

TORONTO DISTRICT SCHOOL BOARD ("TDSB")

OF THE FIRST PART

and

TORONTO LANDS CORPORATION ("TLC")

OF THE SECOND PART

SHAREHOLDER'S DIRECTION

May 16, 2008

As Amended:

June 22, 2011

November 16, 2011

and

As Further Amended and Consolidated to November 26, 2014

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SHAREHOLDER'S DIRECTION

THIS SHAREHOLDER'S DIRECTION made as of May 16, 2008 (as amended and consolidated to November 26, 2014).

FROM:

TORONTO DISTRICT SCHOOL BOARD

(hereinafter referred to as the "**TDSB**")

OF THE FIRST PART

-to-

TORONTO LANDS CORPORATION

(hereinafter referred to as the "**TLC**")

OF THE SECOND PART

RECITALS:

- A. The TDSB is the owner of real property located in and around the City of Toronto, including the Properties (as defined herein);
- B. The TLC is a wholly-owned subsidiary of TDSB, established by the TDSB pursuant to the OBCA;
- C. The TDSB has determined that it is in its interest to appoint the TLC to provide the services described herein and the TLC has agreed to provide such services, for the consideration and upon the terms and conditions herein provided; and
- D. The TLC and the TDSB will be considered to be a single employer for purposes of Section 1(4) of the *Labour Relations Act* (Ontario).

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions.

In this Direction unless the context otherwise requires:

“Annual Budget” has the meaning ascribed thereto in Section 5.3;

"Annual Plan" has the meaning ascribed thereto in Section 5.3;

"Approved List" means a list of law firms which has been approved by the General Counsel of the TDSB from time to time;

“Asset Condition Registry” means a report on each of the Properties which, in each case, includes an assessment of the condition of the applicable Property, the condition of the major components of such Property (including a photographic record of such components) and material repairs and replacements required. The reports in the Asset Condition Registry will be updated periodically; including before and after material repairs, replacements or improvements to the Properties to which they relate;

"Asset Management Services" has the meaning ascribed thereto in Article 6;

"Auditor" means the auditor of the TLC from time to time, if applicable;

"Business Day" means any day of the year, other than a Saturday, Sunday or other day on which banks are required or authorized to close in Toronto, Ontario;

"Citizens" has the meaning ascribed thereto in Section 4.2;

"Competitive Pricing Processes" has the meaning ascribed thereto in Section 8.3(b);

"Director" means a director of the TLC;

"Director of Education" means the Director of Education of the TDSB or his or her designated representative from time to time;

"Disposition Parameters" has the meaning ascribed thereto in Section 6.4;

"Direction" means this shareholders' direction and all schedules hereto, as from time to time amended, supplemented or restated, and the expressions "Article" and "Section" followed by a number mean and refer to the specified Article or Section of this Direction;

"Disposition Properties" has the meaning ascribed thereto in Section 6.2;

"Early Termination Clause" has the meaning ascribed thereto in Section 8.1;

"Education Act" means the *Education Act* (Ontario);

"Effective Date" means May 16, 2008;

"Fiscal Year" means each 12 month period comprising a fiscal year of the TDSB (or, in respect of the initial Fiscal Year, the period commencing on the Effective Date and ending on August 31, 2008);

"GAAP" means, at any time, accounting principles generally accepted in Canada as recommended in the Handbook of the Canadian Institute of Chartered Accountants at the relevant time applied on a consistent basis, but subject to applicable Ministry of Education accounting and reporting requirements;

"Governmental Entity" means any (a) federal, provincial, municipal, local or other government, governmental or public department, court, commission, board, bureau, agency or instrumentality, (b) any subdivision or authority of any of the foregoing, or (c) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above;

"Lease" means any lease agreement, offer to lease, license, parking agreement or other agreement granting any right to use any part of a Property but shall exclude any permits granted by the TDSB's Permitting Department;

"Major Contracts" has the meaning ascribed thereto in Section 8.1;

"Net Revenue" means all rents and other revenues actually received in respect of the Properties, whether paid under Leases or otherwise, net of all costs and expenses incurred in connection with the operation, ownership and management of the Properties;

"Nominating Committee" means the committee of the TLC Board so designated by the TLC Board from time to time;

"OBCA" means the *Business Corporations Act* (Ontario);

"OMB" means the Ontario Municipal Board or any other tribunal or Governmental Entity which supersedes or assumes the function of the Ontario Municipal Board;

"Operating Report" has the meaning ascribed thereto in Section 5.6;

"Outside Sale Date" has the meaning ascribed thereto in Section 6.3;

"Person" means a natural person, partnership, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity;

"Project Management and Consulting Services" has the meaning ascribed thereto in Section 7.1;

"Properties" means the interest of the TDSB in the non-operating school sites which are listed on Schedule "A" attached hereto (including all buildings and improvements built thereon). Additional Properties, whether operating or non-operating school sites may be added by the TDSB for the purposes of this Direction from time to time by written notice to TLC. All Disposition Properties are

also Properties for purposes of this Direction. Any Disposition Property which has been disposed of by TLC as agent for and on behalf of TDSB shall cease to be a "Property" for purposes of this Direction;

"Property Management Agreements" means the property management agreements to be entered into from time to time by TLC, as agent for and on behalf of TDSB, with one or more Property Manager(s), in each case with respect to one or more of the Properties, as such agreements may be amended, restated, supplemented or replaced from time to time;

"Property Management Services" has the meaning ascribed thereto in Article 5;

"Property Manager" means a property manager pursuant to any Property Management Agreement from time to time, and its successors, assigns and replacements;

"Reg 444 Proposal" has the meaning ascribed thereto in Section 6.3 hereof;

"Regulation 444" means O.Reg.444/98 pursuant to the *Education Act* (Ontario);

"Reserves" means reserves for future operating and capital expenditures of the TLC, including contingencies for unanticipated events;

"Routine Proceeding" means an action or other proceeding based on a claim or claims by the TDSB and/or TLC (i) which relates to the collection of rent under Leases or of other receivables and, (ii) in respect of which there is no expectation of a counter claim or other claim against the TDSB and/or TLC as a consequence of such action or other proceeding;

"Services" means, collectively, the Asset Management Services, Property Management Services and Project Management and Consulting Services;

"Strategic Plan" has the meaning ascribed thereto in Sections 5.4;

"Tenant" means a tenant under any Lease;

"TLC Board" means the Board of Directors of TLC;

"Transactions Requiring Consent" has the meaning ascribed thereto in Section 8.1;

"Trustees" means trustees of the TDSB and may also be referred to herein where appropriate as the "TDSB Board".

Section 1.2 Gender and Number.

Any reference in this Direction to gender includes all genders and words importing the singular number only include the plural and vice versa.

Section 1.3 Currency.

All references in this Direction to dollars, unless otherwise specifically indicated, are expressed in Canadian currency.

Section 1.4 Certain Phrases, etc.

In this Direction (i) the words "**including**" and "**includes**" mean "**including (or includes) without limitation**", and (ii) the phrases "**the aggregate of**", "**the total of**", "**the sum of**", or a phrase of similar meaning means "**the aggregate (or total or sum), without duplication, of**".

Section 1.5 Accounting Terms.

All accounting terms not specifically defined in this Direction shall be interpreted in accordance with GAAP.

Section 1.6 Statutes.

Any reference in this Direction to a statute or regulations thereunder shall be deemed to be a reference to such statute or regulations as amended, re-enacted or replaced from time to time and reference to specific parts, paragraphs or sections thereof shall include all amendments, re-enactments or replacements, unless the express provisions hereof otherwise require.

Section 1.7 Incorporation of Schedules.

Any Schedules attached to this Direction shall, for the purposes of this Direction, form an integral part of it. Schedule "A" may be varied, amended, replaced, added to or deleted in whole or in part from time to time by the parties hereto executing revisions thereto and any such revision shall from the date of execution as aforesaid become all or part of Schedule "A" hereto, and thereafter incorporated in this Direction and binding upon the parties hereto.

ARTICLE 2 INTRODUCTION

Section 2.1 Relationship of TDSB and TLC.

The TDSB is the sole shareholder of the TLC, and requires that the TLC take responsibility for providing services relating to the property management of all of the Properties, the asset management of certain of the Properties to be specified by the TDSB from time to time, and for the project management of capital or other projects relating to certain of the Properties, and other properties belonging to the TDSB as specified by the TDSB from time to time, in each case, subject to the terms and conditions set out in this Direction.

Section 2.2 Purpose of this Direction.

This Direction:

- (a) establishes certain principles of governance for the TLC;
- (b) sets out the Services that the TLC will provide for the TDSB;
- (c) establishes provisions for the accountability of the TLC to the TDSB; and
- (d) constitutes, in part, a declaration by the TDSB pursuant to Section 108(3) of the

OBCA.

ARTICLE 3 OBJECTIVES AND PRINCIPLES

Section 3.1 Purpose of this Direction.

The TDSB's objectives in entering into this Direction with the TLC are as follows:

- (a) to improve the quality of education for students in schools operated by the TDSB by:
 - (i) maximizing revenue and value to the TDSB through the management and, in some cases, redevelopment and/or sale, of Properties;
 - (ii) facilitating the optimal use of Properties owned by the TDSB by reconfiguring, redeveloping and/or improving the quality of the facilities located on those Properties;
- (b) to ensure that the Properties are operated, maintained and managed in accordance with industry best practices applicable to comparable assets;
- (c) to ensure that actions relating to the Properties take into account the TDSB's commitment to 'strong and vibrant' communities;
- (d) to ensure that TDSB has available to it specialized expertise in asset management, project management and related areas;
- (e) to ensure that financial risks to the TDSB in connection with the Properties are mitigated;
- (f) to ensure the TLC will be accountable to TDSB for achieving projected results, and complying with the provisions and intent of this Direction;
- (g) to ensure the TLC will communicate with the TDSB as required and outlined in this Direction; and
- (h) to ensure the TLC will employ its own employees, and may also extend to TDSB employees secondment opportunities from time to time. In providing the Property Management Services, the TLC will ensure that it (or, where applicable, any Property Manager) utilizes TDSB employees to provide such Services, to the extent necessary to comply with all obligations of the TDSB at law and pursuant to any collective agreements to which it is party.

Section 3.2 Principles Governing the TLC.

The TLC will conduct its affairs in a manner consistent with the following principles:

- (a) identify industry best practices for the operation, maintenance, management and, where applicable redevelopment and/or disposition of assets comparable to the Properties and ensure that, in the provision of the Services, those best practices are

- adhered to at competitive prices;
- (b) achieve the objectives of the TDSB, while protecting the interests of the TDSB;
 - (c) the TLC will conduct its affairs in a transparent and public spirited way, recognizing that, in many cases, the Properties are important to the communities in which they are located;
 - (d) the TLC will work with communities, local politicians and stakeholder organizations to ensure they have a meaningful opportunity to comment on significant projects or initiatives being undertaken by the TLC;
 - (e) the TLC will comply in all respects with the provisions of the *Education Act* (including Regulation 444 pursuant thereto);
 - (f) the TLC will comply with all other requirements of applicable laws and regulations, including paying all taxes, development charges, building permit fees and other costs related to the ownership, management, maintenance and development of the Properties, as applicable and as specified by the Chief Financial Officer, TDSB;
 - (g) the TLC will adhere to its approved Annual Budget, in accordance with the provisions of this Direction; and
 - (h) the TLC will be responsible for determining the appropriate balance among the foregoing principles and causing the TLC to conduct its affairs in accordance with same, and will be accountable to the TDSB for how this balance is achieved.

ARTICLE 4 OPERATION AND CONTROL OF THE TLC

Section 4.1 TLC Board.

Subject to any matters requiring approval of the TDSB pursuant to this Direction, the TLC Board will supervise the management of business and affairs of the TLC, including the following specific matters:

- (a) developing Annual Plans and the Strategic Plan consistent with the provisions of this Direction;
- (b) establishing policies and procedures consistent with the provisions of this Direction and the *Education Act* and all other relevant legislation;
- (c) developing and implementing policies and procedures, in discussion with TDSB, in respect of the matters identified in Section 8.4 hereof;
- (d) negotiating and entering into, on behalf of the TDSB where applicable, all contracts and agreements (excluding collective agreements, but including Leases, Property Management Agreements, service, maintenance and repair contracts and, for Disposition Properties, listing agreements and sales agreements) which are, in the

opinion of the TLC, necessary or desirable in order to permit the TLC to carry out the Services, save and except for contracts or agreements which are or relate to Transactions Requiring Consent, in which case prior approval of the TDSB will be required pursuant to the terms hereof;

- (e) managing and directing all labour and employee-relations matters, subject to any collective agreements to the extent applicable from time to time, including secondment and direction of employees of the TDSB, and selection and hiring of employees of the TLC (including the Chief Executive Officer) and, subject to Section 4.8(3)(c) hereof and to any applicable collective agreements, establishing all salaries, benefits and incentives. The TLC shall consult with the TDSB concerning employees covered by all applicable collective agreements in order to ensure consistent application of the collective agreements between the TLC and the TDSB;
- (f) establishing the Nominating & Governance Committee, as well as terms of reference for the Nominating & Governance Committee;
- (g) ensuring that the TLC operates in a manner consistent with industry best practices in all respects;
- (h) to self-evaluate its performance every three to five years, in conjunction with TLC or TDSB staff recommendations. The evaluation format will be determined by the TLC and will be presented to the TDSB for comment and approval. All final evaluation by the TLC will be presented to the TDSB with a request for feedback and advice.
- (h) approving all plans for rezoning, development and/or servicing of Disposition Properties, prior to submission of any applications to the relevant Governmental Entity, where applicable; and
- (i) approving all plans for applications to any committee of adjustment or any other land use authority or tribunal and all appeals to the OMB.

Section 4.2 Composition of the TLC Board.

The TLC Board will be composed of ten (10) Directors. Of these, four (4) will be Trustees and six (6) will be individuals who are not Trustees ("Citizens"). The Director of Education or any person appointed by the Director of Education shall be entitled to attend all TLC Board meetings and to receive all notices of such meetings and all reports and other correspondence which are distributed to members of the TLC Board.

Section 4.3 Appointment of TLC Board Members.

- (a) The four (4) TLC Board positions to be occupied by Trustees will be appointed by the TDSB;
- (b) The six (6) TLC Board positions to be occupied by Citizens will be nominated by the Nominating & Governance Committee and ratified by the TDSB. In selecting nominees to fill these positions, the Nominating & Governance Committee will

consider the expertise of candidates in real estate, urban development, board governance, corporate finance, delivery of major projects, tendering processes, architecture, as well as other disciplines relevant to the mandate of the TLC;

- (c) The Chair of the TLC Board will be appointed by the TDSB from the Directors of the TLC Board;
- (d) Directors of the TLC Board who are Trustees shall serve for a term ending on the earlier of the date which is two (2) years after their appointment and the end of their term of office as Trustees. Directors of the TLC Board who are Citizens shall serve for a term of three (3) years and may be appointed for a second 3-year term. No Director of the TLC may serve more than two (2) consecutive terms unless authorized by the Trustees of TDSB.

Note: TDSB in June 2014 approved the extension of David Crombie as a Director and Chair of TLC until August 31, 2015.

- (e) To be eligible to be a Director of the TLC, an individual must not be disqualified from being a director under the OBCA, and shall be a resident Canadian as defined in the OBCA;
- (f) If a Director of the TLC ceases to be a Director for any reason, the TDSB will fill the vacancy created thereby as soon as reasonably possible.

Section 4.4 Remuneration.

The remuneration of the Directors of the TLC will be as determined by the TDSB from time to time. The TLC will reimburse Directors for all reasonable expenses.

Section 4.5 Removal of Directors.

A Director may be removed from the TLC Board in accordance with the OBCA. The reasons for such removal may include, but are not restricted to:

- (a) breach of the Director's obligations under the OBCA;
- (b) conflict of interest that cannot be resolved in any other manner satisfactory to the TLC Board;
- (c) engagement in activities that are deemed by the TLC Board to have an adverse impact on the duties of such Director as a TLC Board member;
- (d) ceasing to meet the eligibility criteria of a TLC Board member as described herein; and
- (e) any removal of a Director by the TDSB pursuant to Section 122 of the OBCA.

Section 4.6 Conflict of Interest.

The Directors and officers of the TLC will strictly abide by the requirements of the OBCA, and all other applicable statutes or requirements of law in respect of conflicts of interest, as well as any related TDSB or TLC policy, including any requirements in respect of disclosure and abstention from voting.

Section 4.7 Confidentiality.

The Directors and officers of the TLC will ensure that no confidential information of the TDSB is disclosed or otherwise made available to any person, except to the extent that:

- (a) disclosure to the TDSB or TLC or their employees or agents is necessary for the performance of any of their duties and obligations under this Direction or is otherwise required by the TDSB;
- (b) disclosure is required in the course of judicial proceedings or pursuant to law; or the confidential information becomes part of the public domain (other than through unauthorized disclosure by any party),

and the TLC will abide by all terms of all applicable statutes and requirements of law pertaining to privacy and access to information.

Section 4.8 Shareholder Matters.

- (1) Authorizations of the TDSB generally.

The following will apply to any authorizations or decisions that the TDSB must provide:

- (i) where TDSB authorizations or decisions are required, the TLC will give reasonable advance notice in writing of the need for such authorization and will provide such information as is reasonably necessary for the TDSB to make an informed decision;
- (ii) where TDSB authorizations or decisions are required, such authorizations or decisions shall be made by way of written resolution, provided that the TDSB may, by resolution, delegate approval or decision making authority for specific matters to the Director of Education; and
- (iii) the TLC shall be entitled to rely upon any direction, approval or authorization provided by the Director of Education from time to time.

- (2) Where TDSB Authorization Required Under OBCA.

The TLC will not, without the authorization of the TDSB, enter into any transaction or take any action that requires shareholder approval pursuant to the OBCA, including without limitation, the following actions:

- (a) apply to make changes to the Articles of Incorporation of the TLC;
- (b) amalgamate, apply to continue as a body corporate under the laws of another jurisdiction, merge, consolidate or effect a reorganization as defined in the OBCA, or approve or effect any plan of arrangement, in each case whether statutory or otherwise;
- (c) take or institute proceedings for any winding up, arrangement or legal reorganization or dissolution;
- (d) create new classes of shares or reorganize, consolidate, subdivide or otherwise change its outstanding securities;
- (e) dispose of, by conveyance, transfer, lease, sale and leaseback, or other transaction, all or substantially all of its assets or undertaking;
- (f) change the Auditor; or
- (g) make any change to the number of Directors comprising the TLC Board.

(3) Other Matters Requiring TDSB Authorization.

Without the authorization of the TDSB, the TLC will not:

- (a) appoint new Directors to fill vacant positions on the TLC Board;
- (b) pass or amend any by-laws
 - (A) with respect to the composition or number of Directors or the term of Directors; or
 - (B) that are inconsistent with this Direction;
- (c) establish or alter the remuneration of the Chief Executive Officer of the TLC; or
- (d) enter into, or agree to enter into, any agreement that constitutes a Transaction Requiring Consent.

Section 4.9 Other Legislation

The TDSB and the TLC are subject to a variety of legislation and regulations that governs their operations, including the *Education Act*. In all cases such legislation and regulations will prevail over this Direction and any other direction of the TDSB to the extent of any conflict between such legislation and regulations and such directions.

Section 4.10 Communication between TLC and the Shareholder

The TLC will develop and implement a communication plan that will provide effective communication between the TDSB and the TLC. The following specifics will be incorporated into such plan:

- (a) The primary TDSB Liaison to the TLC will be the Director of Education (or Director Designate), TDSB, who will work with the TLC's Chief Executive Officer, to ensure effective communication between the TDSB and the TLC.
- (b) The Trustees will receive regular updates (quarterly) from the TLC, highlighting key achievements in the area of asset management, property management and other key areas as applicable at the time of reporting.
- (c) Updates will be provided to the Trustees as information items, and will be incorporated into the regular TDSB Information Package to the Trustees.

Communication from Board to Board

- (a) The TLC Board, in communicating with the Trustees, will establish a formal, written 'transmittal reporting' system that will clearly identify the TLC decisions/directions.
- (b) The Trustees will establish a similar formal, written reporting system that will relay relevant TDSB decisions/directions to the TLC Board.

ARTICLE 5

PROPERTY MANAGEMENT SERVICES

Section 5.1 Appointment of TLC as Agent.

Subject to the terms and conditions hereof, the TDSB hereby appoints the TLC and the TLC hereby accepts such appointment, as the TDSB's agent for purposes of providing or procuring the services described in this Article 5 (the "**Property Management Services**"), and the TDSB hereby authorizes the TLC to exercise such powers as may be necessary or appropriate for the performance of the TLC's obligations under this Article 5, subject to Section 8.1.

Section 5.2 Specific Duties.

- (1) The TLC agrees to provide and/or procure the Property Management Services in respect of the Properties on behalf of the TDSB for the term of this Direction and any extensions or renewals thereof, in accordance with the standard of care herein set out, in accordance with the Annual Plan and the Strategic Plan, in a manner consistent with the objectives and principles contained herein and with a view to maximizing the Net Revenue to the TDSB from the Properties. In that regard, the TLC shall be responsible, to do or cause to be done the following, in each case, to the extent applicable:
 - (a) maintain, and as appropriate, update the Asset Condition Registry;
 - (b) maintain, and as appropriate, update the lease registry setting out all leasing activity for the leasable premises for each Property and the particulars of all Leases;

- (c) carry out all steps necessary in connection with leasing the Properties, including negotiating and entering into renewals of existing Leases, showing the premises to prospective tenants and their agents, maintaining and securing the Properties in conjunction with showings, and negotiating and entering into new Leases;
- (d) review and document the overall leasing strategies, lease guidelines and lease rates for the Properties, with a view to maximizing the Net Revenue from the Properties;
- (e) conduct relations and negotiations with consultants, brokers and others regarding leasing and operation of the Properties;
- (f) supervise the establishment and maintenance of a suitable communication scheme with all Tenants of Properties;
- (g) give all notices and statements required to be given to Tenants under the terms of their respective Leases and all other notices necessary or desirable to efficiently manage the applicable Property, including all reminders and notices of default as may be required pursuant to the terms of the Leases in order for the landlord to enforce its rights thereunder and to give all such notices in a timely manner, and if any period of notice is governed by the terms of a Lease, in accordance with terms of such Lease;
- (h) prior to entering into any Lease of a Property with a prospective tenant, obtain and evaluate information with respect to the creditworthiness and business history of the prospective tenant;
- (i) collect all rents and other amounts payable by Tenants under Leases of Properties;
- (j) obtain, where applicable, sales figures contemplated by Leases of Properties (including, where the TLC deems appropriate, conducting an audit of the applicable Tenant's books where the Lease so provides) and determine and collect any percentage rent payable under the Leases;
- (k) endeavour, by issuing demand for payment, to collect from Tenants all arrears of rent or other amounts payable under Leases of Properties with all possible dispatch and to obtain payment thereof whenever possible without action (without incurring any material liability in respect thereof);
- (l) where appropriate, in the TLC's discretion (but subject to Section 5. 2(1)(n)), institute litigation or other proceedings against defaulting Tenants of Properties on behalf and in the name of the TDSB;
- (m) promptly give notice to the General Counsel of the TDSB of any statement of claim, OMB proceeding, or other legal documents which originate or continue any proceeding which has an impact upon the value of any Property or which establishes, claims or alleges liability of the TDSB, the TLC or any Property Manager in respect of any Property, and take whatever action is appropriate in TLC's discretion in response thereto;
- (n) retain counsel from the Approved List for the purpose of any action or other

proceeding provided for in this Section 5.2(1), provided that (i) the estimated cost of legal fees is contained in the current Annual Plan and (ii) the action or other proceeding is a "Routine Proceeding"; otherwise the TLC shall not commence such action or other proceeding until it has received the written approval of the General Counsel of the TDSB;

- (o) use reasonable efforts to ensure compliance by the TDSB and the Tenants with the terms and conditions of all Leases and all contractual, statutory or municipal obligations with respect to each Property and to do so in a timely manner or within any applicable time frame;
- (p) retain and supervise qualified property tax consultants to review property taxes and assessments and if necessary or desirable take steps to contest or appeal such assessments in a timely manner;
- (q) subject to the provisions of this Direction and to the extent not paid by Tenants, pay all operating costs and carrying charges and other expenses relating to the operation of each Property, including, where applicable, realty taxes, debt service payments, water rates, light and power rates, supplies, contractors, wages, fuel costs and premiums for insurance which is the responsibility of the TLC hereunder, in each case as they become due, and other expenses either as specified in any current Annual Plan or as specifically approved from time to time by the TDSB;
- (r) from time to time establish rules and regulations for the better or more efficient operation of each Property and use its reasonable efforts to enforce such rules and regulations;
- (s) investigate and monitor the Properties to identify necessary repairs or upgrades to the Properties;
- (t) negotiate and enter into, as agent for and on behalf of the TDSB, and in accordance with any collective agreements, if applicable, contracts relating to the Properties, including but not limited to construction, maintenance, repair, and service contracts;
- (u) monitor and, where necessary, enforce the performance of contracts relating to the Properties;
- (v) on behalf of the TDSB and with the assistance of the applicable Property Manager, review liability and property casualty, automobile and crime insurance and obtain such coverage to the extent not already obtained (or to the extent that the risks that would be covered by such insurance are not otherwise addressed) by the TDSB;
- (w) review as of the end of each Fiscal Year the insurance obligations of each Tenant under their Leases, request and obtain certificates of insurance from each Tenant's insurer, and verify and use commercially reasonable efforts to ensure that each Tenant's insurance is in place and in compliance with its Lease;
- (x) promptly give notice to the Director of Education and, as applicable, TDSB staff, of any material damage to any Property and copies of any notices given by the TLC to

any insurer of the Property;

- (y) ensure that the TDSB complies with applicable statutes, rules and regulations pertaining to taxes in respect of the Properties;
 - (z) monitor legislation and regulations (and proposed legislation and regulations) at all levels of government and advise the TDSB of developments or potential developments which may have an impact on the Properties;
 - (aa) monitor, develop and, where prudent and appropriate, implement initiatives for the conservation and efficient use of energy as well as for the production of energy and other utilities, where doing so is advantageous to the TDSB; and
 - (bb) provide all other services which it is appropriate for a property manager to provide in connection with properties comparable to the Properties.
- (2) As part of its provision of the Property Management Services, the TLC shall also provide the following administrative functions, in each case, to the extent necessary or applicable:
- (a) provide office space, office furnishings and equipment and necessary personnel for the performance of its duties hereunder;
 - (b) provide clerical and administrative services as may reasonably be required for all necessary reports to and communications with the TDSB;
 - (c) keep proper books of account and records for the TDSB in respect of the Properties;
 - (d) prepare material required for governmental filings and registrations necessary to conduct the business of the TDSB in respect of the Properties;
 - (e) provide other clerical and administrative services as may reasonably be required to
 - (i) operate, manage, lease and maintain the Properties,
 - (ii) supervise the management of the Properties by the various Property Managers,
 - (iii) collect and disburse funds in respect of the Properties,
 - (iv) deal with and settle claims of or against the TDSB in respect of the Properties; and
 - (v) provide all other Services provided for under this Direction;
 - (f) implement the policies and procedures to be developed as set out in Section 8.4;
 - (g) if the TDSB so requests, attend any meeting of the Trustees;
 - (h) furnish and/or supervise the performance of all clerical and administrative functions in connection with the duties of the TLC set out in this Direction; and

- (i) provide such other services, reports or analysis as may be reasonably requested by the TDSB to the extent contemplated or permitted under the Annual Plan.

Section 5.3 Annual Plan

The TLC shall prepare and submit to the TDSB for approval a draft annual plan for the operation, management and maintenance of the Properties not later than ninety (90) days before the end of any Fiscal Year with respect to the next Fiscal Year. This draft annual plan shall be supported by a discussion of market conditions and, where applicable, comparisons to previous years. The TDSB and the TLC will agree to any changes to the draft annual plan, and will use their best efforts to finalize and adopt the plan not later than thirty (30) days before the beginning of the Fiscal Year to which it relates (such finalized plan being hereinafter referred to as the "**Annual Plan**"). Thereafter, copies of the Annual Plan will be distributed to the TDSB and TLC Boards.

The Annual Plan shall include, at a minimum, the following information:

- (a) a proposed annual operating budget (the "Annual Budget") in a form consistent with industry standards, which contains:
 - i) a reasonable estimate of the costs and expenses for the Services provided under this Direction;
 - ii) a separate semi-annual analysis of anticipated revenues and expenses for each Property on an accrual basis;
 - iii) a reasonable estimate of anticipated rate of return and monthly cash flow for each Property; and
 - iv) a reasonable estimate of the revenue to be paid to the TDSB on a monthly basis;
- (b) an annual capital expenditure budget;
- (c) the amount of Reserves to be held over the applicable Fiscal Year;
- (d) a description of proposed construction, repair and upgrade programs;
- (e) a rent roll showing the Leases for each Property, the expiration date of each and the proportion of each Property then vacant;
- (f) a leasing plan for all the vacant space as well as for the expiring Leases identifying potential increases of Net Revenue; and
- (g) such other information as may be required by the TDSB.

In the event that the Annual Plan is not agreed to on or before the commencement of the Fiscal Year to which it relates, the TLC will continue to adhere to the Annual Plan for the preceding Fiscal Year, with such amendments and adjustments as are, in the TLC's opinion, necessary to permit the continued operation of the Properties to the standard required under this Direction.

Section 5.4 Strategic Plan.

The TLC will develop its long-term plan in accordance with the TDSB's Capital Plan and its long-term programming requirements. Once the first Strategic Plan is completed, finalized and adopted by both the TLC and TDSB Boards, the Strategic Plan will be updated on a regular basis and shall include the following information:

- (a) the objectives and priorities of the TLC during the period covered by the Strategic Plan;
- (b) any major capital programmes; and
- (c) the anticipated revenues of the TLC, and the amount the TLC expects to be able to contribute to the capital program of the TDSB.

Section 5.5 Banking Arrangements.

The TLC will develop policies and procedures, as provided in Section 8.4, with respect to banking matters, including:

- (a) the application of all revenues from Properties and other revenues of the TLC;
- (b) the investment of Reserves;
- (c) the means of payment of all costs and expenditures in connection with the provision of the Services hereunder;
- (d) the payment of funds to the TDSB; and
- (e) which individuals have authority to make or authorize payments on behalf of the TLC.

Section 5.6 Reporting.

TLC will provide to TDSB, not later than 60 days after the end of the second and fourth quarters of each Fiscal Year, the semi-annual report (the "Operating Report") of the TLC to the TDSB, which, will contain the following:

- (a) financial statements (the year end statements will be audited) for the operations of the TLC, including a statement of revenues and expenses;
- (b) a comparison of actual revenues and expenses against the Annual Plan; and
- (c) a report on progress made against the Strategic Plan.

Section 5.7 Property Management Agreements.

It is acknowledged that the TLC will enter into Property Management Agreements, as agent for and

on behalf of the TDSB, to procure certain of the Property Management Services. The Property Management Services to be provided by TLC with regard to the Property Management Agreements will include:

- (a) negotiation and entering into the Property Management Agreements,
- (b) monitoring and supervising the Property Managers,
- (c) taking all commercially reasonable steps to ensure compliance by the Property Managers with their duties and obligations under their respective Property Management Agreements and good property management practices, and
- (d) on an on-going basis, reviewing the quality and cost of the Property Management Services provided by the Property Managers and ensuring that the corresponding fees and costs are reasonable for the services provided.

ARTICLE 6

ASSET MANAGEMENT SERVICES

Section 6.1 Appointment of TLC as Agent.

Subject to the terms and conditions hereof, the TDSB hereby appoints the TLC and the TLC hereby accepts such appointment, as the TDSB's agent for purposes of providing or procuring the services described in this Article 6 (the "**Asset Management Services**"), and the TDSB hereby authorizes the TLC to exercise such powers as may be necessary or appropriate for the performance of the TLC's obligations under this Article 6, subject to Section 8.1.

The TLC agrees to provide and/or procure the Asset Management Services in respect of the Properties on behalf of the TDSB for the term of this Direction and any extensions or renewals thereof in accordance with the standard of care herein set out and in accordance with the Annual Plan and the Strategic Plan.

Section 6.2 Disposition Properties.

The TDSB will, from time to time, identify Properties which it has determined should be disposed of, and will, after having declared such Properties to be surplus by way of a resolution pursuant to Section 194(3) of the *Education Act*, notify the TLC that such determination has been made via a formal communication from the Senior Manager, Board Services, on behalf of the Chair of the TDSB. Properties identified in any such notice are referred to herein as "**Disposition Properties**". The TLC will provide such assistance as the TDSB may request to enable it to make such determination, including providing economic and statistical data, as well as market valuations and projections relating to specific Properties.

Section 6.3 Compliance with Regulation 444.

The notice provided by the TDSB to the TLC pursuant to Section 6.2 will specify whether the Disposition Property has been the subject of a proposal pursuant to the procedure specified in Regulation 444 (a "**Reg 444 Proposal**"), and if it has, the outside date by which the TDSB is permitted to sell such Disposition Property to a third party without issuing another Reg 444 Proposal (the "**Outside Sale Date**"). If a Reg 444 Proposal has not been issued for such Disposition Property, or if it has been issued but the Outside Sale Date is not, in the TLC's opinion, sufficiently distant to permit the TLC to properly dispose of the Disposition Property before such Outside Sale Date, then, in either case, the TLC will issue or cause to be issued a Reg 444 Proposal for such Disposition Property.

If, as a result of a Reg 444 Proposal, a Disposition Property is to be sold to one of the bodies specified in Regulation 444, then the TLC will be responsible to negotiate, settle, execute and deliver, as agent for and on behalf of the TDSB, such agreements and other instruments as may be necessary or desirable to sell and convey such Disposition Property and to complete all related transactions pursuant to the *Education Act* and other applicable legal requirements.

Section 6.4 Disposition Parameters.

Where appropriate, the TDSB will specify disposition parameters, ("**the Disposition Parameters**") specific to each Disposition Property at the time of surplus declaration. Such parameters will be adhered to in the disposition of the Disposition Property to a third party purchaser (other than a named purchaser pursuant to Regulation 444). Once the Disposition Property is declared surplus and transferred to the TLC, the TLC will discuss with, if applicable, relevant Governmental Entities and other stakeholders, including the local Trustees, and will ensure that relevant community interests are reviewed and evaluated (including physical features such as parks, playgrounds, libraries, community centres, daycare centres, or similar interests). The TLC's commitment to strong and vibrant communities will be considered.

The TLC will retain the services of a certified appraiser at the commencement of a disposition process for every site. Price is dictated by the TDSB, however the TLC will provide professional advice in this respect. Further, should a Disposition Property not be of interest to any named purchaser pursuant to Regulation 444, it will be sold with the assistance of a qualified real estate broker on the open market.

The TLC will review the Property specific Disposition Parameters and may request/recommend amendments based on an analysis of the Property. The TLC will provide this feedback to the TDSB with a view to ensuring that the parameters are prudent, generate community and financial value, and are appropriate and achievable in accordance with this Direction.

If the requested/recommended amendments by the TLC are acceptable to the TDSB (in its discretion), the TDSB shall approve final Property specific Disposition Parameters in the agreed upon form incorporating the recommendations of the TLC, and provide notice to the TLC accordingly.

Section 6.5 Disposition and Related Activities.

Upon receipt of the notice referenced in Section 6.4, the TLC will have the authority to proceed in accordance with the applicable Disposition Parameters, subject to the provisions of Section 8.1.

Subject to the applicable Disposition Parameters, the TLC will be authorized to take all steps necessary to:

- (a) rezone the Disposition Property;
- (b) amend the applicable Official Plan;
- (c) obtain other land use and/or land development approvals;
- (d) acquire additional real property or interests therein to enhance the value or marketability of the Disposition Property;
- (e) repair, upgrade, improve and/or service the Disposition Property;
- (f) market the Disposition Property (whether by auction, listing or such other means as is suitable, in the opinion of the TLC);
- (g) select a purchaser and negotiate, and enter into, an agreement for the sale of the Disposition Property;
- (h) complete the disposition of the Disposition Property;
- (i) enter into and carry out agreements for the exchange of real property or interests in real property, in connection with one or more Disposition Properties; and
- (j) enter into any agreement or other instrument and incur any cost as may be necessary or desirable in order to carry out the foregoing.

Section 6.6 Limitations on Disposition.

The TLC shall not sell, transfer or otherwise dispose of any interest in any of the Properties (other than Leases as provided in this Direction) or enter into any agreement or option which would oblige the TLC or the TDSB to do so, unless the procedure outlined in this Article 6 is followed or the approval of the TDSB has otherwise been provided.

Section 6.7 Acquisition of Real Property.

The TDSB hereby appoints the TLC as agent for and on behalf of the TDSB for the purpose of purchasing or leasing real property or any interest therein, subject to the approval of the TDSB in each case.

**ARTICLE 7
PROJECT MANAGEMENT AND CONSULTING SERVICES**

Section 7.1 Project Management and Consulting Services.

The TLC will provide such additional consulting and/or project management services (the "**Project Management and Consulting Services**") as may be requested from time to time by the TDSB. The Project Management and Consulting Services may include, by way of example, supervision of capital projects, redevelopment of properties owned by the TDSB, or representation of the TDSB in joint venture opportunities with other public or private sector entities. These services may be provided by the TLC as agents for and on behalf of the TDSB or in the capacity of consultants. These services may relate to one or more of the Properties, but may also relate to other properties, whether or not owned by the TDSB, which are not Properties for the purposes of this Direction.

Section 7.2 Direction to the TLC.

The TDSB may request that the TLC provide Project Management and Consulting Services, and the scope of such services shall be agreed to after discussions between the TDSB and the TLC. Such discussion shall take into consideration the resources available to the TLC, the demands on those resources in providing the other Services under this Direction, and the impact on the Annual Budget.

**ARTICLE 8
PROVISION OF SERVICES GENERALLY**

Section 8.1 Transactions Requiring Consent.

Notwithstanding the authority granted to the TLC under this Direction, there are certain transactions and agreements in respect of which the prior written approval of TDSB will be required. These are referred to herein as "**Transactions Requiring Consent**" and include the following:

- (a) Leases, or renewals or amendments of Leases which
 - (i) have not been arrived at pursuant to the Competitive Pricing Process (unless in TLC's reasonable opinion, the failure to follow the Competitive Pricing Process was warranted and a commercially reasonable result was achieved);
 - (ii) do not adhere to the current Annual Plan; or
 - (iii) do not contain the Early Termination Clause;
- (b) Contracts or agreements of any sort which
 - (i) have not been arrived at pursuant to the Competitive Pricing Process (unless in TLC's reasonable opinion, the failure to follow the Competitive Pricing

- Process was warranted and a commercially reasonable result was achieved),
- (ii) do not adhere to the current Annual Plan; or
 - (iii) are Major Contracts; and
- (c) such other types and categories of transactions and agreements which require the approval of the TDSB under the terms of this Direction or which the TDSB may identify by notice in writing to the TLC from time to time.

For purposes of this Direction, the "**Early Termination Clause**" means any provision which gives the TDSB, as landlord under the applicable Lease, the right to terminate such Lease on notice to the Tenant effective on a date which is not later than the first June 30 following the anniversary of such notice.

For purposes of this Direction, "**Major Contracts**" are contracts with a term in excess of 3 years or with a total value, over the life of the contract, of more than \$1,000,000. "**Major Contracts**" will exclude Leases, amendments or renewals of Leases, Property Management Agreements entered into in accordance with Section 5.7 of this Direction and listing, commission and sale agreements entered into in connection with the disposition of a Disposition Property in accordance with the provisions of this Direction.

Section 8.2 Standard of Care.

The parties hereto acknowledge and agree that the standard of care to be exercised by the TLC in providing the Services pursuant to this Direction shall be the standard of care that a reasonably skillful and prudent owner of properties similar to the Properties would apply in administering such assets.

Section 8.3 Best Practices.

The TLC Board shall, as part of their duties hereunder, develop and implement policies and procedures which are reflective of best practices in the industry, in various areas, including the following:

- (a) conflict of interest by Directors;
- (b) competitive bidding or tendering processes designed to procure optimal pricing, in a transparent and efficient manner, for all transactions in which TLC is engaged, including leasing of Properties, sale of Disposition Properties, and procurement of goods and services used or consumed by TLC (collectively, "**Competitive Pricing Processes**");
- (c) compliance with all relevant labour, employment and occupational health and safety legislation; and

- (d) collection of receivables in a timely manner.

Bidding and/or tendering processes, along with the collection of receivables, will be handled by the TDSB on behalf of the TLC. This is in accordance with the Service Agreement that exists between the TDSB and the TLC.

Section 8.4 Operational Matters.

The TLC Board shall, in discussions with the TDSB, develop and put in place policies and procedures in respect of various operational matters, including:

- (a) banking and accounting arrangements for the TLC, including those matters referenced in Section 5.5 hereof;
- (b) collection of revenues and disbursement of expenses relating to the Properties;
- (c) establishment and maintenance of appropriate Reserves;
- (d) investment of funds of the TLC and of funds of the TDSB for which the TLC is responsible;
- (e) borrowing by the TLC, if applicable;
- (f) fees payable to the TLC in consideration of the Services (which fees **will be subject to approval** by the TDSB);
- (g) establishing a liaison between the TDSB and its various departments and programmes, and the TLC, in order to enable the TLC to carry out the Services in a manner that is co-ordinated and consistent with the interests of the TDSB; and
- (h) other operational matters as may be necessary or appropriate in order to permit the TLC to provide the Services,

in each case in accordance with all applicable laws and regulations and in an efficient and cost-effective manner.

Section 8.5 Limitations Re Contributions.

The TLC is not permitted to:

- (a) make any donations or contributions to any charity or charitable organization, whether registered or otherwise, other than to the TDSB; or
- (b) make any contributions to any political party, candidate or campaign.

Section 8.6 Execution and Delivery of Instruments; Power of Attorney.

Subject to Section 8.1, the TDSB hereby authorizes the TLC to execute and deliver, in its capacity as agent for and on behalf of the TDSB, all contracts, Leases, amending and extension agreements, deeds, transfers, assignments, certificates, declarations, directions, authorizations and other instruments as may be necessary or desirable, in the opinion of the TLC, from time to time to permit the TLC to provide the Services and carry out its duties as contemplated under this Direction. The TDSB will execute and deliver to the TLC from time to time as the TLC may request, any confirmation of the foregoing authorization, and of the agency relationship established hereby, and any power of attorney, in each case as the TLC may determine to be advisable.

Section 8.7 Agency Relationship; Cost and Expenses.

Every action taken by the TLC in providing the Services under the provisions of this Direction shall be done as an agent of the TDSB with the authority to bind the TDSB, subject to Section 8.1. Except as specifically provided herein to the contrary, all obligations and expenses incurred in providing the Services pursuant to and in accordance with the provisions of this Direction shall be for the account, on behalf, and at the expense of the TDSB.

Section 8.8 Employees.

All employees of the TLC (excluding employees of the TDSB seconded to the TLC) will be employees solely of the TLC and will not be employees of the TDSB. However, it is acknowledged that employees covered by collective agreements shall be treated as though the TDSB and the TLC were a single employer in the application of those collective agreements.

In relation to benefit plans including WSIB, the TDSB will provide for TLC staff the opportunity to enroll in TDSB plans, allow TLC staff to benefit from the same health care opportunities available and applicable to TDSB staff.

Section 8.9 Mutual Release.

Each of the TLC and the TDSB irrevocably releases and forever discharges the other and, where applicable, each of their respective directors, officers, trustees, agents and employees (collectively the “**Releasees**”) from all actions, causes of action, suits, debts, covenants, liabilities, damages, demands and all other claims which either party ever had, now has, or may hereafter have against the Releasees for any causes whatsoever (collectively “**Claims**”). Each of the TLC and the TDSB further agrees not to commence any action, proceeding, suit or claim (including any cross-claim, counterclaim, third party action or application) which respect to any Claims or against any Person who may claim contribution or indemnity against the Releasees.

Section 8.10 Indemnification of Directors and Officers.

TDSB will indemnify:

- i) Any director or officer of the TLC;
- ii) Any former director or officer of the TLC;
- iii) Any individual who acts or acted at the TLC's request as a director or officer of a body corporate of which the TLC is or was a shareholder or creditor; and
- iv) Their respective heirs and legal representatives;

to the fullest extent that such Persons may be indemnified by the TLC pursuant to the OBCA. TDSB may execute agreements in favour of any of the foregoing Persons evidencing the terms of this indemnity. Nothing in this Section 8.10 limits the right of any Person entitled to indemnity to claim indemnity apart from the provisions of this Section.

ARTICLE 9 RETENTION OF FUNDS AND PAYMENT

Section 9.1 Retention of Funds and Payment

The TLC is authorized to deduct and retain from any funds received, held or administered by the TLC for or on behalf of the TDSB, the following:

- (a) Costs and expenses for the Services provided under this Direction, in accordance with the current Annual Budget; and
- (b) Expenses which are the responsibility of the TDSB or otherwise reimbursable under this Direction.

The TDSB will pay any remaining deficiency as long as it is consistent with the then current Annual Budget.

ARTICLE 10 ASSIGNMENT; DELEGATION; RENEWAL

Section 10.1 Assignment by TLC; Delegation of Duties.

- (1) The TLC shall **not assign its interest** in this Direction without the prior written consent of the TDSB. The TLC shall, **at all times** during the term and any renewal term under this Direction, be a wholly-owned subsidiary of the TDSB.
- (2) The TLC shall be entitled to enter into arrangements with one or more other asset managers, advisors, professionals, consultants or other Persons for the provision of services and/or to delegate some or all of its duties and authorities under this Direction, provided the cost of same is in accordance with the current Annual Plan.
- (3) To the extent that any of the Services to be provided by the TLC hereunder are required by law to be provided by a Person with any license, permit or authorization from any Governmental Authority,

and where the TLC does not possess such license, permit or authorization, it is the intention of the TDSB and the TLC that the TLC will arrange to have such Services provided by a Person who does possess such license, permit or authorization.

Section 10.2 Automatic Renewal.

The term of this Direction shall commence on the Effective Date and shall expire on the fifth (5th) anniversary thereof, provided, however, if this Direction has not been terminated by not less than twelve (12) months' written notice from the TDSB on or before such fifth (5th) anniversary, then this Direction shall be automatically renewed for successive two (2) year periods, until terminated by the TDSB on not less than twelve (12) months written notice.

**ARTICLE 11
GENERAL**

Section 11.1 Notices.

All notices which may or are required to be given herein or pursuant to this Direction or relating to the Properties shall be in writing and shall be given personally by serving the same upon any officer of the party to be served or by transmitting same by telecopier or by delivering same by courier:

(1) To the Toronto District School Board (TDSB) at:

5050 Yonge Street
Toronto, Ontario
M2N 5N8

Attention: Director of Education

Telecopier No.: (416) 393-8973

(2) To the Toronto Lands Corporation at:

5050 Yonge Street
Toronto, Ontario
M2N 5N8

Attention: Chief Executive Officer

Telecopier No.: (416) 393-9928

or such other addresses as the Parties may advise by notice in writing and any such notice shall be deemed to have been received and effectively served, if sent by courier, the second Business Day following the day on which it is sent and if served personally or sent by telecopier, on the day of delivery (or if such is not a Business Day, on the first Business Day following), provided that, if

notice is given by way of telecopier, notice will be deemed to be ineffective for purposes of this Direction unless the original is delivered by courier within three (3) Business Days afterward.

Section 11.2 Governing Law.

This Direction shall be governed and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Section 11.3 Counterparts.

This Direction may be executed in any number of counterparts (including counterparts by facsimile) and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Section 11.4 Amendments.

This Direction may be amended solely at the discretion of the TDSB. The TDSB will provide written notice to the TLC not less than six (6) weeks prior to making any amendment to this Direction.

Section 11.5 Negation of Partnership or Joint Venture.

Nothing in this Direction shall constitute or be construed to constitute or create a partnership, joint venture or lease between the TDSB and the TLC.

Dated at Toronto this 26th day of November, 2014, as amended and consolidated.

TORONTO DISTRICT SCHOOL BOARD

Per: _____

Name: _____

Title: Associate Director, Finance &
Operations (on behalf of the Director of
Education, Donna Quan)

The Toronto Lands Corporation acknowledges the content of this Direction and agrees to be bound by its provisions.

Dated at Toronto this 26th day of November 2014, as amended and consolidated.

TORONTO LANDS CORPORATION

Per: _____

Name: Daryl Sage
Title: Authorized Signing Officer

Per: _____

Name: David Crombie
Title: Authorized Signing Officer