

DELEGATED APPROVAL FORM
DIRECTOR, REAL ESTATE SERVICES
MANAGER, REAL ESTATE SERVICES

TRACKING NO.: 2019-170

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, adopted by City Council on May 22, 23 & 24, 2018 or, where applicable, in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Kathie Capizzano	Division:	Real Estate Services
Date Prepared:	July 8, 2019	Phone No.:	2-4825

Purpose	To obtain authority for the City of Toronto to enter into a Non-Disturbance Agreement ("Agreement") with GroupM Canada Inc. ("GroupM"), a Subleasee of Menkes Waterfront Holdings Inc. ("Menkes"), the City's Tenant at 125 and 155 Queens Quay East, also known as the Waterfront Innovation Centre.
Property	Blocks 1 and 2, Plan 66M-2476, having municipal addresses of 125 and 155 Queens Quay East, Toronto, Ontario (the "Property")
Actions	<ol style="list-style-type: none"> The City of Toronto be authorized to execute a Non-Disturbance Agreement with GroupM Canada Inc., in accordance with the Ground Lease of the Property, substantially in the form attached as Schedule "A", and any other terms deemed appropriate to the Director, Real Estate Services, and in form acceptable to the City Solicitor; The Deputy City Manager, Corporate Services, or his/her designate, administer and manage the Non-Disturbance Agreement including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Deputy City Manager, Corporate Services, may, at any time, refer consideration of such matters to City Council for its determination and direction; and
Financial Impact	There is no financial impact. The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.
Comments	<p>At its meeting on March 28 & 29, 2017, City Council approved a 99 year Ground Lease between the City and Menkes (the "Ground Lease") for the Property, also known as the Waterfront Innovation Centre. One of the conditions of the Ground Lease was that the City would enter into a Non-Disturbance Agreement with certain subtenants whose subleases are permitted by the Ground Lease, and with subtenants whose subleases have otherwise been approved by the City, in each case in a form satisfactory to each party acting reasonably.</p> <p>Menkes has negotiated a sub-lease with GroupM and has asked the City to execute a Non-Disturbance Agreement with their subtenant, GroupM. Waterfront Toronto, as master developer of the East Bayfront, retained Stikeman Elliott LPP, Barristers and Solicitors, to prepare a Sublease Summary of the GroupM sublease together with a Confidential Memo being a risk analysis of the City entering into the Non-Disturbance Agreement. Real Estate Services has reviewed the Sublease Summary and Confidential Memo in consultation with City Legal Services and recommends that the City enter into the NDA substantially in the form attached as Schedule "A".</p> <p>The Director Waterfront Secretariat has been consulted and approves this transaction.</p>
Terms	See Schedule "A"

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	
	Other Information:	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.
3. Issuance of RFPs/REOs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	Delegated to a more senior position.	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to Divisions and Agencies:	Delegated to a more senior position.	Delegated to a more senior position.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to a more senior position.	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as City/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million.
	<input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding three (3) months, including licences for environmental assessments and/or testing, etc.	<input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.
	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	Delegated to a more senior position.	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
13. Revisions to Council Decisions in Real Estate Matters:	Delegated to a more senior position.	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	Delegated to a more senior position.	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences
		<input type="checkbox"/> (b) Releases/Discharges
		<input type="checkbox"/> (c) Surrenders/Abandonments
		<input type="checkbox"/> (d) Enforcements/Terminations
		<input checked="" type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates
		<input type="checkbox"/> (f) Objections/Waivers/Caution
		<input type="checkbox"/> (g) Notices of Lease and Sublease
		<input type="checkbox"/> (h) Consent to regulatory applications by City, as owner
		<input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title
		<input type="checkbox"/> (j) Documentation relating to Land Titles applications
		<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds

B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:

- Documents required to implement matters for which he or she also has delegated approval authority.
- Expropriation Applications and Notices following Council approval of expropriation (Manager, Acquisitions & Expropriations is only Manager with such signing authority).

Director, Real Estate Services also has signing authority on behalf of the City for:

- Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Internal Corporal Services and any related documents.

Consultation with Councillor(s)									
Councillor:	Joe Cressy					Councillor:			
Contact Name:	Tom Davidson					Contact Name:			
Contacted by:	Phone	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No objections – June 6, 2019					Comments:			
Consultation with Divisions and/or Agencies									
Division:	Waterfront Secretariat					Division:	Financial Planning		
Contact Name:	Jayne Naiman					Contact Name:	Filisha Jenkins		
Comments:	Concurs July 8, 2019					Comments:	Concurs – July 9, 2019		
Legal Division Contact									
Contact Name:	Kathleen Kennedy – July 8, 2019								

DAF Tracking No.: 2019-170	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Melanie Hale-Carter	July 9, 2019	Signed by Melanie Hale-Carter
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos	July 10, 2019	Signed by Nick Simos

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (b) Where approving power has been delegated to staff, the Deputy City Manager, Internal Corporate Services, in consultation with any other applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget, or funding being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc., but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose, except for property acquisitions of 50M² or less for transit shelter purposes.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director of City Planning, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as City) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (o) Total compensation in leasing matters where the City is City (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is City (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then Approving Authority is transferred upwards to the next more senior level of Approving Authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, including ancillary agreements, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is City is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

SCHEDULE A

NON-DISTURBANCE AGREEMENT FOR SUBTENANT

NON-DISTURBANCE AGREEMENT

Dated for reference as of the ____ day of July, 2019, and effective as of the Effective Date defined herein,

B E T W E E N:

CITY OF TORONTO
(the "**Landlord**")

OF THE FIRST PART

- and -

GROUPM CANADA INC.

(the "**Sublessee**")

OF THE SECOND PART**RECITALS:**

- A. Menkes Waterfront Holdings Inc. (the "**Sublessor**") is the tenant of the Lands described in Schedule "A" under a ground lease (the "**Ground Lease**") dated April 20, 2018, between Landlord and the Sublessor;
- B. The Sublessor has entered into a sublease dated June 11, 2018, a copy of which is attached hereto as Schedule "B" (the "**Sublease**") with the Sublessee for certain premises (the "**Premises**") in the building (the "**Building**") to be constructed by the Sublessor on the Lands;
- C. The Sublessor has granted a leasehold charge to The Bank of Nova Scotia (the "**Leasehold Lender**") which leasehold charge was registered against title to the Sublessor's leasehold interest on April 5, 2019 as instrument number AT5108225;
- D. The Landlord and the Leasehold Lender entered into a chargee agreement (the "**Chargee Agreement**") dated March 27, 2019;
- E. On behalf of the Sublessee, the Sublessor has requested this non-disturbance agreement (this "**Agreement**") from the Landlord; and
- F. Capitalized terms used herein but not otherwise defined herein shall have the meanings attributed thereto in the Sublease.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the Landlord and the Sublessee agree as follows:

1. The Sublessee covenants to give the Landlord written notice of the Turnover Condition Date, as defined in the Sublease, within five (5) days after the occurrence of the Turnover Condition Date and upon such notice being given, this Agreement shall come into effect as of the Turnover Condition Date (the "**Effective Date**"), subject to the last sentence of this Section 1. If, at any time prior to the Effective Date, the Landlord terminates the Ground Lease, the Landlord shall promptly give notice to the Sublessee of such termination and upon such notice being given, this Agreement shall be at an end and the Landlord and Sublessee shall each be released from all obligations and liability under this Agreement and neither the Landlord nor the Sublessee shall have any obligations or liabilities to one another under the Sublease, which is terminated at law.
2. The Sublessee acknowledges that this Agreement with the Landlord is subject to the rights of the Leasehold Chargee under the Chargee Agreement. The Sublessee acknowledges that this Agreement is subject to the rights of any other Leasehold Chargee(s) holding a charge(s) on the Sublessor's leasehold interest in the Ground Lease who has entered into an agreement(s) with the Landlord from time to time in accordance with the requirements of the Ground Lease.
3. If the Landlord becomes entitled to terminate the Ground Lease or otherwise take possession of the Lands and Building, subject to the Sublessee performing its obligations under the Sublease, including paying any amounts payable by the Sublessee to the Sublessor thereunder, from and after receipt by the Sublessee of written demand from the Landlord, to the Landlord in the place and stead of the Sublessor, the Landlord agrees that Sublessee may peaceably and quietly use and occupy the Premises during the term of the Sublease without any interruption or denial of access by the Landlord or any other person claiming by, through or under the Landlord, and Sublessee's rights pursuant to the Sublease shall not, in any way, be disturbed, diminished and/or interfered with by the Landlord if and so long as the Sublessee shall not be in default under any of the covenants and agreements contained in the Sublease beyond any applicable cure or grace periods.

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4. The Sublessee agrees with the Landlord and confirms in favour of the Landlord that:
- (a) upon receipt by the Sublessee from the Landlord of written notice and reasonable evidence that the Landlord is entitled to possession of the Lands and Building for any reason, it shall promptly attorn to the Landlord, without execution of any other instrument to give effect to such attornment, and become the tenant of the Landlord, such attornment to be for the then unexpired residue of the term of the Sublease and on all the terms and conditions of the Sublease, save and except as may be amended by this Agreement; and
 - (b) no rent under the Sublease has been or shall be paid more than thirty (30) days in advance of its due date; and that the Sublessee, as of the date hereof, has no charge, lien or claim of set-off under the Sublease or otherwise against the rents or other charges due or to become due thereunder.
5. Upon the Effective Date and thereafter upon the Landlord's request from time to time (not more than twice per annum), Sublessee shall confirm to the Landlord as of such date that:
- (a) the Sublease has commenced and is in full force and effect, unmodified and binding upon the Sublessee;
 - (b) the Sublease constitutes the entire agreement between the Sublessee and the Sublessor in respect of the Premises and there are no collateral agreements, undertakings, declarations, representations or understandings, written or verbal, in respect thereof; there are no existing rights of set-off, defences or counterclaims against the enforcement of the obligations to be performed by the Sublessee under the Sublease;
 - (c) all rent (including additional rent) and other charges payable by the Sublessee pursuant to the Sublease have been paid by the Sublessee to date and there are no outstanding arrears;
 - (d) there are no defaults or events of default under the Sublease by the Sublessee and, to the knowledge of the Sublessee, there are no material defaults or events of default by the Sublessor under the Sublease; and
 - (e) the Sublessee has accepted possession of the Premises and the same are satisfactory and suitable for the use thereof as contemplated by the Sublessee and any improvements required by the terms of the Sublease to be completed by the Sublessor at that time have been completed to the satisfaction of the Sublessee.
6. From and after the Landlord's succession to the interest of the Sublessor under the Sublease and for so long as the Landlord enters into possession or control of the Lands:
- (a) the Landlord shall have the same remedies against the Sublessee for the breach of an agreement contained in the Sublease that the Sublessor might have had under the Sublease against the Sublessee if the Landlord had not succeeded to the interest of the Sublessor;
 - (b) except with respect to Sections 7.3(a), 7.3(b), 8.1(b) and 14.2(c) of the Sublease, and Sections 5(b) and 7 of Schedule "E" of the Sublease, any provision in the Sublease which requires the Sublessor to take any action within a certain time period (or be deemed to have taken any action within a certain time period), including without limitation, providing any notice, approval, consent, demand, payment, document, agreement, estoppel or status certificate, or other instrument under the Sublease, shall be extended such that all references to "10 days" or "10 Business Days" in the Sublease shall be read as "30 days" or "30 Business Days"; all references to "3 days", "3 Business Days", "5 days", and "5 Business Days" shall be read as "15 Business Days. With respect to Section 7.3(a) of the Sublease, the period of ten (10) days for the Landlord to respond shall be extended to thirty (30) Business Days. With respect to Section 7.3(b) of the Sublease, the period of three (3) Business Days shall commence at the end of the thirty (30) Business Day period under Section 7.3(a) as modified hereby. With respect to Section 8.1(b) of the Sublease, the period of ten (10) Business Days for the Landlord to respond shall be extended to fifteen (15) Business Days, but the period of five (5) Business Days for the second notice shall remain unchanged. With respect to Section 5(b) of the Schedule E of the Sublease, the period of fifteen (15) Business Days for the Landlord to respond to the Permit Drawings and Final Engineering Report shall not be extended but the period of five (5) Business Days for the Landlord to respond to revised Permit Drawings and a revised Final Engineering Report shall be extended to ten (10) Business days. With respect to Section 7 of Schedule E of the Sublease, the period of five (5) Business Days for the Landlord to respond to changes to the approved Permit Drawings and any Final Engineering Report shall be extended to ten (10) Business Days;
 - (c) Section 27.19 of the Sublease shall be deleted and replaced with Section 9 of this Agreement;
 - (d) the Sublessee shall have the same remedies against the Landlord for the breach of an agreement contained in the Sublease that the Sublessee would have had under the Sublease against the Sublessor if the Landlord had not succeeded to the interest of the Sublessor, provided further, however that the Landlord shall not be:
 - (i) liable for any act or omission, occurring or accruing, of any prior lessor (including the Sublessor);

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- (ii) subject to any claims, demands, set-offs or defences that the Sublessee might have against any prior lessor (including the Sublessor) except for set-offs expressly provided for in Sections 3.4(d) and Section 3(g) of Schedule "E" of the Sublease (which shall be the Sublessee's sole remedy as against the Landlord in respect of the Tenant Allowance);
- (iii) bound by any rent or additional rent which the Sublessee might have paid more than thirty (30) days in advance of its due date under the Sublease to any prior lessor (including the Sublessor);
- (iv) bound or prejudiced by any amendment, waiver, modification, assignment or sublet of the Sublease made without its consent (except pursuant to express rights and options provided for under the Sublease);
- (v) liable for any personal covenants or obligations related to the development and construction of the Building, obligations related to the payment of Tenant Allowance, collateral obligations or financial commitments of any prior lessor (including the Sublessor) and, for greater certainty, the Landlord shall not:
 - (A) be liable for any obligations with respect to the development and construction of the Building, including without limitation any outstanding Shell and Core Punch-List Work, provided that, notwithstanding that the Landlord shall not have any obligation to carry out any outstanding Shell and Core Punch-List Work, the Landlord shall be entitled to elect to do so, but in the event Landlord elects not to (or is deemed to have elected not to) perform any outstanding Shell and Core Punch-List Work, then after Landlord's succession to the interest of the Sublessor under the Sublease, Sublessee shall have the right to terminate the Sublease upon written notice delivered to Landlord within thirty (30) days after the Landlord's election, or deemed election, not to perform any outstanding Shell and Core Punch-List Work, and in such event the parties shall have no further obligations to each other from and after the date of delivery of such termination notice. In the event that Landlord fails to notify Tenant that it elects to complete all such Shell and Core Punch-List Work within thirty (30) days after Landlord's succession to the interest of the Sublessor under the Sublease, then Landlord shall be deemed to have elected not to perform the Shell and Core Punch-List Work.
 - (B) be bound by the provisions of Section 3.1 - Landlord's Shell and Core Work, including the applicable provisions of Schedules "D", "E", "G" and "Q"; Section 3.2 - Landlord's Construction Obligations; and Section 3.4 - Late Delivery Milestones and Penalties, except for those offset rights of the Sublessee contained in Section 3.4(d);
 - (C) be obligated to provide a non-disturbance agreement to any sub-subtenant pursuant to Section 7.5 - Subordination of Subleases;
 - (D) be bound by the installation and operational obligations arising prior to the Commencement Date under Section 12.2 - Voice, Data, Cable Providers;
 - (E) be bound by or deemed to have made any representations under Section 14.1 - Landlord Representations;
 - (F) be bound by Section 15.2 - Prohibited Landlord Transfer;
 - (G) be bound by Section 17.1 - Hazardous Materials or Section 17.2 - Asbestos; and
 - (H) be bound by Article 24 - Equity participation in sale proceeds;
- (e) no consent, approval or waiver given by the Landlord as Sublessor under the Sublease shall prejudice the rights or duties of, or fetter the discretion of, the City of Toronto in its capacity as a municipal regulatory authority;
- (f) except with respect to any Base Rental (as defined in the Sublease), Gross Rent (as defined in the Sublease), Tenant's Pro Rata Share of Taxes (as defined in the Sublease) and/or Tenant's Pro Rata Share of Operating Expenses (as defined in the Sublease), to the extent necessary for Landlord to comply with applicable laws, all fees payable to the Landlord as Sublessor under the Sublease that are otherwise prescribed by bylaw by the City of Toronto from time to time shall be the said prescribed fees in place of the amounts stated in the Sublease.

7. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8. Any notice required or contemplated by any provision of this Agreement shall be given in writing and shall be sent by: (g) hand delivery or by reputable overnight courier service; or (h) mailed by prepaid registered mail, return receipt requested:

If to the Sublessee, prior to the Effective Date:

GroupM Canada Inc.
160 Bloor Street East
Toronto, Ontario M4W 0A2
Attention: Managing Partner

With a copy to:

WPP Group USA
100 Park Avenue
New York, NY 10018
Attention: Director of Real Estate

And a copy to:

Davis & Gilbert LLP
1740 Broadway
New York, NY 10019
Attention: Mark E. Maltz, Esq.

And following the Effective Date, with a copy to:

GroupM Canada Inc.
At the Premises
Attention: Managing Partner

If to the Landlord to:

City of Toronto
Facilities and Real Estate
55 John Street, 2nd Floor
Toronto, ON M5V 3C6
Attention: Director of Real Estate Services

With a copy to the City Solicitor at:

City of Toronto
Legal Services Division
55 John Street, Metro Hall
Stn. 1260, 26th Floor
Toronto, ON M5V 3C6
Attention: City Solicitor

or to such other addresses as Sublessee or Landlord may from time to time designate by notice given as above provided. Every notice or other communication hereunder shall be deemed to have been given: (a) if sent by hand delivery or overnight courier, upon the date received or the date delivery is refused; and (b) if sent by mail, upon receipt or refusal to accept receipt. Notices not sent in accordance with the foregoing shall be of no force or effect until actually received by the foregoing parties at the addresses specified in this section.

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- 9. (a) The Sublessee acknowledges that all information, documents and correspondence provided by the Sublessee to the Landlord in connection with this Agreement and the transactions provided for in this Agreement (collectively, the "**Sublessee Information**") will be in the custody or under the control of the Landlord; and is subject to the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) as amended ("**MFIPPA**"), and subject to any other obligations of the Landlord to disclose information in its possession, or control. The Sublessee agrees to provide the Landlord with a word-wide royalty free licence with respect to the Sublessee Information for use by the Landlord for all standard municipal purposes, and waives all moral rights the Sublessee; or any present, or past employees. or other individual authors, or creators may have associated with Sublessee Information. Therefore, the Sublessee acknowledges that all or some of the Sublessee Information may be reproduced or otherwise copied by the Landlord, may become part of the public record of the transactions provided for in this Agreement, and consents to the disclosure of the Sublessee Information by the Landlord pursuant to MFIPPA or otherwise. The Sublessee should assume that its name, as sublessee of the Lands, will be, in every case, a matter of public record.

- (b) The Sublessee agrees to identify those portions, if any, of the Sublessee Information (and for clarity, any portions of the Sublease) which contains any scientific, technical, commercial, proprietary, financial or labour relations information, any trade secrets or any information of a similar confidential nature the disclosure of which could cause the Sublessee any harm. The Sublessee agrees that any of the Sublessee Information which is not expressly identified to the Landlord as confidential information at the time that it is received by the Landlord will be treated as public information.

IN WITNESS WHEREOF the parties have executed this Agreement.

Landlord: CTY OF TORONTO

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Sublessee: GROUPEM CANADA INC,

Per: _____
Name:
Title

Per: _____
Name:
Title:

