

SUB LEASE

between

**ABERDEEN CITY COUNCIL
(Landlord)**

and

**TONY MACARONI GROUP LIMITED
(Tenant)**

of

Unit F at Marischal Square, Aberdeen

MACROBERTS

Certified a true copy

Glasgow *20/05/2018*

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SUB LEASE

between

ABERDEEN CITY COUNCIL constituted in terms of the Local Government etc (Scotland) Act 1994 and having its principal offices at Town House, Broad Street, Aberdeen AB10 1LP (who and whose successors as tenant under the Head Lease are hereinafter referred to as **the Landlord**):

and

TONY MACARONI GROUP LIMITED incorporated in Scotland under the Companies Acts (Company Number SC470910) and having its registered office at 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, Scotland, G1 3NQ (who and, in substitution therefor, whose permitted assignees are hereinafter referred to as **the Tenant**)

The Landlord and the Tenant DO HEREBY CONTRACT AND AGREE as follows

1. INTERPRETATION AND DEFINITIONS

1.1 Interpretation

In this Lease unless there be something in the subject or context inconsistent therewith

- 1.1.1 words importing the neuter gender only include the masculine and feminine genders; words importing the masculine gender only include the feminine gender, and vice versa; words importing persons include bodies corporate, unincorporated associations and partnerships and vice versa
- 1.1.2 words importing the singular number only shall include the plural number and vice versa; where from time to time there are two or more persons included in the expression the "Tenant" or the "Landlord" obligations contained in These Presents which are expressed to be made by that party shall be binding jointly and severally on them and their executors and representatives whomsoever without the necessity of discussing them in their order; in the case where the Tenant is a firm or partnership (other than a limited partnership or limited liability partnership) the obligations of the Tenant hereunder shall be binding jointly and severally on all persons who are or become partners of the firm at any time during the Period of this Lease and their executors and representatives whomsoever as well as on the firm and its whole stock, funds, assets and estate without the necessity of discussing them in their order and such obligations shall subsist and remain in full force and effect notwithstanding any change or changes which may take place in the firm or partnership whether in the name of the firm or partnership or by the assumption of a new partner or partners or by the retreat, bankruptcy or death of any individual partner; provided that the Landlord will not unreasonably withhold consent to the release of a retiring partner or the trustee in bankruptcy or the estate of a deceased partner from liability under this Lease;
- 1.1.3 references to this Lease are to this lease including the Schedule;
- 1.1.4 save as otherwise specified in this Lease, reference to statutes or statutory provisions shall be construed as references to those statutes or provisions as amended, extended, consolidated or replaced from time to time (whether before or after the date of this Lease) and shall include any orders, regulations, instruments or subordinate legislation under or deriving from the relevant statute or statutory provision;
- 1.1.5 save as otherwise specified in this Lease, reference to any Clauses, paragraphs, sub-paragraphs, Schedules or parts of Schedules, shall be references to clauses, paragraphs, sub-paragraphs, Schedules or parts of Schedules of or to this Lease;

- 1.1.6 headings to the Clauses, Schedules or parts of Schedules are inserted for convenience only and shall not affect the construction of this Lease;
- 1.1.7 any undertaking by or obligation upon the Tenant not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person deriving title from the Tenant or for whom the Tenant is legally liable;
- 1.1.8 any entry on the Premises by the Landlord or by any person authorised under this Lease by the Landlord to enter, shall be in accordance with the provisos to the Schedule Part 3 and shall include the right to bring contractors and appropriate equipment and machinery onto the Premises for the minimum reasonably practicable periods;
- 1.1.10 any phrase prefaced by the words "including", "include", "in particular" or any similar expression or wording, shall not be construed as limiting the generality of any preceding phrase or word.

1.2 Definitions

in this Lease unless there be something in the subject or context inconsistent therewith, the expressions following shall have the meanings hereinafter mentioned:-

Atrium Roof means the translucent roof structure located at level 6 of Building 1 over the area shown hatched blue on Plan: Level 0 together with the supporting structure thereof and the fixings securing it to Building 1;

Basement Bin Store Areas means the bin store areas located at Level -1 as shown shaded pink on Plan: Level -1 together with any non-structural walls and others enclosing the same but excluding any bin store serving the Hotel exclusively;

Basement Common Parts means those parts of the Development constructed below Level 0 but excluding (a) the Premises (b) the Basement Cores (Offices) (c) the Basement Cores (Offices and Retail) (d) the Basement Plant Rooms (e) the Hotel Basement Areas (f) the Basement Bin Store Areas (g) the Car Park and (h) the Retail Only Stairs;

Basement Core Office Common Parts means the Basement Cores (Offices) so far as located directly beneath each of the Buildings;

Basement Core Office and Retail Common Parts means the Basement Cores (Offices and Retail) so far as located directly beneath each of the Buildings;

Basement Cores (Offices) means those structures situated at Level -1 and Level -2 directly beneath Building 1 and Building 2 as shown shaded blue on Plan: Level -1 and Plan: Level -2 respectively (including the lifts and lift shafts located therein);

Basement Cores (Offices and Retail) means those structures situated at Level -1 and Level -2 as shown hatched red on Plan: Level -1 and Plan: Level -2 respectively (including the goods lift and lift shaft located therein under Building 1);

Basement Levels means those two levels of the Development located respectively one level below Level 0 and two levels below Level 0, and references herein to **Level -1** and **Level -2** shall be construed accordingly;

Basement Plant Rooms means the plant rooms located at Level -1 and Level -2 as shown shaded green on Plan: Level -1 and Plan: Level -2 respectively together with any non-structural walls and others enclosing the same and the Common Plant and Equipment therein but excluding any plant rooms serving the Hotel exclusively;

Building 1 means the building forming part of the Development as shown hatched red on Plan: Level 0 but including only those parts thereof located at and above Level 0.

Building 2 means the building forming part of the Development as shown hatched green on Plan: Level 0 but including only those parts thereof located at and above Level 0.

Buildings means Building 1 and Building 2 together or either of them as the context requires

Car Park means the car park and cycle parking facilities at each of the Basement Levels as enclosed by but not including any structural part of the Basement Common Parts together with (a) the fittings and fixtures thereof (including cycle carousels and racks therein); (b) any showers and/or toilets provided exclusively or primarily for the use of cyclists; (c) the Conducting Media and Plant and Equipment so far as in each case pertaining exclusively thereto; (d) the ramp leading thereto from Fournill Lane; (e) the roller shutter and/or other door and/or barrier at the entrance thereof and (f) the interconnecting stair between Level -1 and Level -2 shown hatched blue on Plan: Level -1 and Plan: Level -2.

CDM Regulations means the Construction (Design and Management) Regulations 2015 together with any amendment, variation and/or re-enactment or replacement from time to time of the same and any codes of practice, or any other guidance issued by any competent authority relative to the same.

Common Comfort Cooling System means the air source heat pump systems serving some or all of the common parts in each of Building 1 and Building 2 together with the power supply therefor and all pipes, cables, ducting and others pertaining thereto

Common Conducting Media means the Conducting Media except (i) in so far as either (a) located within and exclusively serving any Lettable Part (but in relation to the water supply pipe serving each Lettable Part includes that supply pipe in so far as located within such Lettable Part up to and including the isolation valve/pressure reducing valve and double check valve within such Lettable Part) or (b) exclusively serving one or more Sub Station Site and/or Telecoms/Power Area and (ii) so far as forming part of any Dedicated Comfort Cooling System.

Common Parts means the Basement Common Parts, the Basement Core Office Common Parts, the Basement Core Office and Retail Common Parts, the Basement Bin Store Areas, the Basement Plant Rooms, the Public Realm Common Parts, the Car Park and the Development Common Parts, together, or any of them as the context requires.

Common Plant and Equipment means the Plant and Equipment except (i) in so far as either (a) located within and exclusively serving any Lettable Part or (b) exclusively serving one or more Sub Station Site and/or Telecoms/Power Area and (ii) so far as forming part of any Dedicated Comfort Cooling System.

Common Ventilation System means the ventilation system serving the Offices and some or all of the common parts in each of Building 1 and Building 2 together with the power supply therefor and all pipes, cables, ducting and others pertaining thereto including any part or parts thereof that are located within any Lettable Part which is part of the Offices.

Conducting Media means the pipes, channels, service risers, ventilation ducting, drains, sewers, rhones, conduits, watercourses, wires, cables, aerials or other conducting media, pumps, valves, manholes, meters and connections for the time being and from time to time in and passing through or serving the Development but does not include (i) any part of any Dedicated Comfort Cooling System or (ii) any part of any Common Ventilation System or (iii) any part of any Common Comfort Cooling System.

Curtilage means ALL and WHOLE the subjects at Broad Street, Aberdeen being the whole subjects let by the Head Lease.

Date of Entry means 12 December 2017

Date of Expiry means 11 December 2032

Dedicated Comfort Cooling System means any air source heat pump system serving any part of the Offices together with the power supply therefor, and all pipes, cables, ducting and others pertaining thereto

Development means the whole buildings and other structures known as Marischal Square, Aberdeen constructed or to be constructed on the Curtilage including without limitation all sub-surface foundations and structures and the solum of the Curtilage, together with all hard and soft landscaping thereon

Development Common Parts means the Common Conducting Media (so far as not located within Building 1 or Building 2), the Common Plant and Equipment (so far as not located within Building 1 or Building 2) and all other parts of the Development which are for the common benefit or use of the Lettable Parts, but always excluding (i) Building 1, (ii) Building 2, (iii) the Basement Common Parts, (iv) the Basement Core Office Common Parts, (v) the Basement Core Office and Retail Common Parts, (vi) the Basement Plant Rooms, (vii) the Basement Bin Store Areas, (viii) the Public Realm Common Parts, (ix) the Car Park, (x) the Hotel, (xi) the Hotel Basement Areas, (xii) the Atrium Roof, (xiii) all Sub-Station Sites and Telecoms/Power Areas; and (xiv) the Premises and all other Lettable Parts

Energy Performance Certificate means an energy performance certificate in terms of the Energy Performance Certification Legislation

Energy Performance Certification Legislation means any legislation relative to energy performance certification and/or inspection and/or advice to users of air conditioning systems, in any of these cases relative to buildings in Scotland, including (without limitation) the Energy Performance of Buildings (Scotland) Regulations, 2008 and the Building (Scotland) Act 2003 and regulations and orders made thereunder

Environment means any and all organisms (including without limitation man), ecosystems, property, and the media of air (including without limitation air within buildings and air within other natural or man-made structures, whether above or below ground), water (including without limitation water under or within land or in drains or sewers, and coastal and inland waters), and land (including land under water)

Environment Law means all and any of the following which are concerned with the Environment, namely laws, statutes, regulations, treaties, directives, decisions, orders, recommendations, judgments, awards, rules or common law, guidance and codes of practice having force of law, at international, European Union, national and local levels of jurisdiction, including any orders, statutory notices, directions or awards of the Scottish Environment Protection Agency or the Environment Agency, the Planning Authority, Scottish Water, Scottish Natural Heritage, HM Revenue & Customs, all services and utilities undertakers or providers or any other competent national, local or public authority having jurisdiction in respect of the Development

Exceptions and Reservations mean the exceptions and reservations set out in Schedule Part 3

External Seating Area means any area ex adverso the Premises that may from time to time be occupied and used by the Tenant as an external seating area for its customers

Full Cost of Reinstatement means the full costs likely to be incurred from time to time in reinstating the subjects insured in accordance with this Lease and the Head Lease having regard to all relevant factors, including:

- (a) temporarily making the subjects insured safe and protecting any adjoining structures;
- (b) debris removal, shoring or propping up, hoarding, demolition and site clearance;
- (c) obtaining planning and any other requisite consents or approvals;
- (d) complying with the requirements of any relevant legislation and regulations;
- (e) architects, surveyors and other professional fees incurred in relation to the reinstatement;
- (f) all construction costs (including any increases in construction costs expected or anticipated to take place at any time up to the date upon which the subjects insured have been fully rebuilt or reinstated); and
- (g) any VAT chargeable on any of the reinstatement costs (except where the party incurring the cost is able to recover such VAT).

Group Company means a company which is a subsidiary of or a holding company or a subsidiary of a holding company of the Tenant as the terms "subsidiary" and "holding company" are defined by Section 1159 of the Companies Act 2006.

Hazardous Substance means any substance, liquid, solid, gas, vapour or other matter of whatsoever nature which is an actual or likely cause of, or which is capable of causing, harm or damage to human health or any other part of the Environment and/or which is from time to time regulated or controlled by any Environment Law, including without limitation any Waste.

Head Landlord means the party from time to time in right to the landlord's interest in the Head Lease;

Head Lease means the lease by AVIVA INVESTORS REALM COMMERCIAL ASSETS LP in favour of Aberdeen City Council dated 22 and 23 December 2014, the tenant's interest in which is registered in the Land Register of Scotland under Title Number ABN 121539 as varied by Minute of Variation of Lease between Aviva Investors Realm Commercial Assets LP and Aberdeen City Council dated 22 and 24 November 2017;

Health and Safety File means the health and safety file(s) in relation to, or to inter alia, the Premises under the CDM Regulations;

Hotel means the hotel building forming part of the Development as shown hatched mauve on Plan: Level 0 (which includes certain external open areas which are to be designated for the exclusive use of guests and staff of the said hotel building) but including only those parts thereof located at and above Level 0;

Hotel Basement Areas means those structures situated at Level -1 and Level -2 directly beneath the Hotel and serving the hotel exclusively;

Insurance Percentage means such demonstrably equitable percentage as may be fixed by the Landlord from time to time acting reasonably and in accordance with the principles of good estate management;

Insured Risks means fire, lightning, explosion, earthquake, storm, tempest, flood, impact, bursting or overflowing of water tanks and pipes, damage by aircraft and other aerial devices or articles dropped from them, riot and civil commotion, labour disturbance and malicious damage and terrorism (the foregoing being the "**Core Risks**") and such other normal commercial risks as the Landlord may from time to time decide to insure against pursuant to this Lease acting reasonably and in accordance with the principles of good estate management (but excepting from the foregoing definition those risks against which the Landlord's obligation

to insure shall have ceased in terms of paragraph 2.1 of Part 5 of the Schedule), or the Head Landlord may from time to time decide to insure against* pursuant to the Head Lease and "Insured Risk" will be construed accordingly

Insurers means such insurance office or underwriters of repute as may be selected by the Landlord or where relevant insurance is arranged under the Head Lease, by the Head Landlord;

Lettable Parts means (a) all parts of the Development let or intended for and capable of letting for the exclusive use of occupational tenants whether or not actually occupied from time to time and (b) the Hotel, but does not include (i) the Car Park or any part thereof; (ii) any Sub Station Site or (iii) any Telecoms/Power Area and **Lettable Part** will be construed accordingly

Level 0 means the upper surface of the structural slab constructed at the level within the Development which is approximately at the level of the solum of Broad Street ex adverso the Development;

Loss of Rent and Service Charge means such a sum of money as the Landlord, acting

window cleaning cradle and apparatus, fire safety equipment, firefighting equipment, sprinklers, fire alarm and/or security systems and equipment (including remote control and closed circuit television equipment), all computer hardware and software and management systems, common television aera, and all connecting media and circuitry pertaining thereto but does not include any part of (i) any Dedicated Comfort Cooling System, (ii) any Common Ventilation System or (iii) any Common Comfort Cooling System.

Premises means the ground floor premises at Level 0 within the Development described in the Schedule Part 4 being part of the subjects described in the Head Lease, the tenant's interest in which is registered in the Land Register of Scotland under Title Number ABN 121539, and which premises also form part and portion of the ground registered in the Land Register of Scotland under Title Number ABN 121538;

Prescribed Rate means the rate of interest which is from time to time four per cent per annum above the base rate for the time being of The Royal Bank of Scotland PLC (or such other bank being a member of the Committee of London and Scottish Clearing Banks as the Landlord may from time to time nominate in writing)

Public Realm Common Parts means the areas of open space (including the area under the Atrium Roof) at and above Level 0 as shown hatched red on Plan, Public Realm including the hard and soft landscaping, street furniture, signage and lighting thereon, the CCTV system covering the same, the surface finishes thereof and all other fixtures and fittings and Plant and Equipment pertaining thereto, but excluding (a) such part or parts thereof (if any) as are from time to time included in the lease demise, or the occupation of which is licensed to the tenant of any Retail Unit and (b) the Atrium Roof

Quarter Days has the meaning given in Clause 4.1.7

Regulations means the regulations set out in paragraph 35 of the Schedule Part 4, as the same may be varied from time to time in accordance with paragraph 36 of Schedule Part 4

Rent means

- (a) in respect of the period from the Date of Entry until the day preceding the first anniversary of the Date of Entry the Rent shall be £65,000 per annum;
- (b) in respect of the period from the first anniversary of the Date of Entry until the day preceding the second anniversary of the Date of Entry the rent shall be £75,000 per annum;
- (c) in respect of the period from the second anniversary of the Date of Entry until the day preceding the third anniversary of the Date of Entry the rent shall be £80,000 per annum;
- (d) in respect of the period from the third anniversary of the Date of Entry until the day preceding the fourth anniversary of the Date of Entry the rent shall be £80,000 per annum;
- (e) in respect of the period from the fourth anniversary of the Date of Entry until the day preceding the fifth anniversary of the Date of Entry the rent shall be £95,000 per annum;

as the same may be reviewed with effect from each of the Rent Review Dates in terms of the Schedule Part 6

Rent Payment Days has the meaning given in Clause 4.1.1

Rent Review Dates has the meaning given in the Schedule Part 6;

Retail Units means the Premises together with those parts of Building 1 and Building 2 located at Level 0 as shown as follows on Plan Level 0:

Shaded	Marked
Grey	Retail A1 and Retail A2
Peacock blue	Retail B
Dull yellow	Retail C
Orange	Retail D
Terracotta	Retail E

RICS Service Charge Code of Practice means the Royal Institute of Chartered Surveyors code of practice entitled "Service Charges in commercial property - Royal Institute of Chartered Surveyors Code of practice (3rd edition) (January 2014)", all as such code of practice may be amended, varied, updated from time to time.

Schedule means the eight part schedule annexed and executed as relative to this Lease.

Self Evidencing Manner means, when referring to the manner of execution of any document or deed, that the same is to be executed in such a manner that the document or deed will be presumed to have been subscribed by the grantor and that any annexations to it have been incorporated into it, as provided for in Section 13, 7 and 8 and Schedule 2 of the Requirements of Writing (Scotland) Act 1995.

Service Charge means the Service Charge as provided for in paragraphs 2.1 and 2.2 of the Schedule Part 7.

Service Charge Percentage means:

- (a) with respect to Service Expenditure pertaining to the Basement Common Parts, the Service Charge Percentage (Basement Common Parts);
- (b) with respect to Service Expenditure pertaining to the Public Realm Common Parts, the Service Charge Percentage (Public Realm);
- (c) with respect to Service Expenditure pertaining to the Development Common Parts, the Service Charge Percentage (Development Common Parts);
- (d) with respect to Service Expenditure pertaining to the Basement Plant Rooms, the Service Charge Percentage (Basement Plant Rooms); and
- (e) with respect to Service Expenditure pertaining to the Basement Bin Store Areas, the Service Charge Percentage (Basement Bin Store Areas);

Service Charge Percentage (Basement Common Parts) means NIL% or such other percentage as may be substituted by the Landlord from time to time as provided for in Paragraph 2.3 of the Schedule Part 7;

Service Charge Percentage (Public Realm) means 1.67% or such other percentage as may be substituted by the Landlord from time to time as provided for in Paragraph 2.3 of the Schedule Part 7;

Service Charge Percentage (Development Common Parts) means 1.67% or such other percentage as may be substituted by the Landlord from time to time as provided for in Paragraph 2.3 of the Schedule Part 7;

Service Charge Percentage (Basement Core Office and Retail Common Parts) means NIL% or such other percentage as may be substituted by the Landlord from time to time as provided for in paragraph 2.3 of the Schedule Part 7;

Service Charge Percentage (Basement Plant Rooms) means 2.32% or such other percentage as may be substituted by the Landlord from time to time as provided for in paragraph 2.3 of the Schedule Part 7

Service Charge Percentage (Basement Bin Store Areas) means 2.32% or such other percentage as may be substituted by the Landlord from time to time as provided for in paragraph 2.3 of the Schedule Part 7

Service Expenditure means the expenditure defined in paragraph 1.6 of the Schedule Part 7

Sub Station Site means any part of the Development which may be provided for an electricity substation or other utility provider's equipment (whether or not leased for this use to a utility provider)

Telecoms/Power Area means any zone and associated supporting and attaching framework on the roof of either Building 1 or Building 2 or the Hotel or elsewhere which is from time to time used solely for telecoms and/or power generation equipment or similar whether or not leased to operators or providers of such services

Tenant's Remote Conducting Media has meaning ascribed thereto in paragraph 2.2 of the Schedule Part 2:

Tenant's Remote Ducting has meaning ascribed thereto in paragraph 2.2 of the Schedule Part 2:

Tenant's Remote Items means the Tenant's Remote Conducting Media, the Tenant's Roof Plant and the Tenant's Remote Ducting;

Tenant's Roof Plant has meaning ascribed thereto in paragraph 7 of the Schedule Part 2

These Presents means this Lease (including the Schedule) and any document entered into between, or inter alia between, the Landlord and the Tenant which is supplemental hereto expressed to be collateral herewith or entered into pursuant to or in accordance with the terms hereof

Title Deeds means the Head Lease together with the title sheet of the Head Landlord's interest in the Curtilage

Travel Plan means the travel pertaining to the Premises envisaged by the Travel Plan Framework;

Travel Plan Co-ordinator means the person identified from time to time to fulfil that role pursuant to the Travel Plan Framework;

Travel Plan Framework means the document entitled 'Marischal Square Development, Broad Street, Aberdeen – Travel Plan Framework April 2014' prepared by Fairhurst on behalf of Muse Developments Limited and approved by the landlord as planning authority

Uninsured Damage means any damage or destruction arising out of any Uninsured Risk (other than minor or immaterial damage to the Premises or the Common Parts not materially affecting the ability of the Tenant to occupy the Premises);

Uninsured Risk means any Core Risk against which the Landlord or the Head Landlord in terms of the Head Lease ceases to insure (or in respect of which there is a partial exclusion to the extent that the partial exclusion applies) because insurance cover for that risk is either not ordinarily available in the UK insurance market, or is available there only at a premium or subject to such limitations which in either case the Landlord (acting reasonably) is not willing to accept

VAT means Value Added Tax or other similar tax from time to time replacing or performing a similar fiscal function, at the rate ruling at the tax point of the supply giving rise to the liability to account for the tax.

Waste has the meaning ascribed to it by article 1(a) of Council and Parliament Directive 2006/12/EC on waste, as this may be revised from time to time, implemented in the domestic laws of the UK, and interpreted from time to time by the European Court of Justice and the courts of the UK; and

Working Day means any day other than a Saturday or Sunday on which clearing banks in the United Kingdom are open to the public for the transaction of business.

2. GRANT OF LEASE

IN CONSIDERATION of the rents and other prestations hereinafter specified the Landlord hereby leases to the Tenant (but excluding always assignees and sub tenants legal or voluntary and creditors and managers for creditors in any form except where permitted in accordance with the terms of These Presents; the Premises **TOGETHER WITH** the Pertinents under reservation of the Exceptions and Reservations and that for the Period of this Lease, and the Tenant accepts the Premises and the Common Parts as in all respects in good and tenantable repair and condition and fit for the purposes for which they are respectively let and/or intended to be used.

3. DURATION

The Period of the Lease shall be from the Date of Entry to the Date of Expiry inclusive (herein together with any continuation thereof, whether by tacit relocation, under any statute or for any other reason, called the "**Period of this Lease**").

4. TENANT'S OBLIGATIONS

The Tenant binds itself:-

4.1 To pay the Landlord

4.1.1 (without any written demand therefor) the Rent by equal monthly payments in advance on the first day of each month in each year (such dates being, in this Lease, called the "**Rent Payment Days**") by direct debit or bankers standing order, clear of all deductions whatsoever (unless required by law), the first of such payments for the period from the Date of Entry until the Rent Payment Day immediately following to be made on or before the Date of Entry, the next on the Rent Payment Day immediately following the Date of Entry for the month following and so forth monthly, termly and proportionally in advance thereafter;

4.1.2 within 14 days of written demand without deduction (unless required by law) the Insurance Percentage of the insurance premiums for which the Landlord is liable in terms of the Head Lease in relation to the insurance taken out by the Head Landlord in terms of Clause 6.1.1 (a) (i) and (iii) of the Head Lease;

4.1.3 within 14 days of written demand without deduction (unless required by law) all sums for which the Landlord is liable under Clauses 6.2.1(b) to (f) inclusive of the Head Lease to the extent that such sums pertain exclusively to the Premises and/or in the case of Clauses 6.2.1 (e) and (f) of the Head Lease are due to the act or default of the Tenant or those for whom they are responsible in law and otherwise the Insurance Percentage of such sums;

4.1.4 within 14 days of written demand without deduction (unless required by law) the Insurance Percentage of the premiums properly incurred by the Landlord in complying

with the Landlord's obligations under paragraphs 2.1.1, 2.1.3 and 2.1.4 of the Schedule Part 5 provided that (1) the Tenant shall not be responsible for such premiums which relate to insurance which are duplicates of the insurance taken out by the Head Landlord in terms of the Head Lease and recoverable from the Tenant in terms of Sub-Clause 4.1.2 or 4.1.3 and (2) the Tenant shall be solely responsible for such premiums or any additional premiums which relate to the insurance of the Tenant's Remote Ducting in accordance with the provisions of paragraph 2.1.1 of the Schedule Part 5.

4.1.5 within 14 days of written demand without deduction (unless required by law) the premiums properly incurred by the Landlord in complying with the Landlord's obligation under paragraph 2.1.2 of the Schedule Part 5.

4.1.6 within 14 days of written demand without deduction the Service Charge as defined in at the times specified in and ascertained from time to time as provided for in the Schedule Part 7; and

4.1.7 within 14 days of written demand without deduction a charge to be levied in arrears on or around 23 March, 24 June, 29 September and 26 December in each year (such dates being in this Lease called the **Quarter Days**) for the water supply to the Premises calculated on the basis of the metered water usage and standard utilities water rate charges from time to time.

4.2 To implement, perform and fulfil the obligations and undertakings of the Tenant in These Presents including without prejudice to that generality those set out in the Schedule Part 4.

5. LANDLORD'S OBLIGATIONS

5.1 The Landlord warrants that the Tenant shall and may peaceably hold and enjoy the Premises during the Period of this Lease without any lawful interruption by the Landlord or any person rightfully claiming through, under or in trust for the Landlord.

5.2 The Landlord hereby undertakes to the Tenant throughout the Period of this Lease to implement, perform and fulfil the obligations and undertakings of the Landlord in These Presents including without prejudice to the foregoing generality those set out in the Schedule Parts 5 and 7.

6. IRRITANCY

6.1 If

6.1.1 the Rent herein provided for or any part thereof shall at any time be in arrears for 21 days after the same shall have become due whether legally demanded or not or any other sum due by the Tenant under the terms of These Presents shall at any time be in arrears for 21 days after the same shall become due; or

6.1.2 there shall be any breach of any of the other undertakings on the part of the Tenant contained in These Presents; or

6.1.3 the Tenant shall become apparently insolvent or shall make any formal arrangement with creditors or being a company shall go into liquidation whether voluntary or compulsory (otherwise than a voluntary liquidation of a solvent company for the purpose of amalgamation or reconstruction on terms approved by the Landlord in writing) or have a Receiver, Administrator or Administrative Receiver appointed to all or any part of its undertaking

then and in any such case but subject always to the terms of Clauses 6.2 and 6.3 it shall be lawful for the Landlord at any time thereafter by notice in writing to irritate and thus bring this Lease to an end forthwith and to enter the Premises and repossess and enjoy the same as if this Lease had not been granted but without prejudice to any right of action or remedy of the

Landlord in respect of any previous breach of any of the undertakings by the Tenant contained in These Presents:

- 6.2 Provided always, however, that in the case of a breach, non-observance or non-performance by the Tenant of any of its undertakings contained in These Presents which is capable of being remedied (albeit later) the Landlord shall not exercise any such option of irritancy unless and until it shall first have given written notice to the Tenant and to any heritable creditor in respect of the Tenant's interest in this Lease (provided that the interest of such heritable creditor had prior to the relevant breach, non-observance or non-performance been notified in writing to the Landlord) specifying such breach, non-observance or non-performance and requiring the same to be remedied and intimating its intention to exercise its option of irritancy in the event of said breach, non-observance or non-performance not being remedied within such period as may be stated in the notice (being such reasonable period of time as the Landlord shall stipulate in the notice as being practicable in all the circumstances, which in the case of a breach being the non-payment of Rent or any other monetary sum, however, shall be specified by the Landlord as being a period of 21 days only) and the Tenant or such last-mentioned heritable creditor shall have failed to remedy the same within said period.
- 6.3 And provided further that in the case of the Tenant being a limited company going into liquidation (other than for the purposes of reconstruction or amalgamation as aforesaid) or having a Receiver, Administrator or Administrative Receiver appointed or in the case of the Tenant or any of them being an individual or individuals having a trustee or curator or judicial factor appointed under a Trust Deed or by order of a Court each of the said parties being hereinafter called the **'Insolvency Representative'** then and in any such event, the Landlord shall allow the Insolvency Representative (provided such Insolvency Representative personally accepts within 21 days of their appointment responsibility for payment of Rent (whether due in respect of a period occurring before or after the date of appointment of such Insolvency Representative) and for the performance of all of the other obligations of the Tenant in terms of These Presents (including performance of any outstanding obligations which may subsist at the date of appointment of the Insolvency Representative) a period of nine months from the date of the appointment of such Insolvency Representative in which to dispose of the Tenant's interest in These Presents and shall only be entitled to exercise its option of irritancy on the grounds of the appointment of the Insolvency Representative if the Insolvency Representative shall have failed to dispose of the Tenant's interest by the end of the said period, and during the said period of nine months the Insolvency Representative shall be entitled to the same rights as the Tenant hereunder, save for the provisions of Clause 6.2 and without limitation the Landlord shall deal with any request for consent to assign this Lease made by such Insolvency Representative in the same manner as if the request had been made by the Tenant.

7 NO IMPLIED SERVITUDES

Nothing contained in These Presents shall by implication of law or otherwise operate or be deemed to confer upon the Tenant any servitude right or privilege whatsoever over or against any property which adjoins or is in the vicinity of but is not part of the Development.

8. NO RESTRICTIONS ON OTHER PROPERTY

Nothing contained or implied in These Presents shall impose or be deemed to impose any restriction on the use of any land or building or premises not comprised in the Premises or give the Tenant the benefit of or the right to enforce or to have enforced or to permit the release or modification of any undertaking, agreement or condition entered into by any purchaser from or by any tenant or occupier of the Landlord in respect of property not comprised in the Premises or to prevent or restrict in any way the development of any such property but not so as substantially to interfere with or materially adversely to affect the access, egress, visibility of the Premises, servicing of the Premises or the quiet enjoyment and use of the Premises by the Tenant.

9. NO COMPENSATION

Except to the extent that any statute prohibits or modifies the right to compensation being excluded or reduced by agreement neither the Tenant nor any sub-tenant (whether immediate or derivative) shall be entitled on quitting the Premises or any part thereof to claim any compensation from the Landlord under any statute whether enacted before or after the Date of Entry.

10. ABATEMENT OF RENT

10.1 All monies payable by the Insurers in respect of the Loss of Rent and Service Charge by virtue of any policy of insurance effected under These Presents shall be paid by the Insurers to the Landlord and shall be accepted by the Landlord in satisfaction pro tanto of the whole (or a fair proportion thereof according to the nature and extent of the damage giving rise to the relevant insurance) of the Rent and the Service Charge payable by the Tenant hereunder and the Tenant shall do soon as reasonably practicable at the request of the Landlord give to the Insurers such authority or instruction as the Insurers may require to give effect to the provisions of this Clause 10.1. The provisions set out in Clause 10.2 below shall operate independently of the provisions contained in Clause 10.1 such that any under insurance by the Landlord in respect of Loss of Rent and Service Charge shall not deprive the terms of Clause 10.2 operating in any respect.

10.2 In case the Premises and/or the Tenant's Remote Ducting or any part thereof or any part of the Development upon which the Premises and/or the Tenant's Remote Ducting depend for access, fire escape, egress, shelter, support, servicing or other necessary purposes shall at any time during the Period of this Lease be so damaged or destroyed by an Insured Risk so as to render the Premises and/or the Tenant's Remote Ducting unfit for beneficial occupation and use in accordance with the terms and provisions of These Presents, then (except to the extent that the insurance monies shall be wholly or partially irrecoverable by reason solely or in part of any act or default of the Tenant or those for whom the Tenant is legally responsible and the Tenant shall not have reimbursed to the Landlord a sum equivalent to the amount by which such insurance monies are rendered irrecoverable) the Rent and the Service Charge or a fair proportion thereof respectively according to the nature and extent of the damage sustained shall be suspended until the earlier of (i) the expiry of the period of three years commencing on the date of occurrence of such damage or destruction and (ii) the date on which the Premises and the Tenant's Remote Ducting shall again be rendered fit for such beneficial occupation and use. In the event that the Tenant shall have pre-paid any Rent or Service Charge sums relating to the period during which abatement of Rent and/or Service Charge shall apply in terms of this Clause 10.2 then such sums shall properly be refunded to the Tenant in whole.

10.3 If such damage or destruction has not been repaired and reinstated by the expiry of the period of three years commencing on the date thereof then either party may by notice served on the other party at any time within six months of the expiry of such period but prior to such repair or reinstatement invoke the provisions of this Clause 10.3 and thereupon:-

10.3.1 this Lease will automatically terminate but without prejudice to the rights of either party in respect of any antecedent breach; and

10.3.2 all money received in respect of the insurances effected by the Landlord under this Lease shall belong to the Landlord.

10.4 In case the Premises and/or the Tenant's Remote Ducting or any part thereof or any part of the Development upon which the Premises and/or the Tenant's Remote Ducting depend for access, fire escape, egress, shelter, support, servicing or other necessary purposes shall at any time during the Period of this Lease be so damaged or destroyed by Uninsured Damage so as to render the Premises and/or the Tenant's Remote Ducting unfit for beneficial occupation and use in accordance with the terms and provisions of These Presents then the Rent and the

Service Charge or a fair proportion thereof respectively according to the nature and extent of the damage sustained shall be suspended until the earlier of (i) the date on which the Premises and the Tenant's Remote Ducting shall again be rendered fit for such beneficial occupation and use in terms of Paragraph 2.5 of Part 5 of the Schedule to this Lease; and (ii) the date on which this Lease shall be terminated in accordance with the terms of the said Paragraph 2.5 of Part 5 of the Schedule to this Lease. In the event that the Tenant shall have pre-paid any Rent or Service Charge sums relating to the period during which abatement of Rent and/or Service Charge shall apply in terms of this Clause 10.4 then such sums shall properly be refunded to the Tenant in whole.

11. NOTICES

- 11.1 Any demand, notice, request, consent or approval under These Presents shall be in writing.
- 11.2 Any such demand, notice, request, consent or approval to the Tenant shall be sufficiently served if sent by Recorded Delivery Post to if the Tenant shall be a limited liability partnership or other incorporated body to its Registered Office and (if the Tenant shall be a natural person) to his last known address in Great Britain or Northern Ireland and if the Tenant shall be a firm other than a limited liability partnership, to each of, and any one or more of the partners thereof at the Premises and in any other case to the Tenant at the Premises.
- 11.3 Any such demand, notice, request, consent or approval to the Landlord shall be sufficiently served if sent by Recorded Delivery Post to if an incorporated body, its Head or Registered Office or (in any other case) shall be sufficiently served if sent by Recorded Delivery Post to it or him at its or his last known address in Great Britain or Northern Ireland and for as long as the Landlord is Aberdeen City Council shall be sufficiently served if sent by Recorded Delivery post to its principal office from time to time.
- 11.4 Any such demand, notice, request, consent or approval sent by Recorded Delivery Post shall be deemed duly served at the expiry of one Working Day after the day of posting. In proving service by Recorded Delivery Post it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Tenant or the Landlord (as the case may be) in accordance with this Clause and posted to the place to which it was so addressed.

12. DEMAND FOR RENT OR OTHER SUMS

The demand for and/or acceptance of Rent (or any other monies due by the Tenant under this Lease) by the Landlord or its agents shall not constitute and shall not be construed to mean a waiver of

- 12.1 any of the obligations on the part of the Tenant contained or referred to in this Lease or of the Landlord's remedies for the non-performance or non-observance thereof; or
- 12.2 the Landlord's right to review the Rent at any particular time.

13. DISCLAIMER OF LIABILITY

Except to any extent that (a) the same results from negligence or wilful act or neglect on the part of the Landlord or those for whom the Landlord is legally liable or from a breach of the Landlord's obligations incumbent upon the Landlord in terms of These Presents; or (b) the Landlord is able to obtain indemnity under the insurances effected by the Landlord in terms of These Presents, the Landlord shall at no time become liable to the Tenant (except to the extent (if any) to which the Unfair Contract Terms Act 1977 otherwise provides) for:

- 13.1 any loss, damage or expense sustained by the Tenant by or through any defect, decay, inadequacy, want of repair or decoration or otherwise in the Premises or the Development or any part thereof or in or arising from the choking, bursting, stoppage or failure of the Plant and Equipment, the Conducting Media or any other water supply, waste or other pipes, drains, sewers, flues, conductors, gutters, ducts, water courses, cisterns or others; or

13.2 any loss, damage or expense caused to the Tenant through any act or omission of the proprietors, tenants or occupiers of the Development or any property which adjoins or is in the vicinity of the Development; or

13.3 any failure or omission at any time or from time to time during the Period of this Lease to perform, provide, supply or procure all or any of the obligations under the Schedule Part 5 or otherwise in terms of These Presents if and to the extent that it has been prevented, hampered or restricted from so doing by reason of necessary repair or maintenance of the Development, or damage thereto or destruction thereof by any cause or by reason of mechanical or other defect or breakdown or frost or other inclement conditions or unavoidable shortages of fuel, materials, water or labour or by virtue of strikes, lock-outs, non-availability of or restriction upon supplies of materials or labour or suitably qualified staff or other services or inevitable accident, emergency, act of God or by any cause whatsoever or howsoever arising and not within the reasonable control of the Landlord, DECLARING for the avoidance of doubt, that the Landlord shall not be liable by virtue of any provision of this Clause 13.3 to make good or pay to the Tenant any loss suffered by the Tenant which is not in respect of physical damage.

14. LEASE TO CONTINUE IN FULL FORCE AND EFFECT

Save to any extent otherwise expressly provided in this Lease, this Lease shall not be terminated by reason of any damage to or destruction of the Premises or the Common Parts or the Development or any part or parts thereof (howsoever caused) but shall nevertheless remain in full force and effect notwithstanding any rule of law to the contrary.

15. NO WARRANTY

The Tenant acknowledges that,

15.1 notwithstanding the provisions of These Presents the Landlord does not hereby or in any other way give or make nor has given or made at any other time any representation or warranty that any use of the Premises that is permitted under These Presents is or will be or will remain a permitted use within the provisions of the Planning Acts nor shall any consent which the Landlord may hereafter give to any change of use be taken as including any such representation or warranty; and

15.2 notwithstanding that any such use as aforesaid is not a permitted use within such provisions of the Planning Acts as aforesaid the Tenant shall remain fully bound and liable to the Landlord in respect of the obligations undertaken by the Tenant by virtue of These Presents without any compensation, recompense or relief of any kind whatsoever.

16. APPROVALS/CONSENTS

Where in the terms of These Presents, the consent or approval of the Landlord is required

16.1 Such consent or approval shall be in writing.

16.2 The Tenant shall pay the proper and reasonable costs and expenses properly and reasonably incurred by the Landlord, including legal and surveyor's professional fees and Head Landlord's fees in (a) considering any application for consent or approval and (b) documenting each Prior Consent (as defined below) associated therewith; and that whether or not such consent or approval is granted (unless refused in breach of the provisions of These Presents)

16.3 The Tenant shall provide to the Landlord as soon as reasonably practicable such information as the Landlord may reasonably require in relation to such application

16.4 The Landlord shall not unreasonably delay intimating its decision to grant or withhold any consent or approval and if refusing consent where in terms of These Presents consent is not to be unreasonably withheld shall provide written reasons.

- 16.5 If the terms of the Head Lease require the Landlord to obtain the consent of the Head Landlord (hereinafter the "**Prior Consent**") before granting the relevant consent or approval to the Tenant, or otherwise complying with the Landlord's obligations under These Presents, then (1) the grant of the Prior Consent shall also be required; (2) the Landlord shall use reasonable endeavours to procure the grant of the Prior Consent as soon as reasonably practicable; and (3) the reasonable and proper costs of the Landlord incurred in procuring the grant of the Prior Consent shall be the responsibility of the Tenant.

17. RESERVED RIGHTS

Rights excepted and reserved to the Landlord under These Presents are so excepted and reserved to the Landlord and to any person authorised by the Landlord acting reasonably.

18. PARTIAL INVALIDITY

If at any time any of the provisions of These Presents shall become or be held to be of no effect or unenforceable, whether by operation of law or by reason of uncertainty or otherwise, it shall not affect the validity or enforceability of the remainder of These Presents which shall remain in force and effect as if These Presents had been executed with such ineffective or unenforceable provisions eliminated and it is hereby declared the intention of the parties that they would have executed the remaining portion of These Presents without including therein any such parts or portions which may be an ineffective or unenforceable provision.

19. EXHIBITION OF ENERGY PERFORMANCE CERTIFICATE

- 19.1 At the written request of the Tenant, the Landlord shall at the Landlord's cost provide the Tenant with a copy, print, Energy Performance Certificate relative to the Premises held by the Landlord.
- 19.2 If requested in writing by the Landlord, the Tenant shall at the cost of the Tenant provide to the Landlord a copy of any valid current Energy Performance Certificate relative to the Premises obtained by the Tenant or its predecessors as tenant under this Lease or by any sub-tenant of the Premises.

20. ENTIRE AGREEMENT

- 20.1 These Presents set out the entire agreement between the parties to These Presents relative to the lease of the Premises to the Tenant and neither party has entered into These Presents in reliance upon any representation, warranty or undertaking of the other party which is not set out in or referred to in These Presents.
- 20.2 No variation of These Presents shall be valid unless it is in writing and executed by the parties to it in a Self-Evidencing Manner.

21. WAIVER OF RIGHTS

No waiver by either party to These Presents of any of the requirements of, or of that party's rights under, These Presents shall have effect unless given in writing executed by or on behalf of the relevant party in a Self-Evidencing Manner.

22. JURISDICTION

These Presents shall be governed by and construed in accordance with the Law of Scotland and any dispute, difference or question of any kind which may arise between the parties shall be determined in accordance with the Law of Scotland and to any extent that this may be required, the parties to These Presents hereby prorogate the jurisdiction of the Scottish Courts in relation to These Presents.

23. CONSENT TO REGISTRATION

The parties to These Presents consent to registration of These Presents and of any certificate issued hereunder for preservation and execution

IN WITNESS WHEREOF these presents of this and the 16 preceding pages together with the Schedule and the eight plans annexed are executed as follows

SIGNED for and on behalf of **the Landlord** at _____ on _____ 2017 in the presence of:-

Witness

Full Name

Address

Designation

Print name

SIGNED for and on behalf of **the Tenant** at _____ on _____ 2017 in the presence of:-

Witness

Full Name

Address

Designation

Print name

This is the eight Part Schedule referred to in the foregoing Sub Lease of retail unit F at Marischal Square, Aberdeen between ABERDEEN CITY COUNCIL and TONY MACARONI GROUP LIMITED

PART 1 - The Premises

1. The paint, paper, plaster and other decorative finishes applied to the interior of any wall which forms a boundary of the Premises and/or to structural walls, pillars or columns within or which form a boundary of the Premises but (subject to the terms of paragraph 5 below) not any part of such walls, pillars or columns;

- 1 the paint, plaster and other decorative finishes applied to the interior of any wall which forms a boundary of the Premises and/or to structural walls, pillars or columns within or which form a boundary of the Premises but (subject to the terms of paragraph 5 below) not any part of such walls, pillars or columns;
- 2 the floor finishes, including finishing screeds, the lower limit of the Premises being the upper surface of the concrete floor slab;
- 3 the ceiling finishes, the upper limit of the Premises being the lower surface of the concrete slab above;
- 4 the entirety of any non-loadbearing internal walls or partitions both sides of which are within the Premises;
- 5 the inner half severed medially of any of the walls, so far as they are internal, non-loadbearing and so far as they are not structurally dividing the Premises from other parts of the Development but excluding any structural pillars or columns located in or adjoining such walls and also excluding structural pillars or columns within the Premises;
- 6 the shop front and doors of the Premises;
- 7 all additions and improvements to the Premises, including any base building, and
- 8 the Plant and Equipment and Conducting Media each in so far as located within and exclusively serving the Premises.

any part of the Common Parts or

- b the Tenant's and any permitted sub-tenants or other permitted occupiers trade fixtures and fittings (including, without limitation, any oven including pizza oven, freezer, chill cabinet, drinks dispensing equipment or other equipment or apparatus used in the preparation of food).

PART 2

PART 2 – Pertinents

The following rights are granted to the Tenant and those properly and lawfully authorised by or acting on behalf of the Tenant:

1 Access and Egress Etc.

A right of pedestrian access and egress in common with others entitled to use the same over those parts of the Development Common Parts required for access, egress, servicing and emergency egress to and from the Premises;

2 Passage of Utilities

2.1 The free passage of ventilation, heating, water, soil, drainage, gas and electricity, telephone and other services in and through the Conducting Media in so far as serving the Premises provided that the Tenant shall not use or attempt to use any part of the Conducting Media to an extent which in excess of the capacity then designed to bear;

2.2 Subject to the provision in paragraph 2.1 of this Schedule Part 2 the right to install (whether by way of replacement or extension) new or additional conducting media serving the Premises within the ducting designated for this purpose located within the riser as shown shaded red on Plan Riser and shaded red and marked 'Service Riser' Access on Plan Riser and ventilation route and/or new ducting within the said riser, such ducting being the **Tenant's Remote Ducting** and all such conducting media from time to time being the **Tenant's Remote Conducting Media** in compliance with paragraph 15 of the Schedule Part 4; Provided that the installation of any such new or additional conducting media shall not require the consent of the Landlord and that the installation of any such new ducting shall be subject to the prior written approval of the Landlord, such approval not to be unreasonably withheld or delayed where there is sufficient capacity in the relevant riser for such new ducting and having regard to the requirements of other tenants or prospective tenants of the Development. DECLARING that (a) such ducting is for the exclusive use of the Tenant and its sub-tenants and others deriving title from it subject in each case to the Landlord's reserved rights of access to the Premises in terms of These Presents; (b) the Landlord shall not (i) actively grant permission to, and/or knowingly permit, any third party to use or access the Tenant's Remote Ducting and/or (ii) alter, or actively grant permission to, and/or knowingly permit, others to alter, the Tenant's Remote Ducting so as to lessen the level of control over access thereto by the Tenant as existing on the Date of Entry; and (c) the Landlord undertakes to act reasonably and co-operate in entering into any wayleave agreements required (and in procuring consent or compliance from any superior landlord, where properly required) in respect of any such actual or proposed Tenant's Remote Conducting Media subject to its having approved the terms of the relevant such agreement, such approval not to be unreasonably withheld or delayed; and to the Tenant undertaking in terms acceptable to the Landlord acting reasonably to keep the Landlord indemnified against all costs and other arising therefrom. Provided further that in relation to the Tenant's Remote Ducting and the Tenant's Remote Conducting Media the Tenant shall comply with the provisions of paragraph 20 of the Schedule Part 4 (to the extent applicable thereto).

3 Access to other parts of the Development

With the prior written consent of the Landlord (such consent not to be unreasonably withheld or delayed) at all reasonable times during normal business hours, or not less than two Working Days prior written notice, and where there is no reasonable alternative means of access, the right to enter upon such part of the remainder of the Development as may be necessary for the purpose of cleansing, inspecting, repairing, maintaining, or renewing the whole or any part of the Premises and/or the Tenant's Remote Items, subject to the Tenant being bound to exercise such right in a manner as will occasion as little inconvenience and disturbance as is reasonably practicable to the Landlord and neighbouring proprietors or occupiers and subject to the Tenant making good as soon as reasonably practicable all physical damage thereby occasioned.

4 **Right of Support**

The right of support, protection and shelter for the Premises from those parts of the Development upon which the Premises depend for support, protection and shelter.

5 **Basement Bin Store Areas**

The right to have sealed refuse receptacles containing only refuse from the operation of the Permitted Use of the Premises in situ in the Basement Bin Store Area as and designated from time to time in the area for this purpose in terms of the Regulations and to pass through the Basement Common Parts for such purposes over such route as may be designated from time to time in terms of the Regulations.

6 **Service deliveries**

The right to bring service deliveries through the Easement Common Parts.

7 **Roof plant**

The right, subject to complying with the provisions of the Regulations, of obtaining or to obtain consent, under statutory approval, for the installation and/or for overcabling the Common Parts to:-

7.1 To install, maintain and where necessary renew or replace (all at the Tenant's cost) on that part of the roof of Building 1 shown shaded (d) and marked "Retail Plant Space" on Plan "Roof Plant" plant, equipment and apparatus for the provision or supply of services to the Premises in connection with the then permitted use of the Premises in terms of these Presents; and

7.2 To install, maintain and where necessary renew or replace (at the Tenant's cost) pipes and/or cables through the Common Parts containing plant, equipment and apparatus (as stated in terms of paragraph 7.1 above) to the plant and equipment within the Premises (and such routes) as the Landlord approves for this purpose acting reasonably, all pipes and/or cables being along with all apparatus, plant, equipment and apparatus from time to time as referred to in paragraph 7.1 being together the **Tenant's Roof Plant**), all on such terms and subject to such conditions as the Landlord acting reasonably may direct PROVIDED that (A) in exercising the rights conferred in this paragraph 7 the Tenant shall (a) cause the minimum inconvenience reasonably practicable and (b) maintain such Tenant's Roof Plant in good working order and in compliance with all requisite statutory approval, therefore; and (B) the installation of any such Tenant's Roof Plant by the Tenant shall be subject to the provision for reinstatement in that it stands with those specified in paragraph 26 of the Schedule Part 4.

PART 3 - Exceptions and Reservations

There are reserved the rights reserved to the Head Landlord in terms of the Head Lease. In addition the following rights are reserved to the Landlord and those authorised by the Landlord:

1 Passage of Utilities

The right to free and uninterrupted passage of and running of ventilation, heating, water, so, drainage, gas, electricity and telephone and other services in and through the Conducting Media.

2 Entry for Repair

The right to enter upon the Premises with agents, workmen and others and with or without equipment and/or materials for the purposes of:

- 2.1 entering, inspecting, repairing, altering, maintaining or renewing any part of the Common Parts;
- 2.2 entering, constructing, rebuilding and/or altering from the Premises or buildings on any other land adjoining or neighbouring the Premises and/or installing, altering by way of replacement or extension, new or additional parts of any of the Conducting Media and the Plant and Equipment under or near to the Premises or any part or parts thereof;
- 2.3 carrying out invasive inspections and surveys in order to examine the Premises and/or the Common Parts for any reasonably required purpose and based on the results of such inspections or surveys or other relevant information, carrying out works considered by the Landlord acting reasonably to be required or appropriate;
- 2.4 inspecting, maintaining, installing, renewing and replacing any form of service media, drainage and/or piping passing through or adjacent to the Premises and making such connections and;
- 2.5 reporting the Premises as needed and for the purposes of preparing an Energy Performance Certificate for the Premises.

3 Entry for access to service risers

The right to enter upon the Premises with agents, workmen and others with or without equipment and/or materials for the purposes of inspecting, maintaining, installing, renewing and repairing any form of service media and/or piping within the service risers passing through or adjacent to the Premises.

4 Right of Support

The right of support from the Premises for the Basement Common Parts.

5 Right to use walls, etc

The right to take into use all boundary walls of and Conducting Media and Plant and Equipment within the Premises and to connect with or otherwise use the same.

6 Right to attach fixtures to outside walls

The right to affix at any time during the Period of this Lease to the Common Parts (but not within the Premises) any such items which may be considered by the Landlord acting reasonably to be requisite or desirable for the benefit of the occupiers of the remainder of the Development and including but not limited to, fire escapes, information panels, and other articles or structures of a like nature, television aerials and connections, lighting, brackets (with lamps attached), seats, or waste paper receptacles.

7 Scaffolding

The right to erect scaffolding, ladders or other equipment for any purpose connected with or related to the Development, provided that (a) such scaffolding does not materially interfere with the access to, egress from or use and enjoyment of the Premises; (b) such scaffolding shall be erected and maintained for as short a period or periods as is reasonably practicable and shall only be erected where there is no other practical and economical means of carrying out the works other than directly ex adverso the frontage of the Premises; and (c) the Landlord shall permit the Tenant during such period where scaffolding is erected to maintain on the scaffolding throughout such period temporary signs and notices to the effect that the Premises remain open as usual in terms approved by the Landlord (such approval not to be unreasonably withheld or delayed but subject always to the Tenant obtaining all necessary statutory consents in relation thereto).

8 Variation and Control of Common Parts

The right having due regard to the interests of good estate management to

8.1 vary, restrict or extend the Common Parts, the Landlord making good all damage thereby occasioned to the Premises; and

8.2 regulate and control the use of the Common Parts, and in particular to vary, alter, change the use of, close or control access and/or egress to and from the whole or any part thereof (provided that the Landlord shall, where appropriate, provide reasonable alternative access or use which is not materially less convenient when compared to the access which it replaces).

9 Public Realm Common Parts

The right to include within the demise of any other Retail Unit, or license to the tenant of any other Retail Unit, any part or parts of the Public Realm Common Parts.

PROVIDED ALWAYS that:-

- A. Any entry on the Premises by the Landlord or by any person authorised under These Presents by the Landlord to enter, shall be at reasonable times and upon reasonable notice of at least two Working Days or, where entry is required for the purpose of carrying out works in or from within the Premises, of at least five Working Days (save in each case in an emergency when notice shall be required) and subject to the provisos that
 - (a) the Landlord shall comply (and procure that any person authorised by it as aforesaid complies) with any reasonable procedure notified to it by the Tenant in writing in respect of the manner and security of such access; and
 - (b) such entry shall be taken only (i) if there is no other reasonably practicable alternative means of achieving the same purpose without such entry at reasonable cost and within a reasonable timescale; and (ii) for the minimum period reasonably practicable.
- B. The rights reserved under this Part of the Schedule shall be exercised in such a way not otherwise than temporarily to disrupt or prevent the beneficial use and enjoyment of the Premises and the Pertinents and so as to cause the minimum reasonably practicable disturbance to the Tenant and to such beneficial use and enjoyment and to the business carried on within the Premises.
- C. The Landlord shall make good as soon as reasonably practicable all physical damage caused to the Premises and/or to the Tenant's (and/or any other permitted occupier's) fixtures, fittings and others therein in the exercise of such reserved rights provided that the Tenant has taken all reasonable steps to secure such.

PART 3

- D The Landlord shall not be entitled to implement the provisions of paragraph 7 above in such a way as to materially adversely affect the Tenant's beneficial use and enjoyment of the Premises (under exception in relation to the reserved right in paragraph 7 of this Part 3 relating to scaffolding of the External Seating Area) and in particular but without prejudice to the foregoing generality shall not be exercised so as to limit the times during which beneficial occupation and use of the Premises (under exception as aforesaid) and public and employee access to the Premises) is possible
- E The Landlord shall not be responsible for any loss of trade or other consequential loss resulting or alleged to result from entry to the Premises taken in accordance with this Lease unless the Landlord or those for whom they are responsible at any time can be shown to be demonstrably negligent in taking entry to the Premises or whilst taking entry to the Premises

PART 4 - Tenant's Obligations

1 To pay interest on sums overdue

Without prejudice to any other right remedy or power herein contained or otherwise available to the Landlord, if (1) any Rent shall have become due but remain unpaid after the due date (whether formally demanded or not) or (2) Service Charge or other sum of money payable by the Tenant in terms of These Presents shall have become due but remains unpaid 14 days after the due date, to pay on demand to the Landlord interest thereon at the Prescribed Rate from the date when the same became due until payment thereof (as well after as before any judgment).

2 To pay outgoings

To bear, pay and discharge all existing and future rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever, whether parliamentary, local, national or regional (and whether or not of a capital or non-recurring nature) which are at any time during the Period of this Lease payable by the owner or occupier in respect of the Premises save only such as the Landlord is bound by law to pay notwithstanding any contract to the contrary. But declaring that nothing in These Presents, including this paragraph, shall require the Tenant to pay any tax imposed on the Landlord in respect of the receipt of Rent and/or other sums payable hereunder (but which exclusion shall not relieve the Tenant from the obligation to pay VAT on the Rent and/or other sums payable hereunder) or its capital interest in or deemed or actual dealings by the Landlord with its interest in the Premises or inter alia the Premises.

3 To pay charges for gas and electricity

3.1 To pay charges for gas and electricity used or consumed in or upon the Premises and the hire and installation of separate meters therefor during the Period of this Lease if so desired by the Tenant or required by the Landlord (acting reasonably) at the Tenant's own cost.

3.2 To observe and perform at the expense of the Tenant all present and future regulations and requirements of the gas, electricity and water supply Boards or Authorities or companies insofar as applicable to the Premises and to keep the Landlord indemnified from and against any liability arising from breach, non-observance or non-performance thereof insofar as applicable to the Premises and/or the non-payment of the charges levied by the relevant service supplier on the Tenant in respect of any separately metered supplies and any discontinuance of supply resulting therefrom.

4 To pay costs of repair of services

To pay to the Landlord within 10 Working Days of written demand all costs and expenses properly and reasonably incurred by the Landlord in keeping in good and substantial repair and condition such parts of the Plant and Equipment and of the Conducting Media as are situated outside the Premises but serve exclusively the Premises (but excluding the Tenant's Remote Items).

5 To repair, renew and rebuild

At all times throughout the Period of this Lease at the Tenant's expense well and substantially to repair, maintain, decorate, cleanse and glaze and where necessary renew, rebuild and reinstate and generally in all respects keep in good and substantial repair and condition the Premises and the Tenant's Remote Ducting and every part thereof regardless of the age or state of dilapidation of the Premises and irrespective of the cause of the damage necessitating such repair, maintenance, renewal, rebuilding or reinstatement or others, PROVIDED ALWAYS that notwithstanding the foregoing and/or any other provision of These Presents there shall be excluded from the Tenant's obligations any works and others required by reason of damage or destruction which is caused by (a) one of the Insured Risks at the time or any Uninsured Damage (save to the extent that (1) the insurance monies are rendered irrecoverable in whole or in part

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in consequence of any act, neglect, default or omission of the Tenant or those for whom the Tenant is legally responsible and the Tenant has not made good such irrecoverable sum) and/or (2) the cost of reinstatement falls within that part of the excess provision under the relevant policy of insurance which is applicable to the Premises or the Tenant's Remote Ducting, as opposed to the Common Parts or any other part of the Curtilage) or (b) any act, omission or neglect on the part of the Landlord or those for whom the Landlord is responsible in law.

6 To maintain installations

Except to the extent that the same are comprised in the Common Parts (and subject to the proviso to paragraph 5 above in relation to damage or destruction by any of the Insured Risks or any Uninsured Damage) to keep all lighting, heating, ventilating and drainage systems and all water supply, gas and other installations, all firefighting equipment, sprinkler systems and all other machinery, including electric wiring, gas, oil and other pipes situated within and forming part of the Premises in good working order, repair and condition and when necessary to replace the same or any of them with suitable articles or equipment of similar or more modern kind.

7 To decorate

Not less frequently than five yearly during the Period of this Lease (and also during the last year thereof howsoever the same may be determined but not more than once in consecutive years): (a) to paint with two coats of good quality paint (which paint shall in the case of the last such decoration during the Period of this Lease be either white or a colour (or colours) approved in writing by the Landlord, such approval not to be unreasonably withheld or delayed); (b) well and sufficiently otherwise treat all parts of the Premises as are usually or ought to be so treated; and (c) generally to redecorate with good quality materials of their several kinds available in accordance with good standards of workmanship.

8 To keep the Premises clean and tidy

- 8.1 Generally to keep or cause to be kept the Premises in a reasonably clean and tidy condition.
- 8.2 Not less often than once a week to clean the inside and outside of all windows bounding the Premises including those in the shop front and the outside of the shop front itself.

9 To permit entry by the Landlord and others

To permit the Landlord and its agents and all persons authorised by the Landlord at all reasonable times with or without workmen in accordance with and subject to the provisos to the Schedule Part 3 to enter upon the Premises to inspect and examine the same, to view the state of repair and condition thereof and to take a schedule of the Landlord's fixtures and of any dilapidations and to exercise the rights reserved to or conferred upon the Landlord by These Presents and for any other reasonable purpose connected with the interest of the Landlord in the Premises (including any valuation or disposal thereof).

10 To comply with notices to repair

Well and substantially to make good all defects and wants of repair or renewal in the Premises of which notice in writing has been given to the Tenant by the Landlord and for which the Tenant is liable under These Presents, the Tenant being obliged to commence the relevant work within two calendar months (or such other period as the Landlord acting reasonably may specify having regard to the nature of such defects and wants of repair or renewal and the steps required to remedy the same) after the giving of such notice and thereafter to proceed diligently with the execution of the relevant work and to complete the relevant work within four months (or such other period as the Landlord acting reasonably may specify having regard to the nature of such defects and wants of repair or renewal and the steps required to remedy the same) of commencing the same, and if the Tenant shall fail to comply with any such notice within the timescales provided for in this clause it shall be lawful (but not obligatory) for the Landlord (without prejudice to the right of irritancy hereinbefore contained) to enter upon the Premises to

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make good the same at the cost of the Tenant which cost shall be properly incurred and repaid by the Tenant to the Landlord within 14 days of written demand together with all proper and reasonable solicitors' and surveyors' charges and other expenses which may be properly incurred by the Landlord in connection therewith plus interest at the Prescribed Rate on all of the foregoing in each case from the date of demand by the Landlord as well after as before any judgment.

11 Not to introduce dangerous things or vitiate or endanger insurance

- 11.1 Not to bring or permit to be brought into the Premises or any part of the Development or to place or store or permit to be placed or stored or to remain in or about the Premises or any part of the Development any article or thing which is dangerous, offensive, dangerously inflammable, radioactive or explosive and without prejudice to the foregoing generally not to bring any cylinder or bottled gas or burning equipment nor any petrol or inflammable oils or substances into the Premises or the Development without the prior written consent of the Landlord. Notwithstanding the foregoing it is accepted by the Landlord that the Premises may be used by the Tenant to carry on the business of a licensed restaurant including cooking activities incorporating the use of a wood burning pizza oven and that such activities will not be in breach of this clause or any other provision of this Lease provided all proper and reasonable health and safety precautions are taken in carrying out such activities.
- 11.2 Not to carry on or do or permit to be carried on or done therein any act, matter or thing the doing of or omission of which would prevent the Landlord or the Head Landlord from insuring the Development or any part thereof at the ordinary rate of premium (and in the event of the premium being increased to make up the difference within 14 days of written demand) or whereby any insurance effected in respect of the Development would be vitiated or prejudiced or whereby the risk of the Premises or the Development any part thereof being destroyed or damaged by any of the Insured Risks may be increased.
- 11.3 Not without the prior written consent of the Landlord to do or allow to be done anything whereby any additional premium may become payable for the insurance of the Premises or the Development or any parts thereof.
- 11.4 If (1) the Premises are destroyed or damaged by any of the Insured Risks and (2) the insurance monies under any of the insurances maintained by or on behalf of the Landlord in terms of paragraph 2 of the Schedule Part 5 are wholly or partly irrecoverable by reason solely or in part of any act or default of the Tenant or those for whom the Tenant is legally responsible then (and in every such case) the Tenant shall forthwith pay to the Landlord a sum equal to the amount by which such insurance monies are rendered irrecoverable as aforesaid.

12 Not to overload

Not to bring into, place or keep or permit to be brought into, placed or kept in the Premises or the Development any heavy articles in such position or in such quantity or otherwise in such manner howsoever as to overload or cause damage to or to be in the reasonable opinion of the Landlord likely to overload or cause damage to the Premises or the Development and not to permit or suffer any of the Conducting Media or the Plant and Equipment comprised in or used by the Premises to be overloaded as a result of the use of same by the Tenant or other occupiers of the Premises.

13 Not to harm drains etc

Not to allow to pass into any of the Conducting Media any noxious or deleterious effluent or other substance which might reasonably foreseeably cause any obstruction in or injury thereto and in the event of any such obstruction or injury immediately to make good all such damage to the satisfaction of the Landlord acting reasonably or at the Landlord's discretion to pay to the Landlord on demand the Landlord's proper costs of making good all such damage.

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1.1 Provisions as to use

1.1.1 Not to use the Premises or permit the Premises to be used, otherwise than for the Permitted Use without the Landlord's prior written consent, such consent not to be unreasonably withheld or delayed provided always that it is declared that the Permitted Use excludes any of the uses prohibited by the following paragraphs 1.4.2 and 1.4.3.

1.4.2 Not to use or permit the Premises or any part thereof to be used for any

- (1) Unduly noisy, noxious, offensive or dangerous trade, manufacture, research business or occupation; or
- (2) illegal purpose; or
- (3) the production, sale, distribution, hire or storage of pornographic material; or
- (4) gaming or gambling; or
- (5) employment agency, betting shop, or amusement arcade, or for any purpose connected with betting or gambling or football or other pools; or
- (6) form of public entertainment (excluding any ancillary to the Permitted Use); or
- (7) residential or sleeping accommodation; or
- (8) sale by auction, or public meeting, or political meeting (other than in each case as ancillary to the Permitted Use); or
- (9) keeping of any animal, fish, reptile or bird anywhere on the Premises; or
- (10) for the purpose of a club where alcoholic liquors are supplied or consumed; or
- (11) any relevant residential purpose or any relevant charitable purpose (as the expressions "relevant residential purpose" and "relevant charitable purpose" are defined in the Value Added Tax Act 1994)

and not to do or suffer to be done on the Premises any act or thing whatsoever which is a legal nuisance.

1.4.3 For so long as the Hotel is operating under the "Marriott" brand not to use or permit the Premises or any part thereof to be used for or (as the case may be) as any

- (1) activities which emit loud or obnoxious noise or bright lights (such as strobe lights) that are audible by, or visible to, persons in the Hotel if in the opinion of the Landlord these activities may repeatedly and not only at exceptional occasions materially adversely affect the reputation of the Hotel or the satisfaction of the Hotel guests;
- (2) a store which primarily sells discounted merchandise, such as a liquidation outlet, thrift store, pawn shop or flea market;
- (3) an automobile repair or paint shop;
- (4) selling, leasing, exchanging, displaying, advertising or otherwise offering sexually explicit materials or services;
- (5) selling paraphernalia associated with illegal or dangerous drugs;
- (6) a mortuary or cemetery;
- (7) an assisted-suicide facility;

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- (8) storing or selling explosives or any dangerous or hazardous material (excluding fireworks); or
- (9) any other purpose that is in the opinion of the Landlord inconsistent with an international hotel or that in the opinion of the Landlord may adversely affect the character, standard or reputation of the Hotel.

5 Alterations

- 15.1 To comply with the provisions of the Head Lease in relation to alterations to the Premises and to the Common Parts, including without prejudice to the generality, Clause 18 of the Head Lease
- 15.2 Except with the previous consent in writing of the Landlord and in accordance with drawings and specifications previously submitted to and approved in writing by the Landlord (which consent and approval shall not be unreasonably withheld or delayed) in the case of non structural alterations, works which are otherwise non structural not being treated as structural by reason only of the need to make non structural fixings to the Common Parts, not to cut, remove, divide, alter, move, join or change Premises
- 15.3 PROVIDE that: (1) no consent pursuant to paragraph 15.2 shall be required for the installation, alteration and/or removal of suspended ceilings, floor coverings, light fittings, demountable partitioning and/or telecommunication or other cabling; (2) the Tenant shall not without the previous consent in writing of the Landlord (which consent and approval shall not be unreasonably withheld or delayed) carry out any alterations to the Premises which would, or may be reasonably expected to, have an adverse effect on the asset rating in any Energy Performance Certificate commissioned in respect of the Premises; or any part of the Development; (3) the Landlord may, as a condition of giving any such consent or approval as aforesaid, require the Tenant to enter into such reasonable undertakings with or to the Landlord as the Landlord may reasonably require in regard to the execution of any such works and the reinstatement of the Premises at the end or sooner determination of the Period of this Lease (howsoever the same may be determined) or otherwise, including provision to the effect that the Tenant will bear the whole costs of the foreshaid works; (4) if the Tenant fails to observe the conditions set out in this paragraph 15 it shall be lawful for the Landlord to enter upon the Premises and remove any alterations and additions and execute such works as are necessary to restore the Premises to their former state and the proper and reasonable expense thereof (including proper and reasonable surveyors' and other professional fees) shall be paid by the Tenant to the Landlord within 14 days of vouched written demand; (5) notwithstanding that consent to works may not be required pursuant to proviso (1) hereof no such works shall proceed until the Tenant shall have provided to the Landlord details (including where applicable plans and specifications) of such works including to the extent comprised therein any non-structural fixings to Common Parts; and (6) where the consent of the Head Landlord is required under the Head Lease to any proposed works the Landlord undertakes to use reasonable endeavours to apply for and pursue the application with all reasonable speed
- 15.4 Not to interfere with or make any alteration, connection, disconnection or addition to the electrical installation or the sprinkler and fire alarm systems or to any part of any Dedicated Comfort Cooling System or any Common Comfort Cooling System or any Common Ventilation System or to the sealed service ducts (if any) located within the Premises other than the Tenant's Remote Ducting save in a manner previously approved by the Landlord in writing (which consent and approval shall not be unreasonably withheld or delayed) and in accordance with the terms and conditions laid down by the Institution of Electrical Engineers and the regulations of the Electricity and Water Supply Authorities and not to erect any pole, mast or wire (whether in connection with radio or television or telephonic communication or otherwise) on the exterior of the Premises or on the Common Parts

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15.5 At all times to provide the Landlord with sufficient information with regard to the reinstatement value of all permitted alterations or additions made in terms of this paragraph 15.

15.6 Without prejudice to the foregoing provisions of this paragraph 15 -

15.6.1 The Tenant shall be obliged to give notice to the Landlord forthwith of the commencement in connection with the Premises of a project within the meaning of the CDM Regulations which is to be carried out by the Tenant or any party deriving title from it.

15.6.2 Before commencing any such project the Tenant shall (1) make a written election that it is to be treated as the only client in respect of the project for the purposes of the CDM Regulations and (2) deliver a copy of such election to the Landlord. To any extent that the Landlord may, in relation to such project, be a client for the purposes of the CDM Regulations, the Landlord agrees with such written election by the Tenant.

15.6.3 The Tenant shall comply with its obligations under CDM Regulations in relation to that project, including (without limitation) giving any required notification of such project to the Health and Safety Executive.

15.6.4 At the Landlord's option the Tenant shall either

(1) maintain and update the Health and Safety File relating only to the Premises in relation to such project, make any such Health and Safety File available on reasonable prior notice throughout the Period of this Lease for the Landlord's inspection, provide to the Landlord on request such information and copies of documents from any such Health and Safety File as is reasonably required by the Landlord and deliver any such Health and Safety File to the Landlord at the date of expiry or earlier termination of this Lease; or

(2) if requested by the Landlord, procure delivery to the Landlord following completion of the works in any such project of all information and documents relating to such project that are required under the CDM Regulations to be kept in the Health and Safety File maintained by the Landlord and procure that such any further information or documentation as may be required by the CDM Regulations to keep such Health and Safety File up to date in relation to such project are delivered to the Landlord as soon as reasonably practicable once such are available.

15.6.5 The Tenant shall grant as beneficial owner to the extent it is able (or use reasonable endeavours to procure that the beneficial owner shall grant) to the Landlord a royalty free, irrevocable and non exclusive licence to use and copy any item or information contained in the Health and Safety File by reason of its addition in terms of paragraph 15.6.5 for any purpose connected with the Development.

15.6.6 The Landlord and the Tenant agree that no partnership or agency shall be created consequentia upon the provisions of this paragraph 15.6 or such works.

15.6.7 The Tenant undertakes to indemnify the Landlord in respect of all liability, loss, damage, actions, proceedings, costs, claims and demands and expenses suffered or incurred by the Landlord as a result of -

(1) any breach by the Tenant of, or failure by the Tenant to comply with its obligations under the CDM Regulations or this paragraph 15.6; or

(2) the items and/or information contained within the Health and Safety File by reason of its addition in terms of paragraph 15.6.5 being incorrect or misleading or incomplete.

16 To obtain permission for signs

Not at any time during the Period of this Lease to affix or exhibit or permit to be affixed to or exhibited in or upon any part of the Premises or the Common Parts or projected therefrom so as in each case to be visible from outside the Premises, any advertisement, flashlight or other sign or thing whatsoever (except such as is required by Statute or other regulatory provision or shall have been approved in writing by the Landlord, which consent and approval shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, the Tenant will not require consent for its standard signage and branding conforming with its national trading style to the extent located within the area marked "Signage Zone" on the Plan "Signage Zone".

17 Alienation

17.1 Not partially to assign These Presents

17.2 Not partially to charge These Presents

17.3 Not partially to sub-let the Premises

17.4 Not to assign or charge the whole of the Tenant's interest in These Presents without the prior written consent of the Landlord, which consent shall not be unreasonably withheld or a decision thereon unreasonably delayed in the case of an assignee or chargee of the whole of the Premises which is

17.4.1 as regards a proposed assignee) respectable and responsible and demonstrably capable of fulfilling the obligations incumbent upon the Tenant under These Presents and of sound financial standing; and

17.4.2 as regards a proposed chargee) a *bona fide* creditor demonstrably capable of fulfilling the obligations incumbent upon the Tenant under These Presents and of sound financial standing;

17.5 Not at any time to sub-let or agree to sub-let the whole of the Premises without the prior written consent of the Landlord, which consent shall not be unreasonably withheld or a decision thereon unreasonably delayed in the case of a sub-tenant, which is respectable and responsible and demonstrably capable of fulfilling the obligations proposed to be undertaken by such sub-tenant, and except at a rent which at the date when occupation shall commence is not less than the then open market rent for the Premises (all grassums, premiums, lump sum commutations of rent and rent free periods (save any negotiated in the open market as being of a length to enable the sub-tenant to fit out the sub-let premises) being prohibited) and not to permit the reduction of rent payable by any sub-tenant; and to ensure that in any permitted sub-lease there shall be provisions that

17.5.1 the obligations on the part of the Tenant herein contained (save for payment of rent, Service Charge and other monetary sums) so far as the same affect the premises sub-let by any such sub-lease shall be enforceable by the Landlord in case of default as well against the sub-tenant as against the Tenant and shall be treated as a default under These Presents;

17.5.2 the sub-tenant thereunder shall be prohibited from (1) granting any sub-under lease or (2) assigning its interest under such sub-lease without the consent of the Landlord (which consent shall not be unreasonably withheld or a decision thereon unreasonably delayed); and

17.5.3 are compliant with Clause 4.13.2(b) of the Head Lease

17.6 Not at any time to vary or agree to vary in any respect whatsoever the terms of any permitted sub-lease of the Premises or any part thereof without the prior written consent of the Landlord, which consent shall not be unreasonably withheld or a decision thereon unreasonably delayed

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17.7 Save as provided for in this paragraph 17 or any other provision of These Presents the Tenant may share occupation of the Premises with any Group Company provided that:

- (i) no relationship of landlord and tenant or other occupancy rights is, are created which may be binding on the Head Landlord or the Landlord;
- (ii) any such sharing must cease immediately upon the relevant Group Company ceasing to be so related to the Tenant;
- (iii) the Tenant shall provide the Landlord with details of all occupiers of the Property from time to time when reasonably requested; and
- (iv) the Tenant must indemnify the Landlord and the Head Landlord and keep the Landlord and the Head Landlord indemnified, on demand, against all costs, charges, expenses, losses, liabilities, damages, claims, demands, proceedings and actions (as the context requires) arising from the acts or omissions of such Group Company or those for whom they are responsible.

17.8 Save as provided for in this paragraph 17, the Tenant may not dispose of or deal with or share or otherwise part with possession of the whole or any part of the Property.

18 Intimation of devolution of Tenant's interest

Within two months after the date of any assignation of These Presents or the grant of any sub-lease or any other devolution of this Lease (in this paragraph 18 a "**Transaction**")

1. to provide to the Landlord two extracts of the deed, document or instrument effecting such Transaction; and
2. to deliver to the Landlord's solicitors a copy of any Energy Performance Certificate issued as a result of the Transaction.

19 To pay Landlord's costs

19.1 To pay to the Landlord all proper and reasonable costs, charges and expenses (including the Head Landlord's costs and expenses, Solicitors' costs, Counsel's, Architects' and Surveyors' and other professional fees and commissions payable to Messengers-at-Arms or Sheriff Officers) properly and reasonably incurred by the Landlord:

19.1.1 incidental to the preparation and service of all notices and schedules requiring the Tenant to remedy any breach of any of the obligations herein contained and legitimately served during or within six weeks after the expiry or other determination of the Period of this Lease (but in the case of a schedule of dilapidations relating only to dilapidations which occurred prior to the expiry or sooner determination of the Period of this Lease howsoever the same may be determined); and

19.1.2 in connection with or procuring the remedy of any breach of obligation on the part of the Tenant provided for by These Presents notwithstanding that any steps taken hereunder may be rendered unnecessary by the Tenant's subsequent compliance with the provisions of These Presents.

19.2 The Tenant shall also free and relieve the Landlord within 14 days of written demand in respect of any liability to pay Land and Buildings Transaction Tax ("**LBTT**") which arises in consequence of any extension or variation to the Lease (to any extent that such liability falls on the Landlord in terms of the LBTT legislation).

20 Statutory requirements

20.1 Free of expense to the Landlord to execute all works as are ordered or in pursuance of any statute

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(including but without prejudice to the generality of the foregoing the Offices Shops and Railway Premises Act 1963, the Factories Act 1961, the Fire (Scotland) Act 2005, the Health and Safety at Work etc. Act 1974 and the Construction (Design and Management) Regulations 2015, all as amended) from time to time directed or required to be done or executed upon or in respect of the Premises or the Tenant's use thereof whether by the owner and/or the landlord and/or the tenant thereon and generally otherwise to comply in relation to the Premises with all the requirements of any statute already or hereafter to be passed and all notices which may be served by the public local or statutory authority, including without prejudice to the foregoing generally the local or national suppliers of services, and (b) the terms of any continuing requirements which may have been imposed in terms of Section 22 of the Building (Scotland) Act 2003, or any acceptance of by the Tenant of any completion certificate in relation to any work done on the Premises or to the Common Parts and not to do or permit to be done on the Premises any act or thing whereby the Landlord may become liable to pay any penalty or to bear the whole or any part of any expenses incurred under any such statute or any other enactments aforesaid. It is agreed always that in so far as any work or other actions to be taken pursuant to this paragraph shall fall within the Landlord's obligations under the Schedule Part 5 the same shall be the responsibility of the Landlord subject to the relevant provisions of the Schedule Part 7 and 8 and in so far as any breach of such Landlord's obligations the same shall be excluded from the paragraph 20.1. PROVIDED ALWAYS that notwithstanding the foregoing and in any event in virtue of These Presents there shall be excluded from the Tenant's obligation any work and others required by reason of damage or destruction which is caused by (1) one or more insured Risks at the time, save with to the extent that (a) the insurance monies are rendered insufficient in whole or in part in consequence of a(n) act, neglect, default or omission of the Tenant or those for whom the Tenant is legally responsible and the Tenant has not made good such recoverable sum, and/or (b) the cost of reinstatement falls within that part of the excess provided under the relevant policy of insurance which is applicable to the Premises as opposed to the Common Parts or any other part of the Building or Building 2, or the Insured Risk.

20.2. Without prejudice to the terms of paragraph 20.1 above as regards the Environment, the Tenant shall

20.2.1 remain solely, free of expense to the Landlord, with all Environmental Law also as relating to the Tenant's use and occupation of the Premises;

20.2.2 not cause or permit any accumulation, generation, spillage, migration, discharge, release or disposal of any Hazardous Substance on, in, under or to the Premises or the Development or from the Premises to any other area of the Environment;

20.2.3 if there is any spillage, migration, discharge, release or disposal of any Hazardous Substance on, in, to the Premises or any other part of the Development which has been caused or permitted by the Tenant or those for whom it is legally liable (hereinafter called a "**Contamination Occurrence**");

(a) forthwith notify the Landlord of the Contamination Occurrence;

(b) take all interim steps as may be necessary or prudent to control, limit or mitigate the effects of the Contamination Occurrence; and

(c) with all reasonable speed take all steps necessary to remove the relevant Hazardous Substance and to remedy the effects of the Contamination Occurrence;

20.2.4 deliver to the Landlord true and accurate copies of all consents, permits, licences, approvals and waivers relative to the Premises under any Environment Law and all notices relative thereto and that as soon as reasonably practicable after the receipt of same by the Tenant from or submission of same to the relevant Environmental or other authority or agency;

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- 20.2.5 not, without first consulting the Landlord and obtaining the Landlord's prior written consent, hereafter make any submission or representation to any such governmental or other authority or agency or give notice to any person (other than the Landlord) of any item specified or referred to in this paragraph 20.2.5.1 and of the Tenant or any other matter or event which would give rise to any costs, liabilities or duty on the part of the Landlord imposed by any Environment Legislation.
- 20.2.5 Notwithstanding any provision contained in this Clause 20 or elsewhere in These Presents, the Tenant shall not be responsible in any respect (including without limitation under any Environment Legislation or Hazardous Substances or Contaminated Premises or any Contamination Occurrence arising from the presence of any such Hazardous Substance where such substance later is shown to have been present in, under or on the Premises prior to the Date of Entry.
- 20.3 With compliance to the terms of paragraph 20.1 above and regards fire safety compliance the Tenant shall comply with its obligations in respect of the Premises under the Fire (Scotland) Act 2005 and its amendments, be amended or re-enacted from time to time and in orders thereunder (including the Fire Safety (Scotland) Regulations 2006) (hereinafter called the **Fire Safety Legislation**). The Fire Safety Legislation shall be complied with by the Landlord and its obligation under the Fire Safety Part 5, the same shall be the responsibility of the Landlord.
- 20.4 The Tenant shall deliver to the Landlord within 15 Working Days of written demand the proper and reasonable costs incurred by the Landlord to ensure compliance by the Landlord in relation to the Premises or the Common Parts with the Landlord's obligations under the Fire Safety Legislation insofar as the requirement to incur such costs is directly or indirectly caused by any work to the Premises carried out by or on behalf of the Tenant or its sub-tenant or permitted occupier, whether or not completed or by the process of carrying out such work, if the cost of the Premises is a breach of this Lease by the Tenant or by its sub-tenant or permitted occupier or by the negligence or breach of contract of any employee of the Premises of the Tenant or its sub-tenants or permitted occupier following any change in the Permitted Use.
- 20.5 The Tenant shall co-operate with the Landlord insofar as is reasonable to allow the Landlord to obtain an Energy Performance Certificate for the Premises.
- 21 **To carry out works required by Insurers**
- Insofar as these relate to the Premises or the use of the Common Parts by the Tenant:
- 21.1 To comply in all respects with the terms and conditions and any other requirements affecting the Premises and the permitted use thereof contained in any insurance policy maintained in respect of the Premises (or in relation to the Premises) and of which the Tenant has notice in writing; and
- 21.2 not to breach the terms and conditions and any other requirements affecting the Common Parts and the permitted use thereof contained in any such insurance policy and of which the Tenant has notice in writing.
- 22 **Planning**
- In relation to the Planning Acts:-
- 22.1 To comply in all respects with the Planning Acts;
- 22.2 As soon as reasonably practicable after receiving any notice or proposal for a notice or order or proposal for an order made, given or issued to the Tenant by any competent authority under or by virtue of the Planning Acts in respect of the Premises to send a copy to the Landlord;
- 22.3 As often as occasion shall require, but subject to the terms of the following paragraph 22.4, at the expense in all respects of the Tenant to obtain any permission(s) as may be required for the

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carrying out by the Tenant of any operations on or at the Premises or for the commencement, continuance or renewal by the Tenant of any use thereof which may constitute development or any step related thereto within the meaning of the Planning Acts

- 22.1 Not to make any application for planning permission, or to appeal against the refusal of the same, without the prior written consent of the Landlord (such consent not to be unreasonably withheld or delayed) and not to enter into any agreement with the planning authority relating to the Premises

23 To inform Landlord of Notices

As soon as reasonably practicable after becoming aware of any occurrence or upon the receipt of any notice, order, requisition or direction which may in each case reasonably be thought capable of adversely affecting the Landlord's interest in the Premises to any significant extent, the Tenant shall as soon as reasonably practicable at its own expense deliver full particulars or a copy thereof to the Landlord

24 To advise Landlord of damage to/defects in Premises

- 24.1 If the Premises are destroyed or damaged, to give notice thereof as soon as reasonably practicable to the Landlord stating if known to the Tenant whether and to what extent such destruction or damage was brought about directly or indirectly by any of the Insured Risks or by any Uninsured Risk

- 24.2 Not to effect any policy of insurance of its own in respect of the Premises or any other part of the Development in respect of the Insured Risks (and in default any insurance money received by or payable to the Tenant under any such any policy of insurance shall be the property of the Landlord) providing that nothing in this Clause shall prevent the Tenant or any other party from insuring against consequential losses as a result of the Premises being destroyed by any of the Insured Risks and retaining any insurance money received in respect of such insurance

- 24.3 To inform the Landlord in writing as soon as reasonably practicable after becoming aware of any defect actually known to the Tenant in the Premises which gives rise to a duty imposed by common law or statute on the Landlord in favour of any person

25 To remedy breaches of Sub-tenants

In the event of a breach, non-performance or non-observance of any of the obligations, conditions, agreements and provisions contained or referred to in These Presents by any sub-tenant of the Tenant or any other permitted occupier of the Premises, at the request of the Landlord, to take and institute free of expense to the Landlord all necessary steps and proceedings to remedy such breach, non-performance or non-observance, without prejudice however to the Landlord's rights to terminate this Lease on account of such breach, non-performance or non-observance

26 To remove

- 26.1 Prior to the expiration or sooner determination of the Period of this Lease free of expense to the Landlord:

26.1.1 To replace any of the Landlord's fixtures and fittings in the Premises which shall be missing, broken, damaged or destroyed with others of a similar character and of equal value

26.1.2 To remove every moulding, sign, writing or painting of the name or business of the Tenant or other occupiers of the Premises or advertisement of a permanent nature from the Premises (and from elsewhere in the Development to the extent erected by them) and to remove all tenant's fixtures and fittings, furniture and effects from the Premises making good all damage caused to the Development by such removal, and

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- 26.1.3. Save to the extent that the Landlord has requested otherwise in writing no less than three months prior to the expiration or sooner determination of this Lease to remove and make good all alterations or additions made to the Premises by the Tenant and those deriving title from it at any time during the Period of this Lease and well and substantially to restate the Premises and also to remove the Tenant's Roof Plant and the Tenant's Remote Conducting Media and to make good all damage caused by such removal;
- 26.2. At the expiration or sooner determination of the Period of this Lease (now or when the same be determined) without any warning away or process of removal to that effect at the entire cost of the Tenant to remove from the Premises and leave the Premises vacant and otherwise in such repaired condition as shall be in accordance with the conditions on the part of the Tenant contained in these conditions (as varied or supplemented by any licence for work or agreement entered into between the Landlord and the Tenant during (or prior to) the Period of this Lease) and to return the keys of the Premises to the Landlord together with the Health and Safety File (if any) relating only to the Premises;
- 26.3. It is provided that A. subject to the proviso to paragraph 15 of this Schedule Part 1 in relation to damage by any of the Insured Risks and Third Party Risks and if such expiration or sooner determination of the Premises shall not be in full compliance with paragraphs 26.1 and 26.2 above the Tenant shall carry out and at its own cost the works necessary to make the Premises so compliant and in default of the Tenant in doing so the Landlord shall be entitled to carry out such work and the Tenant shall reimburse to the Landlord within 10 days of written demand the proper costs incurred by the Landlord in so doing (as shall be evidenced by appropriate vouchers receipts and invoices exhibited to the Tenant) (B. whether such works are carried out by the Tenant or in default by the Landlord there shall in addition be paid to the Landlord by the Tenant a sum equivalent to the lost rent and service charge suffered by the Landlord during the period from such expiration or sooner determination until the earlier of (a) the date falling three months after such expiration or sooner determination and (b) the first date on which all such necessary works have been completed to the reasonable satisfaction of the Landlord (the Landlord being obliged to use reasonable endeavours to have any works carried out without undue delay) such sum to be paid within 10 days of written demand such written demand to be accompanied with reasonable evidence to demonstrate actual loss (declaring that without limitation a bona fide agreement is adopted as necessary with an authorised third party occupier who was ready to take over immediate occupation of the Premises and precluded from doing so by virtue of the Tenant's failure shall constitute sufficient proof of actual loss for the purpose of this provision) and (C) if after the Tenant has removed from the Premises on the determination of this Lease any property of the Tenant remains upon the Premises and the Tenant fails to remove it within 14 days after being requested in writing by the Landlord so to do (providing that the Landlord shall afford the Tenant access to the Premise to permit collection of the relevant item(s)) or if after using its reasonable endeavours the Landlord is unable to make such a request to the Tenant within fourteen days from the first attempt so made by the Landlord
- (1) the Landlord may as the agent of the Tenant sell such property remaining in the Premises at such price or prices as the Landlord may acting reasonably consider appropriate provided that the Tenant will indemnify the Landlord against any liability incurred by it to any third party whose property shall have been sold by the Landlord in the genuine but mistaken belief (which shall be presumed unless the contrary be proved) that such property belonged to the Tenant
 - (2) if the Landlord having made reasonable efforts is unable to locate the Tenant the Landlord shall be entitled to retain the proceeds of sale absolutely unless the Tenant shall claim the same within six months after the date upon which the Tenant vacated the Premises and
 - (3) the Tenant shall reimburse to the Landlord on demand the costs of making good any damage occasioned to the Premises or the Development and/or arising from any actions

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claims, proceedings, costs, expenses or demands made against the Landlord, caused by the presence of such property of the Tenant in or on the Premises or any other part of the Development after the date of expiry or sooner determination of this Lease

27 To pay VAT

To pay to the Landlord in exchange for a valid VAT invoice addressed to the Tenant all VAT (whether chargeable on the rent and/or other monies payable by the Tenant under the terms of this Lease and on all taxable supplies by the Landlord or by anyone on behalf of the Landlord to the Tenant) in terms of this Lease (whether or not such VAT is chargeable in consequence of the exercise of any option to tax in terms of Schedule 10 of the VAT Act 1994) and in every case where in this Lease the Tenant undertakes to pay any sum of money to the Landlord such amount shall be regarded as being exclusive of all VAT which may from time to time be legally chargeable thereon. Providing that the Tenant shall not be obliged to make payment of VAT chargeable to the Landlord or any third party and for which the Tenant may be responsible on reimbursement basis under this Lease to the extent that such VAT is recoverable by the Landlord as input tax.

28 Security

To ensure that all entrances and exits from and to the Premises from or to the Common Parts are held lock fast and secure outwith such times during which the Tenant or any employees of the Tenant is actually present in the Premises and not wilfully or negligently to do anything which would cause any entrances or exits of the Development onto the public highway to be left unsecured save that this shall not apply to any entrances or exits which are from time to time the subject of security arrangements provided and operated by the Landlord and/or to the extent incompatible with fire or other emergency evacuations or drills and/or other regulatory requirement.

29 Contact Names

To ensure that at all times the Landlord has notice of the names, home addresses and home telephone numbers of at least two responsible representatives of the Tenant.

30 Not to prejudice/acknowledge servitudes

30.1 Not by building or otherwise to stop-up or darken any window or light in the Premises nor to stop-up or obstruct any access of light enjoyed by any other parts of the Development nor permit any new wayleave, servitude, privilege or encroachment to be made or acquired into, against or upon the Premises and in case any such servitude, right, privilege or encroachment shall be made or attempted to be made to give notice thereof as soon as reasonably practicable to the Landlord upon becoming aware of the same and to permit the Landlord and its agents to enter upon the Premises in accordance with Part 3 of the Schedule for the purpose of ascertaining the nature of any such servitude, right, privilege or encroachment.

30.2 Not to give to any third party any acknowledgement that the Tenant enjoys the access of light to any of the windows or openings in the Premises by the consent of such third party nor to pay to such third party any sum of money nor to enter into any agreement with such third party for the purpose of inducing or binding such third party to abstain from obstructing the access of light to any windows or openings and in the event of any of the owners or occupiers of adjacent land or buildings doing or threatening to do anything which obstructs the access of light to any of the said windows or openings to notify the same as soon as reasonably practicable to the Landlord upon becoming aware of the same and to permit the Landlord to bring such proceedings as it may think fit against any of the owners and/or occupiers of the adjacent land in respect of the obstruction of the access of light to any of the windows or openings in the Premises.

31 Fire/Emergency Systems

Subject always to the provisions of paragraph 15.4 of this Part 4 of the Schedule, to connect any fire detecting, alarm, extinguishing plant and systems and emergency lighting installed within the Premises by the Tenant to the Conducting Media insofar as the Conducting Media allow such connection and to operate and maintain such fire detecting systems and others in accordance with the reasonable directions of the Landlord and the directors of the local Fire Authority.

32 Title matters

32.1 Without prejudice to the Tenant's entitlement to, and to exercise, the Easements in accordance with their terms, not to do or omit to do anything in breach of the Tenant's obligations in this Lease which conflicts with the whole provisions specified or referred to in the Title Deeds insofar as these remain valid and enforceable.

32.2 To do nothing and not to do nothing in breach of the Tenant's obligations in this Lease which might cause the Landlord to be in breach of the agreement's obligations, burdens, conditions and others contained or referred to in the Title Deeds insofar as these remain valid and enforceable.

32.3 Should the Tenant wish to exercise any right which it may have to enforce any title condition or other burden to which the Premises are entitled against a third party, then it is not to do so without first obtaining the consent of the Landlord, which consent will not be unreasonably withheld or a decision thereon unreasonably delayed and may be granted subject to such reasonable conditions as the Landlord may impose and (2) to pursue any such enforcement at its own cost.

33 External Seating Area

33.1 Not to use the External Seating Area otherwise than as an external seating area for customers of the retail and business being carried out on the remainder of the Premises. No standing customers are permitted on the External Seating Area.

33.2 To furnish the External Seating Area only with high quality tables, chairs and complementary furniture and furnishings associated with the use of the External Seating Area for the purposes specified in paragraph 33.1.

33.3 When the Premises are not open for trading purposes, to remove all tables, chairs and associated furniture and furnishings referred to in paragraph 33.2 from the External Seating Area and to store the same within the remainder of the Premises, leaving the External Seating Area clear of any such furniture and others and in a clean and tidy condition.

33.4 No form of entertainment or performance shall take place on the External Seating Area.

33.5 No acoustic or amplified music (live or recorded) shall be played on the External Seating Area.

33.6 Smoking of tobacco in any form and the use of e-cigarettes (or similar apparatus emitting smoke or vapour) shall not be permitted on the External Seating Area.

34 To Comply with Regulations

To observe, perform and comply with the Regulations, and to use reasonable endeavours to procure that those for whom it is legally liable at the Premises observe, perform, comply with the Regulations. Notwithstanding the foregoing, in the event that there is any conflict as between the terms of the Regulations and the express terms of These Presents then the express terms of These Presents shall prevail.

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35 Regulations

Subject in each case to amendment or variation from time to time in accordance with paragraph 3b hereof

35.1 *Not to obstruct, etc*

The Tenant shall not obstruct any part of the Development used or intended for use as a common area, road, ramp, turning area, footway, stairway or corridor or use the same in a manner which may cause legal nuisance or damage to the Landlord or to the tenants or occupation of any other part of the Development or to other persons lawfully using such parts

35.2 *Delivery and Dispatch of Goods*

No goods shall be left unattended in the Common Parts during delivery or despatch to or by the Tenant at the Premises and all vehicles making such deliveries to or despatches from the Premises shall be moved as soon as reasonably practicable where reasonably required by or on behalf of the Landlord

35.3 *Loudspeakers etc*

No loudspeaker or other means of sound amplification or reproduction shall be used within the Premises in such a manner as to be readily audible from outside the Premises

35.4 *Fire etc safety*

35.4.1 All staff of the Tenant at the Premises shall be fully acquainted with such fire and evacuation drills, bomb alert procedures and relevant security Regulations as may be announced from time to time by the Landlord in accordance with Fire Safety Legislation

35.4.2 All means of escape, including without limitation any fire lighting, if designated in accordance with the Fire Safety Legislation, must be kept clear of obstructions at all times and signs indicating such means of escape must be unobstructed at all times

35.5 *Not to alter Sprinklers etc*

The Tenant shall not make any alterations or addition to any sprinkler system or any other fire precaution, detection or fighting equipment or system in the Premises without the prior consent in writing of the Landlord (such consent not to be unreasonably withheld or delayed) and where required by the Landlord shall connect into alarm systems for the remainder of the Development. The Tenant shall also keep the Premises sufficiently equipped with fire extinguishing apparatus in good working order and shall ensure that the same is readily accessible for use

35.6 *To suppress equipment*

The Tenant shall not install or use or permit to be installed or used in the Premises any electrical equipment without having affixed thereto efficient suppressers so as to prevent excess vibration or noise disturbance or interference with radio or television reception (including any equipment provided by the Landlord from time to time forming part of the Common Parts in relation to the receiving of radio, television or satellite transmissions) in the Development

35.7 *Smoking*

The Tenant shall not permit any of its employees to smoke within the Premises

36 Variation of Regulations

The Regulations at all times be reasonable and proportionate having regard to the aims and intentions in question and may be varied from time to time as required by the Landlord acting

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properly and reasonably in the interests of good estate management (but not so as to conflict with the Tenant's ability to access, ingress, service and beneficially to occupy and use the Premises as otherwise permitted by this Lease) and (b) impose regulations which are materially more onerous on the Tenant than pertained prior to such variation). Any such variation shall take effect at such time as the Landlord may specify by giving at least five Working Days' written notice thereof to the Tenant.

37 Not to commission an Energy Performance Certificate

The Tenant shall not commission an Energy Performance Certificate for the Premises other than as required in relation to any sub-letting permitted by These Presents or otherwise required by law without the Landlord's consent (such consent not to be unreasonably withheld or delayed).

38 To comply with Head Lease

The Tenant shall comply with the whole tenants' (or tenants') obligations contained in the Head Lease in relation to anything relating to the Premises and the Tenant's enjoyment of the Premises, except in so far as it is inconsistent with These Presents, and shall without prejudice to all to the extent that any such obligations expressly and lawfully impose a liability of the Landlord under the terms of These Presents.

39 To indemnify Landlord

Saved to the extent that the Landlord is able to obtain indemnity under the insurances effected by the Landlord in terms of the These Presents, or would have been able to obtain such indemnity had it complied with its obligations to insure hereunder, and subject to the Landlord taking reasonable steps to mitigate such liabilities and others, to indemnify the Landlord on demand in respect of all liability, loss, damage, actions, proceedings, costs, claims, demands or expenses in respect of any injury to or the death of any person or damage to any property or otherwise by, reason of, or arising out of any breach by the Tenant and/or its sub-tenants, employees, agents or others for whom the Tenant is responsible of any of the obligations incumbent upon the Tenant under These Presents or in respect of any interference, disturbance or disruption of any right or privilege by reason of, or arising out of any breach by the Tenant and/or its sub-tenants, employees, agents or others for whom the Tenant is responsible of (1) any right of light, air, drainage or other right now existing for the benefit of any property adjoining or neighbouring the Development otherwise than as to the extent resulting from the existence of the Development per se and/or (2) in the proper exercise of the Premises or (2) any of the obligations incumbent upon the Tenant under These Presents. Provided always that in respect of this clause and any other provision of this Lease where the Tenant is obliged to indemnify the Landlord respect of any matter the Landlord shall at the proper and reasonable cost of the Tenant keep the Tenant advised of all material steps or proceedings which may give rise to any liability on the part of the Tenant under such indemnity and shall have due regard (but without being obliged to follow or implement same) to any reasonable representations made by the Tenant.

40 Travel Plan

The Tenant shall

- (a) be bound by the Travel Plan Framework so far as pertaining to the Premises;
- (b) identify from time to time a staff member employed at the Premises to be the Tenant's transport co-ordinator;
- (c) procure that the person identified pursuant to the foregoing paragraph 40(b) is charged with responsibility for promoting and monitoring the Travel Plan and for liaising with and reporting back to the Travel Plan Co-ordinator.

PART 5 - Landlord's Obligations

1 To repair, etc, the Common Parts

- 1.1 To repair and maintain and when beyond economic repair to renew, rebuild and re-estate in whole or in part the Common Parts regardless of the age or state of disrepair of the Common Parts and irrespective of the cause of the damage, destruction or deterioration.
- 1.2 If the Development or any part thereof is destroyed or damaged then, subject to receiving from the Tenant the sum(s) (if any) due in terms of paragraph 11.4 of Part 4 of the Schedule, and as soon as lawful and reasonably practicable to rebuild or repair the same in accordance with the original plans, elevations and details thereof with such variations as may be necessary or in the Landlord or its managing agent's opinion, the Landlord being bound and obliged to act reasonably in this regard, and to procure that any managing agent also acts reasonably (reasonable having regard both to Statutory provisions, bye-laws and regulations then in force and any planning approval necessary and also to building standards then prevailing) to the intent that the Development shall be reconstructed so as to conform to the current practice and to be substantially comparable to the Development as at the date of such damage or destruction, and so as to afford the Tenant substantial comparable usable premises, services and accesses to the Premises and related services and accesses (including without limitation the floor containing the Tenant's Remote Ducting and the roof area designated for the Tenant's Roof Plant) as entitled to in paragraph 12 and 13 of the Schedule Part 2 respectively, as at the date of damage or destruction.
- 1.3 From time to time and as often and in such manner as the Landlord acting reasonably shall consider reasonably necessary to redecorate, treat and preserve the Common Parts.
- 1.4 As required to replace any damaged glass forming part of the Common Parts and either to replace or procure the replacement of any damaged glass comprised in the shop fronts and doors of the Retail Units other than the Premises.

2 Insurance

2.1 Subject to the PROVISOS after mentioned to:

- 2.1.1 keep or procure the keeping of the Development (other than tenant's fixtures and fittings) and provided in the case of any permitted additions or alterations to the Premises or setting the Premises including the Tenant's Remote Ducting, the value thereof has been intimated to the Landlord, insured with the Insurers against destruction or damage by the Insured Risk in the Full Cost of Reinstatement.
- 2.1.2 insure or procure the insurance with the Insurers of loss of Rent and Service Charge arising from destruction of or damage to the Premises and/or the remainder of the Development by any of the Insured Risks in an amount equal to the Loss of Rent and Service Charge.
- 2.1.3 keep or procure the keeping of adequate insurances in effect with the Insurers in respect of the Landlord's liability in respect of property owner's liability, third party liability and employer's liability in relation to the Premises and the remainder of the Development.
- 2.1.4 insure or procure the insurance with the Insurers of the Plant and Machinery (but only to the extent that such cover is not effected under sub-paragraph 2.1.1 (above)) against mechanical and electrical breakdown, explosion and such third party risks (which may include sprinkler leakage insurance) as the Landlord from time to time reasonably deems appropriate.

PROVIDED ALWAYS that in relation to the insurances referred to in paragraphs 2.1.1, 2.1.2, 2.1.3 and 2.1.4: (1) the Landlord's obligation to put in place and maintain the same applies only to the extent that the relevant insurance cover is available (whether in full, partially or not at all)

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and that at reasonable commercial rates and on reasonable terms from a reputable insurance company on the insurance market in the UK: (2) the Landlord shall be entitled, but not bound, to put in place and maintain the same if such cover is only available at rates in excess of a reasonable commercial rate; and (3) these shall be subject to such exclusions, conditions, limitations or excesses as the relevant insurers may require.

- 2.2 For any sum of monies received by virtue of any such insurance referred to in paragraphs 2.1.1 and 2.1.4 above to be paid out in making good as soon as reasonably practicable the Premises and the remainder of the Development and all other items covered by such insurance and throughout the proviso after mentioned to make up any shortfall between such insurance monies and the cost of such rebuilding and reinstating and making good PROVIDED ALWAYS that:

2.2.1 nothing in this Lease shall oblige the Landlord to rebuild to the extent that it is prevented by circumstances beyond its control; and

2.2.2 its obligation to make up the shortfall shall not apply to the following shortfalls namely:

- (a) those due to and comprising insurance monies which are irrecoverable as a result of an act, neglect, default or omission on the part of the Tenant or those for whom it is legally liable in which instance, where such irrecoverable monies have not been paid to the Landlord by the Tenant; and
- (b) those due to a sum of commercial insurance in excess of that due to under insurance.

- 2.3 The Tenant shall at regular intervals to produce to the Landlord a certificate from the Landlord's insurers stating what risks are covered by the policy or policies effected in terms of the Lease. Presently, the relevant insured amounts and the excesses and conditions applicable thereto including in terms of paragraph 2.4 below) and to what date the premiums have been paid.

- 2.4 The Landlord shall (a) procure that its Insurers in respect of the Insured Risk note on the relevant policy (whether specifically or generically) the interests of the tenants of the Development as a whole or of each of them; and (b) use reasonable endeavours to procure that such note includes a waiver of rights of subrogation, unless loss has been occasioned or contributed to by the criminal or fraudulent or malicious act of the relevant tenant or its sub-tenant; provided always that "reasonable endeavours" shall not in this context include any obligation upon the Landlord to place or threaten to place its insurances cover with a different insurance company.

2.5 Reinstatement/Uninsured Damage

- 2.5.1 If the Premises or any part thereof or any part of the Development upon which the Premises depend for access, support, shelter, servicing, fire escape or other like purpose shall be damaged or destroyed by Uninsured Damage so that the Premises or a part of the same are unfit for or incapable of use, then the Landlord shall within six months after the occurrence of the Uninsured Damage give written notice to the Tenant indicating whether or not the Landlord intends to reinstate the Premises and/or such part of the Development.

- 2.5.2 If the Landlord confirms in writing to the Tenant that the Landlord intends to reinstate the Premises and/or such part of the Development referred to in paragraph 2.5.1 following the occurrence of any Uninsured Damage then, subject to the Landlord obtaining any necessary planning and other permissions, consents, licences and approvals (which the Landlord shall use all reasonable endeavours to obtain as soon as reasonably practicable), the Landlord shall rebuild, reinstate and make good the Premises or the relevant part thereof and/or such part of the Development so damaged or destroyed by Uninsured Damage as quickly as is reasonably practicable at their own expense substantially as the same was or were prior to such destruction or damage.

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and so as to comply with all necessary consents as if the same was or were damaged by the Insured Risk, the provisions of paragraph 2.2 of the Schedule Part 5 relating to reinstating damage by an Insured Risk applying to such reinstatement of Uninsured Damage to the Premises and/or such part of the Development.

2.5.3 If the Landlord serves written notice upon the Tenant pursuant to paragraph 2.5.1 indicating that the Landlord does not intend to reinstate the Premises and/or such part of the Development as aforesaid then either party shall be entitled to terminate the Lease by giving written notice to the other party to that effect, but without prejudice to any claim either party may have against the other in respect of antecedent breach of any of their obligations hereunder but in the case of the Landlord they shall not have right of termination if within three months after the Landlord serves written notice upon the Tenant pursuant to paragraph 2.5.1 indicating that the Landlord does not intend to reinstate the Premises as aforesaid the Tenant serves written notice upon the Landlord that the Tenant shall accept liability for reinstatement of the Uninsured Damage to the Premises and/or such part of the Development and the Tenant shall in the event only that the Tenant serves such notice, reinstate such damage in accordance with their respective obligations set out in Part 5 of the Schedule.

2.5.4 If the Landlord fails to give notice to the Tenant in accordance with paragraph 2.5.1 then either the Landlord or the Tenant may at the expiry of the period of six months referred to in paragraph 2.5.1 terminate this Lease by giving written notice to the other party to that effect but such termination shall be without prejudice to any claim by either party against the other in respect of antecedent breach of their respective obligations under this Lease.

2.5.5 In failing to give the service of a notice by the Landlord to the Tenant pursuant to paragraph 2.5.1 indicating that the Landlord intends to reinstate the Premises and/or such part of the Development, the Premises shall not have been rendered fit to and capable of beneficial occupation or use by the Tenant by the expiry of three years after the date of service of such notice then the Landlord and the Tenant may thereafter at any time prior to the Premises and/or such part of the Development being repaired and reinstated and the Premises being rendered capable of beneficial occupation or use as aforesaid terminate this Lease by giving written notice to the other party to that effect, but without prejudice to any claim either party may have against the other in respect of any antecedent breach of their respective obligations hereunder.

2.6 Any commission or agency fee paid or made to the Landlord in respect of insurances in respect of the Development or any part of it shall be set off against the global cost of procuring and the insurances prior to such insurance costs being allocated and recharged to the Tenant.

3 To clean etc. Common Parts

As appropriate to keep the Common Parts clean and tidy and properly lighted and where appropriate free from obstruction and this obligation shall include regular cleaning of the outside faces of all plate glass forming part of the Common Parts and of the common areas comprised in the Common Parts.

4 To maintain Plant etc. and provide water supply

4.1 To inspect, operate, maintain and repair (and where beyond economic repair renew and replace) and keep in good working order the Common Plant and Equipment and the Common Conducting Media.

4.2 If thought necessary or desirable by the Landlord acting reasonably to arrange for the regular inspection, servicing, cleaning and maintenance by specialist contractors of the Common Plant and Equipment and the Common Conducting Media.

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- 4.3 To maintain a supply of clean fresh water to the Premises through the Common Plant and Equipment and the Common Conducting Media

- 5 From time to time as is necessary in the reasonable opinion of the Landlord acting fairly and reasonably and in accordance with the principles of good estate management to modernise or replace the Common Plant and Equipment and the Common Conducting Media

6 Retail Units

To repair, maintain and where necessary to renew, rebuild and re-estate in whole or in part and keep in good and lockfast when uncoupled the shop fronts and doors of the Retail Unit, other than the Premises or procure that the relevant tenant or other occupier does so

7 Conducting Media

To supply and maintain and where necessary to renew, rebuild and re-estate and keep in good and lockfast at all times all Plant and Equipment and Conducting Media within the Premises and the Premises boundaries situated within the Premises and to taking good care to ensure that the same are kept in good and lockfast condition by the Tenant, subject to the Tenant's compliance with the Working Rules and Conditions and any other rules and regulations

8 To provide services

Subject always to Clause 13.3, to provide throughout the Period of the Lease such of the services referred to in the Schedule Part 8 in such manner as are requisite for the lawful beneficial occupation and use of the Premises for the Permitted Use 12 hours a day on all days of the week, including without limitation, gas, electricity, water supply, heating and emergency egress for all slaves, customers and other invitees of the Tenant

9 To Keep Accounts

To keep in good order the expenditure incurred on or for the Premises in respect of all obligations and liabilities of this Part of the Schedule or incurred under the Schedule Part 8 and to provide the Tenant with a copy of each of the certificates referred to in Paragraph 4 of Part 7 of the Schedule

10 Title Deeds

- 10.1 To comply with and be compliance with all obligations imposed in relation to the Development and the appurtenances thereto and areas serving the same in form of the Title Deeds and any other documents and/or other matters relating to the Development employed by the Landlord in respect of the Development and in particular the Landlord's obligations under the Head Lease except in relation to any obligations which are the responsibility of the Tenant in terms of these Presents

- 10.2 At the written reasonable request and cost of the Tenant to use reasonable endeavours to enforce the obligations of the Head Landlord under the Head Lease insofar as relating to the Premises and at the reasonable written request and cost of the Tenant to apply and diligently pursue an application for the consent of the Head Landlord if (a) required under the Head Lease and (b) such consent is in relation to a matter to which the Landlord acting in accordance with the Lease is either entitled or obliged to grant or consent save for the requirement for Head Landlord's consent

11 Good Development Management and Services

The Landlord shall (a) use their rights and powers as Landlord of the Development so as to procure that the Development is managed and administered in accordance with the principles of good estate management and (b) procure that the Service Expenditure is incurred in accordance with good practice as understood in the retail property industry from time to time

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and in compliance with the current edition from time to time of the RICS Service Charge Code of Practice save insofar as not consistent with the express provisions in this Lease.

12 External Seating Area

The Landlord shall not object to the Tenant occupying the adopted footway adjacent to Premises as an external seating area for its customers provided the Tenant obtains at its cost all necessary licences and permission for use from the local authority and complies with such licences and permissions.

PART 6 - Rent Review

1 Definitions

In this Part of the Schedule the following words and expressions have the following meanings:

Annual Increase	<p>means a sum expressed as a percentage calculated in accordance with the following formula:</p> $A \times \frac{x}{y}$ <p>where:</p> <p>A = the Annual Increase</p> <p>x = the RPI as last recorded and published in the month preceding the Calculation Date to the year preceding the year to which the calculation relates</p> <p>y = the RPI as last recorded and published in the month preceding the Calculation Date to the year preceding the year to which the calculation relates</p>
Calculation Date	means 12 December in each year
Calculation Year	means the period of one year commencing on a Calculation Date and extending on the day immediately preceding the next Calculation Date
Decision Date	means the date upon which the amount of the Reviewed Rent is determined
Deemed Annual Increase	<p>means the Annual Increase subject to a maximum of three per cent and a minimum of one per cent such that:</p> <p>(a) if the Annual Increase for any Calculation Year exceeds three per cent it will be deemed for the purposes of paragraph 2.1 of this Part of the Schedule to be three per cent; and</p> <p>(b) if the Annual Increase for any Calculation Year is less than one per cent it will be deemed for the purposes of paragraph 2.1 of this Part of the Schedule to be one per cent</p>
First Rent Review Date	means 12 December 2022
"Independent Chartered Accountant"	means an independent chartered accountant to be agreed between the parties acting reasonably or failing agreement nominated by the President (or other senior office holder) of the

PART 6

Institute of Chartered Accountants in Scotland on application by either party

"Interval"

means the period of time beginning with the relevant Rent Review Date and ending on the Quarter Day immediately following the Decision Date

"Passing Rent"

means the Rent payable under this Lease immediately prior to the Rent Review Date in question (or which would have been payable but for an abatement of rent)

"Rent Review Dates"

means the First Review Date and the anniversary of the Date of Entry in every fifth year thereafter throughout the Period of this Lease and **"relevant Rent Review Date"** means the Rent Review Date in question

Review Period

means

- (a) in the case of the first review of the Rent under this Lease, the period from the Date of Entry to the First Rent Review Date and
- (b) in the case of subsequent reviews of the Rent under this Lease, the period between two consecutive Rent Review Dates

RPI

means the index figure of the general index of retail prices (a "Retail Price Index") compiled and published in the monthly digests of statistics issued by the Office for National Statistics or any successor ministry or department provided that:-

- (a) if, after the date on which any calculation is carried out using RPI, the bases of computation of the index have changed from that subsisting at the date of the last calculation, any official reconciliation between the two bases of computation published by the Office for National Statistics will be binding upon the parties; and, in the absence of official reconciliation, any adjustment will be made to the figure of the index on the date of any such calculation to make it correspond as nearly as possible to the previous method of computation, and any such adjusted figure must be considered for the purposes of this Lease to the exclusion of the actual published figure; and any dispute regarding such adjustment must be

PART 6

referred to the Independent Chartered Accountant and

- b. if the RFI ceases to exist, there will be substituted for it such other reasonably equivalent index or means of indexation as the parties agree or failing agreement are determined by the Independent Chartered Accountant.

2 Rent Review

2.1 Reviewed Rent

- 2.1.1 At each Rent Review Date, the Rent will be reviewed and revised with effect from and including the relevant Rent Review Date to be such sum (**"the Reviewed Rent"**) as is the greater of:
 - a. the Passing Rent; and
 - b. the sum (**"the Indexed Rent"**) determined by:

- i. increasing the Passing Rent by the Deemed Annual Increase for the first Calculation Year in the relevant Review Period; and
- ii. increasing the outcome of the calculation referred to in (i) by the Deemed Annual Increase for the second Calculation Year in the relevant Review Period; and
- iii. increasing the outcome of the calculation referred to in (ii) by the Deemed Annual Increase for the third Calculation Year in the relevant Review Period; and
- iv. increasing the outcome of the calculation referred to in (iii) by the Deemed Annual Increase for the fourth Calculation Year in the relevant Review Period; and
- v. increasing the outcome of the calculation referred to in (iv) by the Deemed Annual Increase for the fifth Calculation Year in the relevant Review Period;

such that the outcome of the calculation in paragraph (v) shall be the Indexed Rent.

- 2.1.2 If the amount of the Reviewed Rent has not been determined by the parties within thirty days of the relevant Rent Review Date, determination of the level of the Reviewed Rent may be referred on the application of the Landlord or the Tenant for determination by the Independent Chartered Accountant who shall act as an expert and whose determination including as to costs shall be final and binding on the Landlord and the Tenant.

2.2 Payment after Review Date

- 2.2.1 If by the relevant Rent Review Date the amount of the Reviewed Rent has not been determined then, for the Interval, the Tenant must continue to pay the Landlord the Rent in the manner set out in this Lease at the Passing Rent.
- 2.2.2 If the Reviewed Rent payable for the Interval differs from the Passing Rent, the Tenant shall pay to the Landlord (without any requirement for any demand of it by the Landlord) at the expiry of the Interval an amount equal to the difference between the Reviewed Rent and the Passing Rent paid during the Interval and apportioned on a daily basis together with interest on constituent parts of such difference at the rate 3% below the Prescribed Rate from the date or dates such constituent parts would have been payable to the date of payment by the Tenant, and in the event that such sums have not been paid on expiry of the Interval then interest shall be payable thereon in accordance with paragraph 1 of the Schedule Part 4.

2.3 Memorandum

As soon as the amount of the Reviewed Rent payable by the Tenant to the Landlord with effect from the Review Rent Review Date has been agreed or ascertained in accordance with the terms of this Clause, and if required by the Landlord so to do, the parties will execute a separate memorandum specifying the yearly amount of the Reviewed Rent. Any Landlord Buildings Transaction Tax payable in respect of the memorandum and the cost of obtaining free extracts of the memorandum will be for the Landlord's expense and shall be paid by the Tenant.

PART 7 - Service Charge

1. In this Part of this Schedule:-

- 1.1 **Auditor** means an independent professionally qualified accountant or auditor appointed by the Landlord from time to time to prepare accounts and certificates relating to the calculation of the Service Charge
- 1.2 **First Year** means the period from the Date of Entry to the Thirty-first day of December in the calendar year in which the Date of Entry falls
- 1.3 **Last Year** means the period beginning with the First day of January (or such other date as may have been specified in accordance with sub paragraph 1.7 of this Part of the Schedule) immediately preceding the expiration or sooner determination of the Period of this Lease and ending on such expiration or sooner determination
- 1.4 **Managing Agent** means the professionally qualified surveyor or managing agent appointed by the Landlord from time to time (or in the absence thereof the Landlord)
- 1.5 **Service Charge** means the sum calculated in the manner set out in paragraph 2 of this Part of the Schedule and payable in the manner set out in paragraph 5 of this Part of the Schedule
- 1.6 **Service Expenditure** means subject to paragraph 8 below the expenditure referred to in the Schedule Part 8 under deduction of:-
- 1.6.1 costs which would otherwise form part of the Service Expenditure relating to the making good of any damage or destruction arising from an Uninsured Risk or Insured Risk save in respect of damage or destruction caused by or arising from an Insured Risk only to the extent that (1) such costs fall within any normal commercial excess provided under the relevant policy of insurance or (2) the insurance monies are irrecoverable as a result of any neglect, default or omission on the part of the Tenant or its respective employees, agents or others for whom the Tenant is responsible in law or circumstances where such irrecoverable monies have not been paid to the Landlord by the Tenant
 - 1.6.2 the reviews of rents, applications for consent and the lettings and re-lettings of any Lettable Part
 - 1.6.3 any costs, fees or expenses arising or incurred by reason of any neglect, act or omission of the Landlord or those for whom they are legally responsible or any other tenant or permitted occupier of any part of the Development and/or any breach by the Landlord of their obligations under these Presents;
 - 1.6.4 any costs relating to any dealing or deemed dealing or attempted dealing with the Development or any part thereof including collection of any rent, other sums due or otherwise
 - 1.6.5 expenditure on any unlet Lettable Part
 - 1.6.6 costs due by an individual tenant or occupier of any Lettable Part (other than the Tenant) whether or not recovered from them and cost attributable to a Lettable Part whether or not that Lettable Part is actually occupied
 - 1.6.7 costs incurred in respect of the default of any other tenant or occupier of any Lettable Part;
 - 1.6.8 costs incurred by or in connection with any proposed sale and/or lease of the Landlord's interest under this Lease or of any other part of the Development

PART 7

- 1.6.9 all costs (including those of renewal, rebuilding and reinstatement) relating to Conducting Media and/or Plant and Equipment which exclusively serve one Lettable Part;
- 1.6.10 the costs incurred in relation to the original design and construction of the Development (including the Relevant Building (including the provision of Plant and Equipment as part of the original construction));
- 1.6.11 any costs related to promotional and publicity material, plans and specifications, drawings, contracts and/or in relation to selling the Development;
- 1.6.12 VAT (to the extent recoverable by the Landlord) in respect of any costs or expenses forming part of the Service Expenditure;
- 1.6.13 the capital costs of any extension of the Development (including any alterations to the existing Development arising therefrom) and any material redevelopment or discretionary alterations, refurbishment or improvement of the Development;
- 1.6.14 the portion of costs which, in all proper and reasonable circumstances, can be due to improvement, renewal or replacement of the tenancy building (excluding to the extent such costs are for replacement required because such tenancy thing is beyond economic repair or for renewal or replacement of a dilapidated and prudent having regard to the impact of good estate management) and the improvement or renewal or replacement of a direct and reasonable consequence of reasonably renewing or replacing any tenancy thing with a more modern equivalent of the original in terms of purpose, type and quality;
- 1.6.15 any costs incurred by the Landlords or, alternatively, in selling or extending the Development (including the Common Parts) with the boundaries existing as at the Date of Entry;
- 1.6.16 any costs associated with any travel plan or other travel policy imposed by the local Planning Authority in respect of the Development (connected with any variation or extension of the Development (whether actual or proposed) by the Landlord or the Landlord's predecessors in title or any other person (excepting the Tenant) with the consent or agreement of the Landlord).

1 in 1 any contribution to any sinking fund or other rates and for future expenditure

Year - other than in relation to the First Year and the Last Year as herein defined, it means each consecutive period of twelve months beginning with the **First** day of January provided always that in order to fairly determine the Year, it may be a different period of twelve months and that during the transition period be greater or lesser than one year in which case Year shall mean the duration of such transition period.

2 Proportion of Service Charge and Variation of Service Charge Apportionment

- 2.1 The Service Charge shall in relation to any Year other than the First Year and the Last Year consist of the Service Charge Percentage of the Service Expenditure or (pending determination) of the Service Expenditure, the Managing Agent's estimate of the Service Expenditure in terms of paragraph 2 of this Part of the Schedule.
- 2.2 The Service Charge shall in relation to the First Year and the Last Year consist of the Service Charge Percentage of such reasonable part of the Service Expenditure (subject to the proviso referred to in sub-paragraph 2.1 above) and that (in the case of regular or recurring items only but excluding material capital expenditure, which will only be relevant if incurred during the Last Year) whenever this is disbursed or incurred or made during the 12 month period commencing on the first day of the First Year or the Last Year (as appropriate), all as the Managing Agent acting reasonably and in accordance with the principles of good estate management allocates as being fairly and reasonably treated as Service Expenditure in the circumstances.

PART 7

- 2.3 If at any time during the Term of this Lease (1) the extent of the Development and/or the Hotel is adjusted on a permanent basis or (2) the benefit of any of the services performed by the Landlord under this Lease is extended to adjoining or neighbouring property or (3) some other event occurs as a result of which the Service Charge Percentage then applicable to the Premises is no longer appropriate to the Premises or (4) the Landlord in its fair and reasonable discretion determines (in accordance with the principles of good estate management) that the Service Charge Expenditure should be divided into categories (other than as provided in These Presents) and separate Service Charge Percentages introduced in respect of each such category of expenditure or allocated in a different manner to different parts of the Development, then in any of these circumstances the Landlord shall be entitled in its fair and reasonable discretion (in accordance with the principles of good estate management and the RICS Service Charge Code) to vary the Service Charge Percentage and/or to introduce separate Service Charge Percentages for different categories of Service Charge Expenditure in such manner as is fair and reasonable to the tenants of the Development as a whole provided always that the contribution payable by the Tenant shall not be increased on account of any unlet Lettable Parts in the Development nor on account of trading volumes at the Property being higher than at other Lettable Parts.

3 Estimates

The Landlord shall require that the Managing Agent (that within two months before or after the start of each calendar year after the commencement of each Year other than the First Year, but the Tenant shall not be entitled to object to any delay on the part of the Managing Agent) prepare an estimate of the Service Expenditure and Service Charge for that Year and shall in respect of the First Year prepare an estimate of the Service Expenditure and the Service Charge for the First Year. Each such estimate will contain properly detailed heads of expenditure (including a breakdown between those heads of expenditure to which each Service Charge Percentage applies) showing the Landlord's estimate of the Service Charge for the Year and detailing any method of apportionment. The Landlord shall use reasonable endeavours to procure that all estimates are fair and reasonable estimates of the expenditure in question and prepared by the Managing Agent acting reasonably and in accordance with the principles of good estate management.

3.1 Certification

As soon as practicable after the calculation of the Service Expenditure shall have been completed in respect of any Year or part thereof (including the First Year and the Last Year) the Auditor shall certify the amount of the Service Expenditure for that Year.

Such certificate of the Service Expenditure shall in the absence of manifest or demonstrable error be final and binding on the Landlord and the Tenant.

4 Times of Payment

- 4.1 The Service Charge based upon the Managing Agent's estimate of the Service Expenditure in respect of each Year (excluding the First Year) in terms of paragraph 3 above shall be payable by equal quarterly instalments in advance on the Quarter Days.
- 4.2 The Service Charge for the First Year based upon the Managing Agent's estimate of the Service Expenditure for the First Year shall be payable quarterly in advance on the Date of Entry and on whichever of the Quarter Days fall between the Date of Entry and the end of the First Year apportioned pro rata.
- 4.3 Any credit due to the Tenant at the end of any Year other than the Last Year shall be retained by the Landlord and deducted from the immediately succeeding payment due by the Tenant for the Service Charge and any credit due to the Tenant at the end of the Last Year shall be paid to the Tenant within 10 Working Days of its quantification (and in any event within 15 months of commencement of the Last Year). Any underestimate of Service Charge for any Year and/or the First Year and/or the Last Year shall be payable by the Tenant to the Landlord within 10 Working Days of demand by the Landlord.

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- ## 5 Exceptional Expenditure

Provision of Information

Crediting any Monies recovered from Building Contractor and/or Development Team

The Landlord shall be liable for the Service Expenses only by a limit of proper and reasonable expenses which the Landlord shall recover from the building contractor or other member of the design team involved in the carrying out of the works comprising the initial design and construction of the Development, and in and under any guarantee or warranty of any such party or warranty or guarantee in respect of any part of the Development, in respect of any claims made by the Landlord against them or any other member in respect of the Development insofar as relating to the carrying out of the Service Expenses, it being agreed that the Landlord shall use reasonable endeavours to pursue and make recovery under any such claims where validly claimable.

PART 8 - Service Expenditure

1 Performance of Landlord's Obligations**1.1 Landlord's Obligations under Schedule Part 5**

Expenditure incurred in or about the performance of the obligations contained in the Schedule Part 5 other than paragraphs 2-4 (insofar as relating to Plant and Equipment and/or Conducting Media which serve one Lettable Part exclusively) 6-9-10-11 (insofar as relate to any obligations which are the responsibility of the tenant or occupier of any one Lettable Part) and 10-2

1.2 Repairs etc. of Structure

Costs of maintaining, repairing, decorating, lighting and cleaning, and where necessary renewing and rebuilding all (if any) ways, roads, pavements, sewers, drains, pipes, watercourses, walls, fences, passages or others, which may belong to or be leased to, or be used by the Landlord or the tenants of the Development being or in common with, or premises near or adjoining the Development, including any amounts which the Landlord may be called upon to pay as a contribution towards such expenditure.

1.3 Rates

Any existing or future taxes, rates, charges, duties, assessments, impositions and outgoings whatsoever (whether parliamentary, local, national or regional and whether or not of a capital or non-recurring nature) which are at any time during the Period of this Lease payable in respect of the Common Parts or in respect of supplies of energy to the Common Parts.

1.4 Other outgoings

All proper and reasonable third party charges, assessments and outgoings for water, electricity, gas, telephone and public or statutory utilities payable in respect of the supply of utilities to, or consumption of utilities in, the Common Parts, but not including the energy costs in relation to the Dedicated Comfort Cooling System.

1.5 Staff Costs

1.5.1 Costs of providing and administering necessary on-site staff employed solely in connection with the proper provision of the Landlord's services (including reception, security and building management staff and/or such costs and payments to a contractor engaged to provide any or all of such services, including wages, salaries, and the costs incurred in providing special clothing and uniforms of and for all persons from time to time employed by the Landlord for purposes connected with the Development and payments in respect of national insurance, graduated pensions, industrial training levies, redundancy and similar or ancillary payments required to be made by Statute, and

1.5.2 Cost (including rates, telephone charges, gas, electricity and all other incidental expenses) of accommodation, heating, lighting, maintenance, repair and decoration of office or other non residential accommodation in the Development for staff referred to in paragraph 1.5.1 above and the provision, repair, maintenance and where beyond economic repair replacement of equipment and furniture therein.

1.6 Refuse collections

Costs of periodic refuse collection services for the Development together with any additional levy imposed by the local or other competent authority and at the Landlord's option the cost of the provision and operation of refuse compactors for the Development.

1.7 Lighting etc

Costs of lighting and lighting the Common Parts to such standards as the Landlord may from time to time in its reasonable discretion determine (including without limitation provision and operation of floodlighting outside and inside any part of the Development).

1.8 Maintenance Equipment

Costs of supplying, inspecting, maintaining, repairing, overhauling and operating and where beyond economic repair, renewing and replacing utility machinery, pumps, motor vehicles, and other plant and materials for the purpose of refuse collection services, and including the costs incurred under any contracts for the carrying out of any one or more of these services which the Landlord may in its reasonable discretion deem necessary.

1.9 Parking

Costs applicable to the general use of the Development for motor vehicles, including the provision, inspection, operation, repairing, renewing and replacing of automatic barriers and parking equipment.

1.10 Managing Agent's Fees

Fees and reasonable fees and expenses commensurate with industry standards of any external Managing Agent as defined in the Schedule of Management Fees, or charged by the Managing Agent to the estate letting office and to the tenants or other occupiers of the Development.

1.11 Professional Fees

Proper and reasonable fees and expenses of the Agent and of any other professional architect, engineer, surveyor or other professional adviser employed to carry out any matter or thing to be carried out for the purposes of the provision of this Part 8 of the Schedule of the Schedule of Management Fees, but not more frequently than annually the proper and reasonable costs of reasonable regular independent professional valuations of the relevant parts of the Development for the purpose of assisting towards the determination of the Full Cost of Re-statement.

2 Other amenity facilities etc

Expenditure incurred in the provision, inspection, maintenance, repair, overhaul, replacement and renewal of such external flowers and other plants and of such flags, flagpoles, decorative lights or other like amenities as the Landlord, acting reasonably, may think fit to provide or maintain for the benefit of the tenants of the Development or of the Common Parts.

3 Security Services

Expenditure in the provision of any security staff, whether on foot or on a 24 hour a day basis, contractors and equipment and apparatus as the Landlord, acting reasonably, think fit and proper to employ and provide at the Development and if the provision, maintenance, replacement and where necessary renewal of such security equipment from time to time.

4 Leasing and financing costs

The costs of leasing any item required for the purpose of carrying out any of the matters referred to in this Part of the Schedule.

5 VAT

VAT charged to the Landlord or its agents in respect of any item of expenditure specified or referred to in Part 8 of the Schedule, except to the extent that (a) the Landlord or its agents is entitled to recover or reclaim the same from HM Revenue and Customs;

- Orders, statutory requirements etc

6.1. Expenses incurred in taking all steps deemed desirable or expedient by the Landlord acting reasonably and in the best interests of the tenant, and occupier, of the Development as a whole or complying with, or making representations against, or otherwise contesting the incidence of the provisions of any legislation or orders or statutory requirements thereunder concerning, or planning, compulsory purchase, public health, highways, streets, drainage, environmental or other matters relating to the Development, to the extent in each case that this is attributable to the Common Part;

By the same prejudice, the generality of an aqueduct that involves expenditure required to free and clear the land in respect of compliance by the landowner with Environmental Law or similar legislation, the London Plan, but only to the extent that the relevant breach did not exist, and the relevant Entry and was not caused by or attributable to the landowner or its predecessors in title in respect of the Development.

Expenditure incurred in

8.3.1 producing and providing copies of any Energy Performance Certificate commissioned by the Landlord in respect of the Development provided that the cost of producing any Energy Performance Certificate shall not be included in the Service Expenditure more than once every three years; and

4.3.2. Inspecting any air conditioning system within the Development and providing advice to tenants of the Lettable Parts and/or one or more of any part of the Development on reducing the energy consumption of such systems.

Fire Fighting Equipment etc

Expenditure incurred in providing firefighting equipment appliances including fire alarm sprinkler systems and smoke detectors, and any other signals or other notices required by the local Fire Officer in each case for the Development as a whole or for the Common Parts and thus excluding any such as are to be supplied for any Lettable Part, and the cost of repair, maintenance and any necessary renewal of the same.

8 Title Deeds

Any costs exigible from or in respect of the Development in terms of the Title Deeds (but not the rent payable under the Head Lease).

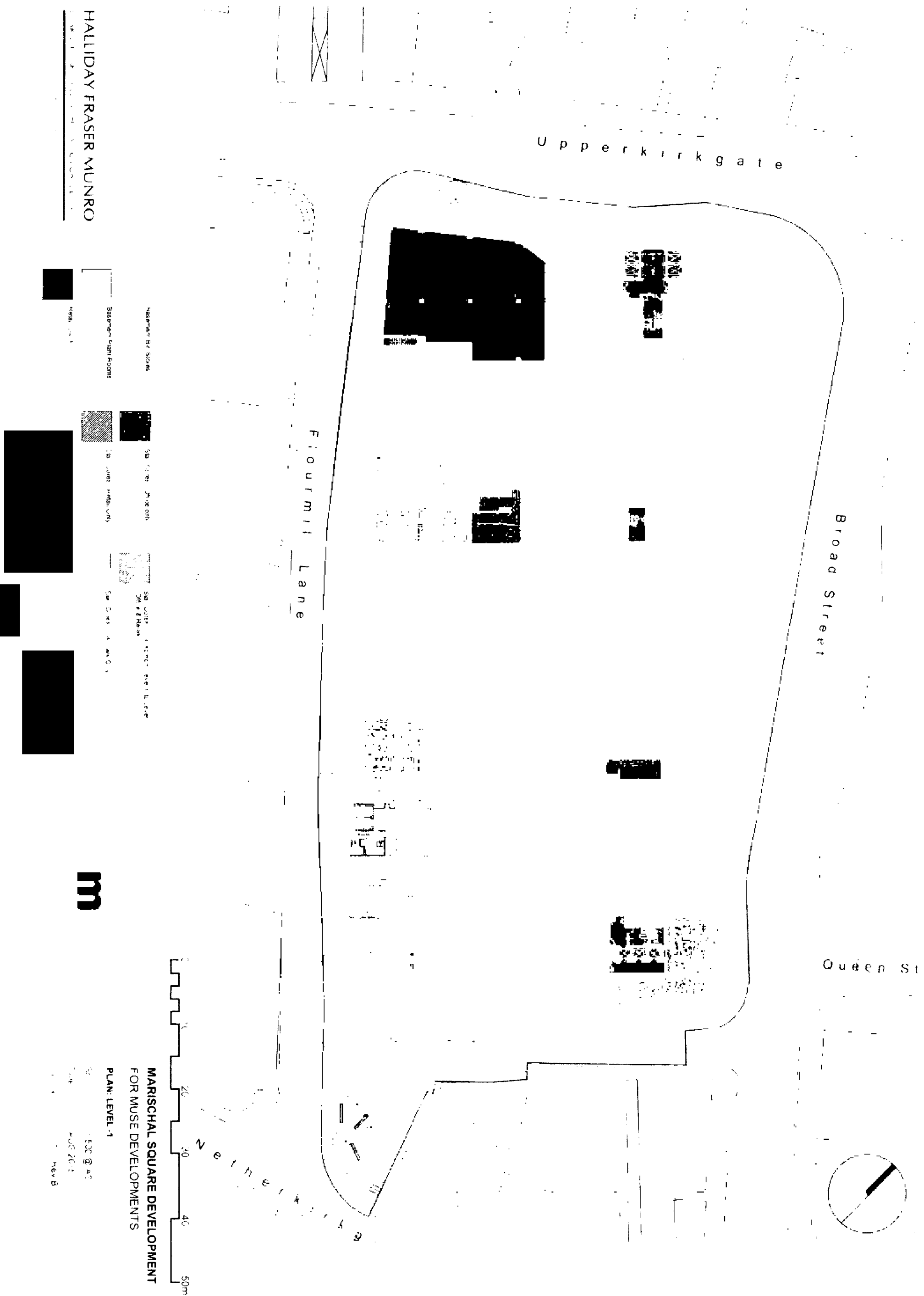
3 Insurance excess

4. excesses payable pursuant to the insurance referred to in paragraph 2 of the Schedule Part 2;

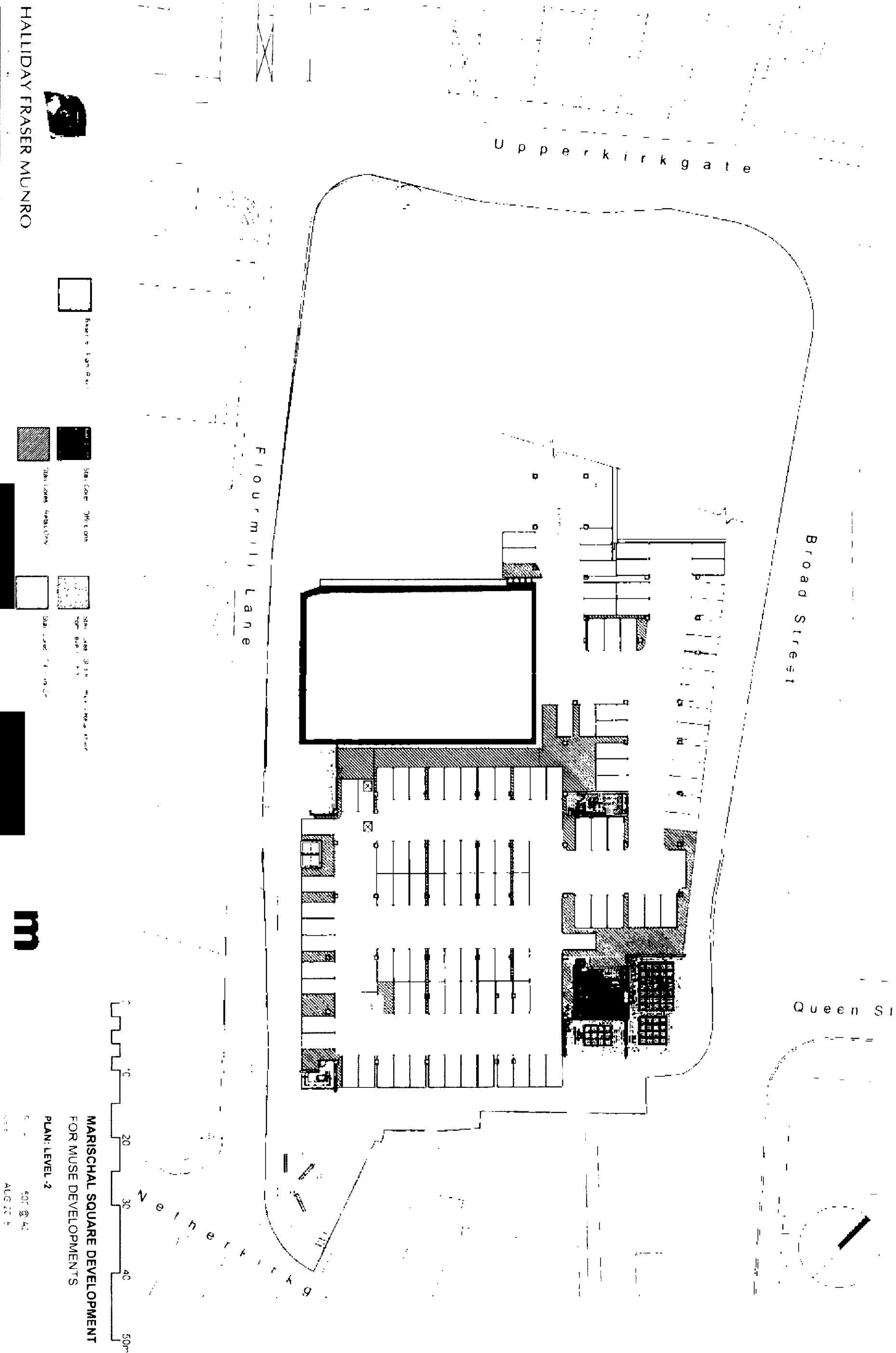
12 Other matters

Expenditure on the proper and reasonable cost of any other service or matter relative to the Development which the Landlord, in its fair and reasonable discretion and in accordance with the principles of good estate management, considers ought properly to be provided for the efficient management, use, promotion or financial advantage of the Development for the benefit of the tenants of the Development as a whole.

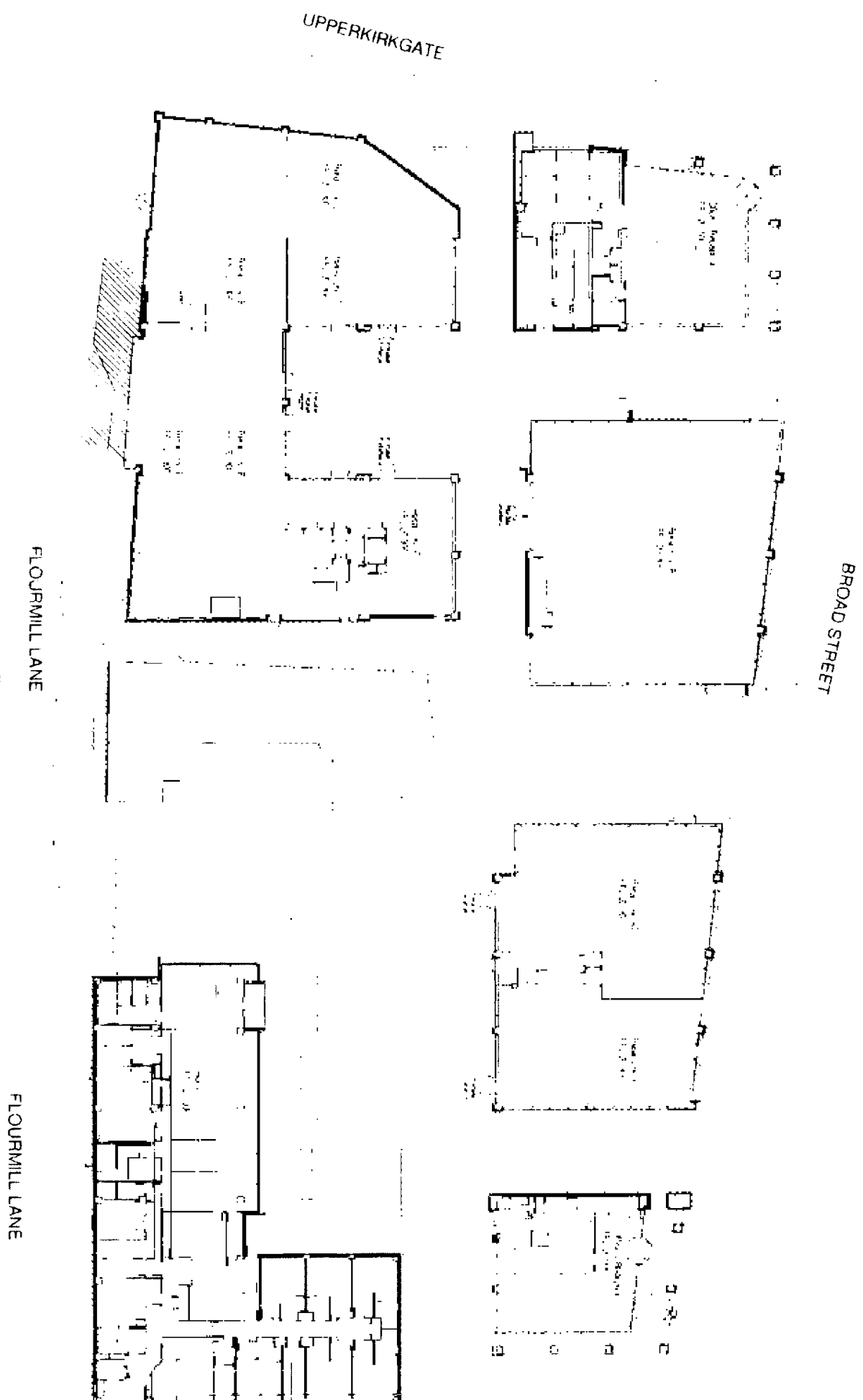
This is the Plan Level -1 referred to in the ~~draft~~ foregoing Sub Lease



This is the Plan : Level -2 referred to in the draft foregoing Sub Lease



This is the Plan. Public Realm referred to in the ~~draft~~ foregoing Sub Lease



Common Areas or Open Space

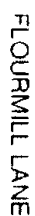


HALLIDAY FRASER MUNRO



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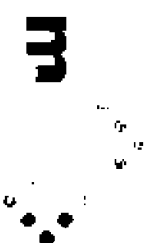
- Project: MARISCAL SQUARE DEVELOPMENT
ABERDEEN FOR MUSE DEVELOPMENTS
- Title: PLAN PUBLIC REALM
- Scale: 1:500 @ A3
- Date: 07.07.16
- Drawing No: 1118 Rev A
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HALLIDAY FRASER MILNRO

Function of B.10194

Footprint of hole "gettel w" 1'er ace



- | | |
|---|--|
| Project | MARISCHAL SQUARE DEVELOPMENT
ABERDEENFORTH HOUSE DEVELOPMENTS |
| Title | PLAN - EVEL 0 |
| Scale | 1/500 @ A3 |
| Date | 01.06 |
| Drawing No | 1.110 Rev A |
| C THE COPYRIGHT OF THIS DRAWING REMAINS IN FULL PAY FRASEE MARINO | |

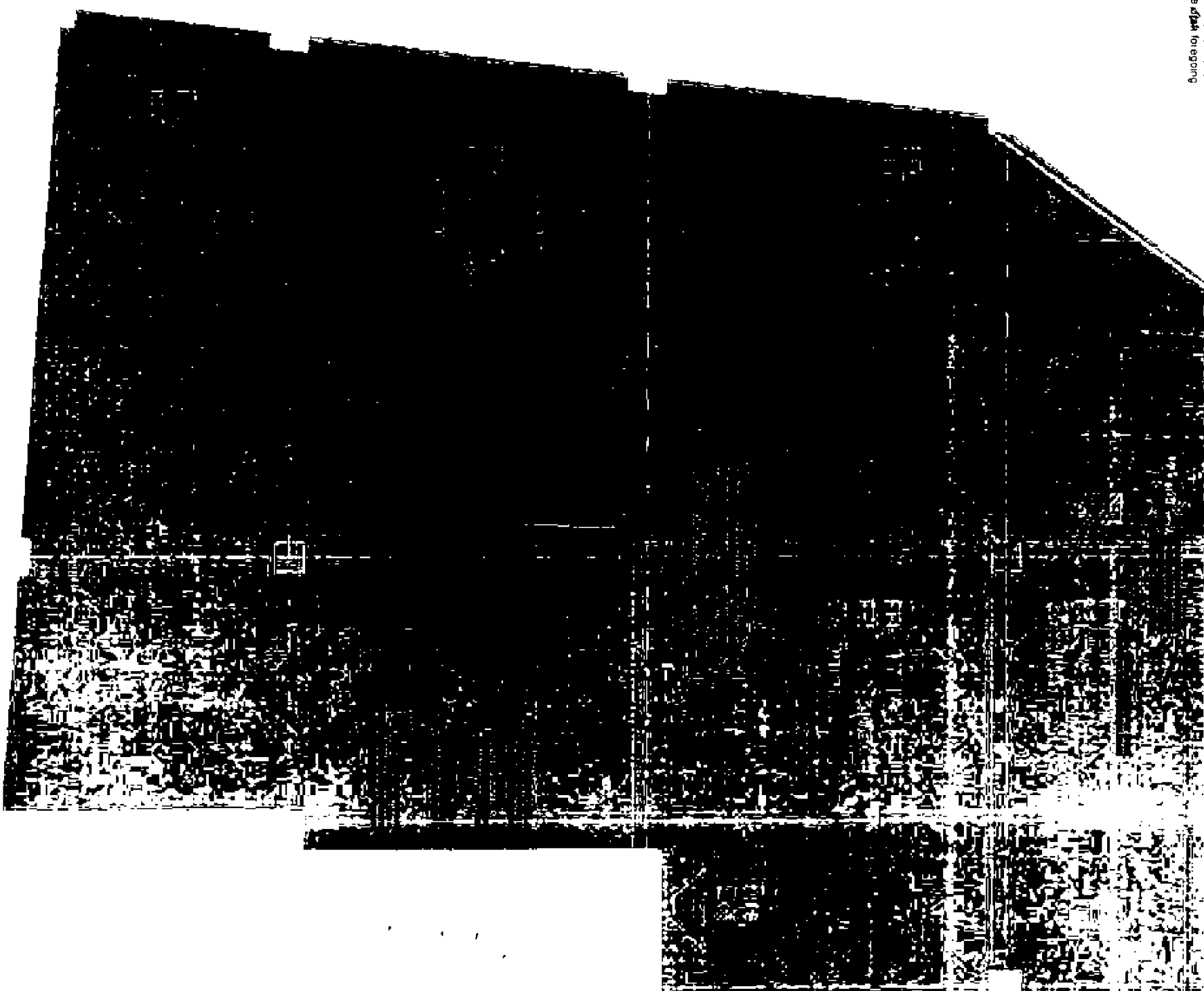
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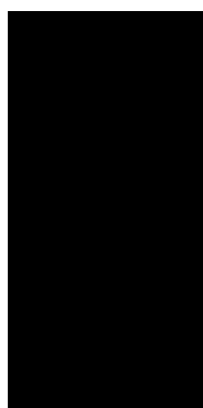
SEE FOR INFORMATION

ateller

The Pan Riser and vertical
route referred to in the plan for going
Sub-lease



10/10/10



TO: OWNER SER DETAIL FLOOR 10 @ 1.51

ISSUED FOR INFORMATION

MECHANICAL & ELECTRICAL
SERVICE PROVISION
BUILDING KENYA LIMITED

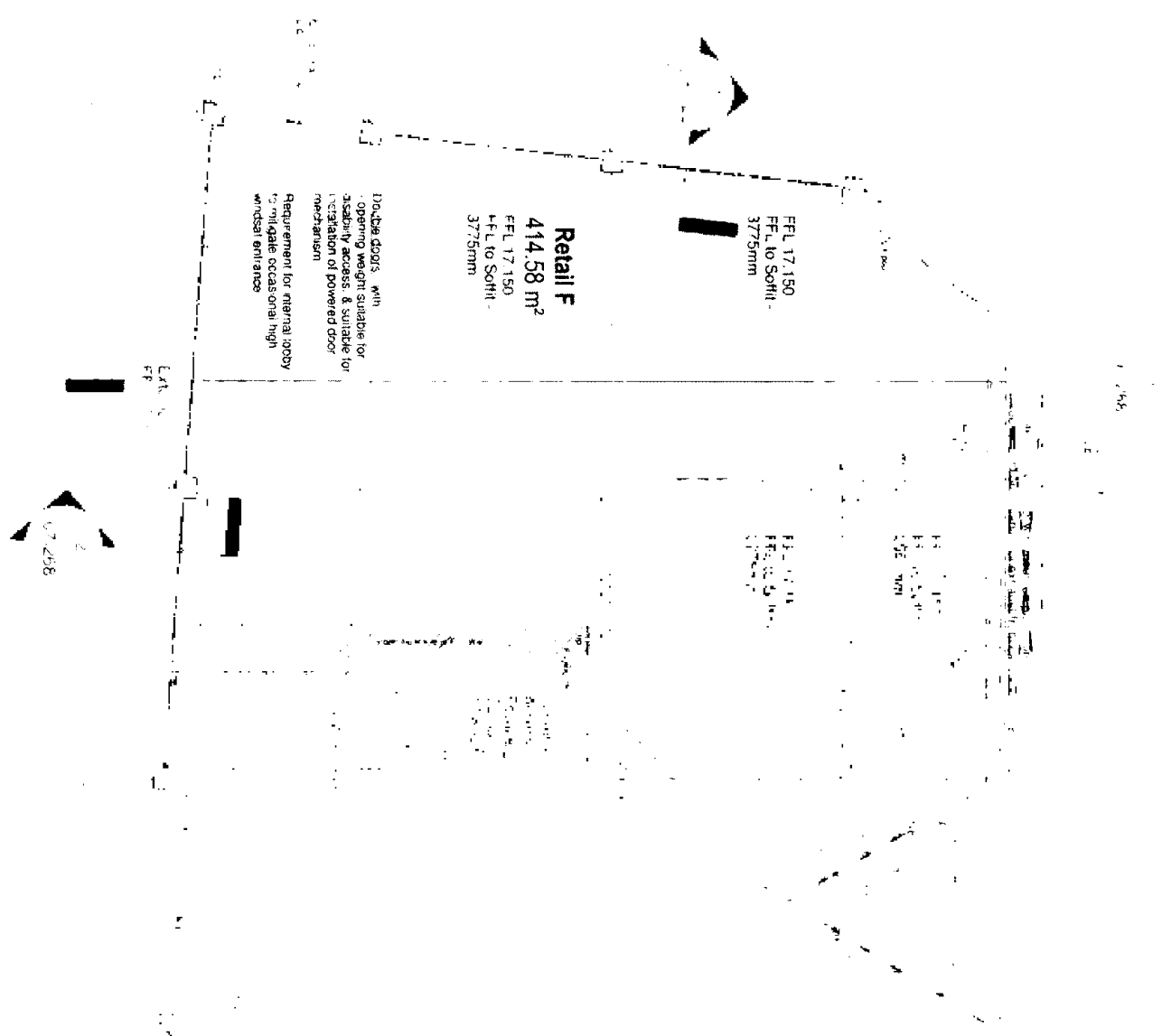
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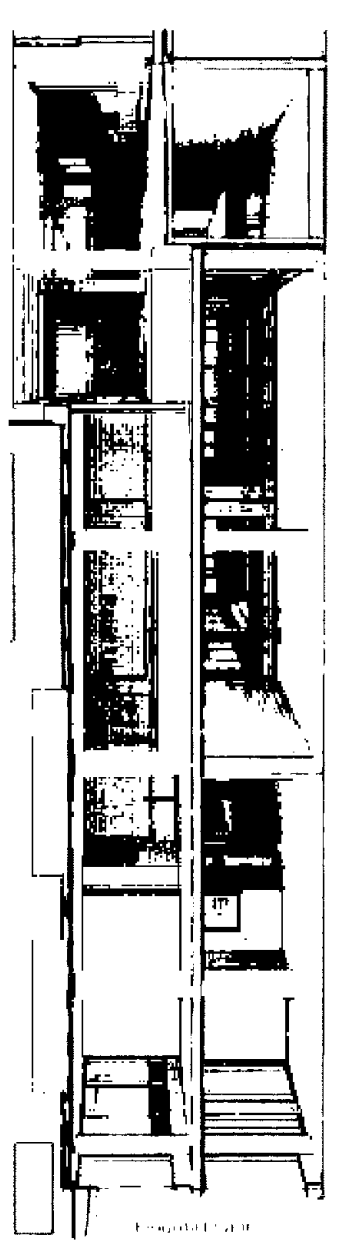
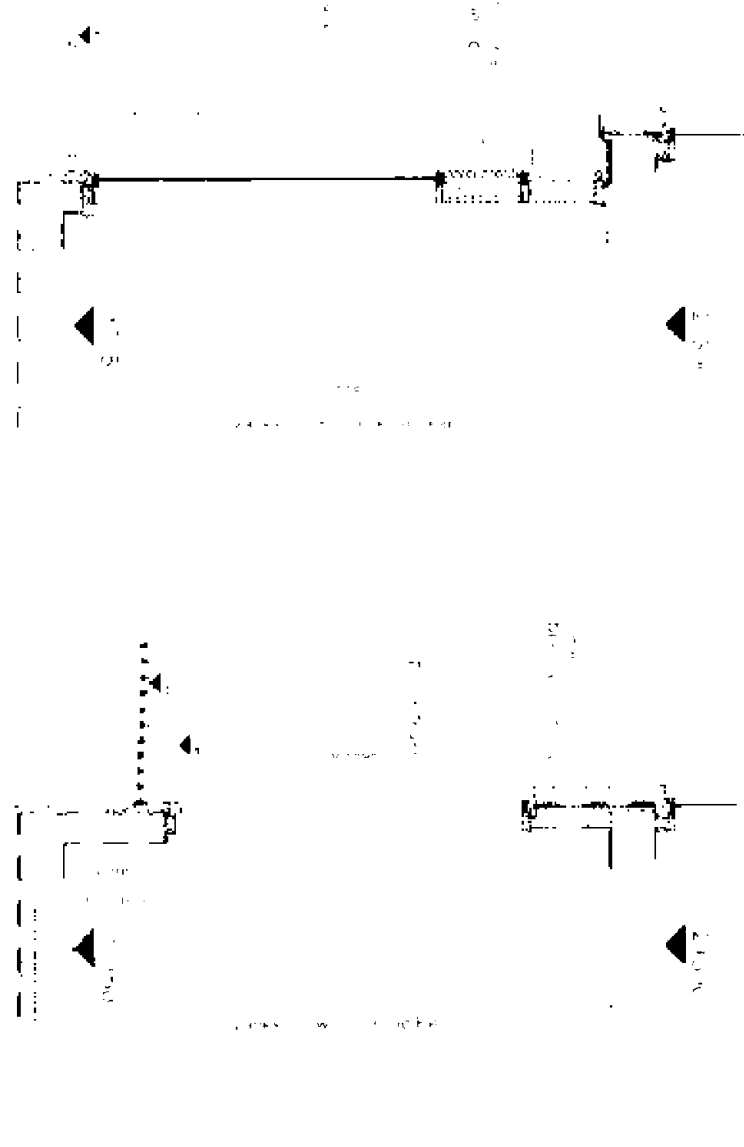
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This is the Plan Signage Zone referred to in the foregoing Sub Lease



1
Retail Unit F - Shopfront Details
1 200



MARISCHAL SQUARE DEVELOPMENT
ABERDEEN

As indicated @ A3 May 2015

Drawn

Retail Unit F Shopfront Details

A4922 (07)268 C



HALLIDAY FRASER MUNRO

DO NOT SCALE THIS DRAWING

DESIGNED BY: HALLIDAY FRASER MUNRO
CONSULTANTS: HALLIDAY FRASER MUNRO

NOT TO SCALE
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