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## Lease

Relating to Unit 4 Gray's Brewery Yard 5 Springfield Road Chelmsford Essex CM2 6QR

Dated 30 March 2023

- (1) **Sheet Anchor Evolve Limited**
- (2) **Lemon Pepper Holdings Limited t/a Wingstop**

132861315-1

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**Land Registry Prescribed Clauses**

<b>LR1. Date of lease</b>	<del>30 March 2023</del>
<b>LR2. Title number(s)</b>	<b>LR2.1 Landlord's title number(s)</b>  EX253385  <b>LR2.2 Other title numbers</b>
<b>LR3. Parties to this lease</b>	<b>Landlord</b>  <b>Sheet Anchor Evolve Limited</b> (a company incorporated and registered in England and Wales under company number 08423706) whose registered office is at Lcp House, The Pensnett Estate, Kingswinford, West Midlands DY6 7NA  <b>Tenant</b>  <b>Lemon Pepper Holdings Limited</b> (a company incorporated and registered in England and Wales under company number 10589672) whose registered office is at 5 <sup>th</sup> Floor Kings Court, 2-16 Goodge Street, London W1T 2QA
<b>LR4. Property</b>	<b>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.</b>  As specified in Part 1 of Schedule 1 of this Lease and defined in this Lease as the "Premises".
<b>LR5. Prescribed statements etc.</b>	<b>LR5.1</b> Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.  None  <b>LR5.</b> This lease is made under, or by reference to, provisions of:

<b>LR6. Term for which the Property is leased</b>	The term as specified in this lease at Clause 2 (The Letting Terms)
<b>LR7. Premium</b>	None
<b>LR8. Prohibitions or restrictions on disposing of this lease</b>	This Lease contains a provision that prohibits or restricts dispositions.
<b>LR9. Rights of acquisition etc</b>	<p><b>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</b></p> <p>None</p> <p><b>LR9.2 Tenant's covenant to (or offer to) surrender this Lease</b></p> <p>None</p> <p><b>LR9.3 Landlord's contractual rights to acquire this Lease</b></p> <p>None</p>
<b>LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</b>	None
<b>LR11. Easements</b>	<p><b>LR11.1 Easements granted by this lease for the benefit of the Property</b></p> <p>As specified in Schedule 1, Part 2 (Rights enjoyed with demise)</p> <p><b>LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property</b></p> <p>As specified in Schedule 1, Part 3 (Exceptions and reservations)</p>
<b>LR12. Estate rentcharge burdening the Property</b>	None
<b>LR13. Application for standard form of restriction</b>	None
<b>LR14. Declaration of trust where there is more than one</b>	N/A

<b>person comprising the Tenant</b>	
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This Lease is made on the date specified in the Prescribed Clauses

**Between:**

- (1) **Sheet Anchor Evolve Limited** (a company incorporated and registered in England and Wales under company number 08423706) whose registered office is at Lcp House, The Pensnett Estate, Kingswinford, West Midlands DY6 7NA (the "**Landlord**"); and
- (2) **Lemon Pepper Holdings Limited** (a company incorporated and registered in England and Wales under company number 10589672) whose registered office is at 5<sup>th</sup> Floor Kings Court, 2-16 Goodge Street, London W1T 2QA (the "**Tenant**")

**It is agreed** as follows:

**1 Definitions and Interpretation**

1.1 In this Lease unless the context otherwise required:

" <b>Asset Rating</b> ", " <b>Energy Performance Certificate</b> " and " <b>Recommendation Report</b> "	have the meanings given to those terms in the EPB Regulations (as defined below);
" <b>Centre</b> "	means the Landlord's Centre known as Gray's Brewery Yard, Chelmsford, shown edged blue on the plan annexed to this Lease at Annex 1, and includes any part of it and any alteration or addition or replacement of it and which is registered at HM Land Registry under the title number stated in LR2.1;
" <b>Common Parts</b> "	means those parts of the Centre to be used in common by any of the Tenant, other tenants and occupiers of the Centre, the Landlord, and those properly authorised or permitted by them to do so, and "Common Parts" includes (but without limitation) the Service Yard, Service Yard Access and Courtyard, but excluding any such parts as may be within the Premises;
" <b>Conducting Media</b> "	means drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires, mains, electrical risers, aerials and any other conducting media;
" <b>Courtyard</b> "	means the courtyard shown hatched yellow on the plan annexed at Annex 1;
" <b>Electronic Communications Apparatus</b> "	"electronic communications apparatus" as defined in paragraph 5 of Schedule 3A to the Communications Act 2003;

<b>"Encumbrances"</b>	means the restrictions, stipulations, covenants, rights, reservations, provisions and other matters contained, imposed by or referred to in the documents, brief particulars of which are set out in Schedule 1, Part 4 (Encumbrances);
<b>"EPB Regulations"</b>	means the Energy Performance of Buildings (England and Wales) Regulations 2012, SI 2012/3118;
<b>"Insured Risks"</b>	has the meaning given to it in Schedule 3 (Insurance provisions);
<b>"Interest"</b>	means interest at the rate of 4% over the base rate of Barclays Bank PLC from time to time (as well after as before judgment), or such other comparable rate as the Landlord may reasonably designate if the base rate ceases to be published;
<b>"Landlord"</b>	includes all persons from time to time entitled to the immediate reversion to this Lease;
<b>"Landlord's Energy Management Costs"</b>	<p>means the proper and reasonable costs of the Landlord of:</p> <ul style="list-style-type: none"> <li>(a) acquiring allowances of any nature and paying all present and future taxes, charges, duties, or assessments of any nature relating to the supply or consumption of energy, or relating to emissions consequential upon that supply or consumption (and whether those emissions are direct or indirect);</li> <li>(b) monitoring the supply and consumption of energy and such emissions; and</li> <li>(c) gathering and processing information relating to the supply and consumption of energy and to such emissions.</li> </ul> <p>and where "Landlord" includes an undertaking or group of undertakings of which the Landlord is a member;</p>
<b>"Lease"</b>	includes any documents supplemental to this Lease;
<b>"Lettable Unit"</b>	means a part of the Centre which is let, or constructed or adapted for letting from time to time;

<b>"Measuring Code"</b>	means the latest edition of the Code of Measuring Practice published from time to time by the Royal Institution of Chartered Surveyors;
<b>"Net Internal Area"</b>	the net internal area measured in accordance with the Measuring Code
<b>"Outgoings"</b>	means (in relation to the Premises) all non-domestic rates, (including rates for unoccupied property), water rates, water charges and all existing and future rates, taxes, charges, assessments, impositions and outgoings whatsoever (whether parliamentary or local) which are now or may at any time be payable, charged or assessed on property, or the owner or occupier of property, but "taxes" in this context does not include value added tax, nor any taxes imposed on the Landlord in respect of the yearly rent reserved by this Lease, or in respect of a disposal of the interest in immediate reversion to this Lease;
<b>"Outside Seating Area"</b>	means the area adjacent to the Premises on Springfield Road, outside of the Centre and the Landlord's ownership but to be used by the Tenant for seating for its customers subject to obtaining the necessary consents and licences;
<b>"Planning Acts"</b>	means "the consolidating Acts" as defined in the Planning (Consequential Provisions) Act 1990 and any other legislation relating to town and country planning in force from time to time;
<b>"Plan"</b>	means the plan annexed to this Lease at Annex 1, Annex 2 and Annex 3;
<b>"Plant"</b>	Electronic Communications Apparatus, wireless network equipment, and air-conditioning plant installed by the Tenant or any undertenant under the rights in paragraph 1.11 of Part 2 of Schedule 1;
<b>"Plant Area"</b>	the area for Plant shown on the roof plan annexed to this Lease at Annex 3;
<b>"Premises"</b>	means the property described in Schedule 1, Part 1 (Description of the Premises) and each part of the Premises;
<b>"Rent Commencement Date"</b>	30 June 2023 <i>[being 3 calendar months from the commencement of the Term];</i>



<b>"Service Yard"</b>	means the service yard shown hatched orange on the plan annexed at Annex 1;
<b>"Service Yard Access"</b>	means the access road shown hatched green on the plan annexed at Annex 1;
<b>"Tenant"</b>	includes the Tenant's successors in title and assigns in whom this Lease may for the time being be vested;
<b>"Term"</b>	means the term of years granted by this Lease and any statutory continuation of the term of years under the Landlord and Tenant Act 1954;
<b>"Uninsured Risks"</b>	the meaning given to it in Schedule 3 (Insurance provisions);
<b>"Unsecured Underletting"</b>	means an underletting of the whole of the Premises in relation to which the underlessor and the underlessee have agreed to exclude the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 and before completion of the underletting or, if earlier, the underlessee's contractual obligation to enter into the underletting have duly carried out the requirements of schedules 1 and 2 of the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 to render their agreement valid;
<b>"Utilities"</b>	means electricity, gas, water, sewage, signals, telecommunications, satellite and data communications and all other energy supplies and forms of utility.

- 1.2 Any obligation on a party to this Lease to do any act includes an obligation to procure that it is done.
- 1.3 Where the Tenant is placed under a restriction in this Lease, the restriction includes the obligation on the Tenant not to knowingly permit or allow the infringement of the restriction by any person.
- 1.4 References to liability include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.
- 1.5 The Clause and paragraph headings in this Lease are for ease of reference only and are not to be taken into account in the interpretation of any provision to which they refer.
- 1.6 Unless the contrary intention appears, references:
- 1.6.1 to defined terms are references to the relevant defined term in Clause 1.1;
- 1.6.2 to numbered Clauses and Schedules are references to the relevant Clause in, or Schedule to, this Lease; and

1.6.3 to a numbered paragraph in any Schedule are references to the relevant paragraph in that Schedule.

- 1.7 Words in this Lease denoting the singular include the plural meaning and vice versa.
- 1.8 References in this Lease to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it.
- 1.9 Words in this Lease importing one gender include both other genders, and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.
- 1.10 For the purposes of this Lease, two companies are members of the same group if one is the subsidiary of the other, or both are subsidiaries of a third company, "subsidiary" having the meaning given to it in section 1159 of the Companies Act 2006.
- 1.11 At any time that any party to this Lease is two or more persons, the expression the "**Landlord**" or the "**Tenant**" as the case may be includes the plural number, and obligations in this Lease expressed or implied to be made are to be treated as made with or by such individuals jointly and severally.

## 2 The Letting Terms

The Landlord in consideration of the rent reserved by, and the covenants in, this Lease lets to the Tenant all the Premises with full title guarantee together with the rights set out in Schedule 1, Part 2 (Rights enjoyed with demise) and except and reserved to the Landlord the rights set out in Schedule 1, Part 3 (Exceptions and reservations) for the term of 15 years commencing on the date of this Lease subject to the Encumbrances the Tenant paying during the Term:

2.1 the yearly rent of:-

2.1.1 £52,500 per annum exclusive of VAT from the Rent Commencement Date until  
[ 29 December 20 ] (being the day before the 9<sup>th</sup> calendar month  
anniversary of the commencement of the lease);

2.1.2 £105,000 per annum exclusive of VAT from [ 30 December 2023 ] (being  
the anniversary of the 9<sup>th</sup> calendar month of the commencement of the lease); and

2.1.3 Thereafter subject to revision under Schedule 2 (Rent reviews).

such yearly rent payable by equal quarterly payments in advance on the usual quarter days in every year, the first (or a proportionate part) of such payments in respect of the period commencing on the Rent Commencement Date and ending on the day preceding following rental payment day to be made on or before the Rent Commencement Date; and

2.2 as additional rent:

2.2.1 the monies payable by the Tenant under Schedule 3 (Insurance provisions) and Schedule 4 (Service charge provisions) commencing on the grant of this Lease;

2.2.2 Interest payable by the Tenant under the terms of this Lease; and

2.2.3 such value added tax as may be chargeable on the rent and the other additional rents reserved by this Lease.

### **3 Tenant's Covenants**

The Tenant covenants with the Landlord during the Term and any statutory extension of the tenancy created by this Lease as set out in this Clause 3 (Tenant's covenants).

#### **3.1 Rent**

3.1.1 To pay the yearly rent reserved by this Lease, free from any deductions and rights of set-off, at the times and in the manner required in Clause 2.1 and by means of electronic bank transfer in favour of the Landlord or as it may otherwise direct.

3.1.2 To pay the additional rents reserved by this Lease at the times and in the manner specified.

#### **3.2 Interest**

3.2.1 To pay Interest on so much of the yearly rent reserved by this Lease as remains unpaid after it has become due for payment.

3.2.2 To pay Interest on so much of the additional rents arrears of reviewed rent and any accrued interest and other monies (not being rent) payable under this Lease as remain unpaid for seven days after (as the case may be):

(a) demand in those cases where payment becomes due only on demand; or

(b) the date on which they have become due for payment by the Tenant,

from the date of demand, or the date that they became due for payment, until payment is made to the Landlord.

3.2.3 To pay Interest under Clause 3.2.1 for any period during which the Landlord properly refuses to accept the tender of payment because of an unremedied breach of covenant of the Tenant.

#### **3.3 Outgoings and contributions**

3.3.1 To pay Outgoings.

3.3.2 To pay for all charges relating to the supply and consumption of Utilities to or at the Premises including connection, hire charges, meter charges, standing charges and also that part of the Landlord's Energy Management Costs which the Landlord or the Landlord's surveyor reasonably attributes to the Premises.

#### **3.4 Repair**

To keep the Premises in good and substantial repair and condition (except in respect of damage by Insured Risks and Uninsured Risks as allowed in Schedule 3 (Insurance provisions)). In

addition, the Tenant is to keep all ducting and extract fans exclusively serving the Premises maintained and statutory compliant.

### **3.5 Decorations**

- 3.5.1 To decorate the inside of the Premises in the fifth year and from then in every subsequent fifth year of the Term and in the last three months of the Term (however it may terminate unless the Tenant has taken genuine steps towards renewal of this Lease) with two coats of good quality paint or good quality polish, and with paper for those parts normally papered, or other suitable and appropriate materials of good quality, in a workmanlike manner (the decorations in the last 12 months of the Term to be executed in such colours, patterns and materials as the Landlord may reasonably require).
- 3.5.2 To decorate the shop front, fascia board, any showcases, doors and the exterior of the Premises in the third year and from then in every subsequent third year of the Term and in the last 12 months of the Term (however it may terminate unless the Tenant has taken genuine steps towards renewal of this Lease) with two coats of good quality paint or polish, or other suitable material of good quality, in a proper and workmanlike manner.
- 3.5.3 Not without the consent of the Landlord to alter, cover up or change any part of the architectural decorations or the external colour of the Premises.

### **3.6 Landlord's right of inspection and right of repair**

- 3.6.1 To permit the Landlord and its employees or agents at reasonable times to enter the Premises and examine their condition and also to take a schedule of fixtures and fittings in the Premises.
- 3.6.2 If any breach of covenant, defects, disrepair, removal of fixtures and fittings or unauthorised alterations or additions are found on inspection for which the Tenant is liable, then, on notice from the Landlord, to execute to the reasonable satisfaction of the Landlord or its surveyor all repairs, works, replacements or removals required within two months (or sooner if necessary) after receipt of notice.
- 3.6.3 If the Tenant fails to comply with a notice under Clause 3.6.2, the Landlord may itself or by its workpeople or agents enter the Premises and execute the repairs, works, replacements or removals.
- 3.6.4 To pay to the Landlord on demand all expenses incurred under Clause 3.6.3 (the expenses and any Interest on them to be recoverable as rent in arrear).

### **3.7 Yield up in repair at the end of the Term**

- 3.7.1 At the expiry or sooner termination of the tenancy created by this Lease:
  - (a) quietly to yield up the Premises repaired, maintained, cleaned, decorated and kept in accordance with the Tenant's covenants in this Lease (except in respect of damage by Insured Risks as allowed in Schedule 3 (Insurance provisions))

and (except to the extent that the Tenant is under an obligation to reinstate the Premises) with all additions and improvements and all fixtures in the Premises (except tenant's or trade fixtures belonging to the Tenant);

- (b) unless the Landlord requires otherwise and notified to the Tenant no later than three months before the date of expiry or sooner termination of the tenancy created by this Lease, to remove from the Premises all the Tenant's belongings, that is to say trade fixtures and fittings and all notices, notice boards and signs bearing the name of, or otherwise relating to, the Tenant (including in this context any persons deriving title to the Premises under the Tenant) or its business; and
- (c) to make good to the reasonable satisfaction of the Landlord all damage to the Premises and the Centre resulting from the removal of the Tenant's belongings from the Premises.

### **3.8 Landlord's right of entry for repairs, etc**

3.8.1 To permit the Landlord or other owners, tenants or occupiers of the Centre or any adjoining or neighbouring property and their respective agents, workmen and employees to enter the Premises at reasonable times, after giving to the Tenant reasonable written notice (except in an emergency):

- (a) to alter, maintain or repair the Centre or the adjoining premises or property of the Landlord or person so entering; or
- (b) to construct (where no reasonable practicable alternative exists), alter, maintain, repair or fix anything serving such property and running through or on the Premises; or
- (c) to comply with an obligation to any third party having legal rights over the Centre and the Premises; or
- (d) in exercise of a right or to comply with an obligation of repair, maintenance or renewal under this Lease; or
- (e) in connection with the development of the remainder of the Centre or any adjoining or neighbouring land or premises, including the right to build on or into, or extend, any boundary wall of the Premises,

without payment of compensation for any nuisance, annoyance, inconvenience, damage or loss caused to the Tenant, subject to the Landlord (or other person entering) using reasonable endeavours to minimise any nuisance, inconvenience, damage or loss aforesaid and exercising the right in a proper manner and making good any damage caused to the Premises and to any Tenant's fixtures fittings and equipment and stock without unreasonable delay and to the Tenant's reasonable satisfaction.

- 3.8.2 Promptly on becoming aware of any defects in the Premises, which are "relevant defects" for the purposes of section 4 of the Defective Premises Act 1972, to give notice of them to the Landlord.

### **3.9 Alterations**

- 3.9.1 Except as permitted in this clause 3.9, not to make any alterations or additions to, or affecting the structure or exterior of the Premises or the appearance of the Premises as seen from the exterior
- 3.9.2 Not to install or erect any exterior lighting, shade, canopy or awning or other structure in front of, or elsewhere outside, the Premises without the consent of the Landlord (such consent not to be unreasonably withheld or delayed).
- 3.9.3 Not without the consent of the Landlord to make any other alterations or additions to the Premises and the shop front and fascia, such consent not to be unreasonably withheld or delayed (but the erection, alteration or removal by the Tenant of internal demountable partitioning, and consequential adjustments of ducting, ceiling tiles, light fittings and wiring, is authorised without such consent if the plans of the partitions (or details of the alteration or removal of partitioning) are deposited with the Landlord not less than 7 days before such works commence).
- 3.9.4 If any of the alterations or additions to the Premises permitted by the Landlord under Clause 3.9.3 are mechanical or engineering works to procure:
- (a) that they are carried out only by a contractor approved by the Landlord (such approval not to be unreasonably withheld or delayed); and
  - (b) at the Landlord's reasonable request, the delivery to the Landlord of duty of care undertakings in terms acceptable to the Landlord (the Landlord acting reasonably) by the contractors carrying out the alterations and additions and, as the case may be, by the consultants engaged in connection with their design or supervision.
- 3.9.5 To submit to the Landlord sufficient information to reasonably enable the Landlord to assess the impact of the proposed alteration on the energy efficiency or Asset Rating of the Premises or the Centre.
- 3.9.6 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 Centre along routes approved by the Landlord to connect the Premises to any Plant installed or erected by the Tenant under clause 3.9.6(a).
- 3.9.7 At the expiry or sooner termination of the tenancy created by this Lease (unless the Tenant has taken genuine steps towards renewal of this Lease), to the extent required by the Landlord to reinstate the Premises by removing any alterations made by the

Tenant to the Premises during the Term reinstatement to be carried out under the supervision and to the reasonable satisfaction of the Landlord or the Landlord's surveyor.

### **3.10 Alienation**

3.10.1 Not to assign underlet or charge part only of the Premises.

3.10.2 Not to assign this Lease without the consent of the Landlord but, subject to the operation of the following provisions of this Clause 3.10.2, such consent is not to be unreasonably withheld or delayed:

- (a) the Landlord may, in addition to reasonable grounds, withhold its consent to an application by the Tenant for licence to assign this Lease unless (for the purposes of section 19(1A) of the Landlord and Tenant Act 1927) the conditions in this Clause 3.10.2(a) are met; that:
  - (i) at the time of the assignment, there are no arrears of rent or other monies due to the Landlord;
  - (ii) at the time of assignment, the Tenant enters into an authorised guarantee agreement, the operative provisions of which are in the form required in Schedule 5, Part 2 (Form of authorised guarantee agreement), and
  - (iii) on an assignment by the Tenant to a company which is another member of the same group of companies, the ultimate holding company (unless it is the assignee, or it would itself be giving an authorised guarantee agreement), enters into a guarantee (the operative provisions of which are in the form required in Schedule 5, Part 1 (Form of guarantee on assignment)) but if the ultimate holding company would otherwise be released from liability, the Landlord may require another substantial member of the group to give the guarantee;
- (b) on an assignment by the Tenant, the Landlord may require, if it is reasonable to do so, a guarantee of the tenant covenants of the assignee from a guarantor who is reasonably acceptable to the Landlord (the operative provisions of which are in the form required in Schedule 5, Part 1 (Form of guarantee on assignment)).

3.10.3 Not to underlet the whole of the Premises without the consent of the Landlord, but subject to the operation of the provisions of Clause 3.10.4, Clause 3.10.5 and Clause 3.10.6, such consent is not to be unreasonably withheld or delayed.

3.10.4 On the grant of an underlease, to obtain covenants by deed from the underlessee direct with the Landlord in such form as the Landlord may require that the underlessee will:

- (a) not assign, sub-underlet or charge part only of the premises underlet;

- (b) not part with or share possession or occupation of the whole or any part of the premises underlet, nor grant rights to third parties over them except by a permitted assignment or sub-underletting;
- (c) not assign, charge or sub-underlet the whole of the premises underlet or permit further sub-underletting of the whole or any part of the premises sub-underlet without obtaining the previous consent of the Landlord under this Lease, such consent not to be unreasonably withheld or delayed; and
- (d) provide for the inclusion in any sub-underleases granted out of the underlease (whether immediate or mediate) of covenants to the same effect as those contained in this Clause 3.10.4 and Clause 3.10.5.

3.10.5 On the grant of any underlease:

- (a) to include provisions for the revision of the rent reserved by the underlease in an upward only direction to correspond in time and effect with the provisions for the revision of rent in this Lease;
- (b) not to reserve or take a premium or fine nor give a reverse premium or other such inducement to the underlessee;
- (c) to reserve a rent which is market rent at the time of the grant of the underlease provided always that this shall not preclude the giving of a rent free period reasonable in the circumstances;
- (d) to include provisions in the underlease to the same effect as those in Clause 3.10.2; and
- (e) to include such underlessee covenants as are not inconsistent with, or do not impair the due performance and observance of, the covenants of the Tenant in this Lease.

3.10.6 Not to underlet the whole of the Premises except by way of Unsecured Underletting.

3.10.7 Not (except by assignment or underletting permitted under this Clause 3.10 (Alienation)) to:

- (a) part with or share possession or occupation of the whole or any part of the Premises; or
- (b) grant any rights over the Premises to third parties.

3.10.8 The preceding provisions of this Clause 3.10 (Alienation) do not apply to any parting with possession or occupation or the sharing of occupation or sub-division of the Premises to or with any member of a group of companies of which the Tenant is itself a member if:

- (a) the interest in the Premises so created is and remains no more than a tenancy at will; and



- (b) the possession, occupation or sub-division is immediately terminated if the Tenant and the relevant member cease for any reason to be members of the same group of companies.

3.10.9 The preceding provisions of this Clause 3.10 (Alienation) do not apply to any charging of the whole of the Property to a bona fide financial institution in the ordinary course of the Tenant's business.

### **3.11 Registration of dispositions of this Lease**

Within one month after a disposition of this Lease (a "**disposition**" being an assignment, charge, transfer, underlease, assignment or surrender of any underlease, or, on any transmission by death or otherwise, documentary evidence of devolution affecting the Premises):

3.11.1 to produce the document effecting the disposition (and in each case a certified copy for retention by the Landlord) to the Landlord's solicitors; and

3.11.2 to pay to the solicitors the fee they reasonably require for the registration.

### **3.12 Enforcement of underleases**

3.12.1 Not without the consent of the Landlord (such consent not to be unreasonably withheld or delayed) to vary the terms, or waive the benefit, of any underlessee covenants or conditions in an underlease of the Premises.

3.12.2 Diligently to enforce the underlessee covenants and conditions in any underlease of the Premises and (if reasonably required by the Landlord) to exercise by way of enforcement the powers of re-entry in the underlease.

3.12.3 Not without the consent of the Landlord (such consent not to be unreasonably withheld or delayed) to accept any sum or payment in kind by way of commutation of the rent payable by an underlessee of the Premises.

3.12.4 Not to accept the payment of rent from an underlessee of the Premises otherwise than by regular quarterly (or more frequent) payments in advance.

3.12.5 Duly and punctually to exercise all rights to revise the rent reserved by an underlease of the Premises, and not to agree a revised rent with an underlessee without the approval of the Landlord (such approval not to be unreasonably withheld or delayed).

### **3.13 User**

3.13.1 Not without the consent of the Landlord to use the Premises otherwise than within use as a restaurant and as ancillary to such restaurant use hot-food takeaway, including delivery and/or other ancillary services or any other use class within class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) as at the date of this Lease as may first be approved in writing by the Landlord (such approval not to be unreasonably withheld or delayed).

- 3.13.2 Nothing in this Lease implies or is to be treated as a warranty to the effect that the use of the Premises for those purposes is in compliance with the Planning Acts and all other statutes and regulations relating to town and country planning from time to time in force.

### **3.14 Restrictions affecting use of the Premises**

- 3.14.1 To take all practical steps to prevent smoking in the Centre, or its immediate vicinity, by staff or visitors of the Tenant and all persons over whom the Tenant is able to exercise authority or control.
- 3.14.2 Not to erect or install in the Premises any engine, furnace, plant or machinery which causes noise, fumes or vibration which can be heard, smelled or felt outside the Premises.
- 3.14.3 Not to store any petrol or other specially inflammable, explosive or combustible substance in the Premises.
- 3.14.4 Not to use the Premises for any noxious, noisy or offensive trade or business nor for any illegal or immoral act or purpose.
- 3.14.5 Not to hold any sales by auction on the Premises.
- 3.14.6 Not to hold in or on the Premises any exhibition, public meeting or public entertainment.
- 3.14.7 Not to permit any vocal or instrumental music in the Premises so that it can be heard outside the Premises.
- 3.14.8 Not to permit livestock of any kind to be kept on the Premises.
- 3.14.9 Not to do or suffer anything in the Premises which may be or grow to be a nuisance, disturbance or damage to the Landlord or its other tenants of the Centre or to the owners, tenants and occupiers of adjoining and neighbouring properties provided always that at the reasonable exercise of the use permitted hereunder from time to time shall be deemed not to be a breach of this Lease.
- 3.14.10 Not to load or use the floors, walls, ceilings or structure of the Premises or the Centre so as to cause strain, damage or interference with the structural parts, loadbearing framework, roof, foundations, joists and external walls of the Centre.
- 3.14.11 Not to overload the lifts, electrical installation or Conducting Media in the Premises and/or the Centre.
- 3.14.12 Not to do or omit to do anything which may interfere with or which imposes an additional loading on any ventilation, heating, air conditioning or other plant or machinery serving the Premises.
- 3.14.13 Not to use the Premises as a betting shop or betting office.
- 3.14.14 Not to allow any person to sleep in the Premises nor to use the Premises for residential purposes.

3.14.15 Not at any time to place any goods, mats, trade empties, rubbish or other obstruction in the Common Parts.

3.14.16 Not to accumulate trade empties on the Premises.

3.14.17 Not to place, leave or install any articles, merchandise, goods or other things in front of or elsewhere outside the Premises (including, but not limited to, the Courtyard and Service Yard but excluding the Outside Seating Area) except where expressly permitted in this Lease

3.14.18 Not to permit the drains to be obstructed by oil, grease or other deleterious matter, but to keep the Premises and the drains serving the Premises thoroughly cleaned.

3.14.19 Not to use any portion of the access roads or service area for the parking of vehicles except during the course of loading and unloading, nor to carry out any repairs or maintenance to vehicles on the access roads or service area within the Common Parts.

3.14.20 To observe and perform or cause to be observed and performed the reasonable rules and regulations from time to time made by the Landlord for the orderly and proper use of the Common Parts and the security of the Centre.

### **3.15 Advertisements and signs**

3.15.1 Not to place or display on the exterior or the windows of the Premises or inside the Premises so as to be visible from the exterior of the Premises any name, writing, notice, sign, illuminated sign, display of lights, placard, poster, sticker or advertisement other than:

- (a) a suitable sign of a size and kind first approved by the Landlord or the Landlord's surveyor showing the Tenant's name and/or trade (such approval not to be unreasonably withheld or delayed);
- (b) such other notices as the Landlord may in its discretion approve; and
- (c) normal window displays, sale notices and price tickets attached and relating to the goods in the Premises (but not affixed to the window glass).

3.15.2 If any name, writing, notice, sign, placard, poster, sticker or advertisement is placed or displayed in breach of these provisions, to permit the Landlord to enter the Premises and remove such name, writing, notice, sign, placard, poster, sticker or advertisement and to pay to the Landlord on demand the reasonable expense properly incurred of so doing.

### **3.16 Trading during business hours, loading and deliveries**

3.16.1 Not to leave the Premises empty or untended but to keep the Premises open for business throughout normal trading hours in the locality except to the extent that:

- (a) the Tenant may be prevented from doing so by reason of destruction or damage to the Premises by an Insured Risk or Uninsured Risk or by some other cause beyond the Tenant's control;
- (b) closure may be necessary diligently to carry out substantial repairs, alterations or additions to the Premises;
- (c) closure may be necessary to complete a permitted assignment or underlease of this Lease; or
- (d) to do so would be unlawful.

3.16.2 At all times to keep the interior of the Premises where it is visible from the exterior of the Premises attractively laid out and furnished and with goods well displayed, and to keep display windows or showcases of the Premises clean and adequately and attractively dressed to the reasonable satisfaction of the Landlord.

3.16.3 Not to load or unload vehicles except in the servicing areas or loading bays provided for such purpose, and in the course of such loading or unloading:

- (a) to comply with any regulations of the Landlord and the requirements of the local highway authority; and
- (b) not to cause avoidable obstruction.

### **3.17 Compliance with statutes, etc**

3.17.1 To comply in all respects with the provisions of all statutes from time to time, and the requirements of any competent authority, relating to the Premises or anything done in or on them by the Tenant, and to keep the Landlord indemnified against liability in consequence of the Tenant's failure to comply.

3.17.2 In particular (but without affecting the general operation of Clause 3.17.1):

- (a) to comply with all requirements under any present or future statute, order, bylaw or regulation as to the use or occupation of, or otherwise concerning, the Premises; and
- (b) to execute with all due diligence (commencing work within two months or sooner if necessary and then proceeding continuously) all works to the Premises for which the Tenant is liable under this Clause 3.17.2 and of which the Landlord has given notice to the Tenant,

and, if the Tenant does not comply with Clause 3.17.2(b), to permit the Landlord to enter the Premises to carry out the works, and to indemnify the Landlord on demand for the expenses properly incurred of so doing (including professional fees), such expenses and any Interest on them to be recoverable as rent in arrear.

### **3.18 Planning permissions**

- 3.18.1 Not without the consent of the Landlord (not to be unreasonably withheld or delayed) to make any application under the Planning Acts, to any local planning authority for permission to develop, including change of use of, the Premises.
- 3.18.2 To indemnify the Landlord against any development charges, other charges and expenses suffered or incurred by the Landlord in respect of planning applications and to reimburse to the Landlord the costs it may properly incur in connection with such consent.
- 3.18.3 To keep the Landlord indemnified against any expense properly incurred by the Landlord in consequence of any change of planning use of the Premises reverting to the planning use existing before the application was made.
- 3.18.4 Promptly to give the Landlord full particulars in writing of the grant of planning permission.
- 3.18.5 Not to implement any planning permission if the Landlord makes reasonable objection to any of the conditions subject to which it has been granted.

### **3.19 Compliance with town planning requirements**

- 3.19.1 To perform and observe the requirements of the Planning Acts and all other statutes and regulations relating to town and country planning applying to the Premises, and to obtain any development or other consent, permit or licence by reason of the development, or manner of use, of or on the Premises by the Tenant.
- 3.19.2 To keep the Landlord indemnified against liability properly incurred by the Landlord by reason of the Tenant's failure to obtain any requisite development or other consent, permit or licence or in complying with the requirements of the statutes and regulations referred to in Clause 3.19.1.
- 3.19.3 To give full particulars to the Landlord of any notice or proposal for a notice, or order or proposal for an order, made, given or issued relating to the Premises under the Planning Acts and all other statutes or regulations relating to town and country planning, within seven days after receipt by the Tenant.
- 3.19.4 Immediately to take all reasonable and necessary steps to comply with any such notice or order to the extent that it relates to the use or occupation of the Premises by the Tenant.
- 3.19.5 At the request and cost of the Landlord, to make or join with the Landlord in making such objections or representations against or in respect of any proposal for such a notice or order as the Landlord may consider expedient.

### **3.20 Energy performance data**

3.20.1 To allow the Landlord and its employees or its agents to have access to all documentation, data and information in the Tenant's possession or under its control reasonably required by the Landlord to enable it to:

- (a) prepare an Energy Performance Certificate and Recommendation Report for the Centre; and
- (b) comply with any duty imposed upon the Landlord under the EPB Regulations.

3.20.2 To permit the Landlord and its employees or agents at reasonable times after giving reasonable prior notice to enter the Premises and to co-operate with the Landlord and its agents so far as reasonably necessary for the purposes referred to in Clause 3.20.1.

### **3.21 Claims made by third parties**

3.21.1 To keep the Landlord indemnified against liability in respect of any accident, loss or damage to person or property in the Premises.

3.21.2 To keep the Landlord indemnified against liability to third parties incurred by the Landlord by reason of breach by the Tenant of its obligations in this Lease.

### **3.22 Expenses of the Landlord**

To pay to the Landlord on demand all proper and reasonable expenses (including bailiff's and professional fees) incurred by the Landlord:

3.22.1 incidental to or in proper contemplation of the preparation and service of a schedule of dilapidations during or within three months following the termination of this Lease and/or a notice or proceedings under sections 146 and 147 of the Law of Property Act 1925, even if forfeiture is avoided otherwise than by relief granted by the court and/or a notice under section 17 of the Landlord and Tenant (Covenants) Act 1995;

3.22.2 in the recovery or attempted recovery of arrears of rent or additional rent due from the Tenant;

3.22.3 in connection with the enforcement or remedying of any breach of the covenants in this Lease on the part of the Tenant or any Guarantor; and

3.22.4 in connection with every application for any consent or approval made under this Lease (whether or not consent or approval is given).

### **3.23 Obstruction of windows or lights and easements**

3.23.1 Not to stop up or obstruct any windows of the Premises or any other buildings belonging to the Landlord.

3.23.2 Not to permit any easement or similar right to be made or acquired into, against or on the Premises.

- 3.23.3 Where any such easement or right is or is attempted to be acquired, immediately upon becoming aware of the same to give notice of the circumstances to the Landlord, and at the request and cost of the Landlord to adopt such course as it may reasonably require for preventing the acquisition of the easement or right.

### **3.24 Cleaning and insurance of windows**

- 3.24.1 To keep the glass in the windows of the Premises clean.
- 3.24.2 To keep the glass in the windows and the shop front of the Premises insured in a sum equal to the full replacement cost against damage with an insurer of repute approved by the Landlord and:
- (a) whenever required to produce the policy and the receipt for the last premium for such insurance to the Landlord; and
  - (b) to lay out the insurance monies received in replacement with glass of at least the same quality and thickness as before and to make good any deficiency out of the Tenant's own resources.

### **3.25 Value added tax**

- 3.25.1 To pay an amount equal to the value added tax chargeable on taxable supplies of goods and services made by the Landlord under this Lease; the consideration for the supplies is to be treated as exclusive of the value added tax.
- 3.25.2 Where the Landlord is entitled under this Lease to recover from the Tenant the costs incurred by the Landlord on the supply to the Landlord (but not the Tenant), of goods and services to indemnify the Landlord against so much of the input tax incurred by the Landlord on the supply for which the Landlord is not entitled to credit allowance under section 26 of the Value Added Tax Act 1994.

### **3.26 Notices to let and for sale**

- 3.26.1 Unless genuine steps are being taken towards renewal of this Lease, to allow the Landlord or its agents to enter the Premises at any time:
- (a) within six months before the termination of this Lease to fix on the Premises (but not obstructing the shop window display or access to the Premises) a notice board for re-letting the Premises; and
  - (b) to fix on some part of the Premises (but not obstructing the shop window display or access to the Premises) a notice board for the sale of the interest of the Landlord.
- 3.26.2 Not to remove or obscure any such notice board.
- 3.26.3 To permit all persons authorised by the Landlord or its agents (who must be accompanied by the Landlord or its agents) to view the Premises (at reasonable hours) without interruption in connection with any such letting or sale.

### 3.27 Encumbrances

To observe and perform by way of indemnity only the obligations and restrictions comprising the Encumbrances so far as they relate to the Premises and are capable of being enforced, and to keep the Landlord indemnified against liability incurred by the Landlord for the breach of the obligations and restrictions.

## 4 Provisos

The parties agree to the following provisos.

### 4.1 Proviso for re-entry

4.1.1 The Landlord may terminate this Lease by re-entering the Premises (or a part of them) itself or by an authorised agent if:

- (a) any rent remains unpaid 21 days after becoming due for payment (whether or not formally demanded in respect of the yearly rent); or
- (b) the Tenant fails to perform or observe any of its covenants or the conditions in this Lease; or
- (c) an event of insolvency occurs in relation to the Tenant or any guarantor of the Tenant; or
- (d) the Tenant or any guarantor of the Tenant being a company incorporated in the United Kingdom is:
  - (i) struck off the register of companies; or
  - (ii) being an unlimited company is registered with limited liability; or
- (e) any circumstances exist or event occurs with respect to the Tenant or any guarantor of the Tenant in any jurisdiction which has an effect equivalent or similar to any of those mentioned in this Clause 4.1 (Proviso for re-entry).

4.1.2 Re-entry in exercise of the rights in Clause 4.1.1 does not affect any other right or remedy of the Landlord for breach of covenant or condition by the Tenant occurring before the termination of this Lease.

4.1.3 The expression “**an event of insolvency**” in Clause 4.1.1 includes:

- (a) (in relation to a body corporate which is the Tenant or a guarantor)) entry into liquidation whether compulsory or voluntary (except for the purpose of amalgamation or reconstruction), the passing of a resolution for a creditors' winding up the making of a proposal to the body corporate and its creditors for a composition in satisfaction of its debts or a scheme of arrangement of its affairs, and the appointment of a receiver or administrative receiver; and
- (b) (in relation to an individual who is the Tenant or a guarantor) the making of a bankruptcy order, the making of a proposal to his creditors for a composition in



satisfaction of his debts or a scheme of an arrangement of his affairs, and the appointment of a receiver or interim receiver,

and in relation to the various events of insolvency they are, wherever appropriate, to be interpreted in accordance and conjunction with the relevant provisions of the Insolvency Act 1986.

4.1.4 References to “any guarantor of the Tenant” or “a guarantor” in this Clause 4.1 do not include a guarantor under an authorised guarantee agreement.

#### **4.2 Power for Landlord to deal with adjoining property**

4.2.1 The Tenant is not entitled to acquire by prescription any rights over the property of the Landlord adjoining or neighbouring the Premises additional to those expressly granted by this Lease.

4.2.2 The Landlord may without obtaining any consent from or making any arrangement with the Tenant, alter, reconstruct or modify in any way or change the use of the Common Parts, so long as proper and reasonable means of entrance to and exit from the Premises are afforded in a manner no less commodious than as granted hereunder at the date hereof and essential services are maintained.

#### **4.3 Arbitration of disputes between tenants**

If any dispute or disagreement at any time arises between the Tenant and the tenants and occupiers of the Centre or any adjoining or neighbouring property belonging to the Landlord relating to the Conducting Media serving, or easements or rights affecting, the Premises, the Centre or any adjoining or neighbouring property, the matter in dispute or disagreement is to be determined by the Landlord, by which determination the Tenant shall be bound (save in the case of manifest error).

#### **4.4 Exemption from liability in respect of services**

4.4.1 The Landlord is not to be held liable to the Tenant for any loss, damage or inconvenience which may be caused by reason of:

- (a) temporary interruption of services during periods of inspection, maintenance, repair and renewal;
- (b) breakdown of or defect in any plant and machinery, services or Conducting Media in the Premises, the Centre or neighbouring or adjoining property; or
- (c) events beyond the reasonable control of the Landlord;

but must take reasonable steps to restore the supply or service as soon as reasonably practicable.

4.4.2 The Landlord's duty of care to the Tenant's employees, agents, workpeople and visitors in or about the Centre does not go beyond the obligations involved in the common duty

of care (within the meaning of the Occupiers' Liability Act 1957) or the duties imposed by the Defective Premises Act 1972.

#### **4.5 Cesser of liability in respect of covenants**

A party who was formerly the Landlord is to cease to be liable to perform and observe the covenants and conditions on the part of the Landlord contained in this Lease that occurs after the date of an assignment of the immediate reversion to this Lease.

#### **4.6 Accidents**

The Landlord is not to be held responsible to the Tenant or the Tenant's licensees nor to any other person for any:

4.6.1 accident, happening or injury suffered in the Premises; or

4.6.2 damage to, or loss of, any goods or property sustained in the Centre (whether or not due to failure of any security system for which the Landlord is responsible).

#### **4.7 Compensation for disturbance**

The Tenant is not entitled to claim any compensation from the Landlord on quitting the Premises unless and to the extent that any statutory right to compensation precludes the operation of this Clause 4.7 (Compensation for disturbance).

#### **4.8 Removal of property after determination of Term**

4.8.1 If, after the Tenant has vacated the Premises following the expiry or sooner termination of the Term, any property of the Tenant remains in the Premises the Landlord may, in accordance and compliance with the requirements of section 12 and schedule 1 of the Torts (Interference with Goods) Act 1977:

(a) immediately remove the property and transfer it to an alternative place of storage; and

(b) if the Tenant fails to remove the property from the Premises or, as the case may be, from the alternative place of storage specified in writing by the Landlord, within 28 days after written request by the Landlord, the Landlord may sell the property,

and the Landlord shall hold the proceeds of sale, after deducting the costs and expenses of removal, storage and sale reasonably and properly incurred by it, to the order of the Tenant and account to the Tenant accordingly.

4.8.2 The Tenant shall indemnify the Landlord against any liability incurred by it to any third party whose property has been sold by the Landlord in the *bona fide* mistaken belief (which is to be presumed unless the contrary is proved) that it belonged to the Tenant and was liable to be dealt with as such under this Clause 4.8 (Removal of property after determination of Term)

#### **4.9 Notices, consents and approvals**

- 4.9.1 Any notice served under or in connection with this Lease is to be in writing and to be treated as properly served if compliance is made with either the provisions of section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962) or section 23 of the Landlord and Tenant Act 1927.
- 4.9.2 Any consent or approval required under this Lease shall be obtained before the act or event to which it applies is carried out or done and shall be effective only if it is in such form and upon such terms as the party giving it properly requires and contains the statement "this is the form of consent or approval required by the lease pursuant to which it is granted".

#### **5 Landlord's Covenants**

Subject to Clause 4.5 (Cesser of liability in respect of covenants'), the Landlord covenants with the Tenant to perform and observe the covenants in this Clause 5 (Landlord's covenants).

##### **5.1 Quiet enjoyment**

That the Tenant paying the rents reserved by, and performing the Tenant's covenants in this Lease may lawfully and peaceably enjoy the Premises and the rights hereby granted throughout the Term without interruption by the Landlord or by any person lawfully claiming through, under or in trust for the Landlord.

##### **5.2 Wayleaves**

- 5.2.1 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 Common Parts or on the roof the Centre to connect the Premises to the operator's telecommunications network along routes approved by the Landlord (such approval not to be unreasonably withheld or delayed).

##### **5.3 Entry Safeguards**

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

- 5.3.1 give the Tenant at least three working days' prior notice (except in the case of emergency, when the Landlord must give as much notice as may be reasonably practicable);
- 5.3.2 observe the Tenant's requirements (but where that includes being accompanied by the Tenant's representative the Tenant must make that representative available);
- 5.3.3 observe any specific conditions to the Landlord's entry set out in this Lease;
- 5.3.4 cause as little interference to the Tenant's business as reasonably practicable;
- 5.3.5 cause as little physical damage as reasonably practicable;

- 5.3.6 repair any damage that the Landlord causes as soon as reasonably practicable;
- 5.3.7 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;
- 5.3.8 remain upon the Premises for no longer than is reasonably necessary; and
- 5.3.9 where reasonably practicable, exercise any rights outside the normal business hours of the Premises.

## **6 Sustainability**

- 6.1 It is the intention of the Landlord and the Tenant to:
  - 6.1.1 promote the reduction of emissions;
  - 6.1.2 promote the reduction and recycling of waste; and
  - 6.1.3 ensure the environmental sustainability of resources, in order to improve, and be accountable for, the energy efficiency of the Centre.
- 6.2 In furtherance of that intention, the Landlord and the Tenant shall use their reasonable endeavours to:
  - 6.2.1 agree and comply with an energy management plan to aid the sustainability of resource use;
  - 6.2.2 agree and operate initiatives to reduce, re-use and recycle waste; and
  - 6.2.3 the Landlord and the Tenant shall maintain and share energy data and other information reasonably required to monitor energy and resource consumption for the purpose expressed in this Clause 6 (Sustainability).

## **7 Obligations in the Schedules to this Lease**

Subject to Clause 4.5 (Cesser of liability in respect of covenants), the Landlord and the Tenant mutually covenant to observe and perform their respective obligations and the conditions in the Schedules.

## **8 Expert Determination**

### **8.1 Application of provisions**

In this Lease, where any issue is required to be dealt with by, or submitted for the determination of, an independent expert, the following provisions of this Clause 8 (Expert determination) are to apply but, in case of conflict with other provisions specifically relating to expert determination elsewhere in this Lease, those other provisions are to prevail to the extent of the conflict.

## **8.2 Appointment of expert**

The expert is to be appointed by the parties jointly, or if they cannot or do not agree on the appointment, appointed, on the application of either party, by whichever of the following is appropriate:

- 8.2.1 the president from time to time of the Royal Institution of Chartered Surveyors; or
- 8.2.2 the president from time to time of the Institute of Chartered Accountants in England and Wales,

or in either case the duly appointed deputy of the president, or other person authorised by him to make appointments on his behalf.

## **8.3 Requirements of appointee**

The person so appointed is to:

- 8.3.1 act as an expert, and not as an arbitrator; and
- 8.3.2 must afford the parties the opportunity within such a reasonable time limit as he may stipulate to make representations to him (accompanied by professional rental valuations, reports or other appropriate evidence in the relevant circumstances) and permit each party to make submissions on the representations of the other.

## **8.4 Disclosure of evidence**

Neither the Landlord nor the Tenant may without the consent of the other disclose to the expert correspondence or other evidence to which the privilege of non-production ("without prejudice") properly attaches.

## **8.5 Fees and expenses of expert**

- 8.5.1 The fees and expenses of the expert, including the cost of his nomination, are to be borne as the expert may direct (but in the absence of such a direction, by the parties in equal shares), but (unless they otherwise agree) the parties shall bear their own costs with respect to the determination of the issue by the expert.
- 8.5.2 One party may pay the costs required to be borne by another party if they remain unpaid for more than 21 days after they become due and then recover these and any incidental expenses incurred from the other party on demand.

## **8.6 Death, incapacity and incapability of expert**

If the expert refuses to act, becomes incapable of acting or dies, the Landlord or the Tenant may request the appointment of another expert in his stead under Clause 8.2 (Appointment of expert).

**8.7 Status of expert's determination**

The determination of the independent expert, except in case of manifest error, is to be binding on the Landlord and the Tenant.

**9 Covenant status of this Lease**

This Lease is a new tenancy for the purposes of section 1 of the Landlord and Tenant (Covenants) Act 1995.

**10 Implied Rights of Enforcement by Third Parties Excluded**

**10.1 Exclusion of implied rights**

Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Lease under the Contracts (Rights of Third Parties) Act 1999.

**10.2 No third party consent before rescission or variation**

The parties may rescind or vary this Lease without the consent of a third party to whom an express right to enforce any of its terms has been provided.

**11 Registration of this Lease**

11.1 If this Lease should be registered at Land Registry the Tenant is to:

11.1.1 apply to register and take all reasonable steps to complete the registration as soon as reasonably possible; and

11.1.2 deliver to the Landlord within ten days of registration, official copy entries of the registered title evidencing that the Tenant is the registered proprietor of this Lease.

**EXECUTED AS A DEED** by the parties on the date which first appears in this Lease.

**Schedule 1**  
**The Premises**

**Part 1**  
**Description of the Premises**

1. The ground and first floors of Unit 4, Gray's Brewery Yard, 5 Springfield Road, Chelmsford, Essex as shown edged red on the Plan including:
  - 1.1. 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 Centre within or bounding the Premises;
  - 1.2. the shop front, fascia and all doors, windows and door and window frames;
  - 1.3. the plaster and other internal surfacing materials and finishes on any non-structural walls separating the Premises from any Common Parts;
  - 1.4. one half severed vertically of any non-structural walls separating the Premises from any adjoining Lettable Units;
  - 1.5. the entirety of any non-structural walls wholly within the Premises;
  - 1.6. 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;
  - 1.7. all tenant's fixtures; but
2. excluding:
  - 2.1. all load bearing and/or exterior walls and the floors and ceilings of the Premises (other than those included above);
  - 2.2. all structural parts of the Centre including (but not limited to) the foundations and roofs;
  - 2.3. the entirety (subject to paragraph 1.3) of any non-structural walls separating the Premises from any Common Parts;
  - 2.4. 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.

**Part 2**  
**Rights enjoyed with demise**

1. The grant of this Lease to the Tenant is with the benefit of the following easements, rights and privileges included in the demise in common with the Landlord and any other persons having the same or like rights, unless the right is expressed to be exclusive to the Tenant:
  - 1.1. the right of free and uninterrupted passage of gas, water, soil and electricity and other services to and from the Premises in and through the pipes, wires, sewers, channels and drains which

are now or may at any time hereafter be in, upon or under the adjoining parts of the Centre together with the right to connect into such pipes, wires, sewers, channels and drains;

1.2 the right to pass and repass over:

1.2.1 the Service Yard and Service Yard Access with or without vehicles, and

1.2.2 the Courtyard on foot only,

for access to and from the Premises, and for loading and unloading and otherwise servicing the Premises in the Service Yard subject to the Landlord's right to close the Courtyard, Service Yard and Service Yard Access:

1.2.3 on Christmas Day in every year in order to prevent the acquisition of public rights of way thereover; and

1.2.4 on Sundays and Bank and other official Public Holidays and any other times reasonably designated by the Landlord, in all cases for the purpose of carrying out any maintenance works;

1.3 the right to pass and repass at all times and for all reasonable purposes connected with the use and enjoyment of the Premises over and along:

1.3.1 the unloading area shown hatched blue on the plan annexed at Annex 1; and

1.3.2 the service corridor shown hatched brown on the plan annexed at Annex 1;

on foot only with or without hand propelled vehicles and trolleys;

1.4 the right of escape in the case of fire or other emergency through the Common Parts and along the escape routes designated by the Landlord from time to time through other parts of the Centre to a place of safety or the public highway;

1.5 the temporary right to connect into the electricity supply in the Common Parts for the purposes of commencing fit-out works at the Property until such time as the meter serving the Property (the "Meter") has been re-energised SUBJECT TO:-

1.5.1 the Tenant procuring that the re-energisation of the Meter is completed as promptly as possible, in accordance with relevant practices, codes and guidance and to the reasonable satisfaction of the Landlord;

1.5.2 the Tenant notifying the Landlord in writing promptly following re-energisation of the Meter; and

1.5.3 the Tenant covering the total costs of using the Common Parts electricity supply in accordance with right contained in this paragraph 1.4, such costs to be determined by the Landlord acting reasonably and to be paid on demand.

1.6 the right to support and protection from the remainder of the Centre;



- 1.7 where the relevant works cannot otherwise reasonably be carried out a right, with or without workmen, plant, machinery and equipment, to enter the Centre excluding the Lettable Units as necessary to perform its obligations under this Lease on reasonable prior written notice to the Landlord (save in an emergency) subject to causing as little interference as reasonable practicable to the operation and use of the Centre and complying with conditions reasonably imposed by the Landlord in making good all physical damage caused
- 1.8 the right to place tables and chairs on such part of the Courtyard marked by the seating plan annexed to this Lease at Annex 2;
- 1.10 the right to deposit rubbish in any receptacles or waste compactors within the Common Parts provided by the Landlord for that purpose and designated by the Landlord for the use of the Tenant;
- 1.11 subject to the Tenant complying with clause 3.9, to install Plant on the Plant Area with connections to the Premises, each approved by the Landlord in accordance with clause 3.9.6;
- 1.12 so exhibit the Tenant's trading name on any appropriate Centre directory board; and
- 1.13 the temporary right to erect scaffolding and for a crane to oversail part of the Centre for the purposes of undertaking the fit-out works at the Property subject to:-
  - 1.13.1. the provision by the Tenant of details, plans and specifications of the proposed oversailing and scaffolding satisfactory to the Landlord acting reasonably and without unreasonable delay;
  - 1.13.2 the works are undertaken in accordance with the provisions of this Lease and of a Licence for Alterations of even date;
  - 1.13.3 the Tenant will indemnify the Landlord for any damage, injury, death, loss, damage and against all actions, proceedings, claims, demands, liabilities, indirect or consequential losses, legal costs and all other costs properly suffered or incurred by the Landlord as a result of the erection of scaffolding or use of a crane provided for in this paragraph 1.13; and
  - 1.13.4 The Tenant shall procure that the works cause as little nuisance or interference as reasonably practicable to the other tenants of the Centre or the Landlord and shall ensure the works are undertaken as promptly as possible.

### **Part 3**

#### **Exceptions and reservations**

- 1 There are excepted and reserved to the Landlord:
  - 1.1 the full and free right to erect rebuild and/or alter as it may think fit at any time and from time to time any buildings on any land adjoining or contiguous to the Premises and/or on the opposite sides of the adjoining streets and access ways whether the same form part of the Centre or not and to use the same as it may think fit provided that the access of light and air to the Premises is not materially interfered with;
  - 1.2 the free passage and running of gas water soil electricity and other services to and from any other buildings and land now or at any time hereafter adjoining or near the Premises (whether

or not forming part of the Centre) in and through the pipes wires sewers channels and drains which are now or may at any time hereinafter be in on or under the Premises;

- 1.3 full right and liberty to enter (without being responsible for any disturbance to trade) upon the Premises at all reasonable times upon giving prior reasonable notice (except in an emergency) for the purpose of inspecting cleaning renewing repairing and making connections to any pipes wires sewers channels or drains or for executing works to the same or to any neighbouring lands or buildings (whether or not forming part of the Centre) causing as little inconvenience, disturbance, and interference as is practicable and making good all damage thereby caused to the Premises;
- 1.4 the right to support and protection from the remainder of the Centre;
- 1.5 all rights of light and air; and
- 1.6 the grant of this Lease does not include any liabilities, privileges, easements, rights or advantages over any part of any adjoining property unless expressly included in Schedule 1, Part 2 (Rights enjoyed with demise)

#### **Part 4** **Encumbrances**

The matters contained or referred to in the Property and Charges Registers of title number EX253385 so far as they relate to the Premises and are capable of being enforced,.

## Schedule 2

### Rent reviews

#### 1 The Review Dates

The yearly rent payable under this Lease is to be reviewed on the expiry of the fifth year and the tenth year of the Term (referred to in this Schedule 2 (Rent reviews)) as the “**review dates**” and the “**relevant review date**” shall be construed accordingly) and with effect on and from the relevant review date, the reviewed rent (as agreed or determined in accordance with this Schedule 2 (Rent reviews)) is to become payable as the yearly rent reserved by this Lease.

#### 2 Upward only Rent Reviews

2.1 The reviewed rent is to be the greater of:

2.1.1 the yearly rent reserved under this Lease immediately preceding the relevant review date; and

2.1.2 the market rent of the Premises at the relevant review date.

#### 3 The Market Rent

3.1 For the purposes of this Lease, the expression “**market rent**” means the yearly rent at which the Premises might reasonably be expected to be let in the open market by a willing landlord to a willing tenant:

3.1.1 with vacant possession;

3.1.2 for a term of 15 years from the relevant review date having a rent review, in the same terms as this Lease, except for the amount of the yearly rent reserved and any rent free period, rent concession or any other inducement received by the Tenant in relation to the grant of the Lease, at the expiry of each period of five years throughout that term;

3.1.3 without the payment of a premium by the willing tenant;

3.1.4 on the basis that on the grant of the lease, the willing tenant would receive as a term of the letting such a rent-free or concessionary rental period, or other inducement, as the willing landlord would negotiate with the willing tenant in the open market for fitting out purposes, and the rate of the market rent payable by the Tenant from the review date would be such as the willing tenant would pay at the expiry of the rent-free or concessionary rental period, or following the receipt of the inducement; and

3.1.5 on the terms of this Lease, other than the length of the term and the amount of rent and any break clause, but including these provisions for rent review,

but on the assumption, if not the fact, that at the relevant review date:

3.1.6 the Premises are ready for fitting-out by the willing tenant for the purposes of its business but, by the time of the relevant review date, the willing tenant has received and enjoyed the full benefit of such a rent-free or other allowance made in respect of the time taken for fitting-out of the Premises for the purposes of its business as would

be made or allowed by a willing landlord on the open market on the grant of the lease to the willing tenant;

- 3.1.7 in case the Premises have been destroyed or damaged (or made unfit for use and occupation by reason of damage to the Centre) they have been fully reinstated (or rendered fit for use and occupation);
- 3.1.8 the covenants of the Tenant and the Landlord have been fully observed and performed (except to the extent that there has been a material or persistent breach by the Landlord);
- 3.1.9 there is not in operation any statute, order or instrument, regulation or direction which has the effect of regulating or restricting the amount of rent of the Premises which might otherwise be payable;
- 3.1.10 the willing tenant and anyone who may become the tenant is a taxable person who makes only taxable supplies and no exempt supplies (words and expressions used in this paragraph 3.1.10 having the meanings assigned to them respectively in the Value Added Tax Act 1994 and the regulations made under that Act) and that demand for the Premises on the open market would not be reduced by reason of the Landlord having elected to waive exemption from value added tax in respect of them.

#### **4 Matters to be disregarded**

- 4.1 In agreeing or determining the market rent, the effect upon it of the following matters is to be disregarded:
  - 4.1.1 the occupation of the Premises by the Tenant and any predecessors in title and lawful occupiers;
  - 4.1.2 any goodwill attached to the Premises by reason of the carrying on at the Premises of the business of the Tenant and of any predecessors in title and lawful occupiers ;
  - 4.1.3 any special bid that the Tenant with a special interest in the Premises might make by reason of its occupation of any other part of the Centre or any adjoining premises;
  - 4.1.4 any improvements and alterations, including any tenant's initial fitting out works, whether or not within the Premises made by the Tenant before or during the Term with the consent, where required, of the Landlord or the Landlord's predecessors in title, other than those:
    - (a) made in pursuance of an obligation to the Landlord (other than any works carried out pursuant to Clause 3.17 (Compliance with statutes, etc) which works will be disregarded in any event) (but any obligation 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); and

4.1.5 any works carried out by the Tenant which have diminished the market rent,

and in this paragraph 4 (Matters to be disregarded), reference to the “Tenant” includes predecessors in title to the Tenant, and sub-tenants of the Tenant or any of their respective predecessors in title or any other lawful occupiers.

## **5 Procedure for determination of Market Rent**

- 5.1 The market rent may be agreed by the Landlord and the Tenant at any time, and the Landlord and the Tenant are to endeavour to agree the market rent at any time not being earlier than 12 months before the relevant review date, but if they have not agreed the market rent three months before the relevant review date the amount of the market rent is to be determined by reference to the determination of an independent expert.
- 5.2 The expert shall be nominated by the Landlord and the Tenant jointly, but, if they cannot or do not do so, then he shall be nominated by the president for the time being of the Royal Institution of Chartered Surveyors on the application either of the Landlord or of the Tenant.
- 5.3 The provisions of Clause 8 (Expert determination) are to apply to the determination of the expert to the extent that they do not conflict with the requirements of this paragraph 5 (Procedure for determination of market rent).
- 5.4 The expert nominated is to be a chartered surveyor having not less than ten years' experience of leasehold valuation of property being put to the same or similar use as the Premises and of property in the same region in which the Premises are situated.
- 5.5 If the expert refuses to act, becomes incapable of acting or dies, the Landlord or the Tenant may request the appointment of another arbitrator as provided in paragraph 5.1.

## **6 Time Limits**

- 6.1 Time is not of the essence in agreeing or determining the reviewed rent or of appointing an expert.

## **7 Rental Adjustments**

- 7.1 If the market rent has not been agreed or determined in accordance with the provisions of this Schedule 2 (Rent reviews) before the relevant review date, then, until the market rent has been so agreed or determined, the Tenant will continue to pay, on account, rent at the rate of yearly rent payable immediately before the relevant review date.
- 7.2 The Tenant will pay to the Landlord, within seven working days after the time that the market rent has been agreed or determined, all arrears of the reviewed rent which have accrued in the meantime, with interest equal to the base rate of Barclays Bank PLC on each of the instalments of the arrears from the time that it would have become due if the market rent had then been agreed or determined until payment becomes due from the Tenant to the Landlord under this paragraph 7 (Rental adjustments).

## **8 Reviewed Rent Reserved in phases**

The Landlord and the Tenant may, at any time before the market rent is determined by an expert, settle the reviewed rent in more than one amount and agree to reserve the amounts increasing in phases until the next review date or, if none, the expiry of the Term.

**9 Memorandum of Rent Review**

The parties shall cause a memorandum of the reviewed rent duly signed by the Landlord and the Tenant to be endorsed on or securely annexed to this Lease and the counterpart of this Lease.

### Schedule 3 Insurance provisions

#### 1 Insured Risks and other Definitions

- 1.1 **“Insured Risks”** means the risks and other contingencies against which the Premises and the Centre are required to be, or which may be, insured under this Lease, but subject to any exclusions, limitations and conditions in the policy of insurance.
- 1.2 Insured Risks include (without limitation) fire, lightning, explosion, storm, tempest, flood, bursting and overflowing of water tanks, apparatus or pipes, earthquake, aircraft (but not hostile aircraft) and devices dropped from aircraft, riot and civil commotion, malicious damage, acts of terrorism and such other normal commercial risks as the Landlord may reasonably consider it prudent to insure.
- 1.3 If a risk or contingency itemised, or otherwise included, as an Insured Risk, can no longer be insured in the London Insurance Market, or in the Landlord’s reasonable opinion can no longer be insured at reasonably commercial rates and on reasonably commercial conditions the risk or contingency shall cease to be treated as an Insured Risk from the time that cover is withdrawn until cover again becomes available in the London Insurance Market.
- 1.4 In this Schedule 3 (Insurance provisions):
- 1.4.1 references to the Centre and the Premises include alterations, additions and improvements only if made by or at the expense of the Landlord or which the Landlord and the Tenant expressly agree to treat as landlords’ fixtures and fittings following notification by the Tenant in accordance with paragraph 3.5, but does not include tenants’ fixtures and fittings;
- 1.4.2 references to the act or default of the Tenant include the act or default of any person deriving title under or through the Tenant or its or their respective employees, agents and visitors but shall exclude persons at the Premises on behalf of or at the direction of the Landlord;
- 1.4.3 references to **“vitiating by the Tenant”** include any event occurring by the act or default of the Tenant (to be interpreted as in paragraph 1.4.2) as a result of which the insurance monies otherwise payable under the policy of insurance of the Landlord become wholly or partially irrecoverable, and **“vitiate”** and **“vitiating”** have corresponding meanings; and
- 1.4.4 references to damage or destruction of the Premises and the Centre include the essential means of access to and egress from the Premises in the ownership of the Landlord.

#### 2 Tenant’s Liability for Insurance Premiums

- 2.1 The Tenant is to pay to the Landlord within 14 days of receipt of a written demand the due proportion of the insurance premiums incurred by the Landlord.

2.2 Insurance premiums are to include all monies expended, or required to be expended by the Landlord in effecting and maintaining cover against:

2.2.1 Insured Risks;

2.2.2 loss of the rent and additional rent reserved by this Lease (making due allowance for increases provided for in Schedule 2 (Rent reviews) for three years;

2.2.3 such professional fees as may be reasonably and properly incurred in connection with rebuilding or reinstatement of the Centre;

2.2.4 the costs of demolition, shoring up, and site clearance works;

2.2.5 employers', third party and public liability risks;

2.2.6 value added tax liability on such items.

And are to include (without limitation) tax charged on the premiums for these insurances.

2.3 The insurance cover may take into account cover for the effects of inflation and escalation of costs and fees, the Landlord's estimate of the market rent of the Premises as defined in Schedule 2 (Rent reviews) in the context of ensuing rent reviews and the termination of this Lease.

2.4 The Tenant is to pay to the Landlord the due proportion of the professional fees for insurance valuations of replacement cost carried out at reasonable intervals but not more frequently than once in every three years.

2.5 The due proportion of the insurance premiums for which the Tenant is liable is to be such fair and reasonable proportion of the premiums incurred with respect to the Centre as may fairly be attributed to the Premises by the Landlord or the Landlord's surveyor, and the apportionment may as appropriate take into account:

2.5.1 the net internal area (as defined in the Measuring Code) of the Premises relative to the aggregate net internal areas in the Centre;

2.5.2 the different uses to which the various parts of the Centre are put and the degree of special risk associated with those uses;

2.5.3 the cost of complying with requirements of the insurer;

2.5.4 an increase in the insurance premiums or expense of renewal resulting from any act or omission of the Tenant or any person occupying or enjoying the use of the Premises through or under the Tenant;

2.5.5 risks and contingencies that apply only to the Tenant; and

2.5.6 such other matters as may properly affect the apportionment of insurance premiums between the various tenants and occupiers of the Centre,



and the apportionment may where appropriate attribute the whole of a premium, or an increase in premium, to the Tenant, and the decision of the Landlord or the Landlord's surveyor (acting fairly) in making apportionments (except in the case of manifest error) is to be conclusive. In this Schedule 3 (Insurance provisions) "**due proportion**" is to be interpreted accordingly.

- 2.6 The Landlord may retain any discount on the insurance premiums or commission offered to it by its insurer for its exclusive benefit.

### **3 Tenant's Obligations in relation to Insurance Cover**

- 3.1 The Tenant is not to do anything which may render void or voidable the insurance of the Landlord on the whole or a part of the Centre or which may cause insurance premiums to be increased.
- 3.2 The Tenant is to adopt such precautions against the Insured Risks as the Landlord or its insurers may reasonably consider appropriate and comply with the requirements of the Landlord's insurers in all other respects.
- 3.3 If the insurance of the Landlord is vitiated by the Tenant, the Tenant shall pay to the Landlord on demand a sum equal to the amount of the insurance monies which has in consequence become irrecoverable.
- 3.4 The Tenant may not insure the Premises for any of the Insured Risks in such a manner as would permit the insurer of the Landlord to average the proceeds of insurance or cancel insurance cover.
- 3.5 The Tenant is to notify the Landlord of the full reinstatement cost of any fixtures and fittings installed at the Premises at the cost of the Tenant which become landlord's fixtures and fittings.
- 3.6 The Tenant is to notify the Landlord immediately upon becoming aware of the occurrence of damage to the Premises by any of the Insured Risks.
- 3.7 If the Centre is damaged by Insured Risks, the Tenant is to pay to the Landlord on demand the due proportion of the amount of any uninsured excess to which the insurance cover of the Landlord is subject.
- 3.8 The obligations of the Tenant to repair, and to yield up in repair, the Premises, are to remain operative to the extent that the insurance of the Landlord in respect of Insured Risks is vitiated by the Tenant.

### **4 Landlord's Obligation to Insure and Reinsure**

- 4.1 The Landlord is to keep the Centre insured with an insurer of repute against Insured Risks and other items referred to in paragraph 2.2 for the full cost of reinstatement, subject to such uninsured excess as the insurer may reasonably apply.
- 4.2 Following damage to or destruction of the Centre by an Insured Risk, the Landlord is to diligently and with all due speed apply, or procure the application of, the proceeds of the insurance covering reinstatement and rebuilding costs for those purposes, and will make good any deficiency in the proceeds of the insurance out of its own resources.

4.3 The obligations of the Landlord in paragraph 4.2 do not apply:

4.3.1 if the Landlord is unable, after using its reasonable endeavours to do so, to obtain any requisite planning permission or other consents for the reinstatement or rebuilding of the Centre or of a building of similar size, character and amenity;

4.3.2 if the Landlord's insurance is vitiated by the Tenant unless and until the Tenant has paid all sums due from it under paragraph 3.3; or

4.3.3 if this Lease is, or is to be, determined under paragraph 7.1.

4.4 Where the Centre is substantially damaged or destroyed, the Tenant may not object to the reinstatement or rebuilding of the Centre in a form which is not identical to the Centre immediately before the damage or destruction occurred, if the Centre as reinstated or rebuilt is of at least an equivalent or similar standard, and affords amenities which are not inferior to or deficient from those enjoyed by the Tenant before the damage or destruction.

## **5 Landlord's Obligations in relation to Insurance**

5.1 The Landlord is to use its reasonable endeavours to procure that its insurers:

5.1.1 waive entitlement to rights of subrogation against, the Tenant, its sub-tenants and persons lawfully occupying the Premises through or under the Tenant and their respective employees, workmen, agents and visitors ("**its lawful occupiers**"); and

5.1.2 incorporate a non-invalidating provision in respect of the Tenant and its lawful occupiers on such terms as the insurer may stipulate.

5.2 The Landlord is to notify its insurers of the interest of the Tenant in the Premises and have it noted on the policies of insurance or by a general noting under the conditions of the policies.

5.3 The Landlord is on request (but not more than once each year) to provide the Tenant with a copy of its insurance policies (or other evidence of the conditions of insurance) on the Centre, and (at the request of the Tenant) with a receipt for the payment of the last premium or other evidence of renewal and up-to-date details of the amount of cover.

5.4 The Landlord is to promptly notify the Tenant of any changes in its insurance cover or of the terms on which cover has been effected.

## **6 Suspension of Rent**

6.1 Paragraph 6.2 applies if the Centre or any part of it is at any time during the Term so damaged by an Insured Risk or an Uninsured Risk as to render the Premises or any part of them or access thereto (where suitable alternative means of access have not been provided) unfit for occupation, use or enjoyment, or inaccessible, except in the circumstances and to the extent that insurance cover is vitiated by the Tenant.

6.2 The rent and additional rent reserved by this Lease, or a fair proportion of it according to the nature and extent of the damage sustained, is to be suspended and cease to be payable until the Premises (excluding fitting-out works and replacement of contents) have been reinstated

and made fit for occupation and use and enjoyment and accessible, or, if earlier, until the expiry of three years from the occurrence of the damage.

- 6.3 A dispute as to the amount of the abatement of the rent or the duration of the period of abatement is to be submitted to a single arbitrator, by whose decision the parties are to be bound, who is to be appointed by the parties jointly or, if they do not agree on the appointment, by the president for the time being of the Royal Institution of Chartered Surveyors (at the request of either party) and the arbitration is to be conducted under the Arbitration Act 1996.
- 6.4 The Premises are not to be treated as incapable of occupation and use by reason only that tenants' fixtures and fittings have not been reinstated and replaced.
- 6.5 If paragraph 6.2 applies before the Rent Commencement Date, the number of days between the date of the damage as referred to in paragraph 6.1 and the Rent Commencement Date (or where only a proportion of the rent 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.
- 6.6 The Landlord shall repay to the Tenant such proportion of the yearly rent paid in advance relating to the period from the date of damage or destruction within 1 month from the date of damage or destruction.

## **7 Options to determine – Insured Risks**

- 7.1 If the Centre or a substantial part of it (whether or not directly affecting the Premises) is destroyed or damaged by an Insured Risk so as to make continued use of the Premises impracticable and/or if for any reason beyond the control of the Landlord it proves impracticable to commence rebuilding or reinstatement of the Centre within two years of the damage by an Insured Risk, the Landlord may terminate this Lease by giving to the Tenant notice to that effect.
- 7.2 If the rebuilding or reinstatement of the Centre has not been substantially completed so as to enable use of the Premises by the Tenant for the purposes permitted by this Lease and accessible, within two and a half years after the occurrence of the damage by an Insured Risk, the Tenant may at any time thereafter give not less than six months' notice to the Landlord to terminate this Lease, and if the rebuilding and reinstatement work has not completed in accordance with this paragraph within six months of the giving of the notice, this Lease is to terminate at the expiry of the notice.
- 7.3 On the expiry of a notice of termination given under this paragraph 7 (Options to determine – Insured Risks), this Lease will terminate unless provided otherwise, but without affecting any liability arising from a breach of covenant or condition which has occurred before then.

## **8 Uninsured Risks**

- 8.1 In this paragraph 8 (Uninsured Risks), an “**Uninsured Risk**” means:
  - 8.1.1 any risk, or some aspect of any risk, which would be covered by the risks itemised in the definition of “Insured Risks” but which:

- (a) is excluded from being so by reason of withdrawal of cover by the insurer and which is not otherwise available to be insured on the London Insurance Market;
  - (b) is withdrawn from cover by the Landlord on the grounds that cover cannot be placed on the London Insurance Market at reasonably commercial rates and on reasonably commercial conditions; but
- 8.1.2 an Insured Risk does not become an Uninsured Risk for the purposes of this paragraph 8.1 by reason only of:
  - (a) being excluded, or partially excluded, from cover due to standard exclusion provisions on the policy;
  - (b) standard exclusion provisions in relation to a level of excess on the policy; or
  - (c) rejection by the insurer of liability, or some part of it, due to vitiation by the Tenant.
- 8.2 The provisions of this paragraph 8.2 apply if the Premises are destroyed or damaged by an Uninsured Risk so as to make the continued use of the Premises impracticable.
- 8.3 If the Landlord elects to rebuild or reinstate the Premises by giving notice to the Tenant to that effect:
  - 8.3.1 the Landlord is as soon as may reasonably be practicable to use its reasonable endeavours to rebuild or reinstate the Premises providing the cost of doing so out of its own resources;
  - 8.3.2 the damage or destruction shall be treated as if caused by an Insured Risk and paragraph 4.4 is to apply;
- 8.4 The provisions of paragraph 6.2, paragraph 6.3, paragraph 6.4 and paragraph 6.5 are to apply with effect from the date of the destruction or damage.
- 8.5 The Landlord may at any time before it has made an election under paragraph 8.3 decide not to rebuild or reinstate the Premises and may accordingly terminate this Lease by giving notice to the Tenant to that effect to expire immediately.
- 8.6 If the Landlord has not made an election under paragraph 8.3 within six months after the date of damage or destruction of the Premises, the Tenant may terminate this Lease by giving to the Landlord notice to that effect at any time thereafter to expire immediately unless the Landlord has made such an election in the meantime.
- 8.7 If the Landlord has not commenced rebuilding or reinstating the Premises within six months after making the election under paragraph 8.3, the Tenant may terminate this Lease by giving to the Landlord notice to that effect at any time thereafter to expire immediately or at the end of such period as the notice specifies, unless the Landlord has commenced the works of rebuilding or reinstating the Premises in the meantime.

- 8.8 If the Landlord has not practically completed the works of rebuilding or reinstating the Premises (as evidenced by the issue of the certificate or statement of practical completion under the building contract for the works) within the period of three years after making the election under paragraph 8.3, the Tenant may terminate this Lease by giving to the Landlord notice to that effect to expire at any time thereafter unless practical completion has taken place before the expiry of the notice.
- 8.9 On the expiry of any notice of termination given under this paragraph 8.9, this Lease will terminate unless provided otherwise, but without affecting any liability arising from a breach of covenant or condition which has occurred before then.

**9 Retention of Insurance Proceeds**

On the termination of this Lease under paragraph 7 (Options to determine – Insured Risks), or if this Lease is terminated by the operation of the doctrine of frustration, the Landlord is to be entitled to retain the proceeds of insurance for its exclusive benefit.

## Schedule 4

### Service charge provisions

#### Part 1

#### Obligations of the parties

#### 1 Tenant's Liability to pay Service Charge

The Tenant is to pay to the Landlord the due proportion (as defined below) of the total cost ("**service charge**") to the Landlord in any service charge period beginning or ending during the Term of providing the services specified in Schedule 4, Part 2 (Essential services and heads of charge) and Schedule 4, Part 3 (Discretionary services and heads of charge) and defraying the costs and expenses relating and incidental to such services.

#### 2 Definition of "Due Proportion"

2.1 In this Schedule 4 (Service charge provisions) the expression "**due proportion**" means, in relation to the service charge, the fair and reasonable proportion which is attributable to the Premises.

2.2 The due proportion is the fair proportion which the Net Internal Area the Premises bears to the aggregate Net Internal Area of all the units (including the Premises) from time to time in the Centre, which are designed, or intended for, or are the subject of a commercial letting, and which from time to time are entitled to, or do enjoy the benefit or use, of all or any of the matters in respect of which expenditure under such head has been incurred, and such proportionate part shall be determined by the Landlord or its agents. A "**management area**" for these purposes is a part of the Centre used for administration, security and/or control maintained by the Landlord for the purposes of managing the Premises and providing the services.

2.3 If the comparison in paragraph 2.2 is inappropriate having regard to the nature of any expenditure or item of expenditure incurred, or the premises in the Centre which benefit from it or otherwise, the Landlord may in its reasonable discretion:

2.3.1 adopt such other method of calculation of the proportion of the expenditure to be attributed to the Premises as is fair and reasonable in the circumstances; and

2.3.2 in the exercise of its discretion, the Landlord may, if it is appropriate:

(a) attribute the whole of the expenditure to the Premises; and

(b) make special attributions in the case of Sunday or other extended trading where only some occupiers of or traders in the Centre elect to trade throughout the year, at certain times of the year, during public holidays or outside normal trading hours,

but the Landlord is not required to take into account the length of the term or unexpired residue of the term of any tenancy in the Centre.

#### 3 Advance Payments on Preliminary Basis

- 3.1 The due proportion of the service charge is to be discharged by means of advance payments to be made on the rent payment dates under this Lease and by such additional payments as may be required under paragraph 4 (Service charge accounts and adjustments) and paragraph 5 (Unbudgeted expenditure).
- 3.2 The amount of each advance payment is to be the sum the Landlord may reasonably determine as equal in aggregate to the due proportion of the service charge for the relevant service charge period.
- 3.3 The Landlord is to use all reasonable endeavours at least one month before the relevant service charge period both to provide the Tenant with an estimate of likely service charge expenditure and appropriate explanatory commentary, and to notify the Tenant of the advance payment determination in accordance with paragraph 3.2.
- 3.4 Until the Landlord gives notification of the advance payment determination for the relevant service charge period, the Tenant is to pay on account of each advance payment a sum equal to the amount of the last estimated quarterly advance payment in the previous service charge period and following the expiry of one month from the date notification of the advance payment determination is made, is to pay the balance (if any) of the amount of the relevant advance payment for the current service charge period.
- 3.5 For the purposes of this Schedule 4 (Service charge provisions) “**service charge period**” means the period of 12 months from 1 January to 31 December in each year (or such other period as the Landlord may from time to time determine).
- 3.6 The service charge is to be treated as accruing on a day-to-day basis in order to ascertain yearly rates and for the purposes of apportionment in relation to periods other than one year.

#### **4 Service Charge Accounts and Adjustments**

- 4.1 In this Schedule 4 (Service charge provisions) “**Service Charge Code**” means the RICS Code of Practice on Service Charges in Commercial Leases Second Edition.
- 4.2 The Landlord is, as soon as may be practicable and in any event within four months after the end of each service charge period, to submit to the Tenant a statement duly certified by the Landlord’s accountant or surveyor giving a proper summary of the service charge for the service charge period just ended and is, so far as is reasonably practicable to do so, to endeavour to ensure that the form, content and time of delivery of that statement and summary reflect the principles of best practice guidance of the Service Charge Code.
- 4.3 If the due proportion of the service charge as certified is more or less than the total of the advance payments (or the grossed-up equivalent of such payments if made for any period of less than the service charge period), then any sum due to, or payable by, the Landlord by way of adjustment shall promptly be paid or allowed as the case may be.
- 4.4 The provisions of this paragraph 4 (Service charge accounts and adjustments) are to continue to apply, notwithstanding the termination of this Lease, in respect of any service charge period then current.

4.5 Within four months after the submission by the Landlord of the statement referred to in paragraph 4.2, the Tenant may challenge that statement by giving to the Landlord notice to that effect, but only if it has first made payment of the undisputed amount of any service charge that the statement shows as due from the Tenant and, if so:

4.5.1 the Landlord is to deal promptly with proper enquiries in relation to it and the Landlord and the Tenant are to endeavour to resolve the relevant issue, but if they cannot do so;

4.5.2 the issue in dispute shall be referred to the determination of an independent expert:

- (a) to be appointed by the parties jointly, or if they cannot agree an appointment by the President (or other acting senior officer for the time being) of the Royal Institution of Chartered Surveyors on the request of either party;
- (b) who is to act as an expert and not as an arbitrator;
- (c) whose determination is to be final and binding on the parties except in the case of manifest error;
- (d) whose fees and expenses (including the cost of his nomination) is to be borne as the expert determines (but in the absence of determination they are to be borne equally) and the Landlord and the Tenant are each to bear their own costs with respect to the determination, but either may pay the costs required to be borne by the other if they remain unpaid more than 21 days after becoming due and then recover these and any incidental expenses incurred from the party in default on demand; and
- (e) who, in the event of his refusing to act, becoming incapable of acting or dying, may be replaced by either party requiring the appointment of a replacement as provided in paragraph 4.5.2(a); and

4.5.3 such adjustments to the statement as may be required to be made in consequence of the determination of the expert are to be made and any sum due to or payable by the Landlord is promptly to be paid or allowed as the case may be;

but, if not, the Tenant's right of challenge to that statement is to lapse.

4.6 The Tenant is entitled to:

4.6.1 inspect the service charge records and vouchers of the Landlord at such location as the Landlord may reasonably appoint for the purpose during normal working hours on weekdays; and

4.6.2 at the Tenant's expense take copies of them.

## **5 Unbudgeted Expenditure**

5.1 If the Landlord is required during any service charge period to incur or actually incurs unbudgeted expenditure which forms part of the service charge, the Landlord is to be entitled



to recover from the Tenant the due proportion of the service charge representing the whole of that expenditure on the quarter day next following.

- 5.2 If funds collected by way of advance payments of service charge prove insufficient to meet an immediate liability (and there is no reserve fund available, or which may be applied, to meet the liability, and the circumstances arose otherwise than as mentioned in paragraph 9.3), the Landlord is to be entitled:

5.2.1 to borrow monies for the purpose from reputable banks at commercially competitive rates of interest, and the interest payable on the borrowing is to be recoverable as an item of the service charge; or

5.2.2 (where the Landlord funds the liability itself) to apply a commercially competitive rate of interest to those funds and the interest so applied is to be recoverable as an item of the service charge.

## **6 Sinking Funds and Reserves**

- 6.1 With a view to securing so far as may reasonably be practicable that the service charge shall be progressive and cumulative rather than irregular and that tenants for the time being shall bear a proper part of accumulating liabilities which accrue in the future, the Landlord is entitled to include, as an item of service charge for any service charge period, an amount which the Landlord reasonably determines is appropriate to build up and maintain a sinking fund and a reserve fund in accordance with the principles of good estate management.

- 6.2 Any sinking fund is to be established and maintained on normal commercial principles for the renewal and replacement of lifts, plant, machinery and equipment in the Centre.

- 6.3 Any reserve fund is to be established and maintained to cover prospective and contingent costs of carrying out repairs, decoration, maintenance and renewals and of complying with statutes, bylaws, and regulations of all competent authorities and of the insurers in relation to the use, occupation and enjoyment of the Centre.

## **7 Advance Payments Deposit Account**

- 7.1 This paragraph 7 (Advance payments deposit account) applies to that part of the monies ("**relevant monies**") paid by the Tenant and other tenants and occupiers of the Centre by way of service charge which has not yet been disbursed in payment of the costs and expenses of providing services in and to the Centre.

- 7.2 The Landlord will keep the relevant monies in a separate account until and to the extent that they may be required for disbursement in payment of the costs and expenses of providing services in and to the Centre.

- 7.3 Interest earned upon such account (less any tax payable) is to be credited to the account at regular rests in each year.

- 7.4 Until actual disbursement, the relevant monies are to be held by the Landlord for the benefit of the owners and occupiers of the Centre as a class.

## **8 Landlord's Protection Provisions**

- 8.1 The Tenant is not entitled to object to the service charge (or any item comprised in it) or otherwise on any of the following grounds:
- 8.1.1 the inclusion in a subsequent service charge period of any item of expenditure or liability omitted from the service charge for any preceding service charge period;
  - 8.1.2 an item of service charge included at a proper cost might have been provided or performed at a lower cost;
  - 8.1.3 disagreement with any estimate of future expenditure for which the Landlord requires to make provision (so long as the Landlord has acted reasonably and in good faith and in the absence of manifest error);
  - 8.1.4 the manner in which the Landlord exercises its discretion in providing services (so long as the Landlord acts in good faith and in accordance with the principles of good estate management);
  - 8.1.5 the employment of managing agents to carry out and provide services under this Schedule 4, Part 1 (Obligations of the parties) on the Landlord's behalf;
  - 8.1.6 the Landlord is not concerned in the administration of or accounting for the service charge on an assignment of this Lease, and accordingly the Landlord:
    - (a) is not required to make any apportionment relative to the assignment; and
    - (b) is entitled to deal exclusively with the Tenant in whom this Lease is for the time being vested (and for this purpose in disregard of an assignment of this Lease which has not been registered in accordance with Clause 3.11 (Registration of dispositions of this Lease)).

## **9 Tenant's Protection Provisions**

- 9.1 The following liabilities and expenses are to be excluded from the items comprising the service charge:
- 9.1.1 initial costs (including leasing of initial equipment) incurred in relation to the original design and construction of the Centre and in relation to the plant and equipment serving or used in the Centre;
  - 9.1.2 costs attributable to the initial establishment of services to the Centre that are reasonably to be considered part of the original development cost of the Centre;
  - 9.1.3 costs incurred in relation to the marketing of empty lettable space in the Centre;
  - 9.1.4 costs of collecting rents and additional rents and of reviewing rents payable by tenants or occupiers of the Centre;
  - 9.1.5 costs of administering applications for consent to assign, sub-let or alter by tenants or occupiers of the Centre;

- 9.1.6 costs directly attributable to the breach, non-observance or non-performance by the Landlord of its obligations in paragraph 11 (The Landlord's obligation to provide services) but such costs are to be excluded only to the extent that they would not have been incurred in the absence of the breach, non-observance or non-performance;
  - 9.1.7 any liability or expense for which the Tenant or other tenants or occupiers of the Centre may individually be responsible under the terms of the tenancy (or other arrangement by which they use or occupy the Centre); and
  - 9.1.8 recoverable VAT.
- 9.2 The costs of replacement and renewal may only be included as items comprising the service charge if:
- 9.2.1 the relevant items are beyond, or are shortly to become beyond, economic repair;
  - 9.2.2 the relevant items are beyond, or are shortly to become beyond, efficient or economic operation, or are coming to the end of their projected useful life; or
  - 9.2.3 replacement or renewal can be effected at a relatively low cost compared with the much greater cost that would probably be occasioned by material postponement.
- 9.3 The due proportion of the service charge may not be increased or altered by reason only that, at any relevant time, any part of the Centre may be vacant or be occupied by the Landlord, or that any tenant or other occupier of another part of the Centre may default in payment, or not be bound to pay, the full amount of its due proportion of the service charge.
- 9.4 If there is any change in the extent of the Centre, the Landlord must, where it is appropriate to do so, vary the due proportion as is reasonable to take account of that change but the due proportion allocated to the Premises will not materially increase solely as a result of any change in the extent of the Centre.
- 9.5 If the Landlord recovers monies, in exercise of its duties referred to in this Schedule 4, Part 2 (Essential services and heads of charge) paragraph 2 (Soft Services) representing expenditure which has been or which would otherwise fall to be included in the service charge, the Landlord will set off or credit such monies against the service charge accordingly.
- 9.6 Where the Landlord recovers interest for late payment in enforcement of the obligation of any tenant or other occupier of any part of the Centre to pay the full amount of its due proportion of the service charge, the Landlord is to set off or credit the interest (or a due proportion) (less any tax paid) against the service charge unless and to the extent that the Landlord has funded the liability itself.
- 9.7 The proportion of promotional expenditure incurred in accordance with this Schedule 4, Part 3 (Discretionary services and heads of charge), paragraph 2 (Soft services) and borne by the Landlord out of its monies is to be set out in the service charge statement prepared and certified in accordance with Schedule 4, Part 1(Obligations of the parties) paragraph 4.2.

- 9.8 For the purposes of this Schedule 4 (Service charge provisions) where barrows and kiosks situate from time to time within the Common Parts derive a benefit from the services specified in this Schedule 4, Part 2 (Essential services and heads of charge) and this Schedule 4, Part 3 (Discretionary services and heads of charge) the Landlord is to set off or credit the service charge in an amount which reflects in the Landlord's reasonable determination a notional proportionate charge for the benefit so derived, but the income otherwise derived from such barrows and kiosks is to belong to the Landlord.

## **10 Management Charges**

- 10.1 The Landlord is entitled to include in the service charge:
- 10.1.1 a reasonable fee for the provision of services where the services are not carried out by managing agents or others;
  - 10.1.2 the reasonable cost of employing managing agents for the carrying out and provision of services under this Schedule 4 (Service charge provisions); and
  - 10.1.3 the reasonable cost of the accountants or auditors for auditing the service charge or providing other services in connection with the service charge.

## **11 The Landlord's Obligation to provide services**

- 11.1 Subject to the payment of the due proportion of the service charge by the Tenant in the manner required and at the times required under this Lease and to the following provisions of this paragraph 11 (The Landlord's obligation to provide services), the Landlord is to provide the services specified in this Schedule 4, Part 2 (Essential services and heads of charge) and may provide the services specified in this Schedule 4, Part 3 (Discretionary services and heads of charge).
- 11.2 The Landlord is not to be liable to the Tenant for failure to provide any services in this Schedule 4, Part 2 (Essential services and heads of charge) to the extent that the Landlord is prevented from doing so by Insured Risks and other perils, accidents, strikes, lock-outs of workmen or other cause beyond the Landlord's control PROVIDED THAT the Landlord shall use reasonable endeavours to restore such services as soon as reasonably practicable.
- 11.3 The Landlord is not to be under any obligation to the Tenant to continue the provision of the services specified in this Schedule 4, Part 3 (Discretionary services and heads of charge) and may in its absolute discretion vary, extend, alter or add to such services if the Landlord reasonably considers that by so doing the amenities in the Centre may be improved and/or the management of the Centre may be more efficiently conducted.

### **Part 2**

#### **Essential services and heads of charge**

##### **1 Utilities**

- 1.1 The payment of any Outgoings in respect of the Common Parts.

- 1.2 The costs incurred or provided by or on behalf of the Landlord in connection with the Utilities used in the Common Parts and in providing the services specified in this Schedule 4 (Service charge provisions) and that part of the Landlord's Energy Management Costs which the Landlord reasonably attributes to the Common Parts and to the provision of the services specified in this Schedule 4 (Service charge provisions).

## **2 Soft Services**

- 2.1 The provision, during normal business hours, of such heating as may be appropriate in the prevailing climatic conditions, air conditioning and ventilation and of hot water to the hot water taps in the Centre.
- 2.2 The provision of cold water to the cold water taps in the Centre.
- 2.3 The cleaning, lighting and maintenance of the Common Parts.
- 2.4 The furnishing and equipping and ornamentation of the Common Parts.
- 2.5 Refuse disposal.
- 2.6 The cleaning and emptying of drains serving the Centre and other Conducting Media.
- 2.7 The cleaning of the outside of all windows in the Centre (including the outside of the windows of the Premises).
- 2.8 Making representations which the Landlord in its discretion reasonably considers should be made against, or otherwise contesting, the incidence of the provisions of any legislation, order, regulation, notice or statutory requirement relating to or affecting the whole or any part of the Centre.
- 2.9 The proper costs of pursuing and enforcing any claim, and taking or defending any proceedings which the Landlord may in its discretion make, take or defend:
  - 2.9.1 against contractors, consultants, architects, consulting engineers and surveyors and any other professionals employed or engaged in connection with the construction and/or refurbishment and/or repair of the Centre and/or the Premises or any other third party, for the remedy of a defect, repairs in or to the Centre or otherwise for which they or any of them may be liable; and
  - 2.9.2 for the purpose of establishing, preserving or defending any rights, amenities or facilities used or enjoyed by the tenants and occupiers of the Centre or any part of it or to which they may be entitled.

## **3 Hard Services**

- 3.1 The repair, maintenance, renewal and replacement of all plant and equipment required for or in connection with heating, air conditioning, ventilation and hot and cold water.
- 3.2 The provision, maintenance, repair, inspection, renewal and replacement of directional signs and other informative notices in the Common Parts.

- 3.3 The operation of a lifts service.
- 3.4 The repair, decoration, maintenance, renewal, replacement, rebuilding, cleaning and upkeep of all the structure, floors, walls, main drains, foundations, exterior and roofs of the Centre, the Common Parts, the Conducting Media and other common service facilities and of plant, equipment, and tools serving or used in the Centre, including for the avoidance of doubt the unloading area, service corridor and staircase referred to in Schedule 1, Part 2 (Rights enjoyed with demise).
- 3.5 Compliance with all statutes, bylaws, regulations and the requirements of all competent authorities and reasonable requirements of the insurers in relation to the use and enjoyment of the Common Parts and the Centre as a whole.
- 3.6 The operation, maintenance, repair and replacement of computer and other monitoring apparatus for the efficient operation of all services.
- 3.7 The operation, maintenance, repair and replacement of:
  - 3.7.1 fire alarms, sprinkler systems and ancillary apparatus, fire prevention and fire-fighting equipment and apparatus and fire telephone systems;
  - 3.7.2 security alarms apparatus and systems in the Centre;
  - 3.7.3 a public address system; and
  - 3.7.4 closed-circuit television cameras serving the car park.

#### **4 Insurances**

- 4.1 Insurance of the Landlord against employers' liability risks in respect of the Centre.
- 4.2 Engineering insurances for lifts, boilers, air conditioning, plant, lightning conductor equipment, and all other electrical or mechanical equipment and apparatus in the Centre.
- 4.3 Any other insurances the Landlord may reasonably effect in respect of or incidental to the Centre, its operation and management.

### **Part 3**

#### **Discretionary services and heads of charge**

##### **1 Management**

- 1.1 The provision and operation of management premises equipped with computer and other monitoring equipment.
- 1.2 Outgoings in respect of the management premises.
- 1.3 The operating costs of the management premises.
- 1.4 The payment of rent and service charge (if any) payable by the Landlord, in relation to management premises.

## **2 Soft Services**

- 2.1 The provision of uniforms, overalls and protective clothing for such employees or other staff required in connection with their duties.
- 2.2 The provision of living accommodation for a housekeeper, porter or caretaker in or nearby the Centre and the payment of Outgoings in respect of accommodation.
- 2.3 The provision of security arrangements for entry to the car park.
- 2.4 The provision of security arrangements for the safety of occupiers and users of the Centre and their property kept in the Centre.
- 2.5 The engagement of security officers and services.
- 2.6 The provision and maintenance of any furniture, furnishings, decorations and features in the Common Parts.
- 2.7 The provision and operation of any information, first aid or guidance services, customer services desks and other facilities for the benefit of those visiting or using the Centre.
- 2.8 The provision, maintenance, operation and replacement of any signs, loudspeakers, public address or music broadcast systems, closed circuit television entry phone, internal telephones and audio and visual display technology monitors in the Common Parts.
- 2.9 The expenditure properly incurred with respect to promotion of the Centre including (but not limited to) employing public relations consultants, advertising in the press or television and on the radio and on and off site public relations campaigns.
- 2.10 The provision of entertainments, attractions, Christmas and other seasonal led decorations and events at the Centre.
- 2.11 The provision of any nursery premises (including providing staff for) and any other customer amenities provided for the benefit of those visiting or using the Centre.

## **3 Hard Services**

Landscaping, planting and replanting and the maintenance and upkeep of the Common Parts and of garden or grassed areas.

## **4 Other**

The provision of any other services as the Landlord from time to time agrees or (acting in accordance with principles of good estate management) elects to provide.

**Schedule 5**  
**Guarantee provisions**

**Part 1**  
**Form of guarantee on assignment**

**1 Guarantee**

- 1.1 The Guarantor covenants with the Landlord as primary obligor that the Tenant will pay the rents reserved by, and perform and observe the Tenant's covenants in, this Lease, and the Guarantor will pay and make good to the Landlord on demand any losses, damages, reasonable costs, and expenses properly suffered or incurred by the Landlord if the Tenant fails to do so.
- 1.2 The covenant in paragraph 1.1 remains in force for so long as, and to the extent that, the Tenant is not released by operation of law (otherwise than by disclaimer) from liability for the tenant covenants in this Lease.
- 1.3 The Guarantor also covenants with the Landlord as primary obligor that the Tenant will observe and perform its obligations under any authorised guarantee agreement to be entered into by the Tenant under the terms of this Lease, and will pay and make good to the Landlord on demand any losses, damages, reasonable costs and expenses properly suffered or incurred by the Landlord if the Tenant fails to do so.
- 1.4 For the purposes of these provisions, references to the "Tenant" are to the assignee of this Lease in relation to whom the guarantee to the Landlord is given, and none other.

**2 No Waiver or Release of Liability**

- 2.1 The liability of the Guarantor under these provisions will not be affected by:
  - 2.1.1 forbearance, the granting of time or other indulgence of the Landlord;
  - 2.1.2 a variation of this Lease, whether or not made with the consent of the Guarantor, (but subject to section 18 of the Landlord and Tenant (Covenants) Act 1995);
  - 2.1.3 any act which is beyond the powers of the Tenant;
  - 2.1.4 any invalidity or irregularity of any of the rights against the Tenant or any unenforceability of any of them against the Tenant;
  - 2.1.5 the Tenant being dissolved or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs;
  - 2.1.6 without prejudice to paragraph 3 (Guarantor to accept new lease upon re-entry and disclaimer), the disclaimer of the Tenant's liability under this Lease or the termination of this Lease by re-entry;
  - 2.1.7 any other act or omission save written release by deed of the Guarantor by the Landlord;



- 2.1.8 the surrender of part of the Premises, in which event the liability of the Guarantor under this guarantee will continue in respect of that part of the Premises not surrendered (after making any necessary apportionments under section 140 of the Law of Property Act 1925); and/or
- 2.1.9 the existence of or dealing with, varying, exchanging or failing to perfect or enforce any rights against the Tenant or of any other rights or security which the Landlord may have or acquire against the Tenant or any other person who is liable in respect of its obligations under this Lease.

### **3 Guarantor to accept new Lease upon Re-entry and Disclaimer**

- 3.1 If this Lease is terminated by re-entry by the Landlord or by disclaimer, the Guarantor will (on notice given by the Landlord within three months after the date of termination) take from the Landlord a lease of the Premises.
- 3.2 The lease to be granted to the Guarantor under paragraph 3.1 is to be on the following terms:
  - 3.2.1 the term is to commence on the date of termination of this Lease and to be equal to the residue of the Term which would have remained unexpired at that date if this Lease had not then been terminated;
  - 3.2.2 the yearly rent is to be the same as would have been payable under this Lease if it had not been terminated and, if a rent review operative from a review date before the grant of the lease had not been completed, the Guarantor will complete the rent review with the Landlord as if it had been the Tenant under this Lease in order to establish the commencing yearly rent under the lease;
  - 3.2.3 the lease is otherwise to be on the same terms and conditions as would have applied under this Lease if it had not been terminated; and
  - 3.2.4 the Guarantor is to succeed to the rights, and assume the liability, of the Tenant under this Lease as if this Lease had not been terminated.

### **4 Subordination of Rights of the Guarantor**

- 4.1 The provisions of paragraph 4.2 are to apply unless the Landlord has no subsisting claim against the Tenant for non-payment of rent or for breach of obligation under this Lease.
- 4.2 The Guarantor may not:
  - 4.2.1 seek to recover from the Tenant, or any third party whether directly or by way of set-off, lien, counterclaim or otherwise or accept any money or other property or security, or exercise any rights in respect of any sum which may be or become due to the Guarantor on account of the failure by the Tenant to observe and perform the tenant covenants in this Lease;
  - 4.2.2 (in competition with the Landlord) claim, prove or accept any payment in a winding-up, liquidation, bankruptcy, composition with creditors or other form of arrangement on the insolvency of the Tenant, for money owing to the Guarantor by the Tenant; nor

- 4.2.3 exercise any right or remedy in respect of any amount paid by the Guarantor under this Lease or any liability incurred by the Guarantor in observing, performing or discharging the obligations and covenants of the Tenant.

The Guarantor warrants that it has not taken, and undertakes with the Landlord that it will not without the consent of the Landlord take, any security from the Tenant in respect of this guarantee and, if security is nevertheless taken, it is to be held on trust for the Landlord as security for the respective liabilities of the Guarantor and the Tenant. Nothing in this form of guarantee may impose any liability on the Guarantor that exceeds the liability that it would have had were it the tenant of this Lease.

## **Part 2**

### **Form of authorised guarantee agreement**

#### **1 Guarantee**

- 1.1 The Guarantor covenants with the Landlord as primary obligor that the Tenant will pay the rents reserved by, and perform and observe the Tenant's covenants in, this Lease, and the Guarantor will pay and make good to the Landlord on demand any losses, damages, reasonable costs and expenses properly suffered or incurred by the Landlord if the Tenant fails to do so.
- 1.2 The covenant in paragraph 1.1 remains in force for so long as, and to the extent that, the Tenant is not released by operation of law (otherwise than by disclaimer) from liability for the tenant covenants in this Lease provided always that no liability shall attach to any breach of covenant occurring after expiry of the contractual term of the Lease.
- 1.3 For the purposes of these provisions, references to the "Tenant" are to the assignee of this Lease in relation to whom the guarantee to the Landlord is given, and none other.

#### **2 No Waiver or Release of Liability**

- 2.1 The liability of the Guarantor will not be affected by:
- 2.1.1 forbearance, the granting of time or other indulgence of the Landlord;
- 2.1.2 a variation of this Lease, whether or not made with the consent of the Guarantor, (but subject to section 18 of the Landlord and Tenant (Covenants) Act 1995);
- 2.1.3 any act which is beyond the powers of the Tenant;
- 2.1.4 any invalidity or irregularity of any of the rights against the Tenant or any unenforceability of any of them against the Tenant;
- 2.1.5 the Tenant being dissolved or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs;
- 2.1.6 without prejudice to paragraph 3 (Guarantor to accept new lease upon re-entry and disclaimer), the disclaimer of the Tenant's liability under this Lease or the termination of this Lease by re-entry;

- 2.1.7 any other act or omission save written release by deed of the Guarantor by the Landlord;
- 2.1.8 the surrender of part of the Premises, in which event the liability of the Guarantor under this guarantee will continue in respect of that part of the Premises not surrendered (after making any necessary apportionments under section 140 of the Law of Property Act 1925); and/or
- 2.1.9 the existence of or dealing with, varying, exchanging or failing to perfect or enforce any rights against the Tenant or of any other rights or security which the Landlord may have or acquire against the Tenant or any other person who is liable in respect of its obligations under the Lease.

### **3 Guarantor to accept New Lease upon Disclaimer**

- 3.1 If this Lease is terminated by disclaimer, the Guarantor will (on notice given by the Landlord within three months after the date of termination) take from the Landlord a lease of the Premises.
- 3.2 The lease to be granted to the Guarantor under paragraph 3.1 is to be on the following terms:
  - 3.2.1 the term is to commence on the date of termination of this Lease and to be equal to the residue of the Term which would have remained unexpired at that date if this Lease had not then been terminated;
  - 3.2.2 the yearly rent is to be the same as would have been payable under this Lease if it had not been terminated and, if a rent review operative from a review date before the grant of the lease had not been completed, the Guarantor will complete the rent review with the Landlord as if it had been the Tenant under this Lease in order to establish the commencing yearly rent under the lease;
  - 3.2.3 the lease is otherwise to be on the same terms and conditions as would have applied under this Lease if it had not been terminated; and
  - 3.2.4 the Guarantor is to succeed to the rights, and assume the liability, of the Tenant under this Lease as if this Lease had not been terminated.

### **4 Subordination of Rights of the Guarantor**

- 4.1 The provisions of paragraph 4.2 are to apply unless the Landlord has no subsisting claim against the Tenant for non-payment of rent or for breach of obligation under this Lease.
- 4.2 The Guarantor may not:
  - 4.2.1 seek to recover from the Tenant, or any third party whether directly or by way of set-off, lien, counterclaim or otherwise or accept any money or other property or security, or exercise any rights in respect of any sum which may be or become due to the Guarantor on account of the failure by the Tenant to observe and perform the tenant covenants in this Lease;

- 4.2.2 (in competition with the Landlord) claim, prove or accept any payment in a winding-up, liquidation, bankruptcy, composition with creditors or other form of arrangement on the insolvency of the Tenant, for money owing to the Guarantor by the Tenant; nor
  - 4.2.3 exercise any right or remedy in respect of any amount paid by the Guarantor under this Lease or any liability incurred by the Guarantor in observing, performing or discharging the obligations and covenants of the Tenant.
- 4.3 The Guarantor warrants that it has not taken, and undertakes with the Landlord that it will not without the consent of the Landlord take, any security from the Tenant in respect of this guarantee and, if security is nevertheless taken, it is to be held on trust for the Landlord as security for the respective liabilities of the Guarantor and the Tenant.
- 4.4 Nothing in this authorised guarantee agreement may impose any liability on the Guarantor that exceeds the liability that it would have had were it the tenant of this Lease.

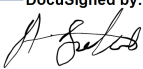
Execution Page


Executed as a Deed by  
**SHEET ANCHOR EVOLVE LIMITED**  
acting by to directors

) .....  
) Director  
)  
  
.....  
Director

Executed as a Deed by  
**LEMON PEPPER HOLDINGS LIMITED**  
acting by two directors or a director  
and its secretary

) .....  
) Director  
)  
) .....  
Director or Secretary

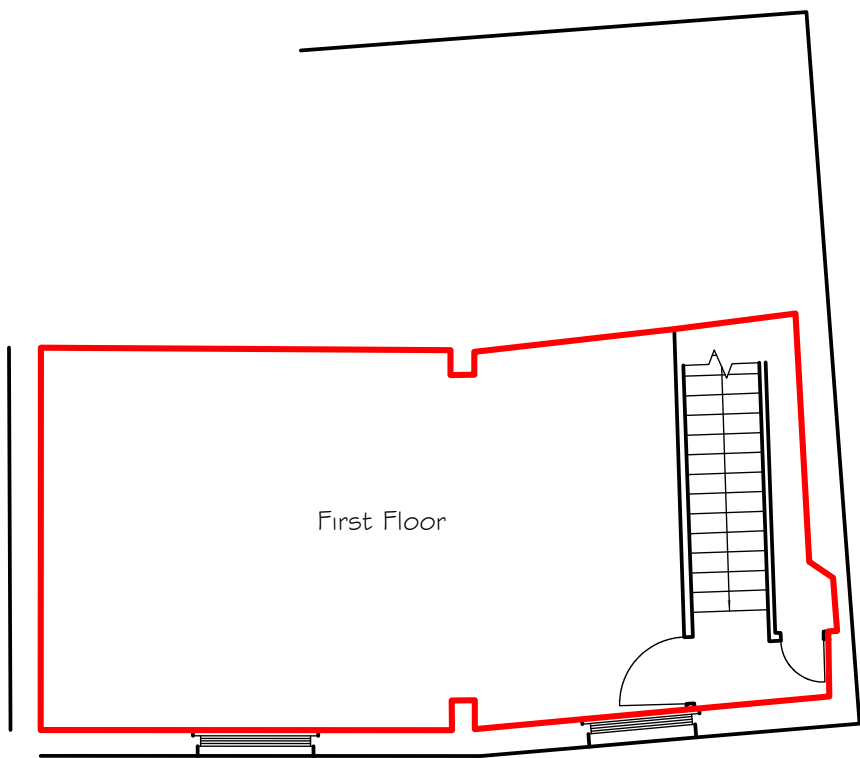
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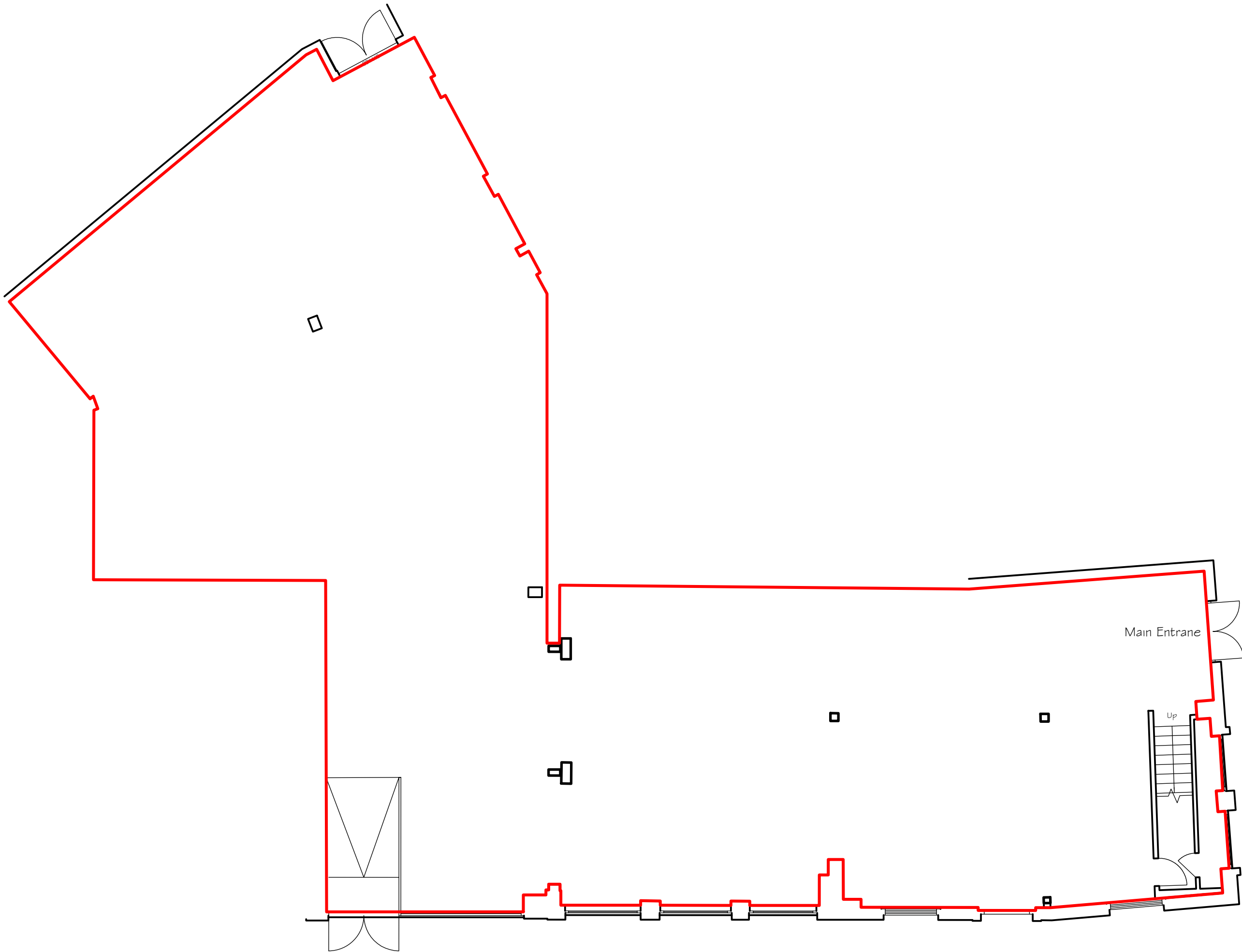
**ANNEX 1 – LEASE PLAN**

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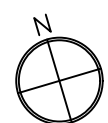


1 First Floor Plan (Existing)  
Scale 1:100

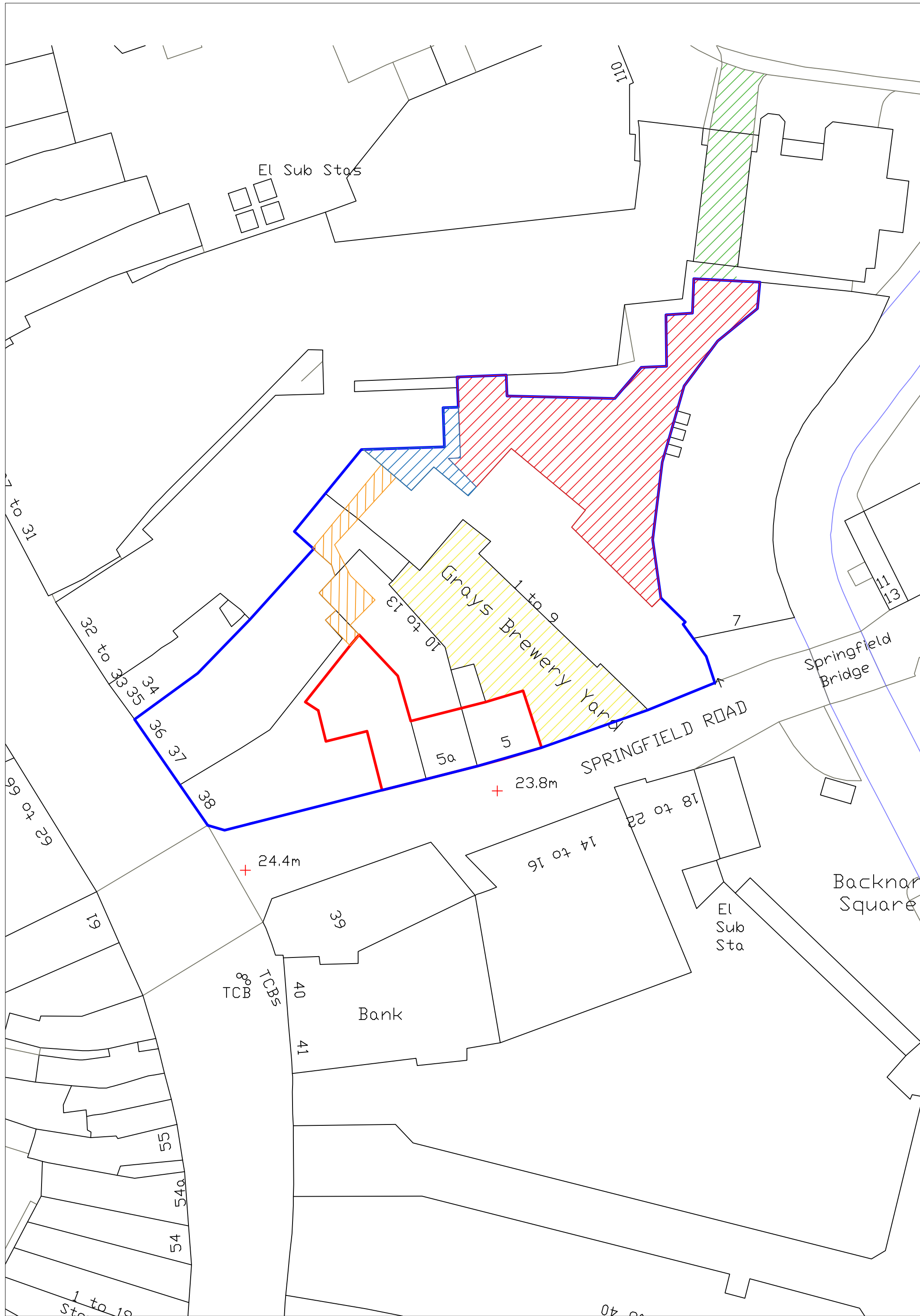


SPRINGFIELD ROAD

2 Ground Floor Plan (Existing)  
Scale 1:100



1:100  
2m 0 2m 4m 6m 8m 10m



3 Location Plan  
Scale 1:1250

1:500  
10m 0 10m 20m 30m 40m 50m



#### Standard Instructions

1. This drawing is copyright © and must not be reproduced in whole or in part without written authority of KSA Property Consultants Limited.
2. Unless formally agreed otherwise, services on this project are for the provision of drawings only and not the supervision or inspection of the work, excavations, foundations, structure and detail.
3. The Main Contractor, subcontractor or supplier shall:
  - a. Verify all dimensions on site and immediately report any discrepancies or divergence between drawings before putting the work concerned in hand, fabricating the work or preparing shop drawings.
  - b. Work to figured dimensions only (except where full size details are provided).
  - c. Not vary any work shown on the drawing without obtaining prior approval.
  - d. Be responsible for requesting any additional information required.
  - e. Supply all shop drawings, illustrations, specifications etc. of all specialist work to be incorporated in the Main Contractors Works.
  - f. Immediately inform if any work shown on this drawing is not in accordance with the relevant Codes of Practice, recognised good practice throughout the industry and does not comply with current Building Regulations or other statutory requirements.
  - g. Immediately advise of the effect upon programme and cost of any alterations to the proposed works shown on this drawing.

Note: This drawing is prepared solely in support of the Town & Country Planning Act or for Building Regulation purposes and is not a working drawing and should not be used as such.

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#### Legend

- Premises
- Site Boundary
- Service Charge Corridor
- Service Yard Access
- Service Yard
- Unloading Area

**KSA** STUDIO  
ARCHITECTURE & DESIGN

6 Midland House, 109 - 113 Victoria Road, Romford, Essex, RM1 2LX  
01708 957777 info@ksaproperty.co.uk www.ksaproperty.co.uk

#### PROJECT

5 Springfield Road, Chelmsford

#### TITLE

Lease Plan

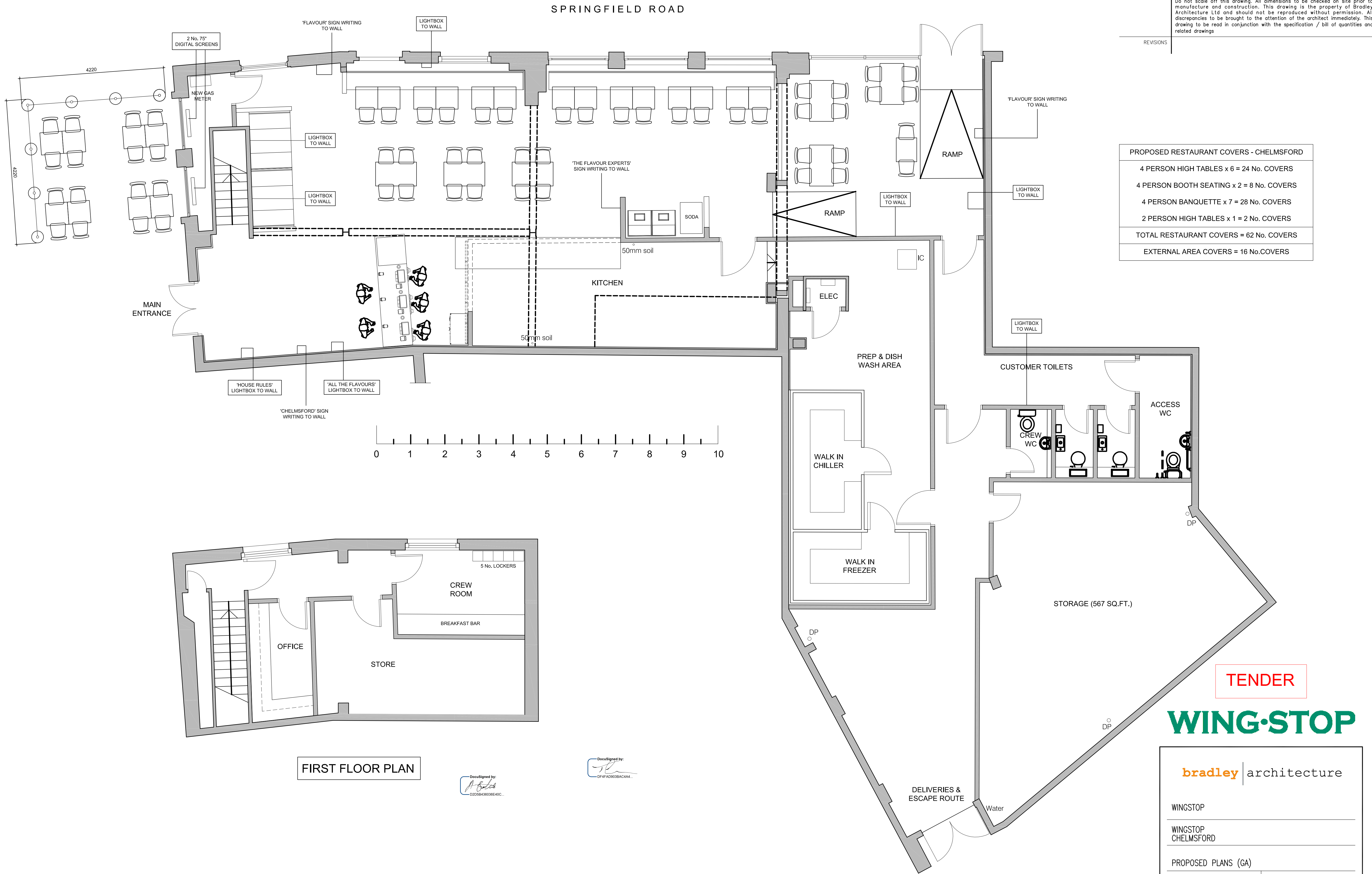
#### CLIENT

Evolve Estates

DRAWN BY PS	CHECKED BY MS	DATE Mar 23
SCALE (@ A1) 1 : 100 & 1 : 1250		PROJECT NUMBER KPCL2203394
DRAWING NUMBER KPCL2203394/01		REV

**ANNEX 2 – SEATING PLAN**





**ANNEX 3 - ROOF PLAN**

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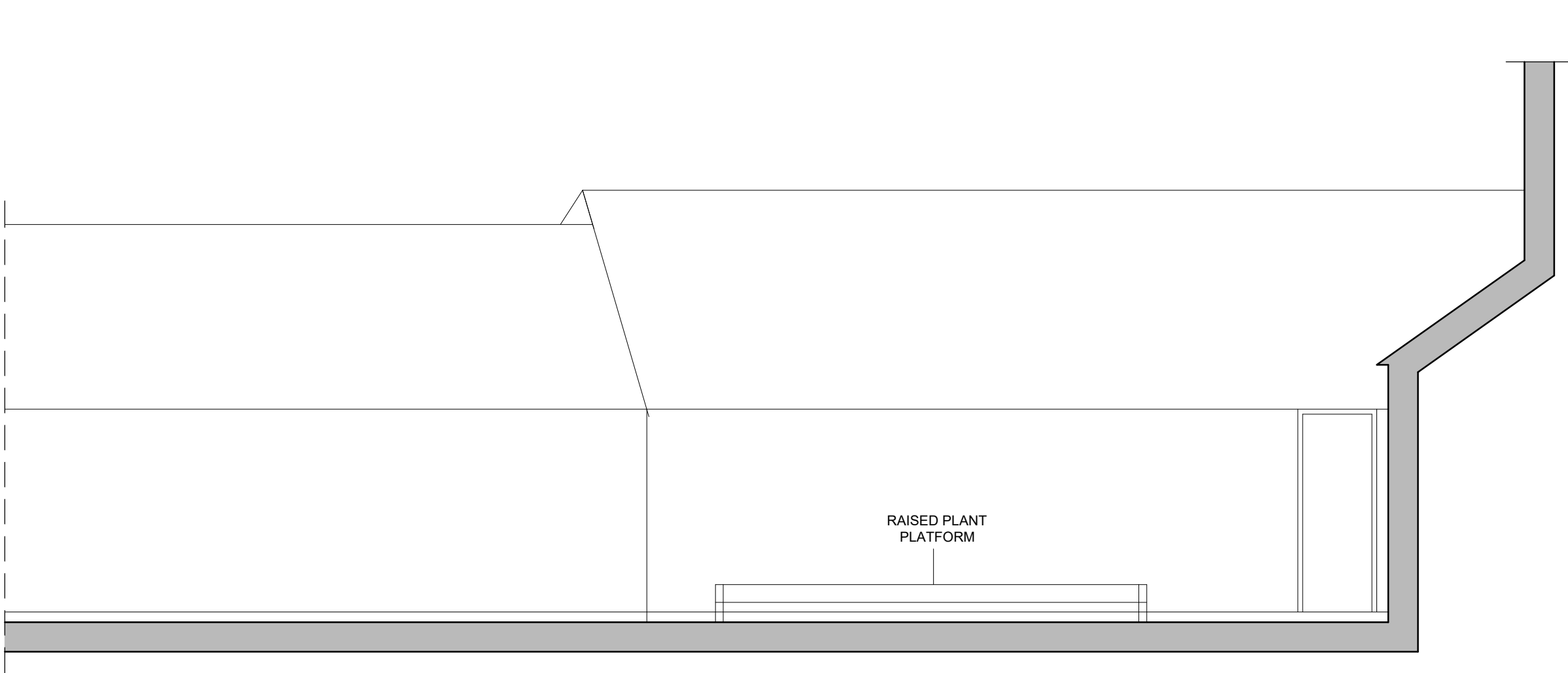
REVISIONS

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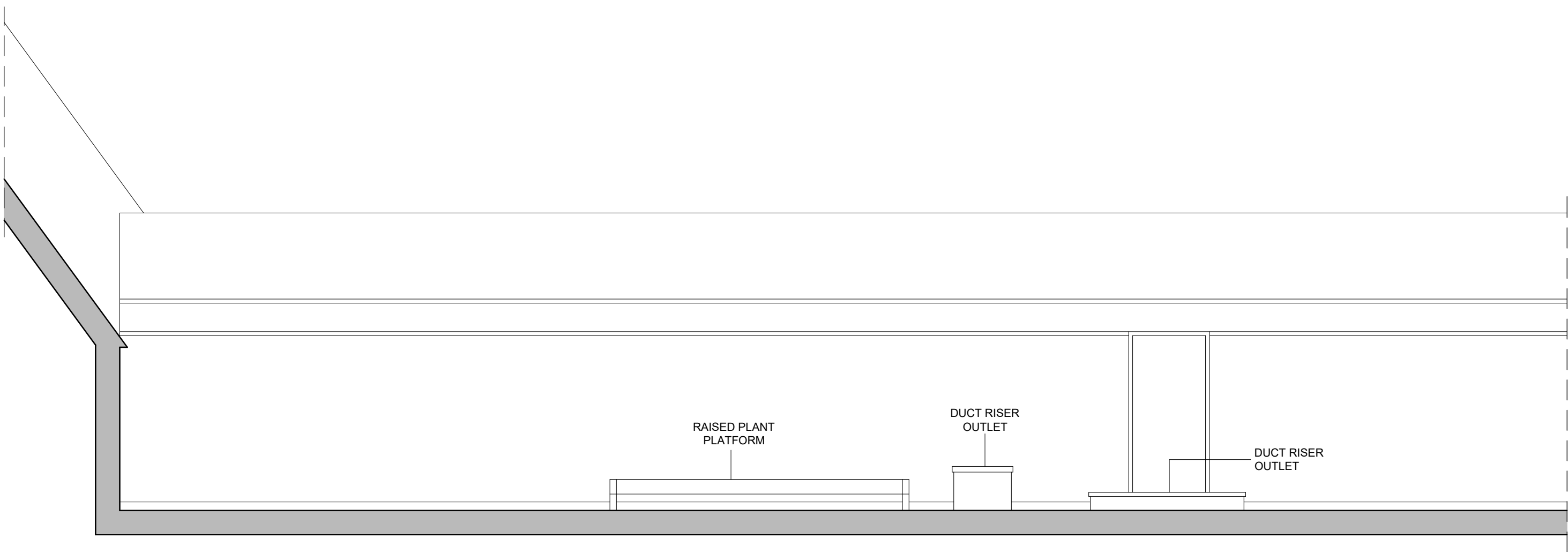
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19/03/2023

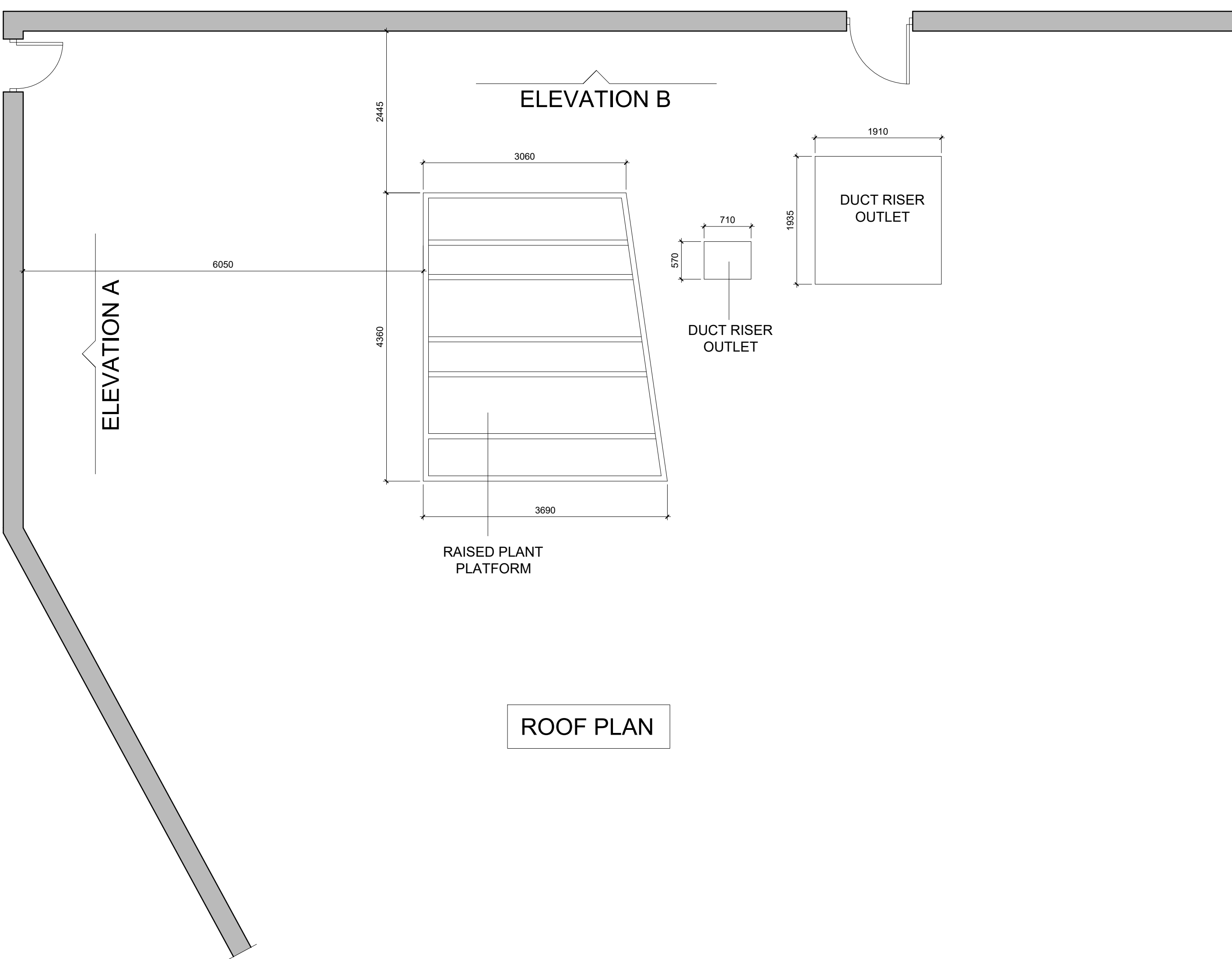
CPB



ELEVATION A



ELEVATION B



ROOF PLAN

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DocuSigned by:  
J. K. K.  
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TENDER

WING·STOP

bradley | architecture

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CHELMSFORD

ROOF PLAN & ELEVATIONS

MARCH 2023

1:50 @ A1

AL5 / A

7 CLAREBANK CRESCENT, EDINBURGH EH6 7NL - TEL: 0131 344 4267