

DECONSTRUCTING THE OPTION TO RENEW/EXTEND CLAUSE

Barbara L Grossman, partner, Dentons Canada LLP^{*}

Note: Difference between option to renew and extend – where the parties agree to “extend” the existing lease is continued, where the parties “renew” this creates a new lease.

1. Determining the enforceability of the option clause

An option clause is binding and not merely an agreement to agree where it has at least one and preferably both of the following two elements:

(a) a formula or reference standard to fix the new rent

- Must be sufficiently certain. Typically expressed as some variation of “fair market value”, “market value”, “fair market rent” or “market rent”, all of which connote an objective standard, and “fair value”, “rent” or “worth,” which connotes a subjective standard.
 - Where a clause is missing a formula or reference standard, it will nonetheless be enforceable if the clause provides that the rent will be set by an arbitrator failing agreement by the parties, but without the arbitration provision it cannot be enforced by a court, as it is merely an agreement to agree.¹
- Ontario Court of Appeal in *Mapleview-Veterans Drive Investments Inc. v. Papa Kerollus VI Inc.*,² held that that “then current rate” was a sufficiently certain reference standard because it was the functional equivalent of saying the rental rate would be at the “then market value” “or the “then prevailing market rate.”³ See also the British Columbia Superior Court’s decision in *Dagny Development Corp. v. Ocean Fisheries Ltd.*⁴ to the same effect.
- Reference standard may also specify the valuation date⁵, whether it is restricted in terms of use or geography, whether there is a “floor” (e.g. not lower than the rent for the prior term) or “ceiling”, and whether or not leasehold improvements are to be included in the calculation.

* The assistance of my associate Aoife Quinn in preparing this handout is gratefully acknowledged.

¹ *Calvan Consolidated Oil and Gas Co. v Manning*, [1959] SCR 253, 1959 CarswellAlta 83 at para 9.

² 2016 ONCA 93.

³ *Ibid*, at para 30.

⁴ 1991 Canlii 528 (BCSC).

⁵ Where the standard does not specify a valuation date, the term “then prevailing” indicates that the valuation date is likely the date the notice to renew/extend is served, factoring in any then known trends that reasonable parties would take into account in determining a rental rate for a renewal term to commence in the future, see *Autorol Technology (Canada) Ltd. v Triple D Holdings*, 2000 ABCA 195 at para 15.

(b) procedural machinery to determine the new rent in the event that the parties don't agree (i.e. an ADR process):

- Typical ADR processes: negotiate, then arbitrate (two step) or negotiate, mediate, then arbitrate (three step).
- Mediation regime may be specified in the clause. If not, default rules apply by statute in Ontario and Nova Scotia.⁶
- Arbitration governed by statute (differs depending on province) unless parties contract out of what is permissible to contract out of.
- Ontario Court of Appeal in *Mapleview* held that even though the option at issue did not provide for arbitration or specify procedural machinery to determine the “then current rate”, the option was enforceable as there was nothing which prevented the parties from subsequently agreeing to submit the rent rate issue to arbitration or the courts for determination in accordance with the reference standard.

2. How to exercise the option

(a) When?

- Should be specified in the lease – review the clause and strictly adhere to its terms.
 - There may be a window, for example “at least” by a certain date, “no sooner than” another date, or it may be more specific and provide for one date on which it can be exercised, such as an anniversary date.
 - Where the lease does not specify how to count dates, the parties can look to the various provincial Interpretation Acts (in Ontario, the *Legislation Act, 2006*) for guidance on how to calculate time. Some statutes expressly provide that they apply to “legal instruments” and can therefore be used to interpret contracts⁷ while courts in some provinces have indicated that their Interpretation Acts do not apply to contracts.⁸
- If the time for exercise is not specified in the lease, an overholding tenant can still exercise the option. In such a situation, the landlord may force the tenant to exercise the option by putting the tenant to an election.⁹

⁶ *Commercial Mediation Act, 2010* SO 2010, c 16, Sch. 3; *Commercial Mediation Act*, S.N.S. 2005, c 36. Both acts are based on the *United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Conciliation (2002)*. No other Canadian jurisdictions have enacted a statute following the Model Law as of this date.

⁷ See s. 25 of the *Interpretation Act*, RSBC 1996, c 238. Unlike the BC statute, the Ontario statute does not expressly apply to “legal instruments”.

⁸ *North American Leaseholds Ltd. v. Waller* (1992), 7 Alta LR (3d) 378, 1992 CarswellAlta 217 (Alta Prov Ct); *Smith v. Liberty Mutual Insurance Co.* (2000), 228 NBR (2d) 252, 2000 CarswellNB 308 (CA) at para 12.

⁹ *Guardian Realty Co. of Canada Ltd. v John Stark & Co.*, (1922) 64 SCR 207, 1922 CarswellOnt 133 at paras 17-18.

(b) How?

- Strictly follow the option clause's method for providing notice.
 - Following the notice clause in the lease will you give you the benefit of any "deemed receipt" provision and will avoid any dispute about whether notice was given in an appropriate manner.
 - If the notice clause is not followed, a tenant will have to prove (i) that the manner in which notice was given was not less advantageous (i.e. the manner of notice did not result in notice later than the time specified in the lease) and (ii) that notice was actually received.¹⁰
- Exercise of an option must be "clear, explicit, unambiguous and unequivocal".¹¹
- Tenant must meet all preconditions to exercise the option. If the option contains the usual language that the Tenant must not be in default of the terms of the lease, then the Tenant will not be able to exercise its option if it is in default of any term of the lease, subject to the equitable doctrines and remedies discussed below.
- If Tenant's breach of the lease is cured by the time of exercising the option, then the breach may be considered "spent" and not operate to prevent the Tenant from exercising its option. A lease may be drafted to preclude the operation of the doctrine of spent breaches, for example by using the wording that the tenant "is not and *has never been* in default of the lease". A breach is not spent and is still subsisting if there is an existing cause of action in respect of the breach at the time the option is exercised.¹²

3. Relief from strict compliance

(a) Waiver and estoppel by conduct

- Waiver occurs when one party to a contract takes steps that amount to foregoing reliance on some known right or defect in the performance of the other party.
- Waiver will be found only where the evidence demonstrates that the party waiving had (1) full knowledge of the deficiency that might be relied on and (2) an unequivocal and conscious intention to abandon the right to rely on this.
- The intention to relinquish the right must be communicated. Communication can be formal or informal and it may be inferred from conduct.¹³
 - Continued acceptance of late payments of rent while a tenant is in default will not always constitute waiver.¹⁴

¹⁰ *Ross v T. Eaton Co.* (1992), 96 DLR (4th) 631, 1992 CarswellOnt 615 (CA) at para 22.

¹¹ *441 Main St Inc. v. Silver Pawn Pictures Inc.*, 2013 MBCA 70 at para 26.

¹² *1290079 Ontario Inc. v. Beltsos*, 2011 ONCA 334 at para 18, aff'g 2010 ONSC 4967.

¹³ *Technicore Underground Inc. v. Toronto (City)*, 2012 ONCA 597 at para 63.

(b) Relief from forfeiture

- Whether a Court has jurisdiction to grant relief from forfeiture where there has been a failure to comply with the conditions precedent necessary to exercise an option is unsettled and varies by province.
- British Columbia, Manitoba and Alberta courts have held that relief from forfeiture is not available to cure a failure to strictly comply with the preconditions to exercise an option, as there is a difference between the loss of a right and a failure to acquire a right.¹⁵
- The Ontario Court of Appeal has held that Ontario courts have jurisdiction to grant relief from forfeiture with respect to the exercise of an option where the Tenant has “made diligent efforts to comply with the terms of the agreement which are unavailing through no default of its own”.¹⁶
 - While section 20(7) of the *Commercial Tenancies Act*¹⁷ precludes the application for relief from forfeiture in specific situations (i.e. where a tenant assigns a lease contrary to the provisions of the lease), the Ontario Court of Appeal has held that relief from forfeiture under section 98 of the *Courts of Justice Act*¹⁸ may still be available in those situations.¹⁹
 - The manner in which this is applied varies, with the Ontario Court of Appeal denying relief from forfeiture of an option to renew where the tenant was \$251.92 in rental arrears,²⁰ while the Ontario Superior Court recently granted relief from forfeiture of an option to purchase where the Tenant waited for the Landlord to return its message to exercise the option (and the Landlord did not contact the Tenant until after the time for exercise had elapsed).²¹

(c) Promissory estoppel

- A party relying on promissory estoppel to escape an obligation that the party would otherwise have must show three things:
 - (1) A pre-existing legal relationship between the parties;
 - (2) A promise or assurance, express or implied, by one party to the other that it would not hold the other party to the performance of an obligation imposed under the pre-existing legal relationship; and

¹⁴ *1383421 Ontario Inc. v. Ole Miss Place Inc.* (2003), 67 OR (3d) 161 at paras 60 and 72, 231 DLR (4th) 193, (Ont CA).

¹⁵ *Birchmount Furniture Ltd. v. Loewen* [1977] 3 WWR 651, 1977 CarswellMan 42 at para 24 (Man QB), aff'd [1978] 84 DLR (3d) 599; *Styles v Alberta Investment Management Corporation*, 2017 ABCA 1 at para 70; *Clark Auto Body Ltd. v. Integra Custom Collision Ltd.*, 2007 BCCA 24 at para 14.

¹⁶ *Mapleview-Vetrans Drive Investments Inc. v. Papa Kerollus VI Inc.*, *supra* note 2 at para 56.

¹⁷ RSO 1990, c L.7.

¹⁸ RSO 1990, c C.43.

¹⁹ *1497777 Ontario Inc. v Leon's Furniture Ltd.*, (2003) 232 DLR 4th 552, 2003 CarswellOnt 3564 at para 56.

²⁰ *Mapleview-Vetrans Drive Investments Inc. v. Papa Kerollus VI Inc.*, *supra* note 2.

²¹ *Velout Catering Inc. v Bernardo*, 2016 ONSC 7261.

- (3) Reliance on the promise or assurance by the other party *who acts in some way to change its position because of the promise or assurance.*²²

4. Relevance of the “duty of good faith”

- In light of the Supreme Court’s decision in *Bhasin v Hrynew*,²³ it appears that while parties are still entitled to pursue their own self-interest throughout the performance of a contract, they must also ensure that they conduct themselves in an honest manner, while having regard to the legitimate interests of their co-contracting party. This is referred to as the “duty of honest performance” which springs from the “organizing principle of good faith.”²⁴
- The Alberta Court of Appeal has clarified that there is no common law “duty of reasonable exercise of discretionary contractual power”²⁵ and that it is not dishonest or in bad faith to require either party to perform a contract in accordance with its terms.²⁶ The duty of honest contractual performance does not allow a party to insist on provisions not set out in the agreement.²⁷
- Outside of certain specific circumstances, there continues to be no general duty to negotiate in good faith.
- Pre-*Bhasin* option case of *Rinaldo Hair Stylist Limited v. bcIMC Realty Corporation*²⁸ held that the parties’ continuing negotiations past the renewal date was not a waiver, and there was no independent duty of good faith that would preclude the landlord from pursuing its own interests after that date.
- Post-*Bhasin* case law dealing with options indicates that the exercise of options will need to be considered through the lens of good faith,²⁹ as will a landlord’s decision to not enter into a new lease with a tenant who does not have an option to renew.³⁰ The landlord can act in its own self-interest, but it will not be able to mislead or deceive the tenant.

²² *D.L.G. & Associates Ltd. v. Minto Properties Inc.*, 2015 ONCA 705 at para. 46 (citations omitted).

²³ 2014 SCC 71.

²⁴ *Ibid*, at para 92.

²⁵ *Styles v Alberta Investment Management Corporation*, *supra* note 15 at para 39.

²⁶ *Styles v Alberta Investment Management Corporation*, *supra* note 15 at para 52

²⁷ *Styles v Alberta Investment Management Corporation*, *supra* note 15 at para 63.

²⁸ 2013 ONCA 38.

²⁹ *Data & Scientific Inc. v Oracle Corp*, 2015 ONSC 4178; *International Sausage House Ltd. v. Hammer Estate*, 2015 BCSC 1155.

³⁰ *Osteria Da Luca Inc v. 1850546 Ontario Inc.*, 2015 ONSC 5606.

**APPENDIX 1: SAMPLE RENEWAL/EXTENSION RENT DETERMINATION CLAUSES, WITH
ANNOTATIONS IN FOOTNOTES**

[Note: the sample three-step clauses pre-date the *Commercial Mediation Act*, 2010, S.O. 2010, c.16, Sched. 3]

SAMPLE #1 (Two-Step)^{*} - Option To Extend

1.1 Provided that the Tenant (a) is • [name of initial Tenant], (b) is itself in physical occupation of the whole of the Premises; (c) paid Percentage Rent in at least the last two (2) Lease Years of the Term of this Lease, if Percentage Rent is payable under this Lease; and (d) is not in default and has not been in default during the Term,³¹ then, upon delivery of written notice exercising this right given to the Landlord³² not more than • [maximum period for notice] months and not less than • [minimum period for notice] months before the expiration of the Term,³³ the Tenant shall have the right to extend the Term of this Lease for the whole of the Premises at the expiration of the Term for a period of • [length of extension period] years (the "Extended Term"). The Extended Term shall be on the same terms and conditions as the Term save and except:

- (a) there will be no further right to extend the Term;
- (b) the Basic Rent rate for the Extended Term shall be the then prevailing³⁴ Basic Rent rate³⁵ in the Shopping Centre for comparable premises available for lease,³⁶ provided that in no event shall such rate be less than the Basic Rent [and Percentage Rent, if applicable] payable during the last twelve (12) month period immediately preceding the commencement of the Extended Term³⁷; and
- (c) there shall be no leasehold improvement allowance, Landlord's Work, rent-free period or other inducements.

³¹ Preconditions to exercise the option. Note: "Not in default precondition" – wording excludes the doctrine of spent breach.

³² How to exercise the option.

³³ When to exercise the option; note that the time range ensures that the tenant cannot exercise the option too early in the lease term.

³⁴ The term "then prevailing" indicates that the valuation date is likely the date the notice to renew/extend is served, factoring in any then known trends that reasonable parties would take into account in determining a rental rate for a renewal term to commence in the future (see the Alberta Court of Appeal's decision in *Triple D Holdings*).

³⁵ Note that this rent is similar to the clause considered by the Court of Appeal for Ontario in *Mapleview*, where the Court of Appeal held that the "then current rent" is the "functional equivalent of saying the 'then market value' or the 'then prevailing market rate'" (at para 30).

³⁶ Reference standard for calculating the new rent. Note the variables to be taken into account – this shopping centre, comparable premises.

³⁷ Floor for calculating new rent.

- 1.2 If the Basic Rent for the Extended Term has not been determined by the commencement of such Extended Term, then the Tenant shall pay a monthly Basic Rent equal to the Basic Rent being sought by the Landlord and upon the Basic Rent for an Extended Term being determined, any adjustments in Basic Rent shall be made effective the commencement of the Extended Term within 30 days of the date of such determination.³⁸ The parties shall promptly execute a Lease Extension Agreement prepared by the Landlord to reflect the terms of the Extended Term.
- 1.3 If the Tenant fails to give the appropriate notice within the time limit set out herein for extending the Term, then the within option to extend the Term shall be null and void and of no further force and effect, and the Tenant shall surrender the Premises to the Landlord upon the expiry of the original Term of this Lease.

³⁸ Procedural machinery for determining rent is missing. Per *Mapleview*, procedural machinery could be arbitration if parties subsequently agree to arbitration, or the rent could be determined by a court.

SAMPLE #2 (Three-Step) - Right to Renewal

- (a) Notwithstanding anything to the contrary set forth herein, the Tenant shall have the option to renew the Lease at the expiration of the Term provided:
- (i) the Tenant³⁹ has complied with and performed all of the Terms and covenants of the Lease and is not in default thereunder⁴⁰;
 - (ii) the Tenant has delivered notice of the exercise of its option to the Landlord not less than six months prior to the expiration of the Term;⁴¹
 - (iii) the Tenant is in possession of all of the Leased Premises, and has not sublet all or part of the Leased Premises or assigned the Lease.⁴²
- (b) the term of the renewal lease under this Section 7 (the "Renewal Lease") shall be for one additional term of five years and the term of the Renewal Lease shall commence on the day immediately following the last day of the Term;
- (c) the Basic Rent payable during the Renewal Lease shall be determined by negotiation between the parties, failing which it shall be determined in accordance with the provisions of Section 29 herein;⁴³ and
- (d) the Renewal Lease shall be upon the terms and conditions of this Lease, except with respect to Basic Rent, and the Tenant shall have no further right of renewal.⁴⁴

29. Arbitration

In case of any dispute between the parties in respect to any matter covered by this lease which cannot be settled by the parties to their mutual satisfaction, the parties agree to first use the services of a mediator acceptable to each of them, acting reasonably, to attempt to resolve their differences. If a mediator acceptable to both parties is retained but the parties are unable to agree upon the procedure to be

³⁹ Pre-conditions to exercise the option.

⁴⁰ "Not in default precondition" - may not exclude the doctrine of spent breach.

⁴¹ When to give notice: note that there is no "not earlier than" date and as such the tenant could exercise renewal right at any time up to six months before expiry.

⁴² Preconditions to exercise the option.

⁴³ Procedural machinery #1. Negotiation.

⁴⁴ Note: reference standard for renewal rent is missing. This is not fatal to enforceability because the clause provides for rent determination by arbitration; without the arbitration provision it would be viewed as an unenforceable "agreement to agree" by the courts (see the SCC's decision in *Calvan Consolidated Oil*).

followed for the mediation,⁴⁵ [it shall be conducted in accordance with the "Rules of Procedure for the Conduct of Mediation" of the Arbitration and Mediation Institute of Ontario].⁴⁶

If for any reason whatsoever mediation does not result in a settlement of the dispute, the dispute, or such portion thereof as remains unresolved, shall be submitted to any other appropriate dispute resolution process agreed to by the parties, including arbitration.⁴⁷

If mediation or any other dispute resolution process agreed to by the parties does not result in a settlement of the dispute, or if the parties are unable to agree upon any aspect of the mediation or other dispute resolution process, as the case may be, such dispute shall be submitted to arbitration to be determined by three arbitrators, one to be selected by the Landlord, one to be selected by the Tenant and the third to be selected by the arbitrator so selected by the Landlord and Tenant respectively. The decision of any two of the arbitrators shall be final and binding upon the Landlord and Tenant. In case of failure of the two arbitrators appointed by the Landlord and the Tenant respectively, to agree upon a third arbitrator within thirty (30) days after the selection of the second arbitrator, such third arbitrator shall be appointed in accordance with the provisions of the Arbitration Act (Ontario). If either the Landlord or the Tenant fail to select an arbitrator and advise the other thereof within fifteen (15) days after such party has been advised of the selection of an arbitrator by the first party, then the arbitrator so selected by the Landlord or Tenant, as the case may be, shall proceed with the arbitration and his decision shall be final and binding.⁴⁸

The arbitration shall be conducted upon the terms and conditions and subject to the provisions of the Arbitration Act (Ontario) except as to the arbitrator's remuneration,⁴⁹ and no appeal by either the Landlord or Tenant shall lie from the decision of the arbitrator.⁵⁰ The costs of the arbitration shall be borne equally by the Landlord and the Tenant unless the arbitrator or arbitrators, as the case may, award otherwise.

⁴⁵ Procedural machinery #2. Mediation.

⁴⁶ Sets the procedure for the mediation if the parties are unable to agree.

⁴⁷ Procedural machinery #3. Arbitration.

⁴⁸ Number of arbitrators and how arbitrators are to be selected.

⁴⁹ Sets out procedure for arbitration.

⁵⁰ Contracts out of right of statutory appeal right under the statute.

SAMPLE #3 (Three-Step) *

18.1 Option to Extend

Subject to the following terms hereof, the Tenant shall be entitled to extend the term of this Lease for three (3) further periods of five (5) years each (commencing on the day after the expiry date of the Lease or the previous extension term, as the case may be) (each an "Extension Term"), provided that, as preconditions to the Tenant exercising such right, the Tenant shall:

- (a) not be in default of any of the provisions of the Lease⁵¹; and
- (b) have given written notice to the Landlord of the exercise of this option⁵² at least nine (9) months prior to the expiry of the original Term or previous Extension Term, as the case may be.⁵³

Each Extension Term shall be on the terms and conditions set out in this Lease, save and except that:

- (i) there shall be no further or other right of extension or renewal after the third Extension Term;
- (ii) the Leased Premises shall be taken on an "as is" basis and there shall be no rent free or fixturing periods, and no allowances or inducements and no obligation of the Landlord to perform or complete any work, construction or renovations;
- (iii) the Minimum Rent shall be in such amount as the Landlord and the Tenant may agree,⁵⁴ based on the fair market value⁵⁵ rent payable for the Leased Premises at the commencement of the relevant Extension Term, for comparable premises with similar buildings with similar industrial uses in the vicinity of the Leased Premises⁵⁶ but in any event not less than that payable in the preceding Term or Extension Term,⁵⁷ as the case may be; and

* This clause is from the precedent Shopping Centre Lease of intermediate complexity found in Haber's *Shopping Centre Leases*, Second Edition (Toronto: Canada Law Book, 2008) at 974

⁵¹ Preconditions to exercise the option. Note: "Not in default precondition" – wording does not exclude the doctrine of spent breach.

⁵² How to exercise the option.

⁵³ When to exercise the option; note that there is no "not earlier than" date and as such the tenant could exercise renewal right at any time up to nine months before expiry.

⁵⁴ Procedural machinery #1. Negotiation.

⁵⁵ Objective reference standard.

⁵⁶ Use and vicinity specifics of reference standard.

⁵⁷ Floor for calculating new rent.

- (iv) the Tenant shall enter into an agreement prepared by the Landlord at the Tenant's expense to give effect to the terms of this extension.

In the event that the Landlord and the Tenant are unable to agree upon the Minimum Rent to be paid by the Tenant during an Extension Term by a date which is three (3) months prior to the expiry of the original Term hereof or the first or second Extension Term, as the case may be, then the Minimum Rent shall be determined by mediation between the parties, and failing resolution by mediation within one (1) month thereafter, in accordance with Section 18.2 hereof.⁵⁸ In the event the Tenant fails to give the notice as aforesaid, then the exercise of the within option to extend shall be null and void and of no further force or effect, and the Tenant shall surrender the Leased Premises to the Landlord upon the expiry of the original Term of this Lease or the relevant Extension Term, as the case may be.

18.2 Arbitration

Provided the Tenant has given to the Landlord proper written notice of extending this Lease as required above and provided the Landlord and Tenant do not agree in writing on the Minimum Rent for the relevant Extension Term on or before the date three (3) months prior to the date of completion of the original Term or the first or second Extension Term, as the case may be, then the Minimum Rent for the Extension Term shall be determined in accordance with the following additional terms and conditions:⁵⁹

- (c) The Minimum Rent shall be determined by a single arbitrator. The Tenant shall by written notice to the Landlord given within ten (10) Business Days of the failure to agree by mediation propose the name of the person that it wishes to be the single arbitrator. Within five (5) Business Days thereafter, the Landlord shall give notice to the Tenant advising whether the Landlord accepts the arbitrator proposed by the Tenant.⁶⁰ If such notice is not given within such five (5) Business Day period, the Landlord shall be deemed to have accepted the arbitrator proposed by the Tenant. If the parties cannot agree on a single arbitrator, then, upon the application of either party, a justice of the superior court of the province in which the Leased Premises are situate shall forthwith appoint an arbitrator whose sole determination shall be final. The arbitrator shall be a disinterested person of recognized competence in the real estate business in the city in which the Leased Premises are situated.⁶¹
- (d) The Minimum Rent for the Extension Term shall be based on the basis referred to in subsection (iii) of Section 18.1 above.

⁵⁸ Procedural machinery #2: Mediation.

⁵⁹ Procedural machinery #3: Arbitration.

⁶⁰ Number of arbitrators, and procedure for selection of arbitrator by agreement between the parties.

⁶¹ Arbitrator's qualifications if the parties cannot agree and Court appoints.

- (e) The decision of the single arbitrator shall be final and binding upon the Landlord and the Tenant only with respect to Minimum Rent.
- (f) All documents and proceedings with respect to the arbitration are to be kept confidential.⁶²
- (g) The expense of the arbitration shall be borne equally between the parties hereto and the Tenant's share of such expense shall be due and payable immediately upon receipt and may be applied as Additional Rent or deducted from any deposit, letter of credit or other security as the Landlord so requires.⁶³


The arbitration shall be conducted in accordance with the provisions of the relevant arbitration legislation in the Province of Ontario in force at the time of the arbitration.⁶⁴

26277606_4|NATDOCS

 **Barbara L. Grossman**
Partner
barbara.grossman@dentons.com
D +1 416 863 4417
T +1 416 863 4511
F +1 416 863 4592

Dentons Canada LLP
77 King Street West, Suite 400, TD Centre
Toronto, ON, Canada M5K 0A1
大成 Salans FMC SNR Denton McKenna Long

dentons.com

 **Aoife Quinn**
Associate
aoife.quinn@dentons.com
D +1 416 863 4690
T +1 416 863 4511
F +1 416 863 4592

Dentons Canada LLP
77 King Street West, Suite 400, TD Centre
Toronto, ON, Canada M5K 0A1
大成 Salans FMC SNR Denton McKenna Long

dentons.com

⁶² Confidentiality provision for arbitration.

⁶³ Who is to bear the cost of the arbitration; and how tenant's share to be collected.

⁶⁴ Adopting Ontario statutory provisions for arbitration.