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- 1.23 **"Index"** means the Consumer Price Index House (CPIH) published by the Office of National Statistics or any other appropriate index which We nominate if the Index ceases to exist.
- 1.24 **"Index Review Date"** the First Review Date set out in clause 5.2 of the Summary and each anniversary of that date.
- 1.25 **"Insolvent"** means:
- (a) in the case of an individual, if a receiver or trustee in bankruptcy is appointed;
  - (b) in the case of a company or partnership, if a receiver, liquidator or administrator is appointed or a resolution is made for the appointment (but not a voluntary liquidation by a solvent company provided that the Premises Licence is transferred to the new corporate body prior to the liquidation) or a statutory moratorium applies to it; and
  - (c) in all cases:
    - (i) where the company or individual enters into or resolves to enter into a voluntary arrangement with creditors; or
    - (ii) allows possession to be taken of goods (including Stock or Trade Inventory) at the Property.
- 1.26 **"Insurance Rent"** means the sum of (or in the case of Us holding an insurance policy covering multiple properties a proportion fairly decided by Us) of all gross premiums costs charges professional fees and tax paid or incurred by Us for or relating to insurance under this Lease any insurance valuations any Excess and the cost to Us of providing finance to pay the insurance premium before you pay Us.
- 1.27 **"Insured Risks"** means: loss or damage which arises from
- (a) loss or damage by fire, lightning, explosion, aircraft (including articles falling or dropped from aircraft), riot, civil commotion, accidental damage, theft, terrorism, malicious persons, earthquake, storm, tempest, flood, bursting and over-flowing of water pipes tanks and other apparatus and impact by vehicles; and
  - (b) loss of Licences; and
  - (c) loss of rent for a period of two years (including an estimate for increasing rent) or such other period as We consider appropriate; and































- 19.1 We may give You notice in writing at any time (and more than once) to:
- (a) release You from all or any of Your purchasing obligations under clause 18.1 (**Purchase of Drinks**); or
  - (b) vary any of Your purchasing obligations in clause 17.1 (**Purchase of Drinks**) in order to take into account any law which may make the relevant obligations unenforceable;

with effect from the date in that notice and We may then choose to review the Rent to the Market Rent by serving a Review Notice on You and if any Rent Concessions are still applicable at that time they will cease to apply from the date of Our notice to You releasing or varying Your purchasing obligations.

## 20 Leisure Machines

- 20.1 You must not bring onto the Property or operate any Leisure Machine without Our permission which will be within Our absolute discretion.
- 20.2 If We provide permission We may impose such conditions as We decide are appropriate which may include the payment to Us of a share of the income that You receive from the Leisure Machine.
- 20.3 You must not remove from the Property any Leisure Machines for which permission has been given without Our further permission.
- 20.4 You must obtain all necessary Licences for any Leisure Machines on the Property and You must maintain, protect and renew all of these Licences and any other Licences relating to Leisure Machines which benefit the Property even if You are not currently using them.
- 20.5 We retain the right to use the Leisure Machines for advertising and to retain the income from that. You must not use any Leisure Machine for advertising without Our permission.
- 20.6 If the prohibition contained in clause 20.1 or any conditions that We have imposed under the terms of a permission that We have granted under clause 20.2, become unenforceable We may choose to review the Rent to the Market Rent under clause 14 (**Review to Market Rent**) by serving a Review Notice on You.]

- 20.1 It is agreed that subject only to you using reputable suppliers and also obtaining all necessary Licenses (which You must maintain protect and renew) You may install such Leisure Machines at the Property as You wish so long as the type and number of such Leisure Machines is reasonable given the nature and style of the business conducted at the Property.

## 21 Review and Release of Tie Release Fees

- 21.1 If Your purchasing obligations in relation to any of the Free of Tie Drinks become legally unenforceable, You will no longer be obliged to pay the Tie Release Fee in relation to those Free of Tie Drinks but We may choose to review the Rent as referred to in clause 19 (Changes in the Tie).
- 21.2 On each Index Review Date each Tie Release Fee (as set out in the Summary) will be adjusted by the same percentage as the percentage change (if any) in the Index over the 12 month period ending with the month which is two months before the relevant Index Review Date. If the Index figures are not available for the calendar month in which the review falls We shall use the most recent Index figures available at that time.
- 21.3 We will notify You in writing of any adjustment in the Tie Release Fee under clause 21.2 above.
- 21.4 Either party may at any time serve 3 months written notice upon the other party (as to which time shall be strictly of the essence) stating that the relevant party wishes for one of more of the Free of Tie Drinks described within clause 6.2 of the Summary of this Lease to revert to Tied Drinks ("the Notice").
- 21.5 Upon expiry of that Notice referred to within 21.4 then those Free of Tie Drinks nominated within the Notice shall cease to be Free of Tie Drinks and shall revert to Tied Drinks (and their sale and supply shall be dealt with in accordance with Section 4 of this Lease) and from that time You shall no longer be obliged to pay the Tie Release Fee to us in respect of those particular Free of Tie Drinks that were subject to the Notice.
- 21.6 Either party may serve more than one Notice if it so wishes so long as clause 21.4 is complied with.
- 21.7 Upon the expiry of any Notice you shall continue to pay any remaining Tie Release Fee without deduction or set off
- 21.8 Upon the expiry of any Notice if You have paid any Tie Release Fee relating to any Free of Tie Drinks specified in such Notice for any period of time after such expiry then We shall apply a credit to Your trading account with Us in the usual course of trading.

## SECTION 5

### Running the Business

#### 22 Conduct of Business

- 22.1 You must conduct the Business in an efficient, orderly and polite manner, in compliance with all Statutory Obligations and in such a way as to realise the fair maintainable trading potential of the Property and to preserve the Licences and maintain good relationships with the police and the public.
- 22.2 You must promote public order and the concept of sensible drinking and support any national or local initiatives aimed at achieving this and You must comply with Our recommendations in this respect. You must only offer drinks promotions which comply with all prevailing industry codes of practice or guidelines.
- 22.3 You must either supervise and manage the Business personally or ensure that it is supervised and managed by a suitably qualified and experienced manager who We have approved and who holds a Personal Licence.
- 22.4 You must attend and participate in Our initial licensee training programmes and ensure that You and all Your staff are at all times sufficiently well trained to effectively discharge Your responsibilities as licence holders and operators of licensed property.
- 22.5 You must not be connected with the running of any other business which is similar to and in close proximity to the Business) and unless You have Our permission You must live in the residential accommodation at the Property (if any).
- 22.6 You must keep the Property open for business during the opening hours that We agree with You (and as a minimum if such is permitted between the hours of 11am and 11pm daily) and You must not apply to the licensing authority for a reduction of your trading hours without Our permission.
- 22.7 You must supply food and suitable non-alcoholic refreshment to respond to customer demand (when the Licences and other relevant regulations permit) and ensure that it is of good quality and that any drinks supplied by You in the Business are of the same quality as those delivered to You.
- 22.8 You must be available at times agreed with Us to make stock orders and take deliveries and You must take reasonable steps to ensure that at all times You hold sufficient stock of wet products for ten days' average trading, taking into account periods of expected high demand.
- 22.9 You must maintain internet access at the Property and hold a current email account which You monitor regularly and supply Us with Your email address to enable Us to communicate with you by email.

We may require You to place Your stock orders with Us electronically by a method of our choosing and We may invoice You electronically in respect of any such orders and any other monies that may be owing to us pursuant to the terms of this Lease.

If you fail to comply with the terms of this clause then we reserve the right to apply an administration charge to You for an amount as we may think reasonable in the circumstances as a result of us (and/or our nominees) having to manually process any such order.

- 22.10 You must not interfere with the Flow Monitoring Equipment nor install any other equipment for raising or dispensing drinks without Our permission. You must notify us (or Our Nominated Supplier if relevant) as soon as practicable if You believe that the flow monitoring equipment or any equipment for raising or dispensing drinks requires maintenance.
- 22.11 You must not use any drinks raising or dispense equipment provided by Us or Our Nominated Supplier for any product not purchased from Us or Our Nominated Supplier.
- 22.12 You must keep the cellar in a condition suitable for the storage of wet and dry products and comply with good industry practice in relation to the storage of goods and drinks in the cellar and must comply with any recommendations that We or Our Nominated Supplier makes in relation to the storage or dispense of products for sale at the Property, including regularly cleaning any drinks raising or dispense equipment in accordance with the supplier's recommendations. In addition You must procure that the supplier of any Guest Cask Conditioned Beer (which We may have permitted You to purchase free of tie), carries out all necessary cleaning and maintenance of its Beer raising and dispense equipment at its own cost.
- 22.13 You must comply (and ensure that Your employees, visitors and customers comply) with the Statutory Obligations on smoking in buildings. In relation to areas where smoking is permitted under statute, You must agree with Us a policy addressing smoking and You must comply with this and must ensure that Your employees, customers and visitors comply with this.
- 22.14 You must create and operate a website (which for the purposes of this clause shall include pages, profiles, handles or other similar publically available and accessible information which is available on social media platforms) in connection with the Business unless We give You permission not to do so. In relation to any website created relating to the Business You must not sell, transfer or licence the domain name to any third party or make any statements on the website which could be detrimental to Us the Business or the Property and You will transfer the domain name and any other property in the website to Us or a nominee at our request (and at no cost) if you cease to conduct the Business at the Property. You agree that you will, upon Our request, enter into an agreement with Us or our nominee for the provision of such a website if We believe it to be necessary and on such terms as We deem to be reasonable (and for the avoidance of doubt such terms may extend to the retention of the domain name and any other property in the website with Us).
- 22.15 We may choose to install (via our nominee) such equipment at the Property so as to provide you and your customers access to Wi-Fi (IEEE 802.11) or such other similar or updated system as we may choose at no cost to you.

This is subject to you allowing us or our nominees access to the Property upon request (which you shall be obliged to do) to fit, maintain, remove or disconnect the equipment as we may choose, the free use of any utility service required to operate any such equipment and you (and those under your control) complying with any standard terms

and conditions in respect of the use and maintenance of such equipment as may be in force from time to time.

- 22.16 Upon our request (or that of a relevant third party supplier) you shall agree to receive and pay for utility supplies to the Property (either in whole or in part) on a pay as you go meter system (or some other similar or updated system or arrangement) and to allow such access as may be necessary for the installation, inspection, maintenance, replacement or removal of such equipment as may be reasonably required during the term of this Lease either by us or any relevant third party supplier (or a nominee) for that purpose and you (and those under your control) shall comply with any standard terms and conditions in respect of the use and maintenance of such equipment as may be in force from time to time and shall not attempt to interfere or manipulate the proper use of any such equipment.

## 23 Accounts

- 23.1 You must ensure that You instruct an Accountant and Stocktaker to provide You with the Accountancy Services and Stocktaking Services throughout the duration of the Term.
- 23.2 You must supply to us such evidence as we may request (as frequently as We may reasonably require during the Term) to demonstrate Your compliance with Your obligations contained within clause 23.1 including (but not limited to) evidence of Your retainer with the Accountant and Stocktaker, copies of any documents received by You from them together with any reports, tax returns or accounts prepared by the Accountant and Stocktaker relating to the Business.
- 23.3 If we request it You must provide us with written authority to obtain any such reports referred to at clause 23.2 direct from Your Accountant and/or Stocktaker and any other additional information that we may reasonably require from them relating to the Business.

## 24 Employees

- 24.1 You must be the employer of any staff at the Property and You must ensure that all staff are notified in writing that You are their employer and of their terms and conditions of employment.
- 24.2 You must pay Your staff all wages, expenses, bonuses, pensions, redundancy payments, unfair dismissal awards and any other payments due to the staff and You must account to HM Revenue and Customs for all required PAYE and National Insurance contributions.
- 24.3 You must fully indemnify Us in relation to any claims We may suffer from any members of Your staff (either during or after end of the lease) due to Your failure to comply with Your obligations to them.

## 25 Licences

- 25.1 You must obtain at Your cost and hold throughout the Term a Premises Licence in Your sole name in relation to the Property and any other Licences required to enable the Business to be lawfully conducted from the Property.

- 25.2 If We reasonably require You to do so, You must at Your cost apply for a variation of the Premises Licence with a view to securing the most commercially beneficial and least restrictive trading conditions reasonably obtainable.
- 25.3 You must at all times comply with the provisions of the Licensing Act 2003 and procure that all those in Your control do so and You must also procure that any Licensable Activity at the Property must only be carried out or authorised by the holder of a Personal Licence.
- 25.4 You must display in a public place at the Property a certified copy of a summary of the Premises Licence, and must keep at the Property a complete certified copy of the Premises Licence and any other Licences.
- 25.5 You must upon Our request provide to Us the original Premises Licence with plans and operating schedule and copies of all other Licences (including all Personal Licences) in use at the Property.
- 25.6
- (a) You (or Your manager) must hold a Personal Licence at all times and be named as the Designated Premises Supervisor on the Premises Licence; and
  - (b) You must notify Us immediately if the Designated Premises Supervisor leaves the Business or has his Personal Licence revoked or suspended, and You must take all necessary steps to protect the Premises Licence and replace the Designated Premises Supervisor immediately or, if We request, assist Us in doing this.
- 25.7 You must not apply for any variation to the Premises Licence or give any undertaking or accept any conditions unless You have Our prior permission.
- 25.8 If We ask You to do so, You will join Us into any proceedings in relation to the protection of the Premises Licence or any other Licences required for the Business.
- 25.9 You must notify Us both verbally and in writing as soon as You become aware of any notice or complaint from the police, the licensing authority or any third party which may adversely affect the Business or any Licences relating to the Business. You must take all reasonable steps that We ask to rectify the problem including attending any review or objection hearings and to pursue the defence of those proceedings diligently.
- 25.10 At the end of the lease You must sign the required consent to transfer the Premises Licence to Us (or whoever We direct) and procure that the Designated Premises Supervisor consents to their replacement. If You do not do so it will be implied that You appoint Us as Your attorney and agent to sign the consent to the transfer of the Premises Licence on Your behalf, and for Us to make any application for the transfer of the Premises Licence to Us.

## 26 Signs

- 26.1 You must display on the Property and put and maintain in a good and clean condition, in a suitable position a sign (approved by Us) which displays the name of the public house.

26.2 You must not erect any signs or banners on the exterior of the Property nor change the name of the public house or the signage without Our permission.

## 27 Use

27.1 You must only use the Property for the Permitted Use.

27.2 You must not use the Property:

- (a) for any illegal, immoral or offensive purpose or for any purpose which may prejudice the Licences or may become a nuisance or annoyance to Us or any third party (and must take immediate action to stop such incidents arising); or
- (b) for a political meeting, auction or market without Our permission; or
- (c) primarily as a restaurant; or
- (d) for any use which is prohibited or restricted by any Superior Lease or is in breach of planning laws.

27.3 You must only use the car park for customer parking for the Business or the parking of Your domestic personal vehicles and deliveries.

27.4 You must comply with all Statutory Obligations affecting Your use or occupation of the Property.

27.5 Within 7 days of receipt You must give us a copy of any notice that You receive relating to a Statutory Obligation and, if We ask You to do so, You will join in with Us in making such objections or representations as We may reasonably require.

27.6 We do not warrant to You that the Property may lawfully be used for the Permitted Use or the Business and it is Your responsibility to obtain any necessary consents.

## 28 Trade Inventory

28.1 You must equip the Property with a Trade Inventory of items of a suitable quantity, quality and design as is appropriate for the needs of the Business and You must maintain it in good clean and tidy condition and replace items when necessary.

28.2 On the date of this lease You must purchase the existing Trade Inventory (either from Us or Our previous tenant as appropriate) for the Inventory Sale Price calculated as at the date of this lease. If You purchase the Trade Inventory from Us, We will still own it until it is paid for in full.

28.3 At the end of this lease You must pay Us any outstanding amounts that You owe for the Trade Inventory and sell the Trade Inventory to Us (or Our intended new tenant) at the Inventory Sale Price calculated as at the expiry of this lease.

28.4 When You transfer this lease You must sell the Trade Inventory to Your buyer upon completion of the transfer at a price to be agreed between You and Your buyer or in the



absence of agreement at the Inventory Sale Price calculated as at the completion date of the transfer.

- 28.5 If You delay in payment of any monies that You owe to Us, or We have incurred costs expenses and losses due to a breach of Your obligations, We may at any time elect to purchase the Trade Inventory at the Inventory Sale Price calculated at that time ("**the Re-Purchase Price**"). We may then settle Your debt due to Us (or part of it) with the Re-Purchase Price, and shall pay any remaining balance of the Re-Purchase Price to You. The Trade Inventory will then become Our property to deal with as We wish but We may ask You at any time to buy it back from Us at the Re-Purchase Price or the Inventory Sale Price (whichever is the higher). You must indemnify Us for any costs, losses or expenses that We incur if any items in the Trade Inventory are owned by a third party.

## 29 Stock

- 29.1 On the date of this lease You must (unless You already own the Stock) purchase the existing Stock (either from Us or Our previous tenant as appropriate) for the Stock Sale Price as at the date of this lease. If You purchase the Stock from Us, it will remain Ours until it is paid for in full.
- 29.2 At the end of this lease You must sell such items of the Stock as We select to Us (or Our intended new tenant) at the Stock Sale Price calculated as at the expiry of this lease.
- 29.3 Upon the transfer of this lease You must sell the Stock to Your buyer upon completion of the transfer at a price to be agreed between You and Your buyer or in the absence of agreement at the Stock Sale Price calculated as at the completion date of the transfer.

## 30 Condition of Stock and Trade Inventory

We make no representation warranty or condition as to the state, condition or quality of the Trade Inventory or the Stock and any representations, warranties or conditions (if any) as may be implied by law into a sale by Us of the Trade Inventory or the Stock are (to the extent permitted by law) expressly excluded from this lease.

## SECTION 6

### Taking Care of the Property

#### 31 Your Repairing Obligations

31.1 You must:

- (a) repair any damage to the Property and must put and keep the Property in good and substantial repair and condition at all times and in compliance with all relevant Statutory Obligations;
- (b) put and keep the Fixtures and Fittings well maintained and in good and safe working order, repair any damage, and if beyond repair, renew or replace them with new items of an equal type and quality;
- (c) put and keep all car parks, access ways, gardens, play areas, landscaping or other unbuilt upon areas safe for public access, properly surfaced or cultivated as appropriate, clean and tidy and free from weeds;
- (d) not overload the floors or the structure of the Property;
- (e) put and keep all Pipes in a safe condition and in good working order and keep free flowing all Pipes, toilets and sanitary equipment, and take all reasonable precautions not to overload them and to prevent blockage and damage including protecting them from frost and installing and regularly cleaning and maintaining grease traps; and
- (f) provide light to the exterior of the Property to ensure safe access and keep the external lighting in good working order; and
- (g) [enter into a contract with a suitably qualified and reputable maintenance operator for the regular upkeep and maintenance of the [heating system] [and the] [cellar cooling equipment].]
- (h) notify Us of any defect in the Property which might lead to a liability on Us[.][;and]
- (i) comply with Your obligations set out in schedule 3.

31.2 You are not liable for:

- (a) any damage to the Property caused by an Insured Risk unless You have done something or failed to do something which has led to Our insurance policy becoming ineffective; or

#### 32 Repairs and Maintenance Fund

- 32.1 You may apply for a release of monies from the Repairs and Maintenance Fund once You have completed any repairs, maintenance and decoration required under the terms of this lease (except for any works required under the terms of Schedule 3 (Additional Repairs)) if You do the following:
- (a) obtain Our surveyor's approval of Your proposed works prior to commencing them (except in the case of emergency in which case You must notify Us as soon as possible thereafter) and You must carry out the works in accordance with his recommendations and to the standard required by this lease; and
  - (b) apply to Us in writing within two calendar months of completion of the works enclosing:
    - (i) full details of the work You have carried out;
    - (ii) contractors' receipted invoices showing the cost of the work;
    - (iii) copies of any planning permissions, building regulation certificates or other approvals needed (if required); and
    - (iv) details of the amount of monies that You wish to be released from the funds (which must not exceed the cost of the works and must exclude VAT).

Once We have received Your application and Our surveyor has inspected the works and confirmed that You have complied with the requirements of this clause 32, We will release to You the amount of monies that You have proved that You have spent on the works up to the maximum of the amount held in the Repairs and Maintenance Fund. Our surveyor may be Our employee.

- 32.2 We may use any or all of the monies held in the Repairs and Maintenance Fund as payment for or towards any improvement works, alterations, repairs and decoration which We carry out in agreement with You to enhance the Property with the aim of maximising the Business.
- 32.3 We will hold the Repairs and Maintenance Fund in an interest bearing account and credit Your fund annually with any interest earned and will send to You annually a statement confirming the amount of monies held in the Repairs and Maintenance Fund and detailing any interest earned and deductions.
- 32.4 We will hold the Repairs and Maintenance Fund as further security (in addition to the Deposit) for the performance of Your repair and decoration obligations under this lease (but not on trust for You) and repay any balance remaining in the Repairs and Maintenance Fund to You in the following circumstances:
- (a) following the expiry of the Term, but before making this payment We are entitled to deduct all sums attributable to any outstanding payments that You owe Us or Our Nominated Supplier under the terms of this lease including any sums required to put the Property back into the condition required by this lease (to the extent that such payments are not covered by the Deposit); or

(b) following completion of a transfer of this lease in accordance with the provisions of clause 44 (Transfer) if the buyer has paid to Us a new Repair and Maintenance Fund as required under clause 44.5(c)(ii), but before making this payment to You We may deduct any sums required to put the Property into the condition required by this lease if those works have not been done to Our reasonable satisfaction by completion of the transfer of this lease.

32.5 If We sell Our interest in the Property We will pass the monies held in the Repair and Maintenance Fund to the new owner after deducting any sums referred to in Clause 32.4 above.

32.6 Each year We may, in consultation with You, increase or decrease the annual Repair and Maintenance Fund payment to reflect the state and condition of the Property at that time and to ensure that the Repair and Maintenance Fund contains sufficient funds to cover any repairs, maintenance and decoration which are likely to be required to the Property during the following year to meet with Your repairing obligations under this lease.

### 33 Remedying Breach

33.1 If You breach Your statutory repairing or decoration obligations (including those contained in Schedule 3 (Additional Repairs)) then:

(a) in addition to any other rights We may have, We may serve a notice on You specifying the breach and You must as soon as practicable after receipt of that notice, and in any case within 2 months (or sooner in emergency), carry out all necessary works to remedy the breach. If You fail to do so, We may enter the Property to carry out the required works and You must reimburse to Us as soon as We ask any costs and expenses that We have incurred plus Interest; and

(b) We may withdraw those costs (or a proportion of them) from the Repairs and Maintenance Fund, in which case You must, when We ask, pay Us the balance with Interest and You must replenish the Repairs and Maintenance Fund with an amount equal to the amount that We have withdrawn. This right will not prevent Us taking action against You for breach of Your obligations or in relation to any unrecovered costs.

### 34 Services

34.1 If You pay to Us the Health and Safety Compliance Service Charge [and the Maintenance Service Charge] We shall procure the carrying out of the Health and Safety Compliance Services [and the Maintenance Services].

34.2 We shall after the end of each year of the Term prepare and provide to You (if You ask) an account showing and containing a fair summary of the Health and Safety Compliance Service Costs [and the Maintenance Service Costs] in that year of the Term.

34.3 If in any year of the Term the amount of the Health and Safety Compliance Service Costs exceeds the amount of the Health and Safety Compliance Service Charge payable for that year:

- (a) You will pay to Us when We ask the amount by which the Health and Safety Compliance Service Costs exceed the Health and Safety Compliance Service Charge; and
- (b) the Health and Safety Compliance Service Charge shall for the next year of the Term be increased to the amount of the Compliance Service Costs plus 10%.

34.4 [If in any year of the Term the amount of the Maintenance Service Costs exceeds the amount of the Maintenance Service Charge payable for that year:-

- (a) You will pay to Us the amount by which the Maintenance Service Costs exceed the Maintenance Service Charge on demand; and
- (b) the Maintenance Service Charge shall for the next year of the Term be increased to the amount of the Maintenance Service Costs plus 10%.]

34.5 If in any year of the Term the amount of the Health and Safety Compliance Service Costs is less than the amount of the Health and Safety Compliance Service Charge payable for that year the Health and Safety Compliance Service Charge shall for the next year of the Term remain the same but We shall credit the amount by which the Health and Safety Compliance Service Charge exceeds the Health and Safety Compliance Service Costs against the next payment of Rent You are due to pay.

34.6 [If in any year of the Term the amount of the Maintenance Service Costs is less than the amount of the Maintenance Service Charge payable for that year the Maintenance Service Charge shall for the next year of the Term remain the same but We shall credit the amount by which the Maintenance Service Charge exceeds the Maintenance Service Costs against the next payment of Rent You are due to pay.]

34.7 Any dispute as to the amount of the Health and Safety Compliance Service Costs [and/or the Maintenance Service Costs] may be referred by either party for determination by an Independent Surveyor who must:

- (a) allow both You and Us a reasonable opportunity to make representations, and to give one set of comments on each other's representations;
- (b) must give both You and Us a copy of his decision and written reasons for his decision; and
- (c) share his costs equally between You and Us.

The decision of the Independent Surveyor will be binding on both You and Us.

34.8 It is agreed that you acknowledge receipt of and will comply with any guidance contained within any work sheet, directive, warning notice or any other similar document or verbal instruction issued to you on or prior to the date hereof which relates to either the safe maintenance and operation of any appliance situate at the Property or any other such matter relating to health and safety generally at the Property.

## **35 Decoration and Cleaning**

- 35.1 You will re-decorate the interior and exterior of the Property in the year set out in clause 8.3 of the Summary and thereafter as often as is required and at least once every 3 years and in the last 6 months of the Term if We reasonably require. You must obtain Our approval (which We will not unreasonably withhold) to any internal or external change of colour scheme.
- 35.2 You must:
- (a) keep the interior and exterior of the Property in a clean and tidy condition;
  - (b) handle the disposal of rubbish daily in a hygienic manner and must ensure that all waste is retained in appropriate receptacles and collected regularly; and
  - (c) keep all areas of the Property used in the preparation, service and storage of food and drink clean and hygienic and in accordance with all health and safety and food safety legislation.

## **36 Alterations**

- 36.1 You must not carry out any structural alterations to the Property, erect any new buildings or structures or demolish any existing structures or buildings.
- 36.2 You may carry out non-structural alterations with Our permission which We will not unreasonably withhold provided that, in Our reasonable opinion, the proposed alterations are likely to enhance the Business or Property.
- 36.3 When You apply for Our permission for alterations You must provide detailed plans and specifications showing the proposed works and an estimate of costs and confirmation of the valuation of the proposed works for insurance purposes.
- 36.4 You must not apply for, or implement, any planning permission without Our permission. If We give You permission to carry out alterations You must obtain all necessary planning, licensing and other statutory permissions, and You must show Us copies of these for Our approval before You start the works. If you implement any planning permission You must complete the works in accordance with all conditions (and before the end of the Term).
- 36.5 If We ask You to do so, at the end of the lease You must at Your own cost reinstate all alterations or additions made to the Property at any time during or prior to the commencement of the lease.

## **37 Standard of Your Works**

When carrying out any works to the Property (including decoration, repairs, approved alterations or reinstatement), You must:

- (a) carry out the works safely and quickly in a good and workmanlike manner using good quality materials and in accordance with all necessary planning and licensing regulations and any other relevant statutory requirements; and
- (b) comply with any reasonable conditions that We impose and complete the works before the end of the Term to the satisfaction of Our surveyor; and
- (c) comply with the requirements of Our insurers; and
- (d) ensure that any alterations to the Pipes comply with all safety requirements and the requirements of the relevant utility company.

**38 Environmental Matters**

- 38.1 You and We agree to work together to reduce carbon emissions, waste, water and energy consumption at the Property and You will give Us all reasonable assistance to enable the production of any energy performance certificate and the establishment of any energy management plan for the Property. This may include the installation of micro-generation and or energy saving equipment on the Property, and You agree to be responsible for any costs in connection with any equipment, its installation, operation and the provision of power to it.
- 38.2 You must not do anything which could cause any pollution or contamination of the Property or nearby land or water and You must apply for any permission required for any discharge into the ground, atmosphere or any watercourse.

## SECTION 7

### Insurance

#### **39 Our Insurance Obligations**

- 39.1 We will insure the Property (except for any fixed glass Tenant's Inventory and the tenant's fixtures) with reputable insurers for at least the full reinstatement value (in Our reasonable opinion), against the Insured Risks but only to the extent that insurance of this type is ordinarily available for properties such as the Property.
- 39.2 The policy may be subject to the usual exclusions and limitations which may be required by the insurers (or Our appointed underwriters).
- 39.3 We will not be obliged to maintain insurance if the policy becomes ineffective due to a breach of Your obligations.
- 39.4 If the Property is damaged by any of the Insured Risks, then as soon as reasonably practical after all necessary labour, materials and permissions are available We will spend the money that We receive under the insurance (except money for loss of rent) in reinstating the Property.
- 39.5 We will, so far as it is reasonably practicable, reinstate the Property so that it is reasonably equivalent to the Property before the damage, but will not be obliged to provide an identical replacement.
- 39.6 We will not be obliged to reinstate the Property if the insurance proceeds are withheld by the insurer because of anything done or not done by You or by anyone at the Property.
- 39.7 Any money received under the insurance (including any insurance effected by Us because We think there is a breach of Your obligations) and any money that You pay to Us under clause 41.5 (**Your Insurance Obligations**) will belong to Us absolutely.
- 39.8 If You ask in writing We will send to You (but no more than once a year), a summary of the insurance of the Property.

#### **40 Your Insurance Obligations**

- 40.1 You must insure with reputable insurers for at least the full reinstatement value (as approved by Us) under an all risks policy, with Our interest noted on the policy:
- (a) the Trade Inventory and Stock;
  - (b) the internal and external fixed glass at the Property;
  - (c) the loss of Licences;
  - (d) public third party, property owner's, product and employer's liability in respect of the Property and the Business for a sum not less than £2,000,000.00 each claim or series of claims arising from the same incident; and



(e) loss of money/profit and business interruption.

- 40.2 You must provide satisfactory evidence to Us, when We ask, that You have complied with Your insurance obligations by producing the insurance policies and evidence of payment of premiums and if You fail to do so We may affect the insurance for You and charge You the actual costs We incur in doing so as additional rent.
- 40.3 You must spend any money that You receive under the insurance in repairing or replacing any things that have been damaged, but if the money that you receive is not enough then You must make up any shortfall Yourself.
- 40.4 You must comply with the conditions and recommendations made by Our insurers and You must notify Us immediately of any event which may give rise to a claim under any of Our or Your insurance policies relating to the Property.
- 40.5 You must pay to Us when We ask:
- (a) all amounts that You receive under any insurance policy relating to the Licences;
  - (b) an amount equal to any sums which We are unable to recover under Our insurance policies because You have breached Your obligations to Us.
- 40.6 You must not take out any insurance policy in relation to the Property which may prejudice Our ability to recover insurance proceeds or reduce any proceeds payable under any of Our policies. If You breach this obligation You must pay to Us any amounts You receive under such policies.

#### **41 Rent Suspension and Termination following damage**

- 41.1 If the Property is damaged or destroyed by any of the Insured Risks so that it is unfit for the Business, the Rent (or a fair proportion of it if there is only damage to part of the Property) and Service Charge will not be payable from the date of the damage until the earlier of:
- (a) the Property being reinstated; or
  - (b) the end of this lease; or
  - (c) the date on which Our loss of rent insurance expires

but the Rent and Service Charge will not be stopped if the insurer refuses to reimburse Us for loss of rent due to Your breach (or the breach by any of Your employees, contractors, visitors or customers) of Your obligations.

- 41.2 If the Property is not fit for operating the Business by the time Our loss of rent insurance expires, either of Us may bring this lease to an end immediately by serving written notice on the other at any time whilst the Property remain unfit for Business.

- 41.3 If We are prevented from reinstating the Property or if the Property is so badly damaged that We reasonably believe it is not commercially viable to repair it, We may bring this lease to an end by giving You one month's written notice.
- 41.4 If the lease ends in accordance with clauses 41.2 or 41.3 We shall both still retain rights against each other in relation to any outstanding obligations or breaches.
- 41.5 Any dispute under this clause 41 shall be determined by an arbitrator in accordance with the Arbitration Act 1996.

SAMPLE

## SECTION 8

### Dealing with Your lease

#### **42**     Sharing Occupation

42.1     You must not part with possession of the Property or any part of it unless You are transferring this lease and satisfying the conditions contained in clause 44 (Transfer)

42.2     You must not allow anyone other than Yourself and Your immediate family to occupy or share occupation with You of the Property, except that You may:

- (a)     allow Your manager or staff to live in the residential parts of the Property as part of their employment in connection with the Business; and
- (b)     allow short stay overnight guests to stay in parts of the Property designated for bed and breakfast use if You have complied with all statutory requirements in this regard.

and at no time can You allow the Property (or any part of it) to be classed as a house in multiple occupation (as defined and explained in the Management of Houses in Multiple Occupation (England) Regulations 2006) unless You obtain Our consent (which we may grant or decline at our absolute discretion) and also comply with any relevant Statutory Obligations in this regard.

42.3     You must ensure that no other person gains any rights to occupy the Property and You will indemnify Us against any costs, expenses and losses that We incur in obtaining vacant possession as a result of Your breach.

42.4     You must not hold the Property (or any part of it) on trust for or as agent for any other person.

42.5     If You are a limited company You must not become a subsidiary or holding company of a company or individual which is a Restricted Person.

#### **43**     Underletting

You must not underlet the Property or any part of it.

#### **44**     Transfer

44.1     You must not transfer part only of the Property.

44.2     You must not transfer this lease until after the Permitted Transfer Date. After that You may not transfer this lease without first obtaining Our consent, which We will not unreasonably withhold (strictly subject to the observance of this clause 44 in its entirety).

44.3     You must notify Us in writing at least 15 working days before placing the Business on the market.

44.4 It will be reasonable for Us to withhold consent to a transfer if:

- (a) at the date of the transfer You owe Us any Rents or any other sums (under this lease or otherwise) or You have not paid Us completely for the Trade Inventory;
- (b) the proposed buyer is a Restricted Person or is not resident (or in the case of any company, registered) in the United Kingdom;
- (c) in Our reasonable opinion:
  - (i) the proposed buyer is unlikely to be able to pay the Rents or comply with Your obligations in this lease; or
  - (ii) the Property is not in the condition required under this lease or You are in material breach of any of Your other obligations to Us; or
  - (iii) the proposed buyer is not a respectable and responsible person with adequate experience in the licensed trade; or
  - (iv) the proposed buyer's business plan (referred to in clause 46.5(g)(i) is inappropriate for the Property; or
  - (v) the proposed buyer (or its proposed nominee in the case of a company) is unlikely to be able to obtain or hold the Licences.

44.5 We may require the following before We give consent:

- (a) if the proposed buyer is a limited liability company or partnership We will require two individual guarantors (which must both be acceptable to Us) to guarantee the proposed buyer's obligations under this lease on the terms contained in Section 9 (The Guarantee);
- (b) You and Your Guarantor must enter into an Authorised Guarantee Agreement (as permitted under s.16 Landlord and Tenant (Covenants) Act 1995) with Us which is to be effective until the proposed buyer completes a transfer of this lease to an unconnected third party with Our consent and in compliance with the provisions of this clause 44 (Transfer).
- (c) the proposed buyer must have submitted to Us a completed direct debit mandate in relation to all Rents under this lease and must have paid to Us in cleared funds:
  - (i) a Deposit of no less than 25% of the then current Rent; and
  - (ii) a Repairs and Maintenance Fund in an amount that We reasonably require to cover the maintenance, repairs and decoration that Our surveyor reasonably anticipates will be required to the Property during the 12 months following the transfer; and
  - (iii) the Rents and other payments for the week in which the assignment is completed and the following week;

- (d) the proposed buyer (and any required guarantors) must have executed a deed (in a form reasonably required by Us) containing direct covenants to perform its obligations in this lease;
- (e) We must have obtained the unconditional permission of any superior landlord (where necessary);
- (f) You must provide Us with details of the purchase price being paid for the Property, the Business and the Trade Inventory and any change in price agreed;
- (g) the proposed buyer must:
  - (i) submit to Us for Our approval (acting reasonably) a business plan outlining the manner in which the buyer intends to run the Business;
  - (ii) satisfy Us that it carried out financial due diligence relating to the Business and that it has taken independent advice on those accounts and its business plan from a suitably qualified accountant;
  - (iii) attend an interview with Us to satisfy Us that it meets Our criteria set out in this clause 44;
  - (iv) attend (or ensure that its manager attends) a suitable licensed industry training course that We reasonably request at Your cost;
  - (v) purchase the Trade Inventory and Stock in accordance with clause 28 (Trade Inventory) and clause 29 (Stock);
  - (vi) prove that it has sufficient funding to purchase the Business, this lease and the Trade Inventory and that it has the ability to meet the repayments under those funding arrangements;
  - (vii) show that it (or its manager) holds (or will hold upon completion) all Licences and permissions to allow continuity of trade;
  - (viii) enter into a deed with Us (in a form reasonably required by Us) agreeing to repair any dilapidations outstanding at the Property at the time of the transfer of this lease, and to lodge with Us funds equal to the value of the dilapidations (as calculated by Our surveyor acting reasonably) together with Our project management costs, and We will take this payment into account when assessing the amount required for the Repairs and Maintenance Fund under clause 44.5(c)(ii) above.

44.6 If you wish to transfer the whole of the Property and there shall be a person firm or company who is deemed by us (acting reasonably) giving regard to this clause 44 in its entirety to be an acceptable proposed buyer and who is ready willing and able to take a transfer of the Lease then you shall give us notice giving the name and address of the proposed buyer together with references and a copy of the contract (which shall be conditional only upon us granting our consent to the proposed transfer and us not exercising our right to accept a surrender of this Lease and (if relevant) upon the consent of any superior landlord) and which shall show the premium (if any) agreed to be paid by the proposed buyer for the transfer of this Lease and any goodwill and the price to be paid or the method of valuing your Trade Inventory and Stock at the

Property and the said notice shall irrevocably offer to surrender the whole of the Property to us for an amount equal to the premium together with your Trade Inventory and Stock at the Property at the same price or subject to the same method of valuation as stated in the said contract

- 44.7 Following your compliance with clause 44.6 You shall promptly provide to us such information regarding the Business carried on at the Property by you as we may reasonably require and provided you have complied with this clause 44 then we shall within twenty working days of receipt of the said notice and information prescribed within clause 44.6 and 44.7 serve a counter-notice on You stating whether or not we accept the offer to surrender for the premium stated
- 44.8 If we accept the offer to surrender then the surrender and sale shall be completed within twenty working days after the date of the said counter-notice and vacant possession shall be given to us by you and we shall pay to the you the said premium (if any) and the price of the Trade Inventory and Stock as stated in the said contract or valued in accordance with the provisions of the said contract (and on any associated terms and conditions as may be decided by us acting reasonably with such terms to be acceptable and common place in the usual course of the licensed trade)
- 44.9 The surrender shall be affected without prejudice to any right of action or remedy that we may have in respect of any antecedent breach of your obligations in this Lease
- 44.10 The Lease shall be surrendered and the Lease and all Trade Inventory and Stock (and any other items subject to the surrender or sale) shall be sold free from any mortgage charge or encumbrance whatsoever
- 44.11 If the said counter-notice shall state that we do not accept the offer to surrender made by the said notice or if we fail to respond to the said notice within twenty working days of receipt of both the notice (and any information requested pursuant to clause 44.7) then you may (after obtaining the written consent of us pursuant to this clause 44 in its entirety and any other relevant provisions contained within this Lease) transfer the whole of the Property to the proposed buyer named in the contract as produced to us with the notice and strictly at the premium and terms therein stated
- 44.12 If You are a company the disposal of the majority of Your issued share capital or of the voting rights of Your company shall be treated as a transfer of this lease to which consent is required under this clause 44.
- 44.13 On any transfer of this Lease You must transfer to the proposed buyer the domain name of any website in relation to the Property or the Business.

#### 45 Charging

- 45.1 You must not charge, mortgage or give any bill of sale in respect of the Trade Inventory.
- 45.2 You must not charge or mortgage the Property without Our prior written permission. We will not unreasonably withhold Our permission in the case of a charge over the whole of the Property in favour of a reputable bank, if the charge excludes the Trade Inventory and the bank agrees to give Us a minimum of 7 days' notice before exercising its rights under the charge following Your default. We will not consent to a charge over part only of the Property.

46 **Registration and Provision of Information**

- 46.1 Within 28 days of any transfer or charge or other transaction involving the Property, You must give Us written notice of the dealing, a certified copy of all relevant documentation and a reasonable registration fee of no less than £50 plus VAT (plus any fee levied by any superior landlord). If You do not comply with this requirement We may charge You any additional administration or legal costs that We incur as a result of Your breach.
- 46.2 In the case of a transfer of this lease the notice referred to in clause 46.1 above must contain confirmation of the price paid by the buyer for the Property, the Business and the Trade Inventory.
- 46.3 Within 7 days of Us asking You must give Us a notice in writing containing full details of any person in occupation of the Property and any information that We request about the terms of their occupation.

SAMPLE

## SECTION 9

### The Guarantee

#### **47 Guarantor's Commitments**

- 47.1 Your Guarantor agrees that if You fail to perform fully Your obligations to Us under this lease, it will pay any outstanding monies You owe and rectify Your breaches when We ask.
- 47.2 Your Guarantor must indemnify Us against any losses, damages and expenses attributable to Your breach, plus Interest from the date of Our request until payment.
- 47.3 Your Guarantor must enter into, and comply with its obligations in any, consent, deed of variation, rent review memoranda, licence, authorised guarantee agreement, consent or supplemental agreement to which the Tenant is a party and which is supplemental to this tenancy, for the purpose of acknowledging Your Guarantor's liabilities under this tenancy, except that in relation to a Relevant Variation Your Guarantor will only be liable to Us to the extent that it has agreed to the variation..
- 47.4 Your Guarantor must advise Us immediately upon it becoming aware of You becoming Insolvent and will immediately take such steps as We reasonably request in order to protect the Premises Licence.
- 47.5 Your Guarantor agrees that it is accepting liability as a primary debtor under this lease and not just as a guarantor and that We may enforce the obligations of Your Guarantor without first enforcing Our rights against You or without having recourse to any other security which We may hold in respect of Your Obligations.

#### **48 Guarantor's liability**

- 48.1 Your Guarantor's liability will not be released or affected:
- (a) if We give You any extra time to perform Your obligations, any concession or We delay in enforcing Our rights;
  - (b) if We refuse to accept Rents or other sums because We reasonably believe You are in breach of Your obligations or We are entitled to end this lease;
  - (c) if We have any other rights or security which We may enforce against You or Your Guarantor;
  - (d) if You become Insolvent;
  - (e) if part of the Property has been surrendered, in which case Your Guarantor's liability will continue in respect of the part of the Property not surrendered;
  - (f) by any rent review properly agreed or determined;
  - (g) by any variation to this lease whether or not such variation imposes more onerous terms subject to clause 48.3 (**Guarantor's Commitments**) above;



- (h) by Us transferring Our title in the Property to a third party; or
- (i) by any other act or thing which would release Your Guarantor from its obligations other than a deed of release given by Us.

48.2 Whilst You still have obligations to Us Your Guarantor must not, without Our consent, make any claim against You or take any security from You, and any security taken in breach of this clause shall be held on trust for Us as security for the liability of Your Guarantor to Us.

48.3 All payments made by Your Guarantor shall be made without set off, abatement, deduction or counterclaim (whether legal or equitable).

## 49 New Lease

49.1 If

- (a) this lease is forfeited or disclaimed; or
- (b) You are a company and You cease to exist; or
- (c) You become Insolvent

("Relevant Event") then, within six months of Us becoming aware of the Relevant Event We may require Your Guarantor to accept from Us a lease of the Property in its actual condition at that time ("the New Lease").

49.2 The New Lease will be subject to any underlease or tenancy or other interest affecting the Property, for a term commencing on the date of the Relevant Event for the residue of the Term then remaining, at the same Rent as that then payable under this lease (disregarding any rent suspension or concession) and otherwise on the same terms as this lease including the provisions for re-entry and rent review.

49.3 If We do not require Your Guarantor to take a New Lease of the Property Your Guarantor will remain liable to pay the Rents and other sums reserved by this lease which would have been payable and to perform Your outstanding obligations in this lease had the Relevant Event not happened. That liability shall expire 6 calendar months after the Relevant Event happened.

49.4 Your Guarantor must pay to Us when We ask the full amount of all legal and other costs and charges which may be payable by Us in relation to the enforcement of Your Guarantor's obligations under this lease and any New Lease, including Our costs in connection with the grant of a New Lease.

## 50 Replacement Guarantor

If Your Guarantor becomes Insolvent or dies You must notify Us immediately. Within 20 working days of the insolvency or death You must arrange for a replacement guarantor who is satisfactory to Us (acting reasonably) to enter into a deed with Us in which the

new guarantor agrees to perform the obligations set out in Section 9 of this lease. You will be responsible for any costs that We may incur as a result of this.

SAMPLE

## SECTION 10

### Ending the Lease

#### 51 End of the Lease

51.1 At the end of this lease You must:

- (a) return the Property to Us in a condition that meets with Your repairing and decorating obligations in this lease and in compliance with all Statutory Obligations;
- (b) reinstate any alterations that We have requested You to reinstate (repairing any damage caused);
- (c) pay up to date all Rents and any other payments due to Us or any of Our Nominated Suppliers;
- (d) hand over the Property with vacant possession;
- (e) leave the Trade Inventory in the Property in a condition that meets Your obligations under clause 28 (Trade Inventory) and comply with clause 28.3 (Trade Inventory);
- (f) deliver to Us Our original signed lease;
- (g) transfer the Premises Licence to Us as required in Clause 26 (Licences); and
- (h) discharge any charges registered over this lease and close any entries at the Land Registry in relation to this lease and if You do not do this it is implied that You appoint Us as Your attorney and agent to sign and submit any application to the Land Registry required to enable the title to this lease to be closed and all entries in respect of it to be removed from the register; and
- (i) transfer to us (or such other person that We choose) the domain name of any website relating to the Business

and if You fail to do any of these You must pay Us any costs and expenses We incur in performing the obligations for You and We may deduct these costs and expenses (or a proportion of them) from the Deposit.

51.2 The end of the lease will not prevent You or Us making any claims against each other in relation to any breach of obligation in the lease;

#### 52 Re-Entry

We may end this lease by re-entering the Property or legal proceedings if:

- (a) You do not pay any Rents within seven days of them becoming due (whether formally demanded or not); or

- (b) You do not comply with any of Your obligations to Us under this lease; or
- (c) You become Insolvent; or
- (d) You are disqualified from holding any Licences, or are convicted of any offences which may prejudice Your ability to hold any Licences; or
- (e) the Premises Licence is surrendered, suspended or revoked or a closure order is issued; or
- (f) You are in breach of any additional grounds for re-entry contained in any Superior Lease.

SAMPLE

## SECTION 11

### General Provisions

#### **53**     Notices

53.1     Any notice to be given to Us must be in writing and properly addressed and posted by special delivery (or its equivalent) or delivered to Us at Our registered office.

53.2     Any notice to be given to You or Your Guarantor shall be sufficiently given if left at the Property, handed to You, or posted by special delivery (or its equivalent), or delivered by facsimile or email to You (or any of the persons who are or were the tenant) to either:

- (a)     the Property; or
- (b)     the address of You or Your Guarantor set out in the Summary (or the address of the then current Tenant or guarantor in any deeds entered into with Us); or
- (c)     the last address of You or Your Guarantor (or any of the persons who are or were the Tenant or the Guarantor respectively) of which written notice has been received by Us; or
- (d)     in the case of service by facsimile or email to the most recent number or the email address that You have provided to Us in writing.

53.3     If You are two or more persons any notice given to any one of such persons shall be deemed to have been given to all such persons.

53.4     If Your Guarantor is two or more persons any notice given to any one of such persons shall be deemed to have been sufficiently given to all such persons.

#### **54**     Third Parties

Nothing in this lease shall give to any third party any right to enforce or to take any benefit of any term of this lease.

#### **55**     Entire Agreement

55.1     This lease and its Schedules, any agreement for lease made between You and Us prior to the grant of this lease and any Supplemental Documents comprise the whole of this agreement. You acknowledge that You have not entered into this agreement in reliance on any statement, representation, warranty or confirmation of any nature in relation to the Property, Fixtures and Fittings, Trade Inventory or Business, except for written replies to enquiries given by Our solicitors in response to formal enquiries raised by Your solicitors.

55.2     You do not have any claim or right against Us in connection with any representation or statement that We or Our representatives make prior to the date of this lease, unless

the relevant representation or statement was made or given fraudulently and You relied upon it in entering into this lease.

**56 Data Protection**

You confirm that You have no objection to Us:

- (a) providing appropriate information that We hold in relation to You in connection with the Property or the Business to suitable third parties in relation to the management of this lease and any Supplemental Documents, both during and after the expiry of the Term;
- (b) obtaining information from any mortgagee of this lease as to the level of debt and Your payment history;
- (c) searching credit reference agencies for information about You and Your Guarantor (if any) when considering any application for consent or when considering taking action in relation to Your default; and
- (d) recording Your telephone calls to Us for training and quality control purposes and for keeping a record of communications relevant to the Property and Your business arrangements with Us.

**57 Professional Advice**

Before executing this lease You confirm that:

- (a) You and Your Guarantor have received independent professional advice in advance of You preparing your business plan (which for the purposes of this clause shall be a business plan in such form as is required by Us); and
- (b) You and Your Guarantor have either received further independent professional advice about its terms or been advised of the wisdom of taking such independent advice but have chosen not to do so and accordingly have not relied upon any advice or statement of Us or Our solicitors.

**58 Exclusion of Security of Tenure**

- (a) We have served on You a notice dated [XX XX XXXX] in the form set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 ("the Order") in relation to the tenancy created by this tenancy.
- (b) You, or a person duly authorised by You, has in relation to that notice made [a declaration dated [XX XX XXXX] in the form set out in paragraph 7 of Schedule 2 to the Order] **OR** [a statutory declaration dated [XX XX XXXX] in the form set out in paragraph 8 of Schedule 2 to the Order].
- (c) Where that declaration was made by a person other than You, You confirm that the declarant was duly authorised by You to make the declaration on Your behalf.

- (d) We and You confirm that this tenancy is not entered into pursuant to an agreement for tenancy.
- (e) We and You agree that the provisions of sections 24 to 28 (inclusive) of the Landlord and Tenant Act 1954 are excluded in relation to the tenancy created by this tenancy.

SAMPLE

## SCHEDULE 1

### A. Title Matters

- 1 The matters contained or referred to in the registers of title number [Title Number] so far as they affect the Property.
- 2 The Superior Lease dated [XX XX XXXX] and made between [Parties to the Lease] and any rights contained in that lease and the underlease provisions in Part D of this Schedule.
- 3 Any rights, reservations, easements and other matters affecting the Property at the date of the lease or granted by Us over the Property under paragraph 10 of Part B of this Schedule.
- 4 You are not entitled to any rights over other properties unless specified in this lease.

### B. Our Rights Over the Property

We reserve the following rights for Our benefit and the benefit of Our successors, any superior landlord and mortgagee, and any other persons that We authorise, and We will not be obliged to pay You any compensation for these rights unless We cause damage to the Property when We exercise the rights.

- 1 Works to Adjoining Property - We may carry out works to rebuild any Adjoining Property and use it for any purpose even if this affects the access of light and air to the Property.
- 2 Services - We may use any Pipes (installed now or in the future) running through, under or over the Property for the running of utilities, information and other services or supplies from and to any Adjoining Property, any Telecom Site and any Telecom Apparatus.
- 3 Advertising - We may erect and retain on the Property any advertisements, hoardings, signs or notices and retain any income attributable to them.
- 4 Scaffolding - We may erect scaffolding to enable Us to perform Our rights or obligations in relation to the Property or for any purpose connected with any Adjoining Property, even if scaffolding may temporarily restrict the access of light to the Property.
- 5 Support and Light - The benefit of any rights of light, air, support, protection, shelter and all other easements and rights benefiting (now or at any time during the Term) any Adjoining Property, any Telecom Site and any Telecom Apparatus.



- 6 Emergency Escape - We may use or pass along any fire escapes within the Property benefiting any Adjoining Property.
- 7 Telecoms
- (a) The right to install, operate, inspect, maintain, repair, renew, replace and upgrade any Telecom Apparatus and the right to connect into, lay, maintain, repair, renew and use communications connections to the Telecom Apparatus and the Telecom Site.
  - (b) The right to connect into and use Your electricity supply and install a check meter (subject to reimbursing the cost of electricity consumed) and operate connections from that supply to the Telecom Apparatus and the Telecom Site.
  - (c) The right to install, use and maintain a separately metered electricity supply to serve the Telecom Apparatus and the right to bring onto and operate at the Property, in a position reasonably required by the Telecom Operator, a backup power generator together with any associated sockets and cables.
  - (d) The right to make necessary repairs to parts of the Property from which the Telecom Apparatus obtain support.
- 8 Energy Saving Agreements - We may use the roofs, walls and grounds of the Property for the installation and operation of micro generation and/or energy saving equipment and on-site meters, and to remotely monitor the equipment and meters and share the information with the appropriate bodies.
- 9 Electronic Communication Equipment - We may install in the Property such information technology and electronic communication equipment which We reasonably believe will enhance Your ability to communicate with Us and operate the Business from the Property, or would enhance the services that You can provide to Your customers. You will be responsible for the operational costs of this equipment.
- 10 New Rights - We may grant any rights over the Property to a third party (including entering into a Telecom Agreement or an Energy Saving Agreement) even though these rights may affect Your rights of light and air or access to the Property, unless the grant of those rights or agreements is likely to materially prejudice the Business or Your use and occupation of the Property for the Permitted Use may be affected.
- 11 Access - We may access the Property for the purposes set out in part C of this Schedule.

**C. Our Access to the Property**

- 1 You must allow Us (and/or if relevant Our contractors and agents, with or without equipment and tools) access to the Property for any or all of the following reasons:
- (a) to inspect the condition and state of repair of the Property or the Trade Inventory to inspect works carried out by You and to prepare schedules of dilapidations and to carry out works that You are required to do but have failed to do;

- (b) to inspect the cellar and the Stock and to take samples of food and drink (on payment of a pro-rata part of the price that You paid for the bulk from which the samples are taken) examine casks, bottles or other containers and to inspect Your stock records;
- (c) to install, inspect and maintain Flow Monitoring Equipment and drinks raising and dispense equipment and to use Your electricity supply at Your cost to operate all this equipment
- (d) to comply with Our Statutory Obligations to You or to others;
- (e) to prepare schedules for valuation and rent review purposes;
- (f) to monitor Your compliance with Your obligations;
- (g) to inspect the papers, records, management accounts, books and VAT returns of the Business to enable Us to confirm that You are meeting Your obligations or for the purpose of any review under clause 14 (Review to Market Rent) or otherwise;
- (h) to view the Property with interested parties and to display a sale or letting board;
- (i) to install and remove any beer and drinks dispensing equipment belonging to Us or Our Nominated Suppliers;
- (j) for any purpose in connection with the matters referred to in part B of this Schedule;
- (k) to carry out tests, inspections and surveys in respect of energy efficiency and management of emissions; and/or
- (l) to provide Health and Safety Compliance Services and Maintenance Services.

2 We must give You reasonable prior notice of Our access, and Our access shall be during trading hours unless:

- (a) it is an emergency situation (in which case We may break and enter if necessary); or
- (b) We have reasonable grounds to suspect that You are in breach of Your obligations

in which case no notice is required.

3 We will take all reasonable care not to cause any damage to the Property and We will repair any damage that We cause to the Property in entering unless Our entry was required as a result of Your default.

#### D. Underlease Obligations

1 This part of this Lease shall apply only if this is an underlease.

- 2 We agree to pay to the Superior Landlord the basic rent payable under the Superior Lease during the Term.
- 3 To the extent that they are not already contained in this lease You agree to perform all the tenant's obligations contained in the Superior Lease (except the obligation to pay rent) and not to omit or allow anything to be done which will put Us in breach of Our obligations. If the tenant's obligations and conditions in the Superior Lease are more onerous or restrictive in any respect than Your obligations in this lease You must perform the obligations and abide by the conditions contained in the Superior Lease.
- 4 You must reimburse to Us any sums which We are required to pay under the Superior Lease with the exception of the basic rent.
- 5 [Our obligation to insure and reinstate contained in Section 7 (**Insurance**) shall not apply but instead We will use Our reasonable endeavours to procure that the Superior Landlord complies with its obligations in the Superior lease to insure and re-instate the Property and the definition of Insured Risks shall be replaced by the meaning of insured risks under the Superior lease.]

**E. Matters Specific**

[Schedule 3 does not apply]

[We agree that all references within this Lease to the Accountancy and Stocktaking Service Charge, Accountancy and Stocktaking, and Accountancy Services shall be ignored and you shall not be obliged to pay for, and we shall not be obliged to provide, any such services.]

[We agree that you shall not be obliged to pay the Maintenance Service Charge (and we shall not be obliged to provide any services relating to such charge). We agree that you shall be obliged to make alternative provision for this service and such services shall be of sufficient quality and provided in such frequency as may be reasonably necessary given the nature and trade of the Business conducted at the Property (and taking into account any statutory or other requirements that may apply).]

[We agree that you shall not be obliged to pay the Health and Safety Compliance Service Charge (and we shall not be obliged to provide any services relating to such charge). We agree that you shall be obliged to make alternative provision for this service and such services shall be of sufficient quality and provided in such frequency as may be reasonably necessary given the nature and trade of the Business conducted at the Property (and taking into account any statutory or other requirements that may apply).]

[We agree that you shall not be obliged to pay the Repairs and Maintenance Fund (and we shall not be obliged to provide any services relating to such charge). We agree that you shall be obliged to make alternative provision for this service and such services shall be of sufficient quality and provided in such frequency as may be reasonably necessary given the nature and trade of the Business conducted at the Property (and taking into account any statutory or other requirements that may apply).]

#### **F. Minimum Barrelage Obligation**

1.

In this paragraph:

"Barrel" shall mean 163.7 litres (36 imperial gallons) by volume, whether the product is supplied in barrels, kegs, bottles, cask or any other container

"Quarter" shall mean a period of three months commencing respectively on the first day of March June September and December

"Half Year" shall mean a period of 6 months calculated by reference to two consecutive Quarters.

(a). In each [Quarter] [Half Year] of the Term commencing from the [ ] ("the Start Date") You shall purchase from Us or Our Nominated Supplier and pay for not less than [NUMBER OF BARRELS IN FIGURES (NUMBER OF BARRELS IN WORDS)] Barrels of Beer and/or Cider and/or Flavoured Alcoholic Beverages only shown on Our Price List in force from time to time ("the Minimum Barrelage").

(b). In respect of the period from the [ ] to the end of the then current [Quarter ("the First Quarter")] [Half Year ("the First Half Year")] the Minimum Barrelage You are obliged to purchase shall be apportionment of the Minimum Barrelage ("the Apportioned Minimum Barrelage") calculated as follows :-

$AMB = (DR / DQ) \times MB$  where

AMB means Apportioned Minimum Barrelage

DR means the number of days remaining in the [Quarter] [Half Year] during which this agreement commences

DQ means the number of days in the [Quarter] [Half Year] during which this agreement commences

MB means the Minimum Barrelage

(c). If in any [Quarter] [Half Year] of the Term You do not purchase and pay for the Minimum Barrelage (or in the case of the [First Quarter] [First Half Year] the Apportioned Minimum Barrelage) You shall pay to Us by way of compensation for shortfall the sum of [insert figure in numbers and words] plus VAT for each Barrel of shortfall (and for an appropriate proportion of













IN WITNESS of which this lease has been executed as a Deed but is not delivered until the date stated in LR1 of the Land Registry Prescribed Clauses.

SIGNED as a deed by [Insert name of 1st individual Tenant] )  
in my presence: )

Witness signature  
Witness Name (in Block Capitals)  
Witness Address

SIGNED as a deed by [Insert name of 2nd individual Tenant] )  
in my presence: )

Witness signature  
Witness Name (in Block Capitals)  
Witness Address

SIGNED as a deed by [Insert details of corporate tenant] )  
acting by: )

Director  
Director/Secretary

Witness signature  
Witness Name (in Block Capitals)  
Witness Address

SIGNED as a deed by [Insert name of 1st individual Guarantor] )  
as guarantor in my presence: )

Witness signature  
Witness Name (in Block Capitals)  
Witness Address

SIGNED as a deed by [Insert name of 2nd individual Guarantor] )  
as guarantor in my presence: )

Witness signature  
Witness Name (in Block Capitals)  
Witness Address

IN WITNESS of which each party has duly executed this Agreement as a Deed but it is not delivered until the date stated in LR1 of the Land Registry Prescribed Clauses.

EXECUTED AS A DEED by affixing )  
THE COMMON SEAL of [Legal Owner] in the presence of: )

Authorised Sealing Officer

Authorised Sealing Officer

SAMPLE