DATED **20**

LEASE

between

BOURNEMOUTH, CHRISTCHURCH & POOLE

and

[ ]

IN RESPECT OF PREMISES

at

WHITECLIFF PAVILION,
WHITECLIFF ROAD,
POOLE
BH14 DB

The draft lease may be subject to amendment as necessary to reflect the successful tender, the actual design and site specific circumstances.

LR1. Date of lease

[DATE]

LR2. Title number(s)

LR2.1 Landlord's title number(s)

DT383043

LR2.2 Other title numbers

None

LR3. Parties to this lease

Landlord
BOURNEMOUTH, **CHRISTCHURCH AND POOLE COUNCIL**
Town Hall, Bourne Avenue, Bournemouth, BH2 6DY

Tenant

[[COMPANY] NAME]

[[REGISTERED OFFICE] ADDRESS]

[COMPANY REGISTERED NUMBER]

Other parties

[[None]

[Guarantor] [*TO BE CONFIRMED]*

[COMPANY NAME]

[REGISTERED OFFICE ADDRESS]

[COMPANY REGISTERED NUMBER]

LR4. Property

In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.

See the definition of "Property" in *Clause 1.1* of this lease.

LR5. Prescribed statements etc.

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.

None.

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

None.

LR6. Term for which the Property is leased

The term specified in the definition of "Contractual Term" in *Clause 1.1* of this lease.

LR7. Premium

None.

LR8. Prohibitions or restrictions on disposing of this lease

This lease contains a provision that prohibits or restricts dispositions.

LR9. Rights of acquisition etc.

LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None.

LR9.2 Tenant's covenant to (or offer to) surrender this lease

None.

LR9.3 Landlord's contractual rights to acquire this lease

None.

LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property

None.

LR11. Easements

LR11.1 Easements granted by this lease for the benefit of the Property

The easements set out in *Paragraph 1* of *Schedule 2* to this lease are granted by this lease for the benefit of the Property.

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

The easements set out in *Paragraph 1* of *Schedule 3* to this lease are granted or reserved over the Property for the benefit of other property.

LR12. Estate rentcharge burdening the Property

None.

LR13. Application for standard form of restriction

None.

LR14. Declaration of trust where there is more than one person comprising the Tenant

[OMIT ALL INAPPLICABLE STATEMENTS]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.]

[The Tenant is more than one person. They are to hold the Property on trust [COMPLETE AS NECESSARY].]

This lease is dated [DATE]

PARTIES

(1) **BOURNEMOUTH**, **CHRISTCHURCH AND POOLE COUNCIL** of Town Hall, Bourne Avenue, Bournemouth, BH2 6DY **(Landlord)**

(2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] OR [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] **(Tenant)**

[***(3)*** *[FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] OR [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]* ***(Guarantor)*** *]*[1]

BACKGROUND

(A) The Landlord is the freehold owner of the Land and the Building.

(B) The Property forms part of the Building.

(C) The Landlord has agreed to grant a lease of the Property to the Tenant on the terms set out in this lease.

(D) [The Guarantor has agreed to guarantee the Tenant's obligations under this lease.]

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

Accessway: the service road shown coloured brown on the Land Plan or such alternative service roads designated from time to time by the Landlord.

Authorised Person: any:

a. undertenant or person deriving title under the Tenant;

b. workers, contractors or agents of the Tenant or of any person referred to in paragraph (a) of this definition; and

c. person at the Property or the Building with the actual or implied authority of the Tenant or any person referred to in paragraph (a) or paragraph (b) of this definition.

Base CPI Month: month which falls two months before the Rent Commencement Date or the Previous

[1] A guarantor may be requested at the Council's discretion. If a guarantor is not requested, then the references to guarantees will be deleted.

Review Date

Base Rent: rent at an initial rate of £[AMOUNT] per annum exclusive of VAT and then as revised under *Schedule 5*

Base Rent Commencement Date: [first anniversary of the lease]

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

Break Notice: written notice to terminate this lease specifying the Break Date and served in accordance with Clause 47.

Building: the building known as the Pavilion, Queen Elizabeth 2 Whitecliff Recreation Ground which is registered as part of title number DT383043 and shown edged red on the Land Plan;

Building Damage: damage to or destruction of the Building that makes the Property wholly or partially unfit for occupation and use or inaccessible.

Car Park: the public car park on the Landlord's Neighbouring Property as shown coloured grey on the Land Plan

Common Parts: the parts of the Building designated from time to time by the Landlord for use by the tenants and occupiers at the Building and their employees, agents, Tenants and visitors to the Building.

Community Facilities: the public toilets and changing rooms which form part of the Building as shown edged [ ] on the Property Plan

Contractual Term: a term of years from and including the date of this lease to and including [DATE].

Current Service Charge Year: the Service Charge Year current at the date of this lease.

CPI: the Consumer Prices Index or any official index replacing it.

Default Interest Rate: 4% 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 EPC Regulations.

Energy Performance Certificate: a certificate as defined in regulation 2(1) of the EPC Regulations.

EPC Regulations: Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

Estimated Service Charge: a sum assessed conclusively by the Landlord or its agents as being a fair

and reasonable estimate of the Service Charge for a Service Charge Year.

Excluded Insurance Items: any:

a. glass in the front of the Property; and

b. tenant's fixtures that are installed by or for the Tenant and form part of the Building.[2]

Expert: an independent surveyor:

a. who is a Member or Fellow of the Royal Institution of Chartered Surveyors;

b. with at least 10 years' post-qualification experience including relevant experience in the subject matter of the dispute; and

c. appointed in accordance with *clause 51*.

Extended Trading Hours:

a. between 1 April to 30 September the hours of 07:00 to 21:00 daily

b. between 1 October and 31 March the hours of 07:00 and 18:00 daily

Final Service Charge Year: the Service Charge Year during which the Termination Date occurs.

Gross Turnover: the gross turnover calculated in accordance with Para 2 of Schedule 4

Group Company: a company within the same group of companies as the Tenant within the meaning of section 42(1) of the LTA 1954.

Insolvency Event: subject to *Clause [1.16]*, any one or more of the following:

a. the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor;

b. the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;

c. the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor;

d. the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;

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

f. the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor;

g. the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an

[2] To be confirmed dependant upon design.

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); [or]

i. the making of an application for a bankruptcy order, the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor[. **OR** ; 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.][3]

Insurance Rent: the aggregate in each year of:

a. the Tenant's Proportion of the gross cost of any premiums that the Landlord expends and any fees and other expenses that the Landlord reasonably incurs in insuring the Building against the Insured Risks for the Reinstatement Cost in accordance with this lease;

b. the Tenant's Proportion of the gross cost of the premium that the Landlord expends in effecting public liability insurance in relation to the Common Parts in accordance with this lease;

c. the gross cost of the premium for insurance for loss of Base Rent from the Property for two years; and

d. any IPT and any VAT (except to the extent that the Landlord obtains credit for such VAT as input tax or otherwise recovers it) payable on any sum set out in paragraphs (a) to (c) of this definition.

Insured Risks: such events and risks that are normally covered in relation to property of the same type as the Property together with any other risks against which the Landlord decides to insure against from time to time (acting reasonably) providing that such cover is available on the commercial market and **Insured Risk** means any one of the Insured Risks.

Interest Rate: the base rate from time to time of the Bank of England or, if that base rate stops being used or published, a comparable commercial rate specified by the Landlord (acting reasonably).

IPT: Insurance Premium Tax chargeable under the Finance Act 1994 or any similar replacement or additional tax.

Land Plan: the plan annexed to this lease at *Annex [B]* and marked "Land Plan".

Landlord's FFF&E: the fixed and moveable items being fixtures, fittings, furnishings and equipment more particularly described in Schedule [9].

Landlord's Neighbouring Property: the freehold property known as Whitecliff Recreation Ground, Sandbanks Road, Poole registered at HM Land Registry with title number DT383043 shown edged blue on the Land Plan.

[3] This will be amended to suit the circumstances of the successful bidder.

Loading and Delivery Hours: the hours of 08:00 to 18:00 on Mondays to Saturdays (except bank and public holidays) and the hours of 09:00 to 17:00 on Sundays and bank and public holidays or such alternative hours as the Landlord (acting reasonably) may stipulate from time to time.

LPA 1925: Law of Property Act 1925.

LTA 1954: Landlord and Tenant Act 1954.

LTCA 1995: Landlord and Tenant (Covenants) Act 1995.

Permitted Use: use as a cafe within Use Class A3 of the Town and Country Planning (Use Classes) Order 1987 as at the date this lease is granted [with ancillary community space][4].

President: the president for the time being of the Royal Institution of Chartered Surveyors or a person acting on their behalf.

Property: the property described in *Schedule [1*.]

Property Management Agreement; the agreement of even date covering the operation and management of the Community Facilities by the Tenant.

Property Plan: the plan annexed to this lease at *Annex A* and marked "Property Plan".[5]

Rates and Taxes: 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 (or a fair proportion of the total cost of those rates, taxes, impositions and outgoings if any are payable in respect of the Property together with any other property) but excluding any taxes:

a. payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease

b. (except VAT) payable by the Landlord by reason of the receipt of any of the Rents due under this lease.

Recommendation Report: a report as defined in regulation 4 of the EPC Regulations.

Reinstatement Cost: the full cost of reinstatement of the Building taking into account inflation of building costs and including any costs of demolition, site clearance, site protection, shoring up, professionals' and statutory fees and incidental expenses and any other work to the Building that may be required by law and any VAT on all such costs, fees and expenses.

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[4] To be revised depending upon the final design and subject to planning permission.

[5] This plan will be prepared upon practical completion of the construction.

Rents: the rents set out in *Clause [2.2]*.

Reservations: the easements and other rights excepted and reserved in *Paragraph [1]* of *Schedule [3]*.

Retained Parts: all parts of the Building including (but not limited to) all of:

a. the structural parts of the Building;

b. the Service Media;

c. the Common Parts; and

d. the Community Facilities;

but excluding the Property.

Review Date: [second anniversary of lease] and every anniversary of that date.

Rights: the easements and other rights granted in [*Paragraph 1* of *Schedule 2*.]

Services: the services set out in [*Part 1* of *Schedule 7*.]

Service Charge: the Tenant's Proportion of the Service Costs.

Service Charge Account: any account set up and maintained by the Landlord or its agents into which the service charge payments are paid.

Service Charge Statement: a statement that sets out the Service Costs and Service Charge for a Service Charge Year and is certified by or on behalf of the Landlord.

Service Charge Year: subject to [*Paragraph 10.2(a)]* of [*Part 4* of *Schedule 7*,] the annual accounting period ending on the anniversary of this lease in each year or such alternative annual accounting period as the Landlord may from time to time stipulate and notify to the Tenant in accordance with [*Paragraph 10.1* of *Part 4* of *Schedule 7*.]

Service Costs: the costs set out in *Part 2* of [*Schedule 7]*.

Service Costs Budget: a budget that sets out the estimated Service Costs for a Service Charge Year.

Service Media: all media for the supply or removal of Utilities and all structures, machinery and equipment ancillary to those media.

Signs: signs, fascia, awnings, placards, boards, posters and advertisements.

Tenant Damage: damage or destruction caused (with the intention of causing damage) by an act or omission of the Tenant or any Authorised Person.

Tenant's Proportion: [PERCENTAGE]%.][6]

Term: the Contractual Term

Termination Date: the date on which this lease ends (however it ends).

Trading Hours:

a. between 1 April and 30 September, the hours of 10:00 to 16:00 Monday to Sunday

b. between 1 October and 31 March the hours of 10:00 to 14:00 on Saturdays and Sundays (save that the tenant is not expected to open on Christmas Day.)

Transaction: any dealing with this lease or the devolution or transmission of or parting with possession of any interest in it including charging;

Turnover rent: the rent calculated, and payable, in accordance with *Schedule [4]*

Turnover Rent Commencement Date: the date of this lease

Uninsured Risks: any of the risks specified in the definition of Insured Risks where such risks are not insured against at the date of the relevant damage or destruction because:

a. of an exclusion imposed by the insurers; or

b. insurance for such risks was not available in the London insurance market on reasonable terms acceptable to the Landlord at the time the insurance policy was entered into;

and **Uninsured Risk** means any one of the Uninsured Risks.

Utilities: electricity, gas, water, sewage, air-conditioning, heating, energy, telecommunications, data and all other services and utilities.

Utility Costs: all costs in connection with the supply or removal of Utilities to or from the Property (or a fair proportion of the total cost if any of those costs are payable in respect of the Property together with any other property).

VAT: value added tax or any equivalent tax chargeable in the UK.

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 or collateral to it.

[6] This will be calculated once the design has been finalised.

1.3 The Schedules form part of this lease and shall have effect as if set out in full in the body of this lease. Any reference to **this lease** includes the Schedules.

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

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

1.6 A reference to:

(a) the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease;

(b) the **Tenant** includes a reference to its successors in title and assigns; [and]

(c) 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.

1.7 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.

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

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

1.10 The expressions **authorised guarantee agreement**, **landlord covenant** and **tenant covenant** each has the meaning given to it by the LTCA 1995.

1.11 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.

1.12 References to:

(a) the consent of the Landlord are to the consent of the Landlord given in accordance with [*Clause 50.1*;]

(b) the approval of the Landlord are to the approval of the Landlord given in accordance with [*Clause 50.3*;]

where such consent or approval is required under the terms of the mortgage. Except that nothing in this lease shall be construed as imposing on any mortgagee any obligation (or indicating that such an obligation is imposed on any mortgagee by the terms of the mortgage) not unreasonably to refuse any such consent.

1.13 Unless the context otherwise requires, references to the **Building**, the **Common Parts**, the **Landlord's Neighbouring Property**, the **Property** and the **Retained Parts** are to the whole and any part of them or it.

1.14 For the purposes of each of the following:

(a) the easements set out in [*Paragraph 1* of *Schedule 2]* that burden the Land (excluding the Property);

(b) the easements set out in [*Paragraph 1* of *Schedule 3]* that benefit the Land (excluding the Property);

(c) the registration of the easements referred to in *Clause [1.14(a)]* and *Clause [1.14(b)]* at HM Land Registry;

(d) LR 11.1; and

(e) *Clause [42.2]*;

the Building shall only include the land and buildings specified at paragraph (a) of the definition of the Building and no other land or buildings.

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 For the purposes of the definition of **Insolvency Event**:

(a) where any of the paragraphs in that definition apply in relation to:

(i) a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively), that paragraph shall apply subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended); and

(ii) a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000), that paragraph shall apply subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended); and

(b) Insolvency Event 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.

1.17 A reference to **writing** or **written** excludes fax and email.

1.18 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.19 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

1.20 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.

1.21 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it 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.

2. GRANT

2.1 [At the request of the Guarantor, the **OR** The] Landlord lets the Property to the Tenant:

(a) for the Contractual Term;

(b) together with the Rights;

(c) excepting and reserving the Reservations.

2.2 The grant in Clause 2.1 is made with the Tenant paying as rent to the Landlord:

(a) the Base Rent;

(b) the Turnover Rent;

(c) the Insurance Rent;

(d) the sums payable by way of Service Charge pursuant to *Schedule [7*;]

(e) all interest payable under this lease; and

(f) all other sums payable under this lease; and

(g) all VAT chargeable on the other rents set out in this Clause [2.2.]

3. TENANT COVENANTS

The Tenant covenants with the Landlord to observe and perform the tenant covenants of this lease during the Term or (if earlier) until the Tenant is released from the tenant covenants of this lease by virtue of the LTCA 1995.

4. PAYMENT OF RENTS

4.1 The Tenant must pay the Base Rent by four equal instalments in advance on or before the Base Rent Payment Dates except that:

(a) the Tenant must pay the first instalment of Base Rent on the Base Rent Commencement Date; and

(b) that first instalment of Base Rent shall be the proportion of the Base Rent calculated on a daily basis for the period from and including the Base Rent Commencement Date to and including the day before the next Base Rent Payment Date after the Base Rent Commencement Date.

4.2 The Tenant shall pay the Turnover Rent and any VAT in respect of it in accordance with the provisions of *Schedule [4]*.

4.3 The Tenant shall pay the Insurance Rent and any VAT in respect of it in accordance with the provisions of Schedule 6

5. PAYMENT METHOD

The Tenant must pay the Base Rent and all other sums payable under this lease by:

(a) electronic means from an account held in the name of the Tenant to the account notified from time to time to the Tenant by the Landlord; or

(b) any other method that the Landlord reasonably requires from time to time and notifies to the Tenant.

6. NO SET-OFF

The Tenant must pay the Rents and all other sums payable under this lease in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. INTEREST

7.1 If any of the Base Rent or any other sum payable by the Tenant under this lease has not been paid by its due date (whether it has been formally demanded or not), the Tenant must pay to the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). That interest shall accrue on that amount on a daily basis for the period beginning on and including its due date to and including the date of payment.

7.2 If the Landlord does not demand or accept any of the Base Rent or any other sum due from, or tendered by, the Tenant under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then, when that amount is accepted by the Landlord, the Tenant must pay to the Landlord interest on that amount at the Interest Rate. That interest shall accrue on that amount on a daily basis for the period beginning on and including its due date to and including the date it is accepted by the Landlord.

8. RATES AND TAXES

8.1 The Tenant must pay all Rates and Taxes.

8.2 The Tenant must not make any proposal to alter the rateable value of the Property (or that value as it appears on any draft rating list) without the approval of the Landlord.

9. UTILITIES

9.1 The Tenant must pay all Utility Costs.

9.2 The Tenant must comply with all laws and with any recommendations of the relevant suppliers

relating to the supply and removal of Utilities to or from the Property.

10. COMMON ITEMS

Except to the extent that such costs are included with the Service Costs, the Tenant must pay to the Landlord on demand the Tenant's Proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on or in the Building but used or capable of being used by the Building in common with other land.

11. COSTS

11.1 The Tenant must pay on demand and on a full indemnity basis the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the Termination Date) 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 or taking any proceedings in connection with this lease under section 146 or 147 of the LPA 1925 (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 LTCA 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).

11.2 where the Landlord could recover the cost of professional advice or services under the preceding clause if they were undertaken by a third party but these services and that advice are provided by the Landlord to pay to the Landlord a reasonable sum (plus VAT if payable) for such advice and services but not more than the amount payable by the Tenant if that advice or service had been provided by a third party.

12. PROHIBITION OF DEALINGS

Except as expressly permitted by Clause [13] and clause [14] the Tenant must not assign, underlet, part with or share possession or occupation of this lease or the whole or any part of the Property;

13. ASSIGNMENTS

13.1 The Tenant may assign the whole of this lease with the consent of the Landlord (such consent not to be unreasonably withheld).

13.2 The Landlord and the Tenant agree that, for the purposes of section 19(1A) of the LTA 1927, the Landlord may give its consent to an assignment subject to all or any of the following conditions:

(a) a condition that the assignor enters into an authorised guarantee agreement in favour of the Landlord which:

(i) is in respect of all the tenant covenants of this lease;

(ii) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the LTCA 1995;

(iii) imposes principal debtor liability on the assignor;

(iv) requires (in the event of a disclaimer of this lease) the assignor to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and

(v) is otherwise in a form reasonably required by the Landlord;

(b) a condition that any guarantor of the assignor (other than a guarantor under an authorised guarantee agreement) enters into a guarantee in favour of the Landlord in a form reasonably required by the Landlord guaranteeing that the assignor will comply with the terms of the authorised guarantee agreement;

(c) a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this lease in the form set out in *Schedule 8* (but with such amendments and additions as the Landlord may reasonably require); and

(d) a condition that the assignee enters into a rent deposit deed with the Landlord in a form reasonably required by the Landlord and for an initial deposit of twelve months' Base Rent (as at the date of assignment) plus a sum equivalent to VAT on that Base Rent.

13.3 The Landlord and the Tenant agree that, for the purposes of section 19(1A) of the LTA 1927, the Landlord may refuse its consent to an assignment if any of the following circumstances exist:

(a) the Rents or any other sum due under this lease (where that other sum is not the subject of a genuine dispute with the Landlord) is outstanding;

(b) there is a material breach of covenant by the Tenant that has not been remedied; or

(c) in the Landlord's reasonable opinion, the assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants and conditions contained in this lease.

(d) the assignee does not agree to enter into an agreement for the management and operation of the Community Facilities on the same or substantially similar terms to the Property Management Agreement.

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

14. HIRING

14.1 Outside of the Trading Hours and subject always to the Permitted Use the Tenant may hire the Property or any part of it to a third party on a sessional basis provided that the period of hire does not begin or end outside the Extended Trading Hours.

15. CHARGING

The Tenant may charge the whole of this lease with the consent of the Landlord (such consent not to be unreasonably withheld).[7]

16. NOTIFICATION AND REGISTRATION OF DEALINGS

16.1 Within one month of any Transaction, the Tenant must:

(a) give the Landlord notice of the Transaction;

(b) deliver a certified copy of any document effecting or evidencing the Transaction to the Landlord

(c) pay the Landlord a registration fee of £50 (plus VAT).

16.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant must:

(a) promptly following completion of the Transaction apply to register it (or procure that the relevant person applies to register it);

(b) (or must procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are responded to promptly and properly; and

(c) within one month of completion of the registration, send the Landlord official copies of its title.

17. REPAIR

17.1 The Tenant must:

(a) subject to *Clause [17.2]*, keep the Property, including the Landlord's FFF& E in good and substantial repair and condition; and

(b) ensure that any Service Media within and exclusively serving the Property, is kept in good working order;

(c) keep the Property clean, tidy and clear of rubbish; and

(d) replace as soon as possible with an item of similar appearance and of similar or better quality any of the Landlord's FFF& E that becomes broken or beyond economic repair.

(e) replace as soon as possible with glass of similar appearance and of similar or better quality any glass forming part of the Property that becomes cracked or broken.

17.2 The Tenant shall not be liable to repair the Property (excluding any Excluded Insurance Items) to the extent that any disrepair has been caused by:

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[7] The Council will consider reasonable requests for additional clauses relating to the service of notices to and step in rights for lenders, depending upon the level of funding and the development costs as a whole.

(a) an Insured Risk unless and to the extent that:

(i) 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 or any Authorised Person (except where the Tenant has paid an amount equal to any insurance money that the insurers refuse to pay in accordance with [*Paragraph 3.2(f)* of *Schedule 6*)]; or

(ii) the insurance cover in relation to that disrepair is limited as referred to in [*Paragraph 1.3* of *Schedule 6*.]

17.3 The Tenant shall reimburse to the Landlord within 40 Working Days of a written demand the full costs of maintaining and repairing the roof of the Building or the full cost of replacing the roof of the Building if at any time, in the reasonable opinion of the Landlord the roof has to be replaced in its entirety as it has become uneconomical to maintain in a wind and watertight condition or if the lifespan of the roof is determined to be less than 5 years. [8]

18. DECORATION

The Tenant must:

(a) decorate the Property as often as is reasonably necessary and at least every five years and also in the last three months before the Termination Date;

(b) carry out all decoration (including all appropriate preparatory work) in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use; and

(c) carry out the decoration required in the last three months before the Termination Date to the reasonable satisfaction of the Landlord and using materials, designs and colours approved by the Landlord (acting reasonably).

19. ALTERATIONS

19.1 The Tenant must not make any internal alteration or addition to the Property without the consent of the Landlord (such consent not to be unreasonably withheld or delayed).

19.2 The Tenant must not install any Service Media at the Property nor alter the route of any Service Media at the Property without the consent of the Landlord (such consent not to be unreasonably withheld or delayed).

20. SIGNS

20.1 Except as Permitted by clause 20.2 the Tenant must not:

(a) display any Signs inside the Property that are visible from outside the Property; or

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[8] The precise nature of this obligation will depend upon the manner in which the existing roof is dealt with in the final design. If the roof is replaced in its entirety, then this obligation will not be applicable.

(b) attach any Signs to the exterior of the Property.

20.2 Subject to the grant of planning permission where necessary the Tenant may display:

(a) a fascia of a size and design approved by the Landlord; and

(b) trade posters, advertisement s and notices of a design, size and and number and in positions that, in the Landlords opinion, are appropriate to the nature and location of the Property and the Permitted Use: and

(c) a sign listing the food and beverages with their costs inclusive of VAT.

20.3 During the six month period before the Termination Date, the Tenant must allow the Landlord to fix to and keep at the Property any re-letting board as the Landlord reasonably requires except where there is a genuine prospect of the Tenant renewing this lease and the Tenant is genuinely and actively pursuing that renewal.

21. WINDOW CLEANING

The Tenant must as often as reasonably necessary clean the internal and external surfaces of the glass at the Property (whether or not that glass forms part of the Property).

22. RETURNING THE PROPERTY TO THE LANDLORD

22.1 The Tenant must return the Property to the Landlord on the Termination Date with vacant possession and in the repair and condition required by this lease.

22.2 Subject to *Clause [22.3]*, the Tenant must by the Termination Date:

(a) remove:

(i) any tenant's fixtures from the Property; and

(ii) any of the moveable items of the Landlord's FFF&E that the Tenant has been given specific notice of by the Landlord no later than two month before the Termination Date; and

(iii) any alterations to the Property undertaken by or for any tenant, undertenant or occupier during or in anticipation of this lease; and

(iv) any Signs erected by the Tenant at the Property; and

(b) make good any damage caused to the Building by the removal of those items and alterations.

22.3 If the Landlord gives notice to the Tenant no later than two months before the Termination Date specifying which of the tenant's fixtures, alterations and other matters set out in *Clause [22.2(a)(i)]* and *Clause [22.2(a)(iii)]* shall not be removed pursuant to *Clause [22.2*,] the Tenant must not remove the specified tenant's fixtures, alterations or other matters pursuant to that clause.

22.4 On or before the Termination Date, the Tenant must remove from the Property:

(i) all chattels belonging to or used by it; and

(ii) any of the moveable items of the Landlord's FFF&E that the Tenant has been given specific notice of by the Landlord no later than two month before the Termination Date

22.5 The Tenant:

(a) irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items fixed to the Land by the Tenant and left by the Tenant for more than ten working days after the Termination Date; and

(b) Must reimburse to the Landlord the costs or arranging storage or disposal of any chattels pursuant to clause [22.5(a)]; and

(c) must indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.

The Landlord shall not be liable to the Tenant by reason of that storage or disposal.

23. USE

23.1 The Tenant must not use the Property for any purpose other than the Permitted Use.

23.2 The tenant must ensure that the café offers a high standard of service with menu choices that include healthy options with both hot & cold food and beverages available to eat in and takeaway when the Property is open for trading.

23.3 The Tenant must keep the Property open for trading during the Trading Hours. Except that the Tenant shall not be required to be open for trading in any period during which:

(a) the Tenant is carrying out any alterations to the Property that are permitted or required by this lease;

(b) the Tenant has vacated the Property in anticipation of an authorised assignment of this lease or underletting;

(c) it is not possible to occupy or access the Property following damage or destruction by an Insured Risk or an Uninsured Risk; or

(d) occupation or trading would result in a breach of any other provision of this lease.

23.4 The Tenant must:

(a) not use the Property outside the Extended Trading Hours without the prior approval of the Landlord;

(b) observe all regulations that the Landlord makes relating to any use of the Property outside the Trading Hours if such use is permitted by the Landlord; and

(c) pay to the Landlord on demand all costs incurred by the Landlord in connection with any use of the Property outside the Trading Hours, including the whole of the cost of any Services provided by the

Landlord attributable to such use.

23.5 The Tenant must not trade from the Property unless there is in effect a current policy of insurance against;

i. loss damage or injury to persons or property of any person arising out of or in connection with this lease in the sum of not less than Ten million pounds (£10,000,000.00) (which may by notice in writing to the Tenant be increased at the discretion of the Landlord l) in respect of any one incident unlimited in total;

ii. employers liability in the sum of not less than Ten million pounds (£10,000,000.00) (which may by notice in writing to the Tenant be increased at the discretion of the Landlord) in respect of any one incident unlimited in total;

iii. product liability insurance in the sum of not less than Ten million pounds (£10,000,000.00) (which may by notice in writing to the Tenant be increased at the discretion of the Landlord) in respect of any one incident unlimited in total;

v. insurance against damage to Landlord's FFF& E; and

iv. contents insurance for the Tenant's belongings; and

v. any other policies of insurance as may be required from time to time by legislation.

23.6 The Tenant shall produce copies of the policies referred to in clause 23.5 to the Council on demand together with the receipt for the premium paid

23.7 The Tenant must not:

(a) use the Property for any illegal purposes nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, other tenants, users or occupiers of the Building, the Landlord's Neighbouring Property or any property that neighbours the Building;

(b) use the Property as a betting shop or an amusement arcade or otherwise for the purposes of gaming or gambling;

(c) cause or permit any meetings of a political or religious character to be held at the Property;

(d) hold any auction at the Property;

(e) allow any noise, music, flashing lights, fumes or smells to emanate from the Property so as to cause a nuisance or annoyance to any other tenants, users or occupiers of the Building, the Landlord's Neighbouring Property or any property that neighbours the Building;

(f) overload any part of the Land nor overload or block any Service Media at or serving the Property;

(g) store, sell or display any offensive, dangerous, illegal, explosive or highly flammable items at the Property;

(h) (except as permitted by the Rights and *Clause 19*)] place or keep any items on any external part of

the Property or on the Common Parts (whether or not such items are for sale);

(i) (except as permitted by the Rights and *Clause [19.2]*) interfere with any Service Media in the Building or on the Landlord's Neighbouring Property;

(j) keep any pets or any other animal, bird, fish, reptile or insect at the Property (except guide dogs or other animals used as aids provided they are not kept at the Property overnight or left unattended); or

(k) allow any person to sleep at or reside on the Property.

(l) [Any restrictions placed on the use of the Property by Fields in Trust]

23.8 In carrying out the Permitted use the Tenant will seek to minimise the impact of its activities on the environment by continually evaluating operations and ensuring they are as energy efficient as possible.

23.9 The Tenant shall meet or exceed all the environmental legislation which applies from time to time to the business operated at the Property and taking into account the sensitivity of the Property's location.

24. REGULATIONS

24.1 The Tenant must observe all regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Building, the Landlord's Neighbouring Property and any other neighbouring or adjoining property provided that:

(a) such regulations do not materially interfere with the Tenant's use of the Property for the Permitted Use and the Tenant's exercise of the Rights; and

(b) if there is any conflict between such regulations and the terms of this lease, the terms of this lease shall prevail.

25. LOADING AND DELIVERIES

The Tenant must:

(a) not use any other part of the Building or the Landlord's Neighbouring Property in connection with the loading and delivery of goods and materials to the Property except the Accessway in accordance with the rights granted under *Paragraph 1.5* of *Schedule [2*;]

(c) when exercising its rights under *Paragraph 1.5* of *Schedule [2*,] comply with any regulations made by the Landlord under *Clause [24]* in relation to the Accessway; and

© not obstruct the Accessway.

26. EXERCISE OF THE RIGHTS

26.1 The Tenant must exercise the Rights:

(a) only in connection with the Tenant's use of the Property for the Permitted Use;
(b) in accordance with any regulations made by the Landlord under *Clause [24]*; and

(c) in compliance with all laws relating to the Tenant's use of the Property, the Landlord's Neighbouring Property and any other neighbouring or adjoining property pursuant to the Rights.

26.2 In exercising any right of entry on to any of the Common Parts or to the Building pursuant to *Paragraph 1.7* of *Schedule [2]*, the Tenant must:

(a) except in case of emergency, give reasonable notice of its intention to exercise that right to the Landlord;

(b) where reasonably required by the Landlord, exercise that right only if accompanied by a representative of the Landlord;

(c) cause as little damage as possible to the Common Parts and the Building and to any property belonging to or used by the Landlord;

(d) cause as little inconvenience as reasonably possible to the Landlord; and

(e) promptly make good any damage caused by reason of the Tenant exercising that right.

27. ALLOW ENTRY

27.1 Subject to *Clause [27.2]*, the Tenant must allow all those entitled to exercise any right of entry to the Property to enter the Property:

(a) except in the case of an emergency (when no notice shall be required), after having given reasonable notice (which need not be in writing) to the Tenant;

(b) at any reasonable time (whether or not during usual business hours); and

(c) with their workers, contractors, agents and professional advisers.

27.2 The Tenant must allow any person authorised by the terms of a Third Party Right to enter the Property in accordance with that Third Party Right.

28. KEYHOLDERS AND EMERGENCY CONTACT DETAILS

The Tenant must provide to the Landlord in writing the names, addresses, email addresses and telephone numbers of at least two people who each:

(a) hold a full set of keys for the Property;

(b) hold all the access codes for the Tenant's security systems (if any) at the Property; and

(c) may be contacted in case of emergency at any time when the Tenant is not open for trade from the

Property.

29. COMPLIANCE WITH LAWS

29.1 The Tenant must comply with all laws relating to:

(a) the Property and the occupation and use of the Property by the Tenant;

(b) the use or operation of all Service Media and any other machinery and equipment at or serving the Property whether or not used or operated;

(c) any works carried out at the Property; and

(d) all materials kept at or disposed of from the Property.

29.2 Within five working days of receipt of any notice or other communication affecting the Property,or any Service Media in or exclusively serving the Property (and whether or not served pursuant to any law) the Tenant must:

(a) send a copy of the relevant document to the Landlord; and

(b) take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

29.3 The Tenant must not:

(a) apply for any planning permission for the Property without the Landlord's consent (such consent not to be unreasonably withheld where the application relates to works or a change of use permitted under this lease); or

(b) implement any planning permission for the Property without the Landlord's consent (such consent not to be unreasonably withheld).

29.4 Unless the Landlord otherwise notifies the Tenant, before the Termination Date the Tenant must carry out and complete any works stipulated to be carried out to the Property (whether before or after the Termination Date) as a condition of any planning permission for the Property that is implemented before the Termination Date by the Tenant..

29.5 The Tenant must comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file.

29.6 The Tenant must:

(a) maintain the health and safety file for the Property in accordance with the CDM Regulations;

(b) give that health and safety file to the Landlord at the Termination Date; and

(c) procure, and give to the Landlord at the Termination Date, irrevocable, non-exclusive, non-terminable, royalty-free licence(s) for the Landlord to copy and make full use of that health and safety file for any purpose relating to the Land. Those licence(s) must carry the right to grant sub-licences and be transferable to third parties without the consent of the grantor.

29.7 The Tenant must 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.

29.8 As soon as the Tenant becomes aware of any defect in the Property, the Tenant must give the Landlord notice of it.

29.9 The Tenant must 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.

29.10 The Tenant must keep:

(a) 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 recommended by them or reasonably required by the Landlord; and

(b) that machinery, equipment and alarms properly maintained and available for inspection.

30. ENERGY PERFORMANCE CERTIFICATES

30.1 The Tenant must:

(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 Land 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 Recommendation Report; 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 Recommendation Report for the Property or the Building.

30.2 The Tenant must not obtain or commission an Energy Performance Certificate for the Property unless required to do so by the EPC Regulations.[9]

30.3 Where the Tenant is required by the EPC Regulations to obtain or commission an Energy Performance Certificate for the Property, the Tenant must at the request of the Landlord either:

(a) obtain or commission an Energy Performance Certificate from an Energy Assessor approved by the Landlord; or

(b) pay the costs of the Landlord of obtaining or commissioning an Energy Performance Certificate for the Property.

30.4 The Tenant must deliver to the Landlord a copy of any Energy Performance Certificate and Recommendation Report for the Property that is obtained or commissioned by the Tenant or any other occupier of the Property.

An EPC will be commissioned as part of the development completion - this obligation relates to subsequent or replacement EPCs.

31. REGISTRATION OF THIS LEASE

31.1 The Tenant must:

(a) apply to register this lease at HM Land Registry promptly and in any event within one month following the grant of this lease;

(b) ensure that any requisitions raised by HM Land Registry in connection with its application to register this lease at HM Land Registry are responded to promptly and properly; and

(c) send the Landlord official copies of its title within one month of completion of the registration.

31.2 The Tenant must not:

(a) apply to HM Land Registry to designate this lease as an exempt information document for the purposes of the Land Registration Rules 2003;

(b) object to an application by the Landlord to HM Land Registry to designate this lease as such an exempt information document; or

(c) apply for an official copy of any exempt information document version of this lease.

32. CLOSURE OF REGISTERED TITLE

32.1 The Tenant must make an application to HM Land Registry to close the registered title of this lease promptly (and in any event within one month) following the Termination Date.

32.2 The Tenant must:

(a) ensure that any requisitions raised by HM Land Registry in connection with its application to HM Land Registry to close the registered title of this lease are responded to promptly and properly; and

(b) keep the Landlord informed of the progress and completion of that application.

33. ENCROACHMENTS AND PRESERVATION OF RIGHTS

33.1 The Tenant must not permit any encroachment over the Property or permit any rights or easements to be acquired over the Property.

33.2 If any encroachment over the Property is made or attempted or any action is taken by which a right or easement may be acquired over the Property, the Tenant must:

(a) immediately inform the Landlord and give the Landlord notice of that encroachment or action; and

(b) at the request and cost of the Landlord, adopt such measures as may be reasonably required or deemed proper for preventing any such encroachment or the acquisition of any such right or easement.

33.3 The Tenant must preserve all rights of light and other easements enjoyed by the Property.

33.4 The Tenant must not prejudice the acquisition of any right of light or other easement for the benefit of the Property by obstructing any window or opening or giving any acknowledgement that the

right is enjoyed with the consent of any third party or by any other act or default of the Tenant.

33.5 If any person takes or threatens to take any action to obstruct or interfere with any right or easement enjoyed by the Property or any such easement in the course of acquisition, the Tenant must:

(a) immediately inform the Landlord and give the Landlord notice of that action; and

(b) at the request and cost of the Landlord, adopt such measures as may be reasonably required or deemed proper for preventing or securing the removal of the obstruction or the interference.

34. [REPLACEMENT GUARANTOR

34.1 Subject to *Clause [34.2]*, if:

(a) an Insolvency Event occurs in relation to a guarantor; or

(b) any guarantor (being an individual) dies or becomes incapable of managing their affairs;

the Tenant must, if the Landlord so requests, procure that a person of standing acceptable to the Landlord, within 10 working days of that request enters into a replacement or additional guarantee and indemnity of the tenant covenants of this lease in the same form as that entered into by that guarantor.

34.2 *Clause [34.1]* shall not apply in the case of a person who is a guarantor by reason of having entered into an authorised guarantee agreement.

35. PROCURE GUARANTOR CONSENT

For so long as any guarantor remains liable to the Landlord, the Tenant must, if the Landlord so requests, procure that that guarantor does all or any of the following:

(a) joins in any consent or approval required under this lease; and

(b) consents to any variation of the tenant covenants of this lease.**]**

36. INDEMNITY

The Tenant must 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 Land and loss of amenity of the Building) suffered or incurred by the Landlord arising out of or in connection with:

(a) any breach of any tenant covenants in this lease;

(b) any use or occupation of the Property or the carrying out of any works permitted or required to be carried out under this lease; or

(c) any act or omission of the Tenant or any Authorised Person.

37. LANDLORD COVENANTS

The Landlord covenants with the Tenant to observe and perform the landlord covenants of this lease during the Term.

38. QUIET ENJOYMENT

The Landlord covenants with the Tenant that 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.

39. EXERCISE OF RIGHT OF ENTRY

In exercising any right of entry on to the Property pursuant to [*Paragraph 1.2* of *Schedule 3*,] the Landlord must:

(a) except in case of emergency, give reasonable notice of its intention to exercise that right to the Tenant;

(b) where reasonably required by the Tenant, exercise that right only if accompanied by a representative of the Tenant;

(c) cause as little damage as possible to the Property and to any property belonging to or used by the Tenant;

(d) cause as little inconvenience as reasonably possible to the Tenant; and

(e) promptly make good any physical damage caused to the Property by reason of the Landlord exercising that right.

40. [GUARANTOR COVENANTS

The Guarantor covenants with the Landlord on the terms set out in *Schedule 8*.**]**

41. RE-ENTRY AND FORFEITURE

41.1 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) the whole or any part of the Rents 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; or

(c) an Insolvency Event.

41.2 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.

42. SECTION 62 OF THE LPA 1925, IMPLIED RIGHTS AND EXISTING APPURTENANT RIGHTS

42.1 The grant of this lease does not create by implication any easements or other rights for the benefit

of the Property or the Tenant and the operation of section 62 of the LPA 1925 is excluded.

42.2 The Property is let without the benefit of any existing easements or other rights which are appurtenant to the whole or any part of the Building.

43. EXCLUSION OF SECTIONS 24 TO 28 OF THE LTA 1954

43.1 The parties:

(a) confirm that:

(i) 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 [DETAILS OF AGREEMENT FOR LEASE]] was entered into;

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

(b) agree that the provisions of sections 24 to 28 of the LTA 1954 are excluded in relation to the tenancy created by this lease.

43.2 The parties confirm that:

(a) the Landlord served a notice on the Guarantor, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be entered into by the Guarantor pursuant to *Paragraph 4.1* of *Schedule 8*, [not less than 14 days] before [this lease **OR** [DETAILS OF AGREEMENT FOR LEASE]] was entered into; and

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

44. 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).

45. NO RESTRICTION ON LANDLORD'S USE

Nothing in this lease shall impose or be deemed to impose any restriction on the use by the Landlord of the Building (excluding the Property), the Landlord's Neighbouring Property or any other neighbouring or adjoining property.

46. LIMITATION OF LIABILITY

The Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this lease unless the Landlord knows it has failed to perform the covenant, or reasonably should know this and has not remedied that failure within a reasonable time.

47. TERMINATION ON NOTICE

47.1 If the Property Management Agreement shall be terminated pursuant to clause [12] of the Property Management Agreement the Landlord may terminate this lease by serving a Break Notice on the Tenant no less than 14 days before the date stated in the Break Notice ("Break Date").

[47.2 At any time after the [ ] anniversary of this Lease the Tenant may terminate this lease by serving a Break Notice on the Landlord at least six months before the date stated in the Break Notice ("Tenant Break Date") .

47.3 A Break Notice served by the Tenant shall be of no effect if at the Break Date stated in the Tenant's Break Notice:

(a) the Tenant has not paid by way of cleared funds any part of the Base Rent, Service Charge and Insurance Rent (plus any VAT) which was due to have been paid; or

(b) the Tenant has not vacated the Property and returned the Property to the Landlord free from any occupier or third party right to occupation or possession.][10]

47.4 Following service of a Break Notice this lease shall terminate on the Break Date.

47.5 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.

47.6 If this lease terminates in accordance with *Clause [47.4]*, then, within twenty working days of the Break Date, the Landlord must refund to the Tenant the proportion (calculated on a daily basis) of any Base Rent (and any VAT paid in respect of it) paid in advance by the Tenant for the period from but excluding the Break Date up to but excluding the next Rent Payment Date.

48. BREACH OF REPAIR AND MAINTENANCE OBLIGATION

48.1 The Landlord may enter the Property to inspect its condition and state of repair and 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.

48.2 Following the service of a notice pursuant to *Clause [48.1]*, the Landlord may enter the Property and carry out the required works if the Tenant:

(a) has not begun any works required to remedy any breach specified in that notice within two months of the notice or, if works are required as a matter of emergency, immediately; or

(b) is not carrying out the required works with all due speed.

48.3 The costs incurred by the Landlord in carrying out any works pursuant to *Clause [48.2]* (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.

48.4 Any action taken by the Landlord pursuant to this *Clause [48]* shall be without prejudice to the

[10] A tenant break clause may be considered in exceptional circumstances.

Landlord's other rights (including those under clause 41).

49. NOTICES

49.1 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 in writing and given:

(a) by hand:

(i) if the party is a company incorporated in the United Kingdom, at that party's registered office address;

(ii) if the party is a company not incorporated in the United Kingdom, at that party's principal place of business in the United Kingdom; or

(iii) in any other case, at that party's last known place of abode or business in the United Kingdom;

(b) by pre-paid first-class post or other next working day delivery service:

(i) if the party is a company incorporated in the United Kingdom, at that party's registered office address;

(ii) if the party is a company not incorporated in the United Kingdom, at that party's principal place of business in the United Kingdom; or

(i) in any other case, at that party's last known place of abode or business in the United Kingdom.

49.2 If a notice complies with the criteria in *Clause [49.1]*, whether or not this lease requires that notice to be in writing, it shall be deemed to have been received if:

(a) delivered by hand, at the time the notice is left at the proper address;

(b) sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting.

49.3 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.

49.4 Section 196 of the LPA 1925 shall otherwise apply to notices in writing given under this lease.

50. CONSENTS AND APPROVALS

50.1 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.

50.2 If a waiver is given pursuant to *Clause [50.1]*, it shall not affect the requirement for a deed for any other consent.

50.3 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.

50.4 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not:

(a) imply that any consent or approval required from a third party has been obtained; or

(b) obviate the need to obtain any consent or approval from a third party.

50.5 Where:

(a) the consent of a mortgagee is required under this lease, a consent shall only be valid if it would be valid as a consent given under the terms of the mortgage; or

(b) the approval of a mortgagee is required under this lease, an approval shall only be valid if it would be valid as an approval given under the terms of the mortgage.

51. EXPERT DETERMINATION

51.1 This *Clause [51]* applies in relation to any matter that is to be referred to an Expert for determination pursuant to:

(a) Schedule [4,] or

(b) Schedule [5], or

(c) *Schedule [7*.]

51.2 The Landlord and Tenant shall agree on the appointment of an Expert and shall agree with the Expert the terms of their appointment.

51.3 If the Landlord and Tenant are unable to agree on an Expert or the terms of their appointment within 20 working days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the President to appoint an Expert and agree with the Expert the terms of appointment.

51.4 The Expert shall be required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of 20 working days of the matter being referred to the Expert.

51.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause, then:

(a) either party may apply to the President to discharge the Expert and to appoint a replacement

Expert with the required expertise; and

(b) this *Clause [51]* shall apply to the new Expert as if they were the first Expert appointed.

51.6 The parties are entitled to make submissions to the Expert and must 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.

51.7 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the matter referred to the Expert under this lease. The Expert may award interest as part of their decision. The Expert's written decision on the matters referred to them shall be final and binding on the parties in the absence of manifest error or fraud.

51.8 The Landlord and Tenant must bear their own costs in relation to the reference to the Expert.

51.9 The Landlord and Tenant must bear the Expert's fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) equally or in such other proportions as the Expert shall direct.

51.10 [If either the Landlord or the Tenant does not pay its part of the Expert's fees and expenses within twenty working days of demand by the Expert, then:

(a) the other party may pay instead; and

(b) the amount so paid shall be a debt of the party that should have paid and shall be due and payable on demand to the party that made the payment pursuant to *Clause [51.10(a)]*.

51.11 The Landlord and Tenant must act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching their determination.

52. VAT

52.1 All sums payable by either party under or in connection with this lease are exclusive of any VAT that may be chargeable.

52.2 Each party must pay VAT in respect of all taxable supplies made to the other party to this lease 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.

52.3 Every obligation on either party, under or in connection with this lease, to pay any sum by way of a refund or indemnity, includes an obligation to pay an amount equal to any VAT incurred on that sum by the receiving party (except to the extent that the receiving party obtains credit for such VAT).

52.4 The Tenant warrants that it does not intend or expect that the Property will become exempt land (within paragraph 12 of Schedule 10 to the Value Added Tax Act 1994) and that the purposes for which the Property are or are to be used will not affect the application or effect of any option to tax made by the Landlord in respect of the Property.

53. JOINT AND SEVERAL LIABILITY

53.1 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.

53.2 Where the Landlord comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Landlord arising under this lease. The Tenant 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.

53.3 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.

54. ENTIRE AGREEMENT

54.1 This lease and the documents annexed to it constitutes the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

54.2 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).

54.3 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.

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

55. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This lease does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999.

56. GOVERNING LAW

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

57. JURISDICTION

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

58. LANDLORD AS LOCAL AUTHORITY

Nothing in this Lease shall prejudice or affect any statutory right power obligation or duty for the time being vested in the Landlord as local authority for the area in which the Property is located and all such rights powers obligations and duties shall in regard to the Property and any building or works thereon or the occupiers thereof be enforceable and exercisable by the Landlord as fully and freely as if the

Landlord were not the owner of or otherwise interested in the Property and this Lease had not been executed.

59. PREVENTION OF CORRUPTION

59.1 The Tenant shall not offer or give, or agree to give, to the Landlord or any other public body or any person employed by or on behalf of the Landlord or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the lease or any other agreement with the Landlord or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the lease or any such licence or agreement.

59.2 The Tenant warrants that it has not paid commission or agreed to pay commission to the Landlord or any other public body or any person employed by or on behalf of the Landlord or any other public body in connection with the lease.

59.3 If the Tenant, its staff or anyone acting on its behalf, engages in conduct prohibited by clauses 63.1 or 63.2, the Landlord may:

59.3.1 terminate the lease and recover from the Tenant the amount of any loss suffered by it resulting from the termination; or

59.3.2 recover in full from the Tenant any other loss sustained by it in consequence of any breach of those conditions.

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

SCHEDULE 1
PROPERTY

1. The premises known as the Café, situated on the ground floor of the Building and shown edged red on the Property Plan:

1.1 Including[11] **(a)** shopfront glass, canopy and fascia of those premises;

(b) the whole of any non-structural walls and columns wholly within those premises;

(c) one-half severed vertically of any interior non-structural walls and columns separating those premises from any adjoining part of the Building;

(d) the interior plaster and other interior surface finishes on the:

(i)exterior non-structural walls and columns bounding those premises;

(ii)interior non-structural walls and columns separating those premises from any adjoining Retained Parts; and

(iii)structural walls and columns within or bounding those premises;

(e) the interior plaster and other interior surface finishes on the ceilings within those premises;

(f) the floor screed and other interior surface finishes on the floors within those premises;

(g) the doors, door frames and fittings within all the walls within and bounding those premises;

(h) the windows, window frames and fittings within all the walls within and bounding those premises (except the exterior walls);

(i) all Service Media and any other media, plant, machinery and equipment within and exclusively serving those premises;

(j) the Landlord's FFF & E within those premises; and

(k) all additions and improvements to those premises.

1.2 Excluding:

(a) subject to *Paragraph 1.1(d)*, *Paragraph 1.1(g)* and *Paragraph 1.1(h)* of this Schedule, the whole of the:

(i)exterior non-structural walls and columns bounding those premises;

(ii)interior non-structural walls and columns separating those premises from any adjoining Retained Parts; and

[11] This will be revised to reflect the final design.

(iii)structural walls and columns within or bounding those premises;

(b) the windows, window frames and fittings within the exterior walls bounding those premises;

(c) subject to *Paragraph 1.1(e)* and *Paragraph 1.1(f)* of this Schedule, the floors and ceilings within those premises;

(d) all Service Media and any other media, plant, machinery and equipment within but not exclusively serving those premises; and

(e) all structural parts of the Building (except any set out in *Paragraph 1.1* of this Schedule).

SCHEDULE 2
RIGHTS

1. In common with the Landlord and any other person authorised by the Landlord, the Landlord grants to the Tenant the following easements (for the benefit of the Property) and the following other rights:

1.1 The right to support and protection for the Property from the other parts of the Building to the extent that those parts of the Building provide support and protection to the Property at the date of this lease.

1.2 For the purpose of access to and egress from the Property and those parts of the Land over which the Tenant is granted rights in this Schedule, the right to use those parts of the Common Parts designated from time to time by the Landlord.

1.3 Subject to the continuation of the Property Management Agreement the right during the Extended Trading Hours for the Tenant and its customers to use the toilets within the Community Facilities.

1.4 Subject to there being an available staff parking space within the Car Park, the right to park during the Extended Trading Hours no more than one private car belonging to the Tenant and its employees in any of the marked staff parking spaces within the Car Park.

1.5 Subject to the Tenant paying 10% of the costs of maintenance of the Accessway upon demand the right in common with others so authorised during the Loading and Delivery Hours only to use the Accessway (with or without vehicles or trolleys) for loading and unloading goods and materials.

1.6 The right to use and to connect into any 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 Provided that the Landlord may, at its discretion and at any time, re-route or replace any Service Media at the Building pursuant to *Paragraph 1.3(c)* of *Schedule 3* and this right shall then apply in relation to the Service Media as re-routed or replaced.

1.7 Subject to the Tenant complying with *Clause 26.2*, the right to enter the Common Parts or any other part of the Building so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease.

SCHEDULE 3
RESERVATIONS

1. Subject to *Paragraph 2* and *Paragraph 3* of this Schedule, the Landlord excepts and reserves from this lease the following easements (for the benefit of the Building (excluding the Property) and the Landlord's Neighbouring Property the following other rights:
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.

1.2 Subject to the Landlord complying with clause *39*, 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 part of the Building; 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 Building and the Landlord's Neighbouring Property.

1.3 The right to:

(a) use and 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 Term;

(b) install and construct Service Media at the Property to serve any other part of the Building (whether or not such Service Media also serve the Property); and

(c) re-route and replace any Service Media referred to in this paragraph.

1.4 At any time during the Term, the full and free right to build, rebuild, alter or develop the Building, and the Landlord's Neighbouring Property as the Landlord may think fit.

1.5 Subject to the Landlord complying with *clause 39* , the right to erect scaffolding at the Property and attach it to any part of the Property in connection with any of the Reservations.

2. The Reservations:
2.1 Are excepted and reserved notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or the Common Parts or loss of amenity for the Property or the Common Parts provided that they do not materially adversely affect the use and enjoyment of the Property for the Permitted Use.

2.2 May be exercised by:

(a) the Landlord;

(b) anyone else who is or becomes entitled to exercise them; and

(c) anyone authorised by the Landlord.

3. No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisers, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:
3.1 Physical damage to the Property.

3.2 Any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

SCHEDULE 4
TURNOVER RENT
1. INTERPRETATION

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

Account Date: [DATE] in each year of the Term.

First Account Date: [after 1 years trading]

Gross Turnover: the amount calculated in accordance with *Paragraph 2* of this Schedule.

Initial Turnover Rent Percentage: 10 %

Records: all accounts, documents, records, books, ledgers, cash till receipts, bank statements, tapes, discs, files, folders, vouchers, VAT returns, computer data or other evidence that the Tenant keeps, or should reasonably keep, for the purpose of accurately ascertaining and demonstrating the Gross Turnover.

Turnover Certificate: a certificate signed by a professionally qualified independent auditor or accountant appointed by the Tenant accurately certifying:
a. the Gross Turnover for the relevant Turnover Period;

b. the number of Trading Days in that Turnover Period; and

c. the number of Trading Days on which the Property was open for trade during that Turnover Period.

Turnover Periods: each of the following successive periods:
a. the period beginning on the date of this lease and ending on the day before the First Account Date;

b. the period beginning on the First Account Date and ending on the day before the following Account Date; and

b. the period beginning on each Account Date and ending on the day before the following Account

Date; and

c. the day beginning on the last Account Date and ending on the last day of the Term.

Turnover Rent Percentage: [NUMBER] %

2. GROSS TURNOVER

2.1 The Gross Turnover shall be the total amount of all sums of money and the value of any other consideration received or receivable for all:

(a) goods sold, hired, leased or otherwise disposed of;

(b) services sold or performed; and

(c) business of whatever nature carried out;

in whole or in part at, in or from the Property by the Tenant or any other person.

2.2 For the avoidance of doubt, the amounts specified in *Paragraph 2.1* shall include those from:

(a) orders accepted, received or processed at, or originating or collected from the Property whether in person, by post, telephone, e-mail, internet or any other means including:

(i) those wholly or partly fulfilled or performed at, or from, another location;
(ii) those where payment is made in whole or in part to a person other than the Tenant;
(iii) those obtained or taken at another location by persons based at, or operating from the Property; and
(iv) those made by vending machines and electronic or mechanical devices situated at the Property.

(b) deposits not refunded to customers;

© charges made by the Tenant for delivery in relation to an order.

(i) where payment is made fully or partly in kind or by way of exchange of goods;

(ii) to an employee or employee's family, disregarding any discount that may be allowed by the Tenant; and

(iii) on a credit, instalment, hire purchase or lease purchase basis, even though the Tenant may not yet have received full payment.

2.3 The following sums shall not be included in the Gross Turnover referred to in *Paragraph 2.1*:

(a) all VAT and excise or sales tax directly imposed on and paid or accounted for by the Tenant in relation to the supply of goods and services at, in, or from the Property; and

(b) any cash refund or credit given to a customer in respect of returned goods or unsatisfactory services to the extent only that the amount of the cash refund or credit does not exceed the amount

included in the Gross Turnover in respect of the sale of those goods or services; and

© any payments received in respect of pitch bookings, and associated rental of the Community Facilities; and

(d) the room charge element of the monies received for sessional hire of the Community Facilities SAVE THAT monies received in respect of the hire of equipment, the provision of additional services or the provision of refreshments to hirers will not be excluded from the calculation of Gross Turnover.

3. CALCULATION OF TURNOVER RENT

3.1 On the First Account Date the Turnover Rent shall be calculated by multiplying the Gross Turnover for the first Turnover Period by the Initial Turnover Rent Percentage.

3.2 Thereafter the Turnover Rent shall be the amount (if any) by which the aggregate of the Gross Turnover for the relevant Turnover Period, when multiplied by the Turnover Rent Percentage, exceeds the Base Rent for that Turnover Rent Period.

3.3 For the purposes of [*Paragraph 3.1*, *Paragraph 5.1(a)* and *Paragraph 6.1*, the Base Rent payable in respect of a Turnover Period, or part of a Turnover Period, shall be calculated by apportioning the Base Rent at a daily rate on an annual basis.

3.4 If a review of the Base Rent is still to be determined in accordance with Schedule [5] on the Account Date the Turnover Rent shall be the the amount (if any) by which the aggregate of the Gross Turnover for the relevant Turnover Period, when multiplied by the Turnover Rent Percentage, exceeds the unreviewed Base Rent for that Turnover Rent Period. Following the conclusion of the review of the Base Rent the amount of the Turnover Rent due will be recalculated in accordance with paragraph [3.2] and the Landlord will account for any sums received over that now calculated as due as a credit against the next due payment of Base Rent

4. PAYMENT OF TURNOVER RENT

4.1 Within 40 working days after the First Account Date, the Tenant shall:

(a) deliver a Turnover Certificate to the Landlord; and

(b) pay the Turnover Rent due in accordance with *Paragraph 3.1* of this Schedule.

4.2 Thereafter within 40 working days after each subsequent Account Date, the Tenant shall:

(a) deliver a Turnover Certificate to the Landlord; and

(b) pay the balance (if any) of the Turnover Rent due in accordance with *Paragraph 3.2* of this Schedule for the Turnover Period covered by that Turnover Certificate.

5. LATE DELIVERY OF TURNOVER CERTIFICATE

5.1 If the Tenant shall fail to deliver a Turnover Certificate to the Landlord by the due date, the following provisions shall apply:

(a) within 20 working days after delivery of the Turnover Certificate to the Landlord, the Tenant shall pay:

(i)the balance of the Turnover Rent due in accordance with *Paragraphs 3* and 4 of this Schedule for the Turnover Period covered by that Turnover Certificate; and

(ii)interest calculated in accordance with *Clause 5.8* on such balance of Turnover Rent for the period from the date that the Turnover Certificate should have been delivered, up to and including the date of actual payment of such balance.

6. END OF THE TERM

6.1 On or before the last day of the Term, the Tenant shall pay to the Landlord on account of the Turnover Rent for the last Turnover Period the sum (if any) that, when added to the sum already paid on account under *Paragraph 4.1* for that Turnover Period, is equivalent to 100 % of the Base Rent for that Turnover Period.

6.2 Within 40 working days after the end of the Term, the Tenant shall deliver a Turnover Certificate to the Landlord and pay the balance (if any) of the Turnover Rent due in accordance with *Paragraph 3* of this Schedule for the last Turnover Period after deduction of any instalments paid on account under *Paragraph 6.1*.

6.3 If the Turnover rent payable for the last Turnover Period is less than the instalments paid by the Tenant on account under *Paragraph 6.1*, the Landlord shall refund to the Tenant such overpayment plus VAT within 14 days of receipt of the Turnover Certificate supplied under *Paragraph 6.2*.

7. TENANT TO KEEP RECORDS

7.1 The Tenant shall keep the Records throughout the Term and for 36 months after the end of the Term.

7.2 The Tenant shall make the Records available for inspection upon reasonable request at any time by the Landlord, its accountants or authorised agents.

7.3 The Landlord may, in its discretion, arrange for the Records in respect of any Turnover Period to be audited by a professionally qualified independent auditor or accountant appointed by the Landlord.

7.4 If the audit commissioned by the Landlord reveals an underpayment of Turnover Rent, the Tenant shall, within 14 days after receiving written demand, pay to the Landlord:

(a) the underpayment;

(b) interest calculated in accordance with *clause 7* on such underpayment for the period from the due date for delivery of the Turnover Certificate, up to and including the date of actual payment of the underpayment; and

(c) the full cost of the audit commissioned by the Landlord.

9. DISPUTES

If any question or dispute shall arise between the parties as to the amount of the Gross Turnover or the Turnover Rent that is due, the question or dispute shall be referred to an arbitrator appointed jointly by the parties. If the parties cannot agree on the arbitrator's identity, the arbitrator shall be appointed on either party's request by the President of the Institute of Chartered Accountants in England and Wales. The arbitrator shall act in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally).

Schedule 5

REVIEW OF BASE RENT

1.1 The Base Rent shall be reviewed on each Review Date to equal the Base Rent payable immediately before that Review Date (or which would then be payable but for any abatement or suspension of the Base Rent or restriction on the right to collect it) or, if greater, the indexed rent determined pursuant to this clause.

1.2 The indexed rent for a Review Date shall be determined by multiplying the Base Rent by the index value of the CPI for the month two months before the month in which that Review Date falls, then dividing the product by the index value of the CPI for the Base CPI Month.

1.3 The Landlord shall calculate the indexed rent as soon as reasonably practicable and shall give the Tenant written notice of the indexed rent as soon as it has been calculated.

1.5 If the revised Base Rent has not been calculated by the Landlord and notified to the Tenant on or before a Review Date, the Base 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 Base 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 Base Rent and the amount that would have been payable had the revised Base 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 Base Rent had been notified on or before that Review Date and the date payment is received by the Landlord.

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

1.7 Subject to paragraph 1.8, if there is any change to the methods used to compile the CPI, including any change to the items from which the CPI is compiled, or if the reference base used

to compile the CPI changes, the calculation of the indexed rent shall be made taking into account the effect of this change.

1.8 The Landlord and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Base Rent if either:

(a) the Landlord or the Tenant reasonably believes that any change referred to in paragraph [1.7 would fundamentally alter the calculation of the indexed rent in accordance with this paragraph 1, and has given notice to the other party of this belief; or

(b) it becomes impossible or impracticable to calculate the indexed rent in accordance with this paragraph 1.

This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the CPI.

In default of agreement between the Landlord and the Tenant on an alternative mechanism for setting the Base Rent, the parties shall refer the matter to an Expert in accordance with clause [51].

SCHEDULE 6
INSURANCE
1. Landlord's obligation to insure

1.1 Subject to *Paragraph 1.2* and *Paragraph 1.3* of this Schedule, the Landlord must keep the Building insured against loss or damage by the Insured Risks for the Reinstatement Cost.

1.2 The Landlord shall not be obliged to insure:

(a) the Excluded Insurance Items or repair any damage or destruction caused to the Excluded Insurance Items. References to the Property and the Building in this *Schedule 6* shall exclude the Excluded Insurance Items;

(b) any alterations to the Property that form part of the Property unless:

(i)those alterations are permitted or required under this lease;
(ii)those alterations have been completed in accordance with this lease and (where applicable) in accordance with the terms of any consent or approval given under this lease; and
(iii)the Tenant has notified the Landlord of the amount for which those alterations should be insured and provided evidence of that amount that is satisfactory to the Landlord (acting reasonably); or

(c) the Building when the insurance is vitiated by any act or omission of the Tenant or any Authorised Person.

1.3 The Landlord's obligation to insure is subject to any limitations, excesses and conditions that may be imposed by the insurers.

2. Landlord to provide insurance details

2.1 In relation to any insurance effected by the Landlord under this *Schedule 6*, the Landlord must at the request of the Tenant (such request not to be made more frequently than once a year) supply the Tenant with a letter confirming insurance cover is in place.

3. Tenant's obligations

3.1 The Tenant must pay to the Landlord on demand:

(a) the Insurance Rent;

(b) the Tenant's Proportion of any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and

(c) the Tenant's Proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes provided that the Tenant shall not be obliged to contribute towards the costs of any such valuations carried out more frequently than once every two years.

3.2 The Tenant must:

(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 must also give the Landlord notice of that matter;

(b) not do or omit to do anything as a result of which:

(i)any insurance policy for the Building may become void or voidable or otherwise prejudiced;
(ii)the payment of any policy money may be withheld; or
(iii)any increased or additional insurance premium may become payable (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium (including any IPT due on that amount));

(c) comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of any other part of the Building [where written details of those requirements or recommendations have first been given to the Tenant];

(d) give the Landlord immediate notice of the occurrence of:

(i)any damage or loss relating to the Property arising from an Insured Risk [or an Uninsured Risk]; or
(ii)any other event that might affect any insurance policy relating to the Property;

(e) except for the Excluded Insurance Items, not effect any insurance of the Property but, if the Tenant becomes entitled to the benefit of any insurance proceeds in respect of the Property, 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 Authorised Person.

4. Rent suspension

4.1 Subject to *Paragraph 4.2* [and *Paragraph 4.3*] of this Schedule, if any Building Damage by an Insured Risk or an Uninsured Risk occurs, payment of the Base Rent (or a fair proportion of it according to the nature and extent of that Building Damage) shall be suspended until the earlier of:

(a) the date on which the Building has been reinstated so as to make the Property fit for occupation and use and accessible; and

(b) the date which is three years from and including the date on which that Building Damage occurred.

4.2 The Base Rent shall not be suspended under *Paragraph 4.1* of this Schedule if the Building Damage is caused by:

(a) an Insured Risk and:

(i)the policy of insurance in relation to the Building has been vitiated in whole or in part as a result of any act or omission of the Tenant or any Authorised Person; and
(ii)the Tenant has not complied with *Paragraph 3.2(f)* of this Schedule or

(b) an Uninsured Risk and the Building Damage was Tenant Damage.

4.3 If the rent suspension period specified in *Paragraph 4.1* of this Schedule commences before the Rent Commencement Date:

(a) that rent suspension period shall be extended by the number of days from and including the date on which the rent suspension period commenced to but excluding the Rent Commencement Date or, if only a proportion of the Base Rent due would have been suspended under *Paragraph 4.1* of this Schedule, an equivalent proportion of that number of days; and

(b) the Rent Commencement Date shall then be the day after the expiry of the rent suspension period (as extended under *Paragraph 4.3(a)* of this Schedule).

5. Landlord's obligation to reinstate following damage or destruction by an Insured Risk

5.1 Following any damage or destruction to the Property by an Insured Risk or any other Building Damage by an Insured Risk, the Landlord must:

(a) use reasonable endeavours to obtain all necessary planning and other consents to enable the Landlord to reinstate the relevant parts of the Building; and

(b) reinstate the relevant parts of the Building except that the Landlord shall not be obliged to:

(i)reinstate unless all necessary planning and other consents are obtained;
(ii)reinstate unless the Tenant has paid the sums due under *Paragraph 3.1(b)* and *Paragraph 3.2(f)* of this Schedule;
(iii)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
(iv)reinstate after a notice to terminate has been served pursuant to this *Schedule 6*.

5.2 If the Landlord is obliged to reinstate the relevant parts of the Building pursuant to *Paragraph 5.1(b)* of this Schedule, the Landlord must:
(a) use all insurance money received (other than for loss of rent) and all sums received under *Paragraph 3.1(b)* and *Paragraph 3.2(f)* of this Schedule for the purposes of that reinstatement; and

(b) make up any shortfall out of its own funds.

6. Termination if reinstatement impossible or impractical following Building Damage by an Insured Risk
6.1 Following Building Damage by an Insured Risk, if the Landlord (acting reasonably) considers that it is impossible or impractical to reinstate the relevant parts of the Building, the Landlord may terminate this lease by giving notice to the Tenant within six months from and including the date on which that Building Damage occurred.

7. Building Damage by an Uninsured Risk

7.1 If the Base Rent (or a fair proportion of it) is suspended under *Paragraph 4.1* of this Schedule due to Building Damage by an Uninsured Risk, then, within 12 months from and including the date on which that Building Damage occurred, the Landlord must either:

(a) terminate this lease by giving notice to the Tenant; or

(b) notify the Tenant that it intends to reinstate the relevant parts of the Building at its own cost.

7.2 If the Landlord notifies the Tenant under *Paragraph 7.1(b)* that it intends to reinstate the relevant parts of the Land, then the Landlord must use:

(a) reasonable endeavours to obtain all necessary planning and other consents to enable the Landlord to reinstate the relevant parts of the Building; and

(b) its own monies to reinstate the relevant parts of the Building but the Landlord shall not be obliged to:

(i)reinstate unless all necessary planning and other consents are obtained;
(ii)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
(iii)reinstate after a notice to terminate has been served pursuant to this *Schedule 6*.

7.3 If *Paragraph 7.1* applies but the Landlord has not served a notice under either *Paragraph 7.1(a)* or *Paragraph 7.1(b)* by the date which is [12] months from and including the date on which the relevant Building Damage occurred, the Tenant may at any time thereafter terminate this lease by giving notice to the Landlord provided that such notice is served before the Property is made fit for occupation and use and accessible.

8. Termination if reinstatement not complete by expiry of rent suspension
8.1 If Building Damage by an Insured Risk or an Uninsured Risk (where the Landlord elected to

reinstate under *Paragraph 7.1(b)* of this Schedule) occurs and the relevant parts of the Building have not been reinstated so as to make the Property fit for occupation and use and accessible by the date which is two years after the date on which that Building Damage occurred, either party may at any time thereafter terminate this lease by giving notice to the other provided that:

(a) such notice is served before the relevant parts of the Building have been reinstated so as to make the Property fit for occupation and use and accessible; and

(b) where the Tenant serves the notice, it has complied with its obligations in this *Schedule 6* and the failure to reinstate so that the Property is fit for occupation and use is not caused by a breach of the Tenant's obligations under *Clauses [17 and 18]*.

9. Consequences of termination

9.1 If either party gives a notice to terminate this lease in accordance with this *Schedule 6*:

(a) this lease shall terminate with immediate effect from the date of the notice;

(b) none of the parties shall have any further rights or obligations under this agreement except for the rights of any party in respect of any earlier breach of this lease; and

(c) any proceeds of the insurance for the Building shall belong to the Landlord.

10. Tenant Damage

10.1 If any damage or destruction to the Building by an Uninsured Risk is caused by Tenant Damage, the Landlord shall not be obliged to reinstate the relevant parts of the Building but if the Landlord chooses to do so, the Tenant must pay on demand all costs reasonably and properly incurred by the Landlord in reinstating.

SCHEDULE 7
SERVICE CHARGE

Part 1
Services
1. The Services are:[12]

1.1 maintaining, repairing or replacing the Retained Parts and remedying any inherent defect in those parts of the Building.

1.2 Lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts and the Building.

1.3 Maintaining the landscaped, ornamental, decorative and grassed areas and items in the Common Parts.

[12] To be finalised when design of building is known.

1.4 Cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts.

1.5 Controlling pests and vermin in or on the Common Parts.

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

Part 2
Service Costs

1. Subject to *Paragraph 11.1* of *Part 4* of this Schedule, the Service Costs are the total of:
1.1 All of the reasonable and properly incurred costs of:

(a) providing the Services;

(b) providing the Services in respect of any of the Retained Parts as the Landlord may in its reasonable discretion consider appropriate for the purposes of good estate management;

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

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

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

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

1.2 The total of the reasonable and properly incurred costs, fees and disbursements of:

(a) any managing agent or person employed by the Landlord, or by the managing agents, or otherwise retained by the Landlord to act on the Landlord's behalf in relation to the carrying out and provision of the Services, calculation of the Service Costs and the administration of the Service Charge; and

(b) the accountants employed by the Landlord in relation to the preparation, auditing, certification and review of the Service Charge accounts.

1.3 All rates, taxes and impositions payable in respect of the Retained 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).

1.4 The reasonable and proper cost of complying with any of the Landlord's obligations contained in *Part 4* of this Schedule.

1.5 All costs incurred in carrying out any marketing, promotion and advertising of the Building.

1.6 All costs incurred or contributed by the Landlord in respect of the construction, repair, maintenance or renewal of any road, pathway or other accessway which serves, but does not form part of, the Property.

1.7 Any VAT payable in respect of any of the items mentioned above except to the extent that the Landlord obtains credit for such VAT.

2. Where the Landlord could recover the cost of professional advice or services under the preceding paragraph if they were undertaken by a third party but these services are that advice are provided by the Landlord to pay to the Landlord) a reasonable sum (plus VAT if payable) for such advice and services but not more than the amount payable by the Tenant if that advice or service had been provided by a third party.

Part 3
Service Charge administration and obligations

1. Provision of Services

1.1 Subject to the other provisions of this *Paragraph 1*, the Landlord must use reasonable endeavours to provide the Services set out in *Paragraph 1.1* to Paragraph 1.6 (inclusive) of *Part 1* of this Schedule.

1.2 The Landlord may (in its absolute discretion) add to, extend, vary, withdraw or withhold any of the Services provided that in doing so the Landlord must act reasonably and in the interests of good estate management.

1.3 The Landlord shall not be obliged to:

(a) carry out any works where the need for those works has arisen by reason of any damage or destruction by an Uninsured Risk (unless the Landlord has elected to carry out such works under *Paragraph 7.1* of *Schedule 6*); or

(b) replace or renew any part of the Building or any item or system within the Building unless it is beyond economic repair.

1.4 The Landlord shall not be liable for any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord provided that the Landlord must use reasonable endeavours to restore the provision of the relevant Service as soon as reasonably practicable.

2. Tenant's obligation to pay the Service Charge
2.1 Subject to *Paragraph 3* of this Part of this Schedule, the Tenant must pay to the Landlord the Service Charge for each Service Charge Year by way of:

(a) on account payments of the Estimated Service Charge in accordance with *Paragraph 5* of this Part of this Schedule;

(b) any payment payable under *Paragraph 6* of this Part of this Schedule; and

(c) any payment payable under *Paragraph 9.1(a)* of this Part of this Schedule.

3. Apportionments in Current Service Charge Year and Final Service Charge Year

3.1 For the Current Service Charge Year:

(a) the Tenant shall only be obliged to pay to the Landlord apportioned amounts of the Estimated Service Charge and Service Charge for that Service Charge Year; and

(b) those apportioned amounts shall be calculated on a daily basis for the period from and including the date of this lease to and including the last day of the Current Service Charge Year.

3.2 For the Final Service Charge Year:

(a) the Tenant shall only be obliged to pay to the Landlord an apportioned amount of the Service Charge for that Service Charge Year; and

(b) that apportioned amount shall be calculated on a daily basis for the period from and including the first day of the Final Service Charge Year to and including the Termination Date.

4. Estimated Service Charge calculation

4.1 At least one month before the start of each Service Charge Year, the Landlord must prepare and send to the Tenant:

(a) a Service Costs Budget for that Service Charge Year; and

(b) a statement of the Estimated Service Charge for that Service Charge Year.

5. Tenant's obligation to pay the Estimated Service Charge

5.1 Subject to *Paragraph 5.2* of this Part of this Schedule, the Tenant must pay to the Landlord:

(a) for the Current Service Charge Year, the apportioned amount of the Estimated Service Charge calculated in accordance with *Paragraph 3.1* of this Part of this Schedule by equal instalments in advance on the date of this lease and each of the subsequent Rent Payment Dates during the Current Service Charge Year; and

(b) for each subsequent Service Charge Year, the Estimated Service Charge for that Service Charge Year by equal instalments in advance on each of the Rent Payment Dates during that Service Charge Year.

5.2 Following receipt by the Tenant of a revised statement of the Estimated Service Charge pursuant to *Paragraph 10.2(c)* of this Part of this Schedule, then, for the Service Charge Year to which that revised statement relates:

(a) the amount specified in that revised statement for the purposes of *Paragraph 10.2(c)(i)* of this Part of this Schedule shall apply in substitution for the Estimated Service Charge previously payable by the Tenant for that Service Charge Year; and

(b) the Tenant must pay to the Landlord the amount specified in that revised statement for the

purposes of *Paragraph 10.2(c)(ii)* of this Part of this Schedule by equal instalments in advance on each of the remaining Rent Payment Dates during that Service Charge Year.

6. Unexpected Service Costs

6.1 If the Landlord is required to incur or incurs any Service Cost that was not anticipated when determining the Estimated Service Charge for any Service Charge Year, the Tenant must pay to the Landlord on demand any sum that the Landlord reasonably requires from the Tenant in respect of that Service Cost.

6.2 Any sums paid by the Tenant pursuant to this *Paragraph 6* shall be treated as Estimated Service Charge paid by the Tenant for the purposes of *Paragraph 9.1* of this Part of this Schedule.

7. Service Charge Statement

7.1 As soon as reasonably practicable and in any event no later than six months after the end of each Service Charge Year, the Landlord must prepare and send to the Tenant a Service Charge Statement for that Service Charge Year.

7.2 If any Service Cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord may include it in the Service Costs Budget and Service Charge Statement in the following Service Charge Year.

7.3 Subject to *Paragraph 7.2* and *Paragraph 12* of this Part of this Schedule and except in the case of manifest error, the Service Charge Statement shall be conclusive as to all matters of fact to which it refers.

8. Tenant's inspection and audit

8.1 Within the period of four months from and including the Tenant's receipt of a Service Charge Statement, the Tenant may inspect all relevant paperwork and any supporting documentation relating to that Service Charge Statement by appointment with the Landlord or its agents.

8.2 On request by the Tenant and at the Tenant's cost, the Landlord must agree to an independent audit of the Service Costs.

9. Balancing payments of Service Charge

9.1 If the Service Charge (or, where applicable, the apportioned amount of the Service Charge calculated in accordance with *Paragraph 3* of this Part of this Schedule) payable by the Tenant for a Service Charge Year is:

(a) more than the Estimated Service Charge paid by the Tenant during that Service Charge Year, the Tenant must pay the difference to the Landlord within five working days of demand; or

(b) less than the Estimated Service Charge paid by the Tenant during that Service Charge Year, the Landlord must credit the difference against the Tenant's next instalment of Estimated Service Charge (and, where the difference exceeds the next instalment, the Landlord must credit the balance of the difference against each succeeding instalment until it is fully credited). Except that, for the Final Service Charge Year, the Landlord must repay the difference to the Tenant within one month of the date on which the Service Charge Statement for that Service Charge Year is certified.

9.2 The provisions in this *Paragraph 9* shall continue to apply notwithstanding the occurrence of the

Termination Date but only in respect of the Tenant's obligation to pay the Service Charge for the period up to and including the Termination Date.

10. Alternative annual accounting period

10.1 The Landlord may from time to time stipulate and notify to the Tenant an alternative annual accounting period as the Service Charge Year.

10.2 If the Landlord stipulates and notifies to the Tenant an alternative annual accounting period in accordance with *Paragraph 10.1* of this Part of this Schedule, the Landlord must:

(a) at the same time notify the Tenant of its decision to change the end date of the Service Charge Year current at the date of that notification to either increase or decrease the length of that Service Charge Year to a period that is more or less than an annual period to accommodate that alternative annual accounting period;

(b) act reasonably in the interests of good estate management when deciding whether to increase or decrease the length of the Service Charge Year pursuant to *Paragraph 10.2(a)* of this Part of this Schedule; and

(c) as soon as reasonably practicable after notifying the Tenant of its decision pursuant to *Paragraph 10.2(a)* of this Part of this Schedule, prepare and send to the Tenant a revised Service Costs Budget and a revised statement of the Estimated Service Charge for that Service Charge Year which includes:

(i)a statement of the amount of Estimated Service Charge payable by the Tenant for that Service Charge Year;

(ii)a statement of the amount of that revised Estimated Service Charge payable by the Tenant for the remainder of that Service Charge Year taking into account any payments of Estimated Service Charge already made by the Tenant during that Service Charge Year; and

(iii)explanations of how the amounts in *Paragraph 10.2(c)(i)* and *Paragraph 10.2(c)(ii)* of this Part of this Schedule have been calculated.

11. Landlord's general rights and obligations

11.1 The Landlord must use reasonable endeavours to notify the Tenant promptly in advance (and within the relevant Service Charge Year) of any material variation to the Service Costs set out in a Service Costs Budget.

12. Disputes

12.1 Any dispute between the Landlord and the Tenant that arises in connection with the Service Charge shall, in the absence of agreement, be referred for determination by an Expert under *clause 21.*

[SCHEDULE 8
GUARANTEE AND INDEMNITY
1. Guarantee and indemnity

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

(a) pay the Rents and observe and perform the tenant covenants of this lease and that if the Tenant fails to pay any of those Rents or to observe or perform any of those tenant covenants, the Guarantor shall pay or observe and perform them; and

(b) observe and perform any obligations the Tenant enters into in an authorised guarantee agreement made in respect of this lease (the **AGA**) and that, if the Tenant fails to do so, the Guarantor shall observe and perform those obligations.

1.2 The Guarantor covenants with the Landlord as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under *Paragraph 1.1* of this Schedule to indemnify and keep indemnified the Landlord against any failure by the Tenant:

(a) to pay any of the Rents or any failure to observe or perform any of the tenant covenants of this lease; or

(b) to observe or perform any of the obligations the Tenant enters into in the AGA.

2. Guarantor's liability
2.1 The liability of the Guarantor under *Paragraph 1.1(a)* and *Paragraph 1.2(a)* of this Schedule shall continue until the Termination Date, or until the Tenant is released from the tenant covenants of this lease by virtue of the LTCA 1995, if earlier.

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

(a) any time or indulgence granted by the Landlord to the Tenant;

(b) any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant covenants of this lease (or the Tenant's obligations under the AGA) or in making any demand in respect of any of them;

(c) any refusal by the Landlord to accept any rent or other payment due under this lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property;

(d) the Landlord exercising any right or remedy against the Tenant for any failure to pay the Rents or to observe or perform the tenant covenants of this lease (or the Tenant's obligations under the AGA);

(e) the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Tenant's liability to pay the Rents or observe and perform the tenant covenants of the lease (or the Tenant's obligations under the AGA) including the release of any such security;

(f) a release or compromise of the liability of any one of the persons who is the Guarantor, or the grant

of any time or concession to any one of them;

(g) any legal limitation or disability on the Tenant or any invalidity or irregularity of any of the tenant covenants of the lease (or the Tenant's obligations under the AGA) or any unenforceability of any of them against the Tenant;

(h) the Tenant being dissolved, or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs;

(i) without prejudice to *Paragraph 4* of this Schedule, the disclaimer of the Tenant's liability under this lease or the forfeiture of this lease;

(j) the surrender of the lease in respect of part only of the Property, except that the Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender; or

(k) any other act or omission except an express written release by deed of the Guarantor by the Landlord.

2.3 Any sum payable by the Guarantor must be paid without any set-off or counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) against the Landlord or the Tenant.

3. Variations and supplemental documents

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

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

(a) the variation is material or prejudicial to the Guarantor;

(b) the variation is made in any document; or

(c) the Guarantor has consented, in writing or otherwise, to the variation.

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

4. Guarantor to take a new lease or make payment

4.1 If this lease is forfeited or the liability of the Tenant under this lease is disclaimed and the Landlord gives the Guarantor notice not later than six months after the forfeiture or the Landlord having received notice of the disclaimer, the Guarantor must enter into a new lease of the Property on the terms set out in *Paragraph 4.2* of this Schedule.

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

forfeiture or disclaimer and the new lease shall:

(a) be granted subject to the right of any person to have this lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of the grant;

(b) be for a term that expires on the same date as the end of the Contractual Term of this lease had there been no forfeiture or disclaimer;

(c) reserve as an initial annual rent an amount equal to the Base Rent payable under this lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of the Base Rent or restriction on the right to collect it (subject to *Paragraph 5* of this Schedule) and which is subject to review on the same terms and dates provided by this lease; and

(d) [be excluded from sections 24 to 28 of the LTA 1954; and

(e) otherwise be on the same terms as this lease (as varied if there has been any variation).

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

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

4.5 The Landlord may, instead of giving the Guarantor notice pursuant to *Paragraph 4.1* of this Schedule but in the same circumstances and within the same time limit, require the Guarantor to pay an amount equal to six months' Base Rent and the Guarantor must pay that amount on demand.

5. Rent at the date of forfeiture or disclaimer

5.1 If at the date of the forfeiture or disclaimer there is a rent review pending under this lease, then the initial base rent to be reserved by the new lease shall be subject to review on the date on which the term of the new lease commences on the same terms as those that apply to a review of the Base Rent under this lease, such review date to be included in the new lease.

5.2 If *Paragraph 5.1* of this Schedule applies, then the review for which it provides shall be in addition to any rent reviews that are required under *Paragraph 4.2(c)* of this Schedule.

6. Payments in gross and restrictions on the Guarantor

6.1 Any payment or dividend that the Landlord receives from the Tenant (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Tenant shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.

6.2 The Guarantor must not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Tenant in respect of any payment made by the Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it must hold that money on trust for the Landlord to the extent of its liability to the Landlord.

6.3 The Guarantor must not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Tenant or any other person) in respect of any amount paid or other obligation performed by the Guarantor under this guarantee and indemnity unless and until all the obligations of the Guarantor under this guarantee and indemnity have been fully performed.

7. Other securities

7.1 The Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Tenant in respect of any liability of the Tenant to the Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.

7.2 This guarantee and indemnity is in addition to and independent of any other security that the Landlord may from time to time hold from the Guarantor or the Tenant or any other person in respect of the liability of the Tenant to pay the Rents and to observe and perform the tenant covenants of this lease. It shall not merge in or be affected by any other security.

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

Schedule [9]

Landlord's Fixtures, Fittings, Furnishings and Equipment (FFF&E) [13]

Fixed FFF&E include:	**Moveable FFF&E include:**
Counter servery	Tables and chairs
Cooking equipment	Counter servery equipment e.g. coffee machines, sandwich grill/toaster
Ventilation canopy and replacement filters	Loose light equipment e.g. pots, pans, crockery, cutlery
General stainless steel fabrication e.g. worktops, tabling, sinks, taps	EPOS / Till system
Racks, shelves, cupboards	Waste and sanitary containers
Floor, wall, ceiling finishes	Display cabinets
Flooring	Tenant's personal signage
Heating and ventilation / air handling	External movables such as planters
Toilets, sinks, tiles/hard wearing wipeable finishes, cubicles, showers, hand dryers	Waste compactor
Fire alarm / intruder alarm	
Refrigeration	
Dishwasher	
Fly killer / killing grid	
Irrigation tank	
Changing room benches and coat hooks	
Light fittings and bulbs	
Grease traps and interceptors	
Window Dressings	
Canopies	

[13] This list is indicative only & will be revised once final design known.

Whitecliff Pavilion: Tender Document

Appendix: D2

EXECUTION CLAUSES

ANNEX A
PROPERTY PLAN

ANNEX B
LAND PLAN