that is an Approved Bank or that satisfies the requirements in paragraph (b) of this definition;
- (d) any other Person selected by the Tenants and approved by the Landlord.

"**Interferences**" has the meaning ascribed thereto in Subsection 7.7(a).

"**Land Value**" has the meaning ascribed thereto in Subsection 16.1(f).

"**Landlord**" means the Toronto Transit Commission in its capacity as owner of the fee simple interest in the Lands and its successors and assigns in such capacity.

"**Landlord Caused Delays**" has the meaning ascribed thereto in Subsection 6.6(a).

"**Landlord Initiated Bus Terminal and Concourse Costs**" has the meaning ascribed thereto in Subsection 7.1(c).

"**Landlord Initiated Entrance Costs**" has the meaning ascribed thereto in Subsection 7.2(d).

"**Landlord Party**" means the Landlord, the T.T.C. Representative and each of the Landlord's employees, officers, commissioners, directors, agents, contractors and others for whom the Landlord is in law responsible; and "**Landlord Parties**" has a corresponding meaning.

"**Lands**" means the lands in the City of Toronto, Province of Ontario, described in Schedule "A" and includes for certainty the Amended Phase I Lands, the Driveway Lands, the Pavilion Lands, the Boiler Room Lands, the Steam Room Lands, the Phase II Lands, the Phase III Lands, the Bus Terminal Lands and the T.T.C. Development Lands all as the same may be modified from time to time in accordance with Section 2.3, 2.4, 6.7, 7.6, Subsection 6.6(b), 7.1(f) or 7.2(h) or ARTICLE 16 but excluding for certainty the T.T.C. Areas (other than the Bus Terminal Lands) and Metrolinx Areas.

"**Lease**" means this consolidated, amended and restated lease, including the Schedules attached hereto, each as may be further amended, supplemented or restated from time to time.

"**Leasehold Mortgage**" means a mortgage by way of assignment or sublease or otherwise, including a deed of trust and mortgage, by the Tenants of their interest in this Lease, their leasehold interest in the Lands and their interest in the Buildings created in accordance with Section 13.7, and includes the Existing Leasehold Mortgage.

"**Leasehold Mortgagee**" means a mortgagee under a Leasehold Mortgage and includes a trustee named in a deed of trust and mortgage, and if the lenders under a Leasehold Mortgage are a

syndicate, means the administrative agent and/or the security agent, as applicable, holding such Leasehold Mortgage on behalf of such lenders.

"Leasehold Mortgage Acknowledgement Agreement" means an agreement between the Landlord and a Leasehold Mortgagee substantially in the form attached as Schedule "N", subject to Section 20.13 and reasonable amendments requested by a Leasehold Mortgagee from time to time.

"Licensed Area" has the meaning set out in the Metrolinx Licence Agreement.

"Lockout Period" means each of the following periods:

- (i) the period from the Commencement Date until the date on which the First Phase of the Development is Substantially Completed; and
- (ii) the period from the date of Commencement of Construction of any subsequent Phase of the Development until the date on which such Phase has been Substantially Completed.

"Losses" means, in respect of any matter, occurrence, act or omission, any and all liabilities, damages, losses, loss of property value, lost profits, judgments, interest, penalties, fines, monetary sanctions, settlement payments, costs or expenses, including response, investigation, risk assessment, remediation, mitigation and inspection costs, reasonable investigation, laboratory, litigation, consultant, legal and other professional fees and disbursements, in each case arising directly (but not indirectly) as a consequence of such matter, occurrence, act or omission, other than Excluded Damages. For greater certainty, lost profits and loss of revenues derived from the Property shall be deemed to be direct losses.

"LRO" has the meaning ascribed thereto in Recital C.

"LRT Areas" means the areas approximately highlighted in green on Schedule "F", as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"LTCO Requirements" has the meaning ascribed thereto in Subsection 6.13(d).

"LTO" has the meaning ascribed to it in Recital J.

"Major Capital Reinvestments" means capital repairs to, or capital replacements of, all or any portion of the Buildings including the structural elements, foundations, exterior walls, structural columns, roof structure or membrane, beams and floor slabs, elevators, escalators, any primary utility services infrastructure, electrical, mechanical, plumbing, heating ventilating and air-conditioning, life safety and other building systems, and lobby finishes.

"Market Development Returns" has the meaning ascribed thereto in Subsection 6.8(c)(iii)(H).

"Market Factors" has the meaning ascribed thereto in Subsection 6.8(c)(iii).

"**Master Development Plan**" means the plan for the Development attached as Schedule "G", as the same may be amended from time to time in accordance with the provisions of Section 6.1.

"**Material Damage or Destruction**", "**Materially Damaged or Destroyed**" and similar expressions mean any loss or damage to any Building that: (i) destroys and/or damages 5% or more of the GFA of such Building; (ii) renders the lobby of such Building, the mechanical areas serving more than 25% of the GFA of such Building or the life safety systems of such Building inoperable for a period of more than 90 days; or (iii) cannot be repaired or replaced within one hundred and eighty (180) days following the date of such loss or damage in the opinion of the Tenants' independent architect or engineer.

"**Mediation Notice**" means Notice by a Party as provided in Section 19.3.

"**Metrolinx**" means the crown corporation continued under the *Metrolinx Act, 2006* (Ontario) under the name "Metrolinx" and its successors as the operator of a regional transportation system in the Greater Toronto Area.

"**Metrolinx Areas**" means, collectively, the Metrolinx Station and the LRT Areas.

"**Metrolinx Facilities**" means, collectively, the Metrolinx Infrastructure and Metrolinx Areas.

"**Metrolinx Infrastructure**" means all rolling stock, rail lines, systems, infrastructure, equipment, machinery, facilities and works used by Metrolinx in connection with its Transit Operations and the premises in which any of such items are installed, located, housed or stored from time to time.

"**Metrolinx Licence Agreement**" means the licence agreement made July 23, 2015 between the Landlord and Metrolinx pursuant to which the Landlord agreed to grant Metrolinx with a temporary licence to use part of the T.T.C. Development Lands.

"**Metrolinx Required Areas**" means the portion of the Licensed Area that, pursuant to Section 3(4) of the Metrolinx Licence Agreement, is required to be transferred to Metrolinx as either a fee interest or a permanent easement.

"**Metrolinx Station**" means the Eglinton/Yonge LRT station, as the same may be altered, renovated, reconfigured, replaced or reconstructed from time to time.

"**Metrolinx Station Entrance**" the entrances to the Metrolinx Station, as the same may be altered, renovated, reconfigured, replaced or reconstructed from time to time.

"**Metrolinx Surrender**" means the release by Metrolinx of its temporary construction easements contained in the Metrolinx Licence Agreement over the Licensed Area and the surrender by Metrolinx of possession of such lands to the Landlord.

"**Monetary Default**" has the meaning ascribed thereto in Subsection 17.1(a)(i).

"**Negotiation Period**" has the meaning ascribed thereto in Section 19.2.

"New Buildings" means any new buildings, structures or other improvements which are constructed upon or affixed to the Lands during the Term in accordance with the provisions of this Lease, whether pursuant to the Master Development Plan or otherwise, and all plant and fixtures therein and thereon as constituted from time to time, including all office, commercial and retail areas, residential premises and common areas and facilities and all new buildings, structures or other improvements constructed in place of Existing Buildings which are demolished, and all associated underground structures and exterior common areas, but excluding: (i) the Transit Facilities; (ii) leasehold improvements, trade fixtures and other similar fixtures removable by Space Tenants in accordance with their Space Leases; (iii) movable personal property; and (iv) any alterations, extensions, additions, redevelopment or reconstruction of any Existing Buildings (save and except the replacement of an Existing Building with a New Building).

"NOI" means, in respect of any period, the net operating income derived from the Property which shall be equal to the Gross Revenues for the applicable period minus all Operating Expenses for the applicable period. For greater certainty, for the purposes of calculating NOI, the Tenants or anyone acting as property manager for the Tenants will be deemed to be paying fair market rent in respect of any portions of the Property occupied for their own purposes and the amount of such rent will be included in the calculation of Gross Revenues.

"Non-Defaulting Tenants" has the meaning ascribed thereto in Subsection 17.2(d).

"Non-Residential Base Rent Per Square Foot" has the meaning ascribed thereto in Subsection 3.7(c).

"Notice" means a written notice or other communication from one Party to another in accordance with Section 20.1.

"Notice of Acceptance" has the meaning ascribed thereto in Subsection 14.2(b) or Schedule "C", as applicable.

"Notice of Tenants' Event of Default" has the meaning ascribed thereto in Subsection 17.4(a)(ii).

"Operating Expenses" means, in respect of any period without duplication, all expenditures paid or incurred in connection with the leasing, operation, repair, maintenance and management of the Property including:

- (i) the cost of all insurance which the Tenants are obligated or permitted to obtain under this Lease (including the Tenants' insurance premiums, all of the Tenants' insurance deductibles and amounts below the insurance deductibles which are paid by the Tenants in connection with Claims made by them and all costs and expenses incurred by the Tenants for defending and paying such Claims);
- (ii) costs of cleaning, pest control, recycling, snow removal, garbage and waste collection and disposal and landscaping;

- (iii) costs of lighting, electricity, fuel, steam, gas, water, public or private utilities, loudspeakers, public address and musical broadcasting systems, telephone answering services, telephone facilities and systems used in or serving the Property, and electricity for signs that are part of the Property;
- (iv) costs of policing, security, supervision, traffic control, and fire, life and safety inspections;
- (v) costs of operating and maintaining any parking facilities located on the Property;
- (vi) administrative office expenses of operating any offices or storage areas in the Property used by the Tenants or by any property management company retained by the Tenants in connection with the maintenance, repair, operating, administration and management of the Property (including imputed rent calculated at market rates for comparable space), salaries, wages, contributions and benefits paid to or with respect to all on-site personnel, including management and other supervisory personnel, employed or retained to carry out the operation, management, cleaning, maintenance and repair of the Property, including contributions and premiums for employment benefits, employment insurance and workers' compensation insurance, pension plan contributions and similar premiums and contributions, and severance pay or indemnity;
- (vii) rental costs of equipment and signs, and the cost (including rental) of building supplies and tools used in the maintenance, cleaning, repair and operation of the Property;
- (viii) auditing, accounting, legal and other professional and consulting fees and disbursements;
- (ix) the cost of investigating, testing, monitoring, removing, enclosing, encapsulating or abating any Hazardous Substances which is in, on or about the Property or any part thereof and which is required to satisfy Applicable Laws or the Tenants' obligations under ARTICLE 9;
- (x) costs of repairs (including major repairs) and replacements to and maintenance and operation of the Property and costs (including repair and replacement) of the maintenance, cleaning and operating equipment, master utilities meters and all other fixtures, equipment and facilities that are part of the common areas;
- (xi) depreciation of the costs of the major repairs or replacements referred to in the immediately preceding paragraph (x) on a straight line basis over the economic life of such repairs or replacements unless they are, under that paragraph (x), charged fully in the year in which they are incurred;
- (xii) amortization of inducements paid to Space Tenants and the cost of any work to be completed by the Tenants to make such premises ready for occupancy by Space Tenants on a straight line basis over the applicable term of the respective Space Leases;

- (xiii) Realty Taxes with respect to the Property and other Impositions and charges payable pursuant to Section 4.7;
- (xiv) carbon taxes, carbon offset costs and any other taxes or costs related to energy consumption or carbon production; and
- (xv) any property management and administration fees;

provided that the following shall be excluded from Operating Expenses:

- (xvi) initial capital costs of constructing the Development or any Buildings or Additional Improvements and costs of major repairs or renovations to the extent not chargeable to the Space Tenants under Space Leases;
- (xvii) debt service costs;
- (xviii) Base Rent payable by the Tenants to the Landlord under this Lease;
- (xix) costs of repairs to remedy defects (as identified by an independent architect or engineer engaged by the Tenants) in the original construction or design of the footings, foundations, structural columns and beams, structural subfloors, bearing walls, exterior walls or roofs of any of the Buildings; and
- (xx) costs of repairing and replacing the footings, foundations, structural columns and beams, structural subfloors, bearing walls, exterior walls or roofs of any of the Buildings, other than day-to-day structural repairs, such as repairs to roof membranes, brick caulking or other exterior cladding and other structural repair costs which in each case are recoverable from Space Tenants under Space Leases.

"**OPG**" means OPG Investment Holdings GP Inc., acting as general partner for and on behalf of OPG Investment Holdings Limited Partnership, and its permitted successors and permitted assigns as a Tenant hereunder.

"**Option Lands**" means that portion of the Lands highlighted in orange on page G-5 of the Master Development Plan.

"**Option Period**" has the meaning ascribed thereto in Subsection 16.1(c).

"**Original Leases**" has the meaning ascribed thereto in Recital AA.

"**Original Phase I Lands**" has the meaning ascribed thereto in Recital C.

"**Original Phase I Lease**" has the meaning ascribed thereto in Recital C.

"**Original Phase II Lease**" has the meaning ascribed thereto in Recital M.

"**Original Phase III Lease**" has the meaning ascribed thereto in Recital O.

"**Party**" means either the Landlord or the Tenants (acting together); and "**Parties**" means, collectively, the Landlord and the Tenants.

"**Pavilion Lands**" has the meaning ascribed thereto in Recital H.

"**Pavilion Lease**" has the meaning ascribed thereto in Recital H.

"**Performance Security**" has the meaning ascribed thereto in Subsection 6.16(a).

"**Permits, Licenses and Approvals**" shall mean permissions, consents, approvals, certificates, permits, licenses, agreements and authorizations of Governmental Authorities having jurisdiction in the circumstances, including payment of any associated fees and posting of any required security.

"**Permitted Encumbrances**" means the encumbrances listed on Schedule "J".

"**Person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, pension plan, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative or Governmental Authority however designated or constituted.

"**Phase**" means each phase of the Development as illustrated on the Master Development Plan.

"**Phase Baseline Assessment**" has the meaning ascribed thereto in Subsection 9.3(c).

"**Phase II Lands**" has the meaning ascribed thereto in Recital M.

"**Phase III Lands**" has the meaning ascribed thereto in Recital O.

"**Planning Approvals**" means final approvals, after all applicable appeal rights have expired, required under the *Planning Act* (Ontario) and from the City in order to permit the initial redevelopment of the Existing Buildings and the development of the Lands in accordance with the Master Development Plan or the construction of any Additional Improvements from time to time during the Term, including but not limited to any official plan amendments, rezoning or zoning by-law amendments, site plan approvals and minor variances required in connection therewith.

"**Prime Rate**" means the annual rate of interest announced from time to time by Royal Bank of Canada or such other Approved Bank as may be designated by the Landlord, as the daily rate of interest used by such bank as a reference rate in setting rates of interest for commercial loans of Canadian dollars made in Canada and commonly referred to by such bank as its Canadian "prime rate" and adjusted automatically upon any change in such rate of interest.

"**Project Budget**" means, in respect of each Phase of the Development, the budget of hard costs and soft costs for the construction of such Phase prepared by the Tenants and submitted to the Landlord prior to the Commencement of Construction of such Phase.

"**Property**" means, collectively, the Lands and all Buildings from time to time constructed or located on the Lands.

"**Purchase Agreement**" has the meaning ascribed thereto in Subsection 16.1(i).

"**Purchase Closing**" has the meaning ascribed thereto in Subsection 16.2(a).

"**Purchase Notice**" has the meaning ascribed thereto in Subsection 16.1(d).

"**Purchase Price**" has the meaning ascribed thereto in Subsection 16.1(f).

"**Purchased Lands**" has the meaning ascribed thereto in Subsection 16.1(d).

"**Qualified Appraiser**" means a nationally recognized independent third-party appraiser generally recognized as a Person experienced in appraising and qualified to appraise multi-family residential buildings and commercial office buildings in the Greater Toronto Area and having the designation AACI granted by the Appraisal Institute of Canada (or its successor or, failing either, another equivalent national Canadian real estate appraisal organization).

"**Qualified Transferee**" means a Third Party that:

- (i) has the financial strength and stability to meet its financial and other obligations under this Lease (provided that in determining such financial strength and stability, underlying irrevocable commitments by Affiliates of such Person may be taken into account); and
- (ii) itself is not, and none of its Related Persons are, a listed, designated or sanctioned Person pursuant to anti-money laundering, anti-terrorist laws or anti-corruption laws of Canada; and
- (iii) itself has not been, and none of its Related Persons have been, convicted of, or charged in any ongoing legal proceedings initiated by any Governmental Authority with, fraud, breach of trust, corruption, money laundering or dishonesty, nor is such Third Party or any of its Related Persons subject to any ongoing material investigations or proceedings initiated by any Governmental Authority in respect thereof; and
- (iv) is an institutional investor (such as a real estate investment trust, pension plan, pension fund or pension fund realty corporation, a bank, insurance company or other regulated financial institution, or a sovereign wealth fund), or an Affiliate thereof, that has a consolidated Tangible Net Worth, together with its Affiliates, of at least \$100,000,000.00 and, alone or together with its Affiliates, owns or manages real estate assets of at least \$500,000,000.00;

provided that in any such case such Third Party:

- (v) is investing in the Property solely as a principal (and not on behalf of a fund, partnership or other investment vehicle), or

- (vi) if such Third Party is a manager and is not investing in the Property solely as principal, then it must be investing in the Property as the sole manager, or acting as the sole manager, of an investment vehicle for which it has authority for day-to-day decision-making (excluding typical major decisions) and such investment vehicle itself must also satisfy all of the criteria of a Qualified Transferee set out in paragraphs (i), (ii), (iii) and (iv) of this definition of "Qualified Transferee".

Notwithstanding the foregoing, the monetary thresholds specified in paragraph (iv) of this definition shall be increased, effective as of the fifth anniversary of the Execution Date by multiplying such amounts by one plus the cumulative percentage increase in the CPI, if any, from the Execution Date to such fifth anniversary; and thereafter the monetary thresholds (taking into account any prior adjustment(s) pursuant to this provision) shall be adjusted on every fifth anniversary of the Execution Date thereafter by the cumulative percentage increase in CPI, if any, from the date of the last adjustment to the date immediately prior to the applicable fifth anniversary of the Execution Date.

"Realty Taxes" means all taxes, rates, duties, charges and assessments, including other payments in lieu thereof and local improvement rates and assessments, now or at any time hereafter levied, imposed, charged or assessed by any Governmental Authority, whether municipal, parliamentary or otherwise, against the Lands or any part thereof, all Buildings at any time constructed thereon and all fixed machinery, equipment, accessories or other facilities therein or thereon, and any property of the Tenants or their Space Tenants therein or thereon, or upon the Landlord for or in respect of its ownership of the Lands or any part thereof.

"Recognized Financial Institutions" means, collectively, the five largest Canadian Schedule I banks measured by assets; and **"Recognized Financial Institution"** means any one of them.

"Reconveyance Agreement" has the meaning ascribed thereto in Subsection 16.2(j).

"Reconveyance Date" has the meaning ascribed thereto in Subsection 16.2(j).

"Reconveyance Election Period" has the meaning ascribed thereto in Subsection 16.2(j).

"Related Persons" means, in the case of any Person who is a Tenant or any Third Party, any other Person:

- (i) which directly or indirectly, through one or more intermediaries, Controls or is Controlled by such Tenant or Third Party; or
- (ii) which is directly or indirectly, through one or more intermediaries, Controlled by a Person which directly or indirectly, through one or more intermediaries, Controls such Tenant or Third Party.

"Release" means any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of Hazardous Substances into the (i) outdoor air, (ii) soil, (iii) groundwater, (iv) surface water, or (v) indoor air.

"Released Lands" has the meaning ascribed thereto pursuant to Subsection 6.7(f)(iii).

"Relevant Market Area" means the midtown area of the City of Toronto surrounding the Yonge Street and Eglinton Avenue intersection and such other areas within the midtown area of the City of Toronto as the Selected Adviser may determine are relevant for the purposes of determining whether any proposed Building is economically viable in accordance with Section 6.8.

"Rent" means Base Rent and Additional Rent.

"Rental Rate" means the sum of the Canada Bond Yield plus 175 basis points.

"Replacement Cost" means the full cost of repairing, replacing, and reinstating any Buildings or other items of property on the Lands and any cost of upgrading any item of property required by any Applicable Laws with new materials of like kind and quality on the same or a similar site, plus the cost of demolition, including demolition of undamaged structures, without deduction for physical, accounting or other depreciation.

"Required Permits, Licenses and Approvals" has the meaning ascribed thereto in Section 6.10.

"Revised Forecasted NPV" has the meaning ascribed thereto in Subsection 6.7(c).

"ROFO" means the right of first offer in favour of the Tenants in Section 14.2.

"ROFO Exempt Transaction" has the meaning ascribed thereto in Subsection 14.2(h).

"ROFO Notice" has the meaning ascribed thereto in Subsection 14.2(a) or Schedule "C", as applicable.

"ROFO Offer" has the meaning ascribed thereto in Subsection 14.2(a) or Schedule "C", as applicable.

"ROFO Response Period" has the meaning ascribed thereto in Subsection 14.2(b) or Schedule "C", as applicable.

"ROFO Terms" has the meaning ascribed thereto in Subsection 14.2(a) or Schedule "C", as applicable.

"Sale Interest" has the meaning ascribed thereto in Subsection 14.2(a) or Schedule "C", as applicable.

"Scheduled Forms" has the meaning ascribed thereto in Section 20.13.

"Second Base Rent Period" has the meaning ascribed thereto in Section 3.4.

"Second Phase of the Development" means the Phase of the Development that is developed after the First Phase of the Development.

"Security Takeover Notice" has the meaning ascribed thereto in Subsection 17.2(d)(ii)(A).

"Selected Adviser" has the meaning set out in Subsection 6.8(a).

"**Separate Ground Lease**" has the meaning set out in Subsection 13.2(b).

"**Severance Condition**" has the meaning ascribed thereto in Subsection 16.1(l).

"**sole discretion**" means the sole, absolute, subjective and unfettered discretion of the Person who is exercising such discretion, which may be exercised by such Person arbitrarily and in its own best interest and without any obligation to justify or explain the reasons for such exercise.

"**Space Lease Recognition Agreement**" means an agreement between the Landlord and a Space Tenant substantially in the form attached as Schedule "M", subject to Section 20.13 and reasonable amendments requested by a Space Tenant from time to time.

"**Space Leases**" means all agreements to lease or sublease, leases or subleases, occupancy agreements, licenses, concessions and other agreements to use or occupy any space within or on any of the Buildings or any part of the Lands and any amendments, renewals or extensions thereto or thereof from time to time, including the Anchor Tenant Office Lease but excluding all Subleases.

"**Space Tenants**" means any Person having a right to use or occupy any or all space within or on any of the Buildings or any part of the Lands pursuant to a Space Lease.

"**Steam Room Lands**" has the meaning ascribed thereto in Recital L.

"**Steam Room Lease**" has the meaning ascribed thereto in Recital L.

"**Subjective Test**" means the "Subjective Test" as described in Schedule "S".

"**Subleasehold Mortgage**" means a mortgage by way of assignment or sublease or otherwise, including a deed of trust and mortgage, by a Subtenant of its interest in the applicable Sublease, its subleasehold interest in the applicable Subleased Lands and its interest in the applicable Subleased Buildings created in accordance with Section 13.8.

"**Subleasehold Mortgagee**" means a mortgagee under a Subleasehold Mortgage and includes a trustee named in a deed of trust and mortgage, and if the lenders under a Subleasehold Mortgage are a syndicate, means the administrative agent and/or the security agent, as applicable, holding such Subleasehold Mortgage on behalf of such lenders.

"**Subleasehold Mortgagee Acknowledgement Agreement**" means an agreement between the Landlord and a Subleasehold Mortgagee substantially in the form attached as Schedule "P", subject to Section 20.13 and reasonable amendments requested by a Subleasehold Mortgagee from time to time.

"**Subleases**" means all subleases pursuant to which any Subtenant has been granted by or on behalf of the Tenants the right to occupy or use an entire Building or entire Buildings (the "**Subleased Buildings**") located on part of the Lands (the "**Subleased Lands**") and any amendments, renewals or extensions thereto or thereof from time to time, but excluding all Space Leases.

"Subsequent Base Rent Reset Period" has the meaning ascribed thereto in Subsection 3.8(b).

"Subsequent Extension Term Base Rent Period" has the meaning ascribed thereto in Subsection 15.4(e).

"Substantial Completion", **"Substantially Complete"** and similar expressions mean, in respect of the construction of each Phase of the Development, each Additional Improvement or any other Construction Work undertaken by or on behalf of the Tenants on the Lands: (i) when the construction contract in respect of such Phase, Additional Improvement or Construction Work has been substantially performed within the meaning of the *Construction Act* (Ontario); and (ii) all or substantially all of such Additional Improvements or the Buildings comprising such Phase are ready for and capable of use for the purposes intended in accordance with Applicable Laws.

"Subtenants" means any Tenant, Affiliate of a Tenant or Qualified Transferee having a right to use or occupy any Subleased Buildings and the corresponding Subleased Lands pursuant to a Sublease.

"Subway Access Agreement" has the meaning ascribed thereto in Recital I.

"Subway Concourse Areas" means the Tenants' Service/Utility Areas, the Tenants' Subway Retail Areas, the T.T.C. Public Areas, the T.T.C. Service/Utility Areas, and the T.T.C. Retail Areas, as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"Support Facilities" has the meaning ascribed thereto in Subsection 6.7(d).

"Support Lands" has the meaning ascribed thereto in Subsection 6.7(d).

"Takeover Notice" has the meaning ascribed thereto in Subsection 17.2(d)(i)(A).

"Tangible Net Worth" means, in respect of any Person and at any time, the amount by which such Person's total assets (including the interest of such Person in the Property, if any, but excluding goodwill and other intangibles) exceeds such Person's total liabilities (including such Person's share of any debt secured on the Property, if any) as shown on such Person's most recent audited or unaudited annual financial statements.

"Technical Review" means the technical review, as defined in the Developer's Guide issued by the T.T.C., that is required by the terms hereof to be performed by the T.T.C. with respect to any Construction Work and the potential impact thereof on the Transit Facilities, which review is to be performed in the T.T.C.'s sole discretion and in accordance with the Developer's Guide and which to the extent required thereby may include a review of protective measures to be used during any such Construction Work.

"Tenant Environmental Impact" has the meaning ascribed thereto in Subsection 9.3(e).

"**Tenant Party**" means each of the Tenants, and their respective employees, officers, directors, agents, invitees, contractors, and others for whom they are in law responsible and the Space Tenants; and "**Tenant Parties**" has a corresponding meaning.

"**Tenant Mortgagee**" means a Leasehold Mortgagee, a Subleasehold Mortgagee or a Co-Tenant's Mortgagee or any of them, as the context may require.

"**Tenants**" means, collectively, OPG, CT LP and Cansquare, as tenants in common, and their respective permitted successors and permitted assigns in accordance with this Lease; and "**Tenant**" means any one of them.

"**Tenants' Environmental Work**" has the meaning ascribed thereto in Subsection 9.3(b).

"**Tenants' Service/Utility Areas**" means that portion of the subway concourse to be identified and labelled by the Parties on Schedule "G" pursuant to Subsection 7.9(n).

"**Tenants' Subway Retail Areas**" means that portion of the subway concourse to be identified and labelled by the Parties on Schedule "G" pursuant to Subsection 7.9(n) and excludes, for greater certainty, the portion of the subway concourse that is leased pursuant to the Gateway Lease.

"**Term**" means, collectively, the Initial Term and, if the Tenants are entitled to and exercise their option to extend the Lease in accordance with Section 15.2, the Extension Term.

"**Third Party**" means any Person except a Person who is then a Tenant, any Affiliate of a Person who is then a Tenant and any Person who is not acting at arm's length (as such term is defined in the *Income Tax Act* (Canada)) from each Person who is then a Tenant.

"**Third Party Adviser**" means a professional who is employed by a national or regional financial and professional services firm that specializes in commercial real estate services (examples of such firms as of the Execution Date include CBRE, JLL and Altus) and who is independent of and acts at arm's length (as such term is defined in the *Income Tax Act* (Canada)) from each Person who is then a Tenant and the Landlord.

"**Total GFA**" means, at any time, in respect of each Building constructed or located on the Lands at the relevant time the total GFA of such Building; provided that, during the Development Period only, in the case of any Unoccupied Building the "Total GFA" of such Unoccupied Building shall be deemed to be zero (0) square feet).

"**Transfer**", "**Transferred**" and similar expressions mean an assignment of this Lease in whole or in part, a sublease of all or any material part of the Property (including a Sublease but excluding any Space Lease), any transaction whereby the rights of a Tenant under this Lease or to the Property are transferred to another Person, any transaction by which any right of use or occupancy of all or any part of the Property is conferred upon another Person, and includes any transaction or occurrence whatsoever (including, but not limited to expropriation, receivership proceedings, seizure by legal process and transfer by operation of law), which has changed or will change the identity of the Person having lawful use or occupancy of any part of the Property; provided that, notwithstanding the foregoing, "Transfer" shall not include any

Leasehold Mortgage, Co-Tenant's Separate Mortgage, Subleasehold Mortgage, Collateral Charge, Space Lease or mortgage or charge of a Space Tenant's interest under a Space Lease.

"Transferee" means the Person to whom a Transfer is or is to be made.

"Transferor" means a Tenant from whom a Transfer is or is to be made.

"Transit Facilities" means, collectively, the T.T.C. Facilities and the Metrolinx Facilities.

"Transit Operations" means the transportation services provided by the T.T.C. and/or Metrolinx, or any successor thereto, which as of the Execution Date include the Yonge Street subway, the Eglinton subway station, the Eglinton division traffic office, the existing bus garage, the Eglinton bus terminal, but will be subject to future modifications for any future Eglinton subway, the Cross Town Eglinton LRT, the T.T.C. Bus Terminal (once completed) and any future transit lines, systems or functions connecting thereto, and any of the works or facilities thereof.

"Transortium" has the meaning ascribed thereto in Recital M.

"Transplex" has the meaning ascribed thereto in Recital O.

"T.T.C." means the Toronto Transit Commission in its capacity as the operator of the public transit system in the City and its successors in such capacity.

"T.T.C. Areas" means, collectively, the T.T.C. Station, the T.T.C. Bus Terminal, T.T.C. Public Areas, the T.T.C. Service/Utility Areas, the T.T.C. Retail Areas, the T.T.C. Retained Lands and, during the term of the T.T.C. Temporary Operations Sublease only, the T.T.C. Temporary Operations Lands.

"T.T.C. Bus Terminal" means the new bus terminal, including integration of the Subway Concourse Areas, to be constructed by the Tenants for the T.T.C. in the location shown on Schedule "H" in accordance with Section 7.1, as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Bus Terminal and Entrance Work" has the meaning ascribed thereto in Subsection 7.3(a).

"T.T.C. Development Lands" means the portion of Lands described in Part IV of Schedule "A", but excluding for certainty the T.T.C. Retained Lands.

"T.T.C. Development Lands Lease" has the meaning ascribed thereto in Recital Y.

"T.T.C. Entrance Contribution" has the meaning ascribed thereto in Subsection 7.2(c).

"T.T.C. Facilities" means, collectively, the T.T.C. Areas and the T.T.C. Infrastructure.

"T.T.C. Improvement Allowance" has the meaning ascribed thereto in Subsection 7.1(c).

"T.T.C. Infrastructure" means all rolling stock, rail lines, systems, infrastructure, equipment, machinery, facilities and works used by the T.T.C. in connection with Transit Operations and the premises in which any of such items are installed, located, housed or stored from time to time.

"T.T.C. Public Areas" means that portion of the subway concourse described in Schedule "B-1" under the heading "T.T.C. Public Areas", as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Representative" means the duly authorized representative of the Toronto Transit Commission designated from time to time by the Landlord by Notice to the Tenants as the Person having the authority to exercise such power, authority or discretion on behalf of the Landlord as may be required or permitted under this Lease.

"T.T.C. Retail Areas" means that portion of the subway concourse described in Schedule "B-1" under the heading "T.T.C. Retail Areas", as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws, which includes, for greater certainty, the portion of the subway concourse leased pursuant to the Gateway Lease.

"T.T.C. Retained Lands" means the areas to be retained by the Landlord and not leased to the Tenants being collectively the T.T.C. Public Areas, the T.T.C. Retail Areas, the T.T.C. Service/Utility Areas and the areas described in Schedule "B-1" under the heading "Other T.T.C. Retained Lands", as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Service/Utility Areas" means that portion of the subway concourse described in Schedule "B-1" under the heading "T.T.C. Service/Utility Areas", as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Station" means the Eglinton subway station, as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Station Entrances" means the entrances to the T.T.C. Station existing as of the Execution Date and the new or renovated entrances to the T.T.C. Station which are to be constructed by the Tenants for the Landlord in accordance with Section 7.2, as the same may be altered, renovated, reconfigured, replaced, reconstructed or relocated from time to time in accordance with the terms of this Lease or as may otherwise be permitted by Applicable Laws.

"T.T.C. Temporary Operations Lands" has the meaning ascribed thereto in Recital Z.

"T.T.C. Temporary Operations Sublease" has the meaning ascribed thereto in Recital Z.

"T.T.C. Transit Operations" means that portion of the Transit Operations which are provided by the T.T.C. including operation of the T.T.C. Facilities.

"**T.T.C. Work**" has the meaning ascribed thereto in Subsection 6.13.

"**T.T.C. Work Security**" has the meaning ascribed thereto in Subsection 7.3(a).

"**Typical Permitted Encumbrances**" has the meaning ascribed thereto in Subsection 16.1(m).

"**Unadjusted Residential Base Rent Per Square Foot**" has the meaning ascribed thereto in Subsection 3.7(b).

"**Unavoidable Delay**" means any cause beyond the control of the Party affected thereby which delays or prevents the performance by such Party of any obligation under this Lease and which is not caused by the default or negligence of such Party and is not avoidable by the exercise of reasonable care, including a strike, lockout or other labour dispute; inability to procure labour, materials or services; power failure; the enactment, amendment or repeal of any Applicable Laws; riot; insurrection; sabotage; rebellion; war; a health or other Emergency or act of God, but excluding lack of funds, financial inability or Economic Force Majeure.

"**Unburdened Residential Uses**" has the meaning ascribed thereto in Subsection 3.6.

"**Unoccupied Building**" means, at any time during the Development Period, an Existing Building that is unoccupied (or more than 90% unoccupied, where the Tenants are actively attempting to remove any remaining Space Tenants) for the purposes of redeveloping such Existing Building or constructing a New Building in accordance with the Master Development Plan. For greater certainty, an Unoccupied Building will cease being an "Unoccupied Building" once the redevelopment of such Unoccupied Building or replacement of such Unoccupied Building with a New Building is Substantially Completed.

"**Unsettled 2016 Specifications**" has the meaning ascribed thereto in Subsection 7.1(a).

"**YEBL**" has the meaning ascribed thereto in Recital C.

1.2 Rules of Construction

For all purposes of this Lease, except where otherwise expressly provided herein or unless the context otherwise requires:

- (a) the division of this Lease into separate Articles, Sections and Subsections, the provision of a table of contents, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Lease;
- (b) the terms "hereof", "hereunder" and similar expressions refer to this Lease and not to any particular Article, Section, Subsection or other portion hereof;
- (c) all accounting terms, if not otherwise defined herein, have the meanings ordinarily assigned to them, and all calculations, accounting records and financial statements referred to herein shall be made, kept and prepared, in accordance with Canadian generally accepted accounting principles;

- (d) any reference to currency herein is a reference to Canadian dollars;
- (e) any reference to a statute includes and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all the amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing, re-enacting or superseding the statute so referred to or the regulations made pursuant thereto;
- (f) any reference to an agreement or other document is a reference to that agreement or document, as amended, modified, supplemented, renewed, extended, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules and exhibits attached thereto;
- (g) any reference to a Person includes and is a reference to the permitted successors and permitted assigns of such Person;
- (h) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (i) the words "include", "includes" or "including" shall be deemed to be followed by the words "without limitation";
- (j) time shall be of the essence of this Lease. Unless otherwise provided herein (i) all references to time shall mean Toronto time, and (ii) the computation of any period of time referred to in this Lease shall exclude the first day and include the last day of such period. Where anything is required to be done under this Lease on or by a day that is not a Business Day, then the same shall be done on or by the next following Business Day; and
- (k) notwithstanding any rule of law or equity, presumption, principle of construction or statutory enactment to the contrary:
 - (i) in any controversy, dispute, contest, arbitration, mediation or legal proceeding of any kind including an action, lawsuit, motion, application, reference or appeal, regarding the interpretation, validity, or enforcement of this Lease or any of its provisions, there shall be no inference, presumption or conclusion drawn whatsoever against either the Landlord or the Tenants by virtue of that Party or its counsel having drafted this Lease or any portion thereof; and
 - (ii) this Lease shall be deemed to be executed under seal by all Parties to this Lease even if a Party does not affix its seal.

1.3 Obligations as Covenants

Each agreement and obligation of any of the Parties hereto in this Lease, even though not expressed as a covenant, is considered for all purposes to be a covenant.

1.4 Governing Law

This Lease shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as a Ontario contract.

1.5 Liability of the Tenants

Subject to Sections 6.16 and 7.3, the representations, warranties, covenants, liabilities, obligations and agreements of the Tenants hereunder shall be deemed to be joint and several representations, warranties, covenants, liabilities, obligations and agreements of each Tenant and each Person comprising a Tenant. If any Person comprising a Tenant is a general partnership, each Person who is presently a member of such partnership, and each Person who hereafter becomes a member of such partnership or any successor partnership, shall be and continue to be liable jointly and severally for the performance of this Lease, whether or not such Person ceases to be a member of such partnership or successor partnership.

1.6 Entire Agreement

This Lease constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and, in accordance with Section 1.9, consolidates, amends, replaces and supersedes all prior leases, agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto and there are no other representations, warranties or agreements between the Parties hereto in connection with the Tenants' use and occupancy of the Property except as specifically set forth in this Lease.

1.7 Severability

If any provision contained in this Lease, or the application thereof to any Person or circumstance is held, to any extent, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Lease shall be separately valid and enforceable to the fullest extent permitted by law, and such invalid or unenforceable part shall be fully severable, and this Lease shall be construed and enforced as if such invalid or unenforceable part had never been inserted herein.

1.8 Schedules

The following schedules form part of this Lease:

- Schedule "A" - Legal Description of the Lands
- Schedule "B-1" - Legal Description of the T.T.C. Retained Lands
- Schedule "B-2" - Legal Description of the T.T.C. Temporary Operations Lands
- Schedule "C" - Alternate ROFO Terms
- Schedule "D" - T.T.C. 2016 Specifications and Requirements for New Bus Terminal
- Schedule "E" - Net Present Value Economic Model
- Schedule "F" - Diagram of LRT Areas

Schedule "G"	-	Master Development Plan
Schedule "H"	-	T.T.C. Bus Terminal and Related Concourse Plans
Schedule "I"	-	Entrance and Related Concourse Plans
Schedule "J"	-	Permitted Encumbrances
Schedule "K"	-	Rules and Regulations for Subway Concourse Areas
Schedule "L"	-	Existing Retail Uses in Subway Concourse Areas
Schedule "M"	-	Form of Space Lease Recognition Agreement
Schedule "N"	-	Form of Leasehold Mortgagee Acknowledgement Agreement
Schedule "O"	-	Form of Subleasehold Mortgagee Acknowledgement Agreement
Schedule "P"	-	Form of Completion Guarantee
Schedule "Q"	-	Form of Insurance Trust Agreement
Schedule "R"	-	Approved Banks
Schedule "S"	-	Subjective Test

1.9 Consolidated, Amended and Restated Lease

Upon this Lease coming into full force and effect on the Commencement Date, the Parties agree that:

- (a) this Lease amends, restates and consolidates each of the Original Leases, as extended pursuant to the Extension Agreements, and the T.T.C. Development Lands Lease;
- (b) each of the Original Leases, as extended pursuant to the Extension Agreements, and the T.T.C. Development Lands Lease shall be and remain in full force and effect without novation and all parties to the Original Leases or the assignees thereof, as the case may be, retain all rights as between themselves under the Original Leases with respect to that period of time prior to the Commencement Date;
- (c) all of the rights and obligations of the Parties hereto under this Lease become effective as of the Commencement Date, except for the Effective Provisions which shall be effective from and after the Execution Date;
- (d) each of the Landlord and the Tenants acknowledges that, as of the Execution Date, each of the Original Leases is in good standing and each of the Landlord and the Tenants have complied with their respective obligations thereunder; and each of the Landlord and the Tenants shall deliver to one another, immediately prior to the Commencement Date, a certificate re-confirming the acknowledgment in the immediately preceding sentence as at the Commencement Date; and
- (e) the Term is a continuation of the initial term for each part of the Lands which was demised pursuant to (A) the Original Leases, as extended pursuant to the Extension Agreements, and (B) the T.T.C. Development Lands Lease.

ARTICLE 2 DEMISE AND TERM

2.1 Effective Provisions

The Parties agree that the Effective Provisions are in full force and effect from and after the Execution Date. Except for the Effective Provisions, the Parties agree that until the Commencement Date, the other provisions of this Lease shall be of no force or effect. On the Commencement Date, this Lease shall come into full force and effect (automatically and without the requirement of any further documentation and notwithstanding any intervening event or circumstances, whether foreseen or unforeseen).

2.2 Demise and Term

In consideration of the Rent reserved and the covenants, agreements and obligations herein contained on the part of the Tenants to be paid, observed, performed and complied with, the Landlord hereby demises and leases to the Tenants and confirms the demise and lease to the Tenants, and the taking by the Tenants on lease from the Landlord, as tenants in common each as to an undivided one third (1/3) beneficial interest, of the Lands, TO HAVE AND TO HOLD unto the Tenants for and during the Term, unless sooner terminated as provided herein, subject to the reservation of Rent and to the Permitted Encumbrances and to the other provisions of this Lease.

The Tenants hereby confirm their lease of the Lands from the Landlord, as tenants in common each as to an undivided one third (1/3) beneficial interest, and covenant and agree to pay the Rent and to observe, perform and comply with all of the covenants, agreements and obligations to be paid, observed, performed and complied with by the Tenants pursuant to this Lease.

2.3 Property Drawings/Reference Plan of Survey

- (a) The Landlord and the Tenants acknowledge that the Master Development Plan generally and approximately identifies the following:
 - (i) the areas leased, assigned and/or owned or to be owned by Metrolinx, being the areas highlighted in green on Schedule "F";
 - (ii) the park lands, public roads and other areas to be surrendered by the Tenants to the Landlord pursuant to Master Development Plan, being the areas highlighted in turquoise on page G-4 of the Master Development Plan;
 - (iii) the location of the T.T.C. Bus Terminal to be constructed as part of the Master Development Plan and to be surrendered to the Landlord in accordance with Subsection 7.1(f), being the areas highlighted in pink on Schedule "H";
 - (iv) the location of the T.T.C. Station Entrances to be constructed as part of the Master Development Plan and to be retained by or surrendered to the Landlord, being the areas highlighted in pink on Schedule "I";

- (v) the location of the Option Lands, being the areas highlighted in orange on page G-5 of the Master Development Plan;
 - (vi) the location of the T.T.C. Retained Lands; and
 - (vii) the location of the T.T.C. Infrastructure and the 3 metre buffer around any T.T.C. Infrastructure.
- (b) The Parties agree that: (i) the facilities, improvements and works shown on the drawings, plans and sketches contained in Schedule "F", Schedule "G", Schedule "H", Schedule "I" may require relocation or modification based on the requirements of Planning Approvals, Technical Review and the final design of the Metrolinx Facilities and/or such facilities, improvements and works; and (ii) the legal descriptions in Schedule "A", Schedule "B-1" and Schedule "B-2" and the drawings, plans and sketches contained in Schedule "F", Schedule "G", Schedule "H", Schedule "I" and Exhibits A-1, A-2 and A-3 to Schedule "A" may need to be revised to accommodate the Development contemplated in the Master Development Plan and to reflect the actual location of the T.T.C. Retained Lands, the T.T.C. Infrastructure, the LRT Areas and the other facilities, improvements and works shown on such drawings, plans and sketches once constructed. For greater certainty, such relocations, modifications or revisions shall not entitle the Landlord to any approval rights beyond (x) those approval rights already contained in the provisions of this Lease and (y) the T.T.C.'s rights pursuant to a Technical Review, and further provided that no T.T.C. Infrastructure shall be relocated without the prior approval of the T.T.C. pursuant to a Technical Review.
- (c) As each Phase of the Development is completed, the Tenants shall, at their sole cost and expense, cause the Property, the applicable Phase or the T.T.C. Retained Lands, as applicable, to be surveyed by an independent accredited surveyor selected by the Tenants (the "**Surveyor**") in order to verify the areas and/or locations identified in the Master Development Plan and/or the drawings, plans and sketches contained in Schedule "F", Schedule "H", Schedule "I" and Exhibits A-1, A-2 and A-3 to Schedule "A" that have been completed as part of such Phase. The Tenants shall deliver a copy of such survey to the Landlord. Upon completion of the survey for each Phase of the Development, the Tenants shall, at their sole cost and expense, cause the Surveyor to prepare a strata reference plan of such Phase for registration on title to the Lands and/or the T.T.C. Retained Lands. The Tenants shall deliver a draft of each such reference plan to the Landlord for its review and approval before submitting the same for registration. Upon Landlord and the Tenants each approving each reference plan, the Landlord shall submit the same for registration on title to the Lands and/or the T.T.C. Retained Lands and thereafter the Parties shall amend this Lease to amend the legal description of the Lands and the T.T.C. Retained Lands to correspond with parts shown on such reference plan.
- (d) Upon completion of the survey for the final Phase of the Development, the Tenants shall, at their sole cost and expense, cause the Surveyor to prepare a strata reference plan of the entire Property and the T.T.C. Retained Lands for registration on title to the Lands and the T.T.C. Retained Lands. The Tenants shall deliver a draft of each such reference plan to the Landlord for its review and approval before submitting the same for registration.

Upon Landlord and the Tenants each approving each reference plan, the Landlord shall submit the same for registration on title to the Lands and the T.T.C. Retained thereafter the Parties shall amend this Lease to amend the legal description of the Lands and the T.T.C. Retained Lands to correspond with parts shown on such reference plan.

2.4 Modification of Leased Lands

- (a) Subject to Subsection 2.4(c), the Landlord shall have a right to modify the Lands that are subject to this Lease from time to time during the Term to accommodate necessary changes to the Transit Facilities and Transit Operations from time to time, provided that in each such case:
- (i) the Landlord shall conduct reasonable prior consultation with the Tenants;
 - (ii) the Landlord will disturb the Buildings as little as is reasonably possible;
 - (iii) the Landlord shall modify the Lands in a manner so as to minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants, and any adverse impact to the future development plans of the Tenants in accordance with the Master Development Plan or any other development proposals of which the Tenants have previously given written notice to the Landlord;
 - (iv) the Landlord shall make or cause to be made appropriate compensation to the Tenants for any damage caused to the Buildings by such changes to the Transit Facilities and Transit Operations and for any Losses occasioned by the loss of use of such portions of the Lands; and
 - (v) subject to the foregoing, if requested by the Landlord, the Tenants shall give a partial release and surrender of this Lease in respect of any parts of the Lands that are reasonably required to accommodate such changes to the Transit Facilities and Transit Operations (such lands, in this Section 2.4, being the "**Surrendered Lands**").

Prior to the surrender of the Surrendered Lands, the Landlord shall, at its sole cost and expense, cause an independent accredited surveyor selected by the Landlord to prepare a strata reference plan of such Surrendered Lands for registration on title to the Lands. The Landlord shall deliver a draft of such reference plan to the Tenants for their review and approval prior to submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands and thereafter the Parties shall amend this Lease to amend the legal description of the Lands and the T.T.C. Retained Lands to exclude the Surrendered Lands from the Lands and to add the Surrendered Lands to the T.T.C. Retained Lands.

- (b) The Tenants acknowledge that, in connection with the construction of the Development pursuant to the Master Development Plan, they intend to construct on parts of the Lands a public road and a public park as illustrated on page G-4 of the Master Development Plan that will be transferred to the City. The Tenants covenant and agree that upon request by the City or the Landlord they shall give a partial release and surrender of this Lease in

respect of any parts of the Lands that are reasonably required by the City in connection with such public road and public park, to the extent contemplated by the applicable site plan agreements with the City provided that, as a condition of the Tenants granting any such partial release and surrender of this Lease in favour of the City or the Landlord, the City and/or the Landlord shall have granted the Tenants all access rights reasonably required by the Tenants over such public road and public park until such time as the City and/or the Landlord dedicates such parts of the Lands for public use. The Landlord covenants that, if required by the City pursuant to any Planning Approvals obtained by the Tenants for the Development, the Landlord shall convey to the City any parts of the Lands which are so released and surrendered by the Tenants and that are required by the City in connection with such public road and public park in accordance with the applicable site plan agreements with the City.

- (c) The Parties acknowledge that nothing contained in this Lease limits, affects or derogates from the rights of: (i) the T.T.C., Metrolinx or the City to exercise statutory powers of expropriation in respect of any lands or premises or powers of the City to designate protected major transit station areas in an official plan in accordance with the *Planning Act* (Ontario); or (ii) the Tenants to seek compensation for expropriation of any part of the Lands pursuant to the *Expropriations Act* (Ontario) or any other applicable expropriation legislation.

2.5 Surrender upon Expiration of the Term

At the expiration of the Term by the effluxion of time or upon the earlier termination of this Lease as otherwise provided herein, Rent shall be apportioned and adjusted as of the date of such expiry or termination, as the case may be. The Tenants shall, on such date, peaceably surrender and yield up to the Landlord the Lands together with all Buildings thereon (subject to the right of: (i) Space Tenants to remove their leasehold improvements, trade fixtures and other similar fixtures, and any other items removable by Space Tenants in accordance with their Space Leases; and (ii) the Tenants and Space Tenants to remove their movable personal property) in the condition in which they are required to be kept and maintained by the Tenants under the provisions of this Lease, subject to reasonable wear and tear. All the rights of the Tenants under this Lease shall thereupon terminate (but the Tenants shall, notwithstanding such expiry or termination, remain liable to the Landlord for any Losses suffered by the Landlord during the Term by reason of any default, negligence or wrongful act or omission by any of the Tenants).

2.6 Assignment of Rights upon Termination

Upon the surrender of the Lands and the Buildings pursuant to Section 2.5, the Tenants shall assign to the Landlord, and the Landlord shall assume, all of the Tenants' right, title and interest in and to the benefit of all Space Leases and other agreements and rights benefiting the Property or the Tenants' interests therein, including utility or other easements, in each case in respect of the period from and after the date of such assignment. The Tenants hereby constitute the Landlord as the Tenants' true and lawful attorney fully empowered to execute all documents and take all steps necessary to effectuate the assignment of Space Leases and such other agreements and rights set out in this Section. The foregoing shall not be construed to derogate

from the requirement that the term of any Space Lease not extend beyond the Term without the Landlord's prior consent, in the Landlord's sole discretion.

2.7 Overholding

If the Tenants continue to occupy the Lands after the expiry of the Term without written agreement of the Landlord, the Tenants shall be deemed to be tenants from month to month only at a monthly rental equal to one-twelfth of 115% of the annual Base Rent payable under this Lease during the immediately preceding year of the Term and otherwise on the same terms and conditions set out herein which are applicable to a monthly tenancy; provided that:

- (a) if the Parties are then conducting good faith negotiation for the extension of the Term, the monthly rental shall be equal to one-twelfth of the annual Base Rent payable under this Lease during the immediately preceding year of the Term; and
- (b) during the period of any overholding: (i) the Tenants shall continue to pay Additional Rent and Impositions when and as required by this Lease or by Applicable Laws; and (ii) if, and only if, the Parties are not then conducting good faith negotiation for the extension of the Term, the ROFO pursuant to Section 14.2 and the Extension Option pursuant to Section 15.3 shall be cancelled and of no further force or effect.

ARTICLE 3 BASE RENT

3.1 Base Rent

The Tenants hereby covenant and agree to pay to the Landlord yearly and every year during the Term annual base rent ("**Base Rent**") in accordance with the provisions of Sections 3.2 to 3.8 inclusive, 3.13, 15.4 and 15.6 below, subject to any adjustment to the annual Base Rent which may be necessary pursuant to Sections 3.9 and 3.11.

3.2 Payments of Base Rent Generally

The Base Rent determined to be payable pursuant to this Lease for each year during the Term will be payable in advance in lawful money of Canada in equal monthly instalments, and subject to Section 11.6, without any deduction, set-off or abatement whatsoever, plus applicable HST, on the first day of each calendar month during the Term. If necessary all sums paid as Base Rent shall be adjusted on a per diem basis to reflect any partial billing periods at the commencement or termination of this Lease.

3.3 Base Rent for Initial Base Rent Period

For the initial Base Rent Period from the Execution Date to but excluding the Commencement Date, the Tenants shall pay to the Landlord annually as Base Rent the sum of Two Million Twenty Seven Thousand Eight Hundred and Ninety Two Dollars (\$2,027,892.00).

3.4 Base Rent for Second Base Rent Period

For the second Base Rent Period of twenty (20) years commencing on the Commencement Date to and including the last day of the Initial Development Period (being the "**Second Base Rent Period**"), the Tenants shall pay to the Landlord annually as Base Rent an amount equal to the greater of: (i) Two Million Twenty Seven Thousand Eight Hundred and Ninety Two Dollars (\$2,027,892.00) and (ii) the Base Rent determined in accordance with Section 3.5.

3.5 Determination of Base Rent for Second Base Rent Period

- (a) As at each Base Rent Adjustment Date during the Second Base Rent Period, the Base Rent shall be recalculated based on the Total GFA of all Buildings (and, if applicable, any Unoccupied Buildings) on the Lands as at such date, in accordance with the following procedures:
 - (i) the Initial FMVL will be equal to the sum of the values determined on a Building by Building basis by multiplying the Total GFA for each use (specifically residential and non-residential) of premises in each Building then existing on the Lands by the Applicable Unit Rates for such uses;
 - (ii) the "**Adjusted Initial FMVL**" will be calculated by deducting from the Initial FMVL a pro rata share of the Enabling Costs for the Additional Improvements contemplated in the Master Development Plan which have been Substantially Completed at the applicable Base Rent Adjustment Date, the amount of which pro rata share shall be determined by multiplying the Enabling Costs by a fraction, the numerator of which is the GFA for those Additional Improvements the Substantial Completion of which triggered the applicable Base Rent Adjustment Date and the denominator of which is the total GFA of all Additional Improvements contemplated in the Master Development Plan; and
 - (iii) subject to Section 3.4, the adjusted Base Rent shall be equal to the amount determined by multiplying the Adjusted Initial FMVL, as calculated and adjusted pursuant to Subsections 3.5(a)(i) and 3.5(a)(ii), by the Rental Rate.
- (b) For greater certainty:
 - (i) on each Base Rent Adjustment Date during the Second Base Rent Period until the earlier of: (A) the date which is six (6) months after the date on which all Phases of the Master Development Plan are Substantially Complete (the "**Final Base Rent Adjustment Date**") and (B) the expiry of the Second Base Rent Period, the Initial FMVL, Adjusted Initial FMVL and the Base Rent shall be recalculated on a go forward basis until the next Base Rent Adjustment Date in accordance with the methodology described in Subsection 3.5(a) above, to reflect the Total GFA of all residential and non-residential uses in the Buildings then existing on the Lands at such time. At each such Base Rent Adjustment Date, the Parties shall confirm in writing the Base Rent payable at such time for each Building then existing on the Lands; and

- (ii) if the Final Base Rent Adjustment Date occurs before the expiry of the Second Base Rent Period, then on the Final Base Rent Adjustment Date:
 - (A) the Initial FMVL, Adjusted Initial FMVL and the Base Rent shall be recalculated for the remainder of the Second Base Rent Period in accordance with the methodology described in Subsection 3.5(a) above, to reflect the Total GFA of all residential and non-residential uses in the Buildings then existing on the Lands at such time; and
 - (B) the Parties shall confirm in writing the Base Rent payable for the remainder of the Second Base Rent Period for each Building then existing on the Lands and the Base Rent payable per square foot (the "**Base Rent Per Square Foot**") to be applied to calculate the Base Rent payable in respect of any Additional Improvement constructed on the Lands after the Final Base Rent Adjustment Date or any Building that is Materially Damaged or Destroyed and that is reconstructed or replaced after the Final Base Rent Adjustment Date (including a breakdown of the Base Rent Per Square Foot payable for each of the residential and non-residential uses).

3.6 Adjustment of Applicable Unit Rate for Residential Uses

The Landlord agrees that if, pursuant to any Planning Approvals obtained by the Tenants, the City or any other Governmental Authority requires the Tenants to maintain affordable housing units and/or a mandated suite mix for any Building to be used for rental residential uses ("**City Housing Requirements**"), the Applicable Unit Rates for all Burdened Residential Uses during the Initial Development Period shall be equal to \$60.00 per square foot of GFA (the "**Adjusted Applicable Unit Rate**"). The Adjusted Applicable Unit Rate shall apply so long as any City Housing Requirements are in place in respect of any New Buildings at the time the zoning for such New Building is approved by the City. For the purposes of this Agreement: (i) "**Burdened Residential Uses**" means premises to be used for residential uses in any Building which are subject to City Housing Requirements; and (ii) "**Unburdened Residential Uses**" means premises to be used for residential uses in any Building which are not subject to City Housing Requirements. For greater certainty: (A) if any premises used for residential uses in a Building are subject to City Housing Requirements, then the entire Building will be deemed to have a Burdened Residential Use; (B) if on a Base Rent Adjustment Date during the Initial Development Period any New Building contains only Unburdened Residential Uses, then the Applicable Unit Rate for such New Building shall be equal to \$85.00 per square foot of GFA; and (C) if the Tenants exercise their option to extend the Construction Deadline pursuant to Subsection 6.7(b), the Applicable Unit Rate and Adjusted Applicable Unit Rate for New Buildings constructed during the 10 Year Extension Period shall be determined in accordance with Subsection 6.7(c).

3.7 Base Rent Per Square Foot

The Base Rent Per Square Foot to be applied to calculate the Base Rent for any (i) Additional Improvement constructed on the Lands after the Development Period in accordance with Subsection 3.8(d), or (ii) Building that is Materially Damaged or Destroyed and that is

reconstructed or replaced after the Development Period in accordance with Subsection 3.8(e), shall be recalculated in accordance with the following procedures and such recalculated Base Rent Per Square Foot shall be effective during (1) each Base Rent Reset Period during the Initial Term after the earlier of the Final Base Rent Adjustment Date or the expiry of the Development Period, and (2) each Base Rent Reset Period following the Extension Term First Base Rent Period during the Extension Term:

- (a) in the case of the Base Rent Per Square Foot payable for premises used for Burdened Residential Uses (the "**Adjusted Residential Base Rent Per Square Foot**"), the Adjusted Residential Base Rent Per Square Foot for each Base Rent Reset Period shall be equal to the sum of:

A / B where:

A = the Base Rent payable for premises used for Burdened Residential Uses during such Base Rent Reset Period as determined pursuant to Subsection 3.8(a) or 3.8(b), as applicable; and

B = the total GFA of all premises used for Burdened Residential Uses in the Buildings existing on the Lands as of the first day of such Base Rent Reset Period;

- (b) in the case of the Base Rent Per Square Foot payable for premises used for Unburdened Residential Uses (the "**Unadjusted Residential Base Rent Per Square Foot**"), the Unadjusted Residential Base Rent Per Square Foot for each Base Rent Reset Period shall be equal to the sum of:

A / B where:

A = the Base Rent payable for premises used for Unburdened Residential Uses during such Base Rent Reset Period as determined pursuant to Subsection 3.8(a) or 3.8(b), as applicable; and

B = the total GFA of all premises used for Unburdened Residential Uses in the Buildings existing on the Lands as of the first day of such Base Rent Reset Period; and

- (c) in the case of the Base Rent Per Square Foot payable for premises used for non-residential uses (the "**Non-Residential Base Rent Per Square Foot**"), the Non-Residential Base Rent Per Square Foot for each Base Rent Reset Period shall be equal to the sum of:

A / B where:

A = the Base Rent payable for premises used for non-residential uses during such Base Rent Reset Period as determined pursuant to Subsection 3.8(a) or 3.8(b), as applicable; and

B = the total GFA of all premises used for non-residential uses in the Buildings existing on the Lands as of the first day of such Base Rent Reset Period.

3.8 Determination of Base Rent for Subsequent Base Rent Periods

Commencing on the 20th anniversary of the Commencement Date (being the day following the expiry of the Initial Development Period and the Second Base Rent Period) and as at each Base Rent Reset Date thereafter during the Initial Term of the Lease, the Base Rent for the following Base Rent Period shall be recalculated and established as follows:

(a) **First Base Rent Reset Period following the Second Base Rent Period (Years 21 to 40):**

The annual Base Rent for the first Base Rent Reset Period commencing on the 20th anniversary of the Commencement Date (the "**First Base Rent Reset Period**") shall be based on the Buildings then existing on the Lands and the uses thereof and shall be equal to the sum of the amounts calculated as follows, subject to Subsections 3.8(c), 3.8(d) and 3.8(e) and Section 3.9:

- (i) in the case of all residential premises, the Base Rent payable by the Tenants in respect of each of such premises during the immediately preceding year of the Term multiplied by one plus the cumulative percentage increase in the Ontario Residential Rent Increase Guideline (or, if the Ontario Residential Rent Increase Guideline no longer exists, such replacement or successor guideline issued by the Province of Ontario or other applicable Governmental Authority) rate measured on a Building by Building basis from the date of Substantial Completion of each residential Building to the last day of the Initial Development Period. On the first day of the First Base Rent Reset Period, the Parties shall confirm in writing the Base Rent payable during the First Base Rent Reset Period for residential premises in each such Building and the Adjusted Residential Base Rent Per Square Foot and Unadjusted Residential Base Rent Per Square Foot payable during the First Base Rent Reset Period;
- (ii) in the case of non-residential premises leased by CTC (or other Space Tenant) under the Anchor Tenant Office Lease, if any, the Base Rent payable by the Tenants in respect of such non-residential premises during the immediately preceding year of the Term multiplied by one plus the cumulative percentage increase in the annual base or minimum rent paid by CTC (or other anchor Space Tenant) under its lease of such premises from the Tenants based on contractual rent steps set forth in the Anchor Tenant Office Lease from the date of commencement of the Anchor Tenant Office Lease to the last day of the Initial Development Period. On the first day of the First Base Rent Reset Period, the Parties shall confirm in writing the Base Rent payable during the First Base Rent Reset Period for non-residential premises leased pursuant to the Anchor Tenant Office Lease; and
- (iii) in the case of all other non-residential premises, the Base Rent payable by the Tenants in respect of such premises during the immediately preceding year of the Term multiplied by one plus the cumulative percentage increase in the CPI measured on a Building by Building basis from the date of Substantial Completion of each such Building to the last day of the Initial Development

Period. As soon as reasonably possible after the first day of the First Base Rent Reset Period, the Parties shall confirm in writing the Base Rent payable during the First Base Rent Reset Period for non-residential premises in each such Building and the Non-Residential Base Rent Per Square Foot payable during the First Base Rent Reset Period.

(b) Subsequent Base Rent Reset Periods (Year 41 and beyond):

The annual Base Rent for the each subsequent Base Rent Reset Period (each a "**Subsequent Base Rent Reset Period**") commencing on the 40th, 60th and 80th anniversaries of the Commencement Date (and if applicable the 20th, 40th, 60th and 80th anniversaries of the commencement of the Extension Term) shall be based on the Buildings then existing on the Lands and, subject to Subsections 3.8(d) and 3.8(e) and Section 3.9, shall be equal to the sum of the amounts determined by multiplying the Base Rent payable by the Tenants during the immediately preceding year of the Term by one plus 85% of the cumulative percentage change in NOI (whether positive or negative), as determined on a Building by Building basis, from the previous Base Rent Reset Date to the current Base Rent Reset Date; provided that for any Additional Improvements that are constructed during the previous Base Rent Reset Period, the cumulative percentage change in NOI, as determined on a Building by Building basis for such Additional Improvements, as applicable, shall be calculated from the date that is one year following Substantial Completion of such Additional Improvements, as applicable, to the current Base Rent Reset Date. As soon as reasonably possible after the commencement of each Subsequent Base Rent Reset Period, the Parties shall confirm in writing the Base Rent payable for such Subsequent Base Rent Reset Period for each Building then existing on the Lands (including a breakdown of the Base Rent Per Square Foot payable for each of the residential and non-residential uses). All of the foregoing calculations shall be based on the most recently completed annual statements of the Tenants for the Property.

By way of example and for illustration only, if the cumulative growth in NOI over the prior Base Rent Reset Period is 60% and there have been no Additional Improvements constructed on the Lands since the previous Base Rent Reset Date, the calculation would be as follows:

$$\begin{aligned} \text{Adjusted Base Rent} &= \text{Prior Base Rent} \times \{1 + [85\% \times (1.60 - 1.00)]\} \\ &= \text{Prior Base Rent} \times 1.510 \end{aligned}$$

In other words, the Base Rent for the new Base Rent Reset Period would be equal to 151% of the Base Rent for the prior Base Rent Reset Period.

(c) Construction of Additional Improvements during 10 Year Extension Period

Notwithstanding the foregoing provisions of this Section 3.8:

- (i) if the Development Period has been extended for the 10 Year Extension Period in accordance with Subsection 6.7(b), and in the event that during the 10 Year Extension Period any Additional Improvement is constructed or any Building that is Materially Damaged or Destroyed is reconstructed or replaced, the Base Rent for each such Building shall be determined on the date which is six (6) months

following the Substantial Completion of each such Building and shall be equal to the sum of the aggregate GFA for each use (specifically residential and non-residential) of premises in each such Building multiplied by the Applicable Unit Rate for such uses at such time, and the Base Rent payable by the Tenants hereunder shall be adjusted accordingly.

For greater certainty:

- (ii) on each Base Rent Adjustment Date during the First Base Rent Reset Period until the earlier of: (A) the Final Base Rent Adjustment Date and (B) the expiry of the 10 Year Extension Period, the Base Rent shall be recalculated on a go forward basis until the next Base Rent Adjustment Date in accordance with the methodology described in Subsections 3.8(a) and 3.8(c)(i) above, to reflect the Total GFA of all residential and non-residential uses in the Buildings then existing on the Lands at such time. At each such Base Rent Adjustment Date, the Parties shall confirm in writing the Base Rent payable at such time for each Building then existing on the Lands; and
- (iii) if the Final Base Rent Adjustment Date occurs after the expiry of the Initial Development Period, then on the Final Base Rent Adjustment Date:
 - (A) the Initial FMVL, Adjusted Initial FMVL and the Base Rent shall be recalculated for the remainder of the First Base Rent Reset Period in accordance with the methodology described in Subsections 3.8(a) and 3.8(c)(i) above, to reflect the aggregate GFA of all residential and non-residential uses in the Buildings then existing on the Lands at such time; and
 - (B) the Parties shall confirm in writing the Base Rent payable for the remainder of the First Base Rent Reset Period for each Building then existing on the Lands and the Base Rent Per Square Foot to be applied to calculate the Base Rent payable in respect of any Additional Improvement constructed on the Lands after the Final Base Rent Adjustment Date or any Building that is Materially Damaged or Destroyed and that is reconstructed or replaced after the Final Base Rent Adjustment Date (including a breakdown of the Base Rent Per Square Foot payable for each of the residential and non-residential uses).
- (d) **Construction of Additional Improvements or Redevelopment after the Development Period**

Notwithstanding the foregoing provisions of this Section 3.8, in the event that during any Base Rent Period after the Development Period:

- (i) any Building becomes an Unoccupied Building for any reason, there shall be no abatement or reduction in Base Rent payable for such Unoccupied Building; and

- (ii) any Additional Improvement is constructed or any other Building is redeveloped, reconstructed or replaced (including as a result of Material Damage or Destruction), the Base Rent for any such Building shall be determined on the date which is six (6) months following the Substantial Completion of each such Building and shall be equal to the sum of the aggregate GFA for each use (specifically residential and non-residential) of premises in each such Building multiplied by the Base Rent Per Square Foot (and in the Extension Term First Base Rent Period only, the Extension Term Base Rent Per Square Foot) for such uses at such time as determined in accordance with the procedures set forth in Section 3.7 or Subsections 15.4(a) and/or 15.4(e), as applicable, and the amount of such adjusted Base Rent for such Building shall be added to the Base Rent payable by the Tenants and an amount equal to the Base Rent that was previously payable for such Building prior to such construction, redevelopment, reconstruction or replacement shall be subtracted from the Base Rent payable by the Tenants.

(e) **Material Damage or Destruction to Buildings**

If within twenty-four (24) months prior to the Base Rent Reset Date for any Subsequent Base Rent Reset Period any Building is Materially Damaged or Destroyed and as a result thereof the NOI from the Building as at the Base Rent Reset Date is less than the NOI from the Building for the most recently completed fiscal year prior to the occurrence of such Material Damage or Destruction, then for the purposes of determining the annual Base Rent for the next Base Rent Reset Period pursuant to Subsection 3.8(b) above, the NOI of such Building as at the Base Rent Reset Date shall be deemed to the actual NOI from the Building for the most recently completed fiscal year prior to the occurrence of such Material Damage or Destruction.

3.9 Conversion of the Use of GFA

Notwithstanding Sections 3.4, 3.5, 3.8 and 15.4, in the event that during any Base Rent Period after the Commencement Date, all or any part of the GFA of any Building is converted in use from: (A) residential use to non-residential use; or (B) non-residential use to residential use, the Base Rent payable for such use shall be adjusted as of the date which is six (6) months after Substantial Completion of all work necessary to effect such conversion (the "**Conversion Date**") as follows:

- (a) the Base Rent for space that has been converted to Burdened Residential Uses shall be equal to the aggregate GFA of the converted space multiplied by the Adjusted Residential Base Rent Per Square Foot or the Extension Term Residential Base Rent Per Square Foot, as the case may be, that is then applicable. The amount of such adjusted Base Rent for the converted space shall be added to the Base Rent payable by the Tenants and an amount equal to the Base Rent that was previously payable for such converted space prior to the Conversion Date shall be subtracted from the Base Rent payable by the Tenants;
- (b) the Base Rent for space that has been converted to Unburdened Residential Uses shall be equal to the aggregate GFA of the converted space multiplied by the Unadjusted Residential Base Rent Per Square Foot or the Extension Term Residential Base Rent Per

Square Foot, as the case may be, that is then applicable. The amount of such adjusted Base Rent for the converted space shall be added to the Base Rent payable by the Tenants and an amount equal to the Base Rent that was previously payable for such converted space prior to the Conversion Date shall be subtracted from the Base Rent payable by the Tenants; and

- (c) the Base Rent for space that has been converted to non-residential use shall be equal to the aggregate GFA of the converted space multiplied by the Non-Residential Base Rent Per Square Foot or the Extension Term Non-Residential Base Rent Per Square Foot, as the case may be, that is then applicable. The amount of such adjusted Base Rent for the converted space shall be added to the Base Rent payable by the Tenants and an amount equal to the Base Rent that was previously payable for such converted space prior to the Conversion Date shall be subtracted from the Base Rent payable by the Tenants.

3.10 Financial Statements and Records

In order to facilitate the calculation of Base Rent as contemplated in Section 3.8, the Tenants shall:

- (a) keep or cause to be kept complete and accurate books, records and supporting data as are reasonably required to determine NOI and shall make all such books, records and data available to be inspected, copied and audited by the Landlord and its agents and representatives at all reasonable times upon five (5) Business Days prior Notice and during normal business hours during the Term; provided that the Landlord may only exercise such right to inspect, copy and audit once per calendar year. Such books, records and data shall be maintained for each Base Rent Reset Period and for at least 36 months following the expiry of the Base Rent Reset Period to which they pertain;
- (b) deliver to the Landlord on an annual basis for each year of each Base Rent Period beginning on the 20th anniversary of the Commencement Date (being the first day of the First Base Rent Reset Period), unaudited financial statements setting forth the NOI from the Property on a Building by Building basis for the applicable year, such statements to be delivered within 120 days after the end of the applicable year; and
- (c) deliver to the Landlord for the first and last year of each Base Rent Period beginning on the 20th anniversary of the Commencement Date (being the first day of the First Base Rent Reset Period), the audited financial statements for the Property for the most recently completed fiscal year of the Tenants, such audited financial statements to be delivered within 120 days after the end of the applicable year.

3.11 Adjustment of Base Rent if Fee Purchase Option Exercised

The Tenants acknowledge that pursuant to the Master Development Plan their primary intent with respect to residential development on the Lands is to pursue the development and leasing of rental residential premises. However if, notwithstanding the foregoing, the Tenants exercise their Fee Purchase Option to purchase a portion of the Lands for residential condominium development, the annual Base Rent will be adjusted, if required, to reflect the decrease in GFA, if any, on the Lands in accordance with the methodology set out in Section 3.5.

3.12 Non-Agreement as to Base Rent

If the Parties cannot agree upon the annual Base Rent to be paid during the First Base Rent Reset Period or any Subsequent Base Rent Reset Period during the Initial Term by the date which is sixty (60) days after the later of (a) the expiry of the preceding Base Rent Period and (b) the date required for the delivery of the most recently completed annual audited financial statements for the Property as set forth in Subsection 3.10(c), then either the Landlord or the Tenants may at any time thereafter refer the matter for determination pursuant to the Dispute Resolution Procedures in ARTICLE 19. For greater certainty, the Base Rent for the initial Base Rent Period shall be conclusively determined in accordance with Section 3.3 and the Base Rent for the Second Base Rent Period shall be conclusively determined in accordance with Sections 3.4 and 3.5.

3.13 Rent Payable Pending Determination

If the Landlord and Tenants are unable to agree as to the quantum of annual Base Rent to be paid during any Base Rent Period during the Term as aforesaid, then the Tenants shall continue to pay Base Rent in an amount equal to the greater of (i) the average of the amounts of Base Rent proposed by the Landlord and the Tenants for purposes of the Dispute Resolution Procedures; and (ii) the Base Rent payable during the last year of the preceding Base Rent Period during the Term until the new annual Base Rent is finally determined. Once the new annual Base Rent is finally determined, the Parties shall make such retroactive adjustment as at the commencement of the then current Base Rent Period as may be required to reflect the new annual Base Rent together with simple interest at the Prime Rate plus one half of one percent (0.5%) percent per annum on the difference between the amount of interim Base Rent that has been paid by the Tenants and the amount of Base Rent that should have been paid based on the new annual Base Rent to the date such adjustment is paid; and provided that the payment by the Tenants and the acceptance by the Landlord of such interim Base Rent is without prejudice to their respective rights with respect to the determination of the new annual Base Rent pursuant to the Dispute Resolution Procedures.

ARTICLE 4 NET LEASE AND ADDITIONAL RENT

4.1 Net Lease

- (a) It is the intention of the Landlord and the Tenants that the Base Rent payable hereunder shall be in all respects absolutely net to the Landlord and that, except as otherwise expressly provided for herein, the Tenants shall, at their expense and to the complete exoneration of the Landlord, pay or cause to be paid all costs, outlays and expenses of any nature and kind whatsoever relating to or affecting the Property or in connection with any business carried on therein or thereon which may arise or become due during the Term.
- (b) The Tenants shall not be responsible for or be obliged to pay any costs, outlays or expenses of any nature and kind whatsoever relating to or affecting the T.T.C. Facilities except as expressly set out in this Lease.

4.2 Waiver of Setoff

Subject to Section 11.6, the Tenants hereby expressly waive the benefits of section 35 of the *Commercial Tenancies Act* (Ontario) and any present or future act or statute permitting the Tenants to claim a set-off, abatement, or deduction against or from Rent for any cause whatsoever. Except as otherwise specifically provided in this Lease, the Tenants hereby waive and renounce any and all existing and future claims and offsets against any Rent and agree to pay Rent in accordance with the terms of this Lease without deduction, set-off or abatement.

4.3 Accrual of Rent

Rent will be considered as accruing from day to day hereunder, and where it becomes necessary for any reason to calculate Rent for an irregular period of less than one year or less than one calendar month, an appropriate apportionment and adjustment will be made. Where the calculation of Rent cannot be made until after termination or expiry of this Lease, the obligation of the Tenants to pay Rent will survive termination or expiry of the Lease, and the proper amount will be payable by the Tenants to the Landlord forthwith upon calculation.

4.4 Interest Upon Overdue Rent

All Rent not paid when due hereunder shall bear interest at the Prime Rate plus three (3%) percent per annum, calculated daily and compounded monthly and such interest shall be deemed to be Additional Rent and shall be paid to Landlord forthwith upon demand.

4.5 Payment of Additional Rent Generally

Subject to Section 11.6, all items of Additional Rent shall be paid by the Tenants to the Landlord in lawful money of Canada without any deduction, set-off or abatement whatsoever, plus applicable HST, within 30 days after delivery of Landlord's invoices therefor to the Tenants. If necessary all sums paid as Additional Rent shall be adjusted on a per diem basis to reflect any partial billing periods at the commencement or termination of this Lease.

4.6 HST

All amounts payable by the Tenants pursuant to this Lease are exclusive of HST. In addition to all amounts payable by the Tenants as Rent under this Lease, the Tenants shall pay to the Landlord all HST calculated on or in respect of amounts payable by the Tenants as Rent under this Lease at the time such Rent is required to be paid under this Lease. Notwithstanding that HST is not Rent under this Lease, the Landlord shall have the same rights and remedies for the recovery of amounts payable as HST as it has for the recovery of amounts payable as Rent hereunder.

4.7 Covenant to Pay Realty Taxes, Utilities and Other Charges

Except as otherwise expressly provided in Sections 7.1 and 7.2, Subsections 7.8(b), 7.8(d)(ii), 7.9(k) and 7.9(l) and Sections 8.6 and 8.7, the Tenants shall bear, pay and discharge or cause to be paid and discharged, as and when due during the Term, and shall indemnify and save harmless the Landlord from and against any and all Claims and Losses arising as a result of any

failure by the Tenants to duly and punctually pay and discharge as when due each of the following (the items in paragraphs (a) to (e) inclusive below being collectively called "**Impositions**"):

- (a) each and every instalment of Realty Taxes;
- (b) all business taxes, license fees and other similar taxes, rates, duties, charges and assessments, including other payments in lieu thereof, now or at any time hereafter levied, imposed, charged or assessed by any Governmental Authority on or against the Tenants in respect of the occupancy of the Property or any part thereof or any business carried on therein or thereon or any property of the Tenants therein or thereon;
- (c) all charges and rates for water, electricity, gas, steam, telephone, telecommunication services and other utilities and services supplied to or consumed at the Property or any part thereof;
- (d) all charges, rents, costs, expenses and other amounts payable in respect of the Lands or any part thereof or the Buildings pursuant to any Permitted Encumbrances;
- (e) any other taxes, fees, rates, duties, charges or assessments now or at any time hereafter levied, imposed, charged or assessed by any Governmental Authority or any public or private utility supplier in respect of the Property or any part thereof, non-payment of which could form a lien or charge upon the Landlord's interest in the Lands or any part thereof; and
- (f) all expenses in connection with the development, construction, leasing or sale, operation, repair, maintenance and management of the Property or any Phase or part thereof.

For greater certainty: (i) none of the Impositions set out Subsections 4.7(b) or 4.7(f) shall be payable to the Landlord as Additional Rent; and (ii) if the Tenants fail to pay when due the Impositions set out in Subsections 4.7(a), 4.7(c), 4.7(d) or 4.7(e), the Landlord may pay the same on behalf of the Tenants pursuant to Section 4.10 and the amounts paid or costs incurred by the Landlord on account thereof shall be payable by the Tenants to the Landlord as Additional Rent as set out in Section 4.10.

4.8 Landlord to Provide Notices

The Landlord shall forward to the Tenants promptly upon receipt any bills and notices which the Landlord receives with respect to Realty Taxes or other Impositions.

4.9 Proof of Payment

The Tenants shall furnish to the Landlord, within twenty (20) days after request therefor by the Landlord, proof of payment of all Realty Taxes and other Impositions.

4.10 Landlord May Pay Impositions

If the Tenants fail to pay, when due, any Impositions set out in Subsections 4.7(a), 4.7(c), 4.7(d) or 4.7(e), the non-payment of which could form a lien or charge upon the Landlord's interest in the Lands or any part thereof (other than any Impositions which are being contested by the Tenants in good faith and the payment of which may lawfully be postponed pending the outcome of such contest without risk of forfeiture of the Lands or any part thereof), upon giving a Default Notice in accordance with Section 17.2 and if same are not paid within the period specified in Subsection 17.2(b), the Landlord shall have the right to pay the same on behalf of the Tenants and the Tenants shall pay to the Landlord forthwith upon demand as Additional Rent all amounts paid or costs (including reasonable legal fees and disbursements) incurred by the Landlord on account thereof or in connection therewith, together with a sum equal to 15% of all such amounts representing the Landlord's administration fee.

ARTICLE 5 USE

5.1 Use by Tenants

The Tenants may use the Lands for the development, construction, leasing, sale, operation and management of the Property as a mixed-use development as may be permitted under Applicable Laws from time to time, subject to compliance in all respects with the provisions of the Permitted Encumbrances and this Lease.

5.2 Compliance with Laws

The Tenants shall, at their own expense, comply with, or caused to be complied with, all Applicable Laws which are applicable to the Development and the Property.

Without limiting the generality of the foregoing, all foundations, supporting columns, structural supports, Buildings or structures erected on the Lands and all uses thereof shall comply with the official plans and zoning by-laws of the City, and it shall be the responsibility of the Tenants to have such official plans or zoning by-laws amended as and when required for such purposes. The Landlord shall execute such authorizations and agreements as are required by the City to permit the Tenants to apply for and obtain such amendments provided that such amendments do not derogate in any material respect of or from the rights of the Landlord hereunder and the Landlord shall incur no liability under or in respect of any such authorizations, agreements or amendments unless the Tenants agree to indemnify the Landlord for such liability.

The Tenants shall also, at their own expense, comply with and shall use reasonable commercial efforts to cause Space Tenants to comply with all police, fire and sanitary regulations imposed by any Governmental Authorities and with the requirements made by fire insurance underwriters to the extent required in order to keep insurance on or in respect of the Property in force, and shall observe and obey, and shall use reasonable commercial efforts to cause Space Tenants to observe and obey, all Applicable Laws governing the conduct of any business carried on at, in or from the Property.

5.3 Ownership of Buildings

Title to and ownership of all Buildings from time to time constructed on the Lands (including, for greater certainty, the Existing Buildings, commencing as of the effective date of each of the Original Leases) have been and shall at all times prior to the termination of the Lease be vested in the Tenants absolutely notwithstanding any rule of law as to immediate vesting of the title to or ownership of all improvements in the Landlord as owner of the fee simple interest in the Lands. The title to and ownership of all Buildings from time to time constructed on the Lands shall not pass to or become vested in the Landlord until the expiration of the Term by the effluxion of time or upon the earlier termination of this Lease and, upon such expiry or termination, all Buildings on the Lands shall immediately become the absolute property of the Landlord, free from all encumbrances other than Permitted Encumbrances, and without compensation to the Tenants but subject to the rights of any Space Tenants and any Tenant Mortgagees, both at law and pursuant to such Space Lease Recognition Agreements, Leasehold Mortgagee Acknowledgement Agreements and/or Subleasehold Mortgagee Acknowledgement Agreements, as the case may be, that have been entered into by the Landlord with such Space Tenants and Tenant Mortgagees. Subject as aforesaid, the Landlord's absolute right of property in the Buildings, which will arise at the end of the Term, shall take priority over any other interest in the Buildings or any of them or any part thereof or interest therein which may now or hereafter be created by the Tenants and all dealings by the Tenants with the Buildings or any of them or any part thereof or interest therein which in any way affect title thereto shall be subject to this right of the Landlord. The Tenants shall not assign, encumber or otherwise deal with the Buildings separately from any permitted dealing with the Tenants' leasehold interest in the Lands under this Lease, it being the Parties' intention that no Person shall hold or enjoy any interest in the Lands pursuant to this Lease who does not at the same time hold a corresponding interest in the Buildings located on the Lands and vice versa.

5.4 Utilities

The Tenants shall be responsible, at their sole cost and expense, for arranging for the supply of water, sewer, electricity, natural gas, telephone and other telecommunication services and other utilities and services to the Property and shall pay or cause to be paid all costs and charges for the installation of and connections to all facilities necessary for the supply of such utilities and services to the Property. The Landlord shall have no liability or obligation with respect to any interruption, cessation or failure in the supply of any such utilities and services. If necessary or required by the City or any utility supplier, the Landlord agrees to join in the granting of any easements in favour of the City or public or private utility suppliers for the purpose of providing utility services to the Buildings constructed on the Lands from time to time. If necessary, the Tenants shall assign the benefit of any such easements to the Landlord upon termination or expiry of this Lease in accordance with Section 2.6.

5.5 Easements, Reciprocal Rights and Service Installations

It is understood and agreed that both the Landlord and the Tenants will require from time to time drains, pipes, conduits, vents, fire exits and similar services in and over the lands and premises of the other, rights of support and rights of access to undertake repair and maintenance of such services and their respective properties and that the rights and services which are

required may change from time to time in connection with changes to the Property and/or the Transit Facilities or Transit Operations. The Landlord and the Tenants hereby mutually covenant and agree that they shall act reasonably and in good faith to negotiate, settle and grant such licenses, easements, rights of way or reciprocal rights as the other Party (the "**Benefitting Party**") may reasonably require from time to time so as to allow it and its employees, customers and contractors to have access to the lands and premises of the Party granting such license, easement or reciprocal rights (the "**Burdened Party**") and to construct and maintain such services in and over the lands and premises of the Burdened Party at such times, in such locations, in such manner and on such terms as shall be satisfactory to the Burdened Party and the Benefitting Party. No approval to grant such a license, easement or reciprocal rights shall be unreasonably withheld or delayed, nor terms unreasonably imposed. Either the Landlord or the Tenants may require that the Parties enter into more formal reciprocal rights and cross easement agreements from time to time and in such event the Parties shall proceed diligently, reasonably and in good faith to negotiate and agree upon the terms of such agreements. In the event of any Dispute between the Parties concerning the granting or terms of any such license, easement or reciprocal rights or any agreement in furtherance thereof, including any reciprocal rights and cross easement agreement, the matter shall be settled pursuant to the Dispute Resolution Procedures in ARTICLE 19.

5.6 Naming and Signage Rights

- (a) During the Term, subject to Subsection 5.6(b), the Tenants shall:
- (i) have full control over all naming, re-naming and sponsorship of the Property, the Buildings and the Development provided that such naming, re-naming and sponsorship complies with Applicable Laws;
 - (ii) have the right to apply for, own, maintain and licence trademarks, trade names and other intellectual property in connection with the Tenants' rights in Subsection 5.6(a)(i); and
 - (iii) subject to Section 7.8, have full control over all signage, advertising and display facilities located within the Property, provided that such signage, advertising and display facilities comply with Applicable Laws.
- (b) Notwithstanding the foregoing provisions of this Section 5.6:
- (i) the Landlord shall have full control over all naming, re-naming and sponsorship of the T.T.C. Areas and T.T.C. Facilities (including the T.T.C. Station Entrances) and Metrolinx shall have full control over all naming, re-naming and sponsorship of the Metrolinx Areas and Metrolinx Facilities (including the Metrolinx Station Entrances), respectively;
 - (ii) the Landlord and Metrolinx shall each have the right to apply for, own, maintain and licence trademarks, trade names and other intellectual property in connection with their rights in Subsection 5.6(b)(i); and

- (iii) the naming of the public road and public park as shown on page G-4 of the Master Development Plan, shall be determined through the City's standard naming process and subject to the City's signage policies and by-laws. The Tenants shall be permitted to participate in any public process regarding the naming of such public areas. For greater certainty, the naming and signage for any public spaces comprising part of the Lands shall comply with Applicable Laws.

ARTICLE 6 DEVELOPMENT AND CONSTRUCTION WORK

6.1 Master Development Plan

The Landlord and the Tenants acknowledge that the Master Development Plan for the Lands which has been approved by the Landlord, is attached as Schedule "G", and that the Forecasted NPV associated with the Master Development Plan is at least \$161,000,000. Subject to Section 6.5, the Tenants shall not make any modifications to the Master Development Plan that materially deviate from the development scheme contemplated in the Master Development Plan if such modifications would result in the Forecasted NPV falling below \$161,000,000 as determined by the Landlord and the Tenants based on the economic model included in Schedule "E" without: (i) the Landlord's prior written approval, acting reasonably; (ii) a Technical Review by T.T.C. with respect to the impact of any modification to the Development on the Transit Facilities and Transit Operations, and (iii) the Tenants having obtained all necessary Planning Approvals for any such modifications to the Master Development Plan. Without limiting the generality of the foregoing, the Landlord's approval shall be required for any of the following changes to the Master Development Plan:

- (a) any material decreases in the height or density of any Buildings to be built upon the Lands or any other changes that, in each case, would result in the Forecasted NPV falling below \$161,000,000 as determined by the Landlord and the Tenants based on the economic model included in Schedule "E";
- (b) any changes to the order of development and construction of the Phases of the Development which would delay the construction of the T.T.C. Bus Terminal; and
- (c) any changes to the location, configuration, connections or layout of the new T.T.C. Bus Terminal, the T.T.C. Station Entrances or Metrolinx Station Entrances, or any of the T.T.C. Areas or Metrolinx Areas.

The Landlord and the Tenants agree that it shall be reasonable for the Landlord to withhold its approval for any modifications to the Master Development Plan that materially deviate from the development scheme contemplated in the Master Development Plan if such modifications would result in the Forecasted NPV falling below \$161,000,000 as determined by the Landlord and the Tenants based on the economic model included in Schedule "E".

6.2 City Planning Authority/T.T.C. Technical Review Authority

The Tenants agree that:

- (a) the City is the applicable planning authority to review and provide Planning Approvals, if required, for any particular proposed development or Construction Work to be undertaken on the Lands, including the Development contemplated by the Master Development Plan, and/or any applications for official plan amendments, zoning amendments and/or site plan approvals in connection therewith and nothing in this Lease shall derogate from the City's authority or discretion with respect to all such matters; and
- (b) the T.T.C. is the applicable authority to undertake a Technical Review of and to approve any particular proposed Construction Work to be undertaken on the Lands, including the Construction Work associated with the Development contemplated by the Master Development Plan, which might have a material impact on Transit Facilities or Transit Operations so as to ensure compliance with the Developer's Guide and that the proposed Construction Work will not interfere with Transit Facilities or Transit Operations or endanger the users of the Transit Facilities, and nothing in this Lease shall derogate from the T.T.C.'s authority or discretion with respect to all such matters.

6.3 T.T.C. Technical Review

Notwithstanding the issuance of any building or demolition permit (including any conditional permit) for any Construction Work, the Tenants covenant and agree that they shall not commence any Construction Work (including any excavation or demolition) on the Lands unless and until the Tenants have completed and satisfied the requirements of the Technical Review, if required, including payment of any associated fees and applicable HST, and have received the approval of the T.T.C. for such Construction Work.

6.4 Tenants Not to Appeal

Provided that the Landlord is the T.T.C., the City or any agency, board or commission thereof or a corporation controlled by the City, the Tenants agree that during the Term they will not object to or appeal any decisions or non-decision of the City Planning Division, Toronto and East York Community Council, City Council or the Committee of Adjustment with respect to any applications for Planning Approvals in respect of the Master Development Plan or any component thereof or the construction of any other Additional Improvements during the Term, in each case without the prior written consent of the Landlord, acting reasonably.

6.5 City Modifications to Master Development Plan, Bus Terminal and Related Concourse Plans and Entrance and Related Concourse Plans

Notwithstanding Section 6.1, the Landlord agrees that it shall accept, without any further approval right, any changes or modifications to the Master Development Plan (or to any modifications made thereto by the Tenants that have previously been approved by the Landlord pursuant to Section 6.1), the Bus Terminal and Related Concourse Plans or the Entrance and Related Concourse Plans which, pursuant to any Planning Approvals process, are required to be made or imposed by the City or any other Governmental Authority; provided that such changes or modifications required by the City or any Governmental Authority shall not in any event require the Landlord to incur any costs or legal liability unless the Tenants agree to indemnify the Landlord for such costs and legal liability. The Tenants shall keep the Landlord informed of

the status of any such Planning Approvals process and any changes or modifications that are required to be made to: (i) the Master Development Plan that materially deviate from the development scheme contemplated in the Master Development Plan or any modifications made thereto by the Tenants that have been previously approved by the Landlord pursuant to Section 6.1; (ii) the Bus Terminal and Related Concourse Plans; and (iii) the Entrance and Related Concourse Plans.

6.6 Development Obligations

- (a) Subject to Unavoidable Delay, Economic Force Majeure and delays which arise or have been caused as a direct result of a breach by the Landlord of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Landlord to be performed, observed or complied with ("**Landlord Caused Delays**"), the Tenants shall Commence Construction of the First Phase of the Development on or before the date which is twenty-four (24) months following the Commencement Date and thereafter shall use reasonable commercial efforts to Substantially Complete all Phases of the Master Development Plan on or before the Construction Deadline; provided however that the failure of the Tenants to Commence Construction of the First Phase of the Development within twenty-four (24) months following the Commencement Date shall not constitute a Default under this Lease.
- (b) The Tenants shall, upon request by the Landlord or Metrolinx, give a partial release and surrender (in the case of a transfer) or postponement (in the case of an easement) of this Lease in respect of the Metrolinx Required Area so that the Landlord may grant such fee interest or permanent easement therein to Metrolinx. The Landlord shall provide reasonable co-operation to the Tenants, at no cost to the Landlord, to assist the Tenants in any discussions with Metrolinx to ensure that the Metrolinx Required Area conforms as closely as reasonably possible to the LRT Areas. Once the Metrolinx Required Area has been finally determined and a strata reference plan in respect thereof is registered on title to the Lands, the Parties shall amend this Lease to amend the legal description of the Lands to exclude the Metrolinx Required Area and, if necessary, amend Schedule "F" to show the actual LRT Areas.

6.7 Development Schedule and Extension of Construction Deadline

- (a) Prior to the Commencement of Construction in respect of any Phase of the Development, the Tenants will provide the Landlord with a schedule for the development, construction and completion of such Phase of the Development (the "**Development Schedule**") and will thereafter provide the Landlord with a copy of any material changes to the Development Schedule from time to time.
- (b) If, subject to Unavoidable Delay, Economic Force Majeure and Landlord Caused Delays, all Phases contemplated in the Master Development Plan have not been Substantially Completed by the Construction Deadline, the Tenants may, at their option, obtain an extension of the Construction Deadline by paying to the Landlord within sixty (60) days following the Construction Deadline, a \$10 million extension fee (the "**Extension Fee**") plus applicable HST and, upon payment of such fee, the Construction Deadline shall be

automatically extended for a further period of 10 years from the Construction Deadline (such period being the "**10 Year Extension Period**" and the Construction Deadline as so extended being the "**Extended Construction Deadline**") subject again to Unavoidable Delay, Economic Force Majeure and Landlord Caused Delays during the 10 Year Extension Period.

- (c) If the Tenants exercise their option to extend the Construction Deadline pursuant to Subsection 6.7(b), the Landlord and the Tenants shall within 60 days of the Substantial Completion of each New Building completed during the 10 Year Extension Period determine the net present value of the Base Rent realized by the Landlord to date and forecasted for the remainder of the Initial Term (the "**Revised Forecasted NPV**") based on the economic model included in Schedule "E". If the Revised Forecasted NPV is \$161,000,000 or above as determined by the Landlord and the Tenants pursuant to this Subsection 6.7(c), the Applicable Unit Rate payable for premises used for residential uses in any New Building thereafter constructed during the 10 Year Extension Period shall be determined pursuant to paragraph (b)(i) of the definition of "Applicable Unit Rate" in Section 1.1. If the Revised Forecasted NPV is below \$161,000,000 as determined by the Landlord and the Tenants pursuant to this Subsection 6.7(c), the Applicable Unit Rate payable for premises used for residential uses in any New Building thereafter constructed during the 10 Year Extension Period shall be determined pursuant to paragraph (b)(ii) of the definition of "Applicable Unit Rate" in Section 1.1.
- (d) If, subject to Unavoidable Delay, Economic Force Majeure and Landlord Caused Delays, the Tenants have not Substantially Completed all Phases contemplated in the Master Development Plan by the Construction Deadline and the Tenants have not paid the Extension Fee to the Landlord within sixty (60) days after the Construction Deadline, the Tenants shall be deemed not to be in default under this Lease but shall be deemed to have irrevocably waived their right to obtain an extension of the Development Period, there shall be no 10 Year Extension Period and the Landlord shall have the right to terminate this Lease solely in respect of any portions of the Lands on which any Phases, or Buildings or portions of the Development have not been Substantially Completed in accordance with the Master Development Plan, but, subject to Subsection 6.7(f), excluding any portions of the Lands ("**Support Lands**") on which any improvements, infrastructure or facilities have been constructed or installed that: (i) are required to provide services, access or support for any Phases, Buildings or portions of the Development which have been Substantially Completed ("**Support Facilities**") or (ii) have been Substantially Completed and can fully function without the completion of any further improvements, infrastructure or facilities on such portion of the Lands ("**Completed Improvements**"). Such partial termination right shall constitute the Landlord's sole right and remedy, at law or in equity, with respect to the Tenants' failure to Substantially Complete the Development contemplated by the Master Development Plan prior to the Construction Deadline.
- (e) If, subject to Unavoidable Delay, Economic Force Majeure and Landlord Caused Delays, all Phases of the Master Development Plan have not been Substantially Completed by the Extended Construction Deadline, the Tenants shall be deemed not to be in default under this Lease but the Landlord shall have the right to terminate this Lease solely in respect of

any portions of the Lands on which any Phases, Buildings or portions of the Development have not been Substantially Completed in accordance with the Master Development Plan, but, subject to Subsection 6.7(f), excluding any Support Lands on which any Support Facilities or Completed Improvements have been constructed or installed. Such partial termination right shall constitute the Landlord's sole right and remedy, at law or in equity, with respect to the Tenants' failure to Substantially Complete the Development contemplated by the Master Development Plan prior to the Extended Construction Deadline.

- (f) If the Lease is partially terminated in accordance with Subsection 6.7(d) or 6.7(e), the following provisions shall apply:
- (i) the Lease shall remain in full force and effect in respect of the Support Lands and the Tenants shall be permitted to maintain any Support Facilities and Completed Improvements thereon in accordance with and subject to the terms of this Lease;
 - (ii) the Tenants shall grant to the Landlord such easements and rights of access as are reasonably required to continue with the use and occupation of the Support Lands, Support Facilities and Completed Improvements in accordance with the terms of this Lease, on terms which are satisfactory to each of the Landlord and the Tenants, acting reasonably;
 - (iii) the Tenants shall grant to the Landlord a partial surrender and release of this Lease in registrable form in respect of those portions of the Lands for which the Lease has been partially terminated in accordance with Subsection 6.7(d) or 6.7(e) (the "**Released Lands**"); and
 - (iv) the Tenants shall grant to the Landlord and/or Metrolinx such easements and rights of access over the Property and as are reasonably required for the Landlord and/or Metrolinx to use and occupy the Released Lands, on terms which are satisfactory to each of the Landlord and the Tenants, acting reasonably.

Prior to the surrender of the Released Lands, the Tenants shall, at their sole cost and expense, cause an independent accredited surveyor selected by the Tenants to prepare a strata reference plan of such Released Lands for registration on title to the Lands. The Tenants shall deliver a draft of such reference plan to the Landlord for its review and approval prior to submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands and thereafter the Parties shall amend this Lease to amend the legal description of the Lands to exclude the Released Lands.

- (g) If there exists any Landlord Caused Delays, the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, will be automatically extended for the period of time that the Tenants are delayed as a result of such Landlord Caused Delays.

6.8 Economic Force Majeure

- (a) If the Tenants believe that the development of any Building shown on the Master Development Plan is not economically viable at any particular time during the Development Period (such circumstance being referred to as "**Economic Force Majeure**"), then the Tenants will deliver Notice of such Economic Force Majeure (the "**Economic Force Majeure Notice**") to the Landlord, which Notice shall contain a list of two Third Party Advisers. Within five Business Days of receiving the Economic Force Majeure Notice, the Landlord will select one of the Third Party Advisers (the "**Selected Adviser**"), failing which the Tenants may select the Selected Adviser from the list of Third Party Advisers, and such Selected Adviser shall be jointly retained by the Landlord and the Tenants to review the development of such proposed Building and the then-existing market factors to determine whether the development of such proposed Building is not economically viable and Economic Force Majeure exists at the relevant time. Such assessment and determination shall be based on the instructions set out in Subsections 6.8(b) and 6.8(c). The Tenants shall be responsible for and shall pay for the services provided by the Selected Adviser.
- (b) As part of the joint retainer, the Landlord and the Tenants will instruct the Selected Adviser to compare the Development Factors and the Market Factors in order to determine how the Expected Development Returns for the applicable proposed Building compare to the Market Development Returns and to prepare a report addressed to the Landlord and the Tenants, which report shall provide the Selected Adviser's opinion as to whether the development of the applicable proposed Building is not economically viable and Economic Force Majeure exists. The development of the proposed Building shall be deemed to be not economically viable and Economic Force Majeure shall be deemed to exist if the Selected Adviser determines that the Expected Development Returns for the applicable proposed Building are below the Market Development Returns.
- (c) As part of the joint retainer, the Selected Adviser will be instructed:
 - (i) to deliver its report as soon as possible, and in any event no later than sixty (60) days following the request therefor by the Landlord or the Tenants;
 - (ii) to review the following as they relate to the development of such proposed Building (collectively, the "**Development Factors**"):
 - (A) the Master Development Plan;
 - (B) the budget for the development, construction, fit-up, initial marketing and initial lease-up of the proposed Building which sets forth the estimated development costs of the proposed Building;
 - (C) the Development Schedule for the proposed Building;
 - (D) the budget for the operation, ongoing marketing and ongoing leasing of the proposed Building which sets forth the estimated annual operating costs of the Building;

- (E) the financial *pro forma* for the proposed Building; and
 - (F) the stabilized income return, internal rate of return and the development profits projected in the financial *pro forma* for the proposed Building (the "**Expected Development Returns**");
- (iii) to review the following as they relate to the market factors existing in the Relevant Market Area as at the time the Economic Force Majeure Notice is delivered (collectively, the "**Market Factors**"):
- (A) the construction financing rates available from the Recognized Financial Institutions;
 - (B) the take-out financing rates available from the Recognized Financial Institutions;
 - (C) if applicable, the average per square foot gross and net rental rates for residential rental premises comparable to the residential rental premises to be located in the proposed Building;
 - (D) if applicable, the average operating costs and property taxes for residential rental buildings comparable to the residential premises to be located in the proposed Building, if any;
 - (E) if applicable, the average per square foot net rental rates for non-residential premises comparable to the non-residential premises to be located in the proposed Building, if any;
 - (F) if applicable, the average operating costs and property taxes for mixed-use non-residential buildings comparable to the proposed Building;
 - (G) market inventory, availability rates and vacancy rates for residential rental premises and non-residential premises, as applicable, comparable to those to be located in the proposed Building; and
 - (H) the stabilized income return, internal rate of return and the development profits that an institutional investor (examples of such institutional investors as at the Execution Date are Oxford Properties Group, Cadillac Fairview, Ivanhoé Cambridge and QuadReal) would reasonably expect to achieve for a similar development project in the Relevant Market Area at such time (the "**Market Development Returns**").
- (d) If the Selected Adviser in its report finds that the applicable proposed Building is not economically viable and Economic Force Majeure exists, the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, will be automatically extended for the period commencing on the date of the delivery of the Economic Force Majeure Notice and ending on the earlier of:

- (i) the date on which the Tenants mobilize for construction activities and/or undertake any material development activity, such as filing of building permit applications, in respect of any Building or Phase of the Development for which Economic Force Majeure exists;
 - (ii) the date on which the Selected Adviser refuses to refresh or reconfirm its previous finding that the applicable proposed Building is not economically viable and Economic Force Majeure continues to exist or the Selected Adviser makes an affirmative determination to the contrary that the period of Economic Force Majeure has ceased to exist;
 - (iii) subject to Subsection 6.8(e)(i), the date which is 12 months after the date of delivery of the Economic Force Majeure Notice (each an "**Annual Economic Force Majeure Deadline**"); and
 - (iv) such other date as the Landlord and the Tenants may agree in writing.
- (e) Notwithstanding the foregoing provisions of this Section 6.8:
- (i) if prior to an Annual Economic Force Majeure Deadline, (A) the Tenants give a further Economic Force Majeure Notice stating that the period of Economic Force Majeure is continuing; and (B) the Selected Adviser provides to the Landlord and the Tenants a further report confirming that Expected Development Returns for the applicable proposed Building continue to be below the Market Development Returns and therefore the applicable proposed Building continues to be not economically viable and Economic Force Majeure continues to exist, the extension of the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, shall continue for further period of up to 12 months commencing on the Annual Economic Force Majeure Deadline and expiring in accordance with the provisions of Subsection 6.8(d), subject to the provisions of this Subsection 6.8(e)(i), and so on from time to time up to a maximum extension of sixty (60) consecutive months from the date of the Tenant's first Economic Force Majeure Notice (the "**Economic Force Majeure Outside Date**") in which case the provisions of Subsection 6.8(f) shall apply; and
 - (ii) if prior to Commencement of Construction of the office component of the First Phase of the Development, the Tenants have executed the Anchor Tenant Office Lease, such office component shall be deemed to be economically viable and the provisions of this Section 6.8 shall not apply to such office component unless such Anchor Tenant Office Lease is terminated before the Tenants Commence Construction of such office component.
- (f) If prior to the Economic Force Majeure Outside Date (A) the Tenants give a further Economic Force Majeure Notice stating that the period of Economic Force Majeure is continuing and will continue beyond the Economic Force Majeure Outside Date; and (B) the Selected Adviser provides to the Landlord and the Tenants a further report confirming

that Expected Development Returns for the applicable proposed Building continue to be below the Market Development Returns and therefore the applicable proposed Building continues to be not economically viable and Economic Force Majeure continues to exist and will continue beyond the Economic Force Majeure Outside Date, the Parties shall meet within thirty (30) days following the Economic Force Majeure Outside Date and thereafter on a regularly scheduled basis to discuss potential amendments or revisions to this Lease and/or the Master Development Plan with the intent of making the applicable proposed Building economically viable and not subject to Economic Force Majeure hereunder, and in such case the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, will be automatically extended for the period commencing on the Economic Force Majeure Outside Date and ending on the earlier of:

- (i) the date on which the Tenants mobilize for construction activities and/or undertake any material development activity, such as filing of building permit applications, in respect of any Building or Phase of the Development for which Economic Force Majeure exists;
 - (ii) the date on which the Selected Adviser refuses to refresh or reconfirm its previous finding that the applicable proposed Building is not economically viable and Economic Force Majeure continues to exist or the Selected Adviser makes an affirmative determination to the contrary that the period of Economic Force Majeure has ceased to exist;
 - (iii) subject to Subsection 6.8(g), the date which is 12 months after: (A) for the initial 12 month period, the Economic Force Majeure Outside Date; and (B) for any additional 12 month period, each successive anniversary of the Economic Force Majeure Outside Date which occurs after such additional 12 month period (each an "**Extended Annual Economic Force Majeure Deadline**"); and
 - (iv) such other date agreed to by the Parties.
- (g) Notwithstanding the foregoing provisions of this Section 6.8, if prior to an Extended Annual Economic Force Majeure Deadline, (A) the Tenants give a further Economic Force Majeure Notice stating that the period of Economic Force Majeure is continuing; and (B) the Selected Adviser provides to the Landlord and the Tenants a further report confirming that Expected Development Returns for the applicable proposed Building continue to be below the Market Development Returns and therefore the applicable proposed Building continues to be not economically viable and Economic Force Majeure continues to exist, the extension of the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, shall continue for further period of up to 12 months commencing on the Extended Annual Economic Force Majeure Deadline and expiring in accordance with the provisions of Subsection 6.8(f), subject to the provisions of this Subsection 6.8(g), and so on from time to time up to a maximum extension of thirty-six (36) consecutive months from the Economic Force Majeure Outside Date.

6.9 Future Buildings, Additional Improvements and Other Changes to the Development

Notwithstanding Section 6.1 but subject to Section 6.3 and to the Tenants obtaining all necessary Required Permits, Licenses and Approvals, the Tenants shall have the right without the Landlord's approval:

- (a) to construct Additional Improvements on the Lands that are not contemplated in the Master Development Plan;
- (b) to undertake ordinary course repairs and maintenance to the Property;
- (c) to repair, reconstruct, rebuild or replace any Buildings that are damaged or destroyed; and
- (d) to undertake interior decoration, interior alterations and interior improvements which do not add any material net additional GFA, including for the purposes of demising and configuring premises to be sublet to Space Tenants and leasehold improvements made to Space Tenant's premises by the Tenants or Space Tenants or third parties on their behalf (it being acknowledged that such interior decorations, alterations and improvements shall not require Technical Review).

6.10 Permits, Licenses and Approvals

The Tenants shall be responsible, at their own cost and expense to obtain, maintain in good standing and renew from time to time as may be necessary, all Permits, Licenses and Approvals required from the City or any other Governmental Authorities in connection with the demolition of any Existing Buildings, the development and construction of any Additional Improvements and other work contemplated in the Master Development Plan, and any repairs, replacements, reconstruction, Additional Improvements or other Construction Work on the Lands from time to time during the Term, including all Planning Approvals, demolition permits and building permits (the "**Required Permits, Licenses and Approvals**"). The Tenants shall also be responsible for and pay, or cause to be paid, any and all fees and charges and post, or cause to be posted, any security required to obtain such Required Permits, Licenses and Approvals.

The Landlord hereby agrees to provide the Tenants with such approvals, authorizations and support as reasonably required by the Tenants for the purpose of obtaining the Required Permits, Licenses and Approvals; provided that such support shall not in any event require the Landlord to incur any costs or legal liability unless the Tenants agree to indemnify the Landlord for such costs and legal liability. In connection with the foregoing, the Landlord shall promptly: (i) execute and deliver to the Tenants such authorizations and applications as are reasonably requested by the Tenants in connection with its efforts to obtain the Required Permits, Licenses and Approvals; and (ii) provide reasonable co-operation to the Tenants, at no cost to the Landlord, and provide the Tenants with such information or documentation as is in the possession of the Landlord and is reasonably required by the Tenants in connection with its efforts to obtain the Required Permits, Licenses and Approvals.

6.11 Construction Standards and Methods

- (a) All Construction Work shall be performed at the Tenants' sole cost and expense by competent contractors and subcontractors promptly and in a good and workmanlike manner and in accordance with all Applicable Laws and Required Permits, Licenses and Approvals and lawful requirements of Governmental Authorities having jurisdiction and in accordance with the Master Development Plan, to the extent applicable, or other plans and specifications therefor approved by the T.T.C. to the extent a Technical Review is required in respect of such Construction Work.
- (b) Prior to Commencement of Construction on the Lands, the Tenants shall deposit with the T.T.C. Representative:
 - (i) contact details of the primary contractors who will undertake such Construction Work;
 - (ii) evidence of all required construction insurance which the Tenants are required to obtain and maintain pursuant to Subsection 10.1(g); and
 - (iii) if applicable, the Performance Security contemplated in Section 6.16 and/or Section 7.3.
- (c) The Tenants, their contractors and subcontractors and their respective employees and agents will obtain and carry with them the usual non-riding property permits of the Landlord while engaged in any Construction Work on the Lands, which property permits the Landlord covenants to provide promptly upon request by the Tenants.
- (d) All Construction Work carried out adjacent to Transit Facilities or Transit Operations is to be protected by suitable hoarding, to be constructed to the satisfaction of the T.T.C. Representative.

6.12 No Interference with Transit Facilities or Operations

Notwithstanding any other provisions of this Lease and without limiting Sections 6.3, 6.9 or 6.11, the Tenants covenant and agree that they will not erect or construct any foundations, supporting columns, structural supports or Additional Improvements in whole or in part upon any part of the Lands or demolish, remove, substantially alter, repair or replace any foundations, supporting columns, structural supports or Additional Improvements which may be erected or constructed on the Lands from time to time:

- (a) in any manner so as to interfere with any Transit Facilities or Transit Operations, any utility or other easements relating to or supporting such Transit Facilities or Transit Operations, or with the use of any part of the Lands reserved to the Landlord or Metrolinx, or the lands of the Landlord or Metrolinx adjoining the Lands, for Transit Operations or as part of Transit Facilities;
- (b) such that any part of the load thereof or therefrom shall bear directly or indirectly on any Transit Facilities or Transit Operations or any utility or other easements relating to or

supporting such Transit Facilities or Transit Operations, or in such manner that the use, maintenance, ventilation, stability or safety of such Transit Facilities or Transit Operations shall be endangered or interfered with in any manner whatsoever, unless otherwise approved by the T.T.C. pursuant to a Technical Review.

6.13 Unionized Labour / Fair Wage Policy

With respect to any Construction Work on or within any T.T.C. Areas (including the T.T.C. Bus Terminal and the T.T.C. Station Entrances) undertaken by the Tenants ("**T.T.C. Work**"), the Tenants shall:

- (a) engage or cause to be engaged by their contractors and/or subcontractors in the execution of such T.T.C. Work, competent workers who are members of trade unions that have signed collective agreements (as defined under the *Labour Relations Act, 1995*, S.O. 1995, C.1, Schedule A) in the construction industry to which the Landlord is bound or becomes bound during the Term;
- (b) adhere to and comply with or cause their contractors and/or subcontractors to adhere to and comply with all such collective agreements in connection with the T.T.C. Work;
- (c) pay or cause to be paid the prevailing union labour rates for such T.T.C. Work, thereby complying with the City's "Fair Wage Policy", as same may be amended (the "**Fair Wage Policy**") as a minimum standard;
- (d) comply with the City's "Labour Trades Contractual Obligations in the Construction Industry" requirements, as same may be amended (the "**LTCO Requirements**") for such T.T.C. Work, and provide such evidence of compliance as the Landlord may reasonably request from time to time. The Tenants shall contact the City's Fair Wage Office prior to commencement of any applicable T.T.C. Work, to obtain copies of the most current Fair Wage Policy and LTCO Requirements and applicable information for the purpose of pre-qualifying proposed contractors, as determined by and in accordance with the City's then current usual practices pursuant to the Fair Wage Policy and LTCO Requirements;
- (e) indemnify the Landlord with respect to any Claims or Losses that may be incurred by it as a result of a breach by the Tenants of Subsection 6.13 (a), (b) or (c) above including, without limitation, any Losses, negotiated settlements resulting in payment by the Landlord or awards against the Landlord resulting from any grievance filed against the Landlord with respect to a breach of any collective agreements in the construction industry to which the Landlord is bound in connection with any T.T.C. Work. With respect to grievances relating to T.T.C. Work that are settled by the Landlord prior to, or at any point during any grievance or grievance arbitration or referral hearing, the Landlord shall engage and consult with the Tenants as to the financial terms of the proposed settlement, and the final determination as to whether to settle a matter and/or the terms of settlement shall be approved by the Tenants, acting reasonably. The Tenants shall be permitted to attend the mediation or hearing of a grievance relating to any T.T.C. Work, subject to any order to the contrary by the arbitrator or Vice Chair of the Ontario Labour Relations Board hearing the grievance referral; and

- (f) pay any amounts paid or incurred by the Landlord and for which it is entitled to be indemnified under Subsection 6.13(e) above within fifteen (15) days after written demand therefor from the Landlord to the Tenants.

6.14 Construction Periods

The Tenants covenant and agree that they will carry out or cause to be carried out any Construction Work on, within or immediately adjacent to any T.T.C. Areas (including the T.T.C. Bus Terminal and the T.T.C. Station Entrances) or on any other part of the Lands which may adversely impact the proper functioning and safety of the Transit Facilities or Transit Operations or pose a potential danger to pedestrians travelling to or from any T.T.C. Areas, at such time or times and in such manner as the T.T.C. Representative shall direct, in each case to the extent necessary to co-ordinate with the proper functioning and safety of the Transit Facilities and Transit Operations; and that the Tenants will permit the T.T.C. Representative to enter the Lands and inspect any such Construction Work at any time when such work is in progress and that the T.T.C. Representative shall have the authority to stop the progress of such Construction Work whenever such stoppage may be necessary to ensure the proper functioning or safety of the Transit Facilities and Transit Operations. The Landlord covenants and agrees that the powers reserved to the Landlord and the T.T.C. Representative in this Section 6.14 shall at all times be exercised reasonably and in good faith.

6.15 No Liability

The giving by the Landlord or the T.T.C. Representative of any information with regard to the T.T.C. Areas, T.T.C. Infrastructure or Transit Operations or any other underground structures or utilities, the review and/or approval by the Landlord or the T.T.C. Representative of the Master Development Plan or any plans and specifications for any Construction Work or any changes to any of them, and the supervision or inspection of any Construction Work by the Landlord or the T.T.C. Representative in accordance with Section 6.14 hereof shall not relieve the Tenants from any of their obligations under this Lease or under Applicable Laws with respect to the development and construction of the Development or the operation, repair and maintenance of the Property, nor in any way give rise to or result in any liability on the part of the Landlord or the T.T.C. Representative.

6.16 Performance Security for Tenants' Construction Obligations

- (a) The Tenants acknowledge that the Landlord requires the Tenants to provide assurances and security for the performance of their obligations with respect to the construction and completion of each New Building of the Development as shown on the Master Development Plan (except with respect to the construction and completion of the T.T.C. Bus Terminal and Entrance Work which is addressed in Section 7.3) (the "**Performance Security**"). Such Performance Security shall be provided by each of the Tenants (in this Section 6.16, the "**Subject Tenant**") on a several basis (based on the Tenants' respective co-ownership interests in the Property) and shall consist of:

- (i) a completion guarantee substantially in the form attached as Schedule "P" from any Subject Tenant or an Affiliate of such Subject Tenant, in each case that is a Creditworthy Person; and/or
 - (ii) an irrevocable, unconditional, "evergreen" letter of credit issued by an Approved Bank in form and substance acceptable to the Landlord, acting reasonably; and/or
 - (iii) such other form of performance security as may be acceptable to the Landlord acting reasonably, which may, for greater certainty include an irrevocable equity commitment letter from an Affiliate of the Subject Tenant that is a Creditworthy Person; and/or
 - (iv) any combination of the foregoing as determined by the Subject Tenant.
- (b) The aggregate amount of Performance Security to be provided by all of the Tenants for any New Building in the Development shall, subject to Subsection 6.16(c), be as follows:
- (i) in respect of the first New Building in the First Phase of the Development, not less than thirty-five percent (35%) of the estimated cost to complete such New Building as shown in the Tenants' Project Budget for such New Building (excluding the cost to complete the T.T.C. Bus Terminal and Entrance Work);
 - (ii) in respect of the second New Building in the Development, not less than thirty percent (30%) of the estimated cost to complete such New Building as shown in the Tenants' Project Budget for such New Building (excluding the cost to complete the T.T.C. Bus Terminal and Entrance Work); and
 - (iii) in respect of the third and each subsequent New Building in the Development, not less than twenty-five percent (25%) of the estimated cost to complete such New Building as shown in the Tenants' Project Budget for such New Building.
- (c) The Performance Security for each New Building in the Development shall be delivered to the Landlord prior to the date on which the Tenants Commence Construction of such New Building, and shall be released in accordance with the following milestones:
- (i) fifty percent (50%) of the Performance Security for such New Building shall be released at such time as twenty-five percent (25%) of the work required to complete such New Building (other than T.T.C. Bus Terminal and Entrance Work) has been performed as evidenced by a certificate issued by the architect of record appointed by the Tenants in connection with the development of such New Building (an "**Architect's Certificate**") to the Landlord;
 - (ii) the next forty percent (40%) of the Performance Security for such New Building shall be released at such time as fifty percent (50%) of the work required to complete such New Building (other than T.T.C. Bus Terminal and Entrance Work) has been performed as evidenced by an Architect's Certificate delivered to the Landlord;

- (iii) the final 10% of the Performance Security for such New Building shall be released upon Substantial Completion of such New Building (other than T.T.C. Bus Terminal and Entrance Work),

provided in each case that at the relevant date: (A) all construction lien holdbacks required or permitted by Applicable Laws have been maintained; and (B) no construction liens are then registered or claimed in respect of the Property or any part thereof.

- (d) The Landlord acknowledges that under no circumstances will any of the following Persons be required to provide any Performance Security:
 - (i) the pension plan known as of the Execution Date as OMERS and, after the Execution Date, any successor pension plan or corporation to OMERS; or
 - (ii) CT REIT or CTC.
- (e) In the event that the Tenants:
 - (i) commence any Additional Improvements during the Development Period in accordance with the Master Development Plan and thereafter fail to Substantially Complete such Additional Improvements during the Development Period other than as a result of Unavoidable Delay, Economic Force Majeure or Landlord Caused Delay; or
 - (ii) default in the performance of any Construction Work in accordance with the plans and specifications approved by the T.T.C. pursuant to a Technical Review;

then in each such case

- (iii) the Landlord may give Notice to the Tenants pursuant to Section 17.2 requiring that the Tenants complete any unfinished work and/or rectify or replace any Construction Work that is not performed or completed in accordance with the plans and specifications approved by the T.T.C. pursuant to a Technical Review ("**Defective Work**"); and
- (iv) if after the Landlord has given Notice under Subsection 6.16(e)(iii) above, the Tenants fail to complete any unfinished work and/or rectify or replace any Defective Work within the greater of sixty (60) days or such longer time as would have reasonably sufficed for the completion of any unfinished work or remedying of any Defective Work if the Tenants had commenced to complete or remedy the same within sixty (60) days and thereafter proceeded to complete or remedy the same with reasonable diligence, then without limiting any other rights or remedies the Landlord may have pursuant to this Lease or at law or in equity, the Landlord may draw upon the Performance Security to pay the costs to have any unfinished work completed and/or any Defective Work remedied.

6.17 Tenants' Construction Liens

The Tenants shall, at their own cost and expense, cause any and all construction liens or other liens for labour, services or materials supplied to the Property for or on behalf of the Tenants or any Space Tenant or their contractors or subcontractors and which may be registered against or otherwise affect the Property or any part thereof, to be promptly discharged from the Property within ten (10) days after the Tenants have received notice of any claim for any such lien; provided, however, that in the event of a bona fide dispute by the Tenants as to the validity or correctness of any claim for any such lien, the Tenants shall be entitled to defend against the same in any proceedings brought in respect thereof, provided the Tenants shall have first: (i) paid or caused to be paid into court the amount of any such lien together with such costs as the court may direct or as may be required by statute, or otherwise provided the court with acceptable security for such lien; and (ii) registered all documents necessary to discharge such lien from the Property as aforesaid. The foregoing provisions shall be subject to the requirements of the *Construction Act* (Ontario) in all respects.

6.18 Landlord Acknowledgement

The Landlord acknowledges and agrees that: (i) in order for the Tenants to complete the Master Development Plan, the Existing Buildings will need to be demolished; (ii) the Existing Buildings encroach on parts of the T.T.C. Retained Lands; and (iii) to the extent reasonably necessary to complete the Master Development Plan, the Landlord shall grant the Tenants any temporary licences or other rights to enter upon those parts of the T.T.C. Retained Lands to which the Tenant requires access to complete the Construction Work which has been approved by the T.T.C. pursuant to a Technical Review.

ARTICLE 7

T.T.C. INFRASTRUCTURE AND SUBWAY OPERATIONS

7.1 Construction of the T.T.C. Bus Terminal and Related Concourse Alterations

- (a) As part of the First Phase of the Development and subject to the provisions of Section 6.5 and this Section 7.1, the Tenants shall construct the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas in the approximate location shown on page G-2 of the Master Development Plan and in accordance with the T.T.C.'s 2016 specifications and requirements attached as Schedule "D" (the "**2016 Specifications**") and in accordance with the plans attached as Schedule "H" (the 2016 Specifications, together with such plans attached as Schedule "H", being the "**Bus Terminal and Related Concourse Plans**"). Subject to Unavoidable Delay and Landlord Caused Delays, the Tenants shall use reasonable commercial efforts to Substantially Complete the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas by a date to be agreed with the Landlord, acting reasonably, but in no event later than the Substantial Completion of the First Phase of the Development. The construction of the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas shall be undertaken initially at the Tenants' expense subject to reimbursement of part of such costs pursuant to Subsections 7.1(c) and 7.1(d). For the purposes of this Lease but subject to Technical Review, the Parties agree that the 2016 Specifications are only applicable to

the construction of the T.T.C. Bus Terminal and are not applicable to the construction of the remainder of the Development. The Landlord acknowledges that construction of the T.T.C. Bus Terminal in accordance with Sections 5.2, 5.4, 5.6, 6.2 and 9.40, the first sentence of Section 8 and Appendix B of the 2016 Specifications (the "**Unsettled 2016 Specifications**") has not been agreed to by the Tenants. The Parties agree that the Unsettled 2016 Specifications shall be resolved as part of the Planning Approvals process and the Technical Review. In the event that the Unsettled 2016 Specifications result in material changes to the Master Development Plan and/or increased construction costs to build the Master Development Plan, the Parties agree to co-operate to mitigate impacts of such changes to the Master Development Plan and/or increased construction costs.

- (b) Subject to Section 6.5, any changes to the Bus Terminal and Related Concourse Plans shall be subject to the Landlord's prior written approval in its sole discretion.
- (c) The Landlord, acting reasonably, shall co-operate and work with the Tenant to minimize the costs of the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas if reasonably possible provided that it shall not be unreasonable for the Landlord to withhold its approval of any changes to the Bus Terminal and Related Concourse Plans proposed by the Tenants which derogate from the 2016 Specifications (except the Unsettled 2016 Specifications). The Landlord shall pay for the costs of construction (including hard costs and soft costs) of the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas up to a maximum amount of \$25,000,000 (plus applicable HST) (the "**T.T.C. Improvement Allowance**"). In addition, the Landlord shall also pay:
 - (i) the incremental costs (plus applicable HST) for any additional work which is required in connection with any changes to the scope of work for the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas which are required by the Landlord from the scope of work contemplated by the Bus Terminal and Related Concourse Plans; and
 - (ii) any incremental costs (plus applicable HST): (A) arising directly as a result of any acts or omissions by the Landlord Parties (but excluding for certainty any actions taken in response to an Emergency that is not caused by the Landlord) which materially delay construction of the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas, or (B) which are necessary in order to avoid or minimize any material delay arising directly as a result of any acts or omissions of the Landlord Parties; provided that in the case of (B) the Tenants shall provide the Landlord with Notice of any such anticipated material delay and the additional steps the Tenants are proposing to take in order to avoid or minimize such anticipated material delay,

(collectively, "**Landlord Initiated Bus Terminal and Concourse Costs**"), provided that, in the case of any changes to the scope of work for the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas required by the Landlord, the estimated amount of such Landlord Initiated Bus Terminal and Concourse Costs shall be agreed in writing between the Landlord and the Tenants before the Tenants proceed with any part of such additional work. For greater certainty, the Tenants shall be responsible

and shall pay for all costs of construction of the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas (plus applicable HST) in excess of the aggregate of: (i) the T.T.C. Improvement Allowance; and (ii) the Landlord Initiated Bus Terminal and Concourse Costs, if any.

- (d) The amount to be paid by the Landlord pursuant to Subsection 7.1(c), less the amount of any holdback required pursuant to the *Construction Act* (Ontario), if any, shall be paid to the Tenants or as they may direct in writing after Substantial Completion of the T.T.C. Bus Terminal within twenty (20) days after the delivery of a request for payment setting forth the aggregate amount of the requested payment (in this Subsection 7.1(d), the "**Requested Amount**") together with an invoice for the Requested Amount accompanied by supporting invoices from the Tenants' contractors and subcontractors evidencing that the Tenants have incurred not less than the Requested Amount in respect of construction costs for the T.T.C. Bus Terminal and related alterations to the Subway Concourse Areas.
- (e) Any holdback retained by the Landlord shall be paid to the Tenants following the expiry of all applicable lien holdback periods and the Landlord receiving satisfactory evidence from the Tenants that no construction liens are then registered or claimed in respect of the T.T.C. Bus Terminal and the related alterations to the Subway Concourse Areas.
- (f) Upon final completion of the T.T.C. Bus Terminal, the Tenants shall, subject to Section 5.5, give a partial release and surrender of this Lease in respect of the T.T.C. Bus Terminal and that strata portion of the Lands on which the T.T.C. Bus Terminal has been constructed (in this Subsection 7.1(f), the "**Surrendered Lands**"). Upon final completion of the T.T.C. Bus Terminal, the Landlord shall, subject to Section 5.5, give a release and surrender of the T.T.C. Temporary Operations Sublease and the T.T.C. Temporary Operations Lands. Prior to the surrender of the Surrendered Lands, the Tenants shall, at the Landlord's sole cost and expense, cause an independent accredited surveyor selected by the Tenants to prepare a strata reference plan of such Surrendered Lands for registration on title to the Lands. The Tenants shall deliver a draft of such reference plan to the Landlord for its review and approval prior to the Landlord submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands and following such partial release and surrender, the definitions of "Lands" and "T.T.C. Retained Lands" in Section 1.1 shall be amended to delete the Surrendered Lands from the Lands and to add the Surrendered Lands to the T.T.C. Retained Lands.

7.2 Construction of New T.T.C. Station Entrances and Related Concourse Alterations

- (a) As part of the First Phase of the Development, the Tenants shall construct a new T.T.C. Station Entrance and related alterations to the Subway Concourse Areas in the approximate location identified as "Proposed TTC Station Entrance No. 1 (North)" on Schedule "I"-2 (the "**Phase One Entrance Work**"). As part of the applicable Phase of the Development, the Tenants shall construct a new T.T.C. Station Entrance and related alterations to the Subway Concourse Areas in the approximate location identified as "Proposed TTC Station Entrance No, 2 (South)" on Schedule "I"-1 (the "**Phase Two Entrance Work**" and, together with the Phase One Entrance Work, the "**Entrance**

Work"). The Entrance Work shall be constructed at the approximate locations shown on the plans attached as Schedule "I" and shall be generally consistent with the functionality of the entrances as existing on the Execution Date (collectively, the "**Entrance and Related Concourse Plans**"). Subject to Unavoidable Delay and Landlord Caused Delays, the Tenants shall use reasonable commercial efforts to Substantially Complete the Phase One Entrance Work on or before the date of Substantial Completion of the First Phase of the Development and to Substantially Complete the Phase Two Entrance Work on or before the date of Substantial Completion of the Phase of the Development that relates to the Phase Two Entrance Work.

- (b) Subject to Section 6.5, any changes to the Entrance and Related Concourse Plans shall be subject to the Landlord's prior written approval, in its sole discretion.
- (c) The Landlord and the Tenant agree that, as of the Execution Date, the estimated cost of the Entrance Work based on the Entrance and Related Concourse Plans is \$11,000,000 (excluding HST) (the "**T.T.C. Entrance Contribution**"). In the event that, prior to the commencement of the Phase One Entrance Work or the Phase Two Entrance Work, as applicable, the Tenants determine that the cost to complete the Entrance Work as contemplated in the Entrance and Related Concourse Plans will exceed the T.T.C. Entrance Contribution, the Tenants shall advise the Landlord and the parties shall cooperate and work together to make such changes to the scope of the Entrance Work as shall be necessary in order to reduce the cost of the Entrance Work to an amount which is not more than the T.T.C. Entrance Contribution unless the Landlord agrees to pay the costs in excess of the T.T.C. Entrance Contribution.
- (d) The Landlord agrees that it shall pay:
 - (i) the incremental costs (plus applicable HST) for any additional work which is required in connection with any changes to the scope of the Entrance Work which are required by the Landlord from that contemplated by the Entrance and Related Concourse Plans; and
 - (ii) any incremental costs (plus applicable HST): (A) arising directly as a result of any acts or omissions by the Landlord Parties (but excluding for certainty any actions taken in response to an Emergency that is not caused by the Landlord) which materially delay the Entrance Work, or (B) which are necessary in order to avoid or minimize any material delay arising directly as a result of any acts or omissions of the Landlord Parties; provided that in the case of (B) the Tenants shall provide the Landlord with Notice of any such anticipated material delay and the additional steps the Tenants are proposing to take in order to avoid or minimize such anticipated material delay,

(collectively, "**Landlord Initiated Entrance Costs**"), provided that, in the case of any changes to the scope of work for the Entrance Work required by the Landlord, the estimated amount of such Landlord Initiated Entrance Costs shall be agreed in writing between the Landlord and the Tenants before the Tenants proceed with any part of such additional work.

- (e) The Tenants agree that they shall pay for the costs (including hard costs, soft costs and applicable HST) of the Entrance Work in accordance with the Entrance and Related Concourse Plans, save and except the Landlord's costs specified in Subsection 7.2(c), if any, and the Landlord Initiated Entrance Costs, if any.
- (f) Any Landlord costs specified in Subsection 7.2(c) or Landlord Initiated Entrance Costs shall be paid by the Landlord to the Tenants, or as they may direct, in monthly installments, less the amount of any holdback required pursuant to the *Construction Act* (Ontario), if any, within twenty (20) days after the delivery of a request for payment setting forth the aggregate amount of the requested payment (in this Subsection 7.2(f), the "**Requested Amount**") together with an invoice for the Requested Amount accompanied by supporting invoices from the Tenants' contractors and subcontractors evidencing that the Tenants have incurred not less than the Requested Amount in respect of construction costs for the Entrance Work.
- (g) Any holdback retained by the Landlord shall be paid to the Tenants following the expiry of all applicable lien holdback periods and the Landlord receiving satisfactory evidence from the Tenants that no construction liens are then registered or claimed in respect of the T.T.C. Station Entrances and the related alterations to the Subway Concourse Areas.
- (h) Upon final completion of the Phase One Entrance Work and the Phase Two Entrance Work, respectively, the Tenants shall, subject to Section 5.5, give a partial release and surrender of this Lease in respect of the applicable T.T.C. Station Entrance and that strata portion of the Lands on which the applicable T.T.C. Station Entrance has been constructed (in this Subsection 7.2(h), the "**Surrendered Lands**"). Prior to the surrender of the Surrendered Lands, the Tenants shall, at the Landlord's sole cost and expense, cause an independent accredited surveyor selected by the Tenants to prepare a strata reference plan of such Surrendered Lands for registration on title to the Lands. The Tenants shall deliver a draft of such reference plan to the Landlord for its review and approval prior to the Landlord submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands and following such partial release and surrender, the definitions of "Lands" and "T.T.C. Retained Lands" in Section 1.1 shall be amended to delete the Surrendered Lands from the Lands and to add the Surrendered Lands to the T.T.C. Retained Lands.

7.3 Security and Remedies relating to T.T.C. Facilities

- (a) Prior to the Commencement of Construction of the T.T.C. Bus Terminal or any Entrance Work (collectively the "**T.T.C. Bus Terminal and Entrance Work**"), each of the Tenants (in this Section 7.3, the "**Subject Tenant**") shall, on a several basis, deliver to the Landlord as security for their obligations to complete such T.T.C. Bus Terminal and Entrance Work:
 - (i) in the case of the T.T.C. Bus Terminal:

- (A) an irrevocable, unconditional, "evergreen" letter of credit issued by an Approved Bank in a principal amount equal to the Subject Tenant's pro rata share (based on the Tenants' respective co-ownership interests in the Property) of twenty five percent (25%) of the difference between the T.T.C. Improvement Allowance and the estimated cost to complete the T.T.C. Bus Terminal as shown in the Project Budget for such T.T.C. Bus Terminal and Entrance Work approved by the Landlord; and
 - (B) a completion guarantee substantially in the form attached as Schedule "P" from any Subject Tenant or an Affiliate of such Subject Tenant, that in each case is a Creditworthy Person, for the Subject Tenant's pro rata share (based on the Tenants' respective co-ownership interests in the Property) of twenty five percent (25%) of the difference between the T.T.C. Improvement Allowance and the estimated cost to complete the T.T.C. Bus Terminal as shown in the Project Budget for such T.T.C. Bus Terminal and Entrance Work approved by the Landlord;
- (ii) in the case of the Phase One Entrance Work, an irrevocable, unconditional, "evergreen" letter of credit issued by an Approved Bank in a principal amount equal to the Subject Tenant's pro rata share (based on the Tenants' respective co-ownership interests in the Property) of twenty-five percent (25%) of the T.T.C. Entrance Contribution; and
 - (iii) in the case of the Phase Two Entrance Work, an irrevocable, unconditional, "evergreen" letter of credit issued by an Approved Bank in a principal amount equal to the Subject Tenant's pro rata share (based on the Tenants' respective co-ownership interests in the Property) of twenty-five percent (25%) of the T.T.C. Entrance Contribution,

in each case in form and substance acceptable to the Landlord (the "**T.T.C. Work Security**"). The T.T.C. Work Security shall remain in place and shall not be released until the applicable T.T.C. Bus Terminal and Entrance Work has been Substantially Completed and provided that (A) all construction lien holdbacks required or permitted by Applicable Laws in respect of such T.T.C. Bus Terminal and Entrance Work have been maintained; and (B) no construction liens are then registered or claimed in respect of any of such T.T.C. Bus Terminal and Entrance Work.

The Landlord acknowledges that under no circumstances will any of the following Persons be required to provide any T.T.C. Work Security: (1) the pension plan known as of the Execution Date as OMERS, and after the Execution Date, any successor pension plan or corporation to OMERS; or (2) CT REIT or CTC.

- (b) In the event that the Tenants:
 - (i) default in the performance of any part of the T.T.C. Bus Terminal and Entrance Work in accordance with the plans and specifications approved by the T.T.C. pursuant to a Technical Review; or

- (ii) fail to Substantially Complete the T.T.C. Bus Terminal or the Phase One Entrance Work on or before Substantial Completion of the First Phase of the Development; or
- (iii) fail to Substantially Complete the Phase Two Entrance Work on or before Substantial Completion of the applicable Phase of the Development,

then in each such case

- (iv) the Landlord may give Notice to the Tenants pursuant to Section 17.2 requiring that the Tenants complete any unfinished work and/or rectify or replace any substandard, defective, deficient or non-compliant work; and
- (v) if after the Landlord has given Notice under Subsection 7.3(b)(iv) above, the Tenants fail to complete any unfinished work and/or rectify or replace any substandard, defective, deficient or non-compliant work within the greater of sixty (60) days or such longer time as would have reasonably sufficed for the completion or remedying of such work if the Tenants had commenced to complete or remedy the same within sixty (60) days and thereafter proceeded to complete or remedy the same with reasonable diligence, then without limiting any other rights or remedies the Landlord may have pursuant to this Lease or at law or in equity, the Landlord may draw upon the T.T.C. Work Security to pay the costs to have such work completed and/or remedied.

7.4 Paramourncy of Transit Operations

- (a) The Tenants hereby agree that the purpose of the T.T.C. Facilities and the related Transit Operations and their existence are solely for the use and convenience of patrons of the transit systems operated by the T.T.C., notwithstanding that they may be incidental to other uses, and that the operation, regulation and use of the T.T.C. Facilities and related Transit Operations shall remain the responsibility of the T.T.C., in its sole discretion, and that the use, occupation, operation and maintenance of the Property by the Tenants shall at all times be subject to the reasonable requirements of the T.T.C. to ensure public safety and the proper functioning and efficient conduct of the T.T.C. Facilities and related Transit Operations.
- (b) Without limiting the generality of the foregoing and notwithstanding any other provisions of this Lease, the rights hereby granted to the Tenants with respect to the Lands shall at all times be subject to the paramount right of the T.T.C. in its respective sole discretion, to conduct the T.T.C.'s Transit Operations according to the requirements and exigencies of the public interest, provided that in connection with the conduct of the Transit Operations the T.T.C. will: (i) disturb the Buildings as little as is reasonably possible; and (ii) minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants, and any adverse impact to the future development plans of the Tenants in accordance with the Master Development Plan or any other development proposals of which the Tenants have previously given written notice to the Landlord. Should any part of the Lands be used by the Tenants in such a manner as to be offensive, disruptive or a

source of danger to the public, or a detriment in any material way to the T.T.C.'s Transit Operations or the T.T.C. Facilities, the Landlord shall give Notice to the Tenants and any Tenant Mortgagee specifying its objection to the manner in which the rights of the Tenants are being exercised, and if such offensive or dangerous use does not cease within ten (10) days (or if there is immediate danger to the public such lesser period as is reasonably specified in the Landlord's Notice) from such Notice, the Landlord may suspend the Tenants' tenure of and right to use and occupy the affected parts of the Lands, unless and until such offensive, disruptive or dangerous use ceases.

- (c) The Tenants shall use reasonable commercial efforts to incorporate the foregoing provisions of this Section 7.4 into all Space Leases of any premises within the Subway Concourse Areas or the LRT Areas, subject to such modifications as Space Tenants may reasonably require, and shall use reasonable commercial efforts to enforce the provisions thereof against any Space Tenant in breach thereof, and shall co-operate with the T.T.C. to address any breaches of such provisions by Space Tenants.

7.5 T.T.C. Development Rights

Subject to reasonable prior consultation with the Tenants, the Tenants agree that the Landlord shall have the right to use, develop or redevelop:

- (a) any of the T.T.C. Areas and any other lands and premises of the Landlord immediately adjoining the Lands (other than Released Lands, if any) for use as Transit Facilities or in connection with Transit Operations in such manner as the Landlord sees fit in its sole discretion, and
- (b) any Released Lands in any manner the Landlord sees fit in its sole discretion,

provided that, in each case, the Landlord will: (i) disturb the Buildings as little as is reasonably possible in connection with such use, development or redevelopment; (ii) exercise such use in a manner so as to minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants, and any adverse impact to the future development plans of the Tenants in accordance with the Master Development Plan or any other development proposals of which the Tenants have previously given written notice to the Landlord; and (iii) develop or redevelop in a manner so as to minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants, and any adverse impact to the future development plans of the Tenants in accordance with the Master Development Plan or any other development proposals of which the Tenants have previously given written notice to the Landlord. The Tenants agree to provide reasonable co-operation, at no cost to the Tenants, to the Landlord in connection with such use, development or redevelopment.

7.6 Transit Expansion

If, at any time after the Execution Date, T.T.C. or Metrolinx desires to proceed with extensions or expansions to the subway or light rail rapid transit system along Eglinton Avenue or Yonge Street, or provide connecting services along Eglinton Avenue or Yonge Street in either direction, then, subject to Subsection 2.4(c), the Landlord shall provide the Tenants with Notice thereof, and the Landlord and the Tenants shall meet and negotiate, acting reasonably and in

good faith, to agree upon the extent to which areas and facilities forming part of the Property may be reasonably required in connection with such extension or expansion of Transit Facilities and/or Transit Operations without causing any material adverse impact on the proper functioning of the Property or on the revenue generated from the Property, and the Tenants shall provide such partial releases and surrenders of this Lease in respect of such parts of the Lands that are reasonably required in connection therewith (such lands, in this Section 7.6, being the "**Surrendered Lands**"), it being understood and agreed that:

- (a) if Metrolinx desires to proceed with extensions or expansions to the light rail rapid transit system along Eglinton Avenue or Yonge Street, or provide connecting services along Eglinton Avenue or Yonge Street in either direction, the Landlord shall provide reasonable co-operation to the Tenants, at no cost to the Landlord, to assist the Tenants in their negotiations with Metrolinx regarding the same;
- (b) the Landlord will or will cause the T.T.C. to disturb the Buildings as little as is reasonably possible in connection with such work;
- (c) the Landlord will or will cause the T.T.C. to complete such work in a manner so as to minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants, and any adverse impact to the future development plans of the Tenants in accordance with the Master Development Plan or any other development proposals of which the Tenants have previously given written notice to the Landlord; and
- (d) the Landlord shall make or cause the T.T.C. to make appropriate compensation to the Tenants for any damage caused to the Buildings by such work and for any Losses occasioned by the giving up of such portions of the Property.

Prior to the surrender of the Surrendered Lands, the Landlord shall, at its sole cost and expense, cause an independent accredited surveyor selected by the Landlord to prepare a strata reference plan of such Surrendered Lands for registration on title to the Lands. The Landlord shall deliver a draft of such reference plan to the Tenants for their review and approval prior to submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands and following the partial release and surrender, the Parties shall amend this Lease to amend the legal description of the Lands to exclude the Surrendered Lands therefrom and, if applicable, amend the legal description of the T.T.C. Retained Lands to add the Surrendered Lands thereto.

7.7 Noise, Vibration and Electromagnetic Interference

The Tenants agree that:

- (a) neither the Landlord (which term for the purposes of this Section includes the T.T.C.) nor Metrolinx is responsible for the effect of noise, vibration, electromagnetic interference, lighting glare, stray current, smoke, and particulate matter (collectively referred to as "**Interferences**") resulting from the normal operation and/or use of the Transit Facilities or any part thereof;

- (b) the Landlord and Metrolinx have advised the Tenants to apply reasonable attenuation or mitigation measures to the Development and to any Buildings constructed or to be constructed on the Lands from time to time with respect to the impact of Interferences as part of any Construction Work; and
- (c) the proximity of the Development and any Buildings constructed or to be constructed on the Lands from time to time to the Transit Facilities may result in transmissions of Interferences on and/or to the Development or the Property or parts thereof and, despite the inclusion of attenuation or mitigation measures and/or control features within the Development or any Buildings constructed or to be constructed on the Lands from time to time, Interferences from the operations and/or use of the Transit Facilities may continue to be of concern and may interfere with the Property or parts thereof or with the Development or any Construction Work and, notwithstanding the foregoing, the Tenants hereby release the Landlord from any and all liability for, and agree to indemnify and save the Landlord harmless from, any Claims and Losses in any way arising or resulting from any and all Interferences resulting from the normal operation and/or use of the Transit Facilities or any part thereof as such Transit Facilities exist on the Execution Date (the "**Existing Transit Facilities**"). For greater certainty, the Parties agree that the release and indemnity in this Subsection 7.7(c) shall not apply to any Interferences resulting from any changes to the condition and/or use of the Existing Transit Facilities, provided that the Landlord shall have no liability to the Tenants in respect of any Interferences resulting from the construction or operation of the Metrolinx Facilities or any changes to the condition and/or use thereof.

7.8 Special Provisions Respecting Signage and Pedestrian Concourses

- (a) The Tenants shall supply, install and maintain on the Buildings constructed on the Lands which have pedestrian connections to the T.T.C. Station, T.T.C. Bus Terminal or the Metrolinx Station the following identity and directional signs:
 - (i) illuminated transom signs at the entrances to all Buildings located on Yonge Street and on Eglinton Avenue which are connected by pedestrian concourse to the T.T.C. Station and/or the Metrolinx Station, respectively and which will identify the T.T.C. Station Entrance, the Metrolinx Station Entrance and the Building entrance;
 - (ii) appropriate "To Subway" and "To LRT" signs shall be installed in the ground floor lobbies of all Buildings connected by pedestrian concourse to the T.T.C. Station and the Metrolinx Station, respectively; and
 - (iii) appropriate "To Bus Terminal" signs shall be installed in the ground floor lobby of all Buildings connected by pedestrian concourse to the T.T.C. Bus Terminal.
- (b) The sign type, size and location of all such signs are subject to the approval of the Landlord. All signs shall be in accordance with the then current design and operating standards of the T.T.C. for the subway system, of Metrolinx for the LRT system and of the City for any pedestrian wayfinding system for below grade building linkages, as

presently constituted or as varied from time to time. The Landlord shall have the right, subject to the prior approval of the Tenants and at the Landlord's sole cost and expense, to adjust, relocate, replace or add signs as required for the efficient conduct by the T.T.C. of Transit Operations, provided that in each case the Landlord will minimize any interference with the operations of the Buildings as much as is reasonably possible. The Landlord acknowledges that the signage on the Lands as at the Execution Date conforms to its requirements.

- (c) Save and except as provided in Section 7.2, for so long as Transit Operations are being conducted by the T.T.C. and/or Metrolinx, the subway entrances or elements of the below grade pedestrian concourses in the Buildings which are connected to the T.T.C. Station, T.T.C. Bus Terminal and/or the Metrolinx Station shall not be abandoned or relocated during the Term by either the Landlord or the Tenants without the prior consent of both Parties. Any changes in such entrances which may in any way affect the pedestrian approach to the T.T.C. Station, T.T.C. Bus Terminal or the Metrolinx Station shall be subject to the prior approval of the Landlord and the Tenants.
- (d) If after completion of the T.T.C. Bus Terminal and Entrance Work in accordance with Sections 7.1 and 7.2:
 - (i) the Tenants require the Landlord to change in whole or in part the location or configuration of any Transit Facilities which the Landlord is willing to accommodate, the expense of all changes including construction of any necessary passageways, alterations to the Subway Concourse Areas or other necessary work shall be borne by the Tenants; or
 - (ii) the Landlord requires changes to the location or configuration of any Transit Facilities, which in turn require changes to any part of the Property or the Buildings, the cost of making them shall be borne by the Landlord. If such changes require the Tenants to give up any part of the Property or the Buildings, the Landlord shall make or cause the T.T.C. to make appropriate compensation to the Tenants for any Losses occasioned by the giving up of such portions of the Property or Buildings.
- (e) The T.T.C. Station Entrances shall be open to the public during all operating hours of the T.T.C. Station and the Metrolinx Station Entrance shall be open to the public during all operating hours of the Metrolinx Station; provided that the Landlord or Metrolinx may, in the event of a strike, Emergency, or Unavoidable Delay, effect a temporary closure without liability to the Tenants or their Space Tenants.

7.9 Special Provisions Respecting the Subway Concourse Areas

- (a) The Tenants agree that in sub-leasing premises within the Tenants' Subway Retail Areas to Space Tenants they will ensure that the retail operations in the Tenants' Subway Retail Areas are carried on in a clean and tidy manner. The Tenants shall ensure that all Applicable Laws regulating the safe operation of business in the Tenants' Subway Retail Areas are complied with in all material respects; and, without limiting the generality of

the foregoing, the Tenants shall ensure that proper portable fire extinguishers and other life safety equipment required under Applicable Laws are supplied and maintained in serviceable condition in the Tenants' Subway Retail Area. The Tenants further agree to use reasonable commercial efforts to ensure that all Space Leases to be entered into by them with respect to premises within the Tenants' Subway Retail Areas, contain, *inter alia*, provisions acknowledging, to the extent applicable, the provisions of Subsections 7.9(a), (b), (c), (e), (f), (h) and (i), and the rules and regulations set forth on Schedule "K" hereto.

- (b) The Tenants covenant that during the Term none of the Tenants, nor their Space Tenants or their respective subtenants, agents, franchisees, licensees or other occupants of retail premises within the Tenants' Subway Retail Areas, will, within the Tenants' Subway Retail Areas during the term of the Gateway Lease and any extension or replacement thereof: (i) sell, keep or offer for sale or free distributions, newspapers; (ii) conduct a newsstand operation; or (iii) sell, keep or offer for sale cigarettes, vapour or tobacco products.
- (c) The Tenants shall or shall cause the removal of refuse and garbage from the Tenants' Subway Retail Areas on a daily basis. No paper, cartons or trash of any kind originating from the Tenants' Subway Retail Areas shall be temporarily left or stored in, on, or adjacent to the T.T.C. Public Areas. The Tenants' Service/Utility Areas shall also be kept clean and free of trash and garbage accumulations. A good, effective, and persistent program of rodent control shall be instituted and continued in the Tenants' Subway Retail Areas and the Tenants' Service/Utility Areas.
- (d) The Tenants covenant with the Landlord that they shall be responsible for the security, maintenance and public liability associated with the Tenants' Subway Retail Areas, including but not limited to the doors and glass walled storefronts of such retail areas.
- (e) The Tenants will ensure that none of the Tenants, nor their Space Tenants or their respective subtenants, agents, franchisees, licensees or other occupants of retail premises within the Tenants' Subway Retail Areas will place and maintain more than one transom high business name sign, illuminated, if desired, upon the outside of the retail premises, which sign shall not be more than 9" in height nor shall it extend more than 6" from the face of the wall and its illumination shall be muted such that it does not interfere with the station lighting or station directional signs. The Tenants, or their Space Tenants, or their respective sub-tenants, agents, franchisees, licensees, or other occupants of retail premises within the Tenants' Subway Retail Areas, may also place one business sign upon the interior side of the glass doors and/or windows of such retail premises. All signs proposed must be approved by the Landlord including the sign locations.
- (f) Hours of entry to the Tenants' Subway Retail Areas and the Tenants' Service/Utility Areas for the Tenants or their Space Tenants during the currency of this Lease shall be those hours during which the T.T.C. Station is open to the public.
- (g) The Landlord agrees that the Tenants, their employees, agents and other Persons authorized by the Tenants shall be provided by the Landlord with non-riding property

permits which will allow them ingress to the T.T.C. Station for access to the Tenants' Subway Retail Areas and the Tenants' Service/Utility Areas, and such ingress shall be without charge. Such non-riding property permits shall be provided by the Landlord to the Tenants within 5 Business Days of request by the Tenants.

- (h) No deliveries to or pick-ups from the Tenants' Subway Retail Areas and the Tenants' Service/Utility Areas through the fare paid area shall be allowed during the rush hour periods from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m. during Monday to Friday, inclusive, or as such rush hour periods are determined by the T.T.C. Representative from time to time. Deliveries to and pick-ups from such areas during the hours the subway is closed will not be permitted. No deliveries of any kind except those normally carried by a postal carrier or letter carrier are to be made to such retail stores via the subway system.
- (i) All heavy deliveries (and removals) shall be made in such a manner as to avoid damage to stairs and escalators and, without limiting the foregoing, the stairs leading to the Tenants' Subway Retail Areas must be protected against damage to the non-skid nosing tiles when heavy deliveries are made to, or heavy items are removed from, the Tenants' Subway Retail Areas or the Tenants' Service/Utility Areas using hand carts or similar apparatus. All hand carts or similar apparatus must be equipped with semi-pneumatic rubber tires or a rubberized caterpillar device approved by the T.T.C. Representative. Any deliveries not in compliance with these provisions may be stopped by the T.T.C. Representative.
- (j) The Tenants acknowledge that keys permitting access to the T.T.C. Station will not be provided and understand that in the event of an Emergency if entry is required to the T.T.C. Station or other T.T.C. Areas other than during operating hours of the T.T.C. Facilities, such entry shall be arranged by contacting T.T.C. Transit Control at such contact number or address as the T.T.C. Representative may advise by Notice to the Tenants from time to time.
- (k) The Landlord agrees to provide caretaking, maintenance and patrol of the T.T.C. Areas to the standards of the Transit Operations, and shall pay for the lighting, ventilation, and, if required, heating and cooling of the T.T.C. Areas, and pay all taxes, local improvements and other charges levied thereon and costs of utilities consumed in connection with such use and occupation. The Landlord will save the Tenants harmless in respect of all Claims and Losses sustained by Persons in or on the T.T.C. Areas except to the extent caused or contributed to by the negligence of any of the Tenants, their employees, agents, contractors or others for whom any of the Tenants is in law responsible. The Parties agree that Metrolinx shall be responsible for providing caretaking, maintenance and patrol of the Metrolinx Areas and paying for lighting, ventilation, and, if required, heating and cooling, and taxes and other charges levied thereon and costs of utilities consumed in connection therewith and neither the Landlord nor the Tenants shall have any liability in respect thereof or in respect of any Claims or Losses sustained by any Persons in or on the Metrolinx Areas except to the extent caused or contributed to by the negligence of the Landlord or any of the Tenants, or their respective employees, agents, contractors or others for whom they are in law responsible.

- (l) Without limiting the foregoing provisions of this Section 7.9, it is expressly acknowledged that:
- (i) the T.T.C. Areas are reserved to the Landlord without charge, save as herein expressly provided, for the exclusive use of the Landlord and shall not form part of the Lands leased to the Tenants hereunder or the Property, provided however that:
 - (A) the Tenants, their employees, agents and other persons authorized by the Tenants, shall have ingress to, and egress from the T.T.C. Public Areas, as herein provided, without charge;
 - (B) the T.T.C. Public Areas are to be available, subject to the provisions hereof, to the public; and
 - (C) only the portion of the T.T.C. Areas to be shown and marked pursuant to Subsection 7.9(n) as "T.T.C. Retail Areas" on Schedule "G" shall be used by the T.T.C. for the purposes of retail leasing;
 - (ii) the Landlord shall be solely responsible for any redevelopment of the T.T.C. Retail Areas at its sole cost and expense; and
 - (iii) the LRT Areas highlighted in green on Schedule "F" are intended to comprise the Metrolinx Required Areas and are reserved for transfer of the fee interest or a permanent easement to Metrolinx without charge for the exclusive use of Metrolinx and the Tenants shall, upon request by the Landlord or Metrolinx, surrender and release the LRT Areas from the Lands leased to the Tenants hereunder, provided however that the Tenants, their employees, agents and other persons authorized by the Tenants, shall have the same rights of ingress to, and egress from the LRT Areas as members of the public.
- (m) The Landlord agrees that it shall, at its sole cost and expense, on or prior to the Commencement Date deliver vacant possession of the T.T.C. Retail Areas.
- (n) The Parties acknowledge that as of the date hereof they are unable to identify the "Tenants' Service/Utility Areas", "Tenants' Subway Retail Areas" and "T.T.C. Retail Areas" on Schedule "G" and/or Schedule "H". After such areas are identified by the Parties, the Parties shall replace Schedule "G" and/or Schedule "H" with updated plans that identify and label the "Tenants' Service/Utility Areas", "Tenants' Subway Retail Areas" and "T.T.C. Retail Areas" thereon and thereafter the Parties shall amend this Lease to replace Schedule "G" and/or Schedule "H" with such updated plans.
- (o) If there is any inconsistency or conflict between the provisions of this Section 7.9 and the rules and regulations set forth on Schedule "K" hereto, the provisions of this Section 7.9 will prevail.

7.10 Landlord's Stipulations

The Landlord confirms that, to the best of its knowledge, the existing uses of the Tenants' Subway Retail Areas as listed in Part I of Schedule "L" are in compliance with Section 7.9 as of the Execution Date, and the Landlord agrees that when it is leasing space within the T.T.C. Retail Areas it will ensure that no business will be permitted of the same type as that then being conducted by Space Tenants in the Tenants' Subway Retail Areas. Without limiting the foregoing, it is acknowledged that any existing uses of retail premises within the T.T.C. Retail Areas as at the Execution Date as listed in Part II of Schedule "L" and any continuation or extension thereof, by the existing parties or by successors thereof, shall be considered "grandfathered" and therefore not in contravention of this provision against competition.

ARTICLE 8 MAINTENANCE AND REPAIRS

8.1 General

Except as specifically provided in Sections 7.1 and 7.2, Subsections 7.8(b), 7.8(d), 7.9(k) and 7.9(l) and Sections 8.6 and 8.7, the Landlord shall not be obliged to furnish any services or facilities to the Property or to make or pay for any repairs or alterations to, or replacements of, any Buildings. Except as specifically provided in this Lease, the Tenants hereby assume full responsibility for the condition, operation, repair, replacement, maintenance and management of the Property (which, for greater certainty, excludes the Transit Facilities), and for the payment of all costs in connection therewith.

8.2 Tenants' Repair Obligations

During the Term, the Tenants shall, at their own expense, repair and maintain in good order and condition, or shall cause to be repaired and maintained in good order and condition, the Lands and the Buildings and every part thereof including major and structural repairs and replacements to foundations, supporting columns, roofs, exterior windows and cladding, parking structures, elevators, chillers, boilers, and all other systems and components thereof, including those which, if not kept in repair, might interfere with the due enjoyment of the T.T.C. Facilities, in each case subject to reasonable wear and tear having regard to the age of such Buildings. Such repair and maintenance in respect of:

- (a) New Buildings shall be in all respects:
 - (i) to the standard of: (A) in the case of New Buildings comprising non-residential premises, a Class A commercial office building, similar to comparably aged Class A commercial office buildings and (B) in the case of New Buildings comprising residential premises, a first class rental apartment building, similar to comparably aged first class rental apartment buildings, in each case surrounding the Yonge Street and Eglinton Avenue intersection and along the Yonge Street subway line south of Eglinton; and

- (ii) in compliance with all Applicable Laws and with the lawful requirements of all Governmental Authorities having jurisdiction and the requirements of fire insurance underwriters insuring the Property from time to time to the extent necessary to maintain such insurance in good standing; and
- (b) Existing Buildings, until such time as such Existing Buildings are redeveloped, shall be in all respects:
 - (i) to the standard of a prudent owner or operator of a similar buildings in midtown Toronto, having regard to type, size, age and location; and
 - (ii) in compliance with all Applicable Laws and with the lawful requirements of all Governmental Authorities having jurisdiction and the requirements of fire insurance underwriters insuring the Property from time to time to the extent necessary to maintain such insurance in good standing.

At the expiry or earlier termination of the Term, the Tenants shall surrender the Property to the Landlord in as good condition and repair as the Tenants are required to maintain the Property pursuant to this Lease throughout the Term, subject to reasonable wear and tear.

8.3 Major Capital Reinvestments

Without limiting the generality of Sections 8.1 and 8.2, the Tenants covenant and agree that they shall complete Major Capital Reinvestments as may be required from time to time during the Term so as to ensure that, throughout the Term, the Property is maintained and operated to the standard set forth in Section 8.2, provided that, subject to Section 15.1, the Tenants shall not be required to complete Major Capital Reinvestments during the last ten (10) years of the Initial Term or the Extension Term.

8.4 Tenants' Access to Landlord's Property to Complete Repairs

Subject to the provisions of this Lease and in particular the provisions of Section 7.4, the Landlord shall permit the Tenants, their employees, agents, representatives or contractors at reasonable times on reasonable prior Notice to the T.T.C. Representative to enter upon the T.T.C. Areas and the lands of the Landlord to examine the condition of the foundations, supporting columns, and other structural components of the Buildings located therein or thereon, and to make all reasonable repairs, replacements and alterations thereto necessary to maintain the Buildings in the condition in which the Tenants are required to maintain them in accordance with Section 8.2 and to prevent interference with the due enjoyment of the Transit Facilities or Transit Operations.

8.5 Landlord's Right of Inspection

The Landlord, the T.T.C. Representative and the Landlord's employees, agents, representatives and contractors may, upon not less than five (5) Business Days' prior Notice to the Tenants, (except in any Emergency, when no prior Notice shall be required but Notice will be sent to the Tenants as quickly as possible after such entry advising thereof), enter the Property to examine the condition and state of repair thereof. The Landlord shall provide Notice to the

Tenants and any Tenant Mortgagee of all repairs or maintenance to the Property or any part thereof or any parts, systems or components of any Buildings that, in the opinion of the T.T.C. Representative exercised reasonably and in good faith, are required: (i) to avoid endangering Transit Facilities or Transit Operations; or (ii) to meet the Tenants' obligations to keep and maintain the Property in accordance with the standards in Section 8.2. The Tenants covenant and agree that, within a reasonable time after receipt of such Notice, the Tenants will, at their expense, complete and make good all outstanding repairs and maintenance that they are required to make hereunder in accordance with Sections 8.1 and 8.2. Failure by the Landlord to give Notice to the Tenants of any repairs or maintenance required under this Lease shall not relieve the Tenants from their obligations to complete such repairs or maintenance in accordance with the provisions of Sections 8.1 and 8.2.

8.6 Landlord's Repair Obligations and Right of Access

Subject to the provisions of this Lease and in particular the provisions of Section 7.4, during the Term, the Landlord shall, at its own expense, repair and maintain in good order and condition, or shall cause to be repaired and maintained in good order and condition the T.T.C. Areas, including the walls, ceilings and structural elements and all systems and components thereof, which if not kept in repair, might interfere with the due enjoyment of the Lands by the Tenants, their Space Tenants and invitees when, where and so often as need shall be. The Tenants shall permit the Landlord, the T.T.C. Representative and the Landlord's employees, agents, representatives or contractors at reasonable times on reasonable prior Notice to the Tenants to enter upon the Property to examine the condition of the T.T.C. Areas, and to make all reasonable repairs, replacements and alterations thereto. The parties agree that Metrolinx shall be responsible for repairing and maintaining in good order and condition the Metrolinx Areas, including the walls, ceilings and structural elements and all systems and components thereof, and neither the Landlord nor the Tenants shall have any liability therefor.

8.7 Tenants' Right of Inspection

Subject to Section 7.4, the Tenants, their employees, agents, representatives and contractors may, upon not less than five (5) Business Days' prior Notice to the Landlord, (except in an Emergency, when access shall be arranged in accordance with Subsection 7.9(j)), enter the T.T.C. Areas to examine the condition and state of repair thereof. The Tenants shall provide Notice to the Landlord of all repairs or maintenance to the T.T.C. Areas or any parts thereof that, in the opinion of an independent architect designated by the Tenants, exercised reasonably and in good faith, are required to avoid endangering the Buildings or any parts, systems or components thereof or to prevent interference with the due enjoyment of the Lands by the Tenants, their Space Tenants and invitees. The Landlord covenants and agrees that, within a reasonable time after receipt of such Notice, the Landlord will, at its expense, complete and make good all such outstanding repairs and maintenance to the reasonable satisfaction of the Tenants.

**ARTICLE 9
ENVIRONMENTAL MATTERS**

9.1 Tenants' Environmental Covenants and Indemnity

The Tenants covenant and agree that they will:

- (a) comply and cause their respective employees, officers, directors, agents, invitees, contractors, and others for whom they are in law responsible to comply at all times during the Term with all Environmental Laws which are applicable to the development, construction, use, operation and occupation of the Property or any part thereof;
- (b) use reasonable commercial efforts to cause Space Tenants (i) to comply at all times during the Term with, and (ii) to pay for all liabilities that the Space Tenants cause or trigger under, all Environmental Laws which are applicable to the development, construction, use, operation and occupation of the Property or any part thereof;
- (c) not use or permit the use of the Property or any part thereof to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce or process any Hazardous Substance except in compliance with all Environmental Laws and will not bring or allow, and will take reasonable precautions to prevent, any Hazardous Substances to be brought onto the Property or any part thereof except in compliance with Environmental Laws. Each of the Tenants represents, warrants and covenants that it: (i) knows or will inform itself of the risks and hazards associated with handling, labeling, transporting, storing, or disposing of Hazardous Substances that it will handle; (ii) has trained its employees in proper safety procedures and legal requirements for these services; and (iii) will promptly notify the Landlord if it or, to its knowledge, any of the Tenant Parties, any Building or other part of the Property is subject to any regulatory order, directive, investigation or proceeding concerning any alleged material violation of Environmental Laws or the presence or Release of any Hazardous Substance on, at or from the Property during the Term that may reasonably be expected to result in liability under Environmental Laws;
- (d) obtain, maintain in full force and effect at all times during the Term and renew from time to time as necessary, all Environmental Permits with respect to the Tenants' use, occupation, maintenance and operation of the Property (including environmental compliance approvals) and any related financial assurances or security in connection therewith;
- (e) comply with any investigative, remedial or precautionary measures required under Environmental Laws or by any Governmental Authority with respect to the Tenants' use, occupation, maintenance and operation of the Property;
- (f) in respect of any Release on, at or from the Property during the Term in violation of Environmental Laws by the Tenants or others for whom any of the Tenants are in law responsible, the Tenants shall be responsible for carrying out, or shall cause to be carried out, all necessary work to comply with Environmental Laws and shall pay any and all costs and expenses to remove such Hazardous Substances and remediate or restore the

Property, as required to comply with all Applicable Laws including Environmental Laws and pay or cause to be paid all costs and expenses thereof, save and except to the extent such Release was caused by the acts or omissions of any of Landlord Parties;

- (g) protect, indemnify and save the Landlord and each of the Landlord Parties harmless from and against any Environmental Claims and all Losses relating thereto or arising therefrom (including all costs and expenses of any removal, remediation, restoration or monitoring of the Property or any part thereof) to the extent caused by or attributable to:
 - (i) any breach by any of the Tenants of any provision of this ARTICLE 9;
 - (ii) any act or omission of any of the Tenants, and their respective employees, officers, directors, agents, invitees, contractors, and others for whom they are in law responsible on or affecting the Property; or
 - (iii) any Hazardous Substances which are on or at the Property as a result of the acts or omissions of any of the Tenant Parties;
- (h) where there are reasonable grounds for believing that Tenants have not complied with Environmental Laws or the provisions of this Section 9.1, the Landlord shall have access to the Property and the Tenants' environmental records and reports, at reasonable times during the Term on reasonable prior Notice (except in the event of an Emergency, in which case no prior Notice shall be required but Notice will be sent to the Tenants as quickly as possible after such entry advising thereof), to allow the Landlord to inspect and assess the Tenants' compliance with Environmental Laws and the provisions of this Lease, provided that the Landlord shall carry out any such inspection at a time and in a manner so as to minimize, to the extent reasonably possible, disturbance to the Tenants and the Space Tenants. If the inspection reveals matters of non-compliance with Environmental Laws or this Section 9.1 by any Tenant Parties, the Tenants will be responsible for correcting the same within sixty (60) days after Notice from the Landlord to the Tenants and any Tenant Mortgagee in accordance with Section 17.2 requiring them to do so or such longer time as is reasonably necessary to correct such situation, provided the Tenants commence and thereafter proceed with reasonable diligence to correct the same within such sixty (60) day period; and
- (i) the Tenants will give Notice to the Landlord of: (i) any Release which occurs on, at or from the Property during the Term in violation of Environmental Laws forthwith upon the Tenants becoming aware of the same, and (ii) any material Environmental Claims relating to the Property or any part thereof during the Term forthwith upon the Tenants receiving a copy of the same.

The provisions of Subsections 9.1(f), 9.1(g) and 9.1(h) shall survive the expiry or earlier termination of this Lease.

9.2 Landlord's Environmental Covenant and Indemnity

The Landlord covenants and agrees that it will:

- (a) comply and cause the other Landlord Parties to comply at all times during the Term with all Environmental Laws which are applicable to the development, construction, use, operation and occupation of the Lands and the T.T.C. Areas and other neighbouring lands owned, leased or occupied by the Landlord or any part thereof;
- (b) not bring or allow, and will take reasonable precautions to prevent, any Hazardous Substances to be brought onto the Property or any part thereof or the T.T.C. Areas or other neighbouring lands owned, leased or occupied by the Landlord except in compliance with Environmental Laws; and
- (c) protect, indemnify and save the Tenants and each of the Tenant Parties harmless from and against any Environmental Claims and all Losses relating thereto or arising therefrom (including all costs and expenses of any removal, remediation, restoration, or monitoring of the Property or any part thereof) to the extent caused by or attributable to:
 - (i) any breach by the Landlord of this Section 9.2;
 - (ii) any act or omission of any of the Landlord Parties on or about the Property; or
 - (iii) any Hazardous Substances which are on or at the Property as a result of the acts or omissions of any of the Landlord Parties, but excluding for certainty any Environmental Claims or Losses relating to the removal, remediation or monitoring of any Hazardous Substances or the preparation of any risk assessment or record of site condition in respect thereof, which is required or is done in connection with the Development; and
- (d) the Landlord will give Notice to the Tenants of: (i) any Release which occurs on, at or from the Property or the T.T.C. Areas during the Term in violation of Environmental Laws forthwith upon the Landlord becoming aware of the same, and (ii) any material Environmental Claims relating to the Property or the T.T.C. Areas or any part thereof during the Term forthwith upon the Landlord receiving a copy of the same.

The provisions of Subsection 9.2(c) shall survive the expiry or earlier termination of this Lease.

9.3 Environmental Work and Audits

- (a) The parties acknowledge that the Tenants will conduct a Phase I Environmental Site Assessment and Phase II Environmental Site Assessment of the Property in accordance with Environmental Laws (including Ontario Regulation 153/04) prior to the Commencement Date (the "**Baseline Assessments**"). Copies of such Baseline Assessments shall be delivered to the Landlord together with reliance letters which permit the Landlord to rely on such Baseline Assessments on terms acceptable to the Landlord, acting reasonably.
- (b) The Tenants shall be responsible for carrying out in accordance with Environmental Laws any measures (including remediation, risk assessment, filing of Records of Site Condition and implementing risk management measures) required under Environmental

Laws to complete the development of the Property in accordance with the Master Development Plan (the "**Tenants' Environmental Work**") at the Tenants' sole cost and expense. The Landlord shall provide reasonable co-operation to the Tenants, at no cost to the Landlord, in respect of the Tenants' Environmental Work, including consenting to any Environmental Permits, or reviews by or filings with Governmental Authorities sought in accordance with Environmental Laws, provided that such support shall not in any event require the Landlord to incur any legal liability unless the Tenants agree to indemnify the Landlord for such legal liability.

- (c) Immediately following the date on which the each Phase of the Development is Substantially Completed, the Tenants shall conduct a Phase I Environmental Site Assessment of the applicable Phase in accordance with Environmental Laws (including Ontario Regulation 153/04) (each such assessment being a "**Phase Baseline Assessment**"). If a Phase Baseline Assessment discloses that any of the Tenant Parties may have caused or permitted any environmental contamination on or about the Property since the date of the Baseline Assessments or the last Phase Baseline Assessment, as applicable, the Tenants shall conduct a Phase II Environmental Site Assessment of the Property in accordance with Environmental Laws (including Ontario Regulation 153/04) with respect to such environmental contamination (the Phase II Environmental Site Assessment being the "**Confirmatory Baseline Assessment**"). Copies of each Phase Baseline Assessment and each Confirmatory Baseline Assessment shall be delivered to the Landlord together with reliance letters which permit the Landlord to rely thereon on terms acceptable to the Landlord, acting reasonably. The Confirmatory Baseline Assessments shall provide evidence of conditions for which the Landlord is entitled to indemnification pursuant to 9.1(g), to the extent Claims or Losses arise.
- (d) Without limiting the generality of Subsection 9.1(h), the Landlord shall have the right, if the Landlord, acting reasonably, has cause to be concerned that the Tenants may have caused or permitted environmental contamination on or about the Property following the date of the Baseline Assessments, or if required by any Governmental Authority pursuant to Environmental Laws, to require that the Tenants cause an independent environmental consultant acceptable to the Landlord, acting reasonably (the "**Environmental Consultant**"), to inspect and prepare a Phase I Environmental Site Assessment report in respect of the Property and, if recommended by such Phase I report, a Phase II Environmental Site Assessment report in respect of the Property, in accordance with Environmental Laws (including Ontario Regulation 153/04) (collectively, an "**Environmental Audit**"). The Environmental Audit shall be addressed to both the Landlord and the Tenants and copies thereof shall be delivered to both Parties.
- (e) Any Environmental Audit required by the Landlord pursuant to Subsection 9.3(d) shall be undertaken at the Landlord's expense unless the Tenants are found not to be in material compliance with Environmental Laws or any of their covenants in Section 9.1 or an Environmental Audit identifies Hazardous Substances on or about the Property in concentrations that result in a violation of or material liability under Environmental Laws and that were caused by the acts or omissions of any of the Tenant Parties (a "**Tenant Environmental Impact**"), in which case the Tenants shall be responsible, at their own expense, for the cost of such Environmental Audit and for all costs to remove, remediate

or otherwise manage the Tenant Environmental Impact in accordance with Environmental Laws.

- (f) If the Environmental Audit identifies any Tenant Environmental Impact that must immediately be removed, remediated or otherwise managed to comply with or to reduce material liability under Environmental Laws, then the Tenants will, at their sole cost and expense, remove, remediate and/or otherwise manage (or cause any applicable Space Tenant to remove, remediate and/or otherwise manage) such Tenant Environmental Impact to ensure compliance with and to cease the continued existence of material liability under applicable Environmental Laws and the Tenants will pay for the Environmental Audit. Notwithstanding the foregoing, if, in the opinion of the Environmental Consultant, compliance with Environmental Laws or cessation of the continued existence of material liability under Environmental Laws may be achieved by managing any Tenant Environmental Impact in situ, the Tenants may do so. At the expiry or earlier termination of the Term, the Tenants shall, at their sole cost and expense, either (i) remediate such Tenant Environmental Impact to a concentration that, in the written opinion of the Environmental Consultant, is not expected to result in any adverse effect to humans or the Environment at the Property or elsewhere in accordance with applicable Environmental Laws; or (ii) continue to manage such Tenant Environmental Impact in situ in accordance with applicable Environmental Laws and at the Tenants' sole cost and expense provided such management does not result in the continued existence of material liability for the Landlord. If the Tenants elect to remediate such Tenant Environmental Impact in accordance with clause (i) above, the Tenants shall be required to obtain and deliver to the Landlord a written report from the Environmental Consultant in compliance with Environmental Laws (which report shall include the opinion of the Environmental Consultant regarding adverse effect) addressed to the Landlord confirming that the Landlord may rely on such report as if the Landlord had originally commissioned the same.

The provisions of this Section 9.3 shall survive the expiry or earlier termination of this Lease.

ARTICLE 10 INSURANCE

10.1 Tenants' Insurance

The Tenants shall, during the Term, effect and maintain the following insurance at their sole expense:

- (a) "All Risks" Property Insurance: Except as to any portion of the Buildings which are insured pursuant to Subsection 10.1(g), all risks property insurance covering the Buildings and all other insurable property from time to time forming part of the Property (but for greater certainty excluding the T.T.C. Retained Lands and Transit Facilities), in an amount not less than the Replacement Cost thereof from time to time and otherwise on such terms and conditions as a prudent owner or operator of similar Class A commercial office buildings and first class rental apartment buildings in midtown Toronto would

purchase and maintain or cause to be purchased and maintained, insuring against loss or damage by perils from time to time included in a standard "all risks" policy including fire, flood and earth movement (including earthquake), stated amount clause, by-laws extension, sewer back-up and standard mortgage clause.

- (b) Boiler and Machinery Insurance: Comprehensive boiler and machinery insurance, which shall include coverage for: (i) loss or damage of whatsoever kind or nature by reason of rupture, explosion or collapse, by vacuum or cracking, burning or bulging of any steam or hot water boilers, heating and air-conditioning equipment, pressure vessels, machinery, pipes and accessories, on a repair and replacement basis; (ii) expediting expenses and for loss of rents; and (iii) losses caused by interruption of services and losses resulting from the enforcement of by-laws.
- (c) Rental Loss: Rental loss insurance insuring against loss of rents and other income due to loss or damage to the Property resulting from those risks insured against under the property and boiler and machinery insurance contemplated in Subsections 10.1(a) and 10.1(b) above and covering the value of all rents (including percentage rates, if applicable) payable to the Tenants by Space Tenants of the Property for an indemnity period of at least twenty-four (24) months from the date any part of the Property is rendered unusable by an insured event.
- (d) Public Liability Insurance: Commercial public liability insurance on an occurrence basis against claims for personal injury, death or property damage suffered by others arising out of all operations on the Property, indemnifying and protecting the Tenants and the Landlord and such other Persons as the Tenants and the Landlord may require, as additional insureds, in an amount not less than One Hundred Million (\$100,000,000.00) dollars, which may be written on a primary and excess basis, for any one accident or occurrence and in the aggregate (as such amounts may be adjusted from time to time in accordance with Section 10.15) or such greater amounts as are from time to time carried by prudent owners of comparable first class properties in midtown Toronto (subject to such coverage for such amounts being reasonably available in the market for companies owning or operating such similar properties without regard to their individual loss experience) and including provisions for cross liability and severability of interests.
- (e) Environmental Insurance: Environmental legal liability insurance insuring against unknown pre-existing conditions, including, if generally available, mould, in an amount of not less than Ten Million (\$10,000,000) dollars (as such amount may be adjusted from time to time in accordance with Section 10.15) for any one occurrence, with the Landlord named as an additional insured.
- (f) Terrorism Insurance: Terrorism insurance insuring first and third party damage or destruction and resulting loss of income, in an amount not less than Five Hundred Million (\$500,000,000) dollars for any one accident or insurance (as such amount may be adjusted from time to time in accordance with Section 10.15).

(g) Construction Insurance:

- (i) Builders' Risk: Prior to the commencement of and during the demolition, construction or reconstruction, substantial repair or substantial replacement of any Buildings, builders' all risk insurance, including earthquake, flood or collapse, by-laws extension, sewer back-up, waiver of subrogation and such other extensions as the Landlord and the Tenants may reasonably require, and with a completed operations period of not less than 36 months, with respect to such Buildings and any on-site or off-site work, materials and equipment related thereto, protecting the Tenants, the Landlord and all contractors and subcontractors, in an amount not less than the Replacement Cost of such Buildings in the case of on-site and with customary limits in the case of off-site together with provisions for delayed opening and partial occupancy and including all risks delayed start up coverage to cover loss of rents and income by the Tenants for at least twenty-four (24) months as a result of any delay in the completion of such Buildings and coverage for damage resulting from errors in design, faulty workmanship and faulty materials.
- (ii) Wrap-up Liability: Prior to the commencement of and during the demolition construction or reconstruction, substantial repair or substantial replacement of any Buildings or Additional Improvements, and for such period thereafter as shall be customary for properties of similar scope and size as such Buildings and Additional Improvements (having regard to other insurance in force), wrap-up liability insurance with respect to such activities and any on-site or off-site work, materials and equipment related thereto, protecting the Tenants and the Landlord and such other Persons as the Tenants and the Landlord may require, as additional insureds, and all contractors and subcontractors, in an amount not less than Two Hundred Million (\$200,000,000.00) dollars for structural modifications of any Buildings or any Additional Improvements and Fifty Million (\$50,000,000.00) dollars for interior finishing and fit-up work and leasehold improvements (as each of such amounts may be adjusted from time to time in accordance with Section 10.15) or such other higher amount as is customary for demolition, construction or reconstruction, substantial repair or substantial replacement of similar buildings in the City of Toronto for any one accident or occurrence, including coverage for blasting and on-hook crane exposures.
- (iii) Contractor Pollution Liability: The Tenants shall purchase and maintain or shall cause their contractor(s) to provide, maintain and pay for liability insurance, which includes pollution, legal liability and, if generally available, mould coverage, of not less than Ten Million (\$10,000,000) dollars per occurrence or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15), with a deductible no greater than one hundred thousand dollars (\$100,000) (as such amount may be adjusted from time to time in accordance with Section 10.15), and with the Landlord named as an additional insured. This policy shall be maintained for a period of three (3) years after total completion and shall not include any health hazard or pollution exclusions.

- (iv) Automobile Liability Insurance: The Tenants shall purchase and maintain or shall cause their contractor(s) to provide, maintain and pay for and shall require each of their subcontractors to provide, maintain and pay for, automobile liability insurance with respect to licensed vehicles with limits of not less than Two Million (\$2,000,000) dollars inclusive per occurrence or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15) and which shall be in the Standard Owner's Form Automobile Policy providing third party liability and accident benefits insurance and covering all vehicles of every description and kind owned, leased or operated by or on behalf of the Tenants or contractor or subcontractor, or any Persons for whom they are in law responsible.
- (v) Aircraft and Watercraft Liability: The Tenants shall cause their contractor(s) to provide, maintain and pay for and shall require each of their subcontractors to provide, maintain and pay for, aircraft (including unmanned aerial vehicles) and watercraft liability insurance with respect to owned or non-owned aircraft and watercraft if used directly or indirectly in the performance of any Construction Work, including use of additional premises, which shall be subject to limits of not less than Ten Million (\$10,000,000) dollars inclusive per occurrence or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15) for bodily injury, death and damage to property including loss of use thereof and limits of not less than Ten Million (\$10,000,000) dollars or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15) for aircraft passenger hazard.
- (vi) Off-Site Operations: The Tenants shall cause their contractor(s) to provide, maintain and pay for and shall require each of their subcontractors to provide, maintain and pay for, commercial general liability insurance with respect to off-site operations with insurance limits of not less than Ten Million (\$10,000,000) dollars per occurrence and in the aggregate or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15), naming the Tenants, the Landlord and such other Persons as the Tenants or the Landlord may require, as additional insureds.
- (vii) Contractors' Equipment Insurance: The Tenants shall cause their contractor(s) to provide, maintain and pay for and shall require each of their subcontractors to provide, maintain and pay for, "all risk contractors' equipment" insurance covering construction machinery and equipment used by the contractor or any of its trades or suppliers for the performance of any Construction Work. Such insurance shall be in a form acceptable to the Tenants and shall not allow subrogation claims by the insurer against the Tenants or the Landlord.
- (viii) Professional Liability/Errors and Omissions: The Tenants shall purchase and maintain or shall cause their contractor(s), architects, engineers and other professional design consultants ("**Design Staff**") to provide, maintain and pay for practice level professional errors and omissions insurance policies in respect of all

Design Staff in an amount of not less than Five Million (\$5,000,000) dollars per occurrence and in the aggregate or such greater amount as the Tenants may require (as such amount may be adjusted from time to time in accordance with Section 10.15).

- (ix) Workplace Safety Insurance: The Tenants shall require that each contractor and subcontractor carrying on any work on the Property provide satisfactory evidence of compliance with, and payment of all premiums under, the *Workplace Safety and Insurance Act* (Ontario) prior to entering upon the Property or carrying out any such work.
- (x) Marine Cargo and Delay: The Tenants shall purchase and maintain or shall cause their contractor(s) to provide, maintain and pay for marine cargo and delay insurance with respect to all ocean, coastal and inland waterway cargo shipments in transit to be incorporated into the Property, for the full Replacement Cost thereof and resulting costs and expenses.
- (xi) Other Construction/Contractor Insurance: The Tenants shall require that each contractor and subcontractor carrying on any work on the Property provide, maintain and pay for such other insurance as is customary for a contractor to purchase and maintain in the Province of Ontario, which is to be clearly identified by the contractor as to the risk insured, the rate applicable, the insured interest for the Tenants, Landlord and such other Persons as the Tenants or the Landlord may require, and such other information as the Tenants may reasonably require.
- (xii) Performance Bonds: The Tenants, acting prudently as would an owner and developer of similar first class properties in midtown Toronto, shall require that certain of its contractors and subcontractors carrying on work on the Property provide, maintain and pay for performance and labour & material bonds in such amounts as the Tenants shall require acting as a prudent owner and developer. To the extent that the Tenants require such bonds from any contractor or subcontractor, the Landlord shall be included as multiple obligee under all such bonds. The Landlord acknowledges that in the event the construction manager or general contractor, as the case may be, maintains Sub-contractor Default Insurance ("**SDI**") (also known as Subguard®), then the Tenants may, at their option, elect to require such bonds only from those construction entities that are not covered by the SDI policy, and satisfactory evidence of such SDI shall be provided to the Landlord upon request.
- (xiii) The insurance requirements in this Subsection 10.1(g) shall exclude the requirement to take out and maintain insurance for: (A) any demolition, construction, or reconstruction, repair or replacement of leasehold improvements done pursuant to the terms of Space Leases by or on behalf of the Tenants in their capacity as landlord pursuant to such Space Leases; and (B) contractor(s) hired to complete leasehold improvements pursuant to the terms of Space Leases.

- (h) Other Insurance: The Tenants shall purchase and maintain from time to time such other insurance and in such amounts as a prudent owner or operator of similar Class A commercial office buildings and first class rental apartment buildings in midtown Toronto would purchase and maintain or cause to be purchased and maintained.

10.2 Policy Terms

All insurance to be obtained by the Tenants pursuant to this ARTICLE 10 shall be on terms from time to time approved by the Landlord and shall be placed with insurers selected by the Tenants and approved by the Landlord who are licensed to operate in the Province of Ontario. Each policy of insurance shall be signed by the insurer or insurers responsible for the risks insured against. All such policies shall be primary, non-contributing with, and not in excess of, any other insurance obtained by any of the Tenants for their other operations. Each policy of insurance will contain an agreement by the insurer to the effect that it will not cancel or materially alter such policy except after thirty (30) days' prior written notice by registered mail to the Landlord and that, as against the Landlord, the insurer will not exercise any right to treat such policy as void or voidable as a result of any statement or failure of the Tenants in any application for such policy or to deny recovery as a result of any breach of any terms of such policy.

10.3 Deductibles

The Tenants may, at their option, effect the insurance required to be maintained pursuant to this Article under a policy or policies in the amounts required less such reasonable deductible amounts as would normally be maintained by prudent owners of comparable first class properties in midtown Toronto, the loss with respect to which shall be borne by the Tenants.

10.4 Co-insurance

If any policies of insurance required to be maintained by the Tenants under this Article contain any co-insurance clause, the Tenants shall effect and maintain at all times a sufficient amount of such insurance to meet the requirements of any such co-insurance clause so as to prevent the insureds from becoming co-insurers under the terms of such policies and to permit full recovery of the amounts insured in the event of loss (subject to the provisions for deductibles set out in Section 10.3).

10.5 Waiver of Subrogation

The insurance policies covering real and personal property to be maintained by the Tenants pursuant to Section 10.1 shall contain a waiver or release of all rights of subrogation against the Landlord and the Landlord Parties. The Tenants hereby release and discharge the Landlord and the Landlord Parties, from all Losses and Claims whatsoever which the Tenants might have or acquire against the Landlord or any of the Landlord Parties arising out of damage to or destruction of the Property or any part thereof occasioned by any of the perils insured against by the Tenants, whether such Losses or Claims shall arise by reason of the negligence or other fault of the Landlord or any of the Landlord Parties and the Tenants hereby covenant and agree to indemnify and save harmless the Landlord and the Landlord Parties accordingly against and from all such Losses and Claims. The provisions of this Section 10.5 shall survive the termination or expiry of this Lease.

10.6 Insurance Primary

The insurance policies placed or maintained by the Tenants in respect of the Property, whether pursuant to this Article or otherwise, shall be primary and shall be fully exhausted before calling into contribution any insurance available to the Landlord.

10.7 Premiums

The Tenants shall duly and punctually pay or cause to be paid all premiums and other sums of money payable for maintaining the insurance to be obtained by the Tenants pursuant to this ARTICLE 10, and in any event the Tenants will not permit the payments under such policies to be in arrears.

10.8 Evidence of Insurance

The Tenants shall provide to the Landlord prior to the Commencement Date and upon policy renewal, a certificate or certificates in respect of all such policies of insurance, provided that if the certificate(s) of insurance are not available upon policy renewal, the Tenants shall provide upon policy renewal an email confirmation with proof of insurance from the Tenants insurance provider and with certificate(s) of insurance to follow within 45 days thereafter. Delivery to and examination by the Landlord of any certificate or policy of insurance shall in no way relieve the Tenants of any of their obligations to insure in strict compliance with the provisions of this ARTICLE 10 or operate as a waiver by the Landlord of any of its rights.

10.9 Inability to Obtain Coverage

If at any time during the Term and so long as any particular requirement with respect to the insurance required to be maintained by the Tenants pursuant to Section 10.1 is not obtainable from major insurance carriers in the insurance industry generally (including pursuant to subscription policies), the Tenants shall be relieved of their obligation to obtain such insurance provided that:

- (a) the Tenants shall first have advised the Landlord by Notice of their inability to obtain such requirement, setting out in such Notice the reasons therefor, together with satisfactory evidence of such inability;
- (b) the Tenants shall have obtained alternate coverage acceptable to the Landlord, if and to the extent that such alternative coverage is available; and
- (c) the Tenants shall only be relieved of such obligation for so long as such particular insurance requirement remains unobtainable.

10.10 Landlord's Right to Insure

The Tenants shall advise the Landlord of any cancellation, material alteration or lapse of any policies of insurance required to be maintained by the Tenants hereunder. Subject to Section 10.9, if the Tenants fail to effect and keep such insurance in force, or should such insurance be in an amount less than the amount required or approved by the Landlord, acting reasonably, and if

the Tenants do not rectify the situation within five (5) Business Days after the Landlord gives Notice to the Tenants requesting that they do so, the Landlord shall have the right (but not the obligation), to effect any such insurance at the cost of the Tenants and all outlays by the Landlord in connection therewith, together with an amount equal to 15% thereof on account of the Landlord's administration fee, shall be paid by the Tenants to the Landlord forthwith on demand as Additional Rent without prejudice to any other rights and remedies of the Landlord hereunder. No such insurance taken out by the Landlord shall relieve the Tenants of their obligations to insure hereunder and the Landlord shall not be liable for any loss or damage suffered by the Tenants in connection therewith.

10.11 Insurance Trust Agreement

If requested by a Leasehold Mortgagee, Co-Tenant's Mortgagee or Subleasehold Mortgagee, or in case of damage to or destruction of the Property or any part thereof where insurance proceeds under any insurance policy with regard to the damage or destruction become payable in an amount exceeding Five Million (\$5,000,000) dollars for any Building (as such amount may be adjusted from time to time in accordance with Section 10.15) (the "**Insurance Trust Threshold**"), the Landlord and the Tenants and the Insurance Trustee shall enter into an Insurance Trust Agreement substantially in the form attached as Schedule "Q" to address the receipt of insurance proceeds, and the use and disbursement of such insurance proceeds for the repair, reconstruction, and reinstatement of such Building. Alternatively, either the Landlord or the Tenants may elect to enter into the Insurance Trust Agreement substantially in the form attached as Schedule "Q" on the Commencement Date or on such other date as the Parties may agree. The costs of the Landlord reviewing and executing the Insurance Trust Agreement shall be paid by the Landlord. The Parties shall cause any Tenant Mortgagee from time to time also to enter into such Insurance Trust Agreement or an agreement with the Landlord, the Tenants and the Insurance Trustee whereby such Tenant Mortgagee agrees to become a party to and to be subject to and comply with the Insurance Trust Agreement for so long as such Person holds a Leasehold Mortgage, Co-Tenant's Separate Mortgage or Subleasehold Mortgage; provided that the terms of the Insurance Trust Agreement shall be subject to the reasonable requirements of such Tenant Mortgagee. In case of damage to or destruction of the Property or any part thereof in respect of which the proceeds of insurance do not exceed the Insurance Trust Threshold, then provided no Default or Event of Default has occurred which is continuing, such insurance proceeds shall be paid by the insurer directly to the Tenants and applied by the Tenants to the repair or reconstruction of the Property in accordance with ARTICLE 12.

10.12 Loss Payable

The Tenants shall cause any and all policies of insurance required to be maintained by the Tenants pursuant to this ARTICLE 10 (except for public liability, automobile liability, professional liability and workers' safety/compensation insurance, loss of rental income, loss of profit, business interruption, or extra expense insurance or any other proceeds that are not provided for the purpose of reconstruction, repair or replacement of the Property or any part thereof) to be written in the names of the Tenants, with the Landlord and any Leasehold Mortgagee, Co-Tenant's Mortgagee or Freehold Mortgagee added as additional insureds under the liability policies, and with loss payable in respect of any damage or destruction of Property or

any part thereof or any personal property located at the Property insured thereunder in excess of the Insurance Trust Threshold to the Insurance Trustee.

10.13 Use of Insurance Proceeds

Subject to Section 10.14, where damage or destruction occurs with respect to the Property or any part thereof which is wholly or partly covered by insurance, the proceeds of which are payable to an Insurance Trustee pursuant to Section 10.12, such insurance proceeds shall be applied in or towards the repair, reconstruction, rebuilding and reinstatement of the Property in accordance with the Insurance Trust Agreement.

10.14 Permitted Encumbrances

Notwithstanding the provisions of this ARTICLE 10, if any such provisions should conflict or be inconsistent with the provisions of the Insurance Trust Agreement or any Permitted Encumbrances (other than any Leasehold Mortgage, Subleasehold Mortgage or Co-Tenant's Separate Mortgage), or any other agreements required pursuant thereto, in respect of or relating to insurance matters and the payment and use of proceeds therefrom, the provisions of the Insurance Trust Agreement and such Permitted Encumbrances, or any such other agreements, shall prevail and the provisions of this Lease shall be deemed to be amended so as to enable the Landlord and the Tenants to comply with the provisions of the Insurance Trust Agreement and such Permitted Encumbrances, or any such other agreements.

10.15 Adjustment of Insurance Limits and Thresholds

The insurance coverage limits and thresholds specified in this ARTICLE 10 shall be reviewed by the Landlord and the Tenants periodically at the request of either the Landlord or the Tenants, provided such review is not more frequent than once every ten (10) calendar years and failing agreement as to such insurance limits or thresholds the matter shall be determined pursuant to the Dispute Resolution Procedures in ARTICLE 19.

ARTICLE 11 INDEMNITY

11.1 Indemnity of the Landlord by the Tenants

The Tenants shall indemnify and save harmless the Landlord and the Landlord Parties from any and all Claims and Losses of any nature whatsoever arising or resulting from:

- (a) any breach, violation or non-performance of any covenant, obligation or agreement of the Tenants under this Lease;
- (b) any damage to property occasioned by, relating to or arising out of: (i) the development, construction, operation, maintenance, existence or use of any Buildings or any parts thereof, or the foundations, supporting columns, other structural components or systems thereof on the Lands; (ii) the use or occupation of the Property by the Tenants and their Space Tenants; or (iii) any acts or omissions of any of the Tenant Parties on or about the Property;

- (c) any injury to any Person or Persons, including death resulting at any time therefrom, occurring in, on or near the Property or any part thereof (including the sidewalks, laneways or streets adjacent to same, but excluding any injury or death arising out of events occurring on or about the T.T.C. Areas or Transit Facilities) occasioned by, relating to or arising out of: (i) the development, construction, operation, maintenance, existence or use of any Buildings or any parts thereof, or the foundations, supporting columns, other structural components or systems thereof on the Lands; (ii) the use or occupation of the Property by the Tenants and their Space Tenants; or (iii) any acts or omissions of any of the Tenant Parties on or about the Property; and
- (d) any contract, lien, privilege, mortgage, charge or encumbrance on the Property or any part thereof arising from or occasioned by any acts or omissions of any of the Tenant Parties,

provided that the foregoing indemnity shall not apply to any such Claims or Losses to the extent that: (i) they are caused by a breach of this Lease by the Landlord or any negligence or wrongful acts or omissions of the Landlord or any other Landlord Party; or (ii) the Landlord or the applicable Landlord Party recovers any insurance proceeds in respect of such Claims or Losses. The provisions of this Section 11.1 shall survive the expiry or termination of this Lease.

11.2 Indemnity of the Tenants by the Landlord

The Landlord shall indemnify and save harmless the Tenants and the Tenant Parties from any and all Claims and Losses of any nature whatsoever arising or resulting from:

- (a) any breach, violation or non-performance of any covenant, obligation or agreement of the Landlord under this Lease;
- (b) any damage to property or injury to any Person or Persons, including death resulting at any time therefrom, occurring in, on or near the Property or any part thereof (including the sidewalks, laneways or streets adjacent to same, but excluding any injury or death arising out of events occurring on or about the T.T.C. Areas or Transit Facilities) occasioned by, relating to or arising out of any negligence or wrongful acts or omissions of the Landlord or any other Landlord Party; and
- (c) any contract, lien, privilege, mortgage, charge or encumbrance on the Lands or any part thereof arising from or occasioned by any acts or omissions of any of the Landlord Parties,

provided that the foregoing indemnity shall not apply to any such Claims or Losses to the extent that: (i) they are caused by a breach of this Lease by the Tenants or any negligence or wrongful acts or omissions of the Tenants or any other Tenant Party; or (ii) the Tenant or the applicable Tenant Party recovers any insurance proceeds in respect of such Claims or Losses. The Landlord agrees that it shall be solely responsible for any injury or death arising out of events occurring on or about the T.T.C. Areas or the T.T.C. Facilities. The provisions of this Section 11.2 shall survive the expiry or termination of this Lease.

11.3 Duty to Defend

- (a) If the Landlord or any Landlord Party is made a party to any action, suit or proceedings to which the indemnity in Section 11.1 is applicable, the Tenants shall defend such suit and shall pay and indemnify the Landlord or the applicable Landlord Parties against all costs incurred in connection therewith and on demand will furnish the Landlord or the applicable Landlord Parties with the funds necessary for the purpose of defending such action, suit or proceeding.
- (b) If a Tenant or any Tenant Party is made a party to any action, suit or proceedings (i) to which the indemnity in Section 11.2 is applicable or (ii) relating to any injury to any Person or Persons, including death resulting at any time therefrom, occurring in or on the T.T.C. Areas or the T.T.C. Facilities, the Landlord shall defend such suit and shall pay and indemnify the Tenant or the applicable Tenant Parties against all costs incurred in connection therewith and on demand will furnish the Tenant or the applicable Tenant Parties with the funds necessary for the purpose of defending such action, suit or proceeding.

11.4 Duration

The obligations of the Parties under the provisions of Sections 11.1, 11.2 and 11.3 with respect to liability by reason of any matter arising during the Term shall survive the expiry of the Term or termination of this Lease and shall continue in full force and effect until discharged, notwithstanding any provision in this Lease to the contrary.

11.5 Limitation of Tenants' Liability

- (a) Notwithstanding any provision in this Lease to the contrary, it is agreed that: (i) the Landlord will look solely to the interest of the Tenants in the Property for the collection or satisfaction of any money or judgment which the Landlord may recover against the Tenants under or in respect of this Lease; and (ii) the Landlord will not look for the collection or satisfaction of any such money or judgment to the personal assets of any Person who is at any time a partner of or joint venturer with any Tenant, other than any other Tenant in its capacity as a co-tenant of the Property or any part thereof.
- (b) In the event that the Tenants are liable to the Landlord under this Lease and also under the T.T.C. Temporary Operations Sublease for Claims or Losses that arise out of the same facts or circumstances, the Landlord shall be permitted to seek recovery for such Claims and Losses either under this Lease or under the T.T.C. Temporary Operations Sublease but not both.

11.6 Limitation of Landlord's Liability

- (a) Notwithstanding any provision in this Lease to the contrary, it is agreed that: (i) the Tenants will look solely to the interest of the Landlord in the Lands for the collection or satisfaction of any money or judgment which the Tenants may recover against the Landlord under or in respect of this Lease; and (ii) the Tenants will not look for the collection or satisfaction of any such money or judgment to the personal assets of any

Person who is at any time a partner of or joint venturer with the Landlord, other than any other Person in its capacity as a co-owner of the Lands or any part thereof. From and after the date a final, unappealable judgment is rendered with respect to a Claim by the Tenants against the Landlord, and without restricting any right of set-off given or implied by law, the Tenants may set-off against the Rent, or against any other sum payable hereunder by the Tenants to the Landlord, any amount payable by the Landlord to the Tenants pursuant to such final, unappealable judgment, and without restricting the generality of the foregoing, the Tenants may, when making a payment of Rent or of any other sum, withhold any amount equal to the amount which is then payable to the Landlord by the Tenants pursuant to such final, unappealable judgment or which, by virtue of the right of set-off, may be withheld by the Tenants. If such final, unappealable judgment awards the Tenants an amount that is in excess of the interest of the Landlord in the Lands, the Tenants shall have the right, in their sole discretion, to elect to terminate this Lease provided that the Tenants shall give the Landlord Notice of such election to terminate this Lease within ninety (90) days following the date of such final, unappealable judgment.

- (b) In the event that the Landlord is liable to the Tenants under this Lease and also under the T.T.C. Temporary Operations Sublease for Claims or Losses that arise out of the same facts or circumstances, the Tenants shall be permitted to seek recovery for such Claims and Losses either under this Lease or under the T.T.C. Temporary Operations Sublease but not both.

ARTICLE 12 DAMAGE AND DESTRUCTION

12.1 No Termination

Save as provided in Section 12.2, the complete or partial destruction of, or any damage to, any of the Buildings shall neither terminate this Lease nor entitle the Tenants to surrender possession of the Lands or to demand or receive any abatement or reduction of the Rent, notwithstanding any law or statute now or in the future to the contrary.

12.2 Repair or Replacement by Tenants after Damage

- (a) In the event of damage to, or destruction of, any of the Buildings (including Material Damage or Destruction), the Tenants shall, subject to Subsections 12.2(b) and 12.2(c), either replace the Buildings so destroyed with Additional Improvements or repair or reconstruct such portions of the Buildings so destroyed, provided that (i) such damage or destruction has been insured or was insurable in accordance with the Tenants' insurance obligations under this Lease, (ii) the Tenants are (or, if the Tenants had maintained the insurance required by this Lease, would have been) entitled to receive insurance proceeds on account of the casualty, and (iii) the insurance proceeds are (or, if the Tenants had maintained the insurance required by this Lease, would have been) sufficient to pay in full the cost of the repair or reconstruction save and except for (1) the amount of any deductibles or co-insurance amounts which are payable by the Tenants in accordance with the insurance required to be maintained by the Tenants under this Lease and (2) the

cost of any changes to the Buildings or the Development initiated by the Tenants pursuant to Section 6.9 which may cause the cost of the repair or reconstruction to exceed the amount of such proceeds. Subject to Unavoidable Delay, Subsections 12.2(b) and 12.2(c), Economic Force Majeure (if such damage or destruction occurs during the Development Period) and Landlord Caused Delays, any such replacement, repair, or reconstruction shall be commenced within such reasonable period of time after settlement of the insurance claim as is reasonably necessary having regard to the circumstances at such time (including consideration of any period necessary to obtain Required Permits, Licenses and Approvals) and shall be completed as soon as reasonably possible thereafter in compliance with the provisions of ARTICLE 6. Any Additional Improvements or reconstructed Buildings shall be substantially to the scale, character and finish of the structures damaged but allowing changes that are necessary or desirable having regard to then current technology, construction practices and materials and those changes which would make the Buildings suitable for alternate uses. Such replacement, repair or reconstruction shall be deemed to have commenced with the preparation of design and construction documentation and the application by the Tenants for any Required Permits, Licenses and Approvals therefor.

- (b) In the event of Material Damage or Destruction, the Tenants may, instead of either replacing the Buildings so destroyed with Additional Improvements or repairing or reconstructing such portion of the Buildings so destroyed pursuant to Subsection 12.2(a), redevelop the Property in a manner determined by the Tenants subject to the provisions of ARTICLE 6. The Tenants shall within a reasonable period of time following the occurrence of such Material Damage or Destruction provide the Landlord with Notice of such intention to redevelop instead of rebuilding, repairing or reconstructing the Buildings which were impacted by Material Damage or Destruction, which Notice shall include conceptual plans for the redevelopment of the Property. Subject to Unavoidable Delay, Economic Force Majeure (if such Material Damage or Destruction occurs during the Development Period) and Landlord Caused Delays, any such redevelopment shall be commenced within such reasonable period of time after settlement of the insurance claim as is reasonably necessary having regard to the circumstances at such time (including consideration of any period necessary to obtain Required Permits, Licenses and Approvals) and shall be completed as soon as reasonably possible thereafter in compliance with the provisions of ARTICLE 6. Such redevelopment shall be deemed to have commenced with the preparation of design and construction documentation and the application by the Tenants for any Required Permits, Licenses and Approvals therefor.
- (c) Notwithstanding Subsections 12.2(a) and 12.2(b), in the event that Material Damage or Destruction occurs and: (A) less than eight (8) years remain in the Initial Term or the Extension Term as the case may be; or (B) insurance proceeds in an amount necessary to effect the replacement, repair or reconstruction of the Property are not available (unless resulting from the failure of the Tenants to maintain the insurance required by this Lease) (save and except for (1) the amount of any deductibles or co-insurance amounts which are payable by the Tenants in accordance with the insurance required to be maintained by the Tenants under this Lease and (2) the cost of any changes to the Buildings or any redevelopment initiated by the Tenants pursuant to Section 6.9 or Subsection 12.2(b) which may cause the cost of the repair, reconstruction or redevelopment to exceed the

amount of such proceeds) for the part of the Property that has been Materially Damaged or Destroyed, the Tenants shall have the right, in their sole discretion, to elect to terminate this Lease without compensation or payment to the Landlord in whole, or in part, for the areas that have been Materially Damaged or Destroyed, rather than replace, repair or reconstruct Buildings that have been damaged or destroyed provided that:

- (i) if the Tenants elect to terminate the Lease in part, the Tenants must terminate the Lease with respect to entire Buildings;
- (ii) the Tenants shall give the Landlord Notice of such election to terminate this Lease within one hundred and twenty (120) days following the date of the applicable casualty; and
- (iii) the Tenants shall, at their own expense, complete such work as shall be necessary to render the Property and any damaged Buildings safe, secure and weatherproof, including if reasonably required by any Governmental Authorities in accordance with Applicable Laws, demolition and removal of any Buildings that have been partially damaged or destroyed and are not fit for occupation.

12.3 Repair or Replacement by Landlord

Subject to Subsection 12.2(c), if the Tenants do not commence the replacement, repair or reconstruction of any Buildings that have been damaged or destroyed or, if applicable the redevelopment of the Property, in each case as required by Section 12.2, or having commenced do not prosecute the same diligently to completion, then subject to compliance with Section 17.2 and 17.4 and any Leasehold Mortgagee Acknowledgement Agreement or Subleasehold Mortgagee Acknowledgement Agreement, the Landlord may (but shall have no obligation to) do so and for such purposes the Landlord shall have a right of entry upon the Property; provided that, notwithstanding the foregoing, if an Emergency exists the Landlord may enter the Property immediately without prior Notice to the Tenants or the Tenant Mortgagee (but Notice will be sent to the Tenants as quickly as possible after such entry advising thereof) and without complying with Section 17.2 or 17.4 or any Leasehold Mortgagee Acknowledgement Agreement or Subleasehold Mortgagee Acknowledgement Agreement for the purposes of carrying out such repairs as may be necessary to prevent, avoid or mitigate any potential injury to Persons, damage to property or liability to the Landlord Parties or the Tenant Parties as a result of the circumstances giving rise to such Emergency. If the Landlord exercises its right under this Section, the Tenants shall direct the Insurance Trustee to release the proceeds of insurance to the Landlord for such purpose and in accordance with the Insurance Trust Agreement and the Tenants shall pay to the Landlord forthwith on demand from time to time as Additional Rent the difference, if any, between any such insurance proceeds paid to the Landlord and the total costs and expenses incurred by the Landlord of completing such replacement, repair or reconstruction of any Buildings that have been damaged or destroyed to the same building standard as required by Section 8.2. Any Additional Improvements or reconstructed Buildings shall be substantially to the scale, character and finish of the structures damaged but allowing changes that are necessary or desirable having regard to then current technology, construction practices and materials.

12.4 Damage to the T.T.C. Temporary Operations Lands

Notwithstanding any provision in this Lease to the contrary, in the event that there is damage or destruction to any of the Buildings on the T.T.C. Temporary Operations Lands and the Landlord, in its capacity as subtenant under the T.T.C. Temporary Operations Sublease, elects to terminate the T.T.C. Temporary Operations Sublease and surrender the T.T.C. Temporary Operations Lands to the Tenants, in their capacity as sublandlord thereunder, the Landlord acknowledges and agrees that the Tenants shall have no obligation to repair or restore the T.T.C. Temporary Operations Lands pursuant to this Lease and the Tenants may proceed to demolish any such Buildings.

ARTICLE 13 TRANSFERS AND LEASEHOLD MORTGAGES

13.1 Transfers

- (a) Except as otherwise specifically permitted pursuant to this Lease, including pursuant to Sections 13.2, 13.4, 13.5 and 13.6, none of the Tenants shall, at any time during the Term, Transfer all or part of its leasehold interest in the Lands created hereunder or any interest in this Lease or the Property, without the prior written consent of the Landlord and provided that the following provisions have also been complied with:
 - (i) the Tenant proposing to effect such Transfer shall have given reasonable prior Notice to the Landlord of such intention together with reasonable particulars of the proposed transaction and details as to the identity, address and financial position of the proposed Transferee;
 - (ii) if a Lockout Period is then in effect, the Tenant has complied with Section 13.3;
 - (iii) no Default or Event of Default shall have occurred which is continuing (other than an Insolvency Event in the case of a Transfer being made to the other Tenants to remedy such Insolvency Event in accordance with Subsection 17.2(d));
 - (iv) a Transferee of the whole or any part of a Tenant's interest in any of the Lands or any Buildings (but excluding for certainty a Space Tenant pursuant to a Space Lease) shall have agreed in writing with the Landlord, to assume, observe and perform all the agreements, provisions, covenants and conditions of this Lease on the part of the Transferor to be performed and observed in respect of the interest or part of the Lands being Transferred from and after the execution and delivery of such Transfer, such agreement to be in form and substance satisfactory to the Landlord and the Transferee, each acting reasonably;
 - (v) a corresponding interest in any Buildings has been Transferred to the same Person to whom the whole or any part of the Tenant's interest in any of the Lands or this Lease has been Transferred in such a way that such Person shall have similar rights and obligations in respect to the Buildings and the Lands or the applicable part thereof as the Transferor;

- (vi) a copy of such Transfer, together with an originally executed copy of the Transferee's assumption agreement contemplated in Subsection 13.1(a)(iv) above shall have been delivered to the Landlord on or before the effective date of the Transfer;
 - (vii) all necessary approvals, notices or further agreements required pursuant to any Applicable Laws and Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Transfer; and
 - (viii) the reasonable costs of the Landlord in reviewing and executing any request for consent and any documents in connection with a Transfer permitted under this Section shall be paid by the Tenants forthwith on demand as Additional Rent.
- (b) Any disposition (whether by sale, assignment, transmission on death, mortgage, trust or otherwise) of shares, voting rights or other equity interests of a Tenant or any general partner, trustee or Affiliate of a Tenant which results in a Change of Control of such Tenant shall be deemed to be a Transfer of this Lease to which the provisions of this Section 13.1 shall apply. If at any time after a Transfer of the whole or any part of any Tenant's interest in this Lease, including a Sublease of the whole or any part any Tenant's interest in the Lands or any Building (but excluding for certainty a Space Tenant pursuant to a Space Lease), there is, with respect to the Person who has become the Tenant or Subtenant of the Lands or the applicable part thereof or interest therein, a disposition (whether by sale, assignment, transmission on death, mortgage, trust or otherwise) of any shares, voting rights or other equity interests of any such Tenant or Subtenant or any general partner, trustee or Affiliate of such entity which will result in a Change of Control of such Tenant or subtenant, such transfer shall be deemed to be a Transfer of this Lease to which the provisions of this Section 13.1 shall apply.
- (c) Any consent by the Landlord to a Transfer shall not constitute a waiver of the necessity for consent to any subsequent Transfer in accordance with this Section 13.1.

13.2 Transfers of the Tenants' Leasehold Interest in Part of the Lands

Notwithstanding the provisions of Section 13.1 or 13.3, the Landlord agrees that, at any time, the Tenants (the "**Assignors**") may collectively assign 100% of their interests in this Lease as it relates to only part of the Lands to one or more of the Tenants, one or more Affiliates of one or more Tenants or one or more Qualified Transferees (the "**Assignee**") provided that the following provisions have been complied with:

- (a) the Assignors may assign 100% of their interests in this Lease as it relates to part of the Lands only with respect to an entire Building or entire Buildings (whether or not such Buildings are Substantially Completed) and a corresponding interest in the part of the Lands relating thereto (such Building or Buildings together with the part of the Lands relating thereto being referred to herein as the "**Assigned Interest**");
- (b) the Assignors may only assign 100% of their interest in this Lease in respect of an Assigned Interest up to four (4) times so that at any given time the entire Property is

divided into not more than five (5) separate ground leases (each such separate ground lease being referred to herein as a "**Separate Ground Lease**");

- (c) the Landlord shall be given not less than six (6) months' prior Notice of the proposed assignment and details as to the identity and address of the Assignee and, if the Assignee is a Qualified Transferee, evidence confirming that it is Qualified Transferee;
- (d) either:
 - (i) the Assignors and the Assignee shall have entered into an agreement in writing with the Landlord whereby the Assignee agrees that it will observe and perform all of the covenants and obligations of the Assignors as tenants under this Lease as they relate to the Assigned Interest, which agreement shall be in form and substance satisfactory to the Landlord, the Assignors and the Assignee, each acting reasonably, and an originally executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the assignment; or
 - (ii) the Assignors and the Landlord shall have entered into an amending agreement or an amended and restated ground lease on the same terms as this Lease which deletes the Assigned Interest from the Lands leased hereunder and the Assignee and the Landlord shall have entered into a new ground lease for the Assigned Interest on substantially the same terms and conditions as this Lease, and originally executed copies of such agreements shall have been delivered to the Landlord on or before the effective date of the assignment;
- (e) all necessary approvals, notices or further agreements required pursuant to any Applicable Laws and Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such assignment;
- (f) the reasonable out-of-pocket costs of the Landlord in reviewing and executing any documents in connection with an assignment permitted under this Section shall be paid by the Assignee forthwith on demand;
- (g) it is understood and agreed that as part of each assignment of this Lease pursuant to this Section 13.2 the Assignors and the Assignees will require a reciprocal easement and cost-sharing agreement that addresses the shared common facilities of the Development. The Landlord shall cooperate with such parties in order to negotiate, settle and, if required, execute such reciprocal easement and cost-sharing agreement; and
- (h) it is understood and agreed that the Separate Ground Leases will not be cross-defaulted and that the Assignors and the Assignee will not be jointly and severally liable under the Separate Ground Leases.

13.3 Lockout Period

No Tenant shall be entitled to Transfer its interest in the Lease or the Buildings in whole or in part during a Lockout Period other than:

- (a) an assignment pursuant to Section 13.2;
- (b) a Collateral Charge granted by one Tenant to the other Tenants pursuant to Subsection 13.4(a)
- (c) a Transfer by a Tenant of its interest in this Lease and a corresponding interest in the Buildings to any other Tenant or an Affiliate of such other Tenant pursuant to Subsection 13.4(b);
- (d) a Transfer (including by way of a Sublease) to an Affiliate pursuant to Section 13.5;
- (e) a Transfer (including by way of a Sublease) to one or more Qualified Transferees pursuant to Section 13.6; or
- (f) pursuant to any proceedings or transactions for the foreclosure or realization of the security of any (i) Leasehold Mortgage pursuant to Section 13.7, (ii) Subleasehold Mortgage pursuant to Section 13.8, or (iii) Co-Tenant's Separate Mortgage pursuant to Section 13.9,

provided that in each such case, OPG or an Affiliate of OPG or another appropriately qualified development manager satisfactory to the Landlord, acting reasonably, shall continue to be or shall be appointed as the development manager for the Development contemplated in the Master Development Plan from and after the effective date of such Transfer.

13.4 Assignments and Collateral Charges Between Tenants

Notwithstanding the provisions of Section 13.1 or 13.3, the Landlord agrees that, without the consent of the Landlord but on not less than fifteen (15) days' prior Notice to the Landlord:

- (a) each of the Tenants may grant a Collateral Charge in respect of its leasehold interest in the Lands and its interest in the Buildings to each of the other Tenants;
- (b) each of the Tenants may Transfer (other than by way of a Sublease which is dealt with in Sections 13.5 and 13.6) all or part of its interest in the Lease and a corresponding interest in the Buildings to any other Tenant or to an Affiliate of such other Tenant provided that in connection with any Transfer to an Affiliate of such other Tenant:
 - (i) such other Tenant and its Affiliate shall have agreed in writing with the Landlord that such Affiliate will remain an Affiliate of such other Tenant so long as such Affiliate has any interest in the leasehold estate in the Lands created hereunder or in the Buildings, such agreement to be in form and substance satisfactory to the Landlord and such other Tenant and its Affiliate, each acting reasonably; and
 - (ii) an originally executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the Transfer,

provided that, in each such case:

- (c) a Transfer of a partial interest in this Lease and the Buildings shall be permitted pursuant to this Section 13.4 only in respect of a co-ownership interest in the entire Property, it being acknowledged that Transfers by the Tenants of 100% interests in only part of the Property are provided for in Section 13.2 and Subleases of only part of the Property are provided for in Sections 13.5 and 13.6;
- (d) the Landlord shall be given Notice of the effective date of such Collateral Charge or Transfer and a copy thereof within five (5) Business Days after the execution and delivery thereof;
- (e) all necessary approvals, notices or further agreements required pursuant to any Applicable Laws and Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Collateral Charge or Transfer; and
- (f) OPG or an Affiliate of OPG or another appropriately qualified development manager satisfactory to the Landlord, acting reasonably, shall continue to be or shall be appointed as the development manager for the Development contemplated in the Master Development Plan from and after the effective date of any such Transfer; and
- (g) the reasonable costs of the Landlord in reviewing and executing any documents in connection with a Transfer permitted under this Section shall be paid by the Transferor forthwith on demand.

13.5 Assignment to Affiliates

Notwithstanding the provisions of Section 13.1 or 13.3, the Landlord agrees that, at any time, any Tenant may Transfer all or part of its interest in the Lease (including by way of a Sublease) and a corresponding interest in the applicable Building(s) to an Affiliate of one or more of the Tenants provided that the following provisions have been complied with:

- (a) a Transfer of a partial interest in this Lease and the Buildings shall be permitted pursuant to this Section 13.5 only in respect of a co-ownership interest in the entire Property or by way of a Sublease of part of the Property, it being acknowledged that Transfers by all of the Tenants of 100% interests in only part of the Property are provided for in Section 13.2;
- (b) the Landlord shall be given not less than fifteen (15) days' prior Notice of the proposed Transfer and details as to the identity and address of the Transferee and evidence confirming that it is an Affiliate of the Transferor;
- (c) in respect of any Transfer other than a Sublease, the Transferor and the Transferee shall have entered into an agreement in writing with the Landlord whereby the Transferee agrees that it will observe and perform all of the covenants and obligations of the Transferor as a Tenant under this Lease and that the Transferee will remain an Affiliate of the Transferor so long as the Transferee has any interest in the leasehold estate in the Lands created hereunder, which agreement shall be in form and substance satisfactory to the Landlord, the Transferor and the Transferee, each acting reasonably and an originally

executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the Transfer;

- (d) the Landlord shall be given Notice of the effective date of such Transfer and a copy thereof within five (5) Business Days after the execution and delivery thereof;
- (e) all necessary approvals, notices or further agreements required pursuant to any Applicable Laws and Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Transfer; and
- (f) the reasonable costs of the Landlord in reviewing and executing any documents in connection with a Transfer permitted under this Section shall be paid by the Transferor forthwith on demand.

13.6 Assignment to a Qualified Transferee

Notwithstanding the provisions of Section 13.1 or 13.3, the Landlord agrees that, at any time, any Tenant may Transfer all or part of its interest in the Lease (including by way of a Sublease) and a corresponding interest in the applicable Building(s) to one or more Qualified Transferees provided that the following provisions have been complied with:

- (a) a Transfer of a partial interest in this Lease and the Buildings shall be permitted pursuant to this Section 13.6 only in respect of an undivided co-ownership interest in the entire Property or by way of a Sublease of part of the Property, it being acknowledged that Transfers by all of the Tenants of 100% interests in only part of the Property are provided for in Section 13.2;
- (b) the Landlord shall be given not less than fifteen (15) days' prior Notice of the proposed Transfer and details as to the identity and address of the Transferee and evidence confirming that it is Qualified Transferee;
- (c) in respect of any Transfer other than a Sublease, the Transferor and the Transferee shall have entered into an agreement in writing with the Landlord whereby the Transferee agrees that it will observe and perform all of the covenants and obligations of the Transferor as a Tenant under this Lease, which agreement shall be in form and substance satisfactory to the Landlord, the Transferor and the Transferee, each acting reasonably and an originally executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the Transfer;
- (d) the Landlord shall be given Notice of the effective date of such Transfer and a copy thereof within five (5) Business Days after the execution and delivery thereof;
- (e) all necessary approvals, notices or further agreements required pursuant to any Applicable Laws and Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Transfer; and

- (f) the reasonable costs of the Landlord in reviewing and executing any documents in connection with a Transfer permitted under this Section shall be paid by the Transferor forthwith on demand.

13.7 Leasehold Mortgages of the Tenants' Entire Leasehold Interest

- (a) Subject to the provisions of this Section 13.7, the Tenants collectively may, at any time and from time to time during the Term without the consent of the Landlord, mortgage all of their leasehold estate in the Lands created hereunder and their interest in the Buildings, and make assignments by way of security of Space Leases and the rents payable thereunder, and extend, modify, renew or replace any such mortgage and security, provided that:
 - (i) the Landlord shall be given not less than fifteen (15) days' prior Notice of the proposed Leasehold Mortgage, details as to the identity and address of the Leasehold Mortgagee and particulars of the material terms of the financing secured thereby, together with a copy of the proposed Leasehold Mortgage and any related security documents;
 - (ii) such Leasehold Mortgage is granted by the Tenants in good faith at arms' length for the purposes of securing construction or permanent financing for the Development or any Phase or part thereof or any Additional Improvements, or any refinancing thereof;
 - (iii) such Leasehold Mortgage shall be part of a single transaction in which all of the Tenants' leasehold interests in the Lands and ownership interest in the Buildings is simultaneously mortgaged to the same Leasehold Mortgagee on terms that no foreclosure or sale shall be made except of the combined leasehold interest in the Lands and ownership interest in the Buildings;
 - (iv) such Leasehold Mortgage will mature on or prior to the last day of the Term (other than in the case of termination of this Lease before the expiry of the Term);
 - (v) the principal amount secured by such Leasehold Mortgage, together with the then aggregate principal amount outstanding and secured under any other Leasehold Mortgages and Co-Tenant's Separate Mortgages granted by the Tenants shall not exceed:
 - (A) in the case of construction financing, ninety percent (90%) of the estimated costs to construct, renovate and redevelop the Building or Phase of the Development to be financed as set forth in the Tenants' Project Budget for such Building or Phase, a copy of which Project Budget shall be delivered to the Landlord with the Notice in Subsection 13.7(a)(i); or
 - (B) in the case of permanent financing, seventy-five (75%) of the fair market value of the Buildings or Phases of the Development being financed as set forth in an appraisal report prepared by a Qualified Appraiser in

connection with such financing, a copy of which appraisal report shall be delivered to the Landlord with the Notice in Subsection 13.7(a)(i);

- (vi) the Leasehold Mortgagee shall have entered into a Leasehold Mortgagee Acknowledgement Agreement and an originally executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the Leasehold Mortgage;
- (vii) the Landlord shall be given Notice of the effective date of such Leasehold Mortgage and a copy thereof within five (5) Business Days after the execution and delivery thereof;
- (viii) all necessary approvals, notices or further agreements required pursuant to any Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Leasehold Mortgage; and
- (ix) the costs of the Landlord reviewing and executing any Leasehold Mortgagee Acknowledgement Agreement shall be paid by the Landlord.

For greater certainty, the Parties agree that if the Tenants have partially assigned this Lease to an Assignee pursuant to Section 13.2, the Assignee may, at any time and from time to time during the Term without the consent of the Landlord, mortgage all of its leasehold estate in the Assigned Interest, and make assignments by way of security of the Space Leases related to the Assigned Interest and the rents payable thereunder, and the provisions of this Section 13.7 shall be applicable *mutatis mutandis* to such Leasehold Mortgage.

- (b) Upon compliance with the requirements of Subsection 13.7(a), and upon the request of the Leasehold Mortgagee, the Landlord shall enter into a Leasehold Mortgagee Acknowledgement Agreement.
- (c) The Tenants covenant and agree with the Landlord that they shall:
 - (i) pay, perform, observe and comply with all of their obligations under each Leasehold Mortgage and keep each such Leasehold Mortgage in good standing at all times until discharged; and
 - (ii) discharge each such Leasehold Mortgage from the title to the Lands on or before the last day of the Term (other than in the case of any early termination of this Lease before expiry of the Term).
- (d) The Landlord acknowledges that the Existing Leasehold Mortgage was entered into prior to the Execution Date and agrees that it shall be permitted to remain registered on title to the Property during the Term and it complies or shall be deemed to comply with the provisions of Subsection 13.7(a).
- (e) The Tenants may register or permit to be registered a Leasehold Mortgage made in accordance with Subsection 13.7(a) or notice of a Leasehold Mortgage made in

accordance with Subsection 13.7(a) on title to the Property without the prior written approval of the Landlord. The Tenants shall provide a copy of such registered Leasehold Mortgage or notice thereof to the Landlord for its records and agree that upon termination of this Lease or expiry of the Term, the Tenants shall arrange for the discharge from title to the Lands of such Leasehold Mortgage or notice thereof.

- (f) The Parties agree that the provisions of this Section 13.7 shall apply, *mutatis mutandis*, to any Co-Tenant's Separate Mortgage.

13.8 Subleasehold Mortgages of Subleasehold Interest

- (a) Subject to the provisions of this Section 13.8, any Subtenants may, at any time and from time to time during the Term without the consent of the Landlord, mortgage all of their subleasehold estate in any Subleased Lands created pursuant to a Sublease and their interest in the Subleased Buildings, and make assignments by way of security of Space Leases and the rents payable thereunder, and extend, modify, renew or replace any such mortgage and security, provided that:
- (i) the Landlord shall be given not less than fifteen (15) days' prior Notice of the proposed Subleasehold Mortgage and details as to the identity and address of the Subleasehold Mortgagee;
 - (ii) the Subleasehold Mortgagee shall have entered into a Subleasehold Mortgagee Acknowledgement Agreement with the Landlord and an originally executed copy of such agreement shall have been delivered to the Landlord on or before the effective date of the Subleasehold Mortgage;
 - (iii) the Landlord shall be given Notice of the effective date of such Subleasehold Mortgage and a copy thereof within five (5) Business Days after the execution and delivery thereof;
 - (iv) all necessary approvals, notices or further agreements required pursuant to any Permitted Encumbrances shall have been obtained, given or executed and delivered on or before the effective date of such Subleasehold Mortgage; and
 - (v) the reasonable costs of the Landlord in reviewing and executing any Subleasehold Mortgagee Acknowledgement Agreement shall be paid by the Landlord.
- (b) Upon compliance with the requirements of Subsection 13.8(a), and upon the request of the Subleasehold Mortgagee, the Landlord shall enter into a Subleasehold Mortgagee Acknowledgement Agreement with the Subleasehold Mortgagee.

13.9 Separate Leasehold Mortgages of a Tenant's Undivided Leasehold Interest

Subject to the provisions of this Section 13.9, each of the Tenants individually may, at any time and from time to time during the Term without the consent of the Landlord, separately mortgage their undivided co-owner's interest in the leasehold estate in the Lands created hereunder and their undivided co-owner's interest in the Buildings, and make assignments by

way of security of their interest in Space Leases and the rents payable thereunder (each a "**Co-Tenant's Separate Mortgage**"), and extend, modify, renew or replace any such mortgage and security, provided that the provisions of Section 13.7 shall have been complied with to the extent applicable to such Co-Tenant's Separate Mortgage. For greater certainty, the Parties agree that the lending thresholds in Subsection 13.7(a)(v) shall be multiplied by the fraction that is each mortgaging Tenant's undivided interest in the Lease in order to determine the maximum principal amount secured under each Co-Tenant's Separate Mortgage.

13.10 Space Leases

- (a) Subject to this Section 13.10, the Tenants may, at any time and from time to time during the Term, without the consent of the Landlord (except as hereinafter provided) enter into and grant Space Leases relating to any part or parts of the Buildings to Space Tenants, provided that:
 - (i) no Space Lease shall have a term (inclusive of renewal and extension rights) extending beyond the Term unless the Landlord shall have given its prior consent thereto, which may be given or withheld in the Landlord's sole discretion;
 - (ii) the premises which are subject to a Space Lease shall not be used for the purpose of carrying on from the Property a transportation business that operates buses or trains that compete with the business of the T.T.C. (a "**Competing Business**"), provided that the Parties agree that a Space Lease for an office space use by a Space Tenant that operates a Competing Business shall be permitted;
 - (iii) the terms of such Space Lease will not cause the Tenants to be in breach of this Lease; and
 - (iv) the Tenants, acting as a prudent landlord, shall use reasonable commercial efforts to enforce the provisions of such Space Leases against any Space Tenant in material breach thereof.
- (b) Notwithstanding Subsection 13.10(a), with the intent of enabling the Landlord to have and retain the benefit of Space Leases from time to time made by the Tenants to Space Tenants, upon any termination of this Lease, notwithstanding that the Landlord does not join in and is not a party to such Space Leases, and is to incur no liability thereunder except upon attaining actual possession of the Property upon the termination of this Lease (but shall then be bound thereby to the extent provided in this Subsection and in Subsection 13.10(c) and in respect of Space Leases which have been authorized or recognized thereunder), the Landlord authorizes the Tenants to enter into Space Leases to Space Tenants, with the intent and effect that such Space Leases shall be binding upon the reversionary interest of the Landlord and enforceable by the Landlord upon any termination of this Lease; provided that each such Space Lease is so authorized and recognized only if:
 - (i) a copy of such Space Lease is made available to the Landlord on request;
 - (ii) such Space Lease complies with Subsection 13.10(a);

- (iii) such Space Lease is entered into by the Tenants in good faith, at a rent and otherwise upon terms which are generally consistent with market terms that would be negotiated between arm's length parties or otherwise reasonable in the circumstance of the particular Space Lease;
 - (iv) such Space Lease contains a clause whereby the Space Tenant agrees to attorn to the Landlord at the request of the Landlord on termination of this Lease and the Tenants hereby irrevocably appoint the Landlord as the attorney of the Tenants to enforce the provisions of such clauses; and
 - (v) the Space Tenant continues to comply with the terms of its Space Lease.
- (c) The Landlord shall, at the request and expense of the Tenants from time to time, enter into a Space Lease Recognition Agreement with any bona fide Space Tenants substantially in the form attached as Schedule "M" provided that:
- (i) the Landlord shall have been provided with a copy of the Space Lease or proposed Space Lease in respect of which such Space Lease Recognition Agreement is required;
 - (ii) such Space Lease complies with the requirements set forth in Subsections 13.10(a) and 13.10(b);
 - (iii) such Space Lease is for non-residential premises of at least 7,500 rentable square feet and has an initial term of at least five (5) years or because of the circumstances of the Space Lease, a Space Lease Recognition Agreement is required;
 - (iv) the reasonable costs of the Landlord in reviewing and executing any such Space Lease Recognition Agreement shall be paid by the Tenants forthwith on demand as Additional Rent; and
 - (v) the form of Space Lease Recognition Agreement for the anchor Space Tenant that leases no less than 25% of the gross leasable area of the office component of the First Phase of the Development (excluding, for certainty, the retail, residential and other ancillary uses in the First Phase of the Development, if any) will be in a form agreed to by such anchor Space Tenant, the Landlord and the Tenants, each acting reasonably.

13.11 Effect of Assignment

No Transfer of this Lease or any interest under this Lease and no mortgage or other encumbrance of any Tenant's leasehold interest in the Lands which is either permitted hereunder or consented to be the Landlord shall relieve any Tenant from the performance of its obligations under this Lease and each of the Tenants shall remain contractually bound hereunder; provided that if a Tenant has transferred and assigned the entirety of its interest in the Lease and the Buildings to one or more Affiliates or Qualified Transferees in accordance with the provisions of

this Lease (other than pursuant to a Sublease), such Tenant shall be released from its covenants and obligations hereunder on the effective date of such transfer and assignment.

ARTICLE 14 TRANSFERS BY THE LANDLORD

14.1 Transfers by the Landlord

Except as otherwise provided in Subsection 14.2(h), the Landlord shall not sell, assign, transfer or otherwise dispose of the whole or any part of its interest in the Lands (subject always to this Lease and all the rights of the Tenants and any Tenant Mortgagee hereunder) or its right, title and interest in this Lease without first complying with Section 14.2 and, if applicable, Section 14.3 and 14.4. Upon any transfer by the Landlord of all or part of its interest in the Lands in compliance with Section 14.2 and, if applicable, Section 14.3 to a transferee who has agreed in writing with the Tenants to assume the obligations of the Landlord hereunder and under any Leasehold Mortgagee Acknowledgement Agreement and any Subleasehold Mortgagee Acknowledgement Agreement, if applicable, the transferring Landlord shall thereupon be relieved of all or such part of its obligations as landlord under this Lease.

14.2 Right of First Offer

Subject to Section 14.3:

- (a) If, at any time during the Term the Landlord wishes to market and sell all or part of its freehold interest in the Lands (in this Section, the "**Sale Interest**"), the Landlord shall deliver a Notice (in this Section, the "**ROFO Notice**") to the Tenants which shall contain an offer (in this Section, the "**ROFO Offer**") by the Landlord to sell the Sale Interest to the Tenants (if applicable, pro rata in accordance with their respective co-ownership interests in the Property) at a price and on normal commercial terms and conditions proposed by the Landlord as set forth in the ROFO Notice and which shall be subject to no condition that the Tenants are not able to satisfy and shall be for a purchase price payable all in cash or cash together with a mortgage back to the Landlord (in this Section, the "**ROFO Terms**"). The ROFO Notice shall also contain as a schedule thereto a form of agreement of purchase and sale that the Landlord is prepared to accept with a third party and which contains the ROFO Terms (in this Section, the "**Form of APS**").
- (b) Following receipt of the ROFO Notice, the Tenants will have ninety (90) days (in this Section, the "**ROFO Response Period**") to deliver Notice (in this Section, a "**Notice of Acceptance**") to the Landlord indicating that one or more of the Tenants wishes to purchase the Sale Interest from the Landlord on the ROFO Terms or its pro rata share thereof if more than one Tenant wishes to purchase such Sale Interest.
- (c) If one or more of the Tenants (in this Section, the "**Accepting Tenants**") give a Notice of Acceptance to the Landlord within the ROFO Response Period there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS between the Landlord and such Accepting Tenants whereby the Landlord agrees to sell to such Accepting Tenants, pro rata in accordance with their respective co-ownership interests in the Property (or

such other proportion agreed to by the Accepting Tenants), and each of such Accepting Tenants agrees to buy from the Landlord its pro rata share (or such other proportion agreed to by the Accepting Tenants) of the Sale Interest on the ROFO Terms and the Landlord and such Accepting Tenants shall complete the purchase and sale of the Sale Interest in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Notice of Acceptance.

- (d) If the Landlord does not receive a Notice of Acceptance from any Tenant before the expiry of the ROFO Response Period or if all of the Tenants give Notice before the expiry of the ROFO Response Period expressly declining the ROFO Offer, then the Landlord shall be entitled to sell the Sale Interest within the next one hundred and eighty (180) days following the expiry of the ROFO Response Period to a third party purchaser at a price which is not less than 98.5% of the purchase price set forth in the ROFO Offer and otherwise on terms and conditions not materially more favourable to the purchaser than the ROFO Terms and the other terms contained in the Form of APS.
- (e) If the Landlord has not transferred the Sale Interest to a third party purchaser within a period of one hundred and eighty (180) days from the expiry of the ROFO Response Period in accordance with the terms hereof, the Landlord shall not thereafter proceed with any sale of the Sale Interest without again complying with the provisions of this Section 14.2.
- (f) Nothing in this Section 14.2 shall be construed to prohibit or restrict the Landlord, during the ROFO Response Period, from preparing to offer or market the Sale Interest for sale to third parties upon the expiry of the ROFO Response Period, provided that the Landlord shall not during the ROFO Response Period share a copy of this Lease or any other confidential information of the Tenants with any potential purchasers and shall not enter into any agreement to list the Sale Interest for sale before the expiry of the ROFO Response Period.
- (g) Notwithstanding the foregoing, the provisions of this Section 14.2 shall not apply or shall cease to apply and the Landlord may discontinue any negotiations with any Accepting Tenants for the sale of the Sale Interest if an Event of Default has occurred and is continuing under this Lease.
- (h) Notwithstanding Section 14.1 or any other provisions of this Section 14.2, the transfer by the Landlord of all or part of the Lands pursuant to a regulatory order, guideline or legislation, or to a successor corporation or organization, or pursuant to amalgamation, or to the City or any of its agencies or commissions or any other Governmental Authority shall not be subject to the provisions of this Section 14.2 (a "**ROFO Exempt Transaction**"). For greater certainty, the provisions of Section 14.2 shall continue to apply to any successor landlord that has acquired an interest in all or part of the Lands in connection with a ROFO Exempt Transaction.

14.3 ROFO Procedures under Separate Ground Leases

If the Tenants have assigned their interests in this Lease as it relates to only part of the Lands pursuant to Section 13.2 so that there are two or more Separate Ground Leases for the Property originally leased to the Tenants as of the Commencement Date and the Landlord wishes to market and sell all or part of its freehold interest in the Lands, the Landlord may either:

- (a) exercise the ROFO pursuant to one or more of the Separate Ground Leases individually, in accordance with the provisions of Section 14.2 and/or the corresponding provisions of the other Separate Ground Leases; or
- (b) exercise the ROFO pursuant to all of the Separate Ground Leases collectively, in accordance with the provisions set out in Schedule "C" and the corresponding provisions of the other Separate Ground Leases, which shall apply to such ROFO instead of the provisions in Section 14.2 or the corresponding sections of the other Separate Ground Leases.

14.4 Transfers which Split the Landlord's Interest in the Lands or which Exclude the Transit Facilities

Notwithstanding any other provisions of this Lease, in the event that the Landlord proposes to transfer:

- (a) all of its freehold interest in part of the Lands but retains its freehold interest in other parts of the Lands and the T.T.C. Facilities and/or remains operator of the T.T.C. Transit Operations;
- (b) an undivided ownership interest in all or part of the freehold interest in the Lands but retains an ownership interest in all or part of such Lands and the T.T.C. Facilities and remains operator of the T.T.C. Transit Operations; or
- (c) its freehold interest in all of the Lands but retains the T.T.C. Facilities and/or remains operator of the T.T.C. Transit Operations,

such transfer (a "**Freehold Transfer**") shall be subject to the condition that the Landlord, the Tenants and the Person to whom the Landlord proposes to make such transfer (a "**Freehold Transferee**") shall have entered into an agreement or agreements in writing and in form and content satisfactory to each of the Tenants, Landlord, Freehold Transferee and, if applicable, any Tenant Mortgagee, each acting reasonably, which shall provide for:

- (i) the respective rights and obligations of the Landlord, the Freehold Transferee as a new landlord hereunder, the Tenants and the T.T.C. as operator of the T.T.C. Facilities with respect to the use, occupation, maintenance and operation of the Property and the Transit Facilities following the effective date of such Freehold Transfer;

- (ii) such amendments to this Lease as may be necessary or desirable to reflect the new ownership of the freehold interest in the Lands following the effective date of such Freehold Transfer; and
- (iii) if the Freehold Transfer involves only a part of the Lands or a co-ownership interest in the Lands, a "one voice" rule, whereby the Landlord or the Freehold Transferee on behalf of itself and the other shall exercise all rights as landlord hereunder and the Tenants shall be entitled to deal directly with such party in respect of all matters under this Lease, provided that the Landlord and the Freehold Transferee may enter into a separate agreement governing the manner in which matters between them arising from the operation of this Lease are to be dealt with.

14.5 Mortgages by the Landlord

Subject to the provisions of this Section 14.5, the Landlord may at any time and from time to time, without the consent of the Tenants, mortgage its freehold interest in the Lands and make assignments by way of security of its interest in this Lease and the Rent payable hereunder, and extend, modify, renew or replace any such mortgage provided that:

- (a) if the Landlord grants a mortgage or charge of its freehold interest in the Lands it shall require that, from time to time, the Freehold Mortgagee execute and deliver a non-disturbance/lease recognition agreement in favour of the Tenants, or upon the request of any Tenant in favour of: (i) any Tenant Mortgagee; or (ii) any Space Tenant with a Space Lease for non-residential premises of at least 7,500 rentable square feet and that has an initial term of at least five (5) years or where the circumstances of the Space Lease require a non-disturbance/lease recognition agreement, in each case, in a form consistent with then current market standards for a non-disturbance/lease recognition agreement and otherwise acceptable to the Tenant, the Freehold Mortgagee, Tenant Mortgagee and/or Space Tenant, each acting reasonably; and
- (b) the Tenants shall in no event be required to subordinate or cause any Leasehold Mortgagee or Co-Tenant's Mortgagee to subordinate their respective interests in the Lands as tenants under this Lease and under any Leasehold Mortgage or Co-Tenant's Separate Mortgage to any such Freehold Mortgage granted by the Landlord from time to time.

ARTICLE 15 OPTION TO EXTEND

15.1 Condition to Tenants' Extension Rights

The Tenants' entitlement and right to obtain an Extension Term pursuant to the Extension Option in Section 15.3 is conditional upon the Landlord and the Tenants receiving on or before the date which is eighteen (18) months before the expiry of the Initial Term, a written report from a Building Consultant (the "**Extension Condition**") which confirms that:

- (a) the Tenants have operated, repaired and maintained the Property in accordance with their obligations in Sections 8.1, 8.2, and 8.3; and
- (b) as at the date of such report, the Property is being operated and maintained: (i) in the case of Buildings containing non-residential premises, to the standard of a Class A commercial office building, and (ii) in the case of Buildings containing rental residential premises, to the standard of a first class rental apartment building, as the case may be, comparable in all material respects to those Class A commercial office buildings and first class rental apartment buildings, as the case may be, which exist surrounding the Yonge Street and Eglinton Avenue intersection and along the Yonge subway line south of Eglinton, and that have been constructed no earlier than 20 years prior to expiry of the Initial Term.

15.2 Appointment of Building Consultant

When the Tenants wish to have a Building Consultant appointed, the Tenants shall give Notice to the Landlord which shall include the names of not less than three Persons that the Tenants propose be appointed as the Building Consultant. If the Landlord and the Tenants cannot agree on the identity of the Building Consultant from among such three Persons within thirty (30) days after the Tenants give such Notice to the Landlord requesting that a Building Consultant be appointed, then: (i) either the Landlord or the Tenants may apply to a judge of the Ontario Superior Court for the appointment of a Building Consultant from among such three Persons; and (ii) the time periods in Sections 15.1 and 15.3 shall be extended on a day for day basis for each day of delay in appointing the Building Consultant after the expiry of such thirty (30) day period. The fees and expenses of the Building Consultant in preparing the building condition report contemplated in Section 15.1 shall be shared equally between the Landlord and the Tenants; for all other purposes of this Lease the Tenants shall be responsible for and shall pay the fees and expenses of any Building Consultant.

15.3 Extension Option

Provided that:

- (a) no Event of Default has then occurred which is continuing; and
- (b) the Tenants have given Notice to the Landlord no more than sixty (60) months and no less than twenty-four (24) months prior to the expiration of the Initial Term of their intention to exercise this Extension Option (an "**Extension Notice**");

then, subject to the Extension Condition being satisfied, Landlord will grant to the Tenants the right (the "**Extension Option**") to extend the Term of the Lease for the Lands for a further period of 99 years (the "**Extension Term**") commencing upon the expiration of the Initial Term, and such Extension Term shall be upon the same terms and conditions as the Initial Term, save and except that: (i) there shall be no further right to extend the Term, and (ii) the annual Base Rent payable by the Tenants during the Extension Term shall be the amount determined in accordance with Section 15.4.

If the Tenants give an Extension Notice exercising the Extension Option and satisfy the Extension Condition, the Landlord may, at its option, require that the Tenants enter into an extension agreement in order to give effect to the Extension Term and the revised annual Base Rent (and the Tenants will forthwith execute an extension agreement submitted by the Landlord as hereinbefore set out within ten (10) days after receipt thereof), but the Tenants shall be deemed to have exercised the Extension Option on the terms referred to above upon delivery of an Extension Notice to the Landlord and the satisfaction of the Extension Condition whether or not such extension agreement is requested or executed.

Subject to any extension of time pursuant to Section 15.2, if (i) the Tenants fail to give an Extension Notice to the Landlord on or before the date which is twenty-four (24) months prior to the expiration of the Initial Term or (ii) the Extension Condition is not satisfied on or before the date which is eighteen (18) months prior to the expiration of the Initial Term (provided that, if the satisfaction of the Extension Condition is the subject of a Dispute, then such period of time shall be extended until the Dispute has been fully resolved in accordance with the Dispute Resolution Procedures), then in either such case the Extension Option and, in the case of a failure to satisfy the Extension Condition, any Extension Notice that was previously given by the Tenants, shall be null and void and of no further force or effect.

15.4 Determination of Base Rent for the Extension Term

If the Tenants satisfy the Extension Condition and exercise the Extension Option, then the annual Base Rent for the Extension Term shall be based on the Buildings then existing on the Lands and the uses thereof and shall be determined as follows:

- (a) The "**Extension FMVL**" will be determined as of the date which is six (6) months prior to the commencement of the Extension Term and will be equal to the sum of the amounts determined on a Building by Building basis calculated by multiplying the Total GFA for each use (specifically residential and non-residential) of premises in each Building then existing on the Lands by the fair market land value (per square foot of Total GFA) for each use of the residential and non-residential uses in the Buildings on the Lands (the "**Extension Term Base Rent Per Square Foot**") determined in accordance with paragraphs (b) and (c) below.
- (b) To determine the Extension Term Base Rent Per Square Foot, each of the Parties shall appoint a Qualified Appraiser who shall, within thirty (30) days after his or her appointment, deliver a written appraisal report to each of the Parties setting forth his or her determination of the Extension Term Base Rent Per Square Foot for each use of premises (specifically residential and non-residential) on the Property and the aggregate Extension FMVL. For the purposes of making such determinations, the Qualified Appraisers appointed by the Parties shall be instructed to use the Subjective Test.
- (c) In the event that the difference in the Extension FMVL as determined by the two Qualified Appraisers appointed by the Parties is 5% or less of the higher of the two appraisals, then the Extension FMVL shall be the average of the two amounts. In the event that the difference in the Extension FMVL as determined by the two Qualified Appraisers appointed by the Parties is greater than 5% of the higher of the two appraisals,

then the two Qualified Appraisers shall jointly choose a third Qualified Appraiser to act as a mediator and to review the appraisal reports of the two Qualified Appraisers. If the two Qualified Appraisers are not able to agree on a third Qualified Appraiser, either of the two Qualified Appraisers or the Landlord or the Tenants may apply to a judge of the Ontario Superior Court of Justice for the appointment of a third Qualified Appraiser. Once appointed, the third Qualified Appraiser shall, within thirty (30) days after his or her appointment, either choose the Extension FMVL determined by the first Qualified Appraiser or the second Qualified Appraiser or, if the third Qualified Appraiser so wishes, the third Qualified Appraiser may make its own determination of the Extension FMVL based solely on the appraisal reports of the two Qualified Appraisers using the same methodologies, but without any independent verification of any of the amounts set out therein, by delivering a third written appraisal report to each of the Parties setting forth his or her determination of the Extension Term Base Rent Per Square Foot for each use of premises (specifically residential and non-residential) on the Property and the aggregate Extension FMVL, in each case using the Subjective Test, which determination shall be final and binding on the Parties.

- (d) In determining the annual Base Rent payable by the Tenants for the Extension Term, no adjustments will be made to the Extension FMVL for Enabling Costs.
- (e) Subject to Subsections 3.8(d) and 3.8(e) and Section 3.9, the annual Base Rent for the first twenty (20) year Base Rent Period of the Extension Term (the "**Extension Term First Base Rent Period**") shall be equal to the amount determined by multiplying the Extension FMVL by the Rental Rate. On the commencement of the Extension Term First Base Rent Period, the Parties shall confirm in writing the Base Rent payable for the Extension Term First Base Rent Period for each Building then existing on the Lands and the Extension Term Base Rent Per Square Foot (as determined in accordance with paragraphs (b) and (c) above) that are applicable for the Extension Term First Base Rent Period (including a breakdown of the Extension Term Base Rent Per Square Foot payable for premises used for residential uses (the "**Extension Term Residential Base Rent Per Square Foot**"), the Extension Term Base Rent Per Square Foot payable for premises used for non-residential uses (the "**Extension Term Non-Residential Base Rent Per Square Foot**")). Thereafter the annual Base Rent for each subsequent Base Rent Period during the Extension Term (a "**Subsequent Extension Term Base Rent Period**") shall be determined in accordance with the methodology set forth in Subsection 3.8(b), subject to Subsections 3.8(d) and 3.8(e) and Section 3.9. As soon as reasonably possible following the commencement of each Subsequent Extension Term Base Rent Period, the Parties shall confirm in writing the Base Rent payable for such Subsequent Extension Term Base Rent Period for each Building then existing on the Lands and the Base Rent Per Square Foot (as determined in accordance with the methodology set forth in Section 3.7) that are applicable for such Subsequent Extension Term Base Rent Period.

15.5 Non-Agreement as to Extended Term Rent

If the Landlord and the Tenants cannot agree upon the annual Base Rent to be paid during any Base Rent Period during the Extension Term as aforesaid (except for the Extension Term First Base Rent Period, for which the Base Rent shall be conclusively determined in accordance

with Subsections 15.4(a) through 15.4(e) inclusive) by the date which is sixty (60) days after the later of (a) expiry of the preceding Base Rent Period and (b) the date required for the delivery of the most recently completed audited annual financial statements for the Property as set forth in Section 3.10(c), during the Extension Term, then either the Landlord or the Tenants may at any time thereafter refer the matter for determination pursuant to the Dispute Resolution Procedures in ARTICLE 19.

15.6 Rent Payable Pending Determination

If: (a) the quantum of annual Base Rent to be paid during the Extension Term First Base Rent Period has to be determined in accordance with the procedures in Subsection 15.4(c); or (b) the Landlord and Tenants are unable to agree as to the quantum of annual Base Rent to be paid during any Base Rent Period during the Extension Term as aforesaid, then in either such case the Tenants shall continue to pay Base Rent in an amount equal to the greater of: (i) the average of the amounts of Base Rent proposed by the Landlord and the Tenants for purposes of the Dispute Resolution Procedures, if applicable; and (ii) the Base Rent payable during the last year of the Initial Term or the preceding Base Rent Period during the Extension Term, as the case may be, until the new annual Base Rent is finally determined. Once the new annual Base Rent is finally determined, the Parties shall make such retroactive adjustment as at the commencement of the Extension Term or the then current Base Rent Period, as the case may be, as may be required to reflect the new annual Base Rent together with simple interest at the Prime Rate plus one half of one percent (0.5%) percent per annum on the difference between the amount of interim Base Rent that has been paid by the Tenants and the amount of Base Rent that should have been paid based on the new annual Base Rent to the date such adjustment is paid; and provided that the payment by the Tenants and the acceptance by the Landlord of such interim Base Rent is without prejudice to their respective rights with respect to the determination of the new annual Base Rent pursuant to the Dispute Resolution Procedures.

ARTICLE 16 FEE PURCHASE OPTION

16.1 Fee Purchase Option

- (a) The Tenants acknowledge that, pursuant to the Master Development Plan, their primary intention with respect to residential development on the Lands is to pursue the development and leasing of rental residential premises.
- (b) Notwithstanding such intention the Landlord hereby grants to the Tenants and/or their respective Affiliates an option (the "**Fee Purchase Option**") to purchase at any time prior to the Construction Deadline (as the same may be extended in accordance with Subsection 6.7(b)) all or any portion of the Option Lands to facilitate development of residential condominium buildings instead of rental residential apartment buildings as contemplated in the Master Development Plan. The Tenants' right to exercise the Fee Purchase Option shall be subject to the following conditions and restrictions:
 - (i) the Option Lands purchased pursuant to such Fee Purchase Option:

- (A) shall account for no more than one third (33.3%) of the total GFA contemplated in the Master Development Plan in aggregate; and
 - (B) shall not be located over any Transit Facilities of the Landlord or Metrolinx; and
- (ii) no Event of Default shall have occurred hereunder which is continuing.
- (c) Subject to the conditions and restrictions in Subsection 16.1(b), the Fee Purchase Option shall be exercisable by the Tenants or their respective Affiliates from time to time after the Commencement Date up to and including the Construction Deadline as the same may be extended in accordance with Subsection 6.7(b) (the "**Option Period**"), after which date the Fee Purchase Option shall expire and be of no further force or effect. For greater certainty, the Fee Purchase Option may be exercised multiple times during the Option Period provided that the Option Lands purchased pursuant to such Fee Purchase Option shall, in the aggregate, account for no more than one third (33.3%) of the total GFA contemplated in the Master Development Plan and the Tenants or their respective Affiliates comply with the other conditions and restrictions in Subsection 16.1(b).
 - (d) If one or more of the Tenants or their Affiliates (the "**Fee Purchaser**") wish to exercise the Fee Purchase Option they shall give Notice to the Landlord (a "**Purchase Notice**") which clearly delineates the Option Lands to be purchased (the "**Purchased Lands**") and specifies the proposed closing date for such purchase, which date shall not be later than one hundred and eighty (180) days after the Land Value is determined pursuant to Subsection 16.1(g) (the "**Closing Date**"). On the Closing Date, the Fee Purchaser may direct title to the Purchased Lands to a nominee or nominees on behalf of itself and one or more other Persons provided that such direction is given to the Landlord at least five days prior to the Closing Date and further provided that all such parties shall be parties to the Reconveyance Agreement to be entered into on the Closing Date.
 - (e) Prior to the Closing Date, the Tenants shall, at their sole cost and expense, cause an independent accredited surveyor selected by the Tenants to prepare a reference plan of the Option Lands for registration on title to the Lands. The Tenants shall deliver a draft of such reference plan to the Landlord for its review and approval prior to submitting the same for registration. Upon the Landlord and the Tenants each approving such reference plan, the Landlord shall submit the same for registration on title to the Lands, whereupon all notices or agreements required in respect of the Fee Purchase Option shall describe the applicable Option Lands with reference to the new reference plan.
 - (f) The purchase price payable by the Fee Purchaser to the Landlord for the Purchased Lands (the "**Purchase Price**") shall be equal to the fair market value of the Purchased Lands based on the GFA that is intended to be constructed by the Fee Purchaser on the Purchased Lands determined as of the date on which the Fee Purchaser submits a Purchase Notice (the "**Land Value**").
 - (g) The Land Value shall be established as follows:

- (i) each of the Landlord and the Fee Purchaser shall appoint a Qualified Appraiser who shall, within thirty (30) days after his or her appointment, deliver a written appraisal report to each of the Landlord and the Fee Purchaser setting forth his or her determination of the Land Value of the Purchased Lands having regard to the proposed use of the Purchased Lands for the development of a residential condominium of the size and character proposed by the Fee Purchaser;
 - (ii) If the difference in the Land Value as determined by the two Qualified Appraisers appointed by the Landlord and the Fee Purchaser is 5% or less of the higher of the two appraisals, then the Land Value shall be the average of the two amounts. If the difference in the Land Value as determined by the two Qualified Appraisers is greater than 5% of the higher of the two appraisals, then the two Qualified Appraisers shall jointly choose a third Qualified Appraiser to act as a mediator and to review the appraisal reports of the two Qualified Appraisers. If the two Qualified Appraisers are not able to agree on a third Qualified Appraiser, either of the two Qualified Appraisers or the Landlord or the Fee Purchaser may apply to a judge of the Ontario Superior Court of Justice for the appointment of a third Qualified Appraiser. Once appointed, the third Qualified Appraiser shall, within thirty (30) days after his or her appointment, either choose the Land Value determined by the first Qualified Appraiser or the second Qualified Appraiser or, if the third Qualified Appraiser so wishes, the third Qualified Appraiser may make its own determination of the Land Value based solely on the appraisal reports of the two Qualified Appraisers using the same methodologies, but without any independent verification of any of the amounts set out therein, by delivering a third appraisal report to each of the Landlord and the Fee Purchaser setting forth his or her determination of the Land Value, which Land Value shall be final and binding on the parties.
- (h) Once the Land Value has been determined as aforesaid, the Fee Purchaser shall pay a non-refundable deposit (the "**Deposit**") equal to five (5%) percent of the Purchase Price by wire transfer from an Approved Bank to the solicitors for the Landlord, in trust. Such Deposit, together with interest earned thereon to the date of completion of the purchase and sale of the Purchased Lands, shall be applied at closing on account of the Purchase Price.
- (i) If any of the Tenants or their respective Affiliates as Fee Purchaser give a Purchase Notice exercising the Fee Purchase Option prior to the expiry of the Option Period, the Landlord and the Fee Purchaser shall be deemed to have entered into a binding agreement of purchase and sale for sale by the Landlord and the purchase by Fee Purchaser of the Purchased Lands identified in the Purchase Notice at the Purchase Price determined in accordance with Subsection 16.1(g) above (a "**Purchase Agreement**"). The Purchase Agreement shall be deemed to contain the terms and conditions as set out in this Section and in Section 16.2.
- (j) The Purchase Agreement shall be completed in accordance with Section 16.2 on the Closing Date specified in the Purchase Notice, unless such day is not a Business Day or the LTO is closed on such day, in which case the purchase and sale of the Purchased

Lands shall be completed on the next following Business Day when the LTO is open. The balance of the Purchase Price in excess of the Deposit and interest earned thereon shall be paid by wire transfer from an Approved Bank to the Landlord's solicitors in trust on the Closing Date, subject to the adjustments contemplated in Subsection 16.2(c).

- (k) Time shall in all respects be of the essence hereof and of the Purchase Agreement provided that the time for doing or completing any matter provided for may be extended or abridged by any agreement in writing signed by the Landlord and the Fee Purchaser or by their respective solicitors who are hereby appointed in this regard.
- (l) The grant of the Fee Purchase Option and any Purchase Agreement with the Fee Purchaser pursuant to this Section are subject to compliance with the subdivision control provisions of the *Planning Act* (Ontario). The Fee Purchaser shall be responsible for, and shall pay all costs and obligations associated with, obtaining any necessary severance or consent pursuant to the *Planning Act* with respect to the Purchased Lands and the satisfaction of all conditions attached to or related to such consent or severance (the "**Severance Condition**"). The Landlord shall co-operate as reasonably requested by the Fee Purchaser in connection with the Fee Purchaser's attempts to obtain any such consent or severance but the Fee Purchaser confirms and agrees that in no event will the Landlord be responsible for any obligations, liabilities, costs or expenses associated with obtaining any such severance or consent unless the Fee Purchaser indemnifies the Landlord in respect of same. If the Severance Condition is not satisfied by the date that is five (5) Business Days prior to the originally scheduled Closing Date, the Fee Purchaser may upon Notice to the Landlord extend the originally scheduled Closing Date by up to one hundred and eighty (180) days.
- (m) The sale of the Purchased Lands to the Fee Purchaser shall be completed on an "as is, where is" basis without any representations or warranties by the Landlord relating to the Purchased Lands and, subject to a customary due diligence condition, the Fee Purchaser agrees to accept the Landlord's title to the Purchased Lands subject to typical permitted encumbrances for the purchase and sale of real property in the City of Toronto ("**Typical Permitted Encumbrances**"), reservations in the original crown grant and minor title deficiencies which do not materially affect the Fee Purchaser's intended use or development of the Purchased Lands.
- (n) The Fee Purchaser shall be permitted to register a separate notice of this Fee Purchase Option on title to the Option Lands (or if the registration cannot be limited to the Option Lands, then on the Lands) provided that the contents of such notice shall be subject to the Landlord's prior written approval, acting reasonably. If the Fee Purchaser registers such notice on title to the Option Lands but does not purchase any or all of the Option Lands, the Fee Purchaser shall register any documents which are necessary to delete such notice from title to the Option Lands after the expiry of the Option Period, failing which the Landlord may take such actions or proceedings as may be necessary to have such notice discharged from title and the Tenants shall pay the cost thereof to the Landlord forthwith on demand as Additional Rent.

16.2 Purchase Closing

The following provisions shall apply to the purchase and sale of any Purchased Lands by a Fee Purchaser pursuant to Section 16.1:

- (a) the closing of the purchase and sale of the Purchased Lands (the "**Purchase Closing**") shall be held at the offices of the Landlord's solicitors commencing at 10:00 a.m. on the Closing Date or if such date is not a Business Day or the LTO is not open on such day, the next following Business Day or such earlier or later date as may be mutually agreed upon by the parties to the transaction;
- (b) at the Purchase Closing, the Landlord shall execute and deliver to the Fee Purchaser a transfer to the Fee Purchaser of the Purchased Lands and a transfer and assignment of all rights and obligations of the Landlord under any Typical Permitted Encumbrances and, at the Fee Purchaser's election, any other instruments, agreements and documents relating to or benefitting the Purchased Lands against payment by the Fee Purchaser to the Landlord of the Purchase Price subject to the adjustments contemplated in Subsection 16.2(c);
- (c) the purchase price payable by the Fee Purchaser on the Purchase Closing shall be subject to typical adjustments for the purchase and sale of real property in the City of Toronto;
- (d) any registration fees, land transfer taxes or sales taxes (including HST) payable as an incident to the sale of the Purchased Lands shall be expenses of and paid by the Fee Purchaser;
- (e) at the Purchase Closing:
 - (i) the Fee Purchaser shall assume all obligations of the Landlord in connection with the Purchased Lands under Typical Permitted Encumbrances and, subject to the Fee Purchaser's election in Subsection 16.2(b), any other instruments, agreements and documents relating to or benefitting the Purchased Lands (the "**Assigned Agreements**") and shall agree to indemnify and hold harmless the Landlord from and after the Purchase Closing from any and all Claims and Losses of any nature whatsoever arising thereunder from and after the Closing Date; and
 - (ii) the Landlord shall agree to indemnify and hold harmless the Fee Purchaser from any and all Claims and Losses as a result of any acts, omissions or defaults by the Landlord under the Assigned Agreements prior to the Closing Date;
- (f) at the Purchase Closing, all amounts due by the Tenants to the Landlord under this Lease in respect of the Purchased Lands shall be settled and paid in full;
- (g) the obligation of the Tenants to pay any amount due under this Lease in respect of the Purchased Lands at the Purchase Closing which is not in fact paid shall not merge but shall survive the Purchase Closing;

- (h) at the Purchase Closing, the Landlord will provide reasonable evidence that it is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
- (i) at the Purchase Closing, the Fee Purchaser will provide reasonable evidence that it is registered for HST purposes under Part IX of the Excise Tax Act (Canada) and setting out its registration number;
- (j) at the Purchase Closing, the Parties shall enter into a reconveyance agreement (the "**Reconveyance Agreement**") pursuant to which the Landlord shall have the option during a twelve (12) month period (the "**Reconveyance Election Period**") following the date that is five (5) years after the Purchase Closing (the "**Reconveyance Date**") to have the Purchased Lands reconveyed to the Landlord if, and only if, the Fee Purchaser has not Commenced Construction of a New Building on the Purchased Lands by such date. The Reconveyance Agreement shall provide that the Landlord shall purchase the Purchased Lands for the same consideration paid to the Landlord on the Purchase Closing and free and clear of all encumbrances other than Typical Permitted Encumbrances and any easements, rights of way, reciprocal operating agreements, encroachment agreements or similar agreements between owners of adjacent lands which are to be registered on title to the Purchased Lands at the Purchase Closing, reservations in the original crown grant and minor title deficiencies which do not materially affect the Landlord's use of the Purchased Lands. The Reconveyance Agreement shall also provide that the Fee Purchaser shall be responsible for all land transfer taxes payable in connection with the transfer of the Purchased Lands to the Landlord and shall be responsible for all expenses and liabilities and be entitled to receive all revenues accrued and/or received in respect of the Purchased Lands until the Reconveyance Date. On the Purchase Closing, the Fee Purchaser shall register notice of the Reconveyance Agreement on the Purchased Lands. If the Landlord elects to purchase the Purchased Lands and the closing of such transaction occurs prior to the expiry of the Development Period, then upon closing of such transaction the Purchased Lands shall be leased to the Tenants pursuant to the terms of this Lease and the Parties shall enter into an amendment of this Lease at such time confirming the same; and
- (k) at the Purchase Closing, the Parties shall amend the definition of "Lands" in Section 1.1 to delete the Purchased Lands therefrom.

ARTICLE 17 DEFAULT AND REMEDIES

17.1 Default

- (a) For the purposes of this Lease, each of the following shall constitute a "**Default**":
 - (i) if any Rent, Impositions or any other amount payable by the Tenants hereunder shall not be paid for a period of fifteen (15) Business Days after the date on which such Rent, Impositions or other amount was due hereunder (a "**Monetary Default**"); or

(ii) if the Tenants shall fail, omit or neglect to perform, observe or comply with any of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Tenants to be performed, observed or complied with (other than a covenant to pay Rent, Impositions or any other amount hereunder) (a "**Covenant Default**"); or

(iii) if an Insolvency Event occurs in respect of any of the Tenants,

provided that any failure by the Tenants to perform, observe or comply with any of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Tenants to be performed, observed or complied with shall not constitute a breach or default of any covenant or obligation of the Tenants under this Lease to the extent that it has been caused as a direct result of a breach by the Landlord of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Landlord to be performed, observed or complied with or pursuant to the T.T.C. Temporary Operations Sublease.

(b) For the purposes of this Lease, "**Insolvency Event**" means in respect of any Tenant, the occurrence of any one of the following events:

(i) if such Tenant shall be wound up, dissolved, liquidated or have its existence terminated other than in connection with a *bona fide* reorganization in which its interests and obligations under this Lease will be assigned to and assumed by a successor Person pursuant to a Transfer approved by the Landlord in accordance with the provisions of Section 13.1 or to any other Tenant or an Affiliate thereof in accordance with Section 13.4 or to an Affiliate of such Tenant in accordance with the provisions of Section 13.5;

(ii) if such Tenant shall makes a general assignment for the benefit of its creditors or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, arrangement or compromise with its creditors, or shall be declared bankrupt or insolvent or pass any resolution therefor, or shall take, authorize or acquiesce in any steps or proceedings for the dissolution or termination of such Tenant's existence or the liquidation of its assets;

(iii) if any Person (other than such Tenant) takes any steps or any proceedings to have such Tenant declared bankrupt or insolvent, or for the appointment of a trustee in bankruptcy, receiver, receiver and manager, or a Person acting in a similar capacity for such Tenant or a material part of its property, or for the dissolution or termination of such Tenant's existence or the liquidation of its assets, and such proceedings are not stayed or terminated within a period of forty-five (45) days thereafter or, if such Tenant is continuing to contest such proceedings in good faith following the expiry of such forty-five (45) day period, such period of time while such Tenant is continuing to contest such proceedings in good faith;

(iv) if a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against such Tenant seeking any re-organization,

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, either with the consent or acquiescence of such Tenant or such order, judgment or decree is not stayed and vacated within forty-five (45) days from the day of entry thereof or, if such Tenant is continuing to contest such order, judgment or decree in good faith following the expiry of such forty-five (45) day period, such period of time while such Tenant is continuing to contest such order, judgment or decree in good faith;

- (v) if a trustee in bankruptcy, receiver, receiver and manager, or a Person acting in a similar capacity is appointed with respect to the business or assets of such Tenant, either with the consent or acquiescence of such Tenant or such appointment is not terminated, stayed or vacated within a period of forty-five (45) days thereafter or, if such Tenant is continuing to contest such appointment in good faith following the expiry of such forty-five (45) day period, such period of time while such Tenant is continuing to contest such appointment in good faith;
- (vi) if any secured creditor of such Tenant takes steps or proceedings to enforce its security against the Tenant's interest in this Lease or the business and assets of such Tenant, and such proceedings are not stayed or terminated within a period of forty-five (45) days thereafter or, if such Tenant is continuing to contest such proceedings in good faith following the expiry of such forty-five (45) day period, such period of time while such Tenant is continuing to contest such proceedings in good faith; or
- (vii) if the Tenant's interest in this Lease is at any time seized or taken under a writ of execution and such writ is not satisfied, stayed or vacated within a period of forty-five (45) days thereafter.

17.2 Notice of Default and Tenants' Cure Rights

The Landlord shall not exercise any right or remedy under this Lease resulting from any Default by the Tenants under this Lease and the rights of re-entry or forfeiture specified in Section 17.3 shall not be enforceable by action, entry or otherwise, unless and until the Landlord shall have given to the Tenants and any Tenant Mortgagee a Notice (a "**Default Notice**"):

- (a) specifying the particular Default;
- (b) in the case of a Monetary Default, requiring the Tenants to pay the arrears of Rent or other amounts which are owing to the Landlord hereunder forthwith and stating that the Tenants and any Tenant Mortgagee shall have a period of fifteen (15) Business Days within which to make such payment, failing which an Event of Default shall be deemed to have occurred which shall entitle the Landlord to exercise its rights and remedies under this Lease;
- (c) in the case of any Covenant Default, if the Default is capable of remedy, requiring the Tenants to remedy the Default and stating that the Tenants and any Tenant Mortgagee

will have a period of sixty (60) days or such longer time as would have reasonably sufficed for the remedying of such Default if the Tenants or any Tenant Mortgagee had commenced to remedy the same within the said sixty (60) day period and thereafter proceeded to remedy the same with reasonable diligence (provided that the Tenants and any Tenant Mortgagee shall not be entitled to the advantage of such longer time unless they shall have actually commenced to remedy such Default within such sixty (60) day period and shall have actually proceeded thereafter to remedy the same with reasonable diligence and shall have provided to the Landlord, if requested by the Landlord, evidence satisfactory to the Landlord, acting reasonably, of the steps being taken by the Tenants or any Tenant Mortgagee to remedy the same), failing which an Event of Default shall be deemed to have occurred which shall entitle the Landlord to exercise its rights and remedies under this Lease; and

- (d) in the case of an Insolvency Event with respect to any Tenant or if any Tenant fails to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3 (such Tenant being the "**Defaulting Tenant**"), stating that such Insolvency Event or failure to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3, as applicable, shall become an Event of Default which shall entitle the Landlord to exercise its rights and remedies under this Lease unless any one or more of the other Tenants (the "**Non-Defaulting Tenants**"):
 - (i) in the case of an Insolvency Event with respect to any Defaulting Tenant or if any Defaulting Tenant fails to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3:
 - (A) gives Notice (a "**Takeover Notice**") to the Landlord within sixty (60) days after the occurrence of such Insolvency Event or failure to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3, as applicable, that the Non-Defaulting Tenants intend to proceed forthwith to acquire the interest of the Defaulting Tenant under this Lease and in the Property; and
 - (B) such Non-Defaulting Tenants thereafter diligently proceed to and do so acquire the Defaulting Tenant's interest as soon as reasonably possible thereafter and in any event within one hundred and twenty (120) days after having given such Takeover Notice or such longer time as is reasonably necessary in the circumstances to acquire the Defaulting Tenant's interest (provided that the Non-Defaulting Tenants shall not be entitled to the advantage of such longer time unless they shall have actually commenced to take steps to acquire the Defaulting Tenant's interest within such period of one hundred and twenty (120) days and shall actually have proceeded thereafter with reasonable diligence to acquire such interest and shall have provided to the Landlord, if requested by the Landlord, evidence reasonably satisfactory to the Landlord of the steps being taken by them to do so); or

- (ii) in the case of any Defaulting Tenant failing to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3 only, in lieu of paragraph (i) above:
 - (A) gives Notice (a "**Security Takeover Notice**") to the Landlord within thirty (30) days after the occurrence of such failure to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3, as applicable, that the Non-Defaulting Tenants intend to proceed forthwith to provide replacement Performance Security or T.T.C. Security, as applicable; and
 - (B) such Non-Defaulting Tenants thereafter diligently proceed to and do provide replacement Performance Security or T.T.C. Security, as applicable, as soon as reasonably possible thereafter and in any event within thirty (30) days after having given such Security Takeover Notice.

For greater certainty, if the conditions in paragraphs (i) and (ii), as applicable, above are satisfied then the Default arising as a result of the occurrence of the applicable Insolvency Event or failure to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3, as applicable, shall be deemed to be waived, no Event of Default shall occur and the Landlord shall not be entitled to exercise any right or remedy under this Lease as a result of the occurrence of the applicable Insolvency Event or failure to comply with the Performance Security provisions in Section 6.16 or the T.T.C. Work Security provisions in Section 7.3, as applicable.

17.3 Landlord Rights and Remedies Upon Event of Default

Upon the occurrence of an Event of Default which is continuing, then, subject to compliance with Sections 17.4 and 17.8, any Leasehold Mortgagee Acknowledgement Agreement and any Subleasehold Mortgagee Acknowledgement Agreement, the Landlord may, at its option, exercise any rights and remedies available to the Landlord under this Lease or at law or in equity and without limiting the generality of the foregoing the Landlord may terminate all or part of this Lease and may without further notice or any form of legal process whatsoever forthwith re-enter upon the Lands and the Buildings or any part thereof and repossess and enjoy the same as of its former estate, notwithstanding anything to the contrary in this Lease or any Applicable Laws, and in such event:

- (a) the Term shall become forfeited and void;
- (b) the Landlord may expel, remove and put out the Tenants and every other occupant of the Lands or the Buildings save and except that the Landlord will honour and assume all then existing Space Leases in respect of which Space Lease Recognition Agreements have been entered into by the Landlord or to which the Landlord has given its consent pursuant to Subsection 13.10(a)(i) or has been entered into in compliance with Subsection 13.10(b);
- (c) Rent for the then current month and the next ensuing three (3) months shall immediately become due and payable by the Tenants to the Landlord; and

- (d) the Landlord may in addition to the foregoing remedies sue for Rent in arrears and any other Losses (including loss of Rent for the balance of the Term had it not been terminated) as result of the Tenants' Event of Default subject to Section 11.5.

The Landlord shall not be under any liability to the Tenants for or by reason of any such re-entry, repossession or removal.

17.4 Protection of Tenant Mortgagees

The Landlord agrees, for the benefit of any Tenant Mortgagee whose: (1) Leasehold Mortgage was made in accordance with the requirements of Subsection 13.7(a); (2) Subleasehold Mortgage was made in accordance with the requirements of Section 13.8; or (3) Co-Tenant's Separate Mortgage was made in accordance with the requirements of Section 13.9, but in each case subject to any longer periods of time as may be agreed between the Landlord and any Tenant Mortgagee pursuant to a Leasehold Mortgagee Acknowledgement Agreement or a Subleasehold Mortgagee Acknowledgement Agreement, that:

- (a) the Landlord shall not exercise any of its rights or remedies against the Tenants consequent upon any Event of Default by the Tenants under this Lease unless, and it shall be a condition precedent to any such exercise, that:
 - (i) the Landlord shall have given to such Tenant Mortgagee a copy of any Notice of Default which it delivers to the Tenants pursuant to Section 17.2;
 - (ii) the Landlord shall have given to such Tenant Mortgagee a further Notice of any Default which has not been cured or remedied in the manner and within the time permitted in Section 17.2 and which has become an Event of Default (a "**Notice of Tenants' Event of Default**") and:
 - (A) in the case of any Monetary Default, the same shall not have been remedied within a further period of fifteen (15) Business Days after the giving of such Notice of Tenants' Event of Default to the Tenant Mortgagee;
 - (B) in the case of a Covenant Default, the same shall not have been remedied within a further period of sixty (60) days after the giving of such Notice of Tenants' Event of Default to the Tenant Mortgagee or such longer time as would have reasonably sufficed for the remedying of such Event of Default if the Tenant Mortgagee commenced to remedy the same within sixty (60) days after the giving of such Notice of Tenants' Event of Default to the Tenant Mortgagee and thereafter proceeded to remedy the same with reasonable diligence (provided that the Tenant Mortgagee shall not be entitled to the advantage of such longer time unless it shall have actually commenced to remedy the same within such period of sixty (60) days and shall actually have proceeded thereafter to remedy the same with reasonable diligence and shall have provided to the Landlord, if requested by the Landlord, evidence reasonably satisfactory to the Landlord of the steps being taken by it to remedy the same);

provided that the foregoing provision extending to each such Tenant Mortgagee an opportunity to remedy any Event of Default after Notice of a Tenants' Default shall not apply to any Event of Default in respect of an Insolvency Event which is not remedied in the manner specified in Subsection 17.2(d); and

- (b) if the Landlord shall become entitled to and shall terminate this Lease on account of any Event of Default by the Tenants, the Landlord shall, in the case of a Leasehold Mortgage and upon request of the Leasehold Mortgagee, grant to such Leasehold Mortgagee a new lease of the Lands in accordance with the terms of the Leasehold Mortgagee Acknowledgement Agreement.

17.5 Landlord's Right to Cure Events of Default

Without limiting any other rights or remedies the Landlord may have arising out of this Lease or at law or in equity and not otherwise limited by any provision of this Lease, in respect of any Default which has occurred and has not been remedied by the Tenants within the period allowed for the remedying thereof as provided in Section 17.2 and which has become an Event of Default, then subject to compliance with Sections 17.4 and 17.8, any Leasehold Mortgagee Acknowledgement Agreement and any Subleasehold Mortgagee Acknowledgement Agreement, the Landlord shall have the right to enter upon the Property, without the same being considered to be a re-entry or termination of this Lease, and to cure or attempt to cure such Event of Default (but this shall not obligate the Landlord to cure or attempt to cure any such Event of Default or, after having commenced to cure or attempted to cure such Event of Default, prevent the Landlord from ceasing to do so).

Notwithstanding the foregoing or any other provisions of this Lease, if an Emergency exists the Landlord may enter the Property immediately without prior Notice to the Tenants or the Tenant Mortgagee (but Notice will be sent to the Tenants as quickly as possible after such entry advising thereof) and without complying with Section 17.2 or 17.4, any Leasehold Mortgagee Acknowledgement Agreement or any Subleasehold Mortgagee Acknowledgement Agreement for the purposes of taking such actions as may be necessary to cure or attempt to cure any Default or Event of Default so as to prevent, avoid or mitigate any potential injury to Persons, damage to property or liability to the Landlord Parties or the Tenant Parties as a result of the circumstances giving rise to such Emergency, without the same being considered to be a re-entry or termination of this Lease.

The Tenants shall pay to the Landlord forthwith upon demand as Additional Rent all amounts paid or costs (including reasonable legal fees and disbursements) incurred by the Landlord in curing or attempting to cure any such Default or Event of Default in accordance with the foregoing, together with a sum equal to 15% of all such amounts representing the Landlord's administration fee (unless the Landlord has entered the Property as a result of an Emergency in which case no administration fee shall be payable).

17.6 Remedies Cumulative

The Landlord shall have all remedies, including damages and injunction, available to the Landlord under this Lease, at law or in equity, arising upon any Event of Default by the Tenants

under this Lease, subject to Section 11.5 and the provisions of this ARTICLE 17. The remedies of the Landlord under this Lease are cumulative and not alternative and are in addition to any rights or remedies of the Landlord at law or in equity. No remedy shall be deemed to be exclusive and, subject to Section 11.5 and the provisions of this ARTICLE 17, the Landlord may from time to time have recourse to any or all of the available rights and remedies specified herein or at law or in equity. The exercise by the Landlord of any right or remedy in respect of any Event of Default shall not be deemed to be a waiver of or to alter, affect or prejudice any other rights or remedies to which the Landlord may be entitled under this Lease or at law or in equity for the same or any other Event of Default hereunder.

17.7 Other Sums Recoverable as Rent

All amounts which may from time to time become due from the Tenants to the Landlord under any provision of this Lease (including amounts due to reimburse the Landlord for the expense of remedying any Event of Default by the Tenants or exercising its rights hereunder or at law or in equity if an Event of Default shall have occurred) together with interest thereon as provided in Section 4.4, shall, if unpaid, be recoverable as Rent, and the Landlord shall have all remedies in respect of the non-payment of such amounts as in the case of non-payment of Rent.

17.8 Contest by the Tenants

If the Landlord shall claim that a Default (other than a failure to pay Base Rent or Impositions when due) has occurred but such claim shall be contested by the Tenants in accordance with the dispute resolution process set forth in ARTICLE 19, the time within which the Tenants must cure the alleged Default pursuant to Section 17.2 shall not commence or shall be extended accordingly until a final determination has been made with respect to such contested claim, provided that, notwithstanding the foregoing, in the event that there is an Emergency, the Tenants shall promptly take such steps as may be reasonably required in order to prevent, avoid or mitigate any potential injury to Persons, damage to property or liability to the Landlord Parties or the Tenant Parties as a result of the circumstances giving rise to such Emergency.

17.9 Default by Landlord

The Parties agree that any failure by the Landlord to perform, observe or comply with any of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Landlord to be performed, observed or complied with shall not constitute a breach or default of any covenant or obligation of the Landlord under this Lease to the extent that it has been caused as a direct result of a breach by the Tenants of the terms, covenants, conditions, agreements and obligations herein reserved and contained on the part of the Tenants to be performed, observed or complied with.

ARTICLE 18 QUIET POSSESSION

18.1 Quiet Possession

The Landlord covenants and agrees to and with the Tenants that if the Tenants pay the Rent and perform the covenants herein on their part contained, the Tenants shall and may from

time to time and at all times during the Term, peaceably have, hold, use, occupy, possess and enjoy the Lands, subject to the Permitted Encumbrances, without any interruption or disturbance from the Landlord or any other Person claiming from or under the Landlord, except as otherwise expressly provided in this Lease.

ARTICLE 19 DISPUTE RESOLUTION

19.1 Dispute Resolution

Any Dispute shall be dealt with in accordance with this ARTICLE 19.

19.2 Meeting to Negotiate Resolution

If a Dispute arises between the Parties, either Party may give Notice (a "**Dispute Notice**") to the other Party with reasonable particulars of the matters in Dispute and requesting a meeting be held between the Parties to attempt to resolve such Dispute. The Parties shall meet within twenty (20) days after such Dispute Notice has been given. At such meeting and for a period of sixty (60) days after the Dispute Notice is given (the "**Negotiation Period**"), the Parties will attempt in good faith to negotiate a resolution of the Dispute. All negotiations and settlement discussions to resolve the Dispute shall be treated as compromise and settlement negotiations between the Parties and shall not be subject to disclosure through discovery or any other process and shall not be admissible into evidence in any proceeding.

19.3 Rules Governing Mediation

If the Parties have not succeeded in negotiating a resolution of the Dispute during the Negotiation Period, the Dispute may be submitted to mediation by either Party, and the following principles will apply to such mediation:

- (a) On Notice from either Party (the "**Mediation Notice**") the Parties shall meet and attempt to appoint a single mediator. If the Parties are unable to agree on a single mediator within twenty (20) Business Days from receipt of the Mediation Notice, then upon Notice given by either Party and within ten (10) Business Days of such Notice, each Party shall name a mediator and the two mediators so named shall promptly thereafter choose a third mediator. If either Party shall fail to name a mediator within ten (10) Business Days from such Notice, then the second mediator shall be appointed by a Judge of the Ontario Superior Court of Justice, upon application of the other Party. If the two mediators shall fail within ten (10) Business Days from their appointment to agree upon and appoint the third mediator then, upon application of either Party, such third mediator shall be appointed by a Judge of the Ontario Superior Court of Justice.
- (b) The Parties agree to participate in good faith in the mediation and related negotiations for a period of thirty (30) Business Days following the appointment of the mediator(s) pursuant to Subsection 19.3(a). The Parties may enter into an agreement prior to the mediation to set out the procedures to be used during the mediation.

- (c) The compensation and expenses of the single mediator or the mediators shall be paid as to 50% by the Landlord and as to 50% by the Tenants.
- (d) The Parties will not call the mediator or mediators as a witness or for any purpose in a proceeding, nor will they seek access to any documents prepared for or delivered to the mediator or mediators in connection with the mediation or any records or notes of the mediator or mediators. Documents produced in a mediation which are not otherwise discoverable and statements made in connection with the mediation shall not be subject to disclosure through discovery or admissible as evidence in any proceeding, provided they may continue to be utilized in the context of negotiations amongst the Parties on a without prejudice basis.

19.4 Rules Governing Arbitration

In the event that a Dispute has not been successfully resolved through mediation, the Dispute shall be submitted to arbitration. Arbitration proceedings shall be commenced by the Party desiring arbitration (the "**Initiating Party**"), and the following principles shall apply to such arbitration:

- (a) Upon Notice from the Initiating Party (the "**Arbitration Notice**") to the other Party, the Parties shall meet and attempt to appoint a single arbitrator not affiliated with any of the mediators or any of the Parties. If the Parties are unable to agree on a single arbitrator within twenty (20) Business Days from receipt of the Arbitration Notice then, upon Notice given by either Party and within ten (10) Business Days of such Notice, each Party shall name an arbitrator and the two arbitrators so named shall promptly thereafter choose a third arbitrator. If either Party shall fail to name an arbitrator within ten (10) Business Days from such Notice, then the second arbitrator shall be appointed by a Judge of the Ontario Superior Court of Justice pursuant to Section 10 of the *Arbitration Act, 1991* (Ontario), upon application of the other Party. If the two arbitrators shall fail within ten (10) Business Days from their appointment to agree upon and appoint the third arbitrator then, upon application of either Party, such third arbitrator shall be appointed by a Judge of the Ontario Superior Court of Justice pursuant to Section 10 of the *Arbitration Act, 1991* (Ontario). The provisions of the *Arbitration Act, 1991* (Ontario) shall apply to any such Court application pursuant to this Section. If any arbitrator appointed refuses to act or is incapable of acting or dies, a substitute may be appointed in the manner hereinbefore provided.
- (b) The arbitrator or arbitrators selected to act hereunder shall be qualified by education and training to determine the particular Dispute. In the absence of a Notice of objection given by either Party to the other no later than ten (10) Business Days after Notice of the appointment of each arbitrator has been given, such arbitrator shall be deemed for all purposes to be so qualified.
- (c) The single arbitrator or the arbitrators so chosen shall proceed immediately to hear and determine the Dispute. It is acknowledged as desirable, and the arbitrator(s) shall be requested to issue a decision and reasons therefor within twenty-five (25) Business Days after the appointment of the single arbitrator, if that is the case, or after the appointment

of the third arbitrator, as applicable, subject to any reasonable delay due to unforeseen circumstances.

- (d) The decision and reasons therefor of the single arbitrator, or the decision and reasons therefor of the arbitrators, or a majority of them, shall be drawn up in writing and signed by the single arbitrator or by the arbitrators, or a majority of them, and shall be final and binding upon the Parties hereto as to any Dispute so submitted to arbitration and the Parties shall be bound by such decision and shall comply with and perform the terms and conditions thereof (save only for the right of appeal based on an error in law).
- (e) The compensation and expenses of the single arbitrator or the arbitrators (unless otherwise determined by the arbitrators) shall be paid as to 50% by the Landlord and as to 50% by the Tenants.
- (f) No Party hereto shall be deemed to be in default in respect of any matter being arbitrated until ten (10) Business Days after the decision of the arbitrator or arbitrators is delivered to all Parties thereto.
- (g) Where a Dispute arises in connection with this Lease, commencement and completion of arbitration in accordance with this Lease shall be a condition precedent to the commencement of any action or proceeding in law or in equity in respect of the Dispute and Subsection 19.4(d) shall be applicable thereto.

ARTICLE 20 GENERAL

20.1 Notices

Any Notice to be given by a Party hereunder to another Party shall be in writing, and shall be given or made by: (i) delivering the same by hand or by prepaid courier to the Party to whom the Notice is directed, (ii) prepaid registered mail, or (iii) facsimile or email transmission, in each case, to the address set out below or to such alternative address as may from time to time be designated by Notice given in the manner provided in this Section:

- (a) to the Landlord at:

Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario M4S 1Z2

Attention: Associate General Counsel
Facsimile: (416) 485-9394
Email: michael.atlas@ttc.ca

with a copy to:

Toronto Transit Commission
6th Floor

5160 Yonge Street
Toronto, Ontario M2N 6L9

Attention: Head, Property, Planning & Development
Facsimile: (416) 338-0251
Email: pamela.kraft@ttc.ca

(b) to the Tenants at:

OPG Investment Holdings Limited Partnership
c/o Oxford Properties Group
Suite 900
100 Adelaide St W
Toronto Ontario M5H 0E2

Attention: Vice President, Corporate Legal
Facsimile: (416) 868-0701
Email: nstaubitz@oxfordproperties.com

and if different from the address set forth above, to the address and facsimile number posted from time to time as the corporate head office of Oxford Properties Group on the website www.oxfordproperties.com, to the attention of the Vice President, Corporate Legal

with copies to:

CT REIT (Yonge Eglinton) Limited Partnership
2180 Yonge Street, 15th Floor
Toronto, Ontario M4P 2V8

Attention: Vice President, General Counsel & Secretary
Facsimile: (416) 480-3216
Email: Kimberley.graham@ctreit.com

and to:

Cansquare (Canada 8) Limited Partnership
2 Carlton Street, Suite 909
Toronto, ON M5B 1J3

Attention: Chief Operating Officer
Facsimile: (416) 977-7151
Email: CWalters@northamrealty.com

Any Notice: (i) delivered by hand or by courier, shall be deemed to have been given and received on the day on which it was delivered, if delivered before 5:00 p.m. on a Business Day, and otherwise on the next following Business Day; (ii) sent by facsimile or email shall be deemed to have been given and received on the date of transmission, if transmitted before 5:00 p.m. on a

Business Day, and otherwise on the next following Business Day; and (iii) sent by registered mail shall be deemed to have been given and received on the third (3rd) Business Day following the date of mailing; provided however that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of mail, any such Notice shall be delivered by hand or courier or transmitted by facsimile or email as aforesaid.

20.2 Status Certificates

Each of the Landlord and the Tenants shall, at any time and from time to time during the Term, upon not less than fifteen (15) days prior request by the other, execute and deliver to the other 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 are in full force and effect as modified, stating the modifications), the dates to which the Rent has been paid in advance, the defaults, if any, on the part of the Party requesting the statement and the Party delivering the statement and the action taken or proposed to be taken by such last mentioned Party with respect to the same and such other matters as may be reasonably requested by the Party requesting the statement; it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser or mortgagee of the Landlord's interest in the Lands or by any Tenant Mortgagee, Subtenant, Space Tenant or any purchaser or assignee of any Tenant's leasehold interest in the Lands, as the case may be.

20.3 Power, Capacity, Authority

The Landlord and each of the Tenants covenant, represent and warrant to each other respectively that they have the power, capacity and authority to enter into this Lease and to perform their respective obligations hereunder and that the Persons who have executed this Lease on their behalf have the authority to bind them.

20.4 Reasonableness

Whenever the Landlord or the Tenants have discretion to make any determination, designation, attribution, allocation, or decision, or to give or withhold any consent or approval pursuant to this Lease, then any such discretion will be exercised and any such determination, designation, attribution, allocation or decision will be made in a timely, reasonable and non-arbitrary manner and any such consent or approval will not be unreasonably or arbitrarily withheld, conditioned or delayed, in each case unless this Lease specifically provides that such discretion, determination or other decision may be made or consent or approval given in the sole discretion of the Party exercising such discretion or making such determination or other decision.

20.5 Approvals

Wherever the provisions of this Lease require an approval of or consent or agreement to any action, Person, firm, corporation, document or plan (an "**Approval**") by a Party, this Lease shall be deemed to provide that:

- (a) such request for Approval shall:

- (i) clearly set forth the matter in respect of which such Approval is being sought;
 - (ii) form the sole subject of the correspondence containing such request for Approval and clearly state that such Approval is being sought; and
 - (iii) where the failure to respond by the Party whose Approval is being sought within the applicable time period would result in such Approval being deemed to have been given, such request for Approval shall expressly state that failure to respond within the applicable time period will result in such Approval being conclusively deemed to have been given;
- (b) such Approval shall be in writing; and
- (c) the Party whose Approval is required shall (unless the text hereof expressly states that the time periods are to be otherwise, in which latter event this Section shall apply but the time periods shall be adjusted accordingly), as soon as reasonably possible and in any event within fifteen (15) Business Days after the giving of a Notice requesting an Approval, give Notice to the other Parties either that it is giving its Approval or that it withholds its Approval and in which case it shall set forth, in reasonable detail, its reasons for withholding its Approval (unless the text hereof expressly states that such Approval may be unreasonably or arbitrarily withheld or such Approval is in the sole discretion of the Party from whom such Approval is required in which case no reasons shall be required);
- (d) unless otherwise specifically provided in this Lease, in the event that the responding Notice mentioned in Subsection 20.5(c) is not given within the applicable time period, the Party whose Approval is requested shall be conclusively deemed not to have given its Approval;
- (e) the execution of any document by a Party constitutes Approval by that Party of that document and all of its provisions; and
- (f) any Dispute as to whether or not such consent or approval has been unreasonably withheld, conditioned or delayed shall be resolved in accordance with ARTICLE 19.

For the purposes of this Section 20.5, the Landlord and each of the Tenants shall, upon request, provide to the others from time to time a list of those Persons who are authorized to give an Approval under this Lease on their behalf. The T.T.C. Representative shall be entitled to give Approvals on behalf of the Landlord.

20.6 *Planning Act Compliance*

This Lease has been entered into subject to the express condition that the provisions of Section 50 of the *Planning Act*, R.S.O. 1990, C. P.13, as amended have been complied with. If necessary, the Tenants, at their expense, shall forthwith make application to the Committee of Adjustment or Land Division Committee for the City for consent pursuant to Section 50 of the *Planning Act* and shall be responsible, at their expense, for satisfaction of any conditions to such consent and for taking all necessary appeals if the decision is not satisfactory or any conditions

imposed as a condition to such consent materially adversely impair the use, value or operation of the Landlord's freehold interest in the Lands or the T.T.C.'s operation of the T.T.C. Facilities. The Landlord shall execute and deliver such authorizations, consents or other documents as may be necessary to permit the Tenants to make such application or take such appeals as aforesaid, provided that the Landlord shall not incur any cost or liability in connection therewith unless the Tenants agree to indemnify the Landlord for such costs and liability. Any conditions imposed by the Committee of Adjustment or the Land Division Committee that materially adversely impair the use, value or operation of the Landlord's freehold interest in the Lands or the T.T.C.'s operation of the T.T.C. Facilities shall be subject to the approval of the Landlord.

20.7 Unavoidable Delay

Notwithstanding any other provisions of this Lease, if and to the extent that either the Landlord or the Tenants are in good faith and without default or neglect on their part, unable to fulfill or are delayed or restricted in the fulfilment of any obligation hereunder by reason of Unavoidable Delay, then either the Landlord or the Tenants, as the case may be, will, so long as such impediment exists, be deemed not to be in default in the performance of such obligation and any period for the performance of such obligation shall be extended accordingly and the other Party to this Lease will not be entitled to exercise any rights or remedies as a result thereof or to receive compensation for any loss, inconvenience, nuisance or discomfort thereby occasioned, provided that in no event will the Tenants be relieved of their obligation to pay Rent, Impositions or any other amount payable hereunder as it becomes due. Where any time limit in this Lease is stated to be subject to extension as a result of Unavoidable Delay, any Dispute as to whether or not a Party is entitled to an extension of such time limit as a result of Unavoidable Delay, including whether or not an Unavoidable Delay exists or the length of time during which such Unavoidable Delay did exist, shall be resolved in accordance with ARTICLE 19. Without limiting the generality of the foregoing, if there is an Unavoidable Delay, the Initial Development Period or the 10 Year Extension Period and the Construction Deadline or the Extended Construction Deadline, as applicable, will be automatically extended for the period commencing on the date that such Unavoidable Delay first arose and ending on the date that such Unavoidable Delay no longer exists.

20.8 No Partnership

Nothing in this Lease shall be construed as constituting any partnership, joint venture or any other relationship between the Parties hereto other than the relationship of landlord and tenant. No Party hereto shall have any authority to act for or to assume any obligations or responsibilities on behalf of the other Party hereto except as expressly provided herein.

20.9 Landlord as Agent

The Landlord acts as agent or as trustee for the other Landlord Parties and Metrolinx to the extent necessary to ensure that all exculpatory provisions and indemnities included in their favour in this Lease are enforceable against the Tenants by each of the Landlord Parties and Metrolinx.

20.10 Successors and Assigns

All of the provisions of this Lease shall be binding upon the Landlord and each of the Tenants and their respective successors and assigns and shall enure to the benefit of and be enforceable by the Landlord and each of the Tenants and their respective successors and assigns only to the extent that they are permitted successors and permitted assigns pursuant to this Lease.

20.11 Registration and Creation of Leasehold Parcel

Neither the Tenants nor anyone on the Tenants' behalf or claiming under the Tenants shall register this Lease against the Lands. The Tenants may prepare and register or cause to be registered on title to the Lands, at the Tenants' cost, a short form of Lease (a "**Notice of Lease**") which shall set forth only a description of the Lands, the Term (including the Extension Option) and such other minimum information required under Applicable Laws and which is in form satisfactory to the Landlord, acting reasonably. In the event of any conflict or inconsistency between the provisions of any such Notice of Lease and the provisions of this Lease, the provisions of this Lease shall prevail. The Tenants may also register or permit to be registered any Sublease, Space Lease, short form of Sublease or Space Lease, mortgage or charge of Sublease or Space Lease or notice of a mortgage or charge of Sublease or Space Lease against title to the Property without the prior written approval of the Landlord. The Tenants shall be liable for all municipal or provincial land transfer tax in connection with this Lease and any such registrations. The Tenants shall provide a copy of such registered Notice of Lease to the Landlord for its records and agree that upon termination of this Lease or expiry of the Term, the Tenants shall arrange for the discharge from title to the Lands of such Notice of Lease or any assignment or sublease or other document evidencing an interest of the Tenants or anyone claiming through or under the Tenants in respect of this Lease or the Lands. The Tenants shall be entitled to apply to the Land Registrar of the LTO for the creation of a leasehold parcel register for the Tenants' leasehold estate created by this Lease, and the Landlord shall, at the Tenants expense execute all such consents and other documentation as the Tenants may require for such purpose.

20.12 Amendment

No supplement, modification, waiver, surrender or termination of this Lease (other than a termination pursuant to the terms of this Lease) shall be binding unless executed in writing by the Parties hereto in the same manner as the execution of this Lease.

20.13 Scheduled Forms of Agreements

Not more than once every five (5) calendar years, either the Landlord or the Tenants may request the other to review the forms of agreement attached as Schedule "M", Schedule "N", Schedule "O" and Schedule "Q" (the "**Scheduled Forms**") to determine whether such forms need to be updated to current market standards for such Scheduled Forms. Each of the Landlord and the Tenants shall act reasonably in determining whether such Scheduled Forms need to be updated and shall make such revisions to such Scheduled Forms as are agreed between the Landlord and the Tenants, each acting reasonably, in order to update such Scheduled Forms to current market standards and amend this Lease, as required, to attach such updated Scheduled

Forms. Similarly, not more than once every five (5) calendar years, either the Landlord or the Tenants may request the other to review the list of Approved Banks attached as Schedule "R" or any plans or diagrams attached as Schedules to this Lease to determine if any such Schedules need to be updated in accordance with the provisions of this Section 20.13.

20.14 Waiver

No waiver of any of the provisions of this Lease shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided. Failure on the part of a Party to complain of any act or failure to act of any other Party or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. No waiver of any provision of this Lease shall be binding unless executed in writing by the Parties to be bound thereby. Any such waiver shall be effective only in the specific instance and for the purpose for which it was given.

20.15 Further Assurances

Each of the Parties hereto shall from time to time hereafter and upon any reasonable request of any other Party, execute and deliver, make or cause to be made all such reasonable and further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Lease.

20.16 Metrolinx

The Landlord shall provide reasonable co-operation to the Tenants, at no cost to the Landlord, to assist the Tenants in any discussions with Metrolinx provided the Tenants are acting in accordance with the Tenants' rights under this Lease.

20.17 Counterparts

This Lease may be executed and delivered in counterparts, each of which shall be an original and all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Lease by facsimile transmission or by electronic delivery in portable document format (".pdf") or tagged image format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the Parties have duly executed this Lease.

TORONTO TRANSIT COMMISSION

By: 
Name: **SUSAN REED TANAKA**
Title: **CHIEF CAPITAL OFFICER**

By: 
Name: **DAN WRIGHT**
Title: **CHIEF FINANCIAL OFFICER**

We have authority to bind the Corporation

**OPG INVESTMENT HOLDINGS GP
INC. as general partner for OPG
INVESTMENT HOLDINGS LIMITED
PARTNERSHIP**

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the Corporation
and the Partnership

IN WITNESS WHEREOF the Parties have duly executed this Lease.

TORONTO TRANSIT COMMISSION

By: _____

Name:

Title:

By: _____

Name:

Title:

We have authority to bind the Corporation

**OPG INVESTMENT HOLDINGS GP
INC. as general partner for OPG
INVESTMENT HOLDINGS LIMITED
PARTNERSHIP**

By: _____

Name:

Eric J. Plesman

Title:

Executive Vice President

By: _____

Name:

Nicholas Joseph Staubitz

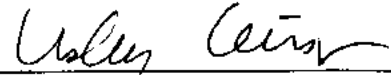
Title:

Vice President

We have authority to bind the Corporation
and the Partnership

**CT REIT (YONGE EGLINTON) GP
CORP, as general partner for
CT REIT (YONGE EGLINTON)
LIMITED PARTNERSHIP**

By: 
Name: Ken Silver
Title: President

By: 
Name: Lesley Gibson
Title: Senior Vice President, & CFO

We have authority to bind the Corporation
and the Partnership

**CANSQUARE (CANADA 8) GP
LIMITED, as general partner for
CANSQUARE (CANADA 8) LIMITED
PARTNERSHIP**

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the Corporation
and the Partnership

**CT REIT (YONGE EGLINTON) GP
CORP, as general partner for
CT REIT (YONGE EGLINTON)
LIMITED PARTNERSHIP**

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the Corporation
and the Partnership

**CANSQUARE (CANADA 8) GP
LIMITED, as general partner for
CANSQUARE (CANADA 8) LIMITED
PARTNERSHIP**

By: _____
Name:
Title: Craig S. Walters
A.S.O.

By: _____
Name:
Title:

We have authority to bind the Corporation
and the Partnership

SCHEDULE "A"
LEGAL DESCRIPTION OF THE LANDS

Part I - Amended Phase I Lands

Firstly:

Part of PIN 21172 - 0309 (LT)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 9 to 12, Plan 491-E, designated as Parts 3, 4, 5, 6, 7, 13, 14, 21, 24, 25, 27, 28, 29, 34, 35, 36, 37, 38, 41, 45, 46, 47, 48, 49, 50, 52, 56, 57, 60, 61, 67, 83, 89, 93, 95, 99, 100, 103, 104, 105, 106, 107, 108 and 109 on Reference Plan 66R-20876, City of Toronto.

SAVE AND EXCEPT:

a) that part of Part 29 on Reference Plan 66R-20876 shown approximately highlighted in green on the diagram attached hereto as Exhibit A-1.

Secondly:

Part of PIN 21172 - 0309 (LT)

Part of Lot 16, Concession 3, from the Bay designated as Parts 1, 2, 8, 9, 10, 11, 12, 53 and 54 on Reference Plan 66R-20876, City of Toronto.

SAVE AND EXCEPT:

a) that part of Part 1 on Reference Plan 66R-20876 shown approximately highlighted in pink on the diagram attached hereto as Exhibit A-2 lying between the top of the floor slab at elevation approximately 161.5 metres above sea level and the underside of the ceiling slab at approximately 166 metres above sea level.

The lands described Secondly above are sometimes referred to as the "**Pavilion Lands**".

Part II - Phase II Lands

Part of PIN 21172 - 0309 (LT)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 15, 16, 17, 18, 19, 20, 39, 40, 42, 44, 66, 85, 86, 87, 88, 96, 113 and 114 on Reference Plan 66R-20876.

Part III - Phase III Lands

Part of PIN 21172 - 0309 (LT)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 43, 68, 76, 77, 78, 79, 80, 81, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131 and 132 on Reference Plan 66R-20876.

Part IV - T.T.C. Development Lands

Part of PIN 21172 - 0309 (LT)

Firstly:

Part of Lot 16, Concession 3, from the Bay, designated as Parts 74 and 111 on Reference Plan 66R-20876.

Secondly:

Part of Lot 16, Concession 3, from the Bay and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 75, 97, 98, 101 and 102 on Reference Plan 66R-20876.

Thirdly:

Part of Lot 16, Concession 3, from the Bay and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Part 73 and 112 on Reference Plan 66R-20876,

SAVE AND EXCEPT:

a) those parts of Part 73 which house, contain or support any T.T.C. Infrastructure existing as of the Execution Date (including, for greater certainty, T.T.C.'s subway tunnel, duct banks and power substations) or which are required for access to any such T.T.C. Infrastructure; and

b) those parts of Part 73 which are located within a 3 metre buffer of any T.T.C. Infrastructure existing as of the Execution Date, except below structures which have no lower limit,

in each case, approximately in the location shown outlined in green on the diagram attached hereto as Exhibit A-3.

EXHIBIT A-1

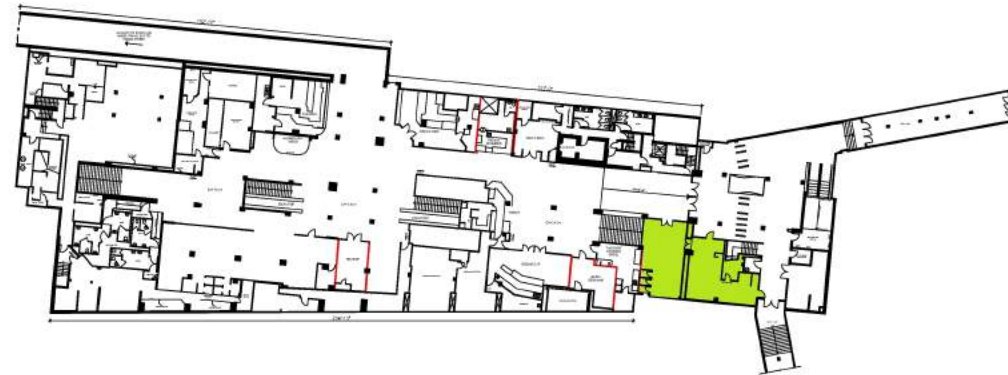
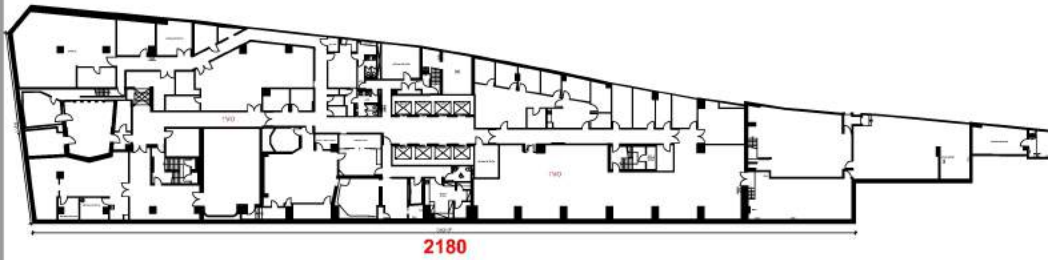
(see attached)



Version:	Prepared:	11/07/2017
FP2A	Measured:	10/04/2017

Canada Square
2180-2200 Yonge Street
Toronto, Ontario
Canada

Floor B1



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Scale 1:1000



EXHIBIT A-2

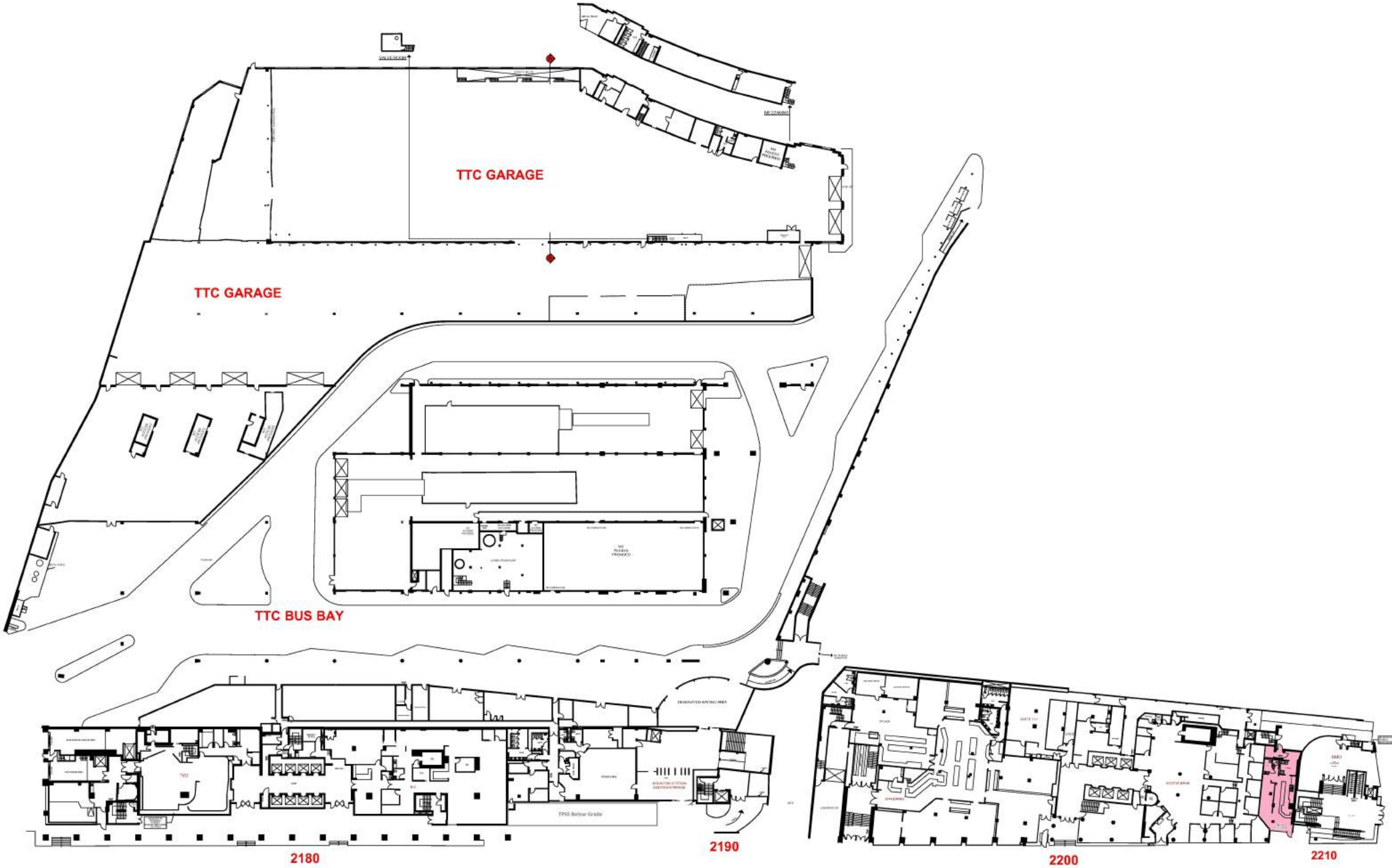
(see attached)



Version:	Prepared:	11/07/2017
FP3A	Measured:	19/06/2017

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2180-2200 Yonge Street
Toronto, Ontario
Canada

Floor 01



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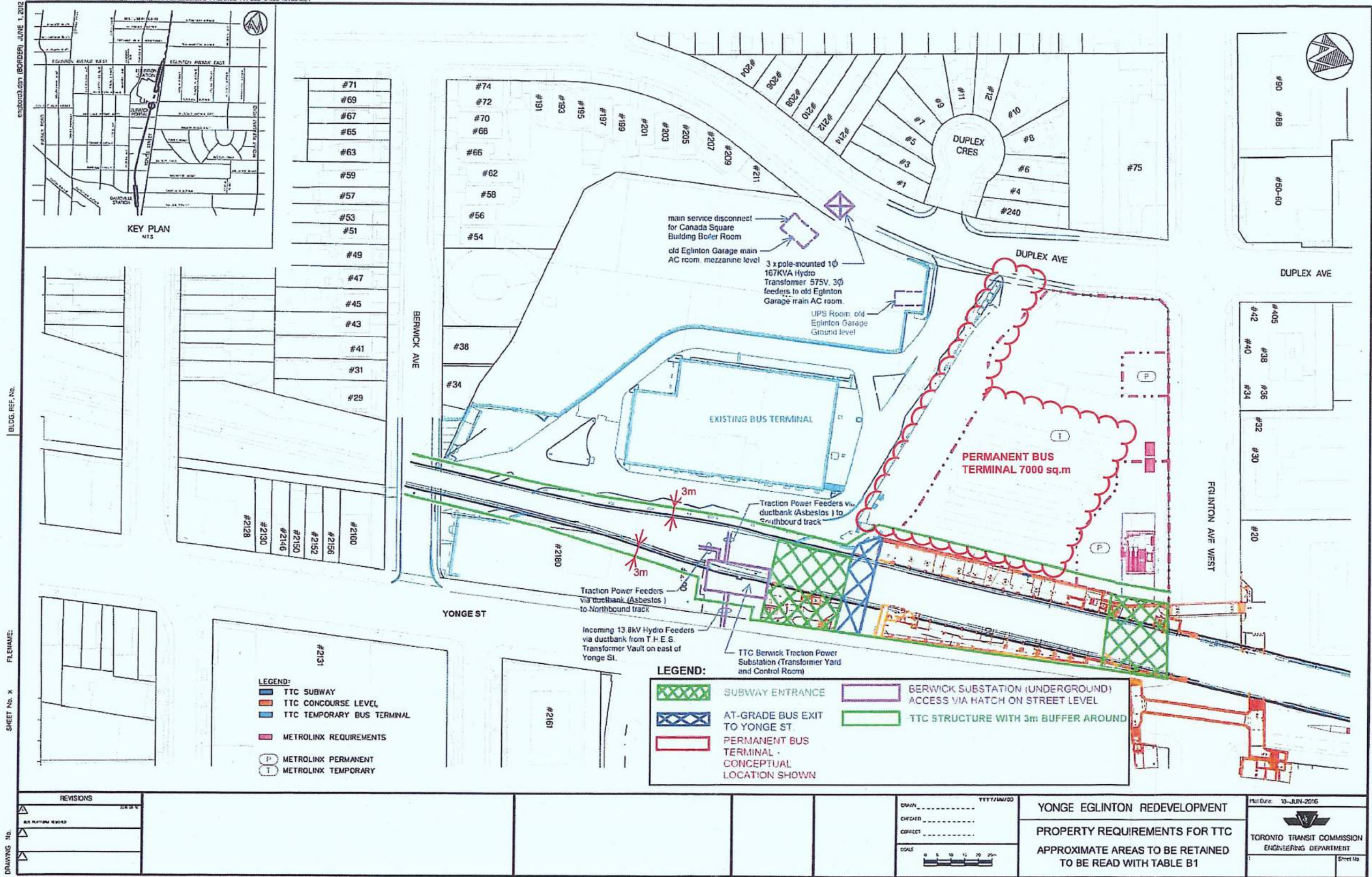
EXHIBIT A-3

(see attached)

EXHIBIT A-3

Appendix B: Property Requirements

CADD FILE NAME: Subway Yonge Line/Eglinton ORS25.03 to PAD0160-PR-252-ctv00.dwg



Sketch B1

SCHEDULE "B-1"

LEGAL DESCRIPTION OF THE T.T.C. RETAINED LANDS

Part of PIN 21172 - 0309 (LT)

Firstly: (T.T.C. Public Areas)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 51, 55 and 62 on Reference Plan 66R-20876.

Secondly: (T.T.C. Retail Areas)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Part 92 on Reference Plan 66R-20876.

Thirdly: (T.T.C. Service/Utility Areas)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 22, 23, 26, 58, 59, 63, 64, 82, 90, 91 and 94 on Reference Plan 66R-20876 and including:

- a) that part of Part 29 on Reference Plan 66R-20876 shown approximately highlighted in green on the diagram attached hereto as Exhibit A-1; and
- b) that part of Part 1 on Reference Plan 66R-20876 shown approximately highlighted in pink on the diagram attached hereto as Exhibit A-2 lying between the top of the floor slab at an elevation of approximately 161.5 metres above sea level and the underside of the ceiling slab at an elevation of approximately 166 metres above sea level.

Fourthly: (Other T.T.C. Retained Lands)

Part of Lot 16, Concession 3, from the Bay, and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, consisting of:

- a) Parts 84 and 110 on Reference Plan 66R-20876;
- b) those parts of Part 73:
 - (i) which house, contain or support any T.T.C. Infrastructure existing as of the Execution Date (including, for greater certainty, T.T.C.'s subway tunnel, duct banks and power substations) or which are required for access to any such T.T.C. Infrastructure; and
 - (ii) which are located within a 3 metre buffer of any T.T.C. Infrastructure existing as of the Execution Date, except below structures which have no lower limit,

in each case, approximately in the location shown outlined in green on the diagram attached hereto as Exhibit A-3.

EXHIBIT A-1

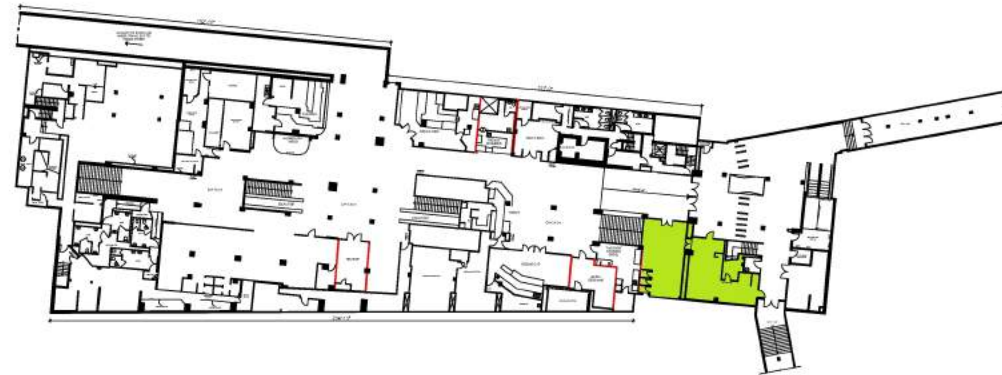
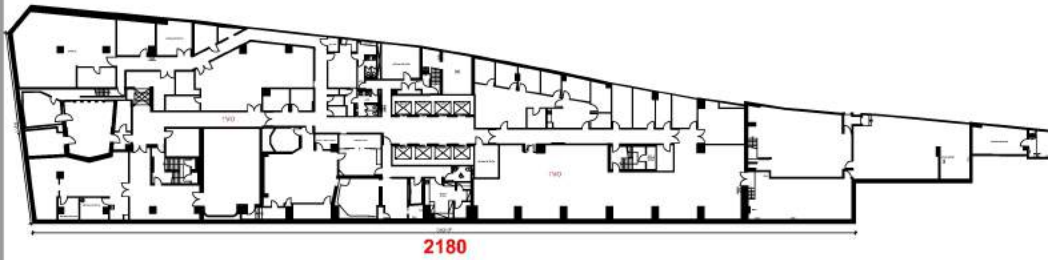
(see attached)



Version:	Prepared:	11/07/2017
FP2A	Measured:	10/04/2017

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Toronto, Ontario
Canada

Floor B1



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EXHIBIT A-2

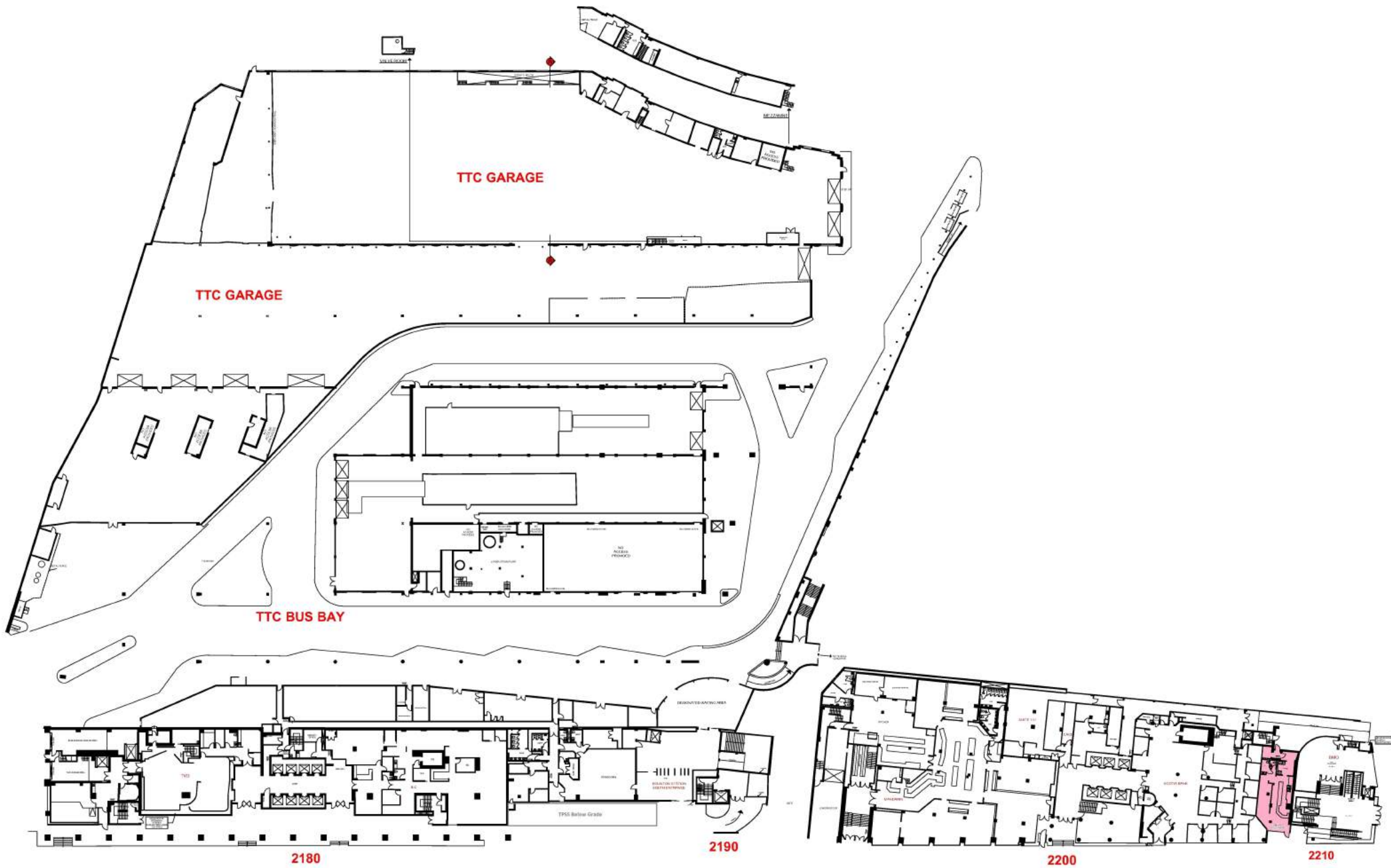
(see attached)



Version: **FP3A** Prepared: **11/07/2017**
 Measured: **19/06/2017**

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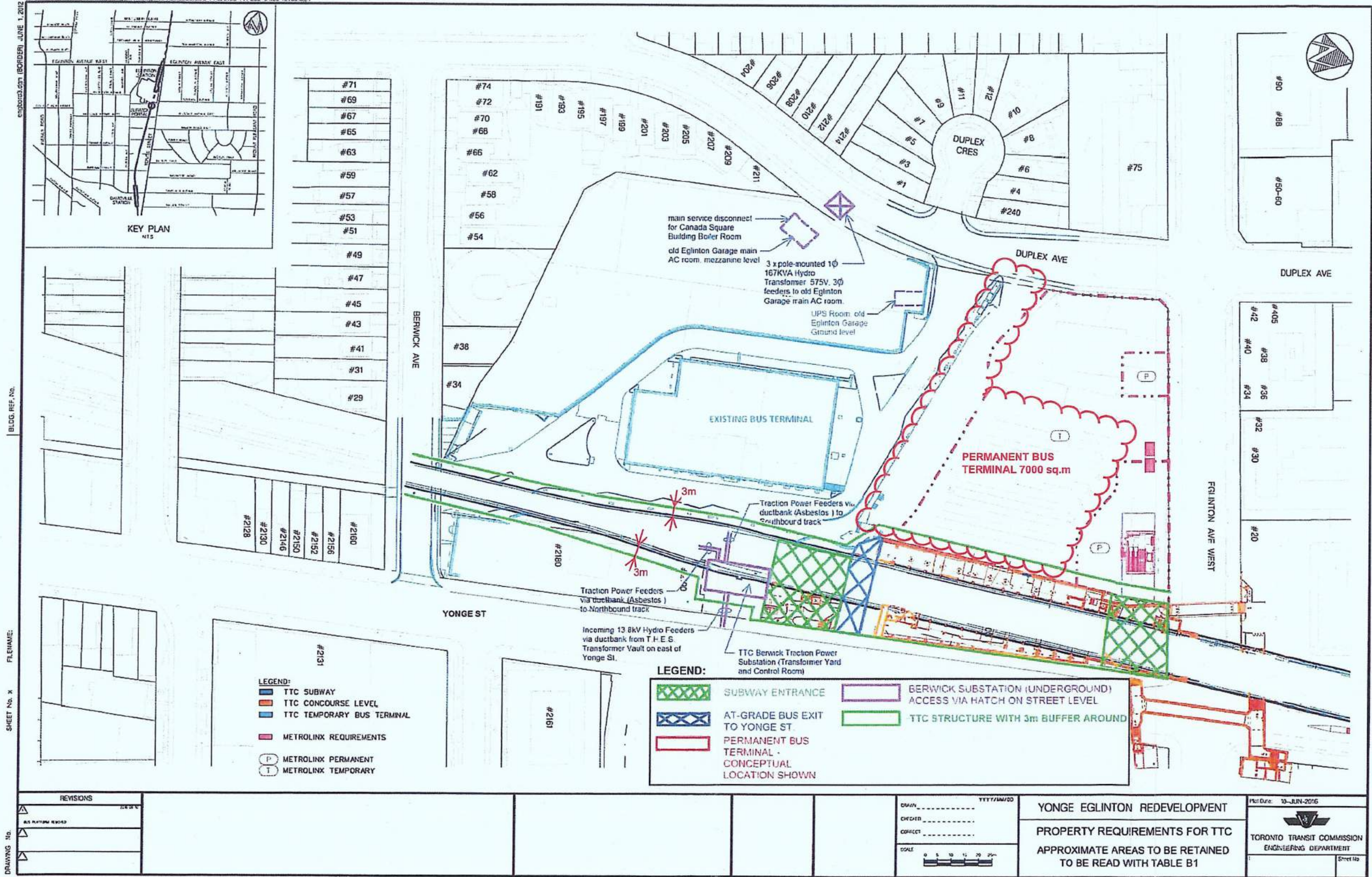
EXHIBIT A-3

(see attached)

EXHIBIT A-3

Appendix B: Property Requirements

CADD FILE NAME: Subway Yonge Line/Eglinton/CRS225.03 to PAD0160-PR-252-ctv00.dwg



Sketch B1

SCHEDULE "B-2"

LEGAL DESCRIPTION OF THE T.T.C. TEMPORARY OPERATIONS LANDS

Part of PIN 21172 - 0309 (LT)

Firstly:

Part of Lot 16, Concession 3, from the Bay and Part of Lots 6, 7, 8, 9, 10, 11, 12 and the Lane, Plan 491-E, designated as Parts 75, 97, 98, 101, 102 and 112 on Reference Plan 66R-20876.

Secondly:

Part of Lot 16, Concession 3, from the Bay, designated as Parts 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131 and 132 on Plan 66R-20876.

SCHEDULE "C"

ALTERNATE ROFO TERMS

- (a) If, at any time during the Term the Landlord wishes to market and sell all (but not less than all) of its freehold interest in the Lands (in this Schedule "C", the "**Entire Sale Interest**"), the Landlord shall deliver pursuant to each Separate Ground Lease a Notice (in this Schedule "C", the "**ROFO Notice**") to the applicable Tenant and/or group of Tenants who, at such time, hold(s) a 100% leasehold interest in the part of the Lands that is the subject of such Separate Ground Lease (in this Schedule "C", the "**ROFO Tenants**"). The ROFO Notice shall contain an offer (in this Schedule "C", the "**ROFO Offer**") by the Landlord to sell to each of the ROFO Tenants their Respective Sale Interest (as defined below) at a price and on normal commercial terms and conditions proposed by the Landlord as set forth in the ROFO Notice and which shall be subject to no condition that the ROFO Tenants are not able to satisfy and shall be for a purchase price payable all in cash or cash together with a mortgage back to the Landlord (in this Schedule "C", the "**ROFO Terms**"). The ROFO Terms shall include both the aggregate purchase price proposed by the Landlord for the Entire Sale Interest and a breakdown of the portion of such aggregate purchase price which is allocated to each Respective Sale Interest. The ROFO Notice shall also contain as a schedule thereto a form of agreement of purchase and sale that the Landlord is prepared to accept and which contains the ROFO Terms (in this Schedule "C", the "**Form of APS**"). The Form of APS shall be a template agreement of purchase and sale that shall provide for the sale of (i) the Entire Sale Interest (which includes, without limitation, the aggregate purchase price proposed by the Landlord for the Entire Sale Interest) and (ii) each Respective Sale Interest (which includes, without limitation, the purchase price proposed by the Landlord for each Respective Sale Interest). A copy of the ROFO Notice shall be concurrently delivered by the Landlord to each of the ROFO Tenants. Each of the ROFO Tenants shall have the right to purchase all (but not less than all) of its Respective Sale Interest. In this Schedule "C", "**Respective Sale Interest**" means, with respect to each ROFO Tenant, 100% of the leasehold interest in the Lands held by such ROFO Tenant pursuant to a Separate Ground Lease.
- (b) Following receipt of the ROFO Notice, each of the ROFO Tenants will have ninety (90) days (in this Schedule "C", the "**ROFO Response Period**") to deliver Notice (in this Schedule "C", a "**Notice of Acceptance**") to the Landlord and to each of the other ROFO Tenants indicating that it wishes to purchase its Respective Sale Interest. In each such Notice of Acceptance, each such ROFO Tenant must also indicate whether or not it wishes to purchase all (but not less than all) of the other ROFO Tenant(s)' Respective Sale Interests (in this Schedule "C", collectively, the "**Remaining Sale Interests**") in the event such other ROFO Tenant(s) decline to purchase its/their Respective Sale Interest(s).
- (c) If all of the ROFO Tenants (in this paragraph (c) each an "**Accepting Tenant**") elect to purchase their Respective Sale Interests by giving a Notice of Acceptance to the Landlord within the ROFO Response Period, there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS for the Entire Sale Interest between the Landlord and each

such Accepting Tenant whereby the Landlord agrees to sell to each such Accepting Tenant, and each such Accepting Tenant agrees to buy from the Landlord its Respective Sale Interest on the ROFO Terms and the Landlord and each such Accepting Tenant shall complete the purchase and sale of its Respective Sale Interest in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Notice of Acceptance delivered by such Accepting Tenant.

- (d) If there are only two Separate Ground Leases and:
- (i) only one ROFO Tenant (in this paragraph (d)(i) the "**Accepting Tenant**") elects to purchase its Respective Sale Interest by giving a Notice of Acceptance to the Landlord within the ROFO Response Period and pursuant to such Notice of Acceptance it also indicated that it will purchase the Remaining Sale Interest of the other ROFO Tenant, there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS for the Entire Sale Interest between the Landlord and such Accepting Tenant whereby the Landlord agrees to sell to such Accepting Tenant, and such Accepting Tenant agrees to buy from the Landlord the Entire Sale Interest on the ROFO Terms and the Landlord and such Accepting Tenant shall complete the purchase and sale of the Entire Sale Interest in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Notice of Acceptance delivered by such Accepting Tenant; or
 - (ii) only one ROFO Tenant (in this paragraph (d)(ii) the "**Accepting Tenant**") elects to purchase its Respective Sale Interest by giving a Notice of Acceptance to the Landlord within the ROFO Response Period and pursuant to such Notice of Acceptance it did not indicate that it will purchase the Remaining Sale Interest of the other ROFO Tenant:
 - (A) there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS for such Respective Sale Interest between the Landlord and such Accepting Tenant whereby the Landlord agrees to sell to such Accepting Tenant, and such Accepting Tenant agrees to buy from the Landlord its Respective Sale Interest (but not the Remaining Sale Interest of the other ROFO Tenant) on the ROFO Terms for such Respective Sale Interest and the Landlord and such Accepting Tenant shall complete the purchase and sale of such Respective Sale Interest in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Notice of Acceptance delivered by such Accepting Tenant; and
 - (B) the Landlord shall be entitled to sell the Remaining Sale Interest of the other ROFO Tenant within the next one hundred and eighty (180) days following the expiry of the ROFO Response Period to one or more third party purchasers at a price which is not less 98.5% of the purchase price allocated to the Remaining Sale Interest of the other ROFO Tenant as set

forth in the ROFO Offer and otherwise on terms and conditions not materially more favourable to the purchaser than the ROFO Terms.

- (e) If there are only three Separate Ground Leases and one or two (but not all) of the ROFO Tenants (in this paragraph (e) each a "**Declining Tenant**") has declined to purchase its/their Respective Sale Interest(s) by giving Notice expressly declining the ROFO Offer or by failing to give a Notice of Acceptance to the Landlord within the ROFO Response Period, the provisions of paragraph (d) above shall apply, *mutatis mutandis*, to the sale of the Respective Sale Interests and the Remaining Sale Interests provided that each of the ROFO Tenants (in this paragraph (e) an "**Accepting Tenant**") that has elected to purchase its Respective Sale Interest and has also indicated that it will purchase the Remaining Sale Interests, shall purchase the Remaining Sale Interest(s) of the Declining Tenant(s) (and if there are two Accepting Tenants, each Accepting Tenant shall purchase an undivided 50% interest in such Remaining Sale Interest(s), unless the Accepting Tenants otherwise agree to purchase different proportionate interests in such Remaining Sale Interest(s)).
- (f) If there are more than three Separate Ground Leases and one or more (but not all) ROFO Tenants (in this paragraph (f) the "**Declining Tenant(s)**") decline to purchase its/their Respective Sale Interest(s) by giving Notice expressly declining the ROFO Offer or by failing to give a Notice of Acceptance to the Landlord within the ROFO Response Period, and if:
- (i) one or more other ROFO Tenants (in this paragraph (f) the "**Accepting Tenant(s)**") elects to purchase its Respective Sale Interest and has also indicated that it will purchase the Remaining Sale Interests (in this paragraph (f) the "**Step-Up Tenant(s)**"), then:
- (A) the Landlord shall give Notice to the Step-Up Tenant(s) that the Declining Tenant(s) have declined to purchase its/their applicable Respective Sale Interest(s) and, if there is more than one Step-Up Tenant, shall also identify the names and contact information of the other Step-Up Tenant(s) (in this paragraph (f) the "**Step-Up ROFO Notice**");
- (B) if there is only one Step-Up Tenant, there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on terms contained in the Form of APS for the Entire Sale Interest between the Landlord and such Step-Up Tenant whereby the Landlord agrees to sell to such Step-Up Tenant, and such Step-Up Tenant agrees to buy from the Landlord its Respective Sale Interest and the Remaining Sale Interest(s) on the ROFO Terms and the Landlord and such Step-Up Tenant shall complete the purchase and sale of its Respective Sale Interest and the Remaining Sale Interest(s) in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Step-Up Tenant's Notice of Acceptance; and

- (C) if there is more than one Step-Up Tenant, such Step-Up Tenants shall, within thirty (30) days of receipt of the Step-Up ROFO Notice, advise the Landlord in writing of the proportions in which each Step-Up Tenant shall acquire the Remaining Sale Interest(s) (in this paragraph (f) the "**Step-Up Pro Rata Notice**"), and there shall be created automatically, without any further action or documentation, binding agreements of purchase and sale on the terms contained in the Form of APS for the Entire Sale Interest between the Landlord and each such Step-Up Tenant whereby the Landlord agrees to sell to each such Step-Up Tenant, and each such Step-Up Tenant agrees to buy from the Landlord, as applicable, its Respective Sale Interest and its pro rata interest in the Remaining Sale Interest(s) (or such other proportion agreed to by such Step-Up Tenants) on the ROFO Terms and the Landlord and each such Step-Up Tenant shall complete the purchase and sale of its Respective Sale Interest and its pro rata interest in the Remaining Sale Interest(s) (or such other proportion agreed to by such Step-Up Tenants) in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Step-Up Pro Rata Notice; or
- (ii) there is no Step-Up Tenant:
- (A) the Landlord shall give Notice to the Accepting Tenant(s) setting out the name(s) and contact information for each of the Accepting Tenant(s) and advising that: (1) the Declining Tenant(s) has/have declined to purchase its/their applicable Respective Sale Interest(s); (2) none of the Accepting Tenant(s) has elected to purchase the Remaining Sale Interest(s); and (3) if none of the Accepting Tenant(s) gives Notice to the Landlord within thirty (30) days of receipt of such Notice (the "**Step-Up Response Period**"), electing to purchase the Remaining Sale Interest(s) on the ROFO Terms, then the Landlord shall have no obligation to sell to any Accepting Tenant its Respective Sale Interest pursuant to the ROFO Offer but may instead attempt to market and sell the Entire Sale Interest to a third party purchaser in accordance with paragraph (g) below;
- (B) if there is only one Accepting Tenant and the Accepting Tenant gives Notice to the Landlord electing to purchase the Remaining Sale Interests on the ROFO Terms within the Step-Up Response Period, then there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS for the Entire Sale Interest between the Landlord and such Accepting Tenant whereby the Landlord agrees to sell to such Accepting Tenant, and such Accepting Tenant agrees to buy from the Landlord the Entire Sale Interest on the ROFO Terms and the Landlord and such Accepting Tenant shall complete the purchase and sale of the Entire Sale Interest in accordance with such ROFO Terms within ninety (90) days following the Landlord's receipt of the Accepting Tenant's election to purchase the Remaining Sale Interests; and

(C) if there is more than one Accepting Tenant, such Accepting Tenants shall, within the Step-Up Response Period, advise the Landlord in writing whether one or more of such Accepting Tenants elects to purchase all of the Remaining Sale Interest(s) (in this paragraph (f) the "**Accepting Tenants Step-Up Notice**") and, if more than one Accepting Tenant will be purchasing the Remaining Sale Interest(s), the Accepting Tenants Step-Up Notice shall also set out the proportions in which such Accepting Tenants will acquire the Remaining Sale Interest(s), and there shall be created automatically, without any further action or documentation, a binding agreement of purchase and sale on the terms contained in the Form of APS for the Entire Sale Interest between the Landlord and each of such Accepting Tenants identified in the Accepting Tenants Step-Up Notice whereby the Landlord agrees to sell to each such Accepting Tenant, and each such Accepting Tenant agrees to buy from the Landlord its Respective Sale Interest and its pro rata interest in the Remaining Sale Interest(s) (or such other proportion agreed to by such Accepting Tenants) on the ROFO Terms and the Landlord and each such Accepting Tenant shall complete the purchase and sale of the Respective Sale Interest and its pro rata interest in the Remaining Sale Interest(s) (or such other proportion agreed to by such Accepting Tenants) in accordance with the such ROFO Terms within ninety (90) days following the Landlord's receipt of the Accepting Tenants Step-Up Notice.

(g) If:

- (i) all of the ROFO Tenants give Notice before the expiry of the ROFO Response Period expressly declining the ROFO Offer or failing to give a Notice of Acceptance to the Landlord, in each case within the ROFO Response Period; or
- (ii) (A) one or more ROFO Tenants (in this paragraph (g) the "**Declining Tenant(s)**") decline to purchase its/their Respective Sale Interest by giving Notice expressly declining the ROFO Offer or by failing to give a Notice of Acceptance to the Landlord within the ROFO Response Period; (B) there is no Step-Up Tenant; (C) the Landlord has complied with paragraph (f)(ii) above (if applicable) and the time periods described therein have lapsed,

then the Landlord shall be entitled to sell the Respective Sale Interests individually or the Entire Sale Interest within the next one hundred and eighty (180) days following the expiry of the ROFO Response Period or the Step-Up Response Period, as the case may be, to one or more third party purchasers at a price which is not less 98.5% of the purchase price allocated to the applicable Respective Sale Interest as set forth in the ROFO Offer (or, if selling the Entire Sale Interest, the aggregate purchase price for the Entire Sale Interest set forth in the ROFO Offer) and otherwise on terms and conditions not materially more favourable to the purchaser than the ROFO Terms.

(h) If the Landlord has not transferred any Respective Sale Interest or the Entire Sale Interest, as the case may be, to a third party purchaser within a period of one hundred and

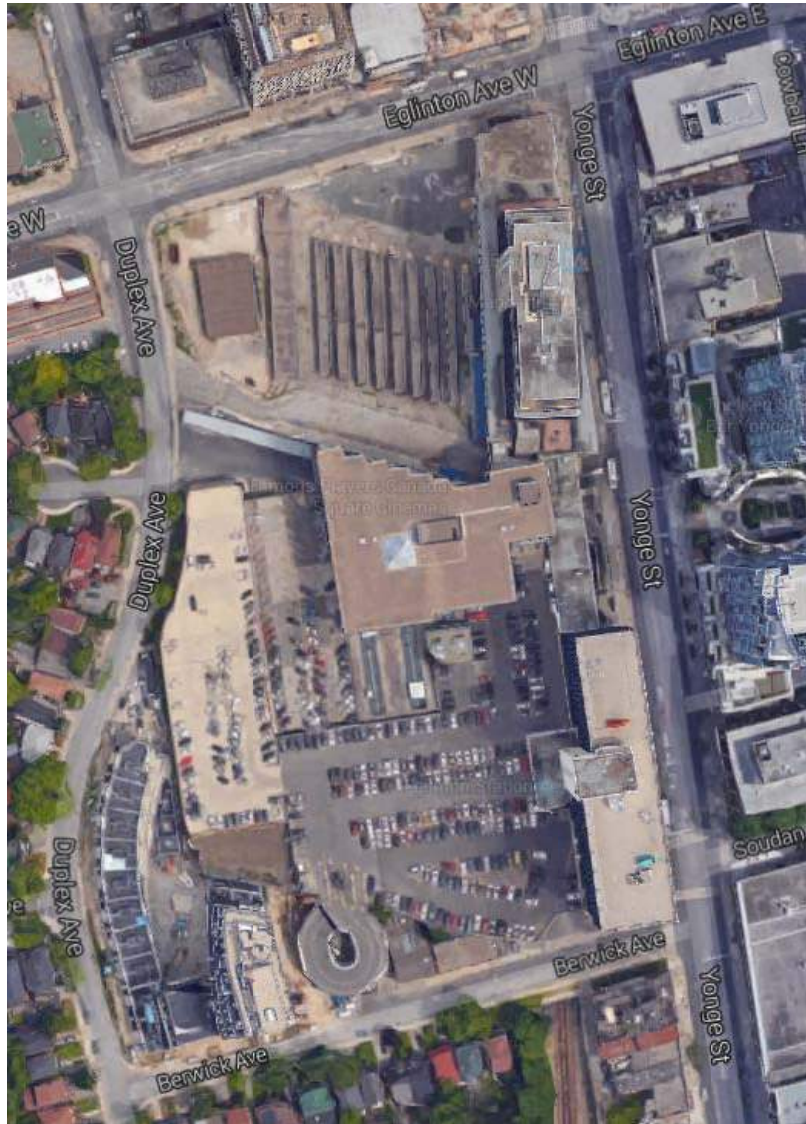
eighty (180) days from the expiry of the ROFO Response Period or the Step-Up Response Period, as the case may be, in accordance with the terms hereof, the Landlord shall not thereafter proceed with any sale of such Respective Sale Interest(s) or the Entire Sale Interest without again complying with the provisions of this Schedule "C" or Section 14.2.

- (i) Nothing in this Schedule "C" shall be construed to prohibit or restrict the Landlord, during the ROFO Response Period or the Step-Up Response Period, from preparing to offer or market the Respective Sale Interest(s) or the Entire Sale Interest for sale to third parties upon the expiry of the ROFO Response Period or the Step-Up Response Period, provided that the Landlord shall not during the ROFO Response Period or the Step-Up Response Period share a copy of the applicable Lease or any other confidential information of the Tenants with any potential purchasers and shall not enter into any agreement to list the Respective Sale Interest(s) or the Entire Sale Interest for sale before the expiry of the ROFO Response Period and, if applicable, the Step-Up Response Period.
- (j) Notwithstanding the foregoing, the provisions of this Schedule "C" shall not apply or shall cease to apply and the Landlord may discontinue any negotiations with any Accepting Tenants for the sale of their Respective Sale Interests if an Event of Default has occurred and is continuing under the applicable Separate Ground Lease.
- (k) Notwithstanding any other provisions of the Lease or this Schedule "C", the transfer by the Landlord of all or part of the Lands pursuant to a ROFO Exempt Transaction shall not be subject to the provisions of Sections 14.1 or 14.2 or this Schedule "C". For greater certainty, the provisions of Sections 14.1 and 14.2 and this Schedule "C" shall continue to apply to any successor landlord that has acquired an interest in all or part of the Lands as part of a ROFO Exempt Transaction.

SCHEDULE "D"

T.T.C. 2016 SPECIFICATIONS AND REQUIREMENTS FOR NEW BUS TERMINAL

See attached.



Canada Square

TTC Requirements



August 2016

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1. BACKGROUND

The Canada Square Lands (the "Lands") are located at 2180, 2190, 2200 and 2210 Yonge Street, in the southwest quadrant of Yonge Street and Eglinton Avenue.

The quadrant has complex land ownership (see Appendix A for a partial snapshot) although title to fee simple interests lies primarily with Toronto Transit Commission (TTC). Coordination between multiple divisions within the City of Toronto, City agencies such as TTC, Build Toronto, and external stakeholders such as Metrolinx, and private interests (leasehold interest holder) is required.

Redevelopment of the Lands poses several land use planning challenges such as: securing a high-quality public square space at the southwest corner of Yonge and Eglinton, and a high-quality neighborhood park on the Lands; determining if the height regime in the existing planning framework can be changed; retention and possible expansion of office/employment uses; and, provision of rental and possibly affordable rental housing.

2. OBJECTIVES

Based on Canada Square Steering Committee- Terms of Reference – Guiding Principles – f), "The first priority of any new development will be transit infrastructure for customers, operations and facilities (as determined by TTC) with objective being to provide direct, seamless, fully accessible transit access. Economic returns to City divisions, agencies and/or corporations will be a secondary priority. Community benefits will be defined separately through the planning process."

3. SCOPE OF WORK

According to the Terms of Reference, one of the roles of the TTC is to provide the necessary requirements to the selected developer(s) of the lands with respect to protection of its existing assets, new requirements (including bus terminal and interfaces) and upgrades to existing assets. TTC is to maintain full control over the design, construction and protection of its transit infrastructure on the Lands and ensure that TTC infrastructure is properly interfaced with Metrolinx facilities. The following depicts various design, functional, operational and maintenance requirements of TTC. All TTC structures and systems shall also meet specific requirements depicted in the TTC Design Standards, i.e. TTC Design Manual, TTC Standard and Directive Drawings, and TTC Master Specifications. All requirements included in this document are to be implemented at the cost of the developer, unless otherwise noted.

Property requirements for the Metrolinx Eglinton Crosstown project are not included in this document and are in addition to TTC requirements. They will need to be provided by Metrolinx.

4. DEVELOPMENT PROCESS

Any new development or redevelopment of the lands will follow procedures stated in the TTC Developer's Guide. Development review ensures that a proposed development will not adversely impact TTC's current and future operations or impact the integrity of TTC's facilities, property, and structures. All development submissions will be subject to TTC Technical Review as triggered by either site plan review process or building permitting processes. TTC will require the developer to enter into necessary legal agreements as part of the Technical Review process, prior to construction. TTC will consider imposing charges, as within its authority, to assign a dedicated staff person to manage the Technical Review processes.

5. REQUIREMENTS RELATED TO PROPERTY

At this point of time, it is not possible to define properties to protect and register the reference plans identifying boundaries of structures for which currently there is no design and which are not built.

Key Principles to TTC Property Ownership

- 5.1 TTC control and right of access for safe and efficient maintenance and operation of transit facilities is a key determining factor for any related rights that may be required as a result of any redevelopment of the lands.
- 5.2 TTC will retain ownership for those lands that contain its infrastructure with the addition of a 3 metre buffer around each structure, except below structures which would have no lower limit.
- 5.3 An exception to 5.2 above is utility easements. The buffer may be reduced for these elements, depending on the depth of utilities and protection for future requirements. Any utilities relocated by the developer shall include associated property interests as determined by TTC. No relocation of the existing TTC ductbanks (AC, DC, Signals and Communications) or utility ductbanks (e.g. Hydro, Bell, etc.) feeding TTC facilities on site is allowed.
- 5.4 Where TTC entrances exist today, the property for that entrance will be retained by TTC with a 3 metre buffer surrounding the entrance including air rights to 2 levels/storeys above ground level. There is recognition that these entrances could be relocated by a developer and these same rights would be applied to a new location, subject to modification with TTC's approval.
- 5.5 Where a TTC power substation exists today, the property for that substation will be retained by TTC with a 3 metre buffer surrounding the substation including air rights with no upper limit. No relocation of the substation is allowed.
- 5.6 TTC will retain ownership of its existing retail spaces within the subway station.
- 5.7 As a result of TTC's review of the proposed developments, the TTC may, for operation or maintenance purposes, require to protect or reserve additional property for future requirements. Open, early and continued dialogue with the developer will ensure TTC's requirements are clearly understood from the onset and that the redevelopment can incorporate these requirements appropriately.

More details on specific property requirements are included in Appendix B.

6. REQUIREMENTS SPECIFIC TO BUS FACILITIES

The following requirements cover bus related guidelines and issues that have to be taken into consideration during the design of the future permanent bus terminal:

- 6.1 Bus terminal shall meet TTC Design Standards and shall have a total of 7 bus bays including 5 standard bus bays and 2 articulated bus bays (one of which is the first, off-loading bay).
- 6.2 The primary bus terminal driveway shall be located off Duplex Avenue, opposite Duplex Cr., or further south.
- 6.3 The primary bus terminal driveway shall be exclusively for buses for its entire length.
- 6.4 Separate development-related driveway(s) shall be located as far away from the bus driveway intersection with Duplex as possible.
- 6.5 The design of the bus terminal access shall include, for TTC review, a detailed analysis of bus movements between Eglinton Avenue and the bus terminal, and consideration of site build-out and associated traffic.
- 6.6 Determination of whether the existing on-street police parking on Duplex is to be retained or accommodated elsewhere.
- 6.7 Lane widths and turning movements on Eglinton and Duplex shall accommodate bus turning movements without encroachment into opposing traffic lanes.
- 6.8 Where buses make right turns, a substantial compound inside radius is required so that the bus does not encroach into opposing traffic lanes or left-turn lanes.
- 6.9 The queue length of bus turning lanes on the bus driveway(s) in and out of the bus terminal shall accommodate at least two standard, 12m buses.
- 6.10 The queue lengths for all other turning lanes where buses operate shall accommodate at least two standard buses plus background traffic as validated by approximate traffic report.
- 6.11 Traffic engineering improvements to mitigate delays to buses shall be considered as part of the development design, e.g. signal detection, transit signal priority and exclusive bus-only lanes.
- 6.12 There shall be direct passenger transfer connections to the fare-paid areas of both the ECLRT and subway so that the walk times and distances for this transfer are minimized to the extent possible. Passenger transfer connections shall be barrier-free, accessible and shall be designed to minimize the number of elevators required to reach the ECLRT and TTC subway fare paid areas. Universal design solutions that accommodate all customers equally are preferred.
- 6.13 Passenger connections shall involve no back-tracked vertical movements.
- 6.14 Provide 10 staff parking spots in the permanent bus terminal, without impairing bus movements. Provide 4 vehicle parking spots in the permanent bus terminal, for crew's maintenance work, all without impairing bus movements. The following 3 types of working vehicles will be used: 1 x 36' Straight Truck, 1 x 36' Pumper truck and 2 x 18' Crew Cabs.
- 6.15 No at-grade pedestrian crossing on bus driveway(s) in the permanent bus terminal is allowed.
- 6.16 TTC DM-0412-02 (Associated Surface Facilities – Bus Facilities) defines minimum requirements for bus bay configuration and performance criteria for bus turning movements and platform gaps. Sections 1.4.2 and 1.5 of TTC DM-0412-02 apply particularly for acceptable bus facility configurations which heavily influence the square footage requirements for a bus facility.
- 6.17 TTC shall be consulted early in the design process to establish a working terminal concept and to “pre-clear” any design to minimize delays and comments during the

formal design review process. CADD files shall be submitted to TTC during the design review process to allow for a bus clearance analysis to be performed by TTC.

7. REQUIREMENTS RELATED TO GEOTECHNICAL DESIGN

Geotechnical information is the basis of any design to be done. Geotechnical requirements for the above noted redevelopment are as follows:

- 7.1 A Record of Site Condition (RSC) shall be obtained for the area occupied by TTC.
- 7.2 Existing TTC monitoring wells shall be decommissioned as per MOE Regulation 903 prior to construction. Decommissioning records shall be provided to TTC. Any replacement monitoring wells shall be installed in a location satisfactory to the TTC.
- 7.3 Engineering Department of TTC will continue monitoring the remaining soil and groundwater impacts at the site based on the remedial measures implemented in obtaining the RSC and revised monitoring well locations.

8. REQUIREMENTS RELATED TO CIVIL DESIGN

The Design and Construction of the proposed bus terminal and bus laybys shall comply with the documents referenced in Appendix C.

Bus Terminal Pavement Design and Grading Requirements

The pavement structure shall be designed and built in accordance with the following requirements:

- 8.1 All the pavement surfaces in areas drivable by vehicles or for pedestrian travel shall have hard surfaces and comply with all expected performance characteristics for safe use by the public.
- 8.2 Provide the design; obtain approvals, supply of materials, labour, equipment, inspection and testing associated with the requirements for grading and pavement and in accordance with geotechnical requirements.
- 8.3 Provide all Signing and Pavement Markings in accordance with the requirements of TTC, OPSS, Ontario Traffic Manuals, and City of Toronto Construction Specifications and Drawings.

Drainage and Stormwater Management Design Requirements

Design of the Drainage and Stormwater Management system shall include the following:

- 8.4 Bus terminal storm drainage and stormwater management system shall be designed for the 100-year storm event.
- 8.5 Assessment of the capacity of receiving sewers that could be compromised due to activities related to the implementation of the Works.
- 8.6 Implementation of control measures to prevent ingress of surface water into the bus terminal.

Existing, New and Relocated Utilities

Existing utilities that service TTC include: Bell, Cable, Gas, Hydro, water, sanitary and storm services. Identify all existing TTC utilities and services during the design phase in accordance with TTC procedure # ECE-P09. Design of new and relocated utilities pertaining to TTC development shall include the following:

- 8.7 Inventory of all existing utilities and services from Toronto Public Utilities Coordinating Committee (TPUCC), TTC and other authorities and service owners.
- 8.8 Conduct utility locate/survey to verify locations and depth of existing utilities prior to preparing utility drawings in accordance with ASCE CI 38-02 Standard Guideline for the Collection & Depiction of Existing Subsurface Utility Data (Utility Quality Levels D, C, B and A)
- 8.9 Identify requirements for utility relocation and any conflicts including staging.
- 8.10 Prepare and submit Utility Site Servicing Report.
- 8.11 Prepare and submit Utilities Relocation/Support and Protection Report.
- 8.12 Maintain all existing utilities and services to TTC during construction.
- 8.13 Utility coordination during the design phase shall be in accordance with TTC Procedure # ECE-P17 and utility coordination during the construction phase shall be in accordance with TTC Procedure # ECE-P18.
- 8.14 Obtain all permits and approvals required for dealing with the existing utilities and services and for new utilities and services required, to the satisfaction of the authorities having jurisdiction.
- 8.15 TTC reserves the right to refuse any improvement within 3 metres of its structures.

9. REQUIREMENTS RELATED TO STRUCTURAL DESIGN AND MAINTENANCE

TTC structures need to be designed and constructed to be safe from collapse during their construction and design life, and to be serviceable during their design life. The target design life for TTC structures varies from 75 to 100 years. Depending upon the type of structure, design needs to be carried out as per TTC Design Manual and Ontario Building Code (OBC). Some of the design requirements of the TTC Design Manual are more stringent than OBC requirements. Redevelopment of the Yonge-Eglinton Lands is expected to include construction of new Yonge/Eglinton bus terminal, new development around existing and new TTC facilities and connection with TTC structures. In view of this, the following structural requirements need to be addressed during the redevelopment of the Yonge-Eglinton lands:

General

- 9.1 The development should be classified for review as per TTC Developer's Guide.
- 9.2 No impact on TTC structures, TTC Operations, or access of Emergency Vehicles to TTC Stations and Emergency Exits shall be allowed. Documents will be submitted to TTC for review.
- 9.3 Minimum clearance between proposed new structure and TTC structure shall be 3 metres (with the exception of development connection as defined by Developer's Guide).

Design Standards and Codes for TTC Structures

- 9.4 Use the latest editions of all relevant and applicable standards and codes for structural design and materials.
- 9.5 Comply with TTC Design Manual and Master Specifications (MS).

Loadings for TTC Structures

- 9.6 Design loads as per TTC Design Manual and OBC, as specified in TTC Design Manual.
- 9.7 Design loading combinations as per TTC Design Manual and/or OBC, as specified in TTC Design Manual.

Serviceability Performance Requirements for TTC Structures

- 9.8 Serviceability limits as per OBC.
- 9.9 Deflection, sway and vibration limits as per the appropriate design codes with particular attention to elements supporting brittle elements such as brickwork and glazing.
- 9.10 Crack widths are to be within limits of the prescribed codes.
- 9.11 Durability of concrete structures and covers to reinforcement to be in line with TTC Design Manual and current CAN/CSA A23 Standards.
- 9.12 Minimum thickness of underground structural elements in contact with soil (e.g. perimeter walls, roof and base slabs, ventilation shaft, etc.) to be 600 mm.
- 9.13 Structural steel to be protected against corrosion.

Pre and Post-Construction Condition Survey of TTC Structures

- 9.14 Requirements for Pre and Post-Construction Condition Survey of TTC Structures and its format are to follow the TTC Developer's Guide.

Excavation / Shoring Design

- 9.15 If excavation causing unbalanced condition is to be undertaken, confirmation that there is no impact to TTC structure shall be demonstrated by calculations and shown on drawings at all design and construction stages.
- 9.16 In case of excavation causing unbalanced condition, one or both sides of the TTC structure shall be adequately supported.
- 9.17 Excavation support system adjacent to TTC property to be designed for apparent "at-rest" earth pressures as recommended in the TTC Design Manual, unless the geotechnical report recommends higher value.
- 9.18 Tie-backs are not allowed within 1.5m of TTC structures. Pressure grouted (post grouted) tie-backs are not allowed within 3m of TTC structures. Packers to be used for pressure grouted tie-backs within 6m from TTC structures. Provide design grouting pressure for all tie-backs within 6m of TTC structures at subsequent design and construction stages. Tie-backs that are above any parts of TTC structures and within 10m of TTC structure's exterior walls may need to be de-stressed. The requirement for de-stressing of tie-backs will be determined by TTC on a case by case basis during the Development Review.

New Structures Adjacent to TTC Structures

Prepare for TTC review the details of the following:

- 9.19 Relationship of the new structure to TTC's structure in both plans and sections together with details of expansion joints or structural connections to the existing TTC structure.
- 9.20 Proposal for relocation/protection of existing structures at subsequent design and construction stages.
- 9.21 Proposal for demolition of existing structures at different stages of construction.
- 9.22 Proposal for excavation support and underpinning at different stages of construction.
- 9.23 Proposal for the structural framing plans for new structures.
- 9.24 Hollowed precast slab systems are not acceptable for new TTC structures or portions of the new structures used by TTC.
- 9.25 Provide impact assessment statement from Structural and Geotechnical Consultants stating the effects of the new structure on the TTC structure.
- 9.26 Provide structural analysis of the excavation support and foundations to show effects of all applicable loadings or loading removals on TTC structures. Earthquake loading shall be included. Design calculations to demonstrate that no two adjacent TTC running structural units will have differential movement larger than 3mm, to be verified by monitoring.
- 9.27 Independent Structural Design Check Certificate to be provided for all submitted design calculations prior to construction commencement.
- 9.28 Heavy machinery passing over TTC structures shall be taken into account with details provided.
- 9.29 Effects of dewatering during construction shall be taken into account.
- 9.30 Long term differential settlements shall be taken into account.
- 9.31 Provide details of design/remedial work to TTC structures in order to support the roof at wall openings (including details for the openings), structural calculations, drawings and construction sequencing at all design and construction stages.

Construction Crane and Heavy Construction Equipment

- 9.32 Loading from construction crane shall have no impact on TTC structures. Crane cannot be located directly above TTC structures. Cranes are allowed to swing, but prohibited from carrying loads over TTC structures, TTC vehicles, bus/streetcar platforms or any other areas used by TTC passengers and employees.
- 9.33 Provide crane locations and loadings with other pertinent details, such as axle loads and configuration, outrigger loads and configuration, size of the spread for each outrigger, lifting area diagram, and maximum/minimum loads on each leg/outrigger.
- 9.34 Loading from heavy construction equipment like drilling rigs and excavating machines shall have no impact on TTC structures. Heavy equipment shall not be allowed to operate above TTC structures, unless detailed assessment proves substantially that it would have no impact on TTC structures.

Monitoring (During design and construction)

- 9.35 Any of the two existing adjacent TTC running structural units shall not have differential movement larger than 3mm as a result of the new construction.
- 9.36 Provide the Monitoring Plan for the Shoring and Subway structures in accordance with the TTC Developer's Guide.

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- 9.37 For excavations adjacent to the TTC structure, monitoring shall include pile target surveys, inclinometers in the soil/piles, tiltmeters attached to the inside of each affected TTC box/tunnel structure (continuous measurements), electrolevels across each joint of the TTC structure (continuous measurements), and continuous measurements of changes in lateral earth pressure within the soil (i.e. spade cells, pressure cells, etc.). For excavations below the TTC structure, the above monitoring is required, along with a monitoring system using fiber optic technology to continuously monitor changes in deformation (to less than 0.5mm accuracy) and integrity of the TTC structure.

Structural Maintenance and Inspection

- 9.38 Maintain the accessibility of all TTC structures (new and existing) for future TTC structural maintenance and inspection activities. A minimum 3m clearance around TTC structures should be provided for structural inspection and maintenance.
- 9.39 All new underground TTC structures will be waterproofed based on TTC standards.
- 9.40 If existing TTC subway structures are to be exposed during construction, an inspection of all exposed structures needs to be carried out, necessary concrete repairs performed and, if required, new waterproofing system applied. Replacement/repair of waterproofing system, including expansion joint repair shall be designed using systems that are equal to or compatible with the existing systems.

10. REQUIREMENTS RELATED TO MECHANICAL DESIGN

Plumbing and Drainage

- 10.1 Plumbing (hot and cold water) and drainage (sanitary and storm) services for TTC facilities to be available in accordance with applicable codes, TTC Master Specifications and TTC Design Manual.
- 10.2 Where drainage system requires a pumping station, application of duplex (duty/standby) self-priming pumps (100% redundancy) is mandatory. Pumps shall be located in a dedicated mechanical room.

Fire Protection

- 10.3 Fire protection systems shall be in accordance with applicable codes and requirements of Authorities Having Jurisdiction, TTC Master Specifications and TTC Design Manual. A dedicated sprinkler and water meter room is mandatory.
- 10.4 Drains serving a dry sprinkler system are to be routed back to the sprinkler valve room, or located in accessible secure areas.

HVAC

- 10.5 All TTC areas (driver break rooms, offices, service rooms, washrooms, janitor rooms, communication rooms, etc.) shall be heated, ventilated and air conditioned in accordance with applicable codes, TTC Master Specifications and TTC Design Manual to maintain required indoor conditions.
- 10.6 Ventilation for TTC bus terminal and bus circulation areas shall be designed in accordance with applicable codes and industrial design standards to accommodate the maximum number of diesel powered buses that can fit within the area.

Canada Square
TTC Requirements to the City

- 10.7 The entire space shall have an adequate air circulation to completely cover the entire space without the presence of stagnant air zones. Outside air to be supplied at waiting areas and exhausted away. Computational Fluid Dynamics (CFD) analysis shall be performed and submitted to TTC to demonstrate this compliance.
- 10.8 Provide an enclosed waiting area pressurized with outdoor air.
- 10.9 Ventilation system shall be interlocked with gas detection system (CO, NOx) installed in accordance with applicable codes, requirements of Authorities Having Jurisdiction, TTC Master Specifications and TTC Design Manual.
- 10.10 Primary ventilation fans shall be on VFD drives and shall provide certain level of redundancy.
- 10.11 Bus transfer area shall be separated from subway station to prevent piston effect drawing bus fumes into subway and waiting areas.
- 10.12 Fan rooms shall be designed for full removal of one fan and/or motor without impacting the other equipment.
- 10.13 The HVAC system shall be fully integrated with TTC's central building automation controls system.
- 10.14 Outside air openings and exhaust air openings shall be located in a manner that prevents cross contamination.

11. REQUIREMENTS RELATED TO ELECTRICAL DESIGN

The following are requirements related to electrical design and existing electrical distribution network (AC & DC):

- 11.1 For any alteration or new construction for TTC facilities, the electrical design shall comply with all applicable codes, standards and TTC Design Manual. Materials/ products and installation methods shall comply with applicable codes, standards and TTC Master Specifications.
- 11.2 Adequate room/space with sufficient equipment and wiring access shall be taken into consideration for any new or relocated electrical distribution system components or electrically-powered system components (e.g. mechanical equipment, communications equipment, elevating devices, etc.).
- 11.3 No relocation of the existing TTC Berwick Traction Power Substation is allowed. It is located below grade, between 2180 & 2190 Yonge Street and adjacent to TTC Subway Box Structure.
- 11.4 No relocation of the existing TTC ductbanks (AC, DC, Signals and Communications) or utility duct banks (e.g. Hydro, Bell, etc.) feeding TTC facilities on site is allowed. The recorded existing electrical ductbanks converge at TTC Berwick Traction Power Substation. Realizing the complexity and history of the existing building facility, any un-recorded underground raceway located during site survey shall be reported to TTC immediately for TTC's evaluation, coordination and instruction; no such raceway shall be disturbed/altered without TTC's review.
- 11.5 If required, relocate existing T.H.E.S. incoming service from Duplex Avenue to TTC old Eglinton garage in order to maintain electrical power to Canada Square Boiler House. Prior to relocation, all stakeholders shall be consulted and a comprehensive electrical load analysis shall be carried out in order to determine the current load requirements of facilities affected and any potential necessity for hydro service upgrade. Existing hydro incoming feeders and old Eglinton garage electrical distribution system to remain in service during construction of the relocated distribution setup. Temporary power shall be provided to ensure minimum electrical

- service disturbance during power cut-over. Essential services of facilities affected shall not be interrupted throughout the relocation.
- 11.6 If required, relocate existing UPS system and associated distribution network installed in the TTC Eglinton old garage.

12. REQUIREMENTS RELATED TO COMMUNICATIONS SYSTEMS

Communication systems like CCTV, Fire Alarm, Public Address System, and Supervisory Control and Data Acquisition system (SCADA) are critical for the operation of the transit system. Communication systems are required for safety and the protection of passengers, employees and assets. Communication systems of the new facilities and improvements to existing facilities shall be installed and/or expanded and integrated with existing communication systems fulfilling the following requirements:

- 12.1 Equipment such as ventilation fans, pumps, elevators/escalators and other high priority/critical equipment may require interface with the SCADA.
- 12.2 Radio System coverage for vehicle and personnel communication may be required.
- 12.3 As part of any redevelopment proposal, the existing Communications Systems should be reviewed for integration of new equipment.
- 12.4 Any below grade or covered proposals for the bus loop shall require radio coverage to be extended to the bus loop and new service rooms. This will require the installation of radio equipment such as radiating cables and amplifiers.
- 12.5 A Communications Room of adequate size (at least 15 sq. m) shall be included in the proposal to house communications equipment such as RF Amplifiers, PA Amplifiers, CCTV recording equipment, network equipment and space for cabling terminations and splicing.
- 12.6 Based on record documents, the redevelopment site includes subsurface communications services that have been abandoned. These services should be located prior to any redevelopment, to make sure they are de-energized and disconnected.

13. REQUIREMENTS RELATED TO MAINTENANCE

Dedicated waste holding area

- 13.1 Provide a waste holding area at the bus transfer area that will hold all 30 waste caddies (32"x28") anticipated for the station, along with maneuverability space.
- 13.2 Provide BM/BC security access for the waste holding area – double doors with hold open device.
- 13.3 No crossing of bus lanes to get to the area is allowed.
- 13.4 Provide janitorial access to allow for wheeling in/out of mobile carts/caddies.
- 13.5 Provide packer truck access with minimum 3.6 metre height clearance and close proximity to the roadway.
- 13.6 Provide curb cut or ramp from waste holding area floor level to road level.
- 13.7 Provide water source/hose bib in close proximity of waste holding area, either heat traced or an allowance to shut off or drain during winter season.
- 13.8 Provide appropriate lighting in the waste holding area during winter season.

Canada Square
TTC Requirements to the City

Elevators and Escalators

- 13.9 If escalator or elevators are provided, ensure that provisions of TTC Design Manual are met for maintenance.

Building Equipment

- 13.10 Ductwork, louvers shall be arranged for ease of cleaning by pressure washer.

Fire Protection

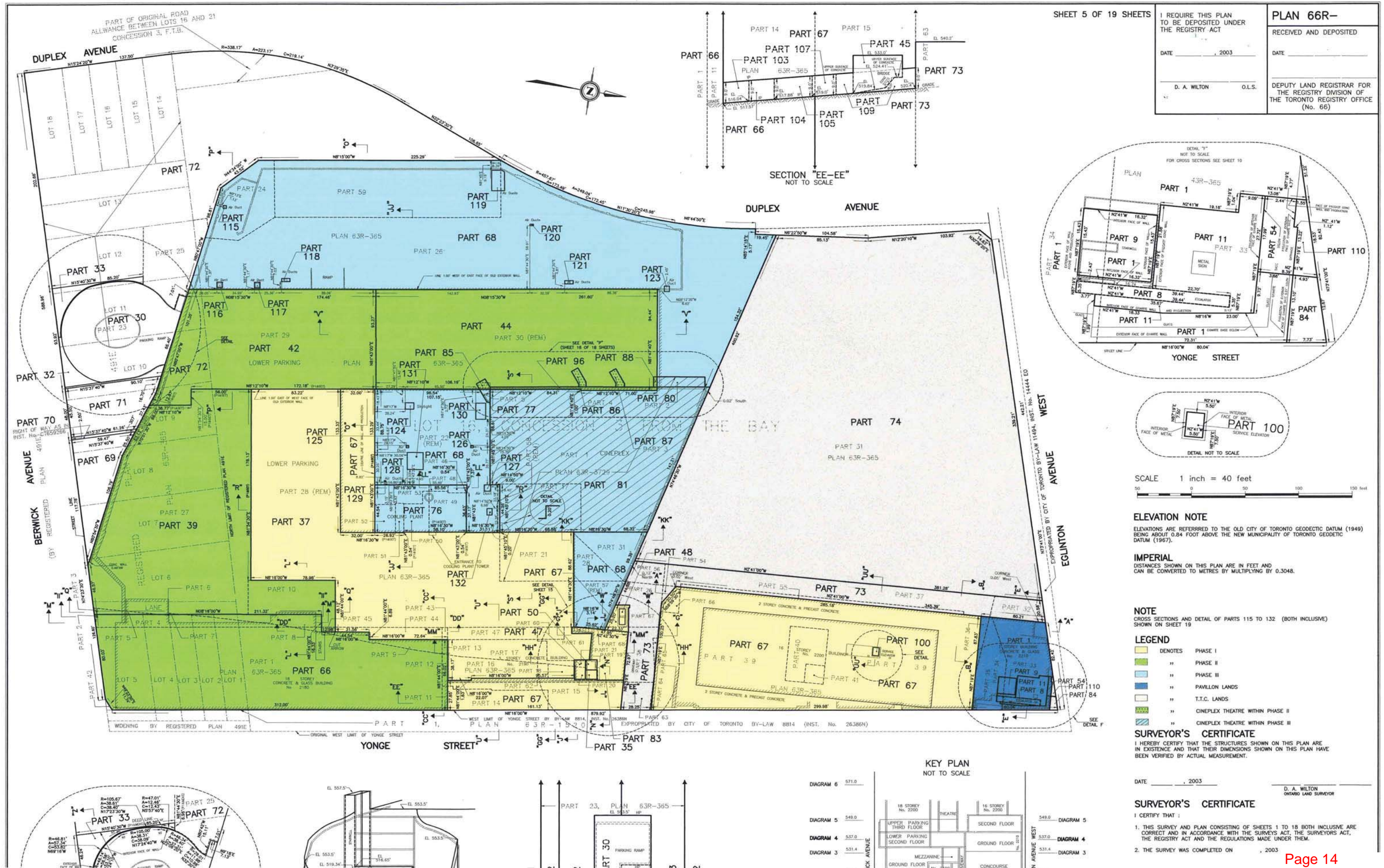
- 13.11 Emergency exits, if provided, are not to be designed with mag locks. Provide tamper proof pull stations where required.
- 13.12 Heat detectors and smoke detectors shall be mounted in accessible locations, out of bus traffic.

Driver Washrooms

- 13.13 Ensure room for hot water tanks, pump station, etc.
- 13.14 Provide janitor's closet with mop sink and space for cleaning supplies.

Other Requirements

- 13.15 Vacuum truck access to pump out catch basins (if any) with minimum 3.6 metre height clearance.
- 13.16 Street sweeper access – height restrictions for packer truck/buses are sufficient.
- 13.17 Provisions for mirrors at corners and other blind spots are required.
- 13.18 Floor to ceiling height in transfer area shall include allowance for potentially large sized ducts (i.e. minimum clearance for regular and hybrid buses). Note clearance requirements for service vehicles under Building Services.
- 13.19 Large sized ducts shall not obstruct access to services above them (sprinklers, lights, etc.).
- 13.20 Access ramps (if needed) shall be given needed anti-skid treatment, snow melting, etc.
- 13.21 Access ramps should be protected from all overhead precipitation, including flood water ingress from storm events.
- 13.22 Where glazing is installed and accessible to the public, ensure sacrificial film is installed on glazing located within the touch zone.
- 13.23 Provide anti-graffiti coating for all exposed concrete finishes accessible to the public.



SHEET 5 OF 19 SHEETS

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE REGISTRY ACT

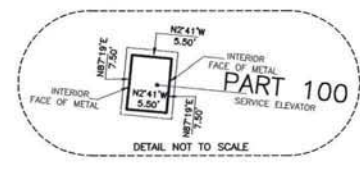
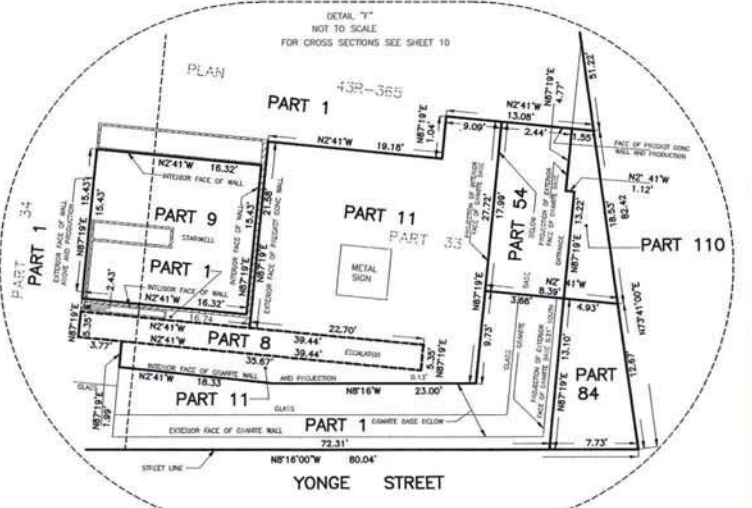
DATE _____, 2003

D. A. WILTON O.L.S.

PLAN 66R- RECEIVED AND DEPOSITED

DATE _____

DEPUTY LAND REGISTRAR FOR THE REGISTRY DIVISION OF THE TORONTO REGISTRY OFFICE (No. 66)



SCALE 1 inch = 40 feet

0 50 100 150 feet

ELEVATION NOTE

ELEVATIONS ARE REFERRED TO THE OLD CITY OF TORONTO GEODETIC DATUM (1949) BEING ABOUT 0.84 FOOT ABOVE THE NEW MUNICIPALITY OF TORONTO GEODETIC DATUM (1967).

IMPERIAL

DISTANCES SHOWN ON THIS PLAN ARE IN FEET AND CAN BE CONVERTED TO METRES BY MULTIPLYING BY 0.3048.

NOTE

CROSS SECTIONS AND DETAIL OF PARTS 115 TO 132 (BOTH INCLUSIVE) SHOWN ON SHEET 19

- LEGEND**
- DENOTES PHASE I
 - PHASE II
 - PHASE III
 - PAVILLON LANDS
 - T.T.C. LANDS
 - CINEPLEX THEATRE WITHIN PHASE II
 - CINEPLEX THEATRE WITHIN PHASE III

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE STRUCTURES SHOWN ON THIS PLAN ARE IN EXISTENCE AND THAT THEIR DIMENSIONS SHOWN ON THIS PLAN HAVE BEEN VERIFIED BY ACTUAL MEASUREMENT.

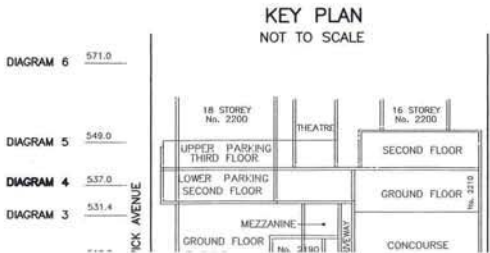
DATE _____, 2003

D. A. WILTON
ONTARIO LAND SURVEYOR

SURVEYOR'S CERTIFICATE

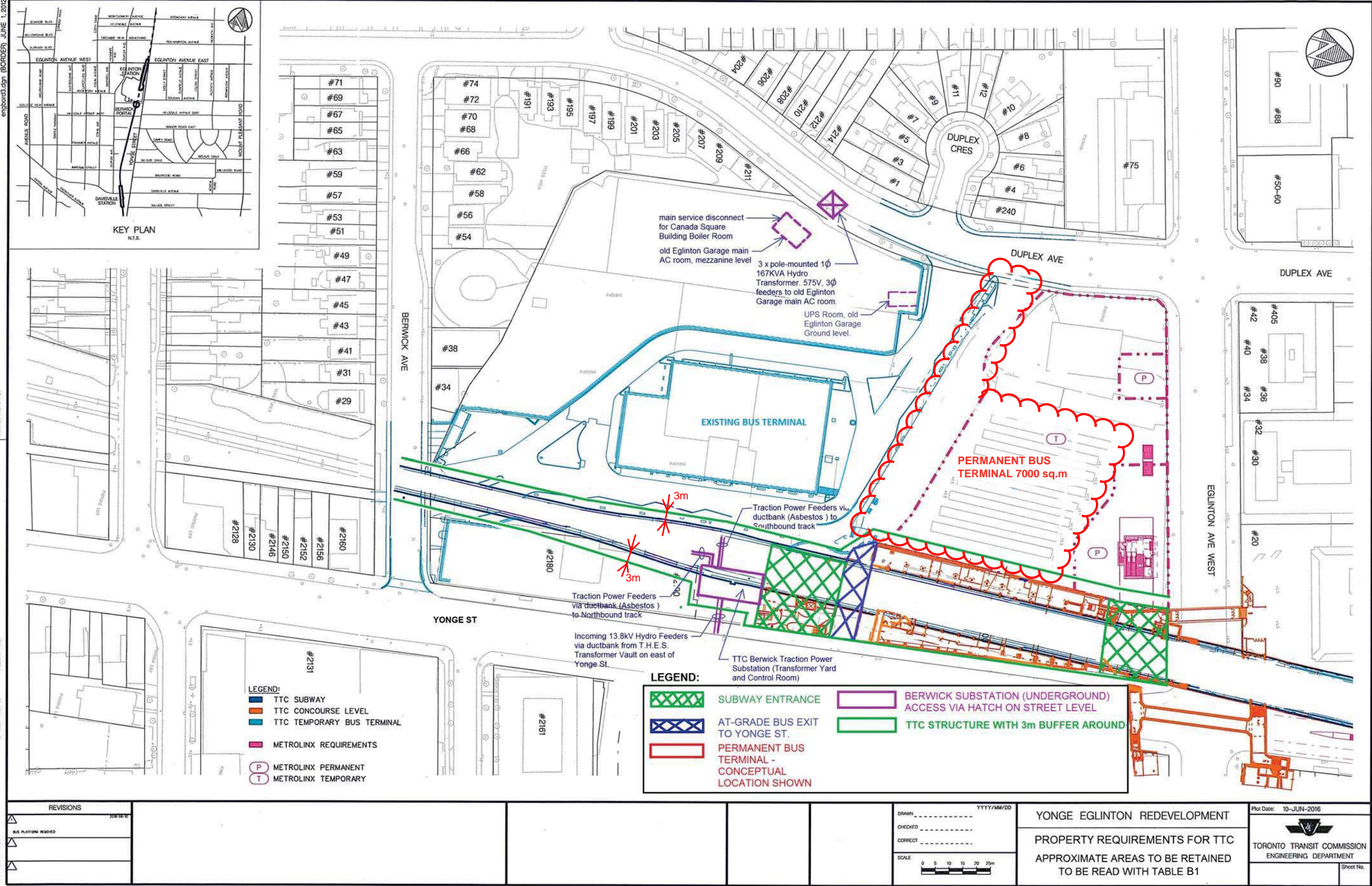
I CERTIFY THAT:

1. THIS SURVEY AND PLAN CONSISTING OF SHEETS 1 TO 18 BOTH INCLUSIVE ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON _____, 2003



Appendix B: Property Requirements

CADD FILE NAME: SubwayYonge LINE:EglintonOBS325.03e PAD0160-PR-252-sht00-rev00.dgn



TTC Property Requirements at Yonge-Eglinton

June 20 2016

All property with respect to PIN 21172-0309 (LT)
to be read with Sketch B1

Component Description	Property Rights	Conditions	Other Notes	Drawing Reference
1 Subway box structure - including Berwick Portal, south cross over, platform extending north to Eglinton Avenue Road allowance	Subsurface & surface Fee	Property interests extend minimum 3 metre offset from structures on all sides, except below structure which will have no lower limit		Identified in legend on sketch
2 Traction power substation - east of subway box	Subsurface & surface	Property interests extend minimum 3 metre offset from structures on all sides, except below structure which will have no lower limit	TTC to verify restrictions above substation	purple components south of south entrance
3 Subway Concourse level below grade extending above subway box	Subsurface & surface	Minimum 3 metre offset from structures on all sides		Identified in legend on sketch
4 Main pavilion entrance at grade with air rights above two levels	Subsurface & surface	Property interests extend minimum 3 metre offset from structures on all sides, except below structure which will have no lower limit and upper limit of 2 storeys	Entrance could be relocated at developer cost, subject to TTC approval, but property requirements apply to new location.	identified in legend on sketch
5 Secondary / automatic entrance at grade with air rights above two levels	Subsurface & surface	Property interests extend minimum 3 metre offset from structures on all sides, except below structure which will have no lower limit and upper limit of 2 storeys	Entrance could be relocated at developer cost, subject to TTC approval, but property requirements apply to new location.	identified in legend on sketch
6 New permanent bus terminal to TTC specifications - (most likely to be located in part 74 - from R-Plan)	Subsurface/surface & air rights	Property interests extend minimum 3 metre offset from structures on all sides, except below structure which will have no lower limit and upper limit of 2 storeys or as required by design	If incorporated into other structure, ownership limits may change.	Identified in legend on sketch
7 New permanent MX LRT entrance - TBD by MX/CTS	subsurface, surface and limited air rights to approx. three storey height	Defined by Metrolinx - actual limit to be determined when design is completed and accepted by TTC/City.	Obligation to transfer permanent rights within Master Agreement between City, TTC, MX	
8 Area for parking of non-revenue vehicles (14 in the permanent bus terminal and 25 employee spaces)	Possible permanent easement	Area to be defined as part of development proposal.	Spaces allocated under existing agreement in parking garage.	
9 Maintenance/access/utility easements - utilities, other structures		Area to be defined based on existing infrastructure	Potential to relocate some utilities - see document	
10 TTC retail spaces - concourse & permanent bus terminal - to be confirmed by Customer Development		Existing retail spaces included in concourse requirements.	TTC bus terminal and station specifications include space for retail.	subject to TTC Retail Strategy
11 THES Electrical Feed - Berwick	surface + subsurface easement	Property requirement to be determined, easement for conduits to be determined	Can be relocated at developer cost, subject TTC approval, property requirements still apply to relocated plant	Identified in legend on sketch
12 UPS Facility - midblock south of old Bus terminal lands	surface + subsurface easement	Property requirement to be determined, easement for conduits to be determined	Can be relocated at developer cost, subject TTC approval, property requirements still apply to relocated plant	Identified in legend on sketch
13 TTC Eglinton Garage Main AC Room	surface + subsurface easement	Property requirement to be determined, easement for conduits to be determined	Can be relocated at developer cost, subject TTC approval, property requirements still apply to relocated plant	Identified in legend on sketch
14 Bus Exit driveway to Yonge Street	Surface fee	Property requirement based on current access - overhead clearance per TTC Standards	Existing access could be relocated depending on development concept and replacement bus terminal arrangement.	Identified in legend on sketch
Back of House (BOH) rooms - to be covered within subway structures/station box/concourse requirement:				
15 Operator's Lunch room, Cleaner's room, Men & Women's Washroom, Relay room, Furnace, storage, Staff Washroom, Line Mechanics Room, Breaker Room, Battery Room, Bell Room/Cable Room, Signals Power Supply Room, Signals Relay Room, Node Room, ATC Room, Tower Room, Auxiliary Control Room, Pump Room, Storage Rooms, Berwick Substation		Located within Subway Platform Level	Descriptions provided are as per original Contract Documents and not verified on site. Some of these rooms may currently bear different names.	
16 Electrical Room, Barrier Free Washroom, Boiler Room, Battery Room, Hydro Meter Room, Equipment Room, Switchboard Room, Cleaner's Room, Washroom, Mechanical Room		Located within Subway Concourse Level	Descriptions provided are as per original Contract Documents and not verified on site. Some of these rooms may currently bear different names.	
17 Electrical Room, Mechanical Room, Exit Corridor, Storage Room, RT. SPVR. Room, Elevator Service Room		Located within Subway Street Level	Descriptions provided are as per original Contract Documents and not verified on site. Some of these rooms may currently bear different names.	
18 United Way space		Located within Subway Street Level		
19 Any other space currently in use and not covered above				

Table B1

APPENDIX - C

C.1 TTC REFERENCE DOCUMENTS

- C.1.1 TTC Design Manual (DM)
- C.1.2 TTC Developer's Guide
- C.1.3 TTC Standard and Directive Drawings
- C.1.4 TTC Master Specifications
- C.1.5 TTC Design Review Checklists
- C.1.6 TTC Procedure # ECE-P09
- C.1.7 TTC Procedure # ECE-P17
- C.1.8 TTC Procedure # ECE-P18

C.2 OTHER REFERENCE DOCUMENTS

- C.2.1 Accessibility for Ontarians with Disabilities Act (AODA), 2005, O. Reg. 191/11
Integrated Accessibility Standards, as amended
- C.2.2 Ontario Provincial Standard Drawings (OPSD) and Specifications (OPSS)
- C.2.3 Ontario Traffic Manuals (Books 1 through to 12)
- C.2.4 Wet Weather Flow Management Guidelines
- C.2.5 Wet Weather Flow Management Policy
- C.2.6 Design Criteria for Sewers and Watermains
- C.2.7 Sewers By-law (Toronto Municipal Code, Chapter 681)
- C.2.8 Toronto Green Standards
- C.2.9 T.H.E.S. Conditions of Services
- C.2.10 MOE Regulation 903
- C.2.11 City of Toronto Construction Specifications and Drawings
- C.2.12 ASCE CI 38-02 Standard Guideline
- C.2.13 Documents referenced in C.1.1 to C.1.8

SCHEDULE "E"
NET PRESENT VALUE ECONOMIC MODEL

See attached.

Canada Square Redevelopment: Illustrative NPV Economic Model

Base Rent Assumptions and Projected Ground Lease Rental Payments

In Canadian Dollars

Lease Dates	
Effective Start Date	30-Apr-2021
Commencement Date	1-Jul-2022
20th Anniversary of Commencement Date	1-Jul-2042
40th Anniversary of Commencement Date	1-Jul-2062
60th Anniversary of Commencement Date	1-Jul-2082
80th Anniversary of Commencement Date	1-Jul-2102
Expiration of Initial Term	30-Jun-2121
Initial Term (Years)	99
Project Schedule (Substantial Completion Date)	
Phase 1a	1-Jan-2026
Phase 1b	1-Jan-2026
Phase 2a	1-Jan-2030
Phase 2b	1-Jan-2030
Phase 2c	1-Apr-2031

Stabilized Base Rent (Monthly)	
Stabilized Base Rent	\$461,194
First Base Rent Reset	\$625,204
Second Base Rent Reset	\$1,016,996
Third Base Rent Reset	\$1,654,309
Fourth Base Rent Reset	\$2,691,002
Extension Fee Payable	No

Determination of FMVL	
FMVL - Residential	\$85 PSF
City Housing Requirements Adjustment	(\$25) PSF
Adjusted Applicable Unit Rate - Residential	\$60 PSF
FMVL - Non-Residential	\$55 PSF
2180 Yonge (Non-Residential)	\$55 PSF

Enabling Costs	\$25,000,000
Extension Fee Payable	No
Extension Fee	\$10,000,000

Rental Rate	
Canada Bond Yield ¹	2.50%
Plus 175 basis points	1.75%
Actual Rental Rate	4.25%
* expressed as a weighted average based on FMVL	
¹ Canada Bond yield capped at 2.50%	

Base Rent Resets	
First Base Rent Reset Date	7/1/2042
Phase 1a*	2.10%
Phase 1b*	2.10%
Phase 2a*	2.10%
Phase 2b*	2.10%
Phase 2c*	2.10%
* expressed as CAGR weighted by GFA Type	

Subsequent Base Rent Resets	
% of NOI Growth	85%
Phase 1a NOI Growth*	162.67%
Phase 1b NOI Growth*	162.67%
Phase 2a NOI Growth*	162.67%
Phase 2b NOI Growth*	162.67%
Phase 2c NOI Growth*	162.67%
* expressed as cumulative NOI growth over the 20 year period after 85% adj.	

Net Present Value	
Min. Annual Base Rent - Development Period	\$2,027,892
Discount Rate	4.25%

Net Present Value \$161,151,491

Development Assumptions - Zoning GFA							
	Existing	Phase 1a	Phase 1b	Phase 2a	Phase 2b	Phase 2C	Total
Residential	-	-	454,711 SF	354,906 SF	349,928 SF	430,381 SF	1,589,926 SF
CT Office Lease	-	621,043 SF	-	-	-	-	621,043 SF
Non-Residential	-	36,963 SF	29,700 SF	-	-	-	66,663 SF
Subtotal - Redevelopment	-	658,006 SF	484,411 SF	354,906 SF	349,928 SF	430,381 SF	2,277,632 SF
2180 Yonge Street	400,000 SF	-	-	-	-	-	400,000 SF
2190 Yonge Street	167,300 SF	-	-	(167,300) SF	-	-	-
2200 Yonge Street	263,700 SF	(263,700) SF	-	-	-	-	-
2210 Yonge Street	13,000 SF	(13,000) SF	-	-	-	-	-
Total Zoning GFA							2,677,632 SF

Projected Ground Lease Payments					
Year	Annual Payment	Year	Annual Payment	Year	Annual Payment
2021	\$1,520,919	2056	\$7,502,448	2091	\$19,851,706
2022	\$2,027,892	2057	\$7,502,448	2092	\$19,851,706
2023	\$2,027,892	2058	\$7,502,448	2093	\$19,851,706
2024	\$2,027,892	2059	\$7,502,448	2094	\$19,851,706
2025	\$2,027,892	2060	\$7,502,448	2095	\$19,851,706
2026	\$2,598,494	2061	\$7,502,448	2096	\$19,851,706
2027	\$3,169,096	2062	\$9,853,199	2097	\$19,851,706
2028	\$3,169,096	2063	\$12,203,950	2098	\$19,851,706
2029	\$3,169,096	2064	\$12,203,950	2099	\$19,851,706
2030	\$3,903,359	2065	\$12,203,950	2100	\$19,851,706
2031	\$4,861,798	2066	\$12,203,950	2101	\$19,851,706
2032	\$5,534,324	2067	\$12,203,950	2102	\$26,071,865
2033	\$5,534,324	2068	\$12,203,950	2103	\$32,292,024
2034	\$5,534,324	2069	\$12,203,950	2104	\$32,292,024
2035	\$5,534,324	2070	\$12,203,950	2105	\$32,292,024
2036	\$5,534,324	2071	\$12,203,950	2106	\$32,292,024
2037	\$5,534,324	2072	\$12,203,950	2107	\$32,292,024
2038	\$5,534,324	2073	\$12,203,950	2108	\$32,292,024
2039	\$5,534,324	2074	\$12,203,950	2109	\$32,292,024
2040	\$5,534,324	2075	\$12,203,950	2110	\$32,292,024
2041	\$5,534,324	2076	\$12,203,950	2111	\$32,292,024
2042	\$6,518,386	2077	\$12,203,950	2112	\$32,292,024
2043	\$7,502,448	2078	\$12,203,950	2113	\$32,292,024
2044	\$7,502,448	2079	\$12,203,950	2114	\$32,292,024
2045	\$7,502,448	2080	\$12,203,950	2115	\$32,292,024
2046	\$7,502,448	2081	\$12,203,950	2116	\$32,292,024
2047	\$7,502,448	2082	\$16,027,828	2117	\$32,292,024
2048	\$7,502,448	2083	\$19,851,706	2118	\$32,292,024
2049	\$7,502,448	2084	\$19,851,706	2119	\$32,292,024
2050	\$7,502,448	2085	\$19,851,706	2120	\$32,292,024
2051	\$7,502,448	2086	\$19,851,706		
2052	\$7,502,448	2087	\$19,851,706		
2053	\$7,502,448	2088	\$19,851,706		
2054	\$7,502,448	2089	\$19,851,706		
2055	\$7,502,448	2090	\$19,851,706		

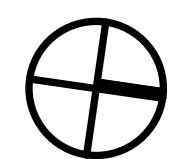
SCHEDULE "F"
DIAGRAM OF LRT AREAS

See attached.

Schedule F-1



Diagram of LRT Areas - Concourse Level (-4.0m)



Schedule F-2

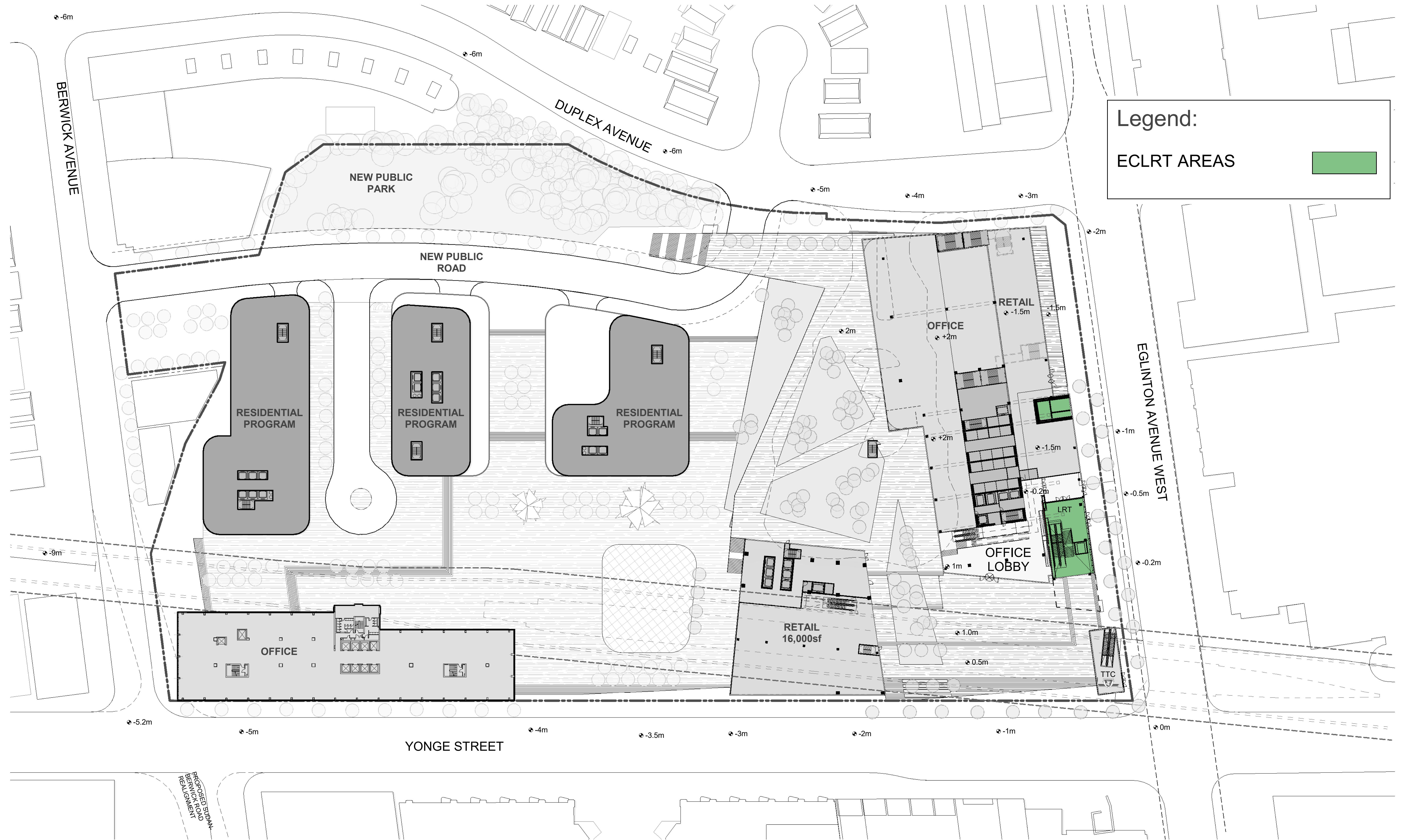
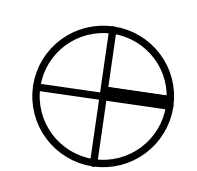


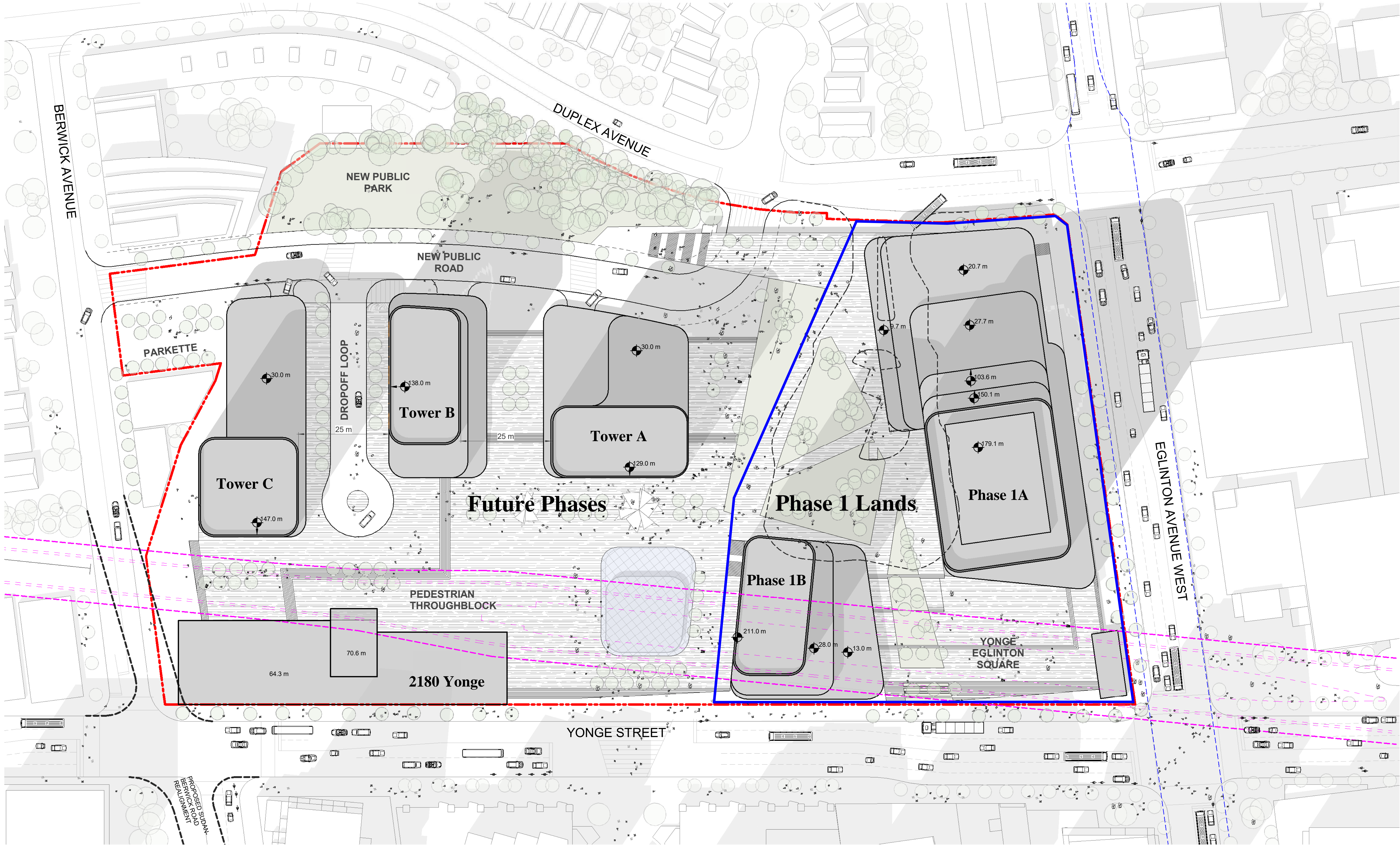
Diagram of LRT Areas - Ground Level (0.0m at Yonge/Eglinton)



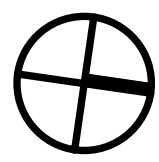
SCHEDULE "G"
MASTER DEVELOPMENT PLAN

See attached.

Schedule G-1



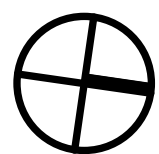
Master Development Plan



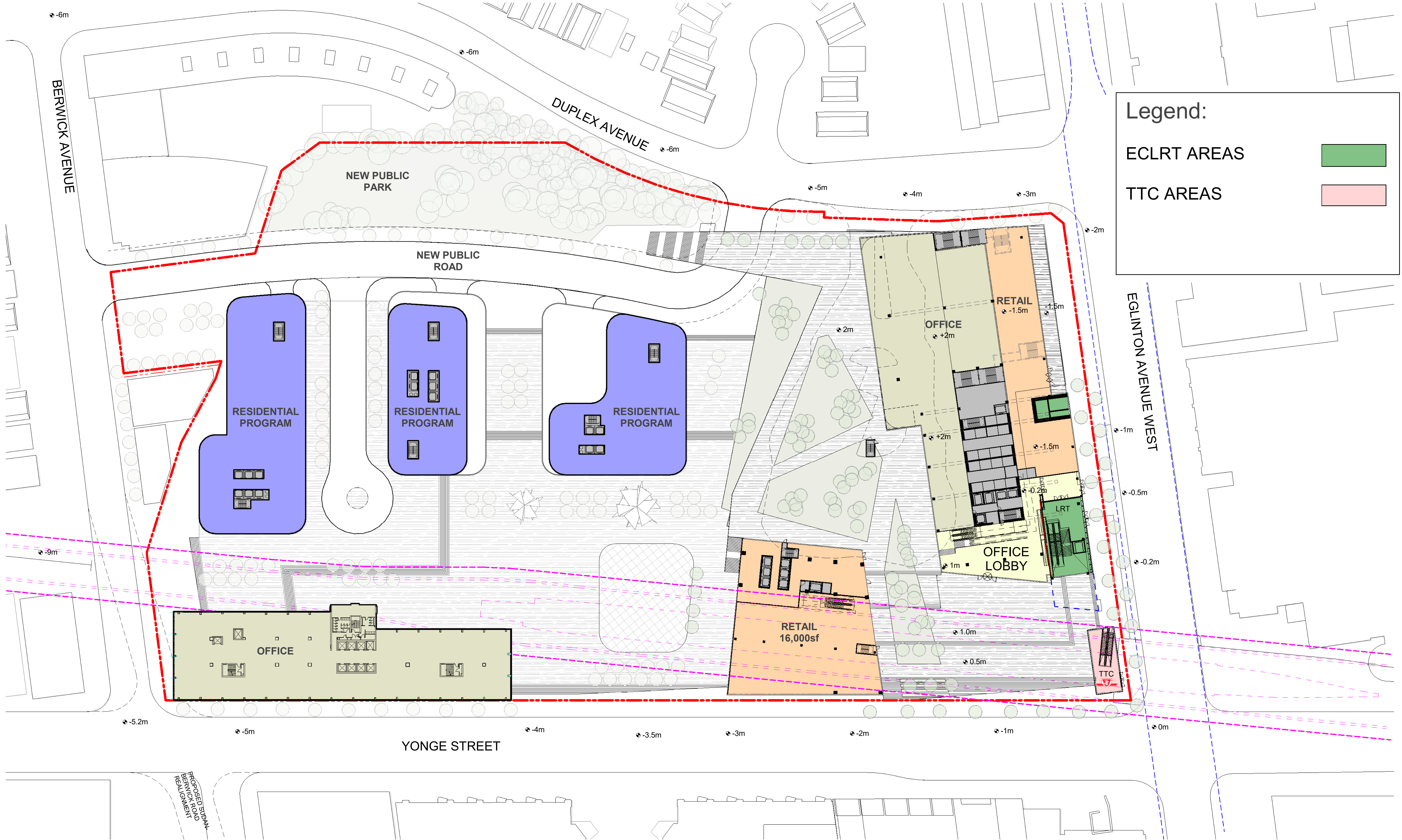
Schedule G-2



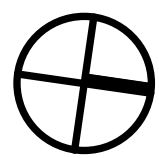
Master Development Plan - Concourse Level (-4.0m)



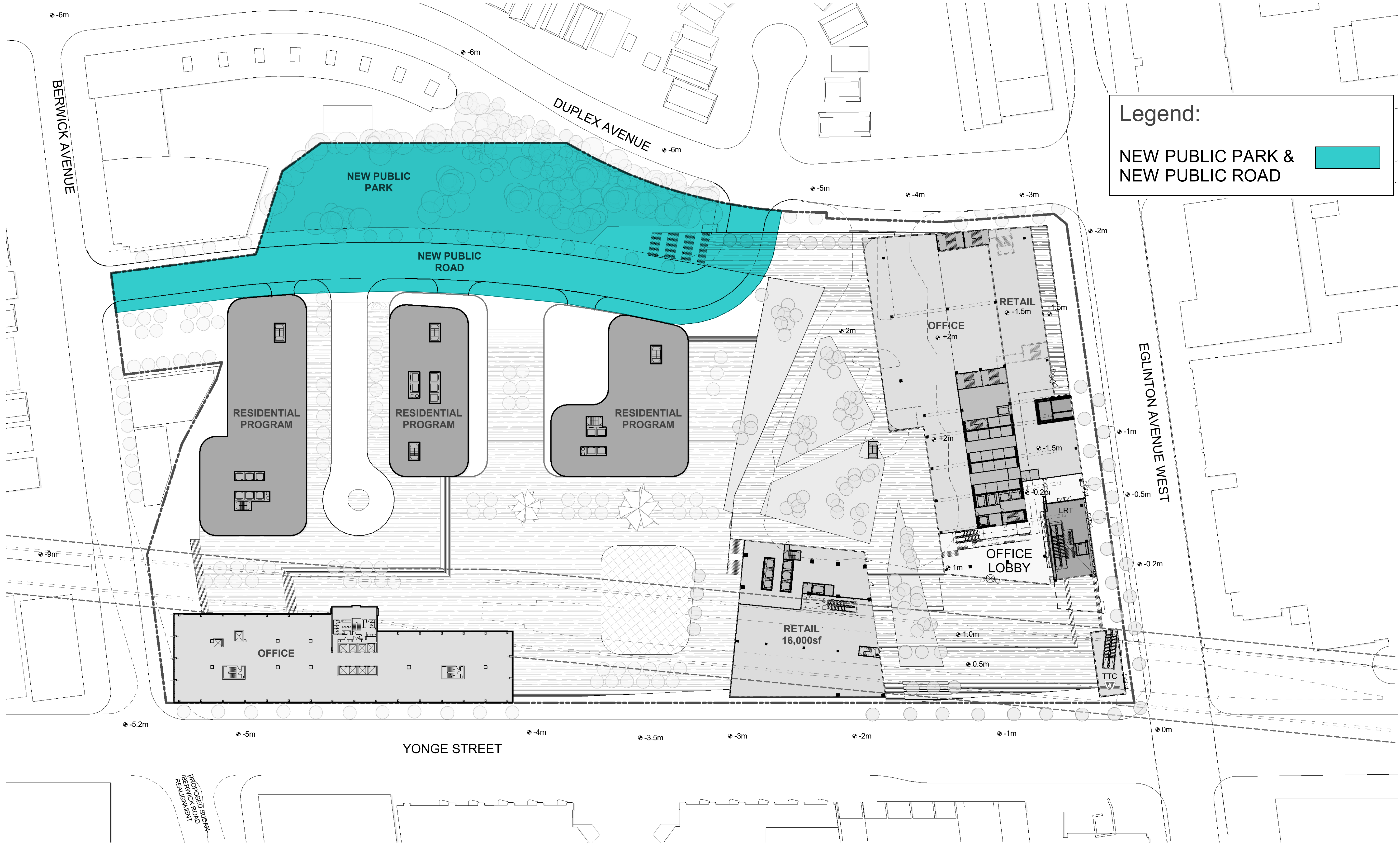
Schedule G-3



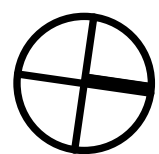
Master Development Plan - Ground Level (0.0m at Yonge/Eglinton)



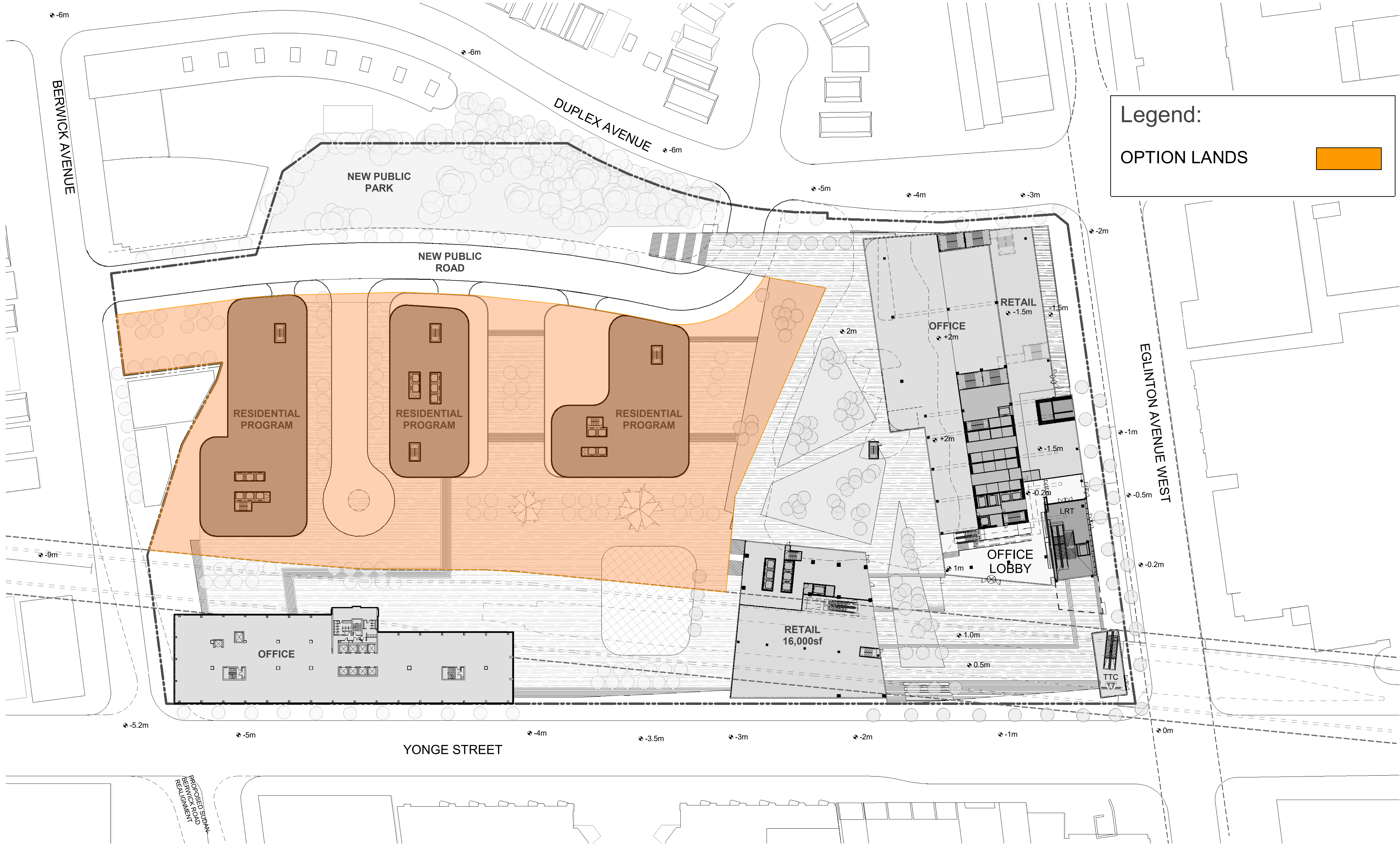
Schedule G-4



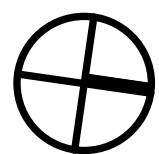
Master Development Plan - New Public Road and Public Park Plan



Schedule G-5



Master Development Plan - Option Lands Plan



Schedule G-6

Canada Square - Master Development Plan

Zoning Area Summary

Square feet unless noted otherwise

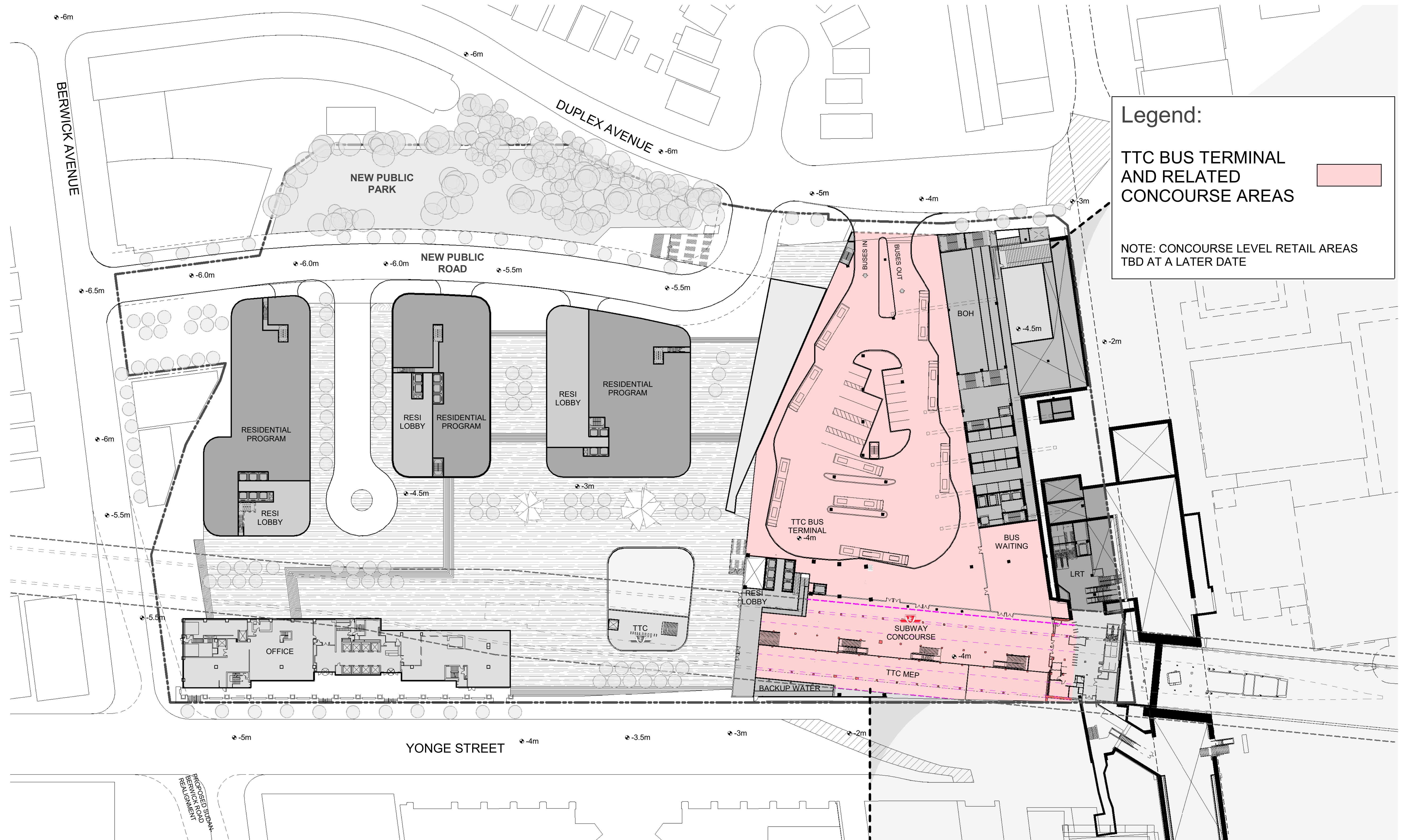
	Master Plan	Phase 1		Future Phases			2180 Yonge Street
		Phase 1A	Phase 1B	Tower A	Tower B	Tower C	Existing Building*
Residential	1,589,926	-	454,711	354,906	349,928	430,381	-
Non Residential	1,087,706	658,006	29,700	-	-	-	400,000
Total Zoning GFA	2,677,632	658,006	484,411	354,906	349,928	430,381	400,000

*Estimated existing 2180 Yonge NRGFA.

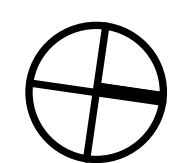
SCHEDULE "H"
T.T.C. BUS TERMINAL AND RELATED CONCOURSE PLANS

See attached.

Schedule H



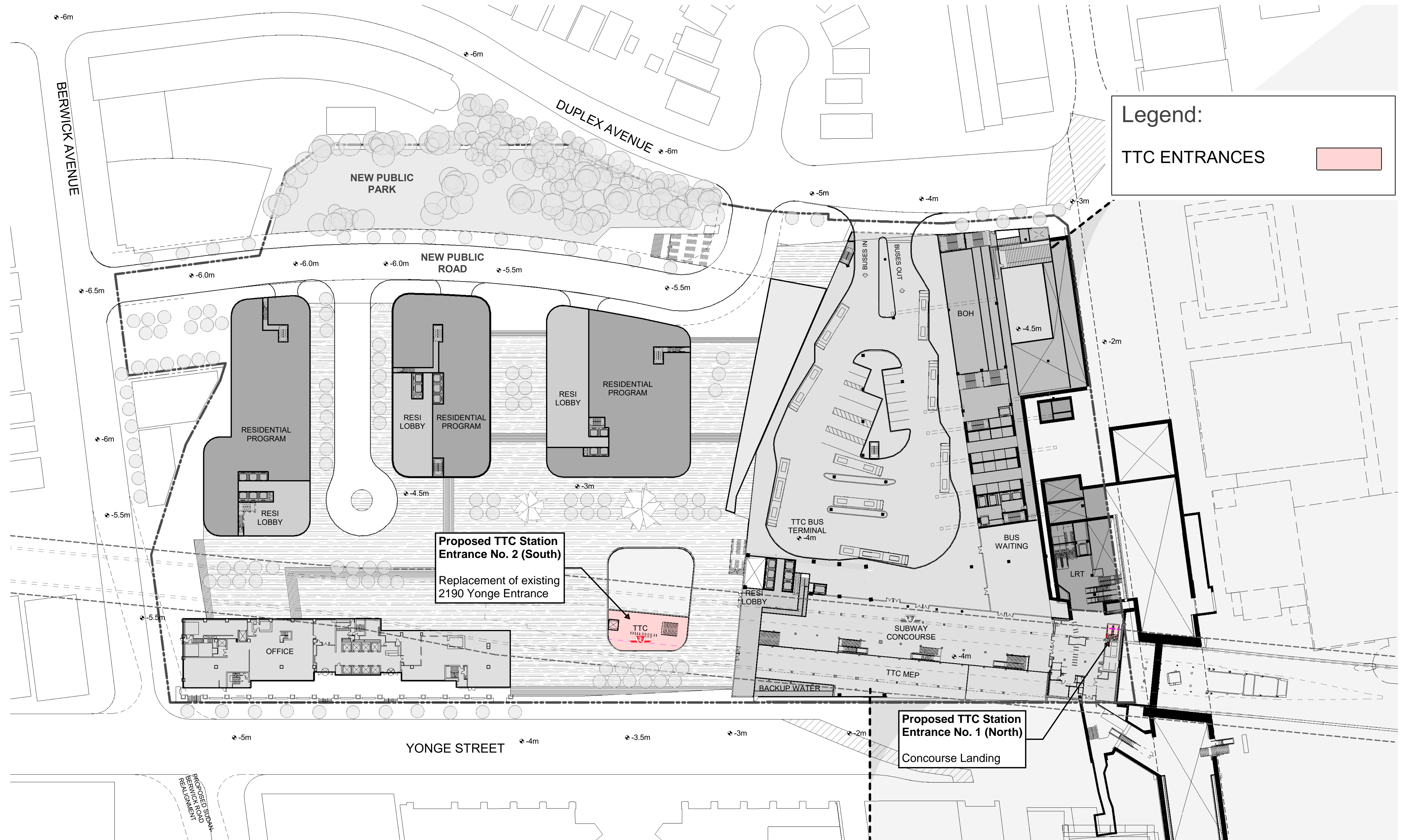
T.T.C. Bus Terminal and Related Concourse Plan (-4.0m)



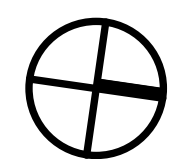
SCHEDULE "I"
ENTRANCE AND RELATED CONCOURSE PLANS

See attached.

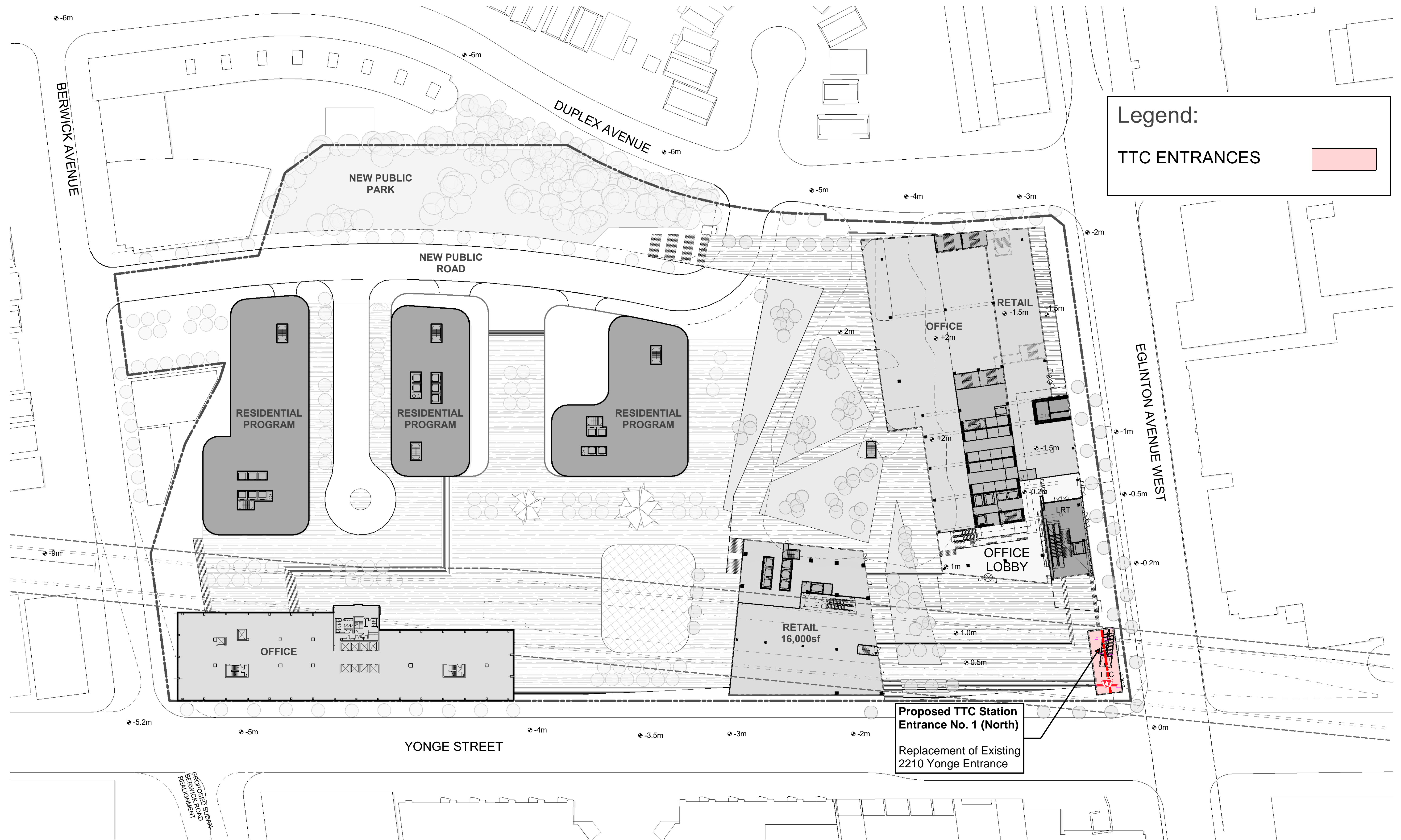
Schedule I-1



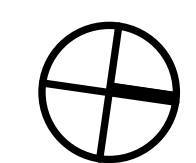
T.T.C. Entrance and Related Concourse Plans - Concourse Level (-4.0m at T.T.C. Concourse)



Schedule I-2



T.T.C. Entrance and Related Concourse Plans - Ground Level (0.0m at Yonge/Eglinton)



SCHEDULE "J"
PERMITTED ENCUMBRANCES

See attached.

SCHEDULE “J”

PERMITTED ENCUMBRANCES

- (a) Encumbrances for Impositions that create or constitute a lien on title to the Property and that (i) have accrued but are not yet due and payable, or (ii) the validity of which is being contested in good faith by Tenants or the Landlord, provided that adequate reserves are being maintained by the contesting party for the payment of such taxes or charges.
- (b) Undetermined or inchoate liens and charges incidental to current construction or current operations on the Property, a Claim for which has not been registered on title to the Property and notice of which has not been given pursuant to the *Construction Act* (Ontario) and in respect of which there has been compliance with the holdback provisions of the *Construction Act* (Ontario).
- (c) Any subsisting reservations, restrictions, limitations, provisos, conditions or exceptions contained in the original grants of the Lands or any part thereof from the Crown.
- (d) Statutory exceptions, reservations, limitations, provisos, qualifications and conditions to title contained in Section 44(1) of the *Land Titles Act* (Ontario), but not including the matters listed in paragraphs 4 and 11 thereof.
- (e) Any rights of expropriation, access, use or any other right conferred upon or reserved to or vested in the Crown or any Governmental Authority by or under the authority of any statute of Canada or the Province of Ontario.
- (f) Registered easements, rights-of-way, servitudes, other similar rights in land granted to, reserved or taken by any Governmental Authority, transit authority or public or private utility supplier which (i) do not materially and adversely affect the Tenants’ use of the Lands, or for which the Tenants have made satisfactory arrangements for relocation so that such use will not be materially or adversely affected, and (ii) have been complied with in all material respects.
- (g) Land use controls or subdivision, development, servicing, site plan or other similar agreement with any Governmental Authority, transit authority or public or private utility supplier which (i) do not materially and adversely affect the Tenants’ use of the Lands, and (ii) have been complied with in all material respects.
- (h) Registered facility sharing, cost sharing, parking, restrictive covenants, private deed restrictions and other similar agreements with any neighbouring landowner and/or Governmental Authority, transit authority or public or private utility supplier which (i) do not materially and adversely affect the Tenants’ use of the Lands, and (ii) have been complied with in all material respects.
- (i) The provisions of Applicable Laws, including zoning, land use, development and building by-laws and other by-laws, regulations, ordinances and similar instruments relating to development and use of the Property or any part thereof.

- (j) Minor encroachments over the Lands or any part thereof by improvements of neighbouring landowners which are permitted under agreements with such landowners.
- (k) Minor title defects, irregularities, or discrepancies in title which do not, in the aggregate, materially and adversely affect the Tenants' use of the Lands.
- (l) Any co-owners agreement from time to time entered into by and between the Tenants or any of them.
- (m) The Original Leases.
- (n) The Gateway Lease.
- (o) The Existing Leasehold Mortgage.
- (p) The Metrolinx Licence Agreement.
- (q) The T.T.C. Temporary Operations Sublease.
- (r) Any Collateral Charges.
- (s) **The following encumbrances registered on title to the Lands as of the Execution Date:**

Part I - Instruments affecting the freehold title

Transfers

1. Instrument No. ON26871 registered on September 12, 1921 being a transfer.
2. Instrument No. ON26990 registered on September 23, 1921 being a transfer.
3. Instrument No. ON27299 registered on October 25, 1921 being a transfer.
4. Instrument No. ON28449 registered on March 4, 1922 being a transfer.
5. Instrument No. ON28507 registered on March 8, 1922 being a transfer.
6. Instrument No. ON28508 registered on March 8, 1922 being a transfer.
7. Instrument No. ON28587 registered on March 14, 1922 being a transfer.
8. Instrument No. ON28711 registered on March 23, 1922 being a transfer.
9. Instrument No. ON28782 registered on March 28, 1922 being a transfer.
10. Instrument No. ON29646 registered on June 2, 1922 being a transfer.
11. Instrument No. ON29881 registered on June 16, 1922 being a transfer.
12. Instrument No. ON29882 registered on June 16, 1922 being a transfer.
13. Instrument No. ON30357 registered on July 18, 1922 being a transfer.
14. Instrument No. ON30358 registered on July 18, 1922 being a transfer.
15. Instrument No. ON30359 registered on July 18, 1922 being a transfer.

16. Instrument No. EO7504 registered on November 4, 1925 being a transfer.
17. Instrument No. EO8222 registered on January 20, 1926 being a transfer.
18. Instrument No. EN57614 registered on February 25, 1948 being a transfer.
19. Instrument No. EN57616 registered on February 25, 1948 being a transfer.
20. Instrument No. EN57618 registered on February 25, 1948 being a transfer.
21. Instrument No. EN58124 registered on May 14, 1948 being a transfer.
22. Instrument No. EN71402 registered on June 8, 1953 being a transfer.
23. Instrument No. EN114854 registered on June 1, 1971 being a transfer.
24. Instrument No. CA666353 registered on May 19, 2000 being a transfer including consent from the Committee of Adjustment.

Agreements

25. Instrument No. EN115615 registered on August 24, 1971 being an easement agreement between Toronto Transit Commission and The Municipality of Metropolitan Toronto.
26. Instrument No. EN120986 registered on April 5, 1973 being an easement agreement between Yonge-Eglinton Building Limited and Transortium Realty Limited.
27. Instrument No. EN120987 registered on April 5, 1973 being a reciprocal parking agreement between Toronto Transit Commission, Yonge-Eglinton Building Limited, Transortium Realty Limited and The Penn Mutual Life Insurance Company.
28. Instrument No. EN121029 registered on April 10, 1973 being a steam heat agreement between Yonge-Eglinton Building Limited, Transortium Realty Limited, The Penn Mutual Life Insurance Company and Crown Trust Company.
29. Instrument No. CT30298 registered on November 2, 1973 being an encroachment agreement between Transplex Building Corporation, Toronto Transit Commission and Transortium Realty Limited.
30. Development Agreement
 - (a) Instrument No. CT686316 registered on October 12, 1984 being a development agreement between Toronto Transit Commission and The Corporation of the City of Toronto.
 - (b) Instrument No. CT827397 registered on November 3, 1986 being an agreement amending the development agreement registered as Instrument No. CT686316.
31. Cross Easement and Reciprocal Rights Agreement
 - (a) Instrument No. AT584916 registered on August 25, 2004 being a notice of cross easement and reciprocal rights agreement between Toronto Transit Commission, Yonge-Eglinton Building Limited, Transortium Realty Limited, Transplex Building Corporation Limited and Canada Square Management Ltd.

- (b) Instrument No. AT620751 registered on October 1, 2004 being a notice of assignment and assumption re cross-easement and reciprocal rights agreement registered as Instrument No. AT584916.
- (c) Instrument No. AT3637337 registered on July 17, 2014 being a notice of assignment and assumption agreement re cross-easement and reciprocal rights agreement between 2200 Yonge (Canada 8) Holdings Limited (as Phase I assignor), 2180 Yonge (Canada 8) Holdings Limited (as Phase II assignor) and 2190 Yonge (Canada 8) Holdings Limited (Phase III assignor), Oxford Properties Office Limited Partnership by its general partner Oxford Properties Office GP Inc. and CT REIT (Yonge Eglinton) Inc. (as assignees) and Toronto Transit Commission.

Part II - Instruments affecting the leasehold title:

Notices of lease, sublease, charge of lease and related security documents

32. Phase I Lease

- (a) Instrument No. EN91666 registered on October 26, 1961 being a notice of lease between Toronto Transit Commission and Yonge-Eglinton Building Limited.
- (b) Instrument No. EN120984 registered on April 5, 1973 being an agreement between Toronto Transit Commission and Yonge-Eglinton Building Limited amending the lease registered as Instrument No. EN91666.
- (c) Instrument No. CA346165 registered on May 19, 1995 being a notice of sublease between Yonge-Eglinton Building Limited and Rogers Cantel Inc. relating to the notice of lease registered as Instrument No. EN91666.
- (d) Instrument No. CA621807 registered on August 27, 1999 being a notice of claim relating to the notice of lease registered as Instrument No. EN91666 and the notice of sublease registered as Instrument No. CA346165.
- (e) Instrument No. AT584913 registered on August 25, 2004 being an application (general) for entry of a notice of consolidated and restated lease relating to Instrument Nos. EN91666, EN120984, CA621807, CA665385 and CA665386.
- (f) Instrument No. AT620711 registered on October 1, 2004 being a notice of assignment of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. EN91666, EN120984, CA621807 and AT584913.
- (g) Instrument No. AT861244 registered on July 14, 2005 being a notice of sublease between Viacom Canada Inc. and Yonge-Eglinton Building Limited relating to Instrument No. EN91666.
- (h) Instrument No. AT867156 registered on July 21, 2005 being a notice of assignment of lessee's interest relating to Instrument Nos. EN91666 and AT861244.

- (i) Instrument No. AT1520153 registered on July 27, 2007 being an application for a notice of lease extension agreement relating to the sublease registered as Instrument No. CA346165.
- (j) Instrument No. AT2458849 registered on July 27, 2010 being a notice of sublease between 2200 Yonge (Canada 8) Holdings Limited and Rogers Communications Inc. relating to Instrument Nos. EN91666 and AT620711.
- (k) Instrument No. AT3637320 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. and CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN91666, AT620711, CA621807 and AT584913.
- (l) Instrument No. AT3637329 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN91666 and AT620711.
- (m) Instrument No. AT3637383 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN91666 and AT620711.
- (n) Instrument No. AT3637392 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN91666 and AT620711.
- (o) Instrument No. AT3637401 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. EN91666 and AT620711.
- (p) Instrument No. AT3742892 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637320.
- (q) Instrument No. AT3747149 registered on November 24, 2014 being a notice of sublease between 2200 Yonge (Canada 8) Holdings Limited and The Bank of Nova Scotia relating to Instrument No. EN91666.
- (r) Instrument No. AT3747150 registered on November 24, 2014 being a notice of sublease between 2200 Yonge (Canada 8) Holdings Limited and Procom Consultants Group relating to Instrument Nos. EN91666 and AT620711.
- (s) Instrument No. AT3747151 registered on November 24, 2011 being a notice of sublease between 2200 Yonge (Canada 8) Holdings Limited and 2263785 Ontario Inc. (successor in interest to Lavalife Corp.) relating to Instrument Nos. EN91666 and AT620711.

- (t) Instrument No. AT3757154 registered on December 3, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637383.
- (u) Instrument No. AT3763587 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. EN91666 and AT620711.
- (v) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763587.
- (w) Instrument No. AT3763600 registered on December 11, 2014 being a notice of assignment of lessor's from 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch interest relating to Instrument No. AT3747151.
- (x) Instrument No. AT3763601 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3747149.
- (y) Instrument No. AT3763602 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3747150.
- (z) Instrument No. AT3763604 registered on December 11, 2014 being a postponement of Instrument No. AT3637383 to Instrument No. AT3763587.
- (aa) Instrument No. AT3763613 registered on December 11, 2014 being a postponement of Instrument No. AT3637392 to Instrument No. AT3763587.
- (bb) Instrument No. AT3763622 registered on December 11, 2014 being a postponement of Instrument No. AT3637401 to Instrument No. AT3763587.
- (cc) Instrument No. AT4522601 registered on March 29, 2017 being a notice relating to Instrument No. AT3763587.
- (dd) Instrument No. AT4522610 registered on March 29, 2017 being a postponement of Instrument No. AT3637383 to Instrument No. AT4522601.
- (ee) Instrument No. AT4522619 registered on March 29, 2017 being a postponement of Instrument No. AT3637392 to Instrument No. AT4522601.
- (ff) Instrument No. AT4522628 registered on March 29, 2017 being a postponement of Instrument No. AT3637401 to Instrument No. AT4522601.

- (gg) Instrument No. AT5005985 registered on November 14, 2018 being a notice of sublease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc., OPG Investment Holdings Limited Partnership, CT REIT (Yonge Eglinton) Inc. and Bank of Montreal.

33. Driveway Lease

- (a) Instrument No. EN96241 registered on February 13, 1964 being a lease between Toronto Transit Commission, Yonge-Eglinton Building Limited and Promenade Swiss Corporation Limited.
- (b) Instrument No. AT620712 registered on October 1, 2004 being a notice of assignment of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument No. EN96241.
- (c) Instrument No. AT3637321 registered on July 17, 2014 is a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN96241 and AT620712.
- (d) Instrument No. AT3637330 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN96241, AT584913 and AT620712.
- (e) Instrument No. AT3637384 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN96241 and AT620712.
- (f) Instrument No. AT3637393 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN96241 and AT620712.
- (g) Instrument No. AT3637402 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. EN96241 and AT620712.
- (h) Instrument No. AT3742893 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637321.
- (i) Instrument No. AT3763588 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. EN96241.
- (j) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763588.

- (k) Instrument No. AT3763605 registered on December 11, 2014 being a postponement of Instrument No. AT3637384 to Instrument No. AT3763588.
- (l) Instrument No. AT3763614 registered on December 11, 2014 being a postponement of Instrument No. AT3637393 to Instrument No. AT3763588.
- (m) Instrument No. AT3763623 registered on December 11, 2014 being a postponement of Instrument No. AT3637402 to Instrument No. AT3763588.
- (n) Instrument No. AT4522602 registered on March 29, 2017 being a notice relating to Instrument No. AT3763588.
- (o) Instrument No. AT4522611 registered on March 29, 2017 being a postponement of Instrument No. AT3637384 to Instrument No. AT4522602.
- (p) Instrument No. AT4522620 registered on March 29, 2017 being a postponement of Instrument No. AT3637393 to Instrument No. AT4522602.
- (q) Instrument No. AT4522629 registered on March 29, 2017 being a postponement of Instrument No. AT3637402 to Instrument No. AT4522602.

34. Boiler Room Lease

- (a) Instrument No. EN98257 registered on January 6, 1965 being a lease between Toronto Transit Commission, Yonge-Eglinton Building Limited and Promenade Swiss Corporation Limited.
- (b) Instrument No. AT620750 registered on October 1, 2004 being a notice of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument No. EN98257.
- (c) Instrument No. AT3637325 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN98257 and AT620750.
- (d) Instrument No. AT3637334 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN98257 and AT620750.
- (e) Instrument No. AT3637389 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN98257 and AT620750.
- (f) Instrument No. AT3637398 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN98257 and AT620750.
- (g) Instrument No. AT3637407 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge

(Canada 8) Holdings Limited relating to Instrument Nos. EN98257 and AT620750.

- (h) Instrument No. AT3742897 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637325.
- (i) Instrument No. AT3763591 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. EN98257 and AT620750.
- (j) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763591.
- (k) Instrument No. AT3763608 registered on December 11, 2014 being a postponement of Instrument No. AT3637389 to Instrument No. AT3763591.
- (l) Instrument No. AT3763617 registered on December 11, 2014 being a postponement of Instrument No. AT3637398 to Instrument No. AT3763591.
- (m) Instrument No. AT3763626 registered on December 11, 2014 being a postponement of Instrument No. AT3637407 to Instrument No. AT3763591.
- (n) Instrument No. AT4522605 registered on March 29, 2017 being a notice relating to Instrument No. AT3763591.
- (o) Instrument No. AT4522614 registered on March 29, 2017 being a postponement of Instrument No. AT3637389 to Instrument No. AT4522605.
- (p) Instrument No. AT4522623 registered on March 29, 2017 being a postponement of Instrument No. AT3637398 to Instrument No. AT4522605.
- (q) Instrument No. AT4522632 registered on March 29, 2017 being a postponement of Instrument No. AT3637407 to Instrument No. AT4522605.

35. Phase II Lease

- (a) Instrument No. EN120985 registered on April 5, 1973 being a notice of lease between Toronto Transit Commission and Transortium Realty Limited.
- (b) Instrument No. AT584914 registered on August 25, 2004 being an application (general) annexing a Phase II Lease Amending Agreement between Toronto Transit Commission and Transortium Realty Limited relating to Instrument No. EN120985.
- (c) Instrument No. AT620715 registered on October 1, 2004 being a notice of assignment of lessee's interest from Transortium Realty Limited to 2180 Yonge

(Canada 8) Holdings Limited relating to Instrument Nos. EN120985 and AT584914.

- (d) Instrument No. AT3590043 registered on May 27, 2014 being a notice of sublease between 2180 Yonge (Canada 8) Holdings Limited and The Ontario Educational Communications Authority relating to Instrument Nos. EN120985, AT584914 and AT620715.
- (e) Instrument No. AT3637324 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2180 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN120985 and AT620715.
- (f) Instrument No. AT3637333 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2180 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN120985 and AT620715.
- (g) Instrument No. AT3637387 registered on July 17, 2014 being a notice of charge of lease from 2180 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN120985 and AT620715.
- (h) Instrument No. AT3637396 registered on July 17, 2014 being a notice of charge of lease from 2180 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN120985 and AT620715.
- (i) Instrument No. AT3637405 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. EN120985 and AT620715.
- (j) Instrument No. AT3642896 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637324.
- (k) Instrument No. AT3763593 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. EN120985 and AT620715.
- (l) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763593.
- (m) Instrument No. AT3763596 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2180 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3590043.

- (n) Instrument No. AT3763610 registered on December 11, 2014 being a postponement of Instrument No. AT3637387 to Instrument No. AT3763593.
- (o) Instrument No. AT3763619 registered on December 11, 2014 being a postponement of Instrument No. AT3637396 to Instrument No. AT3763593.
- (p) Instrument No. AT3763628 registered on December 11, 2014 being a postponement of Instrument No. AT3637405 to Instrument No. AT3763593.
- (q) Instrument No. AT4522607 registered on March 29, 2017 being a notice relating to Instrument No. AT3763593.
- (r) Instrument No. AT4522616 registered on March 29, 2017 being a postponement of Instrument No. AT3637387 to Instrument No. AT4522607.
- (s) Instrument No. AT4522625 registered on March 29, 2017 being a postponement of Instrument No. AT3637396 to Instrument No. AT4522607.
- (t) Instrument No. AT4522634 registered on March 29, 2017 being a postponement of Instrument No. AT3637405 to Instrument No. AT4522607.

36. Steam Room Lease

- (a) Instrument No. EN121007 registered on April 6, 1973 being a notice of lease between Toronto Transit Commission and Yonge-Eglinton Building Limited.
- (b) Instrument No. AT620749 registered on October 1, 2004 being a notice of assignment of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument No. EN121007.
- (c) Instrument No. AT3637326 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN121007 and AT620749.
- (d) Instrument No. AT3637335 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN121007 and AT620749.
- (e) Instrument No. AT3637390 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. EN121007 and AT620749.
- (f) Instrument No. AT3637399 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. EN121007 and AT620749.
- (g) Instrument No. AT3637408 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge

(Canada 8) Holdings Limited relating to Instrument Nos. EN121007 and AT620749.

- (h) Instrument No. AT3642898 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637326.
- (i) Instrument No. AT3763592 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. EN121007 and AT620749.
- (j) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763592.
- (k) Instrument No. AT3763609 registered on December 11, 2014 being a postponement of Instrument No. AT3637390 to Instrument No. AT3763592.
- (l) Instrument No. AT3763618 registered on December 11, 2014 being a postponement of Instrument No. AT3637399 to Instrument No. AT3763592.
- (m) Instrument No. AT3763627 registered on December 11, 2014 being a postponement of Instrument No. AT3637408 to Instrument No. AT3763592.
- (n) Instrument No. AT4522606 registered on March 29, 2017 being a notice relating to Instrument No. AT3763592.
- (o) Instrument No. AT4522615 registered on March 29, 2017 being a postponement of Instrument No. AT3637390 to Instrument No. AT4522606.
- (p) Instrument No. AT4522624 registered on March 29, 2017 being a postponement of Instrument No. AT3637399 to Instrument No. AT4522606.
- (q) Instrument No. AT4522633 registered on March 29, 2017 being a postponement of Instrument No. AT3637408 to Instrument No. AT4522606.

37. Space Lease to Bank of Montreal

- (a) Instrument No. CT818669 registered on September 29, 1986 being a notice of lease between Yonge-Eglinton Building Ltd. and Bank of Montreal.
- (b) Instrument No. CA388416 registered on January 29, 1996 being a notice of lease renewal between Yonge-Eglinton Building Limited and Bank of Montreal relating to the notice of lease registered as Instrument No. CT818669.
- (c) Instrument No. AT1339341 registered on December 21, 2006 being an application for a notice of amendment of sublease relating to Instrument Nos. CT818669 and CA388416.

- (d) Instrument No. AT3763599 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2180 Yonge (Canada 8) Holdings Limited, 2190 Yonge (Canada 8) Holdings Limited and 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. CT818669, CA388416 and AT1339341.
38. Space Lease to Bank of Montreal
- (a) Instrument No. CT848184 registered on February 11, 1987 being a notice of lease between Yonge-Eglinton Building Ltd. and Bank of Montreal.
 - (b) Instrument No. AT3763599 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. CT848184.
39. Space Lease to Canadian Tire Corporation, Limited
- (a) Instrument No. CA75200 registered on February 9, 1990 being a notice of lease between Transortium Realty Limited and Canadian Tire Corporation, Limited.
 - (b) Instrument No. AT3763598 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2180 Yonge (Canada 8) Holdings Limited, 2190 Yonge (Canada 8) Holdings Limited and 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. CA75200.
40. Space Lease to Canadian Tire Corporation, Limited
- (a) Instrument No. CA75201 registered on February 9, 1990 being a notice of lease between Yonge-Eglinton Building Limited and Canadian Tire Corporation, Limited.
 - (b) Instrument No. CA664503 registered on May 8, 2000 being a notice of lease amending agreement between Transortium Realty Limited, Yonge-Eglinton Building Limited and Canadian Tire Corporation Limited.
 - (c) Instrument No. AT3763597 registered on December 11, 2014 being a notice of assignment of lessor's interest from 2180 Yonge (Canada 8) Holdings Limited, 2190 Yonge (Canada 8) Holdings Limited and 2200 Yonge (Canada 8) Holdings Limited to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. CA75201 and CA664503.
41. Phase III Lease
- (a) Instrument No. CA651947 registered on February 17, 2000 being a notice of lease between Toronto Transit Commission and Transplex Building Corporation Limited.
 - (b) Instrument No. AT584915 registered on August 25, 2004 being an application (general) annexing a Phase III Lease Amending Agreement between Toronto Transit Commission, Yonge-Eglinton Building Limited and Transplex Building Corporation Limited relating to Instrument No. CA651947.

- (c) Instrument No. AT620716 registered on October 1, 2004 being a notice of lessee's interest from Transplex Building Corporation Limited to 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. CA651947 and AT584915.
- (d) Instrument No. AT620931 registered on October 1, 2004 being a notice of sublease between 2180 Yonge (Canada 8) Holdings Limited, 2190 Yonge (Canada 8) Holdings Limited and 2200 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. CA651947, AT584915 and AT620716.
- (e) Instrument No. AT620932 registered on October 1, 2004 being a notice of sublease between Viacom Canada Inc. and Yonge-Eglinton Building Limited relating to Instrument No. AT620931.
- (f) Instrument No. AT3637327 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2190 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA51947 and AT620716.
- (g) Instrument No. AT3637336 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2190 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA651947 and AT620716.
- (h) Instrument No. AT3637388 registered on July 17, 2014 being a notice of charge of lease from 2190 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA651947 and AT620716.
- (i) Instrument No. AT3637397 registered on July 17, 2014 being a notice of charge of lease from 2190 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA651947 and AT620716.
- (j) Instrument No. AT3637406 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. CA651947 and AT620716.
- (k) Instrument No. AT3642899 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637327.
- (l) Instrument No. AT3763594 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. EN120985 and AT620715.

- (m) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763594.
- (n) Instrument No. AT3763611 registered on December 11, 2014 being a postponement of Instrument No. AT3637388 to Instrument No. AT3763594.
- (o) Instrument No. AT3763620 registered on December 11, 2014 being a postponement of Instrument No. AT3637397 to Instrument No. AT3763594.
- (p) Instrument No. AT3763629 registered on December 11, 2014 being a postponement of Instrument No. AT3637406 to Instrument No. AT3763594.
- (q) Instrument No. AT4522608 registered on March 29, 2017 being a notice relating to Instrument No. AT3763594.
- (r) Instrument No. AT4522617 registered on March 29, 2017 being a postponement of Instrument No. AT3637388 to Instrument No. AT4522608.
- (s) Instrument No. AT4522626 registered on March 29, 2017 being a postponement of Instrument No. AT3637397 to Instrument No. AT4522608.
- (t) Instrument No. AT4522635 registered on March 29, 2017 being a postponement of Instrument No. AT3637406 to Instrument No. AT4522608.

42. Pavillion Lease

- (a) Instrument No. CA665385 registered on May 15, 2000 being a notice of lease between Toronto Transit Commission and Yonge-Eglinton Building Limited.
- (b) Instrument No. AT620714 registered on October 1, 2004 being a notice of assignment of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument No. CA665385.
- (c) Instrument No. AT3637323 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA665385 and AT620714.
- (d) Instrument No. AT3637332 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA665385 and AT620714.
- (e) Instrument No. AT3637386 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA665385 and AT620713.
- (f) Instrument No. AT3637395 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA665385 and AT620714.

- (g) Instrument No. AT3637404 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. CA665385 and AT620714.
 - (h) Instrument No. AT3642895 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637323.
 - (i) Instrument No. AT3763589 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. CA665385 and AT620714.
 - (j) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763589.
 - (k) Instrument No. AT3763606 registered on December 11, 2014 being a postponement of Instrument No. AT3637386 to Instrument No. AT3763589.
 - (l) Instrument No. AT3763615 registered on December 11, 2014 being a postponement of Instrument No. AT3637395 to Instrument No. AT3763589.
 - (m) Instrument No. AT3763624 registered on December 11, 2014 being a postponement of Instrument No. AT3637404 to Instrument No. AT3763589.
 - (n) Instrument No. AT4522603 registered on March 29, 2017 being a notice relating to Instrument No. AT3763589.
 - (o) Instrument No. AT4522612 registered on March 29, 2017 being a postponement of Instrument No. AT3637386 to Instrument No. AT4522603.
 - (p) Instrument No. AT4522621 registered on March 29, 2017 being a postponement of Instrument No. AT3637395 to Instrument No. AT4522603.
 - (q) Instrument No. AT4522630 registered on March 29, 2017 being a postponement of Instrument No. AT3637404 to Instrument No. AT4522603.
43. Subway Access Agreement
- (a) Instrument No. CA665386 registered on May 15, 2000 being a notice of lease between Toronto Transit Commission and Yonge-Eglinton Building Limited.
 - (b) Instrument No. AT620713 registered on October 1, 2004 being a notice of assignment of lessee's interest from Yonge-Eglinton Building Limited to 2200 Yonge (Canada 8) Holdings Limited relating to Instrument No. CA665386.

- (c) Instrument No. AT3637322 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA665386 and AT620713.
- (d) Instrument No. AT3637331 registered on July 17, 2014 being a notice of assignment of lessee's interest from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA665386 and AT620713.
- (e) Instrument No. AT3637385 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to Oxford Properties Office GP Inc. relating to Instrument Nos. CA665386 and AT620713.
- (f) Instrument No. AT3637394 registered on July 17, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited to CT REIT (Yonge Eglinton) Inc. relating to Instrument Nos. CA665386 and AT620713.
- (g) Instrument No. AT3637403 registered on July 17, 2014 being a notice of charge of lease from Oxford Properties Office GP Inc. to 2200 Yonge (Canada 8) Holdings Limited, 2180 Yonge (Canada 8) Holdings Limited and 2190 Yonge (Canada 8) Holdings Limited relating to Instrument Nos. CA665386 and AT620713.
- (h) Instrument No. AT3642894 registered on November 18, 2014 being an application to change name from Oxford Properties Office GP Inc. and Oxford Properties Office Limited Partnership to OPG Investment Holdings GP Inc. and OPG Investment Holdings Limited Partnership relating to Instrument No. AT3637322.
- (i) Instrument No. AT3763590 registered on December 11, 2014 being a notice of charge of lease from 2200 Yonge (Canada 8) Holdings Limited, OPG Investment Holdings GP Inc. and CT REIT (Yonge Eglinton) Inc. to Wells Fargo Bank, N.A., Canadian Branch relating to Instrument Nos. CA665386 and AT620713.
- (j) Instrument No. AT3763595 registered on December 11, 2014 being a notice of assignment of rents and leases in favour of Wells Fargo Bank, N.A., Canadian Branch relating to Instrument No. AT3763590.
- (k) Instrument No. AT3763607 registered on December 11, 2014 being a postponement of Instrument No. AT3637385 to Instrument No. AT3763590.
- (l) Instrument No. AT3763616 registered on December 11, 2014 being a postponement of Instrument No. AT3637394 to Instrument No. AT3763590.
- (m) Instrument No. AT3763625 registered on December 11, 2014 being a postponement of Instrument No. AT3637403 to Instrument No. AT3763590.
- (n) Instrument No. AT4522604 registered on March 29, 2017 being a notice relating to Instrument No. AT3763590.

- (o) Instrument No. AT4522613 registered on March 29, 2017 being a postponement of Instrument No. AT3637385 to Instrument No. AT4522604.
- (p) Instrument No. AT4522622 registered on March 29, 2017 being a postponement of Instrument No. AT3637394 to Instrument No. AT4522604.
- (q) Instrument No. AT4522631 registered on March 29, 2017 being a postponement of Instrument No. AT3637403 to Instrument No. AT4522604.

Agreements

- 44. Instrument No. EN115615 registered on August 24, 1971 being an easement agreement between Toronto Transit Commission and The Municipality of Metropolitan Toronto.
- 45. Instrument No. EN120986 registered on April 5, 1973 being an easement agreement between Yonge-Eglinton Building Limited and Transortium Realty Limited.
- 46. Instrument No. EN120987 registered on April 5, 1973 being a reciprocal parking agreement between Toronto Transit Commission, Yonge-Eglinton Building Limited, Transortium Realty Limited and The Penn Mutual Life Insurance Company.
- 47. Instrument No. EN121029 registered on April 10, 1973 being an agreement between Yonge-Eglinton Building Limited, Transortium Realty Limited, The Penn Mutual Life Insurance Company and Crown Trust Company.
- 48. Instrument No. CT30298 registered on November 2, 1973 being an encroachment agreement between Transplex Building Corporation, Toronto Transit Commission and Transortium Realty Limited.
- 49. Development Agreement
 - (a) Instrument No. CT686316 registered on October 12, 1984 being a development agreement between Toronto Transit Commission and The Corporation of the City of Toronto.
 - (b) Instrument No. CT827397 registered on November 3, 1986 being an agreement amending the development agreement registered as Instrument No. CT686316.
- 50. Cross Easement and Reciprocal Rights Agreement
 - (a) Instrument No. AT584916 registered on August 25, 2004 being a notice of cross easement and reciprocal rights agreement between Toronto Transit Commission, Yonge-Eglinton Building Limited, Transortium Realty Limited, Transplex Building Corporation Limited and Canada Square Management Ltd.
 - (b) Instrument No. AT620751 registered on October 1, 2004 being a notice of assignment and assumption re cross-easement and reciprocal rights agreement registered as Instrument No. AT584916.
 - (c) Instrument No. AT3637337 registered on July 17, 2014 being a notice of assignment and assumption agreement re cross-easement and reciprocal rights

agreement between 2200 Yonge (Canada 8) Holdings Limited (as Phase I assignor), 2180 Yonge (Canada 8) Holdings Limited (as Phase II assignor) and 2190 Yonge (Canada 8) Holdings Limited (Phase III assignor), Oxford Properties Office Limited Partnership by its general partner Oxford Properties Office GP Inc. and CT REIT (Yonge Eglinton) Inc. (as assignees) and Toronto Transit Commission.

SCHEDULE “K”
RULES AND REGULATIONS FOR SUBWAY CONCOURSE AREAS

See attached.

SCHEDULE "K"

RULES AND REGULATIONS FOR SUBWAY CONCOURSE AREAS

1. With respect to the use and occupancy of the leased premises under the Space Lease (in this Schedule, the "**Leased Premises**") and the common areas and facilities applicable to and serving the Leased Premises (in this Schedule, the "**Common Areas and Facilities**"), the Space Tenant, its employees, agents, servants, contractors, and invitees shall:
 - (a) Keep the inside and outside of all glass in the doors and windows of the Leased Premises clean and in good repair.
 - (b) Limit the display of promotional material inside the Leased Premises which is visible from outside the Leased Premises and ensure that same is carefully developed. If any of the material is considered to be excessive or offensive by the Toronto Transit Commission (in this Schedule, the "**Landlord**"), acting reasonably, the Space Tenant will be notified of this by the Landlord and the material must be removed within 24 hours.
 - (c) Keep all exterior storefront surfaces of the Leased Premises clean and in good repair.
 - (d) Replace promptly, at its expense, any cracked or broken window/door glass of the Leased Premises with glass of like kind and quality.
 - (e) Maintain the Leased Premises, at its expense, in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests.
 - (f) Keep any garbage, trash, rubbish or refuse in rat-proof containers within the interior of the Leased Premises until removed as herein provided.
 - (g) Have such garbage, trash, rubbish and refuse removed at its expense on a regular basis as prescribed by the Landlord. The Space Tenant shall, in no circumstances, place, leave or allow to be placed or left any garbage, trash, rubbish or refuse in the Common Areas and Facilities.
 - (h) Keep all mechanical apparatus and electrical and electronic equipment free of excess vibration and noise which may be transmitted beyond the Leased Premises.
 - (i) Abide by the Landlord's by-laws (copies of which are publicly available). A current copy of the Landlord's by-laws is available at http://www.ttc.ca/Riding_the_TTC/TTC_Bylaws/index.jsp.
 - (j) Be responsible for crowd control. Loitering will not be permitted and crowds must not impede passenger traffic.
 - (k) Not utilize the Landlord's property for automobile parking.

2. With respect to the use and occupancy of the Leased Premises and the Common Areas and Facilities, the Space Tenant, its employees, agents, servants, contractors and invitees shall not:
- (a) Place or maintain any merchandise or other articles outside of the Leased Premises or in the Common Areas and Facilities including, without limitation, in any vestibule or entry of the Leased Premises or on the footwalks adjacent thereto or elsewhere on the exterior of the Leased Premises.
 - (b) Permit, place or leave any garbage, trash, rubbish or other refuse on the floor in the Common Areas and Facilities. For clarity, garbage, trash, rubbish or other refuse is not to be stored in or on the Leased Premises and shall be stored in a holding room designated by the Landlord or, if no such holding room is available, then it shall be removed on a daily basis at the Space Tenant's expense.
 - (c) Cause, suffer or permit objectionable odours to emanate or be dispelled from the Leased Premises except in the ordinary course of its business, and upon the reasonable direction of the Landlord shall forthwith, at the Space Tenant's sole cost and expense, remedy any situation resulting in a breach of this provision.
 - (d) Distribute handbills or other advertising matter to any persons in the subway station other than in the Leased Premises or distribute handbills or other advertising matter to, in or upon any automobiles parked in the adjacent parking areas operated by or for the Landlord.
 - (e) Permit the use of parking or delivery vehicles to interfere with the use of any driveway, walkway, parking area, bus bay, loading area or any other area of the subway station or transit facilities.
 - (f) Receive, ship, load or unload articles of any kind including merchandise, supplies, materials, garbage, trash, refuse or other chattels, except through service access facilities designated from time to time by the Landlord and only at times set by the Landlord (provided that such activities cannot in any circumstance be conducted during the rush hour periods from the opening of the T.T.C. subway to 9:30 a.m. and from 3:30 to 6:30 p.m. from Monday to Friday, inclusive, or such other rush hour periods as are determined by a T.T.C. Representative from time to time). Deliveries to and pick-ups from the Leased Premises during the hours the T.T.C. subway is closed will not be permitted. No deliveries of any kind except those normally carried by a postal carrier or letter carrier are to be made to any retail stores via the T.T.C. subway system.
 - (g) Use the plumbing facilities for any other purposes than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage or damage resulting from a violation of this provision shall be borne by the Space Tenant.
 - (h) Use any part of the Leased Premises for lodging, sleeping, or any illegal purposes.

- (i) Unless otherwise permitted in the Space Lease, permit any cooking in the Leased Premises without the written consent of the Landlord, provided that the Space Tenant shall be entitled to boil water in the Leased Premises.
- (j) Do or permit anything to be done in the Leased Premises or in the Common Areas and Facilities, or knowingly bring or keep anything therein, which will in any material way increase the risk of fire or other peril. No flammable oils or other flammable, dangerous or explosive materials, including lighters and matches, save those approved in writing by the Landlord's insurers shall be knowingly kept or permitted to be kept in the Leased Premises.
- (k) Bring in or take out, position, construct, install or move any heavy machinery and/or equipment without first obtaining the consent in writing of the Landlord. In giving such consent, the Landlord shall have the right in its sole discretion, to prescribe the weight permitted and the use and design of methods by which machinery and/or equipment can be safely transported. All damage done to the subway station by moving or using any such heavy equipment or machinery shall be repaired at the expense of the Space Tenant. The moving of all heavy equipment or machinery shall occur only between 9:30 a.m. and 3:30 p.m. or between 6:30 p.m. and subway closing or at any other time so designated by the Landlord.
- (l) Permit the delivery of materials by way of escalators or elevators. The Landlord shall prescribe the means of access to the subway station. When using the stairs, hand carts equipped with semi-pneumatic rubber tires or rubberized caterpillar devices shall be used to prevent damage to the non-skid nosing tiles.
- (m) Permit the use of property permits for transportation. A warning is to be issued by the Space Tenant on the first offence with the dismissal of the employee on the second offence as well as possible charges under the Landlord's by-laws.
- (n) Duplicate or loan any Landlord keys. Violation of this provision will require the immediate dismissal of employees by the Space Tenant.

Any violation of these rules and regulations shall constitute a default under the applicable Space Lease and shall permit the landlord under the Space Lease to exercise its rights and remedies thereunder, subject in each case to the cure provisions thereunder.

SCHEDULE "L"

EXISTING RETAIL USES IN SUBWAY CONCOURSE AREAS

Part I – Uses in Tenant's Subway Retail Areas

BANK OF NOVA SCOTIA

Section 5.04 Use

The Tenant covenants with the Landlord to use the Demised Premises only for a financial institution.

BIJOUX LADIES ACCESSORIES (Desire)

- (xvi) permitted uses in section 9.01: The retail sale of ladies fashion accessories such as, but not limited to, belts, scarves, hats, umbrellas, gloves, wallets, sunglasses, hair accessories, handbags, carry-on bags and costume jewellery and as ancillary thereto, the retail sale of luggage, backpacks and briefcases provided that the display of such luggage, backpacks and briefcases is not limited to the retail sales and display area of the leased premises by area volume or prominence of display.

CINNABON

permitted uses in section 9.01: It is agreed that the primary business and the permitted uses of Cinnigard Inc's Cinnabon location at Yonge-Eglinton subway station are the baking and sale of cinnamon buns and the sale of coffee, tea, milk and other non-alcoholic beverages. Other specially baked items or introduction of new products other than that specifically stated herein shall be subject to Landlord approval which shall not be unreasonably withheld or delayed. The sale of muffins, cookies, nuts, candies, cappuccino, cafe au lait and expresso coffee are specifically prohibited.

EVVAS BOUTIQUE

10.1 Permitted Use

The Tenant shall continuously and actively use the whole of the Premises only as a retail operation for the purpose of selling family clothing, footwear and accessories to the general public, which the Tenant shall operate in a first-class, reputable manner befitting the reputation and image of the Building, and for no other purpose. The Tenant shall not use the Premises for the purposes of a call centre, school or telecommunications centre or in any manner which does or could result in excessive demands being placed on the Building Systems or other Common Areas and Facilities.

The Tenant acknowledges that the occupancy level of the Premises shall not exceed one (1) person to every one hundred and fifty (150) square feet of usable area of the Premises.

FRESHLY SQUEEZED

10.1 Permitted Use

The Tenant shall continuously and actively use the whole of the Premises only as a ~~business office~~ retail operation for the sale of fruit and vegetable juices, water, non-carbonated and carbonated soft drinks, fruit flavoured Asian tea or bubble tea, and any other beverage, drink, or product consistent with a juice bar operation combined with or without ice, yogurt or food supplements. As ancillary to such principal use, the sale, at retail, of fruits, vegetables, nuts, fruit sections and vegetable sections served with or without ice cream or yogurt, provided that the Tenant shall not sell individual packages of nuts, which the Tenant shall operate in a first-class, reputable manner befitting the reputation and image of the Building, and for no other purpose. The Tenant shall not use the Premises for the purposes of a call centre, school or telecommunications centre or in any manner which does or could result in excessive demands being placed on the Building Systems or other Common Areas and Facilities.

The Tenant acknowledges that the occupancy level of the Premises shall not exceed one (1) person to every one hundred and fifty (150) square feet of usable area of the Premises.

GREAT CANADIAN BAGEL

permitted uses in section 9.01: The Tenant shall have the right to use the premises for a bakery specializing in the sale of bagels (menu subject to reasonable change from time to time) as permitted by the applicable zoning By-Laws and other legislation for the premises and any Landlord exclusivities with other tenants. All menu changes must be approved in writing in advance by the Landlord acting reasonably. The Tenant shall carry on business under the trade name THE GREAT CANADIAN BAGEL, and under no other name whatsoever without the prior written approval of the Landlord, such approval not to be

unreasonably withheld. The Tenant acknowledges they are estopped from selling pizza-type bagels due to an exclusivity already provided for this product, save and except pizza bagels with cheese, vegetable, and/or pepperoni products. It is specifically agreed, by separately executed Letter Agreement, that TGCB Ltd., or any franchisee or operator, is precluded from selling this product or any product other than a standard-shaped 6" round bagel. More specifically, the Tenant is prevented from selling a standard-shaped pizza product on bagel dough.

The Landlord covenants and agrees during the term of the Lease or any subsequent renewals, not to lease any other premises in the subway level complex to any tenant whose principal business is the sale of bagels. However, the above-provided exclusivity shall exclude any existing tenants whose usage clauses permit the sale of bagels.

MATCH DESIGN

(xvi) permitted uses in section 9.01: The conduct of the Tenant's business which is the retail sale of handbags, luggage, small leather goods and accessories.

PARAGON CONVENIENCE

5.01 Use and Trade Name

Tenant will use the Premises solely for the business of the retail sale of: (i) eggs and dairy products (such as milk, butter, cheese and sour cream); (ii) over-the-counter non-prescription medications (such as A.S.A, ibuprofen, allergy medications and nose sprays); (iii) dry and canned foods bread products and condiments; (iv) canned or bottled soft drinks, packaged juices, packaged coffee and tea; (v) packaged candy (such as chocolate bars, chewing gum, sweet cakes and canned puddings) and packaged snack foods (such as potato chips, popped corn taco chips) ; (vi) tobacco products; (vii) candles, flashlights, batteries, sewing kits; (viii) gift wrapping paper, magazines, newspapers and maps; (ix) lottery tickets; (x) paper products (such as toilet paper, facial tissues, disposable diapers, baby wipes). The Tenant will occupy and continuously, diligently and actively carry on its business in the Premises throughout the Term and will offer for sale high quality merchandise that is, and keep the general appearance of the Premises and its storefront in a manner, consistent with the standards of a first-class retail concourse. **The Tenant covenants and agrees to: (a) comply with all applicable legislation and regulations governing the storage and sale of all the foregoing items; and (b) obtain Landlord's prior written consent before adding any additional items to be sold in the Premises.**

Tenant will use only the advertised name "Paragon Convenience" for its business in the Premises and will not change or permit the change of that advertised name without the prior written consent of Landlord.

SECOND CUP

- (c) As of the Effective Date, the wording set out in Section 1.01 (xvi) of the Lease, "permitted uses in section 9.01", shall be deleted in its entirety and the following inserted therefor:

" The Demised Premises shall be used and occupied solely for the principal sale at retail of specialty coffees, espresso-based beverages, gourmet coffee products, coffee in bean or bulk form together with the sale of related giftware, merchandise and accessories.

The Tenant shall also be permitted to sell the following food and drink products for consumption in or out of the Demised Premises, provided the sale of such items does not in any way contravene any exclusivity in favour of any tenant in 2180, 2190, 2200 or 2210 Yonge Street, Toronto (collectively, the "Complex") as of the date of this Agreement or any tenant as of the date of this Agreement who occupies space leased by the Landlord in the Yonge-Eglinton subway station retail area. The exclusive use rights granted to the certain other tenants are more particularly set out and described in Schedule "B" attached to the Lease Amending Agreement dated July 4th, 2002. For greater clarity, if the Tenant receives written notification from the Landlord that the Tenant is selling items in contravention of the Lease, as amended by this Agreement, the Tenant shall upon receipt of such notice, immediately cease and desist in the sale of specified food items.

- Fruit rougies
- Fruit pies and tarts
- Banana, double vanilla and chocolate fudge cupcakes

Second Cup continued next page...

- Rice Crispy squares
- Nutri and Harvest squares
- Brownies with nuts, date and apricots
- Muffins, croissants, Danish, scones
- Cakes
- Donuts
- Biscotti and Cookies
- Desserts
- Tarts
- Pastries
- Pre-made Specialty Sandwiches

(For greater certainty, Tenant acknowledges and agrees that there shall be no preparation of sandwiches on site.)

In addition, the Tenant shall be entitled to use the Demised Premises for the purpose of the sale of hot chocolate, cider, Italian soda, bottled water, bottled juice and blended beverages and such other additional menu items or concepts that may be added from time to time in the majority of Tenant's other stores, provided that such ancillary use shall not in any event, in the aggregate, exceed seven percent (7%) of the total Rentable Area of the Demised Premises. Tenant shall provide the Landlord with prior written notice in the event of any change to the Tenant's menu for the Landlord's prior written approval. The sale of giftware, novelties and other merchandise related to and incidental to Tenant's business will also be permitted, provided the sales of such items does not in any way contravene any exclusivity in favour of any tenant in the Complex or any tenant as of the date of this Agreement who occupies space leased by the Landlord in the Yonge-Eglinton subway station retail area. The exclusive use rights granted to certain other tenants are more particularly set out and described in Schedule "B" of the Lease Amending Agreement dated July 4th, 2002. For greater clarity, if the Tenant receives written notification from the Landlord that the Tenant is selling items in contravention of the Lease, as amended by this Agreement, the Tenant shall, upon receipt of such notice immediately cease and desist in the sale of the specified food items.

Tenant shall operate under the name "Second Cup" or "Les Cafés Second Cup" or such other name as is used by Tenant in a majority of its other locations in the Province in which the Demised Premises are located. Tenant acknowledges and agrees that in the event of any change to the name of the Tenant, Tenant shall provide the Landlord with prior written notice.

The sale of candy, nuts, bagels, submarine style sandwiches, cinnamon buns and blended beverages prepared using fresh fruit on the Demised Premises is specifically excluded."

Part II – Uses in T.T.C Retail Areas

GATEWAY ON THE GO

- (r) **"Use"**: The Tenant may carry on one or more of the following uses from the Premises, subject to any limitation as hereinafter described: (i) sale, or free distribution, of newspapers, (ii) sale of fresh fruit, vegetables, quick pick-up and pre-packaged food and drinks (including bread, milk, eggs, juices, protein and vegetable shakes, smoothies), (iii) newsstand operations, (iv) cigarette, vapour and tobacco products, (v) lottery tickets unless prior to the date hereof, the Landlord enters into a binding lease with another lottery kiosk, (vi) sale of PRESTO cards, cellular phones, phone accessories, unless prior to the date hereof, the sale of same is prohibited by restrictive covenants to which the Landlord is bound in respect of certain retail locations, (vii) the provision of different advertising medium, including electronic and digital displays and video screens, within the Premises,

Gateway On the Go continued next page...

and posted signage on the exterior of the Premises advertising services and/or products sold within the Premises, (viii), the sale of typical "Tim Horton's" products (it being understood that coffee, other hot and cold beverages, sandwiches and baked goods generally may not be offered for sale from the balance of the newsstand locations prior to Tenant obtaining Landlord's prior approval, such approval to be solely based on whether the Landlord is then bound by any other restrictive covenants that would prohibit the sale of the aforementioned offerings), (ix) the sale of products typical of MTY brands from certain retail locations, as approved in writing by the Landlord and, (x) subject always to compliance with the provisions of Section 12.05, on prior notice to the Landlord such other products and services that are commonly sold in other market shops (convenience) retail concepts in Ontario, including a selection of healthy food products such as salads, sandwiches, granola bars, having regard for any restrictive covenants to which Landlord is then bound in respect of certain retail locations identified by the Landlord,

as more particularly set forth in Section 2.02 and Section 9.03.

700873 ONTARIO LTD. O/A THE LIQUIDATORS LTD.

- (i) Use: The sale of women's and children casual clothing, fashion, jewellery and the sale of coordinated accessories including fashion eyewear, scarves and handbags.

as more particularly set forth in Section 2.02 and Section 9.03.

Section 2.02 Usage: The Tenant shall not use or occupy the Premises for any purpose other than for the use stated in Section 1.01(i) and will not use or permit the use of the Premises or any part of them, for any other purpose. The Tenant will, throughout the Term, occupy the Premises and operate its business in a diligent, active and continuous manner in the whole of the Premises during the Minimum Hours of Operation set forth in Section 1.01(j).

Section 9.03 Use: Tenant agrees not to carry on any business on the Premises other than that permitted under Section 2.02 of this Lease and not to use the Premises, or any part thereof, for residential purposes.

YONGE STREET GOURMET LTD.

- (h) Use: The Leased premises will be used for the purpose of a delicatessen.

as more particularly set forth in Section 2.02.

Section 2.02 Usage: The Lessee shall not use or occupy the Leased Premises for any purpose other than for the use stated in Section 1.01(h) and will not use or permit the use of the Leased Premises or any part of them, for any other purpose. The Lessee will, throughout the Term, occupy the Leased Premises and operate its business in a diligent, active and continuous manner in the whole of the Leased Premises during the Minimum Hours of Operation set forth in Section 1.01(i).

SHAMIA TAERI O/A DIXIE CLEANERS

- (i) Use: The operation of a Dry Cleaning service and perform minor alteration of clothes.

Section 2.02 Usage: The Lessee shall not use or occupy the Leased Premises for any purpose other than for the use stated in Section 1.01(i) and will not use or permit the use of the Leased Premises or any part of them, for any other purpose. The Lessee will, throughout the Term, occupy the Leased Premises and operate its business in a diligent, active and continuous manner in the whole of the Leased Premises during the Minimum Hours of Operation set forth in Section 1.01(j).

SCHEDULE "M"
FORM OF SPACE LEASE RECOGNITION AGREEMENT

See attached.

SCHEDULE “M”

FORM OF SPACE LEASE RECOGNITION AGREEMENT

THIS AGREEMENT made this ■ day of ■, 20■.

B E T W E E N :

TORONTO TRANSIT COMMISSION

(hereinafter called the “**Head Landlord**”)

OF THE FIRST PART;

- and -

■

(hereinafter called the “**Space Tenant**”)

OF THE SECOND PART.

WITNESSES THAT:

WHEREAS the Head Landlord is the registered and beneficial owner of the parcels of land in the City of Toronto, Ontario more particularly described in Schedule A attached hereto (hereinafter called the “**Lands**”);

AND WHEREAS by a lease dated as of the ■ day of ■, 20■ (which lease, as amended to date and as further amended, supplemented, renewed, extended, replaced, modified or restated from time to time, is hereinafter called the “**Head Lease**”) between the Head Landlord and OPG Investments Holdings GP Inc, as general partner for OPG Investment Holdings Limited Partnership, CT REIT (Yonge Eglinton) GP Corp., as general partner for CT REIT (Yonge Eglinton) Limited Partnership and ■ as general partner for Cansquare (Canada 8) LP (collectively the “**Head Tenants**”), the Head Landlord demised and leased the Lands to the Head Tenants;

AND WHEREAS pursuant to a lease dated the ■ day of ■, 20■ as may be amended, supplemented, renewed, extended, replaced, modified or restated from time to time (hereinafter called the “**Space Lease**”) between the Head Tenants as landlord and the Space Tenant as tenant, the Head Tenants have subleased certain premises designated as [*insert details*] as described in the Space Lease (hereinafter called the “**Leased Premises**”) to the Space Tenant;

AND WHEREAS this Agreement is entered into at the request of the Space Tenant.

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged by each party hereto) and the mutual covenants and agreements herein contained, the Head Landlord and the Space Tenant hereby covenant and agree as follows:

1. **Recognition of Space Lease.** The Head Landlord acknowledges the Space Lease and agrees that if and for so long as the Space Tenant is paying rent and observing, performing and complying with all of its covenants and obligations contained in the Space Lease and is not in default (beyond any period given to the Space Tenant to cure such default under the Space Lease) and so long as the Space Tenant agrees that it will attorn to the Head Landlord if and when required by Section 2 below, then in the event of expiry or termination of the Head Lease (including by way of natural expiry in the ordinary course, surrender, merger, disclaimer, disaffirmance, rejection or repudiation), or the Head Landlord taking possession of or succeeding to the Head Tenants' interest in the Leased Premises as a result of a default by the Head Tenants under the Head Lease, the Head Landlord will:

- (a) at the option of the Head Landlord, either:
 - (i) permit the Space Tenant to remain in possession of the Leased Premises throughout the unexpired residue of the term of the Space Lease, as such term may be renewed or extended pursuant to the terms of the Space Lease, without interruption or disturbance from the Head Landlord except as permitted pursuant to the terms and conditions of the Space Lease; and, in such event, the Head Landlord agrees that, so long as it remains the owner of the Leased Premises following termination of the Head Lease or in possession of the Head Tenants' interest in the Leased Premises pursuant to the Head Lease, it shall perform the Head Tenants' obligations as landlord under the Space Lease arising after the date of termination of the Head Lease or of taking possession of the Head Tenants' interest in the Leased Premises (but the Head Landlord will not be liable for, or subject to any prior acts or omissions of or defaults by or any defences, claims or rights of set-off against, or prepayment of rent or any other amounts to the Head Tenants, in each case except as provided in the Lease); or
 - (ii) enter into a new lease with the Space Tenant for the Leased Premises for the unexpired residue of the term of the Space Lease and upon substantially the same terms and conditions (including any right of renewal or extension) as are contained in such Space Lease and, in such event, the Space Tenant hereby agrees to enter into such new lease with the Head Landlord; and
- (b) not join the Space Tenant as a party defendant in any proceeding by the Head Landlord to terminate the Head Tenants' interest under the Head Lease solely as a result of any default under or termination of the Head Lease other than as a result of a default by the Space Tenant under the Space Lease (beyond any period provided to the Space Tenant to cure such default in the Space Lease).

2. **Acknowledgement of Space Tenant.** The Space Tenant hereby acknowledges that its interest in the Leased Premises created under the Space Lease is subject and subordinate to the Head Lease and agrees that in the event of expiry or termination of the Head Lease (including by way of natural expiry in the ordinary course, surrender, merger, disclaimer, disaffirmance, rejection or repudiation), or the Head Landlord taking possession of or succeeding to the Head Tenants' interest in the Leased Premises as a result of a default by the Head Tenants under the Head Lease, the Space Tenant upon a written request of the Head Landlord, shall promptly attorn to the Head Landlord and become the Head Landlord's tenant under the Space Lease, or the tenant of any purchaser from the Head Landlord, such attornment to be for the then unexpired residue of the term of the Space Lease, and upon all terms and conditions of the Space Lease. The Space Tenant shall execute all such further instruments as may from time to time be reasonably required by the Head Landlord to evidence the priority of the Head Lease and the attornment of the Space Tenant. Should the Space Tenant fail to execute any such further instrument, this Agreement, at the option of the Head Landlord shall forthwith terminate. Notwithstanding the foregoing, the Space Tenant shall be under no obligation to pay rent to the Head Landlord unless and until the Space Tenant receives written notice from the Head Landlord that the Head Lease is in default and that the Space Tenant must attorn to the Head Landlord.

3. **Successors and Assigns.** This Agreement shall be binding upon the Head Landlord and its successors (including successors in title) and assigns and shall enure to the benefit of the Space Tenant and its permitted successors and permitted assigns as prescribed by the Space Lease.

In the event of a sale by the Head Landlord of its interest in the Lands or any part thereof, or the transfer or assignment of the Head Lease or an interest therein, the Head Landlord shall obtain the written agreement of the purchaser, transferee or assignee, as the case may be, in favour of the Tenant to observe and to be bound by the terms of this Agreement, whereupon the Head Landlord shall be released from its obligations hereunder to the extent assumed by the purchaser, transferee or assignee; provided that in the case of a mortgage or charge by the Head Landlord of its interest in the Lands or the Head Lease (including without limitation an assignment of such interest as security for any mortgage or charge) the holder of such mortgage or charge shall not be obliged to observe or be bound by this Agreement unless and until it acquires possession or ownership of the Lands and the Leased Premises.

In the event of an assignment by the Space Tenant of its rights and obligations pursuant to the Space Lease, the Space Tenant shall obtain the written agreement of the assignee in favour of the Head Landlord to observe and to be bound by the terms of this Agreement.

4. **Notice.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently and effectually given if signed by or on behalf of the party giving the notice and delivered by pre-paid courier, sent by facsimile or email or mailed by registered prepaid post to the intended recipient addressed as follows:

(a) In the case of the Head Landlord, to:



Attention: ■
Facsimile: ■
Email: ■

(b) In the case of the Space Tenant, to:

■

Attention: ■
Facsimile: ■
Email: ■

Any notice given as aforesaid shall be conclusively deemed to have been given and received: (i) if delivered by courier, on the date of delivery; (ii) if sent by facsimile or email transmission before 5:00 p.m. (local time of the recipient) on a Business Day, on the date of such transmission (and if not then on the next Business Day); or (iii) if sent by registered mail on the third Business Day following the date of mailing thereof, as the case may be. If a notice is sent by facsimile or email, a copy thereof shall be sent on the same day by ordinary mail, postage prepaid or personal delivery. In the event of a labour dispute, postal interruption or a reasonable anticipation thereof, all notices required to be given under this Agreement shall be sent by facsimile or email transmission or delivered by courier. Either party may, by notice given as aforesaid, designate a different address or addresses for notices to it under this Agreement. In this Section 4, "**Business Day**" means any day which is not a Saturday or Sunday or a statutory holiday in the Province of Ontario.

5. **Entire Agreement.** This Agreement, together with the Space Lease, is the entire agreement between the parties respecting the matters set out herein. This Agreement may not be modified, supplemented or terminated, nor any provision hereof waived, except by written agreement of each of the Head Landlord and the Space Tenant.

6. **Severability.** If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any person, party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

7. **Further Assurances.** Each of the parties hereto shall from time to time hereafter and upon any reasonable request of any other party, execute and deliver, make or cause to be made, all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

8. **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Each of the parties hereto attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

9. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original and all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile transmission or by electronic delivery in portable document format (".pdf") or tagged image format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

[Signature page follows]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

TORONTO TRANSIT COMMISSION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the Corporation.

[SPACE TENANT]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the Corporation.

Schedule A
to Space Lease Recognition Agreement

Legal Description of the Lands

SCHEDULE "N"

FORM OF LEASEHOLD MORTGAGEE ACKNOWLEDGEMENT AGREEMENT

See attached.

SCHEDULE “N”

FORM OF LEASEHOLD MORTGAGEE ACKNOWLEDGEMENT AGREEMENT

THIS AGREEMENT made this ■ day of ■, 20■.

AMONG:

TORONTO TRANSIT COMMISSION

(hereinafter called the “**Landlord**”)

OF THE FIRST PART;

- and -

■

(hereinafter called the “**Leasehold Mortgagee**”)

[NTD: This form is intended to be used for both Leasehold Mortgages and Co-Tenant’s Separate Mortgages. Revise as necessary in the case of a Co-Tenant’s Separate Mortgage]

OF THE SECOND PART;

- and -

OPG INVESTMENT HOLDINGS GP INC.,
as general partner for
OPG INVESTMENT HOLDINGS LIMITED PARTNERSHIP

- and-

CT REIT (YONGE EGLINTON) GP CORP.,
as general partner for
CT REIT (YONGE EGLINTON) LIMITED PARTNERSHIP

- and -

[Insert Name of Northam tenant entity / entities]

(hereinafter collectively called the “**Tenants**” and each a “**Tenant**”)

OF THE THIRD PART

WITNESSES THAT:

WHEREAS the Landlord owns the lands situate in the City of Toronto described in Schedule “A” attached hereto (hereinafter called the “**Lands**”);

AND WHEREAS Tenants, as tenants in common, [each as to an undivided one third (1/3) interest], have a leasehold estate in the Lands (hereinafter called the “**Leasehold Estate**”) pursuant to a consolidated amended and restated ground lease dated as of the ■ day of ■, 20■, between the Landlord and the Tenants for a term expiring on ■, notice of which lease was registered on title to the Lands on the ■ day of ■, 20■ as Instrument No. ■ (which lease, as amended to date and, subject to Section 2 below, as may be further amended, supplemented, renewed, extended, replaced, modified or restated from time to time, is hereinafter called the “**Land Lease**”); [NTD: *Revise as necessary in the case of a Co-Tenant’s Separate Mortgage*]

AND WHEREAS one or more multi-story buildings (the “**Buildings**”) have been or are proposed to be constructed by the Tenants on the Lands, and the Leasehold Estate in the Lands and the Buildings are hereinafter collectively referred to as the “**Property**”;

[NTD: *This Agreement and the recitals are to be modified if the Tenants have assigned their interest in the Land Lease as it relates to only part of the Lands pursuant Section 13.2 of the Land Lease and the Leasehold Mortgage relates only to such assigned interest.*]

AND WHEREAS pursuant to a mortgage made between the Tenants as mortgagor and the Leasehold Mortgagee as mortgagee, dated the ■ day of ■, 20■, which was registered on title to the Leasehold Estate in the Lands on the ■ day of ■, 20■ as Instrument No. ■ (which mortgage, as amended, supplemented, renewed, extended, restated or replaced from time to time, is hereinafter called the “**Leasehold Mortgage**”), the Tenants mortgaged and charged all of their respective right, title and interest in the Leasehold Estate in the Lands, the Land Lease and the Property in favour of the Leasehold Mortgagee as security for the Tenants’ obligations referred to in the Leasehold Mortgage; [NTD: *Revise as necessary in the case of a Co-Tenant’s Separate Mortgage*]

AND WHEREAS it is a requirement under the Land Lease that the Leasehold Mortgagee and the Landlord enter into this Agreement;

AND WHEREAS all capitalized terms used in this Agreement which are not defined herein have the respective meanings ascribed thereto in the Land Lease;

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged by each party hereto) and the mutual covenants and agreements herein contained, the parties hereto hereby covenant and agree as follows:

1. **Recitals.** The parties acknowledge and confirm that the foregoing recitals are true.
2. **References to Lease.** Any references to the Land Lease contained herein are references to the Land Lease as it reads on the date hereof. Subject to Section 9(h), no amendments, variations, modifications or waiver under the Land Lease shall be effective to

amend the provisions referred to herein unless such amendment, variation, modification or waiver is agreed to in writing by each of the parties hereto.

3. **Interpretation.** Words importing the singular shall include the plural and vice versa and words importing gender include all genders. All references to a party shall be read with such changes in number and gender as may be appropriate, according to whether the party is a male or female Person or a corporation or partnership, and if a party consists of more than one Person the obligations of such Persons hereunder shall be joint and several. References to federal or provincial legislation means such legislation as constituted at the date hereof, as the same may be amended, re-enacted or replaced from time to time. The headings of Articles, Sections and Subsections are for convenience of reference only, and shall not affect the interpretation thereof. The words “hereof”, “herein”, “hereby” and “hereunder” and similar expressions used in any provision of this Agreement refer to the whole of this Agreement and not to such provision only. All of the provisions of this Agreement are to be construed as covenants and agreements.

4. **Notice of Leasehold Mortgage.** Pursuant to Subsection 13.7(a) of the Land Lease, the Leasehold Mortgagee hereby:

- (a) gives notice to the Landlord of the Leasehold Mortgage, the effective date of which is **[the date of this Agreement]**; and
- (b) delivers to the Landlord herewith a copy of the Leasehold Mortgage.

5. **Acknowledgement of Leasehold Mortgagee and the Tenants.** Each of the Leasehold Mortgagee and the Tenants hereby certifies, confirms and acknowledges to the Landlord that:

- (a) the Leasehold Mortgage was granted by the Tenants in good faith at arms’ length for the purposes of securing **[construction -or- permanent]** financing for the Development or a Phase or part thereof or Additional Improvements, or a refinancing thereof;
- (b) the Leasehold Mortgage is part of a single transaction in which the Tenants’ Leasehold Estate in the Lands and ownership interest in the Buildings is being simultaneously mortgaged to the Leasehold Mortgagee on terms that no foreclosure or sale shall be made except of the combined leasehold interest in the Lands and ownership interest in the Buildings;
- (c) the Leasehold Mortgage will mature on or prior to the last day of the Term of the Land Lease (other than in the case of termination of the Land Lease before the expiry of the Term); and
- (d) all necessary approvals, notices or further agreements required in connection with the Leasehold Mortgage pursuant to any Permitted Encumbrances have been obtained, given or executed and delivered on or before the effective date of the Leasehold Mortgage

6. **Acknowledgement of Tenants.** Each of the Tenants hereby certifies, confirms and acknowledges to the Landlord that:

- (a) the principal amount secured by the Leasehold Mortgage from time to time, together with the then aggregate principal amount outstanding and secured from time to time under any other leasehold mortgages and any Co-Tenant's Separate Mortgages granted by the Tenants does not and will not exceed:
 - (i) **[in the case of construction financing insert]** 90% of the estimated costs to construct, renovate, redevelop the Building or Phase of the Development to be financed as set forth in the Tenants' Project Budget for such Building or Phase, a copy of which Project Budget has been delivered to the Landlord herewith; or
 - (ii) **[in the case of permanent financing insert]** 75% of the fair market value of the Building(s) or Phase(s) of the Development being financed as set forth in an appraisal report prepared by a Qualified Appraiser in connection with such financing, a copy of which appraisal report has been delivered to the Landlord herewith; and
 - (iii) **[NTD: In the case of a Co-Tenant's Separate Mortgage, insert a similar provision confirming that the applicable threshold above also applies to the mortgaging Tenant's pro rata share of the costs or the FMV, as applicable].**

7. **Acknowledgement of Landlord.** The Landlord hereby certifies, confirms and acknowledges to the Leasehold Mortgagee that:

- (a) the Tenants are entitled to grant the Leasehold Mortgage to the Leasehold Mortgagee without the Landlord's consent in accordance with Section 13.7 of the Land Lease; **[NTD: in the case of a Co-Tenant's Separate Mortgage also refer to Section 13.9 of the Land Lease]**
- (b) the Leasehold Mortgage constitutes a "Leasehold Mortgage" as defined in and for the purposes of the Land Lease; and **[NTD: Revise as necessary in the case of a Co-Tenant's Separate Mortgage]**
- (c) the Leasehold Mortgagee is entitled to the benefit of the rights granted to a "Leasehold Mortgagee" pursuant to this Agreement and 17.4 of the Land Lease and to enforce such provisions against the Landlord.

8. **Covenants of the Leasehold Mortgagee.** The Leasehold Mortgagee covenants and agrees with the Landlord that:

- (a) if, when and for so long as the Leasehold Mortgagee shall be in ownership, possession or control, whether directly or indirectly by way of a receiver or receiver and manager, of the Property, the Leasehold Mortgagee shall be bound

by and will observe and perform the obligations of the Tenants under the Land Lease;

- (b) if the Leasehold Mortgagee exercises any power of sale under the Leasehold Mortgage it shall require the purchaser of the Property to enter into an Assumption Agreement (as defined in Subsection 8(d)(ii) below) with the Landlord whereby the purchaser agrees to assume and to observe and perform all of the obligations of the Tenants under the Land Lease;
- (c) the Leasehold Mortgagee will not convey or assign its interest in the Leasehold Mortgage unless it first obtains and delivers to the Landlord a written agreement from the transferee or assignee (the “**New Mortgagee**”) in favour of the Landlord, which shall be in form and substance satisfactory to the Landlord, acting reasonably, whereby such New Mortgagee agrees to be bound by all the terms, covenants and conditions of this Agreement by which the Leasehold Mortgagee is bound and to observe and perform all of the obligations of the Leasehold Mortgage hereunder. All costs and expenses incurred by the Landlord in connection with such agreement will be paid by the Leasehold Mortgagee or the New Mortgagee;
- (d) the Leasehold Mortgagee will not convey, assign, mortgage or encumber the Property unless it first:
 - (i) complies with all of the obligations of the Tenants under Section 13.1 or 13.6 of the Land Lease in connection with such proposed conveyance, assignment, mortgage or encumbrance; and
 - (ii) delivers to the Landlord a written agreement (an “**Assumption Agreement**”) of the transferee, assignee, mortgagee or encumbrancer (each an “**Assignee**”) in favour of the Landlord, which shall be in form and substance satisfactory to the Landlord, acting reasonably, whereby the Assignee agrees to be bound by all the terms, covenants and conditions of the Land Lease by which the Tenants are bound and to observe and perform the obligations of the Tenants under the Land Lease, provided that if the Assignee is a mortgagee or encumbrancer, such obligation shall apply only if, when and for so long as the Assignee is in ownership, possession or control, whether directly or indirectly by way of a receiver or receiver and manager, of the Property. All costs and expenses incurred by the Landlord in connection with such agreement will be paid by the Leasehold Mortgagee or the Assignee;
- (e) no foreclosure or sale shall be made by the Leasehold Mortgagee of the Property except of the combined Leasehold Estate in the Lands and ownership interest in the Buildings;
- (f) the Leasehold Mortgagee shall give prompt Notice to the Landlord of any default by the Tenants under the Leasehold Mortgage and the Landlord shall have a right

(but not the obligation) to cure such defaults within the same period of time after receipt of such Notice as is afforded to the Tenants to cure such defaults after notice under the Leasehold Mortgage plus, in the case of monetary defaults, five (5) Business Days and, in the case of non-monetary defaults, fifteen (15) Business Days, in each case before the Leasehold Mortgagee may take steps to realize on the security of its Leasehold Mortgage on the Property. The Landlord's right to cure such defaults shall include the right to pay the entire amount owing under the Leasehold Mortgage where such amount has become due and payable and to obtain, at the Landlord's option, either a discharge or an assignment of the Leasehold Mortgage;

- (g) in the event that the Landlord has commenced and is diligently proceeding to remedy any default by the Tenants under the Leasehold Mortgage (other than a monetary default) which requires more time to remedy than the periods of time given to the Landlord to remedy the same under Subsection 8(f) above, the Leasehold Mortgagee will grant to the Landlord a reasonable extension of time (as determined by the Leasehold Mortgagee, acting reasonably), as may be necessary to permit such default to be remedied by the Landlord acting with due diligence; and
- (h) the Leasehold Mortgage is subject and subordinate to the Land Lease and the rights of the Landlord thereunder, including without limitation, the provisions of Article 17 and Sections 5.3 and 7.4 thereof.

9. **Covenants of the Landlord.** The Landlord covenants and agrees with the Leasehold Mortgagee that:

- (a) the Leasehold Mortgagee may enforce the security of the Leasehold Mortgage and acquire title to the Leasehold Estate in the Lands in any lawful manner, and may, by its employees, agents, representatives or by a receiver or receiver and manager, as the case may be, take possession of and manage the Property, and upon foreclosure of, or without foreclosure upon exercise of any contractual or statutory power of sale under the Leasehold Mortgage, the Leasehold Mortgagee may, subject to compliance with Section 13.1 or 13.6 of the Land Lease and this Agreement, sell or assign the Leasehold Estate in the Lands and ownership of the Buildings;
- (b) in connection with the enforcement of the security of the Leasehold Mortgage, and upon foreclosure of, or without foreclosure upon exercise of any contractual or statutory power of sale under the Leasehold Mortgage, the Leasehold Mortgagee shall be entitled to exercise the rights to partially assign the Land Lease pursuant to Section 13.2 of the Land Lease;
- (c) the Leasehold Mortgagee shall be liable to pay and perform the obligations of the Tenants under the Land Lease only if, when and for so long as the Leasehold Mortgagee shall be in ownership, possession or control, whether directly or by way of a receiver or receiver and manager, of the Tenants' Leasehold Estate in the

Lands. The Landlord acknowledges and agrees that notwithstanding the provisions hereof or of the Leasehold Mortgage: (i) unless and until the Leasehold Mortgagee has foreclosed or taken possession or control, whether directly or by way of a receiver or receiver and manager, of the Property, nothing contained herein or in the Leasehold Mortgage shall render the Leasehold Mortgagee liable to the Landlord for the fulfilment or non-fulfilment of any of the covenants or obligations of the Tenants under the Land Lease; and (ii) for greater certainty, upon any assignment or sale by the Leasehold Mortgagee of the Property or the Leasehold Mortgagee ceasing to be in possession or control, whether directly or indirectly by way of a receiver or receiver and manager of the Property, the Leasehold Mortgagee shall cease to be liable for the fulfilment or non-fulfilment of the obligations of the Tenant under the Land Lease arising thereafter;

- (d) in the event of any Default by the Tenants under the Land Lease, the Landlord will deliver to the Leasehold Mortgagee a copy of any Notice of Default which it delivers to the Tenants pursuant to the Land Lease and, if such Defaults are not remedied by the Tenants in the manner and within the time limits specified in Section 17.2 of the Land Lease, a Notice of Tenants' Event of Default in accordance with Subsection 17.4(a)(ii) of the Land Lease, and in each case the Leasehold Mortgagee may, within the time limits specified in Section 17.2 and/or Section 17.4 of the Land Lease, as applicable, make any and all payments and do and perform all acts and things which may be necessary or required to prevent a termination of the Land Lease;
- (e) in the event that the Leasehold Mortgagee has commenced and is diligently proceeding to remedy any Default (other than a Monetary Default) which requires more time to remedy than the periods of time given to the Tenants to remedy under Article 17 of the Land Lease, the Landlord will grant to such Leasehold Mortgagee a reasonable extension of time (as determined by the Landlord, acting reasonably), as may be necessary to permit such Default to be remedied by the Leasehold Mortgagee acting with due diligence;
- (f) the Landlord shall not terminate the Land Lease as a result of any Default or Event of Default by the Tenants under the Land Lease if such Default or Event of Default is remedied by the Tenants or the Leasehold Mortgagee within the time limits specified in Sections 17.2 and 17.4 of the Land Lease in accordance with a Notice of Default given by the Landlord to the Tenants and the Leasehold Mortgagee or a Notice of Tenants' Event of Default given to the Leasehold Mortgagee, failing which, subject to Subsection 9(e) above, the Landlord may terminate the Land Lease in accordance with its terms;
- (g) if the Landlord shall become entitled to and shall terminate the Land Lease on account of any Event of Default by the Tenants, the Landlord shall, upon request of the Leasehold Mortgagee, grant to the Leasehold Mortgagee a new lease of the Lands in accordance with and subject to Section 10 below;

- (h) the Landlord shall not materially amend/modify, cancel or accept a voluntary surrender of the Land Lease by the Tenants without the prior written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld; provided that the foregoing provision shall not operate to prevent or restrict adjustment or recalculation of the amount of Base Rent payable by the Tenants in accordance with the provisions of the Land Lease;
- (i) if the Landlord materially amends/modifies the Land Lease without the consent of the Leasehold Mortgagee, the Leasehold Mortgagee shall not be bound by such amendment/modification until such time as the Leasehold Mortgagee provides its consent in accordance with the foregoing paragraph (g); and
- (j) subject to the provisions of Section 5 hereof, the Tenants and the Leasehold Mortgagee may modify, extend, renew or replace the Leasehold Mortgage, and may make additional advances secured by the Leasehold Mortgage, in each case without the consent of or further notice to the Landlord.

10. **Leasehold Mortgagee's Right to Obtain New Lease.** If the Land Lease is terminated for any reason prior to the expiry of the Term (including without limitation by reason of an Event of Default of the Tenants, or by reason of the Term of the Land Lease being taken in execution or attachment, or by reason of a termination or disclaimer of the Land Lease by any trustee in bankruptcy of any Tenant or in any bankruptcy or insolvency proceedings involving any Tenant), the Landlord will promptly give Notice to the Leasehold Mortgagee of such termination and the Landlord will, upon request of the Leasehold Mortgagee, grant the Leasehold Mortgagee or a nominee on behalf of the Leasehold Mortgagee, a new lease of the Lands for the remainder of the Term, effective immediately prior to the time of such termination, at the same Rent and otherwise upon all of the same material terms, conditions, covenants, provisions and agreements as are contained in the Land Lease, with such amendments thereto as may be required by the Leasehold Mortgagee and agreed to by the Landlord, each acting reasonably; subject, however, to the rights, if any, of the Persons then in possession of any part of the Property, and subject to the satisfaction of the following requirements:

- (a) the Leasehold Mortgagee will make written request to the Landlord for such new lease within thirty (30) days after the date of termination of the Land Lease and such written request shall be accompanied by payment to the Landlord of all sums then due and owing to the Landlord under the Land Lease to the date of termination of which the Leasehold Mortgagee has received notice;
- (b) subject to Subsection 10(g) below, the Leasehold Mortgagee will pay to the Landlord, at the time of execution and delivery of such new lease, any and all sums which would at the time of the execution and delivery of such new lease be due and owing under the Land Lease but for such termination, together with the reasonable expenses of the Landlord, including reasonable legal fees and expenses in connection with any of the foregoing, and in connection with the new lease;

- (c) if the Land Lease was terminated by reason of any Event of Default which is curable and the curing of which requires that the Leasehold Mortgagee be in possession of the Property, the Leasehold Mortgagee will, immediately upon the execution and delivery of the new lease and taking possession of the Property, commence and diligently prosecute the curing of such Event of Default and pay to the Landlord all expenses, including reasonable legal fees and expenses, incurred by the Landlord by reason of such Event of Default;
- (d) the existence of a non-monetary Event of Default arising as a result of a Covenant Default or an Insolvency Event pursuant to Subsection 17.2(c) or 17.2(d) of the Land Lease which cannot be remedied by the new tenant shall not relieve the Landlord from its obligation to grant such new lease, in which event such non-monetary Event of Default shall not constitute a default under such new lease;
- (e) any such new lease and the leasehold estate in the Lands thereby created will continue to maintain the same priority as the Land Lease with regard to any Freehold Mortgage of the Lands or any other lien, charge or encumbrance thereon created by the Landlord;
- (f) under any such new lease the Landlord shall deliver possession of the Lands, subject to those matters to which the Land Lease was subject, and to those matters suffered, created or permitted to be suffered or created by the Tenants under the Land Lease prior to termination thereof, including Space Leases;
- (g) if the Landlord shall have entered upon the Property prior to the date upon which the new lease is executed and delivered, and shall have collected rents from any Space Tenants, there will be deducted from any sums due to the Landlord upon the execution and delivery of the new lease, an amount equal to the net income, if any, collected by the Landlord from the date of termination of the Land Lease to the date of execution and delivery of the new lease, but if such collections shall not equal or exceed the expense of operating the Property during the period of the Landlord's occupancy, the Leasehold Mortgagee will pay the Landlord the amount of the deficiency;
- (h) failure of the Leasehold Mortgagee to execute and deliver to the Landlord such new lease within 30 days after the same is tendered by the Landlord or to comply with any of the other requirements and conditions specified in this Section 10 will conclusively be deemed an abandonment and waiver on the part of the Leasehold Mortgagee of all rights to obtain such new lease and any and all rights against the Landlord;
- (i) in the event there exists more than one leasehold mortgage under the Land Lease, the competing rights to a new lease hereunder will be resolved in favour of the leasehold mortgagee having priority of registration or as may be otherwise agreed to in writing amongst the Leasehold Mortgagees;

- (j) the purchaser of the Land Lease at any sale or in any proceedings or transactions for the foreclosure or realization of the security of any Leasehold Mortgage, or the assignee or transferee of the Land Lease under any assignment or transfer in lieu of the foreclosure of any such mortgage, shall be deemed to be a Transferee to whom the provisions of Section 13.1 of the Land Lease shall apply;
- (k) the liability of the Leasehold Mortgagee under any new lease entered into pursuant to this Section 10 shall terminate upon the assignment of the new lease by the Leasehold Mortgagee to a purchaser or assignee of the Leasehold Estate in the Lands and the ownership interest in the Buildings provided that the provisions of Section 13.1 or 13.6 of the Land Lease are complied with and that such termination of liability shall apply only with respect to the period of time after the effective date of such assignment; and
- (l) the Landlord covenants upon the request of the Leasehold Mortgagee made in writing, and at the expense of the Leasehold Mortgagee, to provide such commercially reasonable assistance to the Leasehold Mortgagee as may be required to ensure the new lease complies with the *Planning Act* (Ontario).

11. **Application of Insurance Proceeds.** The Leasehold Mortgagee hereby waives the provisions of Subsection 6(2) of the *Mortgages Act* (Ontario) or any similar successor legislation and acknowledges and agrees that all insurance proceeds received pursuant to the insurance required to be obtained pursuant to the Land Lease in respect of loss or damage to the Property for application to the replacement or repair of the Property shall be paid to the Tenants or the Insurance Trustee and shall be applied in making good the loss or damage in respect of which such proceeds are received, in each case as provided in the Land Lease and, if applicable, the Insurance Trust Agreement. The Leasehold Mortgagee agrees that, upon request of the Landlord, the Leasehold Mortgagee shall become a party to and agree to be bound by and to observe and perform its obligations under the Insurance Trust Agreement and shall execute and deliver such agreement as the Landlord or the Insurance Trustee may reasonable require for such purpose. The Landlord acknowledges and agrees that if the Leasehold Mortgagee, at its option, repairs any damage to the Property as required by the Land Lease, any insurance proceeds received in respect of such damage shall be paid or released to the Leasehold Mortgagee in the same manner as insurance proceeds are to be paid or released to the Tenants under the Land Lease and, if applicable, the Insurance Trust Agreement for the purposes of completing such repairs.

12. **Partial Releases.** The Leasehold Mortgagee shall, upon request of the Landlord or the Tenants from time to time and without receipt of any consideration therefor:

- (a) partially discharge and release from the Leasehold Mortgage and any related security any lands and premises which cease to be part of the Lands leased to the Tenants pursuant to the terms of the Land Lease; and/or
- (b) subordinate the Leasehold Mortgage and any related security to any reciprocal rights agreement, easements, rights of way or licenses or other similar rights

granted by the Landlord or the Tenants to the other over the Property serving or for the benefit of any lands adjacent to the Property, in each case.

13. **Estoppel Acknowledgement re Land Lease.** The Landlord hereby certifies, confirms and acknowledges to the Leasehold Mortgagee that:

- (a) as of the date hereof the Land Lease is in full force and effect and is **[unamended]** and is valid and enforceable by the Tenants against the Landlord; **[NTD: revise as necessary, if there have been modifications state that the same are in full force and effect as modified, stating the modifications]**
- (b) all Rent payable by the Tenants to the Landlord under the Land Lease has been paid in full to the date hereof;
- (c) to the best of its knowledge (after due inquiry), there is no existing default by the Tenants under the Land Lease, and it is not aware of any event, facts or circumstances existing as of the date hereof which with the passage of time or the giving or notice or both would constitute a default by the Tenants under the Land Lease;
- (d) there has been no waiver by the Landlord of any acts or omissions by the Tenants which, but for such waiver, would constitute a default by the Tenants under the Land Lease; and
- (e) the Landlord does not as of the date hereof have any exercisable rights to terminate the Land Lease and it is not aware of any event, facts or circumstances which would give rise to such right to terminate the Land Lease.

14. **Estoppel Acknowledgement re Leasehold Mortgage.** The Leasehold Mortgagee hereby certifies, confirms and acknowledges to the Landlord that:

- (a) as of the date hereof the Leasehold Mortgage is in full force and effect and is unamended;
- (b) all amounts payable by the Tenants to the Leasehold Mortgagee under the Leasehold Mortgage have been paid in full to the date hereof;
- (c) to the best of its knowledge (after due inquiry), there is no existing default by the Tenants under the Leasehold Mortgage, and it is not aware of any event, facts or circumstances existing as of the date hereof which with the passage of time or the giving or notice or both would constitute a default by the Tenants under the Leasehold Mortgage;
- (d) there has been no waiver by the Leasehold Mortgagee of any acts or omissions by the Tenants which, but for such waiver, would constitute a default by the Tenants under the Leasehold Mortgage; and

- (e) the Leasehold Mortgagee does not as of the date hereof have any exercisable rights to demand repayment in full of any funds advanced under, or to terminate its commitment to advance funds to the Tenants secured by, the Leasehold Mortgage and it is not aware of any event, facts or circumstances which would give rise to such right to accelerate the Leasehold Mortgage or terminate its funding commitment.

15. **Estoppel Certificates.**

- (a) Upon request by the Leasehold Mortgagee from time to time but in no event more than once per calendar year, the Landlord agrees to execute and deliver to the Leasehold Mortgagee a certificate or acknowledgement as to the status and validity of the Land Lease and the state of the rental account thereunder, and such other information as may reasonably be required by the Leasehold Mortgagee, and any costs in connection therewith shall be for the account of the Tenants and not the Landlord or the Leasehold Mortgagee.
- (b) Upon request by the Landlord from time to time but in no event more than once per calendar year, the Leasehold Mortgagee agrees to execute and deliver to the Landlord a certificate or acknowledgement as to the status and validity of the Leasehold Mortgage and the amounts outstanding and secured thereunder, and such other information as may reasonably be required by the Landlord, and any costs in connection therewith shall be for the account of the Tenants and not the Landlord or the Leasehold Mortgagee.

16. **Tenants' Acknowledgement.** The Tenants have executed this Agreement to confirm what is stated herein and to confirm that the Landlord does not, in signing this Agreement, waive, release, amend or derogate from its rights under the Land Lease as between the Landlord and the Tenants. The Tenants acknowledge and agree that the Landlord is permitted to rely on any Notice received from the Leasehold Mortgagee and shall not be required to question the validity of any claim that the Tenants are in default under the Leasehold Mortgage or the authority of the Leasehold Mortgagee to seize any of the collateral or exercise its rights under the Leasehold Mortgage and related security and may permit the Leasehold Mortgagee to exercise its rights hereunder in accordance with such Notice, including without limitation, any rights to obtain a new lease to the exclusion of the Tenants, without any liability to the Tenants whatsoever and the Tenants hereby release the Landlord from any liability and/or claims they may have against the Landlord arising out of, or in any way connected with, this Agreement.

17. **Leasehold Mortgagee's Acknowledgement.** Subject to the terms and conditions of this Agreement, the rights and privileges in favour of the Leasehold Mortgagee hereunder will not in any way be considered to alter, affect, extend or prejudice any of the rights and remedies available to the Landlord against the Tenants under the Land Lease or at law. No holder of the Leasehold Mortgage shall, by reason of the Leasehold Mortgage, obtain any greater rights than the Tenants have under the Land Lease, except as otherwise expressly provided in this Agreement.

18. **Dispute.** Should any dispute, differences or questions arise between the Landlord and the Leasehold Mortgagee relating to whether a default has occurred under the Land Lease or relating to their respective rights and obligations under this Agreement or the applicability of any of the provisions contained in this Agreement, then such dispute will be determined in the manner set out in Article 19 of the Land Lease, *mutatis mutandis*.

19. **Costs.** Each of the Landlord and the Tenants shall pay for its/their own costs and expenses (including legal fees and disbursements) incurred in connection with the preparation and negotiation of this Agreement.

20. **No Registration.** Neither this Agreement nor notice hereof shall be registered against title to the Lands.

21. **Termination.** The registration on title to the Lands of a discharge of the Leasehold Mortgage shall constitute an automatic termination of this Agreement.

22. **Contravention of Planning Act and Right to Obtain New Lease.** If at any time the Land Lease is determined by a court of competent jurisdiction or claimed by a trustee in bankruptcy of any of the Tenants not to convey or create any interest in the Lands by virtue of being in contravention of the *Planning Act* (Ontario), the Landlord covenants that: (i) upon receipt by the Landlord of Notice from the Leasehold Mortgagee stating that the Tenants are in default of their obligations to the Leasehold Mortgagee together with a request by the Leasehold Mortgagee for a new lease, the Landlord shall grant the Leasehold Mortgagee or its nominee (at the expense of the Leasehold Mortgagee) a new lease of the Lands between the Landlord, as landlord and the Leasehold Mortgagee or its nominee, as tenant, for a term to commence on a date specified by the Leasehold Mortgagee, and acceptable to the Landlord, acting reasonably, and thence to run for a term equal in duration to the then remaining residue of the Term of the Land Lease or such shorter term that the Leasehold Mortgagee requests in order that the new lease comply with the *Planning Act* (Ontario), at the same Rent and otherwise upon the identical terms, conditions, provisos and agreements as are set out in the Land Lease and any such new lease shall retain the same priority as the Land Lease (as if it were enforceable) with respect to any Leasehold Mortgage of the Landlord's interest or any lien, charge or encumbrance thereof created by the Landlord; and (ii) upon the request of the Leasehold Mortgagee made in writing, and at the expense of the Leasehold Mortgagee, the Landlord shall provide such commercially reasonable assistance to the Leasehold Mortgagee as may be required to ensure such new lease complies with the *Planning Act* (Ontario) (provided that the Landlord shall not incur any cost or liabilities in connection therewith unless the Leasehold Mortgagee agrees to indemnify the Landlord for such costs or liabilities).

23. **Landlord Transfers.** The Landlord shall not sell, assign, transfer or otherwise dispose of the whole or any part of its interest in the Lands or its right, title and interest in the Land Lease without first obtaining an assumption agreement from the transferee in favour of the Tenants and the Leasehold Mortgagee pursuant to which such transferee agrees to assume the obligations of the Landlord hereunder. The form of such assumption agreement shall be acceptable to the Tenant and the Leasehold Mortgagee, each acting reasonably.

24. **Freehold Charge.** If the Landlord grants a mortgage or charge of its freehold interest in the Lands it shall require that, from time to time, the Freehold Mortgagee execute and deliver a non-disturbance/lease recognition agreement in favour of the Tenants and the Leasehold Mortgagee in a form consistent with then current market standards for a non-disturbance/lease recognition agreement and otherwise acceptable to the Tenant and the Leasehold Mortgagee, each acting reasonably.

25. **Notice.** Any notice or other communication to be given by a party hereunder to the other party hereunder (a “**Notice**”) shall be in writing, and shall be given or made by: (i) delivering the same by hand or by prepaid courier to the party to whom the Notice is directed, (ii) prepaid registered mail, or (iii) facsimile or email transmission, in each case, to the address set out below or to such alternative address as may from time to time be designated by Notice given in the manner provided in this Section.

(a) to the Landlord at:

Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario M4S 1Z2

Attention: Chief Executive Officer
Facsimile: (416) 485-9394
Email: ■

with a copy to:

Toronto Transit Commission
5160 Yonge Street, 6th Floor
Toronto, Ontario M2N 6L9

Attention: Head, Property, Planning & Development
Facsimile: (416) 338-0251
Email: pamela.kraft@ttc.ca

(b) to the Leasehold Mortgagee at:

■

Attention: ■
Facsimile: ■
Email: ■

(c) to the Tenants at:

OPG Investment Holdings Limited Partnership
c/o Oxford Properties Group
Suite 900

100 Adelaide Street West
Toronto Ontario M5H 0E2

Attention: Vice President, Corporate Legal
Facsimile: (416) 868-0701
Email: nstaubitz@oxfordproperties.com

and if different from the address set forth above, to the address and facsimile number posted from time to time as the corporate head office of Oxford Properties Group on the website www.oxfordproperties.com, to the attention of the Executive Vice President, Corporate Legal

with copies to:

CT REIT (Yonge Eglinton) Limited Partnership
2180 Yonge Street, 15th Floor
Toronto, Ontario M4P 2V8

Attention: Vice President, General Counsel & Secretary
Facsimile: (416) 480-3216
Email: Kimberley.graham@ctreit.com

and to:

[Northam Tenant entity / entities]
2 Carlton Street, Suite 909
Toronto, ON M5B 1J3

Attention: Chief Operating Officer
Facsimile: (416) 977-7151
Email: CWalters@northamrealty.com

Any Notice: (i) delivered by hand or by courier, shall be deemed to have been given and received on the day on which it was delivered (if delivered before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; (ii) sent by facsimile or email shall be deemed to have been given and received on the date of transmission (if transmitted before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; and (iii) sent by registered mail shall be deemed to have been given and received on the third (3rd) Business Day following the date of mailing; provided however that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of mail, any such Notice shall be delivered or transmitted by facsimile as aforesaid.

26. **Severability.** If any term, covenant, obligation or agreement contained in this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, obligation

and agreement herein contained shall be separately valid and enforceable to the fullest extent permitted by law.

27. **Further Assurances.** Each of the parties hereto shall from time to time hereafter and upon any reasonable request of any other party, execute and deliver, make or cause to be made all such reasonable and further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

28. **Assignment.** Except as provided in this Section, no party may assign its rights or benefits under this Agreement. The Landlord and the Tenants may assign their rights hereunder to any Person to whom they are assigning their interests in the Land Lease and the Property in accordance with the provisions of the Land Lease. Subject to compliance with the provisions of Subsection 8(c) of this Agreement, the Leasehold Mortgagee may assign its rights hereunder to any Person to whom it may assign its interest in the Leasehold Mortgage as permitted under the Leasehold Mortgage. No assignment by any party of its rights under this Agreement will be effective without written notice thereof first being given by the assigning party to each of the other parties and the assignee entering into an agreement in writing with the other parties hereto whereby the assignee agrees to assume all of the obligations and liabilities of the assigning party hereunder.

29. **Successors and Assigns.** The obligations, rights and benefits under this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns, according to their respective interests. Each party hereto shall require its successors and assigns to expressly acknowledge and agree in writing with the other parties 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 benefitting and bound by this Agreement, by an appropriate agreement supplementary to this Agreement.

30. **Time.** Time is of the essence of this Agreement.

31. **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

32. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original and all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile transmission or by electronic delivery in portable document format (".pdf") or tagged image format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

TORONTO TRANSIT COMMISSION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[LEASEHOLD MORTGAGEE]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the [Bank].

**OPG INVESTMENT HOLDINGS GP INC.,
as general partner for
OPG INVESTMENT HOLDINGS
LIMITED PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**CT REIT (YONGE EGLINTON) GP
CORP., as general partner for
CT REIT (YONGE EGLINTON) LIMITED
PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**[NORTHAM TENANT ENTITY /
ENTITIES]**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

SCHEDULE "O"

FORM OF SUBLEASEHOLD MORTGAGEE ACKNOWLEDGEMENT AGREEMENT

See attached.

SCHEDULE “O”

FORM OF SUBLEASEHOLD MORTGAGEE ACKNOWLEDGEMENT AGREEMENT

THIS AGREEMENT made this ■ day of ■, 20■.

AMONG:

TORONTO TRANSIT COMMISSION

(hereinafter called the “**Landlord**”)

OF THE FIRST PART;

- and -

■

(hereinafter called the “**Subleasehold Mortgagee**”)

OF THE SECOND PART;

- and -

OPG INVESTMENT HOLDINGS GP INC.,

as general partner for

OPG INVESTMENT HOLDINGS LIMITED PARTNERSHIP

- and-

CT REIT (YONGE EGLINTON) GP CORP.,

as general partner for

CT REIT (YONGE EGLINTON) LIMITED PARTNERSHIP

- and -

■

[Insert name of Northam tenant entity/entities]

(hereinafter collectively called the “**Sublandlords**” and each a “**Sublandlord**”)

OF THE THIRD PART;

- and -

■

(hereinafter collectively called the “**Subtenants**” and each a “**Subtenant**”)

WITNESSES THAT:

WHEREAS the Landlord owns the lands situate in the City of Toronto described in Schedule “A” attached hereto (hereinafter called the “**Lands**”);

AND WHEREAS the Sublandlords, as tenants in common, [**each as to an undivided one third (1/3) interest**], have a leasehold estate in the Lands pursuant to a consolidated amended and restated ground lease dated as of the ■ day of ■, 20■, between the Landlord and the Sublandlords for a term expiring on ■, notice of which lease was registered on title to the Lands on the ■ day of ■, 20■ as Instrument No. ■ (which lease, as amended to date and as may be further amended, supplemented, renewed, extended, replaced, modified or restated from time to time, is hereinafter called the “**Land Lease**”), a true and complete copy of which is attached as Schedule “B” hereto;

AND WHEREAS Subtenants, as tenants in common, [**each as to an undivided one third (1/3) interest**], have a subleasehold estate (hereinafter called the “**Subleasehold Estate**”) in the part of the Lands described in Schedule “C” attached hereto (the “**Subleased Lands**”) pursuant to a sublease dated as of the ■ day of ■, 20■, between the Sublandlord and the Subtenants for a term expiring on ■ (the “**Sublease Term**”), notice of which sublease was registered on title to the Lands and the Subleased Lands on the ■ day of ■, 20■ as Instrument No. ■ (which sublease, as amended to date and as may be further amended, supplemented, renewed, extended, replaced, modified or restated from time to time, is hereinafter called the “**Sublease**”), a true and complete copy of which is attached as Schedule “D” hereto;

AND WHEREAS [**one or more multi-story buildings (the “Subleased Buildings”)**] have been or are proposed to be constructed] by the Sublandlords on the Subleased Lands, and the Subleasehold Estate in the Subleased Lands and the Subleased Buildings are hereinafter collectively referred to as the “**Subleased Property**”; *[NTD: Modify as necessary.]*

AND WHEREAS pursuant to a mortgage made between the Subtenants as mortgagor and the Subleasehold Mortgagee as mortgagee, dated the ■ day of ■, 20■, which was registered on title to the Subleasehold Estate in the Subleased Lands on the ■ day of ■, 20■ as Instrument No. ■ (which mortgage, as amended, supplemented, renewed, extended, restated or replaced from time to time, is hereinafter called the “**Subleasehold Mortgage**”), the Subtenants mortgaged and charged all of their respective right, title and interest in the Subleasehold Estate in the Subleased Lands, the Sublease and the Subleased Property in favour of the Subleasehold Mortgagee as security for the Subtenants’ obligations referred to in the Subleasehold Mortgage;

AND WHEREAS it is a requirement under the Land Lease and the Sublease that the Subleasehold Mortgagee and the Landlord enter into this Agreement;

AND WHEREAS all capitalized terms used in this Agreement which are not defined herein have the respective meanings ascribed thereto in the Land Lease;

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged by each party hereto) and the mutual covenants and agreements herein contained, the parties hereto hereby covenant and agree as follows:

1. **Recitals.** The parties acknowledge and confirm that the foregoing recitals are true.
2. **References to Lease and Sublease.** Any references to the Land Lease contained herein are references to the Land Lease as it reads on the date hereof. Any references to the Sublease contained herein are references to the Sublease as it reads on the date hereof. No amendments, variations, modifications or waiver under the Land Lease or the Sublease shall be effective to amend the provisions referred to herein unless such amendment, variation, modification or waiver is agreed to in writing by each of the parties hereto.
3. **Interpretation.** Words importing the singular shall include the plural and vice versa and words importing gender include all genders. All references to a party shall be read with such changes in number and gender as may be appropriate, according to whether the party is a male or female Person or a corporation or partnership, and if a party consists of more than one Person the obligations of such Persons hereunder shall be joint and several. References to federal or provincial legislation means such legislation as constituted at the date hereof, as the same may be amended, re-enacted or replaced from time to time. The headings of Articles, Sections and Subsections are for convenience of reference only, and shall not affect the interpretation thereof. The words “hereof”, “herein”, “hereby” and “hereunder” and similar expressions used in any provision of this Agreement refer to the whole of this Agreement and not to such provision only. All of the provisions of this Agreement are to be construed as covenants and agreements.
4. **Notice of Subleasehold Mortgage.** Pursuant to Subsection 13.8(a) of the Land Lease, the Subleasehold Mortgagee hereby:
 - (a) gives notice to the Landlord of the Subleasehold Mortgage, the effective date of which is **[the date of this Agreement]**; and
 - (b) delivers to the Landlord herewith a copy of the Subleasehold Mortgage.
5. **Acknowledgement of Subleasehold Mortgagee and the Subtenants.** Each of the Subleasehold Mortgagee and the Subtenants hereby certifies, confirms and acknowledges to the Landlord that:
 - (a) the Subleasehold Mortgage will mature on or prior to the last day of the term of the Sublease (other than in the case of termination of the Sublease before the expiry of the term); and
 - (b) all necessary approvals, notices or further agreements required in connection with the Subleasehold Mortgage pursuant to any Permitted Encumbrances have been obtained, given or executed and delivered on or before the effective date of the Subleasehold Mortgage.

6. **Acknowledgement of Landlord.** The Landlord hereby certifies, confirms and acknowledges to the Subleasehold Mortgagee that:

- (a) the Subtenants are entitled to grant the Subleasehold Mortgage to the Subleasehold Mortgagee without the Landlord's consent in accordance with Section 13.8 of the Land Lease;
- (b) the Subleasehold Mortgage constitutes a "Subleasehold Mortgage" as defined in and for the purposes of the Land Lease; and
- (c) the Subleasehold Mortgagee is entitled to the benefit of the rights granted to a "Subleasehold Mortgage" pursuant to Section 17.4 of the Land Lease and to enforce such provisions against the Landlord.

7. **Covenants of the Subleasehold Mortgagee.** The Subleasehold Mortgagee covenants and agrees with the Landlord that:

- (a) the Subleasehold Mortgagee will not convey or assign its interest in the Subleasehold Mortgage unless it first obtains and delivers to the Landlord a written agreement from the transferee or assignee (the "**New Mortgage**") in favour of the Landlord, which shall be in form and substance satisfactory to the Landlord, acting reasonably, whereby such New Mortgagee agrees to be bound by all the terms, covenants and conditions of this Agreement by which the Subleasehold Mortgagee is bound and to observe and perform all of the obligations of the Subleasehold Mortgagee hereunder. All costs and expenses incurred by the Landlord in connection with such agreement will be paid by the Subleasehold Mortgagee or the New Mortgagee;
- (b) the Subleasehold Mortgagee shall give prompt Notice to the Landlord of any default by the Subtenants under the Subleasehold Mortgage; and
- (c) the Subleasehold Mortgage is subject and subordinate to the Land Lease and the rights of the Landlord thereunder, including without limitation, the provisions of Article 17 and Sections 5.3 and 7.4 thereof.

8. **Covenants of the Landlord.** The Landlord covenants and agrees with the Subleasehold Mortgagee that:

- (a) in the event of any Default by the Sublandlords under the Land Lease, the Landlord will deliver to the Subleasehold Mortgagee a copy of any Notice of Default relating to such Default which it delivers to the Sublandlords pursuant to the Land Lease and, if such Defaults are not remedied by the Sublandlords in the manner and within the time limits specified in Section 17.2 of the Land Lease, a Notice of Tenants' Event of Default in accordance with Subsection 17.4(a)(ii) of the Land Lease, and in each case the Subleasehold Mortgagee may, within the time limits specified in Section 17.2 and/or Section 17.4 of the Land Lease, as applicable, make any and all payments and do and perform all acts and things which may be necessary or required to prevent a termination of the Land Lease;

- (b) in the event that the Subleasehold Mortgagee has commenced and is diligently proceeding to remedy any Default (other than a Monetary Default) which requires more time to remedy than the periods of time given to the Sublandlords to remedy under Article 17 of the Land Lease, the Landlord will grant to such Subleasehold Mortgagee a reasonable extension of time (as determined by the Landlord, acting reasonably), as may be necessary to permit such Default to be remedied by the Subleasehold Mortgagee acting with due diligence;
- (c) the Landlord shall not terminate the Land Lease as a result of any Default or Event of Default by the Sublandlords under the Land Lease if such Default or Event of Default is remedied by the Sublandlords or the Subleasehold Mortgagee within the time limits specified in Sections 17.2 and 17.4 of the Land Lease in accordance with a Notice of Default given by the Landlord to the Sublandlords and the Subleasehold Mortgagee or a Notice of Tenants' Event of Default given to the Subleasehold Mortgagee, failing which, subject to Subsection 8(b) above, the Landlord may terminate the Land Lease in accordance with its terms;
- (d) subject to the rights of the mortgagee (the "**Leasehold Mortgage**") under any leasehold mortgage by the Sublandlords of their interest in the Land Lease (a "**Leasehold Mortgage**"), if the Landlord shall become entitled to and shall terminate the Land Lease on account of any Event of Default by the Sublandlords, the Landlord shall, upon request of the Subleasehold Mortgagee, grant to the Subleasehold Mortgagee a new lease of the Subleased Lands in accordance with and subject to Section 9 below;
- (e) the Landlord shall not materially amend/modify the Land Lease as it relates to the Subleased Property or cancel or accept a voluntary surrender of the Land Lease as it relates to the Subleased Property by the Sublandlords without the prior written consent of the Subleasehold Mortgagee, which consent shall not be unreasonably withheld; provided that the foregoing provision shall not operate to prevent or restrict adjustment or recalculation of the amount of base rent payable by the Sublandlords in accordance with the provisions of the Land Lease;
- (f) if the Landlord materially amends/modifies the Land Lease as it relates to the Subleased Property without the consent of the Subleasehold Mortgagee, the Subleasehold Mortgagee shall not be bound by such amendment/modification until such time as the Subleasehold Mortgagee provides its consent in accordance with the foregoing paragraph (e); and
- (g) subject to the provisions of Section 5 hereof, the Subtenants and the Subleasehold Mortgagee may modify, extend, renew or replace the Subleasehold Mortgagee, and may make additional advances secured by the Subleasehold Mortgagee, in each case without the consent of or further notice to the Landlord.

9. **Subleasehold Mortgagee's Right to Obtain New Lease.** If the Land Lease is terminated for any reason prior to the expiry of the term of the Land Lease (including without limitation by reason of an Event of Default of the Sublandlords, or by reason of the term of the Land Lease being taken in execution or attachment, or by reason of a termination or disclaimer

of the Land Lease by any trustee in bankruptcy of any Sublandlord or in any bankruptcy or insolvency proceedings involving any Sublandlord), the Landlord will promptly give Notice to the Subleasehold Mortgagee of such termination and the Landlord will, subject to the rights of any Leasehold Mortgagee, upon request of the Subleasehold Mortgagee, grant the Subleasehold Mortgagee or a nominee on behalf of the Subleasehold Mortgagee, a new lease of the Subleased Lands for the remainder of the term of the Land Lease or the remainder of the Sublease Term, as elected by the Subleasehold Mortgagee, effective immediately prior to the time of such termination, at the same rent and otherwise upon all of the same terms, conditions, covenants, provisions and agreements as are contained in the Sublease (provided that such rent shall be determined with reference to the portion of the rent payable under the Land Lease that is applicable or allocable to the Subleased Lands and that such terms, conditions, covenants, provisions and agreements shall be identical to the terms, conditions, covenants, provisions and agreements of the Land Lease, with minor modifications only as the context may require), with such amendments thereto as may be required by the Subleasehold Mortgagee and agreed to by the Landlord, each acting reasonably; subject, however, to the rights, if any, of the Persons then in possession of any part of the Subleased Property, and subject to the satisfaction of the following requirements:

- (a) the Subleasehold Mortgagee will make written request to the Landlord for such new lease within thirty (30) days after the date of termination of the Land Lease and such written request shall be accompanied by payment to the Landlord of all sums then due and owing to the Landlord under the Land Lease relating to the Subleased Property (the “**Sublease Rent**”) to the date of termination of which the Subleasehold Mortgagee has received notice;
- (b) subject to Subsection 9(g) below, the Subleasehold Mortgagee will pay to the Landlord, at the time of execution and delivery of such new lease, any and all Sublease Rent, together with the reasonable expenses of the Landlord, including reasonable legal fees and expenses in connection with any of the foregoing, and in connection with the new lease;
- (c) if the Land Lease was terminated by reason of any Event of Default which is curable and the curing of which requires that the Subleasehold Mortgagee be in possession of the Subleased Property, the Subleasehold Mortgagee will, immediately upon the execution and delivery of the new lease and taking possession of the Subleased Property, commence and diligently prosecute the curing of such Event of Default and pay to the Landlord all expenses, including reasonable legal fees and expenses, incurred by the Landlord by reason of such Event of Default;
- (d) the existence of a non-monetary Event of Default arising as a result of a Covenant Default or an Insolvency Event pursuant to Subsection 17.2(c) or 17.2(d) of the Land Lease which cannot be remedied by the new tenant shall not relieve the Landlord from its obligation to grant such new lease, in which event such non-monetary Event of Default shall not constitute a default under such new lease;
- (e) any such new lease and the leasehold estate in the Subleased Lands thereby created will continue to maintain the same priority as the Land Lease with regard

to any Freehold Mortgage of the Lands or any other lien, charge or encumbrance thereon created by the Landlord;

- (f) under any such new lease the Landlord shall deliver possession of the Subleased Lands, subject to those matters to which the Land Lease and the Sublease was subject, and to those matters suffered, created or permitted to be suffered or created by the Sublandlords under the Land Lease and the Subtenants under the Sublease prior to termination thereof, including Space Leases;
- (g) if the Landlord shall have entered upon the Subleased Property prior to the date upon which the new lease is executed and delivered, and shall have collected rents from any Space Tenants, there will be deducted from any sums due to the Landlord upon the execution and delivery of the new lease, an amount equal to the net income, if any, collected by the Landlord from the date of termination of the Land Lease to the date of execution and delivery of the new lease, but if such collections shall not equal or exceed the expense of operating the Subleased Property during the period of the Landlord's occupancy, the Subleasehold Mortgagee will pay the Landlord the amount of the deficiency;
- (h) failure of the Subleasehold Mortgagee to execute and deliver to the Landlord such new lease within 30 days after the same is tendered by the Landlord or to comply with any of the other requirements and conditions specified in this Section 9 will conclusively be deemed an abandonment and waiver on the part of the Subleasehold Mortgagee of all rights to obtain such new lease and any and all rights against the Landlord;
- (i) in the event there exists more than one subleasehold mortgage under the Sublease, the competing rights to a new lease hereunder will be resolved in favour of the subleasehold mortgagee having priority of registration or as may be otherwise agreed to in writing amongst the Subleasehold Mortgagees;
- (j) the purchaser of the Sublease at any sale or in any proceedings or transactions for the foreclosure or realization of the security of any Subleasehold Mortgage, or the assignee or transferee of the Sublease under any assignment or transfer in lieu of the foreclosure of any such mortgage, shall be deemed to be a Transferee to whom the provisions of Section 13.1 of the Land Lease shall apply;
- (k) the liability of the Subleasehold Mortgagee under any new lease entered into pursuant to this Section 9 shall terminate upon the assignment of the new lease by the Subleasehold Mortgagee to a purchaser or assignee of the leasehold estate in the Subleased Lands and the ownership interest in the Subleased Buildings provided that the provisions of Section 13.1 or 13.6 of the Land Lease are complied with and that such termination of liability shall apply only with respect to the period of time after the effective date of such assignment; and
- (l) the Landlord covenants upon the request of the Subleasehold Mortgagee made in writing, and at the expense of the Subleasehold Mortgagee, to provide such

commercially reasonable assistance to the Subleasehold Mortgagee as may be required to ensure the new lease complies with the *Planning Act* (Ontario).

10. **Partial Assignment of Land Lease.** The Landlord agrees that at any time where there is no Leasehold Mortgage:

- (a) the Subleasehold Mortgagee shall be entitled to exercise the rights of the Sublandlords in Section 13.2 of the Land Lease in connection with the enforcement of its security under the Subleasehold Mortgage in order to partially assign the Land Lease provided that:
 - (i) the Subleasehold Mortgagee complies with the terms of Section 13.2 of the Land Lease; and
 - (ii) the Subleasehold Mortgagee may only assign 100% of the Sublandlords' interest in the Land Lease as it relates to the Subleased Property; and
- (b) the definition of Assignee in Section 13.2 of the Land Lease shall be deemed to include any receiver or receiver and manager of the Subleased Property appointed by the Subleasehold Mortgagee.

11. **Application of Insurance Proceeds.** The Subleasehold Mortgagee hereby waives the provisions of Subsection 6(2) of the *Mortgages Act* (Ontario) or any similar successor legislation and acknowledges and agrees that all insurance proceeds received pursuant to the insurance required to be obtained pursuant to the Land Lease or the Sublease in respect of loss or damage to the Subleased Property for application to the replacement or repair of the Subleased Property shall be paid to the Sublandlords or the Insurance Trustee and shall be applied in making good the loss or damage in respect of which such proceeds are received, in each case as provided in the Land Lease and the Sublease and, if applicable, the Insurance Trust Agreement. The Subleasehold Mortgagee agrees that, upon request of the Landlord, the Subleasehold Mortgagee shall become a party to and agree to be bound by and to observe and perform its obligations under the Insurance Trust Agreement and shall execute and deliver such agreement as the Landlord or the Insurance Trustee may reasonable require for such purpose. The Landlord acknowledges and agrees that if the Subleasehold Mortgagee, at its option, repairs any damage to the Subleased Property as required by the Land Lease and the Sublease, any insurance proceeds received in respect of such damage shall be paid or released to the Subleasehold Mortgagee in the same manner as insurance proceeds are to be paid or released to the Sublandlord under the Land Lease and, if applicable, the Insurance Trust Agreement for the purposes of completing such repairs.

12. **Partial Releases.** If applicable, the Subleasehold Mortgagee, shall, upon request of the Landlord or the Sublandlords from time to time and without receipt of any consideration therefor: (a) partially discharge and release from the Subleasehold Mortgage and any related security any lands and premises which cease to be part of the Lands leased to the Sublandlords pursuant to the terms of the Land Lease; and/or (b) subordinate the Subleasehold Mortgage and any related security to any reciprocal rights agreement, easements, rights of way or licences or other similar rights granted by the Sublandlords or the Subtenants to the other over the Subleased Property serving or for the benefit of any lands adjacent to the Subleased Property, in each case.

13. **Estoppel Acknowledgement re Land Lease.** The Landlord hereby certifies, confirms and acknowledges to the Subleasehold Mortgagee that:

- (a) as of the date hereof the Land Lease is in full force and effect and is **[unamended]** and is valid and enforceable by the Sublandlords against the Landlord; **[NTD: revise as necessary, if there have been modifications state that the same are in full force and effect as modified, stating the modifications]**
- (b) all rent payable by the Sublandlords to the Landlord under the Land Lease has been paid in full to the date hereof;
- (c) to the best of its knowledge (after due inquiry), there is no existing default by the Sublandlords under the Land Lease, and it is not aware of any event, facts or circumstances existing as of the date hereof which with the passage of time or the giving or notice or both would constitute a default by the Sublandlords under the Land Lease;
- (d) there has been no waiver by the Landlord of any acts or omissions by the Sublandlords which, but for such waiver, would constitute a default by the Sublandlords under the Land Lease; and
- (e) the Landlord does not as of the date hereof have any exercisable rights to terminate the Land Lease and it is not aware of any event, facts or circumstances which would give rise to such right to terminate the Land Lease.

14. **Estoppel Acknowledgement re Subleasehold Mortgage.** The Subleasehold Mortgagee hereby certifies, confirms and acknowledges to the Landlord that:

- (a) as of the date hereof the Subleasehold Mortgage is in full force and effect and is unamended;
- (b) all amounts payable by the Subtenants to the Subleasehold Mortgagee under the Subleasehold Mortgage have been paid in full to the date hereof;
- (c) to the best of its knowledge (after due inquiry), there is no existing default by the Subtenants under the Subleasehold Mortgage, and it is not aware of any event, facts or circumstances existing as of the date hereof which with the passage of time or the giving or notice or both would constitute a default by the Subtenants under the Subleasehold Mortgage;
- (d) there has been no waiver by the Subleasehold Mortgagee of any acts or omissions by the Subtenants which, but for such waiver, would constitute a default by the Subtenants under the Subleasehold Mortgage; and
- (e) the Subleasehold Mortgagee does not as of the date hereof have any exercisable rights to demand repayment in full of any funds advanced under, or to terminate its commitment to advance funds to the Subtenants secured by, the Subleasehold Mortgage and it is not aware of any event, facts or circumstances which would

give rise to such right to accelerate the Subleasehold Mortgage or terminate its funding commitment.

15. **Estoppel Certificates.**

- (a) Upon request by the Subleasehold Mortgagee from time to time but in no event more than once per calendar year, the Landlord agrees to execute and deliver to the Subleasehold Mortgagee a certificate or acknowledgement as to the status and validity of the Land Lease and the state of the rental account thereunder, and such other information as may reasonably be required by the Subleasehold Mortgagee, and any costs in connection therewith shall be for the account of the Subtenants and not the Landlord or the Subleasehold Mortgagee.
- (b) Upon request by the Landlord from time to time but in no event more than once per calendar year, the Subleasehold Mortgagee agrees to execute and deliver to the Landlord a certificate or acknowledgement as to the status and validity of the Subleasehold Mortgage and the amounts outstanding and secured thereunder, and such other information as may reasonably be required by the Landlord, and any costs in connection therewith shall be for the account of the Subtenants and not the Landlord or the Subleasehold Mortgagee.

16. **Sublandlords' Acknowledgement.** The Sublandlords have executed this Agreement to confirm what is stated herein and to confirm that the Landlord does not, in signing this Agreement, waive, release, amend or derogate from its rights under the Land Lease as between the Landlord and the Sublandlords. The Sublandlords acknowledge and agree that the Landlord is permitted to rely on any Notice received from the Subleasehold Mortgagee and shall not be required to question the validity of any claim that the Subtenants are in default under the Subleasehold Mortgage or the authority of the Subleasehold Mortgagee to seize any of the collateral or exercise its rights under the Subleasehold Mortgage and related security and may permit the Subleasehold Mortgagee to exercise its rights hereunder in accordance with such Notice, including without limitation, any rights to obtain a new lease to the exclusion of the Sublandlords if the Land Lease is terminated, without any liability to the Sublandlords whatsoever and the Sublandlords hereby release the Landlord from any liability and/or claims they may have against the Landlord arising out of, or in any way connected with, this Agreement.

17. **Subtenants' Acknowledgement.** The Subtenants have executed this Agreement to confirm what is stated herein. The Subtenants acknowledge and agree that the Landlord is permitted to rely on any Notice received from the Subleasehold Mortgagee and shall not be required to question the validity of any claim that the Subtenants are in default under the Subleasehold Mortgage or the authority of the Subleasehold Mortgagee to seize any of the collateral or exercise its rights under the Subleasehold Mortgage and related security and may permit the Subleasehold Mortgagee to exercise its rights hereunder in accordance with such Notice, including without limitation, any rights to obtain a new lease to the exclusion of the Subtenants, without any liability to the Subtenants whatsoever and the Subtenants hereby release the Landlord from any liability and/or claims they may have against the Landlord arising out of, or in any way connected with, this Agreement.

18. **Subleasehold Mortgagee's Acknowledgement.** Subject to the terms and conditions of this Agreement, the rights and privileges in favour of the Subleasehold Mortgagee hereunder will not in any way be considered to alter, affect, extend or prejudice any of the rights and remedies available to the Landlord against the Sublandlords under the Land Lease or at law. No holder of the Subleasehold Mortgage shall, by reason of the Subleasehold Mortgage, obtain any greater rights than the Sublandlords have under the Land Lease or the Subtenants have under the Sublease, except as otherwise expressly provided in this Agreement.

19. **Dispute.** Should any dispute, differences or questions arise between the Landlord and the Subleasehold Mortgagee relating to whether a default has occurred under the Land Lease, the Sublease or relating to their respective rights and obligations under this Agreement or the applicability of any of the provisions contained in this Agreement, then such dispute will be determined in the manner set out in Article 19 of the Land Lease, *mutatis mutandis*.

20. **Costs.** Each of the Landlord, the Sublandlords and the Subtenants shall pay for its/their own costs and expenses (including legal fees and disbursements) incurred in connection with the preparation and negotiation of this Agreement.

21. **No Registration.** Neither this Agreement nor notice hereof shall be registered against title to the Lands or the Subleased Lands.

22. **Termination.** The registration on title to the Subleased Lands of a discharge of the Subleasehold Mortgage shall constitute an automatic termination of this Agreement.

23. **Contravention of Planning Act and Right to Obtain New Lease.** If at any time the Land Lease is determined by a court of competent jurisdiction or claimed by a trustee in bankruptcy of any of the Sublandlords not to convey or create any interest in the Lands by virtue of being in contravention of the *Planning Act* (Ontario), the Landlord covenants that: (i) upon receipt by the Landlord of Notice from the Subleasehold Mortgagee stating that the Subtenants are in default of their obligations to the Subleasehold Mortgagee together with a request by the Subleasehold Mortgagee for a new lease, the Landlord, subject to the rights of any Leasehold Mortgagee, shall grant the Subleasehold Mortgagee or its nominee (at the expense of the Subleasehold Mortgagee) a new lease of the Subleased Lands between the Landlord, as landlord and the Subleasehold Mortgagee or its nominee, as tenant, for a term to commence on a date specified by the Subleasehold Mortgagee, and acceptable to the Landlord, acting reasonably, and thence to run for a term equal in duration to the then remaining residue of the term of the Sublease (which shall in no event extend past the last day of the term of the Land Lease) or such shorter term that the Subleasehold Mortgagee requests in order that the new lease comply with the *Planning Act* (Ontario), at the same rent and otherwise upon the identical terms, conditions, provisos and agreements as are set out in the Sublease (provided that such rent shall be determined with reference to the portion of the rent payable under the Land Lease that is applicable or allocable to the Subleased Lands and that such terms, conditions, covenants, provisions and agreements shall be identical to the terms, conditions, covenants, provisions and agreements of the Land Lease, with minor modifications only as the context may require) and any such new lease shall retain the same priority as the Land Lease (as if it were enforceable) with respect to any Subleasehold Mortgage of the Landlord's interest or any lien, charge or encumbrance thereof created by the Landlord; and (ii) upon the request of the Subleasehold Mortgagee made in writing, and at the expense of the Subleasehold Mortgagee, the Landlord

shall provide such commercially reasonable assistance to the Subleasehold Mortgagee as may be required to ensure such new lease complies with the *Planning Act* (Ontario) (provided that the Landlord shall not incur any cost or liabilities in connection therewith unless the Subleasehold Mortgagee agrees to indemnify the Landlord for such costs or liabilities).

24. **Landlord Transfers.** The Landlord shall not sell, assign, transfer or otherwise dispose of the whole or any part of its interest in the Lands or its right, title and interest in the Land Lease without first obtaining an assumption agreement from the transferee in favour of the Sublandlords, the Subtenants and the Subleasehold Mortgagee pursuant to which such transferee agrees to assume the obligations of the Landlord hereunder. The form of such assumption agreement shall be acceptable to the Sublandlords, the Subtenants and the Subleasehold Mortgagee, each acting reasonably.

25. **Freehold Charge.** If the Landlord grants a mortgage or charge of its freehold interest in the Lands it shall require that, from time to time, the Freehold Mortgagee execute and deliver a non-disturbance/lease recognition agreement in favour of the Subtenants and the Subleasehold Mortgagee in a form consistent with then current market standards for a non-disturbance/lease recognition agreement and otherwise acceptable to the Subtenant and the Subleasehold Mortgagee, each acting reasonably.

26. **Notice.** Any notice or other communication to be given by a party hereunder to the other party hereunder (a “**Notice**”) shall be in writing, and shall be given or made by:
(i) delivering the same by hand or by prepaid courier to the party to whom the Notice is directed,
(ii) prepaid registered mail, or (iii) facsimile or email transmission, in each case, to the address set out below or to such alternative address as may from time to time be designated by Notice given in the manner provided in this Section.

(a) to the Landlord at:

Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario M4S 1Z2

Attention: Chief Executive Officer
Facsimile: (416) 485-9394
Email: ■

with a copy to:

Toronto Transit Commission
5160 Yonge Street, 6th Floor
Toronto, Ontario M2N 6L9

Attention: Head, Property, Planning & Development
Facsimile: (416) 338-0251
Email: pamela.kraft@ttc.ca

(b) to the Subleasehold Mortgagee at:

■

Attention: ■
Facsimile: ■
Email: ■

(c) to the Sublandlords and the Subtenants at:

OPG Investment Holdings Limited Partnership
c/o Oxford Properties Group
Suite 900
100 Adelaide Street West
Toronto Ontario M5H 0E2

Attention: Vice President, Corporate Legal
Facsimile: (416) 868-0701
Email: nstaubitz@oxfordproperties.com

and if different from the address set forth above, to the address and facsimile number posted from time to time as the corporate head office of Oxford Properties Group on the website www.oxfordproperties.com, to the attention of the Executive Vice President, Corporate Legal

with copies to:

CT REIT (Yonge Eglinton) Limited Partnership
2180 Yonge Street, 15th Floor
Toronto, Ontario M4P 2V8

Attention: Vice President, General Counsel & Secretary
Facsimile: (416) 480-3216
Email: Kimberley.graham@ctreit.com

and to:

[Northam tenant entity / entities]
2 Carlton Street, Suite 909
Toronto, ON M5B 1J3

Attention: Chief Operating Officer
Facsimile: (416) 977-7151
Email: CWalters@northamrealty.com

Any Notice: (i) delivered by hand or by courier, shall be deemed to have been given and received on the day on which it was delivered (if delivered before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; (ii) sent by facsimile or email shall be deemed to have been given and received on the date of transmission (if transmitted before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; and (iii) sent by registered mail shall be deemed to have been given and received on the third (3rd) Business Day following

the date of mailing; provided however that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of mail, any such Notice shall be delivered or transmitted by facsimile as aforesaid.

27. **Severability.** If any term, covenant, obligation or agreement contained in this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, obligation and agreement herein contained shall be separately valid and enforceable to the fullest extent permitted by law.

28. **Further Assurances.** Each of the parties hereto shall from time to time hereafter and upon any reasonable request of any other party, execute and deliver, make or cause to be made all such reasonable and further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

29. **Assignment.** Except as provided in this Section, no party may assign its rights or benefits under this Agreement. The Landlord and the Sublandlords may assign their rights hereunder to any Person to whom they are assigning their interests in the Land Lease and the Property in accordance with the provisions of the Land Lease. The Subtenants may assign their rights hereunder to any Person to whom they are assigning their interest in the Sublease and the Subleased Property in accordance with the provisions of the Sublease. Subject to compliance with the provisions of Subsection 7(a) of this Agreement, the Subleasehold Mortgagee may assign its rights hereunder to any Person to whom it may assign its interest in the Subleasehold Mortgage as permitted under the Subleasehold Mortgage. No assignment by any party of its rights under this Agreement will be effective without written notice thereof first being given by the assigning party to each of the other parties and the assignee entering into an agreement in writing with the other parties hereto whereby the assignee agrees to assume all of the obligations and liabilities of the assigning party hereunder.

30. **Successors and Assigns.** The obligations, rights and benefits under this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns, according to their respective interests. Each party hereto shall require its successors and assigns to expressly acknowledge and agree in writing with the other parties 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 benefitting and bound by this Agreement, by an appropriate agreement supplementary to this Agreement.

31. **Time.** Time is of the essence of this Agreement.

32. **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

33. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original and all such counterparts taken together shall constitute one and the same

instrument. Delivery of an executed counterpart of this Agreement by facsimile transmission or by electronic delivery in portable document format (".pdf") or tagged image format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

TORONTO TRANSIT COMMISSION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[LEASEHOLD MORTGAGEE]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the [Bank].

**OPG INVESTMENT HOLDINGS GP INC.,
as general partner for
OPG INVESTMENT HOLDINGS
LIMITED PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**CT REIT (YONGE EGLINTON) GP
CORP., as general partner for
CT REIT (YONGE EGLINTON) LIMITED
PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**[NORTHAM TENANT ENTITY /
ENTITIES]**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[SUBTENANTS]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

Schedule A
to Subleasehold Mortgagee Acknowledgement Agreement

Legal Description of the Lands

Schedule B
to Subleasehold Mortgagee Acknowledgement Agreement
Copy of the Land Lease

Schedule C
to Subleasehold Mortgagee Acknowledgement Agreement
Legal Description of the Subleased Lands

Schedule D
to Subleasehold Mortgagee Acknowledgement Agreement
Copy of the Sublease

SCHEDULE "P"
FORM OF COMPLETION GUARANTEE

See attached.

SCHEDULE "P"

FORM OF COMPLETION GUARANTEE

THIS AGREEMENT is made on the ■ day of ■, 20■

BETWEEN:

[GUARANTOR]

(the "Guarantor")

- and -

TORONTO TRANSIT COMMISSION

(the "Landlord")

WHEREAS the Landlord, OPG Investment Holdings GP Inc., as general partner for and on behalf of OPG Investment Holdings Limited Partnership, CT REIT (Yonge Eglinton) GP Corp., as general partner for and on behalf of CT REIT (Yonge Eglinton) Limited Partnership and **[Cansquare (Canada 8), as general partner for and on behalf of Cansquare (Canada 8) Limited Partnership]** (collectively, the "Tenants") entered into a consolidated amended and restated ground lease made as of ■, 2019 in connection with the lease of the Lands (as defined therein) (such lease, as amended from time to time, the "Lease");

WHEREAS [pursuant to Section 6.16(a)(i) of the Lease, the Guarantor has agreed to enter into this Agreement in connection with the undivided ■% interest of ■ (herein, the "Subject Tenant") in the Lease] -OR- [pursuant to Section 7.3(a)(i)(B) of the Lease, the Guarantor has agreed to enter into this Agreement in connection with the undivided ■% interest of ■ (herein, the "Subject Tenant") in the Lease];

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto covenant and agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 **Definitions**

Capitalized terms used in this Agreement and not specifically defined in this Agreement shall have the meaning provided in the Lease, and the following terms shall have the following meanings:

"Additional Improvements" has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Agreement” means the agreement arising from the execution hereof by the parties hereto, together with all schedules hereto and all instruments supplemental hereto or in any amendment or confirmation hereof, and “hereof”, “hereto”, “hereunder” and similar expressions refer to this Agreement and not to any particular section of this Agreement.

“Applicable Laws” has the meaning ascribed thereto in the Lease.

“Architect’s Certificate” has the meaning ascribed thereto in Section 2.2(b)(i).

“Business Day” has the meaning ascribed thereto in the Lease.

“Construction Default” has the meaning ascribed thereto in Section 2.5(b).

“Construction Obligations” means the obligations of the Tenants pursuant to the Lease with respect to the construction and completion of **[the Subject Building (except with respect to the construction and completion of the T.T.C. Bus Terminal and Entrance Work which is addressed in Section 7.3 of the Lease, if applicable to the Subject Building)] -OR- [the T.T.C. Bus Terminal].**

“Construction Work” means **[construction of any Additional Improvements during the Development Period in accordance with the Master Development Plan] – OR – [construction of the new T.T.C. Bus Terminal.]**

“Creditworthy Person” has the meaning ascribed thereto in the Lease.

“Defective Work” has the meaning ascribed thereto in Section 2.2(b)[(i)/(ii)].

“Development” has the meaning ascribed thereto in the Lease.

“Development Period” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Economic Force Majeure” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Event of Default” has the meaning ascribed thereto in the Lease.

“First Phase of the Development” has the meaning ascribed thereto in the Lease. **[NTD: This definition not required for the form of completion guarantee in respect of the Construction Obligations other than the T.T.C. Bus Terminal.]**

“Guarantee” means the Guarantee of the Guarantor pursuant to Article 2.

“Guaranteed Amount” has the meaning ascribed thereto in Section 2.2(a).

“Landlord Caused Delays” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Master Development Plan” has the meaning ascribed thereto in the Lease. **[NTD: This definition not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Net Worth Covenant Period” has the meaning ascribed thereto in Section 3.1.

“New Building” has the meaning ascribed thereto in the Lease. **[NTD: This definition not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Notice of Construction Default” has the meaning ascribed thereto in Section 2.5(b).

“Notice of Default” has the meaning ascribed thereto in the Lease.

“Person” has the meaning ascribed thereto in the Lease.

“Property” has the meaning ascribed thereto in the Lease.

“sole discretion” has the meaning ascribed thereto in the Lease.

“Subject Building” means the New Building identified as ■ as shown on the Master Development Plan. **[NTD: This definition not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Substantial Completion” has the meaning ascribed thereto in the Lease.

“Technical Review” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“T.T.C. Bus Terminal” has the meaning ascribed thereto in the Lease. **[NTD: This definition not required for the form of completion guarantee in respect of the Construction Obligations other than the T.T.C. Bus Terminal.]**

“T.T.C. Bus Terminal and Entrance Work” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“T.T.C. Work” has the meaning ascribed thereto in the Lease. **[NTD: This definition not required for the form of completion guarantee in respect of the Construction Obligations other than the T.T.C. Bus Terminal.]**

“Unavoidable Delay” has the meaning ascribed thereto in the Lease. **[NTD: This definition is not required for the form of completion guarantee in respect of the T.T.C. Bus Terminal.]**

“Unfinished Work” has the meaning ascribed thereto in Section 2.2(b)[(i)/(ii)].

1.2 Interpretation

(a) Preamble. The preamble forms an integral part of this Agreement.

(b) Gender and Number. Any reference in this Agreement to gender includes all genders. Words importing the singular number only shall include the plural and *vice versa*.

(c) Headings, etc. The provision of a table of contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and are not to affect its interpretation.

(d) Currency. All references in this Agreement to dollars or to \$ are expressed in Canadian currency unless otherwise specifically indicated.

(e) Obligations as Covenants. Each agreement and obligation of any of the parties hereto in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

(f) Certain Phrases, etc. In this Agreement (i) the words “including”, “includes” and “include” mean “including (or includes or include) without limitation”, and (ii) the phrase “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. Unless otherwise specified, the words “Article” and “Section” followed by a number mean and refer to the specified Article or Section of this Agreement. In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and excluding” and the words “to” and “until” each mean “to and including”.

(g) Accounting Terms. All accounting terms, if not otherwise defined herein, have the meanings ordinarily assigned to them, and all calculations, accounting records and financial statements referred to herein shall be made, kept and prepared, in accordance with Canadian generally accepted accounting principles.

(h) References to Persons and Agreements. Any reference in this Agreement to a Person includes its successors and permitted assigns. Except as otherwise provided in this Agreement, the term “Agreement” and any reference in this Agreement to this Agreement or any other agreement or document includes, and is a reference to, this Agreement or such other agreement or document as it may have been, or may from time to time be amended, restated, replaced, supplemented or novated and shall include all schedules to it.

(i) Statutes. Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted.

(j) Non-Business Days. Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

ARTICLE 2 **GUARANTEE**

2.1 Guarantee

(a) Subject to the limitation provided in Section 2.2, the Guarantor hereby absolutely and irrevocably guarantees to the Landlord the full, proper and timely performance and

observance by the Tenants of all the Construction Obligations, in accordance with the terms of the Lease.

- (b) Subject to the limitation provided in Section 2.2, if the Tenants:
 - (i) **[commence any Additional Improvements during the Development Period in accordance with the Master Development Plan and thereafter fail to Substantially Complete such Additional Improvements during the Development Period other than as a result of Unavoidable Delay, Economic Force Majeure or Landlord Caused Delay (such work being referred to herein as “Unfinished Work”); or**
 - (ii) **default in the performance of any Construction Work in accordance with the plans and specifications approved by the T.T.C. pursuant to a Technical Review (such work being referred to herein as “Defective Work”),]**

-OR-

- (i) **[default in the performance of any part of the Construction Work in accordance with the plans and specifications approved by the Landlord (such work being referred to herein as “Defective Work”); or**
- (ii) **fail to Substantially Complete the T.T.C. Bus Terminal on or before Substantial Completion of the First Phase of the Development (such work being referred to herein as “Unfinished Work”),]**

then without the necessity or the requirement for the Landlord to pursue or exhaust its recourse against the Tenants, the Guarantor, together with any other guarantors of the Construction Obligations, will duly and punctually, but subject to Section 2.5, complete any Unfinished Work and/or rectify or replace any Defective Work, or will cause, the completion of any Unfinished Work and/or rectification or replacement of any Defective Work promptly upon demand. Any and all performance by the Guarantor hereunder shall be made without any set-off, compensation or counterclaim.

(c) Until the full, final and indefeasible performance of the Construction Obligations by the Tenants or the Guarantor up to the Guaranteed Amount, the Guarantor will not be entitled to exercise any right or recourse that it has or may have against the Subject Tenant or its assets (including any right of subrogation, indemnification or contribution) in connection with any performance by the Guarantor under this Guarantee other than the exercise of such right or recourse as may be required in order to perform its obligations under this Guarantee.

2.2 Limited Guarantee

(a) Subject to Section 2.2(b), the Guarantor’s cumulative liability, and the Landlord’s cumulative recourse, pursuant to this Guarantee shall be limited to the aggregate amount of ■ dollars (\$■), plus interest on any amount claimed under this Guarantee from the date of demand by the Landlord to the Guarantor and until full, final and indefeasible payment (the “Guaranteed Amount”). **[NTD: The Guaranteed Amount, when aggregated with the amount of any letter of credit provided pursuant to Section 6.16(a)(ii) of the Lease and**

any performance security provided pursuant to Section 6.16(a)(iii) of the Lease, will be equal to the Subject Tenant's co-ownership interest in the Property multiplied by the amount of performance security to be provided by all of the Tenants for the Subject Building as determined pursuant to Section 6.16(b) of the Lease.] -OR- [NTD: The Guaranteed Amount, when aggregated with the amount of any letter of credit provided pursuant to Section 7.3(a)(i)(A) of the Lease, will be equal to the Subject Tenant's co-ownership interest in the Property multiplied by the amount of performance security to be provided by all of the Tenants for the T.T.C. Bus Terminal as determined pursuant to Section 7.3(a)(i)(B) of the Lease.]

(b) [The Guaranteed Amount shall be reduced in accordance with the following milestones:

- (i) the Guaranteed Amount shall be reduced by fifty percent (50%) at such time as twenty-five percent (25%) of the work required to complete the Subject Building (other than T.T.C. Bus Terminal and Entrance Work) has been performed as evidenced by a certificate issued by the architect of record appointed by the Tenants in connection with the development of the Subject Building (an "Architect's Certificate") to the Landlord;
- (ii) the Guaranteed Amount shall be reduced by an additional forty percent (40%) at such time as fifty percent (50%) of the work required to complete the Subject Building (other than T.T.C. Bus Terminal and Entrance Work) has been performed as evidenced by an Architect's Certificate delivered to the Landlord; and
- (iii) the Guaranteed Amount shall be reduced to zero upon Substantial Completion of the Subject Building (other than T.T.C. Bus Terminal and Entrance Work),

provided in each case that on each relevant date the Subject Tenant or the Guarantor delivers to the Landlord an officer's certificate confirming that: (A) all construction lien holdbacks required or permitted by Applicable Laws have been maintained; and (B) no construction liens are then registered or claimed in respect of the Subject Building or any part of the lands associated therewith.]

-OR-

[The Guaranteed Amount shall remain in place and shall not be released until the T.T.C. Bus Terminal has been Substantially Completed and provided that on the relevant date the Subject Tenant or the Guarantor delivers to the Landlord an officer's certificate confirming that: (A) all construction lien holdbacks required or permitted by Applicable Laws in respect of such T.T.C. Work have been maintained; and (B) no construction liens are then registered or claimed in respect of any of such T.T.C. Work or any part of the lands associated therewith.]

2.3 Primary Obligation

(a) The obligations of the Guarantor hereunder are and shall be absolute, independent, unconditional and irrevocable and any monies or amounts expressed to be owing

or payable by the Guarantor hereunder which may not be recoverable from the Guarantor on the basis of a guarantee shall be recoverable from the Guarantor as a primary obligor in respect thereof.

(b) The Guarantor hereby confirms that it is primary obligor and not a surety under this Guarantee and that this Guarantee is not merely a guarantee of collection, is continuing in nature and applies to all covenants, provisos, conditions and agreements on the part of the Tenants to be performed or observed under the Construction Obligations, whether existing now or in the future including all such obligations arising or accruing after any bankruptcy or insolvency of any of the Tenants.

2.4 Guarantees Expenses

Subject to the limitation provided in Section 2.2, the Guarantee of the Guarantor hereunder shall include payment to the Landlord of any and all expenses including, without limitation, reasonable legal fees and disbursements, incurred by the Landlord in obtaining advice of counsel with respect to, or enforcing, or collecting any or all amounts relating to, the obligations guaranteed by the Guarantor under this Guarantee.

2.5 Guarantee Absolute and Unconditional

(a) The covenants and obligations of the Guarantor herein contained and provided for shall take effect and shall be and are hereby declared to be binding upon the Guarantor notwithstanding, and shall be in no way prejudiced or impaired by:

- (i) the legality, validity, regularity or enforceability in whole or in part of the Lease or the Construction Obligations; or
- (ii) any compromise, renewal, extension, indulgence, forbearance, amendment, addition, deletion, change or modification of or with respect to any of the Construction Obligations; or
- (iii) any failure, neglect, omission, delay or forbearance of the Landlord in demanding, requiring or enforcing performance by the Tenants or by any other obligated Persons (including other guarantors) of any of the Construction Obligations or of such Tenants' or Person's obligations under the Lease, or by the Guarantor of any of the Guarantor's obligations under this Agreement; or
- (iv) any act, failure, neglect, omission, delay or forbearance of the Landlord in relation to any security it may hold at any time, including any failure to perfect, register or maintain perfection, registration, priority or validity of any security; or
- (v) the exercise of any rights under a Leasehold Mortgage or Co-Tenant's Separate Mortgage, including the rights of any Tenant Mortgagee to cure any Event of Default by or on behalf of the Tenants thereunder and/or to assume the obligations of the Tenants and satisfy the Construction Obligations in the manner provided in the Lease;

- (vi) the Landlord granting any extensions of time for performance, or by waiving any performance (except as to the particular performance which has been waived); or
 - (vii) the Landlord permitting or consenting to any assignment or encumbering of the Lease by one or more of the Tenants;
 - (viii) any failure, neglect, omission or delay on the part of the Landlord or any other Person to enforce, realize upon, or exercise any right or remedy in respect of the Construction Obligations; or
 - (ix) any judgment or right which the Landlord may have or exercise against the Tenants or the Guarantor or any other Person; or
 - (x) any amalgamation, merger or reorganization of the Subject Tenant in which event the guarantee of the Guarantor shall apply to the successor entity resulting therefrom; or
 - (xi) any amalgamation, merger or reorganization of the Guarantor; or
 - (xii) subject to Section 2.5(b), any failure to give notice to the Guarantor of the occurrence of a default by the Tenants in the performance of any of the Construction Obligations; or
 - (xiii) any sale, lease or transfer of the assets of the Subject Tenant or the Guarantor; or
 - (xiv) any change in the ownership of any partnership interests or shares in the capital of the Subject Tenant or the Guarantor; or
 - (xv) the commencement by or against the Subject Tenant or the Guarantor of any proceedings under any bankruptcy or insolvency law or laws relating to the relief of debtors, re- adjustment of indebtedness, reorganization, arrangements, compositions or extensions or other similar laws; or
 - (xvi) any other event or occurrence which would have the effect at law of terminating the existence of any Construction Obligations prior to the Substantial Completion of the Subject Building except by the voluntary acceptance by the Landlord of a surrender or release of those obligations (and then only to the extent of obligations relating to the period after the effective date of such surrender or release for which the Landlord has agreed that the Tenants are no longer liable).
- (b) In the event that the Tenants:
- (i) **[commence any Additional Improvements during the Development Period in accordance with the Master Development Plan and thereafter fail to Substantially Complete such Additional Improvements during the Development Period other than as a result of Unavoidable Delay, Economic Force Majeure or Landlord Caused Delay; or**

- (ii) **default in the performance of any Construction Work in accordance with the plans and specifications approved by the T.T.C. pursuant to a Technical Review (in each case, a “Construction Default”),]**

-OR-

- (iii) **[default in the performance of any part of the Construction Work in accordance with the plans and specifications approved by the Landlord; or**
- (iv) **fail to Substantially Complete the T.T.C. Bus Terminal on or before Substantial Completion of the First Phase of the Development (in each case, a “Construction Default”),]**

then, in each such case, the Landlord shall deliver to the Guarantor a copy of any Notice of Default relating to such Construction Default which it delivers to the Tenants pursuant to the Lease and, if such Construction Default is not remedied by the Tenants in the manner and within the time limits specified in Section 17.2 of the Lease, the Landlord shall deliver to the Guarantor a further Notice of such Construction Default which has not been cured or remedied in the manner and within the time permitted in Section 17.2 of the Lease and which has become an Event of Default (a **“Notice of Construction Default”**) and the Guarantor shall have a right to cure such Construction Default or Event of Default within a further period of sixty (60) days after the giving of such Notice of Construction Default to the Guarantor or such longer time as would have reasonably sufficed for the remedying of such Construction Default or Event of Default if the Guarantor commenced to remedy the same within sixty (60) days after the giving of such Notice of Construction Default to the Guarantor and thereafter proceeded to remedy the same with reasonable diligence (provided that the Guarantor shall not be entitled to the advantage of such longer time unless it shall have actually commenced to remedy the same within such period of sixty (60) days and shall actually have proceeded thereafter to remedy the same with reasonable diligence and shall have provided to the Landlord, if requested by the Landlord, evidence reasonably satisfactory to the Landlord of the steps being taken by it to remedy the same). The Landlord shall not exercise any rights and remedies available to the Landlord under the Lease, this Agreement or at law or in equity as a result of such Construction Default or Event of Default by the Tenants under the Lease if such Construction Default or Event of Default is remedied under the Lease within the time limits specified in Section 17.2 of the Lease or within the time limits specified in this Section 2.5(b), failing which the Landlord may exercise any rights and remedies available to the Landlord under the Lease, this Agreement or at law or in equity as a result of such Construction Default or Event of Default. In complying with its obligations under this Agreement, the Guarantor shall be entitled to the benefit of the rights granted to the Tenants pursuant the Lease with respect to the Construction Obligations and to enforce such provisions against the Landlord. In connection with the foregoing, the Landlord agrees with the Guarantor that it will comply with its obligations under the Lease relating to the Construction Obligations.

(c) Nothing in this Guarantee shall enable the Landlord or the Guarantor to exercise a right or remedy where that right or remedy has been waived or forfeited by the Landlord or Tenants in accordance with the provisions of the Lease or otherwise by agreement between the Landlord and the Tenants.

2.6 Continuing Guarantee

The obligation of the Guarantor hereunder shall be a continuing obligation until such time as the expiry of this Agreement pursuant to the provisions of Section 2.10 and a fresh cause of action hereunder shall be deemed to arise in respect of each Construction Default by the Tenants. In the event of such Construction Default, the Landlord shall have the right to proceed first and directly against the Guarantor without proceeding against the Tenants.

2.7 No Release

The Guarantor agrees that it will remain liable for the performance in full of all the Construction Obligations up to the Guaranteed Amount even if the Tenants are discharged therefrom by applicable legislation relating to bankruptcy, insolvency or reorganization.

2.8 Amendments to the Lease

The Guarantor is aware of and consents to the terms of the Lease, and agrees that the Lease may be amended by the Landlord and the Tenants in accordance with the terms and conditions thereof without consent of the Guarantor and that, in such event, the Guarantor's obligations hereunder shall continue in force notwithstanding any such amendment. The Landlord shall provide notice to the Guarantor of any amendment of the Lease.

2.9 Dealings with the Guarantor, the Tenants, the Landlord, and others

(a) The Landlord will not be bound or required to exhaust its recourse against the Tenants or other Persons or to exercise any securities or collateral they may hold or take any action against the Tenants, after a Construction Default has occurred, before being entitled to demand performance, observance or payment from the Guarantor hereunder.

(b) The Construction Obligations and the obligations of the Guarantor under this Guarantee shall not be limited or affected by any other guaranty, security or other right held by or benefiting the Landlord so provided nor by this Guarantee. This Guarantee is in addition to and not in substitution of or in replacement for any other guarantee, security or other right held by or benefiting the Landlord.

2.10 Term

This Guarantee shall be in effect and will continue in full force and effect, and the liability of the Guarantor will continue, until the Substantial Completion of the **[Subject Building] / [T.T.C. Bus Terminal]** and provided that at the relevant date: (i) all construction lien holdbacks required or permitted by Applicable Laws have been maintained; and (ii) no construction liens are then registered or claimed in respect of the Subject Building or any part of the lands associated therewith. On the later of the date of (A) Substantial Completion of the **[Subject Building] / [T.T.C. Bus Terminal]**, (B) the release of all construction lien holdbacks in accordance with Applicable Laws, and (C) the final discharge of all construction liens, if any, registered or claimed in respect of **[Subject Building] / [T.T.C. Bus Terminal]** or any part of the lands associated therewith, the Guarantor will be automatically and fully and finally released from all obligations hereunder.

2.11 Representations and Warranties

The Guarantor represents and warrants to the Landlord that:

- (a) it is a corporation or limited partnership duly existing and subsisting under the laws of its jurisdiction of incorporation or formation and has all requisite corporate power and authority to provide this Guarantee and perform its obligations hereunder;
- (b) the execution, delivery and performance by it of this Agreement has been duly and validly authorized by all required corporate action, and no other corporate proceedings on its part are necessary to authorize the execution, delivery and performance by it of this Agreement;
- (c) this Agreement constitutes a valid and legally binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity;
- (d) it has not depended or relied on the Landlord, its agents or representatives, for any information whatsoever concerning the Tenants or the Tenants' financial condition and affairs or other matters material to the Guarantor's decision to provide this Guarantee or for any advice or guidance with respect to such decision; and
- (e) this Agreement has been executed and delivered by it free of any conditions and that no representations, warranties or collateral agreements have been made to it by or on behalf of the Landlord affecting its liability under this Agreement.

**ARTICLE 3
NET WORTH COVENANT**

3.1 Net Worth

The Guarantor hereby represents and warrants to the Landlord that as of the date hereof it is a Creditworthy Person and agrees that it shall at all times from the date hereof until the expiry of this Agreement pursuant to the provisions of Section 2.10 (the "**Net Worth Covenant Period**") continue to be a Creditworthy Person.

3.2 Reporting

The Guarantor shall deliver to the Landlord, upon execution of this Agreement and thereafter on an annual basis, within forty-five (45) days of the end of each year during the Net Worth Covenant Period, an officer's certificate addressed to the Landlord and signed by a director or officer of the Guarantor confirming that the Guarantor is a Creditworthy Person as at the end of the relevant year, based on the Guarantor's financial statements.

ARTICLE 4
GENERAL

4.1 **Dispute**

Should any dispute, differences or questions arise between the Landlord and the Guarantor relating to whether a Construction Default has occurred under the Lease or relating to their respective rights and obligations under this Agreement or the applicability of any of the provisions contained in this Agreement, then such dispute will be determined in the manner set out in Article 19 of the Lease, *mutatis mutandis*.

4.2 **Applicable Law and Forum**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (excluding any conflict of laws rules or principles which might refer such interpretation to the laws of another jurisdiction). Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder.

4.3 **Invalidity**

If any covenant, obligation, agreement or part thereof or the application thereof to any Person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any Person, party or circumstance, other than those to which it is held invalid or unenforceable, shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

4.4 **Amendment of Agreement**

No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the parties hereto in the same manner as the execution of this Agreement.

4.5 **Time of the Essence**

Time shall be of the essence of this Agreement and the transactions contemplated herein. Where anything is required to be done under this Agreement on a day that is not a Business Day, then the day for such thing to be done shall be the next following Business Day.

4.6 **Further Assurances**

Each of the parties hereto shall from time to time hereafter, and upon any reasonable request of the other, execute and deliver, make or cause to be made, all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

4.7 Entire Agreement

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the parties hereto constitute the entire agreement between the parties hereto pertaining to the guarantee provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto and there are no other conditions, warranties or representations and no other agreements between the parties hereto in connection with the guarantee provided for herein except as specifically set forth in this Agreement.

4.8 Waiver

No waiver of any of the provisions of this Agreement shall constitute or shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

4.9 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall enure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

4.10 Assignment

The Guarantor shall not have the right to assign this Agreement without the prior written consent of the Landlord, which may be withheld at its sole discretion.

4.11 Notice

Any notice ("**Notice**") to be given by either party hereto to the other pursuant to this Agreement shall be in writing and delivered by hand, courier, or electronic transmission with receipt confirmed by the recipient ("**email**") addressed to:

- (a) To the Landlord at: Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario M4S 1Z2

Attention: Associate General Counsel
Facsimile: (416) 485-9394
Email: michael.atlas@ttc.ca

with a copy to: Toronto Transit Commission
6th Floor
5160 Yonge Street
Toronto, Ontario M2N 6L9

Attention: Head, Property, Planning & Development
Facsimile: (416) 338-0251
Email: pamela.kraft@ttc.ca

- (b) The Guarantor at: ■
 - Attention: ■
 - Facsimile: ■
 - Email: ■

- with a copy to: ■
 - Attention: ■
 - Facsimile: ■
 - Email: ■

Any notice delivered by hand or courier shall be deemed to be received when left during normal business hours at the office set forth above. Any notice delivered by email prior to 5:00 p.m. shall be deemed to have been delivered on the day of transmission by email, and otherwise on the following Business Day. All deliveries made by email shall only be deemed delivered upon confirmation of receipt by an addressee. Either party shall be entitled to change its address for notice to an address elsewhere by notice in writing to the other.

4.12 Rights of Parties Independent

The rights available to the parties under this Agreement and at law shall be deemed to be several and not dependent on each other and each such right shall be accordingly construed as complete in itself and not by reference to any other such right. Any one or more and/or any combination of such rights may be exercised by a party from time to time and, subject to the provisions of this Agreement and no such exercise shall exhaust the rights of such party or preclude any other party from exercising any one or more of such rights or combination thereof from time to time thereafter or simultaneously.

4.13 Counterparts

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and, notwithstanding the actual date of execution, shall be deemed to bear the date first written above. This Agreement may also be executed and delivered by facsimile or other electronic means of communication and in counterparts.

[Signature page follows]

IN WITNESS WHEREOF the parties have duly executed this Guarantee as of the date and year indicated above.

[GUARANTOR]

by _____
Name: ■
Title: ■

Name: ■
Title: ■

TORONTO TRANSIT COMMISSION

by _____
Name: ■
Title: ■

Name: ■
Title: ■

SCHEDULE “Q”
FORM OF INSURANCE TRUST AGREEMENT

See attached.

SCHEDULE “Q”

FORM OF INSURANCE TRUST AGREEMENT

THIS AGREEMENT made this ■ day of ■, 20■.

AMONG:

TORONTO TRANSIT COMMISSION

(hereinafter called the “**Landlord**”)

OF THE FIRST PART;

- and -

OPG INVESTMENT HOLDINGS GP INC.,
as general partner for
OPG INVESTMENT HOLDINGS LIMITED PARTNERSHIP

- and-

CT REIT (YONGE EGLINTON) GP CORP.,
as general partner for
CT REIT (YONGE EGLINTON) LIMITED PARTNERSHIP

- and -

[Insert Northam tenant entity / entities]

(hereinafter collectively called the “**Tenants**” and each a “**Tenant**”)

OF THE SECOND PART;

- and -

■,

(hereinafter called the “**Leasehold Mortgagee**”)

[NTD: Include Subleasehold Mortgagee, Co-Tenant’s Separate Mortgagee or Freehold Mortgagee, if applicable]

OF THE THIRD PART;

- and -

■,

(hereinafter called the “**Insurance Trustee**”)

[NTD: Insurance Trustee must be: (i) an Approved Bank; (ii) a loan or trust corporation, credit union or insurance company that satisfies the criteria in Section 2.3 below; (iii) a Leasehold Mortgagee that is an Approved Bank or a Person that satisfies the criteria in Section 2.3 below; or (iv) any other Person selected by the Tenants and approved by the Landlord]

OF THE FOURTH PART.

WITNESSES THAT:

WHEREAS the Landlord owns the lands situate in the City of Toronto described in Schedule “A” attached hereto (hereinafter called the “**Lands**”);

AND WHEREAS the Tenants, as tenants in common[, **each as to an undivided one third (1/3) interest,**] have a leasehold estate in the Lands (hereinafter called the “**Leasehold Estate**”) pursuant to a lease dated as of the ■ day of ■, 20■, between the Landlord and the Tenants for a term expiring on ■, notice of which lease was registered on title to the Lands on the ■ day of ■, 20■ as Instrument No. ■ (which lease, as amended to date and as further amended, supplemented, renewed, extended, replaced, modified or restated from time to time, is hereinafter called the “**Land Lease**”);

AND WHEREAS one or more multi-story buildings (the “**Buildings**”) have been or are proposed to be constructed by the Tenants on the Lands, and the Leasehold Estate in the Lands and the Buildings are hereinafter collectively referred to as the “**Property**”;

AND WHEREAS pursuant to a mortgage made between the Tenants as mortgagor and the Leasehold Mortgagee as mortgagee, dated the ■ day of ■, 20■, which was registered on title to the Leasehold Estate in the Lands on the ■ day of ■, 20■ as Instrument No. ■ (which mortgage, as amended, supplemented, renewed, extended, restated or replaced from time to time, is hereinafter called the “**Leasehold Mortgage**”), the Tenants mortgaged and charged all of their respective right, title and interest in the Leasehold Estate in the Lands, the Land Lease and the Property in favour of the Leasehold Mortgagee as security for the Landlord’s obligations referred to in the Leasehold Mortgage;

[NTD: This Agreement and the recitals are to be modified if the Tenants have assigned their interest in the Land Lease as it relates to only part of the Lands pursuant Section 13.2 of the Land Lease and the Leasehold Mortgage relates only to such assigned interest. Each fractured parcel should be the subject of an individual Insurance Trust Agreement as the insurance pursuant to a Separate Ground Lease will only cover the applicable fractured parcel]

[NTD: Include recitals regarding Subleasehold Mortgages, Co- Tenant's Separate Mortgages or Freehold Mortgages if applicable]

AND WHEREAS it is a requirement under the Land Lease that the parties enter into this Agreement to provide for the receipt and application of Insurance Proceeds (as defined below) above the Threshold Amount (as defined below) in respect of the Property;

AND WHEREAS the foregoing recitals are not made as representations or statements of fact by the Insurance Trustee;

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the others (the receipt and sufficiency of which is hereby acknowledged by each party hereto) and the mutual covenants and agreements herein contained, the parties hereto hereby covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions. In this Agreement, unless the context otherwise requires:

- (a) capitalized terms defined in the introduction to the parties, the recitals and other provisions hereof, shall have the same meanings throughout this Agreement;
- (b) capitalized terms used in this Agreement but not defined herein will have the meanings attributed to such terms in the Land Lease, as it reads on the date hereof; and
- (c) the following terms shall have the meanings set forth below:

“Affiliates” means an affiliate within the meaning of the *Bank Act* (Canada);

“Agreement” means this agreement and all schedules attached to this agreement, in each case as they may be amended or supplemented from time to time and, unless otherwise indicated, references to Articles, Sections, Subsections and recitals are to Articles, Sections, Subsections and recitals in this agreement;

“Architect” means an independent architect retained by the Tenants in respect of the restoration, repair or replacement of any Building that is damaged or destroyed;

“Authorized Investments” means short term interest-bearing or discount debt obligations issued or guaranteed by the Government of Canada or a Province of Ontario or an Approved Bank (which may include any Affiliates of the Insurance Trustee), provided that such obligation is rated at least **[R1 (middle)]** by DBRS Inc. or an equivalent superior credit quality rating from a recognized rating service (such as Moody's Investor Services, Standard & Poor's or Fitch Ratings), and matures within 60 days from the date of its creation.

“Business Days” mean any day except a Saturday, Sunday or any statutory holiday in Toronto, Ontario;

“Insurance Proceeds” means:

- (i) all proceeds of all insurance policies (including boiler and machinery policies) required to be maintained by the Tenants pursuant to the Land Lease in respect of any damage to or destruction of the Property or any part thereof or any personal property located at the Property insured thereunder, except for proceeds of any public liability, automobile liability or professional liability policies or workers’ safety/compensation insurance, loss of rental income, loss of profit, business interruption, or extra expense insurance or any other proceeds that are not provided for the purpose of reconstruction, repair or replacement of the Property or any part thereof; and
- (ii) any income, proceeds or accretions derived from any Authorized Investments made using proceeds of insurance policies referred to in clause (i) above;

“Insurance Trustee” means the Insurance Trustee from time to time under this Agreement;

“Tenant Mortgagees” means, collectively, the Leasehold Mortgagee [, Subleasehold Mortgagee and/or Co-Tenant’s Mortgagee] that are parties to this Agreement or any of them as the context may require; and **“Tenant Mortgagee”** means any one of them.

“Threshold Amount” means the sum of \$5,000,000, as such amount may be adjusted from time to time in accordance with Section 10.15 of the Land Lease.

1.2 References to Lease. Any references to the Land Lease contained herein are references to the Land Lease as it reads on the date hereof. No amendments, variations, modifications or waiver under the Land Lease shall be effective to amend the provisions referred to herein unless such amendment, variation, modification or waiver is agreed to in writing by each of the parties hereto.

1.3 Interpretation. Words importing the singular shall include the plural and vice versa and words importing gender include all genders. All references to a party shall be read with such changes in number and gender as may be appropriate, according to whether the party is a male or female Person or a corporation or partnership, and if a party consists of more than one Person the obligations of such Persons hereunder shall be joint and several. References to federal or provincial legislation means such legislation as constituted at the date hereof, as the same may be amended, re-enacted or replaced from time to time. The headings of Articles, Sections and Subsections are for convenience of reference only, and shall not affect the interpretation thereof. The words “hereof”, “herein”, “hereby” and “hereunder” and similar expressions used in any provision of this Agreement refer to the whole of this Agreement and not to such provision only. All of the provisions of this Agreement are to be construed as covenants and agreements.

1.4 Time. Time is of the essence of this Agreement.

1.5 Governing Law. This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

1.6 Currency. All amounts in this Agreement are stated and shall be paid in Canadian currency.

1.7 Entire Agreement. This Agreement and the Land Lease constitute the entire agreement between the parties hereto pertaining to the subject matter hereof. There are no representations, warranties or other agreements between the parties in connection with such subject matter except as specifically set forth or referred to in this Agreement.

1.8 Paramountcy. If there is any conflict between the provisions of this Agreement and the provisions of any of the Land Lease, any Leasehold Mortgage, Co-Tenant's Separate Mortgage or Subleasehold Mortgage, any Leasehold Mortgagee Acknowledgement Agreement or Subleasehold Mortgagee Acknowledgement Agreement[, or any non-disturbance/lease recognition agreement made with a Freehold Mortgagee, if any,] respecting the payment to, and distribution by, the Insurance Trustee of Insurance Proceeds, the provisions of this Agreement will prevail.

ARTICLE 2 APPOINTMENT OF INSURANCE TRUSTEE

2.1 Appointment. The parties to this Agreement other than the Insurance Trustee hereby appoint the Insurance Trustee as insurance trustee on the terms and subject to the conditions set forth in this Agreement.

2.2 Acceptance. The Insurance Trustee hereby accepts its appointment as insurance trustee hereunder.

2.3 Representations and Covenant of the Insurance Trustee. The Insurance Trustee: (A) represents and warrants to the other parties hereto that it: (i) has an office in Toronto, Ontario; and (ii) has a Tangible Net Worth (meaning the amount by which its total assets (excluding goodwill and other intangibles) exceeds its total liabilities as shown on its most recent annual audited financial statements) or assets under management of not less than \$500,000,000 as of the date hereof; and (B) covenants and agrees that it shall hold all funds received by it pursuant to this Agreement in an escrow account with an Approved Bank in Toronto, Ontario. [**NTD: To be modified as required depending on whether the Insurance Trustee qualifies as an "Insurance Trustee" pursuant to paragraphs (a), (b), (c) or (d) of the definition of "Insurance Trustee" pursuant to the Land Lease.**]

2.4 Trust re Insurance Proceeds. The Insurance Trustee will, if and when it receives Insurance Proceeds, hold them in trust for the Landlord, the Tenants, the Tenant Mortgagees [**and the Freehold Mortgagee, if any,**] in accordance with the provisions of this Agreement, and will not disburse or otherwise deal with any Insurance Proceeds except in accordance with the provisions of this Agreement.

2.5 Fees of Insurance Trustee. The reasonable fees and expenses of the Insurance Trustee, including the fees and expenses of counsel and other advisors or experts retained by the

Insurance Trustee pursuant to Section 6.2 of this Agreement, shall be paid by the Tenants or, if available, out of the monies held by the Insurance Trustee pursuant to this Agreement.

ARTICLE 3 COLLECTION OF INSURANCE PROCEEDS

3.1 Collection of Insurance Proceeds exceeding the Threshold Amount. Each of the Landlord, the Tenants, the Tenant Mortgagees [**and the Freehold Mortgagee, if any**], as applicable, agrees that if Insurance Proceeds become payable which exceed the Threshold Amount it shall:

- (a) cause all such Insurance Proceeds to be made payable to the Insurance Trustee and otherwise to deal with the policies of insurance in respect of the Property in such manner as to enable all such Insurance Proceeds and any interest thereon to be collected by the Insurance Trustee; and
- (b) from time to time to do, sign, execute and endorse all transfers, assignments, cheques, loss claims, receipts, writings and things necessary or desirable for the aforesaid purpose, and for that purpose irrevocably do appoint the Insurance Trustee their attorney to do, assign, execute and endorse all transfers, assignments, cheques, loss claims, receipts, writings and things in their name or in the name of any of them as appropriate and on their behalf as the Insurance Trustee may consider necessary or desirable; and
- (c) cooperate with the others, to the extent such others may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of, any insurance moneys exceeding the Threshold Amount that may be due in the event of any loss or damage, and that it will execute and deliver to the others such instruments as may be required to facilitate the recovery of any such insurance moneys.

3.2 Collection of Insurance Proceeds below the Threshold Amount. Each of the Landlord, the Tenants, the Tenant Mortgagees [**and the Freehold Mortgagee, if any**], as applicable, agrees that if Insurance Proceeds become payable not exceeding the Threshold Amount it shall:

- (a) cause all such Insurance Proceeds to be made payable to the Tenants and otherwise to deal with the policies of insurance in respect of the Property in such manner as to enable all such Insurance Proceeds and any interest thereon to be collected by the Tenants;
- (b) from time to time to do, sign, execute and endorse all transfers, assignments, cheques, loss claims, receipts, writings and things necessary or desirable for the aforesaid purpose; and
- (c) will cooperate with the others, to the extent such others may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of, any insurance moneys not exceeding the Threshold Amount that may be due in the event of any loss or damage, and that it will

execute and deliver to the others such instruments as may be required to facilitate the recovery of any such insurance moneys

3.3 Certificates of Insurance and Policies. Upon the request of the Insurance Trustee, the Tenants will deposit with the Insurance Trustee certificates of insurance and renewal certificates for every policy of insurance in respect of which Insurance Proceeds are payable to the Insurance Trustee hereunder. However, the Insurance Trustee shall be under no obligation to request any such documents, unless directed to do so in writing by one of the other parties hereto.

ARTICLE 4 APPLICATION OF INSURANCE PROCEEDS

4.1 Notice of Damage or Destruction to the Property. In the event of damage or destruction to the Property or any part thereof in respect of which Insurance Proceeds exceeding the Threshold Amount may become payable, the Tenants shall give notice thereof to all of the other parties hereto.

4.2 Disbursement of Insurance Proceeds. In the event that the Insurance Trustee receives Insurance Proceeds relating to damage or destruction to the Property or any part thereof (including boilers and pressure vessels but excluding for greater certainty Insurance Proceeds with respect to loss of rental income, loss of profit, business interruption, or extra expense insurance) under the provisions of this Agreement, the Insurance Trustee shall give notice to all of the other parties hereto of the receipt of such Insurance Proceeds and shall thereafter disburse such Insurance Proceeds in accordance with the following provisions:

- (a) where such Insurance Proceeds do not exceed the Threshold Amount, then provided that no Event of Default has occurred under the Land Lease which is continuing, such Insurance Proceeds shall be released to the Tenants (who shall not be required to comply with any of the formalities of the other subsections of this Section 4.2 in connection therewith) and such proceeds shall be used by the Tenants to repair, reconstruct, rebuild, reinstate or replace, as the case may be, that portion of the Property damaged or destroyed or for the purpose of reimbursing the Tenants with respect to costs incurred by them in connection with such repair, restoration or rebuilding, in each case in accordance with the terms of the Land Lease;
- (b) where such Insurance Proceeds exceed the Threshold Amount, then provided no Event of Default has occurred under the Land Lease which is continuing, and subject to the further requirements of this Section, such Insurance Proceeds shall, upon written request of the Tenants, be released to the Tenants from time to time in instalments for the purpose of reimbursing the Tenants for the cost of repairing, reconstructing, rebuilding, reinstating or replacing, as the case may be, the property damaged or destroyed in accordance with and subject to the requirements of this Section 4.2;
- (c) where Insurance Proceeds become payable or are then being held by the Insurance Trustee and an Event of Default has occurred under the Land Lease which is

continuing, the Landlord or any Tenant Mortgagee may give Notice of such Event of Default to the Insurance Trustee and after its receipt of such Notice, no such Insurance Proceeds shall be released by the Insurance Trustee to the Tenants without the prior written consent of the Landlord and/or the Tenant Mortgagees;

- (d) before the Tenants enter into any contract for the carrying out of any repair or reconstruction work pursuant to Subsection 4.2(b), copies of the estimates for any such work prepared by an Architect shall be submitted to the Insurance Trustee and the Insurance Trustee shall distribute copies thereof to those of the Landlord, the Tenants and any Tenant Mortgagees who are not parties to such contracts;
- (e) where Insurance Proceeds become payable to the Insurance Trustee or are then being held by the Insurance Trustee the restoration, repair or replacement work shall be performed (1) under the supervision of a Building Consultant; and (2) subject to a Technical Review pursuant to Section 6.3 of the Land Lease if required pursuant to such Section, and with respect to instalment payments pursuant to Subsection 4.2(b):
 - (i) requests for payment shall be made by the Tenants on not less than ten (10) Business Days' prior notice to the Insurance Trustee and shall be accompanied by a certificate of the Building Consultant, addressed to the Insurance Trustee, stating, containing or certifying:
 - (A) a detailed description of the completed work for which the request for payment is made;
 - (B) that such work has been completed in compliance with the requirements of this Section;
 - (C) that the requested amount is due, or is required to reimburse the Tenants for payments made to the contractor, subcontractors, materialmen, labourers, engineers, Building Consultant, or other Persons performing the work and that when added to all payments previously made from Insurance Proceeds does not exceed the value of the work done to date;
 - (D) that title to the personal property included in the request for payment is vested in the Tenants;
 - (E) the remaining cost to complete the repair, reconstruction, rebuilding and reinstatement of the Property;
 - (F) the amount of all construction lien holdbacks required or permitted to be maintained under Applicable Laws in respect of such work;
 - (G) the amount of such construction lien holdbacks actually maintained by the Tenants;

- (H) that no written notice of a construction lien under Applicable Laws has been received by the Tenants or registered against the Property with respect to the work;
- (ii) prior to disbursing any Insurance Proceeds, the Insurance Trustee must be satisfied in its sole discretion that all construction lien holdbacks required or permitted by Applicable Laws have been maintained and that no construction liens have been registered against the Property with respect to the work; and
- (iii) the Insurance Trustee shall retain in its hands at the date of any payment an amount sufficient to pay the estimated costs of completion of all outstanding work, even though as a result of such requirement the payment made becomes less than the amount certified to be due;
- (f) if the Architect's estimate of the cost of the restoration, repair or replacement work is less than the Threshold Amount, then provided no Default or Event of Default has occurred which is continuing, any Insurance Proceeds then held by the Insurance Trustee shall be released to the Tenants upon written request and such proceeds shall be used by the Tenants to repair, reconstruct, rebuild, reinstate or replace, as the case may be, the property damaged or destroyed;
- (g) subject in each case to the rights granted to a Tenant Mortgagee in Section 17.4 of the Land Lease or pursuant to a Leasehold Mortgage Acknowledgement Agreement or a Subleasehold Mortgagee Acknowledgement Agreement, should the Land Lease expire or be terminated for cause pursuant to the terms of the Land Lease without a new lease being granted, all monies remaining in the Insurance Trustee's hands or payable to the Insurance Trustee after the Term of the Land Lease ends shall be payable to the Landlord and/or to any Freehold Mortgagee in such amount as the Landlord may direct, and the Insurance Trustee shall comply with such request for payment but shall be entitled to deduct any of its outstanding fees and expenses, provided that in such case the Tenants shall not be relieved thereby of any obligations or any deductible amount or any shortfall in insurance proceeds by reason of their failure to maintain the insurance required to be maintained by them pursuant to Article 10 of the Land Lease and further provided, however, that if a new lease is granted, all Insurance Proceeds then held by the Insurance Trustee or payable to the Insurance Trustee after the Term ends shall be applied and dealt with in accordance with this Section 4.2 and/or pursuant to the provisions of such new lease corresponding to this Section 4.2 and other relevant provisions of the Land Lease and such new lease;
- (h) in case of any dispute as to the terms of any contract or the amount of any estimate or any matter relating to the actual work of repair, reconstruction, rebuilding, reinstatement or replacement, such dispute shall be decided by a quantity surveyor or other qualified professional person appointed by the Insurance Trustee and such decision shall be final;

- (i) in addition to any deductible amounts which shall be paid by the Tenants, if the Insurance Proceeds are insufficient to pay the entire cost of repairing, reconstructing, rebuilding, reinstating or replacing the damaged Building(s) as a result of the failure of the Tenants to maintain insurance as required by the Land Lease, the Tenants covenant and agree, subject to the provisions of Subsection 12.2(c) of the Land Lease, to pay the deficiency or the entire cost, as the case may be;
- (j) on the completion of all work and payment in full therefor by the Tenants, the Insurance Trustee shall, upon receipt of reasonable evidence that such work has been completed and paid for in full and that there are no outstanding lien claims, and the statutory periods for claiming any lien and maintaining any lien holdbacks have expired, release to the Tenants any insurance monies and any accumulated interest thereon then remaining in the possession of the Insurance Trustee;
- (k) subject in each case to Subsection 4.2(l), the rights granted to a Tenant Mortgagee in Section 17.4 of the Land Lease or pursuant to a Leasehold Mortgagee Acknowledgement Agreement or a Subleasehold Mortgagee Acknowledgement Agreement, the Landlord shall, with reference to any Insurance Proceeds held by the Insurance Trustee, stand in the place of the Tenants (and, accordingly, the Landlord shall be entitled to receive all Insurance Proceeds or instalments thereof to which the Tenants would otherwise have been entitled with respect to any particular repairs, reconstruction, rebuilding, reinstatement or replacements) if an Event of Default exists under the Land Lease due to the Tenants having defaulted in making repairs, rebuilding, reinstatement or replacements as required pursuant to the Land Lease following any property damage or destruction;
- (l) the rights of the Landlord under Subsection 4.2(k) are conditional upon the Landlord having complied with any applicable requirements of Article 17 of the Land Lease and having exercised its right under Section 17.5 of the Land Lease to cure or attempt to cure such default, but without any obligation to do so or continue to do so, by performing such repairs, reconstruction, rebuilding, reinstatement or replacements and such rights shall continue only while the Landlord is diligently proceeding to do so in compliance with all of the requirements of this section;
- (m) if, following the occurrence of any damage to or destruction of the Property, the Insurance Trustee is holding or is entitled to payment of any Insurance Proceeds (subject only to any conditions imposed by the insurer or insurers relating to the commencement or completion of the work or otherwise relating to payment and settlement) and the repair, reconstruction, rebuilding, reinstatement or replacement of the Property has not been commenced and thereafter diligently proceeded with (subject to Unavoidable Delay in proceeding therewith, Economic Force Majeure if such damage or destruction occurs during the Development Period, and any Landlord Caused Delays), prior to the date which is three (3) years following the occurrence of such damage or destruction, any Tenant

Mortgagee (and if more than one, the most senior in priority) may require the Insurance Trustee to pay over or assign to it the lesser of:

- (i) all amounts owing to the Tenant Mortgagee pursuant to its Leasehold Mortgage, Subleasehold Mortgage or Co-Tenant's Separate Mortgage, as applicable (and any excess amounts shall be paid to any other Tenant Mortgagees to the extent of the amounts owing under their respective Leasehold Mortgages, Co-Tenant's Separate Mortgages or Subleasehold Mortgages, as applicable) and in accordance with their respective priorities or as otherwise agreed in writing by such Tenant Mortgagees (and if such other Tenant Mortgagees hold a Co-Tenant's Separate Mortgage then a pro rata share of such excess amounts shall be paid to such other Tenant Mortgagees equal to the mortgaging Tenant's percentage co-ownership interest in the Property or applicable part thereof) and any remaining balance thereof shall be paid to the Tenants; and
- (ii) all Insurance Proceeds or entitlement thereto then held by the Insurance Trustee or, if such Tenant Mortgagee holds a Co-Tenant's Separate Mortgage then a pro rata share of such proceeds equal to the mortgaging Tenant's percentage co-ownership interest in the Property or applicable part thereof.

The Insurance Trustee shall comply with such requirement but shall be entitled to deduct any of its outstanding fees and expenses as provided in Section 2.5, and shall be released from any further responsibility or further accounting with respect thereto;

- (n) if an Event of Default exists under the Land Lease due to the Tenants having defaulted in making any repairs, reconstruction, rebuilding, reinstatement or replacements as required pursuant to the Land Lease following any damage to or destruction of the Property or any part thereof then, subject in each case to the rights granted to a Tenant Mortgagee under Article 17 of the Land Lease or agreed to pursuant to a Leasehold Mortgage Acknowledgement Agreement or a Subleasehold Mortgage Acknowledgement Agreement:
 - (i) the Tenant Mortgagee may, at its option, cure or attempt to cure such default (but without any obligation to do so or continue to do so) by performing such repairs, reconstruction, rebuilding, reinstatement or restoration of the Property as required by the Land Lease, and if the Tenant Mortgagee gives Notice to the other parties hereto that it intends to do so, then so long as the Tenant Mortgagee is diligently proceeding to do so in compliance with the Land Lease, the Tenant Mortgagee shall stand in the place of the Tenants with reference to any Insurance Proceeds or entitlement thereto held by the Insurance Trustee and shall be entitled to receive all Insurance Proceeds or instalments thereof to which the Tenants would otherwise have been entitled with respect to such repairs and any

Insurance Proceeds received by the Insurance Trustee in respect of such damage shall be paid to the Tenant Mortgagee in the same manner as Insurance Proceeds are to be paid to the Tenants hereunder for the purposes of completing such repairs; or

- (ii) if (A) the Tenant Mortgagee does not elect to cure or attempt to cure such default or (B) the Tenant Mortgagee elects to cure or attempt to cure such default but fails to cure such default within the cure periods provided for Section 17.4 of the Land Lease or in the applicable Leasehold Mortgagee Acknowledgement Agreement, then the Landlord may, at its option, cure or attempt to cure such default (but without any obligation to do so or continue to do so) by performing such repairs, reconstruction, rebuilding, reinstatement or restoration of the Property, provided that the Landlord complies with any applicable requirements of Article 17 of the Land Lease and if the Landlord gives Notice to the other parties hereto that it intends to do so, then so long as the Landlord is diligently proceeding to do so, the Landlord shall stand in the place of the Tenants with reference to any Insurance Proceeds or entitlement thereto held by the Insurance Trustee and shall be entitled to receive all Insurance Proceeds or instalments thereof to which the Tenants would otherwise have been entitled with respect to such repairs and any Insurance Proceeds received by the Insurance Trustee in respect of such damage shall be paid to the Landlord in the same manner as Insurance Proceeds are to be paid to the Tenants hereunder for the purposes of completing such repairs. In addition to all other indemnities provided for in the Land Lease and without duplication to any administrative fee paid under the Land Lease, the Landlord shall be entitled to be reimbursed by the Tenants for all of the Landlord's costs and expenses so incurred (to the extent not reimbursed to the Landlord out of the Insurance Proceeds as aforesaid), together with a sum equal to 15% of such costs on account of the Landlord's administration fee;
- (o) if the Land Lease is terminated as a result of an Event of Default and the applicable Tenant Mortgagee or its nominee obtains a replacement lease [(or **sublease**)] as contemplated in the Land Lease or any Leasehold Mortgagee Acknowledgement Agreement or Subleasehold Mortgagee Acknowledgement Agreement and the Insurance Trustee is then holding or is entitled to payment of any Insurance Proceeds (subject only to any conditions imposed by the insurer or insurers relating to the commencement or completion of the work or otherwise relating to payment and settlement) with regard to damage to or destruction of the Property or any part thereof, then the applicable Tenant Mortgagee or its nominee as the new tenant of the Property shall stand in the place of the Tenants with reference to any Insurance Proceeds or entitlement thereto held by the Insurance Trustee and shall be entitled to receive all Insurance Proceeds or instalments thereof to which the Tenants would otherwise have been entitled with respect to such repairs and any Insurance Proceeds received by the Insurance Trustee in respect of such damage shall be paid to the Tenant Mortgagee in the same manner

as Insurance Proceeds are to be paid to the Tenants hereunder for the purposes of completing such repairs;

- (p) if the Land Lease is terminated as a result of an Event of Default and no Tenant Mortgagee requests a replacement lease and the Insurance Trustee is then holding or is entitled to payment (subject only to any conditions imposed by the insurer or insurers relating to the commencement or completion of the work or otherwise relating to payment and settlement) of any Insurance Proceeds with regard to damage to or destruction of the Property or any part thereof, the Landlord may require the Insurance Trustee to pay over or assign to it [**and/or to the Freehold Mortgagee, if any, (in such amount as the Landlord may direct)**], all Insurance Proceeds or entitlement thereto held by the Insurance Trustee, and the Insurance Trustee shall comply with such requirement but shall be entitled to deduct any of its outstanding fees and expenses as provided by Section 2.5, and shall be released from any further responsibility or further accounting with respect thereto; and
- (q) the provisions of this Section 4.2 shall in no way relieve the Tenants from their obligation to repair, reconstruct, rebuild and reinstate the Property in accordance with Article 12 of the Land Lease.

4.3 Application of Rental Income Insurance. The Insurance Trustee shall, in the event that it receives insurance proceeds relating to loss of rental income, loss of profit, business interruption, or extra expense insurance in respect of the Property or any part thereof under the provisions of this Agreement or any other insurance proceeds which do not constitute Insurance Proceeds, disburse such insurance proceeds to the Tenants without deducting any fees or expenses.

4.4 Direction to Insurance Trustee to Disburse. Notwithstanding anything to the contrary in this Agreement, on receipt by the Insurance Trustee of the written direction executed by each of the Landlord, the Tenants, the Tenant Mortgagees [**and the Freehold Mortgagee, if any**], the Insurance Trustee will pay and disburse any Insurance Proceeds then held by it in accordance with such direction.

4.5 Acknowledgment of Mortgagees. Each [**Freehold Mortgagee and**] Tenant Mortgagee hereby waives the provisions of Subsection 6(2) of the *Mortgages Act* (Ontario) and any similar successor legislation and acknowledges and agrees that all Insurance Proceeds payable in respect of loss or damage to the Property or any part thereof shall be paid to the Insurance Trustee and shall be held and applied in making good the loss or damage in respect of which such proceeds are received as provided in the Land Lease and this Agreement.

ARTICLE 5 INVESTMENTS

5.1 Authorized Investments. All Insurance Proceeds received by the Insurance Trustee in accordance with this Agreement shall be invested in Authorized Investments. The income from each Authorized Investment, less any losses therefrom and the actual and reasonable fees of the

Insurance Trustee in respect thereof, shall be held and disbursed in the same manner as in the case of Insurance Proceeds.

5.2 Investment Directions. Upon receipt of a written direction from the Tenants, the Insurance Trustee shall:

- (a) invest the Insurance Proceeds in Authorized Investments in accordance with such direction; and/or
- (b) sell or redeem such Authorized Investments and demand payment of any proceeds therefrom.

Any direction from the Tenants to the Insurance Trustee shall be in writing and shall be provided to the Insurance Trustee no later than 9:00 a.m. on the Business Day on which the investment is to be made, redeemed or sold. Any such direction received by the Insurance Trustee after 9:00 a.m. or received on a non-Business Day, shall be deemed to have been given prior to 9:00 a.m. on the next Business Day. For the purpose of this Section, "Business Day" shall not include any day on which banks are not open for business in Toronto, Ontario.

5.3 Accounting for Investments. In addition to any written direction to invest in an Authorized Investment, the Insurance Trustee may hold cash balances constituting part or all of the Insurance Proceeds and may, but need not, invest same in its deposit department or the deposit department of one of its Affiliates or a deposit department of an Approved Bank; but the Insurance Trustee and its Affiliates shall not be liable to account for any profit to any parties to this Agreement or to any other Person other than at a rate, if any, published from time to time by the Insurance Trustee or one of its Affiliates with respect to deposits held by it generally. The Insurance Trustee shall not be held liable for any losses incurred in the investment of any Insurance Proceeds in Authorized Investments.

ARTICLE 6 LIABILITY AND INDEMNIFICATION OF INSURANCE TRUSTEE

6.1 Limitation of Insurance Trustee's Liability.

- (a) 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.
- (b) No duty with respect to effecting or maintaining any insurance or notifying anyone of any failure to insure will rest upon the Insurance Trustee and the Insurance Trustee will not become 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.

- (c) For greater certainty, the parties hereto agree that the Insurance Trustee will be under no obligation to make any payments specified in this Agreement except from the Insurance Proceeds held in trust by the Insurance Trustee.

6.2 Advisors to Insurance Trustee. The Insurance Trustee may retain and act on the opinion or advice of or information obtained from any qualified insurance consultant, solicitor, auditor, valuer, architect, engineer, surveyor, appraiser or other expert retained by the Insurance Trustee, the Landlord, the Tenants, any Tenant Mortgagee [**or Freehold Mortgagee, if any,**] or otherwise, and pay proper and reasonable compensation for such advice. The Insurance Trustee will not (provided it is acting in good faith) be held liable for acting and relying upon any opinions, advice or information obtained in the manner contemplated herein. The Insurance Trustee may also employ or retain, and pay proper and reasonable compensation for, any experts or other assistance as may be necessary for the proper determination and discharge of its duties hereunder.

6.3 Reliance on Officer's Certificates. Except where some other mode of proof is required or permitted by this Agreement, the Insurance Trustee shall, provided 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/or
- (c) as to compliance with any other applicable provision of this Agreement,

provided that the Insurance Trustee shall send to each of the Landlord, the Tenants, the Tenant Mortgagees [**and the Freehold Mortgagee, if any,**] copies of all such certificates received by the Insurance Trustee and relied on by it in the performance of its obligations under this Agreement.

6.4 Indemnification of Insurance Trustee. The Tenants agree to reimburse the Insurance Trustee for its reasonable fees and expenses, including, without limitation, the reasonable costs of any legal proceedings in respect of the Insurance Proceeds, incurred by the Insurance Trustee in carrying out its duties under this Agreement, and any reasonable costs incurred pursuant to Section 6.2 to the extent that these amounts are not then recoverable out of the Insurance Proceeds. The Tenants will indemnify the Insurance Trustee, its officers, directors, employees and agents and save them harmless against any and all liabilities, losses, claims, damages, actions, suits, demands, costs and expenses for anything done or omitted to be done by it in the performance of this Agreement, except as a result of the negligence, bad faith or wilful misconduct of the Insurance Trustee, or any of its directors, officers, employees, agents. This indemnity will survive termination of this Agreement and the resignation or removal of the Insurance Trustee.

6.5 Protection of Insurance Trustee.

- (a) The Insurance Trustee shall be protected in acting upon any written notice, request, waiver, consent, certificate, receipt, statutory declaration or other paper or document furnished to it, not only as to its due execution and the validity and the effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained which it, in good faith, believes to be genuine and what it purports to be.
- (b) The Insurance Trustee shall have no duties except those which are expressly set forth herein, and it shall not be bound by any notice of a claim or demand with respect to, or any waiver, modification, amendment, termination or rescission of this Agreement, unless received by it in writing, and signed by the parties hereto (other than the Insurance Trustee) and if its duties herein are affected, unless it shall have given its prior written consent thereto.
- (c) Provided the Insurance Trustee acts honestly and in good faith it shall not be held liable for any action or step taken or omitted to be taken by it or for any mistake of fact or law in any manner occasioned by or attributable to the act of the Insurance Trustee in the execution of its duties hereunder.
- (d) The Insurance Trustee shall retain the right not to act and shall not be held liable for refusing to act unless it has received clear and reasonable documentation which complies with the terms of this Agreement. Such documentation must not require the exercise of any discretion or independent judgment.

ARTICLE 7 RESIGNATION OR REPLACEMENT OF INSURANCE TRUSTEE

7.1 Resignation of Insurance Trustee. The Insurance Trustee then in office may at any time resign as Insurance Trustee under this Agreement by giving not less than sixty (60) days' written notice of its intention to do so to the other parties hereto. If the Insurance Trustee in office gives such notice of resignation, the Tenants will, within fifteen (15) Business Days of receipt of the notice of resignation, by notice to the other parties hereto, nominate a Person as successor Insurance Trustee, effective the day that the resignation of the Insurance Trustee in office takes effect. Subject to Section 7.3, the Person so nominated by the Tenants will become the successor Insurance Trustee if:

- (a) the Landlord, the Tenant Mortgagees [**and the Freehold Mortgagee, if any,**] give notice to the Tenants that they approve such Person as the successor Insurance Trustee; or
- (b) within fifteen (15) Business Days after the Tenants give notice of such nomination, the Tenants do not receive from any of the Landlord, the Tenant Mortgagees [**or the Freehold Mortgagee, if any,**] a notice objecting to the appointment of such Person as the successor Insurance Trustee.

If the Tenants do not give notice to the other parties hereto of the nomination of a Person to become the successor Insurance Trustee within fifteen (15) Business Days after receipt of the notice of resignation by the Insurance Trustee then in office, the Landlord will be entitled to

nominate the successor Insurance Trustee by notice to the other parties hereto, and the provisions of this Section shall apply, *mutatis mutandis*.

7.2 Appointment of Successor Insurance Trustee. Subject to Section 7.3, upon their own initiative, the parties hereto (other than the Insurance Trustee) may at any time by mutual agreement appoint a Person to act as successor Insurance Trustee to replace the Insurance Trustee then in office, by giving not less than thirty (30) days' written notice to the Insurance Trustee then in office.

7.3 Assignment to Successor Insurance Trustee. If a successor Insurance Trustee is appointed pursuant to either Section 7.1 or 7.2 and such successor Insurance Trustee accepts such appointment, the following will occur on the day the resignation of the Insurance Trustee then in office pursuant to Section 7.1 takes effect, or on the day the successor Insurance Trustee appointed pursuant to Section 7.2 replaces the Insurance Trustee then in office, as the case may be:

- (a) the Insurance Trustee leaving office will assign all of its rights and obligations under this Agreement to the successor Insurance Trustee, who will agree in writing with the other parties hereto to become a party to this Agreement as the Insurance Trustee and to assume, observe and perform all of the obligations of the Insurance Trustee hereunder;
- (b) the Insurance Trustee leaving office will pay or assign to the successor Insurance Trustee all Insurance Proceeds or entitlements thereto and any related Authorized Investments, as the case may be, held by it and deliver an accounting with respect thereto to the successor Insurance Trustee, the Landlord, the Tenants, the Tenant Mortgagees **[and the Freehold Mortgagee, if any]**;
- (c) the Tenants will pay to the Insurance Trustee leaving office any amount owing to such Insurance Trustee for its fees and expenses in accordance with this Agreement; and
- (d) the successor Insurance Trustee will become the Insurance Trustee pursuant to this Agreement in the place and stead of the former Insurance Trustee, and the former Insurance Trustee will thereupon be released from all further obligations under this Agreement (except the consequences of any default by the former Insurance Trustee prior to the assignment of its rights and obligations to the successor Insurance Trustee) and any trusts hereby imposed.

7.4 No Insurance Trustee Appointed. In the event that the Insurance Trustee in office ceases to be the Insurance Trustee for whatever reason, prior to the appointment of a successor Insurance Trustee, the Insurance Trustee will deliver an accounting and pay all Insurance Proceeds and any related Authorized Investments held by it to the Superior Court of Justice of Ontario, at the expense of the Tenants, to be held in trust for the parties hereto, and any party hereto may, upon notice to the other parties hereto, apply to such court to appoint a successor Insurance Trustee.

7.5 Necessary Qualification for Insurance Trustee. Notwithstanding any provision of this Article 7, any successor Insurance Trustee must be: (i) an Approved Bank; (ii) a loan or trust corporation, credit union or insurance company that satisfies the criteria in Section 2.3 above; (iii) a Leasehold Mortgagee that is an Approved Bank or a Person that satisfies the criteria in Section 2.3 above; or (iv) any other Person selected by the Tenants and approved by the Landlord.

ARTICLE 8 GENERAL MATTERS

8.1 Term. This Agreement will remain in effect until the expiry or earlier termination of the Land Lease, and for so long thereafter as there are Insurance Proceeds held by the Insurance Trustee pursuant to this Agreement which remain undistributed pursuant to the terms of this Agreement.

8.2 Release of Mortgagees. Upon registration of a discharge of any [**Freehold Mortgage,**] Leasehold Mortgage, Co-Tenant's Separate Mortgage or Subleasehold Mortgage, as applicable, the [**Freehold Mortgagee or**] Tenant Mortgagee, as the case may be, thereunder shall automatically cease to be a party to this Agreement.

8.3 Disputes. In the case of any dispute arising under this Agreement (other than those referred to in Subsection 4.2(h)) or any dispute or issue regarding the duties of the Insurance Trustee hereunder, such dispute shall be the subject of arbitration in accordance with the dispute resolution procedures set forth in Article 19 of the Land Lease.

8.4 No Registration. Neither this Agreement or notice hereof shall be registered against title to the Lands.

8.5 Costs. Each of the Landlord and the Tenants shall pay for its/their own costs and expenses (including legal fees and disbursements) incurred in connection with the preparation and negotiation of this Agreement.

8.6 Notice. Any notice or other communication to be given by a party hereunder to any other party hereunder (a "**Notice**") shall be in writing, and shall be given or made by: (i) delivering the same by hand or by prepaid courier to the party to whom the Notice is directed, (ii) prepaid registered mail, or (iii) facsimile or email transmission, in each case, to the address set out below or to such alternative address as may from time to time be designated by Notice given in the manner provided in this Section.

(a) to the Landlord at:

Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario M4S 1Z2

Attention: Associate General Counsel
Facsimile: 416-485-9394
Email: michael.atlas@ttc.ca

-and-

Toronto Transit Commission
5160 Yonge Street, 6th Floor
Toronto, Ontario M2N 6L9

Attention: Head – Property, Planning & Development
Facsimile: 416-338-0251
Email: pamela.kraft@ttc.ca

(b) to the Tenants at:

OPG Investment Holdings Limited Partnership
c/o Oxford Properties Group
Suite 900
100 Adelaide St W
Toronto, Ontario M5H 0E2

Attention: Vice President, Corporate Legal
Facsimile: (416) 865-0701
Email: nstaubitz@oxfordproperties.com

with copies to:

CT REIT (Yonge Eglinton) Limited Partnership
2180 Yonge Street, 15th Floor
Toronto, Ontario M4P 2V8

Attention: Vice President, General Counsel & Secretary
Facsimile: (416) 480-3216
Email: Kimberley.graham@ctreit.com

and to:

[Northam Tenant entity / entities]
2 Carlton Street, Suite 909
Toronto, Ontario M5B 1J3

Attention: Chief Operating Officer
Facsimile: (416) 977-7151
Email: CWalters@northamrealty.com

(c) to the Leasehold Mortgagee at:

■

Attention: ■
Facsimile: ■
Email: ■; and

(d) to the Insurance Trustee at:

■

Attention: ■
Facsimile: ■
Email: ■.

Any Notice: (i) delivered by hand or by courier, shall be deemed to have been given and received on the day on which it was delivered (if delivered before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; (ii) sent by facsimile or email shall be deemed to have been given and received on the date of transmission (if transmitted before 5:00 p.m. on a Business Day) and otherwise on the next following Business Day; and (iii) sent by registered mail shall be deemed to have been given and received on the third (3rd) Business Day following the date of mailing; provided however that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of mail, any such Notice shall be delivered or transmitted by facsimile as aforesaid.

8.7 Severability. If any term, covenant, obligation or agreement contained in this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, obligation and agreement herein contained shall be separately valid and enforceable to the fullest extent permitted by law.

8.8 Further Assurances. Each of the parties hereto shall from time to time hereafter and upon any reasonable request of any other party, execute and deliver, make or cause to be made all such reasonable and further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

8.9 Amendments and Waiver. No amendment of this Agreement will be effective unless executed in writing by the parties hereto. No waiver by any party of any default, breach or non-compliance hereunder shall operate as a waiver of its rights hereunder in respect of any continuing or subsequent default, breach or non-observance. No waiver shall be effective unless it is an express written waiver. No waiver shall be inferred from or implied by an overlooking by any party of such default, breach or non-observance or by anything done or omitted to be done by any party with respect thereto. The parties hereto agree that they shall amend this Agreement to include as a party hereto any Person that enters into a Leasehold Mortgage, Co-Tenant's Separate Mortgage, Subleasehold Mortgage [**or Freehold Mortgage**] (as such terms are defined in the Land Lease) from time to time following the date of this Agreement whereby

such Person shall become a party to and to be subject to and comply with this Agreement for so long as such Person holds such Leasehold Mortgage, Co-Tenant's Separate Mortgage, Subleasehold Mortgage [**or Freehold Mortgage**], as applicable.

8.10 Assignment. Except as provided in this Section, no party may assign its rights or benefits under this Agreement or to any Insurance Proceeds, including, without limitation, an assignment by way of security. The Landlord and the Tenants may assign their rights hereunder to any Person to whom they are assigning their interests in the Land Lease and the Property in accordance with the provisions of the Land Lease, including an assignment of their rights to Insurance Proceeds to a [**Freehold Mortgagee or**] Tenant Mortgagee as security, provided the [**Freehold Mortgagee or**] Tenant Mortgagee agrees to become a party to this Agreement. The [**Freehold Mortgagee or**] Tenant Mortgagee may assign its rights hereunder to any Person only in the circumstances contemplated for assignments by it under the [**Freehold Mortgage,**] Leasehold Mortgage, Co-Tenant's Separate Mortgage or Subleasehold Mortgage, as the case may be, and in accordance with the applicable [**Freehold Mortgagee non-disturbance/lease recognition agreement,**] the Leasehold Mortgagee Acknowledgement Agreement and/or the Subleasehold Mortgagee Acknowledgement Agreement, as applicable. No assignment by any party of its rights under this Agreement will be effective without written notice thereof first being given by the assigning party to each of the other parties and the assignee entering into an agreement in writing with the other parties hereto whereby the assignee agrees to assume all of the obligations and liabilities of the assigning party hereunder.

8.11 Successors and Assigns. The obligations, rights and benefits of each of the parties under this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and permitted assigns, including mortgagees, of their respective interests. Each party hereto shall require its successors and permitted assigns to expressly acknowledge and agree in writing with the other parties hereto 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 benefitting and bound by this Agreement, by an appropriate agreement supplementary to this Agreement.

8.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile transmission or by electronic delivery in portable document format (".pdf"), shall be equally effective as delivery of a manually executed counterpart thereof.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

TORONTO TRANSIT COMMISSION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**OPG INVESTMENT HOLDINGS GP INC.,
as general partner for OPG INVESTMENT
HOLDINGS LIMITED PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

**CT REIT (YONGE EGLINTON) GP
CORP., as general partner for
CT REIT (YONGE EGLINTON) LIMITED
PARTNERSHIP**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[NORTHAM TENANT ENTITY / ENTITIES]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have authority to bind the Corporation.

[LEASEHOLD MORTGAGEE]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the [Bank].

[INSURANCE TRUSTEE]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the Corporation.

Schedule A
to Insurance Trust Agreement
Legal Description of the Lands

SCHEDULE “R”
APPROVED BANKS

Schedule I Banks

Bank of Montreal
The Bank of Nova Scotia
Canadian Imperial Bank of Commerce
Canadian Tire Bank
National Bank of Canada
Royal Bank of Canada
The Toronto-Dominion Bank
CS Alterna Bank
Equitable Bank
Laurentian Bank of Canada
Manulife Bank of Canada
National Bank of Canada

Schedule II Banks

Citibank Canada
HSBC Bank Canada
J.P. Morgan Bank Canada
Societe General Canada
UBS Bank (Canada)
BNP Paribas (Canada)
Bank of China (Canada)
Bank of Tokyo-Mitsubishi UFJ (Canada)
Industrial and Commercial Bank of China (Canada)

Schedule III Banks

Bank of America, National Association
The Bank of New York Mellon
Barclays Bank PLC
Citibank, N.A.
Deutsche Bank AG
JP Morgan Chase, National Association
Wells Fargo Bank, National Association
Royal Bank of Scotland
Sumitomo Mitsui Banking Corporation, Canada Branch
United Overseas Bank Limited

SCHEDULE "S"
SUBJECTIVE TEST

The "**Subjective Test**" means a methodology for establishing a sum of annual rent for a parcel of land whereby a specific quantity of density for each particular use of the land (being residential or non-residential) is multiplied by a specific unit value of the land (in terms of a price per square foot of density for each particular use) and the sum of such interim products is further multiplied by a specific land rental rate where the unit value of the land and the land rental rate are assessed and determined in accordance with the following considerations:

- (a) the lands are valued and the annual rent determined by giving consideration to both (i) land values prevailing in the open market; and (ii) the existing uses and permitted density on the particular land in question;
- (b) the extent and quantum of the existing density on the lands in question having regard to the existing buildings and other improvements on the particular land and the uses thereof; and
- (c) the existing relationships and agreements between the Landlord and the Tenant with respect to the lands in question and the adjacent lands, including without limitation (i) any existing encumbrances and restrictions that impact its development potential, and (ii) the degree of integration between existing and proposed improvements thereon.

The value of the existing buildings and improvements on the lands in question is not taken into account. The value of the land and the resulting annual rent reflect amounts which would be reasonable for the Landlord and the Tenants to agree assuming that they are willing negotiators and taking into account all the considerations which would affect the minds of the parties in such negotiations.

The Subjective Test is to be contrasted with the "Objective Test" whereby the particular land is to be valued as if it was a separate, free standing parcel and treated as a vacant site, free of all encumbrances and available for development in accordance with its highest and best use and on the basis of land values prevailing in an open market, without having regard to any agreements between the parties which may in fact exist as at the date of valuation.