

DATED _____ **2018**

**(1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING AND
DAGENHAM**

AND

(2) []

AND

(3) []

UNDERLEASE

relating to

ground floor premises at 36-48 Cambridge Road, Barking

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Lease Particulars

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PARTICULARS

LAND REGISTRY PARTICULARS

- LR1. Date of lease**
- LR2. Title number(s)**
- LR2.1 Landlord's title number(s)** []
- LR2.2 Other title numbers** EGL57297, EGL346793, NGL20837
- LR3. Parties to this lease**
- Landlord** THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING AND DAGENHAM of Town Hall, Barking, Essex IG11 7LU
- Tenant** []
- Other parties**
- Guarantor** []
- LR4 Property** **In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.**
- The premises (referred to in this Lease as "the Premises") known as the ground floor premises at 36-48 Cambridge Road, Barking shown edged red on the attached plan and more particularly described in Schedule 1.
- LR5. Prescribed statements etc**
- LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003**

LR5.2	This lease is made under, or by reference to, provisions of:	Not applicable.
LR6.	Term for which the Property is leased	[] years from and including the date of this lease.
LR7.	Premium	[None]
LR8.	Prohibitions or restrictions on disposing of this lease	This Lease contains a provision that prohibits or restricts dispositions.
LR9.	Rights of acquisition etc	
LR9.1	Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land	None
LR9.2	Tenant's covenant to (or offer to) surrender this lease	None
LR9.3	Landlord's contractual rights to acquire this lease	None
LR10.	Restrictive covenants given in this lease by the Landlord in respect of land other than the Property	None
LR11.	Easements	
LR11.1	Easements granted by this lease for the benefit of the Property	The rights specified in clause 3.1.
LR11.2	Easements granted or reserved by this lease over the Property for the benefit of other property	The rights specified in clause 3.2.
LR12.	Estate rentcharge burdening the Property	None.
LR13.	Application for standard form of restriction	None
LR14.	Declaration of trust where there is more than one person comprising the Tenant	[Not applicable]

THIS UNDERLEASE is made on the date set out in **clause LR1** of the Land Registry Particulars

BETWEEN

- (1) the Landlord;
- (2) the Tenant; [and
- (3) the Guarantor]

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Defined terms

In this Lease, the following words and expressions have the following meanings:

“Access Ways”

all or any of the footpaths access areas and roadways forming part of the Site but excluding:

- (a) any car parking areas within the Site; and
- (b) the Rear Courtyard (hatched blue on Plan 1)

“Act of Insolvency”

an Act of Insolvency is any of the following:

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any

guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor;
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off;
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies);
- (i) the making of an application for a bankruptcy order, the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor; or
- (j) [the levying of any execution or other such process on or against, or taking control or possession of, the whole or any part of the Tenant's assets.]

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended).

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction.

“Additional Space”

the part of the Site shown hatched orange on Plan 1.

force and any order instrument plan regulation permission or direction made or issued under it or under any Enactment replaced by it or deriving validity from it

“Environmental Damage”

any reduction in value of the Landlord’s interest in the Premises or the Building or any damage to human health or the environment arising from the Premises which would constitute a breach of any Environmental Law or give rise to a civil claim for damages

“Environmental Law”

all statutes, regulations and subordinate legislation, European laws, treaties and common law which at any time relate to the pollution or protection of the environment or harm to or the protection of human health and safety or the health of animals and plants

“EPC”

An energy performance certificate and recommendation report as defined in the Energy Performance of Buildings (Certificate and Inspections) (England and Wales) Regulations 2007

“Hazardous Material”

any substance, whether in solid, liquid or gaseous form, which is capable of causing harm to human health or to the environment whether on its own or in combination with any other substance

“Insured Damage”

subject to **clause 5.7**, damage to or destruction of the whole or any part of the Premises by any of the Insured Risks which does not fall within a Policy Exclusion and in respect of which the Landlord is otherwise entitled to receive payment under the insurance policy or policies maintained under **clause 5.1**

“Insured Risks”

such risks as the Superior Landlord is obliged to insure against in accordance with the Superior Lease and any other risks the Superior Landlord decides to insure against from time to time

“Interest Rate”

four per cent (4%) per annum above the base lending rate from time to time of Barclays Bank PLC or such other clearing bank nominated by the Landlord at any time or, if the clearing banks cease at any time to publish a base lending rate, such comparable rate of interest as the Landlord may reasonably determine

“Landlord’s Consent”	means consent or approval in writing signed by or on behalf of the Landlord
“Legal Obligation”	any obligation from time to time created by any Enactment or Authority which relates to the Building or its use or occupation and includes without limitation obligations imposed as a condition of any Necessary Consents
“LTA 1954”	Landlord and Tenant Act 1954
“Necessary Consents”	planning permission and all other consents licences permissions and approvals whether of a public or private nature which shall be relevant in the context
“Permitted Part”	Means part of a floor of the Premises which is capable (and leaves the remainder of the Premises capable) of being occupied and used as a separate self-contained unit of accommodation this needs to be identified and shown on the plan
“Plan 1”	the plan attached to this Lease marked “Plan 1”
“Plan 2”	the plan attached to this Lease marked “Plan 2”
“Plant”	the plant equipment and machinery belonging to or provided by the Landlord from time to time in or on the Building including without limitation lifts hoists generators and equipment for air-conditioning ventilation heating cooling fire alarm fire prevention or fire control communication and security
“Policy Exclusions”	<p>any of the following so far as they form part of the Landlord’s policy or policies of insurance maintained in respect of the Premises:</p> <ul style="list-style-type: none"> (a) the non-availability of insurance against one or more of the Insured Risks through reputable and substantial insurers at normal commercial rates; (b) any conditions, excess, exclusion and limitation clauses which may be imposed; and (c) any exclusions for damage caused by acts of terrorism
“Premises”	The land known as the ground floor premises at 36-48 Cambridge Road shown edged red on [Plan

		1] and described in clause LR4 of the Land Registry Particulars
“Principal Rent”		Rent at the initial rate of [£] per annum [and then revised in accordance with Schedule 2]
“Rear Courtyard”		the part of the Site hatched blue on Plan 1
“Rent Commencement Date”		[]
“Rent Payment Dates”		25 March, 24 June, 29 September and 25 December in each year
“Rents”		the rents reserved and payable under clause 4.1 [the first anniversary of the commencement date of the Contractual Term and each subsequent anniversary of that date]
“Review Date(s)”		
“Service Charge”		the service charge payable by the Landlord to the Superior Landlord in accordance with the Superior Lease
“Services”		the services provided by the Superior Landlord in accordance with clause 13.1 of the Superior Lease
“Site”		the land at 16-48 Cambridge Road, Barking registered at the Land Registry under title numbers EGL346793, NGL20837 and EGL59297 [and shown for identification edged red and blue on [Plan 2]
“Superior Landlord”		the Landlord for the time being of the Superior Lease
“Superior Covenants”	Landlord’s	the obligations in the Superior Lease to be observed and performed by the Superior Landlord
“Superior Lease”		the lease by virtue of which the Landlord holds the Premises dated []20[] between Swan New Holmes Limited (1) and the Landlord(2)
“Surety”		means: (a) any person named as “Guarantor” in this Lease; and/or

- (b) any person who guarantees compliance with the Tenant's Covenants; and/or
- (c) the successors in title and assigns of any such person and, in the case of an individual, his personal representatives

“Tenant’s Covenants” means the covenant, terms, conditions, agreements, restrictions, stipulations and obligations failing to be complied with by the Tenant under this Lease

“Term” the term set out in **clause LR6** of the Land Registry Particulars

“Waste” any discarded, unwanted or surplus substance irrespective of whether it is capable of being recycled or recovered or has any value

1.2 Construction

In this Lease:

- 1.2.1 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Lease;
- 1.2.2 except in relation to the Town and Country Planning (Use Classes) Order 1987, references to any statute or other legislation include references to any subsequent statute or legislation directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute or legislation and to all orders, by-laws, directions and notices made or served under them;
- 1.2.3 a reference to the Landlord or Superior Landlord includes a reference to the person from time to time entitled to the immediate reversion to this Lease or the Superior Lease as relevant and a reference to the Tenant includes a reference to its successors in title and assigns;
- 1.2.4 references to the Premises, the Building and the Site include any part of them unless specific reference is made to the whole of them;
- 1.2.5 references to adjoining premises include any premises adjoining or near to the Site and references to adjoining premises owned by the Landlord include any adjoining premises owned by the Landlord at any time during the Term;
- 1.2.6 references to this Lease include any deed or document which is supplemental to, varies or is ancillary to this Lease from time to time;
- 1.2.7 references to the end of the “Term” include the determination of the Term before the end of the Contractual Term;
- 1.2.8 “including” means “including, without limitation”;

- 1.2.9 “indemnify” means to indemnify against all actions, claims, demands and proceedings taken or made against the Landlord and all costs, damages, expenses, liabilities and losses incurred by the Landlord;
- 1.2.10 references to the Tenant include, and the Tenant’s covenants bind, any undertenant or other person in occupation of the Premises or deriving title under the Landlord, their successors in title, and any other person under the Tenant’s or their control including employees, agents, workmen and invitees;
- 1.2.11 any covenant by the Tenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.12 where two or more people form a party to this Lease, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
- 1.2.13 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Lease is to be unaffected.
- 1.2.14 references to any consent or approval required from the Landlord shall be construed as also including a requirement to obtain the consent or approval of the Superior Landlord where such consent or approval is required on the terms of the Superior Lease and nothing in this Lease shall be construed as imposing on the Superior Landlord an obligation not to unreasonably refuse any such consent.

1.3 **Contracts (Rights of Third Parties) Act 1999**

The parties to this Lease do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

1.4 **Landlord and Tenant (Covenants) Act 1995**

This Lease is a “new tenancy” for the purposes of section 1 Landlord and Tenant (Covenants) Act 1995.

2. **LETTING, TERM AND TERMINATION**

2.1 **Creation of the Term**

The Landlord lets the Premises to the Tenant for the Term reserving the Rents.

2.2 **Quiet enjoyment**

The Tenant may quietly enjoy the Premises throughout the Term without any interruption by the Landlord or anyone lawfully claiming under or in trust for the Landlord.

2.3 **Right of re-entry to end this Lease**

The Landlord may enter onto the whole or any part of the Premises and by so doing end this Lease if:

- 2.3.1 the whole or any part of the Rents or any other sums due under this Lease remain unpaid more than twenty one days after the due date for payment, whether or not formally demanded;
- 2.3.2 the Tenant commits a breach of its obligations under this Lease and does not remedy the breach within twenty-one days of the service by the Landlord on the Tenant of a written notice specifying the breach and the action required to remedy the breach; or
- 2.3.3 an Act of Insolvency occurs.

2.4 **Effect of the Lease coming to an end**

When this Lease ends it will be without prejudice to any outstanding claims between the Landlord and the Tenant or any guarantor of the Tenant.

3. **RIGHTS AND RESERVATIONS**

3.1 **Rights granted**

The Premises are let together with the following rights for the benefit of the Tenant, so far as the Landlord is able to grant them, to be enjoyed in common with the Landlord the Superior Landlord and any others entitled to use them PROVIDED THAT any person exercising such rights shall cause as little damage and disturbance as possible to any adjoining or neighbouring property and its owners and occupiers and shall at its own expense and as quickly as possible make good all damage caused in the exercise of such rights:

- 3.1.1 to go pass and repass at all times and for all purposes of access to and egress from the Premises from and to the public highway with vehicles and on foot (as appropriate) over and along the Access Ways for the purpose intended Provided That vehicular access shall be only for the purpose of loading and unloading from Monday to Friday (excluding bank holidays) between the hours of 7 am and 8 pm;
- 3.1.2 to use the Conduits serving the Premises for the passage or transmission of utilities to and from the Premises;
- 3.1.3 support and protection for the Premises from the remainder of the Building;
- 3.1.4 to display the name of the Tenant and the nature of the Tenant's business on the exterior of the Premises in such form, shape and size as the Landlord may permit, such permission not to be unreasonably withheld or delayed;
- 3.1.5 to enter the external parts of the Site, including, for the avoidance of doubt, the Additional Space and the Rear Courtyard at reasonable times and on no less than 72 hours' prior written notice (except in case of emergency) with or without workmen, plant or equipment to execute works of cleaning, decoration, maintenance and repair to the Premises in accordance with the terms of this Lease or to comply with any relevant laws or statutes subject to compliance with any regulations made from time to time by the Landlord;
- 3.1.6 To use the Building lobby, the foundations, structure, load bearing walls, beams and columns, ceiling and floor slabs and roof of the Building for reasonable purposes ancillary to the reasonable use and enjoyment of the Premises for the Authorised Use.

- 3.1.7 Subject to the Tenant complying with the provisions of Clause 8 relating to the Additional Space, to use the Additional Space from time to time for the purposes of a specific function or activity ancillary to the reasonable use and enjoyment of the Premises for the Authorised Use SUBJECT ALWAYS to obtaining the Landlord's prior written consent given in the Landlord's absolute discretion) to the exercise of this right and PROVIDED THAT the Landlord's consent pursuant to this clause 3.1.7 is obtained in respect of each separate occasion on which the Tenant seeks to exercise the right pursuant to this clause 3.1.7.

3.2 Additional Space

For the avoidance of doubt, no fee shall be payable by the Tenant for use of the Additional Space and Rear Courtyard pursuant to clause 3.1.7 but nothing in this clause shall relieve the Tenant its obligation to pay the Service Charge.

3.3 Rights reserved

The following rights are reserved out of the letting for the benefit of the Landlord the Superior Landlord and any other person having express or implied authority from the Landlord or Superior Landlord to benefit from them:

- 3.3.1 to enter and remain upon so much as is necessary of the Premises on not less than 72 hours' prior notice (except in case of emergency) with or without workmen, plant and equipment:
- 3.3.1.1 to inspect the Premises to ascertain whether the Tenant has complied with the Tenant's obligations under this Lease or to make surveys, schedules or inventories or to show the Premises to prospective tenants or purchasers;
 - 3.3.1.2 to provide the Services and any additional services included within the Additional Service Costs to estimate the current value of the Premises for insurance or any other purposes;
 - 3.3.1.3 to inspect the state of repair and condition of the Premises and prepare any schedule of condition or dilapidations; and
 - 3.3.1.4 to carry out any repairs, remove and make good any unauthorised alterations or carry out any works which the Tenant should have carried out in accordance with the Tenant's obligations under this Lease;
 - 3.3.1.5 to carry out the initial construction of the Premises; and
 - 3.3.1.6 to inspect and execute works of cleaning, decoration, maintenance, repair, renewal, construction, alteration, improvement and demolition and ancillary works to other parts of the Site or adjoining premises, the person entering causing as little damage and disturbance as reasonably practicable and making good as soon as reasonably practicable any damage to the Premises so caused to the reasonable satisfaction of the Tenant;

- 3.3.2 to carry out works of cleaning, decoration, maintenance, repair, renewal, construction, alteration, improvement and, subject to the Landlord giving no less than 72 hours' prior written notice of its intention to demolish any part of the Site, demolition (demolition will require 72 hours notice) and ancillary works to any other parts of the Site or adjoining premises and otherwise to use in any way any other parts of the Site or adjoining premises notwithstanding interference with or obstruction of the access of light and air to the Premises or temporary interference with or obstruction of any other right granted with or otherwise enjoyed by the Premises (but so far as reasonably practicable pedestrian access to the Premises and water drainage gas and electricity services (where applicable) shall be maintained);
- 3.3.3 to connect to and use any Conduits within or passing through the Premises for the passage or transmission of utilities to and from any adjoining premises;
- 3.3.4 to install new Conduits within the Premises and connect to them for the passage or transmission of utilities to and from the remainder of the Building and/or Site and any adjoining premises; and
- 3.3.5 support and protection from the Premises for any adjoining premises.

3.4 **Exercise of rights reserved**

The Tenant is to permit the exercise of the rights reserved in **clause 3.2** and is not to obstruct or prevent these rights being exercised in accordance with the terms of this Lease.

3.5 **Third party rights**

The letting is made subject to all rights of light and air and all other legal or equitable easements and rights belonging to or enjoyed by any other property.

3.6 **Exclusion of implied rights**

This Lease does not confer upon the Tenant any rights or privileges over any other property except as expressly set out in this Lease and any rights implied by section 62 Law of Property Act 1925 or the rule in *Wheeldon v Burrows* are expressly excluded.

3.7 **Exclusion of liability**

- 3.7.1 Except to the extent that the Landlord may be liable by law and notwithstanding any agreement to the contrary the Landlord shall not be liable in any way to the Tenant or any undertenant or any servant agent licensee or invitee of the Tenant or any undertenant by reason of:
 - 3.7.1.1 any act neglect default or omission of the Tenant or any of its tenants or occupiers
 - 3.7.1.2 the obstruction of the Common Parts or the areas over which rights are granted by this Lease.
- 3.7.2 The Landlord shall incur no liability to the Tenant or any undertenant or any predecessor in title of either of them by reason of any approval given to or inspection made of any drawings plans specifications or works prepared or carried out by or on behalf of any any such party nor shall any such approval

or inspection in any way relieve the Tenant from its obligations under this Lease

4. RENTS PAYABLE

4.1 Obligation to pay rent

The Tenant is to pay the following Rents to the Landlord during the Term without making any legal or equitable set-off, counterclaim or deduction unless required to do so by law:

4.1.1 the Principal Rent quarterly in advance on the Rent Payment Dates;

4.1.2 the Service Charge within 14 days of written demand by the Landlord; and

4.1.3 any other sums reserved as rent under this Lease, to be paid on demand.

4.2 Initial payment of rents

The first payment of the Principal Rent is to be made on the Rent Commencement Date in respect of the period from the Rent Commencement Date to the day before the next following Rent Payment Date.

4.3 Value Added Tax

The Rents and any other sums payable under this Lease are exclusive of VAT. Where, under the terms of this Lease, a supply is made that is subject to VAT, the person receiving the supply is to pay the VAT to the person making the supply and a valid VAT invoice is to be issued by the person making the supply.

4.4 Interest on late payment

If the Tenant does not pay any of the Rents or sums due to the Landlord under this Lease, whether or not reserved as rent, within fourteen days of the due date for payment the Tenant is to pay interest on those sums, both after as well as before judgment, at the Interest Rate for the period from and including the due date for payment to and including the date of actual payment.

5. INSURANCE

5.1 Superior Landlord to insure

The Landlord shall use all reasonable endeavours to procure that the Superior landlord complies with its obligations relating to insurance of the Building and reinstatement of the Premises in the event of Insured Damage in the Superior Lease.

5.2 Insurance rent

Throughout the Term the Tenant is to pay to the Landlord on demand as additional rent:

5.2.1 any additional premium or loading on the policy of insurance for the Premises or any insurance policy for adjoining premises owned by the Superior Landlord payable as a result of anything done or omitted to be done by the Tenant or as a result of the use of the Premises by the Tenant;

- 5.2.2 [any expense which the Superior Landlord may incur in obtaining an insurance valuation of the Premises];
- 5.2.3 a fair and reasonable proportion of any amount which may be deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy upon settlement of any claim by the Superior Landlord; and
- 5.2.4 the costs of rebuilding the Premises, site clearance, professional fees and VAT where and to the extent that the insurance moneys are withheld by the insurers or are irrecoverable due in either case to the act or default of the Tenant..

5.3 **Reinstatement of tenant's alterations**

Nothing in this **clause 5** is to require the Landlord to insure or the Superior Landlord to reinstate any tenant's fitting-out works or any other alterations or additions to the Premises made by the Tenant or any undertenant or other occupier of the Premises unless and until the Superior Landlord has expressly agreed to insure them and the Superior Landlord has received written notice of their reinstatement value from the Tenant. Except to the extent that they are insured by the Superior Landlord, damage to or destruction of them will not be Insured Damage.

5.4 **Tenant's insurance obligations**

The Tenant is:

- 5.4.1 not to do anything which causes the Superior Landlord's insurance to become void or voidable or which may increase the premium payable in respect of that insurance;
- 5.4.2 to comply with the requirements and reasonable recommendations of the insurers of the Premises so far as they have been notified in writing to the Tenant and apply to the Premises or the rights granted by this Lease;
- 5.4.3 subject to **clause 5.4.4**, not to put in place insurance cover for the Premises against the Insured Risks;
- 5.4.4 to:
 - 5.4.4.1 insure any alterations and additions to the Premises against the Insured Risks in their full reinstatement value unless the Superior Landlord has expressly agreed to be responsible for their insurance;
 - 5.4.4.2 maintain third party and employers liability insurance in respect of the Tenants' use and occupation of the Premises; and
 - 5.4.4.3 maintain insurance over for tenant's and trade fixtures and any plate glass forming part of the Premises against the Insured Risks;
- 5.4.5 to provide to the Landlord on reasonable request a written summary of the Tenant's insurance policies taken out in accordance with **clause 5.4.4** and evidence that they are in force;

- 5.4.6 to notify the Landlord immediately in writing of any damage to or destruction of the Premises by any of the Insured Risks of which the Tenant becomes aware;
- 5.4.7 to notify the Landlord of and hold the benefit of any insurance proceeds received by the Tenant in respect of the Premises in trust for the Landlord and, if reasonably requested to do so by the Landlord, at the Landlord's option either to apply the insurance proceeds immediately in making good the loss and damage in respect of which they have been received or to pay those moneys to the Landlord who will use such monies to reinstate the Premises;
- 5.4.8 to notify the Landlord in writing of the value of any alterations additions or improvements which the Tenant proposed to make before those works are commenced.

5.5 Variation of Insurance

- 5.5.1 If the insurance money under any of the Superior Landlord's insurance policies is wholly or partly irrecoverable by reason of any act neglect or default of the Tenant [or any undertenant] or any predecessor in title of either of them or any employee servant agent licensee or invitee of any of them or where the sum insured is inadequate as a result of a breach by the Tenant of clause 5.9.8 then the Tenant will pay to the Landlord the irrecoverable amount or the amount of such shortfall as the case may be;
- 5.5.2 Payment or the provision of security for that payment (in an amount and in a form agreed with the Landlord who shall act reasonably in this respect) under clause 5.5.1 shall be made on the later of the date of demand by the Landlord and the date on which such insurance money (or the relevant part of it) would have been claimed under the Superior Landlord's insurance policies;
- 5.5.3 In addition to any sum payable under clause 5.5.1 the Tenant shall pay interest at the Interest Rate on the relevant sum from the date on which that sum is due to the date of payment.

5.6 Determination

If the Building is destroyed or damaged by any of the Insured Risks such that the Superior Landlord considers it impossible or impractical to reinstate it then the Landlord may determine this Lease by giving notice to the Tenant and on giving such notice this Lease shall determine without prejudice to any right of action of either party in respect of any previous breach of this Lease by the other and any insurance monies shall belong to the Superior Landlord absolutely.

6. COSTS AND OUTGOINGS

6.1 Payment of outgoings

The Tenant is to pay all outgoings of whatever nature in relation to the Premises including business rates and utilities costs (including standing charges and taxes payable on utility costs) and a fair proportion, to be determined by the Landlord acting reasonably, of any which relate to the Building and/or the Site as a whole or to the Building and/or the Site and any adjoining premises. This obligation does not require the Tenant to pay any such costs arising from any dealing by the Landlord with its

interest in the Site or to income or corporation tax payable by the Landlord on the Rents or any other sums due under this Lease.

6.2 Landlord's costs

The Tenant is to pay to the Landlord as additional rent on demand the reasonable and proper costs and expenses of the Landlord's solicitors, surveyors and other professional advisors and bailiff's fees and commissions including any irrecoverable VAT arising from:

- 6.2.1 the preparation and service of any notice and the taking of any proceedings by or on behalf of the Landlord under sections 146 or 147 Law of Property Act 1925 or under the Leasehold Property (Repairs) Act 1938, whether or not forfeiture is avoided by an order of the court;
- 6.2.2 any application made by the Tenant for the Landlord's consent for or approval of any matter under this Lease whether or not consent or approval is given or the application is withdrawn;
- 6.2.3 the preparation and service of any notice or schedule of dilapidations;
- 6.2.4 verifying, where reasonable, compliance with and enforcing or making good any breach of the Tenant's obligations under this Lease, including the recovery of arrears of the Rents or any other sums due to the Landlord under this Lease, whether by distress or any other means;
- 6.2.5 the preparation and service by the Landlord of any notice under section 6 Law of Distress Amendment Act 1908 or section 17 Landlord and Tenant (Covenants) Act 1995; and
- 6.2.6 the inspection and, if required, approval by the Landlord or the Landlord's surveyor of any alterations, additions or improvements to the Premises and their subsequent reinstatement at the end of the Term.

6.3 Tenant's indemnity

To the extent that they are not covered by any policy of insurance maintained by the Landlord under this Lease, the Tenant is to indemnify the Landlord in respect of any damage to or destruction of the Premises or the Site, any injury to or death of any person, damage to any property or the infringement, disturbance or destruction of any rights or easements or other matters arising from the state of repair and condition of the Premises or the Building or the Access Ways resulting from the act, default or negligence of the Tenant.

7. REPAIRS, MAINTENANCE AND ALTERATIONS

7.1 Upkeep of the Premises

The Tenant is to:

- 7.1.1 keep the Premises and all tenant's and trade fixtures and fittings in good and substantial repair and condition and, when necessary, renew or replace them. The Tenant is also to keep the Premises regularly and properly cleaned internally and externally with the internal and external surfaces of all windows being cleaned at least once in every three months;

7.1.2 renew and replace any landlord's fixtures and Conduits forming part of the Premises which become incapable of repair or cease to operate correctly with fixtures and Conduits of equivalent modern specification, quality and value as those which they replace; and

7.1.3 redecorate the exterior of the Premises in every third year of the Term and redecorate the interior of the Premises as often as necessary to keep it in good decorative order but not less frequently than in every fifth year of the Term and redecorate the interior and exterior of the Premises within six months before the end of the Term.

7.2 Upkeep of the Additional Space

When exercising its right to use the Additional Space pursuant to clause 3.1.7 above the Tenant must keep at Tenant's cost the Additional Space clean and tidy and free from litter and rubbish BUT FOR THE AVOIDANCE OF DOUBT there shall be no double recovery pursuant to this clause and the service charge payable pursuant to clause 13 below.

7.3 Upkeep following Insured Damage

Clause 7.1 will not apply in respect of Insured Damage unless the Superior Landlord's insurance policy or the payment of any money under it is vitiated by any act or default of the Tenant.

7.4 Compliance with notices to repair

Following the service of any notice, whether by the Landlord or any public authority, the Tenant is to carry out any repairs or other works to the Premises required by that notice within the period specified in the notice or, if no period is specified, within a reasonable period after the receipt of the notice.

7.5 Landlord's right to enter and repair

If the Tenant does not comply with **clause 7.3**, the Tenant is to permit the Landlord or Superior Landlord to enter and remain upon the Premises with or without workmen, plant and materials to carry out the repairs or other works required. The costs incurred by the Landlord or Superior Landlord in carrying out the repairs or other works are to be paid by the Tenant to the Landlord on demand as a debt and not as rent together with interest on those costs at the Interest Rate calculated from and including the date on which the Landlord incurred them to and including the date on which they are paid.

7.6 Defective Premises Act 1972

The Tenant is to take any action that the Landlord may reasonably require in respect of any defects in the Premises which might give rise to a duty or liability on the part of the Landlord under the Defective Premises Act 1972, any other statutory provision or at common law.

7.7 Restriction on alterations

7.7.1 The Tenant shall make no alteration or addition to the Premises or the Building whether structural or otherwise except as expressly permitted under clause 7.6.2;

- 7.7.2 The Tenant may carry out alterations or additions to the Premises which are wholly within the Premises and which do not affect any part of the exterior or structure of the Building where:
- 7.7.2.1 the Tenant has submitted to the Landlord detailed plans and specifications showing the works (and if the Landlord requires sufficient information to enable the Landlord to assess the impact of the works on the energy efficiency of the Premises the Building or any part of it);
 - 7.7.2.2 the Tenant obtains and complies with all Necessary Consents any Enactments and any requirement of the Landlord's insurers in respect of the works;
 - 7.7.2.3 the Tenant has given to the Landlord such covenants relating to the carrying out and reinstatement of the works as the Landlord may reasonably require;
 - 7.7.2.4 the Tenant has (if reasonably required by the Landlord) provided the Landlord with suitable security which will allow the Landlord to carry out and complete the works if the Tenant fails to do so;
 - 7.7.2.5 the Tenant pays the fees of the Landlord or mortgagee and their respective professional advisers;
 - 7.7.2.6 the Tenant has obtained the Landlord's prior written consent to the works (which shall not be unreasonably withheld).
- 7.7.3 If any alterations made by the Tenant wholly or partially invalidate a valid EPC for the Premises or the Building obtained or received by or on behalf of the Landlord the Tenant shall (at the Landlord's option) either:
- 7.7.3.1 using an assessor nominated by the Landlord obtain a new EPC for the Premises the Common Parts and the Building (or such part of the Common Parts) or the Building in respect of which the Landlord's EPC has been invalidated) and provide the Landlord with a copy of the new EPC and all ancillary records; or
 - 7.7.3.2 indemnify the Landlord on a full indemnity basis from and against all costs expenses losses and liabilities incurred by the Landlord in obtaining a new EPC for the Premises the Common Parts or the Building provided that where the Landlord obtains an EPC for the Building or the Common Parts (rather than the Premises) the Tenant shall be required to pay such part of the costs and expenses as the Landlord considers to be fair and reasonable having regard to the comparative costs of obtaining an EPC for the Building the Common Parts and the Premises.

The Tenant shall on completion of any works of alteration or addition for which an EPC is required obtain a valid EPC for the Premises and deliver a copy of that EPC to the Landlord (and if not apparent from that copy supply details of the reference number of that EPC).

7.8 **Standard of works**

The Tenant is to carry out any repairs, decoration and alterations in a good and workmanlike manner, with good and proper materials, in accordance with good building practice and in accordance with the requirements of all legislation affecting the works or the means by which they are carried out.

7.9 Colour schemes on redecoration

The final external redecoration of the Premises is to be in a colour scheme or schemes approved by the Landlord, such approval not to be unreasonably withheld or delayed.

7.10 Removal of unauthorised alterations

If the Tenant carries out any alterations or additions to the Premises in breach of its obligations in this Lease, the Landlord may, at the Tenant's cost, enter and remain upon the Premises with or without workmen, plant and materials and remove the alterations or additions made to the Premises and restore the Premises to the configuration in which they were before the alterations or additions were carried out. The costs incurred by the Landlord in doing so are to be paid by the Tenant to the Landlord on demand as a debt and not as rent together with interest on those costs at the Interest Rate calculated from and including the date on which the Landlord incurred them to and including the date on which they are paid.

8. USE OF THE PREMISES AND THE ADDITIONAL SPACE

8.1 Authorised use

The Tenant is to use the Premises only for the Authorised Use.

8.2 Prohibited uses

The Tenant is not to use the Premises:

- 8.2.1 as a sex club, massage parlour, amusement arcade, casino or any other gaming club or private club;
- 8.2.2 as a pet shop;
- 8.2.3 as a sex shop;
- 8.2.4 as a laundry, launderette or dry cleaner;
- 8.2.5 for sales by auction;
- 8.2.6 as a mortuary;
- 8.2.7 as a drug rehabilitation centre;
- 8.2.8 as an acute mental health centre;
- 8.2.9 for the sale of alcohol for consumption on or off the Premises unless the Tenant has obtained the prior written permission from the Landlord or the Landlord's managing agent (such permission not to be unreasonably withheld) and obtained all necessary licences for sale and consumption of alcohol on and off the Premises
- 8.2.10 as a betting office;

- 8.2.11 as a taxi/vehicle hire business
- 8.2.12 for any illegal or immoral purpose or any lewd, obscene or pornographic nature or any activity which in the reasonable opinion of the Landlord is of such nature;
- 8.2.13 in a manner which creates a nuisance, damage or annoyance to the Landlord or any tenants or occupiers of the Building or any adjoining premises; or
- 8.2.14 for the purpose of residing or sleeping.

8.3 Restrictions on use

- 8.3.1 Subject to clause 8.3.2 below, the Tenant is not to use the Premises, any part of the Premises or the Additional Space or Rear Courtyard other than between the hours of 8.00 a.m. and 11.00 p.m. Monday to Saturday, and 9.00 a.m. and 11.00 p.m. on Sundays.
- 8.3.2 The Tenant may, from time to time and in relation to a specific function or event only, use the Premises outside of the hours specified in clause 8.3.1 above SUBJECT ALWAYS to obtaining the Landlord's prior written consent and PROVIDED THAT the Landlord's consent pursuant to this clause 8.3.2 is obtained in respect of each separate occasion on which the Tenant seeks to use the Premises outside of the hours specified in clause 8.3.1 above. And not to sing or play any musical instrument or equipment for making or reproducing sound so as to be audible outside the Premises between the hours of 8.00 a.m. and 10.00p.m. Monday to Saturday and 9.00a.m. and 6.00 p.m. on Sundays
- 8.3.3 The Tenant is not to:
 - (a) overload the floors, ceilings or walls of the Premises, the Additional Space and/or the Rear Courtyard or block the Access Ways or obstruct or misuse the Common Parts or any Conduits within or serving the Site;
 - (b) allow any hazardous or contaminative materials to escape into the ground or any watercourse whether or not they form part of the Premises, the Additional Space and/or the Rear Courtyard;
 - (c) place, affix or display any sign, advertisement, notice, placard, poster, flag, notification or display on the outside of the Premises or any other part of the Site or on the inside of the Premises so as to be visible from outside the Premises without the approval of the Landlord such approval not to be unreasonably withheld or delayed except as permitted under **clause 3.1**;
 - (d) store, keep or stack any goods, materials, plant, equipment, waste or rubbish or containers for any of them on any unbuilt areas of the Premises except for bins for waste or rubbish in properly screened areas;
 - (e) burn rubbish or waste materials or any other combustible matter on the Premises, the Additional Space and/or the Rear Courtyard except in boilers or incinerators provided for that purpose;
 - (f) emit any smoke, fumes or smells from the Premises, the Additional Space and/or the Rear Courtyard; or

- (g) affix any awning, mast, flagpole, aerial, satellite dish or any other fixture on the outside of the Premises or any other part of the Building; or
- (h) emit any unreasonable noise and/or unreasonable vibration from the Premises, the Additional Space and/or the Rear Courtyard;
- (i) do or permit or suffer anything in or upon the Premises, any part thereof, the Additional Space and/or the Rear Courtyard which may at any time be or become a nuisance or annoyance or cause damage or disturbance to the Landlord or to any owner or occupier of any adjoining or neighbouring property; or
- (j) sing or play any musical instrument or equipment for making or reproducing sound so as to be audible outside the Premises between the hours of 8.00 a.m. and 10.00 p.m. Monday to Saturday, and 9.00 a.m. and 6.00 p.m. on Sundays.

8.4 **Management regulations**

The Tenant is to comply with all regulations made by the Landlord from time to time for the use of the Common Parts and/or the Additional Space and the exercise of the rights granted to the Tenant under **clause 3.1**.

8.5 Nothing in this Lease shall imply or warrant that the Premises, the Additional Space and the Rear Courtyard may lawfully be used for the Authorised Use and the Tenant acknowledges and admits that no such representation or warranty has ever been made by or on behalf of the Landlord.

9. **ALIENATION**

9.1 **Alienation prohibited**

Unless permitted by this clause 9 the Tenant shall not do any of the following:

- 9.1.1 assign or underlet the Premises or agree to do so (unless such agreement is conditional upon obtaining the Landlord's Consent);
- 9.1.2 mortgage or charge the Premises;
- 9.1.3 hold the Premises expressly or impliedly as trustee or agent or otherwise for the benefit of another person;
- 9.1.4 part with possession or occupation of the Premises;
- 9.1.5 share possession or occupation of the Premises; and
- 9.1.6 allow anyone other than the Tenant, any lawful undertenant or other respective officers and employees to occupy the Premises.

9.2 **Assignment**

- 9.2.1 The Tenant shall not assign part (as distinct from the whole) of the Premises.
- 9.2.2 The Tenant may assign the whole of the Premises with the Landlord's Consent (which shall not be unreasonably withheld or delayed and shall be contained in a formal licence).

9.2.3 The Landlord may grant its consent to an assignment subject to the condition that:

9.2.3.1 the Tenant has entered into an Authorised Guarantee Agreement; and

9.2.3.2 any Surety has entered into an agreement (if such agreement may be required lawfully) in such terms as the Landlord reasonably requires, guaranteeing the performance by the Tenant of its obligations under the Authorised Guarantee Agreement.

9.2.4 The Landlord and the Tenant agree that, for the purposes of section 19(1A) of the Landlord and Tenant Act 1927, the Landlord may refuse its consent to an assignment in the following circumstances:

9.2.4.1 the Assignee is a company in the same Group as the Tenant;

9.2.4.2 the Assignee is an associated company of the Tenant (within the meaning of section 416 of the Income and Corporation Taxes Act 1988);

9.2.4.3 any Rent or other money due under this Lease remains unpaid.

9.2.5 Nothing in this clause 9.2 shall prevent the Landlord, provided it is reasonable to do so, from granting consent to an assignment subject to any other condition or refusing consent to an assignment in any other circumstances.

9.3 **Charging**

9.3.1 The Tenant shall not charge a part (as distinct from the whole) of the Premises.

9.3.2 The Tenant may charge the whole of the Premises to a bank or another financial institution for a bona fide commercial purpose, with the Landlord's Consent (which shall not be unreasonably withheld or delayed and shall be contained in a formal licence).

9.4 **Underletting**

The Tenant shall not underlet the whole or any part of the Premises.

9.5 **Dispositions**

The Tenant shall within 20 Working Days of any assignment or charge or any other devolution of this Lease or of any interest deriving from this Lease, give a written notice of such devolution to the Landlord's solicitors, produce for registration the original or a certified copy of the document effecting or evidencing such devolution (together with a copy of any Authorised Guarantee Agreement, made pursuant to clause 9.2.3.1 and pay such reasonable registration fee as the Landlord's solicitors may require.

9.6 **Disclosing Information**

The Tenant shall:

- 9.6.1 notify the Landlord forthwith of any change of name, address or registered office of the Tenant or any Surety;
- 9.6.2 on demand give the Landlord full details of all derivative interests in the Premises including details of the actual user, rents, rent reviews and service and maintenance charges payable in respect of them; and
- 9.6.3 give the Landlord such further information relating to such derivative interests as the Landlord may properly require (including names, addresses and telephone numbers of the keyholders of the Premises).

10. **LEGISLATION AND PLANNING**

10.1 **Compliance with legislation**

The Tenant is to comply with all statutes, other legislation and any notice, order, proposal, requisition, direction or other communication from any public authority in respect of the Premises, their use and occupation or the carrying out of any works to the Premises and indemnify the Landlord against any breach of this obligation.

10.2 **Fire precautions**

The Tenant is to comply with all requirements and reasonable recommendations of any public authority and the Landlord's insurers relating to fire prevention and fire precautions including the installation, maintenance and testing of fire sprinklers, fire alarm systems, fire extinguishers and all other equipment or systems for detecting and extinguishing fires. Where required to do so by the Landlord, the Tenant is to ensure that the Tenant's fire alarm and sprinkler systems are connected to and compatible with any fire alarm and sprinkler systems maintained by the Landlord in relation to the Building.

10.3 **Notices**

If the Tenant receives any notice, order, proposal, requisition, direction or other communication from any public authority or third party affecting or likely to affect the Premises, their use and occupation or the carrying out of any works to the Premises, the Tenant is at its own cost immediately to provide a copy to the Landlord and at the request of the Landlord to make or join in with the Landlord in making any representations or objections in respect of these matters as the Landlord may reasonably require.

10.4 **Completion of works**

If the Tenant has begun to implement a planning permission in respect of the Premises, it is to carry out and complete before the end of the Term any works permitted or required under that planning permission.

10.5 **Necessary Consents**

- 10.5.1 The Tenant shall not without the consent of the Landlord make or alter any application for any Necessary Consent.
- 10.5.2 The Tenant shall not make any application for a change of use of the Premises from the Authorised Use.

11. **ENVIRONMENTAL LAW**

11.1 Compliance with environmental law

The Tenant is to comply with all requirements of all Legislation and common law which at any time relate to the pollution or protection of the environment or harm to or the protection of human health and safety or the health of animals and plants which are required for the use of the Premises.

11.2 Compliance with notices

The Tenant is at its own cost:

11.2.1 to supply the Landlord with copies of all notices, directions, reports or correspondence concerning any contamination of the Premises or any migration or other escape of Hazardous Materials or Waste which may result in proceeding being taken or threatened under Environmental Law; and

11.2.2 to take and complete promptly and diligently all actions or precautions required by such notice, direction, report or correspondence.

11.3 Prevention of contamination

The Tenant is not to do or omit to do anything that would or may cause any Hazardous Materials or Waste to escape, leak or be spilled or deposited on the Premises and/or the Building, discharged from the Premises or migrate to or from the Premises and/or the Building.

11.4 Indemnity

The Tenant shall indemnify the Landlord against all losses claims or demands in respect of any Environmental Damage arising out of the use or occupation of the Premises or the state of repair of the Premises.

12. END OF THE TERM

12.1 Return of the Premises to the Landlord

12.1.1 At the end of the Term the Tenant shall return the Premises to the Landlord with vacant possession in a state of repair condition and decoration which his consistent with the proper performance of the Tenant's covenants in this Lease.

12.1.2 Immediately before the end of the Term if and to the extent required by the Landlord the Tenant shall reinstate all alterations additions or improvements made to the Premises at any time during the Term (or pursuant to any agreement for lease made before the start of the Term) and where this involves the disconnection of Plant or Conduits the Tenant shall ensure that the disconnection is carried out properly and safely and that the Plant and Conduits are suitably sealed off or capped and left in a safe condition so as not to interfere with the continued functioning of the Plant or use of the conduits elsewhere in the Building.

12.1.3 The Tenant shall make good any damage caused in complying with paragraph 12.1.2 and shall carry out all relevant works (including the making good of damage) to the reasonable satisfaction of the Landlord.

12.1.4 If upon the end of the Term the Premises are not left in the state required by this clause 12.1 the Tenant shall pay to the Landlord on demand (in addition to any other sums payable as a result of that breach of covenant) the Rent which would have been payable under this Lease had there been no end of the Term for the period from the end of the Term to the date upon which the Landlord has put (or might reasonably have put) the Premises into the state in which they should have been left.

12.2 **Exclusion of right to compensation**

Subject to the provisions of any legislation which prevents or restricts such an agreement, the Tenant is not entitled to any compensation under statute or otherwise at the end of the Term.

12.3 **Return of the Lease**

At the end of the Term, the Tenant is to return the original Lease to the Landlord and use all reasonable endeavours to assist the Landlord in removing any notice relating to the Lease and the rights granted and reserved by it from the title number(s) referred to in **clauses LR2.1 and LR2.2** of the Land Registry Particulars.

12.4 **Tenant's Property**

12.4.1 If the Tenant fails to remove any property of the Tenant remaining on the Premises within 14 days of the Tenant vacating the Premises following the end of the Term then the Landlord may sell the property as agent of the Tenant and the Tenant shall indemnify the Landlord against any liability incurred by the Landlord in such disposal to any third party whose property was sold by the Landlord in the mistaken belief that the property belonged to the Tenant.

12.4.2 The Landlord may deduct from the proceeds of any sale under clause 12.4.1 all its costs in connection with the removal and sale of the Tenant's property and its costs in locating the Tenant.

12.4.3 If the Landlord is unable to locate the Tenant or the Tenant fails to claim the net proceeds of sale within 6 months of the end of the Term then they shall belong to the Landlord absolutely.

13. **SERVICES**

13.1 **Provision of services**

13.1.1 The Landlord shall use all reasonable endeavours to procure that the Superior Landlord complies with its obligations relating to the provision of Services in the Superior Lease throughout the Term including for the benefit of the Building the maintenance, inspection cleansing and repair of the Common Parts and the Superior Landlord's fixtures and Conduits serving the Building.

13.1.2 Notwithstanding paragraph 13.1.1. there shall be no obligation to provide the Services where:

13.1.2.1 The Superior Landlord is prevented from doing so by circumstances beyond its control including without limitation

breakdown damage the need for inspection or repair shortage of fuel equipment or materials and inclement weather; or

13.1.2.2 the Service cannot reasonably be provided as a result of works of alteration inspection or repair or any other works being carried out at the Building'; or

13.1.2.3 any Rent is in arrear

But in the circumstances set out in paragraphs 13.1.2.1 or 13.1.2.2 the Superior Landlord should restore the Service as soon as reasonable practicable.

13.2 **Limitation of liability**

The Landlord will not be liable to the Tenant in respect of any loss or damage caused by any failure, interruption or delay in the provision of the Services arising either from any cause or circumstance beyond the control of the Superior Landlord including mechanical breakdown, failure, malfunction, shortages of fuel or materials or labour disputes or from any necessary maintenance, repair, replacement, renewal, servicing, inspection or testing of the systems used to provide the Services.

13.3 **Service charge rent**

In each Service Charge Year the Tenant shall pay the service charge rent payable by the Landlord to the Superior Landlord under the Superior Lease.

13.4 **Advance payments**

The Tenant is to pay to the Landlord:

13.4.1 by equal quarterly payments in advance on the Quarter Days the sum notified by the Landlord as being payable by the Tenant towards its liability under **clause 13.3**; and

13.4.2 any additional sum or sums relating to Service Costs on demand payable by the Landlord under the Superior Lease.

13.5 **Service charge statement and balancing payment**

As soon as reasonably practicable after the Landlord receives the Service Costs statement from the Superior Landlord after the end of each Service Charge Year, the Landlord shall supply a copy of the statement to the Tenant and except where there is a manifest error, the statement will be conclusive as to the matters contained within it; and

13.5.1 if any balance is due from the Tenant to the Landlord, the Tenant is to pay that balance as additional rent to the Landlord within 28 working days of receipt of the Service Charge Statement; and

13.5.2 if any balance is due from the Landlord to the Tenant, the balance is to be set off against the future advance payments of service charge rent due from the Tenant or, if the Term has ended, is to be paid by the Landlord to the Tenant within [10] working days after the Service Charge Statement has been provided to the Tenant.

14. **SUPERIOR LEASE**

15. The Tenant shall observe and perform the tenant covenants in the Superior Lease (insofar as they relate to the Premises and rights granted to the Tenant), except the covenants to pay the rents reserved by the Superior Lease.

15.1 The Landlord shall pay the rents reserved by the Superior Lease and perform the covenants on the part of the tenant contained in the Superior Lease so far as the Tenant is not liable for such performance under the terms of this lease

15.2 At the request and cost of the Tenant, on a full indemnity basis the Landlord shall use all reasonable endeavours to procure that the Superior Landlord complies with the Superior Landlord's Covenants during such period as the Superior Lease subsists

16. **GUARANTEE AND INDEMNITY**

16.1 The provisions of Schedule 3 shall apply.

16.2 For so long as any guarantor remains liable to the Landlord, the Tenant shall, if the Landlord requests, procure that that guarantor joins in any consent or approval required under this lease and consents to any variation of the tenant covenants of this lease.

17. **EXCLUSION OF S24-28 OF THE LTA 1954**

17.1 The parties confirm that:

17.1.1 the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy created by this lease, [not less than 14 days] before [this lease **OR** [DETAILS OF AGREEMENT FOR LEASE]] was entered into; [and]

17.1.2 [the Tenant **OR** [NAME OF DECLARANT] who was duly authorised by the Tenant to do so] made a [statutory] declaration dated [DATE] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 [. **OR** ; and]

17.1.3 [there is no agreement for lease to which this lease gives effect.]

17.2 The parties agree that the provisions of sections 24 to 28 of the LTA 1954 are excluded in relation to the tenancy created by this lease.

18. **ENFORCEMENT**

18.1 **Applicable law**

This Lease is to be governed by and interpreted in accordance with English law.

18.2 **Service of notices**

Any notice under this Lease is to be served in writing in accordance with section 196 Law of Property Act 1925.

18.3 **Jurisdiction**

The courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Lease. This clause operates for the benefit of the Landlord who retains the right to sue the Tenant and enforce any judgment against the Tenant in the courts of any competent jurisdiction.

19. **EXECUTION**

The parties have executed this Lease as a deed and it is delivered on the date set out in **clause LR1** of the Land Registry Particulars.

SCHEDULE 12

The Premises

1. The ground floor premises shown edged red on the Plan which extend from the upper side of the floor slab immediately below the Premises to the underside of the floor slab immediately above the Premises excluding:
2. The walls bounding the Premises other than those walls (if any) indicated as party walls on the Plan; and
3. All load bearing walls and pillars within the Premises; and
4. All structural floor slabs within the Premises; and
5. All Conduits and Plant within the Premises which do not serve the Premises; and
6. All windows and roof lights and the frames glass and furniture of them in the external walls or roofs bounding the Premises; and
7. All doors not exclusively servicing the Premises

But including:

8. The plaster and other finishes on the inner sides of the walls bounding the Premises and on all faces of all load bearing walls and pillars wholly within the Premises; and
9. All ceilings and other finishes applied to the floor or roof slab immediately above the Premises and to any floor slab within the Premises and all floors floor screeds and other finishes applied to the floor slab immediately below the Premises and to any floor slab within the Premises; and
10. All doors together with the frames glass and furniture of them exclusively servicing the Premises; and
11. The whole of all non-load bearing walls or partitions wholly within the Premises; and
12. One half in thickness of all non-load bearing walls (if any) bounding the Premises and indicated as party walls on the Premises; and
13. All Conduits and Plant within the Premises and which service the Premises.

SCHEDULE 2

Rent Review

Definitions

Annual Rent: rent at an initial rate of £[AMOUNT] per annum and then as revised pursuant to this lease [and any interim rent determined under the LTA 1954].

Base RPI Month: [BASE MONTH FOR RPI CALCULATION] [or where there has been at least one review of the Annual Rent in accordance with clause 1, the month that falls [two] month[s] before the month in which the most recent prior Review Date fell].

Base Rent: [rent of £[AMOUNT] per annum **OR** the Annual Rent payable immediately before a Review Date].

Indexed Rent: the rent determined in accordance with clause 1.4.

Interest Rate: the base rate from time to time of [NAME OF BANK], or if that base rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.

Maximum Rent: [PERCENTAGE]% of the Annual Rent payable immediately before a Review Date.

Minimum Rent: [PERCENTAGE]% of the Annual Rent payable immediately before a Review Date.

RPI: the Retail Prices Index or any official index replacing it.

Rent Payment Dates: [25 March, 24 June, 29 September and 25 December **OR** [ALTERNATIVE RENT PAYMENT DATES]].

Review Date: [FIRST REVIEW DATE] and every anniversary of that date.

Revised Rent: the rent ascertained in accordance with clause 1.3.

1. Review of the Annual Rent

1.1 In this clause, the President is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf (**President**), and the Surveyor is the independent valuer appointed pursuant to clause 1.11 (**Surveyor**).

1.2 The Annual Rent shall be reviewed at each Review Date to equal the Revised Rent.

1.3 The Revised Rent at a Review Date shall be the Indexed Rent unless:

- (a) the Indexed Rent is less than the Minimum Rent, in which case the Revised Rent shall be the Minimum Rent; or
- (b) the Indexed Rent is greater than the Maximum Rent, in which case the Revised Rent shall be the Maximum Rent.

1.4 The Indexed Rent for a Review Date shall be determined by multiplying the Base Rent by the [All Items] index value of the RPI for the month that falls [two] month[s] before

the month in which that Review Date falls, then dividing the product by the [All Items] index value of the RPI for the Base RPI Month.

- 1.5 The Landlord shall calculate the Indexed Rent [as soon as reasonably practicable] and shall give the Tenant written notice of the Revised Rent as soon as it has been ascertained.
- 1.6 If the Revised Rent has not been calculated by the Landlord and notified to the Tenant [at least five working days before **OR** on or before] a Review Date, the Annual Rent payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the Revised Rent is notified by the Landlord to the Tenant, the Tenant shall pay:
 - (a) the shortfall (if any) between the amount that it has paid for the period from the Review Date until the Rent Payment Date following the date of notification of the Revised Rent and the amount that would have been payable had the Revised Rent been notified [at least five working days before **OR** on or before] that Review Date; and
 - (b) interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the Revised Rent had been notified [at least five working days before **OR** on or before] that Review Date and the date payment is received by the Landlord.
- 1.7 Time shall not be of the essence for the purposes of this clause.
- 1.8 Subject to clause 1.9, if there is any change to the methods used to compile the RPI, including any change to the items from which the [All Items index of the] RPI is compiled, or if the reference base used to compile the RPI changes, the calculation of the Indexed Rent shall be made taking into account the effect of this change.
- 1.9 The Landlord and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Annual Rent if either:
 - (a) the Landlord or the Tenant reasonably believes that any change referred to in clause 1.8 would fundamentally alter the calculation of the Indexed Rent in accordance with this clause 1, and has given notice to the other party of this belief; or
 - (b) it becomes impossible or impracticable to calculate the Indexed Rent in accordance with this clause 1.

This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the RPI. In default of agreement between the Landlord and the Tenant on an alternative mechanism for setting the Annual Rent, the Surveyor shall determine an alternative mechanism.

- 1.10 The Surveyor shall determine a question, dispute or disagreement that arises between the parties in the following circumstances:
- (a) where any question or dispute arises between the parties as to the amount of the Annual Rent payable or as to the interpretation, application or effect of any part of this clause 1; or
 - (b) where the Landlord and the Tenant fail to reach agreement under clause 1.9.

The Surveyor shall have full power to determine the question, dispute or disagreement[, and shall have power to determine any issue involving the interpretation of any provision of this lease, his jurisdiction to determine the question, dispute or disagreement referred to him or his terms of reference]. When determining such a question, dispute or disagreement, the Surveyor may, if he considers it appropriate, specify that an alternative mechanism for setting the Annual Rent should apply to this lease, and this includes (but is not limited to) substituting an alternative index for the RPI.

- 1.11 The Surveyor shall be an independent valuer who is a Member or Fellow of the Royal Institution of Chartered Surveyors. The Landlord and the Tenant may, by agreement, appoint the Surveyor at any time before either of them applies to the President for the Surveyor to be appointed.
- 1.12 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor's decision shall be given in writing[, and the Surveyor shall provide reasons for any determination]. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.
- 1.13 The Surveyor shall give the Landlord and the Tenant an opportunity to make written representations to the Surveyor and to make written counter-representations commenting on the representations of the other party to the Surveyor. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision.
- 1.14 Either the Landlord or the Tenant may apply to the President to discharge the Surveyor if the Surveyor:
- (a) dies;
 - (b) becomes unwilling or incapable of acting; or
 - (c) unreasonably delays in making any determination.

clause 1.11 shall then apply in relation to the appointment of a replacement.

- 1.15 The fees and expenses of the Surveyor and the cost of the Surveyor's appointment and any counsel's fees, or other fees, [reasonably] incurred by the Surveyor shall be payable by the Landlord and the Tenant in the proportions that the Surveyor directs (or if the Surveyor makes no direction, then equally). [If the Tenant does not pay its part of the Surveyor's fees and expenses within ten working days after demand by the

Surveyor, the Landlord may pay that part and the amount it pays shall be a debt of the Tenant due and payable on demand to the Landlord. The Landlord and the Tenant shall otherwise each bear their own costs in connection with the rent review **OR** If either the Landlord or the Tenant does not pay its part of the Surveyor's fees and expenses within ten working days after demand by the Surveyor then:

- (a) the other party may pay instead; and
- (b) the amount so paid shall be a debt of the party that should have paid due and payable on demand to the party that actually made the payment.

The Landlord and the Tenant shall otherwise each bear their own costs in connection with the rent review].

SCHEDULE 3

Guarantee and Indemnity

1. Guarantee and indemnity

1.1 The Guarantor guarantees to the Landlord that the Tenant shall:

- (a) pay the rents reserved by this lease and observe and perform the tenant covenants of this lease and that if the Tenant fails to pay any of those rents or to observe or perform any of those tenant covenants, the Guarantor shall pay or observe and perform them; and
- (b) observe and perform any obligations the Tenant enters into in an authorised guarantee agreement made in respect of this lease (the **Authorised Guarantee Agreement**) and that if the Tenant fails to do so, the Guarantor shall observe and perform those obligations.

1.2 The Guarantor covenants with the Landlord as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under [paragraph 1.1](#) to indemnify and keep indemnified the Landlord against any failure by the Tenant:

- (a) to pay any of the rents reserved by this lease or any failure to observe or perform any of the tenant covenants of this lease; or
- (b) to observe or perform any of the obligations the Tenant enters into in the Authorised Guarantee Agreement.

2. Guarantor's liability

2.1 The liability of the Guarantor under [paragraph 1.1\(a\)](#) and [paragraph 1.2\(a\)](#) shall continue until the end of the term, or until the Tenant is released from the tenant covenants of this lease by virtue of the Landlord and Tenant (Covenants) Act 1995, if earlier.

2.2 The liability of the Guarantor shall not be reduced, discharged or otherwise adversely affected by:

- (a) any time or indulgence granted by the Landlord to the Tenant; or
- (b) any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or in making any demand in respect of any of them; or
- (c) any refusal by the Landlord to accept any rent or other payment due under this lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property; or
- (d) the Landlord exercising any right or remedy against the Tenant for any failure to pay the rents reserved by this lease or to observe or perform the tenant

covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement); or

- (e) the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Tenant's liability to pay the rents reserved by this lease or observe and perform the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) including the release of any such security; or
- (f) [a release or compromise of the liability of any one of the persons who is the Guarantor, or the grant of any time or concession to any one of them; or]
- (g) any legal limitation or disability on the Tenant or any invalidity or irregularity of any of the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or any unenforceability of any of them against the Tenant; or
- (h) the Tenant being dissolved, or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs; or
- (i) without prejudice to [paragraph 4](#), the disclaimer of the Tenant's liability under this lease or the forfeiture of this lease; or
- (j) the surrender of the lease in respect of part only of the Property, except that the Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender; or

by any other act or omission except an express [written] release [under seal] of the Guarantor by the Landlord.

2.3 [The liability of each of the persons making up the Guarantor is joint and several.]

2.4 Any sum payable by the Guarantor shall be paid without any deduction, set-off or counter-claim against the Landlord or the Tenant.

3. Variations and supplemental documents

3.1 The Guarantor shall, at the request of the Landlord, join in and give its consent to the terms of any consent, approval, variation or other document that may be entered into by the Tenant in connection with this lease (or the Authorised Guarantee Agreement).

3.2 The Guarantor shall not be released by any variation of the rents reserved by, or the tenant covenants in, this Lease (or the Tenant's obligations under the Authorised Guarantee Agreement) whether or not:

- (a) the variation is material or prejudicial to the Guarantor; or
- (b) the variation is made in any document; or
- (c) the Guarantor has consented, in writing or otherwise, to the variation.

3.3 The liability of the Guarantor shall apply to the rents reserved by and the tenant covenants in this lease (and the Tenant's obligations under the Authorised Guarantee Agreement) as varied except to the extent that the liability of the Guarantor is affected by section 18 of the Landlord and Tenant (Covenants) Act 1995.

4. Guarantor to take a new lease or make payment

4.1 If this lease is forfeited or the liability of the Tenant under this lease is disclaimed and the Landlord gives the Guarantor notice not later than [six] months after the forfeiture or the Landlord having received notice of the disclaimer, the Guarantor shall enter into a new lease of the Property on the terms set out in [paragraph 4.2](#).

4.2 The rights and obligations under the new lease shall take effect beginning on the date of the forfeiture or disclaimer and the new lease shall:

- (a) be granted subject to the right of any person to have this lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of the grant;
- (b) be for a term that expires at the same date as the end of the Contractual Term of this lease had there been no forfeiture or disclaimer;
- (c) reserve as an initial annual rent an amount equal to the Annual Rent payable under this lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it (subject to [paragraph 5](#)) and which is subject to review on the same terms and dates provided by this lease; [and]
- (d) [be excluded from sections 24 to 28 of the LTA 1954; and]
- (e) otherwise be on the same terms as this lease (as varied if there has been any variation).

4.3 The Guarantor shall pay the Landlord's solicitors' costs and disbursements (on a full indemnity basis) and any VAT in respect of them in relation to the new lease and shall execute and deliver to the Landlord a counterpart of the new lease within one month after service of the Landlord's notice.

4.4 The grant of a new lease and its acceptance by the Guarantor shall be without prejudice to any other rights which the Landlord may have against the Guarantor or against any other person or in respect of any other security that the Landlord may have in connection with this lease.

4.5 The Landlord may, instead of giving the Guarantor notice pursuant to [paragraph 4.1](#) but in the same circumstances and within the same time limit, require the Guarantor to pay an amount equal to [six] months Annual Rent and the Guarantor shall pay that amount on demand.

5. Rent at the date of forfeiture or disclaimer

If at the date of the forfeiture or disclaimer there is a rent review pending under this lease, then the initial annual rent to be reserved by the new lease shall be the greater of:

- (a) the Annual Rent previously payable (or which would have been payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) under the lease prior to forfeiture or disclaimer; and
- (b) the open market rent of the Property at the relevant Review Date, as determined by the Landlord and agreed by the Superior Landlord before the grant of the new lease.

6. Payments in gross and restrictions on the Guarantor

- 6.1 Any payment or dividend that the Landlord receives from the Tenant (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Tenant shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.
- 6.2 The Guarantor shall not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Tenant in respect of any payment made by the Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it shall hold that money on trust for the Landlord to the extent of its liability to the Landlord.
- 6.3 The Guarantor shall not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Tenant or any other person) in respect of any amount paid or other obligation performed by the Guarantor under this guarantee and indemnity unless and until all the obligations of the Guarantor under this guarantee and indemnity have been fully performed.

7. Other securities

- 7.1 The Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Tenant in respect of any liability of the Tenant to the Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.
- 7.2 This guarantee and indemnity is in addition to and independent of any other security that the Landlord may from time to time hold the Guarantor or the Tenant or any other person in respect of the liability of the Tenant to pay the rents reserved by this lease and to observe and perform the tenant covenants of this lease. It shall not merge in or be affected by any other security.

7.3 The Guarantor shall not be entitled to claim or participate in any other security held by the Landlord in respect of the liability of the Tenant to pay the rents reserved by this lease or to observe and perform the tenant covenants of this lease.

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF BARKING AND DAGENHAM)
was to this Deed affixed in the presence of)

being an officer of the Council of the said)
London Borough of Barking and Dagenham)
authorised to attest the Common Seal thereof)

(Minute No.)

(Seal Register No.)

Tenant execution

SIGNED as a Deed by)
[])
acting by two directors or the director)
and its secretary:)

Director

Director/Secretary

Guarantor execution to be included if applicable