

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE BANKRUPTCY OF  
Curriculum Services Canada/Services Des Programmes D'Etudes Canada  
of the City of Toronto  
in the Province of Ontario

**MOTION RECORD  
(appeal from disallowance of proof of claim)**

October 17, 2018

**MINDEN GROSS LLP**  
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Estate No. 31-2360759

**ONTARIO  
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IN THE MATTER OF THE BANKRUPTCY OF  
Curriculum Services Canada/Services Des Programmes D'Etudes Canada  
of the City of Toronto  
in the Province of Ontario

**NOTICE OF APPEAL FROM DISALLOWANCE**

**Medallion Corporation (“Medallion”), as authorized agents for 280 Richmond Street West Limited, Creditor (the “Landlord”),** will make a motion to a judge presiding over the Commercial List on Wednesday, October 24, 2018 at 9:30 a.m., or on such other date as may be scheduled at that time at 330 University Avenue, Toronto, Ontario, by way of appeal from the disallowance by the Trustee dated September 19, 2018 of the Landlord’s Proof of Claim dated April 20, 2018 and such other relief as is set out herein.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard:

- in writing under subrule 37.12.1(1) because it is
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

**THE MOTION IS FOR**

- (a) An order setting aside the Notice of Partial Disallowance issued by RSM Canada Limited (the “Trustee”), in its capacity as Trustee of the Estate of Curriculum Services Canada Services Des Programmes D’Etudes Canada, a Bankrupt (“Curriculum” or the “Bankrupt”), of the Landlord’s Proof of Claim dated April 20, 2018;
- (b) A declaration of the Landlord’s rights under a Lease dated May 26, 2017 between the Landlord and Curriculum as Tenant (the “Lease”);
- (c) A declaration that the Landlord is entitled to an unsecured claim for the balance of its accelerated rent claim pursuant to section 136(3) of the *Bankruptcy and Insolvency Act* (“BIA”);
- (d) A declaration that the Landlord’s Proof of Claim is a valid and subsisting claim in the Estate of the Bankrupt, in respect of the amounts set out in the Affidavit of Joseph Cacciola sworn October 16, 2018;
- (e) In the alternative, an order declaring that the Landlord is entitled to a claim in the Estate of the Bankrupt in such other amount as is determined by this Honourable Court;
- (f) Such further or other order as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

1. Medallion is the authorized agent for the Landlord, which is the owner of premises at 150 John Street West, Toronto, Ontario, Suite 600 (the "Premises").

2. The Lease was for 8,322 square feet of space for a term of ten years, six months, commencing on July 1, 2017 and expiring on December 31, 2027, with basic rent payable as follows:

Months 1-42 \$21.50 per square foot per annum

Months 43-78 \$23.50 per square foot per annum

Months 79-126 \$25.50 per square foot per annum

3. In addition to basic rent, the Tenant was required to pay Additional Rent as defined in the Lease.

4. Section 16 of the Lease deals with Defaults and Remedies. Sections 16.1 of the Lease provides in part as follows:

If any of the following shall occur:

...

(f) Tenant, any assignee or a subtenant of all or substantially all of the Premises makes an assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment, arrangement or compromise with its creditors or Tenant sells all or substantially all of its personal property at the Premises other than in the ordinary course of business (and other than in connection with a Transfer requiring Landlord's consent and approved in writing by Landlord), or steps are taken or action or proceedings commenced by any person for the dissolution, winding up or other termination of Tenant's

existence or liquidation of its assets (collectively called a "**Bankruptcy**");

(g) a trustee, receiver, receiver-manager, manager, agent or other like person shall be appointed in respect of the assets or business of Tenant or any other occupant of the Premises;

...

then, without prejudice to and in addition to any other rights or remedies to which Landlord is entitled hereunder or at law, the then current and the next three (3) months' Rent shall be forthwith due and payable and Landlord shall have the following rights and remedies, all of which are cumulative and not alternative, namely:

(i) to terminate this Lease in respect of the whole or any part of the Premises by written notice to Tenant (it being understood that actual possession shall not be required to effect a termination of this Lease and that written notice, alone shall be sufficient); if this Lease is terminated in respect of part of the Premises, this Lease shall be deemed to be amended by the appropriate amendments, and proportionate adjustments in respect of Rent and any other appropriate adjustments shall be made;

...

(v) to obtain damages from Tenant including, without limitation, if this Lease is terminated by Landlord, all deficiencies between all amounts which would have been payable by Tenant for what would have been the balance of the Term, but for such termination, and all net amounts actually received by Landlord for such period of time;

(vi) to suspend or cease to supply any utilities, services, heating, ventilating, air conditioning and humidity control to the Premises, all without liability of Landlord for any damages, including indirect or consequential damages, caused thereby;

(vii) to obtain the Termination Payment from Tenant;

(viii) if this Lease is terminated due to the default of Tenant, or if it is disclaimed, repudiated or terminated in any insolvency proceedings related to Tenant (collectively "Termination"), to obtain payment from Tenant of the value of all tenant inducements which were received by Tenant pursuant to the terms of this Lease, the agreement to enter into this Lease or otherwise, including, without limitation, the amount equal to the value of any leasehold improvement allowance, tenant inducement payment, rent free periods, lease takeover, Leasehold Improvements or any other work for Tenant's benefit completed at Landlord's cost or any moving allowance, which value

shall be multiplied by a fraction, the numerator of which shall be the number of months from the date of Termination to the date which would have been the natural expiry of this Lease but for such Termination, and the denominator of which shall be the total number of months of the Term as originally agreed upon.

5. On March 28, 2018, Curriculum filed an Assignment for the General Benefit of Creditors (the "Assignment"). Amy Coupal, an officer and director of Curriculum, swore a Statement of Affairs dated March 28, 2018, in which she swore that Curriculum had assets totalling \$1,903,563.87 and liabilities totalling \$5,605,253.28, for a deficiency of \$3,701,689.41. The Statement of Affairs was commissioned by Daniel Weisz of RSM Canada Limited.
6. The single largest liability shown on the Statement of Affairs was Curriculum's liability to the Landlord, which was reflected as follows:
  - (a) Unsecured claim: \$3,986,725.25
  - (b) Preferred claim: \$100,558.59
7. On March 29, 2018, pursuant to the Assignment, Curriculum became bankrupt. RSM Canada Inc. was appointed as Trustee.
8. On April 20, 2018, Medallion filed a Proof of Claim with the Trustee on behalf of the Landlord for an unsecured claim in the amount of \$4,028,111.23 and a preferred claim in the amount of \$100,558.59 in accordance with its rights under the Lease.
9. On April 23, 2018, the Trustee issued a Notice of Disclaimer of the Lease.

10. Following the Disclaimer, the Landlord successfully mitigated its damages by re-leasing the Premises.

11. The Trustee did not request any information from the Landlord or advise that it was considering disallowing the Landlord's claim.

12. On September 19, 2018, the Trustee issued a Notice of Partial Disallowance of Claim pursuant to subsection 135(3) of the BIA (the "Disallowance"), allowing the Landlord's preferred claim in the amount of \$24,571.00 and disallowing the Landlord's unsecured claim in its entirety on the following bases:

- (a) The Trustee's realization on the assets of the Premises totalled only \$24,571.00, thus the Landlord's preferred claim is limited to \$24,571.00;
- (b) Under the provisions of the BIA and the Ontario *Commercial Tenancies Act* RSO 1990, c L.7 (the "CTA"), a landlord cannot claim damages under a lease which has been disclaimed;
- (c) The Lease lacks an acceleration provision that accelerates rent for the remaining term of the Lease.

13. Section 38 of the CTA does not restrict the landlord's preferential claim for accelerated rent to amounts realized from the property on the premises under lease.

14. Section 38(1) of the CTA provides as follows:

Lien of landlord in bankruptcy, etc.

38. (1) In case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated

company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the preferential lien of the landlord for rent is restricted to the arrears of rent due during the period of three months next preceding, and for three months following the execution of the assignment, and from thence so long as the assignee retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the person who is assignee, liquidator or trustee for the period of the person's occupation.

15. Section 136(1)(f) of the BIA restricts the priority claim of lessors as follows:

**(f)** the lessor for arrears of rent for a period of three months immediately preceding the bankruptcy and accelerated rent for a period not exceeding three months following the bankruptcy if entitled to accelerated rent under the lease, but the total amount so payable shall not exceed the realization from the property on the premises under lease, and any payment made on account of accelerated rent shall be credited against the amount payable by the trustee for occupation rent;

16. However, section 136(3) of the BIA provides:

Balance of claim

**(3)** A creditor whose rights are restricted by this section is entitled to rank as an unsecured creditor for any balance of claim due him.

17. Accordingly, the Landlord is entitled to an unsecured claim for the balance of its claim for accelerated rent under the CTA.

18. In addition, neither the BIA nor the CTA prohibit a landlord from filing an unsecured contractual claim for damages arising from breach of a lease, including bankruptcy of the tenant.

19. The Supreme Court of Canada explicitly recognized in *Highway Properties Ltd. v. Kelly Douglas & Co.* 1971 CanLII 123 (SCC) that leases are both contracts and give rise to an interest in land. Under general contract law principles, a landlord is entitled to file an unsecured proof of claim for damages arising from the tenant's breach of the lease.

20. Under the plain wording of the Lease:

- (a) The Assignment was an event of default;
- (b) Pursuant to the default, the Landlord is entitled to (among other things):
  - (i) Damages, including all deficiencies between amounts which would have been payable by Tenant for what would have been the balance of the Term, but for such termination, and all net amounts actually received by Landlord for such period of time;
  - (ii) The Termination Payment from Tenant; and/or
  - (iii) The value of all tenant inducements which were received by Tenant pursuant to the Lease, including the value of any leasehold improvement allowance, tenant inducement payment, rent free periods, lease takeover, Leasehold Improvements or any other work for Tenant's benefit completed at Landlord's cost.

21. The Notice of Disclaimer is a further event of default under the Lease, entitling the Landlord to a claim for contractual damages as set out in the Lease.

22. As a result of its mitigation, the Landlord is confining its unsecured claim to:

- (a) The balance of its claim for accelerated rent, pursuant to the provisions of the BIA;

- (b) Recovery of tenant inducements, calculated pursuant to the formula set out in the Lease.

23. Sections 135 and 136 of the BIA.

24. Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the

Motion:

- (a) The Affidavit of Joseph Cacciola sworn October 16, 2018;
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 17, 2018

**MINDEN GROSS LLP**  
Barristers and Solicitors  
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Toronto, ON M5H 4G2

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Lawyers for Medallion Corporation as  
authorized agents for 280 Richmond Street  
West Limited

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Lawyers for the Trustee, RSM Canada Limited

IN THE MATTER OF THE BANKRUPTCY OF  
Curriculum Services Canada/Services Des Programmes D'Etudes Canada  
of the City of Toronto, in the Province of Ontario

Estate No. 31-2360759

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Toronto

**NOTICE OF APPEAL FROM DISALLOWANCE**

**MINDEN GROSS** LLP  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2

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Lawyers for Medallion Corporation as authorized  
agents for 280 Richmond Street West Limited

Estate No. 31-2360759

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE BANKRUPTCY OF  
Curriculum Services Canada/Services Des Programmes D'Etudes Canada  
of the City of Toronto  
in the Province of Ontario

**AFFIDAVIT OF JOSEPH CACCIOLA  
(sworn October 16, 2018)**

I, **Joseph Cacciola**, of the City of Toronto, in the Province of, Ontario,  
MAKE OATH AND SAY:

1. I am the General Manager, Commercial Properties – Office Portfolio at Medallion Corporation, authorized agents for 280 Richmond Street West Limited (the “Landlord”), a creditor of the Bankrupt, Curriculum Services Canada/Services Des Programmes D'Etudes Canada (hereinafter referred to as “Curriculum” or the “Tenant”).
2. The Landlords owns premises at 150 John Street West, Toronto, Ontario, Suite 600 (the “Premises”).
3. This affidavit is based upon my personal involvement in the matters at issue and a review of documents. Where this affidavit is based upon information received from others, I verily believe that information to be true.

4. Curriculum was a tenant at the sixth floor of the Premises pursuant to a Lease dated May 26, 2017 between the Landlord and Curriculum (the "Lease"). Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Lease.

5. The Lease was for 8,322 square feet of space at the Premises for a term of ten years, six months, commencing on July 1, 2017 and expiring on December 31, 2027, with basic rent payable as follows:

Months 1-42 \$21.50 per square foot per annum

Months 43-78 \$23.50 per square foot per annum

Months 79-126 \$25.50 per square foot per annum

6. In addition to basic rent, the Tenant was required to pay Additional Rent as defined in the Lease.

7. Section 16 of the Lease deals with Defaults and Remedies. Sections 16.1 of the Lease provides in part as follows:

If any of the following shall occur:

...

(f) Tenant, any assignee or a subtenant of all or substantially all of the Premises makes an assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment, arrangement or compromise with its creditors or Tenant sells all or substantially all of its personal property at the Premises other than in the ordinary course of business (and other than in connection with a Transfer requiring Landlord's consent and approved in writing by Landlord), or steps are taken or action or proceedings commenced by any person for the dissolution, winding up or other termination of Tenant's

existence or liquidation of its assets (collectively called a **“Bankruptcy”**);

(g) a trustee, receiver, receiver-manager, manager, agent or other like person shall be appointed in respect of the assets or business of Tenant or any other occupant of the Premises;

...

then, without prejudice to and in addition to any other rights or remedies to which Landlord is entitled hereunder or at law, the then current and the next three (3) months' Rent shall be forthwith due and payable and Landlord shall have the following rights and remedies, all of which are cumulative and not alternative, namely:

(i) to terminate this Lease in respect of the whole or any part of the Premises by written notice to Tenant (it being understood that actual possession shall not be required to effect a termination of this Lease and that written notice, alone shall be sufficient); if this Lease is terminated in respect of part of the Premises, this Lease shall be deemed to be amended by the appropriate amendments, and proportionate adjustments in respect of Rent and any other appropriate adjustments shall be made;

...

(v) to obtain damages from Tenant including, without limitation, if this Lease is terminated by Landlord, all deficiencies between all amounts which would have been payable by Tenant for what would have been the balance of the Term, but for such termination, and all net amounts actually received by Landlord for such period of time;

(vi) to suspend or cease to supply any utilities, services, heating, ventilating, air conditioning and humidity control to the Premises, all without liability of Landlord for any damages, including indirect or consequential damages, caused thereby;

(vii) to obtain the Termination Payment from Tenant;

(viii) if this Lease is terminated due to the default of Tenant, or if it is disclaimed, repudiated or terminated in any insolvency proceedings related to Tenant (collectively “Termination”), to obtain payment from Tenant of the value of all tenant inducements which were received by Tenant pursuant to the terms of this Lease, the agreement to enter into this Lease or otherwise, including, without limitation, the amount equal to the value of any leasehold improvement allowance, tenant inducement payment, rent free periods, lease takeover, Leasehold Improvements or any other work for Tenant's benefit completed at Landlord's cost or any

moving allowance, which value shall be multiplied by a fraction, the numerator of which shall be the number of months from the date of Termination to the date which would have been the natural expiry of this Lease but for such Termination, and the denominator of which shall be the total number of months of the Term as originally agreed upon.

8. On March 28, 2018, Curriculum filed an Assignment for the General Benefit of Creditors (the "Assignment"). Amy Coupal, an officer and director of Curriculum, swore a Statement of Affairs dated March 28, 2018, in which she swore that Curriculum had assets totalling \$1,903,563.87 and liabilities totalling \$5,605,253.28, for a deficiency of \$3,701,689.41. Attached hereto and marked as Exhibit "B" to this my affidavit is a copy of the Statement of Affairs.

9. The single largest liability shown on the Statement of Affairs was Curriculum's liability to the Landlord, which was reflected as follows:

- (a) Unsecured claim: \$3,986,725.25
- (b) Preferred claim: \$100,558.59

10. On March 29, 2018, pursuant to the Assignment, Curriculum became bankrupt. RSM Canada Inc. was appointed as Trustee.

11. Curriculum's bankruptcy was an event of default under the Lease, triggering the Landlord's contractual rights and remedies under section 16 of the Lease. As set out in the Lease these remedies are cumulative and include three months' accelerated rent and damages.

12. On April 20, 2018, Medallion filed a Proof of Claim with the Trustee on behalf of the Landlord for an unsecured claim in the amount of \$4,028,111.23 and a preferred claim in the amount of \$100,558.59 in accordance with its rights under the Lease. Attached hereto and marked as Exhibit "C" to this my affidavit is a copy of the Proof of Claim (without the attachment, being a copy of the Lease).

13. The Landlord's damages claim was subject to the Landlord being able to mitigate its damages, as set out in the Lease.

14. On April 23, 2018, the Trustee issued a Notice of Disclaimer of the Lease (the Disclaimer). Attached hereto and marked as Exhibit "D" to this my affidavit is a copy of the Disclaimer.

15. Under the Lease, the Disclaimer was a further event of default. In the event of a disclaimer, the Landlord is entitled under the Lease to claim, among other things, the value of all tenant inducements which were received by Tenant pursuant to the terms of this Lease, including free rent periods.

16. Following the Disclaimer, the Landlord was successful in mitigating its damages arising from Curriculum's bankruptcy. Fortunately, another existing tenant in the building was prepared to take over Curriculum's space.

17. Although the Landlord was the largest potential creditor in Curriculum's bankruptcy estate, the Trustee did not ask for me for any information supporting the Proof of Claim, did not inquire about the progress of our mitigation efforts and did not advise that it was contemplating issuing a Notice of Disallowance.

18. On September 19, 2018, the Trustee issued a Notice of Partial Disallowance of Claim (the "Disallowance"), allowing the Landlord's preferred claim in the amount of only \$24,571.00 and disallowing the entirety of the Landlord's unsecured claim. Attached hereto and marked as Exhibit "E" to this my affidavit is a copy of the Disallowance.

19. The Trustee incorrectly takes the position that the Lease does not permit the Landlord to claim damages in the event of a bankruptcy or disclaimer of the Lease.

20. The Landlord has incurred costs in re-leasing the sixth floor of the Premises and retains a contingent claim in the event the replacement tenant defaults. However, the Landlord is prepared to confine its Proof of Claim to the three months' accelerated rent and recovery of tenant inducements provided to Curriculum, as it is entitled to do under the Lease.

21. The tenant inducements which the Landlord provided to Curriculum are as follows:

- (a) Leasehold Improvements provided at the Landlord's cost under the Lease, in the amount of \$45,280.00;
- (b) Free rent for a six-month period, totalling \$175,225.28.

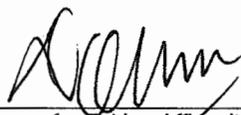
22. Attached hereto and marked as Exhibit "F" to this my affidavit is a copy of a Quote/Contract from Lincoln Construction Group to Medallion dated August 28, 2017, representing out-of-pocket costs incurred by the Landlord performing work for the tenant under the Lease.

23. Attached hereto and marked as Exhibit "G" to this my affidavit is spreadsheet setting out the free rent provided to Curriculum.

24. The Disclaimer was issued 9¾ months after the commencement date of the Lease. The total Lease was for 126 months. Pursuant to the formula contained in the Lease, the Landlord is entitled to claim \$203,442.37 in respect of the leasehold improvements and free rent, in addition to the balance of its claim for accelerated rent.

25. I make this affidavit in support of the Landlord's appeal from disallowance and for no improper purpose.

**SWORN** BEFORE ME at the City of )  
Toronto, in the Province of Ontario )  
on the 16<sup>th</sup> day of October, 2018 )



\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)



\_\_\_\_\_  
**JOSEPH CACCIOLA**

**Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.**

IN THE MATTER OF THE BANKRUPTCY OF  
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of the City of Toronto, in the Province of Ontario

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**AFFIDAVIT OF JOSEPH CACCIOLA  
SWORN OCTOBER 16, 2018**

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Toronto, ON M5H 4G2

**Catherine Francis** (L.SUC# 26900N)  
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Tel: 416-369-4137  
Fax: 416-864-9223

Lawyers for Medallion Corporation as authorized  
agents for 280 Richmond Street West Limited

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This is Exhibit "A" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



.....  
A Commissioner for Taking Affidavits

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Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

**MEDALLION CORPORATION  
MULTI TENANT OFFICE LEASE**

**MEDALLION CORPORATION**  
**as authorized agent for**  
**280 RICHMOND STREET WEST LIMITED**  
**LANDLORD**

**- and -**

**CURRICULUM SERVICES CANADA**  
**(a Federal non-share corporation)**  
**TENANT**

---

**L E A S E**

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**Project:** 150 John Street West, Toronto, Ontario  
**Premises:** Suite 600  
**Term:** Ten (10) years and six (6) months

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SCHEDULE "B"	Outline Plan of Premises
Schedule "B-1"	Certificate of Area
SCHEDULE "C"	Special Provisions, if applicable
SCHEDULE "D"	Rent Deposit Agreement
<b>Error! Reference source not found.</b>	Parking Agreement
Schedule "F"	Rules and Regulations
Schedule "G"	Tim Hortons Restrictives

THIS LEASE dated as of the 26<sup>th</sup> day of May, 2017

**B E T W E E N:**

**MEDALLION CORPORATION, as  
authorized agent for**

**280 RICHMOND STREET WEST LIMITED**

(hereinafter called "Landlord")

OF THE FIRST PART

– and –

**CURRICULUM SERVICES CANADA**

(hereinafter called "Tenant")

OF THE SECOND PART

## 1. LEASE SUMMARY

The following is a summary of some of the basic terms of this Lease, which are elaborated upon in the balance of this Lease. For details of the terms referred to below, recourse should be had to the balance of this Lease. This Section 1 is for convenience and if a conflict occurs between the provisions of this Section 1 and any other provisions of this Lease, the other provisions of this Lease shall govern.

- (a) **Premises:** Suite 600, 150 John Street, Toronto, Ontario;
- (b) **Term:** Ten (10) years, six (6) months;
- (c) **Commencement Date:** July 1, 2017, subject to Section 1 of Schedule "C";
- (d) **Expiry Date:** December 31, 2027, subject to Section 1 of Schedule "C";
- (e) **Basic Rent:** an amount per square foot of Rentable Area of the Premises as follows:
 

Months 1-42	\$21.50 per annum
Months 43-78	\$23.50 per annum
Months 79-126	\$25.50 per annum;
- (f) **Rentable Area of Premises:** eight thousand three hundred ~~thirty-three~~ <sup>TWENTY-TWO</sup> (8,327) square feet, certified in accordance with this Lease; *Ms*
- (g) **Rent Deposit:** Seventy-Three Thousand Nine Hundred Ninety-Three Dollars and Eighty-Six Cents (\$73,993.86) in total, Thirty-Two Thousand Six Hundred Seven Dollars and Eighty-Eight Cents (\$32,607.88) to be applied against the first Rent coming due under this Lease, with the remainder to be held by Landlord as prepaid rent and applied in accordance with the Rent Deposit Agreement;
- (h) **Use of Premises:** general office use, to the extent permitted by all Laws and to the extent in keeping with the standards of a high-quality, superior office building;
- (i) **Address for Service of Notice on Tenant:**  
at the Premises

**Address for Service of Notice on Landlord:**

970 Lawrence Avenue West, Suite 304  
 Toronto, Ontario M6A 3B6  
 Fax: 416-256-2827

Attention: Director, Commercial Leasing & Operations

- (j) **Special Provisions:** See Schedule “C”, if applicable.
1. Landlord’s Work
  2. Tenant’s Work
  3. Fixturing Period
  4. Leasehold Improvement Allowance
  5. Operating Costs and Realty Taxes Estimates for 2016
  6. Bicycle Storage
  7. Space Planner
  8. 24-Hour Access
  9. Security
  10. Option to Extend
  11. Executive Management Approval Condition

**2. DEFINITIONS**

Where used in this Lease, the following words or phrases shall have the meanings set forth in the balance of this Article.

- 2.1 “**Additional Rent**” shall have the meaning ascribed to it in Section 5.3.
- 2.2 “**Architect**” means a duly qualified independent architect, engineer, surveyor, certified space planner or quantity surveyor or other qualified person appointed or employed by Landlord from time to time.
- 2.2A “**Bankruptcy**” shall have the meaning ascribed to it in Section 16.1 below.
- 2.3 “**Basic Rent**” shall have the meaning ascribed to it in Section 5.2 hereof.
- 2.4 “**Building**” means the building in which the Premises are located.
- 2.5 “**Building Hours**” means such Building Hours for the Project as determined by Landlord from time to time and, which unless otherwise determined by Landlord, shall be from 8:00am to 6:00pm, Monday through Friday, and **CLOSED** on Saturday, Sunday and Holidays, and subject to applicable Laws.
- 2.6 “**Capital Taxes**” means the amount determined by multiplying each of the “**Applicable Rates**” by the “**Project Capital**” and totalling the products. “**Project Capital**” is the amount of capital which Landlord determines, without duplication, is invested from time to time by Landlord, the owners or all of them, in doing all or any of the following: acquiring, developing, expanding, redeveloping and improving the Project. Project Capital will not be increased by any financing or refinancing (except to the extent that the proceeds are invested directly as Project Capital). An “**Applicable Rate**” is the capital tax rate specified from time to time under any statute of Canada and any statute of the Province which imposes a tax in respect of the capital of corporations. Each Applicable Rate will be considered to be the rate that would apply if none of Landlord or owners employed capital outside of the Province in which the Project is situate.
- 2.7 “**Commencement Date**” shall have the meaning ascribed to it in subsection 1(c).
- 2.8 “**Common Facilities**” means: (a) the Project, excluding only Leasable Areas, Storage Areas, and premises at or below grade, whether leased or not, used for sports, fitness or other recreational purpose; but Common Facilities shall include, without limitation: (i) all areas,

facilities, structures, systems, improvements, furniture, fixtures and equipment forming part of or located on the Project; (ii) the lands forming part of the Project; (iii) the Parking Facilities; (iv) Landlord's management offices and facilities to the extent used for management of the Project; and (b) all lands, areas, facilities, improvements, structures, furniture, fixtures and equipment serving or benefiting the Project, whether or not located within the Project, to the extent that the same are designated or intended by Landlord to be part of the Common Facilities from time to time; Landlord shall have the right to designate, amend and re-designate the Common Facilities from time to time.

2.9 "CPI" means the Consumer Price Index for all items for Canada published by Statistics Canada or by any successor thereof or any other governmental agency whose responsibility it is to publish such statistics, or, if such index is at any time not published, such other index or numerical factor as designated or determined by Landlord, acting reasonably, reflecting the relative purchasing power of the Canadian dollar from time to time. In case of any required comparison of the CPI for any period of time with the CPI of any other period of time, Landlord shall be entitled to make such adjustments or conversions as shall be determined by Landlord to be appropriate, including any adjustments for the calculation of the CPI in respect of different base years from time to time.

2.10 "Effective Interest Rate" means, at any time, the rate of interest per annum equal to the offer side yield on Government of Canada bonds having a term equal to or similar to the remaining average life of the remainder of the Rent payments during the original Term or Extension Term, as the case may be, determined by Landlord acting reasonably, at 11:00 a.m. (Toronto time) on the business day immediately preceding the Termination Date.

2.11 "Excess Costs" shall have the meaning ascribed to it in Section 7.3 below.

2.11A "Force Majeure" shall mean any strike, lockout, walkout, labour dispute, Act of God, governmental restriction, regulation or control, enemy or hostile governmental action, acts of terrorism, civil commotion, insurrection, sabotage, explosion, earthquake, fire or other casualty or by any other event similar to the foregoing.

2.12 "Insured Damage" shall mean that part of any damage or destruction occurring to the Premises or the Project (as the case may be) to the extent to which the cost of repair is actually recovered or recoverable pursuant to policies of insurance which Landlord has maintained pursuant hereto or which Landlord otherwise maintains, to the extent that the premiums for which are included in Operating Costs.

2.12A "Landlord's Accountant" shall mean a third-party independent accounting firm or third-party independent accountant retained by Landlord.

2.13 "Laws" means all statutes, regulations, by-laws, orders, rules, requirements and directions of all federal, provincial, municipal and other governmental and other authorities having jurisdiction.

2.14 "Lease" means this lease including all of the schedules attached hereto.

2.15 "Leasable Areas" means all areas and spaces of the Project to the extent designated or intended from time to time by Landlord to be leased to tenants, whether leased or not, but excluding the following, to the extent the same may exist from time to time, and whether or not the same are leased from time to time or all the time: Storage Areas, Parking Areas and Facilities, all below grade areas and other service areas and facilities which may be leased or licensed from time to time, and temporary and moveable units such as booths, pushcarts and the like.

2.16 "Leasehold Improvements", where used in this Lease, includes without limitation, all fixtures, improvements, installations, alterations and additions from time to time made, erected or installed in or about the Premises, and includes all the following, whether or not any of the same are in fact Tenant's or trade fixtures and whether or not they are easily disconnected and moveable: doors, partitions and hardware; mechanical, electrical and utility installations; carpeting, drapes, other floor and window coverings and drapery hardware; decorations; heating,

ventilating, air conditioning and humidity control equipment; lighting fixtures and controls; built-in furniture and furnishings and built-in appliances (such as dishwashers and instant hot taps); counters in any way connected to the Premises or to any utility services located therein. The only exclusions from Leasehold Improvements are free-standing furniture, trade fixtures and equipment not in any way connected to the Premises or to any utility systems located therein.

- 2.17 (a) **“Operating Costs”** means the aggregate of all expenses and costs of every kind determined, for each fiscal period designated by Landlord, on an accrual basis in accordance with generally accepted accounting principles and without duplication, incurred by or on behalf of Landlord with respect to and for the operation, maintenance, repair, replacement and management of the Project and all insurance relating to the Project, unless otherwise expressly set out herein. Provided that if the Project is less than one hundred percent (100%) completed or occupied for any time, Operating Costs shall be adjusted to mean the amount obtained by adding to the actual Operating Costs during such time additional costs and amounts as would have been incurred or otherwise included in Operating Costs if the Project had been one hundred percent (100%) completed, leased and occupied as determined by Landlord acting reasonably; for clarification, Landlord shall be entitled to adjust upward only those amounts which may vary depending on occupancy. This gross up is for the sole purpose of equitably dividing the cost of such items among the tenants actually occupying the Building and is to ensure that: (a) this Lease is on an absolutely net net basis to the Landlord; and (b) the Landlord is not subsidizing any tenant in the Building for costs that would otherwise be paid in full by the tenant if the Building was in fact one hundred percent (100%) completed, leased and occupied. For further clarity the Landlord shall not profit from the terms of this paragraph and any such gross up shall be net revenue neutral with respect to cost recovery to the Landlord, and the gross up shall not in any case result in the Tenant paying more than its Proportionate Share of such Operating Costs had the Building been in fact one hundred percent (100%) completed, leased and occupied.

Without in any way limiting the generality of the foregoing, Operating Costs shall include all costs in respect of the following:

- (i) all remuneration including wages and fringe benefits of employees directly employed or engaged in the operation, maintenance, repair, replacement, and management of the Project, including contributions and premiums towards unemployment and Workers Compensation insurance, pension plan contributions and similar premiums and contributions;
- (ii) heating, ventilating, air conditioning and humidity control and fire sprinkler maintenance and monitoring, if any, of the Project;
- (iii) cleaning, janitorial services (including in-suite janitorial), window cleaning, waste removal, recycling program and pest control;
- (iv) operation, maintenance, repair and replacements in respect of any elevators, escalators and other transportation equipment, if any;
- (v) the provision of all utilities supplied to the Project and the cost of consumption of all utilities consumed on the Project including, without limitation, hot and cold water, gas, electricity (including in-suite electricity), steam, sewer charges and any other utilities or forms of energy;
- (vi) landscaping and maintenance of all outside areas, including snow and ice removal;
- (vii) pest control and pest extermination;

- (viii) depreciation or amortization of the costs of such items including structures, improvements, furnishings, fixtures, equipment, machinery, facilities, systems and property which is part of or installed in or used in connection with the Project (except to the extent that the costs are charged fully in the year in which they are incurred) (for clarification, including the costs, as determined by Landlord, acting reasonably, of those components in existence at the date hereof) which, by their nature, require periodic or substantial repair or replacement (including, for clarification, periodic upgrades to the Common Facilities), depreciated or amortized over Landlord's reasonable estimate of the economic life thereof (but at Landlord's option not to exceed fifteen (15) years), and interest on the undepreciated or unamortized cost of such items in respect of which depreciation or amortization is included herein at two percent (2%) per annum in excess of the Prime Rate;
- (ix) machinery, equipment, facilities, systems and property installed in or used in connection with the Project if the principal purpose or intent of the same or such use or installation was to reduce the cost or consumption of other items included in Operating Costs, whether or not such other costs are in fact reduced;
- (x) all insurance which Landlord is obliged to obtain and/or which Landlord otherwise obtains and the cost of any deductible amounts payable by Landlord in respect of any insured risk or claim;
- (xi) policing, supervision, security and traffic control;
- (xii) all maintenance, repairs and replacements in respect of the Project and all machinery, equipment, facilities, systems and fixtures located therein;
- (xiii) office expenses including telephone, stationery and supplies;
- (xiv) engineering, accounting, legal and other consulting and professional services related to Common Facilities, including the cost of preparing statements respecting Operating Costs;
- (xv) the purchase, maintenance, repair and replacement of holiday or other special decorations for the Project;
- (xvi) signs including, without limitation, the cost of all repairs, maintenance and rental charges in respect thereof;
- (xvii) communications, sound, visual, lighting and other systems;
- (xviii) business taxes, if any, on Common Facilities;
- (xix) decoration of Common Facilities;
- (xx) contribution, as determined by Landlord, acting reasonably and bona fide, but in Landlord's sole discretion, on account of all costs in the nature of those included in Operating Costs in respect of all shared facilities and services including, without limitation, loading areas and docks, parking ramps, driveways and exterior areas, which will be shared by users of the Project and the users of any other property, and all costs to the extent Landlord is required to contribute to the same in respect of the Project or Landlord's ownership of the same, whether or not such costs are incurred directly in respect of the Project;
- (xxi) all costs in the nature of Operating Costs incurred by Landlord in consequence of its interest in the Project such as maintaining, cleaning,

and clearing of ice and snow from municipal sidewalks, adjacent property and the like;

- (xxii) Capital Taxes;
  - (xxiii) Sales Taxes payable by Landlord on the purchase of goods and services included in Operating Costs (excluding any such Sales Taxes which are available to and claimed by Landlord as a credit or refund in determining Landlord's net tax liability on account of Sales Taxes, but only to the extent that such Sales Taxes are included in Operating Costs);
  - (xxiv) the fair rental value (having regard to rentals prevailing from time to time for similar space) of space occupied by Landlord for management, supervisory or administrative purposes relating to the Project;
  - (xxv) Intentionally Deleted;
  - (xxvi) Realty Taxes and other taxes incurred by Landlord or allocated by Landlord in respect of the Common Facilities, and the portion allocable to the Leaseable Areas, of the amount, if any, of Realty Taxes charged against the Project in excess of the amount of Realty Taxes, in the aggregate, charged against the Leaseable Areas in the Project;
  - (xxvii) all costs incurred by Landlord for the purpose or intent of reducing any Realty Taxes or other taxes, including, without limitation, costs incurred by Landlord as contemplated by Section 6.6 below, whether or not Realty Taxes are in fact reduced;
  - (xxviii) interest on a deposit paid by Landlord to the supplier of a utility at a rate which shall be one percent (1%) per annum in excess of the rate of interest known as the Prime Rate;
  - (xxix) the amount of any deposits paid to a utility supplier lost by Landlord as a result of any Bankruptcy (as defined in Section 16.1(f) below) of any utility supplier amortized over a period of three (3) years from the date of such Bankruptcy and interest thereon at a rate of one percent (1%) per annum in excess of the Prime Rate;
- (b) Operating Costs, however, shall be reduced by the following to the extent actually received by Landlord:
- (i) proceeds of insurance and damages paid by third parties in respect of and to the extent of costs included in Operating Costs as set forth above;
  - (ii) contributions from parties, other than tenants of the Project, if any, in respect of Operating Costs, such as contributions made by parties in respect of their sharing the use of Common Facilities, but not including in such contributions rent or fees charged directly for the use of any Common Facilities such as parking fees, if any, and rent for Storage Areas;
  - (iii) amounts, if any, received by Landlord on account of Excess Costs as provided in Section 7.3 below; and
  - (iv) any interest credit received from the supplier of utility which has requested a deposit as contemplated in subsection 2.17(a)(xxviii) above.
- (c) Operating Costs, however, shall exclude the following:
- (i) Realty Taxes except to the extent included as set forth above (the intent being not to duplicate Tenant's obligations in respect thereof pursuant to other provisions of this Lease);

- (ii) expenses incurred by Landlord in respect of installation or removal of other tenants' leasehold improvements or any sum paid to any tenant of the Project as a tenant allowance;
  - (iii) repairs or replacements to the extent that the cost of the same is recovered by Landlord pursuant to original construction warranties;
  - (iv) replacements to the weight bearing portions of the structure such as foundations, columns, beams and weight-bearing slabs and walls as determined by Landlord's structural engineer;
  - (v) utilities consumed in respect of Leasable Areas to be determined by separate meters where practicable or by Landlord acting reasonably (the intent being not to duplicate the amounts included in Operating Costs with amounts charged pursuant to Article 9 of this Lease and comparable provisions in other leases of premises in the Project);
  - (vi) repairs of construction defects;
  - (vii) leasing commissions and marketing and legal expenses to the extent related only to leasing of premises at the Project;
  - (viii) net rent payable by Landlord to any ground lessor, if any;
  - (ix) costs and expenses of environmental site reviews and investigations, removal and/or clean-up of hazardous substances;
  - (x) interest on and amortization of capital debt (being the Landlord's mortgage); and
  - (xi) initial capital costs relating to expansions and/or additions to the Project.
- (d) Landlord, acting reasonably but in its sole discretion, shall have the right to allocate Operating Costs or any portion or portions thereof to such portion or portions of the Building or the Project as Landlord shall determine.

2.18 **"Parking Facilities"** means the parking areas and facilities, if any, and all other similar service areas and facilities whether or not leased from time to time.

2.19 **"Premises"** shall have the meaning ascribed to it in Section 4.1.

2.20 **"Project"** means those lands described in Schedule "A" hereto and all buildings, structures, improvements, equipment and facilities of any kind erected or located thereon from time to time, as such lands, buildings, structures, improvements, equipment and facilities may be expanded, reduced or otherwise altered by Landlord in its sole discretion from time to time; excluding therefrom, for the purposes of this Lease, all portions, as determined by Landlord from time to time, if any, used for or established as a condominium; Tenant agrees that it has no interest in any lands now or in the future excluded from the Project as aforesaid and Tenant agrees to execute and deliver forthwith upon the request of Landlord all documents reasonably requested by Landlord to confirm Tenant has no interest in any lands now or in the future excluded from the Project; in default of Tenant executing or delivering any such documents within ten (10) days after request of Landlord, Landlord shall be and is hereby appointed attorney for Tenant to execute such documents for and on behalf of Tenant and in its name, such appointment being hereby made pursuant to the *Powers of Attorney Act (Ontario)* and shall survive and may be exercised during any subsequent legal incapacity of Tenant.

2.21 **"Proportionate Share"** means a fraction which has as its numerator the Rentable Area of the Premises and which has as its denominator the aggregate Rentable Area of Leasable Areas within the Project or Building or such other portion of the Project to which Landlord, acting reasonably, but in its sole discretion, shall allocate such items of which Tenant is required to pay the Proportionate Share, all as determined by Landlord, subject to adjustment as herein provided.

For the purposes of determining the denominator as aforesaid, the Rentable Area of all Leasable Areas within the Project or Building shall be determined in the same manner as the Rentable Area of the Premises as set forth in Section 2.24(b) below.

2.22 **“Realty Taxes”** means all taxes, rates, duties, levies, fees, charges, local improvement rates, imposed charges, levies and assessments whatever (including school taxes, water and sewer taxes, extraordinary and special assessments and all rates, charges, excises or levies, whether or not of the foregoing nature) (**“Taxes”**), and whether municipal, provincial, federal or otherwise, which may be levied, confirmed, imposed, assessed, charged or rated against the Project or any part thereof or any furniture, fixtures, equipment or improvements therein, or against Landlord in respect of any of the same or in respect of any rental or other compensation receivable by Landlord in respect of the same, excluding only Landlord’s income taxes thereon, but including all of such Taxes which may be incurred by or imposed upon Landlord or the Project in lieu of or in addition to the foregoing including, without limitation, any Taxes on real property rents or receipts as such (as opposed to a tax on such rents as part of the income of Landlord), any Taxes based, in whole or in part, upon the value of the Project, any commercial concentration or similar levy in respect of the Project, and any licence fee measured by rents payable by occupants of space in the Project. Taxes shall, in every instance be calculated on the basis of the Project being fully assessed and taxed at prevailing commercial rates for occupied space for the period for which Taxes are being calculated.

2.23 **“Rent”** shall have the meaning ascribed to it in Section 5.1.

- 2.24 (a) **“Rentable Area”** of the Premises and all other premises in the Building shall be determined in accordance with the American National Standard for Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1-1996);
- (b) Every Rentable Area shall be as determined by the Architect from time to time and each such determination shall be binding upon the parties hereto and the cost of which determination shall be included in Operating Costs;
- (c) The parties acknowledge that the Rentable Area of the Premises and of the other Leasable Areas in the Building may change from time to time including any change which may occur as a result of any of structure or function and that the appropriate adjustments may be made to in respect thereof as of the time of any such change, notwithstanding the initial area certificate attached as Schedule “B1”;
- (d) No adjustment may be made to the Rentable Area of Leasable Areas of the Building for any period earlier than one (1) year prior to the day of any claim for such adjustment.

2.25 **“Rental Year”** means a period of twelve (12) consecutive calendar months except:

- (a) the first Rental Year in the Term shall commence on the Commencement Date and expire on the next succeeding October 31;
- (b) the last Rental Year in the Term shall terminate upon the expiration or earlier termination of this Lease; and
- (c) Landlord shall have the right at any time or times, by written notice to Tenant, to change the expiry date of any Rental Year and, in such case, such Rental Year shall terminate on the day thus determined by Landlord and any appropriate adjustments resulting from any Rental Year being shorter or longer shall be made.

2.26 **“Sales Taxes”** means all business transfer, multi-stage sales, sales, use, consumption, value-added or other similar taxes imposed by any federal, provincial or municipal government upon Landlord, or Tenant in respect of this Lease, or the payments made by Tenant hereunder or the goods and services provided by Landlord hereunder including, without limitation, the rental of the Premises and the provision of administrative services to Tenant hereunder.

2.27 “**Storage Areas**” means all areas, if any, as designated by Landlord from time to time to be used by tenants exclusively or primarily for storage purposes.

2.28 “**Term**” shall have the meaning ascribed to it in Section 4.2.

2.29 “**Termination Date**” means the date on which this Lease is terminated, disclaimed or repudiated prior to the Expiry Date.

2.30 “**Termination Payment**” means the aggregate of the Rent payable hereunder for the shorter period of: (i) the balance of the Term or Extension Term, as the case may be, and (ii) the three (3) years next following the Termination Date, plus the amount by which the net present value of the Rent payable hereunder for the balance of the Term after such period of three (3) years, if any, exceeds the net present value of the fair market Rent, (with the Additional Rent component to be as determined by Landlord, acting reasonably) for such period of time. The net present value of Rent and fair market Rent shall be calculated by taking the amount of Rent and fair market Rent, respectively, and using a discount factor of the “Effective Interest Rate”. The fair market rent shall be as determined by Landlord, acting reasonably, and in the event of dispute shall be determined by a single arbitrator pursuant to the *Arbitration Act (Ontario)*; pending such determination every portion of the Termination Payment not requiring such determination shall be payable forthwith.

### 3. INTENT OF LEASE

#### 3.1 Net Lease

It is the intent of the parties hereto that, except as expressly herein set out, this Lease be a lease that is absolutely net to Landlord, and that Landlord shall not be responsible for any expenses or obligations of any kind whatsoever in respect of or attributable to the Premises or the Project.

### 4. LEASE OF PREMISES

#### 4.1 Premises

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord those certain premises (“**Premises**”) now or hereafter to be constructed as part of the Project which Premises are identified and shown on the plan attached hereto as Schedule “B”. The purpose of Schedule “B” is to show the approximate location of the Premises and the contents thereof are not intended as a representation of any kind as to the precise size or dimensions of the Premises or any other aspects of the Project.

The Premises shall extend from the upper surface of the structural sub-floor to the lower surface of the structural ceiling within the boundaries of the Premises determined as provided in subsection 2.24 above. Subject to Section 10.1 (Maintenance and Repairs of Premises), the Premises shall exclude the exterior faces of all perimeter walls, windows and doors of the Premises, notwithstanding the manner in which the Rentable Area is measured.

#### 4.2 Term

- (a) The term of this Lease (the “**Term**”) shall be for the period described as the Term in subsection 1(b) hereof, commencing on the Commencement Date and to be fully completed and ended on the date described as the Expiry Date in subsections 1(d) hereof.
- (b) Notwithstanding anything to the contrary contained in this Lease, in the event the Commencement Date has not occurred within one (1) year after the date of this Lease, then this Lease shall be null and void and neither party shall have any obligation to the other.

#### 4.3 Licence to Use Common Facilities

Subject to all other relevant provisions of this Lease, Landlord grants to Tenant the non-exclusive licence during the Term to use for their intended purposes in common with all others entitled thereto, such portions of the Common Facilities as are reasonably required for the use and occupancy of the Premises for their intended purpose during Building Hours and such other hours, if any, as such Common Facilities shall be open for use, as determined by Landlord from time to time.

#### 4.4 Quiet Enjoyment

Subject to all of the terms of this Lease and subject to Tenant's paying all Rent and performing all obligations whatsoever as and when the same are due to be paid and performed by Tenant, Tenant may peaceably possess and enjoy the Premises for the Term without interruption by Landlord or any person claiming by, from or under Landlord.

#### 4.5 Fixturing of Premises

By the Commencement Date, Tenant shall fully finish, furnish, fixture and staff and commence business upon the whole of the Premises as permitted and required pursuant to the terms hereof.

### 5. RENT

#### 5.1 Tenant to Pay

Tenant shall pay in lawful money of Canada at par at such address as shall be designated from time to time by Landlord Basic Rent and Additional Rent (all of which are collectively herein sometimes referred to as "**Rent**") as herein provided without any deduction, set-off or abatement whatsoever, except as expressly and specifically set out otherwise in this Lease, Tenant hereby agreeing to waive any rights it may have pursuant to the provisions of Section 35 of the *Commercial Tenancies Act (Ontario)* or any other statutory provision to the same or similar effect and any other rights it may have at law to set-off.

On the Commencement Date and the first day of each Rental Year thereafter and at any time during any Rental Year when required by Landlord, Tenant shall deliver to Landlord post-dated cheques. If Tenant elects to pay by electronic funds transfer, it may instead provide to Landlord a requisition for pre-authorized electronic funds transfer (where Tenant pays into Landlord's bank account as opposed to having payments withdrawn from its bank account) for all payments of Basic Rent and estimates by Landlord of Additional Rent or any portions thereof payable during the balance of such Rental Year.

#### 5.2 Basic Rent

Commencing on the earlier of: (a) the Commencement Date; and (b) the date upon which Tenant opens for business in any part of the Premises, Tenant shall pay to Landlord a fixed minimum annual rent ("**Basic Rent**") in the amount described as Basic Rent in subsection 1(e) hereof, to be paid in equal monthly instalments in advance on the first day of each month during the Term.

If the first day upon which Basic Rent is payable is other than the first day of a calendar month, then Tenant shall pay upon such date Basic Rent from such date to the end of such month calculated at a daily rate of  $1/365^{\text{th}}$  of the annual Basic Rent. If an amount per square foot is specified in the description of Basic Rent in subsection 1(e), then the Basic Rent is intended to be such amount per square foot of Rentable Area of the Premises per annum. The parties confirm that the Rentable Area of the Premises has been certified as shown on Schedule "B1".

#### 5.3 Additional Rent and Management Fee

- (a) In addition to Basic Rent, Tenant shall pay to Landlord as additional rent: (i) all other amounts as and when the same shall be due and payable pursuant to the

provisions of this Lease all of which shall be deemed to accrue on a per diem basis; and (ii) all other amounts as and when the same shall be due and payable pursuant to any agreement or other obligation, whether or not related to the Premises, between Landlord and Tenant; all of such amounts other than Sales Taxes payable pursuant hereto, whether originally payable pursuant to this Lease or otherwise, being herein sometimes referred to as “**Additional Rent**”. Tenant shall promptly deliver to Landlord upon request evidence of due payment of all payments of Additional Rent required to be paid by Tenant hereunder.

- (b) Tenant shall pay, as Additional Rent, a management fee of up to four percent (4%) of all gross amounts paid or payable by Tenant pursuant to this Lease for all items, including, without limitation, all such items as are included in this Lease as Rent (except for this management fee), disregarding any reduction, limitation, deferral or abatement of any amount in the nature of Rent.

#### 5.4 Deemed Rent and Allocation

If Tenant defaults in payment of any Rent (whether to Landlord or otherwise) or any Sales Taxes as and when the same is due and payable hereunder, Landlord shall have the same rights and remedies against Tenant (including rights of distress and the right to accelerate Rent in accordance with Section 16.1) upon such default as if such sum or sums were rent in arrears under this Lease. All Rent and Sales Taxes shall, as between the parties hereto, be deemed to be rent due or Sales Taxes due on the dates upon which such sum or sums were originally payable pursuant to this Lease and shall be paid in accordance with this Lease without any deduction, abatement or set-off whatsoever, except as expressly and specifically set out otherwise herein.

Landlord may, at its option from time to time, apply or allocate or re-apply or re-allocate any sums received from or payable by Tenant to Landlord on account of any amounts payable by Tenant hereunder in such manner as Landlord determines in its sole and absolute discretion, without regard to and notwithstanding any instructions given by or allocations in respect of such amounts made by Tenant.

No payment by Tenant or acceptance of payment by Landlord of any amount less than the full amount payable to Landlord, and no endorsement, direction or note on any cheque or other written instruction or statement respecting any payment by Tenant shall be deemed to constitute payment in full or an accord and satisfaction of any obligation of Tenant and Landlord may receive any such lesser amount and any such endorsement, direction, note, instruction or statement without prejudice to any of Landlord’s other rights under this Lease or at law, whether or not Landlord notifies Tenant of any disagreement with or non-acceptance of any amount paid or any endorsement, direction, note, instruction or statement received.

#### 5.5 Monthly Payments of Additional Rent

Landlord may from time to time, acting reasonably, estimate any amount(s) payable by Tenant pursuant to any provisions of this Lease including, without limitation, Sections 5.3, 6.2, 6.3, 7.2, 9.1 and 9.2 for the then current or the next following fiscal period, provided that Landlord may, in respect of any particular item, shorten such fiscal period to correspond to a shorter period within any fiscal period, where such item, for example Realty Taxes, is payable in full by Landlord over such shorter period, and may notify Tenant in writing of the estimated amounts thus payable by Tenant, which notification need not include particulars. The amounts so estimated shall be payable by Tenant in advance in equal monthly instalments over the fiscal period, such monthly instalments being payable on the same day as the monthly payments of Basic Rent. Landlord may, from time to time, designate or alter the fiscal period selected in each case. As soon as practicable after the expiration of each fiscal period, Landlord shall make a final determination of the amounts payable by Tenant pursuant to Sections 5.3, 6.2, 6.3, 7.2, 9.1 and 9.2 and any other relevant provisions hereof for such fiscal period and shall furnish to Tenant, showing in reasonable detail the method by which the same has been calculated, a statement of the actual Operating Costs and Realty Taxes for such fiscal period (“**Final Statement**”). If the amount determined to be payable by Tenant as aforesaid shall be greater or less than the payments on account thereof made by Tenant prior to the date of such

determination, then the appropriate adjustments will be made and Tenant shall pay any deficiency to Landlord within thirty (30) days after delivery of such Final Statement and final determination and if Tenant is not in default under the terms of the Lease, the amount of any overpayment shall be paid to or credited to the account of Tenant within thirty (30) days after the delivery of such Final Statement. Tenant agrees that it shall not be entitled to make any claim, including the commencing of an action against Landlord, with respect to any Additional Rent charges payable hereunder for any fiscal period unless such claim is made within six (6) months after the date on which Landlord has delivered to Tenant a Final Statement for such fiscal period; subject to any claim being made within the time as aforesaid, each Final Statement shall be final and binding on Tenant. Landlord confirms that as of the date hereof, Landlord provides Final Statements that are audited (although the engagement basis of such audit may be limited).

Upon written request from Tenant (Tenant agreeing to act reasonably and in a bona fide manner in making a request), Landlord shall, at Tenant's expense and within one hundred and twenty (120) days following receipt of written request therefor, provide Tenant with reasonable information readily available within Landlord's possession or control in order to permit Tenant to substantiate and/or reconcile the Final Statement provided above ("**Additional Information**"), provided that:

- (a) such written request from Tenant sets out the specific item(s) of, about, or for which Tenant requires additional information or an explanation;
- (b) Tenant makes its request within one hundred twenty (120) days after delivery of the Final Statement;
- (c) Tenant shall not be in default under the terms of this Lease;
- (d) the Additional Information shall only pertain to the most recent Final Statement; and
- (e) any request made must be made by the named Tenant herein or its authorized agent. Should the Tenant choose to use an agent to request the Additional Information, such agent must be a reputable accounting firm and not a firm retained by Tenant on a contingency fee or guarantee basis or similar consulting firm that provides a guarantee of savings.

## 6. TAXES

### 6.1 Payment of Taxes

Landlord shall have the right to require Tenant to pay such Realty Taxes and any other taxes which are Tenant's responsibility as set out herein to the relevant taxing authority or Landlord shall have the right to pay any such Realty Taxes or other taxes directly to such taxing authority without thereby affecting Tenant's obligation to pay or contribute to such Realty Taxes or other taxes. To the extent of Realty Taxes received by Landlord from Tenant, Landlord shall pay same to the relevant taxing authority.

### 6.2 Taxes Payable by Tenant

Commencing on the earlier of: (a) the Commencement Date; and (b) the date on which Tenant first uses any part of the Premises for the conduct of business, and thereafter at all times throughout the Term, Tenant shall pay to Landlord or the relevant taxing authority, as required by Landlord, not later than the time when they fall due all Realty Taxes levied, confirmed, imposed, assessed or charged (herein collectively or individually referred to as "**charged**") against or in respect of or reasonably allocated by Landlord to the Premises and all buildings, furnishings, fixtures, equipment, improvements and alterations in or forming part of the Premises, and including, without limiting the generality of the foregoing, any such Realty Taxes charged against the Premises in respect of:

- (i) the land on which the Premises is situate; and
- (ii) any Common Facilities.

In addition, Tenant shall pay, in the same manner as it is required to pay or contribute to Operating Costs pursuant to Section 7.2 hereof, the Proportionate Share of Realty Taxes charged against or in respect of Common Facilities, and the amount, if any, of Realty Taxes charged against the Project in excess of the amount of Realty Taxes in the aggregate, charged against Leasable Areas.

### 6.3 Determination of Tenant's Taxes

Whether or not there is a separate bill for Realty Taxes charged against the Premises or a separate assessment, the Realty Taxes charged against the Premises shall be determined by Landlord acting reasonably, the cost of making such determination to be included in Operating Costs; in making such determination Landlord shall have the right, without limiting its right to do otherwise, to establish separate assessments for the Premises and all other portions of the Project by using such criteria as Landlord, acting reasonably, shall determine to be relevant including, without limitation:

- (a) the then current established principles of assessment used by the relevant assessing authorities and on the same basis as the assessment actually obtained for the Project as a whole or the part thereof in which the Premises are located;
- (b) assessments of the Premises and any other portions of the Project then current or in previous periods of time;
- (c) the Proportionate Share;
- (d) any act, religion or election of Tenant or any other occupant of the Project which results in an increase or decrease in the amount of Realty Taxes which would otherwise have been charged against the Project or any portion thereof; and
- (e) the quality of construction, use, location within the Project or income generated by the Premises and/or the assessor's valuation of the Premises or Project.

Notwithstanding any other contrary provisions of this Lease, if, at any time during a rental year, any part of the Project is not one hundred percent (100%) occupied, the Taxes shall be allocated by the Landlord to the Building(s), the Common Facilities and the other components of the Project without regard to any credits or rebates which may be received or receivable by the Landlord in respect of any vacant premises within the Project and without regard to any reduced tax rate for such vacant premises. In addition to the foregoing, if the Project is less than one hundred percent (100%) completed or occupied for any time period, Realty Taxes shall be adjusted to mean the amount obtained by adding to the actual Realty Taxes during such time additional costs and amounts as would have been incurred or otherwise included in Realty Taxes if the Project had been one hundred percent (100%) completed, leased and occupied as determined by Landlord, acting reasonably. The Landlord may use an expert to assist it in making such allocation and the cost of making such allocation shall be included in Operating Costs. This gross up is for the sole purpose of equitably dividing the Taxes among the tenants actually occupying the Building and is to ensure that: (a) this Lease is on an absolutely net net basis to the Landlord; and (b) the Landlord is not subsidizing any tenant in the Building for costs that would otherwise be paid in full by the tenant if the Building was in fact one hundred percent (100%) completed, leased and occupied. For further clarity the Landlord shall not profit from the terms of this paragraph and any such gross up shall be net revenue neutral with respect to cost recovery to the Landlord, and the gross up shall not in any case result in the Tenant paying more than its share of such Taxes had the Building been in fact one hundred percent (100%) completed, leased and occupied.

#### 6.4 Business Taxes and Sales Taxes

- (a) Tenant shall pay as and when the same are due and payable all business taxes including all taxes charged in respect of any business conducted on the Premises or in respect of any use or occupancy of the Premises, whether or not charged against Landlord or the Premises.
- (b) Tenant shall pay to Landlord when due all Sales Taxes imposed on Landlord or Tenant.

#### 6.5 Tax Bills and Assessment Notices

Tenant shall promptly deliver to Landlord forthwith upon Tenant's receiving the same:

- (a) copies of all assessment notices, tax bills and any other documents received by Tenant related to Realty Taxes chargeable against or in respect of the Premises or the Project; and
- (b) receipts for payment of Realty Taxes and business taxes payable by Tenant pursuant hereto.

On or before the expiry of each calendar year, Tenant shall provide to Landlord evidence satisfactory to Landlord that all Realty Taxes and business taxes payable by Tenant pursuant to the terms hereof up to the expiry of such calendar year, including all penalties and interest resulting from late payment of Realty Taxes and business taxes, have been duly paid.

#### 6.6 Contest of Realty Taxes

Realty Taxes, or the assessments in respect of Realty Taxes which are the subject of any contest by Landlord or Tenant, shall nonetheless be payable in accordance with the foregoing provisions hereof provided; however, that in the event Tenant shall have paid any amount in respect of Realty Taxes in excess of the amount ultimately found payable as a result of the disposition of any such contest, and Landlord receives a refund in respect thereof, if Tenant is not in Rent default after notice and beyond the applicable cure period hereunder, the appropriate amount of such refund shall be refunded to or, at the option of Landlord, credited to the account of Tenant.

Landlord may contest any Realty Taxes with respect to the Premises or any part or all of the Project and appeal any assessments related thereto and may withdraw any such contest or appeal or may agree with the relevant authorities on any settlement, compromise or conclusion in respect thereof and Tenant consents to Landlord's so doing. Tenant will co-operate with Landlord in respect of any such contest and appeal and shall make available to Landlord such information in respect thereof as Landlord requests. Tenant will execute forthwith on request all consents, authorizations or other documents as Landlord requests to give full effect to the foregoing.

Tenant will not contest any Realty Taxes or appeal any assessments related to the Premises or the Project.

Tenant shall pay to Landlord forthwith upon demand the Proportionate Share or such reasonable share as allocated by Landlord in its sole discretion of all costs and expenses of any kind incurred by Landlord bona fide and acting reasonably in obtaining or attempting to obtain information in respect of or a reduction or re-allocation in respect of Realty Taxes and any assessments related thereto including, without limitation, legal, appraisal, administration and overhead costs.

#### 6.7 Adjustments

Any amounts payable by Tenant on account of Realty Taxes shall be adjusted on a per diem basis in respect of any period not falling wholly within the Term for which Realty Taxes are payable.

## 7. OPERATION OF PROJECT

### 7.1 Operation of Project by Landlord

Landlord shall repair, maintain and operate the Project other than Leasable Areas in a reasonable manner having regard to its size, age, location and character.

### 7.2 Tenant's Payment of Operating Costs

- (a) Commencing on the earlier of: (i) the Commencement Date; and (ii) the date on which Tenant first uses any part of the Premises for the conduct of business, and thereafter at all times throughout the Term, Tenant shall pay to Landlord the Proportionate Share of Operating Costs.
- (b) The amounts payable by Tenant pursuant to this Section 7.2 may be computed on the basis of such periods of time as Landlord shall determine from time to time and shall be paid by Tenant to Landlord without deduction, abatement or set-off whatsoever unless expressly and specifically set out otherwise herein, within ten (10) days after the receipt of a statement submitted to Tenant showing the amount payable by Tenant from time to time.
- (c) All amounts payable under this Article 7 in respect of any period not falling entirely within the Term shall be adjusted between Landlord and Tenant on a per diem basis.

### 7.3 Adjustments to Operating Costs

- (a) If: (i) by reason of the conduct of business on the Premises outside Building Hours (which is not permitted without Landlord's prior written consent); or (ii) by reason of the particular use or occupancy of the Premises or any of the Common Facilities by Tenant, its employees, agents or persons having business with Tenant; or (iii) Tenant requires any services in respect of the Building beyond building standard services, such as, without limitation, additional security or special procedures for waste disposal (whether relating to quantity or the nature of the waste) additional costs in the nature of Operating Costs, such as, without limitation, utility charges, security costs, and costs of heating, ventilating and air-conditioning costs of waste disposal, are incurred in excess of the costs which would otherwise have been incurred for such items, then Landlord shall have the right, but not the obligation, to determine such excess costs plus fifteen percent (15%) of the amount thereof ("Excess Costs") on a reasonable basis and require Tenant to pay such Excess Costs.
- (b) If Tenant or any other tenant of the Project, pursuant to its lease or otherwise by arrangement with Landlord, provides at its cost any goods or services the cost of which would otherwise be included in Operating Costs, or if any goods or services the cost of which is included in Operating Costs benefit any portion of the Project to a materially greater or lesser extent than any other portion of the Project, then either the denominator for determining a Proportionate Share, or alternatively the amount of Operating Costs, may be adjusted as determined by Landlord acting reasonably to provide for the equitable allocation of the cost of such goods and services among the tenants of the Project.

## 8. USE OF PREMISES

### 8.1 Use of Premises

To the intent that this covenant shall run with the Premises for the benefit of the Project, excluding the Premises, Tenant covenants that it shall not use and shall not cause, suffer or permit the Premises to be used for any purpose other than as described as Use of Premises in subsection 1(h) hereof. Tenant acknowledges that Landlord is making no representation or warranty as to Tenant's ability to use the Premises for its intended use and Tenant shall, prior to

executing this Lease, perform such searches and satisfy itself that its use is permitted under all applicable Laws and that Tenant will be able to obtain an occupancy permit.

## 8.2 Conduct of Business

At all times throughout the Term, Tenant shall continuously, actively and diligently conduct its business in the whole of the Premises in an up-to-date high-quality, superior and reputable manner.

Tenant shall at all times keep in place and lowered or closed as required by Landlord such building standard blinds or other window covering as determined by Landlord from time to time.

## 8.3 Tenant's Fixtures

Tenant shall install and maintain in the Premises at all times during the Term high-quality, superior trade fixtures including furnishings and equipment adequate and appropriate for the business to be conducted on the Premises and of no less a quality or quantity than whatever is usual for such type of business, all of which shall be kept in good order and condition.

Tenant shall not remove any trade fixtures or other contents necessary for Tenant to carry on business from the Premises during the Term except in the ordinary course of business or for the purpose of replacing them with others at least equal in value and function to those being removed, in either case, only with the prior written consent of Landlord.

## 8.4 Signs

Tenant shall not erect, install or display any sign or display on or visible from the exterior of the Premises except for building standard sign adjacent to main entry door to the Premises (to be installed by Landlord at Tenant's cost), and on the building directory board in the main lobby, and sixth (6<sup>th</sup>) floor elevator lobby, both lobby signs to be installed by Landlord at Landlord's cost.

## 8.5 Prohibited Uses

Tenant shall not cause, suffer or permit the Premises or any part thereof to be used at any time during the Term for any of the following sales, businesses or activities:

- (a) any retail or wholesale sales activities;
- (b) any auction;
- (c) any vending machines or other coin operated machines, entertainment or games machines or any other mechanical or electrical serving or dispensing machines or devices whatsoever or the sale or supply of food or beverages (other than minimal food or beverages such as are routinely served in office premises without charge to employees such as coffee, tea and soft drinks and subject to the Tim Hortons Restrictives (defined below) unless expressly permitted in writing by Landlord, in its sole discretion;
- (d) any sale of tickets for theatre or other entertainment events or lottery tickets;
- (e) any business which would result in people waiting in Common Facilities to enter the Premises;
- (f) any type of business or business practice which would, in the sole opinion of Landlord, tend to lower the character or image of the Project or any portion thereof;
- (g) any use which in any way contravenes any restrictive covenants in leases granted by Landlord of which Landlord has provided notice or a copy in writing to Tenant; Tenant covenants and agrees that it will not carry on in the Premises any business which will in any way place Landlord in breach of any such restrictive

covenants and Tenant will indemnify and save Landlord harmless from and against all actions, claims, demands and costs with respect thereto;

- (h) any business or activity not in compliance with all Laws;
- (i) any illegal or immoral use; or
- (j) any use or business that would violate the restrictive covenants set out in Schedule "G" attached (the "**Tim Hortons Restrictives**").

The inclusion of the foregoing provisions of this Section 8.5 shall not be deemed to be a representation or warranty of Landlord that any of the foregoing activities will not be authorized by Landlord to be conducted on any part of the Project.

Tenant shall forthwith, upon the request of Landlord, discontinue any business, conduct or practice carried on or maintained in or about the Premises which, in Landlord's sole opinion, but acting reasonably, may damage or reflect unfavourably upon Landlord, the Project, or any other tenants or occupants thereof.

If, in the opinion of Landlord, Tenant is in breach of any of the provisions of this Section 8.5, Tenant shall immediately discontinue such use upon Landlord's written request.

#### 8.6 Waste Removal

Tenant shall not allow any refuse, garbage or any loose, objectionable material to accumulate in or about the Premises or the Project and will at all times keep the Premises in a clean and neat condition. Tenant at its expense shall at all times comply with Landlord's rules and regulations made by Landlord from time to time pursuant to Section 17.5, the current list of which is attached as Schedule "F" ("**Rules and Regulations**") regarding the separation, removal, storage and disposal of waste for the Premises. Notwithstanding the foregoing, Landlord shall have the option to take over the function of separating, removing and/or disposing of the waste and the cost to Landlord of same shall be included in Operating Costs. Subject to the foregoing, Landlord shall be responsible for removal of routine waste from the Premises at such times and in such manner as in keeping with the standards of similar buildings in the vicinity of the Building, the cost of which shall be included in Operating Costs. Other waste shall be removed from the Premises by Landlord at Tenant's cost, or by Tenant, as shall be determined by Landlord. Proceeds, if any, received from the disposal of waste arranged by Landlord may be retained by Landlord for its own account. Until removed from the Project all waste from the Premises shall be kept in appropriate containers within the Premises, and perishable refuse shall be kept in a properly refrigerated area in the Premises until removed from the Premises.

#### 8.7 Pest Control

Tenant shall co-operate with Landlord and with any contractor(s) engaged by Landlord in respect of pest control and extermination in the Premises and the Project. Tenant shall not bring or permit to be brought onto the Premises or the Project any animals or birds of any kind; the foregoing does not derogate from the general provisions of Section 8.8 of this Lease.

#### 8.8 Waste and Nuisance

- (a) Tenant shall not cause, suffer or permit any waste or damage to the Premises or leasehold improvements, fixtures or equipment therein nor permit any overloading of the floors thereof and shall not use or permit to be used any part of the Premises for any dangerous, noxious or offensive activity or goods and shall not do anything or permit anything to be done or brought on or about the Premises or the Project which results in undue noise or vibration or which Landlord may reasonably deem to be hazardous or a nuisance or annoyance to any other tenants or any other persons permitted to be on the Project, including without limitation any objectionable odours emanating from the Premises. Tenant shall immediately take steps to remedy, remove or desist from any activity, equipment, goods or condition on or emanating from the Premises to which Landlord objects on a

reasonable basis. Tenant shall take every reasonable precaution to protect the Premises and the Project from risk of damage by fire, water or the elements or any other cause.

- (b) Tenant shall not itself, and shall not permit any of its employees, servants, agents, contractors or persons having business with Tenant, to obstruct any Common Facilities except as expressly permitted by Landlord in writing nor use or permit to be used any Common Facilities for other than their intended purposes. Without limiting the generality of the foregoing, Tenant shall not permit any equipment, goods or material whatsoever to be placed or stored anywhere in or on the Common Facilities. Tenant shall not, and shall not permit anyone else to, place anything on the roof of the Building or go on to the roof of the Building for any purpose whatsoever, without Landlord's prior written approval, which may be arbitrarily withheld in Landlord's sole discretion.
- (c) Tenant shall not use any advertising, transmitting or other media or devices which can be heard, seen, or received outside the Premises, or which could interfere with any communications or other systems outside of the Premises.
- (d) Tenant shall conduct its business on the Premises in keeping with a high-quality, superior office building. To that end, Tenant covenants and agrees that it shall not cause, suffer or permit any fumes, odours, noise or other element, any of which is determined by Landlord to be a nuisance or disturbance to Landlord or any other occupant of the Project, to emanate from the Premises; if Landlord determines that any such fumes, odours, noise or other element is emanating from the Premises in such manner as to cause any nuisance or disturbance to Landlord or any other occupant of the Project, Tenant shall forthwith, upon notice from Landlord, cause the same to be rectified.
- (e) Tenant shall be solely responsible for any contaminant, pollutant or toxic substance (including, for clarification, but without limiting the generality of the foregoing, toxic mould) at any time affecting the Premises resulting from any act or omission of Tenant or any other person on the Premises or any activity or substance on the Premises during the Term, and any period prior to the Term during which the Premises were used or occupied by or under the control of Tenant, and shall be responsible for the clean-up and removal of any of the same and any damages caused by the occurrence, clean-up or removal of any of the same, and Tenant shall indemnify Landlord in respect thereof. However, Tenant shall not be liable for any contaminant, pollutant or toxic substances affecting the Premises prior to the date on which the Premises were first occupied by Tenant or those for whom it is in law responsible, except to the extent the condition of the Project is worsened by the act or omission of Tenant or those for whom it is in law responsible.

## 8.9 Compliance with Laws

- (a) Tenant shall be solely responsible for obtaining from all authorities having jurisdiction all necessary permits, licences and approvals as may be necessary to permit Tenant to hold this Lease and to occupy the Premises and conduct its business thereon, as required by all applicable Laws, including, without limiting the generality of the foregoing, any necessary extra-provincial licence, any necessary licence under applicable legislation and any necessary approvals under the *Investment Canada Act*, or any similar legislation.
- (b) Tenant shall be responsible for and shall comply at its own expense with all applicable Laws respecting the construction, use, condition and occupation of the Premises, and all leasehold improvements, trade fixtures, furniture, fixtures, equipment and contents thereof (collectively called "Contents") and Tenant shall promptly perform all necessary repairs, alterations, changes and improvements to the Premises and Tenant's business, use, or occupancy thereon and the Contents in order to comply with all of such Laws.

- (c) Tenant shall provide Landlord on request with evidence satisfactory to Landlord acting reasonably that Tenant has obtained and is complying with the terms of all applicable licences, approvals and permits from time to time.
- (d) Landlord warrants that the portions of the Building under Landlord's day to day control, and the Premises, are in compliance with building codes. The Landlord further warrants that the portions of the Building under Landlord's day to day control, and the Premises, are free of asbestos and other hazardous materials beyond legal limits.

#### 8.10 Telephone and Communications Services

- (a) Tenant shall not utilize any telephone or other communications services (other than those services selected by Landlord for the Building in its sole and absolute discretion) which require any wiring, fibre optics or other connection or any transmission services to the Premises or any part of the Project without Landlord's prior written consent, which may be withheld in Landlord's sole discretion unless the party providing such service to the Premises has entered into a licence agreement with Landlord entitling such party to connect to or transmit to or from the Premises.
- (b) Tenant shall not install, maintain, replace, remove, use or modify communications, telecommunications or computer wires, cables and related devices (collectively, the "Lines") or use existing sleeves or conduits at the Building in or serving the Premises except only with Landlord's prior written consent, which consent may be withheld in Landlord's sole and absolute discretion. Active electronic telecommunications equipment used by Tenant shall not be located in common telephone closets or Building riser spaces, and may only be located in the Premises. Any request for consent to locate Tenant's electronic telecommunications equipment in common telephone closets or Building riser spaces shall contain detailed plans, schematics and specifications identifying all work to be performed, the time schedule for completion of the work, the identity of the entity from Landlord's list of approved contractors that will perform the proposed work (all of which shall be subject to Landlord's approval). All third party costs associated with any such request will be paid for by Tenant. Under no circumstances will Tenant provide telecommunication services to other occupants of the Building without the prior approval of Landlord.
- (c) Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are, at any time, in violation of any Laws or present a dangerous or potentially dangerous condition (whether such Lines were installed by Tenant or any other party), within three (3) days after written notice. Landlord shall have no responsibility for the maintenance of Tenant's telecommunications equipment, including wiring, or for any other infrastructure to which Tenant's telecommunications equipment may be connected. Tenant agrees that to the extent any such service is interrupted, curtailed or discontinued, Landlord shall have no obligation or liability with respect thereto.
- (d) In addition to the rights reserved by Landlord under any other provision of this Lease, Landlord may require upon thirty (30) days' prior notice, that Tenant: (i) move all or any portion of the Lines, and any riser sleeves thereof, to another location or locations; or (ii) discontinue using any building riser sleeves (if Landlord has permitted Tenant to install its own riser sleeve). If Landlord exercises any of its rights under clause (i) of this paragraph, the parties agree that (1) Landlord shall pay all reasonable, direct, out-of-pocket expenses incurred by Tenant in connection therewith (excluding lost profits or other consequential damages), unless the exercise of such rights is necessary in Landlord's reasonable opinion for the safety, access, use or operation of the Building, and (2) Landlord

shall use reasonable efforts to cooperate in providing other space that will be feasible for Tenant's purposes (but the installation of new Lines, riser sleeves therefore, or equipment therein shall be subject to the requirements of this Section).

- (e) Upon the expiry of the Term (or earlier termination of this Lease) Landlord reserves the right, at its option, to require Tenant to (i) leave "as is" and in good working order any or all Lines installed by or for Tenant within or serving the Premises; or (ii) remove any or all Lines installed by or for Tenant within or serving the Premises to the extent they were not approved by the Landlord in writing in advance, and to repair any damage caused by such removal, provided Landlord gives Tenant notice prior to, or within thirty (30) days following, such termination. Any Lines not removed by Tenant shall at Landlord's option, become the property of Landlord (without payment by Landlord). If Tenant fails to remove such Lines as are required by Landlord in this Section (e), or violates any other provision of this Section, Landlord may, upon twenty (20) days' notice to Tenant, remove such Lines or remedy such other violation at Tenant's expense (without limiting Landlord's other remedies available under this Lease or applicable Laws).
- (f) If Tenant, at any time, uses equipment that may create an electromagnetic field exceeding radiation limits determined by Landlord or that cause interference with other equipment in or on the Building or the Project, Landlord reserves the right to require Tenant at the expense of Tenant to immediately take any and all steps necessary, up to and including removal of any and all equipment causing the excess emissions, to reduce radiation to within said limits. Tenant shall take all steps necessary to ensure that its equipment does not interfere with or disturb the operation of any equipment of Landlord or of other tenants in the Project. Should any such interference develop, Tenant shall cease use of its equipment immediately upon being requested by Landlord to do so. The cause of the interference will be determined, and if Tenant is responsible for the interference, Tenant, at its cost, shall take immediate steps (including the installation of filters, if necessary) to reduce the interference to a level considered acceptable by Industry Canada, Department of Communications or such other agency as at the time has jurisdiction or as determined by Landlord, acting reasonably. Even if Tenant's equipment is not the primary cause of the interference, if considerations or cost or engineering simplicity indicate that a modification to Tenant's equipment is the most expedient solution to an interference problem, Tenant agrees to permit such modifications to be made so long as (i) any such modification does not unreasonably degrade the performance of Tenant's equipment, and (ii) the cost of making such modification is borne by the party whose equipment is, in fact, the primary cause of the interference. If the interference situation cannot be remedied, then Landlord may require that Tenant remove its equipment.
- (g) Landlord may deem it desirable to provide a central telecommunications cable distribution system ("CDS") in the Building or the Project for use by providers of telecommunications services and tenants. Landlord may charge all tenants and service providers fees for installation and usage of each CDS cable-pair ("CDS Fee"), provided that the price charged for same and the service provided is comparable to that used by Tenant at the relevant time. If Landlord installs a CDS, Tenant shall utilize the CDS for all its communications cabling needs on terms and conditions to be set by Landlord, acting reasonably, at the time of installation of any CDS, and following any such installation Landlord shall be entitled to administer and control any cabling installed by Tenant.

### 8.11 Deliveries

All deliveries to and from the Premises, and loading and unloading of goods, merchandise, refuse, materials and any other items, shall be made only by way of such

driveways, access routes, doorways, corridors and loading docks as Landlord may from time to time designate and shall be subject to all applicable Rules and Regulations.

### 8.12 Window Coverings

Tenant shall comply with all Rules and Regulations from time to time made by Landlord in respect of window coverings on the interior of the Premises, in order to maximize the efficiency of the climate control equipment in or serving the Premises or to maintain an attractive uniform appearance of the Project from the exterior thereof.

## 9. SERVICES AND UTILITIES

### 9.1 Utilities

- (a) Subject to Landlord's ability to do so, Landlord shall provide and supply or cause to be provided and supplied to the Premises, reasonable utilities and Tenant shall be solely responsible for and shall promptly pay for, as and when they fall due, all costs of utilities consumed in the Premises and the cost of providing and supplying such utilities including, without limitation, water, electricity, gas, steam and other utilities to or in respect of the Premises. For clarification, Landlord shall have the sole and absolute right, in its sole discretion, (i) to compel Tenant to be connected to the energy management system for the Building (all wiring, relays and controls exclusively serving the Premises shall be at sole cost of Tenant) and (ii) to select the utility supplier for the Project.
- (b) Tenant's use of any such utilities shall not exceed the available capacity of the existing systems from time to time. Tenant shall not, without the prior written approval of Landlord, which approval may be reasonably withheld, install or cause to be installed in the Premises any equipment which would require additional utility usage in excess of that normally required for general office purposes. If Landlord consents to the installation of such equipment, Tenant shall be solely responsible for any Excess Costs which result from the use of such equipment.
- (c) Should individual meters or apparatus for the measurement of the consumption of any or all utilities supplied to the Premises not be installed at any time, at Landlord's option:
  - (i) Landlord, acting reasonably, may allocate the cost of such utilities among the various users thereof and such allocation by Landlord shall be final and binding upon Tenant; or
  - (ii) Landlord may install at Landlord's expense separate meters or checkmeters or submeters to measure the consumption of any or all utilities in the Premises, the type of meter and location to be as determined by Landlord.
- (d) Tenant shall promptly pay as and when the same shall be payable all costs for all fittings, connections and meters and all work or services performed in connection with any services or utilities provided to or in respect of the Premises.
- (e) The amounts payable by Tenant under this Section 9.1 shall be payable to Landlord or as Landlord shall from time to time designate.
- (f) Notwithstanding anything contained in this Section 9.1, whether or not the Premises are separately metered, Landlord may purchase in bulk, from the utility supplier of its choice, the aggregate utility requirements of the Project at the applicable rates determined by a single meter for the Project and Landlord may, in charging Tenant for utilities, apply a scale of rates not greater than the current scale of rates of which Tenant would from time to time be purchasing the whole

of its utilities required and consumed in respect of the Premises if Tenant had purchased same directly from Landlord's utility supplier.

- (g) In addition to the charge payable by Tenant to Landlord set out in this Article 9, Tenant shall be solely responsible for the payment of all rates, charges, costs and expenses as may be assessed or levied by any supplier of utilities to Tenant other than those supplied by Landlord, if applicable.

## 9.2 Heating and Air Conditioning

- (a) Landlord shall heat the Premises during the appropriate heating season and shall cool the Premises during the appropriate air conditioning season by means of such heating and cooling equipment as shall be maintained from time to time, for the normal use of the Premises during Building Hours, to the standard of the comfort level and air quality enjoyed in a similar type office building in the Downtown West Toronto area (which standard is acceptable to Tenant).
- (b) If the heating or cooling equipment shall require maintenance, repair or replacement, Landlord shall attend to the same with reasonable promptness having regard to the then existing climatic conditions but Landlord shall not be liable for any losses or damages arising from the resulting lack of heating or cooling, so long as Landlord completes any maintenance, repair or replacement reasonably promptly and, in any event, Landlord shall not be liable for any indirect or consequential losses or damages or any damages for personal discomfort arising from any lack of heating or cooling, whether caused by Landlord's negligence or otherwise.
- (c) Landlord shall not be responsible for the inadequacy of any heating or cooling of the Premises if: (i) the use or occupancy of the Premises; or (ii) the electrical or other power consumed on the Premises; or (iii) the configuration of partitions or other items on the Premises; or (iv) the failure of Tenant to shade windows interferes with or impairs the functioning of or places a higher demand on equipment or heating or cooling of the Premises.
- (d) If Tenant desires heating or cooling of the Premises outside Building Hours, the same may be arranged on reasonable advance notice to Landlord and Tenant shall, if required by Landlord, pay for same as an Excess Cost.
- (e) Landlord's costs of compliance with this Section 9.2 shall be included in Operating Costs.
- (f) The Tenant shall, at its sole cost and expense, maintain, repair in accordance with the equipment manufacturer's requirements and replace all such supplemental heating, ventilation and air conditioning systems and controls servicing the Premises, whether or not such system(s) were installed by the Tenant.
- (g) If Tenant makes any modifications to the Premises, it shall provide to Landlord a balancing report, prepared by a qualified mechanical contractor acceptable to Landlord, confirming that the Premises distribution meets current ANSI/ASHRAE 90.1 standards.

## 9.3 Non-Liability of Landlord

Landlord shall not be liable for any damages, direct or indirect, resulting from or contributed to by any interruption or cessation of or failure in supply of any utilities or any heating, ventilating, air conditioning and humidity control. Without limiting the generality of the foregoing, Landlord shall not be liable for and Tenant shall indemnify Landlord and save Landlord harmless from and against any and all indirect or consequential damages or damages for personal discomfort or illness of Tenant or any persons permitted by it to be on the Premises

by reason of the suspension, non-operation, or failure for any period of time of any utilities, heating, ventilating, air conditioning or humidity control.

#### 9.4 Landlord's Suspension of Utilities, Etc.

In order to effect any maintenance, repairs, replacements, alterations or improvements to any of such utilities, heating, ventilating, air conditioning or humidity control equipment or systems or any other part of the Project, Landlord shall have the right, without any liability and without thereby constituting an interference with Tenant's rights under this Lease or a breach by Landlord of this Lease, and without thereby entitling Tenant to any rights in respect thereof, to discontinue, suspend or modify any utilities, heating, ventilating, air conditioning and humidity control equipment or systems at such time or times and from time to time as Landlord shall deem desirable.

#### 9.5 Landlord's Services

- (a) Tenant shall pay Landlord forthwith on demand all charges as determined and allocated by Landlord acting reasonably in respect of all special services provided to or for the benefit of Tenant beyond building standard services the costs for which are included in Operating Costs, such special services including, without limitation, charges for security, hoisting, supervision, waste removal, and receiving, storing and handling materials and articles.
- (b) Landlord shall have the right, to be exercised by written notice to Tenant, to require that Landlord be the exclusive supplier, at Tenant's expense, of such materials or services for Tenant in respect of the Premises and the Project not otherwise expressly provided for in this Lease as Landlord may designate from time to time ("Services") including, without limitation, replacement of tubes, bulbs and ballasts; cleaning of carpeting, drapes and curtains; waste removal; any services requiring drilling or otherwise penetrating floors, walls and ceilings; janitorial services; utility supplies; and locksmithing and security arrangements. If Landlord does not require that it be the supplier of Services, only persons approved by Landlord acting reasonably may supply Services to Tenant but subject to reasonable Rules and Regulations established by Landlord.
- (c) Landlord shall not be liable for any damages caused in performance of any maintenance or cleaning provided hereunder, no matter how caused, whether by negligence or otherwise; Landlord shall not be liable for any indirect or consequential damage arising from any default in or failure to perform any such maintenance or cleaning.

#### 9.6 Landlord's Charges for Services

Unless otherwise expressly agreed between Landlord and Tenant to the contrary in respect of any specific matter from time to time, all work performed and materials supplied by Landlord for Tenant or otherwise respecting the Premises pursuant to the provisions hereof or otherwise shall be paid for by Tenant to Landlord forthwith upon demand at Landlord's cost for the same plus fifteen percent (15%) for inspection, supervision, overhead and profit.

### 10. MAINTENANCE, REPAIRS AND ALTERATIONS

#### 10.1 Maintenance and Repairs of Premises

At all times throughout the Term, Tenant, at its sole expense, shall perform such maintenance (including initial construction, renovation, painting and repair or replacement of any interior finishings), repairs and redecorating and upgrading and replacements as required to keep the Premises and all the contents thereof and all services, equipment and systems located in or primarily serving the Premises at all times in high-quality, superior appearance and condition, and in accordance with all Laws, and Landlord's reasonable requirements, but excluding only the obligations of Landlord expressly provided in Section 10.7 hereof (but the foregoing shall not derogate from Landlord's obligation to carry out on a one-time basis at the beginning of the

Term, the Landlord's Work). For the purposes of this Section 10.1, Premises shall include, without limitation, all leasehold improvements (whether or not installed by Tenant or its predecessor), perimeter walls and glass and doors and window and door frames.

## 10.2 Approval of Repairs and Alterations

- (a) Tenant shall not make any repairs, replacements, changes, additions, improvements or alterations (hereinafter in this Article 10 referred to as "**Alterations**") to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld unless such proposed Alterations might: (i) in any way affect the demising walls or entrances of the Premises or the structure or mechanical or electrical services of the Premises or the Project or the coverage of the Project for zoning purposes; or (ii) in the opinion of Landlord, detrimentally affect the appearance or quality of the Premises or the portion of the Project in which the Premises are located, or impair the value or usefulness of the Premises or the Project.
- (b) With its request for Landlord's consent, Tenant shall submit to Landlord details of the proposed Alterations including plans and specifications in conformance with Landlord's Design & Criteria Manual for the Building, prepared by qualified architects or engineers, and such Alterations shall be completed in accordance with the plans and specifications approved in writing by Landlord.
- (c) All Alterations shall be planned and completed in conformance with Landlord's Design & Criteria Manual for the Building and in compliance with all Laws and Tenant shall, prior to commencing any Alterations, obtain at its expense, all necessary permits and licences and provide evidence thereof satisfactory to Landlord.
- (d) Tenant shall, prior to the commencement of any such Alterations furnish to Landlord at Tenant's expense such evidence as reasonably required by Landlord of the projected cost of Alterations and Tenant's ability to pay for same as and when due, together with such indemnification against costs, liens and damages as Landlord shall reasonably require including, if required by Landlord, and if the Alterations are anticipated to cost more than Fifty Thousand Dollars (\$50,000.00), a performance bond in such terms and issued by such company as shall be acceptable to Landlord in its sole discretion in an amount at least equal to the estimated cost of such Alterations, guaranteeing completion within a reasonable time of such Alterations free and clear of any liens or encumbrances.
- (e) All Alterations shall be performed promptly and in a good and workmanlike manner and in compliance with Landlord's Rules and Regulations by competent contractors or workmen who shall be designated or approved by Landlord, acting reasonably. Such contractors or workmen shall provide Landlord with evidence of insurance in such limits as acceptable to Landlord (upon Landlord's insurance form) together with current Workplace Safety and Insurance Board certification.
- (f) All Alterations shall be performed at Tenant's cost, promptly and in a good and workmanlike manner and in compliance with Landlord's Design & Criteria Manual and Rules and Regulations, by competent contractors or workmen who shall be first approved in writing by Landlord, which approval shall not be unreasonably withheld. Unless expressly authorized by Landlord in writing to the contrary, all Alterations which might cost in excess of Twenty-Five Thousand (\$25,000.00) Dollars to complete or which might affect the structure or any mechanical, electrical, utility, sprinkler, communications or other similar systems within the Premises or the Project, shall, at Landlord's option, be performed at Tenant's expense by Landlord or by contractors designated by Landlord and under Landlord's supervision and under the supervision of a qualified architect or engineer approved by Landlord, in advance. For all Alterations performed by Landlord or at Landlord's expense or under Landlord's supervision, Tenant shall pay forthwith upon request all amounts paid or payable by Landlord out of pocket

to third parties plus fifteen percent (15%) of the cost of such Alteration for Landlord's inspection, supervision, overhead and profit. All Alterations, the making of which might disrupt other tenants or occupants of the Project or the public, shall be performed outside Building Hours in accordance with the requirements as set out in the Rules and Regulations.

- (g) If Tenant performs any such Alterations without compliance with all of the foregoing provisions of this Article 10, Landlord, without prejudice to and without limiting Landlord's other rights pursuant to this Lease and at law, shall have the right to require Tenant to remove such Alterations forthwith and either restore the Premises to their condition prior to such Alterations or perform such Alterations in compliance with the foregoing provisions of this Article 10.
- (h) Tenant shall pay to Landlord forthwith upon request all of Landlord's reasonable costs (including, without limitation, drawing copy or CAD file update costs, fees of architects, engineers and designers, inclusive of Landlord's administrative fees as prescribed herein) incurred in dealing with Tenant's request for Landlord's consent to any Alterations, whether or not such consent is granted, and in inspecting and, supervising any such Alterations and Landlord shall have the right to require Tenant to pay Landlord a deposit on account of such costs as a precondition to Landlord's granting any necessary consent hereunder.

### 10.3 Repair According to Landlord's Notice

Landlord or any persons designated by it shall have the right to enter the Premises at any time upon twenty-four (24) hours' prior written notice, except in case of real or apprehended emergency, in which case no notice shall be required, to view the state of repair, condition and use thereof and, if in the reasonable option of the Landlord, the Premises have fallen into a state of disrepair in one or more respects, Tenant shall promptly perform any maintenance, repairs, and replacements or Alterations according to written notice from Landlord specifying the disrepair. During the last two (2) years of the Term, the Tenant shall not be required to undertake any significant cosmetic renovations of the Premises such as complete repainting, redecorating and replacement of any interior finishings, provided that the foregoing does not derogate from the Tenant's general maintenance, repair, replacement and surrender obligations under this Lease (it being the intention of the parties that the Premises not be in a state of disrepair at any time, including during the final two (2) years of the Term).

### 10.4 Notice by Tenant

Tenant shall give immediate written notice to Landlord of any accident, defect, damage or deficiency in any part of the Premises or the Project which comes to the attention of Tenant or any of its employees or contractors notwithstanding the fact that Landlord may have no obligation in respect of the same; the provisions of this Section 10.4 shall not be interpreted so as to imply or impose any obligation whatsoever upon Landlord. Tenant shall exercise all due diligence to become aware of any such situation.

### 10.5 Ownership of Leasehold Improvements

All Leasehold Improvements installed in the Premises by Tenant, or by Landlord on Tenant's behalf, shall forthwith upon the installation thereof become the absolute property of Landlord without compensation thereof but without Landlord's having or thereby accepting any responsibility in respect of the maintenance, repair or replacement thereof, all of which shall be Tenant's responsibility.

### 10.6 Construction Liens

Tenant shall make all such payments and take all such steps as may be necessary to ensure that no lien or other charge or claim thereof or certificate of action in respect thereof (any of which is herein referred to as "Lien") is registered against the Project or any portion thereof or against either Landlord's or Tenant's interest therein as a result of any work done for or services or material supplied to Tenant or in respect of the Premises (except those in respect of the

Landlord's Work). Tenant shall cause any such registrations to be discharged or vacated immediately after notice from Landlord, or within ten (10) days after registration, whichever is earlier.

Tenant shall indemnify and save harmless Landlord from and against any liabilities, claims, liens, damages, costs or expenses, including legal expenses, arising in connection with any work done for or services or materials supplied to Tenant or in respect of the Premises (excluding those in connection with Landlord's Work).

If Tenant permits any such lien registration or fails to cause any such registration to be discharged or vacated as aforesaid then, in addition to any other rights of Landlord, Landlord may, but shall not be obliged to, discharge or vacate the same by paying the amount claimed to be due together with any other amounts into court or otherwise as Landlord determines, and the amounts so paid and all costs incurred by Landlord, including legal fees and disbursements, in thus arranging for the discharging or vacating of any such Lien shall be paid by Tenant to Landlord forthwith upon demand together with reasonable compensation to Landlord for administration in respect thereof.

### **10.7 Landlord's Repairs**

Subject to the provisions of Article 12 herein, and subject to Tenant's obligations hereunder, Landlord, to the extent that the failure to do so would materially detrimentally affect access to or use of the Premises, on reasonable notice from Tenant shall repair: (a) defects in the structure of the Project, and exterior walls of the building in which the Premises are located; (b) so as to keep them in good working order, base building components and structural elements of the Building and Parking Facility, such as roof, exterior walls, and exterior windows; and (c) such transportation, electrical, mechanical, HVAC, sprinkler, elevator, and drainage equipment and systems forming part of the Project but not located within the Premises and not serving exclusively the Premises. Landlord's costs of compliance with this Section 10.7 shall be included in Operating Costs (to the extent not excluded from Operating Costs by Sections 2.17(b) and (c)).

## **11. END OF TERM**

### **11.1 Vacating of Possession**

Forthwith upon the expiry or earlier termination of the Term, Tenant shall peaceably deliver to Landlord vacant possession of the Premises in such condition in which Tenant is required to maintain and keep the Premises during the Term pursuant hereto, reasonable wear that does not lead to a state of disrepair excepted, and shall leave the Premises in a neat, clean and broom-swept condition and Tenant shall deliver all keys for the Premises and all keys or combinations to locks on doors, safes or vaults within the Premises.

### **11.2 Removal of Trade Fixtures**

Provided that Tenant has paid all Rent to the expiry of the Term and any and all damages and other amounts payable by Tenant to Landlord for any reason whatever and provided Tenant is not otherwise in default hereunder, Tenant may, with Landlord's prior written consent, remove its trade fixtures. Further, if otherwise authorized or requested by Landlord, Tenant shall at the expiry of the Term and at Landlord's option, on the earlier termination of the Term, remove its trade fixtures and shall repair in either case of removal all damage or injury caused to the Premises resulting from the installation or removal of such trade fixtures. Other than as provided above, Tenant shall not remove trade fixtures from the Premises.

If, at the expiry or earlier termination of the Term, Tenant does not remove its trade fixtures or any of its other property on the Premises, Landlord shall have no obligation in respect of any such trade fixtures or property and may sell or destroy the same or have them removed or stored at the expense of Tenant or dispose of them in any other manner whatsoever as may be determined by Landlord in its sole discretion; at the option of Landlord, such trade fixtures or property not removed at the expiry or earlier termination of the Term shall become the absolute

property of Landlord without payment of any compensation thereof to Tenant and may be dealt with by Landlord in such manner as it determines.

### 11.3 Removal of Leasehold Improvements

Notwithstanding that the Leasehold Improvements become the absolute property of Landlord upon installation, at the expiry or earlier termination of the Term, Tenant shall remove all of such Leasehold Improvements as were installed by or on behalf of Tenant but were not approved by Landlord in advance in writing, as required by Landlord, and in so doing shall repair all damage resulting from installation and removal of same and shall (in the case of removal of such non-approved Leasehold Improvements) restore the Premises to their condition prior to the installation and removal of such Leasehold Improvements. For the sake of clarity, the foregoing shall not require Tenant to remove or restore in respect of any Leasehold Improvements installed by or on behalf of Tenant with the prior written consent of Landlord.

### 11.4 Overholding by Tenant

If Tenant remains in possession of all or any part of the Premises after the expiry of the Term with the consent of Landlord and without any further written agreement, or without the consent of Landlord, this Lease shall not be deemed thereby to have been renewed or extended and Tenant shall be deemed conclusively to be occupying the Premises as a monthly tenant if Landlord did consent to Tenant remaining in possession, or as a tenant at will if Landlord did not consent to Tenant remaining in possession (notwithstanding the acceptance of Basic or Additional Rent by Landlord), in either case on the same terms as set forth in this Lease so far as they would be applicable to a monthly tenancy except the monthly Basic Rent shall be one hundred and twenty-five percent (125%) of an amount determined by taking 1/12 of the Basic Rent payable for the period of the last twelve months of the Term if Landlord consents to such overholding, and shall be one hundred and fifty percent (150%) of an amount determined by taking 1/12 of the Basic Rent payable for the period of the last twelve months of the Term if Landlord does not consent to such overholding. Tenant agrees that Landlord shall have the right to distrain for any arrears of Rent payable by virtue of this Section 11.4 and Article 16 (Default and Remedies) shall apply.

## 12. DAMAGE AND DESTRUCTION

### 12.1 Damage to Premises or Project

If the Premises or the Project are damaged or destroyed, in whole or in part, by fire or any other occurrence, this Lease shall nonetheless continue in full force and effect and there shall be no abatement of any item included in Rent except as expressly hereinafter in this Article 12 provided, and the following provisions of this Article 12 shall apply.

### 12.2 Insured Damage to Premises

- (a) If there is Insured Damage to the Premises then the following provisions of this Section 12.2 shall apply.
- (b) If such damage or destruction is such as to render the whole or any part of the Premises unusable for the purpose of Tenant's use and occupancy thereof, Landlord shall deliver to Tenant within sixty (60) days following the occurrence of such Insured Damage or destruction the written opinion of the Architect determined reasonably as to whether or not the same is capable of being repaired, to the extent of Landlord's repair obligations hereunder, within one hundred eighty (180) days following such occurrence.
- (c) If this Lease is not terminated as herein in this Article 12 provided, Landlord, to the extent of insurance proceeds which Landlord receives or would have received if it had maintained such insurance as is required to be maintained by Landlord hereunder, and to the extent that any mortgagee entitled to be paid such insurance proceeds consents to the use of the same for repair of such damage or destruction, shall diligently proceed to perform such repairs to the Premises to the extent of its

express obligations pursuant to Section 10.7 hereof; and Tenant, commencing as soon as is practicable but without interfering with Landlord's repairs, shall diligently proceed to perform such repairs as are Tenant's responsibility pursuant hereto.

- (d) If, in Architect's reasonable opinion, the Premises are not capable of being repaired as aforesaid within one hundred eighty (180) days following such occurrence or, if at the time of such damage or destruction the Premises were not being used by Tenant for their intended purpose, then either party may elect, by written notice to the other party within thirty (30) days after delivery by Landlord of the opinion provided for in subsection 12.2(b) above, to terminate this Lease, whereupon Tenant shall immediately surrender possession of the Premises and Basic Rent and all other payments for which Tenant is liable pursuant hereto shall be apportioned to the effective date of such termination.
- (e) If the damage is such as to render the whole or any part of the Premises unusable in whole or in part for the purpose of Tenant's use and occupancy, as permitted hereby, and if immediately prior to the occurrence of such damage, Tenant was using substantially all of the Premises for the purposes as permitted by and as otherwise required pursuant to the terms of this Lease, then the Basic Rent (and the Basic Rent only) payable hereunder shall abate to the extent that Tenant's use and occupancy of the Premises is in fact thereby diminished, which determination shall be made by Landlord acting reasonably but in its sole discretion, until the earlier of: (i) the thirtieth (30<sup>th</sup>) day after the Premises are ready for Tenant to commence its repairs to the Premises as determined by Landlord; and (ii) the date on which Tenant first commences the conduct of business in any part of the Premises which had been damaged following the date of the occurrence of such damage or destruction.
- (f) The respective obligations of Landlord and Tenant with respect to repair of the Premises following any damage or destruction as aforesaid shall be performed in accordance with all applicable obligations to repair contained herein and shall be performed with all reasonable speed. Tenant acknowledges that the obligations of Tenant to repair the Premises after such damage or destruction as aforesaid or otherwise shall be performed at Tenant's sole cost without any contribution thereto by Landlord whether or not the damage or destruction was caused by Landlord's fault or negligence and whether or not Landlord had at any time made any contribution to the cost of supply, installation or construction of any leasehold improvements in the Premises. In any event, within thirty (30) days after Landlord has completed its repairs to the Premises as aforesaid, Tenant shall complete its repairs to the Premises and shall fully fixture, stock and staff the Premises and recommence the operation of Tenant's business as permitted and required pursuant hereto.

### 12.3 Uninsured Damage and Last Two Years

If there is damage or destruction to the Premises or the Project and if, in the Architect's reasonable opinion such damage is not capable of being repaired within thirty (30) days following the occurrence of such damage or destruction, and if: (a) such damage or destruction is not Insured Damaged ("Uninsured Damage"); or (b) such damage or destruction occurs within two (2) years prior to the expiry of the Term and either there are no remaining rights in any party hereto to extend or renew this Lease or any party hereto having the right to renew or extend this Lease fails to do so within fifteen (15) days after such occurrence, Landlord, at its option to be exercised by written notice given to Tenant within thirty (30) days after such occurrence, may terminate this Lease whereupon Tenant shall immediately surrender possession of the Premises and Basic Rent and all other payments for which Tenant is liable pursuant hereto shall be apportioned to the effective date of such termination. Further, if the damage referred to in this Section 12.3: (1) is to the Premises itself and would take longer than ninety (90) days to repair in the opinion of Architect; or (2) completely blocks access to the Premises for a period of ninety (90) days or longer in the opinion of Architect; and in either case, the damage occurs in

the last two (2) years of the Term with no option to extend or renew remaining to either party, then the Tenant may terminate this Lease at its option, to be exercised by written notice given to Landlord within thirty (30) days after such occurrence, in which case Tenant shall immediately surrender possession of the Premises and Basic Rent and all other payments for which Tenant is liable pursuant hereto shall be apportioned to the effective date of such termination. If this Lease is not terminated as aforesaid the parties shall repair as provided in subsection 12.2(c) hereof and there shall be no abatement of any portion of Rent unless the damage or destruction is Insured Damage and then only to the extent expressly provided in subsection 12.2(e) above.

#### **12.4 Damage to Project**

If twenty-five percent (25%) or more of the Rentable Area of the Project is damaged or destroyed by any cause whatsoever, whether or not there is any damage to the Premises, Landlord may, at its option, elect, by written notice given to Tenant within sixty (60) days after such occurrence, to terminate this Lease as of a date specified in such notice, which date shall be not less than ninety (90) days and not more than one hundred eighty (180) days after the giving of such notice, in which event Tenant shall vacate and surrender possession of the Premises by not later than the said date of termination, and Basic Rent and all other payments for which Tenant is liable pursuant to this Lease shall be apportioned to the effective date of termination. If Landlord does not so elect to terminate this Lease, and if the damage or destruction is Insured Damage, Landlord shall diligently proceed to repair and rebuild the Project to the extent of its obligations pursuant hereto to the extent of insurance proceeds which Landlord receives or would have received if it had maintained such insurance as is required to be maintained by Landlord hereunder, and to the extent that any mortgagee entitled to be paid such insurance proceeds consents to the use of the same for repair of such damage or destruction.

#### **12.5 Restoration of Premises or Project**

If there is damage or destruction to the Premises or the Project and if this Lease is not terminated pursuant hereto, Landlord, in performing its repairs to the Premises or the Project as required hereby, shall not be obliged to repair or rebuild in accordance with the plans or specifications for the Premises or the Project as they existed prior to such damage or destruction but Landlord may repair or rebuild the same in accordance with any plans and specifications chosen by Landlord in its sole and absolute discretion provided that Tenant's use and occupancy of and access to the Premises and the general overall quality of the Project are not materially detrimentally affected by any difference in plans, specifications or form of the Premises or the Project from such plans, specifications and form as the same existed immediately prior to the occurrence of such damage or destruction.

#### **12.6 Determination of Matters**

For the purposes of this Article 12, all matters requiring determination such as, without limitation, the extent to which any area(s) of the Premises or the Project are damaged or are not capable of being used, or the times within which repairs may be made, unless expressly provided to the contrary, shall be determined by the Architect, such determination to be final and binding on the parties.

### **13. INSURANCE AND INDEMNITY**

#### **13.1 Landlord's Insurance**

Landlord shall obtain and maintain in full force and effect during the Term with respect to the Project insurance against such occurrences and in such amounts and on such terms and conditions and with such deductible(s) as Landlord may determine from time to time, it being agreed that Landlord need not communicate any determination to Tenant. Unless and until otherwise determined by Landlord, such insurance may include, without limitation:

- (a) insurance on the Building and improvements and equipment contained therein owned or leased by Landlord or which Landlord desires to insure, against damage by fire and other risks contained in fire insurance policies with endorsements

generally known as extended coverage and riot vandalism and malicious acts endorsements or, at Landlord's option, "all risks" insurance;

- (b) boiler and machinery insurance on such insurable objects as Landlord may elect to insure;
- (c) rental income insurance covering such occurrences, in such form, and with such period of indemnity as Landlord may determine;
- (d) public liability insurance; and
- (e) such other insurance and insurance in such amounts and on such terms as Landlord, in its discretion, may determine.

Notwithstanding that Tenant shall be contributing to Landlord's costs and premiums respecting such insurance pursuant to the terms of this Lease, Tenant shall not have any insurable or other interest in any of Landlord's insurance other than the rights, if any, expressly set forth in this Lease or in any policy of insurance obtained by Landlord, and, in any event, Tenant shall not have any interest in or any right to recover any proceeds under any of Landlord's insurance policies.

### 13.2 Tenant's Effect on Other Insurance

- (a) Tenant shall not do and shall not cause, suffer or permit to be done or omitted to be done by any of its servants, agents, contractors or persons for whom Tenant is in law responsible anywhere on the Project or by any person in, on or about the Premises and shall not permit there to be on the Premises anything which might:
  - (i) result in any increase in the cost of any insurance policies of Landlord or any others on or related to the Project or any part or contents thereof;
  - (ii) result in an actual or threatened cancellation of or adverse change in any policy of insurance of Landlord or others on or related to the Project or any part or contents thereof; or
  - (iii) be prohibited by any policy of insurance of Landlord or any others in force from time to time in respect of the Project or any part or contents thereof.
- (b) If the cost of any insurance policies of Landlord or any others on or related to the Project or any part or contents thereof shall be increased as a result of:
  - (i) the use or occupancy of the Premises by Tenant or any other person on the Premises; or
  - (ii) anything kept or permitted to be kept by Tenant or by any person anywhere on the Premises or by Tenant or any of its employees, customers, contractors, suppliers or persons for whom Tenant is in law responsible on any part of the Project; or
  - (iii) any act or omission of Tenant or any person on the Premises, or of Tenant or any of its employees, customers, contractors, suppliers or persons for whom Tenant is in law responsible on any part of the Project, Tenant shall pay the full amount of such increase in cost to Landlord forthwith upon demand, whether the increase is an increase in insurance cost payable by Landlord or by any other tenant or occupant of the Project or any part thereof. In determining Tenant's responsibility for any increased cost of insurance as aforesaid, a statement issued by the organization, company or insurer establishing the insurance premiums or rates for the relevant policy shall be conclusive evidence of the various components of such premiums or rates and the factors giving rise to any increase therein.

- (c) In the event of an actual or threatened cancellation of or adverse change in any policy of insurance of Landlord or any others on or related to the Project or any part or contents thereof by reason of:
- (i) the use or occupancy of the Premises by Tenant or any other person permitted by Tenant on the Premises; or
  - (ii) anything placed on or permitted by Tenant or any person on the Premises or by Tenant or any of its employees, customers, contractors, suppliers or persons for whom Tenant is in law responsible on any part of the Project; or
  - (iii) any act or omission of Tenant or any person in the Premises or by Tenant or any of its employees, customers, contractors, suppliers or persons for whom Tenant is in law responsible on any part of the Project and if Tenant fails to remedy the situation, condition, use, occupancy or other factor giving rise to such actual or threatened cancellation or change within twenty-four (24) hours after notice thereof by Landlord, Landlord may, at its option, either:
    - (A) terminate this Lease forthwith by written notice; or
    - (B) remedy the situation, condition, use, occupancy or other factor giving rise to such actual or threatened cancellation or change, all at the cost of Tenant to be paid to Landlord forthwith upon demand; for any or all of such purposes as set forth in this subsection 13.2(c)(iii) Landlord shall have the right to enter upon the Premises without further notice.

### 13.3 Tenant's Insurance

- (a) Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect at all times throughout the Term and such other times, if any, as Tenant occupies the Premises or any portion thereof:
- (i) commercial general liability insurance including, but not limited to property damage, public liability, personal injury liability, contractual liability, products and completed operations, non-owned automobile liability and owners' and contractors' protective insurance coverage, all on an occurrence basis, with respect to any use, occupancy, activities or things on the Premises and with respect to the use and occupancy of any other part of the Project by Tenant or any of its servants, agents, contractors or persons for whom Tenant is in law responsible, with coverage for any one occurrence or claim of not less than Five Million (\$5,000,000.00) Dollars or such other amount as Landlord may reasonably require upon not less than one (1) month's notice at any time as long as it is requiring all other similar tenants of the Building to carry such additional amount;
  - (ii) insurance, in respect of such perils as are from time to time covered in an all risks policy not less broad than the standard commercial property floater policy with the exclusions relating to earthquake and flood removed therefrom, covering the leasehold improvements, trade fixtures, furnishings, equipment, stock-in-trade, storefront and store facing materials, window frames and door frames, and all signs in, on or about the Premises, for not less than the full replacement cost thereof and with a replacement cost endorsement; for the sake of clarity, any common electrical room located within the boundaries of the Premises is part of the Common Facilities and Landlord shall have all access to and use of such room as is necessary to carry out its obligations and enforce its rights as a prudent landlord;

- (iii) broad form comprehensive boiler and machinery insurance on all insurable objects located on the Premises or which are the property or responsibility of Tenant on a blanket repair or replacement basis with a replacement cost endorsement and with limits for each accident in an amount not less than the full replacement cost of all leasehold improvements, trade fixtures, furnishings, equipment, stock-in-trade, storefront and store facing materials and all signs in, on or about the Premises (it being understood that the foregoing insurance is not meant to be duplicative of any Landlord's coverage under 13.1(b) but rather to insure the Tenant for any items in (ii) above that may be excluded from an all risks policy and/or intended to be covered instead by a boiler and machinery policy, such as by way of example only, electrical arc-ing that damages the Tenant's computers);
- (iv) business interruption insurance either as an extension to or on the same form as the insurance referred to in subsections 13.3(a)(ii) and (iii) above, and in such amounts from time to time as necessary to fully compensate Tenant for direct or indirect loss of sales or earnings resulting from or attributable to any of the perils required to be insured against under the policies referred to in subsections 13.3(a)(ii) and (iii) above and all circumstances usually insured against by cautious tenants including losses resulting from interference with or prevention of access to the Premises or the Project as a result of such perils or for any other reason;
- (v) tenant's legal liability insurance for the full replacement cost of the Premises, and the loss of use thereof;
- (vi) leasehold interest insurance to fully protect Tenant for loss of its interest in this Lease and its Leasehold Improvements in the event of termination of this Lease pursuant to Article 12 above, whether or not there is any damage or destruction to the Premises and whether or not such Leasehold Improvements were installed by Tenant or others;
- (vii) standard owners' form of automobile insurance policy providing third party liability insurance on all automobiles owned by or registered in the name of Tenant with inclusive limits and on such terms as reasonably required by Landlord from time to time, covering all licensed vehicles owned by or operated by or on behalf of Tenant;
- (viii) plate glass insurance on all internal and external glass and window frames and door frames;
- (ix) by law compliance insurance; and
- (x) insurance against such risks and in such amounts as Landlord or any mortgagee, debenture holder or other secured creditor of Landlord may from time to time reasonably require upon not less than thirty (30) days' written notice as long as it is requiring all other similar tenants of the Building to carry such additional insurance.

Notwithstanding the foregoing, so long as the Tenant is Curriculum Services of Canada and is not in default, Tenant shall be entitled to self-insure in respect of plate glass only, but shall in all respects be deemed to have taken out and carried and kept in force such insurance otherwise on the terms of this Lease.

- (b) Each of Tenant's insurance policies shall name Landlord and Tenant and any others designated by Landlord as additional insureds with Landlord as loss payee, as their interests may appear under the policies referred to in subsections 13.3(a)(ii), (iii), (viii) and, where applicable, (x) above, and each of Tenant's insurance policies shall contain, as deemed appropriate by Landlord:

- (i) the mortgage clause as may be required by any mortgagee, debenture holder or other secured creditor of Landlord;
- (ii) a waiver by the insurer of any rights of subrogation, or indemnity, or any other claim over, to which such insurer might otherwise be entitled against Landlord or any agents or employees of Landlord or any other person for whom Landlord is in law responsible;
- (iii) an undertaking by the insurer that no material change adverse to Landlord or Tenant or the mortgagee, debenture holder or other secured creditor of Landlord or Tenant will be made and the policy will not lapse or be cancelled or terminated, except after not less than thirty (30) days' written notice to Landlord and Tenant and the mortgagee, debenture holder or other secured creditor of either of them of the intended change, lapse, cancellation or termination;
- (iv) a provision stating that Tenant's insurance policy shall be primary and shall not call into contribution any other insurance available to Landlord;
- (v) a disputed loss endorsement or agreement, where applicable;
- (vi) a severability of interests clause and a cross-liability endorsement clause for liability policies, where applicable; and
- (vii) a waiver, in respect of the interests of Landlord and of any mortgagee, debenture holder or other secured creditor of Landlord, of any provision in any such insurance policies with respect to any breach of any warranties, representations, declarations or conditions contained in the said policies.

All of Tenant's insurance policies shall be taken out with insurers acceptable to Landlord, acting reasonably, and certificates thereof shall be on the Landlord's standard form and on such terms as are satisfactory to Landlord from time to time.

- (c) Tenant shall ensure that Landlord shall at all times be in possession of either certificates of insurance in the form designated or approved by Landlord or certified copies of Tenant's insurance policies which are current and in force in good standing including such certificates or other evidence satisfactory to Landlord as to Tenant's insurance in effect and its renewal or continuation in force together with such evidence as may be required by Landlord as to the method of determination of the full replacement cost of the leasehold improvements, trade fixtures, furnishings, equipment, stock-in-trade, plate glass, storefront and store facing materials and signs and full particulars of the full replacement cost of each of the same, and if Landlord reasonably concludes that the full replacement cost has been underestimated or understated, Tenant shall forthwith arrange for any consequent increase in coverage required pursuant to this Section 13.3.
- (d) Tenant hereby releases Landlord and its servants, agents, employees, contractors and those for whom Landlord is in law responsible from all losses, damages and claims of any kind in respect of which Tenant is required to maintain insurance or is otherwise insured.

#### 13.4 Landlord's Right to Place Tenant's Insurance

If Tenant at any time fails to take out, renew and keep in force, or pay any premiums for, any insurance as required to be obtained and maintained pursuant hereto, or if Tenant fails from time to time to deliver to Landlord satisfactory proof of the good standing of any such insurance or the payment of premiums therefor or if the evidence submitted in respect thereof to Landlord is unacceptable to Landlord, then, in any such event, Landlord, without prejudice to any of its other rights and remedies pursuant to this Lease, shall have the right but not the obligation to effect such insurance on behalf of Tenant and the cost thereof and all other reasonable expenses

incurred by Landlord in respect thereof shall be paid by Tenant to Landlord forthwith upon demand.

### 13.5 Landlord's Non-Liability

Tenant agrees that Landlord shall not be liable or responsible in any way for any injury or death to any person or for any loss or damage to any property at any time in, on or about the Premises or any property owned by or being the responsibility of Tenant or any of its servants, agents, customers, contractors or persons for whom Tenant is in law responsible elsewhere in, on or about the Project, no matter how the same shall be caused and whether or not any such death, injury, loss or damage is caused or contributed to by the negligence of Landlord, its servants, agents employees, contractors or persons for whom Landlord is in law responsible. Without limiting the generality of the foregoing, Landlord shall not be liable or responsible for any injury, death, loss or damage to any persons or property caused or contributed to by any of the following: fire, explosion steam, water, rain, snow, electricity, gas, or falling plaster; or by dampness or leaks from any pipes, appliances, plumbing works, roof, exterior walls or any other source whatsoever; and Landlord shall not be liable or responsible in any way for any injury, death, loss or damage to any person or property caused by any other tenants or occupants of the Project or by any occupants of any adjoining property or by the public or by the construction of any public, quasi-public or private work or utilities. All property kept or stored in or about the Premises or kept or stored by Tenant or any of its servants, agents, customers, contractors or persons for whom Tenant is in law responsible elsewhere in the Project shall be at the sole risk of Tenant and Tenant shall indemnify Landlord and save it harmless in respect of the same. Without in any way limiting or affecting the generality or interpretation of the foregoing provisions of this Section 13.5, it is agreed that Landlord shall in no event be liable for any indirect or consequential damages suffered by Tenant.

### 13.6 Indemnity of Landlord

Tenant shall indemnify Landlord and all of its servants, agents, employees, contractors and persons for whom Landlord is in law responsible and all other tenants and occupants of the Project and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees and disbursements and all deductibles payable under Landlord's policies of insurance (if applicable), due to, arising from or to the extent contributed to by:

- (a) any breach by Tenant of any of the provisions of this Lease;
- (b) any act or omission of any person on the Premises or any use or occupancy of or any property in the Premises;
- (c) any act or omission of Tenant or any of its servants, agents, employees, invitees, licensees, sub-tenants, concessionaires, contractors or persons for whom Tenant is in law responsible on the Premises or elsewhere on or about the Project;
- (d) any injury, death or damage to persons or property of Tenant or its servants, agents, employees, customers, contractors or any other persons on the Project by or with the invitation, licence or consent of Tenant caused by any reason whatsoever, including without limitation those items set out in Section 17.9 below;
- (e) any damage, destruction or need of repair to any part of the Project caused by any act or omission of Tenant or its servants, agents, employees, customers, contractors or persons for whom Tenant is in law responsible, notwithstanding any other provisions of this Lease including Landlord's repair obligations under Section 10.7 above.

### 13.7 Landlord's Employees

It is agreed that every indemnity, exclusion or release of liability and waiver of subrogation herein contained for the benefit of Landlord shall extend to and benefit all of

Landlord's servants, agents, employees and those for whom Landlord is in law responsible (collectively referred to in this Section 13.7 as "**Employees**"); solely for such purpose, and to the extent that Landlord expressly chooses to enforce the benefits of this Section 13.7 for its Employees, it is agreed that Landlord is the agent or trustee for its Employees.

#### **14. ASSIGNMENT, SUBLETTING AND CHANGE OF CONTROL**

##### **14.1 Consent Required**

- (a) Tenant shall not assign this Lease in whole or in part and shall not sublet or part with or share possession of all or any part of the Premises and shall not grant any concessions, franchises, licences or other rights to others to use any portion of the Premises (all of the foregoing being hereinafter individually or collectively referred to as "**Transfer**"; a party making a Transfer is referred to as a "**Transferor**" and a party taking a Transfer is referred to as a "**Transferee**") without the prior written consent of Landlord in each instance, which consent may not be unreasonably or arbitrarily withheld or delayed; however, Landlord shall be entitled to its right to terminate this Lease, or to take a Transfer of the Premises or any portion thereof, pursuant to Section 14.3.
- (b) Notwithstanding and without in any way affecting or limiting the interpretation of the foregoing, it is agreed that it shall be reasonable for Landlord to withhold its consent to a Transfer unless it is shown to Landlord's satisfaction that:
  - (i) the proposed Transferee has a good business and personal reputation;
  - (ii) the proposed Transferee and its principal shareholders have not been bankrupt or the holder of forty percent (40%) or more of the issued shares of any class of shares of a corporation or of an interest in a partnership, either of which has been bankrupt in the five (5) years preceding the date of the proposed Transfer;
  - (iii) the proposed Transferee has good financial strength at least equal to that of Tenant at the Commencement Date and as at the date of the request for Landlord's consent to the Transfer, and has financial strength at least sufficient to satisfy all of the obligations of Tenant hereunder;
  - (iv) the Transferee is not an existing occupant of any part of the Project or has not then recently been a prospect involved in bona fide negotiations with Landlord respecting the leasing of any premises in the Project and is not in any way affiliated with such existing occupant or bona fide prospect;
  - (v) the Transfer or use or occupancy of the Premises by the Transferee would not result in a breach of any agreement by which Landlord is bound with respect to any part of the Project;
  - (vi) Tenant is not in default under this Lease, the Rent Deposit Agreement or any other agreement affecting the Premises;
  - (vii) without affecting the interpretation of Section 8.1 or any other provision hereof, the business proposed to be carried on by the Transferee on the Premises will not be incompatible with the uses of other tenants of the Project, and will not be more burdensome on the Project, in terms of parking requirements or any other factor, than the business previously carried on by Tenant on the Premises; and
  - (viii) the proposed Transferee shall not use the Premises for any other purpose than the use set out in Section 1(h) above, and, for clarification, shall not use the Premises for any illegal or immoral use or in a manner that, in the sole opinion of Landlord, would tend to lower the image or character of the Project.

- (c) If Landlord withholds, delays or refuses to give consent to any Transfer, whether or not Landlord is entitled to do so, Landlord shall not be liable for any losses or damages in any way resulting therefrom and Tenant shall not be entitled to terminate this Lease or exercise any other remedy whatever in respect thereof except to seek the order of a court of competent jurisdiction compelling Landlord to grant any such consent which Landlord is obliged to grant pursuant to the terms of this Lease.
- (d) No transfer may be made other than pursuant to an agreement in writing of which a copy is given to Landlord together with the request for consent. The provisions of this Article 14 shall apply to any Transfer which might occur by inheritance or operation of law.
- (e) No Transfer may be made where any portion of Rent is lower than that provided for herein or otherwise on terms more favourable to the Transferee than the terms set forth herein.

#### 14.2 Obtaining Consent

All requests to Landlord for consent to any Transfer shall be made to Landlord in writing together with a copy of the agreement pursuant to which the proposed Transfer will be made and payment to Landlord of a deposit in the amount of One Thousand Two Hundred (\$1,200.00) Dollars on account of all costs incurred by Landlord in considering and processing the request for consent including legal costs and an administrative fee which Landlord shall be entitled to charge for the processing of such request for consent and including all costs of completing any documentation to implement any Transfer and all other agreements contemplated hereby, all of which shall be prepared by Landlord or its solicitor if required by Landlord. All costs incurred by Landlord in respect of any such request for consent, including reasonable legal costs on a solicitor and its own client basis and Landlord's administrative fee, shall be the responsibility of and shall be paid by Tenant forthwith upon demand, whether or not Landlord grants its consent to any proposed Transfer.

All such requests to Landlord for consent to any Transfer shall also be accompanied by such information in writing as a landlord might reasonably require respecting a proposed Transferee and which might be required to provide Landlord with all the information necessary to determine whether the aforementioned factors are satisfied, and which information shall include, without limitation, the name, business and home addresses and telephone numbers, business experience, credit information and rating, financial position and banking and personal references, description of business to be conducted by the Transferee on the Premises and parking requirements for such business of such proposed Transferee.

#### 14.3 Landlord's Option

Notwithstanding the other provisions contained in this Article 14, after Landlord receives any notice from Tenant in respect of a Transfer, including any request for consent to a Transfer, accompanied by any deposit, information and copy of agreement as hereinabove required, Landlord shall have the options, to be exercised by written notice to Tenant within fifteen (15) days after the receipt of such notice and such information, deposit and agreement, to: (a) terminate this Lease as it relates to the portion of the Premises which is the subject of the proposed Transfer ("**Transferred Premises**") effective as of the date on which the proposed Transfer by Tenant was proposed to occur; or (b) to receive all amounts to be paid to Tenant under the agreement in respect of such Transfer less only the direct costs of Tenant related to the Transfer such as legal costs and commissions, and less, in the case of a sublease, all amounts receivable by Tenant under the sublease equal to the amounts payable by Tenant hereunder each month during the term of the sublease in respect of the Transferred Premises; or (c) to take a Transfer from Tenant of the Transferred Premises on the same terms as the Transfer in respect of which Tenant had requested Landlord's consent, as aforesaid. If Landlord elects to terminate this Lease as aforesaid, Tenant shall have the right, to be exercised by written notice to Landlord within ten (10) days after receipt of such notice of termination, to withdraw the request for consent to the Transfer, in which case Tenant shall not proceed with such Transfer, the notice of termination shall be null and void and this Lease shall continue in full force and effect in

accordance with its terms. If Landlord terminates this Lease as it relates to a portion of the Premises, as aforesaid (“**Terminated Premises**”), Tenant hereby grants to Landlord and any others permitted by Landlord to use the Terminated Premises the right, in common with Tenant and all others entitled to use the same, to use for their intended purposes all portions of the Premises in the nature of common areas (such as corridors, washrooms, lobbies and the like) or which are reasonably required for proper access to or use of the Terminated Premises (such as reception area, interior corridors, mechanical or electrical systems and ducts and the like).

The foregoing right of termination of Landlord (in lieu of providing consent to a Transfer) shall not apply so long as the Tenant is Curriculum Services Canada and not in default, in respect of: (a) any proposed sublease of no more than thirty percent (30%) of the Rentable Area of the Premises to another non-share corporation of covenant similar to or better than that of Tenant and whose business is connected to the business of the Tenant, and to whom the Tenant would in the normal course sublet space; and (b) any license to the Permitted Licensees.

#### 14.4 Terms of Transfer

In the event of any Transfer, Landlord shall have the following rights, in default of any of which no such Transfer shall occur or be effective:

- (a) to collect a deposit or further deposit to be held as a deposit pursuant to the provisions of the Rent Deposit Agreement such that the deposit held by Landlord shall be equivalent to at least two (2) months’ Rent payable in respect of the Transferred Premises;
- (b) to require Tenant and the Transferee to enter into an agreement in writing and under seal to implement any amendments to this Lease to give effect to Landlord’s exercise of any of its rights hereunder;
- (c) to require the Transferee to enter into an agreement with Landlord in writing and under seal to be bound by all of Tenant’s obligations under this Lease in respect of the portion of the Premises which is the subject of the Transfer, and to waive any right it, or any person on its behalf, may have to disclaim, repudiate or terminate this Lease pursuant to any bankruptcy, insolvency, winding-up or other creditors proceeding, including, without limitation, the *Bankruptcy and Insolvency Act (Canada)* or the *Companies’ Creditors Arrangement Act (Canada)*, and to agree that in the event of any such proceeding Landlord will comprise a separate class for voting purposes;
- (d) receive all amounts to be paid to Tenant under the agreement in respect of such Transfer beyond the Rent payable hereunder (or in respect of any Transfer of less than the whole of the Premises, the proportion of the Rent payable hereunder attributable to such portion of the Premises), less only any consideration which is bona fide being paid to Tenant for equipment, furnishings and other property to be conveyed by Tenant as part of or together with the transaction of Transfer and which is not reasonably attributable to Tenant’s interest in this Lease;
- (e) to require the Transferee to waive any rights pursuant to subsections 21 and 39(2) of the *Commercial Tenancies Act (Ontario)* and any amendments thereto and any other statutory provisions of the same or similar effect, to retain the unexpired Term of the Lease, or any portion thereof or obtain any right to enter into any lease or other agreement directly with Landlord for the Premises or any portion thereof, or otherwise remain in possession of any portion of the Premises; and
- (f) to require, if the Transfer is a sublease or other transaction not including an assignment, that all amounts payable by the Transferee each month be paid directly to Landlord who shall apply the same on account of Tenant’s obligations under this Lease.

#### 14.5 Effect of Transfer

- (a) No consent of Landlord to a Transfer shall be effective unless given in writing and executed by Landlord under seal and no such consent shall be deemed or presumed by any act or omission of Landlord or by Landlord's failure to respond to any request for consent or by Landlord's accepting any payment of any amount payable hereunder from any party other than Tenant. Without limiting the generality of the foregoing, Landlord may collect rent and any other amounts from any Transferee and apply the net amount collected to any Rent and the collection or acceptance of any Rent shall not be deemed to be a waiver of Landlord's rights under this section nor an acceptance of or consent to any such Transfer or a release of any of Tenant's obligations under this Lease. No Transfer and no consent by Landlord to any Transfer shall constitute a waiver of the necessity to obtain Landlord's consent to any subsequent or other Transfer.
- (b) In the event of any Transfer or any consent by Landlord to any Transfer, Tenant shall not thereby be released from any of its obligations hereunder but shall remain bound by all such obligations pursuant to this Lease for the balance of the Term, as it may be extended by the Extension Option, irrespective of any amendments of this Lease which may be made between the Transferee and Landlord affecting such Term, as it may be extended by the Extension Option.
- (c) Every Transferee shall be obliged to comply with all of the obligations of Tenant under this Lease. Tenant shall enforce all of such obligations against each Transferee. Any default of any Transferee shall also constitute a default of Tenant hereunder.
- (d) Tenant agrees that if this Lease is ever disclaimed, repudiated or terminated by or on behalf of a Transferee pursuant to any bankruptcy, insolvency, winding-up or other creditors' proceeding, including any proceeding under the *Bankruptcy and Insolvency Act (Canada)* or the *Companies' Creditors Arrangement Act (Canada)*, or if Landlord terminates this Lease as a result of any act or default of any Transferee, Tenant shall nonetheless remain responsible for fulfilment of all obligations of Tenant hereunder for what would have been the balance of the Term but for such disclaimer, repudiation or termination and shall, upon Landlord's request, enter into a new lease of the Premises for such balance of the Term and otherwise on the same terms and conditions as in this Lease subject to such amendments hereto to which Tenant had agreed at any time prior to such disclaimer, repudiation or termination, and with the exception that Tenant will accept the Premises in "as is" condition.

#### 14.6 No Advertising of Premises

Tenant shall not advertise this Lease or all or any part of the Premises or the business or fixtures or contents therein for sale without Landlord's prior written consent, which consent Landlord shall not be unreasonably withheld subject to the other provisions hereof.

#### 14.7 Mortgage of Lease

Tenant shall not assign, sublet, mortgage, charge or otherwise transfer the Premises or this Lease for the purpose of securing any loan or the repayment thereof by Tenant.

#### 14.8 Corporate Tenant

- (a) If Tenant or any occupant of the Premises at any time is a corporation with share capital, no: (I) transfer of the issued shares in the capital stock or transfer, issuance or division of any shares of the corporation or of any affiliate of the corporation sufficient to transfer control to others than the then present shareholders of the corporation (collectively called "Sale"); or (II) merger, amalgamation, consolidation or other corporate restructuring or reorganization (collectively called "Reorganization") shall take place, without first obtaining the

prior written consent of Landlord. Upon request, Tenant shall make the corporate books and records of Tenant and of any affiliate of Tenant available to Landlord and its representatives for inspection in order to ascertain whether or not there has been any Sale or Reorganization. Tenant acknowledges that, in addition to Landlord's rights under this Lease and at Law to withhold consent to any Transfer, Landlord may withhold consent to any Sale or Reorganization unless it is shown to Landlord's reasonable satisfaction that the financial strength of Tenant, as the case may be will not be adversely affected by such Sale or Reorganization.

- (b) This Section shall not apply to a Sale by Tenant if and as long as Tenant is in occupancy of the Premises and is a corporation whose shares are listed and traded on any recognized public stock exchange in Canada or the United States.

#### 14.9 Assignment by Landlord

Landlord shall have the right to sell, lease, convey, mortgage, or otherwise dispose of the Project or any part thereof and to assign this Lease and any interest of Landlord pursuant to this Lease without any restriction. If Landlord shall sell, lease, convey, mortgage or otherwise dispose of the Project or any part thereof or shall assign this Lease and any interest of Landlord pursuant to this Lease, then to the extent that the purchaser or assignee agrees with Landlord to assume the covenants and obligations of Landlord hereunder, Landlord shall thereupon and without further agreement be released of all liability pursuant to the terms of this Lease except for defaults existing at the date of transfer.

#### 14.10 Permitted Licensees

Notwithstanding the remainder of this Article 14, provided the Tenant is Curriculum Services Canada and is itself in occupation of at least seventy percent (70%) of the Rentable Area of the Premises, and is not in default beyond the applicable cure period, the Tenant shall have the right, without the consent of the Landlord, to enter into a revocable license agreement (and not a sublease) with the legal entities (whether separate or not) that, as of the date of this Lease, carry on business lawfully under the trade names "Learnography", "My Class Needs" and "Learnography Corporate Services" (such entities referred to as the "Permitted Licensees", and each a "Permitted Transferee"), permitting such Permitted Licensees to occupy the Premises in common with the Tenant. No demising walls shall be permitted to be constructed, nor systems split, in connection with any such license.

Each such Permitted Transferee shall comply with the use provisions of this Lease, but no such license shall release the Tenant from any of its obligations under this Lease. If required by Landlord, Tenant shall enter into an acknowledgment agreement with the Tenant (and if required by the Landlord, with the Landlord) and that such an arrangement is a revocable license granted by the Tenant, that the Permitted Transferee shall carry on business using the business practices and policies and mode and style of operation of the Tenant. The Landlord shall have no obligations whatsoever in connection with the Permitted Transferees. The trade names of the Permitted Transferees or any of them, may be displayed on the Tenant's allocated signage space at the Building, subject to reasonable approval by Landlord. Subject to availability, the Tenant may be allotted further signage space upon which the Permitted Licensees may advertise their trade names, at the cost of the Tenant, and on terms acceptable to the Landlord and the Tenant, both acting reasonably. Landlord shall be entitled, but not obliged, to treat any default by a Permitted Transferee as a default under this Lease by the Tenant.

No such Transfer in any way releases the Tenant from its obligations under this Lease.

## 15. STATUS AND SUBORDINATION OF LEASE

### 15.1 Status Statement

Tenant shall, within ten (10) days after written request from Landlord, execute and deliver to Landlord, or to any actual or proposed lender, purchaser or assignee of Landlord, a statement or certificate in such form as requested by Landlord stating with reasonable particularity (if such is the case, or stating with reasonable particularity the manner in which such may not be the case):

- (a) that this Lease is unmodified and in full force and effect, or particulars of any such modifications or stating that this Lease is not in full force and effect if such is the case;
- (b) the date of commencement and expiry of the Term and the dates to which Basic Rent and any other Rent, including any prepaid rent have been paid;
- (c) whether or not there is any existing default by either party under this Lease and, if so, specifying such default;
- (d) that there are no defences, counter claims or rights of set-off in respect of any of the same;
- (e) details of any matters in respect of which the party giving the statement or certificate currently has a claim or right to setoff, defence or counterclaim against the other party hereto;
- (f) particulars of any outstanding obligations, if any, or default, if any, under any other agreement between the parties which would affect the obligations of any of the parties pursuant hereto; and
- (g) agreement, confirmation or acknowledgement by Tenant that it will not agree to any amendment, surrender or early termination of this Lease and will not prepay any Rent by more than one (1) month beyond the specific terms hereof, without the prior written consent of any Landlord Assignee to which such statement or certificate is given.

### 15.2 Subordination

At the option of Landlord to be expressed in writing from time to time this Lease and the rights of Tenant hereunder are and shall be subject and subordinate to any and all mortgages, trust deeds and charges (any of which are herein called "**Mortgage**" or "**Mortgages**") on or in any way affecting the Premises or the Project or any part thereof now or in the future, including all renewals, extensions, modifications and replacements of any Mortgages from time to time. Tenant shall at any time on notice from Landlord or holder of a Mortgage attorn to and become a tenant of the holder of any of such Mortgages upon the same terms and conditions as set forth herein, and shall execute promptly on request by Landlord any certificates, agreements, instruments of postponement or attornment, or other such instruments or agreements as requested from time to time to postpone or subordinate this Lease and all of Tenant's rights hereunder to any of such Mortgages or to otherwise give full effect to any of the provisions of this Article 15, so long as the holder of the Mortgage provides the Tenant with a non-disturbance agreement in form acceptable to the holder of such Mortgage, acting reasonably.

Tenant agrees to attorn to and become the tenant of any party whose title to the Premises or the Project is superior to that of Landlord or to any assignee from Landlord of Landlord's interest under this Lease upon the same terms and conditions as are set forth in this Lease and shall execute promptly on request any agreements or instruments of attornment to give effect to such attornment as shall be requested by Landlord at any time and from time to time.

Provided Tenant is not in default hereunder, Landlord shall use reasonable efforts to obtain from the holder of any existing Mortgage in priority to this Lease, its agreement to permit

Tenant to continue in occupation of the Premises in accordance with and subject to the terms of this Lease, on the form chosen by the holder of the Mortgage. The cost of any such agreements shall be borne by the Tenant (including the Mortgagee's and Landlord's administrative and legal fees in connection therewith).

### 15.3 Tenant's Failure to Comply

If Tenant fails to execute any certificate, agreement, instrument, or other document as required by the foregoing provisions of this Article 15 within ten (10) days after request by Landlord, then Landlord shall have the right to:

- (a) execute any such certificate, agreement, instrument or document for and on behalf of Tenant and in Tenant's name, Tenant hereby agreeing to be bound by the same, and for such purpose Tenant hereby irrevocably appoints Landlord as Tenant's attorney for and on behalf of Tenant pursuant to the *Powers of Attorney Act (Ontario)* and which appointment shall survive the death or incapacity of Tenant; and
- (b) in any event, and without being affected by the foregoing right, to exercise all rights against Tenant in respect of Tenant's default as aforesaid as Landlord might otherwise have pursuant to this Lease or at law, included in which is a claim for damages.

### 15.4 Registration

Tenant shall not register this Lease or any short form or notice hereof except in Landlord's form prepared by Landlord on Tenant's request or in such form as has been approved by Landlord in writing. The cost of preparation, approval, execution and registration of any notice or short form of this Lease or other document to be registered by Tenant shall be borne by Tenant and shall be paid by Tenant forthwith upon demand. If Tenant registers or causes or permits there to be registered against the title to the Project any short form or notice of this Lease or other document, Tenant shall forthwith provide to Landlord details of such registration and a duplicate registered copy of the registered document.

Any lease or notice or short form of this Lease registered by or at the request of Tenant shall contain an irrevocable power of attorney by Tenant in favour of Landlord, which power of attorney is also hereby irrevocably granted by Tenant to Landlord under the *Powers of Attorney Act (Ontario)* and which power of attorney shall survive the death or incapacity of Tenant, authorizing Landlord to execute on behalf of and in the name of Tenant such notices, agreements and documents as shall be required or desired by Landlord to expunge or discharge from the register of the title of the land on which the Project is located any interest of Tenant therein after the expiry or earlier termination of this Lease, or to give full effect to Landlord's rights under this Article 15.

## 16. DEFAULT AND REMEDIES

### 16.1 Default and Remedies

If any of the following shall occur:

- (a) Tenant shall fail, for any reason, to make any payment of Rent as and when the same is due to be paid hereunder and such default shall continue for five (5) days after written notice is given to Tenant;
- (b) Tenant shall fail, for any reason, to perform any other covenant, condition, agreement or other obligation on the part of Tenant to be observed or performed pursuant to this Lease (other than the payment of any Rent), the Rent Deposit Agreement or any other agreement between the parties, whether or not related to the Premises, and such default shall continue for fifteen (15) days after written notice thereof or such shorter period as expressly provided herein (or such longer period as may be necessary to cure the default if the default is curable and is not

reasonably susceptible of being cured within such fifteen (15) day or shorter period, and the Tenant does not commence to cure such default within said period and thereafter proceed to cure same with all due diligence, and thereafter actually cure such default within a period of time deemed reasonable by the Landlord);

- (c) Intentionally Deleted;
- (d) any of Landlord's policies of insurance on the Project or any part or contents thereof shall be actually or threatened to be cancelled or adversely changed as a result of any use of articles on or about or occupancy of or contents in the Premises;
- (e) Tenant shall purport to make a Transfer affecting the Premises, or the Premises shall be used by any person or for any purpose, other than in compliance with and as expressly authorized by this Lease;
- (f) Tenant, any assignee or a subtenant of all or substantially all of the Premises makes an assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment, arrangement or compromise with its creditors or Tenant sells all or substantially all of its personal property at the Premises other than in the ordinary course of business (and other than in connection with a Transfer requiring Landlord's consent and approved in writing by Landlord), or steps are taken or action or proceedings commenced by any person for the dissolution, winding up or other termination of Tenant's existence or liquidation of its assets (collectively called a "**Bankruptcy**");
- (g) a trustee, receiver, receiver-manager, manager, agent or other like person shall be appointed in respect of the assets or business of Tenant or any other occupant of the Premises;
- (h) Tenant attempts to or does abandon the Premises or remove or dispose of any goods and chattels from the Premises so that there would not, in the event of such removal or disposal, be sufficient goods of Tenant on the Premises subject to distress to satisfy all arrears of Rent payable under this Lease and all Rent payable hereunder for a further period of at least twelve (12) months;
- (i) this Lease or any goods or other property of Tenant shall at any time be seized or taken in execution or attachment which remains unsatisfied for a period of five (5) business days or more or a writ of execution has been filed against Tenant with respect to the Premises;
- (j) termination or re-entry by Landlord is permitted under any provision of this Lease or at law; and
- (k) there is a default under any Rent Deposit Agreement or Tenant default under any other agreement relating to the Premises;

then, without prejudice to and in addition to any other rights or remedies to which Landlord is entitled hereunder or at law, the then current and the next three (3) months' Rent shall be forthwith due and payable and Landlord shall have the following rights and remedies, all of which are cumulative and not alternative, namely:

- (i) to terminate this Lease in respect of the whole or any part of the Premises by written notice to Tenant (it being understood that actual possession shall not be required to effect a termination of this Lease and that written notice, alone shall be sufficient); if this Lease is terminated in respect of part of the Premises, this Lease shall be deemed to be amended by the appropriate amendments, and proportionate adjustments in respect of Rent and any other appropriate adjustments shall be made;

- (ii) to terminate this Lease by notice to Tenant without re-entering the Premises provided that such termination notice permits Tenant to remain on the Premises as a tenant at will; Tenant agrees that, if Landlord serves a notice of termination which, among other things, permits Tenant to remain in possession of the Premises as a tenant at will, this Lease will thereupon be terminated and Tenant shall be a tenant at will and Landlord may re-enter the Premises at any time thereafter without further notice;
- (iii) to enter the Premises as agent of Tenant and as such agent to relet them for whatever term (which may be for a term extending beyond the Term) and on whatever terms and conditions as Landlord in its sole discretion may determine and to receive the rent therefor and, as the agent of Tenant, to take possession of any furniture, fixtures, equipment, stock or other property thereon and, upon giving written notice to Tenant, to store the same at the expense and risk of Tenant or to sell or otherwise dispose of the same at public or private sale without further notice, and to make such alterations to the Premises in order to facilitate their reletting as Landlord shall determine, and to apply the net proceeds of the sale of any furniture, fixtures, equipment, stock or other property or from the reletting of the Premises, less all expenses incurred by Landlord in making the Premises ready for reletting and in reletting the Premises, on account of the Rent due and to become due under this Lease and Tenant shall be liable to Landlord for any deficiency and for all such expenses incurred by Landlord as aforesaid; no such entry or taking possession of or performing alterations to or reletting of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention or termination is given by Landlord to Tenant;
- (iv) to remedy or attempt to remedy any default of Tenant in performing any repairs, work or other covenants of Tenant hereunder and, in so doing, to make any payments due or claimed to be due by Tenant to third parties and to enter upon the Premises, without any liability to Tenant therefor or for any damages resulting thereby, and without constituting a re-entry of the Premises or termination of this Lease, and without being in breach of any of Landlord's covenants hereunder and without thereby being deemed to infringe upon any of Tenant's rights pursuant hereto, and, in such case, Tenant shall pay to Landlord forthwith upon demand all amounts paid by Landlord to third parties in respect of such default and all reasonable costs of Landlord in remedying or attempting to remedy any such default plus ten percent (10%) of the amount of such costs for Landlord's inspection and supervision plus a further ten percent (10%) for overhead and profit;
- (v) to obtain damages from Tenant including, without limitation, if this Lease is terminated by Landlord, all deficiencies between all amounts which would have been payable by Tenant for what would have been the balance of the Term, but for such termination, and all net amounts actually received by Landlord for such period of time;
- (vi) to suspend or cease to supply any utilities, services, heating, ventilating, air conditioning and humidity control to the Premises, all without liability of Landlord for any damages, including indirect or consequential damages, caused thereby;
- (vii) to obtain the Termination Payment from Tenant;
- (viii) if this Lease is terminated due to the default of Tenant, or if it is disclaimed, repudiated or terminated in any insolvency proceedings related to Tenant (collectively "Termination"), to obtain payment from Tenant of the value of all tenant inducements which were received by Tenant pursuant to the terms of this Lease, the agreement to enter into this Lease

or otherwise, including, without limitation, the amount equal to the value of any leasehold improvement allowance, tenant inducement payment, rent free periods, lease takeover, Leasehold Improvements or any other work for Tenant's benefit completed at Landlord's cost or any moving allowance, which value shall be multiplied by a fraction, the numerator of which shall be the number of months from the date of Termination to the date which would have been the natural expiry of this Lease but for such Termination, and the denominator of which shall be the total number of months of the Term as originally agreed upon.

## 16.2 Reasonability of Termination Payment and Mitigation

- (a) Given a number of factors, included in which is the nature of this transaction and that Landlord is concerned that the Premises may not be capable of being rented at any relevant time in the open market for the amount of the Rent payable hereunder, the parties agree that the provisions of subsection 16.1(k)(vii) are reasonable protection for Landlord.
- (b) If this Lease is terminated pursuant to the provisions of Section 16.1 above and provided that Tenant pays to Landlord the entire Termination Payment within the time as aforesaid and to the extent only of the amount thereof paid to Landlord within such time;
  - (i) Landlord shall remit to Tenant ("**Tenant's Mitigation Recovery**") the net amount, if any, of all net rents received by Landlord from the rental of any portion of the Premises for the period from the Termination Date to the date which would have been the last day of the original Term or Extension Term, as the case may be, but for such termination ("**Mitigation End Date**"), after deducting all costs of any kind incurred by Landlord in effecting any such rental including, without limitation, commissions, allowances, inducements and the cost of all work performed in respect of the Premises and interest on all of the foregoing at the interest rate set out in subsection 16.3(a) below from the date such costs are incurred to the date of recovery of the amount of such costs (the "**Net Mitigation Rent**"). Landlord shall not have an obligation to re-rent the Premises but, if it does not do so, and if Tenant has paid to Landlord the Termination Payment within the time as aforesaid, Tenant shall have the right to re-rent the Premises for a term to expire no later than the Expiry Date, subject to Landlord's prior written approval of the terms and party to whom the Premises are re-rented, such approval not to be unreasonably withheld;
  - (ii) if, prior to the Mitigation End Date, the whole or any portion of the Premises are sold by Landlord without their having been re-rented as contemplated in subsection 16.2(b)(i) above, then, for the purpose of calculating Tenant's Mitigation Recovery, for the period from the date of completion of such sale to the Mitigation End Date, Landlord shall be deemed to have received Net Mitigation Rent in an amount equal to the market rent for the Premises, "as is, where is", for such period determined by agreement between the parties and failing such agreement, to be determined by the procedure set out in subsection 16.2(b)(iii) below; and
  - (iii) either Landlord or Tenant (the "**Requesting Party**") shall be entitled to notify the other party hereto (the "**Receiving Party**") of the name of an expert for the purpose of determining the Market Rent. Within fifteen (15) days after such notice from the Requesting Party, the Receiving Party shall notify the Requesting Party either approving the expert proposed by the Requesting Party or proposing another expert for the purpose of determining the Market Rent. Should the Receiving Party fail to give notice to the Requesting Party within the said fifteen (15) day period, the expert named in the notice given by the Requesting Party shall perform the

expert's functions hereinafter set forth. If Landlord and Tenant are unable to agree upon the selection of the expert within fifteen (15) days after such notice from the Receiving Party to the Requesting Party, then either party shall be entitled to apply to a Judge of the Superior Court or the relevant Court of competent jurisdiction for appointment of such expert as though he or she were an arbitrator pursuant to the *Arbitration Act (Ontario)*. The expert appointed, either by Landlord and/or Tenant or by a Judge of the Superior Court, shall be qualified by education, experience and training to value real estate for rental purposes in the Province in which the Premises are located and have been ordinarily engaged in the valuation of real property in such province for at least the immediately preceding five (5) years. Within thirty (30) days after being appointed the expert shall make a determination of the Market Rent for the Extension Term, without receiving evidence from either Landlord or Tenant. Each of the parties shall bear their own costs related to such determination and they shall each be responsible for fifty percent (50%) of the other costs related to such determination such as the cost of the expert. The determination of the expert as to the Market Rent shall be conclusive and binding upon Landlord and Tenant and not subject to appeal.

- (c) Other than as expressly set out herein, Landlord shall have no obligation to mitigate any losses or damages resulting from Tenant's default hereunder.

### 16.3 Interest and Costs

- (a) All amounts of Rent shall bear interest from their respective due dates until the actual dates of payment at a rate which shall be three percent (3%) per annum in excess of the rate of interest known as the prime rate of interest per annum charged by Landlord's bank in Ontario and which serves as the basis on which other interest rates are calculated for Canadian dollar loans in Ontario from time to time ("**Prime Rate**").
- (b) Further, on each occurrence of default in the payment of Rent, Tenant shall pay to Landlord on demand in addition to the aforesaid interest an administration fee equal to the greater of: (i) Five Hundred (\$500.00) Dollars; and (ii) two percent (2%) of the amount of Rent in default.
- (c) The amounts payable pursuant to subsections 16.3(a) and (b) above shall only become payable upon demand but shall, for clarification, accrue from the respective due dates of the relevant payments, whether demanded or not, to the date of payment.
- (d) Tenant shall be responsible for and pay to Landlord forthwith upon demand all costs incurred by Landlord, including, without limitation and without duplication of subsection 16.2(b), reasonable compensation for all time expended by Landlord's own personnel, legal costs on a solicitor and his own client basis, and all other costs of any kind whatsoever, arising from or incurred as a result of any default of Tenant or any enforcement by Landlord of any of Tenant's obligations under this Lease or any other agreement or obligation of Tenant to Landlord, whether or not related to the Premises including, but not limited to, witness costs (such as transportation, accommodation and the like).

### 16.4 Bankruptcy and Insolvency

Tenant hereby waives any right it, or any person on its behalf, may have to disclaim, repudiate or terminate this Lease pursuant to any bankruptcy, insolvency, winding-up or other creditors proceeding, including, without limitation, the *Bankruptcy and Insolvency Act (Canada)* or the *Companies' Creditors Arrangement Act (Canada)*, and agrees that in the event of any such proceeding Landlord will comprise a separate class for voting purposes.

## 16.5 Allocation of Payments

Tenant agrees that Landlord may, at its option to be exercised by written notice to Tenant at any time, and without regard to and notwithstanding any instructions given by or allocations in respect of such amounts made by Tenant apply all sums received by Landlord from Tenant or any other persons in respect of any Rent to any amounts whatsoever payable by Tenant and it is further agreed that any allocation made by Landlord, on its books and records or by written notice to Tenant or otherwise, may subsequently be re-allocated by Landlord as it may determine in its sole discretion, and any such allocation and re-allocation from time to time shall be final and binding on Tenant unless and to the extent subsequently re-allocated by Landlord.

## 16.6 Tenant's Personal Property as Security for Landlord – Intentionally Deleted

### 16.6A Landlord's Right to Distrain

- (a) For the purposes of Landlord's right to distrain, Tenant's trade fixtures shall be treated as chattels notwithstanding their level of affixation to the Premises.
- (b) Tenant hereby waives and renounces the benefit of any present or future statute taking away or limiting or purporting to limit Landlord's right of distress and agrees with Landlord that, notwithstanding any such statute, all goods and chattels from time to time on the Premises shall be subject to distress for Rent and the fulfilment of all of Tenant's obligations under this Lease in the same manner as if such statute had not been passed.
- (c) In addition to any other rights of Landlord to distrain, Landlord shall have the right to distrain for any arrears of Rent all goods and chattels, including without limitation all heavy or connected machinery and equipment. Landlord may exercise any right of distress on the Premises and for such purpose may lock the Premises, change any locks on the Premises and by any means exclude Tenant from all or any parts of the Premises and Landlord shall not thereby be terminating this Lease in the absence of express written notice terminating this Lease. Tenant consents to being excluded by Landlord from all or any parts of the Premises for purposes of Landlord's exercising any right of distress.
- (d) Tenant further agrees that distress of all or any goods and chattels may be effected by written notice whether or not Landlord locks or otherwise secures such goods or chattels from Tenant on the Premises or elsewhere.
- (e) If Landlord effects distress by written notice or any other means, Tenant agrees not to remove or permit to be removed any distrained goods or chattels and not to interfere with the exercise of any right of distress.
- (f) Tenant agrees that Landlord's exercise of any right of distress as permitted hereby or at law shall not constitute a trespass or breach of any express or implied term of this Lease. Landlord shall not be liable for loss or damage to goods or chattels against which distress is levied no matter how caused except to the extent of direct (and not indirect or consequential) damage caused by the gross negligence of Landlord or its employees; but Landlord shall not be liable for any loss or damage caused by its bailiff or any agent through negligence or otherwise.
- (g) In exercising any right of distress, Landlord may distrain against all or any goods or chattels, irrespective of whether or of the degree to which the same may be excessive and Tenant waives any and all rights and remedies in respect thereof, including all rights under the *Commercial Tenancies Act (Ontario)*.
- (h) In exercising any right of distress, Landlord may hold all distrained goods or chattels without limit in time and Tenant waives all rights and remedies in respect thereof.

- (i) In addition to others entitled to do so, Landlord and its agents and employees shall have the right to purchase any goods or chattels on the Premises distrained by Landlord so long as the price paid by Landlord or its agents or employees is reasonably comparable to that which might reasonably be obtained by sale under distress to an arm's length third party.
- (j) If any goods or chattels of Tenant shall be removed from the Premises, Landlord shall have the right to follow the same and exert against the same all of its rights as if such goods and chattels had remained on the Premises, such right of Landlord to include, without limitation, the right to follow such goods and chattels for thirty (30) days in the same manner as is provided for in the *Commercial Tenancies Act (Ontario)*.
- (k) Tenant agrees that all of its personal property of any kind on the Premises shall at all times during the Term be the unencumbered property of Tenant.

#### 16.7 Rent Deposit Agreement

In order to induce Landlord to enter into this Lease, Tenant agrees to execute the Rent Deposit Agreement attached hereto as Schedule "D".

#### 16.8 Financial Covenants

Tenant has provided Landlord with its most recent audited financial statement and Tenant represents and warrants that such audited financial statement is complete and accurate. Tenant shall deliver to Landlord at any time upon request by Landlord made within three (3) months following a default of Tenant under this Lease an audited financial statement of Tenant for the immediately preceding fiscal year accompanied by the report of Tenant's independent auditor, and duly certified by the board of directors of Tenant to be correct in all material respects. Landlord agrees to keep such financial statements confidential except to the extent required to disclose same by law, and except that it may provide same to its legal advisors.

#### 16.9 Tenant to Inform Landlord

Tenant shall keep Landlord fully informed on a current basis of all need of repair, environmental problems or any other matter regarding the Premises which would be relevant to a prudent and cautious owner of such property. This Section 16.9 and any information given to Landlord pursuant hereto is for the information of Landlord only and does not create any obligation on Landlord.

#### 16.10 Remedies to Subsist

- (a) No waiver of any of Tenant's obligations under this Lease and no waiver of any of Landlord's rights hereunder in respect of any default by Tenant hereunder shall be deemed to have occurred or be given as a result of any condoning, excusing, overlooking or delay in acting upon by Landlord in respect of any default by Tenant or by any other act or omission of Landlord including, without limitation, the acceptance of any Rent less than the full amount thereof, the acceptance of any Rent after the occurrence of any default by Tenant, or any verbal or written statements or agreements made by any employee of Landlord other than an agreement in writing duly executed on behalf of Landlord by one of its personnel with ostensible authority to do so. No waiver of any of Tenant's obligations or any of Landlord's rights hereunder shall be effective except and only to the extent of any express waiver in writing duly executed on behalf of Landlord by one of its personnel with ostensible authority to do so. The waiver by Landlord of any default of Tenant or of any rights of Landlord in respect of any term, covenant or condition herein shall not be deemed to be a waiver of any subsequent default of Tenant or rights of Landlord in respect of such term, covenant or condition.
- (b) All rights and remedies of Landlord under this Lease and at law shall be cumulative and not alternative, and the exercise by Landlord of any of its rights

pursuant to this Lease or at law shall at all times be without prejudice to any other rights of Landlord, whether or not they are expressly reserved. Tenant's obligations under this Lease shall survive the expiry or earlier termination of this Lease and shall remain in full force and effect until fully complied with.

- (c) If Landlord assigns this Lease to a mortgagee or holder of other security on the Premises or the Project or any part thereof or to any other person whatsoever Landlord shall nonetheless be entitled to exercise all rights and remedies available to it pursuant to this Lease and at law without providing evidence of the approval or consent of such mortgagee, holder of other security or other person whatsoever.
- (d) All Rent shall be paid by Tenant to Landlord without deduction, abatement or set-off whatsoever, except as and to the extent expressly and specifically permitted pursuant to the terms of this Lease, and Tenant hereby waives any rights of deduction, abatement or set-off available to it now or at any time in the future, including any right to deduction, abatement or set-off contained in any statute, except as expressly and specifically permitted otherwise in this Lease.

#### 16.11 Impossibility of Performance

If and to the extent that either Landlord or Tenant shall be unable to fulfill or shall be delayed or restricted in the fulfilment of any obligation under this Lease, other than the payment by Tenant of any Rent, by reason of unavailability of material, equipment, utilities, services or labour required to enable it to fulfill such obligation or by reason of any Laws, or by reason of any strike, lock out, civil commotion, war-like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulation, or its not being able to obtain any permission or authority required pursuant to any applicable Laws or by reason of any other such cause beyond its control and not the fault of the party being delayed and not avoidable by the exercise of reasonable foresight (excluding the inability to pay for the performance of such obligation), then the party being delayed shall be entitled to extend the time for fulfilment of such obligation by a time equal to the duration of such delay or restriction, and the other party shall not be entitled to any compensation for any loss, inconvenience, nuisance or discomfort occasioned thereby. The party delayed will, however, use commercially reasonable efforts to fulfil the obligation in question as soon as is reasonably practicable by arranging an alternate method of providing the work, services or materials being delayed subject, in the case of performance by Tenant, to the approval of Landlord in its sole and absolute discretion. In any event, the provisions of this subsection 16.11 shall not apply to permit any delay in any payment by Tenant of any Rent.

#### 16.12 Tenant's Licences

Tenant shall during the whole of the Term maintain in good standing and in accordance with all Laws all licences and permits of any kind whatever required for the proper conduct by Tenant of its business pursuant to the terms hereof (all of which licences and permits are hereinafter in this Section 16.12 referred to as "**Licences**").

### 17. CONTROL OF PROJECT

#### 17.1 Landlord's Control

The Project is at all times subject to the exclusive control and management of Landlord. The provisions of this Section 17.1 and any other provisions of this Lease shall not be interpreted so as to impose any liability or obligation whatsoever on Landlord and Landlord shall have only such obligations as are expressly set forth in this Lease.

Without limiting the generality of the foregoing, Landlord shall have the right to:

- (a) police and supervise any or all portions of the Project;
- (b) obstruct, lock up or close off or restrict entry to all or any part of the Project for purposes of performing any maintenance, repairs or replacements or for security

purposes or to prevent the accrual of any rights to any person or the public or any dedication thereof;

- (c) grant, modify and terminate any easements or other agreements respecting any use or occupancy, maintenance of or supply of any services to any part of the Project; and
- (d) use or permit to be used any part of the Common Facilities for any purpose which shall be in accordance with prudent management practice from time to time, including promotional activities, merchandising, display, entertainment or special features.

Tenant agrees that all enclosed Common Facilities including any enclosed areas, malls or walkways in the Project may be open for access to the Premises during the Building Hours of the Project as determined by Landlord from time to time, and during any other hours as Landlord may determine; at any other times, any or all enclosed areas, malls and walkways may be locked by Landlord, and the public and Tenant may be excluded therefrom, except that tenants of office premises shall be entitled to access to their respective leased premises subject to compliance with all applicable Rules and Regulations of Landlord, including those related to security.

In order to perform any maintenance, repairs, alterations or improvements in or relating to any part of the Project, Landlord may cause reasonable and temporary obstructions of Common Facilities without thereby constituting or being deemed to constitute an interference with any of Tenant's rights hereunder or a breach by Landlord of any of its obligations hereunder.

Provided that Tenant is not in default of this Lease, has provided Landlord with Building-standard security access card information for each cardholder, and paid the security card fee (currently \$10.00 per card), then Tenant shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week, except in the case of a building emergency or damage and destruction as more particularly set out in Article 12 of this Lease.

## 17.2 Alterations of the Project

- (a) Notwithstanding anything contained in this Lease, at any time and from time to time and either prior to or after the Commencement Date Landlord shall have the right to construct on or remove from the Project or adjacent lands such other buildings or extensions of buildings as Landlord may desire. Landlord shall have the right to make any changes in, additions to, deletions from, re-arrangements of or relocations of any part or parts of the Project including any of the Common Facilities as Landlord shall consider necessary or desirable (which, or any of which, are referred to in this Section 17.2 as "**Changes**").
- (b) Landlord shall have the right to make any Changes with respect to the Premises, including the right to relocate the Premises or any portion thereof, to the extent found necessary or desirable by Landlord, provided that in the case of relocation, the Landlord first gives at least one hundred and twenty (120) days' prior written notice of relocation, and that the Premises, as affected by such Changes, shall be substantially the same in size as the Premises as described herein. In no event shall Tenant be required to pay Rent calculated based on area on any greater square footage than the Rentable Area of the Premises immediately prior to the relocation, notwithstanding the actual Rentable Area of any such relocated premises (unless Landlord and Tenant agree in writing as to the relocation, or unless such relocated premises are expanded with the agreement of the parties in writing).
- (c) If the Premises or any portion thereof are relocated as a result of such Changes after commencement of the Term, Landlord shall be responsible for any and all direct costs of such relocation, including the direct cost of moving Tenant to the relocated Premises, reprinting of a limited supply of stationery and disconnection and reconnection of telephone and computer equipment and systems, and constructing replacement Leasehold Improvements therein (and Landlord shall

deliver the relocated premises to Tenant improved to a standard and using materials of approximately the same quality as the Leasehold Improvements which exist in the existing Premises at the time of relocation (but not for any indirect costs or losses such as overhead costs, loss of revenue or profit). Tenant shall minimize costs by re-using all trade fixtures and tenant property from the Premises where it is reasonably feasible to do so. Landlord agrees to use reasonable efforts to effect the relocation of the Premises with a minimum of disruption to Tenant's business. Landlord and Tenant shall enter into a Lease Amending Agreement in Landlord's standard form to confirm the terms of the relocation and that all other terms and conditions of this Lease shall apply with respect to the relocated premises for the remainder of the Term (with the exception of Landlord's Work, any allowance, space planning payment, and any free rent period).

- (d) Tenant shall not have the right to object to or make any claim other than as expressly set forth herein on account of the exercise by Landlord of any of its rights under this Section 17.2 and Tenant shall not be entitled to any abatement of Rent except an abatement of Basic Rent or the relevant portion thereof for the period of time, if any, that Tenant is unable to conduct business in the Premises or any portion thereof, as described herein or as relocated, as a result of the performance of such Changes, and a reduction of Basic Rent proportionate to any reduction in area of the Premises as relocated.
- (e) Landlord shall make any such Changes as expeditiously as is reasonably possible in the circumstances and shall interfere as little as is reasonably possible in the circumstances with Tenant's business operation in the Premises. Tenant shall forthwith, at the request of Landlord, execute such further assurances, releases or documents as may be required by Landlord to give effect to any of Landlord's rights under this Section 17.2.

### 17.3 Landlord Not in Breach

The exercise by Landlord of any of its rights under this Article 17 shall not constitute a breach by Landlord of any of its obligations under this Lease nor an infringement nor breach of any of Tenant's rights under this Lease or at law, nor entitle Tenant to any abatement of rent or damages or any other remedy whatsoever, whether or not damage to or interference with the use of the Premises or their contents shall result.

### 17.4 Use of Common Facilities

Tenant shall not itself and shall not permit any of its employees, servants, agents, customers or contractors to obstruct any Common Facilities including driveways, laneways, access routes or other portions of the Project other than as expressly permitted pursuant hereto or as otherwise expressly permitted by Landlord in writing; if there shall be a breach of this Section 17.4 Landlord shall have the right, at the expense of Tenant, to remove such obstruction, the cost thereof to be paid by Tenant forthwith upon demand, and Landlord shall not be responsible for and is hereby released from any liability for any damage caused to the item creating the obstruction. Landlord shall also be entitled to hold such item as security for the payment of the costs of removing the same and any damage caused by the establishment or removal of such obstruction. If requested by Landlord, Tenant shall supply to Landlord the licence numbers of all vehicles for which access may properly be gained to any part of the Project from time to time including employees' automobiles, delivery trucks of Tenant and frequent suppliers.

### 17.5 Rules and Regulations

Landlord may, from time to time, make and amend such Rules and Regulations for the management and operation of the Project as Landlord shall determine, acting reasonably, and Tenant and all persons under its control shall be bound by and shall comply with all of such Rules and Regulations of which notice is given to Tenant from time to time and all of such Rules and Regulations shall be deemed to be incorporated into and form a part of this Lease. Without

limiting the generality of the foregoing, Tenant shall comply with all Rules and Regulations made by Landlord respecting window coverings and security and respecting shipping, receiving, loading and unloading of merchandise, supplies, materials, garbage and all other things whatsoever, all of which shall be made only at such times and from, over or by means of such access routes, driveways, doors, loading areas, stairs and other areas or passages whatsoever as Landlord shall determine in writing from time to time. Landlord shall not make any rules or regulations which conflict with any express provision of this Lease unless and only to the extent required by any applicable Laws or unless Tenant consents thereto. Landlord shall act reasonably in enforcing such Rules and Regulations but the imposition of any Rules and Regulations shall not create or imply any obligation of Landlord to enforce them or create any liability of Landlord for their non-enforcement or otherwise.

#### 17.6 Access to Premises

- (a) Landlord, without limiting any other rights Landlord may have pursuant hereto or at law, shall have the right, but not the obligation, to enter the Premises at any time upon twenty-four (24) hours' prior written notice (except in case of real or apprehended emergency, in which case no notice shall be required) and for any of the following purposes:
- (i) to examine the Premises and to perform any maintenance, repairs and alterations to the same or any part thereof as may be required or permitted by this Lease and to perform any maintenance, repairs and alterations to the Project and to any mechanical, electrical, heating, ventilating, air conditioning and humidity control equipment and services located therein serving the Premises or any other part of the Project, and for all of such purposes, Landlord may take such material and equipment into the Premises as Landlord may require;
  - (ii) to protect the Premises or any part of the Project in respect of any construction or other work being performed in premises adjoining or in the vicinity of the Premises or the Project;
  - (iii) for any purposes as determined by Landlord in cases of emergency;
  - (iv) to read any utility or other similar meters located in the Premises;
  - (v) during the last six (6) months of the Term to place "For Rent" signs on the Premises and to show the Premises to prospective tenants and to permit prospective tenants to make inspections, measurements and plans;
  - (vi) at any time during the Term, to show the Premises to prospective purchasers, mortgagees or lenders; and
  - (vii) to exercise any of the rights available to Landlord pursuant to this Lease.
- (b) Landlord shall have the right to run through the Premises conduits, wires, pipes, ducts and other elements of any systems for utilities, heating, ventilating, air conditioning and humidity control, telephone and other communications systems and any other such systems to serve the Premises or the Project or any parts thereof and Landlord shall have access for itself and those designated by it to the Premises for the purpose of inspecting, maintaining, repairing, replacing, altering and any services in respect of any of the same. Notwithstanding the foregoing, the Rentable Area of the Premises shall be deemed not to be reduced or otherwise affected as a result of any of such systems being located on or running through the Premises. Landlord shall also have access to the Premises for itself and those designated by it to perform such work in respect of the Project as Landlord shall deem necessary. Landlord and any others in the Building may have access through the Premises as may be appropriate for emergency purposes, including emergency exit.

- (c) Tenant shall permit other tenants of the Project access to the Premises on twenty-four (24) hours' prior written notice and on the making of reasonable arrangements, which Tenant agrees to do, and at reasonable times (except in case of real or apprehended emergency, in which no notice or arrangements shall be required) for the performance of any inspection, maintenance, repairs and alterations in respect of the premises occupied by such other tenants and any services thereto. Landlord shall have the right to enforce the provisions of this subsection (c) on behalf of such other tenants but Landlord shall not be responsible for any damage caused as a result of the exercise of the rights of such other tenants pursuant hereto, all of which shall be as determined between Tenant and any such other tenants.
- (d) Landlord, any other tenants of the Project and any others permitted by Landlord shall have the right, in common with Tenant and all others entitled to use of the same, to use for their intended purposes all portions of the Premises in the nature of common areas (such as corridors, lobbies, washrooms and the like).
- (e) Landlord shall exercise its rights pursuant to this Section 17.6 in such manner and at such times as Landlord, acting reasonably but in its sole discretion, shall determine; at any time that entry by Landlord is desired in case of emergency, and if no personnel of Tenant are known by Landlord to be present on the Premises or if such personnel fail for any reason to provide Landlord immediate access at the time such entry is desired, Landlord may forcibly enter the Premises without liability for damage caused thereby.

#### 17.7 Landlord's Consent

If Landlord withholds, delays or refuses to give consent as provided by the terms of this Lease, whether or not Landlord is entitled to do so, Landlord shall not be liable for any losses or damages in any way resulting therefrom and Tenant shall not be entitled to terminate this Lease or exercise any remedy whatever in respect thereof except to seek the order of a court of competent jurisdiction compelling Landlord to grant any such consent which Landlord is obliged to grant pursuant to the terms of this Lease.

#### 17.8 Demolition or Substantial Alterations

If Landlord wishes to demolish or substantially alter or renovate all or a substantial portion of the Building containing the Premises, Landlord shall have the right, to be exercised by not less than nine (9) months' written notice to Tenant, to terminate this Lease. Tenant agrees that upon the termination date specified in such notice (the "**Termination Date**"), Tenant shall vacate the Premises and deliver up vacant possession of the Premises in accordance with the terms of this Lease. Tenant acknowledges that it shall have no claim against Landlord as a result of the exercise by Landlord of its right hereunder and upon such termination, all Rent shall be apportioned to the Termination Date and upon compliance by each of the parties with their respective obligations under the Lease up to and including the Termination Date, each of the parties shall thereafter be released from all future obligations arising under this Lease. The Landlord covenants and agrees that any Termination Date pursuant to a notice under this Section 17.8 shall not occur prior to the last day of the original Term of this Lease.

#### 17.9 Noise and Vibration

Without limiting the generality of Section 13.5, Tenant acknowledges that the Project is situated at or near the subway lines and Tenant agrees that neither Landlord nor the Toronto Transit Commission (the "**Commission**") shall be liable or responsible in any way for any injury or death of any persons, or loss or damage to any property at any time in, on or about the Premises or any property owned by or being the responsibility of Tenant or any of its servants, agents, customers, contractors or persons for whom Tenant is in law responsible, or for any disturbance to Tenant's business operations caused or contributed to by noise or vibrations in, on or about the Project resulting from any reason whatsoever, including the transit operation of the subway system or the ventilation system in the Project, and Tenant shall indemnify Landlord and the Commission and save them harmless from same.

## 18. EXPROPRIATION

- (a) If the whole or any part of the Premises shall be expropriated (which term shall for the purposes of this Article 18 include expropriation, condemnation or sale by Landlord to an authority with the power to expropriate, condemn or take) by any competent authority, then:
- (i) Landlord and Tenant shall co-operate with each other in respect of such expropriation so that Tenant may receive the appropriate award to which it is entitled in law for relocation costs and business interruption and so that Landlord may receive the maximum award to which it may be entitled in law for all other compensation arising from such expropriation, including, without limitation, all compensation for the value of Tenant's leasehold interest in the Premises, all of which shall be the property of Landlord, and all of such Tenant's rights in respect of such expropriation, excluding only rights in respect of relocation costs and business interruption, shall be and are hereby assigned to Landlord; to give effect to such assignment to Landlord, Tenant shall execute such further documents as are necessary, in Landlord's opinion, to effect such assignment, and in default of Tenant's completing such documents within ten (10) days after demand, Landlord shall be and is hereby appointed the attorney for Tenant to execute such documents for and on behalf of Tenant and in its name, such appointment being hereby made pursuant to the *Powers of Attorney Act (Ontario)* and shall survive and may be exercised during any subsequent legal incapacity of Tenant;
  - (ii) Landlord shall have the option, to be exercised by written notice to Tenant, to terminate this Lease, such termination to be effective on the date the expropriating authority takes possession of the whole or any portion of the Premises; and
  - (iii) this Lease shall continue in full force and effect in accordance with its terms until the date on which this Lease is terminated in accordance with the provisions of this Article 18, if terminated in accordance with the express provisions hereof and, if terminated, Rent and all other obligations under this Lease shall be adjusted as of the date of such termination.
- (b) If the whole or any part of the Project shall be expropriated, then subject to the foregoing provisions respecting expropriation of the Premises:
- (i) all compensation resulting from such expropriation shall be the absolute property of Landlord and all of Tenant's rights, if any, to any such compensation shall be and are hereby assigned to Landlord; Tenant shall execute such further documents as are necessary, in Landlord's opinion, to effect such assignment, and in default of Tenant's completing such documents within ten (10) days after demand, Landlord shall be and is hereby irrevocably appointed the attorney for Tenant to execute such documents for and on behalf of Tenant and in its name, such appointment being made pursuant to the *Powers of Attorney Act (Ontario)* and shall survive and may be exercised during any subsequent legal incapacity of Tenant;
  - (ii) this Lease shall continue in full force and effect in accordance with its terms unless and until terminated as herein provided; and
  - (iii) if the expropriation of part of the Project is such as to render undesirable, in Landlord's opinion, the continuing operation of the portion of the Project in which the Premises are situate, Landlord shall have the right to terminate this Lease as of the date upon which the expropriating authority takes possession of all or any portion of the Project and all of the

obligations of the parties pursuant hereto shall be adjusted to the date of such termination.

## 19. MISCELLANEOUS

### 19.1 Notices

All notices, demands, requests or other instruments (“Notices”) which may be or are required to be given under this Lease shall be in writing and shall be delivered in person or sent by prepaid registered Canadian mail or by facsimile transmission (“fax”) receipt of which is acknowledged by return fax if to Tenant, at the Address for Service of Notice on Tenant, and if to Landlord at the Address for Service of Notice on Landlord, all as provided in subsection 1(i) hereof.

All such Notices shall be conclusively deemed to have been given and received upon the day the same is personally delivered or delivered by fax or, if mailed as aforesaid, four (4) business days (excluding Saturdays, Sundays, holidays and days upon which regular postal service is interrupted or unavailable for any reason) after the same is mailed as aforesaid. Any party may at any time by Notice in writing to the other change the Address for Service of Notice on it. If two or more persons are named as Tenant, any Notice given hereunder shall be sufficiently given if delivered or mailed in the foregoing manner to any one of such persons.

### 19.2 Planning Act

This Lease is entered into subject to the provisions of and compliance with the provisions of all applicable legislation dealing with planning restrictions. If the Term, including any rights of renewal under this Lease, shall be expressed to extend for a period in excess of the maximum period for which a lease may be granted without the consent of the body having jurisdiction pursuant to such legislation (“Maximum Period”) then, until any necessary consent to this Lease is obtained pursuant to the provisions of the applicable legislation, the Term together with any rights of renewal pursuant to this Lease shall be conclusively deemed to extend for the Maximum Period less one (1) day from the Commencement Date; any application required to obtain any necessary consent pursuant to the applicable legislation shall be prosecuted by Tenant and Tenant shall be solely responsible for all costs of such application and all costs, levies and charges of any kind whatever which shall be charged or imposed as a result of the application for consent pursuant to the applicable legislation and to obtain such consent. Tenant shall provide to Landlord copies of all applications, correspondence and other documents in respect of any application for consent pursuant to such legislation and shall keep Landlord informed of all matters relating to the prosecution of such application. Notwithstanding the foregoing, Landlord shall have the right, at its option, to apply for any such consent and if Landlord does so, Tenant shall bear the full cost thereof and shall be responsible for all costs, levies and other charges charged or imposed as a result of such application or in order to obtain such consent.

### 19.3 Complete Agreement

It is understood and agreed that other than and to the extent that any other written agreement between Landlord and Tenant respecting the Premises expressly by its terms remains in force, this Lease constitutes the complete agreement between the parties and that there are no covenants, representations, agreements, warranties or conditions in any way relating to the subject matter of this Lease or the tenancy created hereby, expressed or implied, collateral or otherwise, except as expressly set forth herein. Tenant acknowledges that no representatives of Landlord are authorized to make on Landlord’s behalf any covenants, representations, agreements, warranties or conditions of any kind or in any manner whatsoever other than as expressly set forth in writing in this Lease in the form in which it is executed by Landlord.

No amendment to this Lease shall be binding upon Landlord unless the same is in writing and executed by Landlord.

Medallion Corporation represents and warrants that it has the authority to bind 280 Richmond Street West Limited to this Lease (as agent and without personal liability on the part of Medallion Corporation), except with respect to a breach of this representation and warranty.

#### 19.4 Use Prior to Commencement Date

If Tenant uses or occupies the whole or any part of the Premises in any way prior to the Commencement Date without entering into a lease with Landlord in respect of such use or occupancy, then during the period of such use or occupancy, Tenant shall be a tenant of Landlord subject to all the terms and conditions as contained in this Lease which shall apply to such tenancy mutatis mutandis; the inclusion of this paragraph shall not be deemed to authorize or permit Tenant to use or occupy the whole or any portion of the Premises in any way prior to the Commencement Date. See also Section 3 of Schedule "C".

#### 19.5 Acceptance of Premises

Subject to Substantial Completion of Landlord's Work, Tenant accepts the Premises in the state and condition in which they are received from Landlord. Except only to the extent of any deficiency therein expressly and particularly set out in a written deficiency list given by Tenant to Landlord within seven (7) days after the Commencement Date, Tenant's entering into possession of all or any part of the Premises shall be conclusive evidence of the acceptance by Tenant of the condition and state of repair of the Premises and Tenant shall have no rights in respect thereof.

#### 19.6 Time of the Essence

Time is of the essence of this Lease and all parts hereof.

#### 19.7 Applicable Law

This Lease shall be governed by and interpreted in accordance with the laws of the Province of Ontario. The parties agree that the Courts of Ontario shall have jurisdiction to determine any matters arising hereunder, except to the extent, if any, expressly provided to the contrary herein, and the parties hereby attorn to the jurisdiction of the Courts of Ontario.

#### 19.8 Severability

If any provision of this Lease or any portion thereof or the application of any of the same is illegal, unenforceable or invalid, it shall be considered separate and severable from this Lease and all of the remaining provisions hereof shall remain in full force and effect as though any such provision of this Lease or any portion thereof had not been included in this Lease but such provision of this Lease or portion hereof shall nonetheless continue to be enforceable to the full extent permitted by law.

Neither party is obliged to enforce this Lease to the extent that by so doing they would be contravening any applicable Laws.

#### 19.9 Section Numbers and Headings

The table of contents of this Lease and all section numbers and all headings are inserted as a matter of convenience only and shall in no way limit or affect the interpretation of this Lease.

#### 19.10 Interpretation

Whenever a word importing singular or plural is used in this Lease such word shall include the plural and singular respectively. Where any party is comprised of more than one entity, the obligations of each of such entities shall be joint and several. Words importing either gender or firms or corporations shall include persons of the other gender and firms or corporations as applicable. Subject to the express provisions contained in this Lease, words such as "hereof", "herein", "hereby", "hereinafter", and "hereunder" and all similar words or expressions shall refer to this Lease as a whole and not to any particular section, or portion hereof being less than the whole.

### 19.11 Successors

This Lease and all portions hereof shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, assigns and other legal representatives excepting only that this Lease shall not enure to the benefit of any of such parties unless and only to the extent expressly permitted pursuant to the provisions of this Lease.

### 19.12 Joint & Several

If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) execute this Lease as Tenant, the liability of each such individual corporation, partnership or other business association hereunder is joint and several.

## 20. LIMITATION OF LIABILITY

If Landlord or any assignee of the beneficial rights of Landlord is ever a Real Estate Investment Trust (a "REIT"), then Tenant acknowledges and confirms that the obligations of Landlord hereunder are not and will not be binding on a trustee of the REIT, any registered or beneficial holder of one or more units of a REIT ("Unitholder") or any annuitant under a plan of which such a Unitholder acts as trustee or carrier, or any officers, employees or agents of the REIT and that resort shall not be had to, nor shall recourse or satisfaction be sought from, any of the foregoing or the private property of any of the foregoing.

## 21. INDEMNITY – INTENTIONALLY DELETED

**22. INDEPENDENT LEGAL ADVICE**

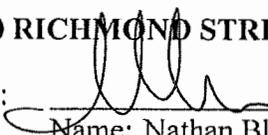
Tenant acknowledges the suggestion of Landlord that, before executing this Lease, Tenant should obtain independent legal advice.

Tenant did obtain independent legal advice.

**EXECUTED** by the parties hereto under seal.

**MEDALLION CORPORATION, as  
authorized agent for**

**280 RICHMOND STREET WEST LIMITED**

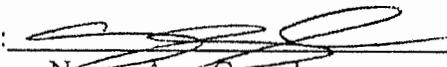
Per: 

Name: Nathan Bleeman

Title: Vice President

I have authority to bind the Corporation.

**CURRICULUM SERVICES CANADA**

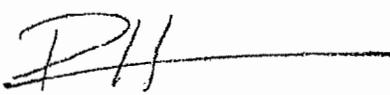
Per: 

Name: Amy Coupal

Title: CEO

We have authority to bind the Corporation.

Per:



Name: Peter Levesque

Title: President

We have authority to bind the Corporation.

**Schedule "A"****LEGAL DESCRIPTION**

Lot 1, Registered Plan 615 and Part of Lot 17, City of Toronto, City of Toronto, Municipality of Metropolitan Toronto



SCHEDULE "B-1"  
CERTIFICATE OF AREA

AREA CERTIFICATE



Ellman Design Inc.  
Interior Design Consultants

77 Mutual Avenue  
Suite 312  
Toronto, Ontario  
Canada  
M5H 2S3  
Tel. (416) 811-3580  
Fax (416) 831-6195

August 21, 2001

CERTIFICATE OF SQUARE FOOTAGE

This is to certify that the area designated as Sixth Floor at 150 John Street, has been site surveyed and measured as follows:

Rentable Area: 8,322 Sq.Ft.

Ellman Design Inc.

Irving Ellman

**SCHEDULE "C"**  
**SPECIAL PROVISIONS**

**1. Landlord's Work**

Landlord shall Substantially Complete the following work to the Premises and the Building on a "once-only" basis at Landlord's own cost and in accordance with Landlord's choice of materials (the "**Landlord's Work**"), in a good and workmanlike manner:

- (a) Replace all burnt out lighting fixtures;
- (b) Ensure that the base building HVAC, sprinklers and electrical outlets are in good working condition;
- (c) Remove all debris, and turn over Premises in a clean, broom-swept condition;
- (d) Aesthetically improve the men's and women's washrooms on the sixth (6<sup>th</sup>) floor such that the following washroom elements be replaced with new features selected by Landlord, and approved by Tenant, acting reasonably (the following being the "**Washroom Work**"):
  - (i) All toilets;
  - (ii) Sinks, countertops, mirrors, and taps;
  - (iii) Floor tiles;
  - (iv) Lighting;
  - (v) Tiling backsplash; and
  - (vi) New paint on the stall doors and partitions.

So long as this Lease is executed by Tenant in form acceptable to Landlord by no later than May 29, 2017, Landlord shall make reasonable efforts to Substantially Complete the Landlord's Work (excluding the Washroom Work) on or before the 1<sup>st</sup> day of July, 2017 and to Substantially Complete the Washroom Work by the 1<sup>st</sup> day of August, 2017. "**Substantially Completed**" means completed to the point where Tenant may commence the Tenant's Work in the Premises without undue interference from Landlord and Landlord's contractors. If the Landlord's Work (excluding the Washroom Work) is not Substantially Completed on or before the 1<sup>st</sup> day of July, 2017, this Lease shall not be void or voidable and Landlord shall not be liable for any losses, costs or damages whatsoever resulting therefrom and the Commencement Date shall be deferred by the number of days between the 1<sup>st</sup> day of July, 2017 and the date the Landlord's Work (excluding the Washroom Work) is Substantially Completed. If the Landlord's Work (excluding the Washroom Work) is not Substantially Completed or the delivery of possession of the Premises to Tenant is delayed as a result of Tenant's failure to execute this Lease by no later than May 29, 2017 or to deliver plans, or of changes requested by Tenant, or of Tenant's failure to execute and deliver any other documentation contemplated hereunder, or of Tenant's failure to comply with any other provision hereof or with the Landlord's construction schedule, or of the performance of any work by Tenant or those for whom it is in law responsible, including its contractors, or any delay therein (a "**Tenant Delay**"), then the Commencement Date shall be the date it would have been but for such Tenant Delay (as determined by the Architect), and Tenant shall not be entitled to any abatement or reduction of Rent or any deferral of the Fixturing Period or Commencement Date or Expiry Date or any other rights in respect thereof by reason of any delay in its occupancy. Tenant also shall not be entitled to any abatement or reduction of Rent or any deferral of the Fixturing Period or Commencement Date or

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Expiry Date or any other rights or claims if Landlord fails to Substantially Complete the Washroom Work on or before the 1<sup>st</sup> day of August, 2017 as a result of Tenant Delay.

## 2. Tenant's Work

- (a) Tenant acknowledges having inspected the Premises and that, save and except as expressly set out above, same shall be delivered and accepted otherwise in an "as-is, where-is" condition. All Leasehold Improvements and other work to the Premises beyond the Landlord's Work are Tenant's work ("**Tenant's Work**") and shall be completed at Tenant's sole risk and expense, to plans and specifications approved in writing in advance by Landlord, such approval not to be unreasonably or arbitrarily withheld, delayed or conditioned (it being understood that if applicable, Landlord will approve or require modifications to the proposed plans and that Tenant shall amend the plans in accordance with Landlord's requirements).
- (b) The Tenant's Work also shall be:
- (i) performed only by qualified (and where required, licensed professional) contractors, sub-contractors, trades and workers selected by Tenant, acting reasonably;
  - (ii) performed in accordance with any and all necessary municipal permits and approvals, which shall be obtained by the Tenant forthwith at the Tenant's sole cost and expense;
  - (iii) performed in a good and workmanlike manner, and accordance with this Lease, and with all Laws, including without limitation, all requirements of the Building and Fire Departments; and
  - (iv) commenced only after Tenant has delivered to Landlord:
    - (1) proof of contractor's insurance in form and amount acceptable to Landlord;
    - (2) the insurance required of Tenant pursuant to Article 13 of this Lease; and
    - (3) payment of all Landlord's out of pocket expenses (but excluding any Landlord's administrative fee) for the review of any proposed Tenant's Work, capped at \$500.00 plus HST for the first review by Landlord of Tenant's initial plans, so long as such plans are professionally prepared and stamped and comply with the Landlord's Design & Criteria Manual.

Landlord shall use commercially reasonable efforts to respond to Tenant's plans submitted for approval, within ten (10) days after receipt. Landlord agrees to pursue its third party consultants for advice and response to Tenant's plans promptly and diligently.

## 3. Fixturing Period

Tenant shall have a fixturing period of six (6) months commencing on the Commencement Date (subject to Section 1 above) ("**Fixturing Period**"). During the Fixturing Period, Tenant shall not be responsible for any Basic Rent, Operating Costs or Realty Taxes, but shall be bound by all other provisions of this Lease including without limitation, the obligations to:

- (a) complete the Tenant's Work, including without limitation, installing its furniture, equipment and cabling;
- (b) pay any Additional Rent by virtue of the default of Tenant under the Lease; and

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- (c) pay for all utility charges used by Tenant or consumed on the Premises during such period that are not included in Operating Costs.

In the event the Tenant has completed the Tenant's Work, and it is safe and lawful to do so, the Tenant also may commence to carry on business during the Fixturing Period.

#### 4. Leasehold Improvement Allowance

Provided Tenant is in occupation of the whole of the Leased Premises and is not then in default under the terms of this Lease, Landlord will pay to Tenant the sum of Twenty Dollars (\$20.00) per square foot of the Rentable Area of the Premises (the "Allowance"), plus Sales Taxes, to be applied in partial reimbursement to Tenant of the actual costs incurred by Tenant pursuant to and in compliance with this Schedule "C" of constructing Leasehold Improvements within the Premises.

The Allowance shall be payable only after the occurrence or completion of all of the following:

- (a) the date Tenant opens for business in the whole of the Premises fully fixtured and staffed;
- (b) the execution of this Lease by both Landlord and Tenant;
- (c) commencement of the Term;
- (d) delivery to Landlord of a clearance certificate issued under the *Workplace Safety and Insurance Act (Ontario)* in respect of each contractor and subcontractor who did work in connection with the Tenant's Work in the Premises;
- (e) delivery of evidence satisfactory to Landlord and the Architect of compliance by Tenant with Tenant's obligations under this Schedule "C" and with the plans and specifications that have been approved by Landlord;
- (f) completion of the Tenant's Work;
- (g) the expiry of the period pursuant to the *Construction Lien Act, (Ontario)* within which workmen, material, contractors or suppliers in connection with the completion of the Tenant's Work may file a construction lien claim for unpaid work or services performed or materials supplied, with no liens having been registered;
- (h) delivery of a notarized statutory declaration from a senior officer of Tenant, confirming that: (i) all Tenant's Work has been completed, all in accordance with this Schedule "C" and the plans and specifications approved by Landlord, and all accounts in respect of the Tenant's Work have been paid in full; (ii) all holdback periods referred to in the *Construction Lien Act, (Ontario)* have expired, with no liens having been registered; and (iii) all building permits in connection with the Tenant's Work have been closed out;
- (i) delivery to Landlord of certificates evidencing the placement of insurance by the Tenant in accordance with this Lease;
- (j) receipt by the Landlord of a written request from Tenant for the Allowance; and
- (k) delivery to Landlord of proof satisfactory to Landlord that Tenant has expended at least Twenty Dollars (\$20.00) per square foot of the Rentable Area of the Premises plus Sales Taxes in construction of the Leasehold Improvements within the Premises as above described, including without limitation delivery of receipted invoices for such Leasehold Improvements. In the event the actual cost of completing the construction of such Leasehold Improvements is less than

Twenty Dollars (\$20.00) per square foot of the Rentable Area of the Premises plus Sales Taxes, the Allowance shall be reduced to an amount equal to the actual cost of completing the construction of such Leasehold Improvements.

If at any time during the original Term of this Lease:

- (i) this Lease is terminated by reason of the default of Tenant hereunder; or
- (ii) the Tenant has become bankrupt or insolvent or has taken the benefit of any statute for bankrupt or insolvent debtors, or has filed a proposal, or has made an assignment for the benefit of creditors or any arrangement or compromise,

then in such event, and without prejudice to any of Landlord's other rights and remedies available to it under this Lease and at law, the unamortized portion of the Allowance calculated from the Commencement Date on the basis of an assumed rate of amortization on a straight line basis to zero over the original Term of this Lease, shall immediately become due and payable to Landlord as Additional Rent. Landlord shall be entitled to offset any portion of or all of the Allowance against amounts otherwise due and owing by Tenant to Landlord.

**5. Operating Costs and Realty Taxes Estimates for 2016**

Landlord estimates, based on information available as of the date of execution of this Lease, that:

- (a) the Operating Costs for the Fiscal Year ending October 31, 2016 shall be Seven Dollars and Twenty-Five Cents (\$7.25) per square foot of the Rentable Area of the Premises per annum;
- (b) the Realty Taxes for the Fiscal Year ending October 31, 2016 shall be Eight Dollars and Forty-Five Cents (\$8.45) per square foot of the Rentable Area of the Premises per annum; and
- (c) the utilities payable by Tenant to Landlord for the Fiscal Year ending October 31, 2016 shall be Four Dollars and Forty-One Cents (\$4.41) per square foot of the Rentable Area of the Premises per annum;

provided that the foregoing are an estimate only and not binding upon Landlord.

**6. Bicycle Storage**

Tenant shall have the right to use the secured bicycle (not motorcycle) storage area for the Building on a "first come, first served" basis at all times during the Term (subject to the terms of this Lease) and shall not be limited or restricted to the amount of employees using the bicycle storage area (though all employees using the bicycle storage shall be employees whose regular place of work is the Premises). Tenant shall ensure each employee who wishes to use the bicycle storage shall complete an application on Landlord's form and provide Landlord a key deposit of Twenty-Five Dollars (\$25.00) (plus Sales Taxes if applicable). No bicycles are permitted within the Building.

**7. Space Planner**

Upon completion of Tenant's Work in accordance with this Schedule "C", Landlord shall reimburse Tenant's space planner for expenses up to a maximum cost to Landlord of Ten Cents (\$0.10) per square foot of the Rentable Area of the Premises.

**8. 24-Hour Access**

Tenant shall have access to the Premises, Building elevators and Parking Facility on a 24 hour per day, 7 day a week basis, subject to the provisions of this Lease, and subject always to Force Majeure.

#### 9. Security

Tenant shall be permitted to install and if installed, shall maintain, repair and replace, at its own cost, its own security system for the Premises, subject to Landlord approving the plans and specifications therefor, which approval shall not be unreasonably withheld or delayed.

In addition, Landlord shall ensure that the current elevator security feature (whereby the elevator will only access Tenant's floor by card access, and which feature operates outside the hours of 8:00am to 6:00pm Monday to Friday) is in good working order. Tenant shall have the right to expand the hours of such security feature at any time during the Term by making written request to Landlord (and any alterations required to such feature or elevator as a result of such request shall be made at the cost of the Tenant).

#### 10. Option to Extend

Provided Tenant is not then in material default hereunder, and has not been in chronic or habitual default during the Term, and Tenant has not become bankrupt or insolvent and has not made an assignment for the benefit of creditors and has not taken the benefit of any statute in force for bankrupt or insolvent debtors, no petition in bankruptcy has been filed against Tenant, and no receiving order has been made against Tenant, and no proceedings have been commenced respecting the winding-up or other termination of the existence of Tenant, and no receiver or other person has taken possession or effective control of the assets or business of Tenant or a substantial portion thereof, and there are no outstanding writs of execution, and Tenant has not assigned this Lease or sublet or permitted a change in occupancy of any portion of the Premises and Tenant has continuously occupied the whole of the Premises for the conduct of business in accordance with the terms of this Lease, then:

- (a) **Extension.** Tenant shall have an option (the "**Extension Option**") to extend the Term of this Lease for a term of five (5) years (the "**Extension Term**"), by giving Landlord written notice via registered mail thereof not more than eighteen (18) months, and not less than nine (9) months, prior to the date set forth above for the expiration of the Term of this Lease (with time to be of the essence as to the timely exercise of such Extension Option). If Tenant shall exercise the Extension Option, then subject to subsection (e) below, this Lease shall be extended for the Extension Term upon all of the terms, covenants, and conditions contained in this Lease, except that, during the Extension Term the fixed annual Basic Rent shall be the current basic rent of a similar type office building in the Downtown West Toronto area (the "**Market Value Net Rent**"), determined as provided in subsection (b) below. For clarity, such extension shall be on the same terms and conditions as contained in this Lease, except that: (i) there shall be no further right to extend after the expiry of the Extension Term; (ii) the Basic Rent shall be such amount determined pursuant to subsection (b) below; and (iii) there shall be no tenant's allowance or rent-free period or space planning payment for the Extension Term, and the Premises shall be accepted by Tenant in an "as is" condition at the commencement of the Extension Term without Landlord being required to perform any work.
- (b) **Arbitration.** The term "**Market Value Net Rent**" shall mean the annual fixed net rent that a willing tenant would pay and a willing landlord would accept in an arms-length lease of the Premises as of the date of exercise by Tenant ("**Exercise Date**"). If Landlord and Tenant shall fail to agree upon the Market Value Net Rent within (60) days after the Exercise Date, then Landlord and Tenant each shall give notice (the "**Determination Notice**") to the other setting forth their

respective determinations of the Market Value Net Rent, and, subject to the provisions of subsection (c) below, either party may apply to the Province of Ontario Arbitrations Branch or any successor thereto or to the Superior Court of Justice for the designation of an arbitrator satisfactory to both parties to render a final determination of the Market Value Net Rent. The arbitrator shall be a qualified real estate appraiser or consultant who shall have at least (15) years' continuous experience in the business of real estate appraisal. The arbitrator shall conduct such hearings and investigations as the arbitrator shall deem appropriate and shall, within thirty (30) days after having been appointed, choose one of the determinations set forth in either Landlord's or Tenant's Determination Notice, and that choice by the arbitrator shall be binding upon Landlord and Tenant. Each party shall pay its own counsel fees and expenses, if any, in connection with any arbitration under this subsection (b), and the parties shall share equally all other expenses and fees of any such arbitration. The determination rendered in accordance with the provisions of this subsection (b) shall be final and binding in fixing the Market Value Net Rent. The arbitrator shall not have the power to add to, modify, or change any of the provisions of this Lease.

- (c) **Arbitration cancelled.** In the event that the determination of the Market Value Net Rent set forth in the Landlord's and Tenant's Determination Notices shall differ by less than three percent (3%) per square foot of the Rentable Area of the Premises per annum for each year during the Extension Term, then the Market Value Net Rent shall not be determined by arbitration, but shall instead be set by taking the average of the determinations set forth in Landlord's and Tenant's Determination Notices. Only if the determinations set forth in Landlord's and Tenant's Determination Notices shall differ by more than three percent (3%) per square foot of the Rentable Area of the Premises per annum for any year during the Extension Term shall the actual determination of Market Value Net Rent be made by an arbitrator as set forth in subsection (b) above.
- (d) **Late determination.** If for any reason the Market Value Net Rent shall not have been determined prior to the commencement of the Extension Term, then, until the Market Value Net Rent and, accordingly, the Basic Rent, shall not have been finally determined, the Basic Rent shall remain the same as payable during the last year of the original Term of this Lease. Upon final determination of the Market Value Net Rent, an appropriate adjustment to the Basic Rent shall be made reflecting such final determination, and Landlord or Tenant, as the case may be, shall promptly refund or pay to the other any overpayment or deficiency, as the case may be, in the payment of Basic Rent from the commencement of the Extension Term to the date of such final determination, plus interest at the Prime Rate.
- (e) **Lease Documentation.** Landlord may at its option, require that Tenant enter into a Lease Amending Agreement prepared by Landlord to give effect to the Extension Term, or execute a new lease for the Extension Term on Landlord's then current standard form for the Building, subject to reasonable changes as requested by Tenant and accepted by Landlord, acting reasonably.

## 11. Executive Management Approval Condition

This Lease is subject to, and conditional for a period of five (5) business days after mutual execution of this Lease, upon the Landlord obtaining the approval of this Lease from the Landlord's executive management team in its sole, absolute and unfettered discretion. Should the Landlord fail to notify the Tenant in writing within such five (5) business day period that this condition has been satisfied or waived, then this Lease shall be null and void and of no force or effect, and neither party shall have any obligation to the other in respect hereof.

**SCHEDULE "D"**

**RENT DEPOSIT AGREEMENT**

**THIS RENT DEPOSIT AGREEMENT** dated as of the 26<sup>th</sup> day of May, 2017

**B E T W E E N:**

**CURRICULUM SERVICES CANADA**

(hereinafter called "**Tenant**")

OF THE FIRST PART

- and -

**MEDALLION CORPORATION, as  
authorized agent for  
280 RICHMOND STREET WEST LIMITED**

(hereinafter called "**Landlord**")

OF THE SECOND PART

**WHEREAS:**

- A. By a lease dated as of the date first above written ("**Lease**") between Landlord and Tenant, Landlord leased to Tenant premises known as Suite 600 (the "**Premises**") in the building municipally known as 150 John Street, Toronto, Ontario, as more particularly described in the Lease, for a term of ten (10) years and six (6) months; and
- B. As required under the Lease, Tenant has agreed to deliver to Landlord a rent deposit in the amount of Seventy-Three Thousand Nine Hundred Ninety-Three Dollars and Eighty-Six Cents (\$73,993.86), to be held and applied on the terms and conditions set out in this Agreement;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged by the parties hereto, the parties hereto make the following agreement:

- 1. Tenant shall deposit with Landlord a rent deposit in the amount of Seventy-Three Thousand Nine Hundred Ninety-Three Dollars and Eighty-Six Cents (\$73,993.86) ("**Rent Deposit**"). The amount of Thirty-Two Thousand Six Hundred Seven Dollars and Eighty-Eight Cents (\$32,607.88) shall be applied towards the Rent and Sales Taxes first payable in the Term in which Rent is payable by Tenant. Landlord shall hold the balance of the Rent Deposit, without interest, as a security deposit of the Rent payable by Tenant under the Lease during the Term and any renewals or extensions thereof and any tenancy resulting from an overholding, and to secure and may be applied against the other amounts referred to in paragraph 7 below. In the event that Tenant exercises any applicable Extension Option, Landlord shall have the right to increase such security deposit amount to reflect the then-current estimated amount of the Rent in the last month of the extended Term.
- 2. If at any time any Rent payable under the Lease shall be overdue and the cure period set out in Section 16.1(a) shall have expired, all or any portion of the Rent Deposit shall, at Landlord's option, be applied to the payment of any Rent then due and owing. Further, if Tenant defaults in the performance of any of the terms, covenants, conditions and provisions of the Lease as and when the same are due to be performed by Tenant, and the relevant cure period in respect thereof as set out in Section 16.2 shall have expired, then

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all or any part of the Rent Deposit shall, at Landlord's option, be applied on account of any losses or damages sustained by Landlord as a result of such default.

3. If all or any part of the Rent Deposit is applied by Landlord on account of the payment of Rent or on account of any default or any losses or damages sustained by Landlord as aforesaid, then Tenant shall, within three (3) business days after demand from Landlord, remit to Landlord a sufficient amount in cash or by certified cheque to restore the Rent Deposit to the original sum required to be deposited as set forth herein plus interest on the amount of such default, loss or damages sustained by Landlord at a rate of three percent (3%) per annum in excess of the Prime Rate, from the date of default to the date the Rent Deposit is restored as aforesaid.
4. If Tenant (i) is not then in default; (ii) the Lease has not been Disclaimed (as hereinafter defined); and (iii) the Lease has not terminated for any reason prior to the natural expiry date; then Landlord shall return the balance of the Rent Deposit, if any, after any application authorized under this Agreement, to Tenant within ninety (90) days after the completion of the fiscal year-end audit for the last year of the Term or Extension Term (if the Extension Option has been exercised), as the case may be (less any amounts then owing by Tenant to Landlord pursuant to the final Final Statement).
5. Landlord may deliver the Rent Deposit, or such portion thereof remaining on hand to the credit of Tenant, to any purchaser, mortgagee or assignee of Landlord's interest in the Premises or the Project under the Lease or in the Lease and thereupon Landlord shall be and is hereby discharged from any further liability with respect to the Rent Deposit.
6. In the event of any bankruptcy, insolvency, winding-up or other creditors' proceeding on behalf of the Tenant, the Rent Deposit shall be the absolute property of Landlord and shall, at Landlord's option, be automatically appropriated and applied against the Rent and any other amounts referred to in paragraph 7 below.
7. The Rent Deposit shall secure and may, at Landlord's option, be applied (in case of default, and after the expiry of the relevant cure period set out in Section 16.2, or in case of the circumstances set out in paragraph 6 above) on account of any one or more of the following: (i) the due and punctual payment of all Rent and all other amounts of any kind whatsoever payable under the Lease by Tenant, including, without limitation, any amount which would have become payable under the Lease to the date of the expiry of the Lease had the Lease not been Disclaimed or terminated; (ii) the prompt and complete performance of all obligations contained in the Lease on the part of Tenant to be kept, observed and performed; (iii) the indemnification of Landlord in respect of any losses, costs or damages incurred by Landlord arising out of any failure by Tenant to pay any Rent or other amounts payable under the Lease or resulting from any failure by Tenant to observe or perform any of the other obligations contained in the Lease; (iv) liquidated damages in compensation for the money spent by Landlord with respect to the Premises to make them ready for Tenant's use and occupancy; (v) the reduction in value of the Premises, if any, as a result of Tenant's default; (vi) the losses or damages suffered by Landlord as a result of the Lease being Disclaimed or terminated; or (vii) the repayment of the unamortized portion as of the date the Lease is Disclaimed of any allowances, inducements or other incentives paid by Landlord in conjunction with the Lease.
8. The rights of Landlord hereunder in respect of the Rent Deposit shall continue in full force and effect and shall not be waived, released, discharged, impaired or affected by reason of the release or discharge of Tenant in any receivership, bankruptcy, insolvency, winding-up or other creditor's proceedings, including, without limitation, any proceedings under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Creditors Arrangement Act* (Canada), or the surrender, disclaimer, repudiation or termination of the Lease (individually and collectively referred to herein as "**Disclaimed**") in any such proceedings and shall continue with respect to the periods thereto and thereafter as if the Lease had not been Disclaimed.
9. Capitalized expressions used herein, unless separately defined herein, have the same meaning as defined in the Lease unless separately defined herein.

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10. Time in all respects shall be of the essence.
11. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.
12. The Landlord agrees that in the exercise of its rights under this Agreement, it shall act at all times in good faith and in a fair and commercially reasonable manner.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement.

**CURRICULUM SERVICES CANADA**

Per: \_\_\_\_\_  
 Name:  
 Title:

I have authority to bind the Corporation.

**MEDALLION CORPORATION, as  
 authorized agent for  
 280 RICHMOND STREET WEST LIMITED**

Per: \_\_\_\_\_  
 Name: Nathan Bleeman  
 Title: Vice President

I have authority to bind the Corporation.

**SCHEDULE "E"**

**PARKING AGREEMENT**

**150 JOHN STREET, TORONTO**

This Agreement made as of the 26<sup>th</sup> day of May, 2017

**B E T W E E N:**

**CURRICULUM SERVICES CANADA**

(hereinafter called "Tenant")

OF THE FIRST PART

- and -

**MEDALLION CORPORATION,  
as authorized agent for  
280 RICHMOND STREET WEST LIMITED**

(hereinafter called "Landlord")

OF THE SECOND PART

The above mentioned parties hereto agree as follows:

1. This Agreement is effective as of the 1<sup>st</sup> day of July, 2017 or upon occupancy and execution of the Lease, whichever is later;
2. Throughout the Term and any permitted extension, Tenant shall be obligated to three (3) parking spaces (the "Parking Spaces") in Tenant parking facility at the Project (the "Parking Facility"). The three (3) parking spaces shall be unreserved single parking spaces at the then-current monthly charge (plus Sales Taxes) in such locations as may be designated from time to time by Landlord or the operator of the Parking Facility. The current monthly charge for each "unreserved" parking space is Two Hundred Twenty-Five Dollars (\$225.00) per month plus Sales Taxes;  
  
Tenant shall pay for all the aforesaid Parking Spaces by monthly payments on the same days as monthly payments of Basic Rent, whether or not Tenant actually uses all the said Parking Spaces;
3. Charges for the use of the parking spaces are subject to change from time to time, but are required to increase in accordance with market rates;
4. Tenant shall ensure that Landlord is at all times in possession of up-to-date information as to the owner, licence plate number and description of all automobiles using Tenant's Parking Spaces;
5. Landlord may, from time to time make and amend such Rules and Regulations for the management and operation of the Parking Facility as Landlord shall determine and Tenant and all persons under its control, including without limitation all users of the Parking Spaces shall be bound by and shall comply with all of such Rules and Regulations of which notice is given to Tenant from time to time and all of such Rules and Regulations shall be deemed to be incorporated into and form a part of this Agreement;
6. If Tenant or any person permitted by Tenant to use any of the Parking Spaces fails to comply with the provisions of this Agreement as applicable to this clause, including without limitation the rules and regulation from time to time applicable to the Parking Facility, then Landlord shall have the right to terminate or suspend the privilege of the offending party to use the Parking Facility, provided that the exercise of such right by

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Landlord shall not limit or affect the obligation of Tenant hereunder to pay for all Parking Spaces;

7. No motor vehicle other than a private passenger automobile, station wagon or recreational vehicle shall be parked on or in any part of the Common Facilities of the Project, including without limitation the Parking Facility, nor shall any repairs other than emergency repairs immediately necessary for operation of a vehicle be made to any motor vehicle in or on any of the Common Facilities, including without limitation the Parking Facility, and no motor vehicle shall be driven on any part of the Common Facilities other than on a driveway or in the Parking Facility;
8. It is understood and agreed that Landlord is not responsible for theft of or damage to the vehicle or its equipment or articles left in the vehicle;
9. Tenant shall indemnify and hold Landlord harmless from any and all liabilities, damages, costs, claims, suits or actions arising from:
  - (a) any breach, violation or non-performance by Tenant, or persons for whom Tenant is responsible, of any covenant, condition or provision of the present Agreement;
  - (b) any damage to property occasioned by the use or occupancy of the leased premises and/or surrounding area by Tenant or by anyone for whom it is responsible;
  - (c) any injury to a person or persons, including death, resulting at any time therefrom and occurring in the leased premises and/or surrounding area, unless caused by the fault or negligence of Landlord, its agents or its employees;
10. It is agreed and understood that no vehicle powered by propane, hydrogen or natural gas is allowed in the parking facility.

**EXECUTED** by Tenant as of the date first above written.

**CURRICULUM SERVICES CANADA**

Per: \_\_\_\_\_  
 Name:  
 Title:

I have authority to bind the Corporation.

**MEDALLION CORPORATION, as  
 authorized agent for  
 280 RICHMOND STREET WEST LIMITED**

Per: \_\_\_\_\_  
 Name: Nathan Bleeman  
 Title: Vice President

I have authority to bind the Corporation.

**Schedule "F"**

**RULES AND REGULATIONS**

1. **Definition** - In these rules and regulations, "Tenant" includes the employees, servants, agents, invitees, subtenants, and licensees of Tenant, and others over whom Tenant can reasonably be expected to exercise its control.
2. **Common Elements** - Landlord reserves entire control of the Common Facilities and will maintain them in such manner as it deems best for the benefit of the tenants generally. Landlord reserves the right to restrict and regulate the use of the Common Facilities by Tenant and by persons making deliveries to Tenant.
3. **Smoking** - Smoking is not permitted in the Common Facilities, except as may be otherwise designated. Landlord shall have the right, in its sole discretion, to determine whether any designated smoking area shall be established, and the size and location of any such area.
4. **Obstructions** - The sidewalks, driveways, entrances, vestibules, passages, corridors, halls, elevators and stairways shall not be encumbered or obstructed by Tenant or be used by it for any purpose other than for entrance to and exit from the Premises.
5. **Deliveries** - Tenant shall not permit the parking of delivery vehicles so as to interfere with the use of any driveway, walkway, parking area, or other Common Elements. Tenant shall ensure that deliveries of materials and supplies to the Premises are made through such entrances, elevators and corridors and at such times as may from time to time be designated by Landlord and shall promptly pay or cause to be paid to Landlord the cost of repairing any damage in or to the Building caused by any person making such deliveries. Landlord reserves the right to remove at the expense and risk of the owner any vehicle not using designated "Vehicle Standing" areas.
6. **Security** - Landlord may from time to time adopt appropriate systems and procedures for the security and safety of the Building including restricting access during non-Building Hours and Tenant shall comply with Landlord's reasonable requirements relating thereto.
7. **Supervision** - Tenant shall promptly pay for all labour (including overhead and administrative charges as detailed in this Lease) involved with any specific work associated with Tenant including without limitation for deliveries, construction supervision relating to the Premises or any other access requirements to the Building or other tenant premises or common elements.
8. **Locks** - No additional locks or bolts of any kind shall be placed by Tenant upon any of the doors or windows of the Premises, nor shall any changes whatsoever be made to existing locks or the mechanics thereof except by Landlord at its option. Tenant shall not permit any duplicate keys to be made, but additional keys as reasonably required shall be supplied by Landlord when requested by Tenant in writing and at Tenant's expense. Upon termination of Tenant's lease, Tenant shall surrender to Landlord all keys of the Premises and other part or parts of the Building together with any parking passes or other devices permitting entry.
9. **Antennae** - Tenant shall not mount or place an antenna or aerial of any nature on the interior or exterior of the Premises or Building.
10. **Garbage** - The handling and disposal of garbage shall comply with arrangements prescribed by Landlord from time to time. No disproportionate or abnormal quantity of waste material shall be allowed to accumulate in the Premises and the cost of removal or clearing in excess of such normally provided Service may be charged to Tenant.
11. **Repairs, Alterations and Improvements** - Tenant shall carry out repairs, maintenance, alterations and improvements in the Premises only during times agreed to in advance by Landlord and in a manner which will not interfere with the rights of other tenants in the Building.

- 2 -

12. **Maintenance** - Tenant will provide adequate facilities and means to prevent the soiling of walls, floors and carpets in and abutting the Premises whether by shoes, overshoes, any acts or omissions of the Tenant or otherwise.

13. **Installations and Wiring** - Tenant shall not mark, paint, drill into, or in any way deface the walls, ceilings, partitions, floors, or other parts of the Premises and the Building except with the prior written consent of Landlord and as it may direct. If Tenant desires electrical or communications connections, Landlord reserves the right to direct qualified persons as to where and how the wires should be introduced, and without such directions, no boring or cutting for wires will take place. No gas pipe or electric wire will be permitted which has not been ordered or authorized in writing by Landlord.

14. **Heating, Air Conditioning, and Plumbing Systems** - Tenant shall not attempt any repairs, alterations, or modifications to the heating, air conditioning, or plumbing systems.

15. **Water Fixtures** - Tenant shall not use the plumbing facilities for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and Tenant shall pay the cost of any breakage, stoppage, or damage resulting from violation of this provision.

16. **Personal Use of Leased Premises** - The Premises shall not be used for residential, lodging, sleeping purposes, or for the storage of personal effects or property not required for business purposes as permitted under the Lease.

17. **Solicitations** - Landlord reserves the right to restrict or prohibit canvassing, soliciting or peddling in the Building.

18. **Heavy Articles** - Tenant shall not, in the Premises or the Building, bring in, take out, position, construct, install or move any safe, business machinery or other heavy machinery or equipment or anything liable to injure or destroy any part of the Building without the prior written consent of Landlord. In giving such consent, Landlord shall have the right, in its sole discretion, to prescribe the permitted weight and the position thereof, and the use and design of planks, skids or platforms required to distribute the weight thereof. All damage done to the Building by moving or using any such heavy equipment or machinery shall be repaired at the expense of Tenant. The moving of all heavy equipment or other machinery shall occur only by prior arrangement with Landlord.

19. **Bicycles and Animals** - Tenant shall not bring any animals or birds into the Building, and shall not permit bicycles or other vehicles inside or on the sidewalks outside the Building, except in areas designated from time to time by Landlord for such purposes.

20. **Furniture and Equipment** - Tenant shall ensure that furniture, equipment, and fixtures being moved into or out of the Premises are moved through such entrances, elevators, and corridors, and at such times as may from time to time be designated by Landlord, and shall promptly pay or cause to be paid to Landlord the cost of repairing any damage in the Building caused thereby.

21. **Heating** - Tenant shall not use any means of heating or cooling the Premises other than that provided by or specifically otherwise permitted by Landlord.

22. **Undue Electrical Loads, Heat, Vibration** - No material or equipment which could cause undue loads on electrical circuits, or undue vibration, heat or noise shall be brought into the Building or used therein by or on behalf of Tenant, and no machinery or tools of any kind shall be affixed to or used in the Premises without the prior written consent of Landlord.

23. **Fire Regulations** - No Tenant shall do or permit anything to be done in the Premises or bring or keep anything therein which will in any way increase the risk of fire, obstruct, interfere with the rights of other tenants, violate, or act at variance with the laws relating to fires, or with the regulations of the Fire Department or the Board of Health. Tenant shall cooperate in any fire drills and shall participate in all fire prevention or safety programs designated by Landlord.

24. **Flammable Materials** - No flammable oils or other flammable, dangerous or explosive materials shall be kept or permitted to be kept in the Premises.
25. **Food and Beverages** – Tenant shall not be entitled to prepare, solicit orders for, sell, serve or distribute foods or beverages in the Building as a business, or use the elevators, corridors or other Common Elements for any such business purpose. However, the Tenant shall be entitled to offer within the Premises (to its employees and clients) coffee, tea, soft drinks and the like, and shall be entitled to order catered or delivered food to the Premises for meetings, all to the extent as is usual and customary in offices in downtown Toronto.
26. **Notice of Accidents** - Tenant shall give immediate notice to Landlord in case of fire, accident or personal injury in the Premises or in the Building, or in case of defects therein or in any fixtures or equipment thereof, notwithstanding Landlord may have no obligations with respect thereto.
27. **Janitorial Services** - Tenant shall not use or engage any person or persons other than the janitor or janitorial contractor of Landlord for the purpose of any cleaning of the Premises, except with the prior written consent of Landlord.
28. **Dangerous or Immoral Activities** - Tenant shall not make any use of the Premises which could result in the risk or injury to any person, nor shall the Premises be used for any immoral or criminal purpose.
29. **Proper Conduct** - Tenant shall not perform any acts or carry on any practice which may damage the Common Elements or be a nuisance to any other tenant in the Project.
30. **No Smoking Policy** - Pursuant to the By-Laws for the City of Toronto, the building has been declared a “Smoke Free” facility and as such Tenant shall ensure that all employees, invitees and visitors shall comply with this regulation and smoke only in areas as may be designated or eliminated from time to time, by Landlord.
31. **Additional Rules and Regulations** - Landlord shall have the right to make such other and further reasonable rules and regulations as in its sole judgment may from time to time be necessary or of benefit for the safety, care, cleanliness and appearance of the Project, and for the preservation of good order therein.

## Schedule "G"

### TIM HORTONS RESTRICTIVES

#### 3. EXCLUSIVITY

Subject to Section 7 of this Schedule "C" below (Conditions to Tenant's Rights), and for so long as Tenant is operating its permitted use of the Premises as set out in Section 1(h) of this Lease in the whole of the Premises and in accordance with the provisions of this Lease, then Landlord for itself, its successors and assigns hereby covenants that during the Term, as same may be extended to renewed:

- (a) it will not cause or permit to be operated within the ground floor of the Building, any retail business which produces or sells coffee, donuts, muffins, cookies, tarts, cinnamon buns or similar products known by another name. Businesses which shall be deemed to violate this restriction include, without limitation, "Starbucks", "Second Cup", "Timothy's Coffees", "Grabba Java", "McCafe", "Williams Coffee Pub", "Java Joes", "A.L. Van Houte", "Seattle's Best" or other similar gourmet type retail coffee operations and "Country Style Donuts", "Robins Donuts", "Coffee Time Donuts", "Dunkin Donuts", "Krispy Kreme" or other similar type

donut shops and "Treats", "Mmuffins", "mmm Specialty Bakery & Beverage Company" or other similar type muffin shops;

- (b) it will not cause or permit to be operated within the ground floor of the Building, any retail business which produces or sells bagels or similar items known by another name as its Primary Products. As used in this Section 4, "Primary Products" means products (either alone or in any combination thereof), the sales of which constitute thirty percent (30%) or more of an enterprise's gross annual sales. Examples of businesses or undertakings which are deemed to violate this restrictive covenant include, without limitation:

- (i) The Great Canadian Bagel Co.
- (ii) Manhattan Bagel;
- (iii) Bruegger's; and
- (iv) What a Bagel.

- (c) it will not cause or permit to be operated within the ground floor of the Building, any retail business which produces or sells sandwiches or sandwich-like products which include, without limitation, "submarine" sandwiches, pitas, wraps or similar items known by another name as its Primary Products. Examples of businesses or undertakings which are deemed to violate this restrictive covenant include, without limitation:

- (i) Subway,
- (ii) Mr. Sub,
- (iii) Quizno's,
- (iv) MegaWraps,
- (v) California Wrap, and
- (vi) Extreme Pita.

Notwithstanding the above, any business or undertaking in which orders are taken at a customer's table and food is served by waiters and/or waitresses is exempt from this restriction regarding sandwiches, wraps or similar items.

#### 4. RESTRICTIVE COVENANT

Subject to Section 7 of this Schedule "C" below (Conditions to Tenant's Rights), and for so long as Tenant is operating its permitted use of the Premises as set out in Section 1(h) of this Lease in the whole of the Premises and in accordance with the provisions of this Lease, then Landlord shall not use the Building nor shall Landlord lease or permit to be leased to any tenant in the Building the following:

- (a) any business whose principal business is the sale of fireworks or fire crackers of any kind;
- (b) an auction, thrift store, liquidation, flea market, pawn shop or similar type business;
- (c) an adult entertainment facility, or an adult bookstore, video store or other adult facility principally selling or displaying adult paraphernalia or pornographic books, literature, or videotapes (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for sale or rental to, or viewing by children under 18 years old);
- (d) a massage parlour;
- (e) a skating or roller rink;
- (f) any business whose principal business is a pool or billiard establishment; and/or
- (g) any business whose principal business is as a bingo parlour, off-track betting or similar game of chance.

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This is Exhibit "B" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



.....  
A Commissioner for Taking Affidavits

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Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

-- Form 78 --

Statement of Affairs (Business Bankruptcy) made by an entity  
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the bankruptcy of  
 Curriculum Services Canada / Services Des Programmes D'Études Canada  
 of the City of Toronto, in the Municipality of Toronto  
 in the Province of Ontario

To the bankrupt:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the bankruptcy, on the 28th day of March 2018. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)	ASSETS (as stated and estimated by the officer)
1. Unsecured creditors as per list "A" .....	1. Inventory .....
4,739,792.27	0.00
Balance of secured claims as per list "B" .....	2. Trade fixtures, etc. ....
0.00	0.00
Total unsecured creditors .....	3. Accounts receivable and other receivables, as per list "E"
4,739,792.27	Good .....
2. Secured creditors as per list "B" .....	193,711.00
764,902.42	Doubtful .....
3. Preferred creditors as per list "C" .....	53,927.88
100,558.59	Bad .....
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for .....	6,289.00
0.00	Estimated to produce, .....
Total liabilities .....	193,711.00
5,605,253.28	4. Bills of exchange, promissory note, etc., as per list "F" ..
Surplus .....	0.00
NIL	5. Deposits in financial institutions .....
	119,444.02
	6. Cash .....
	0.00
	7. Livestock, .....
	0.00
	8. Machinery, equipment and plant. ....
	15,000.00
	9. Real property or immovable as per list "G" .....
	0.00
	10. Furniture .....
	25,000.00
	11. RRSPs, RRIFs, life insurance, etc. ....
	0.00
	12. Securities (shares, bonds, debentures, etc.) .....
	0.00
	13. Interests under wills .....
	0.00
	14. Vehicles .....
	0.00
	15. Other property, as per list "H" .....
	1,550,408.85
	If bankrupt is a corporation, add:
	Amount of subscribed capital .....
	0.00
	Amount paid on capital .....
	0.00
	Balance subscribed and unpaid .....
	0.00
	Estimated to produce .....
	0.00
	Total assets .....
	1,903,563.87
	Deficiency .....
	3,701,689.41

I, Amy Coupal, of the City of Toronto in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of my affairs on the 28th day of March 2018 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)  
 before me at the City of Toronto in the Province of Ontario, on this 28th day of March 2018.

  
 Daniel Weisz, Commissioner of Oaths  
 For the Province of Ontario  
 Expires June 5, 2019  
 Daniel Weisz, a Commissioner, etc.  
 Province of Ontario, for RSM Canada LLP  
 and RSM Canada Limited.  
 Expires January 5, 2021

  
 Amy Coupal

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 – Continued

List "A"  
 Unsecured Creditors

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
1	280 Richmond Street West Limited	970 Lawrence Ave. W., Suite 304 Toronto ON M6A 3B6	3,986,725.25	0.00	3,986,725.25
2	Accessibility Directorate of Ontario, Outreach and Strategic Initiatives Branch Attn: Manager ADO Servability Grant	777 Bay Street, Suite 601A Toronto ON M7A 2J4	34,102.00	0.00	34,102.00
3	Adobe Acrobat Pro	Adobe Systems Incorporated 345 Park Avenue San Jose CA 95110-2704 USA	1.00	0.00	1.00
4	Adobe Connect	Adobe Systems Incorporated 345 Park Avenue San Jose CA 95110-2704 USA	1.00	0.00	1.00
5	Adobe Creative Cloud	Adobe Systems Incorporated 345 Park Avenue San Jose CA 95110-2704 USA	1.00	0.00	1.00
6	Amanda Irvine	23 Prince St. Bowmanville ON L1C 1G4	14.85	0.00	14.85
7	Amazon Prime	120 Bremner Blvd. Toronto ON M5J 0A1	1.00	0.00	1.00
8	Andrew Carr	1899 Giles Avenue Peterborough ON K9K 2P3	86.80	0.00	86.80
9	Anglophone West School District	1135 Prospect St. Fredericton NB E3B 3B9	237.00	0.00	237.00
10	Articulate 360	244 5th Avenue, Suite 2960 New York NY 10001 USA	1.00	0.00	1.00
11	blue-pencil	761 Redwood Square Oakville ON L6L 6R6	203.40	0.00	203.40
12	Bullfrog	366 Adelaide St W, Suite 701 Toronto ON M5V 1R9	1.00	0.00	1.00
13	Business Cloud	#402 - 266 King Street West Toronto ON M5V 1H8	1.00	0.00	1.00
14	Campaign Monitor	631 Howard St #500 San Francisco CA 94105 USA	1.00	0.00	1.00
15	Carrie Henzie	1607 10th Line Asphodel Norwood ON K0L 2V0	53.10	0.00	53.10
16	Christina Pettey	79 Webb Rd Roseneath ON K0K 2X0	40.06	0.00	40.06
17	City Clean	6124 Shawson Dr, Mississauga ON L5T 1E6	38.01	0.00	38.01
18	Concordia University - Master of Creative Arts Therapies, Faculty of Fine Arts Attn: Laurel Young Psychotherapy Education & Traini	1455 de Maisonneuve O Montreal QC H3G 1M8	3,500.00	0.00	3,500.00
19	De Lage Landen Financial Services Canada Inc.	3450 Superior Court, Unit 1 Oakville ON L6L 0C4	1.00	0.00	1.00
20	Diabsolut/HRWize	181 Hymus, Suite 100 Pointe-Claire QC H9R 5P4	1.00	0.00	1.00
21	DigitCom	250 Rimrock Road Toronto ON M3J 3A6	987.62	0.00	987.62

28-Mar-2018

Date



Arny Coupl

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 -- Continued

List "A"  
 Unsecured Creditors

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
22	Durham District School Board Attn: Chris Conley MISA Barrie Year 13	400 Taunton Road East Whitby ON L1R 2K6	23,498.00	0.00	23,498.00
23	Employee Termination and Severance	Various Toronto ON	313,354.96	0.00	313,354.96
24	ExpoSystems	420 Passmore Ave. Scarborough ON M1V 5B1	1,813.65	0.00	1,813.65
25	Getty	75 Varick Street New York NY 10013 USA	1.00	0.00	1.00
26	GitHub	88 Colin P. Kelly St. San Francisco CA 94107 USA	1.00	0.00	1.00
27	Greater Essex County District School Brd	451 Park Street West Windsor ON N9A 6K1	378.55	0.00	378.55
28	Hilton Garden Inn	92 Peter Street Toronto ON M5V 2G5	1,463.00	0.00	1,463.00
29	Huron-Superior Catholic District School	90 Ontario Ave. Sault Ste. Marie ON P6B 6G7	875.00	0.00	875.00
30	International Performance Management Institute Ltd.	151 Bloor Street West, Suite 410 Toronto ON M5S 1S4	16,950.00	0.00	16,950.00
31	Investors Group Financial Services Inc. 01144587	447 Portage Avenue Winnipeg MB R3B 3H5	1.00	0.00	1.00
32	InVision	41 Madison Ave, Flr 25 New York NY 10010 USA	1.00	0.00	1.00
33	IQPC Exchange	1410 N. Westshore Blvd, Suite 650 Tampa FL 33607	16,500.00	0.00	16,500.00
34	Jo-Anne Guindon	36 Burwell St Whitby ON L1R 0B7	297.00	0.00	297.00
35	Josee Boutin	58 Earlwood Dr. Peterborough ON K9J 6B6	38.70	0.00	38.70
36	JustPure Water	4580 Eastgate Parkway, Unit 3 Mississauga ON L4W 4K4	1.00	0.00	1.00
37	Ken Merola	15 Pogson Dr. Whitby ON L1R 2J1	286.00	0.00	286.00
38	Kimberly White	1464 Champlain Dr. Peterborough ON K9L 1N4	48.60	0.00	48.60
39	Laurier Translations	4 Killie Trail Hamilton ON L9B 0B7	4,954.24	0.00	4,954.24
40	Lincoln Simmons	24 Laschinger Blvd New Hamburg ON N3A 2G7	1.00	0.00	1.00
41	Mail Chimp	The Rocket Science Group, LLC 675 Ponce de Leon Ave NE, Suite 5000 Atlanta GA 30308 USA	1.00	0.00	1.00
42	MCC Group	23 Donlea Drive Hamilton ON L8T 1K5	1.00	0.00	1.00
43	MERX	6 Antares Dr., Phase II unit 103 Ottawa ON K2E 8A9	1.00	0.00	1.00
44	Ministry of Education, Field Services Branch Attn: Elizabeth Hoerath FSL Principal Focus Group Year 5	12th Floor, Mowat Block, 900 Bay Street Toronto ON M7A 1L2	25,531.00	0.00	25,531.00

28-Mar-2018

Date



Amy Coupl

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 76 -- Continued

List "A"  
 Unsecured Creditors

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
45	Ministry of Education, Field Services Branch Attn: Elizabeth Hoerath Student Proficiency Ph 5/Student	12th Floor, Mowat Block, 900 Bay Street Toronto ON M7A 1L2	206,862.00	0.00	206,862.00
46	Ministry of Education, Safe and Healthy Schools Branch Attn: Danielle Lupoi Healthy Schools Website Hosting	15th Floor, Mowat Block, 900 Bay Street Toronto ON M7A 1L2	1,609.00	0.00	1,609.00
47	MNP LLP	50 Burnhamthorpe Road, Suite 900 Mississauga ON L5B 3C2	1.00	0.00	1.00
48	Natalie Gillis	3-156 Edinburgh St. Peterborough ON K9H 3E2	45.00	0.00	45.00
49	Noun Project	1821 West Hubbard St., Unit 202 Chicago IL 60622 USA	1.00	0.00	1.00
50	OASSIS	5409 Eglinton Avenue West, Suite 208 Toronto ON M9C 5K6	1.00	0.00	1.00
51	Office Team	P.O. Box 57349 Toronto ON M5W 5M5	4,231.86	0.00	4,231.86
52	ON24	795 Folsom St., 3rd Floor San Francisco CA 94107-422 USA	1.00	0.00	1.00
53	Ontario Association of School Business Officials Attn: Ljiljana Allgeier PIM Website Hosting	144 Main Street, Suite 207 Markham ON L3P 5T3	2,828.00	0.00	2,828.00
54	Oster, Hoskin & Harcourt LLP.	1 First Canadian Place, PO Box 50 Toronto ON M5X 1B8	9,532.35	0.00	9,532.35
55	Ottawa-Carleton District School Board	133 Greenbank Road Nepean ON K2H 6L3	3,330.66	0.00	3,330.66
56	Panda Rose Consulting Studios Inc.	15A Alberta Ave. Spruce Grove AB T7X 3A9	5,000.25	0.00	5,000.25
57	Premier Global c/o TH1200C	PO Box 4290, STN A, Postal Station F Toronto ON M4W 0E1	1.00	0.00	1.00
58	Principal Association Projects Attn: Sarah Morrison LSA Year 13	2700-20 Queen Street West, PO Box 7 Toronto ON M5H 3R3	48,702.00	0.00	48,702.00
59	Purolator	100-5995 Avebury Rd. Mississauga ON L5R 3T8	1.00	0.00	1.00
60	RICOH	600-4100 Yonge St. Toronto ON M2P 2B5	1.00	0.00	1.00
61	Road Runner	400 Creditstone Rd, Unit 2 Concord ON L4K 3Z3	3.14	0.00	3.14
62	Rose Manns	5104 Main St. Orono ON L0B 1M0	33.12	0.00	33.12
63	Rostam Djeddi	95 Baynards Lane Richmond Hill ON L4C 9B9	250.00	0.00	250.00
64	Sean West	124 Richmond St Richmond Hill ON L4C 3Y4	286.00	0.00	286.00
65	Smartsheel	10500 NE 8th St, Suite 1300 Bellevue WA 98004-4357 USA	1.00	0.00	1.00
66	Staples /Desjardins Card Services	6 Staples Ave. Richmond Hill ON L4B 4W3	1,201.86	0.00	1,201.86

28-Mar-2018

Date



Amy Coates

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 – Continued

List "A"  
 Unsecured Creditors

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
67	Sutherland Associates Attn: Dawn Sutherland	#6 - 9869 LaSalle Blvd. LaSalle QC H8R 2N9	2,655.50	0.00	2,655.50
68	Tanya Daley	A-480 Reid St. Peterborough ON K9H 4G8	41.40	0.00	41.40
69	Telus	P.O. Box 5300 Burlington ON L7R 4S8	1.00	0.00	1.00
70	The Creative Group	P.O. Box 57349 FILE T57349C Toronto ON M5W 5M5	12,216.09	0.00	12,216.09
71	Tina Roach	34 Taylor Drive Belleville ON K8N 4Z7	286.00	0.00	286.00
72	Vereschagin & Brown LLP 992728	25 Main St. W. Suite 500 Hamilton ON L8P 1H1	423.75	0.00	423.75
73	Wikwemikong Board of Education Attn: Mick Staruk Focus on Adolescent Literacy Ph	34 Henry Street Wikwemikong ON P0P 2J0	5,045.00	0.00	5,045.00
74	Word It Write	81 Mintwood Road Thornhill ON L4J 9E5	3,164.00	0.00	3,164.00
75	Yvonne Leicht	317 Elias Ave. Peterborough ON K9J 5G8	40.50	0.00	40.50
<b>Total:</b>			<b>4,739,792.27</b>	<b>0.00</b>	<b>4,739,792.27</b>

28-Mar-2018

Date



Amy Coupal

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 -- Continued

List "B"  
 Secured Creditors

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
1	The Toronto-Dominion Bank	465 University Avenue Toronto ON M5G 1W8	747,488.86	Other - Long and Short Term Investments Debts Due - Business - Accounts Receivable Cash on Hand - Chequing - 06015233170 - TD Canada Trust Furniture - Office Furniture Debts Due - Business - Canada Revenue Agency Business Assets - Machinery - Computer and Media Equipment	20-Sep-2017 20-Sep-2017 20-Sep-2017 20-Sep-2017 20-Sep-2017 20-Sep-2017	394,333.84 176,456.25 119,444.02 25,000.00 17,254.75 15,000.00	1,040,975.29	
2	The Toronto-Dominion Bank TD VISA	P.O. Box 1000 Markham ON L3P 3N3	17,413.56	Other - Short Term Investment	20-Sep-2017	17,413.56	22,686.16	
Total:			764,902.42			764,902.42	1,063,661.45	0.00

28-Mar-2018

Date



Amy Coups

District of: Ontario  
Division No. 09 - Toronto  
Court No.  
Estate No.

FORM 78 -- Continued

List "C"  
Preferred Creditors for Wages, Rent, etc.

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
1	280 Richmond Street West Limited	970 Lawrence Ave. W., Suite 304 Toronto ON M6A 3B6		-	100,558.59	0.00	100,558.59
Total:					100,558.59	0.00	100,558.59

28-Mar-2018

Date

  
Amy Cougal

District of: Ontario  
Division No. 09 - Toronto  
Court No.  
Estate No.

FORM 78 - Continued

List "D"  
Contingent or Other Liabilities

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
<b>Total:</b>			<b>0.00</b>	<b>0.00</b>		

26-Mar-2018

Date



Amy Coupal

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 -- Continued

List "E"  
 Debts Due to the Bankrupt

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
1	Accounts Receivable	Various Toronto ON	A/R	176,456.25 429.40 1,289.00		26-Mar-2018	176,456.25	n/a
2	Canada Revenue Agency	n/a Toronto ON	HST Refund	17,254.75 0.00 0.00		26-Mar-2018	17,254.75	n/a
3	Learnography Corporate Services Inc.	150 John St., 6th Floor Toronto ON M5V 3E3	Intercompany loans	0.00 0.00 5,000.00		27-Mar-2018	0.00	n/a
4	My Class Needs Foundation	150 John St., Suite 600 Toronto ON M5V 3E3	Intercompany loans	0.00 53,496.48 0.00		27-Mar-2018	0.00	n/a
Total:				193,711.00 53,927.88 6,289.00			193,711.00	

28-Mar-2018

Date



Amy Courge

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 - Continued

List "F"

Bills of Exchange, Promissory Notes, Lien Notes, Chattel  
 Mortgages, etc., Available as Assets

Curriculum Services Canada / Services Des Programmes D'Études Ca

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
<b>Total:</b>				0.00		0.00	

28-Mar-2018

Date



Amy Couper

District of: Ontario  
Division No. 09 - Toronto  
Court No.  
Estate No.

FORM 78 - Continued

List "G"  
Real Property or Immovables Owned by Bankrupt

Curriculum Services Canada / Services Des Programmes D'Études Ca

Description of property	Nature of bankrupt interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
Total:			0.00		0.00

28-Mar-2018

Date



Amy C. Cuspa

District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

FORM 78 -- Concluded

List "H"  
 Property

Curriculum Services Canada / Services Des Programmes D'Études Ca  
 FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	0.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions	TD Canada Trust 465 University Ave Toronto ON M5G 1W8	06015233170	119,444.02	119,444.02
(d) Cash on hand			0.00	0.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant		Computer and Media Equipment	381,726.48	15,000.00
(g) Furniture		Office Furniture	122,806.80	25,000.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles			0.00	0.00
(l) Taxes			0.00	0.00
(m) Other		Funds held by Trustee	75,000.00	75,000.00
		Short Term Investment	40,089.72	40,089.72
		Long and Short Term Investments	1,435,309.13	1,435,309.13
		Prepaid Insurance	16,733.86	0.00
			<b>Total:</b>	<b>1,709,852.87</b>

28-Mar-2018

Date



Amy Grupp

Court No.

File No.

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In the matter of the bankruptcy of  
Curriculum Services Canada / Services Des  
Programmes D'Études Canada  
of the City of Toronto, in the Municipality of Toronto  
in the Province of Ontario

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Form 78 (Bill C-12)  
Statement of affairs (Business bankruptcy)

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RSM Canada Limited - Licensed Insolvency Trustee

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11 King Street W., Suite 700, Box 27  
Toronto ON M5H 4C7  
Phone: (416) 480-0160 Fax: (416) 480-2646

---

This is Exhibit "C" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



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A Commissioner for Taking Affidavits

---

Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

RSM Canada Limited  
 11 King Street W., Suite 700, Box 27  
 Toronto ON M5H 4C7  
 Phone: (416) 480-0160 Fax: (416) 480-2046

District of: Ontario  
 Division No. 09 - Toronto  
 Court No. 31-2360759  
 Estate No. 31-2360759

## FORM 31

## Proof of Claim

(Sections 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1),  
 and Paragraphs 51(1)(e) and 66.14(b) of the Act)

in the matter of the bankruptcy of  
 Curriculum Services Canada / Services Des Programmes D'Études Canada  
 of the City of Toronto, in the Province of Ontario

All notices or correspondence regarding this claim must be forwarded to the following address:

c/o Minden Gross LLP, 145 King Street West, Suite 2200, Toronto, Ontario M5H 4G2 Attention: Mr. Timothy R. Dunn

In the matter of the bankruptcy of Curriculum Services Canada / Services Des Programmes D'Études Ca of the City of Toronto in  
 the Province of Ontario and the claim of MEDALLION CORPORATION, authorized agents for 280 Richmond Street West Limited, creditor.

I, JOSEPH CACCIOLA (representative of the creditor), of the City of Toronto, in the province of Ontario, do hereby certify:

1. That I am Commercial Property Manager of Medallion Corporation, creditor.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, namely the 29th day of March 2018, and still is, indebted to the creditor in the sum of  
\$ 4,128,669.82, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any  
 counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in  
 support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ 4,028,111.23

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
 (Check appropriate description.)

Regarding the amount of \$ 100,558.59, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
 (Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
 (Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:  
 (Give full particulars of the security, including the date on which the security was given and the value of which you assess the security,  
 and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 61.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
 (Attach a copy of sales agreement and delivery receipts.)

FORM 31 — Concluded

- E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.3(B) of the Act in the amount of \$ \_\_\_\_\_.
- That I hereby make a claim under subsection 81.4(B) of the Act in the amount of \$ \_\_\_\_\_.
- F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_.
- That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_.
- G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

*(To be completed when a proposal provides for the compromise of claims against directors.)*  
 That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

- H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_
- That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

5. That, to the best of my knowledge, the above-named creditor is not related to the debtor within the meaning of section 4 of the Act, and has not dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: *(Provide details of payments, credits and transfers at undervalue.)*

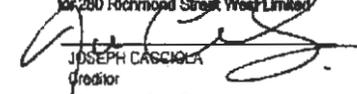
7. *(Applicable only in the case of the bankruptcy of an individual.)*

- Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.
- I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at Toronto, this 20TH day of April, 2018.

  
 Witness

MEDALLION CORPORATION, authorized agent  
 for 280 Richmond Street West Limited

Per:   
 Name: JOSEPH CASCIOLA  
 Title: Creditor  
 Phone Number: 416-659-7220  
 Fax Number:  
 E-mail Address: JCACCIOLA@MEDALLIONCORP.COM

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNING: A failed filing, pursuant to subsection 128(7) of the Act, reduces a security or payment to the secured creditor of the debtor or the value of the security so assigned, in a pool of security, by the secured creditor.

Subsection 20(19) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

## Instructions to Creditors

### General

Creditors are required to file their claims with the Trustee prior to the time appointed for the meeting of creditors in order to be eligible to vote.

The proper name of the claimant and its complete address, to which all notices or correspondence are to be forwarded, must be shown.

The proof of claim form must be completed by a person, not by a corporation. The person completing the proof of claim form on behalf of a corporation shall indicate his official capacity, such as "Credit Manager", "Secretary", "Authorized Agent", etc.

All sections of the proof of claim must be completed. Any non-applicable wording should be crossed out.

The signature of the creditor or declarant on the claim must be witnessed.

### Paragraph 3

Insert the total amount owed and attach supporting documentation which agrees to the amount owed. The supporting documentation can be in the form of an invoice or a detailed statement of account which shows the date, the number and the amount of all the invoices or charges, together with the date, the number and the amount of all credits or payment. A statement of account is not complete if it begins with an amount brought forward.

### Paragraph 4

Complete the subsection(s) that applies depending on the nature of your claim. Strike out those subsections which do not apply. For example, trade creditors complete subsection A and secured creditors complete subsection C. In subsection A, the total amount of your unsecured claim is inserted in the first space, and the portions claimed as priority versus no priority are split out in the following two spaces. The priority under section 136 of the Act referred to in subsection A may include the claims of employees of the bankrupt for wage arrears, commissions or expenses; a landlord for rent arrears and acceleration rent, if included in the lease; municipalities, if their claims are not a charge against title; and departments of federal and provincial governments.

All Secured Creditors must attach to their proofs of claim, a certified true copy of their security documents and details of registration.

### Paragraph 5

All claimants must indicate whether or not they are related to the debtor, as defined by The Bankruptcy & Insolvency Act, by striking out "AM" or "AM NOT" and "HAVE" or "HAVE NOT".

### Paragraph 6

All claimants must attach a detailed list of all payments or credits received or granted, as follows:

- a) within the three (3) months preceding the bankruptcy or the proposal, in the case where the claimant and the debtor are not related.
- b) within the twelve (12) months preceding the bankruptcy or proposal, in the case where the claimant and the debtor are related.

### Voting/Proxy

Any unsecured creditor may vote in person or by proxy, but when a proxy is attending the meeting, he must be so appointed by the creditor. When the creditor is a corporation, the person attending the meeting of the creditors, including the declarant, must be appointed proxy by an officer of the corporation having status to make such an appointment.

### Note

Section 201(1) of The Bankruptcy & Insolvency Act states: "Where a creditor, or a person claiming to be a creditor, in any proceedings under this Act, willfully and with intent to defraud, makes any false claim or any proof, declaration or statement of account, that is untrue in any material particular, he is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or both."

Please return your completed proof of claim form and proxy to:

RSM Canada Limited  
11 King Street West, Suite 700, P.O. Box 27  
Toronto, ON M5H 4C7

Attention: Donna Nishimura

Fax: (416) 480-2646 / Email: donna.nishimura@rsmcanada.com

**SCHEDULE "A"****STATEMENT OF INDEBTEDNESS**

1. Medallion Corporation, as authorized agent for 280 Richmond Street West Limited (the "**Landlord**"), entered into a Lease, as Landlord, with Curriculum Services Canada (the "**Tenant**"), as Tenant, dated as of May 26, 2017 (the "**Lease**") for the property known municipally as 150 John Street West, Toronto, Ontario (the "**Premises**").
2. The term of the Lease expires on December 31, 2027 (the "**Term**").
3. A copy of the Lease is attached as Schedule A(1) hereto.
4. The claim of the Landlord is as follows:
  - (a) Preferred claim for three (3) months accelerated rent in the amount of \$100,558.59;
  - (b) Unsecured claim for the unexpired portion of the Term of the Lease in the amount of \$4,028,111.23.

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This is Exhibit "D" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



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A Commissioner for Taking Affidavits

---

Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

---

**CURRICULUM SERVICES CANADA  
SERVICES DES PROGRAMMES D'ÉTUDES CANADA**

**NOTICE OF DISCLAIMER OF LEASE  
PURSUANT TO THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c. B-3, AS AMENDED (the "Act")**

---

**To: 280 Richmond Street West Limited, Landlord**

**Date: April 23, 2018**

Take notice that:

1. On March 29, 2018, Curriculum Services Canada Services Des Programmes D'Études Canada ("**CSC**") became bankrupt as a result of an assignment in bankruptcy filed by CSC, and the undersigned, RSM Canada Limited, was appointed as Trustee of the Estate of CSC.
2. The Trustee hereby disclaims any and all leases entered into between 280 Richmond Street West Limited, as lessor, and CSC, as lessee, including the lease dated as of May 26, 2017 between the lessor and "Curriculum Services Canada" named as lessee, in respect of the leased premises situated at Suite 600, 150 John Street, Toronto, Ontario.
3. This disclaimer of lease is effective immediately.

**DATED** at Toronto on April 23, 2018.

**RSM CANADA LIMITED, in its capacity as  
Trustee in Bankruptcy of Curriculum  
Services Canada Services Des  
Programmes D'Études Canada and not in  
its personal capacity**

Per:



Name: Daniel Weisz, CPA, CA, CIRP, CFF, LIT  
Senior Vice President

**RSM Canada Limited**  
11 King Street W.,  
Suite 700, PO Box 27  
Toronto, Ontario  
Canada  
M5H 4C7

Tel: 416 480 0160

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This is Exhibit "E" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



.....  
A Commissioner for Taking Affidavits

---

Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

ONTARIO  
 SUPERIOR COURT OF JUSTICE  
 IN BANKRUPTCY AND INSOLVENCY  
 IN THE MATTER OF THE BANKRUPTCY OF  
 Curriculum Services Canada/Services Des Programmes D'Études Canada  
 of the City of Toronto  
 in the Province of Ontario

**NOTICE OF [PARTIAL] DISALLOWANCE OF CLAIM  
 (Subsection 135(3) of the Act)**

**Medallion Corporation, as authorized agents for  
 260 Richmond Street West Limited, Creditor:**

TAKE NOTICE that as trustee acting in the matter of the bankruptcy of Curriculum Services Canada Services Des Programmes D'Études Canada ("**CSC**"), we have disallowed your claim in part pursuant to subsection 135(2) of the Bankruptcy and Insolvency Act ("**BIA**"), for the following reasons:

- (a) ***Claim to a right to a priority for the amount of \$100,558.59 as a preferred claim under the provisions of s.136(1)(f) BIA*** – The realization by the Trustee from assets on the leased premises totaled \$24,571.00, and consequently the Trustee has admitted a claim for \$24,571.00 with priority under Section 136(1)(f) BIA, and has disallowed the rest of the claim to a priority.
- (b) ***Claim for unexpired portion of the term of the lease in the amount of \$4,028,111.23*** - On April 23, 2018, the Trustee gave notice of disclaimer of the lease entered into between CSC and Medallion Corporation, authorized agents for 260 Richmond Street West Limited.

The landlord's claim is limited to the priority claim as set out in (a) above and not to the unexpired portion of the term under the Lease to December 31, 2027 in Ontario due to the operation of the provisions of s.146 BIA that provides that, subject to the priority of claims set out in s.136 BIA, and the provisions of s.73(4) BIA, the rights of landlords shall be determined according to the laws of the Province in which the demised premises are situated, being Ontario.

The law in Ontario as to the rights of a landlord is codified in sections 38 and 39 of the *Commercial Tenancies Act*, R.S.O. 1990, chapter L.7 (the "CTA"). While s.38 CTA provides for a preferential claim which mirrors s.136 BIA, it is s.39 CTA that provides as follows:

"The person who is assignee, liquidator or trustee has the further right, at any time before so electing, by notice in writing to the landlord, to surrender possession or disclaim any such lease..."

The Trustee's position is that the Trustee cannot allow the claim for damages for unpaid and accelerated rent for the unexpired portion of the term to December 31, 2027 which the Landlord alleges it is suffering as a result of the disclaimer of the lease by the Trustee.

Under the Jurisprudence interpreting s.39 of the CTA, the effect of s.39 of the CTA is that the disclaimer of a lease by a trustee in Ontario operates as if there was a consensual surrender of the lease by the Tenant to the landlord. As a result the lease is at an end, and no claim for damages can be founded from such a cessation of obligations under the lease. A trustee is provided in s.39 of the CTA with a statutory right to commit a breach of the bankrupt's obligations under the lease.

In addition, and in the alternative, the lease lacks an acceleration provision that accelerates the payment of the remaining months of rent for the unexpired portion of the term, only the current arrears and "...next three months of Rent..." on default, and consequently there can be no acceleration of the monthly rent payments for the unexpired term to be due and owing as of the date of the bankruptcy.

In summary, your claim has been **admitted in the amount of \$24,571.00 as a preferred claim with a priority under section 136 of the Act and disallowed as to your claim for the unexpired portion of the term of the lease in the amount of \$4,028,111.23.**

AND FURTHER TAKE NOTICE that if you are dissatisfied with our decision in disallowing your claim, you may appeal to the court within the 30-day period after the day on which this notice is served, or within such other period as the court may, on application made within the same 30-day period, allow.

Dated at the City of Toronto, in the Province of Ontario, this 19th day of September, 2018.

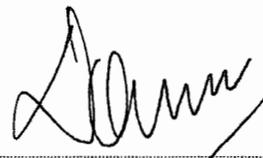
**RSM Canada Limited,  
In its capacity as Trustee of the Estate of Curriculum  
Services Canada Services Des Programmes  
D'Études Canada, a Bankrupt, and not in its  
personal capacity**



Per: Brenda Wong, CIRP, LIT  
Senior Manager

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This is Exhibit "F" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018



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A Commissioner for Taking Affidavits

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Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.



# LINCOLN CONSTRUCTION GROUP

2001 Albion Road, Unit 22, Etobicoke, Ontario M9W6V6  
Ph. (416)675-7283, Fax (416)675-7369

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## QUOTE / CONTRACT

Page 1 of 4

MEDALLION CORPORATION  
970 LAWRENCE AVE. W., SUITE 304  
NORTH YORK ON M6A 3B6

**QUOTE No. : 2017-0707**

Date : August 28, 2017  
Phone No. : (416)493-3880  
Fax No. : ( ) -

**Attention :** Joseph Cacciola  
Email : jcacciola@medallioncorp.com

### RE: REVISED - 150 JOHN ST., 6TH FLOOR WASHROOMS

*SUPPLY LABOUR, EQUIPMENT AND MATERIAL TO COMPLETE THE FOLLOWING WORK:*

- |   |   |              |
|---|---|--------------|
| 1 | <b>REMOVAL</b>  | \$ 39,885.00 |
|   | <ul style="list-style-type: none"> <li>▪ Remove all wall and floor tiles in men's and women's washrooms</li> <li>▪ Remove all washroom accessories</li> <li>▪ Remove existing toilet partition walls and doors (remove and reinstall)</li> <li>▪ Remove existing countertops, sinks and faucets</li> <li>▪ Remove existing drywall damaged due to tile removal</li> </ul>   |              |
| 2 | <b>FLOORING</b>   |              |
|   | <ul style="list-style-type: none"> <li>▪ Prepare wall and floors for tile installation</li> <li>▪ Install floor tile on men's and women's washroom floors</li> <li>▪ Install wall tiles as per specs in men's and women's washrooms</li> <li>▪ Supply all adhesives, grouts, sealers and metal edging</li> <li>▪ Supply and install wall, floor and accent tiles</li> </ul> |              |
| 3 | <b>COST OF TILES</b>  | \$ 5,395.00  |
| 4 | <b>CARPENTRY</b>  |              |
|   | <ul style="list-style-type: none"> <li>▪ Provide all necessary blocking</li> <li>▪ Supply and install new counter tops</li> <li>▪ Reinstall toilet partitions with new shoe mouldings</li> <li>▪ Supply and install Wilsonart Quartz colour Gray Lake</li> </ul>  |              |
| 5 | <b>DRYWALL</b>  |              |
|   | <ul style="list-style-type: none"> <li>▪ Supply and install new drywall at areas required</li> </ul>  |              |
| 6 | <b>HARDWARE</b>   |              |
|   | <ul style="list-style-type: none"> <li>▪ Supply and install washroom accessories as per drawings</li> </ul>   |              |



# LINCOLN CONSTRUCTION GROUP

2001 Albion Road, Unit 22, Etobicoke, Ontario M9W6V6  
Ph. (416)675-7283, Fax (416)675-7369

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## QUOTE / CONTRACT

Page 2 of 4

MEDALLION CORPORATION  
970 LAWRENCE AVE. W., SUITE 304  
NORTH YORK ON M6A 3B6

**QUOTE No. : 2017-0707**

Date : August 28, 2017  
Phone No. : (416)493-3880  
Fax No. : ( ) -

**Attention :** Joseph Cacciola  
Email : jcacciola@medallioncorp.com

**RE: REVISED - 150 JOHN ST., 6TH FLOOR WASHROOMS**

**7 PLUMBING**

- Remove existing toilets and urinals (to be reinstalled)
- Cap off all existing plumbing lines during renovation
- Supply and instal four new Houser, opus style sink
- Supply and isntall gour new A/S Sern 2064-101

**8 PAINTING**

- Finish paint washroom ceilings
- Finish paint washroom doors and frames
- Finish paint toilet partitions in Electrostatic paint

**9 T-BAR GRID**

- Supply and install new ceiling tiles as per specs

**10 ELECTRICAL**

- Supply and install electrical as per specs

**THE ABOVE QUOTATION EXCLUDES:**

- X Permits, testing and inspection
- X Removal of any contaminated material
- X Any other item not specified in this quotation

**NOTE:**

*Quote valid for 30 days.  
As per areas indicated by you.  
All work to be completed weather permitting.*



# LINCOLN CONSTRUCTION GROUP

2001 Albion Road, Unit 22, Etobicoke, Ontario M9W6V6  
Ph. (416)675-7283, Fax (416)675-7369

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## QUOTE / CONTRACT

Page 3 of 4

MEDALLION CORPORATION  
970 LAWRENCE AVE. W., SUITE 304  
NORTH YORK ON M6A 3B6

**QUOTE No. : 2017-0707**

Date : August 28, 2017  
Phone No. : (416)493-3880  
Fax No. : ( ) -

**Attention :** Joseph Cacchiola  
Email : jcacchiola@medallioncorp.com

**RE: REVISED - 150 JOHN ST., 6TH FLOOR WASHROOMS**

**NOTE:** SEE ATTACHED P04

**TOTAL PRICE (HST EXTRA)**

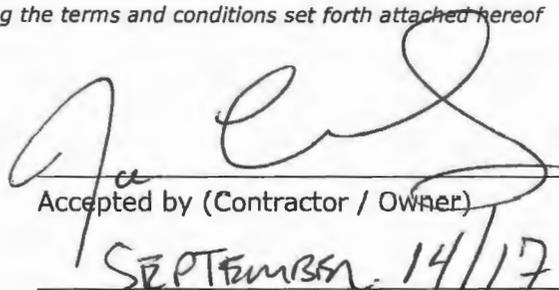
**\$45,280.00**

If the foregoing meets your acceptance, kindly sign and return the attached copy of our proposal, which, upon receipt by us, becomes a binding contract. It is understood that the foregoing including the terms and conditions set forth attached hereof will constitute the full and complete agreement between us.

Yours truly,

Fernando Martins

Fernando Martins, Sales and Business Development  
fernando@lincolnigroup.ca

  
Accepted by (Contractor / Owner)

SEPTEMBER 14/17  
Date Accepted

**TERMS AND CONDITIONS**

1. a) *Invoice Amount due and payable upon receipt.*  
b) *INTEREST - 18% per annum chargeable if terms of payment not complied with.*
2. *If credit conditions become unsatisfactory before commencement or at any time during the course of the said work, adequate security shall be furnished to Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group.*
3. *Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group reserves the right to cancel this proposal if not accepted within thirty (30) days.*
4. *Any deviation from agreed specifications and/or terms shall be by mutual agreement and shall be in writing. Payment for extra work and allowances for omissions shall be fixed in advance on demand by either party and shall be set forth in said writing.*
5. *Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group will carry Worker's Compensation Insurance covering its employees and shall provide adequate Public Liability and Property Damage Insurance Protecting itself.*
6. *The aforesaid stated Unit Prices shall be renegotiated if Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group can show that the costs of asphalt and paving materials have increased since the date of this contract.*
7. *It is expressly understood that any and all WORK and MATERIALS done by Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group, after the 15th day of October of any year, will be done without and representation or guarantee on the part of Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group. The Contractor/Owner assumes full risk and responsibility for any deficiencies in such event and saves harmless Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group from any liability arising therefrom. All other work guaranteed for one year.*
8. *Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group shall not be required to roll asphalt surfacing with a roller of a weight exceeding that which has been employed on consolidation of the foundation.*
9. *Responsibility is not accepted for any subsidences or settlement that may occur due to the causes over which we have no control.*
10. *The above prices are quoted on the assumption that unless specifically stated to the contrary, the said work can be undertaken in unbroken areas and that a sufficient area of work shall be available daily to ensure continuity.*
11. *It is expressly agreed that the Contractor/Owner will advise Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group before any work is undertaken under this contract, of any unusual conditions or particulars which might affect the paving or asphalt operations.*
12. *In the event of a period of maintenance being specified, such period of maintenance shall commence from the date of completion of the said work, and not from the date of completion of the main contract.*
13. *The Contractor/Owner agrees to notify Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group in writing, of any deficiencies or other complaints by delivering a written notice containing particulars forthwith to Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group at 2001 Albion Road, Unit 22, Etobicoke, Ontario, M9W 6V6 by registered mail. It is expressly understood that if the Contractor/Owner fails to deliver by registered mail such a notice immediately, they will be deemed to have accepted the said work.*
14. *FORCE MAJEURE - Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group shall be relieved from the terms of this agreement in the event of acts of God, strikes, fires, floods, war (declared or undeclared) or any other happening beyond the control of Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group which shall render Lincoln Paving & Contracting Ltd. o/a Lincoln Construction Group unable to comply with the conditions thereof.*
15. *It is understood that the foregoing is an estimate of the work and the materials and equipment required, and that payment shall be based on the stated unit prices for the actual work performed, and materials supplied and equipment used by the Company as determined upon completion of the work.*

DATE: SEPT 14/17.

NO: 145435  
THIS ORDER NUMBER MUST BE SHOWN  
ON ALL INVOICES AND PACKING SLIPS.

129



# PURCHASE ORDER

TO: LINCOLN CONSTRUCTION

SHIP TO: 150 JOHN ST,  
TORONTO

VIA:  COLLECT  
 PREPAID  
REQUIRED:

ATTENTION:

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	<u>6TH FLOOR</u>		
	<u>To SUPPLY ALL LABOUR MATERIAL AND SUPERVISION TO COMPLETE ALL WORK AS DETAILED ON THE "ELLMAN DESIGN DUGS" AS DIRECTED BY LANDLORD AND AS STIPULATED IN YOUR QUOTE DATED Aug 28, 2017.</u>		
	<u>PROGRESS BILLING IS ACCEPTABLE 10% HOLD BACK TO APPLY</u>		

FEDERAL SALES TAX INCL.  EXTRA  PROVINCIAL SALES TAX INCL.  EXTRA

INVOICE TO: (IN DUPLICATE)  
MEDALLION CORPORATION

FOR MEDALLION USE ONLY

PER: \_\_\_\_\_

SUBMITTED BY: [Signature]

CHARGE TO BLDG.: \_\_\_\_\_

ACCOUNT # \_\_\_\_\_

970 LAWRENCE AVENUE WEST  
SUITE 304  
TORONTO, ONTARIO  
M6A 3B6  
TEL: (416) 256-3900  
FAX: (416) 256-2827

COPY 1  
ACCOUNTS PAYABLE  
(WHITE)

COPY 2  
NUMERICAL SEQUENCE  
(PINK)

COPY 3  
BOOK FILE  
(GREEN)

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This is Exhibit "G" referred to  
in the Affidavit of Joseph Cacciola  
sworn this 16<sup>th</sup> day  
of October, 2018

  
A Commissioner for Taking Affidavits

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Doreen Lee, a Commissioner etc.,  
City of Toronto, for Medallion Properties Inc.,  
and its subsidiaries.  
Expires April 20, 2020.

Chart re free rent provided to Curriculum  
(July through December, 2017)

Trans Date	From	To	DecSeq	Chg/Rec	Description	Net	HST	Total	Payment	Balance
10/31/2017	7/1/2017	7/31/2017	201700031371	C-393631	comfrent Commercial free rent (Jul 2017)	-14,910.25	-1,938.33	-16,848.58	0.00	
10/31/2017	7/1/2017	7/31/2017	201700031371	C-393635	frentcam Rent Free -Cam Recov Estimate (Jul 2017)	-5,027.88	-653.62	-5,681.50	0.00	
10/31/2017	7/1/2017	7/31/2017	201700031371	C-393636	frenttxr Rent Free-Tax Recov Estimate (Jul 2017)	-5,860.08	-761.81	-6,621.89	0.00	
10/31/2017	8/1/2017	8/31/2017	201700031372	C-393647	comfrent Commercial free rent (Aug 2017)	-14,910.25	-1,938.33	-16,848.58	0.00	
10/31/2017	8/1/2017	8/31/2017	201700031372	C-393651	frentcam Rent Free -Cam Recov Estimate (Aug 2017)	-5,027.88	-653.62	-5,681.50	0.00	
10/31/2017	8/1/2017	8/31/2017	201700031372	C-393652	frenttxr Rent Free-Tax Recov Estimate (Aug 2017)	-5,860.08	-761.81	-6,621.89	0.00	
9/1/2017	9/1/2017	9/30/2017	201700025048	C-330260	comfrent Commercial free rent	-14,910.25	-1,938.33	-16,848.58	0.00	
9/1/2017	9/1/2017	9/30/2017	201700025048	C-330264	frentcam Rent Free -Cam Recov Estimate	-5,027.88	-653.62	-5,681.50	0.00	
9/1/2017	9/1/2017	9/30/2017	201700025048	C-330265	frenttxr Rent Free-Tax Recov Estimate	-5,860.08	-761.81	-6,621.89	0.00	
10/1/2017	10/1/2017	10/31/2017	201700028394	C-356950	comfrent Commercial free rent	-14,910.25	-1,938.33	-16,848.58	0.00	
10/1/2017	10/1/2017	10/31/2017	201700028394	C-356954	frentcam Rent Free -Cam Recov Estimate	-5,027.88	-653.62	-5,681.50	0.00	
10/1/2017	10/1/2017	10/31/2017	201700028394	C-356955	frenttxr Rent Free-Tax Recov Estimate	-5,860.08	-761.81	-6,621.89	0.00	
11/1/2017	11/1/2017	11/30/2017	201700031183	C-391573	comfrent Commercial free rent	-14,910.25	-1,938.33	-16,848.58	0.00	
11/1/2017	11/1/2017	11/30/2017	201700031183	C-391577	frentcam Rent Free -Cam Recov Estimate	-4,854.50	-631.09	-5,485.59	0.00	
11/1/2017	11/1/2017	11/30/2017	201700031183	C-391578	frenttxr Rent Free-Tax Recov Estimate	-6,172.15	-802.38	-6,974.53	0.00	
12/1/2017	12/1/2017	12/31/2017	201700031988	C-406076	comfrent Commercial free rent	-14,910.25	-1,938.33	-16,848.58	0.00	
12/1/2017	12/1/2017	12/31/2017	201700031988	C-406080	frentcam Rent Free -Cam Recov Estimate	-4,854.50	-631.09	-5,485.59	0.00	
12/1/2017	12/1/2017	12/31/2017	201700031988	C-406081	frenttxr Rent Free-Tax Recov Estimate	-6,172.15	-802.38	-6,974.53	0.00	

TOTAL: -175,225.28

IN THE MATTER OF THE BANKRUPTCY OF  
Curriculum Services Canada/Services Des Programmes D'Etudes Canada  
of the City of Toronto, in the Province of Ontario

Estate No. 31-2360759

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Toronto

**MOTION RECORD**

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2

**Catherine Francis** (LSUC# 26900N)  
cfrancis@mindengross.com

Tel: 416-369-4137  
Fax: 416-864-9223

Lawyers for the Moving Party,  
Medallion Corporation as authorized agents for 280  
Richmond Street West Limited