

FILE COPY

Dated

1<sup>st</sup> November

2009

MARINA DEVELOPMENTS LIMITED (1)

- and -

CALIBRA MARINE INTERNATIONAL LIMITED (2)

COUNTERPART LEASE

- of -

1 HUNTSMAN ROAD, HAMBLE POINT MARINA



LEASE Dated

1<sup>st</sup>

day of

November

2009

- (a) **MARINA DEVELOPMENTS LIMITED** (company registered number 01056715) whose registered office is at Outlook House Hamble Point School Lane Hamble Southampton SO31 4NB (the "Landlord")
- (b) **CALIBRA MARINE INTERNATIONAL LIMITED LIMITED** (company registered number 04191060) whose registered office is at Deacons Boatyard, Bursledon Bridge, Southampton SO18 8AZ (the "Tenant")

1. **PARTICULARS**

- 1.1 Initial Rent [REDACTED] per annum for the first year of the Contractual Term and then [REDACTED] per annum
- 1.2 Rent the Initial Rent subject to review in accordance with the Fourth Schedule
- 1.3 the Premises the premises as shown for identification purposes only edged red on Plan 2 and known as 1 Huntsman Road and more particularly described in the First Schedule
- 1.4 Contractual Term from and including the date of this lease and expiring on 31<sup>st</sup> October 2015
- 1.5 Break Option the third anniversary of the Contractual Term following six months notice by either party in accordance with Clause 10
- 1.6 the Estate the Landlord's premises at Hamble Point Marina shown for identification only edged green on Plan 1 together with any additions or variations from time to time made to it
- 1.7 Interest Rate 4 per cent per annum above the base lending rate of Barclays Bank PLC
- 1.8 Rent Commencement Date 1<sup>st</sup> December 2009
- 1.9 Review Dates the third anniversary of the Contractual Term together with the last day of the Contractual Term
- 1.10 Permitted Use offices and area of land
- 1.11 Decoration Years Interior the third year of the Term and the last year of the Term  
Exterior the third year of the Term and the last year of the Term
- 1.12 Estate Charge the sum payable in accordance with the provisions of the Fifth Schedule
- 1.13 Parking Spaces the right to park not more than three private and fully taxed motor cars in accordance with the provisions of the Second Schedule
- 1.14 Completion Date: the date determined in accordance with clause 13.9
- 1.15 Landlord's Lester Aldridge LLP of Alleyn House, Carlton Crescent,

Conveyancer: Southampton SO15 2EU

- 1.16 New Lease: the lease of the Property (the terms of which are set out in clause 13.5) to be granted upon the exercise of the Option.
- 1.17 Option: the option granted by the Landlord to the Tenant by this clause.
- 1.18 Option Notice: written notice exercising the Option in accordance with the terms of this clause.
- 1.19 Option Period: the period of 6 months from and including the fifth anniversary of the Contractual Term

## 2. DEFINITIONS

For all purposes of this Lease the terms defined in clauses 1 and 2 have the meanings specified

- 2.1 "Conduit" means any pipe, sewer, drain, cable, wire and any other medium for the passage or transmission of water, soil, gas, air, smoke, electricity, light, information or any other matter and all ancillary equipment meters or structures
- 2.2 "Insurance Rent" means a fair and reasonable proportion of the premium payable by the Landlord to insure in accordance with the Landlord's covenant in clause 6.2 together with the cost of any excess payable under such insurance as a result of any claim being made
- 2.3 "Insured Risks" means fire, lightning, explosion, aircraft (including articles dropped from aircraft in peace time), riot, civil commotion, terrorism, malicious persons, earthquakes, storm, tempest, flood, bursting and overflowing of water pipes, tanks and other apparatus, impact by road vehicles and or such other risks as the Landlord shall from time to time reasonably consider appropriate and are commercially available on the insurance market
- 2.4 "the 1954 Act" means the Landlord and Tenant Act 1954 and all statutes regulations and orders included by virtue of clause 3.7
- 2.5 "Outgoings" all non-domestic rates, (including for unoccupied property), water rates, water charges, car parking work place taxes and all rates, taxes, charges, assessments, impositions and outgoings at any time payable, charged or assessed on property, or the owner or occupier of property, but "taxes" does not include value added tax, nor taxes imposed on the Landlord in respect of the yearly Rent reserved by this Lease, or in respect of a disposal of the interest in immediate reversion to this Lease
- 2.6 "Plan 1" means the plan numbered 1 annexed to this Lease
- 2.7 "Plan 2" means the plan numbered 2 annexed to this Lease
- 2.8 "the Planning Acts" means the Town and Country Planning Act 1990 and all statutes regulations and orders included by virtue of clause 3.7
- 2.9 "Rent" means the Rent and rent ascertained in accordance with the Fourth Schedule and "Rents" means Rent the Insurance Rent the Estate Charge and any sums payable pursuant to Clauses 5.1.2 and 5.1.3 and 5.1.4 and 5.1.5
- 2.10 "Surveyor" means a Chartered Surveyor or firm of Chartered Surveyors appointed by the Landlord to perform any of the functions of the Surveyor under this Lease (including an employee of the Landlord and including also the person or firm appointed by the Landlord to collect the Rents)

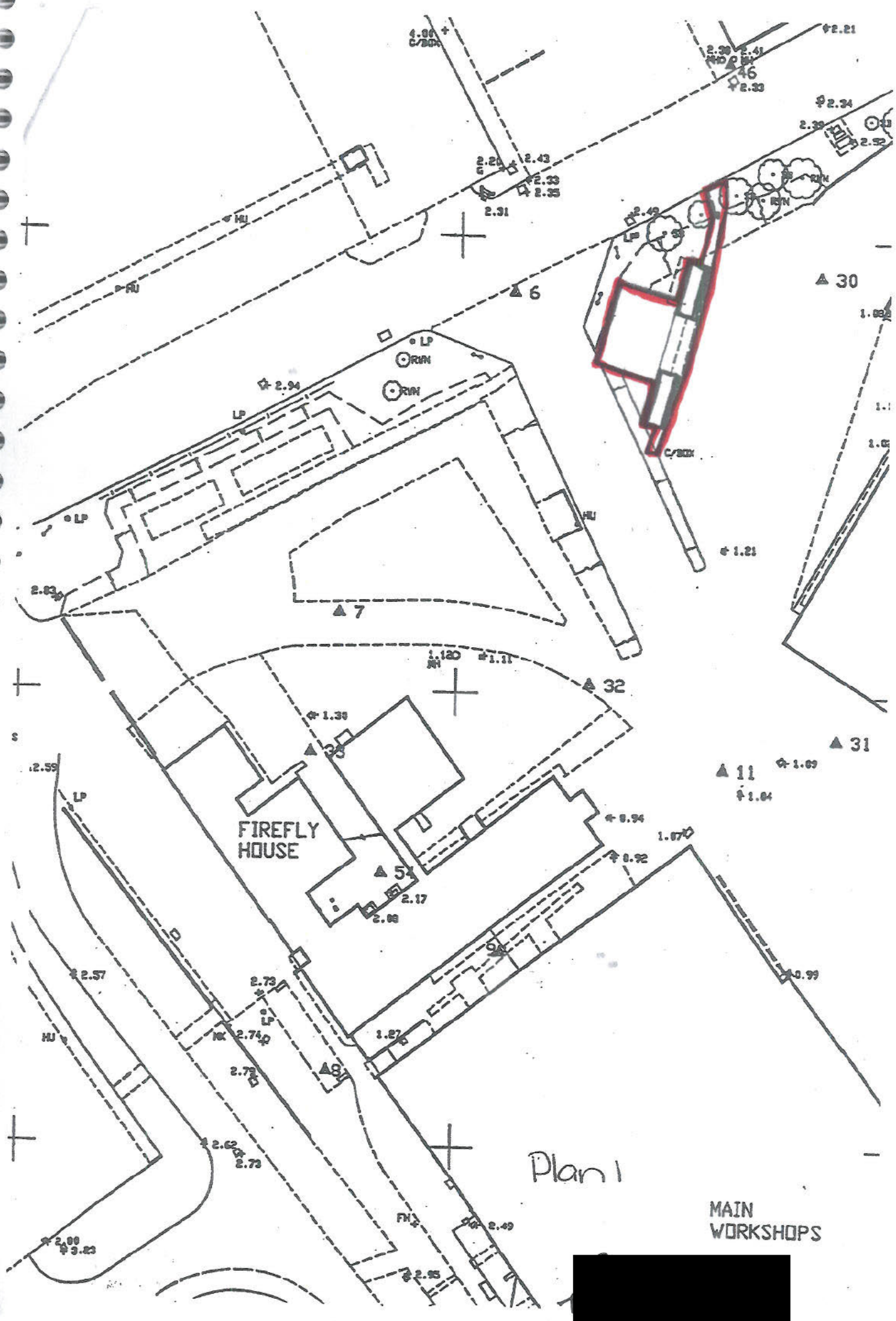
# Hamble Point Quay Estate Plan



Ordnance Survey

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Hamble Point Marina, School Lane, Hamble, Southampton, SO31 4N



- 2.11 "Environmental Consent" any consent, permit, licence, approval, ruling, exemption or other authorisation required under applicable Environmental Laws
- 2.12 "Environmental Laws" any law (which includes an order or decree, any form of delegated legislation, a treaty and a directive or regulation made by virtue of powers conferred by a treaty) regulating, relating to or imposing liability or standards of conduct concerning environmental protection matters including without limitation, in relation to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Materials of Environmental Concern, as now or may at any time hereafter be in effect
- 2.13 "Materials of Environmental Concern" chemicals pollutants contaminants wastes toxic substances petroleum and petroleum products and distillates and all hazardous substances defined or regulated as such in or under any Environmental Law
- 2.14 "Group Company" a company that is a member of the same group as the Landlord within the meaning of Section 42 of the 1954 Act

### 3. INTERPRETATION

- 3.1 The expressions the "Landlord" and the "Tenant" wherever the context so admits include the person for the time being entitled to the reversion immediately expectant on the determination of the Term and the Tenant's successors in title respectively
- 3.2 Where the Landlord or the Tenant for the time being are two or more persons obligations expressed or implied to be made by or with such party are deemed to be made by or with such persons jointly and severally
- 3.3 Words importing one gender include all other genders and words importing the singular include the plural and vice versa
- 3.4 The expression "the Term" includes the Contractual Term and any period of holding-over or extension or continuance of the Contractual Term whether by statute or common law
- 3.5 References to any right of the Landlord to have access to the Premises shall be construed as extending to any mortgagee of and to all persons authorised by the Landlord or mortgagee (including agents professional advisers contractors workmen and others)
- 3.6 Any covenant by the Tenant not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person
- 3.7 Any references to a specific statute include any statutory extension or modification or re-enactment of such statute and any regulations or orders made under such statute and any general reference to "statute" or "statutes" includes any regulations or orders made under such statute or statutes
- 3.8 References in this Lease to any sub-clause or schedule without further designation shall be construed as a reference to the clause sub-clause or schedule to this Lease so numbered
- 3.9 The Clauses paragraph and schedule headings are for reference only and shall not be taken into account in the construction or interpretation of this Lease

### 4. DEMISE

- 4.1 IN consideration of the Rents and the Tenant's covenants hereinafter reserved and contained the Landlord hereby demises unto the Tenant **ALL THAT** the

Premises **TOGETHER WITH** (but to the exclusion of all other liberties easements rights or advantages) the rights specified in the Second Schedule **EXCEPT AND RESERVING** to the Landlord and the tenants and occupiers of the Estate and all other persons entitled thereto the rights specified in the Third Schedule **TO HOLD** the Premises unto the Tenant for the Contractual Term Subject nevertheless to the proviso for re-entry hereinafter contained **YIELDING AND PAYING** therefore during the Term yearly and proportionately for any fraction of a year by bankers standing order at such place in England as the Landlord may from time to time by notice in writing to be given to the Tenant or left at the Premises appoint

- 4.1.1 By equal monthly payments in advance on the first day of each calendar month the Rent the first payment of the Rent to be made on the Rent Commencement Date and to be in respect of the period from the Rent Commencement Date until the quarter day next following
- 4.1.2 By way of further or additional rent the Insurance Rent on the next quarter day following demand by the Landlord
- 4.1.3 By way of further or additional rent on demand the Estate Charge
- 4.1.4 By way of further or additional rent on demand the payments referred to in Clause 5.1.2 and 5.1.3 and 5.1.4 and 5.1.5

**PROVIDED ALWAYS** that in the event of any of the Rents or any part thereof or any other payments hereunder lawfully due to the Landlord from the Tenant being in arrear for more than fourteen days or during such period as the Tenant shall be in breach of covenant and the Landlord shall refuse to accept Rent accordingly the Tenant shall pay Interest on the amount in arrear from the date on which it became payable until the date on which payment is made and be payable to the Landlord on demand

## 5. **TENANT'S COVENANTS**

**THE** Tenant hereby covenants with the Landlord as follows:-

### 5.1 **Rent and Outgoings**

- 5.1.1 To pay during the Term the Rents in the manner herein provided without any deduction or set off
- 5.1.2 To pay and indemnify the Landlord against Value Added Tax chargeable on the Rent Rents or on any payment made by the Tenant under this Lease and (except to the extent that the Landlord can reclaim it) on any payment made by the Landlord where the Tenant agrees to reimburse the Landlord
- 5.1.3 To pay all Outgoings except such as are payable on a dealing with the Landlord's estate or interest in the Premises and any tax charged on the Landlord as a result of and in respect of receipt of the Rents
- 5.1.4 If any Outgoing is not assessed directly on the Tenant or the Premises to repay to the Landlord all or (as appropriate) a fair proportion of it as determined by the Landlord's Surveyor
- 5.1.5 To pay for and to indemnify the Landlord against all charges and expenses incurred in the supply of electricity, gas, telephone, water and other services consumed used or available at or in relation to the Premises (including meter rents and standing charges) including (in respect of electricity and water) all costs and expenses incurred by the Landlord in supplying and/or administering the supply

## 5.2 Repair

- 5.2.1 To maintain and keep the whole of the Premises (including the glass windows thereof) in good and tenantable repair and condition (damage by the Insured Risks excepted unless any of the insurance monies shall be irrecoverable in consequence of any act or default of the Tenant) **PROVIDED ALWAYS** that the Tenant shall maintain the Premises in no worse state and condition than that which the Premises is in at the date of this Lease as evidenced in the photographic schedule of condition annexed to this Lease

## 5.3 Decoration

- 5.3.1 In every Exterior Decorating Year to redecorate the exterior of the Premises and in every Interior Decorating Year to redecorate the interior of the Premises in either case in a good and workmanlike manner and to the reasonable satisfaction of the Landlord's Surveyor
- 5.3.2 In the last year of the Term the tints, colours and patterns of any redecoration shall first be approved by the Landlord whose approval may not be unreasonably withheld

## 5.4 Alterations

- 5.4.1 Not without the previous written consent of the Landlord to make any alteration or improvement in or addition to the Premises nor to erect any partition therein nor unite the Premises with any other premises nor make any alteration or connection to any Conduit **PROVIDED THAT:-**
- 5.4.1.1 such consent shall not be unreasonably withheld or delayed by the Landlord in the case of non-structural alterations or additions to the interior of the Premises and
- 5.4.1.2 if any such consent is granted it may be subject to such conditions and be on such terms as the Landlord may reasonably require and all such consents shall be deemed to include a covenant on the part of the Tenant (whether or not expressed in any such consents) that the Tenant shall (if the Landlord so requires) at the expiration or sooner determination of the Term (howsoever determined) at the Tenant's expense remove any such alterations or additions or improvements and reinstate the Premises to their former state and condition as if such alterations or additions or improvements had not been carried out and to make good all consequential damage forthwith
- 5.4.2 On making application for any such consent as aforesaid and before commencing any works:
- (a) to submit to the Landlord such plans drawings and specifications as the Landlord may reasonably require
- (b) to obtain and comply with all necessary consents from all necessary authorities at the Tenant's expense
- 5.4.3 Not to commit any waste

## 5.5 Use and Signs

- 5.5.1 Not to store or bring upon the Premises any articles of especially combustible inflammable or dangerous nature and to observe and perform the conditions of the policy or policies of insurance for the

- time being in force in relation to the Premises and not to do anything by reason whereof any insurance effected on the Premises the Estate may be rendered void or voidable or whereby the rate of premium thereon may be increased or which would be likely to increase the risk of fire or explosion and to comply with all recommendations of the insurers and fire authorities as to fire precautions relating to the Premises
- 5.5.2 Not to do or permit or suffer anything in or upon the Premises which may be or become a nuisance or annoyance or cause damage or disturbance to the Landlord or the owners or occupiers of any adjoining properties nor to carry on upon the Premises any noxious noisome noisy dangerous illegal immoral or offensive trade or business nor reside or sleep in the Premises and not to use the same without the Landlord's written consent (such consent not to be unreasonably withheld or delayed) for any purpose other than the Permitted Use
- 5.5.3 To comply with all statutes and regulations referable to the use of the Premises by the Tenant and without prejudice to the generality of the foregoing in relation to any paint spraying or similar operation or process which may be undertaken by the Tenant and to indemnify the Landlord against any breach of this clause
- 5.5.4 To provide the Landlord on demand a complete list of all materials and liquids used or stored on the Premises from time to time together with such further details as the Landlord may in its absolute discretion require of the type and quantities of waste products produced on the Premises
- 5.5.5 At the Tenant's expense at all times to comply with the Landlord's requirements relating to the temporary storage sorting and disposal of all or any part of the waste products referred to in clause 5.5.4
- 5.5.6 Not to affix erect attach or exhibit upon any part of the exterior of the Premises or to or through any windows thereof any placard poster notice advertisement name or sign or television or wireless mast or aerial whatsoever save that the name of the Tenant and the nature of the trade or business carried on thereon by the Tenant may be displayed at the expense of the Tenant by signs in such form and character and on such part of the Premises as shall have been previously approved in writing by the Landlord such approval not to be unreasonably withheld or delayed provided that if any such consent is granted it may be subject to such conditions and be on such terms as the Landlord may require and all such consents shall be deemed to include a covenant on the part of the Tenant (whether expressed or not in any such consents) that the Tenant shall (if the Landlord so requires) at the expiration or sooner determination of the Term (howsoever determined) at the Tenant's expense remove any such signs and make good any consequential damage forthwith
- 5.5.7 Not to bring onto the Premises any safes machinery goods or other articles which may strain or damage the Premises or any part of it
- 5.5.8 Not to allow any third party on the Estate to use or connect into any fixed or wireless internet, telephone or other communications system (including, without limitation Wi-Fi systems) at the Premises.

**5.6 Environmental matters**

- 5.6.1 To comply with all Environmental Laws applicable to the operations of the Tenant and the Premises and to obtain from the appropriate Authority all necessary Environmental Consents.
- 5.6.2 To comply with all Environmental Consents relating to the Premises or the Estate as a whole if they affect the Premises or the Tenant's business.
- 5.6.3 If the Tenant receives any notice alleging that it is not in compliance with any Environmental Law or Environmental Consent immediately to provide a copy of that notice to the Landlord.
- 5.6.4 Not to cause or permit any release, omission, discharge or disposal of any substance which will or might pollute any stream or watercourse either directly or through the drainage system serving the Premises and the Estate.

**5.7 Encroachments**

- 5.7.1 Not to permit any encroachment to be made or easement acquired against or upon the Premises and promptly to give notice to the Landlord of any attempt to do so in either case and at the Tenant's expense to take any preventative steps (whether by legal proceedings or otherwise) which the Landlord may reasonably require.
- 5.7.2 Not to stop up, darken, or obstruct any window or other aperture in the Premises.

**5.8 Alienation**

- 5.8.1 Not to
  - 5.8.1.1 hold on trust for another, or
  - 5.8.1.2 to part with possession of, or
  - 5.8.1.3 to permit another to occupythe whole or any part of the Premises except by a transaction permitted by and effected in accordance with this Lease
- 5.8.2 Not to underlet the whole or any part of the Premises
- 5.8.3 Not to charge part only of the Premises
- 5.8.4 Not to charge the whole of the Premises except:
  - 5.8.3.1 to a bank or similar financial institution for the purpose only of borrowing money on the security of this Lease; and
  - 5.8.3.2 with the Landlord's prior written consent (such consent not to be unreasonably withheld)
- 5.8.5 Within 28 days of any assignment, charge, transmission or other devolution relating to the Premises or this Lease, to produce for registration with the Landlord the deed or document affecting the devolution or a copy of it certified by a solicitor and to pay the Landlord's reasonable charges for the registration of every such document such charges not being less than £35.00 (thirty five pounds) plus VAT

**5.8.5 Assignment**

- 5.8.5.1 Not to assign a part (as distinct from the whole) of the Premises

- 5.8.5.2 Not to assign the whole of the Premises without the prior written consent of the Landlord (which will not be unreasonably withheld or delayed)
- 5.8.5.3 Without limiting the generality of clause 5.8.5.2, it will be reasonable for the Landlord to refuse consent to an assignment if:
- 5.8.5.3.1 any Rents or other payments due from the Tenant to the Landlord are for the time being unpaid;
  - 5.8.5.3.2 the Tenant is in material breach of any of its repairing obligations under this Lease;
  - 5.8.5.3.3 the Tenant's solicitor has not provided an undertaking to pay all of the Landlord's costs, fees, charges, disbursements and expenses (including those payable to solicitors and surveyors) arising from the application for consent to the assignment whether or not consent is granted conditionally or unconditionally or is lawfully refused;
  - 5.8.5.3.4 the proposed assignee has failed to supply any references reasonably requested by the Landlord together with copies of any letters requesting the references;
- 5.8.5.4 The Landlord may as a condition of consenting to an assignment require that before the assignment takes place:
- 5.8.5.4.1 the assignor enters into an authorised guarantee agreement (by deed) with the Landlord in a form requested by the Landlord acting reasonably but substantially in the same form as the guarantor provisions contained in this Lease
  - 5.8.5.4.2 if the assignment is to a corporate body, at least two individuals (or some other guarantor or guarantors) acceptable to the Landlord (acting reasonably) enter into direct covenants (by deed) with the Landlord in substantially similar form to the Guarantor's covenants contained in this Lease in respect of the assignee's obligations under this Lease and under any authorised guarantee agreement entered into by the assignee to guarantee the obligations of any person to whom the assignee may assign the Lease in future;
  - 5.8.5.4.3 the Tenant remedies any breach of its obligations under this Lease and (for the avoidance of doubt) this shall include the carrying out of repairs even though the Leasehold Property (Repairs) Act 1938 might otherwise prevent the Landlord from enforcing a repairing obligation;
  - 5.8.5.4.4 the assignee provides a rent deposit equal to at least 6 months Rent and the amount equivalent to the VAT thereon and enters into a rent deposit deed in a form reasonably acceptable to the Landlord
- 5.8.5.5 If there shall be any dispute as to whether the conditions set out in clause 5.8.5.4 have been complied with this shall be determined on the reference of either party by the Landlord's Surveyor (acting as an expert and not an arbitrator) whose decision shall be binding on the Landlord and the Tenant and the fees payable to the Landlord's

Surveyor shall be borne and paid by the Landlord and the Tenant in such shares and in such manner as the Landlord's Surveyor shall determine and failing any determination in equal shares. If one party shall pay all the fees, it shall be entitled to recover the appropriate shares from the other

5.9 **Costs**

- 5.9.1 To pay to the Landlord on an indemnity basis all expenses including solicitor's costs and Surveyor's fees incurred by the Landlord incidental to the preparation and service of such a notice under the Law of Property Act 1925 section 146 or incurred in or in contemplation of proceedings under section 146 or section 147 of that Act notwithstanding in any such case forfeiture is avoided otherwise than by relief by the Court
- 5.9.2 To pay to the Landlord the Landlord's reasonable and proper costs fees and expenses in connection with any application for consents or licences or approvals in respect of this Lease or the Premises whether or not granted or proceeded with unless approval is shown to have been unreasonably withheld or delayed
- 5.9.3 To pay to the Landlord on a complete indemnity basis all expenses (including solicitor's costs and Surveyor's and other professional fees) which may be incurred by the Landlord in connection with or arising from any actions or proceedings brought or things done by the Landlord to recover Rent Rents or monies due or payable under the terms of this Lease or otherwise to enforce the provisions hereof including the rights of re-entry or any such attempted recovery including but without prejudice to the generality of the foregoing the fees expenses and commissions of bailiffs and persons employed by them
- 5.9.4 To pay to the Landlord all costs and expenses incurred in contemplation or in connection with the preparation and service of a repair notice or a schedule of dilapidations during or after the end of the Term
- 5.9.5 To pay to the Landlord the sum of one hundred pounds (£100.00) on completion of this Lease as a contribution towards the Landlord's legal costs in respect of the grant of this Lease

5.10 **The Planning Acts**

- 5.10.1 At all times during the Term to comply in all respects with the provisions and requirements of the Planning Acts and of any planning permissions and conditions thereof relating to the Premises and keep the Landlord indemnified against all liability whatsoever including costs expenses claims and demands in respect of any contravention thereof and forthwith to produce to the Landlord on receipt thereof of any notice order or proposal therefor made given or issued to the Tenant by a Planning Authority under or by virtue of the Planning Acts affecting or relating to the Premises and at the reasonable request and cost of the Landlord to make or join with the Landlord in making every such objection or representation against the same that the Landlord shall reasonably require
- 5.10.2 Not to make any application for planning permission in respect of the Premises without the Landlord's prior written consent such consent not to be unreasonably withheld or delayed **PROVIDED ALWAYS** that in no circumstances whatsoever shall the Tenant apply for planning permission to change the Permitted Use of the Premises

**5.11 Indemnities and Regulations**

- 5.11.1 To be responsible for and to indemnify the Landlord against all damage occasioned to the Premises or any other part of the Estate or any adjacent or neighbouring premises or to any person caused by any act default or negligence of the Tenant or the servants agents licensees or invitees of the Tenant save in so far as such damage is covered under the terms of any insurance policy maintained by the Landlord
- 5.11.2 In the event of the Premises or any part thereof being destroyed or damaged and the insurance money under any insurance in which the Landlord has an interest being wholly or partly irrecoverable by reason solely or in part of any act or default of the Tenant then and in every such case the Tenant will forthwith (in addition to the Rents) pay to the Landlord the whole or (as the case may require) a fair proportion of the cost including reasonable professional and other fees of completely rebuilding and reinstating the same
- 5.11.3 To observe and conform to all reasonable regulations and restrictions made by the Landlord for the proper management of the Estate

**5.12 Statutory Requirements**

At the Tenant's own expense to comply in all respects with every statute now in force or which may come into force after the date of this Lease and any other obligations imposed by law relating to the Premises or the user thereof and to execute all works and provide and maintain all arrangements upon or in respect of the Premises or the user thereof which are directed or required to be undertaken (by the tenant landlord or occupier) by any such statute and to indemnify and keep indemnified the Landlord against all costs charges fees and expenses of or incidental thereto the Landlord may under any statute incur or have imposed upon it

**5.13 Encumbrances**

To perform and observe the Encumbrances set out in the Sixth Schedule so far as they relate to the Premises

**5.14 Yielding up the Premises**

- 5.14.1 To permit the Landlord during the six months immediately preceding the expiration of the Term to affix and retain without interference by the Tenant but without interfering with the Tenant's normal use and occupation of the Premises upon any part of the Premises a notice for reletting the same and during such period to permit persons with the authority of the Landlord or the Landlord's Agent at reasonable times of the day and upon reasonable prior notice to view the Premises
- 5.14.2 To yield up the Premises with the fixtures and fittings and additions thereto (Tenant's fixtures only excepted) at the expiration of the Term in accordance with the several covenants hereinbefore contained and to return all keys to the Landlord

**5.15 Confidentiality**

Not without the Landlord's prior written consent to disclose to any third party the financial or other terms of this Lease except as shall be necessary for the proper performance of the Tenant's obligations under it or to the extent necessary to comply with any legal obligations

6. **LANDLORD'S COVENANTS**

THE Landlord hereby covenants with the Tenant as follows:-

6.1 **Quiet Possession**

6.1.1 Subject to the Tenant paying the Rents and observing and performing **ALL AND SINGULAR** the covenants and conditions hereinbefore contained and on the Tenant's part to be observed and performed shall and may during the continuance of the Term peaceably and quietly hold and enjoy the Premises without any lawful interruption or disturbance from or by the Landlord or any person or persons lawfully claiming under or in trust for it

6.2 **Insurance**

To insure or cause to be insured at all times so far as it is possible to insure against throughout the Term:-

6.2.1 The Premises and all fixtures of an insurable nature (other than those which the Tenant or any persons deriving title under the Tenant are entitled to remove) against the Insured Risks in such sum as the Landlord shall reasonably consider to be the full reinstatement value in a sum including the cost of demolition shoring and removal of debris and an amount to cover Architect's and other fees

6.2.2 The third party liability of the Landlord in connection with the Premises including the acts neglects or defaults of the Landlord its servants or agents in so far as such liability is insurable at any time

6.2.3 Not less than three year's loss of Rents

6.3 **Reinstatement**

That when lawful to do so and provided payment of the insurance monies is not refused in whole or in part by reason of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenant's authority will expend all monies received (other than in respect of loss of Rents) by virtue of any such insurance towards reinstating so far as practicable the Premises after the destruction thereof or any damage thereto the Landlord making up any deficiency out of its own monies **PROVIDED ALWAYS** that if any National or Local or Public Authority whatsoever shall lawfully refuse permission or otherwise lawfully prevent such reinstatement as aforesaid then such insurance monies (so far as unapplied as aforesaid) shall be retained by the Landlord and this Lease shall determine from the date the Landlord is lawfully prevented from carrying out such reinstatement

6.4 **Services**

The Landlord shall use reasonable endeavours to provide the Estate Services in accordance with the Fifth Schedule **PROVIDED ALWAYS** that the Landlord shall not be liable to the Tenant for the non performance of any of the Estate Services unless the Tenant has served written notice on the Landlord in respect of the non performance

6.5 **Headlease**

To comply with the covenants in any headlease save where they fall to be complied with by the Tenant

6.6 **Land Registration**

If the Tenant shall wish to register the rights and easements granted by this Lease against the Landlord's title then the Landlord agrees to provide the Tenant with a consent letter addressed to the relevant Land Registry

PROVIDED THAT the landlord shall first have received a letter of undertaking from the solicitors acting on behalf of the Tenant only to send the following extracts from the Lease to the Land Registry in support of its application namely:

- (a) The rights and easements granted;
- (b) a copy of the front cover showing the parties the Premises and the date of execution; and
- (c) the execution page

PROVIDED FURTHER THAT if the relevant Land Registry by requisition requires the production of a full copy of the Lease then the Tenant shall give to the Landlord notice of not less than 10 working days in order to make an application to ensure that the documents are exempt from the general right to inspect and copy (subject to the Landlord providing completed forms EX1 and EX1A together with a cheque for the requisite fee) the Tenant will submit the Landlord's forms EX1 and EX1A simultaneously with any application to the Land Registry for registration of this Lease

## 7. PROVISOS

PROVIDED ALWAYS AND IT IS HEREBY AGREED as follows:-

### 7.1 Re-entry

The Landlord may re-enter the Premises (or any part of them in the name of the whole) at any time (even if any previous right of re-entry has been waived) and then the Term will absolutely cease but without limiting any rights or remedies which may have accrued to the Landlord against the Tenant in respect of any breach of covenant or other term of this Lease (including the breach in respect of which the re-entry is made) if during the Term:

- 7.1.1 the Rents (or any part of them) are outstanding for 14 days after becoming payable whether formally demanded or not; or
- 7.1.2 there is a breach or non-observance by the Tenant of any covenants or other terms of this Lease or any document expressed to be supplemental to this Lease; or
- 7.1.3 the Tenant being an individual has a bankruptcy order made against him or proposes or enters into any composition or scheme or arrangement with his creditors; or
- 7.1.4 the Tenant being a company:
  - 7.1.4.1 shall convene a meeting of its members and/or creditors for the purpose of placing it into liquidation; or
  - 7.1.4.2 shall be the subject of a proposal for a voluntary arrangement within Part I of the Insolvency Act 1986; or
  - 7.1.4.3 shall prepare papers or submit papers to court for the purpose of establishing a moratorium for the purpose of proposing a voluntary agreement under Part 1 of the Insolvency Act 1986
  - 7.1.4.4 shall be the subject of any other proposal for any composition, scheme of arrangement with, or assignment for the benefit of, its creditors; or

- 7.1.4.5 shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- 7.1.4.6 shall have a trustee, receiver, administrative receiver administrator, or similar officer appointed in respect of all or any part of its business or assets; or
- 7.1.4.7 shall be the subject of a petition presented for its winding up or for the making of an administration order; or
- 7.1.4.8 shall propose an application progress or submit an application to court for an administration order; or
- 7.1.4.9 shall cease to carry on business; or
- 7.1.4.10 shall convene, or be the subject of a meeting convened, for any of the foregoing purposes;

or

- 7.1.5 the Tenant has any distress or execution levied on his goods.

## 7.2

### **Cesser of Rent and early Termination**

- 7.2.1 In case the Premises or any part thereof shall at any time during the Term be so damaged or destroyed or rendered unusable by any of the Insured Risks or such other risk against which the Landlord shall have insured so that in the opinion of the Landlord's insurers the Premises is unfit for occupation and use then (unless the insurance money shall be wholly or partially irrecoverable by reason solely or in part of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenant's authority) the Rents or a fair proportion thereof according to the nature and extent of the damage sustained shall be suspended from the date the Landlord's insurers accept the claim until the Premises shall again be rendered fit for occupation and use or if earlier until three years after such damage or destruction and any dispute with reference to this proviso shall be referred to arbitration in accordance with the Arbitration Act 1996
- 7.2.2 If the Premises have not been reconstructed or reinstated within three years or after such longer period as the Landlord may have insured against of the date of destruction then either party may determine this Lease by serving at least three months written notice to that effect upon the other and on the expiry of such notice this Lease shall determine but without prejudice to any antecedent claim or matter that either party shall have against the other

## 7.3

### **Limit of Landlord's Liability**

The Landlord shall not be responsible to the Tenant or its agents servants employees or licensees or any person entering the Premises or the Estate at the behest of the Tenant for any act omission neglect default or misfeasance of any servant or employee of the Landlord or for any damage by fire or water (whether by flooding tempest or otherwise) or any other cause whatsoever which may at any time during the Term be done to the Premises or to any of the goods or property of the Tenant or of the said agents and others as aforesaid whether such goods or property are situate in or about the Premises or in any part of the Estate and whether or not such goods or property are expressed to be in the care of the Landlord or by reason of any act neglect or default of any other tenants or tenant of the Estate or of any such servant or employee as aforesaid in breach or non-fulfilment of his or her duty or arising from the defective working accidental stoppage or breakage of any heating apparatus pipes or appliances

(including sprinklers and other fire fighting appliances) apparatus water supply or machinery in or connected with or used for the purposes of the Estate or any other cause whatsoever including damage caused by fire fighting appliances for the time being used by the Landlord in case of fire whether of sprinkler type or otherwise or through the exercise of the rights conferred by the Third Schedule Provided and to the extent that:-

- 7.3.1 any such damage or loss suffered by the Tenant could not have been prevented by the exercise of proper care and attention diligence and skill by the Landlord its tenants or agents
- 7.3.2 the Landlord uses its reasonable endeavours to restore the relevant service

and **PROVIDED FURTHER THAT** in any case beyond any sum which may be recoverable under any policy or policies of insurance maintained by the Landlord

**PROVIDED ALWAYS** that nothing in this clause 7.3 shall be construed as relieving the Landlord from liability for breach by the Landlord of any covenants on the part of the Landlord contained in this Lease

#### 7.4 **Negation of Rights**

Nothing herein contained shall confer on the Tenant any right to the benefit of or to enforce any covenant or agreement contained in any lease or other instrument relating to any other part of the Estate or to any other premises belonging to the Landlord or limit or affect the right of the Landlord to deal with the same now or at any time hereafter in any manner which may be thought fit nor shall anything herein contained confer on the tenant any liberty privilege easement right or advantage whatsoever mentioned or referred to in Section 62 of the Law of Property Act 1925 save those expressly set out herein

#### 7.5 **Exclusion of use Warranty**

Nothing in this Lease, nor in any consent granted by the Landlord under this Lease shall imply or warrant that the Premises may lawfully be used under the Planning Acts for the purpose authorised in this Lease (or any purpose subsequently authorised)

#### 7.6 **Registration of Lease at Land Registry**

- 7.6.1 At the end or sooner determination of the Term (however determined) the Tenant shall immediately apply to the Land Registry for the title to this Lease to be closed and all entries in respect of it removed from the register
- 7.6.2 At the end or sooner determination of the Term (howsoever determined) the Tenant shall return this Lease to the Landlord and shall provide all necessary assistance to the Landlord in applying to the Land Registry to cancel any notice of this Lease or any rights or easements granted hereunder from the Landlord's title
- 7.6.3 The Landlord shall not be liable to the Tenant for any loss or damage suffered by the Tenant or any costs incurred as a result of the Tenant's failure to register this Lease or any rights granted under it at the Land Registry

#### 7.7 **Notices**

For the purpose of service of all notices hereby or by statute authorised to be served the regulations as to service of notices contained in the Law of Property Act 1925 Section 196 as amended by the Recorded Delivery Service Act 1962 shall be deemed to be incorporated herein and provided that (for the avoidance

of doubt) this excludes service by email and facsimile which shall not be valid service for the purpose of this Lease

7.8 **Party Walls**

Such of the internal division walls as divide the Premises from other premises of the Landlord shall be deemed to be party walls and so subject to the Party Wall Act 1996

8. **LANDLORD AND TENANT ACT 1954**

The parties confirm that the Landlord has served on the Tenant a notice in the form set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 ("the Order") and [ TREFOR JONES ] being the Tenant's agent who has been duly authorised by the Tenant has made a declaration in the form set out in Paragraph 7 of Schedule 2 to the Order at least 14 days before this Lease was entered into and the parties agree that the provisions of sections 24 to 28 (inclusive) of the Landlord and Tenant Act 1954 shall not apply to this Lease

9. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

None of the provisions of this Lease are intended to operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on any person who is not named as a party to this Lease

10. **BREAK CLAUSE**

10.1 The Landlord or the Tenant shall be entitled by serving not less than six months prior written notice upon the other party to that effect to terminate this Lease on the third anniversary of the Contractual Term provided that in the case of a notice served by the Tenant at the time of expiry of the notice:-

- (a) there are no outstanding Rents and/or other sums due under this Lease;
- (b) there are no outstanding material breaches of the Tenant's covenants in this Lease; and
- (c) the Tenant has yielded up the Premises in accordance with the covenants contained in this Lease

and this Lease shall determine but without prejudice to any antecedent claim or matter that either party shall have against the other

10.2 Following determination of this Lease under this clause the Landlord shall reimburse the Tenant in respect of any amounts of Rent or Rents which have been paid in advance and relate to any period after the determination of this Lease

11. **ENTIRE UNDERSTANDING**

This Lease embodies the entire understanding of the Landlord and the Tenant relating to the Premises and to all matters dealt with by any of the provisions of this Lease and the Tenant acknowledges that the Tenant has inspected and surveyed the Premises and that this Lease has not been entered into in reliance wholly or partly on any statement or representation which is not expressly set out in this Lease