

**DATED**

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**LEASE**

**RELATING TO**

**SUITE E COTGRAVE BUSINESS HUB CENTRE, CANDLEBY LANE, COTGRAVE,  
NOTTINGHAMSHIRE**

**RUSHCLIFFE BOROUGH COUNCIL**

and

**ROBERT SEVERN, JON SUCH, DAVID FERNLEY AND JAMES SUTCLIFFE**

**FOR AND ON BEHALF OF THE NOTTINGHAMSHIRE LOCAL PHARMACEUTICAL COMMITTEE**

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Annexure:

SCHEDULE OF CONDITION

**THIS LEASE** is dated

**PARTIES**

- (1) Rushcliffe Borough Council of Rushcliffe Arena, Rugby Road, Nottingham, NG2 7YG, United Kingdom (**Landlord**).
- (2) Robert Severn of 5 Fearon Close Gunthorpe NG14 7FA, Jon Such of 7 Gables Farm Drive, Costock LE12 6JG, David Fernley of Chestnut Lodge, May Lodge Drive, Rufford, NG22 9DE and James Sutcliffe of D90 EF07, Thane Road, Beeston NG90 1BS for and on behalf of the Nottinghamshire Local Pharmaceutical Committee(**Tenant**).

**AGREED TERMS**

**1. INTERPRETATION**

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

1.1 Definitions:

**Act of Insolvency:**

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;
- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor;
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off;
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies);

- (i) the making of an application for a bankruptcy order, the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor; or
- (j) the levying of any execution or other such process on or against, or taking control or possession of, the whole or any part of the Tenant's assets.

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

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

**Annual Rent:** rent at an initial rate of the Base Rent and then as revised pursuant to this lease.

**Base Rent:** £5,000 per annum exclusive

**Base RPI Month:** October 2018

**Bike Store:** the area from time to time designated by the Landlord for the storage of non-motorised bicycles

**Bin Area:** the area from time to time designated by the Landlord for the storage of bins servicing the Building

**Break Date:** a date which is at least 6 months after the service of the Break Notice

**Break Notice:** Written notice to terminate this lease specifying the Break Date

**Break Penalty:** The amount calculated in accordance with the following provisions:

- i) A sum equal to two months' Annual Rent where the Break Notice is given before the second anniversary of this lease
- ii) A sum equal to one month's Annual Rent where the Break Notice is given after the second anniversary of this lease but before the third anniversary of this lease

**Building:** The building shown shaded blue on the Plan.

**CDM Regulations:** the Construction (Design and Management) Regulations 2015 (SI 2015/51).

**Common Parts:** the Building other than the Property and the Lettable Units.

**Contractual Term:** a term of years beginning on, and including the date of this lease and ending on, and including

**Default Interest Rate:** 4.00% per annum above the Interest Rate.

**Energy Assessor:** an individual who is a member of an accreditation scheme approved by the Secretary of State in accordance with regulation 22 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118) or regulation 30 of the Building Regulations 2010 (SI 2010/2214).

**Energy Performance Certificate:** a certificate as defined in regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

**Insurance Rent:** the aggregate in each year of:

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

**Insured Risks:** means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, subsidence, ground slip, heave, riot, 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 Barclays Bank PLC, or if that base rate stops being used or published (or becomes a negative rate) then a 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 known as Cotgrave Shopping Centre, Candleby Lane, Cotgrave, Nottingham registered at HM Land Registry with title numbers NT184568 and NT527846 together with such part or parts of the parcels of land currently registered with title numbers NT452728 and NT224014 from such date or dates as those are owned by the Landlord

**Lettable Unit:** a floor or part of a floor of the Building other than the Property, that is capable of being let and occupied on terms similar to those of this lease.

**Lifts:** all lifts and lift machinery and equipment in the Building.

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

**Permitted Use:** Office use falling within use class B1 (offices) under the Town and Country Planning (Use Classes) Order 1987 as amended at the date of this lease.

**Permitted Hours:** such times as the Landlord shall reasonably agree with the Tenant from time to time.

**Plan :** the plan attached to this lease. References to numbered plans shall have a corresponding meaning.

**Property:** Suite E on the First Floor of the Building (the floor plans of which are shown edged red on Plan 1) in respect of each of those floors bounded by and including:

- (a) the concrete slabs;
- (b) the ceiling plasterboard;
- (c) the interior plasterwork and finishes of the exterior walls and columns;
- (d) the plasterwork and finishes of the interior structural walls and columns that adjoin another Lettable Unit or the Common Parts;
- (e) the doors and windows within the interior, structural walls and columns that adjoin another Lettable Unit or the Common Parts and their frames and fittings;
- (f) one half of the thickness of the interior, non-structural walls and columns that adjoin another Lettable Unit or the Common Parts;
- (g) the doors and windows within the interior, non-structural walls and columns that adjoin the Common Parts and their frames and fittings;

but excluding:

- (h) the windows in the exterior walls and their frames and fittings;
- (i) the whole of the interior structural walls and columns within that part of the Building other than their plasterwork and other than the doors and windows and their frames and fittings within such walls; and
- (j) all Service Media within that part of the Building but which do not exclusively serve that part of the Building.

**Recommendation Report:** a report as defined in regulation 4 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

**Rent Commencement Date:**

**Rent Deposit:** the sum of £1,250.00 plus VAT

**Rent Payment Dates:** the 21<sup>st</sup> day of each month.

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

**Review Date:** Three years from the commencement date of this lease

**RPI:** The Retail Prices Index or any official index replacing it

**Service Charge:** a fair proportion of the Service Costs.

**Service Charge Year:** is the annual accounting period relating to the Services and the Service Costs beginning on 1 April 2018 and each subsequent year during the term.

**Service Costs:** the costs listed in clause 8.2.

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

**Services:** the services listed in clause 8.1.

**Shopping Centre:** the areas which the Landlord shall from time to time designate for car parking, pedestrianised access, landscaped areas and other amenity areas within the Landlord's Neighbouring Property

**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 and the charges register of title number NT184568 and NT527846.

**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.

- 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 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, references to the **Building**, the **Common Parts**, a **Lettable Unit** and the **Property** are to the whole and any part of them or it.
- 1.7 The expression **neighbouring property** does not include the Building.
- 1.8 A reference to the **term** is to the Contractual Term.
- 1.9 A reference to the **end of the term** is to the end of the term however it ends.

- 1.10 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 40.5 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 40.6.
- 1.11 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.12 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.
- 1.13 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.
- 1.14 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.
- 1.15 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.
- 1.16 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.17 Subject to clause 39.3 a reference to **writing** or **written** includes fax but not email.
- 1.18 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.
- 1.19 Clause, Schedule and paragraph headings shall not affect the interpretation of this lease.
- 1.20 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.21 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

## 2. GRANT

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

## 3. ANCILLARY RIGHTS

- 3.1 The Landlord grants the Tenant the following rights (the **Rights**):
- (a) 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;
  - (b) the right to use (where appropriate) external areas of the Common Parts for the purposes of pedestrian access to and egress from the interior of the Building and to and from the parts of the Common Parts referred to in clause 3.1(c);
  - (c) the right to use the Bike Store and the bins in the Bin Area for the purposes properly allocated to them by the Landlord;
  - (d) the right to use the Lifts, the hallways, corridors, stairways and landings of the Common Parts for the purposes of access to and egress from the Property;
  - (e) the right to enter the Common Parts or any other Lettable Unit so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease; and
  - (f) the right to use and to connect into Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this lease or are installed or constructed during the term of this lease
- 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 30.1.
- 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), clause 3.1(c) and clause 3.1(d) 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 In relation to the Rights mentioned in clause 3.1(c) the Landlord may from time to time designate within the Common Parts or the Landlord's Neighbouring Property the spaces or bins (as the case may be) in respect of which the Tenant may exercise that Right.
- 3.8 In exercising the Right mentioned in clause 3.1(e), the Tenant shall:
- (a) except in case of emergency, give reasonable notice to the Landlord and any occupiers of the relevant Lettable Unit(s) of its intention to exercise that Right;
  - (b) where reasonably required by the Landlord or the occupier of the relevant Lettable Unit(s), exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant Lettable Unit(s);
  - (c) cause as little damage as possible to the Common Parts and the other Lettable Units and to any property belonging to or used by the Landlord or the tenants or occupiers of the other Lettable Units;
  - (d) cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the other Lettable Units as is reasonably practicable; and
  - (e) promptly make good (to the reasonable satisfaction of the Landlord) any damage caused to the Common Parts (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.
- 3.9 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 Lettable Unit or any neighbouring property nor is to be taken to show that the Tenant may have any right over the

Common Parts or any Lettable Unit 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:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this lease or which are installed or constructed during the period of 70 years from the commencement of the term; 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 mentioned in this clause;
- (c) at any time during the term, the full and free right to develop the Landlord's Neighbouring Property as the Landlord may think fit;
- (d) the right to erect scaffolding at the Property or the Building and attach it to any part of the Property or the Building in connection with any of the Reservations;
- (e) the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations;
- (f) 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) clause 3.1(b) are exercised; and
- (g) the right to re-route and replace any Service Media over which the Rights mentioned in clause 3 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.

4.2 The Landlord reserves the right to enter the Property:

- (a) to repair, maintain, install, construct, re-route or replace any Service Media or structure relating to any of the Reservations;
- (b) to carry out any works to any other Lettable Unit; and
- (c) for any other purpose mentioned in or connected with:
  - (i) this lease;
  - (ii) the Reservations; and

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

- 4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.
- 4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.
- 4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or 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:
- (a) physical damage to the Property; or
  - (b) any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

## **5. THIRD PARTY RIGHTS**

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

## **6. THE ANNUAL RENT**

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by twelve 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 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 Rent Commencement Date, calculated on a daily basis, in respect of the period beginning on the Rent Commencement Date and ending on the day before the next Rent Payment Date.

## **7. REVIEW OF THE ANNUAL RENT**

- 7.1 The Annual Rent shall be reviewed on the Review Date to the indexed rent determined pursuant to this clause.

- 7.2 The indexed rent for a Review Date shall be determined by multiplying the Base Rent by the All items index value of the RPI for the month two months before the month in which that Review Date falls, then dividing the product by the All items index value of the RPI for the Base RPI Month, provided always that :-
- 7.2.1 if the indexed rent for the Review Date is greater than 108% of the Annual Rent payable immediately prior to the Review Date then the indexed rent for the Review Date shall be 108% of the Annual Rent payable immediately prior to the Review Date and;
- 7.2.2 if the indexed rent for the Review Date is less than the Annual Rent payable immediately prior to the Review Date, then the indexed rent for the Review Date shall be the same as the Annual Rent payable immediately prior to the Review Date
- 7.3 The Landlord shall calculate the indexed rent and shall give the Tenant written notice of the indexed rent as soon as reasonably practicable after it has been calculated
- 7.4 If the revised Annual Rent has not been calculated by the Landlord and notified to the Tenant on or before a Review Date, the Annual Rent payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Annual Rent is notified by the Landlord to the Tenant, the Tenant shall pay:
- (a) the shortfall (if any) between the amount that it has paid for the period from the Review Date until the Rent Payment Date following the date of notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been notified on or before that Review Date; and
  - (b) interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the revised Annual Rent had been notified on or before that Review Date and the date payment is received by the Landlord.
- 7.5 Time shall not be of the essence for the purposes of this clause.
- 7.6 Subject to clause 7.7 if there is any change to the methods used to compile the RPI including any change to the items from which the All items index of the RPI is compiled, or if the reference base used to compile the RPI changes, the calculation of the indexed rent shall be made taking into account the effect of any this change
- 7.7 The Landlord and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Annual Rent if either:
- a) The Landlord or the Tenant reasonably believes that any change referred to in clause 7.6 would fundamentally alter the calculation of the indexed rent in accordance with this clause 7, and has given notice to the other party of this belief; or

b) It becomes impossible or impracticable to calculate the indexed rent in accordance with this clause 7

7.8 The Expert shall determine a question, dispute or disagreement that arises between the parties in the following circumstances:

a) Where any question or dispute arises between the parties as to the amount of the Annual Rent payable or as to the interpretation, application or effect of any part of this clause 7; or

b) Where the Landlord and the Tenant fail to reach an agreement under clause 7.7

The Expert shall have full power to determine the question, dispute or disagreement. When determining such a question, dispute or disagreement, the Expert may, if he considers it appropriate, specify that an alternative mechanism for setting the Annual Rent should apply to this lease and this includes (but is not limited to) substituting an alternative index for the RPI

7.9 The Expert 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 Expert at any time before either of them applies to the President for the Expert to be appointed.

7.10 The Expert shall act as an expert and not as an arbitrator. The Expert's decision shall be given in writing. The Expert's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud

7.11 The Expert shall give the Landlord and the Tenant an opportunity to make written representations to the Expert and to make written counter-representations commenting on the representations of the other party to the Expert. The parties will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision

7.12 Either the Landlord or the Tenant may apply to the President to discharge the Expert if the Expert:

a) Dies;

b) Becomes unwilling or incapable of acting; or

c) Unreasonably delays in making any determination

Clause 7.9 shall then apply in relation to the appointment of a replacement

7.13 The fees and expenses of the Expert and the cost of the Expert's appointment and any counsel's fees, or other fees, reasonably incurred by the Expert shall be payable by the Landlord and the Tenant in the proportions that the Expert directs (or if the Expert

makes no direction, then equally). If either the Landlord or the Tenant does not pay its part of the Expert's fees and expenses within ten working days after demand by the Expert then:

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

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

## **8. SERVICES AND SERVICE CHARGE**

### **8.1 The Services are:**

- (a) cleaning, maintaining, decorating and repairing the Common Parts, including the structural parts and all Service Media forming part of the Common Parts (and remedying any inherent defect in those parts of the Building);
- (b) lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment (including fire detection equipment) on the Common Parts;
- (c) cleaning, maintaining, repairing and replacing refuse bins and other amenities on the Common Parts and the Shopping Centre;
- (d) cleaning, maintaining, repairing and replacing signage for the Common Parts and the Shopping Centre;
- (e) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Common Parts and the Shopping Centre;
- (f) cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;
- (g) cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers in the entrance hall of the Building;
- (h) maintaining the car parking facilities, the landscaped areas the grassed areas and other amenities in the Shopping Centre;
- (i) cleaning, maintaining, repairing the Lifts in the Common Parts;
- (j) cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;
- (k) cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;

- (l) cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in the lavatories on the Common Parts and providing hot and cold water, soap, paper, towels and other supplies for them;
- (m) heating the internal areas of the Common Parts and cleaning, maintaining, repairing and replacing heating machinery and equipment serving the Common Parts; and
- (n) providing cleaning and maintenance staff for the Building and the Shopping Centre, where the Landlord deems it appropriate.
- (o) any other service or amenity that the Landlord may in its absolute discretion acting in accordance with the principles of good estate management provide for the benefit of the tenants occupiers visitors and users of the Building and the Shopping Centre.

8.2 The **Service Costs** are the total of:

- (a) the whole of the costs of:
  - (i) providing the Services;
  - (ii) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Common Parts;
  - (iii) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);
  - (iv) complying with all laws relating to the Common Parts, their use and any works carried out at them, and relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;
  - (v) complying with the Third Party Rights insofar as they relate to the Common Parts; and
  - (vi) 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 the 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);
- (b) the costs, fees and disbursements (on a full indemnity basis) of:
  - (i) managing agents employed by the Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same; and
  - (ii) accountants employed by the Landlord to prepare and audit the service charge accounts;
- (c) the costs of the salaries and employer costs (including pension, welfare and insurance contributions) and uniforms of cleaning and maintenance staff for

the Building and Shopping Centre and of all equipment and supplies needed for the proper performance of their duties;

- (d) 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); and
- (e) any VAT payable by the Landlord 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.

8.3 Subject to the Tenant paying the Service Charge, the Landlord shall use its reasonable endeavours:

- (a) to repair the structural parts of the Common Parts;
- (b) to provide heating to the internal areas of the Common Parts during such periods of the year as the Landlord considers appropriate;
- (c) to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Building as often as the Landlord considers appropriate;
- (d) to keep the internal areas of the Common Parts reasonably well lit; and
- (e) to keep the Lift in reasonable working order.

8.4 The Landlord may, but shall not be obliged to, provide any of the other Services. The Landlord shall not be obliged to carry out any works where 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.

8.5 The Landlord shall not be obliged to provide any of the Services before 9am or before 5pm on normal business days (such days being reasonably determined by the Landlord) .

8.6 The Landlord shall not be liable for:

- (a) 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; or
- (b) any injury, loss or damage suffered by the Tenant as a result of any absence or insufficiency of any of the Services or of any breakdown or defect in any Service Media, except where due to the negligence of the Landlord.

8.7 Before or as soon as practicable after the start of each Service Charge Year, the Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.

- 8.8 The Tenant shall pay the estimated Service Charge for each Service Charge Year in twelve equal instalments on each of the Rent Payment Dates.
- 8.9 In relation to the Service Charge Year current at the date of this lease, 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 and including the date of this lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on the date of this lease and the remaining Rent Payment Dates during the period from and including the date of this lease until the end of the Service Charge Year.
- 8.10 As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for that Service Charge Year.
- 8.11 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 and certificate of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error, the Service Charge certificate shall be conclusive as to all matters of fact to which it refers.
- 8.12 Without prejudice to clause 9.4(f), where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by an Insured Risk, the costs of that Service shall not be included in the Service Charge.
- 8.13 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 on demand. 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 credit the difference against the Tenant's next instalment of the estimated Service Charge (and where the difference exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited).

## **9. INSURANCE**

- 9.1 Subject to clause 9.2, the Landlord shall keep the Building other than any plate glass insured against loss or damage by the Insured Risks for the sum which the Landlord properly considers to be its full reinstatement cost (taking inflation of building costs into account). The Landlord shall not be obliged to insure any part of the Property installed by the Tenant.
- 9.2 The Landlord's obligation to insure is subject to:
- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and

- (b) insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

9.3 The Tenant shall pay to the Landlord on demand:

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

9.4 The Tenant shall:

- (a) 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 to continue to insure the Building and shall give the Landlord notice of that matter;
- (b) not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any insurance or additional insurance premium may become payable;
- (c) comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of the Common Parts;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk;
- (e) not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
- (f) pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay (in relation to the Building) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them.

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

- (a) provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property and its access, services and amenities is provided; or
- (b) repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
- (c) repair or rebuild the Building after a notice has been served pursuant to clause 9.7 or clause 9.8.

9.6 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed by an Insured Risk so as to make the Property inaccessible or unusable then, unless the policy of insurance in relation to the Property or the Common Parts has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use or the Common Parts have been reinstated so as to make the Property accessible or useable (as the case may be), or until the end of three years from the date of damage or destruction, if sooner.

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

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

## **10. RATES AND TAXES**

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

- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or

- (b) any taxes (other than VAT and insurance premium tax) payable by the Landlord by reason of the receipt of any of the rents due under this lease.

10.2 If any such rates, taxes or other impositions and outgoings are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.

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

## **11. UTILITIES**

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

11.2 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

## **12. COMMON ITEMS**

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

12.2 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.

## **13. VAT**

13.1 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.

13.2 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.

**14. DEFAULT INTEREST AND INTEREST**

- 14.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest 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 beginning on the due date to and including the date of payment.
- 14.2 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 beginning on the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

**15. COSTS**

- 15.1 The Tenant shall pay the reasonable and properly incurred costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:
- (a) the enforcement of the tenant covenants of this lease;
  - (b) serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
  - (c) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
  - (d) the preparation and service of a schedule of dilapidations in connection with this lease; or
  - (e) any consent or approval applied for under this lease, whether or not it is granted (unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonably to withhold it).
- 15.2 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.

**16. COMPENSATION ON VACATING**

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

**17. 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).

**18. ASSIGNMENTS**

18.1 The Tenant shall not assign the whole or any part of this lease

**19. UNDERLETTINGS**

19.1 The Tenant shall not underlet the whole or any part of the Property

**20. SHARING OCCUPATION**

The Tenant may not share occupation or part with possession with the whole or any part of the Property.

**21. CHARGING**

21.1 The Tenant shall not charge the whole or any part of this lease

**22. PROHIBITION OF OTHER DEALINGS**

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

**23. RENT DEPOSIT**

23.1 The Tenant has deposited with the Landlord the Rent Deposit

23.2 The Landlord shall hold the Rent Deposit on trust subject to the provisions hereof as a security against any default by the Tenant

23.3 Default by the Tenant shall mean:

- (a) Any failure by the Tenant to pay any sum due by way of rent as defined by this lease or
- (b) Any other sum due by the Tenant to the Landlord arising by any act or default of the Tenant under the terms of this lease

- 23.4 In the event of such default by the Tenant the Landlord upon giving the Tenant seven days' notice in writing shall be entitled to withdraw such part of the Rent Deposit as shall be necessary to make good the default of the Tenant
- 23.5 In the event of the Landlord withdrawing any sum from the Rent Deposit the Tenant shall within seven days of such withdrawal deposit with the Landlord a sum equal to the withdrawal
- 23.6 On condition that the Tenant is not in material breach of any of the covenants herein and that any works required by the Tenant on vacating the Property have been completed to the reasonable satisfaction of the Landlord the Landlord shall pay to the Tenant a Rent Deposit one month following the expiration of the Contractual Term and the Landlord having been given vacant possession of the Property
- 23.7 The rights hereby given to the Landlord shall be in addition to any other remedy the Landlord may enjoy whether under the provisions of this lease or otherwise
- 23.8 It is agreed between the Landlord and the Tenant for the avoidance of doubt:
- a) The Tenant shall not be entitled to withhold any sum properly payable under this lease or otherwise fail to observe or perform any obligation hereby by reason of the Rent Deposit
  - b) The liability of the Tenant shall not be limited to the Rent Deposit
  - c) The Tenant shall not be entitled to any interest accrued on the Rent Deposit

**24. CLOSURE OF THE REGISTERED TITLE OF THIS LEASE**

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

**25. REPAIRS**

- 25.1 Save for fair wear and tear, the Tenant shall keep the Property (including the floor coverings and door furniture) clean and tidy and in good repair and condition as to which the attached schedule of condition shall be conclusive and shall ensure that any Service Media within and exclusively serving the Property is kept in good working order.
- 25.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

- (a) the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or
- (b) the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 9.2.

25.3 The Tenant shall arrange for the air conditioning system, the intruder alarm and the hot water boiler serving at the Property to be serviced annually during the term of this lease

25.4 The Tenant shall not effect, or attempt to effect any repair to the Building or the Common Parts without the prior written consent of the Landlord

## **26. DECORATION**

26.1 The Tenant shall decorate the Property as often as is reasonably necessary and also in the last three months before the end of the term.

26.2 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 and shall include all appropriate preparatory work.

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

## **27. ALTERATIONS AND SIGNS**

27.1 The Tenant shall not make any alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld, other than as mentioned in clause 27.2.

27.2 The Tenant may install and remove non-structural, demountable partitioning, without the consent of the Landlord provided that the Tenant shall:

- (a) not carry out any such works until it has:
  - (i) provided details of the works to the insurers of the Property; and
  - (ii) given the Landlord 2 copies of the plans and specification for the works; and
- (b) make good any damage to the Property and to any part of the Common Parts

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

27.4 The Tenant shall not attach any sign, fascia, placard, board, poster or advertisement to the Property or any part of the Building so as to be seen from the outside of the Building.

27.5 The Tenant shall not carry out any alteration to the Property which would, or may reasonably be expected to, have an adverse effect on the asset rating in any Energy Performance Certificate commissioned in respect of the Property.

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

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

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

28.3 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 fifteen 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.

28.4 The Tenant shall, on or before vacating the Property, supply the Landlord with the relevant certification relating to the servicing of the air conditioning units, intruder alarm and hot water boiler

## **29. USE**

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

29.2 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Lettable Units or any owner or occupier of neighbouring property.

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

## **30. MANAGEMENT OF THE BUILDING**

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

- 30.2 The Tenant shall comply with all reasonable requests made of it by the Landlord in connection with the overall security of the Building and shall, in particular, not do anything to frustrate or compromise any security device or system in the Building
- 30.3 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any other Lettable Unit or any neighbouring property.

**31. COMPLIANCE WITH LAWS**

- 31.1 The Tenant shall comply with all laws regulations and conditions (including matters arising from the Town and County Planning Act 1990, and related legislation) relating to:
- (a) the Property and the occupation and use of the Property by the Tenant;
  - (b) the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used or operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation;
  - (c) any works carried out at the Property; and
  - (d) all materials kept at or disposed from the Property.
- 31.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.
- 31.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:
- (a) send a copy of the relevant document to the Landlord; and
  - (b) in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.
- 31.4 The Tenant shall not apply for any planning permission for the Property.
- 31.5 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.
- 31.6 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.
- 31.7 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.

- 31.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.
- 31.9 The Tenant shall not use the fire escape doors at the Building except in case of emergency

**32. ENERGY PERFORMANCE CERTIFICATES**

- 32.1 The Tenant shall:
- (a) co-operate with the Landlord so far as is reasonably necessary to allow the Landlord to obtain an Energy Performance Certificate and Recommendation Report for the Property or the Building including providing the Landlord with copies of any plans or other information held by the Tenant that would assist in obtaining an Energy Performance Certificate; and
  - (b) allow such access to any Energy Assessor appointed by the Landlord as is reasonably necessary to inspect the Property for the purposes of preparing an Energy Performance Certificate and/or Recommendation Report for the Property or the Building.
- 32.2 The Tenant shall not commission an Energy Performance Certificate for the Property.

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

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

- 33.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:
- (a) immediately inform the Landlord and shall give the Landlord notice of that action; and
  - (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

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

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

**35. INDEMNITY**

The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) 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.

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

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

**37. RE-ENTRY AND FORFEITURE**

37.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:

- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) any breach of any condition of, or tenant covenant in, this lease;
- (c) an Act of Insolvency.

37.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor.

**38. JOINT AND SEVERAL LIABILITY**

38.1 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.

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

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

38.4 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.

**39. ENTIRE AGREEMENT**

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

39.2 Each party acknowledges that in entering into this lease and any documents annexed to it it does not rely on, and shall have no remedies in respect of, any representation

or warranty (whether made innocently or negligently) other than those contained in any written replies that Rushcliffe Borough Council Legal Department has given to any written enquiries raised by the tenant before the date of this lease.

- 39.3 For the purposes of clause 39.2, **written enquiries** and **written replies** include any pre-completion enquiries and any replies to pre-contract enquiries that are requested and include enquiries or replies so requested or given by email
- 39.4 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.

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

- 40.1 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:
- (a) in writing and for the purposes of this clause an email is not in writing; and
  - (b) given:
    - (i) 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
    - (ii) by fax to the party's main fax number.
- 40.2 If a notice complies with the criteria in clause 40.1, whether or not this lease requires that notice to be in writing, it shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
  - (b) if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting; or
  - (c) if sent by fax, at 9.00 am on the next working day after transmission.
- 40.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 40.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.
- 40.5 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:
- (a) it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and
  - (b) it expressly states that the Landlord waives the requirement for a deed in that particular case.

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

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

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

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

#### **41. EXERCISE OF BREAK**

41.1 The Tenant may terminate this lease by serving a Break Notice at any time on or after the first anniversary of this lease

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

- (a) 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
- (b) Vacant possession of the whole of the Property is not given; or
- (c) There is a subsisting material breach of any of the tenant covenants relating to the state of repair and condition of the Property; or
- (d) The Tenant has not restored the Property to the reasonable satisfaction of the Landlord; or
- (e) The Landlord has not received the Break Penalty (if any) in cleared funds from the Tenant

41.3 Subject to clause 42.2 following service of a Break Notice this lease shall terminated of the Break Date

41.4 Termination of this lease on the Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease

41.5 If this lease terminates in accordance with clause 42.3 then, within 28 days after the Break Date, the Landlord shall refund to the Tenant the proportion of the Annual Rent (and any VAT paid in respect of it) received by the Landlord for the period from and excluding the Break Date up to and excluding the next Rent Payment Date, calculated on a daily basis.

**42. 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.

**43. 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).

**44. EXCLUSION OF SECTIONS 24-28 OF THE LTA 1954**

44.1 The parties confirm that:

- (a) 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, before this lease was entered into a certified copy of which notice is annexed to this lease;
- (b) the Tenant made a statutory declaration dated \_\_\_\_\_ 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
- (c) there is no agreement for lease to which this lease gives effect.

44.2 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.

**45. 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 Rushcliffe  
Borough Council was affixed hereto in  
the presence of

.....

Signed as a deed by Robert Severn  
in the presence of

.....

.....

Signed as a deed by Jon Such  
in the presence of

.....

.....

Signed as a deed by David Fernley  
in the presence of

.....

.....

Signed as a deed by James Sutcliffe  
in the presence of

.....

.....

## **FORM OF NOTICE THAT SECTIONS 24 TO 28 OF THE LANDLORD AND TENANT ACT 1954 ARE NOT TO APPLY TO A BUSINESS TENANCY**

To: Robert Severn of 5 Fearon Close Gunthorpe NG14 7FA, Jon Such of 7 Gables Farm Drive, Cotock LE12 6JG, David Fernley of Chestnut Lodge, May Lodge Drive, Rufford, NG22 9DE and James Sutcliffe of D90 EF07, Thane Road, Beeston NG90 1BS

From: Rushcliffe Borough Council whose registered office is at Rushcliffe Arena, Rugby Road, Nottingham, NG2 7YG, United Kingdom.

### **IMPORTANT NOTICE**

**You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.**

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

**If you commit yourself to the lease you will be giving up these important legal rights.**

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

**But if you do not receive at least 14 days’ notice, you will need to sign a “statutory” declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).**

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.