LEASE

Where a new mutual is to make use of property belonging to the Local Authority, the latter may transfer the freehold under the Transfer Agreement, or may allow the mutual to occupy the property under a lease or a licence.

This suite of template documents assumes that the Local Authority will provide two properties for use by the mutual, one under a Lease and the other under a Licence to Occupy. The decision on whether a Lease or Licence to Occupy is appropriate needs to be considered on a case-by-case basis with legal advice.

This document is a template Lease to be granted by the Local Authority to the mutual.

It contains the necessary provisions to protect both landlord (Local Authority) and tenant(mutual organisation), such as:

* Obligations on the tenant to keep the property in repair
* Obligations on the landlord to provide certain building services for the Property, for example to repair the structure of the building
* Rights for the landlord to end the tenancy in the case of the tenant's breach
* Rights for the tenant to use the property for the provision of the services.

This template has been prepared to provide general guidance and information to organisations considering or undertaking mutualisation. It is intended to be a starting pointonly and should not be considered a finalised legal document or as constituting legal advice. It is the responsibility of your organisation to seek legal advice and to ensure that the document is reviewed and signed off by your legal team.

The template contains a breakdown of drafting assumptions which highlight areas where additional drafting and legal advice may be required. Additional drafting is not limited to these areas and you should seek further legal guidance where you deem necessary.

Whilst we have endeavoured to ensure that the information in the template is correct, no warranty, express or implied, is given as to the templates accuracy, timeliness, completeness or fitness for a particular purpose and we do not accept any liability for errors or omissions. Neither the Department for Digital, Culture, Media and Sport, nor Bates Wells Braithwaite shall be liable to you or anyone else for any decisions made or action taken in reliance on this document, or for any damage arising from its use.

**DRAFTING ASSUMPTIONS**

In preparing this Lease we have made a number of assumptions regarding the circumstances within which this Lease will be used and these are set out in detail below. Please be aware that where the circumstances between the Council and the Mutual differ from our Assumptions this agreement may not be appropriate for use in its current form and additional drafting may be required. In such circumstances the parties should seek additional legal advice.

|  |  |  |
| --- | --- | --- |
| **Category** | **Assumption** | **Additional Drafting** |
| PARTIES | We have assumed the Mutual will be a CIC. | If the Mutual is a charity, additional provisions will need to be added in order to comply with the requirements of the Charities Act 2011 concerning statements required in documents evidencing interests in land owned by charities. |
| TERM | The term is stated as 15 years from the start date to match up with the term of the Services Agreement/ Funding Agreement. | As the Services Agreement is for ten years with a right to renew for another five, it is preferable to grant a fifteen year lease with an ability for the parties to terminate to avoid the need to grant a second lease (but this needs to be considered with SDLT considerations depending on the level of the rent). |
| PERMITTED USE | The use will be limited to the provision of services by the Mutual as provided for in the Services Agreement/ Funding Agreement. | If alternative uses are also required (often needed where the Mutual wishes also to raise income from the Property by renting out parts) this will need to be added as appropriate to the proposed use. |
| SHARING | The Mutual will be able to share occupation with others where this is for the provision of the services to the Council. We have not allowed for any other types of dealing with the lease | If the Mutual intends to raise income from the Property it may wish to negotiate to include an ability to underlet. If the lease is granted for a longer term and is to be used as security for grant funding, the Mutual will need to be able to assign/transfer the lease to other parties. |
| RENT/ PAYMENTS | We have assumed a rent will be payable as well as insurance rent. There is also provision for a rent review on the fifth anniversary. We have also provided for a service charge based on the Service Charge Code, second edition. | If the rent is to be a peppercorn, the rent and review provisions can be altered to provide for this. |
| RIGHTS GRANTED | We have included usual rights granted for us of part of a building, but these will need to be tailored to the Building/Property in questions | Additional rights may need to be inserted as appropriate to the Property, such as a rights of way, parking rights, rights over fire escape routes, rights to locate refuse bins, rights to use outbuildings for storage purposes etc. |
| REPAIR | We have kept repair obligations limited to repair of damage caused, but have included the option that the repair obligations are limited to the condition of the property at the outset of the lease. |  |
| BREAK OPTIONS | As regards early termination, we have assumed that any break will be linked to the term of the Services Agreement, but with an option for an earlier break from the Tenant only at the fifth and tenth anniversaries. Notice will need to be served in each case and where the Service Agreement ends we have assumed the Mutual will need three months to move out of the Property. | The periods of notice may be changed as you require. If the Mutual is entering into a Funding Agreement instead of a Services Agreement, the references will need to be changed to "Funding Agreement" with a new definition inserted. |
| GENERAL TERMS | Other terms will be on a standard commercial lease basis. |  |

DATED DRAFT ( ): [ ] 20[ ]

**LEASE**

**of**

**[*Address*]**

**[*Insert Council*]**

**and**

**[*Insert Mutual*]**

**CONTENTS**

1.Definitions and Interpretation 4

2.Grant 9

3.Ancillary Rights 9

4.Rights Excepted and Reserved 10

5.Third Party Rights 11

6.The Annual Rent 12

7.Review of Annual Rent 12

8.Services and Service Charge 15

9.Insurance 20

10.Common Items and Regulations 24

11.VAT 24

12.Default Interest and Interest 25

13.Costs 25

14.Compensation on vacating 25

15.Set-off 26

16.Prohibition of dealings 26

17.Repairs, Alterations and signs 26

18.Returning the Property to the Landlord 27

19.Use 27

20.Management of the Building 28

21.Decoration 28

22.Break Clause 28

23.Compliance with laws 29

24.Encroachments, obstructions and acquisition of rights 29

25.Indemnity 29

26.Landlord's covenant for quiet enjoyment 30

27.Re-entry and forfeiture 30

28.Entire agreement and exclusion of representations 30

29.Notices, consents and approvals 30

30.Governing law 32

31.Jurisdiction 32

32.Exclusion of sections 24-28 of the LTA 1954 32

33.Contracts (Rights of Third Parties) Act 1999 32

Schedule 1 - Services, Service Costs and Excluded Costs 34

**PRESCRIBED CLAUSES**

**LR1. Date of lease**

**LR2. Title number(s)**

**LR2.1 Landlord's title number(s)**

[Insert Title Number]

**LR2.2 Other title numbers**

None

**LR3. Parties to this lease**

**Landlord**

**[INSERT COUNCIL]** whose address is [ ]

**Tenant**

**[MUTUAL] of [Address (Company Number: ]**

**Other parties**

None

**Guarantor**

None

**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.**

See the definition of "Property" in the particulars of this Lease.

**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.**

None

**LR5.2 This lease is made under, or by reference to, provisions of:**

None

**LR6. Term for which the Property is leased**

See the definition of "Contractual Term" in the particulars 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 easements as specified in clause 3 of this lease.

**LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property**

The easements as specified in clause 4 of this lease.

**LR12. Estate rent charge burdening the Property**

None

**THIS LEASE** is dated

1. [**INSERT COUNCIL**] whose address is [***insert council address***] (the "**Landlord**").

2. [**MUTUAL**] of [Address (Company Number [ ]) (the "**Tenant**")

**NOW IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this lease the following expressions have the meanings given in this clause:

**Act of Insolvency:**

1. 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; or
2. the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor; or
3. 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; or
4. the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor; or
5. 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; or
6. the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor; or
7. 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; or
8. the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies); or
9. the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor.

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.

**Annual Rent:** rent at an initial rate of a peppercorn/INSERT RENT] and then as revised pursuant to this lease.

**Building:** [INSERT BUILDING ADDRESS] shown edged blue on Plan 1.

**Common Parts:** the Building, other than the Property, including corridors leading to the Property, access ways, lifts, meeting rooms, breakout rooms, eating areas, tea points and toilets.

**Contractual Term:** ten years beginning on, and including [ ] to and including [ ].

**CDM Regulations:** the Construction (Design and Management) Regulations 2007.

**Default Interest Rate:** 4% per annum above the Interest Rate.

**Deliberate Damage:** damage caused deliberately by the Tenant or anyone at the Property or on the Common Parts with the express or implied authority of the Tenant.

**Insured Risks:** means fire, explosion, lightning, earthquake, storm, flood, subsidence, heave, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, terrorism, civil commotion and any other risks against which the Landlord decides to insure against from time to time and Insured Risk means any one of the Insured Risks.

**Interest Rate:** the base rate from time to time of National Westminster Bank plc or if that base rate stops being used or published then a comparable commercial rate reasonably determined by the Landlord.

**Landlord's Neighbouring Property:** each and every part of the adjoining and neighbouring property in which the Landlord has an interest.

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

**Management Fee:** the total of the reasonable costs, fees and disbursements of the Manager which are incurred in relation to the carrying out and the provision of the Management Service, up to 10%.

**Management Service:** any service provided by, or any function of the Manager, in relation to the provision of the Services, calculation of the Service Costs and the administration of the Service Charge.

**Manager:** any managing agent or person employed by the Landlord, or by the managing agents, or otherwise retained by the Landlord to act on the Landlord's behalf, to budget for, forecast, procure, manage, account for, provide and otherwise administer the Building, the Services, the Service Costs or the Service Charge.

**Permitted Use:** for the provision of Services as defined in the Services Agreement.

**Permitted Hours:** From [[ ]am to [ ]pm on a Working Day] or such other times as may be agreed in writing from time to time with the Landlord.

**Plan 1:** the plan attached to this lease marked "Plan 1".

**Plan 2:** the plan attached to this lease marked "Plan 2".

**Property:** the part of the Building shown edged red on Plan

**Reinstatement Cost:** the full cost of reinstatement of the Building as reasonably determined by the Landlord from time to time, taking into account inflation of building costs and including any costs or demolition, site clearance, site protection, shoring up and any other work to the Building that may be required by law and any VAT on any such costs.

**Rent Commencement Date:** the date of this lease.

**Rent Payment Dates:** 25 March, 24 June, 29 September and 25 December.

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

**Review Date:** every fifth anniversary of Term Commencement Date.

**Service Charge:** such proportion of the Service Costs as is allocated (based on the proportion of the net internal area of the Property to the net internal area in the Building

**Service Charge Account:** any account set up and maintained by the Landlord into which the Service Charge payments by the occupiers of the Building are paid.

**Service Charge Code:** the RICS Code of Practice known as "Service Charges in Commercial Property Second Edition (Reference GN 24/2011)", which is effective from 1 October 2011.

**Service Charge Year:** is the annual accounting period relating to the Services and the Services Costs beginning on 1 January [ ] and each subsequent year during the Contractual Term

**Services Agreement:** The agreement made between [Insert Council] and [Insert Mutual] dated [date] for the provision and operation of [ ] services

**Service Costs:** the costs listed in paragraph 2 of Schedule 1.

**Service Provider:** any body, individual, contractor or sub-contractor which is responsible for providing any of the Services, excluding utility suppliers.

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

**Services:** the services listed in paragraph 1 of Schedule 1.

**Site Management Staff:** those persons directly employed by the Landlord or the Manager (as reasonably necessary) to deliver or administer delivery of the Services (whether employed full or part time and whether based at the Property or not).

**Tenant's Proportion:** [Insert]

**Third Party Rights:** all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this lease in the property register of title number [insert]**.**

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

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

**Working Day**: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

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. A reference to a **guarantor** is a reference to any guarantor of the tenant covenants of this lease including a guarantor who has entered into an authorised guarantee agreement.

1.4 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.

1.5 Unless the context otherwise requires, references to the **Building**, the **Common Parts** and the **Property** are to the whole and any part of them or it.

1.6 The expression **neighbouring property** does not include the Building.

1.7 A reference to the **term** is to the Contractual Term.

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 30.5 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 30.6.

1.10 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.

1.11 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.

1.12 Any obligation on the Tenant not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.

1.13 Unless the context otherwise requires, any words following the terms **including**, **include**, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.14 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.15 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this lease and references to paragraphs are to paragraphs of the relevant Schedule.

1.16 Clause, Schedule and paragraph headings shall not affect the interpretation of this lease.

1,17 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

**2 GRANT**

2.1 The Landlord lets the Property with full title guarantee 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:

1. the Annual Rent and all VAT in respect of it;
2. the Service Charge and all VAT in respect of it;
3. all interest payable under this lease; and
4. all other sums due under this lease.

**3 ANCILLARY RIGHTS**

3.1 The Landlord grants the Tenant the following rights (the Rights):

1. the right to support and protection from the Common Parts to the extent that the Common Parts provide support and protection to the Property at the date of this lease;
2. the right to use the hallways, corridors, stairways, lifts and landings of the Common Parts shown hatched [ ] on Plan 2 for the purposes of access to and egress from the Property and the lavatories and washrooms referred to in clause 3.1(c);
3. the right to use the lavatories and washrooms on the [ ] floor of the Building; and
4. the right to use and connect into Service Media at the Building serving the Property in existence at the date of this Lease or instalment constituted during the Term.

3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord.

3.3 The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Common Parts and the Tenant shall not do anything that may interfere with any Third Party Right.

3.4 The Tenant shall exercise the Rights (other than the Right mentioned in clause 3.1(a)) only in connection with its use of the Property for the Permitted Use and only during the Permitted Hours and in accordance with any regulations made by the Landlord as mentioned in clause 20.1.

3.5 The Tenant shall comply with all laws relating to its use of the Common Parts pursuant to the Rights.

3.6 In relation to the Rights mentioned in clause 3.1(b) to clause 3.1(c), the Landlord may, at its discretion, change the route of any means of access to or egress over the Common Parts and the Landlord's Neighbouring Property from the Property or the interior of the Building and may change the area within the Common Parts and the Landlord's Neighbouring Property over which any of those Rights are exercised

3.7 Except as mentioned in this clause 3, neither the grant of this lease nor anything in it confers any right over the Common Parts or any neighbouring property nor is to be taken to show that the Tenant may have any right over the Common Parts or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to 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 Building and the Landlord's Neighbouring Property:

1. rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
2. the right to use and to connect into Service Media at the Property which are in existence at the date of this lease;
3. the right to install and construct Service Media at the Property to serve any part of the Building (whether or not such Service Media also serve the Property) and the right to re-route any Service Media;
4. 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;
5. the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations; and
6. the right to re-route any means of access to or egress from the Property or the Building and to change the areas over which the Rights mentioned in clause 3.1(a) to clause 3.1(c) are exercised,

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 the Common Parts or loss of amenity for the Property or the Common Parts provided that they do not materially adversely affect the use and enjoyment of the Property for the Permitted Use.

4.2 The Landlord reserves the right to enter the Property:

1. to repair, maintain, install, construct re-route or replace any Service Media or structure relating to any of the Reservations; and
2. for any other purpose mentioned in or connected with;

(i) this lease;

(ii) the Reservations,

(iii) the Landlord's interest in the Property, the Building or the Landlord's Neighbouring Property,

provided that the Landlord promptly make good any damage by exercise of this right and any of the Reservations at its own cost and to the Tenant's reasonable satisfaction.

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 not less than 48 hours' prior written notice 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 the Reservations except for:

1. physical damage to the Property; or
2. 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 Rights.

5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Rights to enter the Property in accordance with its terms subject to the provision in clause 4.2.

**6 THE ANNUAL RENT**

6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by four equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving written notice to the Tenant.

6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the date of this lease and shall be the proportion, calculated on a daily basis, in respect of the period from the date of this lease until the day before the next Rent Payment Date.

**7 REVIEW OF 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:

1. 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;
2. 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 annual rent (exclusive of any VAT) at which the Property could reasonably be expected to be let:

1. in the open market;
2. at the relevant Review Date;
3. on the assumptions listed in clause 7.5; and
4. disregarding the matters listed in clause 7.6.

7.5 The assumptions are:

1. 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;

(vi) for a term equal to the unexpired residue of the Contractual Term at the relevant Review Date; and 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 other part of the Building 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 or any other part of the Building that has diminished the rental value of the Property; and

(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.

7.6 The matters to be disregarded are:

1. any effect on rent of the fact that the Tenant has been in occupation of the Property;
2. any goodwill attached to the Property by reason of any business carried out there by the Tenant or by any of their predecessors in business;
3. any effect on rent attributable to any physical improvement to the Property carried out by or at the expense of the Tenant 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); and
4. 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, 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 party does not pay its part of the Surveyor's fees and expenses within ten working days after demand by the Surveyor, the other party may pay that part and the amount it pays shall be a debt of the defaulting party due and payable on demand to the other party. 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 ten 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:

1. 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
2. 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 If at any time there is a guarantor, the guarantor shall not have any right to participate in the review of the Annual Rent.

7.15 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 SERVICES AND SERVICE CHARGE**

8.1 Subject clause 8.5 and clause 8.6, the Landlord shall provide the Services.

8.2 In providing the Services the Landlord shall have regard to the aims, core principles and best practice recommended in the Service Charge Code, except where there are sound reasons not to do so, which reasons the Landlord can justify.

8.3 The Landlord shall:

1. provide the Services on a value for money and cost effective basis. The Tenant acknowledges that this may not necessarily mean doing so at the lowest price;
2. ensure that the range, standard and cost of the Services are relevant to the Building (including its location, size, use and character);
3. review regularly the range, standard and cost of the Services to ensure that they:

(i) remain relevant;

(ii) still represent value for money (either by benchmarking the cost against the market cost or by requiring submission of competitive quotations or tenders as appropriate;

(d) establish policies and procedures which:

(i) define the intended method of procurement, administration, management and delivery of the Services;

(ii) ensure that the obligations of the Landlord and the Tenant set out in this clause are complied with;

(iii) ensure that the Services are provided efficiently, cost effectively and safely;

(iv) (set appropriate performance standards for Site Management Staff and for Service Providers in their respective delivery of the Services; and

(v) set standards for the selection of Service Providers (including assessment of their financial standing, health and safety compliance, and environmental and sustainability credentials);

and review these policies and procedures regularly;

(e) require the Manager, the Service Providers and the Site Management Staff to comply with the relevant policies and procedures referred to in clause 8.3(d) when providing the Management Service or the Services as the case may be;

(f) provide sufficient appropriately qualified or experienced Site Management Staff to deliver those Services which are not delivered by a Service Provider;

(g) regularly measure and review the performance of the Site Management Staff and Service Providers against the relevant performance standards;

(h) require the major Service Providers to demonstrate that their services, methods and processes are continually reviewed to ensure efficiency and value for money;

(i) ensure that the Management Fee:

(i) is transparent, so that the basis on which it is charged and the way in which it is calculated is clear;

(ii) relates only to, and is reasonable for, the Management Service;

(iii) reflects the Manager's obligations to observe the principles of the Service Charge Code;

(iv) is not linked to a percentage of expenditure on the Services; and

(v) shall be fixed for a reasonable period of time (subject to indexing); and

(vi) is otherwise calculated in accordance with the Service Charge Code;

(j) credit to the Service Charge Account:

(i) all payments of Service Charge (whether in advance or payments made under clause 8.8(k); and

(ii) any interest paid on any instalment of Service Charge which is paid late;

(k) ensure that the interest earned on the Service Charge Account (or a fair and reasonable proportion of such interest, if the account relates to other properties in addition to the Building) is credited to the Service Charge Account (after deduction of bank charges, tax and any other appropriate amounts);

(l) ensure regular communication between the Landlord, the Tenant, other occupiers in the Building and the Manager on issues related to the Services and Service Costs, and deal promptly and efficiently with any reasonable enquiry made by the Tenant that relates to those issues;

(m) invite (and, if appropriate, act upon) feedback from the Tenant on:

(i) the performance of the Service Providers and the Site Management Staff;

(ii) the standard of the Management Service; and

(iii) the range and standard of the Services;

(n) as soon as practicable but not later than four months after a disposal of the reversion immediately expectant on the determination of this lease, provide the purchaser with full details of the Service Costs, accruals, prepayments, and all other relevant information for the last three Service Charge Years or any other Service Charge Year for which any part of the procedure set out in clause 8.8 remains outstanding, up to the completion date of the disposal.

8.4 The Landlord shall give the Tenant:

1. details of any proposed works or Services or other plans for the Building that may substantially increase the Service Charge due for the relevant Service Charge Year;
2. prompt notice (and in any event within the relevant Service Charge Year) of any likely significant variation of the actual Service Costs from the estimated Service Costs of which variation the Landlord becomes aware, together with an explanation of how this variation may be mitigated (if appropriate);
3. at the Tenant's request and cost, access to inspect the tender documents for any tender which is undertaken in accordance with clause 8.3(c)(ii);
4. information contained in any report or other item where the cost of obtaining this information is included in the Service Costs;
5. contact details for the key contacts at the Manager (and where appropriate other Service Providers) together with details of the respective roles and responsibilities of those key contacts; and
6. at the Tenant's request, a copy of any management policies referred to in clause 8.3(d).

8.5 The Landlord shall not be required to:

1. carry out any works as part of the Services if the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure;
2. provide any of the Services outside the Permitted Hours; or
3. replace or renew any part of the Building or any item or system within the Building which has not become beyond economic repair.

8.6 The Landlord shall not be liable for any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord

8.7 The Landlord shall not charge any of the Excluded Costs as part of the Service Charge; and

8.8 The procedure and obligations of the parties relating to the operation of the Service Charge are as follows:

1. at least one month before the start of each Service Charge Year, the Landlord shall prepare and send to the Tenant an estimate of the Service Costs for that Service Charge Year (in such form to enable the Tenant to compare it with the last issued Certified Accounts) together with an explanatory commentary where appropriate and a statement of the estimated Service Charge for that Service Charge Year;
2. the Tenant shall pay the estimated Service Charge for each Service Charge Year in four equal instalments in advance on each of the Rent Payment Dates;
3. in relation to the Service Charge Year current at the date of this lease:
   1. the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of those amounts, such apportioned part to be calculated on a daily basis for the period from the date of this lease to the end of the Service Charge Year; and
   2. the estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on the Rent Payment Days during the period from the commencement date of the Contractual Term until the end of the Service Charge Year;
4. as soon as reasonably practicable and no later than four months after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant service charge accounts (**Certified Accounts**) that:
   1. show the Service Costs for that Service Charge Year, classified using the industry standard cost classifications required by the Service Charge Code;
   2. state the accounting policies and principles used in their preparation (as set out in detail in the Service Charge Code;
   3. are in a form reasonably consistent from year to year;
   4. are certified as representing a true and accurate record of the Service Costs and that the Service Charge has been calculated in accordance with this lease;
   5. state the name and role of the person giving such certificate;
5. the Landlord shall prepare, and send to the Tenant with the Certified Accounts, a statement or report which:
   1. provides full details of and reasons for any material variations from the estimated Service Charge;
   2. confirms the basis and date of appointment of any managing agent;
   3. confirms the basis of apportionment of the Service Costs;
   4. explains the method of calculating the Management Fee; and
   5. includes any other relevant information which is required by the Service Charge Code;
6. if any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord shall be entitled to include it in the estimate of the Service Charge and the Service Costs in any following Service Charge Year;
7. the person giving the certificate in the Certified Accounts shall be appropriately qualified, competent and non-partisan, and shall have experience in dealing with service charges;
8. subject to clause 8.8(f) and except in the case of manifest error, the certificate given in the Certified Accounts shall be conclusive as to all matters of fact to which it refers, subject to the Tenant's right reasonably to challenge any expenditure by referring the matter to a mediator appointed jointly by the parties, or in default of agreement, appointed by the President of the Royal Institution of Chartered Surveyors on the application of either party. In the event of such a referral, each party shall bear its own costs;
9. the Landlord shall allow the Tenant a reasonable period in which to raise enquiries in respect of the Certified Accounts, shall respond promptly and efficiently to any reasonable enquiries of the Tenant;
10. if so requested by the Tenant, the Landlord shall agree to an independent audit of the Service Costs at the Tenant's cost; and
11. if in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference immediately upon the expiry of the period specified in clause 8.8(i) (unless the Tenant challenges the Service Charge under clause 8.8(h) in which case the Tenant shall pay the difference immediately upon the final determination of that challenge). If in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall promptly repay to the Tenant the difference.

8.9 In addition to the Tenant's obligations contained in clause 8.8 the Tenant shall:

1. co-operate fully with the Landlord and the Manager to allow the Landlord and the Manager to administer the Service Charge in accordance with the provisions of this clause;
2. nominate someone with appropriate responsibility and authority to deal with the Landlord on any issues relating to the Services or the Service Charge and shall notify the Landlord of the name and contact details of that person;
3. promptly advise the Landlord and the Manager of any changes within the Tenant's organisation that may affect the operation of the Service Charge and of any changes to the person nominated in clause 8.9(b);
4. respond promptly and efficiently to any reasonable enquiry by the Landlord or the Manager on issues related to the Services and Service Costs; and
5. be proactive in assisting the Landlord and the Manager with operating and using the Services to achieve value for money and follow all procedures reasonably required by the Landlord or the Manager to maintain and promote the quality and cost effectiveness of the Services (such procedures may include, but are not limited to, separating waste to facilitate appropriate and cost effective recycling and adopting any energy saving measures).

8.10 Where the Landlord is required to comply with any obligation contained in this clause such obligation shall, where relevant, include, in the alternative, an obligation on the Landlord to ensure that the Manager complies with that obligation

**9 INSURANCE**

9.1 The Landlord shall effect and maintain insurance of the Building accordance with this clause:

1. unless the insurance is vitiated by any act or omission of either:
   1. the Tenant or any person at the Property with the express or implied authority of any of them; or
   2. any tenant of the Landlord of any part of the Building other than the Property, any person deriving title under them or any person in the Building with the express or implied authority of any of them; and
2. subject to:
   1. any exclusions, limitations, conditions or excesses that may be imposed by the Landlord's insurer; and
   2. insurance being available on reasonable terms in the London Insurance market.

9.2 The insurance of the Building shall be maintained with reputable insurers, on fair and reasonable terms that represent value for money, for an amount not less than the Reinstatement Cost against loss or damage caused by any of the Insured Risks, and shall include additional cover, if practicable, against damage arising from an act of terrorism.

9.3 In relation to any insurance effected by the Landlord under this clause, the Landlord shall:

1. at the request of the Tenant supply the Tenant with:
   1. full details of the insurance policy;
   2. evidence of payment of the current year's premiums; and
   3. details of any commission paid to the Landlord by the Landlord's insurer;
2. procure that the Tenant is informed in writing of any change in the scope, level or terms of cover as soon as reasonably practicable after the Landlord or its agents have become aware of the change;
3. use all reasonable endeavours to procure that the Landlord's insurer waives its rights of subrogation against the Tenant and any lawful sub-tenants or occupiers of the Property and that the insurance policy contains a non-invalidation provision in favour of the Landlord in respect of any act or default of the Tenant; and
4. procure that the interest of the Tenant is noted on the policy of insurance either specifically or by way of a general noting of tenants' interests under the conditions of the insurance policy.

9.4 The Tenant shall pay to the Landlord on demand a reasonable proportion of any amount that is deducted or disallowed by the Landlord's insurer pursuant to any excess provision in the insurance policy.

9.5 The Tenant shall:

1. comply at all times with any requirements or recommendations of the Landlord's insurer that relate to the Property or the use by the Tenant of the Common Parts, where written details of those requirements or recommendations have first been given to the Tenant;
2. on becoming aware, immediately inform the Landlord if any matter occurs in relation to the Tenant or the Property that any insurer or underwriter may treat as material in deciding whether or on what terms, to insure or continue insuring the Building and shall give the Landlord notice of that matter; and
3. on becoming aware, immediately inform the Landlord if any damage or loss occurs that relates to the Property and shall give the Landlord notice of that damage or loss.

9.6 In relation to any insurance arranged by the Landlord under this clause, the Tenant shall not do or omit to do anything and shall not permit or suffer anything to be done that may:

1. vitiate the insurance contract; or
2. cause any money claimed under the insurance to be withheld; or
3. cause any premium paid for the insurance to be increased or cause any additional premium to be payable, unless previously agreed in writing with the Landlord.

9.7 Other than Tenant's and trade fixtures, the Tenant shall not insure the Property against any of the Insured Risks in such a manner as would permit the Landlord's insurer to cancel the Landlord's insurance or to reduce the amount of any money payable to the Landlord in respect of any insurance claim.

9.8 Notwithstanding the obligation on the Tenant in clause 9.7, if the Tenant shall at any time be entitled to the benefit of any insurance of the Property, the Tenant shall immediately cause any money paid to the Tenant under that insurance to be applied in making good the loss or damage in respect of which it was paid.

9.9 If the Building or any part of it is damaged or destroyed by an Insured Risk, the Landlord shall:

1. make a claim under the insurance policy effected in accordance with this clause;
2. notify the Tenant immediately if the Landlord's insurer indicates that the Reinstatement Cost will not be recoverable in full under the insurance policy; and
3. subject to clause 9.10, use any insurance money received (other than for loss of rent) and any money received from the Tenant under clause 9.4 to repair the damage in respect of which the money was received or (as the case may be) to rebuild the Building.

9.10 The Landlord shall not be obliged under clause 9.9 to repair or reinstate the Building or any part of it:

1. unless and until the Landlord has obtained any necessary planning and other consents for the repairs and reinstatement work; or
2. so as to provide premises or facilities identical in size, quality and layout to those previously at the Building so long as the premises and facilities provided are reasonably equivalent; or
3. after a notice has been served pursuant to clause 9.12 or clause 9.13.

9.11 If the Building is damaged or destroyed (other than by Deliberate Damage) so that the Property is wholly or partly unfit for occupation and use, or the Common Parts are damaged or destroyed so as to make the Property inaccessible or unusable, then 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 earlier of the following:

1. the date the Tenant can occupy and use the Property in the manner contemplated by this lease prior to the date of the damage or destruction; and
2. the end of three years from the date of damage or destruction.

9.12 Subject to clause 9.14, the Landlord may give the Tenant notice terminating this lease with immediate effect if:

1. the Property is damaged or destroyed or the Common Parts are damaged or destroyed so as to make the Property inaccessible or unusable; and
2. the Landlord reasonably decides that it is either impracticable or impossible to reinstate the Property and the Common Parts within three years from the date of the damage or destruction.

9.13 The Tenant may give the Landlord notice terminating this lease with immediate effect (subject to clause 9.14) in either of the following situations:

1. where the Property is:
   1. damaged or destroyed in whole or in part so that it is unfit for occupation or use, or the Common Parts are damaged or destroyed so as to make the Property inaccessible or unusable in each case unless the damage or destruction is Deliberate Damage; and
   2. is not accessible and/or not fit for occupation and use by the end of three years from the date of damage or destruction; or
2. where:
   1. the Property is damaged or destroyed in whole or in part so that it is unfit for occupation or use, or the Common Parts are damaged or destroyed so as to make the Property inaccessible or unusable; and
   2. the damage or destruction is not Deliberate Damage;
   3. the damage or destruction is caused by either:
      1. a risk which is not an Insured Risk; or
      2. a risk which is not covered by the Landlord's insurance because of an exclusion from or limitation to the policy of insurance, which exclusion or limitation is permitted by clause 9.1; and
   4. the Landlord has not given notice to the Tenant within six months of the date of damage or destruction that the Landlord will reinstate the Property at the Landlord's own cost.

9.14 Any notice to terminate this lease by either the Landlord or the Tenant under this clause shall be without prejudice to the rights of either party for breach of any of the covenants in the lease.

9.15 If this lease is terminated by either the Landlord or the Tenant under this clause, then any proceeds of the insurance effected by the Landlord shall belong to the Landlord

**10 COMMON ITEMS AND REGULATIONS**

10.1 The Tenant shall pay the Landlord on demand the Tenant's Proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.

10.2 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.

**11 VAT**

11.1 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.

11.2 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 Value Added Tax Act 1994.

**12 DEFAULT INTEREST AND INTEREST**

12.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due (as to the Annual Rent, whether it has been formally demanded or not), the Tenant shall pay the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

12.2 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.

**13 COSTS**

13.1 The Tenant shall pay the reasonable 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:

1. the enforcement of the tenant covenants of this lease;
2. 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;
3. serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995; or
4. any consent or approval applied for under this lease, whether or not it is granted unless it is unreasonably withheld or delayed.

13.2 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 COMPENSATION AND 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.

**15 SET-OFF**

The Annual Rent and all other amounts due under this lease shall be paid by the Tenant or any guarantor (as the case may be) in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**16 PROHIBITION ON DEALINGS**

16.1 The Tenant shall not assign, underlet, charge or part with possession of this lease or the Property or assign, part with or share any of the benefits or burdens of this lease, or in any interest derived from it, whether by a virtual assignment or other similar arrangement or hold the lease on trust for any person (except by reason only of joint legal ownership), or grant any right or licence over the Property in favour of any third party; and

16.2 Notwithstanding sub clause 16.1 the Tenant may share occupation of part of the Property for uses solely connected with the delivery of the services as defined in the Services Agreement without the Landlord's consent where such occupation is pursuant to a hire agreement for periods of no more than six months BUT the formal consent of the Landlord shall be required in writing if the occupation is intended to be for a period of more than six months and subject to a formal licence to occupy being granted by the Tenant for the intended occupation and a certified copy of the licence shall be sent to the Landlord within 10 days of completion.

**17 REPAIRS, ALTERATIONS AND SIGNS**

17.1 The Tenant shall keep the Property clean and tidy and shall make good any damage caused to the Property by any act or omission of the Tenant or any person under the control of the Tenant/ The Tenant shall keep the Property in no worse repair than as at the date of this lease as evidenced in the attached photographic schedule of condition.

17.2 The Tenant shall not make any alteration to the Property, other than the installation and removal of non-structural, demountable partitioning and provided that, it first obtains the written consent of the Landlord (such consent not to be unreasonably withheld or delayed) and removes any such partitioning before the end of the Contractual Term and makes good any damage to the Property and to any part of the Common Parts caused by any such installation or removal.

17.3 The Tenant shall not install, or alter the route of any Service Media at and forming part of the Property.

17.4 The Tenant shall not attach any new permanentsign, fascia, placard, board, poster or advertisement to the Property so as to be seen from the outside of the Building, except with the written consent of the Landlord.

17.5 The Landlord may enter the Property to inspect its condition and may give the Tenant notice of any breach of any of the Tenants covenants in this lease relating to the condition of the Property. The Tenant shall carry out and complete any works needed to remedy that breach within the time reasonably required by the Landlord, in default of which the Landlord may enter the Property and carry out the works needed. 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.

**18 RETURNING THE PROPERTY TO THE LANDLORD**

18.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this lease.

18.2 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.

18.3 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 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.

18.4 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 the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term 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.

**19 USE**

19.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.

19.2 The Tenant shall not use the Property outside the Permitted Hours.

19.3 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, the other tenants or occupiers of the Building or any owner or occupier of neighbouring property.

19.4 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

**20 MANAGEMENT OF THE BUILDING**

20.1 The Tenant shall observe all regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Common Parts and the management of the Building.

**21 DECORATION**

21.1 The Landlord shall decorate the inside of the Property as often as reasonably necessary.

21.2 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.

**22 BREAK CLAUSE**

In this clause the following terms have the following meanings:

**Break Date:** each of [ ] (fifth anniversary) and [ ] (tenth anniversary).

**Break Notice:** written notice to terminate this lease on the Break Date specifying the relevant Break Date.

22.1 The Tenant may terminate this lease by serving a Break Notice on the other party at least 6 months before the relevant Break Date.

22.2 A Break Notice served by the Tenant shall be of no effect if, at the Break Date:

1. the Tenant has not paid any part of the Annual Rent, or any VAT in respect of it, which was due to have been paid; or
2. vacant possession of the whole of the Property is not given.

22.3 Subject to clause 22.2, following service of a Break Notice this lease shall terminate on the relevant Break Date.

22.4 If the Service Agreement terminates for any reason, either the Landlord or the Tenant may terminate this Lease on not less than three months' prior written notice to the other.

22.5 If this lease terminates in accordance with clause 22.1 or clause 22.4 then, within 14 days after the relevant Break Date or termination date under clause 22.4, the Landlord shall refund to the Tenant the proportion of the Annual Rent, and any VAT paid in respect of it, for the period from and excluding the relevant Break Date or termination date up to and excluding the next Rent Payment Date, calculated on a daily basis.

**23 COMPLIANCE WITH LAWS**

23.1 The Tenant shall comply with all laws relating to:

1. the Property and the occupation and use of the Property by the Tenant; and
2. all materials kept at or disposed from the Property.

23.2 The Tenant shall not apply for any planning permission for the Property.

23.3 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.

23.4 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.

23.5 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.

**24 ENCROACHMENTS, OBSTRUCTIONS, AND ACQUISITION OF RIGHTS**

24.1 The Tenant shall not grant any right or licence over the Property to any person nor permit any person to make any encroachment over the Property.

24.2 The Tenant shall not obstruct the flow of light or air to the Property.

24.3 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Building is enjoyed with the consent of any third party.

24.4 The Tenant shall immediately on becoming aware inform the Landlord if any person takes or threatens to take any action to obstruct the flow of light or air to the Property and shall give the Landlord notice of that action.

**25 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 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 or the Common Parts with the actual or implied authority of any of them.

**26 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.

**27 RE-ENTRY AND FORFEITURE**

27.1 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:

1. any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
2. any breach of any condition of, or tenant covenant, in this lease;
3. an Act of Insolvency.

27.2 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 or any guarantor.

**28 ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

28.1 This lease and any documents annexed to it or referred to in it constitutes the whole agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to the subject matter.

28.2 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.

**29 NOTICES, CONSENTS AND APPROVALS**

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

1. in writing unless this lease expressly states otherwise and for the purposes of this clause an e-mail is not in writing;
2. given;
   1. 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; or
   2. by fax to the party's main fax number.

29.2 If a notice is given in accordance with clause 28.1, it shall be deemed to have been received:

1. if delivered by hand, at the time the notice is left at the proper address;
2. if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting; or
3. if sent by fax, at 9.00am on the next working day after transmission.

29.3 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.

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

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

1. it is given in writing and signed by a person duly authorised on behalf or the Landlord; and
2. 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.

29.6 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:

1. the approval is being given in a case of emergency; or
2. this lease expressly states that the approval need not be in writing.

29.7 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.

**30 GOVERNING LAW**

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.

**31 JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

**32 EXCLUSION OF SECTIONS 24-28 OF THE LTA 1954**

32.1 The parties confirm that:

1. The Landlord served on the Tenant a notice dated [ ] in relation to the tenancy created by this Lease in a form complying with the requirements of Schedule 1 of the Regulatory Reform (Business Tenancies)( England and Wales) Order 2003; and
2. The Tenant, or a person authorised by the Tenant (the Declarant), made a statutory declaration (the Declaration) dated [ ] pursuant to Schedule 2 of the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

32.2 Where the Declarant is not the Tenant the Tenant confirms that the Declaration was made with authority on its behalf.

32.3 The Landlord and the Tenant confirm that there is no agreement to which this Lease gives effect.

32.4 The Landlord and the Tenant agree to exclude the provisions of sections 24 to 28 (inclusive) of the 1954 Act in relation to the tenancy created by this Lease.

**33 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

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

|  |  |
| --- | --- |
| The common seal of  **[INSERT COUNCIL]**  was affixed in the presence of: |  |
| In the presence of: |  |
| Authorised Signatory    ……………………………………………………… |  |

|  |  |  |
| --- | --- | --- |
| EXECUTED AS A DEED by  [**MUTUAL**]  acting by  a director and  ……………………………………  Director    a Director/ its Secretary    …………………………………….  Director/ Secretary      In the presence of:    Signature of witness:  ………………………………………...  Name: (IN BLOCK CAPITALS)    ………………………………………...    Address: ………………………………………... |  |  |

**SCHEDULE 1**

**SERVICES, SERVICE COSTS AND EXCLUDED COSTS**

1. Services

The **Services** are:

1.1 Building insurance;

1.2 Photocopying and telephony services;

1.3 Cleaning, maintaining, decorating and repairing the Property and the Common Parts, including the structural parts, roofs, the outsides of the windows and all Service Media forming part of the Property and the Common Parts, and remedying any inherent defect in those parts of the Building;

1.4 Providing heating to the internal areas of the Building during such periods of the year as the Landlord reasonably considers appropriate, and cleaning, maintaining, repairing and replacing the heating machinery and equipment;

1.5 Lighting the Property and the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;

1.6 Supplying hot and cold water, soap, paper, towels and other supplies for any lavatories, washrooms, kitchens and utility areas on the Common Parts, and cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in those areas;

1.7 Keeping the lifts on the Common Parts in reasonable working order and cleaning, maintaining, repairing and replacing the lifts and lift machinery and equipment;

1.8 Cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;

1.9 Cleaning, maintaining, repairing, operating and replacing security machinery and equipment on the Common Parts;

1.10 Cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;

1.11 Cleaning, maintaining, repairing and replacing the floor coverings in the Property and the internal areas of the Common Parts;

1.12 Cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;

1.13 Providing air conditioning for the internal areas of the Building and cleaning, maintaining, repairing and replacing air conditioning equipment serving the Building;

1.14 Providing security, reception and cleaning and maintenance staff for the Building;

1.15 Any other service or amenity that the Landlord may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupiers of the Building.

**2. SERVICE COSTS**

The **Service Costs** (excepting the Excluded Costs) are the total of:

2.1 the Tenant's Proportion of 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 Building.

2.2 the Tenant's Proportion of all present and future rates, taxes and other impositions and outgoings payable in respect of the Building, its use and any works carried out there;

2.3 the aggregate each year of:

(a) the Tenant's Proportion of the gross cost of the premium before any discount or commission for:

(i) the insurance of the Building, 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; and

(ii) public liability insurance in relation to the Common Parts.

(b) the gross cost of the premium and

(c) any insurance premium tax payable on the above (if applicable).

2.4 all of the reasonable and properly incurred costs of:

(a) providing the Services;

(b) reading any meters;

(c) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);

(d) complying with all laws relating to the Common Parts, their use and any works carried out to them, relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and relating to any materials kept at or disposed of from the Common Parts;

(e) complying with the Third Party Rights insofar as they relate to the Common Parts;

(f) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Common Parts or to prevent the acquisition of any right over the Common Parts (or Building as a whole) or to remove any obstruction to the flow of light or air to the Common Parts (or the Building as a whole); and

2.5 the Management Fee and all of the reasonable and properly incurred costs, fees and disbursements of:

(a) the accountants employed by the Landlord to prepare and certify the service charge accounts; and

(b) a procurement specialist who is employed or retained to achieve greater value for money and cost effectiveness in relation to the Service Costs.

2.6 all rates, taxes, impositions and outgoings payable in respect of the Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building);

2.7 the reasonable and proper cost of complying with any of the Landlord's obligations contained in clause 8;

2.8 any VAT payable in respect of any of the items mentioned above except to the extent that the Landlord obtains credit for such VAT under the Value Added Tax Act 1994.

**3. EXCLUDED COSTS**

The **Excluded Costs** are any costs which relate to or arise from:

(a) matters between the Landlord and an occupier in the Building, including, but not limited to, costs relating to or arising from:

(i) enforcement of covenants to pay rent and other monies payable under the occupier's lease;

(ii) any consents required under the relevant lease, including but not limited to consents to assign, sublet, alterations and extended opening hours; and

(iii) rent reviews;

(b) failure or negligence of the Landlord or Manager;

(c) the maintenance or operation of:

(i) any premises within the Building used by the Landlord for its own purposes (except where such use is wholly or partly in connection with the management of the Building itself, in which case the whole or a reasonable part, as the case may be, of such costs shall be a Service Cost);

(ii) any cost centre within the Building that generates income for the Landlord (except where such income is (at least in part) credited to the Service Charge Account, in which case the whole or a reasonable proportion of such costs shall be a Service Cost);

(d) the initial provision of any items that are reasonably to be considered part of the original design and construction of the fabric, plant or equipment of the Building together with the initial setting up that is reasonably to be considered part of the original development of the Building;

(e) any future development of the Building;

(f) the replacement of any item of the fabric, plant, equipment or materials necessary for the operation of the Building, except where analysis of the reasonable options and alternatives determines that:

(i) replacement is appropriate because the fabric, plant, equipment or materials are beyond economic repair or beyond efficient or economic operation; or

(ii) the cost of replacement is relatively low when compared with the greater cost anticipated if replacement is postponed materially; or

(iii) replacement is required by statute or the insurers of the Building;

If requested by the Tenant, the Landlord shall provide the Tenant with evidence to justify the cost of replacement;

(g) the improvement of any item (where the cost exceeds the costs of normal maintenance, repair or replacement) except where the expenditure can be justified following the analysis of reasonable options and alternatives and having regard to a cost benefit analysis over the term of the leases in the Building. Where the Landlord believes that the expenditure is justified in this manner, it shall provide the Tenant with evidence to support and explain its decision before the expenditure is incurred;

(h) any Services provided by reason of damage to or destruction of the Common Parts by a risk against which the Landlord is obliged to insure; and

(i) any marketing or promotion activities in relation to the Building.