

Marischal Square Aberdeen
Approved Heads of Terms
Leisure

1st June 2016

- 1. Property Address:** Unit D, Marischal Square, Aberdeen
- 2. Developer:** Muse Developments Limited
- 3. Head Landlord:** Aviva Investors Commercial Assets GP Limited as general partner of and trustee for AVIVA INVESTORS REaLM COMMERCIAL ASSETS LP [Note: a sub lease protection agreement will be available for the benefit of the tenant]
- 4. Landlord:** Aberdeen City Council
- 5. Tenant:** Mackie's Limited
- 6. Demise:** Ground Floor : 1,528 sq ft

The gross internal area will be subject to measurement at Taking Over (Practical Completion) in accordance with the RICS Code of Measuring Practice. If the floor area diverges +/- 5% from the target area the tenant will have the option to resile from the contract. Within a tolerance of +/- 3% the rent would not be adjusted upwards or downwards. Between +/- 3%-5% the rent would be adjusted downwards but not upwards on a pro-rata basis
- 7. Lease Term:** The premises will be let by way of a full repairing and insuring lease for a period of 15 years from lease commencement.
- 8. Agreement to Lease:** The Developer and tenant will enter into an Agreement to Lease, to include in agreed forms; a draft lease, a draft licence for works, a draft warranty package and a detailed specification with associated plans.

The tenant will enter into step in agreements with Aberdeen City Council and Aviva as landlord and head landlord respectively.
- 9. Lease Commencement Date:** Targeted for August 2017 or any earlier such date that can be mutually agreed between both parties.
- 10. Rental:** The annual rental will be:

Year 1 £38,200 (£25 per sq ft)
Year 2 £38,200 (£25 per sq ft)
Year 3 £39,728 (£26 per sq ft)
Year 4 £39,728 (£26 per sq ft)
Year 5 £39,728 (£26 per sq ft)

Exclusive of VAT payable quarterly in advance.
- 11. Incentives:** The ingoing tenant will receive an incentive package of 12 months rent free.
- 12. Rent Review:** There will be a rent review on the 5th Anniversary of the lease and 5 yearly thereafter to be by reference to the Annual Retail Price Index with a cap and collar of 4% and 2% per annum compound.

- 13. External Areas:** The external seating area (plan to follow highlighting this) will be demised to the tenant for so long as the premises are used as an ice-cream parlour/coffee shop subject to the detailed terms of the lease and management regulations.
- The public realm areas within the development (except in so far as demised to leisure tenants) will be maintained within the service charge regime.
- 14. Alienation:**
1. The identity of the party permitted to occupy the unit in any capacity other than as provided at 2 below requires to be approved by the Head Landlord.
 2. Sharing of occupation with group companies is permitted.
 3. Partial assignment and subletting are not permitted.
 4. Assignment and subletting are permitted subject to 1 and 3 above and to the consent of ACC as Landlord, such consent not to be unreasonably withheld.
- 15. Alterations:** Structural alterations are at the Landlord's discretion. Other alterations require Landlord's consent which is not to be unreasonably withheld. Certain elements of demountable fit out may not require consent.
- 16. Service Charge:** The tenant will be liable for a pro-rata share of the service charge applicable to the building and of the larger development. Estimate to be confirmed.
- 17. Building Insurance:** The tenant will be responsible for a pro-rata share of the buildings and loss of rent insurance.
- 18. Development Agreement:** The transaction will be subject to a Development Agreement between the Developer and the tenant, which will document an agreed development specification; defects liability; proposed date of taking over; target date and backstop dates; measurement tolerances if applicable; guarantee if applicable and warranties and any other salient information required.
- 19. Specification:** To be agreed between respective technical teams although will include the following:-
- | | |
|-------------|---------------------------------------|
| Electricity | – 140KVa with 200 amp cut off phase 3 |
| Gas | – 240 Kwh supply on a 25u meter |
| Water | – 1.0 bar pressure |
| Drainage | – 6 pop up points |
- It is envisaged the unit will be delivered to standard shell specification.
- 20. Collateral Warranties:** There will be a full package of collateral warranties in favour of the tenant, from the design team and the contractor.
- 21. Reinstatement:** All tenant alterations, unless otherwise agreed, to be removed and the demise reinstated by the end of the lease term. Specifically excluded is the requirement for the tenant to remove the flooring, walls and ceiling on expiry.
- 22. Legal Fees:** Each party will bear their own legal costs incurred in the transaction.
- 23. LBTT & Registration Fees:** The tenant will be responsible for the payment of LBTT, registration fees and VAT, which may be incurred in the transaction.

24. **VAT:** All figures quoted are exclusive of VAT.
25. **Developer's Solicitor:** MacRoberts LLP
Capella
60 York Street
Glasgow
G2 8JX

Contact: [REDACTED]
E: [REDACTED]@macroberts.com
T: 0141 [REDACTED]
26. **Tenant's Solicitor:** Pinsent Masons
13 Queens Road
Aberdeen
AB15 4YL

C: [REDACTED]
E: [REDACTED]@pinsentmasons.com
T: 01224 [REDACTED]
27. **Developer's Agent** CBRE Ltd
1 Albyn Terrace
Aberdeen
AB10 1YP

C: [REDACTED]
E: [REDACTED]@cbre.com
T: 01224 [REDACTED]
28. **Confidentiality:** These terms and any future negotiations are to remain confidential between the parties involved and their advisors.
29. **Conditions:** Please note the above Terms are subject to:
- Landlord's Board approval
 - ACC approval
 - Missives to be concluded by no later than 1st August 2016
 - Tenant providing 3 years audited accounts
 - A long stop date of June 2018 for handover, failing which either party can resile from the contract.
30. **Disclaimer:** In accordance with the terms of the Requirements of Writing (Scotland) Act 1995, this document is neither intended to create nor to be relied upon as creating any contractual relationship or commitment.