

Agreement

DWF



2018

(1) HERMES GREAT ESTATE LIMITED

and

(2) [BUYER]

AGREEMENT FOR LEASE OF UNIT [NUMBER]

at

NORTH HILL COURT, PLYMOUTH

**DWF LLP**  
1 Scott Place  
2 Hardman Street  
Manchester M3 3AA  
DX: 14313 Manchester

**PARTICULARS**

<b>Date</b>											
<b>Seller</b>	<b>HERMES GREAT ESTATE LIMITED</b> (company number 09947151) the registered office of which is 19-21 Eastern Road, Romford, Essex, RM1 3NH										
<b>Buyer</b>	[BUYER NAME AND ADDRESS]										
<b>Property</b>	Apartment [NUMBER] being the part of the [FLOOR NUMBER] floor of the Development shown edged red on Plan 1 annexed hereto at Schedule 1;										
<b>Premium</b>	[PURCHASE PRICE IN FIGURES (AND WORDS)]										
<b>Target Size</b>	[Target Size] m2										
<b>Deposit Payments</b>	the payments due in respect of the Premium on the dates set out below including for the avoidance of doubt the Initial Deposit										
	<table border="1"> <thead> <tr> <th><i>Deposit Payment</i></th> <th><i>Payment Date</i></th> </tr> </thead> <tbody> <tr> <td><i>Initial Deposit</i></td> <td>The date of this Agreement</td> </tr> <tr> <td><b>First Stage Payment</b></td> <td><i>40% of the Premium</i></td> </tr> <tr> <td><b>Second Stage Payment</b></td> <td><i>25% of the Premium</i></td> </tr> <tr> <td><b>Initial Deposit</b></td> <td>10% of the Premium</td> </tr> </tbody> </table>	<i>Deposit Payment</i>	<i>Payment Date</i>	<i>Initial Deposit</i>	The date of this Agreement	<b>First Stage Payment</b>	<i>40% of the Premium</i>	<b>Second Stage Payment</b>	<i>25% of the Premium</i>	<b>Initial Deposit</b>	10% of the Premium
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<b>Second Stage Payment</b>	<i>25% of the Premium</i>										
<b>Initial Deposit</b>	10% of the Premium										
<b>Reservation Fee</b>	[RESERVATION FEE]										
<b>Second Payment Date</b>	payment of the Second Stage Payment on the date being six months from the date of this Agreement.										
<b>Minimum Rent</b>	[ ] per annum (being 8% of the Premium) but to be adjusted on a daily basis where rent is payable for any part of a month at the start or the end of an Approved Letting as defined in Schedule 2										
<b>Seller's Conveyancer</b>	DWF LLP, 1 Scott Place, 2 Hardman Street, Manchester M3 3AA. Ref:2022696-										
<b>Buyer's Conveyancer</b>	[SOLICITORS NAME AND ADDRESS]										

Signed by or on behalf of the Seller .....

Signed by or on behalf of the Buyer .....

**THIS AGREEMENT FOR LEASE** is made on the date and between the parties specified in the Particulars

## **TERMS AGREED**

### **1. Definitions and interpretations**

1.1 Terms in the Particulars are defined terms in, and form part of, this Agreement.

1.2 In this Agreement the following expressions have the following meanings:

**Completion Monies** the Premium less all Deposit Payments received by the Seller as adjusted by any sums due under this Agreement;

**Contract Rate** 5% per annum above the base rate from time to time of The Royal Bank of Scotland plc;

**Damage Long Stop Date** the later of the Long Stop Date and the date that is 2 years after the date of Property Damage;

**Designated Account** the Seller's Conveyancer's client account;

**Development** the land and premises at North Hill Court, Plymouth and the building to be constructed thereon edged in blue on Plan 2;

**Event of Default** means:

(a) the Buyer fails to make a payment due under this Agreement or comply with any of its obligations;

(b) the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 unless the debt is the subject of a bona fide dispute OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing

apply;

- (c) a party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors (other than where the party is a company, for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party);
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of a party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;
- (e) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- (f) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (g) a person becomes entitled to appoint a receiver over the assets of a party or a receiver is appointed over the assets of the other party;
- (h) a party (being an individual) is the subject of a bankruptcy application petition or order;
- (i) a creditor or encumbrancer of a party attaches or takes possession of, or a distress, execution, sequestration or

other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

<b>Expert</b>	an independent surveyor who is a Member or Fellow of the Royal Institution of Chartered Surveyors appointed in accordance with clause 20;
<b>Lease</b>	the lease in the form of the draft at Appendix 1 for a term of 250 years commencing on the date of practical completion of the Property as certified by the Practical Completion Certificate subject to such (if any) modifications as may be reasonably required by the Seller and approved by the Buyer (such approval not to be unreasonably withheld or delayed) including without limitation modifications reasonably required to reflect the operation of this Agreement, including modifications reasonably required to reflect the Property and Development as actually constructed and further including without limitation reasonable amendments required to reflect the service charge regime that is to be implemented at the Development provided that the Seller may change the unit numbering without the Buyer's consent;
<b>Long Stop Date</b>	30 September 2020;
<b>Management Company</b>	Plymouth Property Management Limited (or such other name as the Seller requires) to provide the services under the Lease;
<b>Net Sales Area</b>	means the net sales area of the Property measured in accordance with the Code of Measuring Practice (6 <sup>th</sup> Edition) as issued by the Royal Institute of Chartered Surveyors;
<b>Overage Deed of Covenant</b>	A deed of covenant substantially in the form attached at Appendix 2 of the Lease
<b>Particulars</b>	the particulars specified at page 1 of this Agreement;
<b>Plan 1</b>	the plan attached to Agreement marked "Plan 1";
<b>Plan 2</b>	the plan attached to the Agreement marked "Plan 2";
<b>Planning Permission</b>	the planning permission referenced 15/01251/FUL or such other amended or substituted planning permission

	obtained by the Seller;
<b>Practical Completion</b>	means that the Property is practically complete as certified by the Practical Completion Certificate, ready for occupation and use, and accessible according to the terms of this Agreement and the Property Specification and for the avoidance of doubt, if Warranty Documents are available for the Property, that shall be conclusive evidence that the Practical Completion has occurred;
<b>Practical Completion Certificate</b>	the certificate properly issued by the Seller's Agent (acting reasonably) confirming that Practical Completion has occurred and setting out the date on which Practical Completion occurred;
<b>Practical Completion Date</b>	the date of Practical Completion stated in the Practical Completion Certificate;
<b>Property Damage</b>	destruction or damage to the Development that renders the Property inaccessible or unfit for occupation and/or use in accordance with this Agreement;
<b>Property Specification</b>	the specification in respect of the Property in the form annexed to this Agreement at Appendix 2 including (where applicable) any variations or amendments that may be made in accordance with clause <a href="#">4.4</a> and clause <a href="#">4.5</a> ;
<b>Put Option</b>	means the Put Option in the form set out at Appendix 3
<b>Rectification Period</b>	the period of one year after the Practical Completion Date;
<b>RICS</b>	Royal Institution of Chartered Surveyors;
<b>Seller's Agent</b>	the person appointed from time to time by the Seller as the architect or employer's agent in relation to the Development;
<b>Seller's Works</b>	the construction of the Property and the Development by the Seller in accordance with the Property Specification and the Planning Permission;
<b>Snagging Items</b>	minor outstanding works or minor defects in the Seller's Works;
<b>Standard Conditions</b>	the Standard Conditions of Sale (Fifth Edition) and <b>Standard Condition</b> means any one of them;
<b>Title Numbers</b>	DN228615;

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**VAT** value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any additional replacement tax;

**Warranty Documents** documentation issued by the Warranty Provider for the benefit of the Buyer in relation to the Property;

**Warranty Provider** NHBC, Premier Guarantee or such other similar provider of new building warranty documents as the Seller may appoint from time to time;

**Working Days** any day of the week except for Saturdays, Sundays and any statutory bank holiday in England.

- 1.3 Clause and Annex headings shall not affect the interpretation of this Agreement.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 Subject to the provisions contained in clause 9, **Seller** includes the Seller's successors in title and any other person who is or becomes entitled to the reversion (whether immediate or not) expectant on the term to be created by the Lease.
- 1.8 **Buyer** does not include the Buyer's successors in title.
- 1.9 Where a party comprises more than one person, those persons' liability shall be joint and several.
- 1.10 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.11 A reference to **writing** or **written** includes faxes but not e-mail. A notice or document delivered under this Agreement shall not be validly given or delivered if sent by e-mail and Standard Condition 1.3.3(b) does not apply to this Agreement.
- 1.12 References to clauses, Schedules and Annexures are to the clauses and Annexures of this Agreement.

## 2. **Agreement for Lease**

- 2.1 Subject to clause 2.3, in consideration of the Premium, the Seller shall grant to the Buyer with full title guarantee, and the Buyer shall accept from the Seller, the Lease on the terms of this Agreement.

- 2.2 The Buyer cannot require the Seller to grant the Lease to any person other than the Buyer.
- 2.3 The grant of the Lease is conditional upon Practical Completion taking place in accordance with the terms of this Agreement.

### 3. **Standard Conditions of Sale**

This Agreement incorporates the Standard Conditions of Sale (Fifth Edition) with the following changes and where there is a conflict between those Conditions and this Agreement, this Agreement prevails:-

- 3.1 Conditions 2.2.5 and 2.2.6 do not apply and the Seller's Conveyancer upon receipt of the Deposit Payments shall place the same in the Designated Account as soon as reasonably possible, but in any event within two Working Days after the date of this Agreement, on the terms and conditions set out in set out in this Agreement.
- 3.2 Conditions 3.3.2 (b); 3.3.2 (c); and 8.3.3 do not apply.
- 3.3 If either party fails to complete on the date agreed and the other party serves a completion notice under Standard Condition 6.8, then, in addition to the balance of the Premium and any other sums payable under the Agreement (including interest and compensation), the party in default will pay the sum of £250.00 plus VAT towards the other party's legal costs incurred as a result of late completion.
- 3.4 Condition 7.1.1. shall be amended to read: "If any plan or statement in the Contract, or any written statement from the Seller or the Seller's agent is or was misleading or inaccurate due to an error or omission, the remedies available are as follows".

### 4. **Seller's Works**

- 4.1 The Seller will keep the Buyer reasonably informed of the likely Practical Completion Date.
- 4.2 The Seller will use reasonable endeavours to procure the Practical Completion Certificate is issued by the Long Stop Date but shall not be liable to the Buyer for any losses or delays caused by matters outside the Seller's reasonable control.
- 4.3 The Seller shall use reasonable endeavours to procure that the construction of the Property is carried out:
  - 4.3.1 with due diligence and in a good and workmanlike manner;
  - 4.3.2 using only good quality materials and well-maintained plant;
  - 4.3.3 in accordance with this Agreement and the Property Specification;
  - 4.3.4 in accordance with all statutory or other legal requirements and the mandatory requirements of the local authority or statutory undertakings;
  - 4.3.5 in compliance with all relevant British Standards, codes of practices and good building practice; and

4.3.6 by selecting and using materials so as to avoid known hazards to the health and safety of any person and to ensure the long term integrity of the Property and the Development.

4.4 Subject to clause 4.5, the Seller may make variations to the Property Specification and the Development Specification, design, manner of construction and materials used for the Property and the Development without the Buyer's consent. The Seller shall notify the Buyer of such variations in respect of the Property only.

4.5 The Seller may not make variations that will result in the Net Sales Area being more than 5% smaller than the Target Size without obtaining the Buyer's prior consent.

4.6 The Buyer shall be deemed to have given consent under clause 4.5 if:

4.6.1 the Seller requests consent; and

4.6.2 the Buyer fails to respond to the Seller within 10 Working Days of the Seller requesting consent.

4.7 If the Buyer does not consent to the reduction in size as notified to the Buyer in accordance with clause 4.5 and if on Practical Completion the Net Sales Area is more than 5% smaller than the Target Size, the Buyer may terminate this Agreement with immediate effect by serving written notice on the Seller.

4.8 The Seller is not obliged to make any variation in, or addition to, the Property beyond the Seller's Works.

## 5. **Practical completion**

5.1 As soon as reasonably practicable following Practical Completion:

5.1.1 the Seller shall serve the Practical Completion Certificate on the Buyer; and

5.1.2 the Seller shall provide the Buyer with a cover note confirming that the Warranty Provider has carried out a pre-handover inspection of the Property for insurance purposes and agrees to provide the insurance cover described in the Warranty Documents with effect from completion of the grant of the Lease.

5.2 The Buyer's surveyor is entitled to have access to inspect the Property following receipt of the Practical Completion Certificate. The Seller shall arrange access to the Property within 48 hours of receiving a request for access.

5.3 The Buyer may not refuse to complete the Lease where:

5.3.1 works to the remainder of the Development remain outstanding; or

5.3.2 landscaping works remain outstanding; or

5.3.3 Snagging Items remain outstanding.

## 6. **Outstanding works**

- 6.1 The Buyer shall notify the Seller of any Snagging Items within the Rectification Period.
- 6.2 The Seller shall as soon as practicable make good or procure the making good of any Snagging Items notified to it by the Buyer during the Rectification Period.
- 6.3 If the Seller or its contractors need to carry out works to the Property after completion of the Lease to remedy any Snagging Items or defects, or deal with any outstanding works to the Property or Development, or pursuant to the Warranty Documents, the Buyer will permit them access to the Property at all reasonable times upon reasonable prior notice and for such period as may be reasonably necessary to enable them to carry out such works. The Buyer shall not be entitled to compensation for any loss, delay, inconvenience or annoyance resulting from such works.
- 6.4 The Seller's liability under clauses 4.5 and 6 and otherwise in relation to the Seller's Works shall end after the Rectification Period.

## 7. **Long Stop Date**

- 7.1 Unless clause 8.2 applies, if Practical Completion has not occurred by 4.00 pm on the Long Stop Date, the Buyer may, at any time after the Long Stop Date but before Practical Completion occurs, give notice to the Seller that, unless Practical Completion occurs within 20 Working Days of the receipt of that notice (time being of the essence), it may terminate this Agreement.
- 7.2 If Practical Completion does not occur within 20 Working Days of receipt of such notice, the Buyer may by further notice terminate this Agreement with immediate effect. Such termination shall be without prejudice to the provisions of clause 17.
- 7.3 The Buyer and Seller may agree to extend the Long Stop Date by mutual agreement in writing.

## 8. **Insurance**

- 8.1 The Property is at the Seller's risk until the Practical Completion Date. After the Practical Completion Date, the Seller shall procure that the Property is insured in accordance with the landlord's obligations in the Lease.
- 8.2 If Property Damage occurs before the Practical Completion Date:
- 8.2.1 the Seller shall use its reasonable endeavours to procure that reinstatement is carried out diligently and with all reasonable speed;
- 8.2.2 the Seller shall use all reasonable endeavours to procure that any insurance proceeds are put towards reinstatement; and
- 8.2.3 the provisions of clause 4, clause 5, and clause 6 shall apply in respect of such reinstatement works.

8.2.4 completion of the grant of the Lease shall be postponed until Practical Completion is achieved;

8.3 If, following Property Damage, Practical Completion of the Property is not achieved by 4.00 pm on the Damage Long Stop Date, either party may terminate this Agreement by giving notice to the other party to terminate this Agreement with immediate effect and all insurance proceeds shall then belong to the Seller. Such termination shall be without prejudice to the obligations clause 17. No notice may be served following the date on which Practical Completion is achieved.

8.4 If Property Damage occurs after Practical Completion, then such damage shall not relieve the parties from their respective obligations to complete the Lease on the Completion Date and to comply with other obligations in this Agreement. The provisions of the Lease as regards insurance and reinstatement shall apply, including reinstatement of the Property, ownership of any insurance proceeds and any rights of termination of the Lease (once completed).

8.5 Standard Condition 5 does not apply to this Agreement.

9. **Seller's obligations**

The obligations on the Seller in clause 4, clause 5, clause 6 and clause 8 are personal and binding only on the Seller.

10. **Rental Assurance**

The provisions of Schedule 2 are incorporated into this Agreement and the parties shall comply with their respective obligations set out therein.

11. **Deposit Payments**

11.1 The Buyer shall pay the Initial Deposit and any other Deposit Payments on the dates specified in the Particulars. All interest accrued on the Deposit Payments shall belong to the Seller.

11.2 Only the Initial Deposit is liable to be forfeited in accordance with Standard Condition 7.4.2.

11.3 The Seller's Conveyancer shall hold the Initial Deposit and any other Deposit Payments as stakeholder for the parties and such sums shall be held by the Seller's Conveyancer but from the date any such sums are to be utilised in accordance with clause 11.4 then they will be deemed held as agent and may be released to the Seller;

11.4 The Seller shall be entitled from the date of this Agreement to take such monies from the Designated Account as shall be required to carry out and complete the Seller's Works together with all other costs fees liabilities expenditure and disbursements arising directly or indirectly in relation to the Seller's Works and/or the Development including (without limitation):

- 11.4.1 all sums as are required to enable the Seller to complete the purchase of the Development, and to repay any money loaned to the Seller to enable the Seller to purchase the Development as they fall due for payment; and
- 11.4.2 professional fees and disbursements incidental to the purchase of the Development and the negotiation preparation and exchange of this Agreement together with all costs and professional fees incidental to the incorporation registration of the Company, preparation and filing of accounts, returns and all Companies House and HMRC requirements;
- 11.4.3 all commissions professional fees and other payments reasonable ancillary to the marketing and sale of the properties on the Development;
- 11.4.4 all commissions fees and payments incidental to the Seller's Works;
- 11.5 The Buyer and the Seller agree and acknowledge that the Seller's Conveyancer and the Buyer's Conveyancer shall have no liability to any party in respect of any payments made to the Seller of any sums from the Designated Account;
- 11.6 If the Buyer fails for any reason to pay any Deposit Payments on the due date interest shall accrue and be payable on demand to the Seller at the Contract Rate;
- 11.7 Standard Conditions 2.2.1, 2.2.5 and 2.2.6 do not apply to this Agreement.

## 12. **Deducing title**

- 12.1 The title to the Property has been deduced to the Buyer's Conveyancer before the date of this Agreement by the provision of official copies and title plans of the Title Numbers.
- 12.2 The Buyer is deemed to have full knowledge of the title and is not entitled to raise any objection, enquiry or requisition in relation to it except in relation to matters arising out of the Buyer's pre-completion searches at the Land Registry.
- 12.3 Standard Condition 4.1 does not apply to this Agreement.

## 13. **Vacant possession**

The Seller shall give the Buyer vacant possession of the Property on completion of the grant of the Lease.

## 14. **Title guarantee**

The Seller shall grant the Lease with full title guarantee.

## 15. **Matters affecting the Property**

- 15.1 The Seller will grant the Lease free from incumbrances other than those mentioned in clause ~~15.2~~.
- 15.2 The Seller will grant the Lease subject to the following incumbrances:

- 15.2.1 the matters contained or referred to in the property and charges registers of the Title Numbers (other than financial charges);
  - 15.2.2 any matters discoverable by inspection of the Property before the date of this Agreement;
  - 15.2.3 any matters which the Seller does not and could not reasonably know about;
  - 15.2.4 those, other than mortgages, which the Buyer knows about;
  - 15.2.5 entries made before the date of this Agreement in any public register including those maintained by the Land Registry or its Land Charges Department;
  - 15.2.6 public requirements;
  - 15.2.7 all matters envisaged by this Agreement;
  - 15.2.8 all matters contained or referred to in the Lease; and
  - 15.2.9 the rights granted or to be granted to other purchasers of units within the Development subject to them being on substantially the same terms as those granted to the Buyer pursuant to the Lease.
- 15.3 Standard Conditions 3.1.1, 3.1.2 and 3.1.3 do not apply to this Agreement.
- 15.4 The Buyer is deemed to have full knowledge of the matters referred to in clause 15.2, and will not raise any enquiry, objection, requisition or claim in respect of any of them.

## 16. Termination on Buyer's Default

If an Event of Default occurs in respect of the Buyer before the Completion Date, the Seller may, at any time prior to grant of the Lease immediately determine this Agreement by serving written notice on the Buyer.

## 17. Effect of termination

- 17.1 If notice to terminate is given under clause 4.7, clause 7.2, clause 8.3, or clause 16, this Agreement shall be terminated with immediate effect from the date of the relevant notice (or as otherwise envisaged by the relevant clause as appropriate);
- 17.2 On termination of this Agreement whether by clause 17.1, or following service of a written notice to complete pursuant to Standard Condition 6.8 or otherwise:
- 17.2.1 the Buyer shall immediately cancel all entries relating to this Agreement registered against the Seller's title;
  - 17.2.2 subject to clauses 17.3 and 17.4, neither party shall have any further rights or obligations under this Agreement but such termination shall be without prejudice to the rights of either party in respect of any earlier breach of this Agreement.

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17.3 The Seller shall repay to the Buyer any Deposit Payments which the Buyer may have paid if this Agreement is terminated in one of the following ways:

17.3.1 the Buyer terminates pursuant to clause 4.7;

17.3.2 the Buyer terminates pursuant to clause 7.2;

17.3.3 the Buyer or Seller terminates pursuant to clause 18.3;

17.3.4 the Buyer terminates following service of a notice to complete pursuant to Standard Condition 6.8;

17.4

17.4.1 If this Agreement is terminated as a result of the Buyer's default or pursuant to clause 16, the Seller shall be entitled to:

17.4.1.1 retain the Initial Deposit and the First Stage Payment which shall be forfeited in its entirety;

17.4.1.2 retain any other Deposit Payments paid by the Buyer until such time as the Property is sold on the open market to another buyer at arm's length and the Seller shall use reasonable endeavours to procure the sale is on substantially the same terms as the Lease (except for the Premium) ("the Alternative Sale") whereupon the provisions of clause 17.5 shall apply

17.5 Following completion of the Alternative Sale, the Seller shall pay the total of the additional Deposit Payments withheld pursuant to clause 17.4.1.2, to the Buyer having deducted the following sums:

17.5.1 if the Premium is higher than the price achieved in the Alternative Sale, the difference between the Premium and the sale price achieved in the Alternative Sale; and

17.5.2 the reasonable costs of the Seller in remarketing and selling the Property (including for the avoidance of doubt legal fees, estate agent's fees and interest charges),

the total of these two sums shall comprise "the Losses" to the extent such total exceeds the Initial Deposit.

17.5.3 If the total of the Losses exceed the total of the Deposit Payments (excluding the Initial Deposit) withheld by the Seller the Seller shall be entitled to pursue the Buyer for any balance of the Losses following deduction of the additional Deposit Payments retained by the Seller.

17.5.4 If the total of the Losses are less than the Initial Deposit, then for the avoidance of doubt, the Seller may retain the Initial Deposit but the Seller shall refund the other Deposit Payments to the Buyer.

17.5.5 The Seller shall use its reasonable endeavours to mitigate its losses when negotiating and completing the Alternative Sale.

17.6 Standard Conditions 7.4.2 and 7.5.2 shall be amended accordingly.

## 18. **Management Company**

18.1 To the extent it has not done so already, the Seller shall procure that the Management Company is incorporated before the Completion Date.

18.2 The Buyer acknowledges that the Seller may grant a lease of the Seller's interest in the Building (or the Retained Parts (as defined in the Lease)) to the Management Company after the Lease has been granted, such intermediate lease to be subject to the Lease. The terms of the intermediate lease shall not include an ability on the part of the Seller to forfeit such lease on insolvency of the tenant but otherwise shall be on terms required by the Seller, acting reasonably.

18.3 The parties acknowledge that the Seller may retain control of the Management Company until the last Lettable Area (as defined in the Lease) is sold or if the Seller wishes to grant an intermediate lease to the Management Company, until such lease is completed, whichever is later.

## 19. **Completion of grant of the Lease**

19.1 The Completion Date for the purposes of this Agreement is either:

19.1.1 the date that is 10 Working Days after the Practical Completion Certificate is served on the Buyer in accordance with clause 5.1.1; or

19.1.2 such other date as may be agreed in writing by the parties.

19.2 Completion of the grant of the Lease will take place on the Completion Date.

19.3 The Seller shall procure that the Management Company enters into the Lease on the Completion Date.

19.4 The Buyer shall make the first payment of annual rent due under the Lease on the Completion Date;

19.5 The Buyer shall pay an engrossment fee of £150.00 plus VAT on completion to the Seller's Conveyancers.

19.6 On the Completion Date, the Buyer shall:

19.6.1 pay the Completion Monies to the Seller;

19.6.2 take all steps required to become a member and director of the Management Company; and

19.6.3 execute and deliver the Overage Deed of Covenant to the Seller

19.7 On the Completion Date the Seller and the Buyer shall enter into the Put Option.

19.8 Standard Condition 1.1.1(c) is amended so that "completion date" means the "Completion Date" as defined in this Agreement.

19.9 Standard Condition 6.4 is amended to add "(d) any other sum which the parties agree under the terms of the contract should be paid or allowed on completion".

19.10

19.10.1 The Seller shall provide the Buyer with the Warranty Documents as soon as possible following Completion.

19.10.2 Where the Buyer has a right or remedy under the Warranty Documents, the rights and remedies of the Buyer under the Warranty Documents shall replace any liability of the Seller under this Agreement (whether express or implied) in relation to losses otherwise covered by the Warranty Documents.

## 20. **Disputes**

20.1 If there is a dispute arising out of this Agreement (other than in relation to matters of law) which the parties cannot resolve, the parties may by mutual agreement refer the dispute to an Expert and agree with the Expert the terms of his appointment.

20.2 If the parties agree to refer the dispute to an Expert but are unable to agree on an Expert or the terms of his appointment within 5 Working Days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the President for the time being of the RICS to appoint an Expert and to agree with the Expert the terms of his appointment.

20.3 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of two months of the matter being referred to the Expert.

20.4 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the required time:

20.4.1 either party may apply to the President for the time being of the RICS to discharge the Expert and to appoint a replacement Expert; and

20.4.2 this clause applies in relation to the new Expert as if he were the first Expert appointed.

20.5 All matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.

20.6 The parties are entitled to make written submissions to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

20.7 To the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate.

- 20.8 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel as the other party reasonably requires to make a submission under this clause.
- 20.9 The Expert shall act as an expert and not as an arbitrator (unless the parties agree otherwise). The Expert shall determine the dispute. The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.
- 20.10 The parties' costs shall be borne as the Expert shall determine but in the absence of any determination on costs, each party shall bear their own costs. The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.
- 20.11 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert save as may be required by law.

21. **Payments**

All Deposit Payments and the Completion Monies shall be paid in cleared funds by same day direct credit from the client account of the Buyer's Conveyancer to the client account of the Seller's Conveyancer.

22. **VAT**

The sums due under this Agreement are exclusive of any value added tax payable and an obligation to pay a sum shall be deemed to include an obligation to pay any value added tax thereon.

23. **Interest**

Unless otherwise expressly stated, interest shall be payable by the paying party at the Contract Rate on all sums that are overdue from and including the due date up to but excluding the date of actual payment.

24. **Registration**

24.1 The Seller consents to the entry of a unilateral notice against the Seller's title to the Property at HM Land Registry in order to protect this Agreement. The Buyer shall not provide a copy of this Agreement to HM Land Registry as part of its application to register the unilateral notice.

25. **Provisional Postal Address**

Any postal address for the Property given to the Buyer before the date of this Agreement is provisional only and is not warranted by the Seller.

26. **Entire agreement**

26.1 This Agreement and any documents annexed to it constitute the entire agreement and understanding of the parties and supersede any previous agreement between them relating to the subject matter of this Agreement (including without limitation any reservation agreement).

26.2 The Buyer acknowledges and agrees that in entering into this Agreement, he does not rely on and shall have no remedy in respect of any statement, representation, warranty, collateral agreement or other assurance (whether made negligently or innocently) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement or any documents annexed to it or in written replies to written enquiries given by the Seller's Conveyancer to the Buyer's Conveyancer before the date of this Agreement.

26.3 Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

26.4 Standard Condition 7.1.1 is varied to read, "If any plan or statement in the contract or in written replies to written enquiries given by the seller's conveyancer to the buyer's conveyancer before the date of the contract is or was misleading or inaccurate due to an error or omission, the remedies available to the buyer are as follows."

26.5 Standard Condition 7.1.1(b)(ii) is varied to read, "where he would be obliged, to his prejudice, to accept property differing substantially (in size, tenure or value) from what the error or omission had led him to expect."

27. **Governing law and jurisdiction**

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

27.2 Save where the parties agree to refer a dispute to an Expert under clause 20 or as otherwise expressly stated, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

28. **Contracts (Rights of Third Parties Act 1999)**

A person who is not a party to this Contract shall not be entitled to any rights under this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

29. **Notices**

29.1 Standard Condition 1.3 shall apply to all notices served under this Agreement save that:

29.1.1 all notices to be served on the Seller shall be served on the Seller's Conveyancer;

29.1.2 all notices to be served on the Buyer shall be served on the Buyer's Conveyancer;

29.1.3 email shall not be a valid method of service.

29.2 On completion, the Buyer is to provide an address for service in the United Kingdom and such address shall be incorporated into the Lease.

**IN WITNESS OF WHICH this Agreement has been entered into on the date first stated above.**

**SCHEDULE 1**

**Plot Plan**

## **SCHEDULE 2**

### **Rental Assurance**

#### **Definitions**

<b>Agreed Costs</b>	<p>The Service Charge (as defined in the Lease) (other than sums charged as a result of the Buyer or an undertenant exceeding the fair use policies relating to the consumption of utilities and other services at the Property) together with any fees payable by the Buyer to the Approved Letting Agent;</p> <p>but not including the Rent (as defined in the Lease) and also excluding any sums that become due as a result of the Buyer's default or the undertenant's default;</p>
<b>Approved Letting</b>	<p>means a letting of the Property to a Qualifying Tenant or which may otherwise be approved by the Seller in accordance with this Schedule;</p>
<b>Approved Letting Agent</b>	<p>means such agent as is notified by the Seller to the Buyer from time to time;</p>
<b>Net Rent</b>	<p>means the rent payable under Approved Lettings (or any such payable in lieu of such rent pursuant to any agreement or undertaking for an Approved Lettings), less Agreed Costs, such sum to be calculated on an annual basis but to be adjusted on a daily basis where rent is payable for any part of a year at the start or the end of the Approved Letting;</p>
<b>Notional Rent</b>	<p>means the amount by which the Minimum Rent exceeds the Net Rent such sum to be calculated on an annual basis but to be adjusted on a daily basis where rent is payable for any part of a year at the start or the end of the Approved Letting;</p>
<b>Period</b>	<p>means the period between the date that is 4 weeks after Completion and the date that is 5 years after Completion or (if earlier) the date on which the Buyer assigns its interest in the Property other than by way of a bona fide charge as security for funding in relation to the purchase of the Property;</p>
<b>Qualifying Tenant</b>	<p>means a tenant who:</p> <ul style="list-style-type: none"><li>(a) does not enjoy diplomatic or state immunity;</li><li>(b) is in the Seller's reasonable opinion of reasonable financial standing sufficient to comply with his obligations to pay rent and otherwise comply with the any standard letting terms (taking account any</li></ul>

guarantors offered by such tenant); and

(c) is a student;

**Quarterly Payments Dates** 1 January, 1 April, 1 July and 1 October in each year included within the Period;

## **2. Rental Guarantee**

2.1 If the Buyer wishes to benefit from the provisions of this Schedule, it must comply with its obligations contained in this Schedule and appoint and retain the Approved Letting Agent and otherwise comply with the Buyer's obligations in this Schedule.

2.2

(a) Subject to paragraph 2.3 below, during the Period the Seller undertakes to pay to the Buyer any Notional Rent which has become payable by way of quarterly payments in arrears or such other earlier dates as the Seller requires.

(b) the Seller can subsequently recover from the Buyer any Notional Rent paid to the Buyer under clause 2.2(a) above from any rents the Buyer may receive in any subsequent year or years during the Period which is/are in excess of the Minimum Rent.

2.3

(a) For the avoidance of doubt, the Seller is not liable to pay any monies pursuant to paragraph 2.2 in relation to any period of time during which the Net Rent exceeds the Minimum Rent.

## **3. Letting procedure**

3.1 The Buyer will:-

(a) on or before Completion (at the Seller's request) appoint the Approved Letting Agent to secure Approved Lettings for the Property but with any fees of the appointed Approved Letting Agent being payable by the Buyer;

(b) within 10 working days enter in such form of management agreement as the Approved Letting Agent requires;

(c) not let the Property otherwise than to a person found by the Approved Letting Agent.

3.2

(a) Without prejudice to the Buyer's obligations in the Lease, the Buyer covenants with the Seller that it will perform obligations on the part of the lessor in the Approved Letting for so long as the Seller's obligations under paragraph 2.1 are continuing.

(b) The Buyer shall take all reasonable and commercially sensible steps to enforce the obligations on the part of the tenant contained in the terms of the Approved Letting.

3.3 If the Buyer is in breach of its obligations in this Schedule and if after reasonable written notice from the Seller requiring the Buyer to comply with such obligations but the Buyer remains in breach, the Seller may by further written notice to the Buyer elect to determine the operation of this Schedule but without prejudice to its rights and remedies for any antecedent breach. For the avoidance of doubt any termination under this paragraph 3.3 will not affect or negate the obligations of either party under the rest of this Agreement.

**4. Personal Benefit**

The provisions of this Schedule shall benefit the Buyer named in this Agreement only and not to the Buyer's successors in title nor may they be assigned to any person. (save that they might be assigned as a result of the death of the Buyer which assignment must be notified to the Seller in writing)

**APPENDIX 1**

**LEASE**

**APPENDIX 2**

**PART 1**

**PROPERTY SPECIFICATION**

## **APPENDIX 3**

### **PUT OPTION**