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| --- |
| Dated |
|  |
| [LANDLORD]and[TENANT]and[GUARANTOR] |
|  |
| RETROSPECTIVE LICENCE FOR ALTERATIONSRelating to premises known as [DESCRIPTION] |
|  |
|  |

[NOTE: FOR USE ONLY WHERE THE ALTERATIONS HAVE BEEN CARRIED OUT INSIDE THE PREMISES]

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**RETROSPECTIVE 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**”)].

**BACKGROUND:**

1. This Licence relates to the Premises and is supplemental to the Lease.
2. The Landlord [remains/is now] the landlord under the Lease and the Tenant [remains/is now] the tenant under the Lease.
3. The Tenant has carried out alterations to the Premises and the Landlord has agreed to grant retrospective consent to those alterations on the terms of this Licence.

**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 Premises and as otherwise required from owners, tenants or occupiers of any adjoining or neighbouring property;

**“EPC”**

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

**“Insured Risks”**

the Insured Risks defined in the Lease;

**“Lease”**

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

**“Plans”**

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

**“Premises”**

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

**“Tenant’s Obligations”**

the obligations in the Lease that the Tenant must comply with; and

**“Works”**

the works to the Premises carried out by the Tenant briefly described in **Schedule 1**.

1. INTERPRETATION

In this Licence:

* 1. where appropriate, the singular includes the plural and vice versa, and one gender includes any other;
	2. obligations owed by or to more than one person are owed by or to them jointly and severally;
	3. an obligation to do something includes an obligation not to waive any obligation of another person to do it;
	4. an obligation not to do something includes an obligation not to permit or allow another person to do it;
	5. references to the parties include references to their respective successors in title;
	6. references to the Landlord having a right of approval or consent under this Licence mean a prior written approval or consent, which must not be unreasonably withheld or delayed except where this Licence specifies that the Landlord has absolute discretion;
	7. where a party to this Licence must pay any costs that the Landlord incurs (or any proportion of them), those costs must be reasonable and proper (unless those costs are incurred following a breach of this Licence) and reasonably and properly incurred;
	8. references to the provision of plans, drawings, specifications or other documents means their provision in hard copy, electronically in PDF format or in any other easily readable format as may be appropriate having regard to 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;[[1]](#footnote-1) and
	9. if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Licence will be unaffected.
1. LICENCE FOR ALTERATIONS

The Landlord gives retrospective consent to the Works carried out by the Tenant.

1. OBLIGATIONS BEFORE BEGINNING THE WORKS
	1. The Tenant confirms that before starting the Works
		1. it obtained any Consents that were required before the Works were begun;
		2. it fulfilled any conditions in the Consents required to be fulfilled before the Works were begun; and
		3. it or its building contractor put in place public liability and employer’s liability insurance of at least £[5] million in respect of each claim.
	2. [The Tenant confirms that it assumed liability for and paid any community infrastructure levy payable in respect of the Works pursuant to section 206 Planning Act 2008.]
2. OBLIGATIONS WHEN CARRYING OUT THE WORKS
	1. The Tenant confirms that it carried out and complete the Works:
		1. in accordance with the Plans;
		2. in a good and workmanlike manner and with good quality materials;
		3. [in accordance with the reasonable principles, standards and guidelines set out in any relevant guide or handbook published by the Landlord for tenant’s works carried out at the Premises;]
		4. 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 Premises and (where applicable) of any competent authority or utility provider;
		5. with as little interference as reasonably practicable to the owners, tenants or occupiers of any adjoining or neighbouring property; and
		6. in compliance, to the extent applicable, with the CDM Regulations.
	2. If it has not already done so, the Tenant must make good immediately any physical damage caused by the carrying out of the Works.
	3. The Tenant confirms that, until practical completion of the Works, it:
		1. insured the Works and any plant, equipment and loose materials for their full reinstatement cost (including professional fees) against loss or damage by the Insured Risks with reputable insurers; and
		2. reinstated any of the Works that are damaged or destroyed before their completion.
3. OBLIGATIONS ON COMPLETION OF THE WORKS
	1. If it has not already done so, the Tenant must:
		1. obtain any Consents that are required on completion of the Works;
		2. remove all debris and equipment used in carrying out the Works;
		3. notify the Landlord of the cost of the Works;
		4. permit the Landlord to inspect the completed Works at a reasonable time subject to the Landlord complying with any conditions relating to entry onto the Premises contained in the Lease;
		5. [provide to 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;[[2]](#footnote-2)]
		6. supply the Landlord with two complete sets of as-built Plans showing the Works;
		7. provide the Landlord with a copy of any health and safety file relating to the Works prepared under the CDM Regulations and deliver the original file to the Landlord at the end of the term of the Lease; and
		8. ensure that the Landlord is able to use and reproduce the Plans for any lawful purpose in relation to the Premises.
	2. The Tenant must pay to the Landlord as rent under the Lease any increased insurance premium payable resulting from the carrying out and retention of the Works on the Premises.
4. ENERGY PERFORMANCE CERTIFICATES
	1. If the Works invalidate or materially adversely affect an existing EPC or require the commissioning of an EPC, the Tenant must (at the Landlord’s option):
		1. obtain an EPC from an assessor approved by the Landlord and give the Landlord written details of the unique reference number for that EPC; or
		2. pay the Landlord’s costs of obtaining an EPC.
5. REINSTATEMENT

The reinstatement provisions in the Lease will apply to reinstatement of the Works.[[3]](#footnote-3)

1. COSTS

The Tenant must pay on the date of this Licence 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 the preparation, negotiation and completion of this Licence;

1. EXCLUSION OF WARRANTIES
	1. The Landlord gives no express or implied warranty (and the Tenant acknowledges that the Tenant satisfied itself):
		1. as to the suitability, safety, adequacy or quality of the design or method of construction of the Works;
		2. that the Works were lawfully be carried out;
		3. that the structure or fabric of the Premises is able to accommodate the Works; and
		4. that any of the services supplying the Premises either have sufficient capacity for or otherwise are not adversely affected by the Works.
2. 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 Lease; or
		3. waive or be deemed to waive any breach of the Tenant's Obligations that may have occurred before the date of this Licence.
	2. The conditions for re-entry contained in the 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 Lease.
	3. All sums payable by the Tenant under this Licence will be recoverable as rent in arrear in accordance with the Lease.
	4. The Tenant’s Obligations will extend to the Works and will apply to the Premises as altered by the Works as they now apply to the Premises as let by the Lease.
	5. [The Works will be disregarded on any review of the annual rent payable under the Lease.][[4]](#footnote-4)
	6. 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.
	7. Nothing in this Licence creates any rights benefiting any person under the Contracts (Rights of Third Parties) Act 1999.
3. [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 [Lease][Licence to Assign the Lease dated [DATE] made between [PARTIES]] 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 Tenant’s Obligations.]
4. NOTICES

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 Lease].

1. 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 14.3**, the courts of England and Wales have exclusive jurisdiction to determine 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.
2. LEGAL EFFECT

This Licence takes effect and binds the parties with effect from the date set out at the beginning of this Licence.

1. SCHEDULE 1

The Works

*Set out details of the alterations 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. 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-1)
2. This clause is required only where the Works involve substantial structural elements. [↑](#footnote-ref-2)
3. Take instructions from the landlord on whether any variation to the reinstatement obligations in the Lease will be required in relation to the Works. [↑](#footnote-ref-3)
4. If there is a rent review under the Lease, the wording of the rent review clause may disregard tenant’s works only if carried out with the *prior* consent of the Landlord. Therefore, it may be necessary to include a specific disregard of the Works in a retrospective licence to avoid arguments on rent review over whether or not the Works are to be taken into account when reviewing the rent. [↑](#footnote-ref-4)