

DATED

AGREEMENT FOR LEASE

relating to

RADFORD UNITY COMPLEX

between

NOTTINGHAM CITY COUNCIL

and

[Tenant]

CONTENTS

CLAUSE

1. Interpretation.....	3
2. Condition Precedent	12
3. Planning Application	12
4. Planning Appeal.....	13
5. Co-operation of Tenant	13
6. Notification of planning decisions	14
7. Planning Agreements.....	14
8. Right to waive Unacceptable Conditions	14
9. Third Party Applications	15
10. Unacceptable Condition Disputes.....	15
11. Planning Long Stop Date.....	16
12. Termination	18
13. Agreement for lease	18
14. Landlord's Works.....	18
15. Inspection.....	20
16. Professional team.....	21
17. Building contract.....	22
18. Practical Completion and Rectification Period	23
19. Works Long Stop Date	24
20. Insurance	24
21. Damage after Practical Completion	25
22. Rent	25
23. Landlord's obligations.....	25
24. Conditions	25
25. Tenant's occupation prior to the grant of the Lease	26
26. Deducing title.....	27
27. Title guarantee	27

28.	Matters affecting the Property.....	27
29.	Termination on Tenant's insolvency and material non-compliance by the Tenant.....	28
30.	Consequences of termination	29
31.	Timetable for engrossments	30
32.	Completion of grant of the Lease.....	30
33.	Registration	31
34.	VAT	31
35.	Entire agreement.....	31
36.	Joint and several liability.....	32
37.	Notices	32
38.	Third party rights	34
39.	Governing law	34
40.	Jurisdiction	34
41.	No Fetters	35

SCHEDULE

Schedule 1	Professional indemnity insurance.....	36
------------	---------------------------------------	----

ANNEX

ANNEX A	Agreed form of Building Contract.....	37
ANNEX B	List of parties required to give Collateral Warranties.....	39
ANNEX C	Agreed forms of Collateral Warranties.....	40
ANNEX D	Agreed form of Lease.....	41
ANNEX E	Agreed forms of Professional Appointments.....	42
ANNEX F	Agreed form of Property Specification	43

This agreement is dated [DATE]

Parties

- (1) **NOTTINGHAM CITY COUNCIL** of Loxley House, Station Street, Nottingham, NG2 3NG (**Landlord**)
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**)

BACKGROUND

- (A) The Landlord owns the freehold of the property at RADFORD UNITY COMPLEX, Lenton Boulevard, Nottingham and has agreed to grant the Tenant a lease of the property on the terms contained in this agreement.
- (B) The Tenant has agreed to apply for detailed planning permission for its proposed works and, subject to obtaining a satisfactory planning permission for those works, to carry out those works before the grant of the lease.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Architect: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement architect for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed), in relation to this agreement and the Building Contract, to be appointed in the agreed form of appointment annexed to this agreement at ANNEX E, [provided that the Landlord may withhold approval to any amendments requested by the Tenant which materially alter the liability of the Architect but may not withhold approval to any amendments which are required by the Architect's professional indemnity insurance policy].

Building Contract: a building contract for the Tenant's Works to be entered into as a deed between the Tenant and the Building Contractor in the agreed form annexed to this agreement at ANNEX A and incorporating such amendments as may be approved in writing by the Landlord (such approval not to be unreasonably withheld or delayed) provided that the Landlord may withhold approval to any amendments which materially alter the liability of the Architect but may not withhold approval to any amendments which are required by the Architects professional indemnity insurance policy.

Building Contractor: [[NAME] of [ADDRESS] or such other suitably experienced and competent building contractor as may be appointed by the Tenant to carry out the Tenant's Works and

approved by the Landlord (such approval not to be unreasonably withheld or delayed), together with any replacement building contractor that may be appointed by the Tenant in accordance with the terms of the Building Contract and approved by the Landlord (such approval not to be unreasonably withheld or delayed) provided that the Landlord may withhold approval to any amendments which materially alter the liability of the building contractor but may not withhold approval to any amendments which are required by the building contractor's professional indemnity insurance policy..

CDM Regulations: the Construction (Design and Management) Regulations 2015 (*SI 2015/51*).

Collateral Warranties: deeds of collateral warranty from the parties identified in ANNEX B together with any replacement party that may from time to time be appointed by the Tenant or the Building Contractor, such deeds to be in the agreed forms annexed to this agreement at ANNEX C with such amendments as may be approved by the Landlord (such approval not to be unreasonably withheld or delayed) provided that the Landlord may withhold approval to any amendments to the Collateral Warranties which materially alter the liability of the relevant warrantor but may not withhold approval to any amendments which are required by relevant warrantors professional indemnity insurance policy.

Condition: any one of the Part 1 Conditions.

Condition Precedent: the occurrence of the Satisfaction Date.

Contract Rate: 4% per annum above the base rate from time to time of Barclays Bank Plc.

Counsel: Counsel with not less than 10 years' call experience in planning matters relating to developments of a similar type to the Development and agreed between the Landlord and the Tenant (and in default of agreement appointed by the President).

Court Confirmatory Decision: either:

- a) a judgment of the High Court or Court of Appeal confirming the grant of Planning Permission, and the period for an appeal against such a decision has expired without a further Third Party Application being made; or
- b) a judgment of the Supreme Court confirming the grant of Planning Permission.

Deposit: means [£] (being a sum equal to ten percent (10%) of the Premium)

Design Sub-Contractors: all sub-contractors of the Building Contractor having a design responsibility in relation to the Tenant's Works under the Building Contract.

Determining Authority: the local planning authority or other appropriate determining body or person.

Development: the conversion and refurbishment of the original Victoria school buildings on the Property with possible part demolition of the sports hall extension comprising the first floor sports hall and ground floor storage as identified on the attached plan marked “[]” and shown hatched [].

Electronic Payment: payment by electronic means in same day cleared funds from an account held in the name of the Tenant's Conveyancer at a clearing bank to an account in the name of the Landlord's Conveyancer.

Employer's Agent: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement employer's agent for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed), in relation to this agreement and the Building Contract, to be appointed in the agreed form of appointment annexed to this agreement at ANNEX E, [provided that the Landlord may withhold approval to any amendments requested by the Tenant which materially alter the liability of the Employer's Agent but may not withhold approval to any amendments which are required by the Employer's Agent's professional indemnity insurance policy].

Employment and Skills Requirements: means provisions, obligations and conditions to be entered into by the Tenant as part of a S.111 Agreement and or a Planning Agreement prior to the commencement of the Tenant's Works as required by the Landlord pursuant to this agreement.

Energy Performance Certificate: a certificate as defined in regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012 (*SI 2012/3118*).

Event of Default: any of the events set out in clause 29.1.

Final Determination Date: the date on which:

- a) a Third Party Application is Finally Determined; and
- b) a Satisfactory Planning Permission is finally granted or upheld whether after a reference back to the Determining Authority;

so that such Satisfactory Planning Permission is no longer open to challenge in any way by the issue of further Third Party Applications.

Finally Determined: where a Third Party Application has been made, the first of the following events to occur:

- a) permission to bring a Third Party Application (where required) has not been granted and the period within which an application for permission to appeal against such refusal has expired without a further Third Party Application being made;
- b) all Third Party Applications have been withdrawn;
- c) a Court Confirmatory Decision has been issued; or
- d) where a Quashing Order has been issued and the Determining Authority has issued a further Planning Permission, the Review Period in respect of that Planning Permission has expired.

Independent Surveyor: the surveyor appointed under clause 10.

Landlord's Conveyancer: LEGAL SERVICES, LOXLEY HOUSE, STATION STREET, NOTTINGHAM, NG2 3NG, RGENACC-000104-5 or any other conveyancer whose details have been given by notice from time to time by the Landlord to the Tenant.

Landlord's Surveyor: the Director of Strategic Assets and Property, Nottingham City Council

Landlord's Unacceptable Condition: a condition imposed by the Planning Permission or a provision in a Planning Agreement (or a S.111 Agreement) which in the Landlord's reasonable opinion:

- a) will [or is likely to] increase materially the cost of carrying out the Development;
- b) will [or is likely to] reduce materially the profitability of the Development;
- c) will [or is likely to] reduce materially the capital value or the rack rental value of the Development;
- d) will [or is likely to] reduce materially the capital value or the rack rental value of the Landlord's adjoining land;
- e) will [or is likely to] prevent the Landlord's adjoining land from being used for its current use or make it materially more expensive to continue using it for that use[. **OR** ; or]
- f) [[[ANY OTHER CONDITIONS].]]

Lease: a lease in the agreed form annexed to this agreement at ANNEX D [subject only to any minor amendments necessitated by any variations made to the Property Specification under clause 14.5 or clause 14.6.

Lease Completion Date: the day that is 10 working days after the Practical Completion Date.

Licence Period: the period from [] until the earlier of completion of the Lease and/or termination of this agreement.

M&E Engineer: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement mechanical and electrical engineer for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed), in relation to this agreement and the Building Contract, to be appointed in the agreed form of appointment annexed to this agreement at ANNEX E, [provided that the Landlord may withhold approval to any amendments requested by the Tenant which materially alter the liability of the M&E Engineer but may not withhold approval to any amendments which are required by the M&E Engineer's professional indemnity insurance policy].

Material: all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, calculations, schedules, programmes, bills of quantities, budgets and any other materials provided in connection with the Tenant's Works and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to the Tenant's Works.

Notice of Completion of Making Good: the Employer's Agent's certificate or written statement issued in accordance with the Building Contract certifying that any defects, shrinkages or faults appearing in the Tenant's Works during the Rectification Period and for which the Building Contractor was responsible under the Building Contract have been made good.

Part 1 Conditions: part 1 of the Standard Commercial Property Conditions (Third Edition - 2018 Revision).

Part 2 Conditions: part 2 of the Standard Commercial Property Conditions (Third Edition - 2018 Revision).

Planning Agreement: an agreement or unilateral undertaking under section 106 of the Town and Country Planning Act 1990 required to obtain Planning Permission and which contains substantially the same terms as the S.111 Agreement in which the Tenant binds its interest in the Property (and which for the avoidance of doubt may contain Employment and Skills Requirements).

Planning Appeal: an appeal by the Tenant against:

- a) the refusal of the Determining Authority to grant Planning Permission;
- b) the non-determination of the Planning Application; or
- c) any one or more conditions attached to the Planning Permission.

Planning Appeal Decision: the written decision of the Secretary of State on the Planning Appeal.

Planning Application: an application for Planning Permission approved by the Landlord under clause 3 provided that such planning application must not include any provisions for demolition unless those provisions have been expressly approved by the Landlord in writing.

Planning Long Stop Date: [] *(being a date 6 months from the date of this agreement)*

Planning Permission: detailed planning permission for the Development.

Practical Completion Date: the date stated in the Practical Completion Statement.

Practical Completion Statement: the Employer's Agent's written statement issued in accordance with the Building Contract stating that practical completion of the Tenant's Works has occurred according to the terms of the Building Contract and setting out the date on which practical completion occurred.

Premium: means [£]

President: the president for the time being of the RICS.

Principal Designer: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement principal designer for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed) for the purposes of this agreement and the CDM Regulations, to be appointed in the agreed form of appointment annexed to this

agreement at ANNEX E, provided that the Landlord may withhold approval to any amendments which materially alter the liability of the Principal Designer but may not withhold approval to any amendments which are required by the Principal Designer's professional indemnity insurance policy.

Professional Appointment: the appointment of a member of the Professional Team substantially in the forms of the relevant and appropriate drafts annexed at ANNEX F and incorporating only those amendments that receive the Landlord's prior approval (such approval not to be unreasonably withheld or delayed).

Professional Team: the Architect, the Principal Designer, the Employer's Agent, the M&E Engineer, the Quantity Surveyor, the Structural Engineer and any other specialist advisors or sub-consultants that may, with the approval of the Landlord (not to be unreasonably withheld or delayed), be appointed for the time being in connection with the design and/or management of the Works.

Property: the property to be known as RADFORD UNITY COMPLEX, Lenton Boulevard, Nottingham as more particularly defined in the Lease.

Property Specification: the plans, specifications, drawings and other data in respect of that part of the Development to be carried out on the Property in the form annexed to this agreement at ANNEX F.

Quantity Surveyor: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement quantity surveyor for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed), in relation to this agreement and the Building Contract, to be appointed in the agreed form of appointment annexed to this agreement at ANNEX E, provided that the Landlord may withhold approval to any amendments which materially alter the liability of the quantity surveyor but may not withhold approval to any amendments which are required by the quantity surveyor's professional indemnity insurance policy.

Quashing Order: the decision of the court to nullify either the Planning Permission granted by:

- a) the Determining Authority; or
- b) the Secretary of State following a Planning Appeal.

Recommendation Report: a report as defined in regulation 4 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (*SI 2012/3118*).

Rectification Period: the rectification period or defects liability period for the making good of defects, shrinkages or other faults in the Tenant's Works under the Building Contract.

Rent: the initial rent per annum (subject to review) exclusive of VAT payable under the Lease and calculated in accordance with clause 22.

Rent Commencement Date: 10 days after the Practical Completion Date.

Rent Payment Dates: 1st April

Requisite Consents: building regulation approvals, by-law approvals, and any other consents, licences and authorisations required from any competent authority, statutory undertaker or person for the carrying out of the Tenant's Works.

Review Period: either:

- a) six weeks and ten working days following the date of issue of a Planning Permission by the Determining Authority; or
- b) six weeks following the date of issue of a Planning Appeal Decision.

RICS: Royal Institution of Chartered Surveyors.

Satisfaction Date: the latest of the following dates:

- a) the date on which it is established under this agreement that a Satisfactory Planning Permission has been granted;
- b) the next Working Day after the expiry of the Review Period (provided that no Third Party Application is commenced by such date); and
- c) in the event that any Third Party Application is commenced, the next Working Day after the Final Determination Date.

Satisfactory Planning Permission: a Planning Permission and Planning Agreement (if any and including any S.111 Agreement) free from:

- a) any Landlord's Unacceptable Condition (unless waived by the Landlord in accordance with this agreement); and
- b) any Tenant's Unacceptable Condition (unless waived by the Tenant in accordance with this agreement).

Secretary of State: the Secretary of State for Communities and Local Government or other appropriate Minister including (where relevant) any inspector appointed to determine any Planning Appeal or the National Assembly for Wales.

Structural Engineer: [NAME] of [ADDRESS] or such other person as may be appointed as a replacement structural engineer for the time being by the Tenant with the approval of the Landlord (such approval not to be unreasonably withheld or delayed), in relation to this agreement, to be appointed in the agreed form of appointment annexed to this agreement at ANNEX E, provided that the Landlord may withhold approval to any amendments which materially alter the liability of the structural engineer but may not withhold approval to any amendments which are required by the structural engineer's professional indemnity insurance policy.

S.111 Agreement: means an agreement pursuant to section 111 of the Local Government Act 1972 or any statutory re-enactment or replacement thereof between the Determining Authority and the Tenant prior completion of which is required by the Determining Authority as a precondition of the grant of the Planning Permission, such 111. Agreement to be in a form agreed between the Determining Authority and the Tenant and which restricts commencement of any development pursuant to the Planning Permission until the Planning Agreement has been

completed (and which for the avoidance of doubt may contain Employment and Skills Requirements).

Target Date: the date being 18 months from and including the Unconditional Date (as may be extended in accordance with clause 14.2).

Tenant's Conveyancer: [NAME, ADDRESS, FAX NUMBER, REFERENCE] or any other conveyancer whose details have been given by notice from time to time by the Tenant to the Landlord.

Tenant's Surveyor: [NAME, ADDRESS, FAX NUMBER, REFERENCE] or any other surveyor whose details may be given in writing from time to time by the Tenant to the Landlord.

Tenant's Unacceptable Condition: a condition imposed in a Planning Permission or a provision in a Planning Agreement (and including any S.111 Agreement) which in the Tenant's reasonable opinion:

- a) will [or is likely to] limit the occupation or use of the whole or any part of the Property to any designated person or occupier;
- b) will [or is likely to] cause the Planning Permission to be for a limited period only;
- c) will [or is likely to] restrict the operating and servicing hours of the Development to [hours which are inconsistent with the reasonably anticipated operational requirements of the Tenant **OR** less than [NUMBER] hours per day]; [or]
- d) will [or is likely to] limit the Internal Area of the Property to an area less than [NUMBER] square [metres **OR** feet] **OR** the net sales area of the [Property **OR** Development] to an area less than [NUMBER] square [metres **OR** feet]]. **OR** ; or]
- e) [[ANY OTHER CONDITIONS].]

Tenant's Works: the works on the Property to be carried out by the Tenant in accordance with the Property Specification

Third Party: a person other than:

- a) the Landlord;
- b) the Tenant; or
- c) anyone acting on the Landlord's or Tenant's behalf.

Third Party Application: either of the following:

- a) a Third Party's application for judicial review of a decision by the Determining Authority to grant a Satisfactory Planning Permission; or
- b) a Third Party's application under section 288 of the Town and Country Planning Act 1990 in respect of a decision by the Secretary of State to grant a Satisfactory Planning Permission following a Planning Appeal;

including an application to a higher court appealing against a judgment in respect of an application made under paragraph (a) or (b) above, given in a lower court.

Unacceptable Condition: a Landlord's Unacceptable Condition or a Tenant's Unacceptable Condition.

Unconditional Date: the earlier of:

- a) the Satisfaction Date; and
- b) the date on which the Condition Precedent is waived in accordance with clause 2.3.

VAT: value added tax or any equivalent tax chargeable in the UK.

Works Long Stop Date: 20 months from exchange of contract.

Written Replies: are:

- a) written replies that the Landlord's Conveyancer has given prior to exchange of this agreement to any written enquiries raised by the Tenant's Conveyancer; or
- b) written replies to written enquiries given prior to exchange of this agreement by the Landlord's Conveyancer to the Tenant's Conveyancer.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes fax and email.

- 1.11 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.12 Unless the context otherwise requires, references to clauses, Schedules and Annexes are to the clauses, Schedules and Annexes of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.14 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.15 Unless this agreement otherwise expressly provides, a reference to the **Property** or the **Development** or the **Tenant's Works** is to the whole and any part of them.
- 1.16 Any reference to the Landlord's consent or approval being required is to a consent or approval in writing which must be obtained before the relevant act is taken or event occurs.

2. Condition Precedent

- 2.1 Subject to clause 2.2, this agreement comes into force on the date of this agreement.
- 2.2 Clause 13, clause 14 to clause 19 (inclusive), clause 21, clause 25 to clause 27 (inclusive), clause 31 and clause 32 are conditional on the satisfaction or waiver in accordance with clause 2.3 of the Condition Precedent and shall come into force on the Unconditional Date.
- 2.3 The Landlord and Tenant may only waive the Condition Precedent by agreement in writing.

3. Planning Application

- 3.1 Within 10 working days after the date of this agreement, the Tenant shall submit the proposed planning application for the Development to the Landlord for approval.
- 3.2 Within 10 working days after the Landlord has received the proposed planning application, the Landlord shall give notice to the Tenant that the Landlord either approves or disapproves of the proposed application.
- 3.3 [If the Landlord does not approve the proposed planning application, the Tenant shall submit a revised planning application to the Landlord for approval. The procedure set out in clause 3.2 shall apply to any revised application as if it were the first planning application. The Tenant shall

continue to submit revised applications to the Landlord for approval until an application is approved by the Landlord.

- 3.4 The Landlord shall not unreasonably withhold or delay giving approval to any proposed planning application submitted to it.
- 3.5 Within 10 working days after the Landlord has approved or is deemed to have approved the proposed planning application, the Tenant shall submit the Planning Application to the Determining Authority and shall use best endeavours to obtain the grant of a Satisfactory Planning Permission as soon as reasonably possible.
- 3.6 If it appears necessary to obtain a Satisfactory Planning Permission, the Tenant may amend the Planning Application or withdraw and submit in substitution a revised application for Planning Permission. Any such amendment, withdrawal and substitution shall be approved by the Landlord (such approval not to be unreasonably withheld or delayed).
- 3.7 The Tenant shall keep the Landlord regularly informed as to the progress of the Planning Application.
- 3.8 The Tenant may not agree to any extension of the statutory period for determination of the Planning Application without the prior written approval of the Landlord (such approval not to be unreasonably withheld or delayed).
- 3.9 The Landlord shall not knowingly do anything which may prejudice or obstruct the progress of any Planning Application or Planning Appeal made pursuant to this agreement.

4. Planning Appeal

- 4.1 The Tenant may but shall not be obliged to pursue a Planning Appeal.
- 4.2 If the Tenant does lodge a Planning Appeal, then the Tenant shall pursue the Planning Appeal with all due diligence.

5. Co-operation of Landlord

- 5.1 The Landlord shall co-operate with the Tenant and use reasonable endeavours to assist the Tenant in obtaining a Satisfactory Planning Permission (provided that this does not require the Landlord to accept or agree any Landlord's Unacceptable Conditions (unless waived by the Landlord in accordance with this agreement)) if reasonably required by the Tenant or the Determining Authority.
- 5.2 The Landlord shall give reasonable assistance to the Tenant (at the tenant's cost) in pursuing a Planning Appeal subject always to the provisions of clause 41 of this agreement.

6. Notification of planning decisions

- 6.1 The Tenant shall give notice to the Landlord within 10 working days of the receipt of any planning decision resulting from the Planning Application (whether original, amended or resubmitted) or the making of a Planning Appeal.
- 6.2 The Tenant shall promptly inform the Landlord of any decision it may take in relation to the making, amending or resubmission of a Planning Application or the making of a Planning Appeal.
- 6.3 Within 10 working days of receiving notice of the grant of such Planning Permission, the Tenant shall give notice to the Landlord in writing whether or not a condition imposed on the Planning Permission is a Tenant's Unacceptable Condition. The Tenant shall give reasons if it considers that a condition or requirement is a Tenant's Unacceptable Condition.
- 6.4 Within 10 working days of receiving notice from the Tenant under clause 6.1 of the grant of such Planning Permission, the Landlord shall give notice to the Tenant in writing whether or not a condition imposed on the Planning Permission is a Landlord's Unacceptable Condition. The Landlord shall give reasons if it considers that a condition is a Landlord's Unacceptable Condition.

7. Planning Agreements

- 7.1 The Tenant shall keep the Landlord regularly informed as to the progress of the Planning Agreement.
- 7.2 The Landlord and Tenant acknowledge that the Landlord is the Determining Authority (i.e. the local planning authority) for the area within which the Property is located and therefore the Landlord is unable to enter into an agreement pursuant to Section 106 of the Town and Country Planning Act 1990. As a consequence of those circumstances the Tenant shall at its own cost and expense use all reasonable endeavours to negotiate, agree and sign and complete any S.111 Agreement which may be required by the Determining Authority, to secure the issue of the Planning Permission (which completion of any such S.111 Agreement shall be a condition precedent of commencement of the Development).
- 7.3 The Landlord shall use reasonable endeavours to assist the Tenant with the completion of any S.111 Agreement

8. Right to waive Unacceptable Conditions

- 8.1 The Tenant may waive its right to treat any condition to a Planning Permission or provision of a Planning Agreement (or a S.111 Agreement) as a Tenant's Unacceptable Condition by giving written notice to the Landlord on or before any of the following dates:

- (a) the date which is 10 working days after the date on which the Tenant serves a notice under clause 6.3 that the condition or requirement is a Tenant's Unacceptable Condition;
- (b) that date which is 10 working days after the date on which it receives the Independent Surveyor's written decision pursuant to clause 10.5(b) that a condition to the Planning Permission or provision of the Planning Agreement or requirement to pay CIL is a Tenant's Unacceptable Condition.

8.2 The Landlord may waive its right to treat any condition to a Planning Permission or provision of a Planning Agreement as a Landlord's Unacceptable Condition by giving written notice to the Tenant on or before any of the following dates:

- (a) the date which is 10 working days after the date on which the Landlord serves a notice under clause 6.4 that the condition is a Landlord's Unacceptable Condition;
- (b) that date which is 10 working days after the date on which it receives the Independent Surveyor's written decision pursuant to clause 10.5(b) that a condition to the Planning Permission or provision of the Planning Agreement is a Landlord's Unacceptable Condition.

9. Third Party Applications

If a Third Party Application is made, the Tenant shall:

- (a) keep the Landlord regularly informed of the progress of that Third Party Application; and
- (b) within 10 working days after receiving it, give the Landlord a copy of any judgment issued by the court in relation to the Third Party Application proceedings.

10. Unacceptable Condition Disputes

10.1 In the event of any dispute arising between the Landlord and the Tenant about whether or not a condition to the Planning Permission, a provision of the Planning Agreement is an Unacceptable Condition, the Landlord and the Tenant shall use reasonable endeavours to seek to settle the dispute as quickly as possible. If the dispute has not been settled within a period of 10 working days of the dispute arising then it shall be referred to an Independent Surveyor to determine.

10.2 An Independent Surveyor shall be appointed by agreement between the Landlord and the Tenant or, if the Landlord and Tenant are unable to agree an appointment, either of them may request the appointment to be made by the President.

10.3 An Independent Surveyor must be a Fellow of the RICS, with at least ten years' post qualification experience including experience in development of the same type as the Development.

10.4 If an Independent Surveyor appointed dies or becomes unwilling or incapable of acting[, or does not deliver the decision within the time required by this clause, then:

- (a) either the Landlord or the Tenant may apply to the President to discharge the appointed Independent Surveyor and to appoint a replacement Independent Surveyor; and
- (b) this clause shall apply in relation to the replacement Independent Surveyor as if they were the first appointed Independent Surveyor.

10.5 The Independent Surveyor shall act as an expert and shall be required to:

- (a) decide whether or not a condition to the Planning Permission, provision of the Planning Agreement is an Unacceptable Condition; and
- (b) prepare a written note of the decision and give a copy of the decision to both the Landlord and the Tenant within 10 working days of the date of the Independent Surveyor's appointment.

10.6 The Landlord and the Tenant shall each be entitled to make submissions to the Independent Surveyor and shall provide (or procure that others provide) the Independent Surveyor with the assistance and documents that the Independent Surveyor reasonably requires to reach a decision.

10.7 The Independent Surveyor's written decision shall be final and binding in the absence of manifest error or fraud.

10.8 The costs of the Independent Surveyor shall be borne equally by the Landlord and the Tenant or in such different proportion as the Independent Surveyor shall direct.

10.9 The Independent Surveyor shall act as an arbitrator and the arbitration shall be conducted in accordance with the Arbitration Act 1996.

11. Planning Long Stop Date

11.1 Subject to clause 11.3, the Planning Long Stop Date is [] (being the date 6 months from and including the date of this agreement) unless on that date:

- (a) a Planning Application has been submitted to the Determining Authority but has not been determined;
- (b) a Planning Appeal has been lodged but has not been determined;
- (c) a Planning Permission has been granted but it is not yet established under this agreement whether or not the Planning Permission is a Satisfactory Planning Permission;
- (d) a Satisfactory Planning Permission has been granted but the Review Period has not expired; or
- (e) a Satisfactory Planning Permission has been granted but a Third Party Application has been made which has not been Finally Determined;

in which case the Planning Long Stop Date shall be extended as set out in clause 11.2.

11.2 If any of the circumstances set out in clause 11.1(a) to clause 11.1(e) (inclusive) apply, the Planning Long Stop Date shall be extended to:

- (a) (where clause 11.1(a) applies) the date which is [10] working days after the latest of the following dates:
 - (i) the date on which the Planning Application is refused by the Determining Authority (including a deemed refusal under section 78(2) of the Town and Country Planning Act 1990);
 - (ii) if a Planning Permission is granted pursuant to the Planning Application, the date on which it is established under this agreement that the Planning Permission is not a Satisfactory Planning Permission;
 - (iii) if it is established under this agreement that the Planning Permission granted pursuant to the Planning Application is a Satisfactory Planning Permission, the date on which the Review Period expires; and
 - (iv) if it is established under this agreement that the Planning Permission granted pursuant to the Planning Application is a Satisfactory Planning Permission and a Third Party Application is made within the Review Period, the date on which the Third Party Application is Finally Determined;
- (b) (where clause 11.1(b) applies) the date which is [10] working days after the latest of the following dates:
 - (i) the date on which the Planning Appeal is dismissed;
 - (ii) if a Planning Permission is granted pursuant to the Planning Appeal, the date on which it is established under this agreement that the Planning Permission is not a Satisfactory Planning Permission;
 - (iii) if it is established under this agreement that the Planning Permission granted pursuant to the Planning Appeal is a Satisfactory Planning Permission, the date on which the Review Period in respect of the Planning Appeal Decision expires; and
 - (iv) if it is established under this agreement that the Planning Permission granted pursuant to the Planning Appeal is a Satisfactory Planning Permission and a Third Party Application is made within the Review Period, the date on which the Third Party Application is Finally Determined;
- (c) (where clause 11.1(c) applies) the date which is 10 working days after the latest of the following dates:
 - (i) the date on which it is established under this agreement that the Planning Permission is not a Satisfactory Planning Permission;
 - (ii) if it is established under this agreement that the Planning Permission is a Satisfactory Planning Permission, the date on which the Review Period expires;

- (iii) if it is established under this agreement that the Planning Permission is a Satisfactory Planning Permission and a Third Party Application is made within the Review Period, the date on which the Third Party Application is Finally Determined.
 - (d) (where clause 11.1(d) or clause 11.1(e) applies) the date which is 10 working days after the latest of the following dates:
 - (i) the date on which the Review Period expires;
 - (ii) if a Third Party Application is made within the Review Period, the date on which the Third Party Application is Finally Determined.
- 11.3 Notwithstanding the provisions of clause 11.1 and clause 11.2, the Planning Long Stop Date shall in no circumstances be later than [(being the date 9 months from and including the date of this agreement).]

12. Termination

- 12.1 If the Unconditional Date has not occurred by the Planning Long Stop Date either the Landlord or the Tenant may at any time after the Planning Long Stop Date (but only before the Unconditional Date) give written notice to the other to terminate this agreement.
- 12.2 The provisions of Clause 20 shall apply in relation to termination where the Practical Completion Certificate has not been issued by the Works Long Stop Date.

13. Agreement for lease

- 13.1 In consideration of the Tenant's obligations under this agreement, the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord the Lease on the terms set out in this agreement. No purchase price, premium, or deposit is payable.
- 13.2 The Tenant cannot require the Landlord to grant the Lease to any person other than the Tenant (here meaning [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER], only).
- 13.3 The Tenant cannot assign, sublet, charge, or otherwise share or part with the benefit of this agreement whether in relation to the whole or any part of the Property.
- 13.4 Conditions 1.4, 3.2 and 9.8.3 do not apply to this agreement.

14. Tenant's Works

- 14.1 The Tenant shall apply for and use reasonable endeavours to obtain the Requisite Consents in respect of the Tenant's Works.

- 14.2 The Tenant shall use reasonable endeavours to procure that the Practical Completion Date occurs by the Target Date which shall be extended commensurate with any extensions of time:
- (a) allowed by the Employer's Agent under the terms of the Building Contract; or
 - (b) certified by the Employer's Agent as being fair and reasonable, having regard to the delay in question, where completion of the Tenant's Works is delayed due to an event or cause that is beyond the Tenant's reasonable control.
- 14.3 The Tenant shall use reasonable endeavours to procure that the Tenant's Works are carried out:
- (a) with due diligence and in a good and workmanlike manner;
 - (b) using only good quality materials and well-maintained plant and equipment;
 - (c) in accordance with this agreement, the Satisfactory Planning Permission, the Property Specification and the Requisite Consents in respect of the Tenant's Works;
 - (d) in accordance with all statutory or other legal requirements and the recommendations or requirements of the local authority or statutory undertakings;
 - (e) in compliance with all relevant British Standards, codes of practices and good building practice; and
 - (f) by selecting and using materials so as to avoid known hazards to the health and safety of any person and to ensure the long term integrity of the Property.
- 14.4 The Tenant shall:
- (a) co-ordinate or procure co-ordination of the Professional Team;
 - (b) keep the Landlord's Surveyor regularly informed as to progress of the Tenant's Works;
 - (c) without prejudice to clause 14.2, promptly inform the Landlord's Surveyor of any material problems or delays in the performance of the Building Contract together with the Tenant's recommendations for overcoming and/or mitigating them
 - (d) give at least [NUMBER] working days' notice to the Landlord's Surveyor of all meetings to be held in connection with the progress of the Tenant's Works and permit the Landlord's Surveyor to attend and to make representations.
- 14.5 The Tenant shall not (subject to clause 14.6) vary, alter, add to or remove anything from the Property Specification without the Landlord's consent (such consent not to be unreasonably withheld or delayed).
- 14.6 The Tenant may make minor variations to the Property Specification without the Landlord's consent provided that:
- (a) the variations are insubstantial and immaterial;

- (b) the variations are in accordance with the Satisfactory Planning Permission, the Requisite Consents in respect of the Tenant's Works and any statutory requirements;
- (c) any substitute materials used are of an equal or better quality and suitability to those originally specified;
- (d) the variations do not delay the completion of the Tenant's Works;
- (e) the Tenant informs the Landlord of the variations within a reasonable time;
- (f) the variations are required by any local or competent authority or statutory undertaking as a condition of the grant or continuance of the Satisfactory Planning Permission or any of the Requisite Consents in respect of the Tenant's Works.

14.7 If the CDM Regulations apply to the Tenant's Works, the Tenant shall:

- (a) agree in writing with the Landlord that the Tenant is to be treated as the only client in respect of the Tenant's Works for the purposes of the CDM Regulations and the parties agree that this clause is such an agreement;
- (b) comply with its obligations as a client for the purposes of the CDM Regulations;
- (c) ensure that the principal designer and the principal contractor that it appoints in relation to the Tenant's Works comply with their respective obligations under the CDM Regulations;
- (d) ensure that all relevant documents relating to the Tenant's Works are placed in the health and safety file for the Property by the principal designer or principal contractor in accordance with the CDM Regulations and otherwise comply with its obligations in the Lease relating to those documents and the file.

15. Inspection

15.1 The Landlord and the Landlord's Surveyor may enter the Property, at any time after the commencement of the Tenant's Works, upon reasonable notice to the Building Contractor, to inspect progress of the Tenant's Works and the materials used. In entering the Property, the Landlord and Landlord's Surveyor shall not obstruct progress of the Tenant's Works and shall:

- (a) not give any instructions or make any representations directly to the Building Contractor or Professional Team; and
- (b) comply with the Tenant and Building Contractor's health and safety and site rules.

15.2 The Tenant shall procure that any instructions or representations made to the Tenant by the Landlord or the Landlord's Surveyor that comply with the terms of this agreement are promptly dealt with to the Landlord's reasonable satisfaction.

16. Professional team

- 16.1 The Tenant confirms it has taken (or in the case of a substitute member of the Professional Team shall take) all reasonable steps to be reasonably satisfied that each member of the Professional Team is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 16.2 The Tenant shall submit details of the proposed terms of the Professional Appointment of each member of the Professional Team to the Landlord for approval (such approval not to be unreasonably withheld or delayed).
- 16.3 Subject to clause 16.1 and clause 16.2, the Tenant shall once such of the Requisite Consents have been obtained so as to enable the Tenant's Works to commence to appoint the members of the Professional Team and shall supply certified copies of each Professional Appointment to the Landlord.
- 16.4 The Tenant shall procure that each member of the Professional Team grants to the Landlord an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the relevant member of the Professional Team for any purpose relating to the Tenant's Works. Such licence shall:
- (a) carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Tenant or the relevant member of the Professional Team; and
 - (b) provide that the relevant member of the Professional Team has no liability for use of the Material for any purpose other than that for which it was prepared or provided.
- 16.5 The Tenant shall procure that the terms of the Professional Appointment of the Employer's Agent requires it to act impartially when exercising its power to issue statements, certificates and award extensions of time under the Building Contract and under this agreement.
- 16.6 The Tenant shall use best endeavours to procure that each member of the Professional Team performs and observes the terms of its Professional Appointment. The Tenant agrees not to vary, waive or release any member of the Professional Team's Professional Appointment without the Landlord's consent (such consent not to be unreasonably withheld or delayed).
- 16.7 The Tenant shall not do or omit to do anything that would entitle any member of the Professional Team to regard its employment under its Professional Appointment as terminated. The Tenant shall immediately inform the Landlord if the Tenant believes that any member of the Professional Team may be intending to rescind its Professional Appointment.
- 16.8 The Tenant shall not terminate the employment of any member of the Professional Team under its Professional Appointment or treat such Professional Appointment as repudiated without first informing the Landlord of its intention to do so and discussing with the Landlord the appointment

of a suitable substitute approved by the Landlord (such approval not to be unreasonably withheld or delayed).

17. Building contract

- 17.1 The Tenant confirms it has taken (and in the case of a substitute Building Contractor shall take) all reasonable steps to be reasonably satisfied that the Building Contractor is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 17.2 The Tenant shall once such of the Requisite Consents have been obtained so as to enable the Tenant's Works to commence :
- (a) enter into the Building Contract with the Building Contractor;
 - (b) appoint the Building Contractor as the principal contractor for the purposes of the CDM Regulations; and
 - (c) supply a certified copy of the Building Contract to the Landlord.
- 17.3 The Tenant shall procure that the Building Contractor and each Design Sub-Contractor grants to the Landlord an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the Building Contractor or the relevant Design Sub-Contractor for any purpose relating to the Tenant's Works. Such licence shall:
- (a) carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Building Contractor or the relevant Design Sub-Contractor; and
 - (b) provide that the Building Contractor or the relevant Design Sub-Contractor has no liability for use of the Material for any purpose other than that for which it was prepared or provided.
- 17.4 The Tenant shall use its best endeavours to procure that the Building Contractor performs and observes the terms of the Building Contract. The Tenant agrees not to vary, waive or release any of the terms of the Building Contract without the Landlord's consent (such consent not to be unreasonably withheld or delayed).
- 17.5 The Tenant shall not do or omit to do anything that would entitle the Building Contractor to regard the Building Contract as terminated by breach. The Tenant shall immediately inform the Landlord if the Tenant believes the Building Contractor may be intending to rescind the Building Contract.
- 17.6 The Tenant shall not terminate the employment of the Building Contractor or treat the Building Contract as repudiated without first informing the Landlord of its intention to do so and discussing with the Landlord the appointment of a suitable substitute contractor approved by the Landlord (such approval not to be unreasonably withheld or delayed).

18. Practical Completion and Rectification Period

- 18.1 The Tenant shall use reasonable endeavours to procure that the Employer's Agent:
- (a) gives at least 5 working days' notice to the Landlord of the Employer's Agent's intention to inspect the Tenant's Works for the purpose of issuing the Practical Completion Statement and allows the Landlord and the Landlord's Surveyor to attend the inspection and make representations to the Tenant either during the inspection or in writing immediately thereafter; and
 - (b) without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 18.1(a) when considering whether to issue the Practical Completion Statement in accordance with the terms of the Building Contract.
- 18.2 The Tenant shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Practical Completion Statement to the Landlord as soon as practicable after its issue together with a copy of any accompanying snagging list.
- 18.3 The issue of the Practical Completion Statement shall be conclusive evidence binding on the parties that the Tenant's Works have been completed in accordance with the terms of this agreement, subject to the Tenant's obligations during the Rectification Period.
- 18.4 Without prejudice to the generality of clause 17.4, the Tenant shall use best endeavours to enforce the Building Contractor's obligations under the Building Contract to remedy any defects, shrinkages or faults appearing in the Tenant's Works during the Rectification Period.
- 18.5 During the Rectification Period, the Landlord or the Landlord's Surveyor may make written representations to the Tenant identifying defects, shrinkages or faults in the Tenant's Works which the Building Contractor is obliged to remedy in accordance with the Building Contract. Without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, the Tenant shall use reasonable endeavours to ensure that the Employer's Agent takes proper account of any such representations.
- 18.6 The Tenant shall use reasonable endeavours to procure that the Employer's Agent:
- (a) gives at least 5 working days' notice to the Landlord of the Employer's Agent's intention to inspect the Tenant's Works for the purpose of issuing the Notice of Completion of Making Good and allows the Landlord and the Landlord's Surveyor to attend the inspection and make representations to the Tenant either during the inspection or in writing immediately thereafter; and
 - (b) without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 18.6(a) when considering whether to issue the Notice of Completion of Making Good in accordance with the terms of the Building Contract.

- 18.7 The Tenant shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Notice of Completion of Making Good to the Landlord as soon as practicable after its issue.
- 18.8 The Tenant shall procure the grant of the Collateral Warranties in favour of the Landlord as soon as reasonably practicable after the Unconditional Date and in any event prior to the date on which the Lease is completed.

19. Works Long Stop Date

If the Practical Completion Date has not occurred by 4.00 pm on the Works Long Stop Date, either the Tenant or the Landlord may at any time after the Works Long Stop Date (but before the Practical Completion Date) give written notice to the other that, unless the Practical Completion Date occurs within 10 working days of the receipt of that notice (time being of the essence), it may terminate this agreement. If the Practical Completion Date does not occur within 10 working days of receipt of that notice then the party that gave notice may by further written notice terminate this agreement with immediate effect.

20. Insurance

- 20.1 From the Unconditional Date until the Practical Completion Date, the Tenant shall insure or shall procure that the Building Contractor insures the Tenant's Works, the Property and all plant and unfixed materials and goods delivered to or placed on or adjacent to the Property and intended for incorporation in the Tenant's Works against all perils resulting in loss or damage thereto on customary contractors' all risks terms:
- (a) in the joint names of the Tenant and the Building Contractor; and
 - (b) for not less than their full reinstatement value (taking into account the progress of the Tenant's Works) together with all site clearance and professional fees incurred in connection with such reinstatement
- 20.2 In the event of any loss or damage occurring before the Practical Completion Date to the Tenant's Works, the Property, plant, materials or goods so insured, the Tenant shall procure that their reinstatement or replacement is carried out diligently and with all reasonable speed. The Tenant shall apply the proceeds of the insurance towards such reinstatement or replacement and shall make good any deficiency out of the Tenant's own funds.
- 20.3 The Tenant shall maintain, or procure that the Building Contractor maintains, insurance in respect of injury to or death of any person or loss or damage to any real or personal property for an indemnity of not less than £10,000,000.00 (Ten Million Pounds) for any one occurrence or series of occurrences arising out of the same event. Such insurance shall be maintained from the Unconditional Date until the end of the Rectification Period.
- 20.4 The Tenant shall require the Building Contractor, each member of the Professional Team and each Design Sub-Contractor, as a condition of its appointment or contract, to maintain professional

indemnity insurance cover with a reputable insurer for an amount not less than that stated in Schedule 1. The insurance cover must be maintained for a minimum of 12 years following the Practical Completion Date, provided that the insurance is available at commercially reasonable rates and terms.

20.5 The Tenant and the Landlord mutually agree not knowingly to do or permit anything to be done that may render any insurance policy void or voidable.

20.6 Conditions 8.1, 8.2.1, 8.2.2, 8.2.3, 8.2.4(b), 8.2.5(b) and 8.2.7 do not apply to this agreement.

21. Damage after Practical Completion

21.1 The Tenant shall not be entitled to refuse to complete or to delay completion of the grant of the Lease due to any event occurring after the Practical Completion Date that results in:

- (a) any damage to the Property or any part of it;
- (b) any damage to the means of access to the Property; or
- (c) any deterioration in the Property's condition.

21.2 The provisions in the Lease relating to insurance of the Property shall apply from the Practical Completion Date.

22. Rent

22.1 The initial rent per annum exclusive of VAT payable under the Lease shall be one peppercorn (if demanded):

23. Tenant's obligations

23.1 The Tenant's obligations in clause 3 to clause 10 (inclusive), clause 14, clause 16, clause 18, clause 19, and clause 20 are personal and binding only on [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS].

24. Conditions

24.1 The Part 1 Conditions are incorporated in this agreement, in so far as they:

- (a) are applicable to the grant of a lease;
- (b) are not inconsistent with the other clauses in this agreement; and
- (c) have not been modified or excluded by any of the other clauses in this agreement.

24.2 The terms used in this agreement have the same meaning when used in the Part 1 Conditions.

- 24.3 The Part 2 Conditions are not incorporated in this agreement.
- 24.4 The following Conditions are amended:
- (a) Condition 1.1.1(d) so that reference to completion date in Condition 1.1.1(d) is to the Lease Completion Date as defined by this agreement;
 - (b) Condition 1.1.1(e) so that reference to contract rate in Condition 1.1.1(e) is to the Contract Rate as defined by this agreement; and
 - (c) Condition 1.1.1(o) so that reference to VAT in Condition 1.1.1(o) is to VAT as defined by this agreement.
- 24.5 Condition 1.1.4(a) does not apply to this agreement.
- 24.6 Condition 9.1.1 is amended so that the words "completion date is twenty working days after the date of completion but" are deleted.
- 24.7 Condition 11.2.2 is amended to include the words "(d) "transfer" includes the grant of a lease."

25. Tenant's occupation prior to the grant of the Lease

- 25.1 During the Licence Period the Tenant is entitled to occupy the Property for the purpose of carrying out the Tenant's Works.
- 25.2 This agreement does not operate as a demise of the Property and during the Licence Period:
- (a) any occupation of the Property by the Tenant is by way of licence only;
 - (b) the Tenant does not have, and is not entitled to, any estate, right or interest in the Property;
 - (c) the Tenant shall not open and trade from the Property nor use the Property for the purpose authorised by the Lease;
 - (d) the parties shall observe and perform their respective obligations imposed by the covenants and conditions in the Lease (to the extent that they are not inconsistent with the other provisions of this agreement) as if the Lease had been completed on the Practical Completion Date;
 - (e) the Landlord shall have the same rights and remedies in respect of any breach of the obligations imposed on the Tenant by the covenants and conditions in the Lease as if the Lease had been completed on the Practical Completion Date;
- 25.3 The Tenant shall indemnify the Landlord against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all

other reasonable professional costs and expenses) suffered or incurred by the Landlord arising out of or in connection with:

- (a) the rights of entry to enter and remain on the Property granted by this clause 25;
- (b) the carrying out of the Tenant's Works on the Property by the Tenant;
- (c) any breach of the Tenant's obligations contained in this agreement; and
- (d) the enforcement of this agreement.

26. Deducing title

- 26.1 The Landlord's freehold title to the Property has been deduced to the Tenant's Conveyancer before the date of this agreement.
- 26.2 The Tenant is deemed to have full knowledge of the Landlord's title and is not entitled to raise any objection, enquiry or requisition in relation to the Landlord's title.
- 26.3 Conditions 7.1, 7.2, 7.3, 7.4.2, 11.2.4 and 11.3 do not apply to this agreement.

27. Title guarantee

- 27.1 Subject to the other provisions of this clause, the Landlord shall grant the Lease with title guarantee.
- 27.2 The implied covenants for title are modified so that:
- (a) the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to costs arising from the Tenant's failure to:
 - (i) make proper searches; or
 - (ii) raise requisitions on title or on the results of the Tenant's searches and
 - (b) the covenant set out in section 3(3) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend only to charges or encumbrances created by the Landlord.
- 27.3 Conditions 7.6.2 and 7.6.4 do not apply to this agreement.
- 27.4 Condition 12 does not apply to this agreement.

28. Matters affecting the Property

- 28.1 The Landlord shall grant the Lease to the Tenant free from encumbrances other than:
- (a) any matters, other than financial charges, contained or referred to in the entries or records made in registers maintained by [HM Land Registry as at [DATE AND TIME OF

OFFICIAL COPIES] under title number [NUMBER]] [and] [the Land Charges Department of HM Land Registry as at [DATE OF SEARCH];

- (b) all matters contained or referred to in the Lease;
- (c) any matters discoverable by inspection of the Property before the date of this agreement;
- (d) any matters which the Landlord does not and could not reasonably know about;
- (e) any matters, other than financial charges, disclosed or which would have been disclosed by the searches and enquiries that a prudent tenant would have made before entering into this agreement;
- (f) public requirements;
- (g) any matters which are, or (where the Lease will not be registered) would be, unregistered interests which override first registration under Schedule 1 to the Land Registration Act 2002;
- (h) any Planning Agreement.

28.2 The Tenant is deemed to have full knowledge of the matters referred to in clause 28.1 and shall not raise any enquiry, objection, requisition or claim in respect of any of them.

28.3 Conditions 4.1.1, 4.1.2, 4.1.3 and 4.2.1 do not apply to this agreement.

28.4 Condition 7.6.3 is amended so that reference to Condition 4.1.2 is reference to clause 28.1.

29. Termination on Tenant's insolvency and material non-compliance by the Tenant

29.1 An Event of Default is any of the following:

- (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;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant;
- (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;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant;
- (e) the commencement of a voluntary winding-up in respect of the Tenant, 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;

- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant;
- (g) the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck-off;
- (h) the Tenant otherwise ceasing to exist.

29.2 If an Event of Default occurs, the Landlord may, at any time prior to grant of the Lease, terminate this agreement by giving written notice to the Tenant.

29.3 If at any time there is any material non-compliance by the Tenant with any of its obligations under this agreement and such default is either:

- (a) not capable of being remedied; or
- (b) is capable of remedy but the Tenant has not remedied the default within 10 working days (or such longer period as may be reasonable in the circumstances) after service on the Tenant by the Landlord of a notice specifying the default;

the Landlord may, at any time prior to grant of the Lease, terminate this agreement by giving written notice to the Tenant.

30. Consequences of termination

30.1 If this agreement is terminated in accordance with clause 12, clause 19, clause 29.2, clause 29.3 or Condition 10.1(b), 10.5.1 or 10.6.1:

- (a) this agreement shall be terminated with immediate effect from the date of the notice to terminate and none of the parties shall have any further rights or obligations under this agreement except for:
 - (i) the rights of any party in respect of any earlier breach of this agreement; and
 - (ii) the obligations in this clause 30 which shall continue in force notwithstanding the termination of this agreement;
- (b) the Tenant shall immediately return any documents it received from the Landlord; and
- (c) the Tenant shall immediately:
 - (i) vacate the Property;
 - (ii) remove all of the Tenant's chattels from the Property;
 - (iii) (to the extent required by the Landlord) remove the Tenant's Works or any other fixtures constructed by or for the Tenant; and
 - (iv) make good all damage caused by the Tenant as a result of such removal.

30.2 Condition 10.2 is varied to read: "if either party terminates the contract, clause 30.1 shall apply."

- 30.3 Condition 10.5.1 is varied to read: "If the buyer fails to complete in accordance with a notice to complete, the seller may terminate the contract, and if it does so clause 30.1 shall apply."
- 30.4 Condition 10.6.1 is varied to read: "If the seller fails to complete in accordance with a notice to complete, the buyer may rescind the contract, and if it does so clause 30.1 shall apply."
- 30.5 Conditions 10.5.2, 10.5.3, 10.6.2 and 10.6.3 are deleted.

31. Timetable for engrossments

- 31.1 The Landlord's Conveyancer shall send:
- (a) the engrossed counterpart Lease to the Tenant's Conveyancer by 5 working days after the Practical Completion Date; and
- 31.2 Condition 11.2.5 does not apply to this agreement.
- 31.3 Condition 11.2.6 is amended so that reference to the seller is reference to the Landlord's Conveyancer.

32. Completion of grant of the Lease

- 32.1 Completion of the grant of the Lease shall take place on the Lease Completion Date.
- 32.2 Condition 9.2.1 does not apply to this agreement.
- 32.3 On completion, the Tenant shall pay to the Landlord the Rent due for the period from the Rent Commencement Date to the day before the next Rent Payment Date.
- 32.4 If completion is delayed due to the Tenant's default or the Tenant fails to pay any sum due under this agreement in full on completion, the Tenant shall pay interest in addition to damages for losses incurred by the Landlord as a result of the delayed completion. The interest shall be payable at the Contract Rate on any unpaid amount for the period from the Lease Completion Date to the date of actual payment.
- 32.5 Condition 9.7 is amended to read: "The Tenant is to pay the money due on completion by Electronic Payment".
- 32.6 Condition 10.3 does not apply to this agreement.
- 32.7 On the date of this agreement, the Tenant will pay the Deposit to the Landlord's Conveyancer. Notwithstanding any other provision in this agreement or anything contained in the Conditions the Landlord and Tenant hereby agree that the Deposit is a non-refundable and non-returnable payment and in the event that for any reason this agreement is terminated, the Deposit shall be due and payable to the Landlord and the Deposit will on termination of this agreement be deemed

automatically released to the Landlord and the Landlord shall be entitled to the full amount of the Deposit and the Tenant shall raise no objection or complaint.

32.8 The Deposit shall be paid by Electronic Payment.

32.9 The Tenant shall pay the Premium to the Landlord on the Lease Completion Date. The Premium shall be paid by Electronic Payment.

33. Registration

33.1 The Tenant may note this agreement by way of a unilateral notice.

33.2 The Tenant is not permitted to:

(a) note this agreement against the Landlord's title at HM Land Registry by way of an agreed notice; or

(b) send this agreement or a copy of it to HM Land Registry.

33.3 On the earlier of the completion of the Lease or termination of this agreement, the Tenant shall:

(a) immediately cancel all entries relating to this agreement registered against the Landlord's title ; and

(b) promptly notify the Landlord when such application has been completed.

34. VAT

34.1 Each amount stated to be payable under or pursuant to this agreement is exclusive of VAT (if any).

34.2 If any VAT is chargeable on any supply made by one party to the other party under or pursuant to this agreement, the paying party shall pay to the other party an amount equal to that VAT.

34.3 Condition 2 does not apply to this agreement.

35. Entire agreement

35.1 This agreement and the documents annexed to it constitute the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.

35.2 The Tenant acknowledges that:

(a) in entering into this agreement and any documents annexed to it the Tenant does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) other than those:

(i) set out in this agreement or the documents annexed to it; or

- (ii) contained in any Written Replies; and
 - (b) no representation or warranty is given or is to be implied by:
 - (i) the Landlord entering into this agreement; or
 - (ii) any step taken by or on behalf of the Landlord in connection with this agreement;
- as to the suitability of the Property for the Tenant's Works.

35.3 Nothing in this clause shall limit or exclude any liability for fraud.

35.4 Condition 10.1 is varied so that the words "the negotiations leading to it" are replaced with the words "Written Replies".

36. Joint and several liability

36.1 Where the Landlord comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Landlord arising under this agreement. The Tenant may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

36.2 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this agreement. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

36.3 Condition 1.2 does not apply to this agreement.

37. Notices

37.1 Any notice given under this agreement must be in writing and signed by or on behalf of the party giving it.

37.2 Any notice or document to be given or delivered under this agreement must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service;

37.3 Any notice or document to be given or delivered under this agreement must be sent to the relevant party as follows:

- (a) to the Landlord at:
Loxley House, Station Street, Nottingham

marked for the attention of: The Director of Strategy and Resources

with a copy to the Landlord's Conveyancer, quoting the reference msugge/RGENACC-000104-5;

(b) to the Tenant at:

[ADDRESS]

[DX: [DX NUMBER]]

[Fax: [FAX NUMBER]]

marked for the attention of: [NAME/POSITION]

or at the Tenant's Conveyancer, quoting the reference [REFERENCE];

or as otherwise specified by the relevant party by notice in writing to each other party.

37.4 Any change of the details in clause 37.3 specified in accordance with that clause shall take effect for the party notified of the change at 9.00 am on the later of:

- (a) the date, if any, specified in the notice as the effective date for the change; or
- (b) the date five working days after deemed receipt of the notice.

37.5 Giving or delivering a notice or a document to a party's conveyancer has the same effect as giving or delivering it to that party.

37.6 Any notice or document given or delivered in accordance with clause 37.1, clause 37.2 and clause 37.3 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day; or
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting;

37.7 In proving delivery of a notice or document, it will be sufficient to prove that:

- (a) a delivery receipt was signed [or that the notice or document was left at the address;
- (b) the envelope containing the notice or document was properly addressed and posted by pre-paid first class post or other next working day delivery service; or

- (c) the envelope containing the notice or document was properly addressed and was put in the DX; or

37.8 A notice or document given or delivered under this agreement shall not be validly given or delivered if sent by email.

37.9 Condition 1.3 does not apply to this agreement.

37.10 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

38. Third party rights

38.1 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

38.2 Condition 1.5 is excluded from this agreement.

39. Governing law

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

40. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

41. No Fetters

The Landlord enters into this agreement solely in its capacity as Landowner and not in any other capacity. Nothing in this agreement shall restrict or fetter the Landlords powers or rights as a Local Authority, Local Planning Authority or Statutory Body to perform any of its statutory functions.

42. Employment and Skills Requirements [*Judith to consider*]

42.1 The Tenant shall if required by the Landlord prior to the commencement of the Development and or the tenant's Works enter into conditions and obligations either in a S.111 Agreement and or a Planning Agreement which are aimed at securing training and employment benefits and trading opportunities for suppliers in the Nottingham City and surrounding areas in connection with the Development and the Tenant's Works.

- 42.2 Any provisions, conditions or obligations to be contained in either a S.111 Agreement and or a Planning Agreement as referred to above shall be in terms required by the Landlord [in its absolute discretion / acting reasonably] and may include but not be limited to matters such as costs and monitoring, targeted recruitment, use of local supply chains and suppliers in the Development and jobs targets. ***[This needs considering]***
- 42.3 The Landlord and Tenant hereby agree that the provisions contained in this clause 42 are intended to be enforceable by the Landlord against the Tenant and its successors in title and assigns with the intent that the obligations shall be binding against future owners of the Property.

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 Professional indemnity insurance

Role	Identity	Required level of insurance

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
LANDLORD]

.....
Director

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
TENANT]

.....
Director

[Signed by [NAME OF
GUARANTOR]
OR

.....
[Guarantor **OR** Director]

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
GUARANTOR]]

ANNEX B List of parties required to give Collateral Warranties

ANNEX C Agreed forms of Collateral Warranties

ANNEX D Agreed form of Lease

ANNEX E Agreed forms of Professional Appointments

ANNEX F Agreed form of Property Specification