

Dated

2015

LEASE

relating to

**in relation to the Undercroft at Dreamland Heritage Amusement
Centre Marine Terrace Margate Kent**

THANET DISTRICT COUNCIL

and

SANDS HERITAGE LIMITED

REF: 8771906.5

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HM Land Registry Prescribed clauses

LR1	Date of Lease
LR2	Title number(s)
LR2.1	Landlord's title number(s) <i>Title number(s) out of which this lease is granted. Leave blank if not registered.</i> K975737 and TT20743
LR2.2	Other title numbers <i>Existing title number(s) against which entries of matters referred to in LR9, LR10, LR11 and LR13 are to be made.</i> K975684
LR3	Parties to this lease <i>Give full names and addresses of each of the parties. For UK incorporated companies and limited liability partnerships, also give the registered number including any prefix. For overseas companies, also give the territory of incorporation and, if appropriate, the registered number in the United Kingdom, including any prefix.</i> Landlord: Thanet District Council of Cecil Street, Margate, Kent CT9 1XZ Tenant: Sands Heritage Limited a corporation organised and existing under the laws of England and Wales whose registered office is at Bridge House 4 Borough High Street London Bridge London SE1 9QR company registration number 09094163 Other parties: None <i>Specify capacity of each party, for example "management company", "guarantor", etc.</i>
LR4	Property <i>Insert a full description of the land being leased or refer to the clause, schedule or paragraph of a schedule in this lease in which the land being leased is more fully described. Where there is a letting of part of a registered title, a plan must be attached to this lease and any floor levels must be specified. In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause will prevail.</i> [to be checked once new lease plans are issued] The Undercroft, comprising the interior of those areas on the lower ground floors of the Cinema Structure shown coloured red on plan 2 and the area shown coloured yellow on plan 3 including: <ul style="list-style-type: none"> the interior facing and plaster of any walls and floors which form a boundary of the Property with the Cinema and the Cinema Structure but not the joists or ceiling structures or other structural parts supporting them; any Conduits exclusively serving the Property; but excluding: <ul style="list-style-type: none"> the Cinema

	<ul style="list-style-type: none"> • the Cinema Structure • the void beneath any raised floors in the Property • any Conduits and Plant serving the Property and other property • the Bingo Area, Former Arcade and Sunshine Restaurant and other areas forming the upper levels of the cinema building
LR5	Prescribed statements etc. <i>If this lease includes a statement falling within LR5.1, insert under that sub-clause the relevant statement or refer to the clause, schedule or paragraph of a schedule in this lease which contains the statement. In LR5.2, omit or delete those Acts which do not apply to this lease.</i>
LR5.1	Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003. None.
LR5.2	This lease is made under, or by reference to, provisions of: None.
LR6	Term for which the Property is leased <i>Include only the appropriate statement (duly completed) from the three options.</i> <i>NOTE: The information you provide, or refer to, here will be used as part of the particulars to identify the lease under rule 6 of the Land Registration Rules 2003.</i>
	The term is as follows: 99 years commencing on and including []
LR7	Premium <i>Specify the total premium, inclusive of any VAT where payable.</i> None
LR8	Prohibitions or restrictions on disposing of this lease <i>Include whichever of the two statements is appropriate. Do not set out here the wording of the provision.</i> This lease contains a provision that prohibits or restricts dispositions.
LR9	Rights of acquisition etc. <i>Insert the relevant provisions in the sub-clauses or refer to the clause, schedule or paragraph of a schedule in this lease which contains the provisions.</i> None
LR9.1	Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land None.
LR9.2	Tenant's covenant to (or offer to) surrender this lease None.
LR9.3	Landlord's contractual rights to acquire this lease None.

LR10	<p>Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</p> <p><i>Insert the relevant provisions or refer to the clause, schedule or paragraph of a schedule in this lease which contains the provisions.</i></p> <p>See clause 4.3.</p>
LR11	<p>Easements</p> <p><i>Refer here only to the clause, schedule or paragraph of a schedule in this lease which sets out the easements.</i></p>
LR11.1	<p>Easements granted by this lease for the benefit of the Property</p> <p>See Schedule 1</p>
LR11.2	<p>Easements granted or reserved by this lease over the Property for the benefit of other property</p> <p>See Schedule 2</p>
LR12	<p>Estate rentcharge burdening the Property</p> <p><i>Refer here only to the clause, schedule or paragraph of a schedule in this lease which sets out the rentcharge.</i></p> <p>None</p>
LR13	<p>Application for standard form of restriction</p> <p><i>Set out the full text of the standard form of restriction and the title against which it is to be entered. If you wish to apply for more than one standard form of restriction use this clause to apply for each of them, tell us who is applying against which title and set out the full text of the restriction you are applying for. Standard forms of restriction are set out in Schedule 4 to the Land Registration Rules 2003.</i></p> <p>None</p>
LR14	<p>Declaration of trust where there is more than one person comprising the Tenant</p> <p><i>If the Tenant is one person, omit or delete all the alternative statements.</i></p> <p><i>If the Tenant is more than one person, complete this clause by omitting or deleting all inapplicable alternative statements.</i></p> <p>None.</p>

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Lease the following words and expressions have the meaning specified except when the context otherwise requires.

Accessway means the accessway shown coloured [green] on Plan [1];

Agreement for Lease means an agreement for lease dated [] and made between the Landlord (1) and the Tenant (2);

Asbestos Regulations mean the Control of Asbestos Regulations 2012 (SI 2012/632) and any other regulations from time to time concerning the control of and exposure to asbestos under the Health and Safety at Work etc. Act 1974;

Base Rate means the base lending rate for the time being of The Royal Bank of Scotland plc or such other member of Chaps Clearing Company Limited nominated from time to time by the Landlord or if the base lending rate is abolished such other rate as the Landlord will from time to time reasonably determine;

Basic Rent means One Pound (if demanded) and where relevant the Additional Rent payable in accordance with Schedule 7;

Cinema means the building on part of the Estate shown coloured purple on Plan 1 1;

Cinema Access Route means the passageway leading from Marine Terrace along the common area of the ground floor of the Cinema coloured green on Plan 3 to the demise coloured yellow on the same plan;

Cinema Common Parts means those internal areas of the Cinema shown coloured green on Plan 4, Plan 5 and Plan 6;

Cinema Structure means in respect of the Cinema:

(a) the entirety of the roofs and foundations of the building;

(b) the entirety of all floors and ceilings but excluding the floor finishes the raised floors and their supports and the void beneath the raised floors and also excluding the ceiling finishes any suspended ceilings and the void above any suspended ceilings;

(c) the entirety of all external walls but excluding the plasterwork and decorative finishes applied to the internal faces of such walls;

(d) the entirety of all load-bearing walls pillars and other structures but excluding the plasterwork and decorative finishes applied to the faces of such walls pillars and other structures;

(e) all glazing window frames and window furniture in the windows which form part of the external envelope of the building but not the internal decorative surfaces of those windows

frames and window furniture; and

(f) all other parts of the structure of the building not referred to in the preceding paragraphs (a) to (e);

Common Parts means the areas shaded green on Plan [3];

Concession Agreement means a concession agreement dated [] and made between the Landlord (1) and the Tenant (2);

Conduits means all or any sewers, drains, channels, gutters, gullies, ducts, pipes, wires, cables, watercourses and any conducting media now or during the Term serving the Property or the Estate;

Environment means all or any of air, water and land including any within buildings and any other natural or man-made structures above or below ground;

Environmental Law means all rules of common law, principles of equity and rules of any court or other tribunal of competent jurisdiction, all statutes, standards or codes that have the force of law, all notices, directions, impositions or requirements of any competent authority relating to the protection of human health and safety, the protection of property and proprietary rights or the protection of the Environment or the generation, transportation, storage, use, treatment or disposal of Hazardous Substances;

EPC means an Energy Performance Certificate pursuant to the Energy Performance of Buildings (Certificates and Inspections) (England And Wales) Regulations 2007 (SI 2007/991) as amended by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2011 (SI 2011/2452) (**the EPC Regulations**)

Estate means the whole [Dreamland-dreamland Ssite](#) shown edged in yellow on Plan [1] and comprising the Property, the Main Site, and all buildings and structures (such as the Cinema) not included in this Lease or the Main Site Lease;

Expert means an independent person of not less than 10 years standing in their relevant field and appointed to act under clause 8.10;

First Schedule of Condition has the meaning ascribed to that term in the Agreement for Lease;

Funder means such bank or other entity providing finance to the Tenant from time to time and notified to the Landlord in writing;

Hazardous Substance means waste (as defined in the Environmental Protection Act 1990) and any substance whatsoever in any form (whether alone or in combination with any other substance) which is capable of causing harm to man or to any living organism supported by the Environment or of damaging the Environment or public health or welfare or the presence of which would be a breach of any Environmental Law;

Landlord's Works has the meaning ascribed to that term in the Agreement for Lease;

Latent Defect means a defect in the Landlord's Works, or in any other part of the Property

[but caused by the Landlord's Works:](#)

Lawful Occupier means any persons in the Property expressly or impliedly with the Tenant's authority, including any tenants under any sub-leases granted otherwise than in breach of this Lease and their respective workmen, agents, employees and visitors;

Losses means all liabilities incurred by the Landlord, all damage and loss suffered by the Landlord, all damages, compensation and penalties awarded against the Landlord and the costs of defending any claims, demands, actions and proceedings brought against the Landlord, all fees, costs and expenses incurred by the Landlord;

Main Site means the premises shown edged red on [plan 1](#), and more particularly described in the Main Site Lease;

Main Site Lease means the lease of the Main Site dated [] and made between the Landlord and the Tenant;

Minimum Opening Times means subject to clause 3.32 a minimum of 180 days in each calendar year or otherwise in accordance with industry prevailing times and all licence and planning conditions imposed on the Premises;

Neighbouring Property means all parts of the Estate apart from the Property;

Permitted Part means a self-contained part of the Property which is reasonably capable of separate beneficial occupation and use;

Plan 1 means Plan 1 attached to this Lease;

Plan 2 means Plan 2 attached to this Lease;

Plan 3 means Plan 3 attached to this Lease;

Plan 4 means Plan 4 attached to this Lease;

Plan 5 means Plan 5 attached to this Lease;

Plan 6 means Plan 6 attached to this Lease;


Planning Acts means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008 and any similar legislation;

Plant includes (without limitation) lifts, lift machinery, hoists, boilers and other space and water heating machinery and equipment, air conditioning plant, connecting piping, radiators, hot or cold water storage vessels, calorifiers, steam or air pressure vessels, oil firing equipment, motor valves and pumps and lighting machinery and equipment on the Property excluding Tenant's fixtures and fittings and also excluding any plant in the water pump room and electrical intake coloured green on Plan 2;

President means the President for the time being of the Royal Institution of Chartered

Surveyors or a person acting on his behalf;

Property means the premises specified in prescribed clause LR4 and any part thereof;

Public Car Park means the area shown edged brown on Plan 

Reinstatement Notice means a written notice in which the Landlord confirms that it will reinstate the Property at its own cost so that the Property is fit for use and accessible;

Surveyor means the surveyor for the time being of the Landlord who shall be a chartered surveyor being a person appointed by the Landlord and who will act as an Expert unless otherwise specified in this Lease ;

Tenant Losses means all losses and liabilities that the Tenant would not otherwise suffer including (without limiting the types of loss or liability) damages, compensation and penalties awarded against the Tenant and the costs of defending any claims, demands, actions and proceedings brought against the Tenant;

Tenant's Works has the meaning ascribed to that term in the Agreement for Lease;

Term means the term described in prescribed clause LR6;

Third Party Rights means all rights, covenants and restrictions affecting the Property (but only so far as they continue to subsist and/or affect or relate to the Property) and excluding the Title Restrictions during the Term including the matters referred to in the property and charges registers maintained at H M Land Registry under title number K975737 save for any financial charges and/or contained or referred to in the documents set out in Schedule 3;

this Lease means this deed and any document which is supplemental to or collateral with it or which is entered into pursuant to or in accordance with its terms;

Title Restrictions means all those covenants conditions charges liabilities restrictions and third party rights contained or referred to on the entries of the freehold titles registered at the Land Registry under title numbers TT20743, K975686 and K975737 as evidenced by official copies as follows:

24 April 2015 – 09:22:13 – TT20743

1 April 2015 – 14:54:26 – K975684

24 April 2015 – 09:19:33 – K975737

Tivoli Brook means the underground watercourse including the culvert and all structures forming part of it passing through the Estate in the approximate location shown by the blue line on Plan 6 annexed to the Main Site Lease;

Uninsured Risks means a risk that ceases to be an Insured Risk because insurance is unavailable or ceases to be available on normal commercial terms and rates in the UK insurance market;

VAT means value added tax chargeable under the Value Added Tax Act 1994 or any

similar replacement or additional tax; and

Working Day means any day, which is not a Saturday, Sunday or a statutory or public holiday and **Working Days** shall be construed accordingly.

1.2

Interpretation

- 1.2.1 Where there are two or more persons included in the expression the Landlord covenants and obligations entered into by the Landlord will be deemed to be entered into by such persons jointly and severally.
- 1.2.2 Where there are two or more persons included in the expression the Tenant covenants and obligations entered into by the Tenant will be deemed to be entered into by such persons jointly and severally.
- 1.2.3 Where there are two or more persons included in the expression the Landlord an event or something will be deemed to have occurred if it happens to any one of them for the purposes of this Lease.
- 1.2.4 Where there are two or more persons included in the expression the Tenant an event or something will be deemed to have occurred if it happens to any one of them for the purposes of this Lease.
- 1.2.5 References in this Lease to any legislation are to that legislation as extended, modified, amended, re-enacted or replaced at the date upon which its construction is relevant for the purposes of this Lease and not as originally enacted or as at the date of this Lease.
- 1.2.6 References generally to legislation include statutory instruments, regulations and other derivative legislation and any regulation or other legislation of the European Union that is directly applicable in England and Wales and include existing legislation and that which comes into effect during the Term.
- 1.2.7 Any covenant by the Tenant not to do or omit any act or thing except where stated otherwise will be taken to include a covenant not to suffer or permit the doing or omission of that act or thing.
- 1.2.8 The expression the Landlord means the person for the time being entitled to the reversion immediately expectant on the end of the Term howsoever determined.
- 1.2.9 The expression the Tenant includes the Tenant's successors in title.
- 1.2.10 The headings above the clauses and the contents pages of this Lease are for reference only and will not affect its construction.
- 1.2.11 Any reference to a clause or schedule without further designation will be a reference to a clause or schedule of this Lease.
- 1.2.12 Any reference to a prescribed clause without further designation is to the relevant prescribed clause LR1 to LR14 (inclusive) appearing immediately after the contents table in this Lease.

- 1.2.13 Any consent required by the Tenant from the Landlord under this Lease is to be by deed to be valid unless stated otherwise or unless the Landlord confirms otherwise in writing.
- 1.2.14 Where the Tenant is required to obtain the Landlord's consent before doing something it will be deemed to need also the written consent of any mortgagee of the Landlord's interest in the Property unless the Landlord says otherwise.
- 1.2.15 References to the end of the Term mean the date the Term ends whether by effluxion of time or earlier termination by any means.
- 1.2.16 For the purposes of this Lease, two companies are members of the same group if one of them is the subsidiary of the other, or both are subsidiaries of a third company, subsidiary having the meaning given to it in section 1159 of the Companies Act 2006 and Group Company will be construed accordingly.
- 1.2.17 Where the Landlord and any persons authorised by the Landlord have the right to enter the whole or any parts of the Property for any lawful purpose permitted by this Lease, any obligations on the part of the Landlord to make good any damage caused to the Property shall also impose an obligation to make good any damage to the fixtures fittings apparatus equipment and any other object or item belonging to the Tenant and/or any Lawful Occupier.

2 **Demise and rents**

- 2.1 In consideration of the rents payable under this Lease and of the covenants on the part of the Tenant and of the conditions contained in this Lease the Landlord:
 - 2.1.1 lets the Property to the Tenant for the Term;
 - 2.1.2 grants to the Tenant for the benefit of the Tenant and all Lawful Occupiers and all others so entitled the rights set out in Schedule 1; and
 - 2.1.3 excepts and reserves the matters set out in Schedule 2.
- 2.2 This Lease is subject to the matters mentioned in the deeds and documents set out in Schedule 3.
- 2.3 The Tenant will pay the Basic Rent and the Additional Rent in accordance with the provisions of Schedule 7.
- 2.4 The Landlord reserves as further and additional rent and the Tenant is to pay during the Term:
 - 2.4.1 all monies payable by the Tenant pursuant to Schedule 6;
 - 2.4.2 the sums specified in Schedule 8 as payable by the Tenant;
 - 2.4.3 interest on any unpaid rents or other sums due under this Lease such interest to be calculated at the rate of 4% above the Base Rate from and including the day upon which the payment in question was due until the date it is actually paid; and

2.4.4 any VAT chargeable on the Basic Rent and sums reserved as additional rent by this Lease.

2.5 Any rents payable in respect of any period of less than a year and/or paid for a period extending beyond the end of this Lease are to be apportioned on a daily basis and an appropriate refund made to the Tenant if the rents have been paid in advance.

3 **Tenant's covenants**

The Tenant covenants with the Landlord as follows:

3.1 **Rent**

The Tenant will pay the rents reserved by clause 2 at the times and in the manner required by this Lease without any deduction or set off.

3.2 **Outgoings**

3.2.1 The Tenant will pay and will indemnify the Landlord against all existing and future rates, taxes, levies, costs, charges, outgoings and impositions (of whatever nature) payable during the Term in respect of the Property, its use or occupation (including energy consumption) and any works carried out to the same which are now or may at any time be assessed, charged or imposed on the Property or on the owner or occupier of them except:

- (a) those which are payable by the Landlord in connection with its ownership of or any dealing with the reversion to this Lease or occasioned as a result of the rents payable under it; and
- (b) those resulting from, caused by, or in any way relating to Tivoli Brook or substances in, on or passing through Tivoli Brook.

3.2.2 In the absence of direct assessment, charge or imposition on the Property, the Tenant will pay to the Landlord a fair proportion of them as determined by the Landlord acting reasonably.

3.2.3 The Tenant will pay to the relevant suppliers all charges (including meter rents and standing charges) for all services including without limitation water, sewerage, electricity, gas, telecommunications and other data-communication services and all other utilities used at, removed from or supplied to the Property.

3.2.4 The Tenant will comply with all requirements and regulations of the relevant suppliers related to

- (a) the services referred to in clause 3.2.3; and
- (b) all appropriate installations and equipment at the Property.

3.2.5 The Tenant will indemnify the Landlord against any loss to the Landlord of void rating relief arising because the Property is vacant after the end of the Term (howsoever determined) and such relief has already been allowed to the Tenant.

3.3 Repair and decoration

3.3.1 The Tenant will:

- (a) keep the Property in good repair condition and decoration save that the Tenant is under no obligation to repair any Latent Defect, or to keep the Property in:
 - i any better state of repair and condition than it is in at the date hereof as is evidenced by the First Schedule of Condition fair wear and tear excepted;
 - ii following practical completion of the Tenant's Works, any better state of repair and condition than it is in at the date of practical completion of the Tenant's Works pursuant to the Agreement for Lease as is evidenced by the Second Schedule of Condition fair wear and tear excepted;
- (b) ensure that all accessible windows in the Property are cleaned on a regular basis; and

3.3.2

- (a) the Tenant's obligation under this clause 3.3 does not extend to damage by the Insured Risks (as defined in Schedule 6) except to the extent that the insurance money cannot be recovered because of any act or default of the Tenant or any Lawful Occupier unless the Tenant pays to the Landlord the sum required under paragraph 4.5 of Part 1 of Schedule 6.
- (a) the Tenant's obligation under this clause 3.3 does not extend to damage by any Uninsured Risk.

3.3.3 The Tenant will at its own cost enter into and maintain contracts with persons experienced in such matters to inspect, maintain and repair any Plant which exclusively serves the Property and will supply copies of such contracts to the Landlord on request.

3.3.4 Subject to clause 3.3.5 the Tenant will ~~in~~ at least in every seventh year of the Term (or whenever reasonably necessary, but not more often than once in every fifth year of the Term) and in the last six months of the Term (howsoever determined) prepare, paint or otherwise appropriately treat with good quality materials and in a good and workmanlike manner all the inside surfaces of the buildings on the Property usually or requiring to be prepared, painted or otherwise treated. The Tenant will obtain the prior written approval (such approval not to be unreasonably withheld or delayed) of the Landlord to the tints, colours and patterns of all such works of painting and treating in the last six months of the Term (howsoever determined).

3.3.5 The Tenant shall be under no obligation to keep the Property in:

- (a) any better state of decorative condition than it is in at the date hereof as is evidenced by the First Schedule of Condition; and
- (b) following practical completion of the Tenant's Works any better state of decorative condition than it is in at the date of Practical Completion of the Tenant's Works as is evidenced by the Second Schedule of Condition.

3.4 **Environmental liability**

3.4.1 Notwithstanding any provision to the contrary contained in this lease the Tenant is not to be required to perform any obligation or be liable to the Landlord for any loss, cost, claim or payment (including payment under indemnity, service charge and other obligations in this lease) arising out of or attributable to the presence of any contaminative substance:

- (a) present at the date of this lease on or beneath the Property; or
- (b) present at the date of this lease which has migrated or which at any time migrates from the Property; or
- (c) which migrates onto the Property at any time.

3.4.2 In the event that any contaminative substance referred to in clauses 3.4.1(a) and/or 3.4.1(b) and/or 3.4.1(c) causes the Tenant to cease occupation of a material part of the Property and if (at the Tenant's option and without any obligation on the Tenant to do so) the Tenant has not been able to procure the removal or remediation of the contaminative substance the Tenant shall be entitled to terminate this Lease at any time by serving not less than one month's written notice on the Landlord. Upon expiry of such notice this Lease will but without prejudice to:

- (a) the rights and remedies of either party against the other in respect of a prior breach of this Lease; and
- (b) the continuing obligation of the parties to account to one another by way of payments on or by refund for any Basic Rent, Service Charge, Insurance Rent or any other payment or allowance apportioned on a daily basis up to the date this lease ends

3.5 **Keep clean and tidy**

The Tenant will:

- 3.5.1 keep the Property clean and tidy and clear of all rubbish;
- 3.5.2 arrange for the removal of refuse by an appropriate person unless the Landlord arranges refuse removal from the Property;
- 3.5.3 prepare the refuse for collection as directed by the Landlord if the Landlord acting reasonably considers that the Tenant is not dealing with refuse appropriately; and

3.5.4 not burn any refuse on or near the Property.

3.6 Permit access

3.6.1 The Tenant will permit the Landlord and all persons authorised by the Landlord to enter the whole or any part or parts of the Property and to remain upon the same for as long as is reasonably necessary in order to:

- (a) view the state of repair, condition and decoration of it; and/or
- (b) ascertain whether the covenants and conditions in this Lease have been observed and performed.

subject to the person so entering making good any damage caused to the Property promptly to the reasonable satisfaction of the Tenant.

3.6.2 The Landlord will give the Tenant at least 48 hours' prior written notice of its intention to exercise the right of entry but no notice will be required in the case of emergency or genuine urgency.

3.7 Repair on notice

3.7.1 The Tenant will commence making good any defect in repair, maintenance, decoration, cleansing or condition of the Property for which the Tenant is liable under this Lease within two months after service on the Tenant of a notice specifying such work (or sooner if the notice to the Tenant reasonably requires it) and will complete such work promptly thereafter.

3.7.2 If the Tenant fails to comply with any notice served under clause 3.7.1 within two months (or such other period specified in the notice) the Landlord, its workmen and others authorised by the Landlord may enter the Property to remedy such breach.

3.7.3 The Tenant will pay to the Landlord as a debt the cost to the Landlord of and incidental to the works and other steps taken by the Landlord or on its behalf to remedy the breach in exercise of the right in clause 3.7.2 or otherwise.

3.8 Yield up

3.8.1 Before the end of the Term (if reasonably required by the Landlord) the Tenant will remove all internal, non-structural partitioning in buildings on the Property and all Tenant's fixtures, fittings, machinery and signs and all property of the Tenant at the Property and will reinstate any works which accommodated them and the Tenant will make good all damage caused by works carried out in compliance with this clause 3.8.

3.8.2 The Tenant will carry out all works under this clause 3.8 in a good and workmanlike manner using good quality materials to the reasonable satisfaction of the Landlord or the Surveyor.

3.8.3 At the end of the Term the Tenant will:

- (a) quietly yield up the Property to the Landlord with vacant possession in a condition consistent with due performance and observance by the Tenant of all of its obligations contained in this Lease; and
- (b) deliver to the Landlord any Health and Safety files, operation and maintenance manuals, guarantees and test, inspection and servicing certificates and records in respect of the Property and any Plant and fixtures and fittings at the Property.

3.8.4 The Tenant will remove any property of the Tenant remaining in the Property at the end of the Term within ten Working Days after being requested to do so by the Landlord. If the Tenant fails to comply with such request, the Landlord may as agent of the Tenant, sell or otherwise dispose of such property. The Landlord will hold the proceeds of such sale, after deducting the costs and expenses of removal, storage and sale reasonably and properly incurred by it, to the order of the Tenant for a period of three months. At the end of such period, if the Tenant has not given written notice to the Landlord directing payment out of such sale proceeds, they will belong to the Landlord absolutely.

3.8.5 The Tenant will indemnify the Landlord against any liability incurred by it to any third party whose property has been sold by the Landlord in the bona fide mistaken belief (which is to be presumed unless the contrary be proved) that it belonged to the Tenant and was liable to be dealt with under this clause 3.8.

3.9 **Pay fees**

3.9.1 The Tenant will pay to the Landlord on written demand all proper costs, fees and expenses reasonably incurred by the Landlord arising out of or in connection with or in reasonable contemplation of:

- (a) any application (where required) for Landlord's consent by the Tenant in connection with the Property or this Lease whether granted, lawfully refused, withdrawn or granted subject to conditions and any deeds and documents prepared in connection with such application;
- (b) any breach by the Tenant of this Lease or any notice or proceedings (whether under Sections 146 or 147 of the Law of Property Act 1925 or otherwise) requiring the Tenant to remedy any breach of this Lease even if any right of re-entry or forfeiture has been waived by the Landlord or if the Tenant subsequently remedies the breach or is granted relief from forfeiture is avoided otherwise than by relief granted by the court;
- (c) the preparation and service of a schedule of dilapidations during the Term or within six months after the end of the Term;
- (d) the recovery of arrears of any rents or other sums payable under this Lease;
- (e) the enforcement of any covenant or obligation of the Tenant under this Lease;

- (f) the abatement of any nuisance which the Tenant is responsible to abate and the execution of all works necessary to abate such nuisance.

3.9.2 If any work is done by the Landlord (or by any person connected with or employed by it) rather than an independent person, such costs, fees and expenses will be deemed to be a reasonable fee not exceeding that which might properly have been charged for the same work by an independent person competent to deal with that work in the ordinary course of his business.

3.10 Nuisances

3.10.1 The Tenant will not bring or keep on, or emit from, the Property or any land over which the Tenant enjoys rights or amenities anything which is or which may cause nuisance, damage, disturbance or annoyance to any person or which may be injurious to the amenity or character of the Property or Neighbouring Property but the Landlord acknowledges that the use of the Property for the purposes permitted under this Lease shall not be in breach of this clause.

3.10.2 The Tenant will not commit any wilful or voluntary waste, spoil or destruction in or upon the Property.

3.10.3 The Tenant will not overload any part of the structure of any buildings on the Property any installations or any of the Plant.

3.10.4 The Tenant will not allow to pass into the Conduits any noxious or deleterious effluent or other substance which might cause an obstruction in or injury to those Conduits or might be a source of danger and will forthwith remedy any breach of this clause to the reasonable satisfaction of the Landlord.

3.10.5 The Tenant will not:

- (a) keep any bird or animal (except for guard dogs) on the Property except as may arise in connection with the use of the Property permitted under clause 3.11;
- (b) keep any drugs unlawfully on the Property;
- (c) use the Property for any use which is illegal, immoral, dangerous or offensive but the Landlord acknowledges that the use of the Property for the purposes permitted by this Lease shall not be a breach of this Lease;
- (d) use the Property for residential purposes.

3.10.6

- (a) nothing in this Lease or under this clause 3.10 shall impose any liability or obligation on the Tenant to the Landlord or otherwise for the actions or omissions of any third parties (not being Lawful Occupiers) who may cause the Tenant to be in breach of this clause 3.10;

- (b) nothing in this Lease or under this clause 3.10 shall impose any liability or obligation on the Tenant to the Landlord or otherwise for the condition of Tivoli Brook or substances in, on, or passing through Tivoli Brook.

3.11 Use

- 3.11.1 The Tenant will not use the Property otherwise than as an amusement park with associated retail leisure office and ancillary uses including for the holding of temporary events (including funfairs, travelling circuses, weddings, parking, filming, children's activities and children's play area) together with (provided that such uses are ancillary to the primary use of the Property as an amusement park) catering for visitors to the Property or other permitted events such as concerts, retail activities, games, stalls, sideshows, refreshment, education, training and volunteering facilities and other ancillary uses within Classes A1, A3, A4, B1, D1 and D2 of the Town and Country Planning (Use Classes) Order 1987 and such other uses as the Landlord shall approve such approval not to be unreasonably withheld or delayed.
- 3.11.2 None of the provisions of this Lease about use of the Property or in any consent granted by the Landlord under this Lease will imply or warrant that the Property may lawfully be used under the Planning Acts for such use.
- 3.11.3 The Tenant will be entitled to have access to and to use the Property at all times (24 hours a day, every day) for the uses permitted by this Lease.

3.12 Signs

The Landlord and the Tenant shall liaise with one another to agree a policy on signage advertisements and other visible promotional material on the Property having regard to and taking into account the role responsibility and obligations of each party and the use of the Property permitted under this Lease.

3.13 Alterations

- 3.13.1 The Tenant will not:
 - (a) make any additions to the Property except as permitted under this clause 3.13; or
 - (b) make any alteration to the Property or to the Conduits and/or Plant except as permitted by the provisions of this clause 3.13.
- 3.13.2 The Tenant may make alterations to the Property subject to the Tenant first obtaining the written consent of the Landlord, such consent not to be unreasonably withheld or delayed and subject to the Tenant complying with the remaining provisions of this clause 3.13.
- 3.13.3 Before carrying out any alterations permitted under clause 3.13.2 the Tenant will:
 - (a) obtain all necessary consents of any competent authority and will pay all charges of any such authority connected to or for those consents;

- (b) give the Landlord drawings and written specifications in duplicate showing the proposed alterations in sufficient detail for the Landlord to consider fully the Tenant's application for consent;
- (c) enter into such covenants as the Landlord may reasonably require about the alterations;

3.13.4 If required by the EPC Regulations the Tenant shall obtain a valid EPC in respect of any works of alteration to the Property and deliver a copy to the Landlord (together with details of the reference number of such EPC if not apparent from the copy) within 10 Working Days of such EPC being issued.

3.13.5 If any alterations made by the Tenant invalidate a valid EPC for any Neighbouring Property (or any part thereof) held by the Landlord of which the Tenant has prior written notification or adversely affects the asset rating in any such EPC then the Tenant shall indemnify the Landlord in respect of the reasonable expenses properly incurred in respect of the cost of a new and valid EPC for the Neighbouring Property.

3.13.6 Without limiting any other provisions of this Lease the Tenant will comply with all necessary consents of any competent authority relating to any works the Tenant carries out at the Property.

3.13.7 The Tenant will not make any connection with the Conduits except in accordance with plans and specifications previously approved by the Landlord and with the appropriate consent of any competent authority, undertaker or supplier.

3.13.8 Notwithstanding the preceding provisions of this clause 3.13 the Tenant shall without the consent of the Landlord be entitled to:

- (a) make alterations or additions to the Property which do not affect the structural integrity of any buildings on the Property; and
- (b) make alterations or additions to the Plant and/or Conduits in support of the use of the Property permitted by this Lease; and
- (c) install alter remove any non-structural partitioning;
- (d) make minor alterations to ducting cabling ceiling and wall tiles and coverings; and
- (e) install and remove rides and associated apparatus, booths and stalls and related equipment in connection with the use of the Property permitted by this Lease,

provided that the Tenant shall notify the Landlord prior to the commencement of any such alterations and shall provide (where relevant) as built drawings as soon as reasonably practicable following completion.

3.14 **Assignment**

- 3.14.1 The Tenant will not assign the whole of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 3.14.2 The Tenant will not assign part only of this Lease.
- 3.14.3 The Landlord and the Tenant agree that, for the purposes of section 19(1A) of the Landlord and Tenant Act 1927, the Landlord may refuse its consent to an assignment if any of the circumstances set out in clause 3.14.4 prevail at the date of the Tenant's application for consent to assignment or, if any arise before completion of the assignment, the Landlord may revoke any consent given.
- 3.14.4 The circumstances mentioned in clause 3.14.3 are that (a) any Basic Rent calculated in accordance with the terms of Schedule 7 and which has been demanded in writing from the Tenant and which is not the subject of any bona fide dispute between the Landlord and the Tenant remains outstanding; and (b) in the reasonable opinion of the Landlord the assignee is not of sufficient financial standing to enable it to comply with the tenant's covenants and conditions contained in this Lease throughout the Term.
- 3.14.5 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to any of the conditions specified in clauses 3.14.6 and 3.14.7.
- 3.14.6 The conditions mentioned in clause 3.14.5 are:
- (a) that on completion of any assignment which takes place prior to [] [end date of concession], the assignee enters into a concession agreement with the Landlord in substantially the same form as the Concession Agreement;
 - (b) the Tenant and any relevant former tenant (defined below) executes and delivers to the Landlord an authorised guarantee agreement on the earlier of (a) any assignment; and (b) the giving of occupation to the assignee. Any authorised guarantee agreement required pursuant to this clause 3.14.6 is to be in terms set out in Schedule 4 subject only to such amendments as may be necessary to take account of changes in law since the date of this Lease or such amendments as the Landlord reasonably requires. In this clause 3.14.6 relevant former tenant means any former tenant who by virtue of the Landlord and Tenant (Covenants) Act 1995 section 11 was not released on an earlier assignment of this Lease;
 - (c) if reasonably required by the Landlord a person or corporation of standing acceptable to the Landlord enters into a guarantee and indemnity by deed, in the form set out in Schedule 5 subject only to such amendments as may be necessary to take account of changes in law since the date of this Lease or such amendments as the Landlord reasonably requires or in terms from time to time reasonably determined by the Landlord. It is agreed that a person or corporation will not be of acceptable standing if that person is resident in (or being a corporation

is registered in) a jurisdiction in which a court order obtained in England and Wales will not be enforced;

- (d) if reasonably required by the Landlord the assignee executes and delivers to the Landlord upon the assignment a rent deposit deed for such sum as the Landlord may reasonably determine in such form as the Landlord may reasonably require together with the payment by way of cleared funds of the sum specified in the rent deposit deed if reasonably required to do so by the Landlord;
- (e) that on completion of any assignment the assignee also takes an assignment of the Main Site Lease.

3.14.7 Nothing in this clause will prevent the Landlord from giving consent subject to any other reasonable condition or refusing consent to an assignment in any other circumstance, where it is reasonable to do so.

3.15 Underletting

3.15.1 The Tenant will not underlet the whole of the Property.

3.15.2 The Tenant will not underlet a Permitted Part, except in accordance with this clause nor without the consent of the Landlord (except as permitted in clause 3.15.6), such consent not to be unreasonably withheld or delayed. An application for consent is to be accompanied by full written details of the proposed underletting including the proposed payments to be made by the intended undertenant.

3.15.3 Any consent of the Landlord required pursuant to this clause 3.15 must be by deed to be valid.

3.15.4 The Tenant will not underlet a Permitted Part at a fine or premium or reverse premium.

3.15.5 The Tenant will not underlet a Permitted Part unless, before the underlease is granted, or, if earlier, before the undertenant becomes contractually bound to take the underlease, the underlease is validly excluded from the operation of sections 24 to 28 (inclusive) of the Landlord and Tenant Act 1954, in accordance with the provisions of section 38A of that Act and the relevant schedules of The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 and the Tenant produces to the Landlord adequate evidence of such valid exclusion as referred to in this clause.

3.15.6 Any underletting by the Tenant must be by deed and must include:

- (a) a covenant by the undertenant, expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it;

- (b) where relevant provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this Lease;
- (c) a condition for re-entry on breach of the underlease by the undertenant; and

and must otherwise be:

- (d) consistent with and include tenant covenants no less onerous (other than as to the Basic Rent) than those in this Lease; and
- (e) for a term that will expire more than 2 days before the end of the term of this Lease and contain breaks that operate at the same time as those contained in this Lease; and

and must otherwise be in a form approved by the Landlord, such approval not to be unreasonably withheld save that the Landlord's approval to the form of the underlease shall be deemed to have been given if the underlease is in the form or substantially the same form as the specimen underlease attached in Schedule 10.

- 3.15.7 In relation to any underlease granted by the Tenant, the Tenant will enforce the tenant covenants in the underlease and not vary the terms of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 3.15.8 If required by the EPC Regulations the Tenant shall obtain a valid EPC in respect of any underlease of the whole of the Property and deliver a copy to the Landlord (together with details of the reference number of such EPC if not apparent from the copy) within 5 Working Days of such EPC being issued.
- 3.15.9 If any sub-lease granted by the Tenant invalidates a valid EPC for any Neighbouring Property (or any part thereof) held by the Landlord of which the Tenant has prior written notification or adversely affects the asset rating in any such EPC then the Tenant shall (at the option of the Landlord) indemnify the Landlord in respect of the reasonable expenses properly incurred in respect of the cost of a new and valid EPC for the Neighbouring Property.

3.16 **Concessions and Licence Arrangements**

- 3.16.1 The Tenant may without the consent of the Landlord grant concessions and/or licences for a period not exceeding six months to occupy any part of the Property in connection with the use of the Property permitted by clause 3.11 provided always that no relationship of landlord and tenant is established by that arrangement.
- 3.16.2 The Tenant shall provide the Landlord with full details of all and any such licences and concessions granted from time to time during the Term in accordance with the provisions of clause 3.16.1.

3.17 **Charging**

3.17.1 The Tenant will not charge the whole of this Lease without the Landlord's prior written consent, such consent not to be unreasonably withheld or delayed.

3.17.2 The Tenant will not charge part only of this Lease.

3.18 Sharing

The Tenant may share occupation of the Property with any company that is a member of the same group:

3.18.1 for as long as that company remains within that group;

3.18.2 provided that no relationship of landlord and tenant or security of tenure is established that arrangement; and

3.18.3 the Tenant notifies the Landlord of the sharing within 28 days after it starts.

3.19 Prohibition of other dealings

Except as expressly permitted by this Lease, the Tenant will not assign, underlet, charge, part with or share possession or share occupation of this Lease or the Property or assign part with or share any of the benefits or burdens of this Lease or in any interest derived from it, whether by virtual assignment or other similar arrangement or hold this Lease or the Property on trust for any person (except (a) pending registration of a dealing permitted by this Lease and (b) the trust that necessarily arises where the Tenant comprises two or more persons jointly).

3.20 Registration and notification of dealings and occupation

3.20.1 In this clause a Transaction is any assignment of this Lease requiring the previous consent of the Landlord.

3.20.2 Promptly following completion of a Transaction, the Tenant will:

(a) apply to register it at HM Land Registry if the Transaction is so registerable by the Tenant; and

(b) deal with any requisitions raised by HM Land Registry promptly and properly.

3.20.3 No later than one month after a Transaction the Tenant will give the Landlord's solicitors written notice of the Transaction supported by two certified copies of all documents effecting or related to the Transaction and pay the Landlord's solicitors a registration fee of £30 (plus VAT).

3.20.4 If the Landlord so requests in writing, the Tenant will promptly give the Landlord written details of the occupiers of the Property and the terms upon which they occupy it.

3.21 Statutory obligations

- 3.21.1 The Tenant will comply with the requirements of any legislation and any other obligations imposed by law or by any byelaws applicable to the Property or use of it.
- 3.21.2 Without prejudice to the generality of clause 3.21.1, the Tenant will:
- (a) execute all works to the Property required in order to comply with this clause 3.21;
 - (b) not do in or near the Property any act or thing by reason of which the Landlord may under any statute incur any Losses;
 - (c) in relation to the Construction (Design and Management) Regulations 2007 (**the CDM Regulations**):
 - i comply with the provisions of those Regulations;
 - ii be the only client (as defined in the CDM Regulations);
 - iii fulfil in relation to all and any works all the obligations of the client as set out in or reasonably to be inferred from the CDM Regulations;
 - iv make all necessary declarations and notifications to the Health and Safety Executive in accordance with the CDM Regulations; and
 - v at the end of the Term forthwith deliver to the Landlord any and all health and safety files relating to the Property in accordance with the CDM Regulations.
- 3.21.3 undertake such surveys and take all other steps necessary to comply with the Asbestos Regulations and the Equality Act 2010 and give the Landlord a copy of the results of all surveys undertaken and the steps carried out by the Tenant following recommendations of those surveys or otherwise in order to comply with the Asbestos Regulations and the Equality Act 2010; and
- 3.21.4 keep the Property equipped with appropriate fire-fighting apparatus and appliances and will maintain such apparatus and appliances to the Landlord's satisfaction and keep them open to inspection and will not obstruct the access to or means of working such apparatus and appliances.

3.22 **Planning**

- 3.22.1 In relation to the Planning Acts (but without prejudice to the generality of clause 3.21) the Tenant will:
- (a) comply with the Planning Acts and all licences, consents, permissions and conditions (if any) granted or imposed under them or under any enactment replacing them so far as they relate to or affect the Property or their use and will, in the event of any breach by the Tenant, indemnify the Landlord against all Losses;

- (b) (when necessary) obtain from the appropriate authority all licences, consents and permissions required for the carrying out at the Property of any development within the meaning of the Planning Acts;
- (c) not make any application for planning permission or listed building consent without the prior written consent of the Landlord such consent not to be unreasonably withheld or delayed;
- (d) pay and satisfy any charge imposed under the Planning Acts in respect of the Property or its use;
- (e) not carry out or make any alteration or addition to the Property or any change of use of it (notwithstanding any consent which may be granted by the Landlord under this Lease) before any necessary planning permission has been obtained; and
- (f) carry out before the end of the Term any works stipulated to be carried out as a condition of any planning permission which may have been granted and implemented in whole or in part during the Term unless the Landlord directs otherwise in writing to the Tenant.

3.22.2 If the Tenant receives any compensation for any restriction on the user of the Property under the Planning Acts then, on determination of this Lease, the Tenant will pay to the Landlord such proportion of that compensation as is just and equitable for the Landlord to receive.

3.22.3 The Tenant will produce to the Landlord as soon as possible following the Landlord's request all plans, documents and other evidence which the Landlord may reasonably require and which are available in order to satisfy itself that the provisions of this clause 3.22 have been complied with.

3.22.4 The Tenant will not without the Landlord's prior written consent such consent not to be unreasonably withheld or delayed enter into agreement or planning obligation affecting the Property made under section 18 of the Public Health Act 1936, section 52 of the Town and Country Planning Act 1971, section 38 and section 278 of the Highways Act 1980, section 33 of the Local Government (Miscellaneous Provisions) Act 1982, section 106 of the Town and Country Planning Act 1990, section 104 of the Water Industry Act 1991 or any provision in legislation of a similar nature.

3.23 **Reletting and sale notices**

3.23.1 The Tenant will permit the Landlord and those authorised by it:

- (a) in the case of a proposed disposal of the Landlord's interest, at any time; and
- (b) in any other case, at any time within six months before the end of the Term;

to enter the Property and to affix upon any suitable part of it a notice board for selling or letting the Property (with or without any other premises).

- 3.23.2 The Tenant will not remove or obscure any notice erected under clause 3.23.1 and will permit all prospective purchasers or tenants authorised by the Landlord or its agents to view the Property at all reasonable times during the day without interruption.
- 3.23.3 In this clause disposal of the Landlord's interest includes a sale or grant of a reversionary lease.

3.24 Encroachments

- 3.24.1 The Tenant will not stop up or obstruct any windows in any buildings on the Property.
- 3.24.2 The Tenant will not permit any easement or similar right to be made or acquired against or on the Property.
- 3.24.3 The Tenant will not acknowledge that any right to light enjoyed by the Property is enjoyed by licence or consent.
- 3.24.4 The Tenant will preserve all easements and rights enjoyed by the Property.
- 3.24.5 The Tenant will upon becoming aware thereof immediately notify the Landlord if any easement enjoyed by the Property is obstructed or any new easement affecting the Property is made or claimed by any third party.

3.25 Notices

- 3.25.1 The Tenant will give the Landlord a copy of every notice, order, direction, consent, permission, refusal or similar communication (relevant communication) affecting the Property or the exercise of rights granted by the Lease within ten Working Days of receipt of it by the Tenant or immediately if the relevant communication requires response or action to be taken within less than 10 Working Days.
- 3.25.2 The Tenant will at the Landlord's cost make or join the Landlord in making such objections, representations or appeals against or in connection with any relevant communication as the Landlord reasonably requires but only if the Tenant's interest in the Property and the use permitted under this Lease will not be prejudiced thereby.
- 3.25.3 Without prejudice to the generality of clauses 3.25.1 and 3.25.2, as to any assessment made or proposal for alterations of the rateable value pursuant to the Local Government Finance Act 1988 the Tenant will neither make any response nor agree a rateable value of the Property without the prior written consent of the Landlord such consent not to be unreasonably withheld or delayed.

3.26 Notice of defects

The Tenant will upon becoming aware thereof give written notice to the Landlord of any defect in the Property which might oblige the Landlord to do or refrain from doing any act or thing so as to comply with any duty imposed by law on the Landlord.

3.27 Observe covenants

The Tenant will observe and perform all Third Party Rights so far as they affect or relate to the Property and (without prejudice to any other rights of the Landlord) will keep the Landlord indemnified from and against all Losses arising out of this clause.

3.28 Indemnity

The Tenant will keep the Landlord indemnified against all Losses arising directly or indirectly out of any act or omission of the Tenant or any Lawful Occupiers in relation to the Property or its use or as a consequence of any breach or non-performance of the covenants, conditions and agreements contained in this Lease and on the part of the Tenant to be observed and performed save that nothing in this Lease shall impose any obligation on the Tenant to comply with the Title Restrictions or impose any liability on the Tenant arising from or as a result of the Title Restrictions.

3.29 Substitute sureties

3.29.1 If applicable the Tenant will notify the Landlord within ten Working Days of the death of any surety or occurrence of an **Event of Forfeiture** (as defined in clause 8.2) to any surety, such notice to be given in writing.

3.29.2 If required by the Landlord, the Tenant will within 20 Working Days of written request procure some other person acceptable to the Landlord to execute and deliver to the Landlord a deed of covenant the operative provisions of which are in a form required by the Landlord (acting reasonably).

3.30 VAT

3.30.1 Where the Tenant covenants to pay an amount of money under this Lease, such amount will be regarded as being exclusive of VAT.

3.30.2 Where the Tenant has agreed to reimburse the Landlord for any payment made by the Landlord the Tenant will also reimburse the Landlord for any VAT due on such payment (to the extent that such VAT is irrecoverable by the Landlord).

3.30.3 The Tenant will pay to the Landlord any VAT at the rate for the time being in force chargeable on all supplies by the Landlord to the Tenant upon production by the Landlord to the Tenant of a valid VAT invoice and the Landlord's decision whether or not there has been a taxable supply will be binding on the Tenant save in case of manifest error or a competent authority decides otherwise.

3.31 Release

The Tenant will not unreasonably withhold consent to a request made by the Landlord under section 8 of the Landlord & Tenant (Covenants) Act 1995 for a release from the Landlord's covenants in this Lease.

3.32 Minimum Opening Times

The Tenant will ensure that the Property ~~or so much of it as is appropriate for the season or the weather conditions~~ is kept open for business during the Minimum Opening Times except during any period:

- 3.32.1 not exceeding two months when the Tenant is effecting an authorised disposition of an interest in the Property;
- 3.32.2 when the Property has been destroyed or damaged by an Insured Risk or Uninsured Risk so as to prevent occupation and use;
- 3.32.3 when trading for the Permitted Use is contrary to any legislation;
- 3.32.4 not exceeding three months when the Tenant or other lawful occupier is refitting or refurbishing the Property or complying with its obligations to repair maintain and decorate save that the relaxation of the requirement to keep open in these circumstances shall only apply to that part of the Property which is undergoing the relevant works aforesaid;
- 3.32.5 when the Landlord is carrying out the Landlord's Works;
- 3.32.6 when the Tenant is carrying out the Tenant's Works;
- 3.32.7 that closure is due to a Latent Defect or its repair.

4 **Landlord's covenants**

4.1 **Quiet enjoyment**

The Landlord covenants with the Tenant for so long as it is entitled to the reversion immediately expectant on the termination of the Term (but so that it will have no further liability after it ceases to be so entitled) that, subject to the Tenant paying the rents reserved by and complying with its obligations under this Lease, the Tenant may peaceably enjoy the Property during the Term without any interruption by the Landlord or any persons lawfully claiming under or in trust for the Landlord.

4.2 **Services**

Subject to the Tenant paying the Service Charge, the Landlord will use its reasonable endeavours to supply the Services but the Landlord will not be in breach of this obligation as a result of any temporary failure or interruption of any of the Services:

- 4.2.1 resulting from circumstances beyond the Landlord's control, so long as the Landlord has used reasonable endeavours to remedy any such problem as soon as reasonably practicable after becoming aware of it; or
- 4.2.2 to the extent that any of the Services cannot reasonably be provided as a result of works of inspection, maintenance and repair as long as the works are carried out as quickly as reasonably practicable and all reasonable steps have been taken to minimise disruption.

4.3 **Public Car Park**

The Landlord covenants with the Tenant:

- 4.3.1 not to transfer its interest in the Public Car Park during the Term and not to permit the Public Car Park to be used during the Term as anything other than a car park for members of the public;
- 4.3.2 to keep the Public Car Park in a suitable state of repair and condition so that it can be used as a car park for members of the public but provided that this shall not prevent the Landlord from temporarily closing the whole or any part of the Public Car Park in order to carry out works of repair, maintenance or renewal.

4.4 **Cinema**

Before the Cinema is used again as a cinema the Landlord covenants to use its reasonable endeavours to install or procure the installation of noise attenuation measures in order to ensure that no noise can be heard outside the Cinema building and/or on the Property and/or inside any buildings forming part of the Property.

4.5 **Indemnity for Tivoli Brook**

The Landlord covenants with the Tenant to indemnify the Tenant for all Tenant Losses arising from Tivoli Brook but provided that:

- 4.5.1 the Tenant will give to the Landlord written notice of any potential claims in respect of Tivoli Brook as soon as practicable after the Tenant becomes aware of the same;
- 4.5.2 the Tenant shall at the Landlord's cost allow the Landlord to conduct in the name of the Tenant any litigation or other dispute resolution process giving to the Landlord at the Landlord's cost such assistance and co-operation as the Landlord may reasonably require;
- 4.5.3 the Tenant shall be required at the Landlord's cost to take all reasonable steps to mitigate any such Tenant's Losses;
- 4.5.4 the Landlord shall not be required to indemnify the Tenant in respect of matters arising as a result of the Tenant's acts, negligence or default; and
- 4.5.5 the Tenant shall not admit liability to any third party or make any offer to settle any such potential claims without the consent of the Landlord (not to be unreasonably withheld or delayed)

4.6 **Services to Property**

The Landlord covenants

- 4.6.1 to procure that the supply of electricity via the Conduits serving the Property and the Main Site (together) does not at any time fall below [1800kVa]
- 4.6.2 not to do anything that would interfere with the supply of electricity and water to the Property other than the carrying out of works which may be required from time to time for the purpose of repair, maintenance or renewal.

[4.6.3](#) [\[to repair, or arrange for the repair of, any Latent Defects as soon as reasonably practicable.\]](#)

5 Insurance

- 5.1 The Landlord and the Tenant agree to be bound by the provisions of Schedule 6.
- 5.2 The Tenant shall procure that it maintains public liability insurance at all times during the Term with a reputable insurer for a limit of indemnity of not less than £20 million (or such greater sum as shall be reasonably specified by the Landlord from time to time during the Term) and will provide a copy to the Landlord on request.
- 5.3 The Tenant shall ensure that it complies with the requirements and reasonable recommendations of the Landlord's insurers which are notified to the Tenant from time to time.

6 Obligations in the Schedules

The Landlord and the Tenant agree to comply and be bound by their respective obligations in the Schedules.

7 Valuer

- 7.1 A Valuer must be a chartered surveyor appointed jointly by the Landlord and the Tenant or (if either of them fails to concur in an appointment for ten Working Days after being asked by the other) a Valuer may be nominated at the request of either by the President for the time being of the Royal Institution of Chartered Surveyors.
- 7.2 The Valuer must:
- 7.2.1 act as an expert and not as an arbitrator; and
 - 7.2.2 consider written representations from the Landlord and the Tenant received within 15 Working Days of the Valuer's appointment.
- 7.3 The decision of the Valuer is final and binding on the parties to this lease except in the case of manifest error.
- 7.4 The Valuer may be discharged and another appointed in replacement by the President of the Royal Institution of Chartered Surveyors if:
- 7.4.1 the Valuer dies or becomes unwilling to act or incapable of acting; or
 - 7.4.2 the Valuer fails to make and publish a determination within six months of appointment (or a longer period agreed in writing by the Landlord and the Tenant); or
 - 7.4.3 for any reason the President of the Royal Institution of Chartered Surveyors thinks fit.
- 7.5 The fees and expenses of the Valuer, including the costs of the Valuer's appointment and any counsel's fees or other fees incurred by the Valuer, are payable by the Landlord and the Tenant in the proportions that the Valuer directs (otherwise equally). If either party does not pay its share of the Valuer's fees and expenses within ten Working Days after demand by the Valuer, then the other may pay instead and that amount will be a debt of

the non-paying party due and payable on demand to the party that paid. The Landlord and the Tenant otherwise each bear their own costs in connection with a reference to the Valuer.

8 General provisions

It is agreed that:

8.1 Forfeiture

8.1.1 Subject to clause 8.1.2 if any of the Events of Forfeiture (as defined in clause 8.2) occurs then it will be lawful for the Landlord or any person authorised by the Landlord to re-enter [both](#) the Property [and the Main Site](#) or any part of them in the name of the whole and on such re-entry the Term [and the term of the Main Site Lease](#) will end but without prejudice to any claim against either party for any prior breach of this Lease [or the Main Site Lease](#).

8.1.2 The Landlord shall not seek to re-enter the Property or any part of it for any reason (including without limitation, any breach of this Lease on the part of the Tenant) without giving the Funder at least 20 Working Days' notice of its intention to do so. Any notice from the Landlord shall specify the grounds for the Landlord's proposed re-entry.

8.1.3 The Landlord's right to re-enter the Property or any part of it shall not apply if, within the period referred to in clause 8.1.2, the Funder gives notice to the Landlord, copied to the Tenant:

- (a) requiring the Landlord not to re-enter the Property or any part of it; and
- (b) undertaking that the Funder or its nominee will:
 - i procure that the Event of Forfeiture is remedied as soon as reasonably practicable to the Landlord's reasonable satisfaction; and
 - ii pay to the Landlord any sums then due and payable to the Landlord under this Lease that are unpaid.

8.1.4 In the event that the Event of Forfeiture specified in the notice the Landlord provides pursuant to clause 8.1.2 relates to the Tenant becoming Insolvent or suffering Insolvency Proceedings the Funder shall not be obliged to remedy that Event of Forfeiture but shall only be required to satisfy clause 8.1.3(ii).

8.1.5 In the event that the Funder or its nominee has not remedied the Event of Forfeiture and/or paid all sums due and payable under clause 8.1.3(a) and (b) within 40 Working Days of the date of the Funder's notice, the Landlord shall be free to exercise its right of re-entry at any time thereafter.

8.2 Events of forfeiture

8.2.1 In this clause **Events of Forfeiture** means any of:

- (a) the Tenant's not paying on the due date the whole or part of the rent payable under this Lease whether or not any legal demand has been made;

- (b) the Tenant materially failing to discharge any of its obligations under this Lease; and
- (c) the Tenant becoming Insolvent; and
- (d) the Tenant suffering Insolvency Proceedings;

8.3 **Meaning of Insolvent**

8.3.1 In this clause in relation to any person Insolvent means any of:

- (a) being unable or admitting inability to pay debts as they fall due;
- (b) suspending payments of any debts;
- (c) a moratorium being declared for the whole or any part of indebtedness.

8.4 **Meaning of Insolvency Proceedings**

8.4.1 In this clause in relation to any person Insolvency Proceedings means the taking of any corporate action, legal proceedings or other procedure or steps in relation to any of:

- (a) suspension of any payments;
- (b) moratorium of any indebtedness;
- (c) winding-up;
- (d) dissolution, administration, or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) except (in the case of a corporation) solvent liquidation or reorganisation;
- (e) composition, compromise, assignment, or arrangement with any creditor;
- (f) appointment of a liquidator (except on a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or similar officer for the person or any part of its assets; or
- (g) (in the case of an individual) appointment of a trustee in bankruptcy or a provisional receiver or similar officer for that individual or any part of his assets;

8.5 **Neighbouring Property**

8.5.1 The Landlord and all others authorised by it may:

- (a) pull down, alter, erect, rebuild or otherwise deal with or permit or suffer to be pulled down, altered, erected, rebuilt or otherwise dealt with any Neighbouring Property excluding the Public Car Park to any extent and in any manner desired even if access of light and air to the Property is thereby affected; and/or

- (b) use any Neighbouring Property excluding the Public Car Park in any way even if access of light and air to the Property is thereby affected.

8.5.2 In exercising any of its rights under this clause 8.5 the Landlord will:

- (a) maintain proper support for the Property;
- (b) cause as little inconvenience to the Tenant as is reasonably practicable;
- (c) promptly make good any damage caused to the Property and the Tenant's fixtures and fittings;
- (d) not do anything which prevents the Tenant from carrying on its business upon the Property or using the Property for the purposes permitted under this Lease;
- (e) not prevent the exercise by the Tenant of any rights granted to the Tenant pursuant to this Lease; and
- (f) indemnify the Tenant against all Tenant Losses.

8.6 **Service of notices**

8.6.1 Any notice served under this Lease by the Landlord on the Tenant will be sufficiently served if left or sent by special delivery post or recorded delivery addressed to the Tenant at its registered office or last known address.

8.6.2 Any notice served under this Lease on the Landlord will be sufficiently served if left or sent by special delivery post or recorded delivery addressed to the Landlord at its registered office or if the Landlord is an individual at its last known address.

8.6.3 Any notice sent by post will be deemed to be given at the time when it ought in due course of post to be delivered to the address to which it is sent.

8.6.4 Any notice, consent, approval, requirement or other communication required or authorised by this Lease will be valid only if it is in writing.

8.6.5 E-mail is not a valid method of service of notices under this Lease.

8.6.6 While the Landlord is a company registered in the United Kingdom, any notice to be served on the Landlord under this Lease will be addressed to the Landlord.

8.7 **No implied easements**

8.7.1 Nothing in this Lease will:

- (a) confer on the Tenant any right to the benefit of or to enforce any covenant, condition or agreement relating to any other property belonging to the Landlord;

- (b) limit, affect, restrict or interfere with the full and free right and liberty of the Landlord at any time to deal in any manner which the Landlord may think fit with any other property belonging to the Landlord whether for the purposes of any work of renewal, construction, alteration, improvement, demolition and ancillary works or otherwise;
- (c) 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 or the rule in Wheeldon v Burrows (1879) 12 Ch D 31 except for those expressly set out in this Lease. The Tenant will not during the Term impliedly acquire or become entitled to any extra rights over any other property belonging to the Landlord;

8.7.2 Without prejudice to the generality of the provisions of clause 8.7.1 above, the Landlord and the grantees and the tenants of the Landlord may at all times hereafter erect any new buildings or other structures of any height whatsoever on any other property belonging to the Landlord not included within this demise and may raise or reduce any height or alter any user of such buildings or structures now existing or which may be erected on such land notwithstanding that such actions may prevent reduce obstruct or affect the passage of light or air to the Property (or any part thereof) or to any new buildings or structures which may hereafter be erected on the Property (or any part thereof).

8.7.3 Any light or air or amenities at any time enjoyed by the Property are deemed to be enjoyed by consent except as stated otherwise in this Lease.

8.8 **No waiver**

If the Landlord or its agents accept or demand the Basic Rent or any other sums due under this Lease from the Tenant with the knowledge of a breach of this Lease by the Tenant, the Landlord's right to forfeit this Lease on the grounds of such breach is to remain in force. The Tenant may not rely upon any such acceptance or demand for payment in any forfeiture proceedings brought on the grounds of such breach.

8.9 **No compensation**

The Tenant is not entitled on quitting the Property to claim from the Landlord any compensation unless and to the extent that any statute precludes the operation of this clause.

8.10 **Dispute Resolution**

8.10.1 An Expert must be appointed jointly by the Landlord and the Tenant or (if either of them fails to concur in an appointment for 10 Working Days after being asked by the other) the Expert may be appointed at the request of either party in the following manner:

- (a) in the case of a dispute concerning valuation, a chartered surveyor appointed by the President of the Royal Institution of Chartered Surveyors; or

- (b) in the case of a dispute concerning accounting, a chartered accountant appointed by the President of the Institute of Chartered Accountants; or
- (c) in the case of a dispute concerning any other matter or the construction or meaning of any part of this agreement, Counsel appointed by the Chairman of the Bar Council.

8.10.2 The Expert must give the Landlord and the Tenant an opportunity to make representations and counter-representations before making the decision.

8.10.3 The Expert may obtain opinions from others.

8.10.4 The Expert must make the decision within 56 Working Days of appointment or comply with any other time limit or other directions agreed by the Landlord and the Tenant on or before the Expert's appointment and give the decision in writing.

8.10.5 The decision of the Expert is final and binding on the Landlord and the Tenant except in the case of manifest error or mistake of law or fraud.

8.10.6 The charges and expenses of the Expert are to be borne equally between the Landlord and the Tenant or in such other proportions as the Expert may direct.

8.10.7 If either the Landlord or the Tenant does not pay its share of the Expert's charges and expenses within 10 Working Days after demand by the Expert, then the other party may pay instead and that amount will be a debt of the non-paying party due and payable on demand to the party that paid.

8.11 **Landlord's break**

8.11.1 All of the provisions of this clause 8.11 remain subject to the rights of the Funder in clause 8.11.6.

8.11.2 In this clause 'Break Notice' means a written notice in which the Landlord gives the Tenant at least 12 months' notice to end this lease.

8.11.3 By serving the Break Notice the Landlord may end this Lease on every tenth anniversary of the Term.

8.11.4 It is a condition of valid exercise of the Break Notice that:

- (a) at the time of service of the Break Notice the Tenant is in material and substantial breach of its obligations under this Lease; and
- (b) the Landlord has already given at least six months' notice (expiring before the Break Notice is given) advising the Tenant in writing of the breach complained of in clause 8.11.4(a); and
- (c) the Tenant has neither remedied that breach nor taken sufficient steps to demonstrate to the Landlord that it is taking action to remedy the breach; and

- (d) at the time of expiry of the Break Notice the Tenant is still in material and substantial breach of its obligations under this Lease.

8.11.5 Subject to clause 8.11.4 on the expiry of the Break Notice this lease is to end but without prejudice to the rights and remedies of either party against the other in respect of a prior breach of any provision of this lease and the continuing obligation of the parties to account to one another either by way of payment or by way of refund for any Basic Rent Service Charge Insurance Rent or any other payment or allowance apportioned on a daily basis up to the date this Lease ends.

8.11.6

- (a) The Landlord shall give to the Funder a copy of any notice served on the Tenant under clause 8.11.4(b) at the same time as serving such notice on the Tenant.
- (b) The Landlord's right to end this Lease shall not apply if, within the period referred to in clause 8.11.4(b) the Funder gives notice to the Landlord, copied to the Tenant:
 - i requiring the Landlord not to end this Lease; and
 - ii undertaking that the Funder or its nominee will procure that the relevant breach is remedied as soon as reasonably practicable to the Landlord's reasonable satisfaction.
- (c) In the event that the Funder or its nominee has not remedied the relevant breach by the end of the six months notice referred to in clause 8.11.4(b) the Landlord shall be free to exercise its right to end this Lease on the terms stated in this clause.

8.12 **Tenant's break**

8.12.1 In this clause 'Break Notice' means a written notice in which the Tenant gives the Landlord at least 6 months' notice to end this lease.

8.12.2 By serving a Break Notice the Tenant may end this lease on every fifth anniversary of the Term.

8.12.3 It is a condition to the exercise of the right by the Tenant in clause 8.12.2 that the Tenant:

- (a) on the Break Date returns the Property to the Landlord free of occupation by and of any estate or interest vested in the Tenant or any Lawful Occupier;
- (b) the Tenant has also exercised its right to break the Main Site Lease so that the Main Site Lease will end on or before the expiry of the Break Notice.

- 8.12.4 This lease will end upon expiry of the Break Notice but without prejudice to:
- (a) the rights and remedies of either party against the other in respect of a prior breach of any provision of this lease; and
 - (b) the continuing obligation of the parties to account to one another either by way of payment or by refund for any Basic Rent, Service Charge, Insurance Rent or any other payment or allowance apportioned on a daily basis up to the date this lease ends.

8.13 Acknowledgements

- 8.13.1 The Tenant acknowledges and confirms to the Landlord that:
- (a) this Lease has not been entered into wholly or partly in reliance on any statement or representation made by or on behalf of the Landlord except any such statement or representation expressly set out in this Lease or in written replies to pre-contract enquiries given by or made on behalf of the Landlord or by their solicitors;
 - (b) (without prejudice to sub-clause 8.13.1(a) no representations have been made to the Tenant by or on behalf of the Landlord about:
 - i the condition of the Property;
 - ii the applicability or otherwise to the Property of any requirements of any Environmental Law;
 - iii the suitability of the Property for any purpose whatsoever;
 - (c) it has made its own independent investigation of the Property and is relying solely on such investigations.

8.14 Third party rights

Nothing in this Lease is intended to confer any benefit on any person under the Contracts (Rights of Third Parties) Act 1999.

8.15 Notices lodged at HM Land Registry

- 8.15.1 Where relevant it is agreed that any notice of any matter relating to the terms of this lease applied for by the Tenant will be in the form of a unilateral notice (as that expression is used in section 34(2)(b) of the Land Registration Act 2002 where appropriate.
- 8.15.2 Within one month after the end of the Term (and notwithstanding the fact that the Term has ended) the Tenant will apply to close the registers of title to this Lease at HM Land Registry diligently deal with that application so as to procure that the registers are closed and keep the Landlord informed of the progress of the application.

9 New lease

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

10 Landlord's powers

- 10.1 The entry into this Lease by Thanet District Council as landowner does not affect its statutory responsibilities obligations and position or its discretion or powers (in particular as planning authority) and nothing in this Lease shall relieve the Tenant from obtaining all statutory consents and observing all statutory and other obligations as may be required.
- 10.2 Nothing in this Lease shall fetter the Landlord in the proper performance of its statutory functions.

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

Schedule 1
Easements and other rights included in the demise

Part 1
The rights

The following rights are granted for the benefit of the Property and for all Lawful Occupiers.

- 1 The right to use the Accessway for the purposes only of vehicular and pedestrian access to and egress from the Property.
- 2 The rights of support and protection for such of those buildings on the Property that enjoy support and protection from the Cinema Structure at the date of this Lease.
- 3 The rights of support and protection for the Property from the Estate including from the Cinema Structure.
- 4 The rights of pedestrian access to and egress from the Property over the Common Parts and/or the Neighbouring Property.
- 5 Further pedestrian and vehicular right across the Public Car Park as needed to access the Property.
- 6 The rights to:
 - 6.1 lay and use the Conduits (including Tivoli Brook for surface water drainage) connected to or serving the Property, to make extensions and connections to them, and to lay any Conduits to serve the Property in, upon or under the Estate;
 - 6.2 enter the Estate for the purposes set out in paragraph 6.1 and to clean and supply the Conduits serving the Property;
 - 6.3 enter the Estate to repair, clean, maintain, replace, alter, or rebuild the Property or any part thereof or to construct, repair or renew any Conduits serving the Property at all times (with or without workmen, tools and materials) on giving reasonable written notice to the Landlord (except that no notice will be needed in cases of emergency or genuine urgency);
 - 6.4 erect and maintain scaffolding on the Estate at all reasonable times and on reasonable written notice to the Landlord (except no notice will be needed in cases of emergency or genuine urgency) for the purpose of repairing, cleaning, decorating, altering any buildings or carrying out any works on the Property but only if such scaffolding does not materially restrict the access to or enjoyment and use of the Estate by the Landlord, and the person exercising such rights will forthwith make good to the reasonable satisfaction of the Landlord any damage caused but the Tenant will not be liable to the Landlord for any inconvenience caused in relation to such work carried out or thing done;
 - 6.5 enter the Estate to carry out any works as are necessary for the Tenant to comply with any statutory notice or other requirement served or otherwise imposed upon the Tenant in relation to the Property or to avert the service or imposition upon the Tenant of any such notice or requirement or for any other necessary desirable or reasonable purpose at all

times (with or without workmen, tools and materials) on giving reasonable notice to the Landlord (except that no notice will be needed in cases of emergency or genuine urgency);

6.6 all rights of support and other easements and rights now belonging to or enjoyed by the Property from or over the Estate;

6.7 use the Common Parts;

[6.8](#) [use the Cinema Common Parts as and when they become accessible and available for use by the Tenant;](#)

[6.9](#) ~~6.8~~enjoy the benefit of those rights enjoyed by the Property and contained or referred to in the entries on the register of title numbers TT20743, K975684 and K975737;

[6.10](#) ~~6.9~~use in case of emergency any escape route through the Estate from time to time designated by the Landlord for such purpose.

[6.11](#) ~~6.10~~use the Public Car Park (on a first come first served basis) paying the prescribed parking charges in the same way as members of the public and in accordance with all reasonable regulations issued by the Landlord from time to time.

[6.12](#) ~~6.11~~the benefit of those rights reserved by the Landlord pursuant to the Main Site Lease so far as the same are reasonably necessary for the use and enjoyment of the Property or any part thereof.

Part 2

Conditions

1 The rights are granted in common with the Landlord and any other person authorised by the Landlord.

2 The rights are granted subject to the Third Party Rights and the Tenant will not do anything that may interfere with any Third Party Right.

Schedule 2

Exceptions and reservations out of the demise

- 1 The right of support and protection for the Cinema Structure from any buildings on the Property that provide support and protection to the Cinema Structure at the date of this Lease;
- 2 The right for the Landlord and all those authorised by the Landlord:
 - 2.1 of pedestrian access to and egress from the Cinema over and along the Cinema Access Route;
 - 2.2 to access the water pump room and electrical intake coloured green on Plan 2 located in the lower ground floor of the Property across the route marked with a green broken line on Plan 2;
- 3 The right for the Landlord and all persons authorised by the Landlord:
 - (a) subject to clause 4.6 to use the Conduits passing through the Property for the benefit of other parts of the Estate;
 - (b) to enter the Property for the purposes set out in paragraph (a) and to clean, empty and repair the Conduits;
 - (c) to enter the Property to repair, clean, maintain, replace, alter or rebuild Neighbouring Property or to construct, empty, repair or renew any Conduits at all times (with or without workmen, tools and materials) on giving reasonable written notice to the Tenant (except that no notice will be needed in cases of emergency or genuine urgency);
 - (d) carry out any works as are necessary for the Landlord to comply with any statutory notice or other requirement served or otherwise imposed upon the Landlord in relation to the Property or to avert the service or imposition upon the Landlord of any such notice or requirement or for any other necessary desirable or reasonable purpose at all times (with or without workmen, tools and materials) on giving reasonable written notice to the Tenant (except that no notice will be needed in cases of emergency or genuine urgency);
 - (e) to erect and maintain scaffolding for the purpose of repairing cleaning decorating or altering any buildings which are now or may during the Term be constructed on any Neighbouring Property but only if such scaffolding does not restrict the access to or the enjoyment and use of the Property or the access of light and air to them;

and the person exercising such rights will forthwith make good to the reasonable satisfaction of the Tenant any damage caused but the Landlord will not be liable to the Tenant for any inconvenience caused in relation to any such work carried out or thing done.

- 4 The right to develop, alter and use any Neighbouring Property excluding the Public Car Park even if such development alteration or use interferes with the access of light and air to the Property and any building or structure for the time being upon it.
- 5 All rights of light air support and other easements and rights now or hereafter belonging to or enjoyed by Neighbouring Property from or over the Property.
- 6 The right for the Landlord and all others authorised by it to do all or any of the acts matters or things referred to in clause 8.5 and to provide the Services.
- 7 The rights (if any) granted over the Property or any part thereof to the tenant under the Main Site Lease.

Schedule 3
Documents which affect or relate to the Property

None.

Schedule 4

Authorised Guarantee Agreement

The form of the authorised guarantee agreement mentioned in clause 3.14.6(a) is as follows:

dated 20[]

Parties

- (1) [] (registration number []) whose registered office is at [] (**the Landlord**).
- (2) [] (registration number []) whose registered office is at [] (**the Tenant**).
- (3) [] (registration number []) whose registered office is at [] (**the Tenant's Surety**).
- (4) [] (registration number []) whose registered office is at [] (**the Assignee**).

Introduction

The immediate reversion to the Lease [is now/remains] vested in the Landlord.

The term of years created by the Lease [is now/remains] vested in the Tenant.

The Landlord's consent is required before the Lease may be assigned.

The Tenant wishes to assign the Lease to the Assignee.

The Landlord has agreed to consent to the assignment to the Assignee on condition that the Tenant [and the Tenant's Surety] enter into the covenants contained in this Deed.

Agreed terms

1 Definitions and interpretation

In this Deed the following words and expressions have the meaning specified except when expressly stated to the contrary.

1.1 Definitions

AGA Event means disclaimer of the Lease by a liquidator or trustee in bankruptcy (as the case may be) of the Assignee;

Lease means the lease dated [] and made between [] (1) [] (2) [] (3);

Losses means all liabilities incurred by the Landlord, all damage and loss suffered by the Landlord, all damages, compensation and penalties awarded against the Landlord, all

claims, demands, actions and proceedings made or brought against the Landlord, all fees, costs and expenses incurred by the Landlord.

1995 Act means The Landlord and Tenant (Covenants) Act 1995;

Tenant covenants has the same meaning as in Section 28(1) of the 1995 Act; and

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

1.2 **Interpretation**

1.2.1 This Deed is supplemental to the Lease.

1.2.2 The definitions and provisions as to interpretation in the Lease apply in this Deed unless expressly stated otherwise.

2 **Authorised guarantee agreement**

2.1 In consideration of the Landlord's consent to the assignment of the Lease to the Assignee the Tenant, as sole or principal debtor, covenants with the Landlord that for the period during which the Assignee is bound by the Tenant covenants of the Lease:

- (a) the Assignee will pay the rents reserved by the Lease and observe and perform the covenants and other terms of the Lease on the part of the tenant to be observed and performed;
- (b) as a separate and independent primary obligation, to indemnify the Landlord against failure by the Assignee to pay the rents reserved by the Lease and observe and perform the covenants and other terms of the Lease on the part of the tenant to be observed and performed;
- (c) the Tenant will pay to the Landlord all Losses sustained by the Landlord through the default of the Assignee;
- (d) if an AGA Event occurs, the Tenant will take a new lease of the Premises in accordance with the requirements of clause 2.2 of this Deed so long as the Landlord serves written notice on the Tenant requiring it to do so within six months of the Landlord becoming aware of the AGA Event.

2.2 The following provisions apply to the grant of the new lease referred to in clause 2.1 (d) of this Deed:

- (a) the new lease will be for a term equal in length to the period commencing on the date of the AGA Event and the date upon which the term of the Lease would have expired by effluxion of time but for the AGA Event occurring;
- (b) the new lease will otherwise be on the same terms and conditions as the Lease mutatis mutandis and will take effect from the date of the AGA Event at the rents then payable under the Lease;
- (c) the Landlord will send an engrossment of the new lease to the Tenant for execution promptly following notice given under clause 2.1 (d) of this Deed; and

- (d) the Tenant will execute and deliver to the Landlord a counterpart of the new lease promptly and will pay the Landlord's costs and expenses of and incidental to its grant.

2.3 If the Landlord does not require the Tenant to take a lease of the Property under clause 2.1 (d) and if the Tenant does not take an overriding lease under section 19 of the Act; then the Tenant will pay to the Landlord on demand a sum equal to the rents and other payments that would have been payable under the Lease but for the AGA Event (and any temporary rent suspension) until the expiration of six months from the AGA Event.

3 **No tenant release**

Subject to Section 18 of the 1995 Act the Tenant's liability under this Deed will not be released or affected in any way by any act, neglect, forbearance or delay by the Landlord in enforcement of the performance or observance of the Lease nor by any variation of the terms of the Lease or any deed supplemental to the Lease.

4 **Tenant's Surety covenants**

4.1 In consideration of the grant of the licence to assign the Lease to the Assignee, the Tenant's Surety for himself and his personal representatives, as primary obligor, covenants with the Landlord that for the period the Tenant is bound by its covenants in this Deed:

4.1.1 the Tenant will observe and perform the covenants on its part contained in clause 2;

4.1.2 as a separate and independent primary obligation, the Tenant's Surety will indemnify the Landlord against failure by the Tenant to observe and perform the covenants on its part contained in clause 2; and

4.1.3 as an additional separate and independent primary obligation, the Tenant's Surety will pay to the Landlord all Losses sustained by the Landlord through the default of the Tenant in complying with its obligations under this Deed.

4.2 Subject to Section 18 of the 1995 Act the Tenant's Surety's liability under this Deed will not be released or affected in any way by any act, neglect, forbearance or delay by the Landlord in enforcement of the performance or observance of the Lease nor by any variation of the terms of the Lease or any deed supplemental to the Lease.

5 **Successors in title**

5.1 The benefits of the provisions of this Deed will enure for the benefit of the successors in title and assign of the Landlord without the necessity for any assignment.

5.2 The Landlord will have no liability whatsoever to the Tenant or the Assignee [or the Tenant's Surety] after it has parted with the reversion to the Lease.

6 **Acknowledgements**

The Tenant [and the Tenant's Surety both] acknowledge that:

6.1 this Deed is an Authorised Guarantee Agreement within the meaning of the 1995 Act;

- 6.2 the conditions imposed in the Lease and this Deed subject to which consent to assignment may be granted are fair and reasonable;
- 6.3 the Landlord's consent under this Deed does not extend to any further assignment of the Lease;
- 6.4 this Deed is made without prejudice to any claim of the Landlord against the Tenant [or the Tenant's Surety] for any breach of any covenant or condition in the Lease prior to the assignment to the Assignee.

7 No waiver

Nothing in this Deed is to be taken as a waiver of any breach of the obligations of the Tenant [or the Tenant's Surety] under the Lease which may have occurred before the date of this Deed.

8 Saving provisions

- 8.1 Any provision of this Deed rendered void by Section 25 of the 1995 Act to be severed from all of the remaining provisions and such remaining provisions shall be preserved.
- 8.2 If any provision of this Deed extends beyond the limits permitted by Section 25 of the 1995 Act, that provision is to be varied so as not to extend beyond those limits.

9 Third party rights

Nothing in this Deed is intended to confer any benefit on any person who is not a party to it.

10 Variations

The parties may, by agreement, vary this Deed without the consent of any third party to whom the right of enforcement of any of its terms has been expressly provided.

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

Schedule 5

Surety covenant on assignment

The form of the surety covenant agreement mentioned in clause 3.14.6(c) is as follows:

Deed of guarantee

dated []

Parties

- (1) [] (registration number []) whose registered office is at [] (**the Surety**);
- (2) [] (registration number []) whose registered office is at [] (**the Landlord**); and
- (3) [] (registration number []) whose registered office is at [] (**the Assignee**).

Introduction

- (A) The Lease provides that as a condition to granting consent to an assignment of the Lease, the Landlord may require covenants from a suitable Surety.
- (B) The Assignee wishes to take an assignment of the Lease.
- (C) The Landlord has agreed to give consent to the assignment to the Assignee on condition that the Surety enters into this Deed.

Agreed Terms

1 Interpretation and Definitions

1.1 Definitions

In this Deed the following definitions apply:

the **Lease** means a lease dated [] and made between [*insert parties*];

the **Act** mean the Landlord and Tenant (Covenants) Act 1995;

Event disclaimer of the Lease by a liquidator or trustee in bankruptcy (as the case may be) of the Assignee, forfeiture of the Lease, the vesting of the Lease as bona vacantia or the disclaimer of the Lease by the Crown;

tenant covenants has the same meaning as in section 28(1) of the Act; and

the Term has the same meaning as in the Lease.

1.2 Interpretation

The definitions and provisions as to interpretation in the Lease will apply in this Deed unless expressly stated to the contrary.

2 **Covenants by the surety**

2.1 In consideration of the Landlord's consent to the assignment of the Lease to the Assignee, the Surety covenants with the Landlord that:

2.1.1 the Assignee will pay the rents reserved by and will perform the other obligations on the part of the tenant contained in this Lease;

2.1.2 if any Event occurs, then the Surety will take a new lease of the Property on the terms set out in clause 2.2 , if the Landlord gives the Surety written notice requiring the Surety to do so within 60 Working Days of the date on which the Event occurs.

2.2 The terms of any new lease to be taken by the Surety pursuant to clause 2.1.2 are to be the same as the terms of this Lease except as follows:

2.2.1 the new lease will be for a term equal in length to the unexpired part of the Term as at the date on which the relevant Event occurs;

2.2.2 the term of the new lease will commence on the date on which the relevant Event occurred;

2.2.3 the Basic Rent under the new lease will be the same as the Basic Rent payable under this Lease on the date on which the relevant Event occurred and subject to review at the same times and in the same manner as those reviews of the Basic Rent that would have occurred under this Lease had it continued; and

2.2.4 the Surety will not be obliged to provide another surety for the new lease.

2.3 The Landlord will send or cause to be sent to the Surety a counterpart of the new lease for execution and on receipt the Surety will immediately execute and deliver to the Landlord the counterpart.

2.4 The Surety will pay the costs reasonably and properly incurred by the Landlord in connection with the grant of the new lease.

2.5 The Surety will not be entitled to participate in any security held by the Landlord in respect of the Tenant's obligations to the Landlord under the Lease until the obligations on the part of the Surety or of the tenant under the Lease have been performed or discharged.

2.6 Following the taking of any step in connection with any voluntary arrangement or other compromises or arrangement for the benefit of any creditors of the Assignee, the Surety will not exercise any right or remedy that it may have against the Assignee to recover any amount paid or other obligation performed by the Surety under this clause 2.

2.7 The Surety will not be released or discharged from its obligations under this clause 2 by anything whereby the Surety as a surety only might have been released or discharged (but for this clause) including:

2.7.1 time or indulgence being given to the Assignee or any other person;

2.7.2 any arrangement made with the Assignee or any other person;

- 2.7.3 any alteration to the terms of this Lease; or
- 2.7.4 any act or omission by the Landlord;
- 2.7.5 whether with or without the express or implied consent of the Surety.
- 2.8 The Surety will be liable to the Landlord as sole or principal debtor or covenantor for the tenant's obligations in this Lease:
 - 2.8.1 while the Assignee is bound by the tenant covenants in this Lease; and
 - 2.8.2 for any period during which the Assignee is liable under an authorised guarantee agreement entered into by the Tenant with the Landlord pursuant to clause 3.14.
- 2.9 The provisions of this deed are for the benefit of the Landlord and its successors in title without the need for any express assignment.
- 3 **Declarations**
 - 3.1 Anything done omitted or agreed by the Assignee is done omitted or agreed with the concurrence of the Surety.
 - 3.2 The Surety is not entitled to participate in any security held by the Landlord in respect of the Assignee's obligations to the Landlord under the Lease until the obligations on the part of the Surety or of the Assignee under the Lease have been performed or discharged.
 - 3.3 The Surety is liable to the Landlord as sole or principal debtor or covenantor for all obligations on the part of the Tenant contained in the Lease.
- 4 **Saving provisions**
 - 4.1 Any provision of this Deed rendered void by virtue of section 25 of the Act is to be severed from all of the remaining provisions and the remaining provisions are to be preserved.
 - 4.2 If any provision of this Deed extends beyond the limits permitted by section 25 of the Act that provision is to be varied so as not to extend beyond those limits.
 - 4.3 This Deed is made without prejudice to any other guarantee surety or security which the Landlord may have or take in respect of the tenant covenants or conditions in the Lease.

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

Schedule 6 Insurance

Part 1

Insurance of Cinema - Landlord insures

1 Definitions

In this part of this schedule the following additional definitions apply:

Full Reinstatement Cost such sum as is sufficient to cover the full cost of rebuilding and reinstating the Cinema (or the buildings located thereon as the case may be), together with:

- (a) the cost of shoring up, demolition and site clearance;
- (b) such professional fees as may be incurred in connection with rebuilding or reinstatement of the Cinema;
- (c) any VAT on any of those costs; and
- (d) employers' third party and public liability risks.

Insured Risks loss or damage by fire storm earthquake lightning explosion riot civil commotion malicious damage and impact by vehicles and by aircraft and articles dropped from them (other than war risks) flood damage and bursting and overflowing of water pipes and tanks subsidence heave and (where available in the London Insurance Market) terrorism and such other risks against which the Landlord may from time to time insure (acting reasonably);

2 Application of this Part 2

The provisions of this part shall be effective throughout the Term.

3 Covenant to insure

3.1 The Landlord will insure and keep insured with a reputable insurance office:

- 3.1.1 the Cinema for the Full Reinstatement Cost against loss or damage by the Insured Risks and (if required by the Landlord) not less than three years loss of rent from time to time payable or reasonably estimated by the Landlord to be payable under this Lease; and
- 3.1.2 any liability of the Landlord to third parties arising out of, or relating to, the Cinema against which the Landlord may from time to time (acting reasonably) decide to insure.

3.2 The Landlord's obligations in paragraph 3.1 do not apply:

- 3.2.1 to the extent that the insurance is vitiated in whole or in part by any act or omission of the Tenant or its servants agents licensees or invitees; or
- 3.2.2 to any Tenant's fixtures and fittings.

3.3 The Landlord is deemed to have fulfilled its responsibility under this Lease as to insurance even if the insurance for the time being in force is subject to excesses exclusions and conditions that are not abnormal in the market at the time.

3.4 The Landlord will not be responsible for effecting any insurance under the provisions of this Lease against a peril which is for the time being uninsurable or which can only be insured at a premium which in the opinion of the Landlord is excessive.

4 Provision of information

4.1 When reasonably requested the Landlord will give the Tenant a copy of its insurance policies for the Cinema effected under this Lease (or other reasonable evidence from the insurers of the terms of the insurance).

4.2 The Landlord will notify the Tenant promptly of any changes made to the insurance effected under this Lease.

4.3 At the request of the Tenant, the Landlord will give the Tenant a copy of the receipt for the payment of the last premium or other evidence that the insurance for the Cinema is up-to-date and that there is no outstanding premium.

5 Tenant's obligations

5.1 The Tenant will notify the Landlord in writing of the full reinstatement cost of any fixtures and fittings installed at any time by the Tenant which form part of the Cinema and which are not Tenant's fixtures and fittings.

5.2 The Tenant will not do anything that may render the insurance effected by the Landlord vitiated void or voidable or that may increase the premiums payable for such insurance nor will it permit any of its servants agents licensees or invitees to do so.

5.3 If the insurance effected by the Landlord is vitiated or the payment out by the insurers on any claim made on such policies of insurance is reduced because of any act or omission of the Tenant or its servants agents licensees or invitees, then the Tenant will pay to the Landlord a sum equal to the amount of the insurance monies that are irrecoverable as a result.

5.4 The Tenant will adopt all precautions against the occurrence of any Insured Risk as the Landlord or its insurers may reasonably recommend or require.

5.5 The Tenant will not effect any insurance of the Cinema that might cause the Landlord's insurers to average the proceeds of insurance or cancel or modify cover.

5.6 If the Cinema is damaged by an Insured Risk the Tenant will upon becoming aware thereof notify the Landlord immediately.

6 Suspension of Rent

6.1 If the Cinema is damaged or destroyed by an Insured Risk so that the Property is unfit for use for the purposes specified in clause 3.10 or inaccessible then all of the rents or a fair proportion of them according to the nature and extent of the damage must be suspended for whichever is the shorter of:

- 6.1.1 three years after the damage or destruction; and
- 6.1.2 the period during which the Property remains unfit for use or inaccessible.

If there is a dispute about the amount of rents that are to be suspended it must be decided by the Valuer.

- 6.2 If the rents are wholly or partially suspended under paragraph 6.1 the Landlord must repay to the Tenant within 15 Working Days of the start of the suspension an apportioned part of any rents paid in advance by the Tenant which relate to the period of suspension (or a fair proportion, if a fair proportion only is suspended).
- 6.3 If the rents are wholly or partially suspended under paragraph 6.1 at a time when the Tenant has the benefit of a rent free period or other rent concession then for the period of suspension it must be assumed that the full rents are payable for the whole or (as the case may be) that part in respect of which the rents are suspended and the benefit of the remaining rent concession will be postponed until the period of rent suspension is over.

7 Reinstatement

- 7.1 Following damage to or destruction of the Cinema by any of the Insured Risks, the Landlord will diligently apply, or procure the application of the proceeds of the insurance and any money paid by the Tenant under paragraph 5.3 in the reinstatement and rebuilding of the Cinema and the Landlord will make up any shortfall in the costs of reinstatement and rebuilding out of its own monies.
- 7.2 The Landlord's obligations in paragraph 7.1 will not apply:
 - 7.2.1 to the extent that the Landlord's insurance is vitiated by act or omission of the Tenant its servants agents licensees or invitees unless the Tenant pays the sum required under paragraph 5.3; or
 - 7.2.2 if the Landlord, having used reasonable endeavours to obtain them, is unable to obtain any requisite planning permission or other consents for the reinstatement or rebuilding of the Cinema or for a building similar to the Cinema in terms of size, amenity and character.
- 7.3 If the Cinema is substantially damaged or destroyed, the Tenant may not object to the reinstatement or rebuilding resulting in premises that are not identical to the Cinema immediately before the damage or destruction so long as the Cinema (as reinstated or rebuilt) is of equivalent or better standard and affords amenities that are not inferior to or deficient from those enjoyed by the Tenant immediately prior to the damage or destruction occurring.

8 Termination – Insured Risks

If following damage or destruction to the Cinema which renders the Property incapable of use and occupation or inaccessible for the purposes permitted under this Lease and if for any reason beyond the control of the Landlord it proves impossible to complete the rebuilding or reinstatement (as the case may be) of the Cinema so as to render the Property fit for use and occupation and accessible again within three years of the occurrence of damage or destruction by an Insured Risk then either party may terminate

this Lease by giving notice to that effect at any time after that period of three years to the other.

9 Effect of termination notice

On the expiry of any notice of termination given under this schedule, this Lease will terminate but without affecting any liability arising from a breach of covenant or condition which has occurred before the date of expiry.

10 Retention of insurance money

10.1 The Landlord may retain the proceeds of insurance for its own exclusive benefit following termination of this Lease for any reason.

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

Part 3

Uninsured Risks

1 The Landlord must give the Tenant written notice on or before the date of this Lease that an Insured Risk is an Uninsured Risk or (as applicable) as soon as reasonably practicable after the Landlord becomes aware that an Insured Risk has become an Uninsured Risk.

2 Provided that an Uninsured Risk has not become an Uninsured Risk by any act or default of the Tenant or any person deriving title through the Tenant or any person at the Property with the actual or implied authority of any of them, then if the Property is damaged or destroyed by an Uninsured Risk so that the Property is unfit for use or inaccessible, then the Landlord may within one year serve a Reinstatement Notice on the Tenant and if the Landlord fails to do so then the Tenant may serve notice on the Landlord terminating this Lease with immediate effect.

3 If the reinstatement has not been completed within two years and six months of the date of damage then the Tenant may terminate this Lease by serving not less than six months' notice on the Landlord.

4 Provided that an Uninsured Risk has not become an Uninsured Risk by any act or default of the Tenant or any person deriving title through the Tenant or any person at the Property with the actual or implied authority of any of them then the provisions of paragraph 5 of part 1 of schedule 6 apply to Uninsured Risks in addition to Insured Risks from:

5 (in the case of an Insured Risk which is an Uninsured Risk at the date of this Lease) the date of this Lease; or

6 (in the case of an Insured Risk that becomes an Uninsured Risk) the date on which any Insured Risk becomes an Uninsured Risk.

Schedule 7

Additional Rent

1 Definitions and Interpretation

1.1 In this schedule unless the context otherwise requires “paragraph” refers to a paragraph of this Schedule and:

Additional Rent	has the meaning given to it in paragraph 2;
Gross Revenue	has the meaning given to it in paragraph 4;
Landlord’s Share	means ten per cent of the Net Revenue;
Net Revenue	means Gross Revenue less Permitted Deductions;
Permitted Deductions	has the meaning given to it in paragraph 5;
Quarter	means any of the usual quarters commencing on a Quarter Date, provided that the first Quarter will be the period starting on the [•] up to and excluding the next Quarter Date after that date and the last Quarter being the period up to the end of the Term from and including the previous Quarter Date;
Quarter Date	means 1 January or 1 April or 1 July or 1 October;
Rent Payment Date	means the date twenty eight (28) Working Days from and including each Quarter Date;
Year	means a year of the Term calculated from and including the seventh anniversary of the commencement date of the Term, and ‘Yearly’ is to be construed accordingly;
Underlease	includes an underlease or short term tenancy of any part of the Property and ‘Underlease’, ‘Underlet’ and ‘Underletting’ are to be construed accordingly.

2 Additional Rent

Additional Rent for a Year is the Landlord’s Share for that Year.

3 Rent Payments

3.1 The Additional Rent (if any) is payable by quarterly payments on the Rent Payment Dates.

3.2 Payment of Additional Rent due on a Rent Payment Date is to be made with respect only to:

3.2.1 Gross Revenue received and paid for the Quarter just begun; and

3.2.2 any arrears of Gross Revenue from a previous Quarter since recovered by the Tenant,

and in either case actually received by the Tenant, or anyone authorised to receive it on its behalf, more than 7 Working Days before the Rent Payment Date.

3.3 The Tenant will on or before each Rent Payment Date deliver to the Landlord a summary of:

- 3.3.1 the Gross Revenue received by the Tenant for that Quarter;
- 3.3.2 any Gross Revenue for any previous Quarter to which the Tenant ceased to be entitled (and which therefore needs to be deducted);
- 3.3.3 details of any Permitted Deductions being claimed by the Tenant in respect of the Quarter (or any earlier Quarter);
- 3.3.4 details of any previous Permitted Deductions that the Tenant has recovered and which should be added back; and
- 3.3.5 details of any deficit carried forward from the previous Rent Payment Date.

3.4 Each quarterly payment of the Additional Rent is to be calculated and paid based on the summary set out above for that Quarter as follows:

- 3.4.1 Add together (a) the Gross Revenue received by the Tenant for the Quarter and (b) any Permitted Deductions that the Tenant has previously deducted but subsequently recovered;
- 3.4.2 Deduct any Gross Revenue included in the summary for any previous Quarter to which the Tenant ceased to be entitled;
- 3.4.3 Deduct any deficit carried forward and also the Permitted Deductions which the Tenant is claiming;
- 3.4.4 If the result of this calculation is more than zero, that is the Net Revenue, ten per cent of which is instalment of Additional Rent payable on that Rent Payment Date;
- 3.4.5 If the result of the calculation is zero, no instalment of Additional Rent is payable on that Rent Payment Date and no deficit is to be carried forward;
- 3.4.6 If the result of the calculation is negative, the deficit is to be carried forward to the next Rent Payment Date.

3.5 The Additional Rent is exclusive of any value added tax that may be chargeable on it.

4 **Meaning of 'Gross Revenue'**

4.1 'Gross Revenue' means the revenue set out below received by the Tenant in respect of an Underlease comprising only the rents that are reserved as an annual rent for use, occupation or enjoyment of any part of the Property;

but does not include:

4.1.1 ~~loss of rent insurance proceeds;~~

- 4.1.1 ~~4.1.2~~ contributions or reimbursements to the Tenant of service charges, insurance premiums or outgoings defrayed or to be defrayed by the Tenant in relation to the Property and which are separately reserved and distinguished from the basic rent reserved by an Underlease;
- 4.1.3 ~~interest on Gross Revenue received by the Tenant (assumed to be receivable at the time of receipt); and~~
- 4.1.2 ~~4.1.4~~ sums for the variation or surrender of an Underlease (unless those sums represent capitalised rent, in which case they will be included);
- 4.1.3 ~~4.1.5~~ value added tax (or any other tax) on any item of Gross Revenue;
- 4.1.4 ~~4.1.6~~ costs recovered in the course of pursuing legal remedies with respect to the Property;
- 4.1.5 ~~4.1.7~~ management charges made by the Tenant for the management of the Property; and
- 4.1.6 ~~4.1.8~~ revenue to which the Tenant may be entitled but which has not been received or recovered.

4.2 Gross Revenue includes as revenue the receipt or recovery in a later Year of monies by way of reimbursement of expenditure treated as a Permitted Deduction in an earlier Year.

4.3 Gross Revenue is to be treated as if it was received by the Tenant when it is paid notwithstanding any assignment, charge or other divestment of income from the Property made by the Tenant.

4.4 Any receipt which accrues over or relates to a period is to be treated, if apportionment is necessary, as accruing from day to day throughout the period to which it relates, and is apportionable in respect of time accordingly.

4.5 An item of Gross Revenue counted under one head is not to be counted to that extent under another head.

5 Permitted Deductions

5.1 'Permitted Deductions' means:

- 5.1.1 any legal and surveyor's fees and any other fees (excluding VAT) incurred by the Tenant in connection with the documenting and completing of any Underlease; and
- 5.1.2 business rates where payable and all other outgoings and costs associated with the upkeep and maintenance repair or otherwise for any part of the Property including such expenses in respect of common areas and common services not the subject of an Underlease and which is vacant;
- 5.1.3 performing and observing the covenants of the Tenant in this lease and of the landlord in Underleases;

- 5.1.4 the costs of underletting, including payments to Underlessees incidental to effecting Underlettings including but not limited to any surrender premiums, inducement payments and contributions towards fitting out costs and any expenditure required to facilitate an Underletting including but not limited to the cost of carrying out works to the Property;
- 5.1.5 carrying out, agreeing or otherwise determining rent reviews;
- 5.1.6 promotional and advertising costs in connection with the Underletting of the Property and trading at the Property;
- 5.1.7 enforcing rights and remedies against Underlessees, of defending, preserving and maintaining the rights and respective interests of the Tenant and the Landlord in the Property;
- 5.1.8 interest on monies borrowed or required to fund the costs of items of expenditure and finance charges and arrangement fees;
- 5.1.9 such other expenditure of a revenue nature that is required to improve the income from the Property and which is for the benefit of the Landlord and the Tenant jointly;
- 5.1.10 repair, maintenance, management, insurance and the provision of services to the Property;

which said items of expenditure are to be allowed in a Year as deductions from Gross Revenue for that Year.

- 5.2 No item of expenditure counted under one head is to that extent to be counted under another.
- 5.3 A Permitted Deduction is not to be so treated to the extent that the expenditure is recovered from Underlessees or any other party.
- 5.4 Items of expenditure qualifying as Permitted Deductions include incidental expenses and fees incurred in relation to them, and fees include incidental disbursements.
- 5.5 Expenditure which accrues over or relates to a period is to be treated, if apportionment is necessary, as accruing from day to day throughout the period to which it relates, and is apportionable in respect of time accordingly.

6 **Yearly Account for Additional Rent**

- 6.1 The Tenant will deliver to the Landlord an annual statement on the Rent Payment Date immediately following the end of a Year, which sets out the following information in relation to the Year just ended:
 - 6.1.1 all Gross Revenue received by the Tenant;
 - 6.1.2 all Permitted Deductions allowed in a previous Year, but which were recovered by the Tenant and therefore need to be added back;
 - 6.1.3 full details of all Permitted Deductions claimed by the Tenant; and

- 6.1.4 the Additional Rent payable.
- 6.2 The annual statement must be certified by an accountant qualified to act as an auditor of a registered company under the Companies Act 2006.
- 6.3 If the annual statement shows that the Additional Rent payable is greater than the aggregate of the quarterly payments that the Tenant has paid, the Tenant must within 28 days of issuing the statement pay the shortfall to the Landlord. If the annual statement shows that the Additional Rent payable is less than the aggregate of the quarterly payments that the Tenant has paid, the overpayment is to be repaid to the Tenant within 28 days.
- 6.4 In the case of disagreement between the Landlord and the Tenant as to the amount of Gross Revenue, or the basis on which it has been calculated, the issue is to be submitted to the Valuer appointed and acting under clause 7.

Schedule 8

Service Charge

Part 1

(Services to Estate excluding the Cinema)

1 Additional definitions

In this part of this schedule the following additional definitions apply:

Conduits means the service media serving the Common Parts

Landlord's Expenses means the total of the whole of:

- (a) the costs of providing the Services;
- (b) the costs of entering into and all costs incurred under any maintenance contract entered into for providing the Services to the Common Parts ;
- (c) the costs, fees and disbursements of:
 - i managing agents employed by the Landlord for the carrying out and provision of the Services or where managing agents are not employed, a fee equivalent to such costs, fees and disbursements; and
 - ii accountants employed by the Landlord to prepare and audit the service charge accounts and to prepare or issue any certificate or statement to the Tenant and any other tenants of Estate;
- (d) all rates, taxes, and impositions payable in respect of the Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Estate); and
- (e) any VAT payable by the Landlord on any of the items mentioned in Part 1 of this schedule except to the extent that the Landlord is able to recover such VAT as a credit from HM Customs & Excise.

Services has the meaning given to that term in paragraph 2 of this part of this schedule which are services provided for the benefit of all the occupiers of the Estate;

Service Charge means a fair and reasonable proportion of the Landlord's Expenses;

Service Charge Year means the annual accounting period for the provision of the Services and for the Landlord's Expenses specified by the Landlord from time to time in accordance with this schedule.

2 Services

Services for the purposes of this Schedule includes:

- 2.1 **General cleaning and repairs** including cleaning, maintaining ([including renewal where beyond economic repair](#)) and resurfacing the Common Parts (including any Conduits) and the Accessway
- 2.2 **Lighting the Common Parts.**
- 2.3 **Payment of all charges (including meter rents and standing charges) for all services** including without limitation water, sewerage, electricity, gas, telecommunications and other data-communication services and all other utilities used at, removed from or supplied to the Common Parts;
- 2.4 **Refuse services** for cleaning, maintaining and repairing any refuse bins on the Common Parts and costs in relation to pest control on the Common Parts.
- 2.5 **Security services** providing any security machinery and equipment (including closed circuit television and intruder alarm systems) on the Common Parts.
- 2.6 **Maintaining general appearance** maintaining the landscaped and grassed areas of the Common Parts.
- 2.7 **Compliance with regulations and other requirements** including:
 - 2.7.1 complying with all statutes relating to the Common Parts their use and any works carried out to them, and relating to the use of all Conduits on or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;
 - 2.7.2 complying with any Third Party Rights to the extent that they relate to the Common Parts.
- 2.8 Maintaining insurance in respect of the Common Parts;
- 2.9 The proper and reasonable costs relating to the marketing promotion or advertising of the Dreamland brand.

[2.10](#) [Directional signage on the Common Parts.](#)

[2.11](#) **~~2.10~~Other services the Landlord considers fit**

Any other service or amenity relating to the Common Parts properly and reasonably provided by the Landlord during the Term and not expressly mentioned which is reasonably considered by the Landlord to be necessary in the interests of good estate management for the benefit of the Common Parts.

3 **Provision of services**

- 3.1 Subject to the Tenant paying the Service Charge, the Landlord will use its reasonable endeavours to supply the Services but the Landlord will not be in breach of this obligation as a result of any temporary failure or interruption of any of the Services:
 - 3.1.1 resulting from circumstances beyond the Landlord's reasonable control, so long as the Landlord has used reasonable endeavours to remedy any such problem as soon as reasonably practicable after becoming aware of it; or

- 3.1.2 to the extent that any of the Services cannot reasonably be provided as a result of works of inspection, maintenance and repair or other works being carried out as long as the works are carried out as quickly as reasonably practicable and all reasonable steps have been taken to minimise disruption.
- 3.2 The Landlord will not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure pursuant to this Lease.
- 3.3 It is agreed that the Tenant will not be entitled to object to any Landlord's Expense solely on the ground that the Service to which it relates could have been supplied more cheaply provided that the Landlord will manage the Common Parts economically and efficiently and will endeavour to ensure value for money.
- 4 Service charge year**
- 4.1 Subject to the provisions of paragraph 4.2, the Service Charge Year will commence on the 1 April in each year of the Term.
- 4.2 The Landlord may change the Service Charge Year commencement date by giving written notice (an **Alternative Date Notice**) to the Tenant of an alternative commencement date for the Service Charge Year.
- 5 Preparation of estimate and on account payments**
- 5.1 Before or as soon as practicable after the start of each Service Charge Year, the Landlord will prepare and send the Tenant an estimate of the Landlord's Expenses for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.
- 5.2 The Tenant will pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Quarter Days.
- 5.3 The Tenant's obligations for the Service Charge Year current at the date of this Lease to pay the estimated Service Charge and the actual Service Charge will be limited to an apportioned part of those amounts. The apportioned part will be calculated on a daily basis for the period from the date of this Lease to end of the Service Charge Year.
- 5.4 The estimated Service Charge for which the Tenant is liable will be paid in equal instalments on the date of this Lease and remaining Quarter Days during the period from the date of this Lease until the end of the Service Charge Year.
- 6 End of year statements**
- 6.1 As soon as reasonably practicable and in any event within three months after the end of each Service Charge Year, the Landlord will prepare and send to the Tenant a certificate showing the actual Landlord's Expenses and the actual Service Charge for the relevant Service Charge Year.
- 6.2 The certificate will be prepared in accordance with accounts of the Landlord's Expenses prepared by the Landlord's accountants.

- 6.3 The supporting invoices and receipts used in preparation of those accounts may be inspected by the Tenant on prior appointment with the Landlord or (if the Landlord so directs) with the Landlord's accountants or managing agents.

7 **Balancing payments**

- 7.1 If in any Service Charge Year the Landlord's estimate of the Service Charge is less than the actual Service Charge, the Tenant will pay the difference within 20 Working Days of written demand.
- 7.2 If in any Service Charge Year the Landlord's estimate of the Service Charge is more than the actual Service Charge, the Landlord will credit the difference against the Tenant's next instalment of the estimated Service Charge or for the last year of the Term howsoever ended repay the Tenant within 20 Working Days of the end of the Term.
- 7.3 Where the difference mentioned in paragraph 7.2 of this part of this schedule exceeds the next instalment, then the balance of the difference will be credited against each succeeding instalment of estimated Service Charge until it is fully credited).

8 **Omissions**

If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord will be entitled to include it in the estimate and certificate of the Service Charge in any following Service Charge Year but not any time thereafter.

9 **Certificate binding as to fact**

Otherwise, and except in the case of manifest error, any certificate relating to the Service produced by the Landlord or on its behalf will be conclusive as to all matters of fact to which it refers.

10 **Exclusions from Service Charge**

Notwithstanding any other provision in this Lease the Landlord is not entitled to recover as part of the Service Charge:

~~10.1 Any expenditure for the provision of any capital items for the Estate.~~

10.1 ~~10.2~~ Any expenditure incurred as a result of Insured Risks.

10.2 ~~10.3~~ Any expenditure recoverable from third parties.

10.3 ~~10.4~~ Any costs incurred in enforcing its rights against third parties.

10.4 ~~10.5~~ Management expenses for the following:

10.4.1 ~~10.5.1~~ collection of payments and arrears from other tenants and occupiers of the Estate;

10.4.2 ~~10.5.2~~ enforcing obligations against other tenants and occupiers of the Estate.

10.5 ~~10.6~~ Any costs associated with letting or reletting parts of the Estate.

Service Charge Year means the annual accounting period for the provision of the Services and for the Landlord's Expenses specified by the Landlord from time to time in accordance with this schedule.

2 **Services**

Services for the purposes of this Schedule includes:

- 2.1 Maintaining, repairing, renewing where beyond economic repair and decorating the Cinema Structure, any Conduits at the Cinema and any suspended access equipment save that until such time as the Cinema (excluding the Property) is let or occupied the Landlord's obligation for repairing the roof of the Cinema will be limited to an obligation to keeping it in:
 - 2.1.1 no worse a state of repair and condition that it is in at the date hereof as evidenced by the Cinema Schedule of Condition; and
 - 2.1.2 wind and watertight, safe and in a state and condition required by all relevant legislation;
- 2.2 Insuring the Cinema;
- 2.3 Compliance with regulations and other requirements including:
 - 2.3.1 complying with all statutes relating to the Cinema Structure its use and any works carried out to it, and relating to the use of all Conduits on or serving the Cinema;
 - 2.3.2 complying with any Third Party Rights to the extent that they relate to the Cinema Structure;
- 2.4 Payment of all charges (including meter rents and standing charges) for all services including without limitation water, sewerage, electricity, gas, telecommunications and other data-communication services and all other utilities used at, removed from or supplied to both the Property and other parts of the Cinema;
- 2.5 Maintaining, repairing, cleaning and decorating the floor finishes ceiling and wall finishes, plasterwork and decorative finishes to the internal parts of the walls of the Cinema Common Parts;
- 2.6 Maintaining, cleaning, servicing and providing and complying with all health and safety and other legislation applicable to the use of any common toilets in the Cinema Common Parts;
- 2.7 Payment of all charges (including meter rents and standing charges) for all services without limitation water sewerage electricity gas waste disposal telecommunications and other data communication services and all other utilities used at the Cinema Common Parts;
- 2.8 The proper and reasonable cost of any other service or amenity that the Landlord may in its reasonable discretion acting in accordance with the principles of good estate management provide in connection with the Cinema Common Parts for the benefit of all tenants and occupiers of the Cinema.

3 Provision of services

- 3.1 Subject to the Tenant paying the Service Charge, the Landlord will use its reasonable endeavours to supply the Services but the Landlord will not be in breach of this obligation as a result of any temporary failure or interruption of any of the Services:
- 3.1.1 resulting from circumstances beyond the Landlord's reasonable control, so long as the Landlord has used reasonable endeavours to remedy any such problem as soon as reasonably practicable after becoming aware of it; or
 - 3.1.2 to the extent that any of the Services cannot reasonably be provided as a result of works of inspection, maintenance and repair or other works being carried out as long as the works are carried out as quickly as reasonably practicable and all reasonable steps have been taken to minimise disruption.
- 3.2 The Landlord will not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure pursuant to this Lease.
- 3.3 It is agreed that the Tenant will not be entitled to object to any Landlord's Expense solely on the ground that the Service to which it relates could have been supplied more cheaply provided that the Landlord will manage the provision of Services in this part of this schedule economically and efficiently and will endeavour to ensure value for money.

4 Service charge year

- 4.1 Subject to the provisions of paragraph 4.2, the Service Charge Year will commence on the 1 April in each year of the Term.
- 4.2 The Landlord may change the Service Charge Year commencement date by giving written notice (an Alternative Date Notice) to the Tenant of an alternative commencement date for the Service Charge Year.

5 Preparation of estimate and on account payments

- 5.1 Before or as soon as practicable after the start of each Service Charge Year, the Landlord will prepare and send the Tenant an estimate of the Landlord's Expenses for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.
- 5.2 The Tenant will pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Quarter Days provided that the Tenant shall not be obliged to pay more than the Service Charge Cap for each Service Charge Year.
- 5.3 The Tenant's obligations for the Service Charge Year current at the date of this Lease to pay the estimated Service Charge and the actual Service Charge will be limited to an apportioned part of those amounts. The apportioned part will be calculated on a daily basis for the period from the date of this Lease to end of the Service Charge Year.
- 5.4 The estimated Service Charge for which the Tenant is liable will be paid in equal instalments on the date of this Lease and remaining Quarter Days during the period from the date of this Lease until the end of the Service Charge Year.

- 5.5 The proportion of the Service Charge payable by the Tenant under this part of this schedule shall be the same proportion of the Landlord's Expenses as the proportion that the gross internal areas of the Property bears to the aggregate of the gross internal areas of the Cinema.

6 End of year statements

- 6.1 As soon as reasonably practicable and in any event within 3 months after the end of each Service Charge Year, the Landlord will prepare and send to the Tenant a certificate showing the actual Landlord's Expenses and the actual Service Charge for the relevant Service Charge Year provided that if the Service Charge exceeds the Service Charge Cap for that Service Charge Year the certificate shall also specify the amount actually payable by the Tenant.
- 6.2 The certificate will be prepared in accordance with accounts of the Landlord's Expenses prepared by the Landlord's accountants.
- 6.3 The supporting invoices and receipts used in preparation of those accounts may be inspected by the Tenant on prior appointment with the Landlord or (if the Landlord so directs) with the Landlord's accountants or managing agents.

7 Balancing payments

- 7.1 If in any Service Charge Year the Landlord's estimate of the Service Charge is less than the actual Service Charge, the Tenant will pay the difference within 20 Working Days of written demand provided that if the Service Charge exceeds the Service Charge Cap for that Service Charge Year the Tenant shall only be obliged to pay the difference between the estimate of the Service Charge and the Service Charge Cap.
- 7.2 If in any Service Charge Year the Landlord's estimate of the Service Charge is more than the actual Service Charge, the Landlord will credit the difference against the Tenant's next instalment of the estimated Service Charge or for the last year of the Term howsoever ended repay the Tenant within 20 Working Days of the end of the Term.
- 7.3 Where the difference mentioned in paragraph 7.2 of this part of this schedule exceeds the next instalment, then the balance of the difference will be credited against each succeeding instalment of estimated Service Charge until it is fully credited).

8 Omissions

If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord will be entitled to include it in the estimate and certificate of the Service Charge in any following Service Charge Year but not any time thereafter.

9 Certificate binding as to fact

Otherwise, and except in the case of manifest error, any certificate relating to the Service produced by the Landlord or on its behalf will be conclusive as to all matters of fact to which it refers.

10 Exclusions from Service Charge

Notwithstanding any other provision in this Lease the Landlord is not entitled to recover as part of the Service Charge:

- 10.1 Any expenditure for the provision of any capital items for the Cinema.
- 10.2 Any expenditure incurred as a result of Insured Risks.
- 10.3 Any expenditure recoverable from third parties.
- 10.4 Any costs incurred in enforcing its rights against third parties.
- 10.5 Management expenses for the following:
 - 10.5.1 collection of payments and arrears from other tenants and occupiers of the Cinema;
 - 10.5.2 enforcing obligations against other tenants and occupiers of the Cinema.
- 10.6 Any costs associated with letting or reletting parts of the Cinema.
- 10.7 Any costs associated with rent reviews or lease renewals.
- 10.8 Any costs and expenses attributable to those parts of the Cinema which are unlet.
- 10.9 Any costs which the Landlord incurs in reinstating any damage or destruction caused by an Uninsured Risk.
- 10.10 Any costs or liabilities arising in connection with the removal or clean-up of any asbestos (except cinema common parts asbestos)### and/or any contaminative substance as referred to in clause 3.4.1 of this Lease.
- 10.11 The relevant proportion of the Landlord's Expenses attributable to all other parts of the Cinema (excluding the Property).
- 10.12 Any costs or expenditure relating to the Landlord's Works.
- 10.13 Any costs relating to the Cinema Common Parts including those heads of expenditure referred to in paragraphs 2.5, 2.6, 2.7 and 2.8 of Part 2 of this Schedule 8 unless and until the Tenant has full use and benefit of the Cinema Common Parts in common with all others so entitled.
- 11 **Service Charge Cap**
 - 11.1 The Service Charge payable under this Part 2 by the Tenant for each Service Charge Year shall not be in excess of the Service Charge Cap for that Service Charge Year.
 - 11.2 On the first day of each Service Charge Year (the **Adjustment Dates** and **Adjustment Date** shall be construed accordingly) the Service Charge Cap shall be adjusted so that the Service Charge Cap for the immediately following Service Charge Year shall be the higher of:
 - 11.2.1 the Service Charge Cap applicable under this Lease immediately before the relevant Adjustment Date (the **Current Service Charge Cap**); and

- 11.2.2 the Current Service Charge Cap adjusted by multiplying the Current Service Charge Cap by the RPI (all items) index figure last published prior to the relevant Adjustment Dates and dividing the result by the Base Figure.

Schedule 9

Specimen Form of Underlease

| THE ~~CORPORATE~~COMMON SEAL of
| THANET DISTRICT COUNCIL was
| ~~hereunto~~ affixed hereto in the presence of:

|
| ~~Authorised Officer~~Member

SIGNED AS A DEED by **SANDS HERITAGE LIMITED**

acting by a director

and its Company Secretary or by two

Directors

..... Director

Nick Conington

..... Director

John Adams

Annex

Schedules of Condition