

## CONFIDENTIALITY AGREEMENT

**TO:**CREATE TO and CITY OF TORONTO (the “Client”)

**FROM:**\_\_\_\_\_ (the “Undersigned”)

**RE:**610 Bay Street and 130 Elizabeth Street (the “Project”)

**WHEREAS** the Undersigned desires to pursue from time to time the leasing and/or purchasing of one or more properties (a “**Property**”) identified by the Client as being part of the Project.

**AND WHEREAS** the Undersigned may from time to time choose to participate in market offering processes with respect to one or more Property(ies) offered as part of the Project.

**AND WHEREAS** the Client intends to disclose to the Undersigned various documents, materials and other information related to the Property(ies) and/or the Project, which information is highly confidential to the Client, for the purposes of evaluating, pursuing and potentially closing on one or more of the Property(ies) being offered by the Client (the “**Permitted Purpose**”).

**NOW THEREFORE**, for good and valuable consideration, including the disclosure by the Client of the Confidential Information, (the receipt and sufficiency of which is acknowledged), the Undersigned agrees and covenants with the Client as follows:

1. For the purposes of this Agreement, the following definitions will apply:
  - a. “**Client Persons**” means (i) CreateTO, Build Toronto Inc. and any of its affiliates, City of Toronto Economic Development Corporation and any of its affiliates, and all of their officers, directors, shareholders, employees, representatives and agents, and (ii) the City of Toronto and each of its agencies, boards, corporations and commissions, and each of their councillors, directors, elected or appointed officials, officers, employees, representatives, and agents.
  - b. “**Confidential Information**” means:
    - i. information disclosed to or obtained by the Consultant in connection with the fulfilment of the Permitted Purpose or the terms of this Agreement;
    - ii. all data, preliminary findings, and other material developed in pursuance of the Project; and
    - iii. information of any kind which comes to the attention of the Undersigned in the course of carrying out the Permitted Purpose, whether from the Client or otherwise; whether disclosed to or obtained by the Undersigned prior to or after the date of or execution of this Agreement.

Notwithstanding Section 1, Confidential Information does not include information known by the Undersigned prior hereto or obtained elsewhere other than through a breach of this Confidentiality Agreement. Nothing in this Confidentiality Agreement obligates The Client to disclose any Confidential Information to the Undersigned nor constitutes any warranty or representation as to the accuracy or otherwise of the Confidential Information. The Confidential Information and all copies thereof which are supplied to the Undersigned shall be held in trust by the Undersigned for the benefit of the Client. The Undersigned hereby specifically acknowledges that this Confidentiality Agreement shall in no way detract from or limit the power of the Client to carry on any other negotiations or otherwise deal with its Confidential Information in any manner whatsoever.

2. The Undersigned shall maintain all Confidential Information in the strictest of confidence and shall not disclose any Confidential Information to a third party without the prior written consent of the Client (which consent may be withheld in its sole discretion). The Confidential Information is intended solely for and will be used by the undersigned solely for the Permitted Purpose. The Undersigned shall ensure that any employee, representative or agent of the Undersigned which is provided with any Confidential Information by the Undersigned (collectively, the “**Team**”) shall act as if bound to the Client by the terms of this Confidentiality Agreement, and the Undersigned shall be fully responsible for any breach of this Agreement by any of its Team members.
3. The Undersigned agrees that the Confidential Information is confidential, proprietary and the exclusive property of the Client and that the Client is the sole owner of all right, title and interest in the Confidential Information, and any and all goodwill arising therefrom. The Undersigned further agrees not to reproduce any Confidential Information received from the Client in whole or in part, nor to discuss or disclose any of the contents of such Confidential Information in whole or in part, to any person (save and except other members of the Team), without the written authorization of the Client. The Undersigned further agrees that it will not use or permit the Confidential Information to be used in any fashion or manner detrimental to the Client or in conflict in any way with the Client’s interest.
4. In the event that the Undersigned or its Representatives become legally compelled to disclose any of the Confidential Information, the existence of this Agreement or any of the terms hereof, the Undersigned will provide the Client with prompt notice thereof so that the Client may seek a protective order or other appropriate remedy or the Client may waive compliance with any specific provision or term of this Agreement.
5. On completion of the Permitted Purpose, the Undersigned shall return or destroy all Confidential Information in written form and destroy and delete from all electronic or other media and cause all others to destroy and delete from all electronic or other media all electronic or other versions thereof and all materials derived from or based upon all or any part of the Confidential Information including, without limitation, all extracts, summaries, drawings, working papers, analyses, reports, compilations, studies or interpretations. Notwithstanding the return of the Confidential Information, the Undersigned and its Representatives shall continue to be bound by their obligations hereunder until the termination of this Agreement in accordance with its terms.
6. The Undersigned hereby agrees to indemnify the Client Persons from any loss or expenses, liabilities, claims and demands which the Client Persons may suffer or incur as a result of the breach of the terms and conditions of this Confidentiality Agreement by the Undersigned or any Team member. This indemnification shall survive the termination of this Confidentiality Agreement and shall not detract in any way from any other right or remedy which the Client may have under this Confidentiality Agreement or otherwise in law or in equity. The Undersigned acknowledges and agrees that:
  - a) all restrictions in this Confidentiality Agreement are reasonable and valid and all defences to the strict enforcement thereof by the Client are hereby waived;
  - b) a violation of any of the provisions of this Confidentiality Agreement will result in immediate and irreparable harm and damage to the Client; and
7. In the event of any violation by the Undersigned of any provision of this Confidentiality Agreement, the Client shall, in addition to any other right to relief, be entitled to equitable relief by way of temporary or permanent injunction and to such other relief as any court of competent jurisdiction may deem just and proper. The Client reserves the right to make any changes, to add, delete, or modify the Confidential Information. Neither the Confidential Information nor this Confidentiality Agreement is to be construed as an offer, an expression of intent, an obligation, or as part of any contract or commitment, to enter into any agreement relating to the Permitted Purpose.

8. The Undersigned agrees that the terms, conditions and obligations of confidentiality under this Confidentiality Agreement shall continue until all of the Confidential Information enters the public domain, provided that the same is not in the public domain as a result of breach of this Confidentiality Agreement, and shall survive the completion, fulfillment, termination, or expiration of any aspect or matter related hereto, including the return, destruction and deletion of the Confidential Information as referred to above. This Confidentiality Agreement may not be modified or terminated, in whole or in part, except in writing signed by an authorized representative of each party. This Confidentiality Agreement may not be assigned. This Confidentiality Agreement is binding on the parties hereto and their respective successors.
9. The Undersigned acknowledges that the Municipal Freedom of Information and Protection of *Privacy Act*, R.S.O. 1990, Chapter M.56, as amended may apply to the Confidential Information.
10. This Confidentiality Agreement shall be governed by and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Undersigned attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario with respect to matters arising under this Confidentiality Agreement.
11. Notice may be given hereunder to the Client only by delivery, fax or e-mail in writing, addressed, to CreateTO, 61 Front Street West, Union Station, East Wing, 3rd Floor, Toronto, ON M5J 1E5, Attention: General Counsel, mormond@createto.ca, Fax: 416-981-3800.
12. The invalidity or unenforceability of any part hereof shall not affect the validity or enforceability of any other part hereof.
13. This Agreement will terminate on the second anniversary of the date first written below.
14. This Agreement may be signed in counterparts and a facsimile or pdf copy shall be deemed to be as legally binding as an original copy.
15. **This Agreement, once executed, shall be forwarded to Colliers for access to the REOI and data room. Please email this Agreement to: tina.teng@colliers.com and steve.keyzer@colliers.com.**

DATED as of this \_\_\_\_ day of \_\_\_\_\_, 2022.

[Name of Undersigned]  
 (The “Undersigned”)

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Per:

Name:

Title:

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Per:

Name:

Title:

I/We have authority to bind the Undersigned