|  |
| --- |
| Dated |
|  |
| [LANDLORD]  and  [TENANT]  and  [GUARANTOR] |
|  |
| **LICENCE FOR ALTERATIONS**  Relating to premises known as [DESCRIPTION]  and to premises known as [DESCRIPTION] |
|  |
|  |

[NOTE: FOR USE ONLY WHERE THE ALTERATIONS ARE BEING CARRIED OUT TO UNITE TWO PREMISES OWNED BY A COMMON LANDLORD]

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**LICENCE FOR ALTERATIONS**

**DATED**

**PARTIES**

1. [LANDLORD] (incorporated and registered in [England and Wales] [the United Kingdom] [COUNTRY] under company registration number [COMPANY NUMBER]), the registered office of which is at [ADDRESS] (the “**Landlord**”); [and]

2. [TENANT] (incorporated and registered in [England and Wales] [the United Kingdom] [COUNTRY] under company registration number [COMPANY NUMBER]), the registered office of which is at [ADDRESS] (the “**Tenant**”); [and]

3. [[GUARANTOR] (incorporated and registered in [England and Wales] [the United Kingdom] [COUNTRY] under company registration number [COMPANY NUMBER]), the registered office of which is at [ADDRESS] (the “**Guarantor**”)].[[1]](#footnote-1)

**BACKGROUND**

(A) This Licence relates to the First Premises and the Second Premises and is supplemental to the First Lease and the Second Lease.

(B) The Landlord [remains/is now] the landlord under the First Lease and the Tenant [remains/is now] the tenant under the First Lease.

(C) The Landlord [remains/is now] the landlord under the Second Lease and the Tenant [remains/is now] the tenant under the Second Lease.

(D) The Landlord has agreed to permit the Tenant to carry out alterations to the First Premises and the Second Premises on the terms of this Licence.[[2]](#footnote-2)

**IT IS AGREED AS FOLLOWS**

1. Definitions

This Licence uses the following definitions:

**“CDM Regulations”**

the Construction (Design and Management) Regulations 2015;

**“Consents”**

all necessary permissions, licences and approvals for the Works under the Planning Acts, the building and fire regulations, and any other statute, bye law or regulation of any competent authority and under any covenants or provisions affecting the First Premises or the Second Premises and as otherwise required from owners, tenants or occupiers of any adjoining or neighbouring property;

**“Dealing”**

1. the assignment of the First Lease[ or the underletting of the whole of the First Premises] to a person who does not simultaneously accept the assignment of the Second Lease [or the grant of an underlease of the whole of the Second Premises]; or
2. the assignment of the Second Lease[ or the underletting of the whole of the Second Premises] to a person who does not simultaneously accept the assignment of the First Lease[ or the grant of an underlease of the whole of the First Premises];

**“Dutyholder Regulations”**

Part 2A of the Building Regulations 2010;

**“EPC”**

an energy performance certificate and recommendation report as defined in the Energy Performance of Buildings (England and Wales) Regulations 2012;

**“Event of Default”**

all or any of the following:

1. disclaimer of the First Lease or the Second Lease by the Crown or by a liquidator or trustee in bankruptcy of the Tenant;
2. the forfeiture or surrender of the First Lease or the Second Lease;
3. the Tenant being struck off the register of companies or otherwise ceasing to exist;

**“First Lease”**

a lease dated [DATE] between (1) [the Landlord] and (2) [the Tenant] [and (3) [the Guarantor]] and any document supplemental to it;

**“First Lease Obligations”**

the tenant’s obligations in the First Lease;

**“First Premises”**

the property let by the First Lease known as [ADDRESS];

**“Insured Risks”**

the combined Insured Risks defined in the First Lease and the Second Lease;

**“Planning Acts”**

every act of Parliament and any delegated law made under them for the time being in force relating to the use, development, design, control and occupation of land and buildings;

**“Plans”**

the plans, drawings, specifications or other documents setting out details of the Works attached to this Licence;

**“Prohibited Materials”**

any products or materials that:

1. do not conform to relevant standards or codes of practice; or
2. are generally known within the construction industry at the time of specification to be deleterious to health and safety or the durability of buildings or structures in the particular circumstances in which they are specified for use;

**“Reinstatement Event”**

subject to clause **11.3**, all or any of the following:

1. an Event of Default;
2. the end of the Term of the First Lease, however it occurs;
3. the end of the Term of the Second Lease, however it occurs; [or]
4. [the Landlord’s interest in the First Premises and the Second Premises no longer being owned by the same person; or]
5. the Tenant entering into or proposing to enter into a Dealing;

**“Second Lease”**

a lease dated [DATE] between (1) [the Landlord] and (2) [the Tenant] [and (3) [the Guarantor]] and any document supplemental to it;

**“Second Lease Obligations”**

the tenant’s obligations in the Second Lease;

**“Second Premises”**

the property let by the Second Lease known as [ADDRESS];

**“Term of the First Lease”**

the term of the First Lease [including where applicable any continuation of that period under the Landlord and Tenant Act 1954[[3]](#footnote-3)];

**“Term of the Second Lease”**

the term of the Second Lease [including where applicable any continuation of that period under the Landlord and Tenant Act 1954[[4]](#footnote-4)]; and

**“Works”**

the works to the First Premises and the Second Premises to be carried out by the Tenant briefly described in **Schedule 1**.

1. Interpretation
   1. All headings in this Licence are for ease of reference only and will not affect its construction or interpretation.
   2. In this Licence, “includes”, “including” and similar words are used without limitation or qualification to the subject matter of the relevant provision.
   3. In this Licence:
      1. “notice” means any notice, notification or request given or made under it; and
      2. a notice must be given or made in writing.
   4. References in this Licence to:
      1. the parties include references to their respective successors in title;
      2. an Act are to that Act as amended from time to time and to any Act that replaces it;
      3. the singular include the plural and vice versa, and one gender includes any other;
      4. a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
      5. clauses and Schedules are to the clauses of and Schedules to this Licence and references to paragraphs are to the paragraphs of the Schedule in which the references are made;
      6. the Landlord having a right of approval or consent mean a prior written approval or consent, which will not be unreasonably withheld or delayed except where this Licence specifies that the Landlord has absolute discretion;
      7. any sums being payable on demand or when demanded mean being payable when demanded in writing; and
      8. the provision of plans, drawings, specifications or other documents means their provision in hard copy or electronically in PDF format or in any other easily readable format as may be appropriate in the context of the purpose for which they are provided and the nature of the information that they contain, but not in a format that is proprietary to a particular computer system or program that cannot be imported into or easily read by another computer system or program.[[5]](#footnote-5)
   5. Obligations in this Licence:
      1. owed by or to more than one person are owed by or to them jointly and severally;
      2. to do something include an obligation not to waive any obligation of another person to do it; and
      3. not to do something include an obligation not to permit or allow another person to do it.
   6. Where the Tenant is obliged to pay any costs that the Landlord incurs (or any proportion of them) under this Licence, those costs must be reasonable and proper and reasonably and properly incurred.
   7. If any provision or part of any provision of this Licence is held to be illegal, invalid or unenforceable, that provision or part will apply with such modification as may be necessary to make it legal, valid and enforceable. If modification is not possible, that provision or part will be deemed to be deleted. The legality, validity or enforceability of the remainder of this Licence will not be affected.
2. Licence for alterations
   1. The Landlord permits the Tenant to carry out the Works on the terms of this Licence.
3. Obligations before beginning the Works
   1. Before starting the Works the Tenant must:
      1. obtain and provide the Landlord with copies of any Consents that are required before they are begun and, where required by the terms of the First Lease or the Second Lease, obtain the Landlord’s approval to them;
      2. fulfil any conditions in the Consents required to be fulfilled before they are begun;
      3. assume liability for and pay any community infrastructure levy payable in respect of the Works pursuant to section 206 Planning Act 2008;
      4. notify the Landlord of the date on which the Tenant intends to start the Works; and
      5. provide the Landlord with any information relating to the Works as may be required by its insurers and pay any additional insurance premiums payable due to the carrying out of the Works under the First Lease and the Second Lease.
   2. If any variations to the Plans are required in order to obtain any of the Consents, the Tenant must obtain the approval of the Landlord to those variations.
   3. The Tenant must ensure that it or its building contractor has put in place public liability and employer’s liability insurance of at least £[5] million in respect of each claim and provide the Landlord with a summary of the main terms of the insurance policies and evidence that the premiums have been paid before starting the Works.
4. Obligations when carrying out the Works
   1. If it starts the Works, the Tenant must carry out and complete them:
      1. as soon as reasonably practicable, and in any event within [six] months after the date of this Licence;
      2. in accordance with the Plans;
      3. in a good and workmanlike manner and with good quality materials;
      4. [in accordance with the reasonable principles, standards and guidelines set out in any relevant guide or handbook published by the Landlord at the date of this Licence for tenant’s works carried out at the First Premises or the Second Premises;]
      5. without using Prohibited Materials;
      6. [[during][outside] the hours of [TIME] to [TIME];[[6]](#footnote-6)]
      7. in compliance with the Consents and all Acts of Parliament (and any delegated legislation made under them) and with the requirements of the insurers of the First Premises, the Second Premises and (where applicable) of any competent authority or utility provider;
      8. without affecting the structural integrity of the First Premises or the Second Premises or any land and buildings of which they form a part; and
      9. with as little interference as reasonably practicable to the owners, tenants or occupiers of any adjoining or neighbouring property.
   2. The Tenant must make good immediately any physical damage caused by the carrying out of the Works.
   3. The Tenant must permit the Landlord to inspect the progress of the Works at all reasonable times subject to the Landlord complying with:
      1. any conditions relating to entry onto the First Premises contained in the First Lease; and
      2. any conditions relating to entry onto the Second Premises contained in the Second Lease.
   4. All plant, equipment and materials used in connection with the Works must be stored securely.
5. Obligations on completion of the Works
   1. As soon as reasonably practicable following completion of the Works the Tenant must:
      1. notify the Landlord of their completion;
      2. obtain any Consents that are required on their completion;
      3. remove all debris and equipment used in carrying out the Works;
      4. notify the Landlord of the cost of the Works;
      5. permit the Landlord to inspect the completed Works at a reasonable time subject to the Landlord complying with:
         1. any conditions relating to entry onto the First Premises contained in the First Lease; and
         2. any conditions relating to entry onto the Second Premises contained in the Second Lease.
      6. [give the Landlord executed deeds of warranty from [any person involved in the design and construction of the Works] in the form of the attached deeds of warranty;[[7]](#footnote-7)]
      7. if reasonably required, give the Landlord information in sufficient detail for an accurate assessment to be made of the effect of the Works on:
         1. the consumption of energy and water, the generation and management of waste, greenhouse gas emissions and any other adverse environmental impacts arising out of the Works or the materials used in them;
         2. the energy performance rating (as defined in Regulation 11 of the Energy Performance of Buildings (England and Wales) Regulations 2012) shown on any existing EPC relating to the First Premises or the Second Premises; and
      8. give the Landlord as-built plans, drawings and specifications showing the Works and ensure that the Landlord is able to use and reproduce them for any lawful purpose in relation to the First Premises and the Second Premises.
   2. The Tenant must pay to the Landlord as rent under the First Lease any increased insurance premiums payable resulting from the carrying out and retention of the Works on the First Premises.
   3. The Tenant must pay to the Landlord as rent under the Second Lease any increased insurance premiums payable resulting from the carrying out and retention of the Works on the Second Premises.
6. Regulations
   1. If the CDM Regulations apply to the Works, the Tenant must:
      1. comply with them and ensure that any person involved in the management, design and construction of the Works complies with their respective obligations under the CDM Regulations;
      2. if the Landlord would be treated as a client for the purposes of the CDM Regulations, agree to be treated as the only client in respect of the Works; and
      3. on completion of the Works provide the Landlord with a copy of any health and safety file relating to the Works and deliver the original file to the Landlord at the end of the Term of the First Lease or, if later, the end of the Term of the Second Lease.
   2. If the Dutyholder Regulations apply to the Works:
      1. the Tenant must comply with them and ensure that any person involved in the management, design and construction of the Works complies with their respective obligations under the Dutyholder Regulations; and
      2. if the Landlord would be treated as a client for the purposes of the Dutyholder Regulations, the Landlord and the Tenant agree that the Tenant will be treated as the client in respect of the Works for the purposes of the Building Regulations 2010.
7. Energy Performance Certificates
   1. If the Works invalidate or materially adversely affect an existing EPC for the First Premises or the Second Premises or require the commissioning of an EPC for the combined First Premises and Second Premises, the Tenant must (at the Landlord’s option):
      1. obtain any EPCs required from an assessor approved by the Landlord and give the Landlord written details of the unique reference number for those EPCs; or
      2. pay the Landlord’s costs of obtaining any EPCs required.
8. Additional obligations
   1. If required by the Landlord or the Landlord’s insurers, the Tenant must ensure that any fire alarm and sprinkler systems in the First Premises and the Second Premises are connected to and compatible with each other and connected to and compatible with any fire alarm and sprinkler systems maintained by the Landlord.
   2. The Tenant must that ensure that the Works do not adversely affect the use, maintenance or operation of any plant or any conduits serving the First Premises or the Second Premises.
   3. In addition to any restrictions on or conditions to the assignment of the First Lease[ or the underletting of the whole of the First Premises], the Landlord will be entitled to require as a condition to granting consent to Dealing involving the First Lease that the Tenant complies with clause **11** before completion of the Dealing.
   4. In addition to any restrictions on or conditions to the assignment of the Second Lease[ or the underletting of the whole of the Second Premises], the Landlord will be entitled to require as a condition to granting consent to Dealing involving the Second Lease that the Tenant complies with clause **11** before completion of the Dealing.
9. Rent review

**Option 1 – Independent rent reviews under the First Lease and the Second Lease**

* 1. Any effect on rent of the Works and the obligation to reinstate them will be disregarded on any rent review under the First Lease or the Second Lease.
  2. On any rent review under the First Lease, the occupation of the Second Premises by the Tenant will be disregarded.
  3. On any rent review under the Second Lease, the occupation of the First Premises by the Tenant will be disregarded.

**Option 2 – Rent is reviewed to the higher of the rents for the individual units and the rent for the combined unit**

* 1. This clause **10** uses the following definitions:

**“Adjoining Premises”**

the premises not let by the Relevant Lease;

**“Relevant Lease”**

the First Lease or the Second Lease, as the case may be, under which the rent is being reviewed; and

**“Relevant Premises”**

the premises let by the Relevant Lease.

* 1. On each rent review under a Relevant Lease, the reviewed rent will be the higher of the rent agreed under clause **10.6** and the rent agreed under clause **10.7** as apportioned under clause **10.8**.
  2. Rent will be reviewed on the terms of the Relevant Lease. Any effect on rent of the Works and the obligation to reinstate them will be disregarded on that rent review. For the purposes of the rent review under the Relevant Lease, the occupation of the Adjoining Premises by the Tenant will be disregarded.
  3. Rent will be reviewed on the terms of the Relevant Lease to give the aggregate rent that would be payable for both the Relevant Premises and the Adjoining Premises combined with the following assumptions:
     1. the Relevant Premises and the Adjoining Premises are let as a whole by one lease on the same terms as the Relevant Lease with any variations to those terms necessary to make them applicable to the Relevant Premises and the Adjoining Premises; and
     2. the Works have been carried out pursuant to an obligation to the Landlord under the Relevant Lease.
  4. Following the agreement of the aggregate rent under clause **10.7**, it will be apportioned by the Landlord for the Relevant Premises in the same proportion that [net internal] area of the Relevant Premises bears to the aggregate of the [net internal] areas of the Relevant Premises and the Adjoining Premises. The apportioned amount will be the revised rent under the Relevant Lease.

1. Reinstatement
   1. Following a Reinstatement Event, the Tenant must remove the Works and reinstate the First Premises and the Second Premises to the same plans and design as before the carrying out of the Works.
   2. All works of reinstatement must be carried out on the same terms of this Licence as if references to “the Works” were references to the works of reinstatement.
   3. A Reinstatement Event will not occur if:
      1. the First Lease is renewed, whether by agreement or by order of the court, following the end of the Term of the First Lease and the renewed lease contains a covenant by the Tenant to comply with the reinstatement provisions in this Licence with references to the end of the Term of the First Lease being read as references to the end of the term of the renewed lease; or
      2. the Second Lease is renewed, whether by agreement or by order of the court, following the end of the Term of the Second Lease and the renewed lease contains a covenant by the Tenant to comply with the reinstatement provisions in this Licence with references to the end of the Term of the Second Lease being read as references to the end of the term of the renewed lease.
2. Costs
   1. The Tenant agrees with the Landlord that it will pay within [ten] working days of demand all costs and expenses, and any value added tax on them that cannot otherwise be recovered, incurred by the Landlord [and any superior landlord and mortgagee] in connection with:
      1. the preparation, negotiation and completion of this Licence;
      2. the approval of the Plans, any variations to the Plans and the approval of the Consents or any other approvals or permissions given under this Licence;
      3. the monitoring and inspection of the Works; and
      4. the service of any notice, exercising of any rights and carrying out of any works under clause **13**.
3. Remedying breaches
   1. If the Landlord requires the Tenant to remedy any breach of the Tenant’s obligations under this Licence then the Tenant must comply with those requirements immediately in the case of an emergency or, in all other cases, begin to comply with those requirements within one month after being notified of them and diligently complete any works required.
   2. If the Tenant does not comply with clause **13.1**, the Landlord may enter the First Premises and the Second Premises and carry out any works required itself. The Tenant must repay, as a debt on demand, all the costs the Landlord incurs in so doing. The Landlord’s rights under the First Lease and the Second Lease will be unaffected.
4. Exclusion of warranties
   1. The Landlord gives no express or implied warranty (and the Tenant acknowledges that the Tenant must satisfy itself):
      1. as to the suitability, safety, adequacy or quality of the design or method of construction of the Works;
      2. that the Works may lawfully be carried out;
      3. that the structure or fabric of the First Premises is able to accommodate the Works;
      4. that the structure or fabric of the Second Premises is able to accommodate the Works; and
      5. that any of the services supplying the First Premises and the Second Premises will either have sufficient capacity for or otherwise not be adversely affected by the Works.
5. Agreements
   1. Nothing in this Licence will:
      1. be deemed to authorise any action other than expressly authorised in clause **3**;
      2. release or reduce any liability to the Landlord of the Tenant or any guarantor or other party to the First Lease or the Second Lease; or
      3. waive or be deemed to waive any breach of the First Lease Obligations or the Second Lease Obligations that may have occurred before the date of this Licence.
   2. The conditions for re-entry contained in the First Lease will be exercisable on any breach of any provision in this Licence in the same way as if it were a provision contained in the First Lease.
   3. The conditions for re-entry contained in the Second Lease will be exercisable on any breach of any provision in this Licence in the same way as if it were a provision contained in the Second Lease.
   4. All sums payable by the Tenant under this Licence will be recoverable as rent in arrear in accordance with the First Lease and the Second Lease.
   5. The First Lease Obligations will extend to the Works and will apply to the First Premises as altered by the Works as they now apply to the First Premises as let by the First Lease.
   6. The Second Lease Obligations will apply to the Second Premises as altered by the Works as they now apply to the Second Premises as let by the Second Lease.
   7. The Tenant acknowledges that:
      1. it has not served any notice under the Landlord and Tenant Act 1927 that would make the Works improvements for the purposes of that Act;
      2. neither this Licence nor any correspondence relating to the Works constitutes a notice for the purposes of that Act;
      3. the Works are being carried out by the Tenant to suit its own requirements; and
      4. as a result, the Tenant is not entitled to compensation in respect of the Works whether under the Landlord and Tenant Act 1927 or otherwise.
   8. Nothing in this Licence creates any rights benefiting any person under the Contracts (Rights of Third Parties) Act 1999.
6. [Guarantor’s obligations
   1. The Guarantor agrees with the Landlord that:
      1. the guarantee given by it to the [Landlord][NAME] in clause [NUMBER] of the [First Lease][Licence to Assign the First Lease dated [DATE] made between [PARTIES]] in relation to the First Lease is not released or varied by this Licence;
      2. that guarantee extends to and will be exercisable by the Landlord on any breach by the Tenant of the terms of this Licence as well as on the breach of any of the First Lease Obligations.
   2. The Guarantor agrees with the Landlord that:
      1. the guarantee given by it to the [Landlord][NAME] in clause [NUMBER] of the [Second Lease][Licence to Assign the Second Lease dated [DATE] made between [PARTIES]] in relation to the Second Lease is not released or varied by this Licence; and
      2. that guarantee extends to and will be exercisable by the Landlord on any breach by the Tenant of the terms of this Licence as well as on the breach of any of the Second Lease Obligations.]
7. Notices
   1. Any notices to be served under this Licence will be validly served if served in accordance with [section 196 Law of Property Act 1925][the notice provisions in the [First][Second] Lease].
8. Jurisdiction
   1. This Licence and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.
   2. Subject to clause **18.3**, the courts of England and Wales have exclusive jurisdiction to decide any dispute arising out of or in connection with this Licence, including in relation to any non-contractual obligations.
   3. Any party may seek to enforce an order of the courts of England and Wales arising out of or in connection with this Licence, including in relation to any non-contractual obligations, in any court of competent jurisdiction.
9. Legal effect
   1. This Licence takes effect and binds the parties with effect from the date set out at the beginning of this Licence.

The Works

*Set out details of the alterations to be carried out by the Tenant.*

Executed as a deed by the Landlord acting by )

**[**a director and its secretary**]** or by **[**two directors**]**: )

Signature of Director

Signature of Director/Secretary

Executed as a deed by the Tenant acting by )

**[**a director and its secretary**]** or by **[**two directors**]**: )

Signature of Director

Signature of Director/Secretary

**[**Executed as a deed by the Guarantor acting by )

[a director and its secretary**]** or by **[**two directors**]**: )

Signature of Director

Signature of Director/Secretary

1. It is assumed that the same guarantor is guarantor to both leases. If there are different guarantors of the First Lease and the Second Lease, you will need to have two guarantor parties as the “First Guarantor” and the “Second Guarantor”. [↑](#footnote-ref-1)
2. Where the Landlord has covenanted with other tenants of the property to enforce the Tenant’s covenants in the First Lease or the Second Lease, remember to consider whether granting the Tenant permission to make alterations that are prohibited under the First Lease or the Second Lease would put the Landlord in breach of its covenants given to the other tenants – see *Duval v 11-13 Randolph Crescent Limited* [2020] UKSC 18. [↑](#footnote-ref-2)
3. Delete the wording in square brackets if the First Lease is contracted out of the Landlord and Tenant Act 1954. [↑](#footnote-ref-3)
4. Delete the wording in square brackets if the Second Lease is contracted out of the Landlord and Tenant Act 1954. [↑](#footnote-ref-4)
5. Where plans and specifications are provided to the Landlord, you should ensure that the Landlord has the right to use those plans and specifications – see clause 6.1.8. [↑](#footnote-ref-5)
6. Consider whether any restrictions need to be imposed by the Landlord on when the Works can be carried out. It may be appropriate to impose restrictions where the First Lease or the Second Lease is a lease of part and the Landlord is concerned that there is no disruption to other users of the Landlord’s property. [↑](#footnote-ref-6)
7. This clause is required only where the Works involve substantial structural elements. [↑](#footnote-ref-7)