

Dated

[LANDLORD]
and
[TENANT]
and
[GUARANTOR]

LEASE

Relating to premises known as retail unit [DETAILS]
[BUILDING / ESTATE DETAILS]

PART OF ESTATE BUILDING (RETAIL)

(Turnover Rent/Exclusive of Service Charge)

Term	[●] years
Initial Rent	£[●]
Rent Free-free Period	[None][[●] months]
Rent review pattern	[5 yearly][None]
Rent review basis	[Open Market][Index-linked ([RPI][CPI])][Stepped]

[DRAFTING NOTE: THIS LEASE IS INTENDED TO BE USED AS A TEMPLATE. IT SHOULD BE ALTERED TO REFLECT ANY REQUIREMENTS THAT ARE SPECIFIC TO THE PROPERTY, PARTIES AND TERMS OF THE TRANSACTION. A COMPARISON AGAINST THIS TEMPLATE SHOULD BE SUPPLIED WHEN THE DRAFT LEASE IS FIRST SUBMITTED TO THE TENANT'S SOLICITORS.]



CONTENTS

1.	DEFINITIONS	1
2.	INTERPRETATION	12
3.	DEMISE, TERM AND RENT	14
4.	TENANT'S OBLIGATIONS	15
	4.1 Main Rent	15
	4.2 Outgoings	15
	4.3 Service Charge	15
	4.4 VAT	15
	4.5 Interest on overdue payments	15
	4.6 Reimburse costs incurred by the Landlord	15 <u>16</u>
	4.7 Third party indemnity	16
	4.8 Insurance	16
	4.9 Repair and decoration	16 <u>17</u>
	4.10 Allow entry	17
	4.11 Alterations	18
	4.12 Signs and advertisements	19
	4.13 Obligations at the End Date	19
	4.14 User	20
	4.15 Dealings with the Premises	22
	4.16 Registration of dealings	23
	4.17 Marketing	23
	4.18 Notifying the Landlord of notices or claims	24
	4.19 Comply with Acts	24
	4.20 Planning Acts	24
	4.21 Rights and easements	24
	4.22 Management of the Building and the Estate	25 <u>24</u>
	4.23 Superior interest	25
	4.24 Registration at the Land Registry	25
	4.25 [Turnover information	26 <u>25</u>
	4.26 Applications for consent or approval	26
5.	LANDLORD'S OBLIGATIONS	26
	5.1 Quiet enjoyment	26
	5.2 Insurance	26
	5.3 Services	26
	5.4 Repayment of rent	26
	5.5 Entry Safeguards	26
	5.6 Scaffolding	27
	5.7 [Turnover Information	27
	5.8 [Head Lease	27
	5.9 Change in the extent of the Estate	28
	5.10 Designation of Building Common Parts, Estate Common Parts and use of rights	28
	5.11 [Relocation of External Works	28
6.	AGREEMENTS	29

6.1	Landlord's right to end this Lease	29
6.2	No acquisition of easements or rights	30
6.3	Works to adjoining premises	31
6.4	Service of formal notices	31
6.5	Contracts (Rights of Third Parties) Act 1999	33
6.6	[Contracting-out	33
6.7	Energy Performance Certificates	33
6.8	[Sustainability	34
6.9	[Superior landlord's consent	34
6.10	[Representations	34
6.11	[Exclusion of statutory compensation	34
6.12	Exclusion of liability for former landlords	34
7.	[GUARANTOR'S OBLIGATIONS	35
8.	[BREAK CLAUSE	36
9.	JURISDICTION	37
10.	LEGAL EFFECT	37
	Schedule 1	38
	Rights	38
	Part 1 : Tenant's Rights	38
	Part 2 : Landlord's Rights	40
	Schedule 2	43
	Rent review	43
	Schedule 3	47
	Services and Service Charge	47
	Part 1 : Administrative provisions	47
	Part 2 : Landlord's obligations	49
	Part 3 : Building Services	51
	Part 4 : Estate Services	51
	Part 5 : Additional Building Services	52
	Part 6 : Additional Estate Services	53
	Part 7 : Building Service Charge Exclusions	53 <u>54</u>
	Part 8 : Estate Service Charge Exclusions	54 <u>55</u>
	Part 9 : Weighting	55
	Schedule 4	56 <u>57</u>
	Insurance and Damage Provisions	56 <u>57</u>
	Schedule 5	60 <u>61</u>
	Title Matters	60 <u>61</u>
	Schedule 6	64 <u>62</u>
	Works	64 <u>62</u>
	Schedule 7	64 <u>65</u>
	Sustainability	64 <u>65</u>
	Schedule 8	66 <u>67</u>
	Underletting	66 <u>67</u>
	Schedule 9	69 <u>70</u>
	Base Rent and Turnover Rent	69 <u>70</u>

Schedule 10

Offer back provisions

Part 1 : Terms of the offer back

Part 2 : Form of Tenant's Notice

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LAND REGISTRY PRESCRIBED CLAUSES

LR1. Date of lease	
LR2. Title number(s)	
LR2.1 Landlord's title number(s)	[TITLE NUMBER].
LR2.2 Other title numbers	[None.][TITLE NUMBER.]
LR3. Parties to this lease	
Landlord	[LANDLORD] (incorporated and registered in [England and Wales] [the United Kingdom] [COUNTRY] under company registration number [COMPANY NUMBER]) [(overseas entity ID: [●][not required])], the registered office of which is at [ADDRESS].
Tenant	[TENANT] (incorporated and registered in [England and Wales] [the United Kingdom] [COUNTRY] under company registration number [COMPANY NUMBER]) [(overseas entity ID: [●][not required])], the registered office of which is at [ADDRESS].
[Guarantor	[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].]
[[Description of party]	[NAME] (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].]
LR4. Property	<p>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.</p> <p>The property described as the "Premises" in clause 1 of this Lease [but without the benefit of the rights set out in [entry][entries] [●] of the Property Register of Title Number [●] as at [●]¹].</p>
LR5. Prescribed statements etc.	None. ²
LR6. Term for which the Property is leased	The Contractual Term as specified in clause 1 of this Lease.

¹ The Land Registry will automatically carry over easements that benefit the landlord's title to the tenant's new leasehold title. If the tenant is not to benefit from easements that benefit the freehold, this must be specified in LR4 so that the specified easements do not benefit the tenant's new leasehold title.

² Note that a letting to a charity will require a prescribed statement under section 122 Charities Act 2011 (formerly section 37 Charities Act 1993).

LR7. Premium	[None.] [£ [AMOUNT] plus VAT of [AMOUNT].]
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. ³
LR9.2 Tenant's covenant to (or offer to) surrender this lease	The provisions in clause 4.15.3 and Schedule 10
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.] ⁴
LR11. Easements	
LR11.1 Easements granted by this lease for the benefit of the Property	As specified in this Lease at Part 1 of Schedule 1.
LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property	As specified in this Lease at Part 2 of Schedule 1.
LR12. Estate rentcharge burdening the Property	None.
LR13. Application for standard form of restriction	<p>[None.][The Parties to this Lease apply to enter the following standard form of restriction [against the title of the Property] or [against title number [NUMBER]].]</p> <p>[NB 1: if a restriction is required to be entered against a title number other than the Property, remember to put any relevant title number in LR2.2.]</p> <p>[NB 2: this clause only deals with standard form restrictions. If a non-standard restriction is required, do not refer to it in this clause and remember to make a separate application to register any such restriction in form RX1.]</p> <p><i>LR NOTE: Set out the full text of the standard form of restriction and the title against which it is to be entered. If you wish to apply for more than</i></p>

³ If the Tenant will have an option to renew this Lease, refer to the Model Commercial Lease: Option to Renew clause (MCL-LEASECLAUSE-06) and include a cross-reference to the new clause here.

⁴ Note that if the Landlord agrees not to allow any other Lettable Units to be used for competing uses, a cross-reference to that agreement must be included here.

	<p><i>one standard form of restriction use this clause to apply for each of them, tell us who is applying against which title and set out the full text of the restriction you are applying for.</i></p> <p><i>Standard forms of restriction are set out in Schedule 4 to the Land Registration Rules 2003.</i></p>
<p>LR14. Declaration of trust where there is more than one person comprising the Tenant</p>	<p>The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.</p> <p>OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.</p> <p>OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust [<i>complete as necessary</i>].</p> <p><i>If the Tenant is one person, omit or delete all the alternative statements.</i></p> <p><i>If the Tenant is more than one person, the Tenant will need to complete this clause by omitting or deleting all inapplicable alternative statements</i></p>

LEASE

PARTIES

- (1) the Landlord named in clause LR3 (the “**Landlord**”); [and]
- (2) the Tenant named in clause LR3 (the “**Tenant**”); and]
- (3) [the Guarantor named in clause LR3 (the “**Guarantor**”).

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

This Lease uses the following definitions:

“1925 Act”

Law of Property Act 1925;

“1954 Act”

Landlord and Tenant Act 1954;

“1986 Act”

Insolvency Act 1986;

[“1994 Act”

Law of Property (Miscellaneous Provisions) Act 1994;⁵]

“Accounting Period”

the annual period ending on [DATE] in each year or any other date as the Landlord may decide and notify to the Tenant;

“Act”

any act of Parliament and any delegated law made under it;

“Additional Building Services”

the services listed in **Part 5 of Schedule 3**;

“Additional Estate Services”

the services listed in **Part 6 of Schedule 3**;

“AGA”

an authorised guarantee agreement (as defined in section 16 of the Landlord and Tenant (Covenants) Act 1995);

“Ancillary Rent Commencement Date”⁶

[the date of this Lease;][the first day of the ~~Contractual~~ Term;][DATE OR DESCRIPTION];

⁵

This definition is required only where the Landlord gives a title guarantee that includes the variations in **Schedule 5**.

⁶

This is the date from which the Tenant pays Insurance Rent and Service Charge.

“Base Rent”

the amount that is payable under **Schedule 9**;

[“Break Date”

[DATE OR DATES]⁷ [or any date falling after that date] [or the day before any Rent Day after that date] [or any [fifth] anniversary of that date] [as specified in the Tenant’s notice given under **clause 8.1**];⁸

“Building”

the building known as [BUILDING DESCRIPTION] shown edged [blue] on [the Plans][Plan [NUMBER]] including all alterations, additions and improvements and all landlord’s fixtures forming part of it at any time during the Term;⁹

“Building Common Parts”

any part of, or anything in, the Building that does not form part of a Lettable Unit and that is used or available for use by:

- (a) the tenants of the Building;
- (b) the Landlord in connection with the provision of the Building Services; or
- (c) customers of or visitors to the Building;

[“Building Management Systems”

all or any of the following used within or serving the Building that do not exclusively serve any Lettable Unit:¹⁰

- (a) lighting systems;
- (b) security, CCTV and alarm systems;
- (c) access control systems;
- (d) traffic control systems;
- (e) audio and audio-visual systems;
- (f) wireless, phone, data transmission and other telecommunications systems;
- (g) air ventilation and filtration;
- (h) air-conditioning, heating and climate control systems;
- (i) water heating, filtering and chilling systems;
- (j) footfall monitoring systems;
- (k) turnover monitoring systems;

⁷ When deciding on the relevant Break Date, best practice is to make it the day before a rent payment date. This ensures that the Tenant is not legally obliged to pay a full month’s or quarter’s rent on the day on which the Lease ends under the break clause.

⁸ Delete if the Lease will not include break rights.

⁹ If the Tenant will be responsible for the repair and maintenance of glass within the Premises, including windows, consider whether the glass forming part of the Premises should be excluded from the definition of the Building so that it does not fall within the Landlord’s insurance and reinstatement obligations.

¹⁰ This list should be checked and amended to reflect the management systems that are actually used in the Building.

- (l) fire detection, alarm and sprinkler systems;
- (m) parking charge systems;
- (n) lightning protection systems;
- (o) environmental performance measuring systems;
- (p) vehicle charging systems;
- (q) flood detection and protection systems; and
- (r) waste management systems (including compactors),

and all control systems, plant, machinery, equipment, Supplies and Conducting Media used in connection with them;]

“Building Service Charge”

a fair proportion (calculated on a floor area basis or any other method as the Landlord decides¹¹ from time to time) of the Building Service Costs subject to any adjustments made by the Landlord under the provisions of **paragraph 7 of Part 1 of Schedule 3;**¹²

“Building Service Costs”

the aggregate costs incurred by the Landlord in providing the Building Services and the Additional Building Services in each Accounting Period together with:

- (a) VAT that is not recoverable by the Landlord from HM Revenue & Customs; and
- (b) the sums chargeable under **paragraph 2.5 of Part 1 of Schedule 3** in relation to the Building Services and Additional Building Services;

“Building Services”

the services listed in **Part 3 of Schedule 3**;

“Business Day”

any day other than a Saturday, Sunday or a bank or public holiday in England and Wales;

“Car Park”

any car park or car parks forming part of the Estate at any time during the Term;

“company”

includes:

- (a) any UK registered company (as defined in section 1158 of the Companies Act 2006);
- (b) to the extent applicable, any overseas company as defined in section 1044 of the Companies Act 2006; and
- (c) any unregistered company (to include any association);

¹¹ Note that under **clause 2.10**, the Landlord has to act reasonably in deciding the proportion that is payable.
¹² Amend depending on whether the Tenant will pay a fixed proportion of the Building Service Costs or a fair proportion. Note that even where the Tenant pays a fixed proportion, the Landlord can make reasonable adjustments if the Tenant has the benefit of specific services not enjoyed by other tenants under **paragraph 7 of Part 1 of Schedule 3**.

“Conducting Media”

any media for the transmission of Supplies but not including any Supply Runs or any other airspace through which the media run;

“Contractual Term”

the term of [●] years starting on [●] and ending on [●];

“Current Guarantor”

someone who, immediately before a proposed assignment, is either a guarantor of the Tenant’s obligations under this Lease or a guarantor of the obligations given by a former tenant of this Lease under an AGA;

“Electronic Communications Apparatus”

“electronic communications apparatus” as defined in paragraph 5 of Schedule 3A to the Communications Act 2003;

“End Date”

the last day of the Term (however it arises);

“Environmental Performance”

all or any of the following:

- (a) the consumption of energy and associated generation of greenhouse gas emissions;
- (b) the consumption of water;
- (c) waste generation and management; and
- (d) any other environmental impact arising from the use or operation of the Premises, the Estate or the Building;

“EPC”

an Energy Performance Certificate and Recommendation Report (as defined in the Energy Performance of Buildings (England and Wales) Regulations 2012);

“Estate”

- (a) for the purposes of the rights granted and reserved by this Lease and their registration at HM Land Registry, the retail estate known as [ESTATE DESCRIPTION] shown edged [green] on [the Plans][Plan [NUMBER]]; and
- (b) for all other purposes connected with this Lease, that estate:
 - (i) including all alterations, additions and improvements and all landlord’s fixtures forming part of it at any time during the Term;
 - (ii) including any adjoining land and buildings that the Landlord adds to it; and¹³

¹³ If there is any change in the extent of the Estate, the Landlord may have to recalculate the service charge proportions under **paragraph 7.2 of Part 1 of Schedule 3**.

- (iii) excluding any land or buildings that the Landlord removes from it;¹⁴

“Estate Common Parts”

any part of, or anything in, the Estate [including/excluding]¹⁵ any Car Park that does not form part of a Lettable Unit and that is used or available for use by:

- (a) the tenants of the Estate;
- (b) the Landlord in connection with the provision of the Estate Services; or
- (c) visitors to the Estate;

[“Estate Contribution”¹⁶

the aggregate in each Accounting Period of:¹⁷

- (a) [50]% of the costs of promoting and advertising the Estate and staging activities and exhibitions within the Estate as detailed in **paragraph 8 of Part 6 of Schedule 3**; [and]
- (b) [a fair proportion of any after-tax income received by the Landlord in respect of the use of any Car Park, subject to that proportion not exceeding the aggregate of any Estate Service Costs attributable to that Car Park; and¹⁸]
- (c) a fair proportion of any after-tax income received by the Landlord in respect of the use of the Estate Common Parts [(other than any Car Park)], subject to that proportion not exceeding the aggregate of any Estate Service Costs attributable to the generation of that income;]

“Estate Opening Hours”

[TIME] to [TIME] on Mondays to Saturdays inclusive and [TIME] to [TIME] on Sundays (except, in either case, Easter Day and Christmas Day) and any other longer or shorter periods on any days stipulated by the Landlord;

“Estate Service Charge”

[a fair proportion (calculated on a floor area basis or any other method as the Landlord decides from time to time)][the Tenant’s Proportion]¹⁹ of the Estate Service Costs subject to any adjustments made by the Landlord under the provisions of **paragraph 7 of Part 1 of Schedule 3**;

¹⁴ If the Tenant will be responsible for the repair and maintenance of glass within the Premises, including windows, consider whether the glass forming part of the Premises should be excluded from the definition of the Estate so that it does not fall within the Landlord’s insurance and reinstatement obligations.

¹⁵ Consider the impact of including or excluding any Car Park on the rights granted to the Tenant.

¹⁶ Consider whether this definition (and concept of netting off against Service Costs) is required for the Estate.

¹⁷ Check that the costs listed in the definition of Estate Contribution are identical across each lease in the Estate. If a concession is made to a particular tenant:
a separate service charge reconciliation will be required for that tenant; and
the Landlord will not be able to recover any shortfall from the other tenants in the Estate.

¹⁸ Consider whether any car park should be treated separately to remainder of Estate for Service Costs and Estate Contribution. See also footnote to **paragraph 9 of Part 7 of Schedule 3**.

¹⁹ Include this definition only where floor weighting applies to the service charge calculations. See also the definitions of “Gross Internal Area”, “Tenant’s Proportion” and “Weighted Area” and **paragraph 7 of Part 1 of Schedule 3 and Part 9 of Schedule 3**.

“Estate Service Costs”

the aggregate costs [less any Estate Contribution] incurred by the Landlord in providing the Estate Services and the Additional Estate Services in each Accounting Period including:

- (a) VAT that is not recoverable by the Landlord from HM Revenue & Customs);
- (b) the sums chargeable under **paragraph 2.5 of Part 1 of Schedule 3** in relation to the Estate Services and Additional Estate Services

“Estate Services”

the services listed in **Part 4 of Schedule 3**;

[“External Works”

works permitted under **clause 4.11.5 [and 4.11.9]**;

[“Gross Internal Area”

the gross internal area (or, when implemented, the equivalent International Property Measurement Standard) measured in accordance with the edition of the Professional Statement for Property Measurement issued by the Royal Institution of Chartered Surveyors current at the date of [this Lease][measurement];²⁰

“Group Company”

in relation to any company, any other company within the same group of companies as that company within the meaning of section 42 of the 1954 Act;

[“Head Lease”

the lease dated [DATE] made between (1) [PARTY] and (2) [PARTY];]

“Insurance Rent”

the sums described in **paragraph 1.1 of Schedule 4**;

“Insured Risks”

the risks of fire (including subterranean fire), lightning, explosion, storm, flood, subsidence, landslip, heave, earthquake, burst or overflowing water pipes, tanks or apparatus, impact by aircraft or other aerial devices and any articles dropped from them, impact by vehicles, terrorism, riot, civil commotion and malicious damage to the extent, in each case, that cover is generally available on normal commercial terms in the UK insurance market at the time the insurance is taken out, and any other risks against which the Landlord reasonably insures from time to time, subject in all cases to any excesses, limitations and exclusions imposed by the insurers;²¹

“Interest Rate”

three per cent above the base rate for the time being in force of [NAME OF BANK] (or any other UK clearing bank specified by the Landlord);

²⁰ This definition is required only where service charge weighting applies or underlettings of permitted parts will be by reference to the gross internal area to be underlet. Consider whether the measuring code to be used should be that current at the date of the Lease or the most recent version at the date that the measurement is made. See also the definitions of “Service Charge”, “Tenant’s Proportion” and “Weighted Area” and **paragraph 7 of Part 1 of Schedule 3** and **Part 9 of Schedule 3**.

²¹ Note that “terrorism” is mentioned expressly as insurers now treat “terrorism” as a risk, even if it is a risk that may be covered by an exclusion in the insurance policy.

“Lease”

this lease, which is a “new tenancy” for the purposes of section 1 of the Landlord and Tenant (Covenants) Act 1995, and any document supplemental to it;

“Lettable Unit”

accommodation within the Building and any other buildings on the Estate from time to time let or occupied or intended for letting or occupation, but excluding accommodation let or occupied for the purposes of providing any of the Services;

“Main Rent”

the yearly rent of [AMOUNT IN WORDS] pounds (£[AMOUNT IN FIGURES]) [subject to review on each Rent Review Date in accordance with **Schedule 2**] and (unless the Landlord and the Tenant have included provisions in this Lease intended to exclude sections 24 to 28 of the 1954 Act from this Lease), includes any interim rent determined by the court under the 1954 Act to be payable in respect of any period after the last day of the Contractual Term;

“Original Tenant”

the tenant named in clause LR3;

“Outgoings”

all or any of:

- (a) all existing and future rates, taxes, duties, charges, and financial impositions charged on the Premises or any owner or occupier of them except for:
 - (i) tax (other than VAT) on the Rents payable; and
 - (ii) any tax arising from the Landlord’s dealing with its own interests;
- (b) Supply Costs for the Premises and any Plant;
- (c) a fair and reasonable proportion of the Outgoings referred to in **paragraphs (a) and (b)** charged in respect of the Premises and any other parts of the Building to the extent that those amounts do not form part of the Building Service Costs; and
- (d) a fair and reasonable proportion of the Outgoings referred to in **paragraphs (a) and (b)** charged in respect of the Premises and any other parts of the Estate to the extent that those amounts do not form part of the Estate Service Costs;

“Permitted Use”

- (a) the [non-food][retail sale] of [DESCRIPTION]; or
- (b) any other [non-food][retail] use complying with the Landlord’s retail and tenant mix policy and within [Class [E(a)] [E(c)] in Part A of Schedule 2²²][Class [A1(a)][A2] of Schedule 1²³] to the Town and Country Planning (Use Classes) Order 1987 as the Landlord may approve;

²² For use with property in England Class E(a) is general retail use. Class E(c) is the provision of financial services, professional services (other than health or medical services), or other appropriate services in a commercial, business or service locality.

²³ For use with property in Wales. General retail use is Class A1(a). For banks, building societies, etc use Class A2.

“Permitted Works”

any works or installations [(including any External Works)] to which the Landlord has consented or for which, under **clause 4.11**, the Landlord’s consent is not required[together with any Prior Lease Alterations];²⁴

“Planning Acts”

every Act for the time being in force relating to the use, development, design, control and occupation of land and buildings;

“Planning Permission”

any permission, consent or approval given under the Planning Acts;

“Plans”

any of the plans contained in this Lease;

[“Plant”

[Electronic Communications Apparatus,] [wireless network equipment,] [television aerials and satellite dishes] [and] [air-conditioning plant] [not exceeding two metres in height] installed by the Tenant or any undertenant under the rights in **paragraph 5 of Part 1 of Schedule 1**;

[“Plant Area”

the area for Plant [[within the area²⁵ shown [edged][coloured] [COLOUR] on [the Plan][Plan [NUMBER]]][[on the roof of the] allocated to the Tenant by the Landlord] or any alternative area as notified under **clause 5.10.4**;

“Premises”²⁶

the premises known as [ADDRESS OF PREMISES] forming part of the Building and shown [edged][coloured] [COLOUR] on [the Plans][Plan [NUMBER]]:

- (a) including:²⁷
- (i) all plaster and other internal surfacing materials and finishes on the structural walls, floors and ceilings of the Premises and on the other structural parts of the Building within or bounding the Premises;
 - (ii) the shop front, fascia and all doors, windows and door and window frames;
 - (iii) the plaster and other internal surfacing materials and finishes on any non-structural walls separating the Premises from any Building Common Parts;
 - (iv) one half severed vertically of any non-structural walls separating the Premises from any adjoining Lettable Units;

²⁴ Include the words in square brackets where this Lease is a renewal lease and the Landlord wants the Tenant to be under an obligation to reinstate works carried out under the Prior Lease when this Lease comes to an end or those works are to be disregarded on any rent review under this Lease.

²⁵ Include these words where the Landlord allocates a plant area that will be used by several tenants to install their plant.

²⁶ On the letting of part of a retail unit on an Estate consider whether the Tenant should be demised the structure of the part of the unit let to it rather than being given a pure internal demise.

²⁷ Consider the extent of the Premises and, in particular, whether Conducting Media and Landlord’s plant, equipment and fixtures that exclusively serve the Premises, but which lie outside the Premises themselves, should be included within the definition of the Premises. If they are excluded from the Premises, consider whether the Tenant should be under an obligation to keep them in good repair and condition. The Tenant will also need rights of access over the Building Common Parts where it is under an obligation to repair and maintain such items (whether or not they form part of the Premises).

- (v) the entirety of any non-structural walls wholly within the Premises;
 - (vi) all Conducting Media and landlord's plant, equipment and fixtures [within and] exclusively serving the Premises including the Tenant's fire detection, alarm and sprinkler systems (if any) up to the point of connection with the Landlord's fire detection, alarm and sprinkler systems;
 - (vii) all tenant's fixtures; and
 - (viii) any Permitted Works [(other than any External Works)] carried out to or at the Premises; but
- (b) excluding:
- (i) all load bearing and exterior walls and the floors and ceilings of the Premises (other than those included above);
 - (ii) all structural parts of the Building;
 - (iii) the entirety (subject to **paragraph (a)(iii)** of this definition) of any non-structural walls separating the Premises from any Building Common Parts;
 - (iv) the airspace within any Supply Runs that run through the Premises;[and]
 - (v) the Landlord's fire detection, alarm and sprinkler systems (if any) up to the point of connection with the Tenant's fire detection, alarm and sprinkler systems;[and]
 - (vi) [the Building Management Systems (if any) within the Premises;]

["Prior Lease"]

a lease of the [Premises]²⁸ dated [DATE] made between [NAME OF PARTIES] and all documents supplemental or ancillary to it;²⁹

["Prior Lease Alterations"]

all works carried out to or for the benefit of the [Premises]³⁰ during the term of the Prior Lease or under any agreement for the grant of the Prior Lease [briefly described in the schedule of works attached to this Lease];³¹

"Rent Commencement Date"

[DATE OR DESCRIPTION] or any later date calculated in accordance with **paragraph 3.3 of Schedule 4**;

²⁸ If the extent of the Premises has changed since the date of the Prior Lease, amend this definition to refer to the extent of the premises originally let by the Prior Lease.

²⁹ Include this definition where this Lease is a renewal lease and the Landlord wants the Tenant to be under an obligation to reinstate works carried out under the Prior Lease when this Lease comes to an end or those works are to be disregarded on any rent review under this Lease.

³⁰ If the extent of the Premises has changed since the date of the Prior Lease, amend this definition to refer to the extent of the premises originally let by the Prior Lease.

³¹ Include this definition where this Lease is a renewal lease and the Landlord wants the Tenant to be under an obligation to reinstate works carried out under the Prior Lease when this Lease comes to an end or those works are to be disregarded on any rent review under this Lease.
Because it can be difficult to establish which works have to be taken into account or disregarded on rent review or reinstated at the end of the term, consider agreeing and annexing a schedule to this Lease setting out the works carried out under the Prior Lease, whether they will have to be reinstated and their status on a rent review under this Lease.

“Rent Days”

[25 March, 24 June, 29 September and 25 December;][the first day of every month;]³²

[“Rent Review Date”

[DATE] in each of the years [YEARS] and references to “the Rent Review Date” mean the relevant Rent Review Date;³³

“Rents”

Main Rent; (or if the arrangements in Schedule 9 have not come to an end in accordance with paragraph 12 of Schedule 9, the Base Rent and the Turnover Rent). Insurance Rent, Service Charge, any VAT payable on them and any interest payable under **clause 4.5**;

“Risk Period”

the period for which the Landlord decides to insure against loss of Main Rent [and Service Charge], being a minimum of three years and a maximum of [five]³⁴ years, starting on the date of the relevant damage or destruction;

“Service Charge”

the Building Service Charge and the Estate Service Charge;

“Service Charge Code”

the Royal Institution of Chartered Surveyors professional ~~statement~~standard “Service Charges in Commercial Property” (1st Edition, September 2018);

“Service Costs”

the Building Service Costs and the Estate Service Costs;

[“Service Provider”

any person providing services to the Tenant at the Premises for the purposes of the Tenant's business;]

“Services”

the Building Services, the Additional Building Services, the Estate Services and the Additional Estate Services;

[“Servicing Hours”

[TIME] to [TIME] on Mondays to Saturdays inclusive and [TIME] to [TIME] on Sundays (except, in either case, Easter Day[,][and] Christmas Day [and Boxing Day]) and any longer or shorter periods on any days stipulated by the Landlord;³⁵

“Supplies”

water, [steam,] gas, air, foul and surface water drainage, electricity, oil, telephone, heating, telecommunications, internet, data communications and similar supplies or utilities;

³² If rent is payable monthly, refer to the relevant payment date; for example, the first day of each month.

³³ The Rent Review Date(s) should ideally correspond to one of the Rent Days.

³⁴ Consider increasing this period if you think that it may take longer than five years to obtain any necessary consents and to rebuild following damage by an insured risk.

³⁵ If 24 hour servicing is available, this definition is not required.

“Supply Costs”

the costs of Supplies including procurement costs, meter rents and standing charges and any taxes or levies payable on them;

“Supply Runs”

any service risers, lateral runs or other areas within the Building designated or designed for the installation of Conducting Media within the Building;

[“Tenant’s Proportion”

the proportion that the Weighted Area of the Premises bears to the aggregate of the Weighted Areas of all Lettable Units (each discounted in accordance with **Part 9 of Schedule 3**) at the beginning of the relevant Accounting Period;^{36]}

“Term”

the Contractual Term and (unless the Landlord and the Tenant have included provisions in this Lease intended to exclude sections 24 to 28 of the 1954 Act from this Lease) any statutory continuation of the Contractual Term under the 1954 Act;

“Turnover Rent”

the amount that is calculated in accordance with and payable under **Schedule 9**;

“Uninsured Risk”³⁷

any risk expressly specified in the Insured Risks definition that:

- (a) is not insured against because, at the time the insurance is taken out or renewed, insurance is not generally available in the UK market on normal commercial terms; or
- (b) is not, at the date of the damage or destruction, insured against by reason of a limitation or exclusion imposed by the insurers

but will not include loss or damage (or the risk of it) caused by reason of the Tenant’s wilful act or failure to act;

“VAT”

value added tax or any similar tax from time to time replacing it or performing a similar function;

“VAT Supply”

a “supply” for the purpose of the Value Added Tax Act 1994;

³⁶ Include this definition only where floor weighting applies to the service charge calculations. See also the definitions of “Gross Internal Area”, “Service Charge” and “Weighted Area” and **paragraph 7 of Part 1 of Schedule 3** and **Part 9 of Schedule 3**.

³⁷ In relation to Uninsured Risks, this Lease gives the Tenant all the benefits it would have if damage were caused by an Insured Risk except that the Landlord has a choice as to whether or not to reinstate. It must make this choice by telling the Tenant within twelve months of the damage whether or not it wishes it to reinstate. If it does not, this Lease will end after that twelve month period. These provisions are only a starting point, as standard practice continues to evolve on the detail, including exactly how you define Uninsured Risks and what happens to any residual risks/parts of risks, not in this or the Insured Risks definition. You will need to consider how best to address this and, if necessary, take specific instructions as different landlords will have different approaches.

["Weighted Area"]

the Gross Internal Area of the relevant property discounted in accordance with **paragraph 1 of Part 9 of Schedule 3;**^{38]}

"Wireless Data Services"

the provision of wireless data, voice or video connectivity or wireless services permitting or offering access to the internet or any wireless network, mobile network or telecommunications system that involves a wireless or mobile device; and[.]

["Wireless Policy"]

any rules of interaction produced by the Landlord that are designed to minimise interference between the Tenant's Wireless Data Services and the Landlord's Wireless Data Services and those of any other tenants or occupiers of the Building or the Estate.]

2. INTERPRETATION

- 2.1 All headings in this Lease are for ease of reference only and will not affect its construction or interpretation.
- 2.2 In this Lease, "includes", "including" and similar words are used without limitation or qualification to the subject matter of the relevant provision.
- 2.3 In this Lease:
- 2.3.1 "notice" means any notice, notification or request given or made under it;
 - 2.3.2 a notice must be given or made in writing;
 - 2.3.3 where service of a formal notice is required, that notice must comply with and be served in accordance with **clause 6.4**; and
 - 2.3.4 an application for Landlord's consent must be made by formal notice.
- 2.4 References in this Lease to:
- 2.4.1 the Landlord include any other person who becomes the immediate landlord of the Tenant;
 - 2.4.2 the Tenant include its successors in title;
 - 2.4.3 "the Building", "the Building Common Parts", "the Estate", "the Estate Common Parts" or "the Premises" means the whole or an individual part or parts unless inappropriate in the context used;
 - 2.4.4 "adjoining premises" means any land or buildings adjoining or nearby the Building and the Estate, whether or not owned by the Landlord (unless express reference is made to the Landlord's ownership of those premises);
 - 2.4.5 an Act are to that Act as amended from time to time and to any Act that replaces it but references to the Town and Country Planning (Use Classes) Order 1987 are to that Order as in force at the date of this Lease;³⁹

³⁸ Include this definition only where floor weighting applies to the service charge calculations. See also the definitions of "Gross Internal Area", "Service Charge" and "Tenant's Proportion" and **paragraph 7 of Part 1 of Schedule 3 and Part 9 of Schedule 3**.

³⁹ On the renewal of an existing Lease, consider whether references to the Town and Country Planning (Use Classes) Order 1987 should be to that Order as in force at the date of the existing lease if you are retaining references to the former Class A or Class B use classes in the renewal lease.

2.4.6 the singular include the plural and vice versa, and one gender include any other;

2.4.7 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

~~2.4.7~~2.4.8 clauses, Schedules and Parts of Schedules are to the clauses, Schedule and Parts of Schedules to this Lease and references to paragraphs are to the paragraphs of the Schedule, or Part of the Schedule, in which the references are made;

~~2.4.8~~2.4.9 approval or consent mean a prior written approval or consent, such approval or consent not to be unreasonably withheld or delayed except where this Lease states that the party whose approval or consent is required has absolute discretion;

~~2.4.9~~2.4.10 any sums being payable on demand or when demanded mean being payable when demanded in writing; and⁴⁰

~~2.4.10~~2.4.11 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.⁴¹

2.5 Obligations in this Lease:

2.5.1 owed by or to more than one person are owed by or to them jointly and severally;

2.5.2 to do something include an obligation not to waive any obligation of another person to do it; and

2.5.3 not to do something include an obligation not to permit or allow another person to do it.

2.6 The Tenant will be liable for any breaches of its obligations in this Lease committed by:

2.6.1 any authorised occupier of the Premises or its or their respective employees, licensees or contractors; and

2.6.2 any person under the control of the Tenant or acting under the express or implied authority of the Tenant.

2.7 The Landlord will be liable for any breaches of its obligations in this Lease committed by any person under the control of the Landlord or acting under the express or implied authority of the Landlord.

2.8 If a person is under an obligation under this Lease to take a matter into consideration, that person will have reasonable regard to it but the final decision remains at that person's absolute discretion.

2.9 Where the consent of the Landlord is required for any assignment[,] [or] [underletting] [or charge] of this Lease, that consent may only be given by the completion of a deed that contains

⁴⁰ Any sums payable on demand only begin to bear interest for late payment if not paid within 10 Business Days of the date of demand – see **clause 4.5**.

⁴¹ 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 **paragraph 2.7.7 of Schedule 6**.

the terms of the consent agreed between the parties, unless the Landlord elects in writing to waive this requirement.

- 2.10 Where either the Landlord or the Tenant has the right to impose regulations or to decide, designate, nominate, request, require, specify, allocate, stipulate or vary any matter or thing under this Lease, that right will be subject to a condition that it will be exercised reasonably and properly except where this Lease states that the party exercising the right has absolute discretion. This clause does not apply to any provisions in this Lease that refer to the parties agreeing something.⁴²
- 2.11 Apart from in **clause 4.10.3**, where either the Tenant or the Landlord is obliged to pay any costs that the other incurs (or any proportion of them) under this Lease, those costs must be reasonable and proper and reasonably and properly incurred.
- 2.12 The Landlord's rights under **clause 4.10** and **Part 2 of Schedule 1** may also be exercised by [the landlord of the Head Lease and also by] those authorised by the Landlord [or the landlord of the Head Lease].⁴³
- 2.13 If any provision or part of any provision of this Lease 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 Lease will not be affected.

3. DEMISE, TERM AND RENT

- 3.1 The Landlord leases the Premises to the Tenant[with [full][limited] title guarantee (subject to the variations set out in **Schedule 5**):⁴⁴
- 3.1.1 for the Contractual Term;
- 3.1.2 together with the rights listed in **Part 1 of Schedule 1**;
- 3.1.3 excepting and reserving to the Landlord the rights listed in **Part 2 of Schedule 1**;
- 3.1.4 subject to the provisions of any documents or matters specified or referred to in **Schedule 5**; [and]
- 3.1.5 subject to any easements, rights and privileges currently existing and affecting the Premises[.]; and]
- 3.1.6 [subject to any rights reserved by the Head Lease].
- 3.2 Except when **clause 3.7** applies, starting on the Rent Commencement Date, the Tenant must pay the Main Rent.⁴⁵
- 3.3 Starting on the Ancillary Rent Commencement Date the Tenant must pay as rent the Insurance Rent and the Service Charge.
- 3.4 The Main Rent is not payable for any period before the Rent Commencement Date and the Insurance Rent and the Service Charge are not payable for any period before the Ancillary Rent Commencement Date.

⁴² In practice, the only provisions in this Lease that allow the Tenant to impose requirements are in **clause 5.5**.

⁴³ Safeguards relating to the exercise of rights are contained in **clause 5.5** and, in relation to scaffolding, in **clause 5.6**.

⁴⁴ If a title guarantee is being given, the landlord may wish to vary the covenants that are implied by Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994. Some suggested variations, along the lines of variations that are seen in sale and purchase contracts, are included in **Schedule 5**.

⁴⁵ For Turnover Rent provisions, refer to the Model Commercial Lease: Turnover Rent clause (MCL-LEASECLAUSE-01).

- 3.5 The Tenant must pay as rent VAT under **clause 4.4**.
- 3.6 The Main Rent is payable by equal [monthly/quarterly] payments in advance on the Rent Days in every year. The first payment will be for the period starting on (and to be paid on) the Rent Commencement Date and ending on the last day of that [month/quarter].
- 3.7 Until the arrangements in **Schedule 9** come to an end in accordance with **paragraph 12 of Schedule 9**, instead of paying the Main Rent under **clause 3.2** the Tenant must pay the Base Rent and the Turnover Rent under **Schedule 9**. This will not affect the operation of the rent review mechanism in **Schedule 2**.
- 3.8 The Rents and all other sums payable under this Lease must be paid by the Tenant by electronic transfer from a United Kingdom bank account to the United Kingdom bank account notified by the Landlord to the Tenant from time to time.
- 3.9 The Tenant must not make any legal or equitable deduction, set-off or counterclaim from any payment due under this Lease unless required to do so by law.

4. **TENANT'S OBLIGATIONS**

4.1 **Main Rent**

The Tenant must pay the Main Rent or, where **Schedule 9** applies, the Base Rent and the Turnover Rent, when due.

4.2 **Outgoings**

4.2.1 The Tenant must pay all Outgoings when demanded.

4.2.2 [If the Landlord loses the benefit of any rates relief or exemption after the End Date because the Tenant has received that benefit before the End Date, the Tenant must pay the Landlord on demand an amount equal to the relief or exemption that the Landlord has lost.]⁴⁶

4.3 **Service Charge**

The Tenant must pay the Service Charge in accordance with **Part 1 of Schedule 3**.

4.4 **VAT**

4.4.1 The Tenant must pay:

- (a) VAT on any consideration in respect of a VAT Supply to the Tenant by the Landlord at the same time as the consideration is paid; and
- (b) on demand VAT (and interest, penalties and costs where these are incurred because of anything the Tenant does or fails to do) charged in respect of any VAT Supply to the Landlord in respect of this Lease where that VAT is not recoverable by the Landlord from HM Revenue & Customs.

4.4.2 The Tenant must not do anything that would result in the disapplication of the option to tax in respect of the Landlord's interest in the Estate.

4.5 **Interest on overdue payments**

The Tenant must pay interest on the Rents and on all other sums not paid on or by the due date (or, if no date is specified, not paid within 10 Business Days after the date of demand).

⁴⁶ Consider whether this is appropriate in the context of the length of the Lease.

Interest will be payable at the Interest Rate for the period starting on the due date (or date of demand) and ending on the date of payment.

4.6 Reimburse costs incurred by the Landlord

The Tenant must pay on demand the Landlord's costs (including legal and surveyor's charges and bailiff's and enforcement agent's fees) and disbursements in connection with:

- 4.6.1 any breach of the Tenant's obligations in this Lease, including the preparation and service of a notice under section 146 of the 1925 Act;
- 4.6.2 any application by the Tenant for consent under this Lease, whether that application is withdrawn or consent is granted or lawfully refused, except in cases where the Landlord is required to act reasonably and the Landlord unreasonably refuses to give consent; [and]
- 4.6.3 [carrying out works to the Premises to improve their Environmental Performance where the Tenant, in its absolute discretion, has consented to the Landlord doing so; and]⁴⁷
- 4.6.4 the preparation and service of a schedule of dilapidations served no later than six months after the End Date.

4.7 Third party indemnity⁴⁸

- 4.7.1 The Tenant must indemnify the Landlord against all actions, claims, demands made by a third party, all costs, damages, expenses, charges and taxes payable to a third party and the Landlord's own liabilities, costs and expenses incurred in defending or settling any action, claim or demand ~~in respect of any personal injury or death, damage to any property and any infringement of any right~~ made by a third party, in each case arising from:
 - (a) the state and condition of the Premises or the Tenant's use of them;
 - (b) the exercise of the Tenant's rights; or
 - (c) the carrying out of any Permitted Works.
- 4.7.2 In respect of any claim covered by the indemnity in **clause 4.7.1**, the Landlord must:
 - (a) give formal notice to the Tenant of the claim as soon as reasonably practicable after receiving notice of it;
 - (b) provide the Tenant with any information and assistance in relation to the claim that the Tenant may reasonably require and the Landlord is lawfully able to provide, subject to the Tenant paying to the Landlord all costs incurred by the Landlord in providing that information and assistance; and

⁴⁷ There is no established market practice in relation to works required to comply with the minimum energy efficiency standard regulations. This clause may be thought desirable where the Premises have an EPC rating below an E and the Landlord cannot lawfully let (or, from 1 April 2023, continue to let) the Premises unless works to improve their energy performance have been carried out. The Tenant is not obliged to consent to the works and, if it refuses consent, the Landlord may be able to rely upon an exemption in the minimum energy efficiency standards regulations to continue lawfully to let the Premises. If the Tenant consents to the works, they will be governed by the Entry Safeguards in **clause 5.5** and the Landlord can recover the costs of those works under this clause. The Landlord's rights in **Part 2 of Schedule 1** include a corresponding right for the Landlord to enter onto the Premises to carry out the works where the Tenant in its absolute discretion consents.

⁴⁸ The indemnity relates only to third party claims against the Landlord. For losses directly incurred by the Landlord, the Landlord needs to rely on the normal rules for an award of damages for a breach of the Tenant's contractual obligations under this Lease.

- (c) mitigate its loss (at the Tenant's cost) where it is reasonable for the Landlord to do so.

4.8 Insurance

The Tenant must comply with its obligations in **Schedule 4**.

4.9 Repair and decoration

4.9.1 The Tenant must:

- (a) keep the Premises [and any External Works] clean and tidy and [in good and substantial repair and condition;⁴⁹ **OR** [in good and substantial repair and condition but in respect of those parts of the Premises [and any External Works] [shown][described] in the schedule of condition attached to this Lease, the Tenant's obligations under this clause will be restricted to keeping those parts clean and tidy and in no worse state of repair and condition than the state of repair and condition evidenced in that schedule;⁵⁰ **OR** [in no worse state of repair and condition than the state of repair and condition evidenced in the schedule of condition attached to this Lease;⁵¹ **OR** [free from damage caused by the act or omission of the Tenant;⁵²
- (b) keep all Conducting Media, plant, equipment or fixtures forming part of the Premises [(or that exclusively serve them)⁵³] [and any External Works] properly maintained and in good working order in accordance with good industry practice and any requirements of the Landlord's insurers; and
- (c) replace (where beyond economic repair) any Conducting Media and plant, equipment or fixtures forming part of the Premises [(or that exclusively serve them)⁵⁴] [and any External Works] with items of equivalent or better quality.

4.9.2 The Tenant must promptly replace any damaged glass forming part of the Premises with glass of equivalent appearance and of the same or better quality.

4.9.3 The Tenant must decorate the Premises as and when necessary and in the final six months of the Term.

4.9.4 The obligations under this **clause 4.9** [apart from **clause 4.9.2**] exclude:

- (a) damage by any Insured Risk, except to the extent that payment of any insurance money is refused because of anything the Tenant does or fails to do and the Tenant has not complied with **paragraph 1.1.3 of Schedule 4**; and

⁴⁹ This is the standard form of repairing obligation to be used unless otherwise agreed by the parties.

⁵⁰ This modifies the standard form of repairing obligation so that the Tenant's repairing obligation will be limited in respect of the parts of the Premises identified in the schedule of condition but will apply normally to the remainder of the Premises.

⁵¹ This requires the Tenant to keep the Premises in an "as is" condition at the date of the Lease. Note that depending on the level of detail of the schedule of condition, this form of repairing obligation can create uncertainty about the state and condition of those parts of the Premises not shown in the schedule of condition and, therefore, the extent of the Tenant's repairing obligations in respect of those parts of the Premises.

⁵² This a limited form of repairing obligation. It is wider than requiring the tenant to maintain the Premises in a "broom swept" condition as it requires the Tenant not to damage the Premises by action or inaction. Traditionally, this might have been referred to as not to commit acts of waste but, as this is an archaic term, we have referred to damage instead.

⁵³ The words in square brackets are required only where Conducting Media or plant, equipment or fixtures that exclusively serve the Premises are not included in the demise to the Tenant.

⁵⁴ The words in square brackets are required only where Conducting Media or plant, equipment or fixtures that exclusively serve the Premises are not included in the demise to the Tenant.

- (b) damage by any Uninsured Risk.

4.10 Allow entry

- 4.10.1 The Tenant must allow the Landlord to enter and inspect the Premises.
- 4.10.2 If the Landlord requires the Tenant to remedy any breach of the Tenant's obligations regarding the state and condition of the Premises or to remove any unauthorised alterations 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.
- 4.10.3 If the Tenant does not comply with **clause 4.10.2**, the Landlord may enter the 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 **clause 6.1** will be unaffected.

4.11 Alterations

- 4.11.1 The Tenant has no rights to carry out any alterations, works or installations to the Premises or outside the Premises unless it is expressly permitted to do so under this **clause 4.11**.
- 4.11.2 The Tenant must not carry out any alterations or additions to the Premises that will have a material adverse impact on the Environmental Performance of the Premises, the Building [or the Building Management Systems].
- 4.11.3 The Tenant may, with the Landlord's consent, carry out works to the Premises to install, alter or remove the shop front.
- 4.11.4 [The Tenant may, with the Landlord's consent, create openings in the walls[, ceiling or floor slabs] of the Building bounding the Premises that do not form a party wall with another Lettable Unit and in the structural walls within the Premises for the passage of the Conducting Media that exclusively serve the Premises.⁵⁵]
- 4.11.5 [The Tenant may, with the Landlord's consent, carry out works outside the Premises:
 - (a) to install or erect Plant on the Plant Area [in a location and] of a size and design approved by the Landlord; and
 - (b) to install new Conducting Media within the Building along routes approved by the Landlord to connect the Premises to any Plant installed or erected by the Tenant under **clause 4.11.5(a)**.]
- 4.11.6 The Tenant may install, alter and remove tenant's fixtures⁵⁶ and carry out internal non-structural works to the Premises without the Landlord's consent, but the Tenant must notify the Landlord promptly after completing those works. To enable those works to be carried out, the Tenant may drill fixing holes into the floors, ceilings, columns or walls within or bounding the Premises.

⁵⁵ On a letting of part consider whether it is appropriate to give the Tenant the right to make openings in the walls or the floor or ceiling slabs. One option may be to permit the Tenant to create openings only in internal structural walls. Opening in internal non-structural walls are permitted under the following provisions in this **clause 4.11**.

⁵⁶ As tenant's fixtures form part of the Premises, their removal would be an alteration that would otherwise require consent. Consider whether there are any tenant's fixtures that should not be removed or be removed only with consent – for example industrial equipment.

- 4.11.7 The Tenant must comply with its obligations in **Schedule 6** when carrying out or installing any Permitted Works, whether or not the Landlord's consent is required for them.⁵⁷
- 4.11.8 Where the Landlord's consent is expressly required under this **clause 4.11**, the Landlord may impose requirements on the Tenant in addition to those contained in **Schedule 6** when giving its consent.
- 4.11.9 [If the Landlord, in its absolute discretion, permits alterations, works or installations outside the Premises that are not permitted by this Lease, those alterations, works or installations will then be treated as External Works.]

4.12 **Signs and advertisements**

- 4.12.1 The Tenant must not display any signs or advertisements on the Premises other than:
- (a) signs approved by the Landlord;
 - (b) normal trade signs displayed from within the Premises; or
 - (c) signage on the fascia of the Premises that indicates the Tenant's trading name in the style of and consistent with the Tenant's standard fascia signage.
- 4.12.2 Where the Premises have a glazed shop front, the Tenant must maintain either the visibility of the shop interior from the shop front or a window display in keeping with good retailing practice.
- 4.12.3 The Tenant must keep the Premises adequately lit during the Estate Opening Hours.

4.13 **Obligations at the End Date**

- 4.13.1 By the End Date the Tenant must have removed:
- (a) all tenant's and trade fixtures and loose contents from the Premises;
 - (b) all Electronic Communications Apparatus and apparatus relating to Wireless Data Services installed by the Tenant or any undertenant at the Premises;
 - (c) all signage installed by the Tenant or any undertenant at the Premises or elsewhere on the Building or the Estate;
 - (d) unless and to the extent that the Landlord and the Tenant otherwise agree, all Permitted Works; and
 - (e) without affecting any other Landlord's rights, any works that have been carried out in breach of any obligation in this Lease.
- 4.13.2 The Tenant must make good all damage to the Premises, the Building or the Estate caused when complying with **clause 4.13.1** and restore them to the same configuration, state and condition as they were in before the items removed were originally installed.

⁵⁷ **Schedule 6** is included in an attempt to speed up and reduce the cost of obtaining Landlord's consent. In most cases landlords will be able to consent by simple letter. Where **Schedule 6** does not contain all the obligations the Landlord requires because of the specific nature of the intended works, **clause 4.11.8** allows the Landlord to impose additional obligations. That may still be done by simple letter – see **paragraph 2.6 of Schedule 6**. Where works are to be taken into account on rent review or must definitely be removed at the end of this Lease, that should be documented separately at the time the Landlord gives consent.

4.13.3 At the End Date the Tenant must:

- (a) give back the Premises (and the fixtures, plant and equipment in them) in good decorative order and in a state, condition and working order consistent with the Tenant's obligations in this Lease;⁵⁸
- (b) give back the Premises with vacant possession[, except to the extent that any permitted undertenant has the right to the statutory continuation of its underlease under the 1954 Act⁵⁹]; and
- (c) hand to the Landlord any registers or records maintained by the Tenant pursuant to any statutory duty that relate to the Premises including any health and safety file, EPC and asbestos risk assessment and management plan.

4.13.4 If the Tenant has not removed all of its property from the Premises by the End Date:

- (a) the Landlord may dispose of that property as the agent of the Tenant after giving the Tenant not less than five Business Days' notice of its intention to do so;
- (b) the Tenant must indemnify the Landlord against any liability of the Landlord to any third party whose property has been disposed of in the genuine but mistaken belief that it belonged to the Tenant; and
- (c) the Landlord must pay to the Tenant the proceeds of the disposal after deducting the costs of transportation, storage and disposal incurred by the Landlord.

4.14 **User**⁶⁰

4.14.1 The Tenant must not use the Premises other than for the Permitted Use.⁶¹

4.14.2 The Tenant must not use the Premises:

- (a) for any illegal activity;
- (b) as a betting office, an amusement arcade or in connection with gaming;
- (c) for any political or campaigning purposes or for any sale by auction; or⁶²
- (d) for the sale of alcohol for consumption [on or off] the Premises or for the preparation or cooking of food other than, in either case, in connection with staff[and customer] catering facilities ancillary to the Permitted Use.

4.14.3 The Tenant must not:⁶³

⁵⁸ If the parties want to hand back the Premises in a condition that is different to how the Tenant received them, you will need to attach a "reinstatement schedule" setting out the state of repair and condition in which the Premises should be returned at the end of the Term. This may be required, for example, where the Tenant received the Premises in a shell and core condition, but the parties might not want the Premises stripped out back to shell and core at the end of the Term.

⁵⁹ Delete the words in square brackets if the Lease is contracted-out or there is no right for the Tenant to underlet the Premises.

⁶⁰ There is no obligation on the Landlord to grant the Tenant exclusive use rights. If this obligation is later included, remember that this will be a restrictive covenant that you should refer to in the Land Registry Prescribed Clauses and register against the Landlord's title to the Estate.

⁶¹ Note there is no keep open clause.

⁶² Consider whether any additional restrictions on use should be included in the Lease.

⁶³ There is no clause that specifically deals with contamination, though aspects are covered in the statutory compliance clause. Where the property or proposed use may give rise to this issue, you may want to consider adding an appropriate clause. See the environmental schedule in the leases of logistics premises for sample wording.

- (a) keep in the Premises any plant, machinery or equipment (except that properly required for the Permitted Use) or any petrol or other explosive or specially flammable substance[(other than petrol in the tanks of vehicles parked in any parking spaces within the Premises)];
 - (b) cause any nuisance or damage to the Landlord or the other tenants or occupiers of the Building or the Estate or to the owners, tenants or occupiers of any adjoining premises;
 - (c) overload any part of the Premises or the Building or any plant, machinery, equipment or Conducting Media;
 - (d) compromise the fire safety measures within the Premises or elsewhere in the Building or the Estate;⁶⁴
 - (e) do anything that blocks the Conducting Media or makes them function less efficiently including any blockage to or corrosion of any drains, pipes or sewers by virtue of any waste, grease or refuse deposited by the Tenant or any cleaning of them carried out by the Tenant; or
 - (f) operate any apparatus so as to interfere with the lawful use of Electronic Communications Apparatus or the provision of Wireless Data Services elsewhere in the Building, the Estate or on any adjoining premises.
- 4.14.4 [The Tenant must comply with any Wireless Policy.⁶⁵]
- 4.14.5 The Tenant must not install or use Electronic Communications Apparatus or apparatus relating to Wireless Data Services within the Premises unless solely for use in connection with the lawful occupier's business at the Premises. [Landlord's consent must be obtained prior to installation.]
- 4.14.6 When exercising any right granted to it for entry to any other part of the Building or the Estate the Tenant must:
- (a) cause as little damage and interference as is reasonably practicable to the remainder of the Building or the Estate and the business of its tenants and occupiers and make good any physical damage caused; and
 - (b) comply with the Landlord's requirements and those of any other tenants and occupiers of the Building or the Estate who are affected.
- 4.14.7 On each day that the Premises are open for trade, the Tenant must arrange collection of any of the Tenant's customer trolleys that have been left on other parts of the Estate.⁶⁶
- 4.14.8 The Tenant must provide the Landlord with the names, addresses and telephone numbers of not fewer than two people who from time to time hold keys and any security access codes to the Premises and who may be contacted in an emergency if the Landlord needs access to the Premises outside the Tenant's normal business hours.
- 4.14.9 [The Tenant must not use any parking spaces in respect of which the Tenant is granted rights under **paragraph 8 of Part 1 of Schedule 1**:

⁶⁴ This would include, for example, not cutting holes in fire separating walls, fire stopping cavity barriers etc.

⁶⁵ Consider whether the Tenant should comply with any Wireless Policy and whether you need to include more specific controls on the siting of wireless access points and the wireless channels that each tenant can use.

⁶⁶ Landlord's requirements in relation to trolley collection will vary from estate to estate.

- (a) except for the parking of vehicles belonging to persons working at the Premises or any authorised visitors to the Premises; or
- (b) for the repair, refuelling or maintenance of any vehicles.]

4.15 Dealings with the Premises⁶⁷

4.15.1 The Tenant must not assign, underlet, charge, hold on trust or part with or share possession or occupation of the Premises in whole or in part, except as authorised under this **clause 4.15** [or **Schedule 8**].

4.15.2 [The Tenant must not assign the whole of the Premises [or underlet the Premises in whole or in part] during the first three years of the Term.]

4.15.3 The Tenant must not assign the whole [or underlet the whole [or a Permitted Part]]⁶⁸ of the Premises unless it has complied with its obligations in **Schedule 10** and the Landlord has decided (or it is treated that the Landlord has decided) not to accept an offer to surrender the Premises to the Landlord.

4.15.4 The Tenant may, with the Landlord's consent, assign the whole of the Premises.

4.15.5 For the purposes of section 19(1A) of the Landlord and Tenant Act 1927:⁶⁹

- (a) the Tenant may not assign to a Current Guarantor;
- (b) if required⁷⁰ by the Landlord, any consent to assign may be subject to a condition that:
 - (i) the assigning tenant gives the Landlord an AGA; and
 - (ii) any Current Guarantor (other than a guarantor under an AGA) gives the Landlord a guarantee that the assigning tenant will comply with the terms of the AGA

in each case in a form that the Landlord requires, given as a deed and delivered to the Landlord before the assignment;

- (c) any consent to assign may (to the extent required by the Landlord) be subject to either or both of the following conditions:
 - (i) that a guarantor (approved by the Landlord) that is not a Current Guarantor guarantees the assignee's performance of the Tenant's obligations in this Lease; and
 - (ii) the assignee enters into a rent deposit deed with the Landlord providing for a deposit of not less than [six] months' Main Rent (plus VAT) (calculated as at the date of the assignment) as

⁶⁷ There is no offer back provision in this Lease. If needed, refer to the Model Commercial Lease: Offer Back clause (MCL-LEASECLAUSE-02).

⁶⁸ Consider whether the offer back provisions will be triggered by underlettings of whole or, where underlettings of part are permitted under this Lease, on underlettings of part. Requiring the Tenant to offer back the Premises on an underletting of a permitted part is less common and would not usually be included unless required by the heads of terms agreed between the Landlord and Tenant.

⁶⁹ This Lease is deliberately light on circumstances/conditions for the purposes of the Landlord and Tenant Act 1927 and the Landlord and Tenant (Covenants) Act 1995. However, in light of the decision in *K/S Victoria Street v House of Fraser (Stores Management) Ltd* [2011] EWCA Civ 904, additional restrictions on assignment have been included that go beyond what is recommended in the [RICS professional standard "Code for Leasing Business Premises \(2007\), First Edition \(February 2020\)"](#).

⁷⁰ **Clause 2.10** requires that the Landlord act reasonably when imposing requirements unless it is expressly stated that the Landlord has an absolute discretion. If the Landlord wants an absolute obligation for the Tenant to give an AGA, you will need to amend this clause to say so.

security for the assignee's performance of the tenant's obligations in this Lease with a charge over the deposit;

in either case in a form that the Landlord requires, given as a deed and delivered to the Landlord before the assignment;

- (d) the Landlord may refuse consent to assign if the Tenant has not paid in full all Rents and other sums due to the Landlord under this Lease that are not the subject of a legitimate dispute about their payment;
- (e) the Landlord may refuse consent to assign in any other circumstances where it is reasonable to do so; and
- (f) the Landlord may require any other condition to the Landlord's consent if it is reasonable to do so.

4.15.6 [The provisions of **Schedule 8** apply to underlettings of the Premises and the Tenant must comply with its obligations in that Schedule.]

4.15.7 The Tenant may charge the whole of the Premises to a genuine lending institution without the Landlord's consent but the Tenant must notify the Landlord under **clause 4.16** of any charge created.

4.15.8 In addition to the provisions of this **clause 4.15**, the Tenant may share occupation of the Premises with a Group Company of the Tenant[, any Service Provider] or concessionaire on condition that:

- (a) the Tenant notifies the Landlord of the identity of the occupier and the part of the Premises to be occupied;
- (b) no relationship of landlord and tenant is created or is allowed to arise[and the Premises retain the appearance of a retail unit in single occupation];
- (c) the sharing of occupation ends if the occupier is no longer a Group Company of the Tenant[, a Service Provider] or a concessionaire; [and]
- (d) the Tenant notifies the Landlord promptly when the occupation ends[.]; and]
- (e) [at any time concessionaires occupy no more than [PERCENTAGE]% of the sales area of the Premises in aggregate.⁷¹]

4.16 **Registration of dealings**

The Tenant must provide the Landlord with a certified copy of every document transferring or granting any interest in the Premises (and, if relevant, evidence that sections 24 to 28 of the 1954 Act have been lawfully excluded from the grant of any interest) within two weeks after the transfer or grant of that interest.⁷²

4.17 **Marketing**

4.17.1 Unless genuine steps are being taken towards renewal of this Lease, the Tenant must, during the six months before the End Date, allow the Landlord to:

- (a) place on the Premises (but not obstructing the shop window display) a notice for their disposal; and

⁷¹ Consider whether any other restrictions on the number of concessionaries or the areas that they can occupy are required.
⁷² The lack of a registration fee is deliberate.

- (b) show the Premises at reasonable times in the day to potential tenants (who must be accompanied by the Landlord or its agents).

4.17.2 The Tenant must allow the Landlord at reasonable times in the day to show the Premises to potential purchasers of the Building or the Estate (who must be accompanied by the Landlord or its agents).

4.18 **Notifying the Landlord of notices or claims**

The Tenant must notify the Landlord as soon as reasonably practicable after the Tenant receives or becomes aware of any notice or claim affecting the Premises.⁷³

4.19 **Comply with Acts**

4.19.1 The Tenant must do everything required under and must not breach any Act in respect of the Premises and their use and occupation and the exercise of the rights granted to the Tenant under this Lease.

~~4.19.2 The Tenant must not do or fail to do anything in respect of the Premises, the Building or the Estate or their use and occupation the effect of which could make the Landlord liable to pay any penalty, damages, compensation, costs or charges under any Act.~~

~~4.19.3~~ 4.19.2 The Tenant must promptly notify the Landlord of any defect or disrepair in the Premises that may make the Landlord liable under any Act or under this Lease.

4.20 **Planning Acts**

4.20.1 The Tenant must comply with the requirements of the Planning Acts and with all Planning Permissions relating to or affecting the Premises or anything done or to be done on them.

4.20.2 The Tenant must not apply for any Planning Permission except where any approval or consent required under any other provisions in this Lease for development or change of use has already been given and the Landlord has approved the terms of the application for Planning Permission.

4.20.3 The Tenant may only implement a Planning Permission that the Landlord has approved.

4.20.4 The Tenant must assume liability for and pay any Community Infrastructure Levy payable under Part 11 of the Planning Act 2008 or any other similar payments or liabilities that become due as a result of it (or its sub-tenants or other occupiers of the Premises) carrying out any Permitted Works or changing the use of the Premises. The Tenant will not be responsible under this Lease for any corresponding sums that become due as a result of any permitted development to or change of use of the Building or the Estate carried out by the Landlord or any other occupier of the Building or the Estate.

4.21 **Rights and easements**

The Tenant must not allow any rights or easements to be acquired over the Premises. If an encroachment may result in the acquisition of a right or easement:

4.21.1 the Tenant must notify the Landlord; and

⁷³ The lack of an obligation on the Tenant to act on the Landlord's requirements following the service of a notice is deliberate.

- 4.21.2 the Tenant must help the Landlord in any way that the Landlord requests to prevent that acquisition so long as the Landlord meets the Tenant's costs and it is not adverse to the Tenant's business interests to do so.

4.22 Management of the Building and the Estate

- 4.22.1 The Tenant must not load or unload vehicles except on the parts of the [Building][Estate] that it is permitted to use for that purpose by **paragraph 2 of Part 1 of Schedule 1**.
- 4.22.2 The Tenant must not park vehicles in the Estate Common Parts [or the Building Common Parts][except in any areas that it is permitted to use for that purpose by **paragraph 8 of Part 1 of Schedule 1**].
- 4.22.3 The Tenant must not obstruct the Estate Common Parts or the Building Common Parts in any way or leave any goods on them.
- 4.22.4 The Tenant must not deposit rubbish anywhere on the Estate or the Building except in skips or bins provided for that purpose.
- 4.22.5 The Tenant must not use the Estate Common Parts or the Building Common Parts other than for the purposes designated under **clause 5.10**.
- 4.22.6 [The Tenant must not use the Estate Common Parts used for servicing the Premises outside the Servicing Hours.]
- 4.22.7 The Tenant must comply with all regulations notified to it or contained within any relevant tenant guide or handbook for the Building or the Estate published by the Landlord from time to time. No regulations may impose obligations on the Tenant that are inconsistent with the Tenant's rights and obligations under this Lease.

4.23 Superior interest

The Tenant must not breach [any of the Landlord's obligations (excluding payment of rents or other sums) relating to the Building or the Estate in the Head Lease or] any obligations affecting the freehold interest in the Building or the Estate at the date of this Lease.⁷⁴

4.24 Registration at the Land Registry

- 4.24.1 If compulsorily registrable, the Tenant must:⁷⁵
- (a) within six weeks of the date of this Lease, apply to register and then take reasonable steps to complete the registration of this Lease and the Tenant's rights at the Land Registry; and
 - (b) provide the Landlord with an official copy of the registered title promptly after receipt.⁷⁶
- 4.24.2 The Tenant must within four weeks after the End Date, apply to the Land Registry to close and then take reasonable steps to complete the closure of any registered title

⁷⁴ There is deliberately no obligation on the Tenant to comply with the terms of the head lease. Where the freehold title or the head lease impose specific obligations in respect of the Premises, consider whether the Tenant should covenant to comply with those obligations.

⁷⁵ Note that there is no obligation on the Tenant to register the rights granted under this Lease as legal easements if the Lease itself is not registrable at HM Land Registry.

⁷⁶ Consider whether the Tenant should also be under an obligation to make an application to the Land Registry for the Lease to be designated as an Exempt Information Document with information required by the Landlord removed from the "Exempt Information" version of the Lease submitted to the Land Registry.

relating to this Lease and to remove from the Landlord's registered title(s) to the Estate any reference to this Lease and the Tenant's rights.

4.25 **[Turnover information]**

The Tenant must supply to the Landlord on a monthly basis (to enable the Landlord to monitor sales at and the performance of the Estate) details of daily gross turnover by means of the link provided by the Landlord (whether email, computer, telephone or any other method required by the Landlord).⁷⁷

4.26 **Applications for consent or approval**

Where the Tenant makes any application to the Landlord for consent or approval under this Lease, the Tenant must provide to the Landlord all the information the Landlord requires to enable the Landlord to consider the application.

5. **LANDLORD'S OBLIGATIONS**

5.1 **Quiet enjoyment**

The Tenant may peaceably hold and enjoy the Premises during the Term without any interruption by the Landlord or any person lawfully claiming under or in trust for the Landlord except as permitted by this Lease.

5.2 **Insurance**

The Landlord must comply with the Landlord's obligations in **Schedule 4**.

5.3 **Services**

The Landlord must comply with its obligations in **Part 2 of Schedule 3**.

5.4 **Repayment of rent**

5.4.1 The Landlord must refund any Main Rent [\(or if the arrangements in Schedule 9 have not come to an end in accordance with paragraph 12 of Schedule 9, any Base Rent\)](#) and Insurance Rent paid in advance by the Tenant in relation to the period falling after the End Date within [10] Business Days after the End Date.⁷⁸

5.4.2 **Clause 5.4.1** will not apply if the Landlord ends this Lease under **clause 6.1** or if this Lease is disclaimed by the Crown or by a liquidator or trustee in bankruptcy of the Tenant.⁷⁹

5.5 **Entry Safeguards**

The Landlord must, when entering the Premises to exercise any Landlord's rights:

5.5.1 give the Tenant at least [three] Business Days' prior notice (except in the case of emergency, when the Landlord must give as much notice as may be reasonably practicable);

5.5.2 observe the Tenant's requirements (but where that includes being accompanied by the Tenant's representative the Tenant must make that representative available);

⁷⁷ This clause should be included only if it is a specific requirement of the Landlord to monitor turnover in respect of the Premises. **Clause 5.7** of the Landlord's obligations includes an obligation on the Landlord to keep the figures provided confidential and to stress the confidential nature of the information when providing it to permitted third parties.

⁷⁸ Note that Service Charge repayments will be dealt with at the end of the relevant Accounting Period in accordance with the provisions in **Schedule 3**.

⁷⁹ If the Lease comes to an end due to the Tenant's default, the Landlord will be able to retain any rents paid in advance to meet any outstanding liabilities of the Tenant at the End Date.

- 5.5.3 observe any specific conditions to the Landlord's entry set out in this Lease;
- 5.5.4 cause as little interference to the Tenant's business as reasonably practicable;
- 5.5.5 cause as little physical damage as reasonably practicable;
- 5.5.6 repair any physical damage that the Landlord causes as soon as reasonably practicable;
- 5.5.7 where entering to carry out works, obtain the Tenant's approval to the location, method of working and any other material matters relating to the preparation for, and execution of, the works;
- 5.5.8 remain upon the Premises for no longer than is reasonably necessary; and
- 5.5.9 where reasonably practicable, exercise any rights outside the normal business hours of the Premises.

5.6 Scaffolding

- 5.6.1 The Landlord must ensure that any scaffolding erected outside the Premises in exercise of the Landlord's rights under this Lease:
 - (a) is not erected or retained (unless in an emergency) during the months of January, November and December or during the one week period either side of Easter Sunday, in each year;
 - (b) is removed as soon as reasonably practicable, with any damage caused to the exterior of the Premises made good;
 - (c) causes as little obstruction as is reasonably practicable to the entrances to the Premises, the Building or the Estate; and
 - (d) does not have advertising displayed on it (except for any health and safety notices and signs relating to any other tenant whose premises are obstructed or interfered with by the scaffolding) unless the Tenant has consented to its display.
- 5.6.2 If the Tenant's sign and fascia or display window is obstructed or interfered with by the scaffolding, the Landlord will permit the Tenant to display a sign (approved by the Landlord) on the exterior of the scaffolding in front of the Premises so that it is visible to the public.

5.7 [Turnover Information

- 5.7.1 The Landlord will only use any information provided to the Landlord under **clause 4.25** for management purposes in connection with the monitoring and assessment of sales at and the performance of the Estate. The Landlord may disclose it to the following people on the terms of **clause 5.7.2**:
 - (a) the Landlord's advisors and funders;
 - (b) any party (and their advisors and funders) interested in acquiring the Landlord's interest in the Estate;
 - (c) where required by law; and
 - (d) where required by the rules of any listing authority.
- 5.7.2 Where the Landlord is allowed to disclose the information to someone else under this **clause 5.7**, the Landlord will stress its confidential nature.]

5.8 [Head Lease

- 5.8.1 The Landlord must pay the rents reserved by the Head Lease.
- 5.8.2 By way of indemnity only, the Landlord agrees with the Tenant that the Landlord will perform the covenants on the part of the tenant contained in the Head Lease so far as the Tenant is not liable for the performance of corresponding obligations under the terms of this Lease.
- 5.8.3 [At the request and cost of the Tenant, the Landlord will take reasonable steps to procure that the landlord of the Head Lease complies with the landlord's obligations in the Head Lease.⁸⁰]

5.9 Change in the extent of the Estate

The Landlord may change the extent of the Estate but any changes must not:

- 5.9.1 materially increase the amount of Service Charge payable by the Tenant; or
- 5.9.2 materially prejudice:
 - (a) the Tenant's use and occupation of the Premises; or
 - (b) the rights, facilities and amenities granted to the Tenant under this Lease.

5.10 Designation of Building Common Parts, Estate Common Parts and use of rights

- 5.10.1 The Building Common Parts and the Estate Common Parts designated by the Landlord for the Tenant's use under **Part 1 of Schedule 1** must include those Building Common Parts and Estate Common Parts that are reasonably and properly required for the use and enjoyment of the Premises for their intended use.
- 5.10.2 If the Landlord does not designate specific Building Common Parts and Estate Common Parts for the Tenant's use, the Tenant will be entitled to use all Building Common Parts and Estate Common Parts required for the reasonable and proper enjoyment of the Premises for their intended use but the Tenant will not have the right to use any Building Common Parts or Estate Common Parts used solely by the Landlord for the provision of the Services.
- 5.10.3 Any Supply Runs allocated by the Landlord for the Tenant's use under **paragraph 1.2 of Part 1 of Schedule 1** must take into account the location of the Premises and the requirements of the Tenant. The Landlord may vary the allocation of the Supply Runs taking into account its own requirements, the requirements of other tenants and occupiers of the Building for the use of the Supply Runs and the location of the tenants' facilities requiring use of the Supply Runs. **Clause 5.11** will apply if any relocation of External Works is required following a reallocation of the Supply Runs.
- 5.10.4 [The Landlord may, by giving formal notice to the Tenant, vary the extent or location of the Plant Area taking into account its own requirements and the requirements of other tenants and occupiers of the Building. Where reasonably possible, areas will be separate for each tenant and the Landlord will take into account any riser allocation strategy and the location of the tenants' facilities requiring connection to the Plant Area. **Clause 5.11** will apply if any relocation of External Works is required following a variation in the location of the Plant Area.]⁸¹

⁸⁰ Consider whether any specific obligations of the superior landlord should be enforced by the Landlord (for example insurance, services).

⁸¹ Include this wording only where the Tenant has the right to install Plant in any Plant Area.

5.11 **[Relocation of External Works**

- 5.11.1 The Landlord may require the Tenant to relocate any External Works on not less than one month's formal notice to the Tenant or immediately in case of emergency.
- 5.11.2 The Landlord may not require the permanent relocation of the External Works if that relocation would have a material adverse impact on the Tenant's business at the Premises.
- 5.11.3 If the Landlord requires temporary relocation of the External Works, the Landlord must keep the period of relocation as short as reasonably practicable in the circumstances.
- 5.11.4 The Tenant must comply with the Landlord's requirements to relocate the External Works.
- 5.11.5 The Landlord will pay the Tenant's costs and expenses in complying with the Landlord's requirements to relocate External Works but if their relocation is required only temporarily to enable the Landlord to carry out any of the Services, the costs and expenses will be included in the Service Costs.]

5.12 **Wayleaves**

- 5.12.1 Subject to **clause 5.12.2**, if requested to do so by the Tenant, the Landlord will (at the cost of the Tenant) enter into a wayleave agreement with an operator (as defined in paragraph 2 of Schedule 3A to the Communications Act 2003) on terms approved by the Landlord to enable the installation of Conducting Media in ~~the~~[either or both of the Building Common Parts and Estate Common Parts](#) pursuant to the rights in **paragraph 1.2 of Schedule 1** to connect the Premises to the operator's telecommunications network along routes approved by the Landlord.
- 5.12.2 The Landlord will not be under an obligation to enter into a wayleave agreement unless the Conducting Media can be installed without having a material adverse effect on or causing material disruption to the tenants or occupiers of any other Lettable Units.

6. **AGREEMENTS**

6.1 **Landlord's right to end this Lease**

- 6.1.1 If any event listed in **clause 6.1.2** occurs, the Landlord may at any time afterwards re-enter the Premises or any part of them and this Lease will then immediately end.
- 6.1.2 The events referred to in **clause 6.1.1** are as follows:
 - (a) any of the Rents are unpaid for 21 days after becoming due whether or not formally demanded;⁸²
 - (b) the Tenant breaches this Lease;
 - (c) any 1925 Act, administrative, court-appointed or other receiver or similar officer is appointed over the whole or any part of the Tenant's assets, or the Tenant enters into any scheme or arrangement with its creditors in satisfaction or composition of its debts under the 1986 Act;

⁸² The words "whether or not formally demanded" are included to ensure that the Landlord does not have to comply with the common law pre-condition for re-entry to make a specific demand for the exact amount due at the Premises themselves or, if specified, at the place required for the payment of rent, between the hours of sunrise and sunset on the last day due for payment. Sums due under the Lease still need to be notified to the Tenant or, in the case of the main rent, will be due on known dates and in known amounts.

- (d) if the Tenant is a company or a limited liability partnership:
 - (i) the Tenant enters into liquidation within the meaning of section 247 of the 1986 Act;
 - (ii) the Tenant is wound up or a petition for winding up is presented against the Tenant that is not dismissed or withdrawn within ten Business Days of being presented;
 - (iii) a meeting of the Tenant's creditors or any of them is summoned under Part I of the 1986 Act;
 - (iv) it enters into a compromise, scheme of arrangement or restructuring under Part 26 or Part 26A of the Companies Act 2006;
 - (v) a moratorium in respect of the Tenant comes into force under Part A1 to the 1986 Act;
 - (vi) an administrator is appointed to the Tenant; or
 - (vii) the Tenant is struck off the register of companies;
- (e) if the Tenant is a partnership, it is subject to an event similar to any listed in **clauses 6.1.2(c) or 6.1.2(d)** with appropriate modifications so as to relate to a partnership;
- (f) if the Tenant is an individual:
 - (i) a receiving order is made against the Tenant;
 - (ii) an interim receiver is appointed over or in relation to the Tenant's property;
 - (iii) the Tenant makes an application to be declared bankrupt, the Tenant is the subject of a bankruptcy petition or the Tenant becomes bankrupt;
 - (iv) the Tenant applies for or becomes subject to a debt relief order or the Tenant proposes or becomes subject to a debt management plan; or
 - (v) an interim order is made against the Tenant under Part VIII of the 1986 Act or the Tenant otherwise proposes an individual voluntary arrangement;
- (g) any event similar to any listed in **clauses 6.1.2(c) to 6.1.2(f)** occurs in relation to any guarantor of the Tenant's obligations under this Lease; or
- (h) any event similar to any listed in **clauses 6.1.2(c) to 6.1.2(f)** occurs in relation to the Tenant or any guarantor in any jurisdiction other than England and Wales.

6.1.3 Neither the existence nor the exercise of the Landlord's right under **clause 6.1.1** will affect any other right or remedy available to the Landlord.

6.1.4 In this **clause 6.1** references to "the Tenant", where the Tenant is more than one person, include any one of them.

6.2 No acquisition of easements or rights

- 6.2.1 Unless they are expressly included in **Part 1 of Schedule 1**, the grant of this Lease:
- (a) does not include any liberties, privileges, easements, rights or advantages over the Building, the Estate or any adjoining premises; and
 - (b) excludes any rights arising by the operation of section 62 of the 1925 Act or the rule in *Wheeldon v Burrows*.
- 6.2.2 The Tenant has no rights that would restrict building or carrying out of works to the Building, the Estate or any adjoining premises, other than any that the Landlord specifically grants the Tenant in this Lease.
- 6.2.3 The flow of light to the Premises is and will be enjoyed with the Landlord's consent in accordance with section 3 of the Prescription Act 1832. Neither the enjoyment of that light and air nor anything in this Lease will prevent the exercise of any of the rights the Landlord has reserved out of this Lease. The Tenant must not interfere with or object to the exercise of these reserved rights.
- 6.2.4 The Tenant must not do or omit to do anything that would or might result in the loss of any right enjoyed by the Premises or the Building or the Estate.
- 6.2.5 The Tenant has no rights to enforce, release or modify or to prevent the release, enforcement or modification of the benefit of any obligations, rights or conditions to which any other property within the Building, the Estate or any adjoining premises is or are subject.

6.3 Works to adjoining premises

If the Landlord carries out works of construction, demolition, alteration or redevelopment in the Building, on the Estate or on any adjoining premises that might affect the use and enjoyment of the Premises, it must:

- 6.3.1 give the Tenant details of the works to be carried out;
- 6.3.2 consult with the Tenant as to the management of potential interference;
- 6.3.3 take reasonable steps to ensure that the works do not materially adversely affect the Tenant's ability to trade from the Premises;
- 6.3.4 take into consideration modern standards of construction and workmanship;
- 6.3.5 take reasonable steps to reduce any interference to the Premises by noise, dust and vibration (having taken into consideration the Tenant's suggestions for limiting any interference); and
- 6.3.6 make good any physical damage to the Premises or its contents.

6.4 Service of formal notices

- 6.4.1 Any formal notice must be in writing and sent [by pre-paid first class post or special delivery to or otherwise delivered to or left at the address of the recipient under **clause 6.4.2** or to any other address in the United Kingdom that the recipient has specified as its address for service by giving not less than ten Business Days' formal notice under this **clause 6.4.**⁸³[:]

⁸³

Use this option where service by e-mail is not a permitted form of service for formal notices.

- (a) [by pre-paid first class post or special delivery to or otherwise delivered to or left at the address of the recipient under **clause 6.4.2** or to any other address in the United Kingdom that the recipient has specified as its address for service by giving not less than ten Business Days' formal notice under this **clause 6.4**; or
- (b) by e-mail to the e-mail address of the recipient under **clause 6.4.4** or to any other e-mail address that the recipient has specified as its address for service by e-mail by giving not less than ten Business Days' formal notice under this **clause 6.4.**⁸⁴]

6.4.2 [Unless served by e-mail, a⁸⁵[A] formal notice served on:

- (a) a company or limited liability partnership registered in the United Kingdom must be served at its registered office;
- (b) a person resident in or incorporated in a country outside the United Kingdom must be served at the address for service in the United Kingdom of that party set out in the deed or document to which they are a party or if no such address has been given at their last known address in the United Kingdom.[The following [are the addresses][is the address] for service in the United Kingdom for:⁸⁶
 - (i) [[NAME OF LANDLORD] – [ADDRESS]; [and]
 - (ii) [NAME OF TENANT] – [ADDRESS]; [and]
 - (iii) [NAME OF GUARANTOR] – [ADDRESS].]
- (c) anyone else must be served:
 - (i) in the case of the Landlord, at any postal address in the United Kingdom shown from time to time for the registered proprietor on the title number set out in Land Registry Prescribed Clause LR2.1 or if no such address is given, at its last known address in the United Kingdom;
 - (ii) in the case of the Tenant, at the Premises;
 - (iii) in the case of a guarantor, at the address of that party set out in the deed or document under which they gave the guarantee; and
 - (iv) in respect of any other party, at their last known address in the United Kingdom.

6.4.3 A formal notice given will be treated as served on the second Business Day after the date of posting if sent by pre-paid first class post or special delivery or at the time the formal notice is delivered to or left at the recipient's address if delivered to or left at that address.

6.4.4 [A formal notice served by e-mail will be treated as served 1 hour after the date and time that the e-mail is sent unless the recipient can prove that it has not received the e-mail. The following are the specified e-mail addresses for service:

⁸⁴ Use this option where service by e-mail is a permitted form of service for formal notices.

⁸⁵ Use this option where service by e-mail is a permitted form of service for formal notices.

⁸⁶ If any of the original parties to the Lease are non-UK parties, include an address for service in the United Kingdom for that party here.

- (a) in respect of [NAME OF LANDLORD] – [E-MAIL ADDRESS] or, in respect of any other person who becomes the immediate landlord of the Tenant, the e-mail address, if any, given in a formal notice served by that person under this **clause 6.4**;
- (b) in respect of [NAME OF TENANT] – [E-MAIL ADDRESS] or, in respect of any successor in title to that tenant, the e-mail address, if any, specified by that successor in title in any licence to assign this lease, any notice of assignment given under **clause 4.16** or in a formal notice served by that successor in title under this **clause 6.4**; and
- (c) [in respect of [NAME OF GUARANTOR] – [E-MAIL ADDRESS] or, in respect of any other][in respect of any] person who becomes a guarantor of the Tenant's obligations under this Lease, the e-mail address, if any, specified by that guarantor in any licence to assign this lease, any notice of assignment given under **clause 4.16** or in a formal notice served by that guarantor under this **clause 6.4**.⁸⁷

6.4.5 If a formal notice is treated as served on a day that is not a Business Day or after 5.00pm on a Business Day it will be treated as served at 9.00am on the next Business Day.

6.4.6 Service of a formal notice by fax [or e-mail] is not a valid form of service under this Lease.

6.5 **Contracts (Rights of Third Parties) Act 1999**

Nothing in this Lease creates any rights benefiting any person under the Contracts (Rights of Third Parties) Act 1999.

6.6 **[Contracting-out⁸⁸**

6.6.1 The Landlord and the Tenant confirm that before the date of [this Lease] [the agreement for the grant of this Lease dated [DATE] made between the parties to this Lease]:

- (a) a notice complying with Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 which relates to this tenancy was served by the Landlord on the Tenant on [DATE]; and
- (b) a statutory declaration dated [DATE] complying with paragraph 8 of Schedule 2 to that Order was made by [the Tenant] [[NAME OF DECLARANT], who the Tenant confirms was duly authorised by the Tenant to make the statutory declaration on its behalf].

6.6.2 The Landlord and the Tenant agree and declare that the provisions of sections 24–28 (inclusive) of the 1954 Act do not apply to the tenancy created by this Lease.

6.6.3 [The Landlord and the Tenant confirm that there is no agreement for this Lease.]

⁸⁷ There are risks associated with the service of notices by e-mail. The e-mail may be delayed or not delivered at all, for example through server failure, data overload, failure of telecommunications services, interception by spam filters, or an incorrectly typed address. Failure notices are not always sent or may be delayed. If the relevant e-mail address is no longer used (for example it is the e-mail address of a person who has left the organisation), service by e-mail will not be possible. Note that where e-mail addresses are used, it is better not to include the e-mail address of individuals to avoid potential issues in relation to the GDPR as well as avoiding the need to notify the other parties of a new e-mail address if the individual leaves the organisation.

⁸⁸ No 1954 Act exclusion wording is included for guarantors.

6.7 Energy Performance Certificates

- 6.7.1 The Tenant must not commission an EPC in respect of the Premises unless required to do so by the Energy Performance of Buildings (England and Wales) Regulations 2012. If the Tenant is required to commission an EPC, the Tenant must (at the Landlord's option) commission an EPC from an assessor approved by the Landlord or pay the Landlord's costs of commissioning an EPC for the Premises.
- 6.7.2 The Tenant must co-operate with the Landlord, so far as is reasonably necessary, to allow the Landlord to commission any EPC for the Premises, the Building or the Estate and:
- (a) provide the Landlord (at the Landlord's cost) with copies of any plans or other information held by the Tenant that would assist in commissioning that EPC; and
 - (b) allow such access to the Premises to any energy assessor appointed by the Landlord as is reasonably necessary to inspect the Premises for the purposes of preparing any EPC.
- 6.7.3 The Tenant must give the Landlord written details on request of the unique reference number of any EPC the Tenant commissions in respect of the Premises.
- 6.7.4 The Landlord must give the Tenant written details on request of the unique reference number of any EPC the Landlord commissions in respect of the Premises, the Building or the Estate.

6.8 [Sustainability

The Landlord and Tenant must comply with the provisions of **Schedule 7.**]

6.9 [Superior landlord's consent

Any consent that the Landlord gives is conditional on the consent (where required) of any superior landlord being obtained. The Landlord will apply for that consent at the Tenant's cost and, to the extent the Landlord is consenting, the Landlord must take reasonable steps to obtain it.^{89]}

6.10 [Representations

The Tenant acknowledges that:

- 6.10.1 it has not entered into this Lease in reliance upon any representation or warranty made by or on behalf of the Landlord except those in the Landlord's solicitors' written replies to the Tenant's solicitors' pre-contract enquiries;
- 6.10.2 it has been given the opportunity to inspect the Premises and to satisfy itself as to their physical condition, extent and fitness for purpose; and
- 6.10.3 it has satisfied itself on matters relating to the use of the Premises in relation to all legislation relating to town and country planning from time to time in force.^{90]}

⁸⁹ References to superior landlord's consent should be included only if there is an existing superior lease.

⁹⁰ This clause can be omitted if the corresponding provisions have been included in any agreement for the grant of this Lease.

6.11 **[Exclusion of statutory compensation⁹¹**

Unless the circumstances set out in sections 38(2)(a) and 38(2)(b) of the 1954 Act apply, the Tenant will not be entitled on quitting the Premises to any compensation under section 37 of the 1954 Act.]

6.12 **Exclusion of liability for former landlords**

A person who was formerly the Landlord will not be liable in respect of any breach of the landlord's obligations in this Lease that occurs at any time after that person has parted with the whole of the immediate reversion to this Lease.

7. **[GUARANTOR'S OBLIGATIONS⁹²**

7.1 The Guarantor, as primary obligor, guarantees to the Landlord that:

7.1.1 the Original Tenant will comply with all the Original Tenant's obligations in this Lease throughout the Term or, if earlier, until the Original Tenant is released from those obligations under the Landlord and Tenant (Covenants) Act 1995. If the Original Tenant defaults, the Guarantor will itself comply with those obligations and will indemnify the Landlord against all losses, costs, damages and expenses caused to the Landlord by that default; ~~and~~

7.1.2 if the Court orders the Tenant to pay them, the Original Tenant will pay the Landlord's costs incurred in relation to any legal proceedings in relation to this Lease in accordance with the terms of that Court order. If the Original Tenant defaults, the Guarantor will itself comply with the obligation to pay those costs; and⁹³

~~7.1.2~~ 7.1.3 it will indemnify the Landlord against all losses, costs, damages and expenses caused to the Landlord by the Original Tenant proposing or entering into any company voluntary arrangement, scheme of arrangement or other scheme having or purporting to have the effect of impairing, compromising or releasing any or all of the obligations of the Guarantor in this **clause 7**.

7.2 If the Landlord in its absolute discretion notifies the Guarantor within three months after the date of any disclaimer or forfeiture of this Lease or the Original Tenant being struck off the register of companies, the Guarantor must, within ten Business Days, at the Landlord's option either:

7.2.1 at the Guarantor's own cost (including payment of the Landlord's costs) accept the grant of a lease of the Premises:

- (a) for a term starting and taking effect on the date of the disclaimer or forfeiture of this Lease or the Original Tenant being struck off the register of companies;
- (b) ending on the date when this Lease would have ended if the disclaimer, forfeiture or striking-off had not happened;
- (c) at the same rent and other sums payable;

⁹¹ This clause is not relevant if the Lease is contracted out of sections 24 to 28 of the 1954 Act.

⁹² There is no obligation on the Original Tenant to provide an alternative guarantor to replace a deceased or insolvent guarantor as it is unrealistic to expect this.

⁹³ In *Kaushal Corp v O'Connor* [2023] EWHC 618 (KB), the Landlord was not able to recover costs that the court had ordered the Tenant to pay in relation to legal proceedings from the guarantor of the lease. The terms of the lease did not include a tenant's covenant to pay those costs and, therefore, the guarantor's obligations did not extend to the payment of costs that the court had ordered the Tenant to pay to the Landlord.

- (d) containing a rent review date on the term commencement date of the new lease if there is a rent review under this Lease that falls before that term commencement date that has not been concluded (but with the rent being reviewed as at the date of the unconcluded rent review);
 - (e) containing rent review dates on each Rent Review Date under this Lease that falls on or after the term commencement date of the new lease; and
 - (f) otherwise on the same terms and conditions as this Lease; or
- 7.2.2 pay the Landlord any arrears of the Rents, the Outgoings and all other sums due under this Lease plus the amount equivalent to the total of the Rents, the Outgoings and all other sums due under this Lease that would have been payable for the period of 6 months following the disclaimer, forfeiture or striking-off had there been no such event.⁹⁴
- 7.3 If **clause 7.2.2** applies then, on receipt of the payment in full, the Landlord must release the Guarantor from its future obligations under this **clause 7** (but that will not affect the Landlord's rights in relation to any prior breaches).
- 7.4 The Guarantor's liability will not be reduced or discharged by:
- 7.4.1 any failure for any reason to enforce in full, or any delay in enforcement of, any right against, or any concession allowed to the Original Tenant or any third party;
 - 7.4.2 any variation of this Lease (except that a surrender of part will end the Guarantor's future liability in respect of the surrendered part);
 - 7.4.3 any right to set-off or counterclaim that the Original Tenant or the Guarantor may have;
 - 7.4.4 any death, incapacity, disability or change in the constitution or status of the Original Tenant, the Guarantor or of any other person who is liable, or of the Landlord;
 - 7.4.5 any amalgamation or merger by any party with any other person, any restructuring or the acquisition of the whole or any part of the assets or undertaking of any party by any other person;
 - 7.4.6 the existence or occurrence in relation to the Guarantor of any matter referred to in any of **clauses 6.1.2(c) to 6.1.2(h)**; or
 - 7.4.7 anything else other than a release by the Landlord by deed.
- 7.5 The Guarantor must not claim in competition with the Landlord in the insolvency of the Original Tenant and must not take any security, indemnity or guarantee from the Original Tenant in respect of the Original Tenant's obligations under this Lease.
- 7.6 Nothing in this **clause 7** may impose any liability on the Guarantor that exceeds the liability that it would have had were it the tenant of this Lease.]

⁹⁴ There is no right to repayment if the Landlord subsequently re-lets the Premises during the six month period covered by this payment.

8. [BREAK CLAUSE

- 8.1 The Tenant may end the Term on [any][the] Break Date by giving the Landlord formal notice of not less than [LENGTH] months' [specifying the Break Date]⁹⁵ following which the Term will end on that Break Date[.][if:⁹⁶
- 8.1.1 [on the Break Date the Main Rent (or if the arrangements in Schedule 9 have not come to an end in accordance with paragraph 12 of Schedule 9, the Base Rent and the Turnover Rent) due on or before that Break Date and any VAT payable upon ~~it~~them has been paid in full; [and]
- 8.1.2 on the Break ~~date~~Date the Premises are free of the Tenant's occupation and the occupation of any other lawful occupier and there are no continuing underleases[.][; and]
- 8.1.3 [the Tenant has, on or before the Break Date, paid to the Landlord an amount equal to [insert figure/proportion of the Main Rent] (plus any VAT payable on that amount).]]
- 8.2 The Landlord may waive any of the pre-conditions in [clauses 8.1.1 to 8.1.3] at any time before the [relevant] Break Date by notifying the Tenant. A waiver by the Landlord of any of those pre-conditions will not affect the Tenant's liability under this Lease for the matters set out in those pre-conditions. [~~If the Landlord does so~~waives the pre-condition in clause 8.1.3 and this Lease ends on the [relevant] Break Date, the Tenant must ~~still comply with the relevant pre-conditions, as an obligation, as soon as reasonably practicable~~pay to the Landlord immediately after the ~~date on which this Lease ends.~~[relevant] Break Date the sum specified in that clause.]
- 8.3 [The break right in this **clause 8** is personal to the Original Tenant and will end on the date of the first deed of assignment or transfer of the Lease or on the date when the Original Tenant ceases to exist.]
- 8.4 If this Lease ends under this **clause 8**, this will not affect the rights of any party for any prior breach of an obligation in this Lease.⁹⁷
- 8.5 Time is of the essence for the purposes of this **clause 8**.]

9. JURISDICTION

- 9.1 This Lease and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.
- 9.2 Subject to **clause 9.3** and any provisions in this Lease requiring a dispute to be settled by an expert or by arbitration, the courts of England and Wales have exclusive jurisdiction to decide any dispute arising out of or in connection with this Lease, including in relation to any non-contractual obligations.
- 9.3 Any party may seek to enforce an order of the courts of England and Wales arising out of or in connection with this Lease, including in relation to any non-contractual obligations, in any court of competent jurisdiction.

10. LEGAL EFFECT

This Lease takes effect and binds the parties from and including the date at clause LR1.

⁹⁵ This wording is not required if the Tenant can end this Lease only on a single specified date.

⁹⁶ The conditions in this break clause are consistent with the RICS professional standard "Code for Leasing Business Premises (2007), First Edition (February 2020)".

⁹⁷ The obligation to repay any rent relating to the period after the Break Date is in **clause 5.4**.

SCHEDULE 1

Rights

Part 1: Tenant's Rights⁹⁸

The following rights are granted to the Tenant in common with the Landlord, any person authorised by the Landlord and all other tenants and occupiers of the Building and the Estate but subject to the Landlord's rights:

1. Running of services

- 1.1 To connect to and use the existing Conducting Media at the Building and the Estate intended to serve the Premises for the passage of Supplies from and to the Premises.
- 1.2 To use a fair proportion of the Supply Runs allocated to tenants for their use within the Building that the Landlord has designated for the purpose of installing and running new Conducting Media exclusively serving the Premises.

2. Access and servicing

- 2.1 To have access to and from the Building with or without vehicles over the Estate Common Parts designated by the Landlord for the Tenant's use.
- 2.2 To have access to and from the Premises on foot only over the Building Common Parts designated by the Landlord for the Tenant's use.
- 2.3 [During the Servicing Hours][At all times] (and subject to **clause 4.22**), to use each of the following within the Estate Common Parts designated by the Landlord for the Tenant's use:
 - 2.3.1 any service area for loading and unloading and otherwise servicing the Premises; and
 - 2.3.2 the service roads with or without vehicles to come and go to and from any service area that the Tenant has the right to use under **paragraph 2.3.1**.
- 2.4 [During the Servicing Hours][At all times] (and subject to **clause 4.22**) to use each of the following within the Building Common Parts designated by the Landlord for the Tenant's use:
 - 2.4.1 any service area for loading and unloading and otherwise servicing the Premises;
 - 2.4.2 the service roads with or without vehicles to come and go to and from any service area that the Tenant has the right to use under **paragraph 2.4.1**; and
 - 2.4.3 the service corridors and any goods lifts with or without trolleys to come and go between the Premises and any service area that the Tenant has the right to use under **paragraph 2.4.1**.
- 2.5 To have access on foot and, where appropriate, with vehicles over any other Building Common Parts designated by the Landlord for the Tenant's use in order to exercise the rights set out in **Part 1 of this Schedule 1**.
- 2.6 To have access on foot and, where appropriate, with vehicles over any other Estate Common Parts designated by the Landlord for the Tenant's use in order to exercise the rights set out in **Part 1 of this Schedule 1**.

⁹⁸ Appropriate rights will be property-specific in each case.

3. **Refuse disposal**

To deposit rubbish in any receptacles or waste compactors within the [Estate][Building] Common Parts provided by the Landlord for that purpose and designated by the Landlord for the use of the Tenant.

4. **Entry onto the Common Parts⁹⁹**

4.1 If the relevant work cannot otherwise be reasonably carried out, to enter the Building Common Parts and, if necessary, the Estate Common Parts to comply with the Tenant's obligations in this Lease. When exercising this right, the Tenant must:

4.1.1 give the Landlord at least [three] Business Days' prior notice (except in the case of emergency, when the Tenant must give as much notice as may be reasonably practicable);

4.1.2 observe the Landlord's requirements (but where that includes being accompanied by the Landlord's representative the Landlord must make that representative available);

4.1.3 cause as little interference to the operation and use of the Building and the Estate as reasonably practicable;

4.1.4 cause as little physical damage as is reasonably practicable;

4.1.5 repair any physical damage that the Tenant causes as soon as reasonably practicable;

4.1.6 where entering to carry out works, obtain the Landlord's approval to the location, method of working and any other material matters relating to the preparation for, and execution of, the works;

4.1.7 remain upon the Building Common Parts and the Estate Common Parts for no longer than is reasonably necessary; and

4.1.8 where practicable, exercise this right outside the normal business hours of the Building.

5. **[Plant Area**

Subject to the Tenant complying with **clauses 4.11** and **5.11**, to install Plant on the Plant Area with connections to the Premises, each approved by the Landlord in accordance with **clause 4.11.5.**]

6. **Directory board**

To exhibit the Tenant's name in such form, shape and size as the Landlord [approves][specifies as the standard size and form of such signs] on any appropriate Estate directory board [at the entrance to the Estate].

7. **Support and shelter**

Support and shelter for the Premises from the Building and the remainder of the Estate.

⁹⁹ Where the Tenant occupies a ground floor retail unit in a Building, consider the extent to which the Tenant requires the right to use Building Common Parts within the Building.

8. **[Staff parking¹⁰⁰**

Option 1: Non-designated spaces for parking

- 8.1 To use, on a first come first served basis, [those areas of the car parks designated by the Landlord] [those areas shown coloured [COLOUR] on [the Plan][Plan [NUMBER]]] (or any other area within or adjoining the [Building][Estate] notified by the Landlord to the Tenant at any time) for the parking of vehicles belonging to persons working at or authorised visitors to the Premises.

OR

Option 2: Designated spaces for parking subject to a right to move those spaces

- 8.2 To use those areas shown coloured [COLOUR] on [the Plan][Plan [NUMBER]] (or an equivalent number of parking spaces in any location or locations within or adjoining the [Building][Estate] notified by the Landlord to the Tenant at any time) for the parking of [NUMBER] vehicles belonging to persons working at or authorised visitors to the Premises.
- 8.3 [To use, on a first come first served basis, any cycle racks within the [Building][Estate] to park bicycles.]

9. **[Toilet facilities**

To use any toilet facilities within the Building Common Parts designated by the Landlord as facilities for the use of the Tenant.]

10. **[Storage area¹⁰¹**

To use the storage area shown coloured [COLOUR] on [the Plan][Plan [NUMBER]] (or any other [reasonably equivalent] area within the Building notified by the Landlord to the Tenant) for the storage of [DETAILS].^{102]}

11. **[Escape**

- 11.1 On foot only, in emergencies and for fire escape drills, to use all fire escape routes in the Building designated by the Landlord for the use of the Tenant whether or not forming part of the Building Common Parts.
- 11.2 The right on foot only, in emergencies and for fire escape drills, to use all fire escape routes in the Estate designated by the Landlord for the use of the Tenant whether or not forming part of the Estate Common Parts.]

Part 2: Landlord's Rights

The following rights are excepted and reserved to the Landlord:

1. **Support, shelter, light and air**

- 1.1 Support and shelter for the remainder of the Building and the Estate from the Premises.
- 1.2 All rights of light or air to the Premises that now exist or that might (but for this reservation) be acquired over any other land.

¹⁰⁰ Consider the Landlord's policy on staff parking within the Estate.

¹⁰¹ A right that confers sole use of a defined area can exist as an easement, see *Wright v Macadam* [1949] 2 KB 744, although if the Tenant requires a dedicated storage area and the Landlord accepts it will not be able to reallocate the area that the Tenant can use, then including the storage area within the definition of the Premises may be preferable.

¹⁰² If the Landlord grants the Tenant this right, the Landlord should consider whether there are any specific restrictions on the use of the right that should be included in this Lease.

2. Running of services

The passage and running of Supplies from and to the remainder of the Building through existing Conducting Media (if any) within the Premises.

3. Entry on to the Premises¹⁰³

3.1 To enter the Premises to:

3.1.1 review or measure the Environmental Performance of the Premises including to install, inspect, clean, maintain, replace and to take readings from metering equipment, heat cost allocators and thermostatic radiator valves within or relating to the Premises and to prepare an EPC; and

3.1.2 estimate the current value or rebuilding cost of the Premises, the Building and the Estate for insurance or any other purpose.

3.2 If the relevant work cannot be reasonably carried out without entry onto the Premises, to enter them to:

3.2.1 build on or into any boundary or party walls on or adjacent to the Premises;

3.2.2 inspect, repair, alter, decorate, rebuild or carry out other works upon the Building or the Estate;

3.2.3 inspect, clean, maintain, replace or repair any existing Conducting Media within the Premises but serving the Building or the Estate;

3.2.4 carry out any Services; or

3.2.5 for any other reasonable management purpose.

3.3 [Where the Tenant (in its absolute discretion) consents, to enter the Premises to carry out any works to the Premises to improve their Environmental Performance.]¹⁰⁴

3.4 To enter the Premises to do anything that the Landlord is expressly entitled or required to do under this Lease or for any other reasonable purpose in connection with this Lease.

4. Common Parts and Conducting Media

4.1 In an emergency, or when works are being carried out to them, to close off or restrict access to the Building Common Parts or the Estate Common Parts, so long as (except in an emergency) alternative facilities are provided that are not materially less convenient.

4.2 To change, end the use of or reduce the extent of any Building Common Parts, the Estate Common Parts or Conducting Media so long as:

4.2.1 alternative facilities are provided that are not materially less convenient; or

4.2.2 if no alternative is provided, the use and enjoyment of the Premises is not materially adversely affected.

¹⁰³ The safeguards that tenants ordinarily look for where a landlord has a right of entry are contained in **clause 5.5** (Landlord's obligations). There is no need to repeat them in this Schedule.

¹⁰⁴ There is no established market practice in relation to works required to comply with the minimum energy efficiency standard regulations. This right may be thought desirable where the Premises have an EPC rating below an E and the Landlord cannot lawfully let (or, from 1 April 2023, continue to let) the Premises unless works to improve their energy performance have been carried out. The Tenant is not obliged to consent to the works and, if it refuses consent, the Landlord may be able to rely upon an exemption in the minimum energy efficiency standard regulations to continue lawfully to let the Premises. If the Tenant consents to the works, they will be governed by the Entry Safeguards in **clause 5.5** and the Landlord can recover the costs of those works under **clause 4.6.3**.

4.3 From time to time to designate areas within the Building Common Parts or the Estate Common Parts for particular purposes including as service areas, Car Parks, service roads and footpaths and from time to time to reduce the size of any designated areas, so long as the remaining areas are reasonably adequate for their intended purposes.

4.4 [To run Conducting Media over, under or along those areas allocated for the use of the Tenant under **paragraph 5 of Part 1 of Schedule 1** (or allow others to do so) so long as they do not materially adversely affect the Tenant's use of those areas.]

4.5 allow trade barrows, stands, festive activities, promotional activities and other commercial activities to take place on or to operate from the Common Parts, so long as there is no material obstruction to the use of those Common Parts by those having rights over them.

5. **Adjoining premises**

Subject to **clause 6.3**, to carry out works of construction, demolition, alteration or redevelopment on the Building, the Estate and any adjoining premises (and to permit others to do so) as the Landlord in its absolute discretion considers fit (whether or not these works interfere with the flow of light and air to the Premises) and the right in connection with those works to underpin and shore up the Premises.

6. **Plant, equipment and scaffolding**

The right, where necessary, to bring plant and equipment onto the Premises and to place scaffolding and ladders upon the exterior of the Premises in exercising the Landlord's rights under this Lease.

SCHEDULE 2

Rent review¹⁰⁵

1. Defined terms

This **Schedule 2** uses the following definitions:

“Assumptions”

that:

- (a) if the Building, the Estate or any part of them have been damaged or destroyed, they have been reinstated before the Rent Review Date;
- (b) the Premises are fit for immediate occupation and use by the willing tenant;¹⁰⁶
- (c) the Premises may lawfully be let to and used for the Permitted Use by any person throughout the term of the Hypothetical Lease;
- (d) the Tenant has complied with the Tenant's obligations in this Lease and (except to the extent that there has been a material ~~or~~ and persistent breach by the Landlord) the Landlord has complied with the Landlord's obligations in this Lease; and
- (e) ~~on the grant of the Hypothetical Lease~~ the willing tenant ~~will receive~~ has received the benefit of either:
 - (i) a rent-free period, of such length as is required by the willing tenant to reflect the time required in order to carry out its fitting-out works at the Premises, that rent-free period having expired immediately prior to the commencement of the Hypothetical Lease; or
 - ~~(i)(ii)~~ (ii) a rent concession or any other inducement of a length or amount that might be negotiated in the open market for fitting-out purposes and equal value to that the Market Rent is the rent that would become payable after the end of that period or concession or payment of that inducement rent-free period.¹⁰⁷

“Disregards”

the following:

- (a) any effect on rent of the Tenant (and the Tenant's predecessors in title and lawful occupiers) having been in occupation of the Premises;
- (b) any goodwill accruing to the Premises because of the Tenant's business (and that of the Tenant's predecessors in title and lawful occupiers);
- (c) any special bid that the Tenant or any other party with a special interest in the Premises might make by reason of its occupation of any other part of the Building, the Estate or any adjoining premises;

¹⁰⁵ This Schedule contains an open market review. There is no attempt to review to a headline rent. Drafting for an indexed-linked review is contained in the Model Commercial Lease: Index Linked Rent Review clause (MCL-LEASECLAUSE-03).

¹⁰⁶ There is deliberately no assumption that the Premises are fitted-out. If the Premises are to be valued on the assumption that they are handed over to the Tenant in a specific state (such as shell and core with capped services) then a rent review specification will be needed and an additional assumption added that the Premises are handed over to the willing tenant in the state set out in the specification.

¹⁰⁷ This assumption is considered to be neutral. There is no attempt to review to a headline rent.

- (d) any increase in rent attributable to any improvement, including any tenant's initial fitting-out works [and any Prior Lease Alterations¹⁰⁸], whether or not within the Premises:
 - (i) carried out by and at the cost of the Tenant or the Tenant's predecessors in title or lawful occupiers before or during the Term;
 - (ii) carried out with the written consent, where required, of the Landlord or the Landlord's predecessors in title; and
 - (iii) not carried out pursuant to an obligation to the Landlord or the Landlord's predecessors in title (but any obligations relating to the method or timing of works in this Lease or any other document giving consent will not be treated as an obligation for these purposes);
- (e) any reduction in rent attributable to works that have been carried out by the Tenant (or the Tenant's predecessors in title or lawful occupiers); [and]
- (f) any reduction in rent attributable to any temporary works, operations or other activities on any adjoining premises[.]; and]
- (g) [any effect on rent of the floor area of any mezzanine floor installed within the Premises by the Tenant (or the Tenant's predecessors in title or lawful occupiers) but not the fact that a mezzanine floor can lawfully be installed within the Premises without the need for any further planning or other consents.¹⁰⁹

“Hypothetical Lease”

a lease:

- (a) of the whole of the Premises;
- (b) on the same terms as this Lease (including this **Schedule 2**) except for:
 - (i) the amount of Main Rent reserved;
 - (ii) any rent-free period, rent concession or any other inducement received by the Tenant in relation to the grant of this Lease;
 - (iii) any break clause in this Lease, other than any right to terminate in **Schedule 4**;¹¹⁰ [and]
 - (iv) [ANY OTHER SPECIFIC EXCLUSIONS]
 - (v) the definitions of “Base Rent” and “Turnover Rent”, and the reference to those terms in **clause 4.1**, ~~the entirety of clause 3.7 and Schedule 9 and the words “Except when clause 3.7 applies” in clause 3.2 and the entirety of paragraph 5 of Schedule 4;~~ [and];
 - (vi) the entirety of clause 3.7, paragraph 5 of Schedule 4 and Schedule 9;

¹⁰⁸ On the grant of a renewal lease or a lease re-gearing consider carefully the extent of the Premises to be taken into account on a rent review under this Lease and whether works carried out under the Prior Lease should be taken into account or disregarded for the purposes of rent review.

¹⁰⁹ In any case where the Tenant may be able to install a mezzanine floor (or if one is already present) you should include this **paragraph (g)**.

¹¹⁰ All break clauses in this Lease are ignored (other than those that arise following a failure to reinstate insured or uninsured damage in **Schedule 4**). Any corresponding break clauses in the Hypothetical Lease should be included in **paragraph (h)**. Where there is a rent-free period or concessionary rent that follows the non-exercise of the break clause, consider including a specific exclusion of this.

(vii) the words “(or if the arrangements in **Schedule 9** have not come to an end in accordance with **paragraph 12 of Schedule 9**, the Base Rent and the Turnover Rent)” in the definition of “Rents”; and

(viii) the words “Except when **clause 3.7** applies” in **clause 3.2**; [and]

~~(vi)~~(ix) [the entirety of **clause 4.15.3** and **Schedule 10**];

(c) by a willing landlord to a willing tenant;

(d) with vacant possession;

(e) without any premium payable by or ~~(subject to paragraph (e) of the definition of “Assumptions”)~~ to the willing tenant;

(f) for a term of [LENGTH] years starting on the Rent Review Date;

~~(f)~~(g) with a rent commencement date on the Rent Review Date; [and]

~~(g)~~(h) with rent review dates every [five] years[.]; and]

~~(h)~~(i) [with a right for the tenant to bring the Hypothetical Lease to an end on [or at any time after] the [NUMBER] anniversary of the date on which the term starts.]¹¹¹

“Market Rent”

the yearly rent at which the Premises might reasonably be expected to be let on the open market on the Rent Review Date, on the terms of the Hypothetical Lease and applying the Assumptions and the Disregards.¹¹²

2. Rent review

2.1 On the Rent Review Date, the Main Rent is to be reviewed to the higher of:

2.1.1 the Main Rent reserved immediately before the Rent Review Date; and

2.1.2 the Market Rent.

2.2 The reviewed Main Rent will be payable from and including the Rent Review Date.

3. Dispute resolution

3.1 The Market Rent at the Rent Review Date may be agreed between the Landlord and the Tenant. If they have not done so (whether or not they have tried) by [the date three months before] the Rent Review Date, either the Landlord or the Tenant can require the Market Rent to be decided by an independent [expert/arbitrator].¹¹³ If the Landlord and the Tenant do not agree on who should decide the Market Rent, the [expert/arbitrator] will be appointed by the President of the Royal Institution of Chartered Surveyors on the application of either the Landlord or the Tenant. [The arbitration must be conducted in accordance with the Arbitration Act 1996.][The expert will:]

3.1.1 [invite the Landlord and the Tenant to submit to them a proposal for the Market Rent with any relevant supporting documentation;

3.1.2 give the Landlord and the Tenant an opportunity to make counter submissions;

3.1.3 give written reasons for their decisions, which will be binding on the parties; and

¹¹¹ Consider the treatment of break clauses in the Hypothetical Lease.

¹¹² Current market practice is generally not to use the expression “best rent”.

¹¹³ Consider which option the client prefers for resolving rent review disputes.

- 3.1.4 be paid by the Landlord and the Tenant in the shares and in the manner that the expert decides (or failing a decision, in equal shares).]
- 3.2 The [expert/arbitrator] must be an independent chartered surveyor of not less than ten years' standing who is experienced in the rental valuation of property similar to the Premises and who knows the local market for such premises.
- 3.3 If the [expert/arbitrator] dies, becomes unwilling or incapable of acting or it becomes apparent for any other reason that the [expert/arbitrator] will be unable to decide the Market Rent within a reasonable time, the [expert/arbitrator] may be replaced by a new [expert/arbitrator] who must be appointed on the terms set out in this **paragraph 3**.
- 3.4 Responsibility for the costs of referring a dispute to an [expert/arbitrator], including costs connected with the appointment of the [expert/arbitrator], will be decided by the [expert/arbitrator] and failing a decision, they will be shared equally between the parties.
4. **Consequences of delay in agreeing the revised rent**
- 4.1 If, by the Rent Review Date, the reviewed Main Rent has not been ascertained, then:
- 4.1.1 the Main Rent reserved under this Lease immediately before the Rent Review Date will continue to be payable until the reviewed Main Rent has been ascertained;
- 4.1.2 following the ascertainment of the reviewed Main Rent, the Landlord will demand the difference (if any) between the amount the Tenant has actually paid and the amount that would have been payable had the Main Rent been ascertained before the Rent Review Date; and
- 4.1.3 the Tenant must pay that difference to the Landlord within 10 Business Days after that demand and interest at three per cent below the Interest Rate calculated on a daily basis on each instalment of that difference from the date on which each instalment would have become payable to the date of payment. If not paid those sums will be treated as rent in arrear.
5. **Rent review memorandum**
- When the Market Rent has been ascertained, a memorandum recording the Main Rent reserved on review must be entered into. The Landlord and the Tenant will each bear their own costs in relation to that memorandum.
6. **Time not of the essence**
- For the purpose of this **Schedule 2** time is not of the essence.¹¹⁴

¹¹⁴ A decision has been taken not to include provisions to circumvent any statutory restrictions on implementing rent reviews or to nominate an extra rent review date when any restrictions cease to have effect.

SCHEDULE 3

Services and Service Charge¹¹⁵

Part 1: Administrative provisions

1. Accounting Period

- 1.1 For any Accounting Period that does not fall wholly within the Term, the Service Charge will be a due proportion calculated on the assumption that the service charge expenditure accrues equally on a day to day basis throughout the period.
- 1.2 If the Landlord notifies the Tenant of a change in the date on which the Accounting Period ends, the Accounting Period current at the date of the notice may be shortened or extended to less than or more than 12 months to take into account in the change in the date.

2. Service charge statements

- 2.1 After the end of each Accounting Period, the Landlord will supply the Tenant with a statement (the “**Service Charge Statement**”) for that Accounting Period of:
- 2.1.1 the Service Costs; [and]
 - 2.1.2 [the Estate Contribution; and]
 - 2.1.3 the Service Charge payable.¹¹⁶
- 2.2 The Service Charge Statement must itemise separately the Building Service Costs and the Estate Service Costs.
- 2.3 The Landlord must take reasonable steps to supply the Service Charge Statement within four months after the end of each Accounting Period.
- 2.4 The Service Charge Statement must include a certificate signed by the Landlord or the Landlord’s managing agent, accountant or surveyor (who may be an employee of either the Landlord or a Group Company of the Landlord) certifying that it gives a true and fair summary of the matters to which it relates.
- 2.5 In calculating the Service Costs, the Landlord may include:
- 2.5.1 the Landlord’s own reasonable management fee where the Landlord, a Group Company of the Landlord or an employee of either of them undertakes the management of the Services; and
 - 2.5.2 interest costs reasonably incurred by the Landlord on borrowing from a UK clearing bank or, if the Landlord uses its own moneys, an amount equal to the interest costs that would have been incurred if the Landlord had borrowed from a UK clearing bank at reasonable commercial rates. Interest costs will be reasonably incurred under this paragraph if:
 - (a) the Landlord has to meet an immediate liability where the service charge funds held by the Landlord are insufficient for that purpose and the shortfall does not result from:

¹¹⁵ The administrative provisions have deliberately been kept brief because much is covered by the Landlord’s obligations in **Part 2** to take into consideration the administrative, accounting, procurement, management and operational provisions of the Service Charge Code. There is deliberately no provision for a reserve or sinking fund.

¹¹⁶ If the Landlord has agreed to cap the amount of service charge payable by the Tenant, please refer to the Model Commercial Lease: Index Linked Service Charge Cap clause (MCL-LEASECLAUSE-05).

- (i) any caps on the amount of service charge recoverable;
 - (ii) any non-payment of service charges by other tenants of Lettable Units; or
 - (iii) any Lettable Unit being unlet; or
- (b) the Landlord decides to incur service charge expenditure in one Accounting Period and recover that expenditure over two or more Accounting Periods.

2.6 Service Costs incurred in one Accounting Period, if not included in the Service Charge Statement for that Accounting Period for any reason, may be included in the Service Charge Statement for a subsequent Accounting Period.

2.7 The Tenant will be entitled upon prior appointment to inspect evidence of the Service Costs[and the Estate Contribution] at the Landlord's head office or any other location the Landlord specifies. The Tenant must ask to inspect the evidence not later than four months after receipt of the Service Charge Statement.

3. **On-account payments of service charge**

3.1 Until the Service Charge for each Accounting Period has been calculated, the Tenant must pay, by equal [monthly][quarterly] payments on the Rent Days, a provisional sum by way of Service Charge at the level that the Landlord requires.

3.2 The Tenant must also pay on demand any sum or sums that the Landlord requires where the Landlord will be obliged to incur any Service Costs and the sums held on account by the Landlord are insufficient to meet those costs.

3.3 Sums payable under this **paragraph 3** shall be taken into account when calculating the amounts payable by the Tenant to the Landlord or by the Landlord to the Tenant under **paragraph 4**.

4. **Balancing payments of service charge**

4.1 When the Service Charge for each Accounting Period has been calculated:

4.1.1 the Tenant must pay any amount due from it on demand; and¹¹⁷

4.1.2 the Landlord must credit any amount due to the Tenant against the next payment or payments to be made by the Tenant under **paragraph 3**. Any amount owing at the End Date must be repaid to the Tenant within one month of its calculation.

4.2 The End Date will not affect the Tenant's obligation to pay or the Landlord's right to recover Service Charge after the End Date where this has not been calculated and demanded before the End Date.

5. **Service charge exclusions**

The Landlord must not include any of the costs set out in **Part 7** or **Part 8** of this Schedule in the Service Costs.¹¹⁸

¹¹⁷ Any sums payable on demand only begin to bear interest for late payment if not paid within 10 Business Days of the date of demand – see **clause 4.5**.

¹¹⁸ Check that that the costs listed in **Part 7 and Part 8 of this Schedule** are identical across each lease in the Estate. If a concession is made to a particular tenant:

- a separate service charge reconciliation will be required for that tenant; and
- the Landlord will not be able to recover any shortfall from the other tenants in the Estate as concessions offered to one tenant cannot be recovered from other tenants.

6. Service charge disputes

6.1 If any dispute arises in connection with the Service Charge, the Landlord and the Tenant must attempt to resolve it by appropriate alternative means before resorting to court proceedings.

6.2 Except in relation to obvious errors, the Tenant must not raise any dispute in connection with the Service Charge Statement more than four months after the Service Charge Statement has been delivered to the Tenant.¹¹⁹

7. Variation in the proportion of the service charge payable¹²⁰

7.1 In calculating the [Tenant's Proportion][Service Charge] for any of the Services, the Landlord's surveyor may make any adjustment that is fair and reasonable in all the circumstances, taking into consideration the relative degree of benefit obtained by the Tenant and other tenants at the Building or the Estate from those Services, including by dividing the Services into separate categories and applying weighting to those categories to take into account differing uses or operating hours or other relevant factors.

7.2 If there is any change in the extent of the Building or the Estate, the Landlord must, where it is appropriate to do so, vary the [Tenant's Proportion][Service Charge] as is reasonable to take account of that change but the [Tenant's Proportion][Service Charge] will not materially increase solely as a result of any change in the extent of the Building or the Estate.

7.3 The [Tenant's Proportion][Service Charge] must not be increased by reason only that any Lettable Units:

7.3.1 are or have been unlet;

7.3.2 are let on terms that do not require the tenant or other occupier to pay a service charge; or

7.3.3 are let on terms that cap the liability of any tenant or other occupier for service charge.

Part 2: Landlord's obligations

1. Provision of services

Option 1: The Landlord must provide the Building Services, the Estate Services, the Additional Building Services and the Additional Estate Services¹²¹

1.1 The Landlord, acting reasonably and in the interests of good estate management:

1.1.1 must supply the Services in an efficient manner at all appropriate times; and¹²²

¹¹⁹ The Tenant has 4 months to challenge a service charge statement before it becomes binding. Traditionally there has been no right of challenge, unless there was a clear error, but that is considered unjust. A reference to alternative dispute resolution is consistent with the Service Charge Code.

¹²⁰ Refer to "Tenant's Proportion" only where floor weighting applies to the service charge calculations. See also the definitions of "Gross Internal Area", "Service Charge", "Tenant's Proportion" and "Weighted Area" and **Part 9** of this Schedule.

¹²¹ The service charge provisions have been drafted so that if the Landlord will be under an obligation to provide each of the Building Services, the Estate Services, the Additional Building Services and the Additional Estate Services without any discretion in relation to the "Additional" services, you can retain the separate Parts in this Schedule setting out the respective Services.

¹²² The service charge provisions give the Landlord flexibility over the times during which the Services are to be provided and, in **paragraph 7.1 of Part 1** of this Schedule, to vary the proportion of the Service Costs payable by the Tenant if they gain greater benefit from those services (for example a Tenant who occupies 24 hours a day in a building where other tenants occupy only during normal business hours). Nevertheless, consider whether the Landlord should be under an obligation to provide service only during core trading hours with an express obligation on the Tenant to pay for Service Costs where it requires Services to be provided outside those hours.

- 1.1.2 may vary, reduce or extend the Services or change the way in which it undertakes or provides them.

Option 2: The Landlord must supply the Building Services and the Estate Services and may supply the Additional Building Services and the Additional Estate Services

- 1.2 The Landlord, acting reasonably and in the interests of good estate management:
- 1.2.1 must supply the Building Services and the Estate Services in an efficient manner at all appropriate times;¹²³
- 1.2.2 may supply all or any of the Additional Building Services and the Additional Estate Services and, if it does so, it will do so in an efficient manner at all appropriate times; and
- 1.2.3 may vary, reduce or extend the Services or change the way in which it undertakes or provides them.

2. Landlord's rights and responsibilities

- 2.1 The Landlord:
- 2.1.1 may from time to time employ such agents, contractors or others as the Landlord decides;
- 2.1.2 must not include expenditure in the Building Service Costs to the extent that it has already been included in the Estate Service Costs or vice versa;
- 2.1.3 will not be responsible for any interruption in the supply of the Services due to any circumstances outside the Landlord's control or due to any necessary maintenance, repair, replacement, renewal, servicing, inspection or testing, but must take reasonable steps to restore the supply as soon as reasonably practicable; [and]
- 2.1.4 must take into consideration the administrative, accounting, procurement, management and operational provisions of the Service Charge Code for so long as it is in effect insofar as it is:¹²⁴
- (a) reasonably practicable to do so;
- (b) consistent with the Landlord's obligations under this Lease; and
- (c) consistent with the economic and efficient management of the Building and the Estate (taking into consideration all the circumstances including the terms of the leases of other Lettable Units); and
- 2.1.5 must take into consideration current practice in estate management if the Service Charge Code is no longer ~~published~~in effect.
- 2.2 [The Landlord will take reasonable steps to notify the Tenant in advance of the service charge budget for each Accounting Period and of any material changes in the service charge budget that subsequently arise.]

¹²³ The service charge provisions give the Landlord flexibility over the times during which the Services are to be provided and, in **paragraph 7.1 of Part 1** of this Schedule, to vary the proportion of the Service Costs payable by the Tenant if they gain greater benefit from those services (for example a Tenant who occupies 24 hours a day in a building where other tenants occupy only during normal business hours). Nevertheless, consider whether the Landlord should be under an obligation to provide service only during core trading hours with an express obligation on the Tenant to pay for Service Costs where it requires Services to be provided outside those hours.

¹²⁴ There is deliberately no absolute obligation to comply with the Code. Consider the extent to which the Landlord is happy to comply with the obligations in this paragraph and in **paragraph 2.1.5**.

Part 3: Building Services¹²⁵

1. Repairing (and by way of repair, renewing, rebuilding and replacing), decorating, maintaining and cleaning the foundations, roof, structure and exterior of the Building and all Building Common Parts and Conducting Media.
2. Lighting the Building Common Parts.
3. Lighting the exterior of the Building and any facilities used in common between the Building and any adjoining premises.
4. Heating, [providing air-conditioning to] and ventilating the [Building Common Parts][Building]¹²⁶.
5. Providing hot and cold water to, and maintaining operational supplies in, the toilets in the Building Common Parts.
6. Paying Supply Costs incurred in providing the Services.
7. Storing, compacting, recycling and disposing of refuse.
8. Providing, inspecting, maintaining (including by maintenance contracts and insurance against sudden and unforeseen breakdown), repairing, renewing, replacing, upgrading and operating:
 - 8.1.1 all plant, machinery, apparatus and vehicles used in providing the Building Services and all signage in the Building Common Parts; and
 - 8.1.2 security, fire-fighting and fire detection equipment (excluding portable fire extinguishers in the Premises), fire alarm systems, public address systems, telecommunications systems, closed circuit television systems and traffic control[and all other Building Management Systems].
9. [Employing or procuring all staff (including remuneration, incidental benefits and all associated costs and overheads) for the management and security of the Building and otherwise in connection with the Building Services.]
10. Carrying out any works and providing and maintaining all facilities that are required under any Act or by insurers in relation to the Building.
11. Managing and administering service charge accounts for the Services including, where relevant, certifying, examining or auditing those accounts.

Part 4: Estate Services¹²⁷

1. Repairing (and by way of repair, renewing, rebuilding and replacing), decorating, maintaining and cleaning the Estate Common Parts and Conducting Media.
2. Repairing (and, by way of repair, renewing, rebuilding, and replacing), decorating, maintaining, and cleaning any facilities (including means of access, Conducting Media, party walls and other boundary structures) used in common between the Estate and any adjoining premises.
3. Lighting the Estate Common Parts and any facilities used in common between the Estate and any adjoining premises.

¹²⁵ The distinction between the “Building Services”, which the Landlord must provide, and the “Additional Building Services”, which the Landlord may choose to provide, will need careful consideration with the client.

¹²⁶ Take instructions on whether the Landlord will provide heating, air-conditioning and ventilation to the Common Parts or to the whole of the Building.

¹²⁷ The distinction between the “Estate Services”, which the Landlord must provide, and the “Additional Estate Services”, which the Landlord may choose to provide, will need careful consideration with the client.

4. Providing hot and cold water to, and maintaining operational supplies in, any toilets in the Estate Common Parts.
5. Paying Supply Costs incurred in providing the Services.
6. [Storing, compacting, recycling and disposing of refuse.]
7. Providing, inspecting, maintaining (including by maintenance contracts and insurance against sudden and unforeseen breakdown), repairing, renewing, replacing, upgrading and operating:
 - 7.1.1 all plant, machinery, apparatus and vehicles used in providing the Estate Services and all signage in the Estate Common Parts; and
 - 7.1.2 security, fire-fighting and fire detection equipment (excluding portable fire extinguishers in the Premises), fire alarm systems, public address systems, telecommunications systems, closed circuit television systems and traffic control.
8. Employing or procuring all staff (including remuneration, incidental benefits and all associated costs and overheads) for the management and security of the Estate and otherwise in connection with the Estate Services.
9. Carrying out any works and providing and maintaining all facilities that are required under any Act or by insurers in relation to the Estate.
10. Managing and administering service charge accounts for the Services and the Estate including, where relevant, certifying, examining or auditing those accounts.

Part 5: Additional Building Services¹²⁸

1. Repairing (and, by way of repair, renewing, rebuilding, and replacing), decorating, maintaining and cleaning any facilities (including means of access, Conducting Media, party walls and other boundary structures) used in common between the Building and any adjoining premises.
2. Paying the costs of cleaning [the surfaces of any atrium facing onto the Building Common Parts and] the external surfaces of the window and window frames in the Building (but not the shopfront of the Premises) and providing and maintaining plant, facilities and equipment for these purposes.
3. Paying all existing and future rates, taxes, duties, charges and financial impositions charged on the Building Common Parts or the Building as a whole (and a fair proportion of those levied on the Building along with any adjoining premises).
4. Providing accommodation for staff, plant, furniture, equipment and vehicles used in providing the Building Services and the Additional Building Services, and all outgoings on them.
5. Employing or procuring such agents, contractors or others as the Landlord decides in connection with the Building Services and the Additional Building Services.
6. Planting, replanting and maintaining landscape features in the Building Common Parts.
7. Providing, cleaning and renewing carpeting in the Building Common Parts.
8. Providing customer service facilities for visitors to the Building including guest Wi-Fi services.
9. Providing pest and infection control.
10. Gritting, and clearing snow from, the Building Common Parts.

¹²⁸ The distinction between the “Building Services”, which the Landlord must provide, and the “Additional Building Services”, which the Landlord may choose to provide, will need careful consideration with the client.

11. Promoting and advertising the Building and staging activities and exhibitions within the Building.
12. Providing seasonal decorations within the Building.
13. Providing any ~~further works~~, services ~~for maintaining and securing the~~, amenities or facilities as the Landlord properly and reasonably considers should be provided for the benefit of the Building or for its proper maintenance and servicing.¹²⁹
- ~~13.~~14. Incurring costs, fees and expenses in contemplation of or of pursuing and enforcing any claim and taking or defending any proceedings in connection with establishing, preserving or defending any rights, amenities or facilities used or enjoyed by tenants and occupiers of the Building, to the extent that they are not recoverable from a third party.
- ~~14.~~15. Auditing health and safety requirements for the Building and, where required by law or reasonable and cost-effective to do so, implementing the recommendations of that audit.
- ~~15.~~16. Auditing disabled access requirements for the Building and, where required by law or reasonable and cost-effective to do so, implementing the recommendations of that audit.
- ~~16.~~17. Auditing the Environmental Performance of the Building and, where reasonable and cost-effective to do so, implementing the recommendations of any environmental management plan the Landlord has for the Building from time to time.

Part 6: Additional Estate Services¹³⁰

1. Paying all existing and future rates, taxes, duties, charges and financial impositions charged on the Estate Common Parts or the Estate as a whole (and a fair proportion of those levied on the Estate along with any adjoining premises).
2. Providing accommodation for staff, plant, furniture, equipment and vehicles used in providing the Estate Services and Additional Estate Services, and all outgoings on them.
3. Employing or procuring agents, contractors or others as the Landlord decides, in connection with the Estate Services and Additional Estate Services.
4. Planting, replanting and maintaining landscape features in the Estate Common Parts.
5. Providing customer service facilities for visitors to the Estate including guest Wi-Fi services.
6. Providing pest and infection control.
7. Gritting, and clearing snow from, the Estate Common Parts.
8. Promoting and advertising the Estate and staging activities and exhibitions within the Estate.
9. Providing seasonal decorations within the Estate.
10. Providing any ~~further works~~, services ~~for maintaining and securing the~~, amenities or facilities as the Landlord properly and reasonably considers should be provided for the benefit of the Estate or for its proper maintenance and servicing.¹³¹
- ~~10.~~11. Incurring costs, fees and expenses in contemplation of or of pursuing and enforcing any claim and taking or defending any proceedings in connection with establishing, preserving or

¹²⁹ This may not be appropriate in shorter term leases.

¹³⁰ The distinction between the "Estate Services", which the Landlord must provide, and the "Additional Estate Services", which the Landlord may choose to provide, will need careful consideration with the client.

¹³¹ This may not be appropriate in shorter term leases.

defending any rights, amenities or facilities used or enjoyed by tenants and occupiers of the Estate, to the extent that they are not recoverable from a third party.

- ~~44.~~12. Auditing health and safety requirements for the Estate and, where required by law or reasonable and cost-effective to do so, implementing the recommendations of that audit.
- ~~42.~~13. Auditing disabled access requirements for the Estate and, where required by law or reasonable and cost-effective to do so, implementing the recommendations of that audit.
- ~~43.~~14. Auditing the Environmental Performance of the Estate and, where reasonable and cost-effective to do so, implementing the recommendations of any environmental management plan the Landlord has for the Estate from time to time.

Part 7: Building Service Charge Exclusions

1. Costs arising from any damage or destruction to the Building caused by an Insured Risk or an Uninsured Risk.
2. Capital costs of the construction, alteration, redevelopment or extension of the Building.
3. Costs of upgrading, innovation or improvement resulting from any repair, maintenance, reinstatement, rebuilding or replacement, but this will not prevent the Landlord including costs within the Building Service Costs where they arise:
 - 3.1.1 where an item is to be replaced by way of repair and the replacement is broadly the modern day or up-to-date equivalent of what was there previously;
 - 3.1.2 where the Landlord considers replacement to be more economical than repair (and the Landlord is entitled to take into consideration the medium/long-term benefits of replacement);
 - 3.1.3 where an item has to be replaced or installed to comply with any Act or the requirements of the Landlord's insurers; or
 - 3.1.4 where replacement or renewal is reasonable and cost-effective and will reduce operating costs for the benefit of the tenants of the Lettable Units[or improve for the tenants the Environmental Performance of the Building].
4. Costs incurred in respect of any unlet Lettable Unit.
5. Rent collection costs.
6. Costs incurred in dealing with any lettings or rent reviews at the Building.
7. Unrecovered costs due from another tenant of the Building.
8. Costs incurred in dealing with the Landlord's interest in the Building, including the costs of advertising and promotional or publicity activities relating to any proposed dealing with the Landlord's interest in the Building.
9. [Costs incurred in running and maintaining any Car Park at the Building where parking is charged for and the Landlord keeps the charges.¹³²]

¹³²

This must be considered carefully on basis. Where costs are to be excluded and the Landlord is to keep the charges the definition of Contribution will need to exclude those charges. If car park charges are to be included in the definition of Contribution, this **paragraph 9** should be deleted.

Part 8: Estate Service Charge Exclusions

1. Costs arising from any damage or destruction to the Estate caused by an Insured Risk or an Uninsured Risk.
2. Capital costs of the construction, alteration, redevelopment or extension of the Estate.
3. Costs of upgrading, innovation or improvement resulting from any repair, maintenance, reinstatement, rebuilding or replacement, but this will not prevent the Landlord including costs within the Estate Service Costs where they arise:
 - 3.1.1 where an item is to be replaced by way of repair and the replacement is broadly the modern day or up-to-date equivalent of what was there previously;
 - 3.1.2 where the Landlord considers replacement to be more economical than repair (and the Landlord is entitled to take into consideration the medium/long-term benefits of replacement);
 - 3.1.3 where an item has to be replaced or installed to comply with any Act or the requirements of the Landlord’s insurers; or
 - 3.1.4 where replacement or renewal is reasonable and cost-effective and will reduce operating costs for the benefit of the tenants of the Lettable Units or improve the Environmental Performance of the Estate.
4. Costs incurred in respect of any unlet Lettable Unit.
5. Rent collection costs.
6. Costs incurred in dealing with any lettings or rent reviews at the Estate.
7. Unrecovered costs due from another tenant of the Estate.
8. Costs incurred in dealing with the Landlord’s interest in the Estate, including the costs of advertising and promotional or publicity activities relating to any proposed dealing with the Landlord’s interest in the Estate.
9. [Costs incurred in running and maintaining any car park at the Estate where parking is charged for and the Landlord keeps the charges]¹³³

Part 9: Weighting¹³⁴

1. Discounting of the Gross Internal Area

The Gross Internal Area of each Lettable Unit is ascertained and then discounted as set out below:

Gross Internal Area of Units in Metres Squared	Percentage Multiplier
[First 500 square metres (5,382 square feet)]	[100]
[Next 1,000 square metres (10,764 square feet)]	[80]
[Next 2,000 square metres (21,528 square feet)]	[60]

¹³³ This must be considered carefully on an estate by estate basis. Where costs are to be excluded and the Landlord is to keep the charges the definition of Estate Contribution will need to exclude those charges. If car park charges are to be included in the definition of Estate Contribution, this **paragraph 9** should be deleted.

¹³⁴ Include **Part 9** only where floor weighting applies to the service charge calculations. See also the definitions of “Gross Internal Area”, “Service Charge”, “Tenant’s Proportion” and “Weighted Area” and **paragraph 7 of Part 1** of this Schedule.

[Next 1,000 square metres (10,764 square feet)] [50]

Remainder [40]

2. **[Effect of underletting on discounting]**

If the Tenant underlets part of the Premises then the Tenant's Proportion will be recalculated on the basis that each part underlet by the Tenant and the part (if any) retained by the Tenant will be separately discounted in accordance with the table set out above.]

SCHEDULE 4

Insurance and Damage Provisions

1. Tenant's insurance obligations

1.1 The Tenant must pay on demand:

1.1.1 a fair and reasonable proportion of:

- (a) the sums the Landlord pays¹³⁵ to comply with **paragraphs 2.1.1 and 2.1.2**;
- (b) if not recovered through the service charge, the sums the Landlord pays to insure all plant, machinery, apparatus and vehicles used in providing the Services;
- (c) the cost of valuations of the Estate, the Building and the Premises for insurance purposes made not more than once a year; and
- (d) the amount of any excess or deductible under any insurance policy that the Landlord incurs or will incur in complying with **paragraphs 2.3 and 2.4**;

1.1.2 the whole of the sums the Landlord pays to comply with **paragraph 2.1.3**;

1.1.3 a sum equal to the amount that the insurers refuse to pay following damage or destruction by an Insured Risk to the Estate or the Building because of the Tenant's wilful act or failure to act; and

1.1.4 any additional or increased premiums that the insurers may require as a result of the carrying out or retention of any Permitted Works or the Tenant's or any undertenant's or other lawful occupier's use of the Premises.

1.2 The Tenant must comply with the requirements of the insurers and must not do anything that may invalidate any insurance.

1.3 The Tenant must not use the Premises for any purpose or carry out or retain any Permitted Works that may make any additional premium payable for the insurance of the Premises, the Estate or the Building, unless it has first agreed to pay the whole of that additional premium.

1.4 The Tenant must notify the Landlord as soon as practicable after it becomes aware of any damage to or destruction of the Premises by any of the Insured Risks or by an Uninsured Risk.

1.5 The Tenant must keep insured, in a sufficient sum and with a reputable insurer, public liability risks relating to the Premises.

2. Landlord's insurance obligations¹³⁶

2.1 The Landlord must insure (with a reputable insurer):

2.1.1 the Estate against the Insured Risks in its full reinstatement cost (including all professional fees and incidental expenses, debris removal, site clearance and irrecoverable VAT);

2.1.2 against public liability relating to the Building and the Estate; and

2.1.3 loss of the Main Rent and Service Charge for the Risk Period,

¹³⁵ Note that **clause 2.11** already requires the amounts to be reasonable and proper.

¹³⁶ The Landlord is obliged to insure the whole of the Estate. If there is damage by an Insured Risk, the obligation to reinstate is limited to the reinstatement of the Building and, if necessary, the means of access to it over the Estate. There is no obligation to reinstate other Lettable Units in the Building or to reinstate tenant's fixtures.

subject to all excesses, limitations and exclusions as the insurers may impose and otherwise on the insurer's usual terms.

- 2.2 In relation to the insurance, the Landlord must:
- 2.2.1 procure the Tenant's interest in the Premises is noted either specifically or generally on the policy;
 - 2.2.2 take reasonable steps to procure that the insurers waive any rights of subrogation they might have against the Tenant (either specifically or generally);
 - 2.2.3 notify the Tenant promptly of all material variations; and
 - 2.2.4 provide the Tenant with a summary of its main terms upon the Tenant's written request.
- 2.3 The Landlord must take reasonable steps to obtain any consents necessary for the reinstatement of the Building and, if necessary, the means of access to it over the Estate following destruction or damage by an Insured Risk.
- 2.4 Where it is lawful to do so, the Landlord must reinstate the Building and, if necessary, the means of access to it over the Estate following destruction or damage by an Insured Risk as soon as reasonably practicable after the date of that damage or destruction. Reinstatement need not be identical if the replacement is similar in size, quality and layout.
- 2.5 Nothing in this **paragraph 2** imposes any obligation on the Landlord to insure or to reinstate tenant's fixtures forming part of the Premises, the Building or the Estate.
- 2.6 Nothing in **paragraph 2.4** will require the Landlord to reinstate any Lettable Units other than the Premises.
- 2.7 The Landlord's obligations under **paragraphs 2.3 and 2.4** will not apply unless and until the Tenant has paid the amounts referred to in **paragraph 1.1.1(d)** and, where applicable, **paragraph 1.1.3**.
- 2.8 If there is destruction or damage to the Building by an Uninsured Risk that leaves the whole or substantially the whole of the Premises unfit for occupation and use or inaccessible over the Estate and the Landlord notifies the Tenant within 12 months afterwards that the Landlord wishes to reinstate, **paragraphs 2.3 and 2.4** will then apply as if the damage or destruction had been caused by an Insured Risk.
- 2.9 Subject to the insurance premiums being reasonable and proper and reasonably and properly incurred, the Landlord will be entitled to retain all insurance commissions for its own benefit.
3. **Rent suspension**
- 3.1 **Paragraph 3.2** will apply if the Building is destroyed or damaged by any Insured Risk [or Uninsured Risk]¹³⁷ so that the Premises are unfit for occupation or use or inaccessible over the Estate. **Paragraph 3.2** will not apply to the extent that the Landlord's insurance has been vitiated or payment of any policy moneys refused because of anything the Tenant does or fails to do and the Tenant has not complied with **paragraph 1.1.3**.
- 3.2 Subject to **paragraph 3.1**, the Main Rent and Service Charge or a fair proportion of them, will not be payable from and including the date of damage or destruction until the earliest of:
- 3.2.1 the date that the Premises are again fit for occupation and use, accessible over the Estate and ready to receive tenant's fitting out works;

¹³⁷ Consider whether and from which date rent suspension should apply following uninsured damage.

- 3.2.2 the end of the Risk Period; and
- 3.2.3 the End Date.
- 3.3 If **paragraph 3.2** applies before the Rent Commencement Date, the number of days between the date of the damage or destruction and the Rent Commencement Date (or where only a proportion of the Main Rent is or would have been suspended, an equivalent proportion of those days) will be added to the date the rent suspension ends and the resulting date will become the Rent Commencement Date.
- 3.4 If **paragraph 3.2** applies:
 - 3.4.1 the Landlord must refund to the Tenant, as soon as reasonably practicable, a due proportion of any Main Rent and Service Charge paid in advance that relates to any period on or after the date of damage or destruction; and
 - 3.4.2 the Tenant must pay to the Landlord on demand the Main Rent and Service Charge for the period starting on the date they again become payable to but excluding the next Rent Day.
- 3.5 Any dispute about the application of this **paragraph 3** will be decided at the request of either party by a single arbitrator under the Arbitration Act 1996.
- 4. **Termination**
 - 4.1 This **paragraph 4** applies if there is destruction or damage to the Building by an Insured Risk [or an Uninsured Risk] that leaves the whole or substantially the whole of the Premises unfit for occupation and use or inaccessible over the Estate.
 - 4.2 [If the damage or destruction is caused by an Uninsured Risk and:
 - 4.2.1 the Landlord does not give the Tenant formal notice within 12 months after the damage or destruction that the Landlord wishes to reinstate, this Lease will end on the last day of that 12 month period; or
 - 4.2.2 the Landlord gives the Tenant formal notice that the Landlord does not wish to reinstate, this Lease will end on the date of that notification by the Landlord.]
 - 4.3 If, when the Risk Period ends, the Building has not been reinstated sufficiently so that Premises are again fit for occupation and use and accessible over the Estate and ready to receive tenant's fitting out works, either the Landlord or the Tenant may end this Lease immediately by giving formal notice to the other at any time after the end of the Risk Period but before such reinstatement has been completed. The exercise of this right by the Tenant is subject to the Tenant complying with **paragraph 1.1.1(d)** and, where applicable, **paragraph 1.1.3**.
 - 4.4 [For the purposes of **paragraphs 3.2.2 and 4.3**, if the damage or destruction is caused by an Uninsured Risk, the Risk Period will be treated as beginning on the date the Landlord notifies the Tenant of its wish to reinstate under **paragraph 2.8**.]
 - 4.5 If this Lease ends under this **paragraph 4**:
 - 4.5.1 that will not affect the rights of any party for any prior breaches;
 - 4.5.2 the Tenant must give vacant possession of the Premises to the Landlord; and
 - 4.5.3 the Landlord will be entitled to retain all insurance moneys.

5. **Turnover rent**

Until the arrangements in **Schedule 9** come to an end in accordance with **paragraph 12 of Schedule 9**, references in this Schedule to the Main Rent will be read as references to the Base Rent and the Turnover Rent.

SCHEDULE 5

Title Matters

1. **[Variations to the title guarantee¹³⁸**
 - 1.1 For the purposes of section 6(2) of the 1994 Act:
 - 1.1.1 all entries made in any public register that a prudent tenant would inspect will be treated as within the actual knowledge of the Tenant;
 - 1.1.2 section 6(3) of the 1994 Act will not apply; and
 - 1.1.3 the Tenant will be treated as having actual knowledge of any matters that would be disclosed by an inspection of the Premises.
 - 1.2 The title guarantee will not apply in respect of the title to tenant's fixtures.
 - 1.3 [The Tenant will be responsible for the Landlord's costs incurred in complying with the covenant set out in section 2(1)(b) of the 1994 Act.]
 - 1.4 [The covenants set out in section 2 of the 1994 Act will not imply any obligation on the Landlord to do anything to enable the Tenant to obtain any title at the Land Registry other than a good leasehold title.¹³⁹]
 - 1.5 [The covenants set out in section 4(1)(b) of the 1994 Act will not extend to any breach of the tenant's obligations in the Head Lease relating to the physical state of the Premises or the Building or the Estate.¹⁴⁰]
2. **Register entries**

The matters contained or referred to in title number[s] [TITLE NUMBER(S)] as at [●]¹⁴¹ other than [ENTRY NUMBERS].
3. **Other deeds and documents**

The matters contained or referred to in the following deeds and documents:

Date	Document	Parties
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¹³⁸ Include this paragraph only where the Landlord leases the Premises with a full or limited title guarantee.

¹³⁹ Include this paragraph only where the Landlord's title to the Premises is not registered at HM Land Registry.

¹⁴⁰ Include this paragraph only where the Landlord holds the Premises under the Head Lease.

¹⁴¹ Note that with computerised registers, the entry numbers may change if changes are made to the register. It is therefore helpful to specify the date of the official copies of the title to the Lease so that it is clear which entries are being referred to.

SCHEDULE 6

Works¹⁴²

1. Defined terms

This **Schedule 6** uses the following definitions:

“CDM Regulations”

the Construction (Design and Management) Regulations 2015.

“Consents”

all necessary permissions, licences and approvals for the Permitted Works required under:

- (a) the Planning Acts and any other Act, including building and fire regulations;
- (b) any bye law or regulation of any competent authority; or
- (c) any covenants or provisions affecting the Premises, the Building or the Estate or otherwise required from owners, tenants or occupiers of any part of the Building, the Estate or any adjoining premises.

“Prohibited Materials”

any products or materials that:

- (d) do not conform to relevant standards or codes of practice; or
- (e) 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.

2. Tenant’s obligations in relation to Permitted Works

2.1 Before starting any Permitted Works the Tenant must:

- 2.1.1 obtain and provide the Landlord with copies of any Consents that are required before they are begun;
- 2.1.2 fulfil any conditions in the Consents required to be fulfilled before they are begun;
- 2.1.3 comply with its obligations in **clause 4.20.4**;
- 2.1.4 notify the Landlord of the date on which the Tenant intends to start the Permitted Works;
- 2.1.5 provide the Landlord with any information relating to the Permitted Works as may be required by its insurers; and
- 2.1.6 ensure that it or its building contractor has put in place public liability and employers’ liability insurance of at least £[5] million in respect of each claim and provided the Landlord with a summary of the main terms of the insurance and evidence that the premiums have been paid.

2.2 If it starts any Permitted Works, the Tenant must carry out and complete them:

¹⁴² This Schedule sets out the standard provisions that will apply when the Tenant carries out works. The inclusion of this Schedule will enable the Landlord to grant consent to Tenant’s works of a routine nature by reference to the obligations in this Schedule without the need for a detailed licence for alterations.

- 2.2.1 ~~diligently and without interruption~~ as soon as reasonably practicable, and in any event before the End Date;¹⁴³
 - 2.2.2 in accordance with any drawings, specifications and other documents relating to the Permitted Works that the Landlord has approved;
 - 2.2.3 in a good and workmanlike manner and with good quality materials;
 - 2.2.4 [in accordance with the reasonable principles, standards and guidelines set out in any relevant guide or handbook published by the Landlord from time to time for tenant's works carried out at the Building or the Estate;]
 - 2.2.5 without using Prohibited Materials;
 - 2.2.6 in compliance with the Consents and all Acts (including the Planning Acts) and with the requirements of the insurers of the Estate and the Premises and (where applicable) of any competent authority or utility provider;
 - 2.2.7 without affecting the structural integrity of the Building; and
 - 2.2.8 with as little interference as reasonably practicable to the owners and occupiers of any other parts of the Building, the Estate or any adjoining premises.
- 2.3 The Tenant must make good immediately any physical damage caused by carrying out the Permitted Works.
- 2.4 The Tenant must permit the Landlord to enter the Premises to inspect the progress of the Permitted Works.
- 2.5 Until practical completion of the Permitted Works, the Tenant must:
- 2.5.1 insure any Permitted Works for their full reinstatement cost (including professional fees) against loss or damage by the Insured Risks with a reputable insurer and provide the Landlord with a summary of the main terms of the insurance; and
 - 2.5.2 reinstate any of the Permitted Works that are damaged or destroyed before their completion.
- 2.6 Where the Landlord has given the Landlord's consent to any Permitted Works, the Tenant must comply with any additional obligations in relation to those Permitted Works that the Landlord lawfully imposes on the Tenant in giving the Landlord's consent.¹⁴⁴
- 2.7 As soon as reasonably practicable following completion of the Permitted Works the Tenant must:
- 2.7.1 notify the Landlord of their completion;
 - 2.7.2 obtain any Consents that are required on their completion;
 - 2.7.3 remove all debris and equipment used in carrying out the Permitted Works;
 - 2.7.4 notify the Landlord of the cost of the Permitted Works;
 - 2.7.5 permit the Landlord to enter the Premises to inspect the completed Permitted Works;

¹⁴³ If you want the Tenant to complete any works to the Premises within a set period after work has commenced, you will need to provide for this specifically in this paragraph.

¹⁴⁴ If you want to impose an obligation on the Tenant to begin any works to which Landlord's consent has been given, you will need to provide for this specifically in this paragraph.

- 2.7.6 supply the Landlord with two complete sets of as-built plans showing the Permitted Works; and
 - 2.7.7 ensure that the Landlord is able to use and reproduce the as-built plans for any lawful purpose.
- 2.8 If the CDM Regulations apply to the Permitted Works, the Tenant must:
- 2.8.1 comply with them and ensure that any person involved in the management, design and construction of the Permitted Works complies with their respective obligations under the CDM Regulations;
 - 2.8.2 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 Permitted Works; and
 - 2.8.3 on completion of the Permitted Works provide the Landlord with a copy of any health and safety file relating to the Permitted Works and deliver the original file to the Landlord at the End Date.
- 2.9 If the Permitted Works invalidate or materially adversely affect an existing EPC or require the commissioning of an EPC, the Tenant must (at the Landlord's option):
- 2.9.1 commission an EPC from an assessor approved by the Landlord and give the Landlord written details of the unique reference number for that EPC; or
 - 2.9.2 pay the Landlord's costs of commissioning an EPC.
- 2.10 [The Tenant must label all Plant installed outside the Premises as part of the Permitted Works in the manner requested by the Landlord and must not place any other signs or advertisements on the Plant other than signs that are legally required to be displayed on the Plant. ¹⁴⁵]
- 3. No warranty relating to Permitted Works**
- 3.1 The Landlord gives no express or implied warranty (and the Tenant acknowledges that the Tenant must satisfy itself):
- 3.1.1 as to the suitability, safety, adequacy or quality of the design or method of construction of any Permitted Works;
 - 3.1.2 that any Permitted Works may lawfully be carried out;
 - 3.1.3 that the structure, fabric or facilities of the Premises or the Building are able to accommodate any Permitted Works; or
 - 3.1.4 that any of the services supplying the Premises, the Building or the Estate will have sufficient capacity for and will not be adversely affected by any Permitted Works.

¹⁴⁵ This clause can be deleted if the Tenant will not have the right to install Plant on the Plant Area.

SCHEDULE 7

Sustainability¹⁴⁶

1. Co-operation to improve Environmental Performance

1.1 The Landlord and the Tenant confirm that they:

1.1.1 wish to promote and improve the Environmental Performance of the Premises, the Building and the Estate; and

1.1.2 wish to co-operate with each other (without legal obligation) to identify appropriate strategies for the improvement of the Environmental Performance of the Premises, the Building and the Estate.

2. Environmental forum

2.1 The Landlord [may][must] provide an environmental forum (the “**Forum**”) that will meet on a regular basis to:

2.1.1 consider the adequacy and improvement of data sharing on energy and water use, waste production and recycling;

2.1.2 review the Environmental Performance of the Lettable Units, the Building and the Estate;

2.1.3 agree targets and strategies for a travel plan for travelling to and from the Building and the Estate; and

2.1.4 agree targets and strategies to improve the Environmental Performance of the Lettable Units, the Building and the Estate.

2.2 The Forum may take any form that affords an appropriate means of communication and exchange of views, whether by meeting in person or not.

2.3 The Landlord and the Tenant will each nominate a suitable person to participate in the Forum. They will try to ensure that their nominees attend and participate in any Forum meetings or discussions of which appropriate advance notice has been given.

2.4 All tenants of the Building and the Estate will be entitled to attend and take part in the Forum.

2.5 [The Landlord and the Tenant may agree to allow third parties to participate in the Forum for a specified period or for a specified purpose.]

2.6 [The Landlord will try to ensure that a representative of any managing agents appointed by the Landlord attends and participates in any Forum meetings or discussions of which appropriate advance notice has been given.]

2.7 Where any of the issues considered, reviewed or agreed in the Forum relate exclusively to the Premises, either the Landlord or the Tenant may request that these are discussed between them and their authorised agents only (and not with any other permitted participants in the Forum).

3. Data sharing

3.1 The Landlord and the Tenant will share the Environmental Performance data they hold relating to the Premises, the Building and the Estate. This data will be shared on a regular basis [not

¹⁴⁶ If the parties want to include more detailed sustainability provisions, refer to the provisions in the Better Buildings Partnership's **Green Lease Toolkit**. This Schedule is not intended to impose onerous obligations in relation to sustainability issues but is intended to facilitate a discussion between the parties about these issues.

less frequently than quarterly] with each other, with any managing agents appointed by the Landlord and with any third party that the Landlord and the Tenant agree should receive the data.

- 3.2 Unless they are under a statutory disclosure obligation, the Landlord and the Tenant must keep the data shared under this clause confidential. They will use that data only for the purpose of:
- 3.2.1 monitoring and improving the Environmental Performance of the Premises, the Building and the Estate; and
 - 3.2.2 measuring the Environmental Performance of the Premises, the Building and the Estate against any agreed targets.
- 3.3 Nothing in this **paragraph 3** will oblige the Landlord to disclose to the Tenant Environmental Performance data received from any other tenants or occupiers of the Building or the Estate.
- 3.4 The Landlord will not disclose Environmental Performance data provided by the Tenant to any other tenants or occupiers of the Building or the Estate.
- 3.5 The Landlord must ensure any managing agents appointed by the Landlord are placed under a similar obligation to keep shared data confidential on the same terms as this **paragraph 3**.
4. **Alterations**
- 4.1 Both the Landlord and the Tenant will take into consideration any impact on the Environmental Performance of the Premises and the Building from any proposed works to or at the Premises[or the Building].
- 4.2 The Tenant agrees to allow the Landlord (if the Landlord so wishes and upon reasonable prior notice) to install, at the Landlord's own cost, separate metering of utilities used in the [Building](#) Common Parts and the Premises[and the Landlord agrees to allow the Tenant to install separate [sub-]metering of the utilities used in the Premises¹⁴⁷].

¹⁴⁷ The installation of a completely separate metered supply for the Premises may involve costly works to the remainder of the Landlord's property to establish a new supply and install the meters. Consider whether this right should be given to the Tenant.

SCHEDULE 8

Underletting

1. Defined terms

This **Schedule 8** uses the following definitions:

“Approved Underlease”

an underlease approved by the Landlord and, subject to any variations agreed by the Landlord in its absolute discretion:

- (a) granted without any premium being received by the Tenant;
- (b) reserving a market rent, taking into account the terms of the underletting;
- (c) [for a term of not less than [NUMBER] years calculated from the date on which the underlease is completed;]
- (d) lawfully excluded from the security of tenure provisions of the 1954 Act [if it creates an underletting of a Permitted Part];
- (e) containing provisions:
 - (i) requiring the Undertenant to pay as additional rent the whole or, in the case of an Underlease of a Permitted Part, a due proportion, of the Insurance Rent, Service Charge and other sums, excluding the Main Rent, payable by the Tenant under this Lease;
 - (ii) for rent review at [five yearly] intervals and otherwise on the same terms as in **Schedule 2**; and¹⁴⁸
 - (iii) for change of use and alterations corresponding to those in this Lease;
- (f) containing a covenant by the Undertenant not to assign the whole of the Underlet Premises without the prior written consent¹⁴⁹ of the Landlord and the Tenant on terms corresponding to those in this Lease and a covenant not to assign part only of the Underlet Premises;
- (g) [containing a covenant by the Undertenant not to create any Sub-Underlease of the whole or any part of the Underlet Premises] OR [containing a covenant by the Undertenant not to create any Sub-Underlease of the whole of the Underlet Premises without the prior written consent of the Landlord and the Tenant and a covenant by the Undertenant not to create any Sub-Underlease of any part of the Underlet Premises] OR [containing a covenant by the Undertenant not to create any Sub-Underlease of the whole or any part of the Underlet Premises without the prior written consent of the Landlord and the Tenant];¹⁵⁰
- (h) [containing provisions requiring any Sub-Underlease to contain:
 - (i) a valid agreement to exclude the security of tenure provisions of the 1954 Act;

¹⁴⁸ Some landlords may require the rent review dates in the underlease to coincide with those in this Lease even if this means that the first rent review falls within the first five years of the grant of the underlease.

¹⁴⁹ Although the interpretation clause in this Lease states that references to a consent are to a prior written consent, the full form of wording has been included in this definition as the relevant interpretation clause may not be included in the underlease.

¹⁵⁰ Take specific instructions on whether an undertenant should have the right to sub-underlet. **Paragraph (h)** will not be required if sub-underletting is prohibited.

- (ii) obligations by the Sub-Undertenant not to assign the whole of the Sub-Underlet Premises without the prior written consent of the Landlord, the Tenant and the Undertenant and not to assign part of the Sub-Underlet Premises;
- (iii) an absolute prohibition on the creation of further underleases of whole or part [except where the Sub-Underlease is of the whole of the Premises when the Sub-Underlease may contain provisions permitting the creation of one further underlease of whole with the prior consent of the Landlord, the Tenant and the Undertenant but with the additional provision that no underleases of whole or part will be created out of that further underlease];]
- (i) if the Underlease is excluded from the security of tenure provisions of the 1954 Act, containing any other provisions that are reasonable in the context of the terms of this Lease and the nature of the proposed Underlease; and
- (j) if the Underlease is not excluded from the security of tenure provisions of the 1954 Act, containing other provisions corresponding with those in this Lease;

“Approved Undertenant”¹⁵¹

a person approved by the Landlord and who has entered into a direct deed with the Landlord agreeing:

- (a) to comply with the terms of the Approved Underlease; and
- (b) to procure that any proposed assignee of the Underlet Premises enters into a direct deed in the same terms as set out in this definition of Approved Undertenant;

[“Permitted Part”

any part of the Premises that the Landlord approves;

OR

any part of the Premises:

- (a) that is self-contained;
- (b) capable of separate beneficial occupation;
- (c) having independent means of access, for general access and for servicing, from the public highway, from the Building Common Parts or from those parts of the Premises approved by the Landlord as common parts for the use and enjoyment of the Tenant and any permitted undertenants of the Premises;
- (d) has a Gross Internal Area of not less than [NUMBER] square [feet] [metres] nor more than [NUMBER] square [feet] [metres]; and
- (e) that, once underlet, leaves the remainder of the Premises self-contained and capable of separate beneficial occupation with a Gross Internal Area of not less than [NUMBER] square [feet] [metres];]

“Sub-Underlease”

any sub-underlease created out of an Underlease;

¹⁵¹ Consider whether the Landlord should have the right to receive a guarantee of the Approved Undertenant’s obligations.

“Sub-Underlet Premises”

the premises let by a Sub-Underlease;

“Sub-Undertenant”

any tenant under a Sub-Underlease;

“Underlease”

the underlease granted following the approval of the Approved Underlease;

“Underlet Premises”

the premises let by an Underlease; and

“Undertenant”

the Approved Undertenant to whom the Tenant grants an Underlease.

2. Right to underlet

- 2.1 [Subject to **paragraph 2.3**, the][The] Tenant may, with the Landlord’s consent, underlet the whole of the Premises [or the whole of a Permitted Part] by an Approved Underlease to an Approved Undertenant.
- 2.2 If the Landlord requires, the Landlord’s consent may be conditional on the Approved Undertenant providing a guarantor (approved by the Landlord) to guarantee to the Landlord the Approved Undertenant’s compliance with its obligations in the Approved Underlease [in substantially the terms set out in clause 7][in a form that the Landlord requires].
- 2.3 [The grant of an Underlease [or a Sub-Underlease] must not result in the Premises being divided into more than [NUMBER] self-contained units of occupation, taking into account any existing Underleases [or Sub-Underleases].]

3. Obligations in relation to underleases

- 3.1 The Tenant must not waive any material breach by an Undertenant of any terms of its Underlease [or by a Sub-Undertenant of any terms of its Sub-Underlease].
- 3.2 The Tenant must not reduce, defer, accelerate or commute any rent payable under any Underlease.
- 3.3 On any review of the rent payable under any Underlease, the Tenant must:
 - 3.3.1 review the rent payable under the Underlease in compliance with its terms;
 - 3.3.2 not agree the reviewed rent (or the appointment of any third party to decide it) without the Landlord’s approval;
 - 3.3.3 include in the Tenant’s representations to any third party any representations that the Landlord may require; and
 - 3.3.4 notify the Landlord what the reviewed rent is within two weeks of its agreement or resolution by a third party.
- 3.4 The Tenant must not vary the terms or accept any surrender of any Underlease without the Landlord’s approval.

SCHEDULE 9

Base Rent and Turnover Rent

1. Defined terms

This Schedule uses the following definitions:

“Annual Turnover Certificate”

the certificate to be provided by the Tenant in accordance with **paragraph 4.1**;

“Authorised Group Company”

a Group Company of the Tenant who is carrying on materially the same trade or business as [NAME OF INITIAL TENANT];¹⁵²

“Base Rent”

[80%] of the Main Rent reserved under this Lease;¹⁵³

[“Default On-Account Payment”¹⁵⁴

[AMOUNT IN FIGURES];¹⁵⁵

“Normal Shopping Day”

any day on which [the majority of the shops within the Estate are open for business¹⁵⁶][the Tenant should be open for business in accordance with its obligations in **paragraph 8.1**¹⁵⁷ and “Normal Shopping Days” has a corresponding meaning;

“On-Account Payment”

- (a) in respect of the first Turnover Year £[AMOUNT]; and
- (b) in respect of each succeeding Turnover Year:
 - (i) up to the date of service of a demand in accordance with **paragraph 4.3** for the preceding Turnover Year, the On-Account Payment for the preceding Turnover Year; and
 - (ii) from and including the date of service of a demand in accordance with **paragraph 4.3** for the preceding Turnover Year, [one-quarter][one-twelfth] of the Turnover Rent payable in respect of the preceding Turnover Year;¹⁵⁸

¹⁵² This definition allows the turnover provisions to endure on assignments to group companies where the incoming tenant is carrying out the same trade or business as the original tenant. How appropriate this is will depend on the identity of the original tenant.

¹⁵³ This tracks the Base Rent to a percentage of the Main Rent. This is why the wording in **clause 3** of the Lease preserving the review mechanism is important, and also why **paragraph 6** is needed in this Schedule to preserve a fair result. Turnover only leases would define Base Rent as a peppercorn.

¹⁵⁴ This should be a figure to give the Tenant an incentive to deliver a certificate on time, but it is important to avoid a penalty. This payment can be expressed as a percentage of the Main Rent or Base Rent. For example if the Base Rent is 80% of the open market rent, then an appropriate default payment might be 25/30% of the Base Rent payable in respect of the relevant period. The figure should reflect a genuine assessment of the anticipated payment had the turnover information been provided plus any costs that the Landlord might reasonably incur in enforcing the obligation to deliver the turnover information.

¹⁵⁵ This definition should be used only where the on-account turnover rent payments will be based on the Tenant's actual turnover for the on-account period.

¹⁵⁶ Use this wording where the Tenant will not be subject to the terms of a keep open covenant.

¹⁵⁷ Use this wording where the Tenant will be subject to a keep open covenant.

¹⁵⁸ Use this wording where the on-account turnover rent payment will be a fixed estimate for the first Turnover Year and a proportion of the previous year's Turnover Rent in the second and subsequent Turnover Years.

OR

the amount by which the Specified Percentage of the Turnover in each On-Account Period exceeds the Base Rent payable in respect of that On-Account Period;¹⁵⁹

“On-Account Period”

each period starting on a Rent Day and ending on the day before the following Rent Day but:

- (a) the first On-Account Period will be the period starting on the [Rent Commencement Date] and ending on the day before the following Rent Day; and
- (b) the last On-Account Period will be the period starting on the last Rent Day before the Turnover End Date and ending on the Turnover End Date;

[“On-Account Turnover Certificate”

the certificate to be provided by the Tenant in accordance with **paragraph 3.2;**¹⁶⁰

“Records”

all books and other documents, records or information (including computer tapes, discs and other storage systems, cash register tapes, bank statements, Till Rolls and any tax returns that relate to VAT or any similar or substituted tax) that are or ought in the reasonable opinion of the Landlord to be kept by the Tenant for the purpose of ascertaining and verifying the Turnover;

“Specified Percentage”

[10]%;

“Till Rolls”

the printed rolls produced by the tills installed at the Premises and all computerised records (both hard copies and on CD ROM or an equivalent recording medium) recording all sales and entries to the tills and, in the case of EPOS tills, all polling reports and transactions and turnover reports produced on a daily and weekly basis;

“Turnover”

Turnover as defined in **paragraph 7;**

“Turnover End Date”

the final day that the arrangements in this Schedule apply;

“Turnover Rent”

the amount by which the Specified Percentage of the Turnover in each Turnover Year exceeds the Base Rent payable in respect of that Turnover Year; and¹⁶¹

“Turnover Year”

a period of one year falling within the Term and ending on and including a Year End but:

¹⁵⁹ Use this wording where the on-account turnover rent payments will be based on the Tenant’s actual turnover for the on-account period

¹⁶⁰ This definition should be used only where the on-account turnover rent payments will be based on the Tenant’s actual turnover for the on-account period.

¹⁶¹ This is the usual method for calculating the Turnover Rent. However, other formulae can be used if the Landlord wants the Turnover Rent to be calculated on a different basis.

- (a) the first Turnover Year will be the period starting on [the Rent Commencement Date] and ending on the Year End that follows or if that Year End is less than [3] months after the commencement of the first Turnover Year, ending on the second following Year End; and
- (b) the last Turnover Year will be the period starting on the day after the last Year End before the Turnover End Date and ending on the Turnover End Date;

“Year End”

[DATE] in each year.¹⁶²

2. Payment of Base Rent and Turnover Rent

2.1 Starting on the Rent Commencement Date,¹⁶³ instead of the Main Rent the Tenant must pay as a rent an annual sum equivalent to:

2.1.1 the Base Rent, payable at the same time as the Main Rent would otherwise have been payable under **clause 3.2** if the provisions of this Schedule did not apply; and

2.1.2 the Turnover Rent, payable as set out in this Schedule.

2.2 The remedies for late payment or non-payment of Main Rent will apply equally to late payment or non-payment of the sums payable under this Schedule.

3. On-account payments of Turnover Rent

3.1 The Tenant must pay an On-Account Payment for each On-Account Period on account of the Turnover Rent.[The On-Account Payment must be paid in advance at the same time as the Base Rent.]¹⁶⁴

3.2 [Within [10 Business Days] after the end of each On-Account Period, the Tenant must deliver to the Landlord a certificate signed by [a senior manager of the Tenant] certifying:

3.2.1 the amount of the Turnover during that On-Account Period with the Turnover broken down on a daily basis; and

3.2.2 the number of Normal Shopping Days during that On-Account Period and the hours on those days when the Tenant was not open for trade during the whole of the Estate Opening Hours.

3.3 The On-Account Turnover Certificate must contain such details as to the method of calculation as the Landlord reasonably requires. The Tenant must ensure that the On-Account Turnover Certificate states as accurately as the Tenant is reasonably able to do so the amount of the Turnover during the relevant On-Account Period.

¹⁶² It will be a matter of negotiation to decide an appropriate year end, but one must take into account the preference of the Landlord to carry out turnover reconciliations at consistent times, but also the practicalities of the Tenant providing the more formal annual (possibly audited) turnover certificates, which may mean that the Tenant’s financial year end is an appropriate date.

To avoid complex apportionments at the end of each Turnover Year where the Tenant pays turnover on account by reference to its actual turnover during each on-account period, the year end should correspond with the final day of an on-account payment period.

¹⁶³ This clause assumes that Turnover Rent will start to be paid on the same date as the Base Rent. If the Landlord has given the Tenant a rent-free period, the Turnover Rent should not be payable during that period. Additional drafting may be required if, following the expiry of the rent-free period (or instead of a rent-free period), the Tenant pays a concessionary rent (for example 50% of the Base Rent for the next six months). In these circumstances, you need to consider whether a corresponding reduction in the amount of Turnover Rent should be made during that period.

¹⁶⁴ The words in square brackets should be used only where the on-account turnover rent payment will be a fixed estimate for the first Turnover Year and a proportion of the previous year’s Turnover Rent in the second and subsequent Turnover Years.

- 3.4 Upon receipt of an On-Account Turnover Certificate, the Landlord must calculate the On-Account Payment due for that On-Account Period and issue a demand to the Tenant for the On-Account Payment.
- 3.5 The Tenant must pay the On-Account Payment within 10 Business Days after receiving the demand referred to in **paragraph 3.4**.
- 3.6 If the Tenant does not deliver an On-Account Turnover Certificate in accordance with **paragraph 3.2**, the Tenant must, within [10 Business Days] after the end of the relevant On-Account Period, pay to the Landlord on account of the Turnover Rent an amount equal to the higher of:
- 3.6.1 the Default On-Account Payment; and
 - 3.6.2 the On-Account Payment made in respect of the most recent On-Account Period in respect of which an On-Account Turnover Certificate has been provided.
- 3.7 If, having made a payment under **paragraph 3.6**, the Tenant subsequently submits an On-Account Turnover Certificate:
- 3.7.1 if it appears that the amount paid is more than the On-Account Payment that would have been due had the certificate been submitted on time under **paragraph 3.2**, then the Landlord will [repay the excess to the Tenant within 10 Business Days] [credit such excess to the next On-Account Payment due]; and
 - 3.7.2 if it appears that the amount paid is less than the On-Account Payment that would have been due had the certificate been submitted on time under **paragraph 3.2**, then the Tenant must pay the balance immediately with interest at the Interest Rate calculated from the date on which the relevant On-Account Payment should have been made pursuant to **paragraph 3.5**.¹⁶⁵
4. **Annual reconciliation**
- 4.1 Within [20 Business Days] after the end of each Turnover Year, the Tenant must deliver to the Landlord:
- 4.1.1 a certificate signed by [an independent and professionally qualified auditor] certifying the amount of the Turnover during that Turnover Year with the Turnover broken down on a daily basis; and
 - 4.1.2 a certificate signed by a senior manager of the Tenant certifying the number of Normal Shopping Days during that Turnover Year and the hours on those days when the Tenant was not open for trade during whole of the Estate Opening Hours.
- 4.2 The Annual Turnover Certificate must contain such details as to the method of calculation as the Landlord may reasonably require. The Tenant must ensure that the Annual Turnover Certificate states as accurately as the Tenant is reasonably able to do so the amount of the Turnover during the relevant Turnover Year.
- 4.3 Upon receipt of an Annual Turnover Certificate, the Landlord must calculate the Turnover Rent for the Turnover Year and serve on the Tenant a demand for any balance due taking into account all On-Account Payments made in respect of the relevant Turnover Year.
- 4.4 The Tenant must pay any balance of Turnover Rent within [10 Business Days] of receiving the written demand referred to in **paragraph 4.3**.

¹⁶⁵ Paragraphs 3.2 to 3.7 should be used only where the on-account turnover rent payments will be based on the Tenant's actual turnover for the on-account period.

- 4.5 If the On-Account Payments exceed the Turnover Rent due in respect of the relevant Turnover Year then the balance will be credited to the next On-Account Payment due for the following Turnover Year (or refunded to the Tenant in respect of the last Turnover Year before the Turnover End Date).
- 4.6 If the Tenant does not deliver the Annual Turnover Certificate in accordance with **paragraph 4.1** the Tenant must, within [20 Business Days] after the end of the relevant Turnover Year, pay to the Landlord on account of the Turnover Rent an amount equal to:
- 4.6.1 [PERCENTAGE]¹⁶⁶ of the Main Rent; less
- 4.6.2 the total On-Account Payments made in respect of the Turnover Year in respect of which the Annual Turnover Certificate should have been provided.
- 4.7 If the calculation in **paragraph 4.6** produces a negative figure, the Landlord will not be under any obligation to make a payment to the Tenant.
- 4.8 If, having made a payment under **paragraph 4.6**, the Tenant subsequently submits an Annual Turnover Certificate:
- 4.8.1 if it appears that the amount paid is more than the balance of the Turnover Rent that would have been due had the certificate been submitted on time under **paragraph 4.1**, then the Landlord will [repay the excess to the Tenant within 10 Business Days] [credit such excess to the next On-Account Payment due or repay it to the Tenant if the payment was made in respect of the last Turnover Year before the Turnover End Date]; and
- 4.8.2 if it appears that the amount paid is less than the balance of the Turnover Rent that would have been due had the certificate been submitted on time under **paragraph 4.1**, then the Tenant must pay the balance immediately with interest at the Interest Rate calculated from the date on which the relevant balancing payment should have been made pursuant to **paragraph 4.4**.
5. **Maintenance of Records**
- 5.1 The Tenant must maintain the Records fully and accurately while the arrangements in this Schedule apply and for a period of 12 months beyond the Turnover End Date.
- 5.2 The Tenant must keep the Records relating to the then current and two immediately preceding Turnover Years safely on the Premises or in such other place reasonably accessible for inspection as the Landlord approves. The Tenant must make the Records relating to these Turnover Years available for inspection at all reasonable times by a representative of the Landlord.
- 5.3 To preserve the operation of this Schedule and to enable the Turnover Rent to be accurately assessed, the Tenant must ensure that:
- 5.3.1 any person other than the Tenant who contributes to Turnover is subject to the same obligations with respect to Records as are imposed on the Tenant in this Schedule;
- 5.3.2 the Landlord has the same rights in respect of any such person(s) as it does in this Schedule in respect of the Tenant.

¹⁶⁶ This payment should be expressed as a percentage of the Main Rent. If the Base Rent is 80% of the Main Rent, then an appropriate default payment might be 20-25% of the Main Rent. The figure should reflect a genuine assessment of the anticipated payment had the turnover information been provided plus any costs that the Landlord might reasonably incur in enforcing the obligation to deliver the turnover information.

6. **Main Rent reviewed late**¹⁶⁷

6.1 If, by any Rent Review Date, the reviewed Main Rent (and therefore the Base Rent) has not been ascertained:

6.1.1 until the new Main Rent has been ascertained, the Base Rent and Turnover Rent will be calculated and paid by reference to the Main Rent reserved immediately before the Rent Review Date;

6.1.2 following the ascertainment of the Main Rent, the Landlord will demand the difference (if any) between the amount the Tenant has actually paid and the amount of Base Rent and Turnover Rent that would have been payable had the Main Rent been ascertained before the Rent Review Date; and

6.1.3 the Tenant must pay that difference to the Landlord within 10 Business Days after that demand and interest at three per cent below the Interest Rate calculated on a daily basis on each instalment of that difference from the date on which such instalment would have become payable to the date of payment. If not paid those sums will be treated as rent in arrear.

7. **Turnover**

7.1 Subject to this **paragraph 7 and paragraph 8.1**, “**Turnover**” means the aggregate of all sums of money or other consideration received or receivable for all goods sold, leased, hired or otherwise disposed of and for all services sold or performed and from all business of any nature whatever conducted at, in front of or upon the Premises by the Tenant. It includes:

7.1.1 all amounts received or receivable from the sale of gift cards or vouchers;

7.1.2 all amounts received or receivable from orders that originate or are received or accepted or solicited at or from the Premises even if delivery or performance is made at or from any place other than the Premises and even if payment is made to a person other than the Tenant;

7.1.3 all amounts received or receivable from mail, telephone, facsimile, internet or similar medium orders received at or lodged at or from the Premises[or collected by the customer from the Premises];

7.1.4 all amounts received or receivable from mail, telephone, facsimile, internet or similar medium orders where the relevant goods or services are satisfied from stock at the Premises or by those at the Premises;

7.1.5 all amounts received or receivable from sales made or services provided by means of electronic, mechanical or vending devices at the Premises;

7.1.6 all amounts received or receivable from sales and services that the Tenant in the normal and customary course of the Tenant’s operations would or should credit or attribute to the Tenant’s business on the Premises;

7.1.7 all bonuses, commissions, payments or discounts received or receivable from third parties relating to any transactions or services conducted at or from the Premises including those relating to insurance, warranties and the delivery or installation of goods;

¹⁶⁷ This clause is needed where Base Rent is linked to the underlying Main Rent. It implements a similar regime to the usual uplift of Main Rent on review.

- 7.1.8 [all commissions, rents or licence fees received or receivable from concessionaires, undertenants or licensees who trade at or from the Premises;]¹⁶⁸
 - 7.1.9 all amounts received or receivable in respect of delivery, postage or insurance charges in excess of the actual costs of delivery, postage or insurance;
 - 7.1.10 all amounts received or receivable from orders solicited off the Premises by persons operating from or reporting to the Premises;
 - 7.1.11 all grants, subsidies and fees of a revenue nature paid to the Tenant by national or local government or any public authority in consideration of or to defray in whole or part the cost of the supply of goods or services at or from the Premises; and
 - 7.1.12 all other consideration received or receivable by the Tenant in respect of the Premises that, in accordance with standard accounting practices, is credited or attributed to the trade or business of the Tenant carried out at the Premises as income or revenue of the Tenant.
- 7.2 In calculating the amount of the Turnover:
- 7.2.1 every sale on credit terms or on an instalment basis will be treated as a sale for the full cash price at the date when it is made irrespective of the time or times at which the Tenant receives payment;
 - 7.2.2 every hiring of goods to a customer with an option to purchase will be treated as a sale of goods for the normal full cash price at the date when the hiring is made (irrespective of the time or times at which the Tenant receives payment) and there will be excluded from the Turnover any hiring charges in respect of that hiring; and
 - 7.2.3 every deposit by a customer will be included in the Turnover at the time of receipt and will only be deducted from the Turnover if and when repaid.
- 7.3 In calculating the amount of the Turnover, no deduction will be made for:
- 7.3.1 bad or doubtful debts;
 - 7.3.2 discounts allowed to employees of the Tenant in respect of goods or services supplied to them by the Tenant; or
 - 7.3.3 in the case of transactions paid by credit card, discounts or commissions payable by the Tenant to the provider of the credit.
- 7.4 The following amounts will not be included in the Turnover or if included will be deducted:
- 7.4.1 VAT, purchase tax and similar sales or excise tax imposed directly on the Tenant in respect of the supply of goods or services but only to the extent that such tax is actually paid or accounted for by the Tenant to the taxing authority;
 - 7.4.2 the amount of any cash refund or credit given to a customer when goods are returned so long as the cash refund or credit does not exceed the sale price of the goods included in the Turnover;
 - 7.4.3 the sale price of goods returned by customers for exchange so long as the sale price has been included in the Turnover and the sale price of the goods given in exchange is included in the Turnover;

¹⁶⁸

Include this wording where the licence fee or rent paid by any concessionaire, undertenant or licensee will be taken into account when calculating the Tenant's turnover. The alternative approach (see **paragraph 7.5**) is to require the concessionaire's, undertenant's or licensee's turnover to be taken into account when calculating the Tenant's turnover.

- 7.4.4 allowances made in respect of defective or unsatisfactory goods or services so long as those allowances do not exceed the sale price of the goods or the charge for the services included in the Turnover;
 - 7.4.5 the value of the goods transferred whether by way of exchange or otherwise from the Premises to other premises of the Tenant so long as that transfer:
 - (a) is not made for the purpose of consummating a sale that has been made at in or from the Premises; and
 - (b) does not deprive the Landlord of the benefit of a sale that would otherwise have been made at in or from the Premises;
 - 7.4.6 the value of goods returned to shippers, wholesalers or manufacturers; and
 - 7.4.7 interest charges and credit account service charges.
- 7.5 [For the purposes of this **paragraph 7**, “the Tenant” means the Tenant and any sub-tenant, licensee or concessionaire of the Tenant and any other person in occupation of the Premises.]¹⁶⁹

8. Substituted Turnover

- 8.1 [The Tenant must keep the Premises open for business and to take reasonable steps to maintain active trade during the Estate Opening Hours unless:
- 8.1.1 the Tenant is prevented from so doing by reason of the destruction of or damage to the Premises or the Estate by an Insured Risk, Uninsured Risk or some other cause wholly beyond the Tenant’s control so that the Premises are unfit for occupation and use or inaccessible;
 - 8.1.2 it is necessary to keep the Premises closed for business for any period not exceeding ten Business Days for carrying out with all due speed any repairs or Permitted Works;
 - 8.1.3 it is necessary to keep the Premises closed for business for any period up to five Business Days for the removal with all due speed of any contents and tenant’s and trade fixtures before a permitted assignment [or underletting] under this Lease;
 - 8.1.4 the Tenant is carrying out genuine staff training for any period not exceeding [four] hours on not more than [three] occasions during any Turnover Year; or
 - 8.1.5 to do so would be contrary to any regulation or requirement of any competent statutory or local authority.¹⁷⁰
- 8.2 Subject to **paragraph 8.3**, if the Premises are not open for business on a Normal Shopping Day during the whole of the Estate Opening Hours, then the Turnover for that Normal Shopping Day will be treated as an amount calculated as follows:

$$T = \frac{AT}{NS}$$

$$T = \frac{AT}{NS}$$

¹⁶⁹ See footnote ~~165~~168.

¹⁷⁰ Consider whether the Tenant should under an obligation to trade. Note that under **paragraph 12**, if the Tenant does not trade from the Premises, the Landlord has the option of ending the turnover rent provisions and requiring the Tenant to pay the full Main Rent.

Where:

T is the Turnover for that Normal Shopping Day;

AT is the actual Turnover generated during the relevant Turnover Year; and

NS is the number of Normal Shopping Days that the Premises were open for business during the relevant Turnover Year.

8.3 The provisions in **paragraph 8.2** will not apply to any Normal Shopping Day where any of the circumstances in **paragraphs 8.1.2 to 8.1.4**, inclusive, apply.

9. **Partial periods**

9.1 An On-Account Period and a Turnover Year each means a part of them where the context so requires and the provisions of this Schedule 9 will apply to any such part, with any necessary changes being made.

9.2 If any other sum is required to be apportioned by reason of paragraph 9.1 or otherwise, it will be treated as if it had accrued from day to day throughout the period to which it relates and will be apportioned in respect of time accordingly.

10. **Resolution of disputes**

10.1 If the Landlord and the Tenant have any dispute as to the amount of the Turnover or the Turnover Rent payable then either the Landlord or the Tenant can require the dispute to be decided by an independent [expert/arbitrator].

10.2 If the Landlord and the Tenant do not agree on who should decide the relevant dispute, if either party requests it, the Landlord and Tenant must make a joint application to the President of the Institute of Chartered Accountants in England and Wales to appoint an [expert/arbitrator] to do so. The parties must accept the identity of the nominated [expert/arbitrator] and jointly appoint them to decide the relevant dispute.

10.3 The decision of the [expert/arbitrator] will be binding on the parties.[The arbitration will be conducted in accordance with the Arbitration Act 1996.][The expert:]

10.3.1 [will invite the Landlord and the Tenant to make submissions to them with any relevant supporting documentation;

10.3.2 will give the Landlord and the Tenant an opportunity to make counter submissions;

10.3.3 will give written reasons for their decisions, which will be binding on the parties; and

10.3.4 will be paid by the Landlord and the Tenant in such shares and in such manner as the expert may decide (or failing such a decision, in equal shares).]

11. **Inspection of Records**

11.1 The Landlord may require that an audit of the Records relating to the current Turnover Year or any of the two preceding Turnover Years is carried out by a professionally qualified accountant appointed by the Landlord.

11.2 If, as a result of an audit under **paragraph 11.1**, it is established that the Turnover for any Turnover Year has been understated by more than 2% then the cost of the audit will be borne by the Tenant.

11.3 If any Turnover has been understated, the Landlord will be entitled to issue a further demand for any additional Turnover Rent following the audit and the Tenant must pay the additional Turnover Rent to the Landlord within [10 Business Days] plus interest at the Interest Rate

calculated from the date that the Turnover Rent would have been paid had the Turnover Rent not been understated.

12. End of arrangement

12.1 Where:

12.1.1 the Lease is assigned, save for an assignment to an Authorised Group Company;

12.1.2 the Tenant grants an underlease of the Premises; or

12.1.3 the Tenant fails to start trading or ceases to trade from the Premises and, in the reasonable opinion of the Landlord, that event is not a temporary cessation of trade arising from a genuine operational requirement of the Tenant,

then the arrangements set out in this Schedule relating to payment of the Base Rent and the Turnover Rent will come to an end and the Main Rent will be payable with effect from the date the relevant event occurs instead of the Base Rent and the Turnover Rent. The obligation on the Tenant to pay sums due under this Schedule for the period up to the date of the relevant event will be unaffected.

12.2 Where the total number of days that the Premises are not open for business (or are open for business for less than four hours) on a Normal Shopping Day in any Turnover Year exceeds [NUMBER], the Landlord may serve notice on the Tenant specifying that arrangements set out in this Schedule relating to payment of the Base Rent and the Turnover Rent will be treated as having come to an end at the start of the Turnover Year in question and that the Main Rent will be payable with effect from that date instead of the Base Rent and the Turnover Rent. If the Landlord serves notice under this **paragraph 12.2**, the Tenant will pay to the Landlord on demand the amount specified in the notice as representing the difference between the Main Rent that would have been payable up to the date of that notice and the rents actually paid by the Tenant under this Schedule.

12.3 On an assignment of the Lease[, save for an assignment to an Authorised Group Company]:

12.3.1 the Tenant must pay to the Landlord on or before the date of the licence to assign such amount as the Landlord properly and reasonably estimates to be the maximum amount of Turnover Rent due from the Tenant up to the anticipated date of the assignment of the Lease taking into account any sums already paid in advance by the Tenant towards the Tenant's liability for Turnover Rent under this Schedule; and¹⁷¹

12.3.2 in the licence to assign:

(a) the Landlord must covenant with the Tenant to repay to the Tenant any overpayment of Turnover Rent made by the Tenant within [10] Business Days of having received the final Annual Turnover Certificate from the Tenant;

(b) the Tenant must covenant with the Landlord to produce the final Annual Turnover Certificate to the Landlord as soon as reasonably practicable after the date of the deed of assignment and, if any additional Turnover Rent is payable, to pay any excess to the Landlord on demand.

¹⁷¹ Because of the way in which the Landlord and Tenant (Covenants) Act 1995 operates, the Landlord may have difficulty in recovering the final payment of Turnover Rent following an assignment of the Lease, as the final amount due will not be calculated until after the assignment has taken place. By this time, the Tenant will not be bound by the Tenant's covenants and this will make pursuing the Tenant for the payment difficult. The solution is to include a condition of assignment that the Tenant pays to the Landlord a proper and reasonable sum on account of the Tenant's final turnover rent liability before the assignment is completed.

SCHEDULE 10

Offer back provisions

Part 1: Terms of the offer back

1. Defined terms

This **Schedule 10** uses the following definitions:

“Acceptance Period”

the period of [one month] starting on the date on which the Landlord receives the Tenant's Notice [subject to extension under **paragraph 2.6**];¹⁷²

“Acceptance Notice”

any notice served by the Landlord on the Tenant accepting the Tenant's offer to surrender the Premises to the Landlord;

“Completion Date”

the date [20] Business Days after the date of an Acceptance Notice;

“Disposal”

- (a) an assignment of the Premises; or
- (b) the grant of an underlease of the whole of the Premises [or a Permitted Part][or any part of them];¹⁷³

“Disposal Period”

the period of [three] months starting on the ~~last day of~~ after the ~~Acceptance Period~~; earlier of:

(a) the last day of the Acceptance Period; and

(b) if applicable, the date on which the Landlord serves a Rejection Notice;

[“Independent Expert”

a chartered surveyor having at least 10 years' experience in valuing premises similar to the Premises, acting as an independent expert;¹⁷⁴

[“Open Market Value”

the price (excluding VAT) at which the Premises may be assigned at arms'-length in the open market (whether by way of premium or reverse premium) disregarding the terms of any proposed underletting and assuming:

- (a) a willing seller and willing buyer;
- (b) a reasonable period in which to market the Premises;
- (c) that values remain static throughout this period; and

¹⁷² The words in square brackets will be required only where the Tenant has to specify the Open Market Value of the Premises in the Offer Notice and the Landlord will have the right to require an expert to decide the Open Market Value if there is a dispute.

¹⁷³ Consider whether underlettings of part will trigger the offer back provisions. If the Lease does not permit underlettings of whole or part, you can delete the whole of (b).

¹⁷⁴ This definition is required only where the Tenant has to offer to surrender the Premises at their Open Market Value and the Landlord has the right to require that value to be decided by an expert if there is a dispute about that value.

- (d) that the price does not reflect any value attributable to the Tenant's business carried on at the Premises;
- (e) that the price does not reflect any value attributable to tenant's or trade fixtures at the Premises that the Tenant is entitled to remove on quitting the Premises;
- (f) that the Premises are in their actual state of repair and condition at the date of the Tenant's Notice but subject to the terms of the Lease;¹⁷⁵

"Price"

- (a) in the case of a proposed assignment of the Premises [the price (excluding VAT) that has been agreed with a proposed assignee for the assignment of this Lease [\(whether by way of premium or reverse premium\)](#) [or if the Tenant's Notice is served before terms have been agreed with a proposed assignee]] the Open Market Value at the date of the Tenant's Notice; or
- (b) in the case of a proposed underletting, [£1][the Open Market Value at the date of the Tenant's Notice];

"Rejection Notice"

A formal notice served by the Landlord on the Tenant rejecting the Tenant's offer to surrender the Premises to the Landlord on the terms set out in the Tenant's Notice;

"Tenancy Documents"

any agreement for underlease, underleases, licences and other deeds and documents relating to the Premises;

"Tenant's Notice"

a formal notice that:

- (a) contains an unconditional offer to surrender this Lease;
- (b) shows the Price at which the Tenant is proposing to surrender the Lease and details of how the Price has been calculated;
- (c) [in the case of a proposed assignment of the Lease provides:
 - (i) complete and accurate particulars of the proposed assignee and any proposed guarantor;
 - (ii) the main terms of the transaction including any premium or reverse premium to be paid;
 - (iii) the latest published accounts (if any) for the proposed assignee and any proposed guarantor,

but this will not affect the Landlord's right to call for any further information to which the Landlord may be entitled on any subsequent application to assign the Premises to a proposed assignee;¹⁷⁶

- (d) [in the case of the proposed grant of an underlease provides:

¹⁷⁵ This definition is required only where the Tenant has to offer to surrender the Premises to the Landlord at their Open Market Value.

¹⁷⁶ Paragraph (c) will not be required if the Tenant must offer to surrender the Premises before agreeing terms with a proposed assignee.

- (i) full and accurate details of and the latest published accounts (if any) for the undertenant and any proposed guarantor;
- (ii) the length of the term to be granted;
- (iii) the proposed rent (and any proposals for or the existence of any ancillary agreements relating to the rent to be reserved under the underlease); and
- (iv) the provisions for rent review,

but this will not affect the Landlord's right to call for any further information to which the Landlord may be entitled on any subsequent application to underlet the Premises to a proposed undertenant;¹⁷⁷

- (e) specifies the matters (including any underleases) to which the surrender will be subject and the terms of those matters; and
- (f) is otherwise in the form contained **Part 2** of this Schedule.

2. Offer to surrender

2.1 Before making any Disposal, the Tenant must serve a Tenant's Notice on the Landlord.

2.2 No Tenant's Notice may be served unless and until the Tenant has agreed heads of terms for the proposed Disposal with a potential assignee [or undertenant, as the case may be].¹⁷⁸

OR

The Tenant must serve a Tenant's Notice before marketing Premises or seeking to agree heads of terms for the assignment [or underletting] of the Premises.¹⁷⁹

2.3 The Tenant's Notice will constitute an irrevocable offer by the Tenant, which is to remain open for acceptance at any time during the Acceptance Period, to surrender the Premises to the Landlord on the terms set out in the Tenant's Notice [subject to the resolution of any dispute about the Price under **paragraph 2.5**].

2.4 Following the service of a Tenant's Notice, the Tenant must provide the Landlord with any additional information about the Disposal that the Landlord properly and reasonably requires within five Business Days of a request by the Landlord for that information.

2.5 [If there is any dispute about the Price, the matter must be immediately referred to the decision of an Independent Expert who will decide the Open Market Value. If the Landlord and the Tenant do not agree the identity of the Independent Expert, the Independent Expert will be appointed by the President of the Royal Institution of Chartered Surveyors on the application of either the Landlord or the Tenant. The Independent Expert will:

2.5.1 invite the Landlord and the Tenant to submit to them a proposal for the Price with any relevant supporting documentation;

2.5.2 give the Landlord and the Tenant an opportunity to make counter submissions;

2.5.3 give written reasons for their decisions, which will be binding on the parties; and

¹⁷⁷ **Paragraph (d)** will be required only where the grant of an underlease will trigger the offer to surrender the Premises **and** the Tenant must have agreed heads of terms with a proposed undertenant before making the offer to surrender the Premises to the Landlord.

¹⁷⁸ These words should be included only where the Tenant must have agreed heads of terms for an assignment or underletting before offering to surrender the Premises to the Landlord.

¹⁷⁹ These words should be included only where the Tenant must make an offer to surrender the Lease before marketing the Premises in the open market.

- 2.5.4 be paid by the Landlord and the Tenant in such shares and in such manner as Independent Expert may decide (or failing such a decision, in equal shares).]
- 2.6 [If the Landlord notifies the Tenant that there is a dispute about the Price, the Acceptance Period will be extended and will expire 10 Business Days after the Independent Expert gives written notice to the Landlord of their decisions under **paragraph 2.5**. The Price will be the Open Market Value decided by the Independent Expert.¹⁸⁰]
3. **Acceptance Notice**
- 3.1 At any time during the Acceptance Period, the Landlord may serve an Acceptance Notice accepting the Tenant's offer to surrender the Premises. If the Landlord does so:
- 3.1.1 the Tenant must surrender and the Landlord must accept the surrender of the Lease on the Completion Date;
- 3.1.2 the terms set out in **paragraph 6** will apply.
4. **Failure to accept surrender**
- 4.1 The provisions of **paragraph 4.2** will apply if:
- 4.1.1 the Landlord does not serve an Acceptance Notice on the Tenant during the Acceptance Period; or
- 4.1.2 the Landlord serves a Rejection Notice on the Tenant.
- 4.2 Subject to **paragraph 4.1**, during the Disposal Period the Tenant may, subject to obtaining the consent of the Landlord on the terms set out in this Lease, enter into the Disposal on the terms set out in the Tenant's Notice.
5. **Time of the essence**
- Time is of the essence for the service of any notice under this **Schedule 10**.
6. **Terms of the surrender**
- 6.1 The surrender will be made subject to and with the benefit of the Tenancy Documents.
- 6.2 The Landlord must not raise any requisition or objection to the title except in respect of [any matters registered against the Tenant's title to this Lease after the date of this Lease¹⁸¹][any Land Charges registered against the name of the Tenant after the date of this Lease¹⁸²].
- 6.3 The Tenant must surrender the Lease with full title guarantee.
- 6.4 Until the surrender is completed all the terms and conditions of the Lease will remain in full force and effect including the provisions relating to the payment by the Tenant of the rent and all other sums payable under the Lease.
- 6.5 The surrender will be in the form required by the Landlord with the Price, any Tenancy Documents and other relevant details inserted where required.
- 6.6 On completion of the surrender, the Landlord (or where the Price is a reverse premium, the Tenant) must pay:

¹⁸⁰ Paragraphs 2.5 and 2.6 will be required only where the Tenant has to offer to surrender the Premises at their Open Market Value and the Landlord can require that value to be decided by an Independent Expert.

¹⁸¹ Use this wording where title to the Premises is registered and insert the date of the office copy entries deduced to the Landlord as part of the Tenant's title.

¹⁸² Use this wording where title to the Premises is unregistered.

[6.6.1 the Price; and](#)

[6.6.2 if the surrender, or the acceptance of the surrender, is a VAT Supply to the paying party, VAT on the Price.](#)

~~6.6.7~~ On completion of the surrender **clause 5.4** will apply.

~~6.7.6.8~~ Completion of the surrender will not prejudice the rights of the Landlord in respect of any arrears of the Rents [or any breach of the tenant's repairing obligations under the Lease] but will otherwise release the Landlord and the Tenant from all past, present and future obligations under the Lease.

Part 2: Form of Tenant's Notice

To: [Name of Landlord] (the "Landlord") of [Address of Landlord]

From: [Name of Tenant] (the "Tenant") of [Address of Tenant]

Lease: A [lease][underlease] of the Premises dated [date] made between [original parties to the Lease]

Premises: [Address of Premises]

Disposal A disposal the Premises on the terms set out in the Schedule to this Notice

Price: [A \[premium\]\[reverse premium\] of \[Amount in figures\] \(excluding VAT\)](#)

Date: [Date]

1. This notice is served on you under Schedule 10 to the Lease.
2. We [have agreed terms for][intend to agree terms for] the Disposal.
3. This notice constitutes an irrevocable offer by us to surrender the Lease to for the Price.
4. The Price is [the price that the proposed assignee referred to in the Schedule to this Notice has agreed to pay for an assignment of the Lease][[the price that we have agreed to pay the proposed assignee referred to in the Schedule to this Notice to take an assignment of the Lease](#)][our estimate of the Open Market Value of the Premises (as defined in the Lease) subject to the resolution of any dispute about the Price pursuant to **paragraph 2.5 of Part 1 of Schedule 10** to the Lease][the agreed sum of £1 to be paid on a surrender of the Lease if we propose to underlet the Premises].
5. This offer remains open for acceptance by you during the Acceptance Period defined in **Schedule 10** to the Lease.
6. For the purposes of section 2 Law of Property (Miscellaneous Provisions) Act 1989, this offer incorporates the terms set out in **Schedule 10** to the Lease.
7. Please sign and return one copy of this notice indicating whether you wish to accept or reject the offer to surrender the Lease on the terms set out in this Notice.

SCHEDULE

The proposed Dealing

An assignment of the Premises at a [premium][reverse premium] of [not less than¹⁸³] [not more than¹⁸⁴] [amount in figures] to [name of assignee] [with the obligations of the assignee to be guaranteed by [name of guarantor]¹⁸⁵].

An underlease of the [whole][part] of the Premises at an initial rent of [amount in figures] per annum [subject to review] on the following terms:

Undertenant:

[Name of proposed undertenant]¹⁸⁶

Undertenant’s Guarantor

[Name of proposed guarantor]¹⁸⁷

Contractual Term of the Underlease: [number] years from and including [date]

Rent-free period: [number] months

Other terms: [Details]

Any variations to the Lease to be included in the underlease: [Details]

Signed: _____

For and on behalf of the Tenant

We, [accept][reject] the offer to surrender the Lease to us at the Price contained in this Notice [or otherwise decided pursuant to **paragraph 2.5 of Part 1 of Schedule 10** to the Lease].

Signed: _____

For and on behalf of the Landlord

Dated: _____

¹⁸³ For use where the offer-back is to be made at a premium before terms are agreed for an assignment.
¹⁸⁴ For use where the offer-back is to be made at a reverse premium before terms are agreed for an assignment.
¹⁸⁵ For use where the offer-back is to be made after terms have been agreed for an assignment.
¹⁸⁶ For use where the offer-back is to be made after terms have been agreed for an underletting.
¹⁸⁷ For use where the offer-back is to be made after terms have been agreed for an underletting.

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]

Change Summary Report

Comparison Date: 26/01/2024 14:31

Original Document:

Name: MCL-RETAIL-06_V1.6
Version: 0.1
The document has had fields converted into text

Revised Document:

Name: MCL-RETAIL-06_V1.7
Version: 4.0
The document has had fields converted into text

	Number of Changes	Mark-up
Insertions	103	Sample Insert
Deletions	58	Sample Delete
Total Changes	161	