STUDENT COMMONS AGREEMENT

THIS AGREEMENT dated the \_\_ day of \_\_\_\_\_ , 2015 is between:

BACKGROUND

STUDENTS' ADMlNISTRATTVE COUNCIL OF THE

UNIVERSITY OF TORONTO, a corporation created pursuant to the Canada

C01porations Act, as agent for the full time undergraduate students ofthe St.

George Campus of the University of Toronto, as recognized by the Governing

Council of the University ofToronto pursuant to the powers granted to it in the

University of Toronto Act (Ontario)

-and-

THE GOVERNING COUNClL OF THE UNIVERSITY OF

TORONTO, a corporation created pursuant to the University of

Toronto Act (Ontario)

("SAC")

(the "University")

A. A large node of student-run common space dedicated to providing students at the St.

George Campus with various services and amenities has been regarded by SAC for many

years as an important and highly desirable facility for the campus and its community.

B. In 2006-2008, student proponents of such a faci lity, with the support of the University,

developed, planned and implemented an initiative to realise the long-standing student

objective of establishing a student commons within the St. George Campus.

C. The initiatives to establish a student commons have enjoyed the endorsement and priority

support of the University.

D. SAC and the University negotiated the terms of the LOI (as defined below), a copy of

which was not signed based on the University's assurance that it would act in accordance

with it.

E. Based on the University's assurance that it would act in accordance with the LOI, SAC

held a referendum on October 31, November 1 and 2, 2007 (the "Referendum") in which

SAC's St. George membership of full-time undergraduate students voted to support a

student commons (the "Student Commons") and to contribute to the costs thereof through

a special levy (the "Student Commons Levy") on student fees.

F. The Parties initially considered locating the Student Commons at Site 12 (defined below)

as set out in the Project Planning Report. A Student Commons provisionally located at Site

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12 was also approved in the Referendum. After a series of internal and external

stakeholder consultations, the Parties agreed to change the location of the Student

Commons to 230 College St. The Parties agreed, furthermore, that the Referendum

Question (as defined below) does not prohibit the proposed change in the location of the

Student Commons from Site 12 to 230 College St.

G. The purpose of this Agreement is to enable the occupancy, management and operation of

the Student Commons by SAC with a view to serving the cultural, educational, recreational,

social and organizational interests of the student body of the campus on a non-profit basis.

AGREEMENTS

This Agreement and the Student Commons project are subject to the approval of the University

and come into effect as of the date of this approval.

For good and valuable consideration, the receipt and sufficiency of which each Party

acknowledges, the Parties agree as follows:

ARTICLE I-INTERPRETATION

1.1 Definitions. In this Agreement, the following terms have the following meanings:

(a) "Appointments Committee" means a committee comprised of those individuals

elected to the SAC board of directors from the following colleges and faculties:

Division I Directors: Colleges, Faculty of Arts and Science, and Transitional

Year Program

(i) Innis College,

(ii) New College,

(iii) Woodsworth College,

(iv) University College,

(v) The University of Trinity College,

(vi) The University of St. Michael's College,

(vii) Victoria University of the University of Toronto,

(viii) Transitional Year Program,

(ix) At-large Arts & Science

Division II Directors: Professional Faculties

(x) Faculty of Applied of Science and Engineering,

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(xi) Faculty of Dentistry,

(xii) Faculty of Medicine,

(xiii) Faculty of Music,

(xiv) Faculty of Nursing,

(xv) Faculty of Law,

(xvi) Ontario Institute for Studies in Education of the University of Toronto,

(xvii) Leslie L. Dan Faculty of Pharmacy,

(xviii) Faculty of Kinesiology and Physical Education,

(xix) Toronto School of Theology,

(xx) Faculty of Architecture, Landscape and Design,

(xxi) At-large Professional Faculty.

(b) "Building" means the building located at 230 College Street in Toronto, Ontario,

formerly the home of the Faculty of Architecture, with an approximate size in its

current configuration of 6735 GSM;

(c) "Building Code" means the Ontario Building Code Act, 1992, including all of its

regulations and/or any successor legislation;

(d) "Business Board" means the Business Board of the University;

(e) "Business Day" means a day which is not a Saturday nor defined as a "holiday"

under the Legislation Act, 2006 (Ontario), as amended or replaced from time to

time;

(f) "Capital Cost Levy" means that portion of the Student Commons Levy intended

to fund the capital cost associated with the Renovations;

(g) "Capital Cost Levy Escalator" has the meaning given to it in Section 7.6(i);

(h) "Chair" has the meaning given to it in Section 9.3(c);

(i) "Claims" means liabilities, debts, actions, causes of action, suits, damages, costs,

expenses or other claims;

U) "Dispute" means a difference of interpretation of this Agreement between the

Parties, such disagreement being of a nature that it is not resolvable within a

reasonable time, and serves to impact on the implementation or execution of any

pa1i of this Agreement;

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(k) "Effective Date" means the date the Agreement is approved by the University;

(I) "Emergency" means any situation, event, occurrence, multiple occurrences or

circumstances that:

(i) constitutes or is likely to constitute a hazard to or pose a threat to the health

and safety of any persons in any part of or the whole of the Building;

(ii) causes or is likely to cause material damage to the Building; or

(iii) may, if unremedied, result in material liability either to the University or to

SAC;

(m) " Excess Surplus" means any amount on hand in excess of the amounts set aside

to fund the reserves to the target levels identified in the long-range budget plan;

(n) "Facility Manager" has the meaning given to it in Section 4.7;

(o) " Final Renewal Term" has the meaning given to it in Section 3.3(a);

(p) "First Renewal Term" has the meaning given to it in Section 3.3(a);

(q) "Force Majeure Event" means any act of God, civil commotion, strike, work

stoppage, failure of any service or utility whether or not under a Party's control,

or by reason of any statute, law or regulation preventing, delaying or restricting

such fulfilment, or the inability to obtain any permission from any govermnent or

other body having jurisdiction, or any other cause of any kind beyond the Party's

reasonable ability to control, except inability to obtain finances;

(r) "GSM" means gross square metres;

(s) "License" has the meaning given to it in Section 5.4(a);

(t) " License Commencement Date" means the date on which the contract(s) for the

Renovations have been "substantially performed" (as that concept is used in the

Construction Lien Act (Ontario)) and the University turns over possession of the

Building to SAC;

(u) "License Fee" has the meaning given to it in Section 7.3;

(v) "LOI" means the non-binding letter of intent between SAC and the University

dated October 14, 2007, a copy of which is attached hereto as Schedule "A";

(w) "Management Committee" has the meaning given to it in Section 4.6;

(x) "Members" has the meaning given to it in Section 4.6(b);

(y) "Notice of Dispute" has the meaning given to it in Section 9.3(a);

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(z) "Operating Costs" has the meaning given to it in Section 6.1 (a);

(aa) "Operating Cost Levy" means that portion of the Student Commons Levy

intended to fund the costs associated with operating and maintaining the Student

Commons;

(bb) "Operating Cost Levy Escalator" has the meaning given to it in Section 7.7(d);

(cc) "Panel" has the meaning given to it in Section 9.3(c);

(dd) "Parties" means the parties to this Agreement, namely the University and SAC,

as agent for the full-time undergraduate students of the St. George Campus of the

University of Toronto as recognized by the University pursuant to the powers

granted to it in the University ofToronto Act (Ontario), and "Party" means either

one of them;

(ee) "Project Planning Report" means the final Project Planning Report approved

by the University, a copy of which is attached hereto as Schedule "B";

(ft) "Reasonably Comparable Premises" means premises other than the Building

that have, at a minimum and without limitation, the following features at the time

that the University exercises its right to relocate the Student Commons in

accordance with Section 3.3 of this Agreement:

(i) a size that consists of at least the same GSMs as the Building;

(ii) the ability to accommodate a variety of uses similar to those set out in

Section 2.3(a) and the Room Data Sheets (attached hereto as Schedule "C");

(iii) reasonable access to public transit and a central location on or near the St.

George Campus that provides good opportunities for use by St. George

students;

(iv) a LEED rating (or comparable, if a different standard has been adopted) that

is, at a minimum, comparable to the LEED rating (or comparable, if a

different standard has been adopted) of the Building at the time that the

University exercises its entitlement to move the Student Commons; and

(v) meets or exceeds the accessibility standards that the Building bas achieved,

and complies with the Building Code, the Accessibility for Ontarians with

Disabilities Act, 2005, or any other like statutes then in force.

(gg) "Referendum" has the meaning given to it in Recital E;

(hh) "Referendum Question" means the referendum question approved by the

Students in the Referendum, a copy of which is attached hereto as Schedule "D";

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(ii) "Renewal Terms" means, coUectively, the First Renewal Term, the Second

Renewal Term and the Final Renewal Term;

(jj) "Renovations" means the:

(i) works required to bring the Building up to the standards set out in the

Building Code;

(ii) other works required to upgrade the Building to meet the needs described in

the Project Planning Report;

(kk) "Reserve Fund" has the meaning given to it in Section 7.7(c);

(II) "SAC" means Students' Administrative Council of the University of Toronto;

(mm) "SAC Board" means the Board of Directors of SAC;

(nn) "SAC License" has the meaning given to it in Section 3.5(b)(iv);

(oo) "Second Renewal Term" has the meaning given to it in Section 3.3(a);

(pp) "St. George Student Commons Capital Proj ect Account" has the meaning

given to it in Section 7.6(a);

(qq) "Student Commons" has the meaning given to it in Recital E, the goals and

purposes of which are contemplated in Article 2 of this Agreement and as more

generally described and contemplated throughout this Agreement;

(rr) "Student Commons Levy" has the meaning given to it in Recital E as adjusted in

accordance with this Agreement for inflation and other permitted increases;

(ss) "Students" means all full-time undergraduate students, as defined by the division

of registration, registered in a faculty on the St. George Campus in a program

leading to a degree, diploma or certificate of the University and affiliated with the

St. George Campus; and "Student" means any one of such Sn•dents.

(tt) "Term" has the meaning given to it in Section 3.1 and, for greater certainty,

includes where the context requires any Renewal Tenn;

(uu) "University" means The Goveming Council of the University ofToronto; and

(vv) "University Policies and Procedures" means all of the formally-adopted and

published policies and procedures of the University (including those approved

and issued at the level of the Provost's office) that are, at any given time, then in

force, including as current examples (but not limited to) the Memorandum of

Agreement Between the University of Toronto, the Students' Administrative

Council, The Graduate Students' Union and the Association of Part-time

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Undergraduate Students for a Long Term Protocol on the Increase or

Introduction of Compulsory Non-tuition Related Fees (1996).

1.2 Schedules. The following Schedules are attached to and incorporated into this Agreement:

Schedule A

Schedule B

Schedule C

ScheduleD

Schedule E

Schedule F

LOI

Project Planning Report

Room Data Sheets

Referendum Question

License Terms

Green Roof Garden

Operational Policy

ARTICLE 2- GOALS AND NATURE OF THE STUDENT COMMONS

2.1 Recitals. The recitals to this Agreement are accurate and incorporated into the body of this

Agreement.

2.2 General Goals of the Student Commons. The Parties acknowledge the need for a

student commons for the benefit of the University community at the St. George Campus of

the University, and the significant financial contribution which the Students and the

University have made to the Building and to the Student Commons. The Student

Commons is intended to fulfil this need and to complement the activities of the University

by, without limitation:

(a) assisting in making the Students' experience at the University worthwhile and

enjoyable from a social and personal perspective;

(b) fostering social and cultural interaction by creating an environment and

opportunities for groups of people with varied backgrounds and viewpoints to

gather;

(c) affording an opportunity for students to meet and interact in a relaxed setting; and

(d) acting as a Student-operated community facility that is convenient, accessible and

functional.

2.3 Nature of the Building.

(a) The Building shall be a multi-purpose and flexible facility incorporating space

for SAC, student clubs and associations, SAC levy-receiving groups, large event

and social space, various student services and food outlets as well as a variety of

accessible meeting rooms.

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(b) SAC and the University shall be equal participants with respect to the carrying

out of the Renovations. For greater certainty, SAC shall have direct and regular

consultation with the Building's architect and other parties carrying out the

Renovations during all material times that the Renovations are being can·ied out

in accordance with the Project Planning Report with full and regular input from

SAC to discuss all aspects of the Renovations. The University and SAC shall

approve the final drawings, and the University shall allocate financial and capital

planning expertise during the Renovations.

2.4 Current Building volume. The Building as currently configured is 6735 GSM.

2.5 SAC Primary Steward. Commencing on the License Commencement Date, SAC shall

be the primary steward with respect to space in the Building.

2.6 Future expansion. Provided that the fundamental purpose of the Student Commons is not

altered, either SAC or the University may at some subsequent date propose a physical

expansion of the Student Commons. The approval of both Parties is required for such

expansion.

ARTICLE 3-TERM AND TERMINATION

3.1 Term. The tenn of this Agreement is twenty-five (25) years (the "Term") commencing on

the Effective Date.

3.2 Termination of Cer tain Rights During Term. The termination of SAC's entitlement to

manage and operate the Student Commons during the Tenn or a Renewal Term pursuant to

Section 3.5 shall not tem1inate the right of the Students to occupy and use the Building

which shall continue in accordance with the grant of License in Section 5.4 of this

Agreement in accordance with the license terms appended as Schedule "E".

3.3 Renewal Terms.

(a) This Agreement shall be automatically renewed for a period of ten years upon the

expiry of the Term (called the "First Renewal Term") unless either Party

notifies the other Party in writing, at least three years prior to the expiry of the

Tem1, of an intention not to renew automatically. Upon the expiry of the First

Renewal Term, this Agreement shall be automatically renewed for a period often

years (called the "Second Renewal Term") unless either Party notifies the other

Party in writing, at least three years prior to the expiry of the First Renewal Tenn,

of an intention not to renew automatically. Upon the expiry of the Second

Renewal Tenn, this Agreement shall be automatically renewed for a period of 5

years (called the "Final Renewal Term") unless either Party notifies the other

Party in writing, at least three years prior to the expiry of the Second Renewal

Tem1, of an intention not to renew automatically. The Agreement automatically

terminates upon the expiry oftbe Final Renewal Tenn unless, pursuant to Section

3.3(d) below, the Parties otherwise expressly agree to extend the arrangements set

out in this Agreement beyond the Final Renewal Term. Without limiting the

circumstances in which a Party may elect not to have the Agreement renew

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automatically, the Parties acknowledge that such circumstances may include a

requirement by the University to relocate the Student Commons (in which case

the University shall provide Reasonably Comparable Premises) or a desire by

SAC to change the tenns under which the Student Commons are managed and

operated. For greater certainty, if the University exercises its right to relocate the

Student Commons to other Reasonably Comparable Premises, the University

shall be solely responsible for paying all of the costs associated with such

relocation, including but not limited to any renovations required to ensure that the

new premises are in compliance with all applicable laws and regulations

including municipal zoning and Building Code requirements.

(b) If either Party gives notice to the other Party of its intention to not have the

Agreement renew automatically in accordance with Section 3.3(a), the parties,

negotiating in good faith, shall endeavour to agree upon a new Agreement to

govern the occupancy, management and operation of the Student Commons

before the expiration of the Term or any Renewal Tenn, as the case may be.

(c) If the Parties cannot reach a new agreement, the terms under which the Building,

or alternate premises if the University has elected to relocate the Student

Commons in accordance with Section 3.3(a), is occupied and used by the

Students shall be substantially similar to those of this Agreement, modified as

appropriate in the circumstances. Such occupancy and use arrangements shall be

in force for an additional twenty-five (25) years (if only the Term has expired) or

such lesser time in the case of a First or Second Renewal Term, to bring the

arrangements to an end 50 years after the conunencement of the Tern1, unless the

parties expressly agree to extend the arrangements set out in this Agreement

beyond 50 years pursuant to Section 3.3(d) below.

(d) Beginning three (3) years prior to the expiry of the Final Renewal Term the

Parties hereby agree to meet from time to time to discuss the need for student

common space (which may be student run) and to consider options for such space

to replace the Building as soon as practicable following the expiry of the Final

Renewal Tenn.

3.4 Periodic Reviews. One year after the License Commencement Date and every second

year thereafter, the Parties shall, if requested by one of them, review this Agreement and

consider whether any modifications are required based on the experience gained through

the operation of the Student Commons to that point.

3.5 Effect of Material Breach or Insolvency.

(a) Upon the occurrence of either of the events set out in subsections (i) and (ii)

below:

(i) SAC ceases operation, in the ordinary course; makes an assignment for the

benefit of creditors; becomes bankrupt under applicable legislation; is the

subject of the appointment of a receiver or manager in respect of any

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substantial part of its assets and undertaking that is not removed or for

which no stay is entered within sixty (60) days thereafter; takes proceedings

for winding up, liquidation, or dissolution of its assets, or for the

compromise or composition of debt pursuant to the Companies' Creditors

Arrangement Act (Canada), as amended, or similar legislation; or if a writ

of execution shall issue against the assets, or part thereof, owned by SAC

that remains unsatisfied for sixty (60) days; or

(ii) SAC ceases to be the representative of full-time undergraduate students at

the St. George Campus as determined by SAC's members and as

recognized by the University in accordance with formal University Policy

and Procedures,

the following shall occur:

(iii) SAC's entitlement to manage and operate the Student Commons shall

terminate;

(iv) SAC shall, within one hundred and eighty (180) days, vacate the Building;

(v) the University will temporarily assume the management and operation of

the Student Commons for the benefit of the Students consistent with the

goals as set out in Section 2.2 and the principles set out in Section 2.3, and

with a view to providing continuity of facilities and services at the Student

Commons to the Students; and

(vi) The University shall promptly consult with the St. George Campus

undergraduate student body regarding new arrangements for management

of the Student Commons on behalf of the Students guided by the goals for

the Student Commons as set out in Section\_2.2 of this Agreement.

(b) TfSAC is in breach of any of its material obligations in this Agreement and such

breach is not cured within ninety (90) days following written notice of such

breach, or a shorter period if the breach gives rise to an Emergency, such shorter

period to be determined on a case-by-case basis taking into account the nature of

the relevant Emergency, the following shall occur:

(i) SAC's entitlement to manage and operate the Student Commons shall

terminate.

(ii) SAC shall, within one hundred and eighty (180) days, vacate those premises

which it occupies in the Building for the purposes related to its management

and operation of the Student Commons.

(iii) The University and SAC will enter into a license agreement in respect of

office space occupied by SAC not related to the management and operation

of the Student Commons, which, for clarity, shall extend for the duration of

the Term and any renewal terms, as applicable (the "SAC License"). ln the

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event that the right to manage and operate the Student Commons is

subsequently granted to a third party, the University undertakes to have said

third party assume the obligations of the University under the SAC License.

(iv) The University will temporarily assume the management and operation of

the Student Commons for the benefit of the Students consistent with the

gonls ns set out in Section 2.2 and the principles set out in Section 2.3, and

with a view to providing continuity of facilities and services at the Student

Commons to the Students, to the extent reasonably possible.

(v) As soon as reasonably practicable, the Parties shall enter into negotiations

to negotiate a new management structure and agreement relating to the

management of the Student Commons guided by the goalsJor the Student

Commons as set out in Section 2. of this Agreement.

3.6 Clarification. For greater certainty, the Parties agree that the License granted to the

Students in this Agreement to occupy and use the Building shall continue on the license

tenus attached as Schedule "E" throughout the Tenn and the Renewal Terms

notwithstanding the termination of SAC's entitlement to manage and operate the Student

Commons pursuant to Section 3.5.

3. 7 Surrender on Termination. SAC will, upon the expiration or lawful termination of this

Agreement, peaceably surrender and yield up to the University SAC's offices and any

other space relating to management in the Building directly controlled by SAC in as good a

state of repair and condition, as was the case at the beginning of the Term, reasonable

wear and tear excepted.

3.8 University to Act in Good Faith. In exercising its termination rights under this Article,

the University shall act in good faith, and without limiting the foregoing, in a manner

that takes into account the goals of the Student Commons described in Section 2.2.

ARTICLE 4- AUTHORITY AND RECOGNITION

4.1 Representatives.

(a) The President of the University or designate as notified to SAC in writing from

time to time, is the primary representative of (and is authorized to act on behalf ot)

the University for all purposes of thjs Agreement subject to the authority of the

University.

(b) The SAC President, or such office's successor, replacement or designate as

notified to the University in writing from time to time, is the primary

representative acting on behalf of SAC, subject to the authority of the SAC Board

and the provisions of SAC's by-laws.

4.2 Agent of Full-Time Students. The University pursuant to its statutory authority

recognizes SAC as the sole agent representing the Students (being the primary donors

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supporting the Student Commons) in respect of this Agreement and the Student Commons

at the time of the signing of this Agreement.

4.3 Enforceability. Notwithstanding that SAC is described herein and is entering into this

Agreement as agent for the Students, all obligations of SAC in this Agreement shall be

enforceable against SAC in its personal capacity and all rights and benefits granted to SAC

in this Agreement, including without limitation the rights with respect to the SAC License,

shall be enforceable by SAC in its personal capacity. Nothing herein alters the obligation

of all Students to support the Student Commons through the Capital Cost Levy and the

Operating Cost Levy, in accordance with the Referendum.

4.4 Sole Control and Discretion. From the License Commencement Date and for the

duration of the Tenn, SAC shall have, subject to the tenns of this Agreement, sole control

and discretion with respect to the management and operation of the Student Commons. For

greater certainty and without limiting the generality of the foregoing, subject to the terms

and conditions of this Agreement, the University shall not interfere with the day-to-day

operation of the Student Commoos and SAC will use its best efforts to manage and control

the Student Commons in an efficient manner. In this context, SAC shall manage and

operate the Student Commons in accordance with:

(a) all applicable laws, regulations and municipal by-laws;

(b) University collective agreements and other general contractual commitments, of

which SAC is made aware by the University; and

(c) unless otherwise set out in this Agreement, University policies of general

application,

provided that the University shall not enter into agreements or contracts or implement

policy after the date hereof that materially limits SAC's right to control the management

and operation of the Student Commons.

4.5 Notice to the University. The University shall be notified immediately by SAC of all

evictions, lawsuits, or charges laid under municipal, provincial or federal statutes and

regulatory complaints made under municipal, provincial or federal statutes and/ or personal

injury accidents related to the Student Commons, about which SAC has received notice.

For clarity, SAC's obligations in respect of this Section 4.5 shall commence on the License

Commencement Date.

4.6 Management Committee.

(a) On or before the License Commencement Date, a management committee (the

"Management Committee") shall be formed by SAC, which committee shall

generally supervise and direct the development and operations of the Student

Commons in accordance with the tenns of this Agreement. Without limiting the

generality of the foregoing, with respect to the Student Commons, the

Management Committee shall:

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(i) consider and approve policy matters, including but not limited to the

principles and processes governing the allocation of space within the

Building, and governing the negotiation and approval of contracts

pertaining to the Building (collectively, "Management Committee

Policies");

(ii) review staffing and provide direction and advice to the Facility Manager on

staffing related issues;

(iii) make recommendations on budgets to the SAC Board and subsequently

monitor financial statements with respect to the Student Commons with

regular reporting to the SAC Board;

(iv) generally protect assets in the Building and take measures to reduce liability

risks, including making provisions for capital renewal pursuant to Section

7.7(c);

(v) set standards concerning the use of the common faci lities of the Student

Commons;

(vi) take all reasonable measures to ensure that the Student Commons is

operated in an environmentally responsible manner that fmthers the

sustainability and environmental goals of SAC;

(vii) implement the operating principles of the Student Commons developed by

the SAC Board;

(viii) take all reasonable measures to maintain true and accurate books and

records of the business and transactions of the Student Commons; and

(ix) advise the Facility Manager on human resource matters such as: selecting,

employing, terminating, supervising, directing, training and assigning

duties to all employees engaged in the operation of the Student Commons.

(b) Subject to subsection 4.6(e), the Management Committee shall consist of

fourteen (14) members ("Members"), thirteen (13) of whom shall be voting

Members, comprised of:

(i) six (6) persons named by SAC;

(ii) seven (7) persons named by the Appointments Committee, provided that

A. All voting Members shall possess experience and/or skills relevant

to the responsibilities of the. Management Committee including such

things as with respect to making recommendations regarding

budgets, monitoring financial statements, protecting assets,

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maintaining books and records, and various human resources and

policy-making tasks;

B. SAC and the Appointments Committee agree that each shall make

efforts to ensure that those they name as voting Members reflect the

diverse nature of the Students; and

(iii) the Facility Manager, who shall:

A. be an ex-officio and non-voting Member;

B. act as the chair of the Management Committee;

C. be entitled to all of the rights and privileges as a Member, including

but not limited to speaking rights, but excluding the right to move,

second or vote on any motion of the Management Committee; and

D. for greater certainty, be bound by the same restrictions and

responsibilities as the Members and, accordingly, shall be a

fiduciary of the Management Committee.

(c) Notwithstanding subsection 4.6(b)(ii), if the Appointments Committee does not

appoint its Members to the Management Committ.ee by the deadline provided for

in subsection 4.6(i)(ii), then SAC shall be permitted to appoint all of the Members

to the Management Committee for that particular year, or, if only some of the

requisite number of Members have been appointed by the Appointments

Committee by that date, SAC shall be pennitted to appoint the remainder for that

particular year.

(d) If SAC determines, in its sole discretion, that a person named by the

Appointments Committee fails to meet the standards described in subsection 4.6

(b)(ii)A, then SAC may veto such appointment, by written notice to the

Appointments Committee, and require the Appointments Committee to appoint a

replacement Member. The veto right described in this subsection may only be

exercised by SAC in respect of one (1) appointee per year.

(e) In order to serve as a voting Member on the Management Committee, each

nominee shall be a Student as defined in this Agreement, or, in the case of one ( 1)

SAC nominee only, may be a non-Student who is a member of the SAC

Executive Committee, or the Executive Director of SAC, as SAC chooses.

(f) A quorum for a meeting of the Management Committee shall be nine (9) voting

Members, represented in person and not by proxy, provided that five (5) of the

voting Members named by SAC pursuant to subsection 4.6(b)(i) must be present

for quorum to be achieved.

(g) Subject to subsection 4.6(h), all decisions of the Management Committee shall be

decided by a majority of the votes cast at such meeting.

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(h) The following decisions of the Management Committee shall be decided by a

two-thirds majority of the voting Members:

(i) matters relating to SAC incurring legal obligations,

(ii) matters relating to SAC incurring financial obligations,

(iii) setting policies concerning the use of the Student Commons, and

(iv) making provisions for capital renewal.

(i) Each body entitled to appoint Members to the Management Committee:

(i) shall ensure it maintains representatives on the Management Committee in

accordance with the number of seats specified herein;

(ii) shall provide for an annual appointment process resulting in representatives

being designated on or prior to May 31 in each year;

(iii) shall, in the event of a vacancy in one or several of the Member positions to

which is entitled to appoint a nominee, take such steps as are necessary to

designate a new Member or new Members, as the case may be, within

fifteen (15) Business Days of such vacancy; and

(iv) may from time to time replace its nominee Member or Members.

4.7 Facility Manager. On or before the License Commencement Date, the SAC Board shall

hire a facility manager (the "Facility Manager") of the Student Commons who shall be

responsible for those day-to-day operations of the Student Commons delegated to her/him

by the Management Committee, including without limitation negotiating, implementing

and administering the terms of agreements between SAC and sub-licensees and SAC and

any other third party in accordance with the Agreement and any Management Committee

Policies. The Facility Manager shall also be responsible for: implementing policies passed

by the Management Committee, including without limitation, and in accordance with the

Agrement and any Management Committee Policies, allocating space within the Building, ,

enforcing standards concerning the use of the common facilities of the Student Commons

and implementing the hiring, supervising and disciplining staff, including dismissal and

termination, except decisions on the general structure of the senior staff positions, which

must be approved by the Management Committee.

4.8 Application of University Laws and Policies. Subject to Sections 4.9, 4.10 and 7.8, all

applicable laws, regulations and by-laws and all University published policies, procedures

and legal obligations must be complied with in the conduct of the activities taking place

within the Student Commons including with respect to sub-licenses. These include but are

not limited to University Policies and Procedures and legal obligations of the University

relating to:

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(a) use of the University's names, name abbreviations, logos, crests, trade-marks,

official marks, trade names, and other intellectual property;

(b) alcohol consumption, sale and service;

(c) sale and use of tobacco products;

(d) copyright;

(e) licenses of general application relating to intellectual property;

(f) health and safety;

(g) food service regulations;

(h) posted fire legal room capacities;

(i) advertising, publicity and signage;

(j) non-affinity exclusivity agreements in place at the time of signing;

(k) fundraising, sponsorship, and affinity exclusivity agreements;

(I) union and other labour agreements;

(m) human rights;

(n) academic freedom; and

(o) environmental protection.

4.9 Qualifications.

(a) Notwithstanding subsections 4.8(j) and (k), above, the University:

(i) confirms that there are no fundraising or sponsorship agreements nor

non-affinity exclusivity agreements that would restrict the operation of the

Student Commons;

(ii) agrees that, throughout the Tenn, SAC may continue to offer insurance to

its members and to student clubs at its discretion despite any conflict or

perceived conflict with the obligations of the University pursuant to affinity

agreements between the University and its insurance providers, including

but not limited to TD Meloche-Monnex and Manulife or any subsequent

provider during the Term;

(iii) confirms that the exclusive affinity agreement in place between the

University and Zoom Media does not require SAC to retain Zoom Media if

it wishes to advettise in any area of the Student Commons; and

(iv) shall not enter into agreements or contracts, including any sponsorship

agreements or non-affinity exclusivity agreements, or implement policy

after the date hereof that are contrary to this Agreement.

(b) SAC's obligations in respect of Section 4.8, above, shall commence on the

License Commencement Date.

4.10 No Exclusivity Agreements. No exclusivity agreements with respect to the supply of

goods or products, including, without limitation, with respect to the supply of food, that

either:

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(a) the University has not disclosed to SAC at the time that this Agreement has been

entered into; or

(b) have been entered into by the University after the date of this Agreement,

will be imposed on or apply to the Student Commons unless SAC provides its prior written

consent. This does not apply to utilities, or affinity exclusivity agreements other than those

described in Section 4.9(a)(ii) and (iii). Notwithstanding the foregoing, the University

shall not enter into agreements or contracts or implement policy after the date hereof that

materially limits SAC's right to control the management and operation of the Student

Commons.

ARTICLE 5 - OWNERSIDP, LICENSE AND ACCESS

5.1 Obligation to Provide the Building. The University shall provide the Building, which

will contain the Student Commons.

5.2 Title to Real Proper ty. Legal and beneficial title to the Building and the real property on

which it is located rests with the University.

5.3 Title to Personal Property, Furnishing and Equipment. As between the Parties, legal

and beneficial title to the personal property in the Student Commons, including without

limitation furnishings and equipment, will rest with SAC.

5 .4 License.

(a) The University agrees and acknowledges that the Student Commons shall be set

aside for the exclusive use of the Students, and the University hereby grants to the

Students, represented in this Agreement by SAC as their agent, the exclusive,

irrevocable, non-assignable license to occupy and use the Building, from the

License Commencement Date to the expiry of the Term and Renewal Tem1s, as

applicable, for the purposes herein set out (the "License"). In the event that

SAC's entitlement to manage and operate the Student Commons in accordance

with this Agreement is terminated, such termination shall in no way impair or

affect the rights of the Students pursuant to the License, which shall continue on

the terms set out in Schedule "E". For clarity, in addition to the tem1s of the

License the Parties agree that access to the roof by SAC shall be subject to the

"Green Roof Garden Operational Policy", attached as Schedule "F" hereto. Such

access may commence only at the conclusion (including any funded extensions)

of the Green Roof experiment currently being conducted there by the Faculty of

Architecture, Landscape, and Design, and not earlier than January 1, 2018. For

further clarity, rooms 502 and 502A, which are required for ongoing use of the

Daniels Faculty of Architecture, are also excluded from the License.

(b) This Agreement and the aforesaid grant of license do not create the relationship

of landlord and tenant or principal and agent or joint or co-venturers between the

Parties. For greater certainty, and subject to subsection (a) above, SAC's

occupancy of the Building is undertaken as a licensee of the University.

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Therefore, any rights and privileges which are available to a tenant or subtenant,

whether expressly under the Commercial Tenancies Act (Ontario) or otherwise,

are expressly waived by SAC. Nothing contained in this Agreement or in any

acts of the Parties hereto shall be construed to create any relationship between the

parties other than that of licensor and licensee. Neither Party shall exercise

supervision over the other Party's mode and manner of performance and neither

Party's employees or agents shall be deemed to be employees or agents of the

other Party. SAC sball be solely responsible for the wages, benefits, taxes, and

any other similar obligation, in connection with its employees, agents and

servants.

5.5 Sub-Licenses.

(a) SAC shall be entitled to grant sub-licenses of portions of the Building in

accordance with the terms of this Agreement to any party (including, for greater

certainty, retailers) with the consent of the University, which may not be

unreasonably withheld or delayed, as long as such parties are conducting

business or activities that are compatible with the goals of the Student Commons

and of the University. For clarity, if SAC's entitlement to manage and operate

the Student Commons tenninates, the University shall be deemed to have granted

its consent to the SAC License. Sub-licensees of SAC, such as University

departments, will be subject to a license agreement, containing various terms

including those enumerated in Section 5.5(b) as well as applicable monthly rent,

to be negotiated on an individual basis between the Management Committee and

the individual sub-licensee.

(b) All sub-license agreements negotiated by the Management Committee with third

parties shall contain the following provisions:

(i) all third-party commercial operations shall pay market rent or better which

should cover the pro rata portion of the Operating Costs and capital

expenditures related to those commercial operations;

(ii) all third-party commercial operations shall be responsible for any and all

taxes and other associated levies or fees assessed against the Student

Commons, the Building or SAC due to such third-party's occupation;

(iii) sub-licensees shall either clean within their respective facilities or arrange

through the Management Committee for cleaning at the sub-licensee's

expense;

(iv) sub-licensees shall be responsible for cost and expense of improvements

which must be approved by the University, such approval not to be

unreasonably withheld or delayed;

(v) sub-licensees shall leave the premises occupied by them in good repair and

pay any costs of restoration for the premises;

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(vi) no sub-licensee shall be provided with any guarantees related to the use of

reserved parking spaces, or use of other facilities beyond the Student

Commons; and

(vii) sub-licensees shall be required to comply will all applicable laws,

University collective agreements and other general contractual

commitments, and University policies of general application.

5.6 University Access to the Student Commons.

(a) The University, by its employees, agents and contractors, including without

limitation, University of Toronto police, caretaking staff and the staff of the

Facilities and Services Department of the University, shall have access to all parts

of the Student Commons for purposes of routine maintenance, safety and fire

prevention and hazard control whenever necessary to carry out the

responsibilities of their jobs. Notwithstanding the foregoing, advance written

notice shall be given to SAC stating the reason for access to SAC offices and levy

groups stating the reason for the requested access, unless it is required in the case

of an Emergency, in which case the said prior notice is not required (but the

reason for the access in the case of an Emergency shall be provided to SAC in

writing as soon as practicable after such emergency access).

(b) The University shall retain a key or keys thereto accordingly, but this stipulation

does not impose and shall not be deemed to impose any additional liability on the

University for the safety or security of the Student Commons.

(c) SAC will not, without the consent of the University, install or modify or permit to

be installed or modified any lock or other security device on the external or

internal doors or windows or any perimeter openings of or affecting ingress to or

egress from the Building.

5.7 Approvals. SAC will obtain all necessary approvals from the appropriate University

authorities before making commitments that involve or impact on the areas outside of the

boundaries of the Building.

5.8 Formal Name. The formal name of the Student Cormnons as well as the name of any

space, area or equipment in the Student Commons shall be determined mutually by the

President of the University (or his or her designate) and the President of SAC (or his or her

designate) in a manner that is consistent with the policies of the University. For greater

certainty, the formal name of the Student Commons, or any part thereof, shall not be

established or thereafter changed without the express agreement of the President of SAC

(or his or her designate), despite any provision to the contrary in any policy of the

University.

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ARTICLE 6- OPERATIONS

6.1 Operating Costs.

(a) Operating costs shall be costs, in relation to the Building and the Student Commons,

associated with:

(i) building services, including caretaking, maintenance and day-to-day repairs

but excluding repairs that are structural or capital in nature;

(ii) maintenance of exterior land and amenities (waste, recycling and grounds

maintenance);

(iii) police services; and

(iv) utilities, in accordance with Section 6.4 (collectively, "Operating Costs").

(b) SAC shall not be assessed Operating Costs on terms less favourable than those

assessed to any other faculty or tenant on the St. George Campus that uses space in

a manner similar to that of the Student Commons.

(c) The Parties will agree from time to time on a schedule and mechanism for the

remittance of Operating Costs by SAC. A principle to be applied to any such

schedule will be to link the timing of the Student Commons Levy remittances to

SAC to the timing of the remittances of Operating Costs by SAC.

(d) Space currently occupied by some student groups or student-related activities (e.g.

SAC, bike chain, women's centre) will be vacated if those groups or activities move

into the Building. The occupancy costs for these groups and activities are now paid

by student fees collected for the Student Life Portfolio. If any of these groups or

activities move into the Building, and if the space they now occupy is not occupied

by student groups or student-related activities, the funds now being paid for their

occupancy will be subtracted from the Student Life Portfolio budget. In other

words, if the occupancy costs are no longer being paid by the Student Life Portfolio,

those costs will no longer be collected from student fees.

(e) The Operating Cost Levy will be adjusted pursuant to Section 7.7(d).

6.2 Building Repairs, Etc.

(a) During the Term and any Renewal Term, the University shall be financially

responsible for and carry out all Building and Building systems facility

operations and maintenance, including without limitation major structural or

capital repairs and replacements in accordance with the University's general

standards of keeping its buildings on the St. George Campus in good operating

condition and in compliance with all applicable laws and regulations including

municipal zoning and Building Code requirements, subject to Section 6.2(c).

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(b) The University shall be responsible for and carry out all further renovations to the

Building requested by SAC, provided that they are approved by the University

and paid for by SAC and are in compliance with all applicable laws and

regulations including municipal zoning and Building Code requirements.

(c) Notwithstanding any other provisions hereof, save for normal wear and tear and

the University's obligations to keep the Building in good operating condition

pursuant to Section 6.2(a), if the Building or any part thereof is damaged or

destroyed or requires repair, replacement or alteration as a result of any negligent

act or omission of SAC or any sub-licensee of SAC or of any other occupant or

person who is at the Building as an invitee of SAC or of a sub-licensee, the

resulting repairs shall be performed by the University and shall be paid for by

SAC. For clarity, SAC's obligations in respect of this Section 6.2(c) shall

commence on the License Commencement Date.

(d) The Parties acknowledge and agree that the obligations of the University

pursuant to Section 6.2(a) shall not require the University to subsidize the costs of

major renovations, retrofitting or upgrades to the Building or Building systems so

long as the Building is in good operating condition in accordance with Section

6.2(a). In the twelfth year of the Term and two years prior to each Renewal Tenn,

the University shall carry out an assessment or assessments of the Building or

components thereof with a view to determining whether, in the reasonable

judgement of the University, any such major renovations, retrofitting, or

upgrades are required. Such assessments shall be provided to SAC. The Parties

acknowledge and agree that, provided that the University has discharged its

obligations under Section 6.2(a) during the Term, the costs of any such required

major renovations, retrofitting or upgrades are to be borne by SAC in the

Renewal Terms and, accordingly, the Parties will conduct good faith negotiations

with a view to having SAC assume costs related to such required major

renovations, retrofitting and upgrades of the Building and Building systems in the

Renewal Terms based on such assessment(s).

6.3 Minor Changes to the Building.

(a) Notwithstanding the preceding Section, SAC may at any time, at its own expense,

decorate the interior of the Building and make minor changes, alterations, or

improvements in and to the Building as is deemed appropriate by SAC, provided

that such improvements have no engineering, health or safety implications and

are in accordance with this Agreement and are in compliance with all applicable

laws and regulations including municipal zoning and Building Code

requirements. In carrying out any work at the Building, SAC shall only use

contractors and subcontractors who are on the University's approved list.

(b) SAC shall promptly pay for all materials supplied and work carried out by it in

respect of the Building so as to ensure that no lien is registered against the

Building. If a lien is registered or filed, SAC shall discharge it at its expense

forthwith.

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6.4 Utilities Separately Metered. The Building will be separately metered for utilities,

including heat, light, electrical and HY AC. SAC will be responsible for the utility bills,

but the University will make actual payment for utility bills and the cost will form a portion

of the Operating Costs.

6.5 Information Technology Services. As elaborated upon in, and in accordance with, the

Project Planning Report, the University shall connect the Student Commons to the St.

George Campus network backbone, and the wireless network infrastructure will continue

to be managed through the University's Information Technology Services. The 'within the

Building' infrastructure shall be part of the initial capital cost of the Student Commons

renovations, and the ongoing operating costs shall be a component of the Operating Costs

borne by SAC.

6.6 Due and Reasonable Care. SAC will exercise all due and reasonable care in its use of the

Student Commons and will control access thereto and endeavour to ensure that all persons

having access, including students and the staff of SAC, do the same. SAC will keep the

Student Commons and all contents thereof at all times in a clean and tidy condition and will

observe and comply and cause its employees, agents and sub-licensees to observe and

comply with all occupational, environmental, health, fire and safety laws, by-laws and

regulations that apply to or affect SAC's occupancy of the Student Commons or its

operation and activities therein, and all University Policies and Procedures. For clarity,

SAC's obligations in respect of this Section 6.6 shall commence on the License

Commencement Date

6.7 Building Insurance. The University will act in a commercially reasonably manner in

procuring and maintaining insurance pertaining to the Building in the form, term and limits

and with insurers as it deems suitable, acting reasonably, and SAC understands and agrees

that it shall not enjoy any benefit whatsoever under any such insurance.

6.8 Police Services. For clarity, the University shall provide the police services referred to in

Section 6.l(a)(iii) at the same level that it provides to other buildings on the St. George

Campus, but shall not include police services for special events in the Operating Costs

assessed to SAC.

ARTIC:LR 7 - FINANCIAL MATTRRS

7.1 Student Commons Levy. The Student Commons Levy has been established by

referendum to include two components: the Capital Cost Levy in respect of the Student

Commons capita l project to create the physical space that the Student Commons will

occupy, the collection of which began on or about September 2008 and which will continue

until 25 years after the space has been completed and occupied, and the Operating Cost

Levy in respect of the operations of the Student Commons, which will commence on the

License Commencement Date.

7.2 The University's Support ofthe Student Commons. To support the Student Commons,

at minimum the University shall:

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(a) contribute fifty cents ($0.50) for each dollar contributed by the students by way of

Capital Cost Levy, as and when each such dollar is collected, such contribution

not to exceed the equivalent of a contribution of $ 10 million and such

contribution to be adjusted for its sbare of any donations for the Student

Commons, in accordance with Section 7.2. The Parties agree that the University

will have complied with its obligation to contribute pursuant to this Section 7.2(a)

by contributing the Building and the rights under the License; and

(b) if the University receives donations directed towards the Student Commons,

which SAC accepts, the funds raised will be allocated as follows: (i) two-thirds

shall be counted towards SAC's obligation to the Student Commons Levy; and (ii)

one-third shall be retained by the University to assist in defraying its expenditures

described in Section 7.2(a).

7.3 License Fee. SAC will pay to the University for the License an annual license fee of

$200,000, payable in arrears, with the first payment to be made on the first anniversary of

the License Commencement Date and the final payment to be made on the last day of the

initial 25 year Term (the "License Fee"). For greater cettainty, the License Fee shall be

funde.d as a component of the Capital Cost Levy.

7.4 Collection of Student Commons Levy:

(a) The Student Commons Levy shall be collected by the University, in trust on behalf

of SAC for use in accordance with the terms of the Referendum Question attached

hereto as Schedule "D", at a minimum of three (3) times per year.

(b) SAC acknowledges and accepts the University's right to impose and collect the

Student Commons Levy at regular intervals subject to the University's obligations

with respect to its University Policies and any applicable government directives

and laws. SAC further agrees that during the Term of this Agreement, the Student

Conunons Levy at the amounts agreed in the Referendum, as adjusted in

accordance with Sections 7.6(i) and 7.7(d), shall remain in full force and effect and

that SAC and its employees, agents or successors will take no action to prohibit,

restrict, limit, impair or in any way interfere with the imposition and collection of

the Student Commons Levy hy the University, so long as the University continues

to collect the Student Commons Levy, in accordance with its University Policies

and Procedures and any applicable government directives and laws.

(c) If, at the conclusion of the Term and any applicable Renewal Term, the University

elects not to renew this Agreement pursuant to Section 3.3, the University sball

continue to collect the Student Commons Levy, which will be held in trust by the

University and returned to SAC to be used for another project or use which is

consistent with the objectives of the Referendum.

7.5 University Literature and Forms. The University agrees that in all its materials literature

and forms pertaining to student fees and their payment, it will display the "Student

Commons Levy" separately.

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7.6 Student Commons Capital Project

(a) The University will establish an account (the "St. George Student Commons

Capital Project Account") within the University's financial infonnation system,

to record the following:

(i) the costs incurred in respect of the Student Commons capital project

including any construction financing costs that may be incurred by this

project and including any principal and interest payments to be made on

loans issued in respect of this project; and

(ii) the receipts of funds in respect of this project, including the Capital Cost

Levy as adjusted by Section 7.6(i), the University's contribution to this

project as described in Section 7.2 above, and any other receipts such as

donations in respect of the Student Commons capital project as described in

Section 7.6(g).

(b) The Parties acknowledge and agree that the Capital Cost Levy portion of the

Student Commons Levy, plus the University's contribution and any other receipts

such as additional donations, are intended to be sufficient to fund the costs incurred

in respect of the capital project, including the principal repayment and the interest

payments.

(c) Subject to the paragraph below in this subsection, in the event that the Student

Commons project does not proceed to be approved, for any reason, the Capital Cost

Levy funds together with any interest thereon which are held in trust by the

University as described in subsection (b) above will be returned to SAC to be used

for another project or use which is consistent with the objectives of the

Referendum.

In the event that the Student Commons project proceeds to be approved and the

Renovations have started but, for whatever reason, have been abandoned and the

Parties have agreed that the Students Commons project is terminated, this

Agreement will be at an end, and:

(i) any remaining portion of the Capital Cost Levy funds together with any

interest thereon which are held in trust by the University as described above

will be returned to SAC to be used for another project or use which is

consistent with the objectives of the Referendum; and

(ii) the Parties will appoint an appropriately qualified valuator to assess the

value of any improvements to the Building that SAC thereto funded, and

SAC shall be reimbursed by the University for that value.

(d) The Capital Cost Levy funds collected by the University will be placed in the St.

George Student Commons Capital Project Account. The University will hold the

Capital Cost Levy funds in trust to be disbursed, in accordance with the

requirements of the Student Commons capital project as approved by the

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Referendum Question establishing same, by the Business Board as described in

subsection (f) below. Interest will be attributed to the St. George Student

Commons Capital Project Account in accordance with the University's standard

policies and procedures for applying interest to or charging interest against capital

project accounts (prior to and during the construction period) and applying interest

after construction is completed, in all cases, on tenns not less favourable than those

available to other internal University borrowers for similar projects. Such funds on

hand at any given moment will be invested by the University in accordance with the

University's standard investment policies and procedures as amended from time to

time.

(e) In the event that the Student Commons capital project has not been fully funded by

the time it has been completed, the University will issue a long-tenn loan on the

outstanding unfunded balance at a rate and for a term to be determined by the

University in accordance with the University's internal borrowing programme, as

amended from time to time. This loan will not be issued to SAC but rather will be

held by the University. As described above, the principal repayment and the

interest costs associated with this loan will be charged to the St. George Student

Commons Capital Project Account. The Capital Cost Levy and the University

contribution along with any donations received for this purpose after the long-term

loan is issued will be sources of funding to pay the principal repayment and the

interest payments.

(f) Capital Cost Levy monies held by the University in tmst shall be used in the first

instance to pay the costs incurred by the University relating to the capital project,

including construction costs, construction fmancing and principal and interest

payments on loans issued in respect of this capital project. ln the event that there is

any money remaining after the obligations described have been discharged, the

University will deposit the surplus funds in an interest-bearing account in trust

within the University's financial information system and on behalf of SAC, for the

operating costs of the Student Commons.

(g) Any donations received in respect of the Student Commons capital project will be

deposited in the St. George Student Commons Capital Project Account and

credited to SAC or the University contribution as provided in Section 7.2(b) of this

Agreement. Such donations will nonnally be treated as contributions towards the

capital cost of the project (i.e. principal payments).

(h) The University will provide annually to SAC a University Accountability Report

on the status of any and all funds including directed gifts and levies received or held

in trust on behalf of SAC for the Student Commons. The University shall provide

responses to SAC's reasonable requests for interim financial information related to

the funds, directed gifts and levies from time to time. The University will also

provide a report to SAC about the quantum of the Student Commons Levy together

with the distribution to SAC of its other student levies in accordance with the

University's annual student society levy remittance schedule.

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(i) The rate of increase to be applied to the Capital Cost Levy (the "Capital Cost Levy

Escalator") for the 25 year period beginning with the opening of the Student

Commons Building, CUJTently estimated to be September I, 2014, wiLl be

established at the date of opening by the Parties, at a level not to exceed l 0% per

annum and fixed at that rate for the entire 25 year term. The Capital Cost Levy

Escalator is subject to approval annually by the University Affairs Board.

The Capital Cost Levy Escalator, which shall provide for an increase of up to 10% per aru1um shall

take into account the additional costs arising from inflation and the repayment (over a 25 year

period) of principal and borrowing costs of the Student Commons loan, and all other costs referred

to in Section 7.6(a) above.

7.7 Student Commons Operation

(a) Operating Cost Levy. The Operating Cost Levy shall be collected by the

University upon the opening of the Student Commons and remitted to SAC in

instalments, in accordance witb the University's annual student society fee

remittance schedule or as otherwi;;e agreed pursuant to Section 6.1 (c).

(b) Financial Solvency Requirement. It is the Parties' intention that the Operating

Cost Levy, as adjusted over time in accordance with 7.7(d), p lus other revenues

earned by SAC in operating the Student Commons will be sufficient to:

(i) cover aU costs of operating the Student Commons, including, without

limitation, the Operating Costs as defined in 6.1 (ah and

(ii) maintain appropriate and prudent reserves, the quantum of wh.ich shall be

determined by the Management Committee in its sole discretion, in a

Reserve Fund, in accordance with Section 7.7(c).

(c) Reserve Funds. As soon as the quantum of any surplus or deficit from the

operations of the Student Commons is calculated for each year of the Term, such

amount will be transferred to or from, as the case may be, a Student Commons

reserve fund (the "Reserve Fund") to be established at the end of the first fiscal

year of the Student Commons. Any accumulated surplus in such fund will be

utilized as follows:

(i) To provide appropriate and pmdent reserve levels in accordance with

reasonable business practice to allow for fluctuations in business operations,

such as future deficits, and to provide for unexpected events, i11cluding

without limitation, major renovations, such reserves to have target levels

identified and budgeted in the long-range budget plan.

(ii) Once the prudent and appropriate reserve levels targeted in the long-range

budget plan have been achieved, the Management Committee may, by a

two-thirds majority, vote to apply any Excess Surplus (or a portion thereof)

towards a special project.

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(d) Oper ating Cost Levy Escalation. The rate of increase to be applied to the

Operating Cost Levy (the "Operating Cost Levy Escalator") for the 25 year

period beginning with the opening of the Student Commons building, currently

estimated to be September 1, 2014, will be established annually by the SAC Board,

at a level not to exceed 10% per annum and shall take into account additional costs

arising from inflation. The Operating Cost Levy Escalator is subject to approval

annually by the University Affairs Board.

(e) Budget for Student Commons. SAC will use its best efforts to achieve a balanced

operating budget in the operations of the Student Commons

(f) Dealing with Deficits. In the event that following the third anniversary of the

opening of the Student Commons, the Student Commons runs a deficit that persists

for two (2) consecutive fiscal years in any 2-year period following the third

anniversary of the opening that has not been caused by the University wrongfully

withholding all or any portion of the Student Commons Levy, a plan shall be

developed and implemented by the Management Committee, subject to the

approval of the University, acting reasonably, to retire any such deficit within two

years. If in the opinion of the University, the plan is considered inadequate to

resolve the financial difficulties, the President of the University or designate will be

asked to work with both Parties to determine a satisfactory solution. If no

satisfactory solution is arrived at which resolves the financial difficulties within

two years, the University may proceed to tenninate SAC's management of the

Building in accordance with Section 3.5(b).

(g) Financial Accountability for SAC. SAC will provide the University with the

following accountability reporting:

(i) a long-tenn budget plan for the Student Commons for the next five years

done on a rolling five-year basis, together with appropriate text explanation

and commentary; and

(ii) unaudited financial statements for the Student Commons prepared on the

same accounting hasis and following the same format as utilized hy the

annual audited financial statements of SAC together with appropriate text

explanation and commentary, and that the total revenues, total expenses and

net income or loss for the Student Commons be disclosed each year in the

notes to the audited financial statements for SAC;

within 120 Business Days of SAC's fiscal year end.

(h) Access to records: Commencing on the License Commencement Date and solely

for purposes of verifying the financial solvency of the Student Commons, policy

compliance as outlined elsewhere in this Agreement and SAC financial

commitments referred to Article 7, the University, by its employees, agents and

auditors, and exercisable by at least ten (I 0) Business Days' prior written notice

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provided to SAC, shall, solely at its own cost and expense and acting reasonably,

have access to and may make copies of and extracts from and SAC shall provide

full disclosure of, all material and relevant budgets, contracts, books, records,

accounts and pertinent documentation relating to any contractual or financial

activities relevant to the operation of the Student Commons. For greater certainty,

the audit right described in this Section 7.7(h) shall not extend to any of SAC's

employment agreements or any sponsorship agreements between SAC and

third-parties or an audit of SAC's health and dental plan or related information.

Any information and/or documentation procured by the University pursuant to this

Section 7.7(h) shall at all times be kept confidential by the University and shall be

either returned to SAC or destroyed, at SAC's discretion, within five (5) Business

Days following the conclusion of the audit herein described.

7.8 Non-Competition

(a) It is in the interest of the Parties to support the ongoing viability of the Student

Commons and the University and SAC agree to regularly share and communicate

new business initiatives, prior to implementation, in order to promote

complementary services and minimize prejudicial competition in buildings

adjacent to the Building. The University hereby acknowledges and agrees that

SAC will be offering for sale in the Student Commons cettain goods and services

including vending machines, a food court and other food services, used book

sales and photocopying services.

(b) The University acknowledges that SAC intends to offer commercial printing and

photocopying services in the Student Commons (which include, without

limitation, specialized printing services for producing posters, signs and banners).

The University agrees, furthermore that during the Tem1, the University will not

offer or permit by lease, license or othetwise any third-party to offer in any of the

buildings that it controls that are adjacent to the Building any commercial

photocopying and/or printing business that are similar to FedEx Kinkos or The

UPS Store (or any similar business or operation) as of the date hereof. The

University acknowledges and agrees that should it wish to establish services in

buildings that it controls that are adjacent to the Building that are not permitted by

this subsection, it will discuss such wishes with SAC in advance and obtain

SAC's prior written consent.

7.9 SAC Insurance.

(a) SAC and all sub-licensees of the Student Commons will at all times maintain 'all

risks' insurance coverage on replacement value basis pertaining to their

equipment and personal property and a policy of comprehensive general liability

insurance with at least $5 million limit, per occunence and including occupier's

or tenant's legal liability, a cross-liability clause and with the University as an

additional named insured and covering all operations and activities of SAC,

including all operations and activities involving the sale and service of alcohol,

and persons for whom it is responsible in law.

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(b) SAC's insurance shall not be cancellable upon less than thirty (30) days' notice

from the insurer to the University. The limit for comprehensive general liability

insurance shall be adjusted from time to time during the Term to maintain

adequacy of coverage limit as required by the University, acting prudently.

(c) SAC shall provide on the License Commencement Date and thereafter on the

anniversary of the License Commencement Date, a certificate of insurance to the

University's insurance office confirming that insurance as described in this

paragraph is in place at all times.

ARTICLE 8- LIMITS OF LIABILITY AND INDEMNIFICATION

8.1 Liability for Safety and Security. Any liability associated with the safety and security of

the Student Commons rests with SAC notwithstanding any sub-licensing or parting with

the possession thereof, unless caused or contributed to by the University or any employee

or agent thereof (and then only to the extent of such cause and contribution).

8.2 Limitation on the University's Liability. The University shall make all reasonable

attempts to meet its obligations to the Building as it would for any other University

building. However, the University shall not be liable to SAC for any direct, indirect or

consequential damage or damages which may arise by reason of the temporary interruption,

suspension, discontinuance or failure of heating, electrical power or water supply

(including, without limitation, power surges in the delivery of electricity) or any other

utility or service suppl ied by the University to the Building pursuant to this Agreement,

provided always that the University shall take reasonable steps to restore the supply of such

utilities or services. However, where there is the opportunity to recover any such damages

from insurance, the University shall make every commercially reasonable effort to do so

and retum any collected benefit to SAC. This limitation on the University's liability shall

not apply to the extent that the damages arise, directly or indirectly, from the negligence or

wilful act of omission of the University or its officers, employees or agents acting in the

course of their employment and within the scope of their duties.

8.3 Indemnification of the University. Except as herein otherwise expressly contemplated,

SAC will indemnify and save harmless the University, its officers, employees and agents,

from and against any and all Claims which it or they may suffer or incur, directly or

indirectly, arising from:

(a) the use and occupation by SAC, its employees, agents and sub-licensees, of the

Student Commons and in particular, without restricting the generality of the

foregoing, arising from the operation of any business, activity, event or service

can·ied on through SAC therein or in respect thereto; and

(b) any default or breach by SAC of any of the provisions of this Agreement,

provided that such indemnification shall not extend to any Claims to the extent that they

arise, directly or indirectly, from the negligence or wilful act or omission of the University

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or its officers, employees or agents acting in the course of their employment and within the

scope of their duties.

8.4 Indemnification of SAC. Except as herein otherwise expressly contemplated, the

University will indemnify and save harmless SAC, its officers, employees and agents, from

and against any and all Claims which it or they may suffer or incur, directly or indirectly,

arising from:

(a) the use and occupation by the University, its employees, contractors, agents and

sub-licensees, of the Student Commons and in particular, without restricting the

generality of the foregoing, arising from the operation of any business, activity,

event or service carried on through the University therein or in respect thereto;

and

(b) any default or breach by the University of any of the provisions of this

Agreement,

provided that such indemnification shall not extend to any Claims to the extent that they

arise, directly or indirectly, from the negligence or wilful act or omission of SAC or its

officers, employees or agents acting in the course of their employment and within the scope

of their duties.

8.5 Sub-License Indemnity. All sub-licenses shall include a clause that indemnifies and

saves harmless both the University and SAC from any and all claims, damages, actions,

suits and costs whatsoever brought by any person against SAC or the University by reason

of any act or omission relating to the occupancy or management of the Student Commons

by the sub-licensee.

8.6 Failure to Perform Due to the Occurrence of a Force Majeure Event. If and whenever

and to the extent that either Party is prevented, delayed or restricted in whole or in part in

the fulfi lment of any of its obligations hereunder due to the occurrence of a Force Majeure

Event, the affected Party shall communicate to the other Party as soon as possible that said

Force Majeure Event has occurred and continues and shall have no responsibility or

liability for any interruption, delay, cancellation, loss, damages, costs or expenses

sustained by the other Party by reason thereof, provided always that a Party shall not be

relieved from performance if it could reasonably be expected to have taken the Force

Majeure Event into account at the time of the signing of this Agreement or to have avoided

or overcome the Force Majeure Event or its consequences. The exemption provided by this

Section 8.6 has effect only for the period during which the impediment exists, and a Party,

which suffers due to the occurrence of a Force Majeure Event, shall take all reasonable

steps and make all reasonable efforts to mitigate against and remove the same. If a Party

claims relief under this Section 8.6, the other Party shall be relieved from any obligations

that it has under this Agreement insofar as those obligations are contingent on the affected

Party's resolution of the Force Majeure Event.

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ARTICLE 9- MISCELLANEOUS

9.1 Good Faith and Granting of Consent. SAC and the University shall work together in

good faith, on the basis of being transparent and accountable to one another, with respect to

the implementation of the terms of this Agreement. In this regard, whenever a consent or

approval of the University or SAC is required under the terms of this Agreement, such

consent or approval will not be unreasonably withheld or delayed (provided that any other

consideration in granting such consent or approval contemplated in this Agreement with

respect to any specific matter shall be taken into account). If either Party withholds any

consent or approval, that Party will, on request by the other Party, deliver to the other Party

a written statement giving the reasons for doing so. Discussions between the University

and SAC should be executed in good faith, on the basis of openness and transparency.

Further, notwithstanding anything contained herein to the contrary, SAC-shall be kept

apprised of significant design plans for the Renovations.

9.2 Amendments. No amendment to this Agreement shall be valid or binding unless set forth

in writing and duly executed by each of the Parties.

9.3 Dispute Resolution. Any Dispute shall be resolved in the following manner:

(a) The Party alleging the Dispute shall provide written notice of Dispute giving

particulars of the Dispute to the other Party (a "Notice of Dispute"). Each Party

shall appoint a representative and cause its respective representative to meet as

soon as possible in an effort to resolve the Dispute.

(b) If the representatives are unable to resolve the Dispute within one (I) month of

the Notice of Dispute, either Party may refer the Dispute to a mediator, chosen by

agreement, who will be appointed to facilitate a resolution. The costs of the

mediator, if any, shall be borne equally by both Parties. Each Party shall bear its

own costs for the mediation. The mediation process shall be confidential and

without prej udice to the position of the Parties in future proceedings, and the

content of mediation discussions shall not be referred to in any way in any

subsequent consideration of the Dispute.

(c) If the Dispute is not resolved with the assistance of the mediator within whatever

time frame the mediator sets, either Party may refer the Dispute to a dispute

resolution panel (a " Panel") to finally determine the Dispute. The Panel will be

composed of three persons, one of whom will be appointed by each Party with the

third person (the "Chair") appointed by the members appointed by each Party.

Each Party shall bear its own costs associated with appointing its respective

appointee. The costs of the Chair, if any, shall be borne equally by both Parties.

The detern1ination of the Panel (either unanimously or by a majority decision)

shall be final and binding, and no fwiher recourse will be available.

(d) If the Parties are unable to agree upon either a mediator or the Chair of a Dispute

Resolution Panel, they shall request the appointment of a suitable Mediator or

Chair by the Ontario Superior Court of Justice.

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9.4 Further Assurances. Each Party will take all other actions and will execute and deliver all

other instruments and documents as may be necessary or desirable in the reasonable

opinion of the other Party hereto to evidence or can·y out the tenns or intent of this

Agreement. ln addition, the University ;;ball provide SAC with such assistance as SAC

may reasonably require in connection with the carrying out or the funding of the

Renovations.

9.5 Notices. Tn this Agreement:

(a) any notice or communication required or permitted to be given under this

Agreement will be in writing and will be considered to have been given if

delivered by hand, transmitted by facsimile or electronic transmission or mailed

by prepaid registered post in Canada, to the address or facsimile transmission

number or email address of each Party set out below:

(i) ifto SAC:

Office of the President- University of Toronto Students' Union

Attention:

Fax No:

Email address:

(ii) ifto the University:

President

416-978-2018

president@utsu.ca

Office of the Vice-President and Provost

Attention:

Fax No:

Email address:

Vice-Provost, Students & First-Entry Divisions

416-946-0678

vp.students@utoronto.ca

or to such other address, facsimile transmission number or email address as any

Party may designate in the manner set out above;

(b) notice or communication will be considered to have been received:

(i) if delivered by hand during business hours on a Business Day, upon receipt

by a responsible representative of the receiver, and if not delivered during

business hours, upon the commencement of business on the next Business

Day;

(ii) if sent by facsimile transmission during business hours on a Business Day,

upon the sender receiving confirmation of the transmission, and if not

transmitted during business hours, upon the commencement of business on

the next Business Day;

(iii) if emailed during business hours on a Business Day, one hour after it is sent,

provided that the sender does not receive notice that the email could not

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reach its intended destination, and if not sent during business hours, upon

the commencement of business on the next Business Day; and

(iv) if mailed by prepaid registered post in Canada, upon the fifth Business Day

following posting; except that, in the case of a disruption or an impending

or threatened disruption in postal services every notice or communication

will be delivered by hand or sent by facsimile transmission~

9.6 Governing Law and Jurisdiction. This Agreement will be governed by and construed in

accordance with Ontario law and applicable Canadian law and will be treated in all

respects as an Ontario contract.

9.7 Number and Gender. Words in the masculine gender include the feminine and neutral

genders and words in the singular include the plural, and vice versa.

9.8 Entire Agreement. This Agreement, together with the Schedules and exhibits attached

hereto, and the documents and instruments to be executed and delivered under it constitute

the entire agreement between the Parties and supersedes any previous agreement or

arrangement, oral or written, between the Parties, including the LOI. This Agreement and

the documents and instruments to be executed and delivered under it, contain all the

covenants, representations, and warranties of the respective Parties. There are no oral

representations or warranties between the Parties of any kind.

9.9 Enurement and Assignment. This Agreement will enure to the benefit of and be binding

on the respective successors of the Parties. Neither Party may assign, directly or indirectly,

all or part of its rights or obligations under this Agreement without the prior written consent

of the other Pat1y, which consent shall not be unreasonably withheld or delayed.

9.10 No Waiver. No waiver of any term or provision of this Agreement shall be effective or

made binding unless made in writing and signed by the Party whose waiver is being

requested, and, unless otherwise provided in written waiver, shall be limited to the specific

term or provision waived. No failure or delay on the part of either Party in exercising any

right or power under this Agreement will operate as a waiver, nor will any single or partial

exercise of any right of power preclude any further exercise. Except as may be limited in

this Agreement, either Party may exercise any right or power concurrently or individually

without the necessity of making any election.

9.11 Third Party Beneficiary. For clarity, the provisions of Sections 4.2, 5.4 and 3.5(b)(iv) of

this Agreement, if applicable, and each other provision of this Agreement which are to the

benefit of SAC in SAC's own capacity and not in its capacity as agent for the full time

undergraduate students of the St. George Campus, are intended for the benefit of SAC in its

own capacity.

9.12 Survival. Except as otherwise provided in this Agreement, tennination of this Agreement

shall be without prejudice to, and shall not affect:

(a) any representations, warranties and indemnities under this Agreement;

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(b) Section 3.5 of this Agreement;

(c) Section 3.6 of this Agreement;

(d) Section 4.3 of this Agreement;

(e) Section 5.4 of this Agreement;

(t) Section 7.6(c) of this Agreement; and

(g) Article 8 of this Agreement,

each of which shall survive the termination of this Agreement.

9.13 Fax and Counterparts. This Agreement may be signed in any number of counterparts

and such counterparts may be delivered by facsimile or other electronic means. Such

counterparts, taken together, shall constitute one and the same instrument.

TO EVIDENCE THEIR AGREEMENT each of the Parties has executed this Agreement on the

date appearing above.

[Signature page to follow]

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STUDENTS' ADMINISTRATIVE

COUNCIL OF THE UNIVERSITY OF

TORONTO

Per:

Name:

Office:

And per:

Name:

Office:

Well have authority to bind the organization.

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THE GOVERNING COUNCIL OF THE

UNIVERSITY OF TORONTO

Per:

Name:

Office:

And per:

Name:

Office:

Well have authority to bind the University.

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SCHEDULE "E"

License Terms

I. Purpose of this Schedule

This Schedule sets out the tenns of the License to occupy and use the Building for the Term

and the Renewal Tenns whicb bas been granted to the Students pursuant to Section 5.4(a)

ofthe Agreement of which this Schedule forms a part, in the event of termination of SAC's

entitlement to manage and operate the Student Commons.

2. Defined Terms

All capitalized terms used in this Schedule and not otherwise defined in this Schedule shall

have the meaning given to them in the Agreement.

3. Use of Building

(a) The Students shall be permitted to occupy and use the Building for purposes

consistent with the general goals of the Student Commons as specified in Section

2.2 of the Agreement. The Students will exercise all due and reasonable care in

their use of the Building.

(b) Subject to Sections 4.9, 4.10 and 7.8, all applicable laws, regulations and by-laws

and all University published policies, procedures and legal obligations must be

complied with in the conduct of the activities taking place within the student

allocated space in the Student Commons including with respect to sub-licenses.

These include but are not limited to policies, procedures and obligations of the

University relating to:

(i) use of the University's names, name abbreviations, logos, crests,

trade-marks, official marks, trade names, and other intellectual property;

(ii) alcohol consumption, sale and service;

(iii) sale and use of tobacco products;

(iv) copyright;

(v) licenses of general application relating to intellectual property;

(vi) health and safety;

(vii) food service regulations;

(viii) posted fire legal room capacities;

(ix) advertising, publicity and signage;

(x) non-affinity exclusivity agreements in place at the time of signing;

(xi) fundraising, sponsorship, and affinity exclusivity agreements;

(xii) union and other labour agreements;

(xiii) human rights;

(xiv) academic freedom; and

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(xv) environmental protection.

4. University Access to the Building

(a) The University, by its employees, agents and contractors, including without

limitation, University of Toronto police, caretaking staff and the staff of the

Facilities and Services Department of the University, shall have access to all parts

of the Student Commons for purposes of routine maintenance, safety and fire

prevention and hazard control whenever necessary to carry out the

responsibilities of their jobs. Notwithstanding the foregoing, the University shall

use reasonable efforts to provide advance written notice, stating the reason for

access, where access is required to offices of levy groups stating the reason for

the requested access, unless it is required in the case of an Emergency, in which

case the said prior notice is not required (but the reason for the access in the case

of an Emergency shall be provided to the Students in writing as soon as

practicable after such emergency access).

(b) The University shall retain a key or keys thereto accordingly, but this stipulation

does not impose and shall not be deemed to impose any additional liability on the

University for the safety or security of the Student Commons.

(c) The Students will not, without the WJitten consent of the University, install or

modify or permit to be installed or modified any lock or other security device on

the external or internal doors or windows or any perimeter openings of or

affecting ingress to or egress from the Building.

5. Building Services, Repairs and Maintenance

(a) The University shall be financially responsible for and carry out all Building and

Building systems faci lity operations and maintenance, including without

limitation major structural or capital repairs and replacements, in accordance with

the University's general standards of keeping buildings on the St. George

Campus in good operating condition and in compliance with all applicable laws

and regulations including municipal zoning and Building Code requirements.

subject to Section 6.2(c) and 6.2(d) of the Agreement.

6. Limitation on University's Liability

(a) The University shall make all reasonable attempts to meet its obligations to the

Building as it would for any other University building. However, the University

shall not be liable to the Students for any direct, indirect or consequential damage

or damages which may arise by reason of the temporary interruption, suspension,

discontinuance or failure of heating, electrical power or water supply (including,

without limitation, power surges in the delivery of electricity) or any other utility

or setvice supplied by the University to the Building, provided always that the

University shall take reasonable steps to restore the supply of such utilities or

services. ~ This limitation on the University's liability shall not apply to the

extent that the damages arise, directly or indirectly, from the negligence or wilful

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act of omission of the University or its officers, employees or agents acting in the

course of their employment and within the scope of their duties.

(b) The University shall not be liable or responsible in any way for any loss of or

damage or injury to any property of the Students or any other person while such

property is on or about the Building unless such loss, damage or injury shall have

been caused by the negligence or wilfull net or omission of the University or its

officers, employees or agents acting in the course of their employment and within

the scope of their duties. Notwithstanding the foregoing, in no event shall the

University be liable for any damage to any such property caused by anything

done or omitted to be done by any other person, including any other licensee or

occupant of the Building.

7. Rules and Regulations

(a) The University may impose and enforce reasonable rules and regulations relating

to access to the Building or parts of the Building, security, compliance with

University policies, procedures and regulations and compliance with

occupational, environmental, health, fire and safety laws, by-laws and regulations

that apply to or affect the Students' use and occupancy of the Building.

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[NTD: Schedules A, B, C, D and F will be included in the final version of this

Agreement, and will appear in the form agreed between the parties.]