

DATED

20

**COUNTERPART/  
LEASE**

relating to

[INSERT DESCRIPTION OF THE PROPERTY]

made

**BETWEEN**

**(1) TENDRING DISTRICT COUNCIL**

**AND**

**(2) [INSERT SECOND PARTY]**

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<b>LR1. Date of Lease</b>	<b>2023</b>
<b>LR2. Title number(s)</b>	<b>LR2.1 Landlord's title number(s)</b>  <b>LR2.2 Other title numbers</b>
<b>LR3. Parties to this lease</b>	<b>Landlord</b>  Tendring District Council Town Hall, Station Road CLACTON-ON-SEA ESSEX CO15 1SE  <b>Tenant</b>  [INSERT COMPANY NAME REGISTERED OFFICE ADDRESS COMPANY REGISTERED NUMBER]  <b>Other parties</b>
<b>LR4. Property</b>	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 land, premises and buildings situate at and known as .....as shown edged red on the plan attached to this lease.
<b>LR5. Prescribed statements, etc</b>	<b>LR5.1 <i>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</i></b>  None. Not applicable.  <b>LR5.2 <i>This lease is made under, or by reference to, provisions of:</i></b>  None. Not applicable.
<b>LR6. Term for which the Property is leased</b>	The term as specified in this lease at clause 1.1 which defines the "Contractual Term".
<b>LR7. Premium</b>	NIL
<b>LR8. Prohibitions or restrictions on disposing of this lease</b>	This lease contains a provision that prohibits or restricts dispositions.

<p><b>LR9. Rights of acquisition, etc</b></p>	<p><b>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</b></p> <p>None.</p> <p><b>LR9.2 Tenant's covenant to (or offer to) surrender this lease</b></p> <p>None.</p> <p><b>LR9.3 Landlord's contractual rights to acquire this lease</b></p> <p>None.</p>
<p><b>LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</b></p>	<p>None.</p>
<p><b>LR11. Easements</b></p>	<p><b>LR11.1 Easements granted by this lease for the benefit of the Property</b></p> <p>[None] OR [The easements set out in clause 3 of this lease].</p> <p><b>LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property</b></p> <p>The easements as specified in clause 4 of this lease.</p>
<p><b>LR12. Estate rentcharge burdening the Property</b></p>	<p>None.</p>
<p><b>LR13. Application for standard form of restriction</b></p>	<p>None.</p>
<p><b>LR14. Declaration of trust where there is more than one person comprising the Tenant</b></p>	<p>The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants [as joint tenants] OR [in common in equal shares].</p>

**THIS LEASE** is dated

2023

## **PARTIES**

- (1) **TENDRING DISTRICT COUNCIL** of Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE (**Landlord**).
- (2) [INSERT COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**).

## **AGREED TERMS**

### **1. INTERPRETATION**

1.1 The definitions and rules of interpretation set out in this clause apply to this lease.

#### **Act of Insolvency:**

- (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
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant; or
- (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
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant; or
- (e) the commencement of a voluntary winding-up in respect of the Tenant, 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; or
- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant; or
- (g) the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck off; or
- (h) the Tenant otherwise ceasing to exist (but excluding where the Tenant dies); or
- (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.

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 incorporated or domiciled in such relevant jurisdiction.

**Annual Rent:** Rent at a rate of £(INSERT AMOUNT) per annum up to the first Review Date and then as revised pursuant to this lease.

**Contractual Term:** a term of ...years beginning on and including ...and ending on....

**CDM Regulations:** the Construction (Design and Management) Regulations 2015.

**Default Interest Rate:** four percentage (4%) points above the Interest Rate.

**External Seating Area:** the area shown coloured blue on the attached plan

**Insurance Rent:** the aggregate in each year of the gross cost of the premium before any discount or commission for the insurance of:

- (a) the Property, other than any plate glass, for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring-up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of all those costs, fees and expenses,
- (b) loss of Annual Rent of the Property for three years, and
- (c) any insurance premium tax payable on the above.

**Insured Risks:** fire, lightning, explosion, aircraft, riot, civil commotion, malicious damage, earthquake, subterranean fire, storm, flood, escape of water, impact, spontaneous fermentation or heating and any other risks which the Landlord decides to insure against from time to time by notice and **Insured Risk:** means any one of the Insured Risks.

**Interest Rate:** interest at the base rate from time to time of Barclays Bank Plc, or if that base rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.

**LTA 1954:** Landlord and Tenant Act 1954.

**Landlord's Neighbouring Property:** each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as [DESCRIPTION/ADDRESS OF THE LANDLORD'S NEIGHBOURING PROPERTY] [registered at HM Land Registry with title number[s] [INSERT TITLE NUMBER[S] IF REGISTERED]].

**Necessary Consents:** all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required for the Permitted Use.

**Opening Hours:** Are

- From 1 April or Good Friday (whichever is the earliest) to 30 September, a minimum of 7 hours a day, 7 days a week; and

- From 1 October to 31 March or Maundy Thursday (whichever is the earliest), a minimum of 4 hours a day over the course of a minimum of 60 days.

**Permitted Use:** [INSERT USE – INCLUDE CLASS UNDER TCPA 1990 IF RELEVANT]

**Planning Acts:** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and all rules regulations and orders which are either made under one of them or are continued by the Planning (Consequential Provisions) Act 1990 or any statutory modification or re-enactment for the time being in force.

**Planning Permission:** means permission given under the Planning Acts to carry out development.

**Property:** the land and building situate at and known as [INSERT DESCRIPTION/ADDRESS OF THE PROPERTY] as shown edged red and on the attached plan.

**Rent Payment Dates:** 1 January, 1 April, 1 July and 1 October.

**Reservations:** all of the rights excepted, reserved and granted to the Landlord by this lease.

**Review Date:** [INSERT FIRST REVIEW DATE] and every [insert the relevant period] anniversary of that date.

**Service Media:** all media for the supply or removal of heat, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

**Third Party Rights:** all rights, covenants, and restrictions affecting the Property including the matters referred to at the date of this lease in [the property register] [and [entry][entries] [STATE RELEVANT ENTRY NUMBER(S)] of the charges register] of [TITLE NUMBER] OR [DESCRIPTION OF RELEVANT MATTERS AFFECTING AN UNREGISTERED REVERSION].

**VAT:** value added tax chargeable under the VATA 1994 or any similar replacement or additional tax.

**VATA 1994:** Value Added Tax Act 1994

- 1.2 A reference to this **lease**, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.



- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns.
- 1.4 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, a reference to the **Property** is to the whole and any part of it.
- 1.7 A reference to the **term** is to the Contractual Term and statutory continuation of this lease.
- 1.8 A reference to the **end of the term** is to the end of the term however it ends.
- 1.9 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 40.5 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 40.6.
- 1.10 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.11 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
- 1.12 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.13 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.14 Unless the context otherwise requires, where the words include(s) or including are used in this lease, they are deemed to have the words "without limitation" following them.
- 1.15 A person includes a natural person, corporate or unincorporated body.
- 1.16 References to writing and written do not include faxes or email.
- 1.17 Except where a contrary intention appears, a reference to a clause or Schedule is a reference to a clause of, or Schedule to, this lease and a reference in a Schedule to a paragraph is to a paragraph of the relevant Schedule.

- 1.18 Clause, Schedule and paragraph headings do not affect the interpretation of this lease.
- 1.19 Unless the context otherwise requires, a reference to one gender, shall include a reference to the other genders.
- 1.20 Unless the context otherwise requires words in the singular shall include the plural and in the plural include the singular.

## **2. GRANT**

- 2.1 The Landlord with full title guarantee lets the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:
- (a) the Annual Rent and all VAT in respect of it,
  - (b) the Insurance Rent;
  - (c) all interest payable under this lease; and
  - (d) all other sums due under this lease.

## **3. ANCILLARY RIGHTS**

- 3.1 Except as mentioned in clauses 3.3, 3.4 and 3.5 neither the grant of this lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Tenant may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.
- 3.2 PROVIDED ALWAYS that the rights granted below in this clause 3 are non-exclusive and are subject to and in common with the Landlord and any others having the same or any similar rights
- 3.3 [REVIEW FOR EACH PROPERTY - A right on foot to and from the Property over the nearest footpath on the Landlord's neighbouring Property leading to the adopted public highway subject to the right of the Landlord to close the footpath for safety reasons or to carry out works without being liable to the Tenant.
- 3.4 A right of access (except between the hours of 0900 and 1800) with a light vehicle (but not to park it) to the Property over the ...leading to the nearest adopted public highway to the Property in order to deliver things to and collect them from the Property, and subject to the right of the Landlord (without any liability to the Tenant) to close the ...whenever the Landlord so decides.

3.5 The lease includes the right to use the Service Media situated in on over or under the Landlord's Neighbouring Property which serve the Property].

3.6 A right to use the land shown coloured blue on the attached plan for the sole purpose of an external seating area during Opening Hours and in accordance with clause 30 of this lease.

#### 4. RIGHTS EXCEPTED AND RESERVED

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) the right to use and to connect into Service Media at the Property which are in existence at the date of this lease or which are installed or constructed during the Contractual Term;
- (c) at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;
- (d) the right to erect scaffolding at the Property and attach it to any building or structure on the Property in connection with any of the Reservations;
- (e) the right to build on or into any boundary wall of the Property in connection with any of the Reservations; [and]
- (f) the right to re-route any Service Media at or serving the Property or re-route any means of access to or egress from the Property; and
- (g) [ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE RESERVED].]

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or loss of amenity for the Property provided that they do not materially affect the use and enjoyment of the Property for the Permitted Use.

4.2 The Landlord reserves the right to enter the Property:

- (a) to repair, maintain or replace any Service Media or structure relating to any of the Reservations; and
- (b) for any other purpose mentioned in or connected with:
  - (i) this lease;
  - (ii) the Reservations; and
  - (iii) the Landlord's interest in the Property.

4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.

4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and,

except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.

- 4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of those Reservations except for:
- (a) physical damage to the Property; or
  - (b) any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

## 5. THIRD PARTY RIGHTS

- 5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights (insofar as those obligations relate to the Property) and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.
- 5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

## 6. THE ANNUAL RENT

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by equal instalments in advance on the Rent Payment Dates. The payments shall be made by direct debit or by any other method that the Landlord requires at any time by giving notice to the Tenant.
- 6.2 At the date of entering into this lease, the Landlord has not elected to charge VAT on the Annual Rent but reserves the right to do so if so required by HMRC or for any other reason the Landlord considers appropriate.

## 7. REVIEW OF THE ANNUAL RENT

- 7.1 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, and the **Surveyor** is the independent valuer appointed pursuant to clause 7.7.
- 7.2 The amount of Annual Rent shall be reviewed on each Review Date to equal:
- (a) the Annual Rent payable immediately before the relevant Review Date (or which would then be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) or, if greater;
  - (b) the open market rent agreed or determined pursuant to this clause.
- 7.3 The open market rent may be agreed between the Landlord and the Tenant at any time before it is determined by the Surveyor.
- 7.4 If the open market rent is determined by the Surveyor, it shall be the amount that the Surveyor determines is the best annual rent (exclusive of any VAT) at which the Property could reasonably be expected to be let:
- (a) in the open market;

- (b) at the relevant Review Date;
- (c) on the assumptions listed in clause 7.5; and
- (d) disregarding the matters listed in clause 7.6.

7.5 The assumptions are:

- (a) the Property is available to let in the open market:
  - (i) by a willing lessor to a willing lessee;
  - (ii) as a whole;
  - (iii) with vacant possession;
  - (iv) without a fine or a premium;
  - (v) for a term equal to the unexpired residue of the Contractual Term at the relevant Review Date or a term of five years commencing on the relevant Review Date, if longer; and
  - (vi) otherwise on the terms of this lease other than as to the amount of the Annual Rent but including the provisions for review of the Annual Rent;
- (b) the willing lessee has had the benefit of any rent-free or other concession or contribution which would be offered in the open market at the relevant Review Date in relation to fitting out works at the Property;
- (c) the Property may lawfully be used, and is in a physical state to enable it to be lawfully used, by the willing lessee (or any potential undertenant or assignee of the willing lessee) for any purpose permitted by this lease;
- (d) the Landlord and the Tenant have fully complied with their obligations in this lease;
- (e) if the Property, or any means of access to it or any Service Media serving the Property, has been destroyed or damaged, it has been fully restored;
- (f) no work has been carried out on the Property that has diminished its rental value;
- (g) any fixtures, fittings, machinery or equipment supplied to the Property by the Landlord that have been removed by or at the request of the Tenant, or any undertenant or their respective predecessors in title (otherwise than to comply with any law) remain at the Property; and
- (h) the willing lessee and its potential assignees and undertenants shall not be disadvantaged by any actual or potential exercise of an option to tax under Part 1 of Schedule 10 to the VATA 1994 in relation to the Property.

7.6 The matters to be disregarded are:

- (a) any effect on rent of the fact that the Tenant or any authorised undertenant has been in occupation of the Property;
- (b) any goodwill attached to the Property by reason of any business carried out there by the Tenant or by any authorised undertenant or by any of their predecessors in business;
- (c) any effect on rent attributable to any physical improvement to the Property carried out before or after the date of this lease, by or at the expense of the

Tenant or any authorised undertenant with all necessary consents, approvals and authorisations and not pursuant to an obligation to the Landlord (other than an obligation to comply with any law);

- (d) any effect on rent of any obligation on the Tenant to fit out the Property or to reinstate the Property to the condition or design it was in before any alterations or improvements were carried out; and
  - (e) any statutory restriction on rents or the right to recover them.
- 7.7 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. Any application to the President may not be made earlier than three months before the relevant Review Date.
- 7.8 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor shall determine the open market rent and shall have power to determine any issue involving the interpretation of any provision of this lease, his jurisdiction to determine the matters and issues referred to him or his terms of reference. The Surveyor's decision shall be given in writing. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.
- 7.9 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.
- 7.10 If the Surveyor dies, or becomes unwilling or incapable of acting, or unreasonably delays in making any determination, then either the Landlord or the Tenant may apply to the President to discharge the Surveyor and clause 7.7 shall then apply in relation to the appointment of a replacement.
- 7.11 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 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.

- 7.12 If the revised Annual Rent has not been agreed by the Landlord and the Tenant or determined by the Surveyor on or before the relevant 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 Annual Rent is

agreed or the Surveyor's determination is notified to the Landlord and 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 agreement or notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been agreed or determined 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 Annual Rent had been agreed or determined on or before that Review Date and the date payment is received by the Landlord.

7.13 Time shall not be of the essence for the purposes of this clause.

7.14 As soon as practicable after the amount of the revised Annual Rent has been agreed or determined, a memorandum recording the amount shall be signed by or on behalf of the Landlord and the Tenant and endorsed on or attached to this lease and its counterpart. The Landlord and the Tenant shall each bear their own costs in connection with the memorandum.

## **8. INSURANCE**

8.1 Subject to clause 8.2, the Landlord shall keep the Property (other than any plate glass at the Property) insured against loss or damage by the Insured Risks for the sum which the Landlord considers to be its full reinstatement cost (taking inflation of building costs into account). The Landlord shall not be obliged to insure any part of the Property installed by the Tenant.

8.2 The Landlord's obligation to insure is subject to:

- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
- (b) insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

8.3 The Tenant shall pay to the Landlord on demand:

- (a) the Insurance Rent;
- (b) any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and
- (c) any costs that the Landlord incurs in obtaining a valuation of the Property for insurance purposes.

If the Landlord insures the Property together with other land, the amount of the Insurance Rent shall be a fair proportion of the total for the Property and the other land.

8.4 The Tenant shall:

- (a) ensure that he has his own Public Liability Insurance policy in place with an indemnity limit not less than £10million. The Tenant will provide to the Landlord evidence of insurance including of premium paid if requested by the Landlord.
- (b) immediately inform and give notice to the Landlord if any matter occurs that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Property;
- (c) not do or omit anything as a result of which any policy of insurance of the Property or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased or additional insurance premium may become payable;
- (d) comply at all times with the requirements and recommendations of the insurers relating to the Property;
- (e) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk or of any other event that might affect any insurance policy relating to the Property;
- (f) not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
- (g) pay the Landlord an amount equal to any insurance money that the insurers of the Property refuse to pay by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property with the actual or implied authority of any of them.
- (h) ensure that he as a policy of insurance in an adequate sum to cover any liability of the Tenant under clause 34. The Tenant will provide to the Landlord evidence of insurance including of premium paid if requested by the Landlord.

8.5 The Landlord shall, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) to repair the damage for which the money has been received or (as the case may be) in rebuilding the Property. The Landlord shall not be obliged to:

- (a) provide accommodation identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property is provided; or
- (b) repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
- (c) repair or rebuild the Property after a notice has been served pursuant to clause 8.7 or 8.8.

8.6 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use then, unless the policy of insurance of the Property has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on



the Property with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use, or until the end of three years from the date of damage or destruction, if sooner.

8.7 If, following damage to or destruction of the Property, the Landlord considers that it is impossible or impractical to reinstate the Property, the Landlord may terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.

8.8 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this lease by giving notice to the Landlord if, following damage or destruction by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use within three years after the date of damage or destruction. On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.

## **9. RATES AND TAXES**

9.1 The Tenant shall pay all present and future rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:

- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
- (b) any taxes, other than VAT and insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this lease.

9.2 If any rates, taxes or other impositions are payable in respect of the Property together with other property, the Tenant shall pay a fair proportion of the amount payable.

9.3 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

9.4 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

## **10. UTILITIES AND ELECTRICAL WIRING AND EQUIPMENT**

10.1 The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

10.2 If any of those costs are payable in relation to the Property together with other property, the Tenant shall pay a fair proportion of all those costs.

10.3 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities.

- 10.4 The Tenant shall ensure that all fixed electrical installations and gas installations at on or in the Property are tested by a suitably qualified professional every five years and on termination of the Contractual Term.
- 10.5 The Tenant shall ensure that all gas and electrical appliances and portable equipment at on or in the Property are kept and maintained in accordance with the current British Standard and any defects and deficiencies noted with such appliance and equipment immediately repaired.
- 10.6 If the Tenant requires to extend or alter the electrical wiring apparatus this shall be undertaken only by an appropriately qualified electrician who shall issue a current Completion Inspection Certificate for the wiring in accordance with the current Edition of the IEE Wiring Regulations and the certificate shall be made available to the Landlord free of charge.
- 10.7 The Tenant will provide copies of inspection certificates for any of the inspections required by this clause 9 to the Landlord on request and free of charge.
- 10.8 Without detracting from the above provisions of this clause 9, the Tenant shall ensure that any electrical testing, inspections or works carried out at the Property are carried out by a duly qualified electrician as required by all laws and good practice and will produce to the Landlord on request and free of charge at the end of this lease (however it ends) all applicable certificates from a duly qualified electrician to prove that the requirements of this clause have been complied with.

## **11. COMMON ITEMS**

- 11.1 The Tenant shall pay the Landlord on demand a fair proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items used or capable of being used by the Property in common with other property.
- 11.2 The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

## **12. VAT**

- 12.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.
- 12.2 Every obligation on the Tenant, under or in connection with this lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the VATA1994.

## **13. DEFAULT INTEREST AND INTEREST**

- 13.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest at the Default Interest Rate (both before and after any judgment)

Such interest shall accrue on a daily basis for the period beginning on the due date to and including the date of payment.

- 13.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

#### **14. COSTS**

- 14.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses incurred (both during and after the end of the term) in connection with or in contemplation of any of the following:

- (a) the enforcement of the tenant covenants of this lease;
- (b) serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- (c) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- (d) the preparation and service of a schedule of dilapidations in connection with this lease; or
- (e) any consent or approval applied for under this lease, whether or not it is granted (unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonably to withhold it).

- 14.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

- 14.3 The Tenant will pay [a contribution towards] the Landlord's costs of [£100.00] [£500.00] (excluding VAT) in relation to the preparation of this lease.

#### **15. COMPENSATION ON VACATING**

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

#### **16. NO DEDUCTION, COUNTERCLAIM OR SET-OFF**

The Annual Rent and all other money due under this lease are to be paid by the Tenant without deduction, counterclaim or set-off.

## **17. REGISTRATION OF THIS LEASE**

- 17.1 Promptly following the grant of this lease, the Tenant shall apply to register this lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.
- 17.2 The Tenant shall not:
- (a) apply to HM Land Registry to designate this lease as an exempt information document;
  - (b) object to an application by the Landlord to HM Land Registry to designate this lease as an exempt information document; or
  - (c) apply for an official copy of any exempt information document version of this lease.

## **18. ASSIGNMENTS**

- 18.1 The Tenant shall not assign the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.
- 18.2 The Tenant shall not assign part only of this lease.
- 18.3 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to all or any of the following conditions:
- (a) a condition that the assignor enters into an authorised guarantee agreement which:
    - (i) is in respect of all the tenant covenants of this lease;
    - (ii) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;
    - (iii) imposes principal debtor liability on the assignor;
    - (iv) requires (in the event of a disclaimer of this lease) the assignor to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and
    - (v) is otherwise in a form reasonably required by the Landlord;
  - (b) a condition that a person of standing acceptable to the Landlord acting reasonably enters into a guarantee and indemnity of the tenant covenants of this lease in such form as the Landlord may reasonably require.

18.4 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 if any of the following circumstances exist at the date of the Tenant's application for consent to assign this lease:

- (a) the Annual Rent or any other money due under this lease is outstanding or there has been a [material] breach of covenant by the Tenant that has not been remedied;
- (b) in the Landlord's reasonable opinion the assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants and conditions contained in the lease; or
- (c) the assignee and the Tenant are group companies within the meaning of section 42 of the LTA 1954.

18.5 Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.

## **19. UNDERLETTINGS,**

19.1 The Tenant shall not underlet the whole nor any part of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld.

19.2 The Tenant shall not underlet part only of the Property.

19.3 The Tenant shall not underlet the Property:

- (a) together with any property or any right over property that is not included within this lease;
- (b) at a fine or premium or reverse premium; nor
- (c) allowing any rent free period to the undertenant [that exceeds the period as is then usual in the open market in respect of such a letting].

19.4 [The Tenant shall not underlet the Property unless, before the underlease is granted, the Tenant has given the Landlord:

- (a) a certified copy of the notice served on the undertenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be created by the underlease; and
- (b) a certified copy of the declaration or statutory declaration made by the undertenant in accordance with the requirements of section 38A(3)(b) of the LTA 1954.]

19.5 Any underletting by the Tenant shall be by deed and shall include:

- (a) [an agreement between the Tenant and the undertenant that the provisions of sections 24 to 28 of the LTA 1954 are excluded from applying to the tenancy created by the underlease;]
- (b) the reservation of a rent which is not less than the full open market rental value of the Property at the date the Property is underlet and which is payable at the same times as the Annual Rent under this lease [(but this shall not prevent an underlease providing for a rent-free period of a length permitted by clause 1.1(c))];
- (c) provisions for the review of rent at the same dates and on the same basis as the review of rent in this lease, unless the term of the underlease does not extend beyond the next Review Date;
- (d) a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this lease, except the covenants to pay the rents reserved by this lease; and
- (e) provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this lease,

and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the Annual Rent) than those in this lease [and in a form approved by the Landlord, such approval not to be unreasonably withheld].

19.6 In relation to any underlease granted by the Tenant, the Tenant shall:

- (a) not vary the terms of the underlease nor accept a surrender of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld;
- (b) enforce the tenant covenants in the underlease and not waive any of them nor allow any reduction in the rent payable under the underlease; and
- (c) ensure that in relation to any rent review the revised rent is not agreed without the approval of the Landlord, such approval not to be unreasonably withheld.

## **20. SHARING OCCUPATION AND CHARGING**

20.1 The Tenant shall not share occupation of nor part with possession of the whole or any part of the Property nor permit another to occupy the whole or any part of the Property, except in accordance with clause 19, nor without the consent of the Landlord.

20.2 The Tenant shall not charge the whole nor any part of this lease.

## **21. PROHIBITION OF OTHER DEALINGS**

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property

or hold the lease on trust for any person (except pending registration of a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

## **22. REGISTRATION AND NOTIFICATION OF DEALINGS AND OCCUPATION**

22.1 In this clause a **Transaction** is:

- (a) any dealing with this lease or the devolution or transmission of, or parting with possession of any interest in it; or
- (b) the creation of any underlease or other interest out of this lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or
- (c) the making of any other arrangement for the occupation of the Property.

PROVIDED THAT this clause shall not detract in any way from clause 19 above.

22.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title).

22.3 No later than one month after a Transaction the Tenant shall:

- (a) give the Landlord's solicitors notice of the Transaction;
- (b) deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors; and
- (c) pay the Landlord's solicitors a registration fee of £50.00 (plus VAT if applicable).

22.4 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.

## **23. CLOSURE OF THE REGISTERED TITLE OF THIS LEASE**

Within one month after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

## **24. REPAIRS**

24.1 The Tenant shall keep the Property clean and tidy and put and keep the Property in good and substantial repair and condition.

24.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that the policy of insurance

of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them.

## **25. DECORATION**

25.1 The Tenant shall decorate the outside Property as often as is reasonably necessary and also (in any event) every 2 years and in the last three months of the term. **The outside of the Property shall be coloured white at all times.**

25.2 **The Tenant shall decorate the inside of the Property every 5 years or as often as is reasonably necessary and in the last three months of the term.**

25.3 All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

25.4 All decoration carried out in the last three months of the term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

## **26. ALTERATIONS**

26.1 The Tenant shall not make any external or structural alteration or addition to the Property and shall not make any opening in any boundary structure of the Property.

26.2 The Tenant shall not install any Service Media on the exterior of the Property nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

26.3 The Tenant shall not make any internal, non-structural alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

## **27. PLANNING ACTS**

27.1 The Tenant shall comply with the Planning Acts as they apply to the Property.

27.2 The Tenant shall not carry out any development on the Property which requires planning permission.

27.3 The Tenant shall allow the Landlord to enter the Property to comply with any lawful requirement under the Planning Acts, even if that restricts the enjoyment of the Property.

## **28. SIGNS**

28.1 In this clause Signs include signs, fascia, placards, boards, posters and advertisements.



- 28.2 The Tenant shall not attach any Sign, poster or advertisement to the exterior of the Property or display any inside the Property so as to be seen from the outside of the Building, other than:
- (a) a shop fascia of a design and size approved by the Landlord; and
  - (b) such trade posters, notices and advertisements of a design, size and number without the prior express written consent of the Landlord.
- 28.3 The Tenant shall ensure that any Sign displayed in accordance with this clause does not cause or is not likely to cause an obstruction or nuisance to [DELETE AS APPROPRIATE users of the promenade] and (b) is not capable of causing offence to the Landlord or any reasonable member of the public.
- 28.4 Before the end of the term, the Tenant shall remove any Signs placed by it at the Property and shall make good any damage caused to the Property by that removal.
- 28.5 The Tenant shall allow the Landlord to fix to and keep at the Property any sale or re-letting board as the Landlord reasonably requires.
- 28.6 The Landlord has the right to remove from the Property any sign attached to the Property in breach of the provisions of this clause 28.

## **29. RETURNING THE PROPERTY TO THE LANDLORD**

- 29.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this lease.
- 29.2 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.
- 29.3 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten (10) working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.
- 29.4 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay to the Landlord an amount equal to the Annual Rent, such amount to accrue and be apportioned on a daily basis for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.

## **30. USE**

- 30.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 30.2 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, its other tenants or any other owner or occupier of neighbouring property.

30.3 The Tenant shall not overload any structural part of the Property nor any machinery or equipment at the Property nor any Service Media at or serving the Property.

30.4 Subject to Clause 30.5 the Tenant shall keep the Property open for the Opening Hours.

30.5 The Tenant shall not trade at the Property outside the hours of 0700 to 2300.

### **31. CHAIRS, FURNITURE AND EXTERNAL SEATING AREA**

31.1 The Tenant shall not use at the Property any chairs, tables, furniture or other accessories (such as parasols for example) except for fully matching sets of which the design, colour and specification shall first have been approved in writing by the Landlord. The said items shall be substantially made of stainless steel, anodised aluminium or another corrosion-resistant metal with a design and specification suitable for outdoor public use of the kind intended by this lease.

31.2 The Tenant shall not put or use outdoors any of the chairs, tables, furniture, other accessories or items outside the External Seating Area and shall not obstruct any land neighbouring or adjoining the Property in any way.

31.3 The Tenant shall not use any outdoor furniture (such as the items referred to above in this clause) inside the building on the Property, but this shall not prevent the storage of the said items inside the building when the Property is not open for business.

### **32. COMPLIANCE WITH LAWS**

32.1 The Tenant shall comply with all laws relating to:

- (a) the Property and the occupation and use of the Property by the Tenant;
- (b) the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used and operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation;
- (c) any works carried out at the Property;
- (d) any Services provided at or from the Property; and
- (e) all materials kept at or disposed from the Property.

32.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.

32.3 Within five working days after receipt of any notice or other communication affecting the Property (and whether or not served pursuant to any law) the Tenant shall:

- (a) send a copy of the relevant document to the Landlord; and
- (b) take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

- 32.4 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file. The Tenant shall maintain the health and safety file for the Property in accordance with the CDM Regulations and shall give it to the Landlord at the end of the term.
- 32.5 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.
- 32.6 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.
- 32.7 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.

### **33. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

- 33.1 The Tenant shall not grant any right or licence over the Property to a third party.
- 33.2 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:
- (a) immediately inform and give the Landlord notice of that encroachment or action; and
  - (b) take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.
- 33.3 The Tenant shall not obstruct the flow of light or air to the Property nor obstruct any means of access to the Property.
- 33.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or that the means of access to the Property is enjoyed with the consent of any third party.
- 33.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:
- (a) immediately inform and give notice to notify the Landlord of that action; and
  - (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

### **34. BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS**

- 34.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this lease relating to the condition or repair of the Property.

- 34.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.
- 34.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.
- 34.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 37.

### **35. INDEMNITY**

The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) suffered or incurred by the Landlord arising out of or in connection with any breach of any tenant covenants in this lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them.

### **36. LANDLORD'S COVENANT FOR QUIET ENJOYMENT**

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this lease.

### **37. RE-ENTRY AND FORFEITURE**

- 37.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:
- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
  - (b) any breach of any condition of, or tenant covenant, in this lease;
  - (c) an Act of Insolvency.
- 37.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant.

### **38. LIABILITY**

- 38.1 At any time when the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this lease. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

38.2 The obligations of the Tenant arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

38.3 The Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this lease unless and until the Tenant has given the Landlord notice of that failure and the Landlord has not remedied the failure within a reasonable time of service of that notice.

### **39. ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

39.1 This lease and any documents annexed to it constitute the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.

39.2 Each party acknowledges that in entering into this lease and any documents annexed to it, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) before the date of this lease.

39.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this lease.

39.4 Nothing in this clause shall limit or exclude any liability for fraud.

### **40. NOTICES, CONSENTS AND APPROVALS**

40.1 A notice given under or in connection with this lease shall be:

- (a) in writing unless this lease expressly states otherwise, and for the purposes of this clause an e-mail or a fax is not in writing;
- (b) given by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the party's principal place of business.

40.2 If a notice is given in accordance with clause 40.1, it shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service on the second working day after posting.

40.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

40.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

40.5 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:

- (a) it is given in writing and signed by a person duly authorised on behalf of the Landlord; and
- (b) it expressly states that the Landlord waives the requirement for a deed in that particular case.

If a waiver is given, it shall not affect the requirement for a deed for any other consent.

40.6 Where the approval of the Landlord is required under this lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

- (a) the approval is being given in a case of emergency; or
- (b) this lease expressly states that the approval need not be in writing.

40.7 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

#### **41. GOVERNING LAW AND JURISDICTION**

41.1 This lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

41.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this lease or its subject matter or formation (including non-contractual disputes or claims).

#### **42. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

#### **43. EXCLUSION OF SECTIONS 24-28 OF THE LANDLORD AND TENANT ACT 1954**

43.1 The parties confirm that:

(a) the Landlord served a notice on the Tenant, as required by section 38A(3) 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 [a copy of which notice is annexed to this lease];

(b) [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 [a copy of which [statutory] declaration is annexed to this lease] [; and OR]

(c) [there is no agreement for lease to which this lease gives effect.]

43.2 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.]

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

in the presence of:-

.....  
Signature of Party

Witness signature.....

Witness full names.....

Witness address.....

.....

Witness occupation.....

.....  
in the presence of:-

.....  
Signature of Party

Witness signature.....

Witness full names.....

Witness address.....

.....

Witness occupation.....

DRAFT



Sealed with the COMMON SEAL of

TENDRING DISTRICT COUNCIL

in the presence of:

Solicitor

and witnessed by:-

Executed as a Deed by the said

DRAFT