



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

TRACKING NO.: 2020-086

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, as adopted by City Council on May 22, 23 & 24, 2018 and Item GL9.14, as adopted by City Council on November 26 & 27, 2019 or, where applicable, contained in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Kathie Capizzano	Division:	Corporate Real Estate Management
Date Prepared:	March 23, 2020	Phone No.:	2-4825

Purpose	To obtain authority for the City to execute a Lease Amending Agreement, an Assignment of Ground Lease and Landlord Consent and a Landlord Acknowledgement with 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"> 1. The City be authorized to execute an Assignment of Ground Lease and Landlord Consent with Menkes Waterfront Holdings Inc., as nominee for and on behalf of Menkes WIC GP Inc. and Alcion (WIC) GP Inc. in their respective capacities as general partners of WIC Limited Partnership; and Menkes WIC GP Inc., in its capacity as general partner of WIC Limited Partnership; and Alcion (WIC) GP Inc. in its capacity as general partner of WIC Limited Partnership (collectively the Assignor) and Sun Life Assurance Company of Canada (the Assignee); to consent to the assignment from the Assignor of to the Assignee of an undivided fifty (50%) percent interest in the Ground Lease, substantially on the terms set out in Appendix A and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor. 2. The City be authorized to execute a Lease Amending Agreement, with Menkes Waterfront Holdings Inc., as nominee for and on behalf of Menkes WIC GP Inc. in its capacity as sole general partner of WIC Limited Partnership as to an undivided fifty (50%) percent interest and Sun Life Assurance Company of Canada as to an undivided 50% percent interest; and Menkes WIC GP Inc. in its capacity as sole general partner of WIC Limited Partnership; and Sun Life Assurance Company of Canada (collectively the Tenant); in accordance with the Ground Lease of the Property, substantially on the terms set out in Appendix B and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor. 3. The City be authorized to execute a Landlord Acknowledgement substantially on the terms set out in Appendix C and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor. 4. The City be authorized to execute any ancillary agreements and documents relating to the transaction, on terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor.
Financial Impact	There are no financial implications related from this approval. The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.

Comments

At its meeting on March 28 & 29, 2017, City Council approved a 102 year Ground Lease between the City and Menkes (the "Ground Lease") for the Property, also known as the Waterfront Innovation Centre. Prior to the Ground Lease being executed, Menkes had entered into a limited partnership with Alcion (WIC) GP. Inc. for an undivided 50% interest.

The Ground Lease was entered into on April 20, 2018. Under the Ground Lease, Menkes is permitted to sell all or part of its leasehold interest to a purchaser, provided that it first obtains the consent of Waterfront Toronto and the City, which consent may not be unreasonably withheld, and provided that it otherwise complies with the provisions of the Ground Lease. In this case, Menkes is only proposing to transfer 50% of its leasehold interest (that being the 50% currently belonging to Alcion). Menkes affiliates will continue to retain the remaining 50% and to be in charge of the development management and, when substantial completion is achieved, property management.

Pursuant to an Undertaking Agreement between Waterfront Toronto and the City of Toronto, Waterfront Toronto was responsible to carry out any due diligence in connection with any request for an assignment, transfer, disposition of the ground lease or any interest in the ground lease. Waterfront Toronto has confirmed that Sun Life constitutes a "Permitted Transferee" as defined by the Development Agreement between Waterfront Toronto and Menkes Waterfront Holdings Inc. and WIC Limited Partnership (together, the "Site Developer") and as such, has consented to the transfer.

The Ground Lease was amended to reflect the new ownership as well as to reflect actual dates things were completed. Schedule B, Lease Amending Agreement, shows these various amended terms.

Waterfront Secretariat concurs with this transaction.

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

B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:
<ul style="list-style-type: none"> • 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, Transaction Services is only Manager with such signing authority).
Director, Real Estate Services also has signing authority on behalf of the City for:
<ul style="list-style-type: none"> • 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 the Deputy City Manager, Corporate Services and any related documents.

Consultation with Councillor(s)					
Councillor:	Joe Cressy			Councillor:	
Contact Name:	Tom Davidson			Contact Name:	
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Other
Comments:	No objections s – March 17/20				
Consultation with Divisions and/or Agencies					
Division:	Waterfront Secretariat			Division:	Financial Planning
Contact Name:	Jayne Naiman			Contact Name:	Filisha Jenkins
Comments:	No Concerns – March 20, 2020			Comments:	Concurs – March 20, 2020
Legal Division Contact					
Contact Name:	Kathleen Kennedy – March 19, 2020				

DAF Tracking No.: 2020-086	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Melanie Hale-Carter	March 30 th , 2020	Signed By: Melanie Hale-Carter
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	April 2 nd , 2020	Signed By: Alison Folosea

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, 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 market value and no interest shall be granted for an amount less than the appraised market value, nor additional compensation paid, unless specifically authorized by City Council.
- (f) Authority to approve any transaction 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 Landlord) 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 landlord (**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 landlord (**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 landlord 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").

APPENDIX A

ASSIGNMENT OF GROUND LEASE

THIS AGREEMENT made as of this _____ day of _____, 2020.

BETWEEN:

MENKES WATERFRONT HOLDINGS INC. as nominee for and on behalf of **MENKES WIC GP INC.** and **ALCION (WIC) GP INC.** in their respective capacities as general partners of **WIC LIMITED PARTNERSHIP** OF THE FIRST PART

-and-

MENKES WIC GP INC. in its capacity as general partner of **WIC LIMITED PARTNERSHIP** OF THE SECOND PART

- and-

ALCION (WIC) GP INC. in its capacity as general partner of **WIC LIMITED PARTNERSHIP** OF THE THIRD PART
(the parties of the FIRST PART, SECOND PART and THIRD PART are collectively the "**Assignor**")

-and-

SUN LIFE ASSURANCE COMPANY OF CANADA OF THE FOURTH PART
(the party of the FOURTH PART is the "**Assignee**")

-and-

CITY OF TORONTO ("Landlord") OF THE FIFTH PART

RECITALS

- A.** The Landlord is the owner of the freehold lands described in **Schedule "A"** (the "**Freehold Lands**") which the owner has leased to Menkes Waterfront Holdings Inc. as nominee for and on behalf of Menkes WIC GP Inc. and Alcion (WIC) GP Inc. in their capacity as the general partners of WIC Limited Partnership; Menkes WIC GP Inc. in its capacity as general partner of WIC Limited Partnership; Alcion (WIC) GP Inc. in its capacity as general partner of WIC Limited Partnership (collectively, the "**Tenant**") under a ground lease (the "**Ground Lease**") dated April 20, 2018, between Landlord and the Tenant;
- B.** Notice of the Ground Lease was registered on title to the Freehold Lands on September 14, 2018 in the Toronto Land Registry Office as Instrument No. AT4957796;
- C.** The Tenant is the owner of the leasehold lands described in **Schedule "B"** (the "**Leasehold Lands**");
- D.** Sun Life Assurance Company of Canada wishes to acquire an undivided fifty (50%) percent interest in the Ground Lease and the Leasehold Lands;
- E.** The "Assignor" is collectively the parties of the first party, the second part and the third part, being **MENKES WATERFRONT HOLDINGS INC.** as nominee for and on behalf of **MENKES WIC GP INC.** and **ALCION (WIC) GP INC.** in their respective capacities as general partners of **WIC LIMITED PARTNERSHIP**; **MENKES WIC GP INC.** in its capacity as general partner of **WIC LIMITED PARTNERSHIP**; and **ALCION (WIC) GP INC.** in its capacity as general partner of **WIC LIMITED PARTNERSHIP**;
- F.** The "Assignee" is the party of the fourth part, being **SUN LIFE ASSURANCE COMPANY OF CANADA** as to an undivided fifty (50%) percent interest contemplated by the Assignment (as in Section 2 defined below);
- G.** The Assignor has agreed to assign an undivided fifty (50%) percent interest in the Ground Lease to the Assignee pursuant to the Assignment, subject to the consent of the Landlord;
- H.** Contemporaneously with the completion of the Assignment to the Assignee contemplated herein, the Assignor will redeem the interests of Alcion Canada III Inc., Alcion Real Estate Partners Canadian Strategic Parallel Fund III, LP and Alcion (WIC) GP Inc. (the "**Alcion Partners**") in the Assignor (the "**Alcion Redemption**") and together with the Assignment, the "**Transaction**"), such that Menkes Waterfront LP Inc. and Menkes WIC GP Inc. are the only partners of the WIC LIMITED PARTNERSHIP;
- I.** The Assignor has applied to the Landlord for the Landlord's consent to the Transaction, subject to and upon the terms and conditions set out in this Agreement; and
- J.** The Landlord has agreed to grant its consent to the Transaction, subject to and upon the terms and conditions set out in this Agreement.

NOW THEREFORE in consideration of ten dollars (\$10.00) paid by each party to each of the other parties and other good and valuable consideration the receipt and sufficiency of which are acknowledged by each of the parties, the parties agree as follows:

- 1. DEFINITIONS:** Terms and expressions used in this Agreement with initial capital letters and not defined herein have the same meanings as the same terms where defined in the Ground Lease.

2. ASSIGNMENT: The Assignor does hereby grant and assign unto the Assignee a 50% undivided interest in and to the Assignor's right, title and interest in the Leasehold Lands, together with the unexpired residue of the Term of the Ground Lease and all benefit and advantage to be derived therefrom, and together with the benefit of all covenants, representations, warranties, guarantees, indemnities, obligations, liabilities and responsibilities thereunder, to have and to hold the same unto the Assignee, its successors and permitted assigns, henceforth for and during the unexpired residue of the Term of the Ground Lease and for all other estate, term and interest, if any, of the Assignor therein, subject to the payment of the Rent and the observance and performance of the covenants, provisos and conditions on the part of the Assignor contained therein (the "**Assignment**"). Notwithstanding the foregoing, the Assignor covenants and agrees with the Assignee that it remains solely responsible to the Assignee for the payment of the amounts accruing prior to the completion of the Transaction, in their entirety.

3. LANDLORD'S CONSENT AND ACKNOWLEDGEMENT: The Landlord consents to the Transaction upon and subject to the following terms and conditions:

- (a) This consent does not constitute a waiver of the necessity for consent to any further Transfer of the Ground Lease (which for the purpose of this Agreement includes any assignment of the Ground Lease or the subletting, mortgage or encumbering of the Ground Lease or parting with or sharing possession of all or any part of the Leasehold Lands) which must be completed in accordance with the terms of the Ground Lease. If the Assignee proposes to effect a further Transfer of the Ground Lease, the terms of the Ground Lease with respect to a Transfer shall apply to any such further Transfer;
- (b) By giving its consent pursuant to this Agreement, the Landlord does not hereby acknowledge or approve of any of the terms of the assignment between the Assignor and Assignee or any of the agreements between the Assignor and Assignee. For clarity, the Landlord does not acknowledge or approve the terms of any agreement of purchase and sale, co-owners agreement, development agreement, management agreement, shareholder agreement or the details and documents pertaining to the Alcion Redemption or any other agreements or documents between the Assignor and Assignee to which the City is not a party; and any further Transfer of the Ground Lease, including any disposition of all or any portion of the respective undivided fifty (50%) percent interests in the Ground Lease held by **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** and **SUN LIFE ASSURANCE COMPANY OF CANADA** shall require Landlord consent in accordance with the terms of the Ground Lease;
- (c) This consent does not operate to release the Assignor from any of its obligations contained in clause **10.5(e)** of the Ground Lease; and
- (d) This consent is granted on the express condition that the Assignee will be required to pay arrears of Rent (if any) outstanding as of the date of this Agreement as well as any Additional Rent (including without limitation realty taxes) which may be outstanding on, after or as of the date of the Agreement (including amounts of Additional Rent for periods prior to the assignment which are permitted by the terms of the Ground Lease to be subsequently adjusted or recovered by the Landlord and/or items of Rent as defined in the Ground Lease not yet billed for the periods ending prior to the date of this Agreement), and the Assignee agrees to be personally liable for any such amounts.

4. ASSIGNEE'S COVENANTS AND ACKNOWLEDGMENTS: The Assignee hereby covenants and agrees with the Landlord that:

- (a) The Assignee will at all times and during the balance of the Term of the Ground Lease be liable, as one of the Persons comprising the Tenant, to pay all amounts payable to the Landlord under the Ground Lease and at the times and in the manner provided for in the Ground Lease, and will observe and perform all of the terms, covenants and conditions contained in the Ground Lease on the part of the Assignor to be observed and performed and as and when the same are required to be observed and performed as provided by the Ground Lease to the same extent as if the Assignee had been the original Tenant under the Ground Lease;
- (b) The Assignee will indemnify and save harmless the Landlord from all actions, suits, costs, losses, charges, demands and expense for and in respect of any such non-payment or non-observance or non-performance of the Tenant's terms, covenants and conditions contained the Ground Lease;
- (c) The Assignee acknowledges that it has received a copy of the executed Ground Lease and is familiar with the terms, covenants and conditions contained therein; and
- (d) The Assignee agrees and acknowledges that the rights and obligations of each of the Persons comprising the Tenant under the Ground Lease, shall, in every case, be joint and several. For clarity, the Assignee further confirms and acknowledges and agrees with the Landlord that it will remain jointly and severally liable, together with **MENKES WATERFRONT HOLDINGS INC.**, as nominee for an on behalf of **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** as to an undivided fifty (50%) interest and the Assignee as to an undivided fifty (50%) interest and together with **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP**, for the performance and fulfilment of all the Tenant's agreements, covenants and obligations under the Ground Lease.

5. ASSIGNOR'S COVENANT:

- (a) The Assignor hereby covenants that in consideration of the Landlord's consent to this Assignment of Ground Lease, if the Ground Lease is disaffirmed, disclaimed, terminated repudiated, or surrendered (each of these transactions being referred to as an "**Early Termination**") by any trustee in bankruptcy of a Transferee, by any court appointed officer, or by a Transferee in connection with any insolvency proceedings, the Assignor and any Transferee (except the bankrupt or insolvent Transferee) will be considered, on Notice from the Landlord given within sixty (60) days after the Early Termination, to have entered into a lease with the Landlord on the same terms and conditions as are contained in this Ground Lease except that the term of the lease shall commence on the date of the Early Termination and shall expire on the date this Ground Lease would have expired but for the Early Termination.
- (b) The Assignor agrees and acknowledges that the rights and obligations of each of the Persons comprising the Tenant under the Ground Lease, shall, in every case, be joint and several. For clarity, **MENKES WATERFRONT HOLDINGS INC.**, as nominee for an on behalf of **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** as to an undivided fifty (50%) interest and the Assignee as to an undivided fifty (50%) interest, together with **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** further confirm and acknowledge and agree with the Landlord that they remain jointly and severally liable together with the Assignee, for the performance and fulfilment of all the Tenant's agreements, covenants and obligations under the Ground Lease.

6. NOTICES: All notices, demands, requests, agreements, consents, approvals, payments, documents and communications (individually or collectively called a "**Notice**") which may be or are required to be given pursuant to this Agreement or the Ground Lease shall be in writing and may be delivered personally or sent by prepaid registered mail or certified mail or by prepaid courier, or facsimile to the following address:

- (a) to the Landlord at:
 City of Toronto
 Facilities and Real Estate
 55 John Street, 2nd Floor
 Toronto, ON M5V 3C6
- Attention: Director of Real Estate Services
 Facsimile: (416) 392-1880

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
 Facsimile: (416) 397-5624

- (b) to the Assignor at:
 Menkes Waterfront Holdings Inc.,
 Menkes WIC GP Inc. and Alcion (WIC) GP Inc.
 in their capacity as the general
 partners of WIC Limited Partnership
 4711 Yonge Street, 14th Floor
 Toronto, ON M2N 7T4
 Attention: Peter Menkes
 E-mail: peter.menkes@menkes.com

With a copy to:

Bennett Jones LLP
 3400 – One First Canadian Place
 Toronto, ON M5X 1A4
 Attention: Leonard Gangbar
 E-mail: Gangbarl@bennettjones.com

- (c) to the Assignee at:
 Sun Life Assurance Company of Canada
 c/o BentallGreenOak
 1 York Street, Suite 1100
 Toronto, ON M5J 0B6
 Attention: Chetan Baweja
 E-mail: chetan.baweja@bentallgreenoak.com

With a copy to:

Sun Life Capital Management
 Law Department
 1 York Street, Suite 3300
 Toronto, ON M5J 0B6
 Attention: Legal Department

With a copy to:

Miller Thomson LLP
 40 King Street West, Suite 5800
 Toronto, ON M5H 3S1
 Attention: Savvas Kotsopoulos
 E-mail: skotsopoulos@millerthomson.com

Any Notice so given shall be conclusively deemed to have been given and received on the date of delivery of such Notice if personally delivered or sent by prepaid courier unless such day is not a Business Day in which case it shall be the Business Day next following the date

of delivery of such Notice or, if mailed as aforesaid, shall be deemed to be delivered on the third Business Day next following the date of such mailing, or if sent by facsimile, shall be deemed to be delivered on: (i) the first Business Day next following the date it was sent by facsimile if sent after 5:00 p.m. or (ii) such Business Day, if sent before 5:00 p.m on such Business Day. If at the date of any such mailing or on or before the third Business Day thereafter there is a general interruption in the operation of the postal service in Canada which does or is likely to delay delivery by mail of such Notice, such Notice shall only be effective if personally delivered or sent prepaid courier or sent by facsimile. Any Party may from time to time change its address for service by Notice to the other Party.

Any Notice permitted or required to be given by the Landlord may be given by the Deputy City Manager, Corporate Services from time to time, his/her designate(s) or successor(s). However, the Deputy City Manager, Corporate Services specifically reserves the right to submit the issue of the giving of any Notice, or the contents of any Notice, to City Council for its determination.

7. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada. Any legal proceeding arising in connection with this agreement shall be commenced and heard in a court (or, if applicable, a tribunal of competent jurisdiction) sitting in Toronto, Ontario, which it is agreed will be the appropriate location. If the court (or, if applicable, tribunal of competent jurisdiction) does not sit in Toronto, the legal proceedings shall be commenced and heard in the jurisdiction nearest to the City of Toronto within the Province of Ontario in which such court (or, if applicable, tribunal of competent jurisdiction) convenes.

8. BINDING EFFECT: This Agreement shall enure to the benefit of the Landlord and its successors and assigns and shall be binding upon the Assignor, the Assignee and each Person comprising the Assignor and Assignee, and their permitted successors and permitted assigns, respectively.

9. COUNTERPART: This Agreement may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. This Agreement may be delivered by electronic transmission of a pdf signature and the Parties hereby adopt any signature received in pdf as original signatures of the transmitting party. In the case of electronic transmission of a pdf, the transmitting party shall forthwith deliver an originally executed copy of this Agreement to the other Parties.

IN WITNESS WHEREOF the Parties hereto have duly executed this Agreement as of the day and year first above written, by affixing their respective corporate seals under the hands of their proper signing officers duly authorized in that behalf.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written.

MENKES WATERFRONT HOLDINGS INC. in its nominee capacities both before and after the Transaction

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

MENKES WIC GP INC. in its capacity as general partner of **WIC LIMITED PARTNERSHIP**

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

ALCION (WIC) GP INC. in its capacity as general partner of **WIC LIMITED PARTNERSHIP**

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

SUN LIFE ASSURANCE COMPANY OF CANADA

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

CITY OF TORONTO

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

SCHEDULE "A"

LEGAL DESCRIPTION OF THE FREEHOLD LANDS

PIN 21384-0290 (LT)
Block 1, Plan 66M-2476
City of Toronto

AND

PIN 21384-0292 (LT)
Block 2, Plan 66M-2476
City of Toronto

SCHEDULE "B"

LEGAL DESCRIPTION OF THE LEASEHOLD LANDS

PIN 21384-0291 (LT)
Block 1, Plan 66M-2476
City of Toronto

AND

PIN 21384-0293 (LT)
Block 2, Plan 66M-2476
City of Toronto

APPENDIX B

THIS LEASE AMENDING AGREEMENT

Dated this _____ day of _____, 2020

BETWEEN:

CITY OF TORONTO
(the "Landlord")

OF THE FIRST PART

- and -

MENKES WATERFRONT HOLDINGS INC. as nominee for and on behalf of **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** as to an undivided fifty (50%) percent interest and **SUN LIFE ASSURANCE COMPANY OF CANADA** as to an undivided fifty (50%) percent interest

OF THE SECOND PART

-and-

MENKES WIC GP INC. in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP**

OF THE THIRD PART

-and-

SUN LIFE ASSURANCE COMPANY OF CANADA

OF THE FOURTH PART

(the parties of the SECOND PART, THIRD PART and FOURTH PART are collectively the "**Tenant**")

RECITALS

- A.** The Landlord is the owner of the freehold lands described in **Schedule "A"** (the "**Freehold Lands**") which the owner has leased to Menkes Waterfront Holdings Inc. as nominee for and on behalf of Menkes WIC GP Inc. and Alcion (WIC) GP Inc. in their capacity as the general partners of WIC Limited Partnership; Menkes WIC GP Inc. in its capacity as general partner of WIC Limited Partnership; Alcion (WIC) GP Inc. in its capacity as general partner of WIC Limited Partnership (collectively, the "**Original Tenant**") under a ground lease (the "**Ground Lease**") dated April 20, 2018, between Landlord and the Tenant;
- B.** Notice of the Ground Lease was registered on title to the Freehold Lands on September 14, 2018 in the Toronto Land Registry Office ("**LRO**") as Instrument No. AT4957796 and a leasehold parcel was created by the Original Tenant for the leasehold lands described in **Schedule "B"** (the "**Leasehold Lands**");
- C.** The Original Tenant has assigned an undivided fifty percent (50%) interest in the Ground Lease and the Leasehold Lands to Sun Life Assurance Company of Canada (the "**Assignment**");
- D.** Contemporaneously with the completion of the Assignment contemplated in Recital C above, the Original Tenant redeemed the interests of Alcion Canada III Inc., Alcion Real Estate Partners Canadian Strategic Parallel Fund III, LP and Alcion (WIC) GP Inc. (the "**Alcion Partners**") in the Original Tenant (the "**Alcion Redemption**" and together with the Assignment, the "**Transaction**"), such that Menkes Waterfront LP Inc. and Menkes WIC GP Inc. are now the only partners of WIC Limited Partnership;
- E.** By Assignment of Ground Lease and Landlord Consent Agreement dated the date hereof, the Landlord has consented to the Transaction on the terms and conditions set out in the Assignment of Ground Lease and Landlord Consent Agreement;
- F.** As of the date of this Agreement the "Tenant" is collectively the parties of the second part, the third part and the fourth part, being **MENKES WATERFRONT HOLDINGS INC.** as nominee for and on behalf of **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** as to an undivided fifty (50%) percent interest and **SUN LIFE ASSURANCE COMPANY OF CANADA** as to an undivided fifty (50%) percent interest; **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP**; and **SUN LIFE ASSURANCE COMPANY OF CANADA**, each being jointly and severally liable for all obligations under the Ground Lease;
- G.** The Landlord and Tenant wish to amend the Ground Lease by this Agreement.

NOW THEREFORE in consideration of ten dollars (\$10.00) paid by each party to each of the other parties and other good and valuable consideration the receipt and sufficiency of which are acknowledged by each of the parties, the parties agree as follows:

1. All capitalized terms and expressions used in this Agreement and not otherwise defined have the same meaning as they have in the Ground Lease.
2. The parties acknowledge, confirm and agree that the recitals to this Agreement are true in substance and in fact.
3. The parties agree that the Ground Lease is amended by deleting the definition of "**Commencement Date**" in section 1.2 in its entirety and substituting the following therefor:

"Commencement Date " means August 10, 2018. "
4. The parties agree that the Ground Lease is amended by deleting the definition of "**Term**" in section 1.2 in its entirety and substituting the following therefor:

"Term" means the term of this Ground Lease commencing on August 10, 2018 and being a period of one hundred and two (102) years ending on August 9, 2120."
5. The parties agree that the Ground Lease is amended by deleting the definition of "**Waterfront Toronto Development Agreement**" in section 1.2 in its entirety and substituting the following therefor:

"Waterfront Toronto Development Agreement" means the development agreement between Menkes Waterfront Holdings Inc., WIC Limited Partnership and Waterfront Toronto dated April 20, 2018, as assigned to the Tenant effective as of the date hereof, as the same may be further amended and restated from time to time."

- 6. The parties agree that the Ground Lease is amended by deleting clauses 2.1 (c), (d) and (e) in their entirety and substituting the following therefor:
 - "(c) The Landlord granted and the Tenant received possession of Block 2 as of August 10, 2018."
 - (d) The New Dockwall Infrastructure was completed and the Existing Dockwall Infrastructure was rendered redundant by written notice given from Waterfront Toronto to the Landlord and Tenant on September 12, 2018.
 - "(e) The Landlord granted and the Tenant received possession of Block 1 as of September 12, 2018."
- 7. In all other respects, the covenants, terms and conditions of the Lease remain unchanged, unmodified and in full force and effect, except as amended by this Agreement.
- 8. The parties agree that this Lease Amending Agreement shall be registered in the LRO on title to the Leasehold Lands and the Freehold Lands at the Tenant's expense.
- 9. The parties hereby agree to do all such things and execute all such documents as may be necessary to give full force and effect to the foregoing.
- 10. This Agreement shall be binding on and enure to the benefit of each of the parties, and their successors and permitted assigns.
- 11. This Agreement may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. This Agreement may be delivered by electronic transmission of a pdf signature and the Parties hereby adopt any signature received in pdf as original signatures of the transmitting party. In the case of electronic transmission of a pdf, the transmitting party shall deliver an originally executed copy of this Agreement to the other Parties as soon as reasonably possible.

IN WITNESS WHEREOF the parties hereto have caused to be affixed their corporate seals duly attested by their proper signing officers in that behalf.

MENKES WATERFRONT HOLDINGS INC. as nominee for and on behalf of **MENKES WIC GP INC.** in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP** as to an undivided fifty (50%) percent interest and **SUN LIFE ASSURANCE COMPANY OF CANADA** as to an undivided fifty (50%) percent interest

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

MENKES WIC GP INC. in its capacity as sole general partner of **WIC LIMITED PARTNERSHIP**

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

SUN LIFE ASSURANCE COMPANY OF CANADA

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

CITY OF TORONTO

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

We have authority to bind the corporation.

SCHEDULE "A"

LEGAL DESCRIPTION OF THE FREEHOLD LANDS

PIN 21384-0290 (LT)
Block 1, Plan 66M-2476
City of Toronto

AND

PIN 21384-0292 (LT)
Block 2, Plan 66M-2476
City of Toronto

SCHEDULE "B"

LEGAL DESCRIPTION OF THE LEASEHOLD LANDS

PIN 21384-0291 (LT)
Block 1, Plan 66M-2476
City of Toronto

AND

PIN 21384-0293 (LT)
Block 2, Plan 66M-2476
City of Toronto

APPENDIX C

LANDLORD'S ACKNOWLEDGMENT

TO: MENKES WATERFRONT HOLDINGS INC. as nominee for and on behalf of MENKES WIC GP INC. in its capacity as sole general partner of WIC LIMITED PARTNERSHIP as to an undivided fifty (50%) percent interest and SUN LIFE ASSURANCE COMPANY OF CANADA as to an undivided fifty (50%) percent interest; MENKES WIC GP INC. in its capacity as sole general partner of WIC LIMITED PARTNERSHIP; and SUN LIFE ASSURANCE COMPANY OF CANADA (collectively, the "Tenant")

RE: Ground Lease dated April 20, 2018 between City of Toronto as landlord (the "Landlord"), and the Tenant, (the "Lease"), with respect to the lands and premises located at 125 and 155 Queens Quay East, Toronto, ON (the "Property");

In accordance with Section 17.1 of the Lease, the Tenant has requested this Landlord Acknowledgment and paid the Landlord's prescribed fee:

In connection therewith, the undersigned of the Landlord confirms that:

- 1. The Lease is unmodified and in full force and effect;
2. No notice of default under the Lease has been issued by the Landlord;
3. To the best of its knowledge, without independent investigation, the Tenant has complied with its obligations under the Lease;
4. All of the Base Rent under the Lease as set out in Schedule "C" to the Lease has been paid in full, with the full amount being paid by the Tenant to Waterfront Toronto Revitalization Corporation (as directed by the Landlord), and the HST component thereof paid to the Landlord.

This Landlord Acknowledgment may be delivered by electronic transmission of a pdf signature and the recipients hereby adopt any signature received in pdf as an original signature of the City of Toronto. In the case of electronic transmission of a pdf, the City shall deliver an originally executed copy of this Landlord Acknowledgment to the recipients as soon as reasonably possible.

DATED at Toronto this ____ day of _____, 2020.

SIGNED, SEALED AND DELIVERED CITY OF TORONTO
)
)
) PER: _____
) NAME:
) TITLE: DIRECTOR, REAL ESTATE SERVICES

LOCATION MAP

