

Dated 1 February 2019

- (1) Homes and Communities Agency (trading as Homes England)
- (2) Bustler Market Limited

Lease

relating to

7 John Street, Derby DE1 2LU

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Annex 1 Plan

**HM Land Registry**

**Title numbers: DY19808**

**Administrative area: City of Derby**

**Parties**


- (1) Homes and Communities Agency (trading as Homes England) of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington, WA3 7QH (Landlord).
- (2) Bustler Market Ltd incorporated and registered in England and Wales with company number 10638815 whose registered office is at Unit 6 Heritage Business Centre, Derby Road, Belper, Derbyshire, England, DE56 1SW (Tenant).

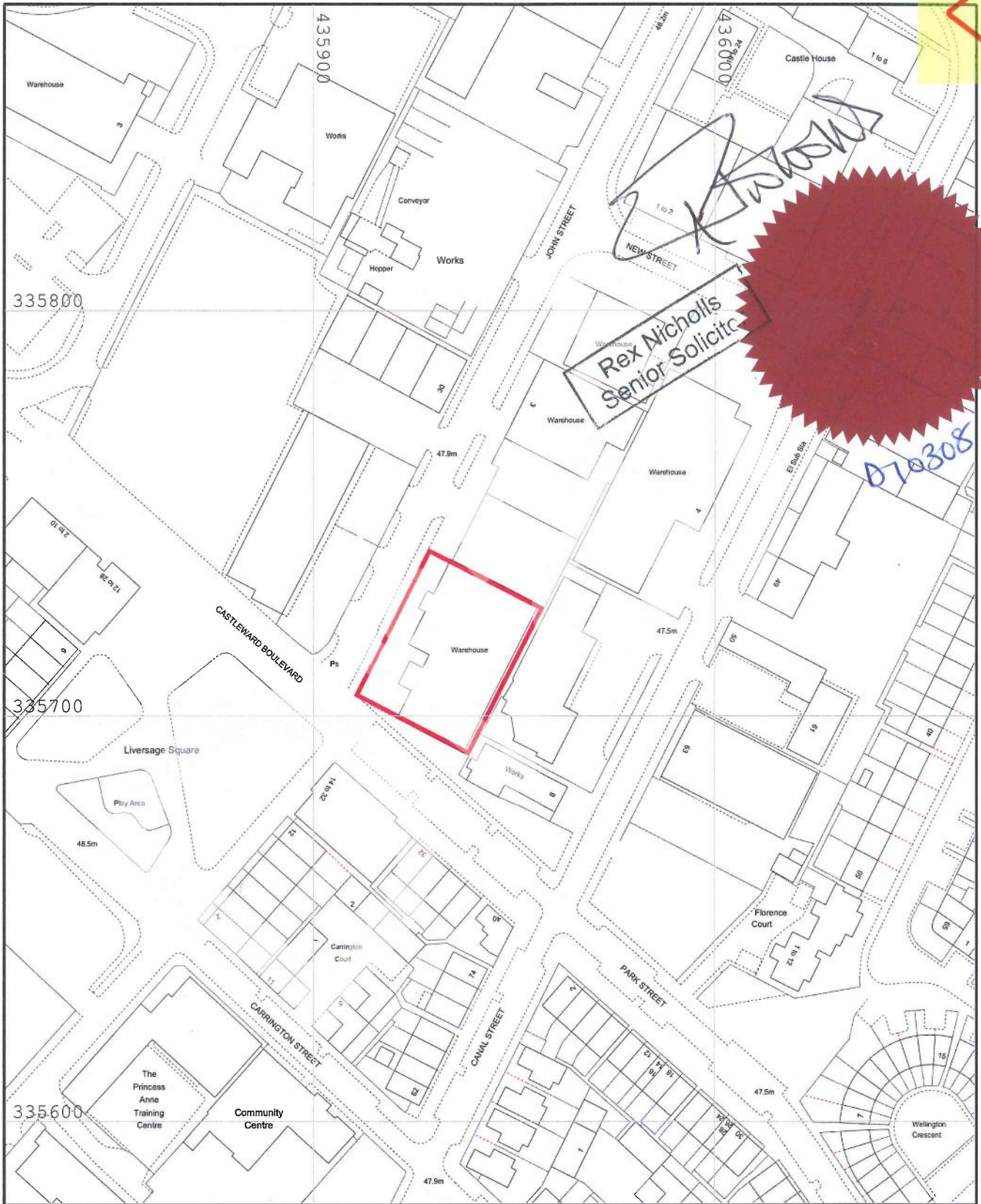
**Agreed terms**

**1 Interpretation**


The following definitions and rules of interpretation apply in this lease.

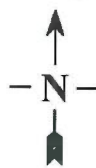
**1.1 Definitions:**

<b>Annual Rent</b>	
<b>Head Landlord</b>	the person entitled to the reversion on the termination of the Head Lease
<b>Head Lease</b>	the lease of the Premises dated 13 August 1971 and made between (1) Derby Corporation and (2) Arthur Jack Bussell, Timothy John Jobey Bussell and Andrew Arthur Gergoe Bussell and all documents supplemental to that lease
<b>Interest Rate</b>	4% per annum above the base rate from time to time of Royal Bank of Scotland Plc.
<b>LTA 1954</b>	Landlord and Tenant Act 1954.
<b>Landlord's Solicitors</b>	Browne Jacobson LLP, Mowbray House, Castle Meadow Road, Nottingham, NG2 1BJ.
<b>Permitted Use</b>	use for a range of leisure/cultural/private hire events including the sale of food and drink.
<b>Property</b>	the property known as 7 John Street, Derby and as shown edged in red on the attached plan.
<b>Service Media</b>	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.
<b>Tenant's</b>	Smith Partnership Solicitors, Norman House, Friar Gate,



TITLE  
**Red Line Plan**  
**Lease**  
**LEGP-LSE-15**  
**Derby**

Legend  
 Site Boundary



**Homes England**

**Spatial Solutions**

Tel: 0300 1234500

Email - [spatial.intelligence@homesengland.org.uk](mailto:spatial.intelligence@homesengland.org.uk)

Instruction ID.  
**LEGP-LSE-15**

TMS ID.  
 db1f726c-f84e-48e5-87a1-c6afb0b7bbc2

DATE  
 23-10-2018

SCALE  
 1:1250

SIZE  
 A4

Information shown is correct to the best of Spatial Solutions Department's knowledge at date of issue.  
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- Solicitors** Derby, DE1 1NU.
- Term** twelve months beginning on, and including the date of this lease and ending on, and including [31 January 2020]
- VAT** value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.
- 1.2 A reference to this lease, except a reference to the date 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.
- 1.4 Unless the context otherwise requires, references to the **Property** are to the whole and any part of it.
- 1.5 A reference to the **end of the Term** is to the end of the Term however it ends.
- 1.6 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.7 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.
- 1.8 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.
- 1.9 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.
- 1.10 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.11 Unless the context otherwise requires, references to clauses are to the clauses of this lease.
- 1.12 Clause headings shall not affect the interpretation of this lease.
- 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 reference to **writing or written** includes fax but not email.

- 1.15 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.16 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.17 The definitions contained in the Head Lease are incorporated (where the context requires).
- 1.18 in all cases where the consent of the Head Landlord is required under the terms of the Head Lease for any act or matter where the consent of the Landlord is required under the terms of this lease, the consent of the Head Landlord will also be required under the terms of this lease and the Landlord will not be deemed to be unreasonably withholding or delaying consent in any matter where the consent of the Head Landlord has not been obtained; and
  - 1.18.1 Reference to any right exercisable by the Landlord or any right exercisable by the Tenant in common with the Landlord shall be construed as including (where appropriate) the exercise of such right:
  - 1.18.2 by the Head Landlord and all persons authorised by it; and
  - 1.18.3 in common with all other persons having a like right.

## 2 Grant

- 2.1 The Landlord lets the Property to the Tenant for the Term.
- 2.2 The grant is made excepting and reserving to the Landlord the rights set out in clause 3, and subject to all rights, restrictions and covenants affecting the Property including the matters referred to at the date of this lease in the property register of title number DY19808.
- 2.3 The grant is made with the Tenant paying to the Landlord as rent, the Annual Rent and all VAT in respect of it, and all other sums due under this lease.

## 3 Rights excepted and reserved

- 3.1 The following rights are excepted and reserved from this lease to the Landlord (the **Reservations**):
  - 3.1.1 rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the Term;
  - 3.1.2 the right to use and to connect into Service Media at, but not forming part of, the Property;
  - 3.1.3 the right to install and construct Service Media at the Property to serve any other property (whether or not such Service Media also serve the Property) and to connect into and use such Service Media;

- 3.1.4 the right to re-route any Service Media mentioned in this clause;
  - 3.1.5 the right to enter the Property for any purpose mentioned in this lease or the Head Lease or connected with it or with the Landlord's interest in any other property, at any reasonable time and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant;
  - 3.1.6 at any time during the Term, the full and free right to build into any boundary of the Property, and to develop land other than the Property, whether or not such land is owned by the Landlord, as the Landlord may think fit.
- 3.2 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.
- 3.3 The Landlord shall not be liable for any loss or inconvenience to the Tenant by reason of the exercise of any of the Reservations (other than any loss or inconvenience in respect of which the law prevents the Landlord excluding liability).

#### 4 The Annual Rent and other payments

- 4.1 The Tenant shall pay the Annual Rent and any VAT in respect of it upon request.
- 4.2 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. If any such costs are charged in respect of the Property together with other property, the Tenant shall pay a fair proportion (determined conclusively by the Landlord except as to questions of law and in the absence of any manifest error) of the total.
- 4.3 The Tenant shall pay all rates, taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, other than:
- 4.3.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
  - 4.3.2 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.

If any such rates, taxes or other impositions and outgoings are payable in respect of the Property together with other property the Tenant shall pay a fair proportion (determined conclusively by the Landlord except as to questions of law and in the absence of any manifest error) of the total.

- 4.4 All sums payable by the Tenant are exclusive of any VAT that may be chargeable and the Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease. Every obligation on the Tenant under or in connection with this lease to pay, refund or to indemnify the Landlord or any other person any money or against any liability includes an



obligation to pay, refund or indemnify against any VAT, or an amount equal to any VAT, chargeable in respect of it.

- 4.5 The Tenant shall pay the costs and expenses (assessed on a full indemnity basis) of the Landlord, including any solicitors' or other professionals' costs and expenses and whether incurred during or after the end of the Term, in connection with or in contemplation of the enforcement of the tenant covenants of this lease and with any consent applied for in connection with this lease and the preparing and serving of 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.
- 4.6 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, and in the case of Annual Rent only, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest on that amount at the Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period beginning on the due date and ending on the date of payment.
- 4.7 The Annual Rent and all other money due under this lease are to be paid by the Tenant without deduction, counterclaim or set-off.

## 5 Covenant to comply with covenants in the Head Lease

The Tenant shall observe and perform the tenant covenants in the Head Lease in so far as they are consistent with the covenants in this lease, except the covenants to insure, pay the rents reserved by the Head Lease and in respect of repair.

## 6 Insurance

- 6.1 The Landlord shall keep the Property (other than any plate glass) insured against loss or damage by fire and such other risks as the Landlord considers it prudent to insure against, provided that such insurance is available in the market on reasonable terms acceptable to the Landlord. The Landlord shall inform the Tenant of relevant terms of its insurance policy.
- 6.2 The Tenant shall pay within 10 working days of written demand the cost to the Landlord of the insurance of the Property in accordance with clause 6.1 and of insurance against loss of the Annual Rent for a period not exceeding 12 months (and any insurance premium tax in relation to that amount).
- 6.3 If the Property is damaged or destroyed by a risk against which the Landlord has insured so as to make the Property unfit for occupation and use, then the Landlord shall be required to claim under the insurance policy and use all insurance money received to repair the damage for which the money has been received unless it is impossible or commercially impractical to do so in which case the Landlord may determine this lease by giving notice to the Tenant.
- 6.4 If the Property is damaged or destroyed by a risk against which the Landlord has insured so as to make the Property unfit for occupation and use, then provided that:



6.4.1 the Landlord's insurance policy has not been vitiated in whole or part by any act or omission of the Tenant or any person at the Property with the actual or implied authority of the Tenant; and

6.4.2 the Landlord has not repaired the Property so as to make the Property fit for occupation and use within 6 months of it having been damaged or destroyed,

the Tenant may determine this lease by giving notice to the Landlord.

6.5 If the Property is damaged or destroyed by a risk against which the Landlord is not obliged to insure pursuant to clause 6.1, so as to make the Property unfit for occupation and use, then the Landlord or the Tenant may terminate this lease by giving notice to the other.

6.6 In any case where the Tenant is able to terminate this lease pursuant to this clause (or would be able to if the period of 6 months mentioned in clause 6.4.2 had ended), then:

6.6.1 payment of the Annual Rent (or a fair proportion of it according to the nature and extent of the damage) shall be suspended; and

6.6.2 the Tenant shall not be liable to carry out any works of repair to the Property

until the Property has been repaired so as to make the Property fit for occupation and use or, if earlier, this lease is terminated.

6.7 If this lease is terminated pursuant to this clause, then the termination shall be without prejudice to any right or remedy of the Landlord in respect of any antecedent breach of the tenant covenants of this lease.

6.8 Nothing in this clause shall oblige the Landlord to repair the Property.

## 7 Prohibition of dealings

7.1 The Tenant shall not:

7.1.1 assign, underlet, charge, part with or share possession or share occupation of this lease or the whole or part of the Property;

7.1.2 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;

7.1.3 hold the lease on trust for any person (except by reason only of joint legal ownership); or

7.1.4 grant any right or licence over the Property in favour of any third party,

excluding only such assignments, underlets, charges or otherwise need to share possession of the Property to facilitate the Permitted Use.

**8 Repairs and decoration**

The Tenant shall keep the Property in a secure condition.

**9 Alterations and signs**

9.1 The Tenant shall not make any alteration to the Property (including any Service Media forming part of the Property) without the consent of the Landlord (such consent not to be unreasonably withheld or delayed) other than as mentioned in clause 9.2.

9.2 The Tenant may install and remove non-structural, demountable partitioning, without the consent of the Landlord. The Tenant shall not be required to put the Property back into the state it was at before the date of this lease.

9.3 The Tenant may attach any sign, poster or advertisement to the Property provided that any such sign, poster or advertisement is appropriate to the nature and location of the Property and to the Permitted Use and does not cause a nuisance or offence to local residents.

9.4 The Tenant shall permit the Landlord to enter the Property at reasonable times and on reasonable prior written notice to the Tenant to erect upon a suitable part of the Property:

9.4.1 at any time during the Term a notice for the sale of the Landlord's interest in the Premises;

9.4.2 at any time during the last three months of the Term a notice for the re-letting of the Premises;

and to permit any prospective purchaser or tenant (and their mortgagees) and their professional advisers to inspect the Property.

**10 Breach of repair and maintenance obligations**

The Landlord may enter the Property to inspect its condition and may give the Tenant a notice of any breach of any of the tenant 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.

**11 Use**

11.1 The Tenant shall not use the Property for any purpose except the Permitted Use.

11.2 The Tenant shall keep the shop window of the Property appropriately dressed and lit.

11.3 The Tenant shall not leave any refuse on any street or pavement outside the Property except at such times and in such manner as accord with the

arrangements for the collection of refuse from the Property by the local authority.

11.4 The Tenant shall load and unload goods only at such times as accord with any bylaws or parking restrictions imposed by the local authority.

11.5 The Tenant shall not use the Property, or exercise any of the Rights:

11.5.1 for any illegal purpose; or

11.5.2 for any purpose or in a manner that would cause any loss, nuisance or inconvenience to the Landlord or any owner or occupier of any other property; or

11.5.3 in any way that would vitiate the Landlord's insurance of the Property; or

11.5.4 in a manner that interferes with any right subject to which this lease is granted.

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

## 12 Compliance with laws

The Tenant shall comply with all laws relating to the Property and the occupation and use of the Property by the Tenant, to the use of all Service Media and machinery and equipment at or serving the Property, and to all materials kept at or disposed from the Property.

## 13 Returning the Property to the Landlord

13.1 At the end of the Term, the Tenant shall return the Property to the Landlord in the condition required by this lease and shall remove from the Property all stock and chattels belonging to or used by it.

13.2 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any stock, chattels, fittings 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.

## 14 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 or any person on the Property with its actual or implied authority.

## 15 Landlord's covenant's



The Landlord covenants with the Tenant:

- 15.1 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.
- 15.2 To pay the rents and any other sums payable under the Head Lease and to comply with all of the Landlord's obligations contained in the Head Lease insofar as the Tenant is not liable for such matters under the terms of this lease.
- 15.3 At the request and cost of the Tenant, to use its reasonable endeavours to obtain the consent of the Head Landlord where the Tenant makes an application to the Landlord for consent under this lease and the consent of the Head Landlord is also required under the terms of the Head Lease (provided that the Landlord will not be obliged to commence proceedings for a declaration that the Head Landlord's consent is being unreasonably withheld or delayed)

**16 Re-entry and forfeiture**

- 16.1 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:
  - 16.1.1 any rent is unpaid 21 days after becoming payable and in the case of Annual Rent only, whether it has been formally demanded or not; or
  - 16.1.2 any breach of any condition or tenant covenant of this lease.
- 16.2 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 antecedent breach of the tenant covenants of this lease.

**17 Joint and several liability**

- 17.1 Where 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.
- 17.2 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.
- 17.3 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 the failure and the Landlord has not remedied the failure within a reasonable time of service of that notice.

**18 Notices**

- 18.1 Except where this lease specifically states that a notice need not be in writing, any notice given under or in connection with this lease shall be:
- 18.1.1 in writing and for the purposes of this clause an email is not in writing; and
  - 18.1.2 given:
    - (a) 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
    - (b) by fax to the party's main fax number.
- 18.2 If a notice complies with the criteria in clause 18.1, whether or not this lease requires that notice to be in writing, it shall be deemed to have been received:
- 18.2.1 if delivered by hand, at the time the notice is left at the proper address;
  - 18.2.2 if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting; or
  - 18.2.3 if sent by fax, at 9.00 am on the next working day after transmission.
- 18.3 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.
- 18.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.
- 18.5 Within five working days after receipt of any notice or other communication affecting the Property the Tenant shall send a copy of the relevant document to the Landlord.

19 Entire agreement

- 19.1 This lease constitutes the whole agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.
- 19.2 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) other than those contained in any written replies that the Landlord's Solicitors has given to any written enquiries raised by the Seller's Solicitors before the date of this lease.

For the purposes of clause 19.2, written enquiries and written replies include any pre-contract enquiries and any replies to pre-contract enquiries

that are requested and include enquiries or replies so requested or given by email.

19.3 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.

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

20 **Governing law**

This lease and any dispute or claim arising out of it 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.

21 **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 lease or its subject matter or formation (including non-contractual disputes or claims).

22 **Miscellaneous**

22.1 The parties confirm that:

22.1.1 the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy created by this lease, [ 22 January 2019 ] before this was entered into a certified copy of which notice is annexed to this lease;

22.1.2 the Tenant made a statutory declaration dated [ 28 January 2019 ] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 a certified copy of which statutory declaration is annexed to this lease; and

22.1.3 there is no agreement for lease to which this lease gives effect.

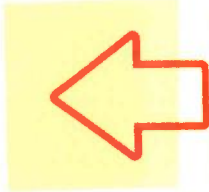
22.2 The parties agree that the provisions of sections 24 to 28 of the LTA 1954 are excluded in relation to the tenancy created by this lease.

22.3 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.

IN WITNESS whereof this deed has been executed the day and year first before written.



The Common Seal of )  
HOMES AND COMMUNITIES AGENCY )  
was hereunto affixed in the presence of )



D10308

Authorised Signatory

Print Name:

Rex Nicholls  
Senior Solicitor

Executed as a deed by  
BUSTLER MARKET LIMITED

.....

Director

acting by a director, in the  
presence of:

.....

Witness

Name

Address

Occupation