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## Appendix 6: Additional Information from licence holder

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## **Helen Johnson - Licensing Team Leader (N'hoods)**

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**Subject:** FW: Review of premises licence Cookson Spice and witness statement  
**Attachments:** 11.pdf; 22.pdf; 33.pdf; 44.pdf; 55.pdf; 66.pdf; 77.pdf; 88.pdf; 99.pdf; 111.pdf

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**From:** Khalid Khalid

**Sent:** 31 August 2019 13:13

**To:** caroline.dickinson

Helen Johnson - Licensing Team Leader (N'hoods)

Karen Robson

**Subject:** Review of premises licence Cookson Spice and witness statement

Dear Ms Dickinson,

I refer to your witness statement and our telephone conversation of 29th August 2019. May I take this opportunity to address the issues raised in your statement regarding the landlords role as a premises licence holder.

### **Background**

We purchased these licensed premises, now known as Cookson Spice, from Admiral Tavern in December 2009. The premises licence was transferred from the vendor to my daughter's and (copy attached). The premises was extensively refurbished and placed on the open market for lease. Eventually the lease was granted to two partners and Mr Jamam Ahmed commencing 18th March 2011 and ending 17th March 2032. The lease was registered with the land registry on 25th May 2011 (copy attached). The copy lease has already been forwarded to Ms Helen Johnson by our solicitor and has been acknowledged. The request was made by the leaseholders to transfer the premises licence to Mr Jamam Ahmed. The premises licence was transferred to Mr Jamam Ahmed on 21st March 2011 (copy attached). We as landlords expect the leaseholders to comply with all of the rules and regulations in force to operate their business but unfortunately this was not the case.

We are extremely disappointed and alarmed as to Mr Ahmed's conduct in these premises for the following reasons:

1. Not complying with the licence conditions
2. Employing illegal immigrants
3. Not informing the landlord of the ongoing investigations

We learned of the above issues through the third parties.

### **Action taken by the landlords**

The landlords instructed Mr Ahmed to surrender his D.P.S and transfer the premises licence to Mohamed Khalid with immediate effect. The notice was issued to Mr Ahmed on 10th

July 2019 and forwarded to Ms Karen Robson. The notice is self explanatory.(copy attached)

**We are in the process of reviewing the tenant's lease.**

I as a premises licence holder have ensured that all the alcohol has been removed from the premises.

I will also monitor the premises on a regular basis to ensure that no alcohol is sold from these premises.

Therefore, currently there is no requirement to appoint a designated premises supervisor.

As long as the lease holder operates the business from these premises **I will not permit him or others to sell any alcohol from these premises.**

We have considerable investment in these licenced premises and in future would like some reputable law abiding entity to operate these premises.

Should you require any further information then please contact me.

Yours sincerely

M Khalid

Consent of premises licence holder to transfer

I/we Admiral Taverns (58) LTD  
[full name of premises licence holder(s)]

the premises licence holder of premises licence number

[insert premises licence number]

relating to

Cookson, Cookson Terrace, Chester Le Street  
[name and address of premises to which the application relates] DH2 2JW

hereby give my consent for the transfer of premises licence number

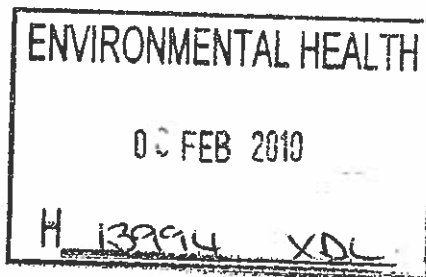
67

[insert premises licence number]

to

COOKSON PARTNERS.  
H.K. RIAZ AND F.K. CHAUDHRY

[full name of transferee]



Dr. [illegible]  
County [illegible]  
Bills [illegible]  
[illegible]

signed

name

(please print)

dated

Transferor's

Applicant's Signature

5<sup>th</sup> FEBRUARY 2010



# Official copy of register of title

Title number DU328575

Edition date 25.05.201

- This official copy shows the entries in the register of title 31 May 2011 at 11:03:12.
- This date must be quoted as the "search from date" in an official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 31 May 2011.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website [www.landregistry.gov.uk](http://www.landregistry.gov.uk) or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it.*
- This title is dealt with by Land Registry Durham Office.

## A: Property register

This register describes the land and estate comprised in the title.

### COUNTY DURHAM

- 1 (25.05.2011) The Leasehold land shown edged with red on the plan of the above title filed at the Registry and being Bar and Restaurant at The Cookson, Cookson Terrace, Chester Le Street (DH2 2AN).  
  
NOTE: Only the ground floor and cellar are included in the title.
- 2 (25.05.2011) The mines and minerals together with ancillary powers of working are excepted.
- 3 (25.05.2011) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:  
Date : 18 March 2011  
Term : From 18 March 2011 and ending on 17 March 2022  
Parties : (1) and  
(2) and Jaman Uddin Ahmed
- 4 (25.05.2011) The Lease prohibits or restricts alienation.
- 5 (25.05.2011) The title includes any legal easements referred to in clause LR11.1 of the registered lease but is subject to any rights that are granted or reserved by the lease and affect the registered land.
- 6 (25.05.2011) The landlord's title is registered.



**Application to transfer premises licence  
granted under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I/We** JAMAN UDDIN AHMED..... (insert name(s) of applicant) **apply to transfer the premises licence under section 42 of the Licensing Act 2003 for the premises described in Part 1 below**

**Premises licence number**

67

**Part 1 – Premises Details**

**Postal address of premises or, if none, ordnance survey map reference or description**

COOKSON COAKSON TERRACE

**Post town**

CHESIER-LE-STREET

**Post code**

DH2 2AN

**Telephone number at premises (if any)**

**Please give a brief description of the premises**

PUBLIC HOUSE / RESTAURANT

**Name of current premises licence holder**

H.K. RIAZ - F.K. CHAUDHRY COOKSON PARTNER SHIP

## Part 2 – Applicant Details

In what capacity are you applying for the premises licence to be transferred to you?

- Please tick ✓
- |   |                                     |                             |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals*  | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual*   |                                     |                             |
| i. as a limited company   | <input type="checkbox"/>            | please complete section (B) |
| ii. as a partnership  | <input type="checkbox"/>            | please complete section (B) |
| iii. as an unincorporated association or  | <input type="checkbox"/>            | please complete section (B) |
| iv. Other (for example a statutory corporation)   | <input type="checkbox"/>            | please complete section (B) |
| c) a recognised club  | <input type="checkbox"/>            | please complete section (B) |
| d) a charity  | <input type="checkbox"/>            | please complete section (B) |
| e) The proprietor of an educational establishment   | <input type="checkbox"/>            | please complete section (B) |
| f) A health service body  | <input type="checkbox"/>            | please complete section (B) |
| g) A person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital   | <input type="checkbox"/>            | please complete section (B) |
| ga) A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England | <input type="checkbox"/>            | Please complete section (B) |
| h) The chief officer of police of a police force in England and Wales   | <input type="checkbox"/>            | please complete section (B) |

\*If you are applying as a person described in (a) or (b) please confirm:

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a

- Statutory function; or
- A function discharged by virtue of Her Majesty's prerogative

Please tick ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>

### (A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev) ☐

Surname First names

**AHMED**

**JAMAN-UDDIN**

I am 18 years old or over

Please tick ✓

<input checked="" type="checkbox"/>
-------------------------------------

Current postal address  
if different from  
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**SECOND INDIVIDUAL APPLICANT (IF APPLICABLE)**

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title

(for example, Rev)

☐

Surname

First names

Please tick ✓

I am 18 years old or over

☐

Current postal address  
if different from  
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name

Address

Registered number (where applicable)






--

Please tick ✓

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I understand that if I do not comply with the above requirements my application will be rejected

✓
✓
✓
✓
✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 4 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant's solicitor or other duly authorised agent.** (See guidance note 3. If signing on behalf of the applicant please state in what capacity.

X  
X  
X

Signature .....

Date .....

Capacity .....

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent.** (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature .....

Date .....

Capacity .....

**Contact Name (where not previously given) and address for correspondence associated with this application** (please read guidance note 5)

Post town

Post code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

**Part B**  
**Consent of individual premises licence holder to transfer**  
**under the Licensing Act 2003**

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We COOKSON PARTNERS..... (full name of premises licence holder(s))  
the premises licence holder of premises licence number 67.....  
(insert premises licence number) relating to COOKSON COOKSON TERRACE  
CHESLER LE STREET DH2 2AN.....  
COOKSON..... (name and address of premises to which the application relates)  
hereby give my consent for transfer of premises licence number  
67..... (insert premises licence number) to MR. JAMAN UDDIN AHMED  
(full name of transferee). COOKSON PARTNERS.

..... (use print)  
21st MARCH 2011..dated

10<sup>th</sup> July 2019

Dear Mr Ahmed,

I am writing to you to confirm the action taken by me as your landlord in relation to the premises licence held for the business. As you are aware we had originally applied for the premises licence, which was transferred to you when you took over the business. The basis of this agreement was that you protected the premises licence and didn't do anything to jeopardise the licence. Given what has transpired at the premises we have taken the action of transferring the licence back, to which you have consented.

We are also writing to inform you that you are removed as designate premises supervisor effective immediately. This means that no sales of alcohol can take place at the premises. It also means you are not permitted to sell hot food after 23.00 or play recorded music (background music still being permitted). If we discover that you are in breach of these stipulations, we will immediately inform the Licensing Authority. The penalty for carrying out an unauthorised activity under s.136 of the Licensing Act 2003 is an unlimited fine and up to 6 months in prison. We will also, in these circumstances, take steps to terminate your lease.

We would ask you to sign the acknowledgement on the copy letter enclosed. Please call me if you require me to explain any of this to you.

Yours sincerely

Mohamed Khalid

I acknowledge the receipt of your letter and that I consent to transfer the premises licence and undertake for all the above conditions for continuation of my lease.

Name

J. A. A. A. A.

Signed

Dated

11/7/19

## Premises Licence

Khalid Khalid

Thu 11/07/2019 13:29

To: Karen.Robson

 1 attachments (364 KB)

Licence Cookson.pdf;

Dear Ms Robson,,

I am writing to you as the landlord of Mr Ahmed, who operates Cookson Spice, Cookson Terrace, Chester-le-Street, DH2 2AN. I am now the holder of the premises licence. My contact details are contained within the recent application you received.

As a result of issues Mr Ahmed has experienced at the premises we (as a business) have made the decision to take back the premises licence from Mr Ahmed, and write to confirm he is to be removed as the designated premises supervisor. The licence will be held by us and will not be traded so long as Mr Ahmed is involved in the business. We have written to Mr Ahmed to confirm the same and he is aware that he is no longer authorised to carry out any licensable activities at the premises. **I have attached a copy of the letter for your information.**

I understand that there is currently an ongoing investigation and consideration is being given to reviewing the premises licence. Should you require any further information that Mr Ahmed is no longer to be involved in licensable activities at the premises I would be prepared to submit a minor variation to add an appropriately worded condition to the premises licence.

If we ever become aware of Mr Ahmed carrying out licensable activities from the premises he will be reported to you immediately. We will be carrying out period checks of the premises to make sure that this is not the case.

Yours sincerely  
Mohamed Khalid

These are the notes referred to on the following official copy

Title Number

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



SEQ50

DATED

18 March 2011

LEASE

relating to

**BAR AND RESTAURANT AT THE COOKSON, COOKSON TERRACE,  
CHESTER LE STREET**

between

and

AND JAMAN UDIN AHMED

b

WE CERTIFY THAT THIS  
DOCUMENT IS A TRUE COPY  
OF THE ORIGINAL  
PATTERSON, GLENTON & STRACEY



COPY

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**PRESCRIBED CLAUSES**

**LR1. Date of lease** 18 March 2011

**LR2. Title number(s)**

**LR2.1 Landlord's title number(s)**

**LR2.2 Other title numbers**

None

**LR3. Parties to this lease**

and

**Landlord**

and Jaman Udin Ahmed

**Tenant**

**Other parties**

none

**LR4. Property**

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

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

**LR5. Prescribed statements etc.**

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

None.

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

None.

**LR6. Term for which the Property is leased**

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

**LR7. Premium**

None.

**LR8. Prohibitions or restrictions on disposing of this lease**

This lease contains a provision that prohibits or restricts dispositions.

**LR9. Rights of acquisition etc.**

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

None.

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

None.

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

None.

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

None.

**LR11. Easements**

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

The easements as specified in clause 3 of this lease.

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

The easements as specified in clause 4 of this lease.

**LR12. Estate rentcharge burdening the Property**

None.

**LR13. Application for standard form of restriction**

None.

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

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

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

The Tenant is more than one person. They are to hold the Property on trust

THIS LEASE is dated

18 March 2011

**PARTIES**

(1)

(2)

UDIN AHMED of  
P

and JAMAN  
(Tenant).

**AGREED TERMS**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation set out in this clause apply to this lease.

**Act of Insolvency:**

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor; or
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor; or
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor; or
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor; or
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies; or
- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor; or
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off; or
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies); or
- (i) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor.

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended).

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction.

**Annual Rent:** rent at an initial rate of                      per annum and then as revised pursuant to this lease and any interim rent determined under the LTA 1954.

**Building:** The Cookson, Cookson Terrace, Chester-le-Street DH2 2AN shown edged in red on Plan 2.

**Contractual Term:** a term of years beginning on, and including the date of this lease and ending on, and including ~~17<sup>th</sup>~~ March 2032.

**CDM Regulations:** the Construction (Design and Management) Regulations 2007.

**Default Interest Rate:** four percentage points above the Interest Rate.

**Guarantor:** any person or persons who become a guarantor of this Lease under the provisions of this Lease or otherwise.

**Insurance Rent:** the aggregate in each year of:

- (a) a fair proportion of the gross cost of the premium before any discount or commission for insurance of the Building, other than any plate glass, for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of those costs, fees and expenses; and
- (b) the gross cost of the premium before any discount or commission for insurance for loss of Annual Rent from the Property for three years;
- (c) a fair proportion of the gross cost of the premium before any discount or commission of public liability insurance in relation to the Landlord's interest in the Building, and

insurance premium tax payable on the above.

**Insured Risks:** means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Landlord decides to insure against from time to time and **Insured Risk** means any one of the Insured Risks.

**Interest Rate:** interest at the base lending rate from time to time of National Westminster Bank plc, or if that base lending rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.

**Landlord's Neighbouring Property:** each and every part of the adjoining and neighbouring property in which the Landlord has an interest (if any).

**LTA 1954:** Landlord and Tenant Act 1954.

**Permitted Use:** use as a Bar/Restaurant including sales of takeaway meals provided that any such sales are ancillary to the primary use as a Bar/Restaurant

**Plan 1:** the plan attached to this lease marked "Plan 1".

**Plan 2:** the plan attached to this lease marked "Plan 2".

**Property:** the parts of the ground floor of the Building edged red on Plan 1 bounded by and including:

- a) The floorboards thereof;
- b) The plaster finishes of the ceiling;
- c) The interior plaster finishes of exterior walls and columns;
- d) The plaster finishes of all interior walls and columns that adjoin another part of the Building;
- e) The doors and windows within the interior, structural walls and columns that adjoin another part of the Building and their frames and fittings;
- f) One half of the thickness of the interior, non-structural walls that adjoin another part of the building;
- g) The doors and windows within the interior, non-structural walls and columns that adjoin another part of the building and their frames and fittings;

But excluding:

- h) The windows in the exterior walls and their frames and fittings;
- i) The whole of the interior structural walls and columns within that part of the Building other than their plaster finishes and other than the doors and windows and their frames and fittings within such walls;
- j) any Service Media in, on, under or over that land (whether in existence at the date of this lease or installed during the perpetuity period) that are used by that land in common with any other part of the Building;
- k) the cellar located below the ground floor of the Building.

**Rent Commencement Date:** 3 months after the date of this lease being 1<sup>st</sup> June 2011

**Rent Payment Dates:** 1<sup>st</sup> day of every calendar month

**Reservations:** all of the rights excepted, reserved and granted to the Landlord by this lease.

**Review Date:** 1<sup>st</sup> March 2014 and every third anniversary of that date.

**Service Media:** all media for the supply or removal of heat, electricity, gas, water, sewage, air-conditioning, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

**Third Party Rights:** all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this lease in the property register and the charges register of title number DU230452.

**VAT:** value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

- 1.2 A reference to this lease, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.
- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns. A reference to a **guarantor** is a reference to any guarantor of the tenant covenants of this lease including a guarantor who has entered into an authorised guarantee agreement.
- 1.4 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, references to the **Building** and the **Property** are to the whole and any part of it.
- 1.7 The expression **neighbouring property** does not include the Building.
- 1.8 A reference to the **term** is to the Contractual Term and statutory continuation of this lease.
- 1.9 A reference to the **end of the term** is to the end of the term however it ends.
- 1.10 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 41.4 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 41.5.

- 1.11 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.12 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
- 1.13 A reference to laws in general is to all local, national and directly applicable supranational laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.14 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.15 Unless the context otherwise requires, where the words **include(s)** or **including** are used in this lease, they are deemed to have the words "without limitation" following them.
- 1.16 A **person** includes a corporate or unincorporated body.
- 1.17 References to **writing** or **written** do not include faxes or email.
- 1.18 Except where a contrary intention appears, a reference to a clause or Schedule, is a reference to a clause of, or Schedule to, this lease and a reference in a Schedule to a paragraph is to a paragraph of that Schedule.
- 1.19 Clause, Schedule and paragraph headings do not affect the interpretation of this lease.

## **2. GRANT**

- 2.1 The Landlord lets with full title guarantee the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:



- (a) the Annual Rent and all VAT in respect of it;
- (b) the Insurance Rent; and
- (c) all interest payable under this lease ; and
- (d) all other sums due under this lease.

### **3. ANCILLARY RIGHTS**

#### **3.1 The Landlord grants the Tenant the following rights (the Rights):**

- (a) the right of support and protection from those parts of the Building that afford support and protection for the Property at the date of this lease and to the extent that such support and protection exists at the date of this lease;
- (b) the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this lease or are installed or constructed during the period of 125 years from commencement of the Contractual Term;
- (c) the right to attach any item to any part of the Building adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease;
- (d) the right to enter any part of the Building that adjoins the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease; and
- (e) the non exclusive right for the Tenant and their licencees to park a car on any of the spaces marked 'pub parking for five cars' on Plan 1 for all purposes connected with the Permitted Use

**3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord.**

**3.3 The Rights are granted subject to the Third Party Rights and the Tenant shall not exercise any of the Rights so as to interfere with any Third Party Right.**

**3.4 The Tenant shall exercise the Rights only in connection with its use of the Property for the Permitted Use.**

**3.5 The Tenant shall comply with all laws relating to its use of any part of the Building pursuant to the Rights.**

**3.6 In relation to the Rights mentioned in clause 3.1(b), the Landlord may, at its discretion, re-route or replace any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced.**

3.7 In relation to the Right mentioned in clause 3.1(c), where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.

3.8 In relation to the Right mentioned in clause 3.1(d), the Tenant shall:

- (a) except in case of emergency, give reasonable notice to the Landlord and the occupier of that part of the Building of its intention to exercise that Right;
- (b) where reasonably required by the Landlord or the occupier of the relevant part of the Building, exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant part of the Building;
- (c) cause as little damage as possible to the Building and to any property belonging to or used by the Landlord or the tenants or occupiers of the other part of the Building;
- (d) cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the relevant part of the Building as is reasonably practicable; and
- (e) promptly make good (to the satisfaction of the Landlord) any damage caused to the Building (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.

3.9 Except as mentioned in this clause 3, neither the grant of this lease nor anything in it confers any right over any other part of the Building or any neighbouring property nor is to be taken to show that the Tenant may have any right over any such part of the Building or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.

#### **4. RIGHTS EXCEPTED AND RESERVED**

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Building and the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this lease or which are installed or constructed during the period of 125 years from the commencement of the Contractual Term; the right to install and construct Service Media at the Property to serve any part of the Building (whether or

not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this paragraph;

- (c) at any time during the term, the full and free right to develop any part of the Building (other than the Property or any part of the Building over which rights are expressly granted by this lease) and the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;
- (d) the right to erect scaffolding at the Property or the Building and attach it to any part of the Property or the Building in connection with any of the Reservations;
- (e) the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations; and
- (f) the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1(b) are exercised;
- (g) the right to enter the Property on reasonable notice to use the access stairway to the cellar.

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

**4.2 The Landlord reserves the right to enter the Property:**

- (a) to repair, maintain, install, construct re-route or replace any Service Media or structure relating to any of the Reservations;
- (b) to carry out any works to any other part of the Building; and
- (c) for any other purpose mentioned in or connected with:
  - (i) this lease;
  - (ii) the Reservations; and
  - (iii) the Landlord's interest in the Property, the Building or the Landlord's Neighbouring Property.

**4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.**

**4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.**

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

- (a) physical damage to the Property; or
- (b) any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

**5. THIRD PARTY RIGHTS**

- 5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.

- 5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

**6. THE ANNUAL RENT**

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by twelve equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant.

- 6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the period from the Rent Commencement Date until the day before the next Rent Payment Date.

**7. REVIEW OF THE ANNUAL RENT**

- 7.1 In this clause the **President** is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf, and the **Surveyor** is the independent valuer appointed pursuant to clause 7.7.

- 7.2 The amount of Annual Rent shall be reviewed on each Review Date to equal:

- (a) the Annual Rent payable immediately before the relevant Review Date (or which would then be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) or, if greater;
- (b) the open market rent agreed or determined pursuant to this clause.

**7.3** The open market rent may be agreed between the Landlord and the Tenant at any time before it is determined by the Surveyor.

**7.4** If the open market rent is determined by the Surveyor, it shall be the amount that the Surveyor determines is the best annual rent (exclusive of any VAT) at which the Property could reasonably be expected to be let:

- (a) in the open market;
- (b) at the relevant Review Date;
- (c) on the assumptions listed in clause 7.5; and
- (d) disregarding the matters listed in clause 7.6.

**7.5** The assumptions are:

- (a) the Property is available to let in the open market:
  - (i) by a willing lessor to a willing lessee;
  - (ii) as a whole;
  - (iii) with vacant possession;
  - (iv) without a fine or a premium;
  - (v) for a term equal to the unexpired residue of the Contractual Term at the relevant Review Date or a term of 21 years commencing on the relevant Review Date, if longer; and
  - (vi) otherwise on the terms of this lease other than as to the amount of the Annual Rent but including the provisions for review of the Annual Rent , and other than the provision in this lease for a rent-free period;
- (b) the willing lessee has had the benefit of any rent-free or other concession or contribution which would be offered in the open market at the relevant Review Date in relation to fitting out works at the Property;
- (c) the Property may lawfully be used, and is in a physical state to enable it to be lawfully used, by the willing lessee (or any potential undertenant or assignee of the willing lessee) for any purpose permitted by this lease;
- (d) the Landlord and the Tenant have fully complied with their obligations in this lease;
- (e) if the Property, or any means of access to it or any Service Media serving the Property, has been destroyed or damaged, it has been fully restored;
- (f) no work has been carried out on the Property or on the Building that has diminished the rental value of the Property;
- (g) any fixtures, fittings, machinery or equipment supplied to the Property by the Landlord that have been removed by or at the request of the Tenant, or

any undertenant or their respective predecessors in title (otherwise than to comply with any law) remain at the Property; and

- (h) the willing lessee and its potential assignees and undertenants shall not be disadvantaged by any actual or potential election to waive exemption from VAT in relation to the Property.

**7.6 The matters to be disregarded are:**

- (a) any effect on rent of the fact that the Tenant or any authorised undertenant has been in occupation of the Property;
- (b) any goodwill attached to the Property by reason of any business carried out there by the Tenant or by any authorised undertenant or by any of their predecessors in business;
- (c) any effect on rent attributable to any physical improvement to the Property carried out before or after the date of this lease, by or at the expense of the Tenant or any authorised undertenant with all necessary consents, approvals and authorisations and not pursuant to an obligation to the Landlord (other than an obligation to comply with any law);
- (d) any effect on rent of any obligation on the Tenant to fit out the Property or to reinstate the Property to the condition or design it was in before any alterations or improvements were carried out; and
- (e) any statutory restriction on rents or the right to recover them.

**7.7** The Surveyor shall be an independent valuer who is a Member or Fellow of the Royal Institution of Chartered Surveyors. The Landlord and the Tenant may, by agreement, appoint the Surveyor at any time before either of them applies to the President for the Surveyor to be appointed. Any application to the President may not be made earlier than three months before the relevant Review Date.

**7.8** The Surveyor shall act as an expert and not as an arbitrator. The Surveyor shall determine the open market rent and shall have power to determine any issue involving the interpretation of any provision of this lease, his jurisdiction to determine the matters and issues referred to him or his terms of reference. The Surveyor's decision shall be given in writing, and the Surveyor shall provide reasons for any determination. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.

**7.9** The Surveyor shall give the Landlord and the Tenant an opportunity to make written representations to the Surveyor and to make written counter-representations commenting on the representations of the other party to the Surveyor. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision.

- 7.10 If the Surveyor dies, or becomes unwilling or incapable of acting, or unreasonably delays in making any determination, then either the Landlord or the Tenant may apply to the President to discharge the Surveyor and clause 7.7 shall then apply in relation to the appointment of a replacement.
- 7.11 The fees and expenses of the Surveyor and the cost of the Surveyor's appointment and any counsel's fees, or other fees, incurred by the Surveyor shall be payable by the Tenant.
- 7.12 If the revised Annual Rent has not been agreed by the Landlord and the Tenant or determined by the Surveyor on or before the relevant Review Date, the Annual Rent payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Annual Rent is agreed or the Surveyor's determination is notified to the Landlord and the Tenant, the Tenant shall pay:
- (a) the shortfall (if any) between the amount that it has paid for the period from the Review Date until the Rent Payment Date following the date of agreement or notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been agreed or determined on or before that Review Date; and
  - (b) interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the revised Annual Rent had been agreed or determined on or before that Review Date and the date payment is received by the Landlord.
- 7.13 Time shall not be of the essence for the purposes of this clause.
- 7.14 If at any time there is a guarantor, the guarantor shall not have any right to participate in the review of the Annual Rent.
- 7.15 As soon as practicable after the amount of the revised Annual Rent has been agreed or determined, a memorandum recording the amount shall be signed by or on behalf of the Landlord and the Tenant and endorsed on or attached to this lease and its counterpart. The Landlord and the Tenant shall each bear their own costs in connection with the memorandum.
8. **INSURANCE**
- 8.1 Subject to clause 8.2, the Landlord shall keep the Building (other than any plate glass) insured against loss or damage by the Insured Risks for the sum which the Landlord considers to be its full reinstatement cost (taking inflation of building costs

into account). The Landlord shall not be obliged to insure any part of the Property installed by the Tenant.

**8.2 The Landlord's obligation to insure is subject to:**

- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
- (b) insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

**8.3 The Tenant shall pay to the Landlord on demand:**

- (a) the Insurance Rent;
- (b) any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy in so far as the excess is attributable to the Property; and
- (c) any costs that the Landlord incurs in obtaining a valuation of the Property for insurance purposes and a fair proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes.

**8.4 The Tenant shall:**

- (a) give the Landlord notice immediately any matter occurs that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Property;
- (b) not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased or additional insurance premium may become payable;
- (c) comply at all times with the requirements and recommendations of the insurers relating to the Property and the exercise of the Rights by the Tenant;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk or of any other event that might affect any insurance policy relating to the Property;
- (e) not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
- (f) pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay by reason of any act or omission of the Tenant



or any undertenant, their workers, contractors or agents or any person at the Building with the actual or implied authority of any of them.

- 8.5 The Landlord shall, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) in connection with any damage to the Building to repair the damage for which the money has been received or (as the case may be) in rebuilding the Building (as the case may be). The Landlord shall not be obliged to:
- (a) provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property is provided; or
  - (b) repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
  - (c) repair or rebuild the Building after a notice has been served pursuant to clause 8.7 or clause 8.8.
- 8.6 If the Building is damaged or destroyed by an Insured Risk so as to make the Property unfit for occupation and use, then, unless the policy of insurance in relation to the Building has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person at the Building with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Building has been reinstated so as to make the Property fit for occupation and use or until the end of three years from the date of damage or destruction, if sooner.
- 8.7 If, following damage to or destruction of the Building, the Landlord considers that it is impossible or impractical to reinstate the Building, the Landlord may terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.
- 8.8 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this lease by giving notice to the Landlord if, following damage or destruction of the Building by an Insured Risk, the Building has not been reinstated so as to make the Property fit for occupation and use within three years after the date of damage or destruction. On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.

**9. RATES AND TAXES**

**9.1** The Tenant shall pay all present and future rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:

- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
- (b) any taxes, other than VAT and insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this lease.

**9.2** If any such rates, taxes or other impositions are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.

**9.3** The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

**9.4** If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

**10. UTILITIES**

**10.1** The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property upon demand by the Landlord.

**10.2** The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities.

**11. COMMON ITEMS**

**11.1** The Tenant shall pay the Landlord on demand a fair proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.

**11.2** The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

## **12. VAT**

12.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

12.2 Every obligation on the Tenant, under or in connection with this lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994.

## **13. DEFAULT INTEREST AND INTEREST**

13.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest at the Default Interest Rate (both before and after any judgment) on that amount for the period from the due date to and including the date of payment.

13.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

## **14. COSTS**

14.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:

- (a) the enforcement of the tenant covenants of this lease;
- (b) serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- (c) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- (d) the preparation and service of a schedule of dilapidations in connection with this lease; or
- (e) any consent or approval applied for under this lease, whether or not it is granted.

- 14.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

**15. COMPENSATION ON VACATING**

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

**16. NO DEDUCTION, COUNTERCLAIM OR SET-OFF**

The Annual Rent and all other money due under this lease are to be paid by the Tenant or any guarantor (as the case may be) without deduction, counterclaim or set-off.

**17. REGISTRATION OF THIS LEASE**

Promptly following the grant of this lease, the Tenant shall apply to register this lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.

**18. ASSIGNMENTS**

- 18.1 The Tenant shall not assign the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

- 18.2 The Tenant shall not assign part only of this lease.

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

- (a) a condition that the assignor (and any former tenant who because of section 11 of the Landlord and Tenant (Covenants) Act 1995 has not been released from the tenant covenants of this lease) enters into an authorised guarantee agreement which:

- (i) is in respect of all the tenant covenants of this lease;
- (ii) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;

- (iii) imposes principal debtor liability on the assignor (and any former tenant);
  - (iv) requires (in the event of a disclaimer of liability under this lease) the assignor (or former tenant, as the case may be) to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and
  - (v) is otherwise in a form reasonably required by the Landlord,
- (b) a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this lease in the form set out in the Schedule (but with such amendments and additions as the Landlord may reasonably require).

18.4 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment if any Annual Rent or other money due under this lease is outstanding.

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

## 19. UNDERLETTINGS

19.1 The Tenant shall not underlet the whole of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld.

19.2 The Tenant shall not underlet part only of the Property.

19.3 The Tenant shall not underlet the Property:

- (a) together with any property or any right over property that is not included within this lease;
- (b) at a fine or premium or reverse premium; nor
- (c) allowing any rent free period to the undertenant that exceeds the period as is then usual in the open market in respect of such a letting.

19.4 The Tenant shall not underlet the Property unless, before the underlease is granted, the Tenant has given the Landlord:

- (a) a certified copy of the notice served on the undertenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be created by the underlease; and

- (b) a certified copy of the declaration or statutory declaration made by the undertenant in accordance with the requirements of section 38A(3)(b) of the LTA 1954.

**19.5 Any underletting by the Tenant shall be by deed and shall include:**

- (a) an agreement between the Tenant and the undertenant that the provisions of sections 24 to 28 of the LTA 1954 are excluded from applying to the tenancy created by the underlease;
- (b) the reservation of a rent which is not less than the full open market rental value of the Property at the date the Property is underlet and which is payable at the same times as the Annual Rent under this lease (but this shall not prevent an underlease providing for a rent-free period of a length permitted by clause 19.3(c));
- (c) provisions for the review of rent at the same dates and on the same basis as the review of rent in this lease, unless the term of the underlease does not extend beyond the next Review Date;
- (d) a covenant by the undertenant not to underlet the whole or part of the Property;
- (e) a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this lease, except the covenants to pay the rents reserved by this lease; and
- (f) provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this lease,

and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the Annual Rent) than those in this lease and in a form approved by the Landlord, such approval not to be unreasonably withheld.

**19.6 In relation to any underlease granted by the Tenant, the Tenant shall:**

- (a) not vary the terms of the underlease nor accept a surrender of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld;
- (b) enforce the tenant covenants in the underlease and not waive any of them nor allow any reduction in the rent payable under the underlease; and
- (c) ensure that in relation to any rent review the revised rent is not agreed without the approval of the Landlord, such approval not to be unreasonably withheld.

**20. SHARING OCCUPATION**

20.1 The Tenant may share occupation of the Property with any company that is a member of the same group (within the meaning of section 42 of the LTA 1954) as the Tenant for as long as that company remains within that group and provided that no relationship of landlord and tenant is established by that arrangement.

20.2 The Tenant may share occupation with one other person if and for so long as the following conditions are satisfied:

- (a) the identity of the other occupier and the terms of the arrangement are first approved by the Landlord;
- (b) the other occupier occupies part of the Property in order to trade from it for the purposes of a trade that is separate from that of the Tenant;
- (c) the other occupier uses the relevant part of the Property only for the Permitted Use;
- (d) the other occupier occupies no more than 50% of the internal floor area of the Property and the Tenant remains in occupation of the remainder of the Property;
- (e) the arrangement is by way of licence, is personal to the parties and does not create any relationship of landlord and tenant; and
- (f) the arrangement is consistent with the terms of this lease and is documented in writing.

**21. CHARGING**

21.1 The Tenant shall not charge the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

21.2 The Tenant shall not charge part only of this lease.

**22. PROHIBITION OF OTHER DEALINGS**

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

**23. REGISTRATION AND NOTIFICATION OF DEALINGS AND OCCUPATION**

23.1 In this clause a **Transaction** is:

- (a) any dealing with this lease or the devolution or transmission of, or parting with possession of any interest in it; or
  - (b) the creation of any underlease or other interest out of this lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or
  - (c) the making of any other arrangement for the occupation of the Property.
- 23.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title).
- 23.3 No later than one month after a Transaction the Tenant shall:
- (a) give the Landlord's solicitors notice of the Transaction; and
  - (b) deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors and
  - (c) pay the Landlord's solicitors a registration fee of £50 (plus VAT).
- 23.4 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.
- 24. CLOSURE OF THE REGISTERED TITLE OF THIS LEASE**
- Immediately after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.
- 25. TENANT'S COVENANTS FOR REPAIR**
- 25.1 The Tenant shall keep the Property clean and tidy and in good repair and condition.
- 25.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:
- (a) the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any



undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or

- (b) the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended as mentioned in clause 8.2.

25.3 The Tenant shall clean the inside and outside of all windows at the Property as often as is necessary.

25.4 The Tenant shall replace any plate glass or other window that becomes cracked or broken as soon as possible.

**26. LANDLORD'S COVENANT FOR REPAIR**

26.1 The Landlord shall use its reasonable endeavours to keep those parts of the Building that afford support and protection for the Property and those Service Media over which the Tenant is granted rights by this lease in a reasonable state of repair. Without prejudice to its obligations under clause 8, the Landlord shall not be obliged to carry out any repair where the need for any repair has arisen by reason of the occurrence of an Insured Risk.

26.2 The Tenant shall pay the Landlord on demand a fair proportion of the costs incurred by the Landlord in keeping the structure and exterior of the Building (except that the Tenant shall not be liable for any costs incurred by the Landlord in the repair maintenance and renewal of the roof of the Building) and the Service Media belonging to the Landlord at it (other than any parts of the Building or Service Media that are part of the Property or have been let to another tenant) in good repair and condition and in redecorating the exterior of the Building as often as is reasonably necessary. Without prejudice to its obligations under clause 8, the Tenant shall not be required to make any payment under this clause in respect of any work carried out by the Landlord by reason of the Landlord's obligations in clause 8.

**27. DECORATION**

27.1 The Tenant shall decorate the outside and the inside of the Property as often as is reasonably necessary and also in the last three months before the end of the term.

27.2 All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

27.3 All decoration carried out in the last three months of the term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

- 27.4 The Tenant shall replace the floor coverings at the Property within the three months before the end of the term with new ones of good quality and appropriate to the Property and the Permitted Use.

**28. ALTERATIONS**

- 28.1 Except in accordance with clause 29, the Tenant shall not make any external or structural alteration or addition to the Property and shall not make any opening in any boundary of the Property.
- 28.2 The Tenant shall not make any internal, non-structural alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld.
- 28.3 The Tenant shall not install any Service Media at the Property nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

**29. SIGNS**

- 29.1 Subject to clause 29.2, the Tenant shall not attach any signs, fascia, awnings, placards, boards, posters and advertisements (Signs) to the exterior of the Property or display any inside the Property so as to be seen from the outside.
- 29.2 The Tenant may attach a sign and an awning of a size and design approved by the Landlord, such approval not to be unreasonably withheld appropriate to the nature and location of the Property and the Permitted Use and may display such trade posters and advertisements of a design, size and number and in positions that are appropriate to the nature and location of the Property and to the Permitted Use.
- 29.3 The Tenant shall allow the Landlord to fix to and keep at the Property any sale or re-letting board as the Landlord reasonably requires.

**30. RETURNING THE PROPERTY TO THE LANDLORD**

- 30.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this lease.
- 30.2 If the Landlord gives the Tenant notice no later than three months before the end of the term, the Tenant shall remove items, including any Signs, it has fixed to the Property, remove any alterations it has made to the Property (except to the extent that such removal would leave the Property insecure) and make good any damage caused to the Property by that removal.

- 30.3 At the end of the term, the Tenant shall remove from the Property all fittings and chattels belonging to or used by it and all stock (whether or not belonging to it)].
- 30.4 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any fittings, chattels, stock or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.
- 30.5 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.
31. USE
- 31.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 31.2 The Tenant shall not place or keep any items on any external part of the Property (whether or not such items are for sale).
- 31.3 The Tenant shall keep the windows of the Property appropriately dressed and lit.
- 31.4 The Tenant shall not leave any refuse outside the Property on any street or pavement outside the Property except at such times and in such manner as accord with the arrangements for the collection of refuse from the Property by the local authority.
- 31.5 The Tenant shall load and unload goods only at such times as accord with any by laws or parking restrictions imposed by the local authority.
- 31.6 The Tenant shall not allow any noise, music, flashing lights, fumes or smells to emanate from the Property so as to cause a nuisance or annoyance to any other tenants or occupiers of the Building or any neighbouring property.
- 31.7 The Tenant shall not use the Property for any illegal purposes nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Building or of any neighbouring property.

31.8 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

31.9 The Tenant shall not park any vehicle on any parking space marked 'resident parking for three cars' and visitor parking for three cars' as shown on Plan 1.

31.10 The Tenant shall use their reasonable endeavours to prevent their agents, licencees, customers and invitees from parking any vehicle in or on the aforesaid parking spaces (as specified in clause 31.9 above).

31.11 The Tenant shall use their reasonable endeavours to prevent their agents, licencees, customers and invitees from parking any vehicle in or on the lane to the east side of the Building

31.12 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any other part of the Building or any neighbouring property.

## **32. COMPLIANCE WITH LAWS**

32.1 The Tenant shall comply with all laws relating to:

- (a) the Property and the occupation and use of the Property by the Tenant;
- (b) the use of all Service Media and machinery and equipment at or serving the Property;
- (c) any works carried out at the Property; and
- (d) all materials kept at or disposed from the Property.

32.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.

32.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:

- (a) send a copy of the relevant document to the Landlord; and
- (b) in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

32.4 The Tenant shall not apply for any planning permission for the Property without the Landlord's consent.

- 32.5 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file.
- 32.6 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.
- 32.7 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.
- 32.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.
- 32.9 The Tenant shall pay on demand a fair proportion of the costs incurred by the Landlord in complying with all laws relating to Building and the Service Media belonging to the Landlord at it (other than any parts of the Building or Service Media that are part of the Property or have been let to another tenant). Without prejudice to its obligations under clause 8, the Tenant shall not be required to make any payment under this clause in respect of any work carried out by the Landlord by reason of the Landlord's obligations in clause 8.

### **33. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

- 33.1 The Tenant shall not grant any right or licence over the Property to any person.
- 33.2 If any person makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:
- (a) immediately give notice to the Landlord; and
  - (b) take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.
- 33.3 The Tenant shall not obstruct the flow of light or air to the Property or any other part of the Building nor obstruct any means of access to the Property or any other part of the Building.

33.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Property or any other part of the Building is enjoyed with the consent of any third party.

33.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property the Tenant shall:

- (a) immediately notify the Landlord; and
- (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

**34. BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS**

34.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this lease relating to the condition or repair of the Property.

34.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.

34.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.

34.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 38.

**35. INDEMNITY**

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) arising from any breach of any tenant covenants in this lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or any other part of the Building with the actual or implied authority of any of them.

**36. LANDLORD'S COVENANT FOR QUIET ENJOYMENT**

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this lease.

**37. GUARANTEE AND INDEMNITY**

**37.1** The provisions of the Schedule apply.

**37.2** If an Act of Insolvency occurs in relation to a guarantor, or if any guarantor (being an individual) dies or becomes incapable of managing his affairs the Tenant shall, if the Landlord requests, procure that a person of standing acceptable to the Landlord enters into a replacement or additional guarantee and indemnity of the tenant covenants of this lease in the same form as that entered into by the former guarantor.

**37.3** For so long as any guarantor remains liable to the Landlord, the Tenant shall, if the Landlord requests, procure that that guarantor joins in any consent or approval required under this lease and consents to any variation of the tenant covenants of this lease.

**38. RE-ENTRY AND FORFEITURE**

**38.1** The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:

- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) any breach of any condition, or tenant covenant, in this lease;
- (c) an Act of Insolvency.

**38.2** If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor.

**39. LIABILITY**

**39.1** At any time when the Landlord, the Tenant or a guarantor is more than one person, then in each case those persons shall be jointly and severally liable for their respective obligations arising by virtue of this lease. The Landlord may release or compromise the liability of any one of those persons or grant any time or concession to any one of them without affecting the liability of any other of them.

**39.2** The obligations of the Tenant and any guarantor arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

**39.3** In any case where the facts are or should reasonably be known to the Tenant, the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform

any landlord covenant in this lease unless and until the Tenant has given the Landlord notice of the facts that give rise to the failure and the Landlord has not remedied the failure within a reasonable time.

**40. ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

40.1 This lease constitutes the entire agreement and understanding of the parties relating to the transaction contemplated by the grant of this lease and supersedes any previous agreement between the parties relating to the transaction.

40.2 The Tenant acknowledges that in entering into this lease it has not relied on nor shall have any remedy in respect of, any statement or representation made by or on behalf of the Landlord.

40.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this lease.

40.4 Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

**41. NOTICES, CONSENTS AND APPROVALS**

41.1 Except where this lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this lease shall be in writing.

41.2 A written notice shall be delivered by hand or sent by pre-paid first class post or recorded delivery. A correctly addressed notice sent by pre-paid first class post shall be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.

41.3 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

41.4 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:

- (a) it is given in writing and signed by a person duly authorised on behalf of the Landlord; and
- (b) it expressly states that the Landlord waives the requirement for a deed in that particular case.



If a waiver is given, it shall not affect the requirement for a deed for any other consent.

41.5 Where the approval of the Landlord is required under this lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

- (a) the approval is being given in a case of emergency; or
- (b) this lease expressly states that the approval need not be in writing.

41.6 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

#### **42. GOVERNING LAW AND JURISDICTION**

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

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

#### **43. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 [but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

#### **44. LANDLORD AND TENANT (COVENANTS) ACT 1995**

This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

#### **45. BREAK CLAUSE FOR THE TENANT**

45.1 In this clause 45, the following definitions apply:

**Break Date:** each of 1<sup>st</sup> March 2018 or 1<sup>st</sup> March 2025

**Break Notice:** Written notice to terminate this lease in the form set out in the Form annexed to this lease specifying the Break Date.

**Original Tenant:**

- 45.2 The Original Tenant may terminate this lease by serving a Break Notice on the Landlord at least six months before the Break Date.
- 45.3 A Break Notice served by the Original Tenant shall be of no effect if, at any time prior to the Break Date, it has assigned or contracted to assign this lease.
- 45.4 A Break Notice served by the Original Tenant shall be of no effect if, at the Break Date:
- (a) the Original Tenant has not paid any part of the Annual Rent, or any VAT in respect of it, which was due to have been paid; or
  - (b) vacant possession of the whole of the Property is not given; or
  - (c) there is a subsisting material breach of any of the tenant covenants of this lease relating to the state of repair and condition of the Property.
- 45.5 Subject to clause 45.3 and clause 45.4, following service of a Break Notice this lease shall terminate on the Break Date.
- 45.6 Termination of this lease on the Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease.
- 45.7 The Break Notice shall be in the form annexed to this lease.
- 45.8 The Break Notice shall be signed by each and every person who together constitute the Original Tenant or by a person or persons who is or are expressed to sign on behalf of and with the authority of each and every person who together constitute the Original Tenant.
- 45.9 A Break Notice delivered or sent by the Original Tenant in accordance with clause 45 shall be deemed to have been served on the Landlord:
- (a) if delivered by hand, on the day of delivery, except that if delivery occurs after 5.00 pm on a Working Day or on a day that is not a Working Day, then the notice shall be deemed to have been served on the next Working Day;
  - (b) if sent by pre-paid first-class post or recorded delivery, on the second Working Day after posting (for the avoidance of doubt, not including the date of posting itself).

- 45.10** The Break Notice shall be delivered or sent by the Original Tenant so that it shall be deemed to have been served on the Landlord as provided by clause 45.2 not less than six months before the Break Date stated in the Break Notice (and for the avoidance of doubt, the day of deemed receipt shall not be taken into account in calculating the period of six months).
- 45.11** Time shall be of the essence in respect of all time periods and limits in this clause 45
- 45.12** Neither section 196 of the Law of Property Act 1925 nor clause 41 shall apply to a Break Notice, but those sections and clause 41 shall apply to any other notice served pursuant to this clause.
- 45.13** If this lease terminates in accordance with clause 45 then, within 14 days after the Break Date, the Landlord shall refund to the Original Tenant the proportion of the Annual Rent, and any VAT paid in respect of it, for the period from and excluding the Break Date up to and excluding the next Rent Payment Date, calculated on a daily basis.

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

## **Schedule      Guarantee and indemnity**

### **1.      GUARANTEE AND INDEMNITY**

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

- (a)      pay the rents reserved by this lease and observe and perform the tenant covenants of this lease and that if the Tenant fails to pay any of those rents or to observe or perform any of those tenant covenants, the Guarantor shall pay or observe and perform them; and**
- (b)      observe and perform any obligations the Tenant enters into in an authorised guarantee agreement made in respect of this lease (the **Authorised Guarantee Agreement**) and that if the Tenant fails to do so, the Guarantor shall observe and perform those obligations.**

#### **1.2      The Guarantor covenants with the Landlord as a separate and independent primary obligation to indemnify the Landlord against any failure by the Tenant:**

- (a)      to pay any of the rents reserved by this lease or any failure to observe or perform any of the tenant covenants of this lease; and**
- (b)      to observe or perform any of the obligations the Tenant enters into in the Authorised Guarantee Agreement.**

### **2.      GUARANTOR'S LIABILITY**

#### **2.1      The liability of the Guarantor under paragraphs 1.1(a) and 1.2(a) shall continue until the end of the term, or until the Tenant is released from the tenant covenants of this lease by virtue of the Landlord and Tenant (Covenants) Act 1995, if earlier.**

#### **2.2      The liability of the Guarantor shall not be affected by:**

- (a)      any time or indulgence granted by the Landlord to the Tenant; or**
- (b)      any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or in making any demand in respect of any of them; or**
- (c)      any refusal by the Landlord to accept any rent or other payment due under this lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property; or**
- (d)      the Landlord exercising any right or remedy against the Tenant for any failure to pay the rents reserved by this lease or to observe or perform the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement); or**

- (e) the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Tenant's liability to pay the rents reserved by this lease or observe and perform the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) including the release of any such security; or
- (f) a release or compromise of the liability of any one of the persons who is the Guarantor, or the grant of any time or concession to any one of them; or
- (g) any legal limitation or disability on the Tenant or any invalidity or irregularity of any of the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or any unenforceability of any of them against the Tenant; or
- (h) the Tenant being dissolved, or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs; or
- (i) without prejudice to paragraph 4, the disclaimer of the Tenant's liability under this lease or the forfeiture of this lease; or
- (j) the surrender of part of the Property, except that the Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender, or

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

2.3 The liability of each of the persons making up the Guarantor is joint and several.

2.4 Any sum payable by the Guarantor shall be paid without any deduction, set-off or counter-claim against the Landlord or the Tenant.

### 3. VARIATIONS AND SUPPLEMENTAL DOCUMENTS

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

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

- (a) the variation is material or prejudicial to the Guarantor; or
- (b) the variation is made in any document; or
- (c) the Guarantor has consented, in writing or otherwise, to the variation.

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

**4. GUARANTOR TO TAKE A NEW LEASE OR MAKE PAYMENT**

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

- 4.2 The rights and obligations under the new lease shall take effect from the date of the forfeiture or disclaimer and the new lease shall:

- (a) be granted subject to the right of any person to have this lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of the grant;
- (b) be for a term that expires at the same date as the end of the Contractual Term of this lease had there been no forfeiture or disclaimer;
- (c) reserve as an initial annual rent an amount equal to the Annual Rent payable under this lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it (subject to paragraph 5) and which is subject to review on the same terms and dates provided by this lease;
- (d) otherwise be on the same terms as this lease (as varied if there has been any variation).

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

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

- 4.5 The Landlord may, instead of giving the Guarantor notice pursuant to paragraph 4.1 but in the same circumstances and within the same time limit, require the Guarantor to pay an amount equal to six months Annual Rent and the Guarantor shall pay that amount on demand.

**5. RENT AT THE DATE OF FORFEITURE OR DISCLAIMER**

If at the date of the forfeiture or disclaimer there is a rent review pending under this lease, then the initial annual rent to be reserved by the new lease shall be the greater of:

- (a) the Annual Rent previously payable (or which would have been payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) under the lease prior to forfeiture or disclaimer; and
- (b) the open market rent of the Property at the relevant Review Date, as determined by the Landlord before the grant of the new lease.

**6. PAYMENTS IN GROSS AND RESTRICTIONS ON THE GUARANTOR**

- 6.1 Any payment or dividend that the Landlord receives from the Tenant (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Tenant shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.
- 6.2 The Guarantor shall not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Tenant in respect of any payment made by the Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it shall hold that money on trust for the Landlord to the extent of its liability to the Landlord.
- 6.3 The Guarantor shall not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Tenant or any other person) in respect of any amount paid or other obligation performed by the Guarantor under this guarantee and indemnity unless and until all the obligations of the Guarantor under this guarantee and indemnity have been fully performed.

**7. OTHER SECURITIES**

- 7.1 The Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Tenant in respect of any liability of the Tenant to the Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.
- 7.2 This guarantee and indemnity is in addition to any other security that the Landlord may at any time hold from the Guarantor or the Tenant or any other person in respect of the liability of the Tenant to pay the rents reserved by this lease and to observe and perform the tenant covenants of this lease. It shall not merge in or be affected by any other security.

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

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### **Form of Break Notice**

*On the Letterhead of the Original Tenant*

---

To [the Landlord]

Address of [the Landlord]

[By Hand][By first class post][By recorded delivery]

[DATE]

[BUILDING NUMBER/NAME], [STREET], [LOCALITY], [COUNTY], [TOWN],  
[POSTCODE], England

We refer to clause 45 of a lease dated                      and made between (1)

and JAMAN UDIN

AHMED (the Lease).

By this notice we are exercising our right to terminate the Lease pursuant to clause 45 of the Lease.

The Break Date for the purposes of that clause 45 is                      .

Signed by                      .

.....

On behalf of and with the authority of the Original Tenant

Signed as a deed by

X

in the presence of

**Ian W Farrer  
Solicitor  
South Shields**

Signed as a deed by

X

in the presence of

**Ian W Farrer  
Solicitor  
South Shields**

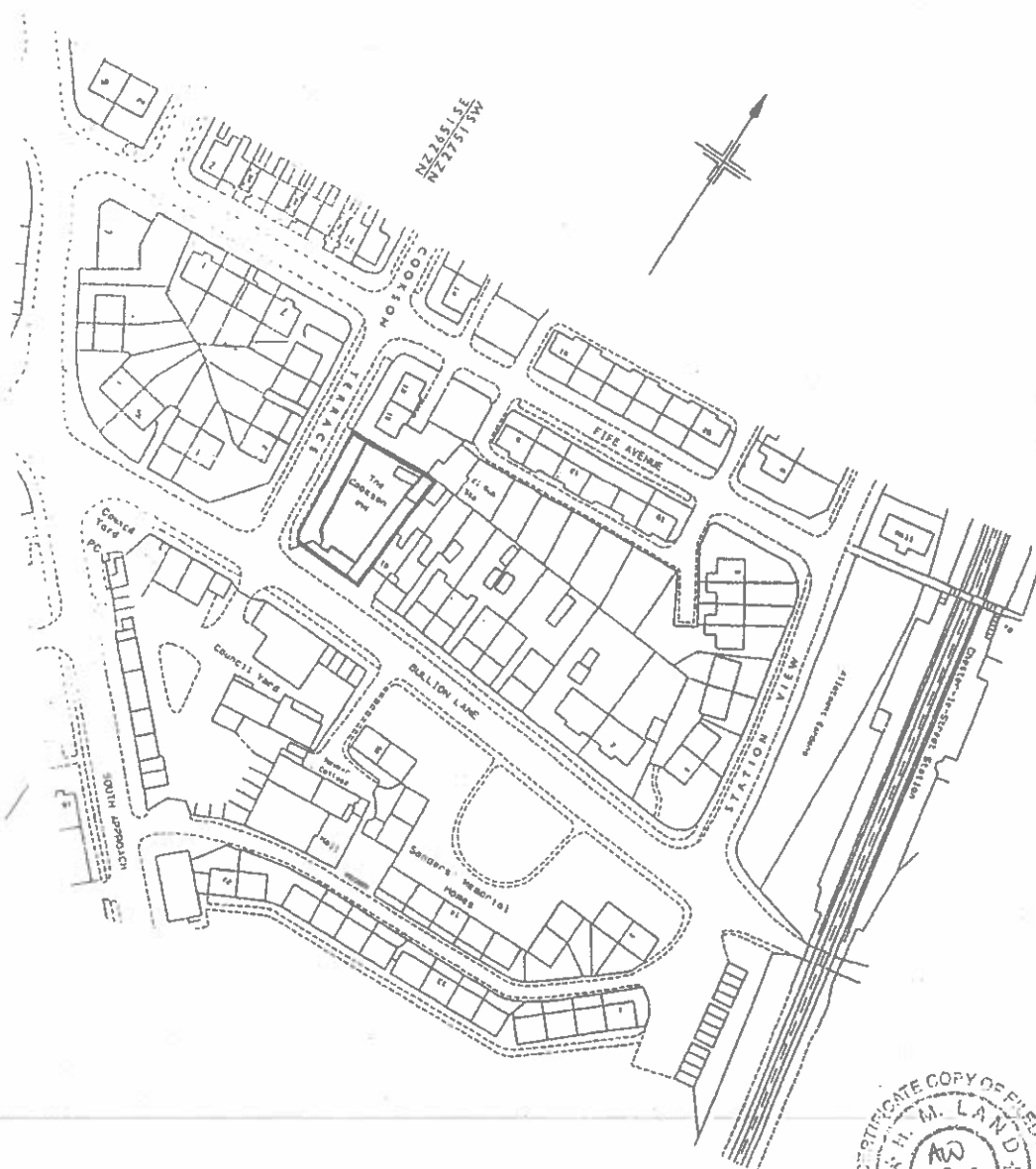
Signed as a deed by

in the presence of

Signed as a deed by  
Jaman Udin Ahmed  
in the presence of



L M T		TITLE NUMBER	
H.M. LAND REGISTRY		DU 230452	
ORDNANCE SURVEY PLAN REFERENCE	NZ 2751 O		Scale 1/1250
COUNTY	DURHAM	DISTRICT	CHESTER-LE-STREET
			© Crown Copyright



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# Appendix 7: Statement of Licensing Policy

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## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **7.0 The Prevention of Crime and Disorder**

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25',. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues

arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- ☐ Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- ☐ At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- ☐ At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the premises in order to

prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

## **8.0 Public Safety**

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

- ☐ First Aid
- ☐ Public security
- ☐ Event control
- ☐ Polycarbonate Glass
- ☐ Fire Safety
- ☐ Electrical safety
- ☐ Building safety
- ☐ Transport
- ☐ Drink driving issues
- ☐ Occupancy levels

## **10.0 Protection of Children from Harm**

10.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting.

10.2 The Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:

- ☐ At any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
  - ☐ Between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
-



☐ The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

10.3 The Licensing Authority may consider the following when dealing with a licence application where children may have limited access:

- ☐ Limitations on the hours when children may be present.
- ☐ Limitations on under 18s
- ☐ Limitations or exclusion when certain activities are taking place.
- ☐ Requirements for an accompanying adult to be present.
- ☐ Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- ☐ Limitations on the parts of premises to which children might be given access.
- ☐ Any other limitations appropriate to the application and according with the four licensing objectives.

10.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

10.5 The Licensing Authority is aware of young persons' vulnerability to alcohol and events which are aimed at children under the age of 18 years on licensed premises will not be supported by the licensing authority unless the applicant can demonstrate that all safeguards for children have been addressed such as the removal of alcohol advertising.

10.6 The Licensing Authority, Durham Constabulary Alcohol Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the Licensing Authority and should be adhered to by licence holders and event organisers.

10.7 Recorded staff training programmes, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are to be encouraged.

10.8 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

10.9 Access to Cinemas: In the case of premises requiring an licence to show films, applicants should include in the operating schedule arrangements for restricting access only to those children who meet the required age limit, in line with any

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certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.

10.10 The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

10.11 Should the Licensing Authority need to adopt its own system of film classification the information regarding such classifications will be published on the Local Authority's website.

10.12 Children and Public Entertainment: Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

10.13 Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Disclosure and Barring Service.

10.14 With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

10.15 Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications.

## **22.0 Reviews**

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an

application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- ☐ Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- ☐ Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- ☐ Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- ☐ If they will attend the hearing in person,
- ☐ Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- ☐ If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- ☐ They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- ☐ No action,
- ☐ Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- ☐ Excluding a licensable activity from the licence,
- ☐ Removing the designated premises supervisor,
- ☐ Suspend the licence for a period (not exceeding 3 months), and
- ☐ Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the

Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

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## Appendix 8: Section 182 Guidance

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## Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.



- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

### **Ensuring safe departure of those using the premises**

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:



- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

### **Maintenance and repair**

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

### **Safe capacities**

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.14 Public safety may include the safety of performers appearing at any premises but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

### **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as

exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18);
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and

- full exclusion of people under 18 from the premises when any licensable activities are taking place.

- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.