

LEASE

between

DERAMORE (S) LIMITED

and

NEW LOOK RETAILERS LIMITED

PROPERTY: [] PRINCES STREET, EDINBURGH

ENTRY: []

DURATION: 20 YEARS

INITIAL RENT: £1,300,000 PER ANNUM (EXCLUSIVE OF VAT)

REVIEW DATES : []

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FAS 0468
2009**

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LEASE

between

DERAMORE (S) LIMITED, incorporated under the Companies Acts (registered number SC309536) and having their registered office at 15 Atholl Crescent, Edinburgh EH3 8HA

and

NEW LOOK RETAILERS LIMITED, incorporated under the Companies Acts (registered number 01618428) and having their registered office at New Look House, Mercery Road, Weymouth.

1 Definitions/interpretation

1.1 definitions

In this lease and in the schedule:-

- 1.1.1 **"Building"** means the subjects described in Part 2 of the Schedule and each and every part thereof together with all additions, alterations and improvements thereto which may be carried out during the Period of this Lease in accordance with the Landlord's rights and obligations under this Lease and all Landlord's fixtures and fittings from time to time in and about the same;
- 1.1.2 **"Building Insurance"** means the insurance of the Building to be effected by the Landlord in terms of Sub-Clause 6.2;
- 1.1.3 **"Common Parts"** means the common parts of the Building described in Part 3 of the Schedule all as the same may be varied, altered or extended but that always pursuant to the provisions of this Lease and the Landlord's rights and obligations hereunder;
- 1.1.4 **"CDM Regulations"** means the Construction (Design and Management) Regulations 2007 as amended or re-enacted from time to time;
- 1.1.5 **"Date of Entry"** means **[INSERT THE ACCESS DATE IN TERMS OF THE AGREEMENT FOR LEASE];**
- 1.1.6 **"Date of Expiry"** means the date of expiry or earlier termination (however terminated) of this Lease;
- 1.1.7 **"Duration"** means the period from and including the Date of Entry until and including **[INSERT A DATE TO REFLECT A 20 YEAR PERIOD];**
- 1.1.8 **"Fire Safety Legislation"** means together the Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006;

- 1.1.9 **"Full Cost of Reinstatement"** means an amount equal to the costs (including the cost of shoring up, demolition and site clearance, architects', surveyors' and other professional fees, local authority charges and VAT where applicable) which would be likely to be incurred in reinstating the Building and/or the relevant part thereof (as appropriate) following destruction by one or more of the Insured Risks and in accordance with the requirements of this Lease at the time when such reinstatement is likely to take place having regard to all relevant factors (including any increases in building costs expected or anticipated to take place at any time up to the date upon which the Building and/or the relevant part thereof (as appropriate) shall be fully rebuilt or reinstated) and shall be determined by the Landlord acting reasonably;
- 1.1.10 **"Gross Internal Area"** means gross internal area measured in accordance with the RICS Code of Measuring Practice, 5th Edition, issued in 2001 by the Royal Institution of Chartered Surveyors as amended from time to time and current at the date of measurement;
- 1.1.11 **"Insured Risks"** means fire, lightning, earthquake, explosion, aircraft (other than hostile aircraft) and other aerial devices or articles dropped therefrom, riot and civil commotion and malicious damage, storm or tempest, bursting or overflowing of water tanks, apparatus or pipes, flood, subsidence, impact by road vehicles and such other normal commercial risks (which may include terrorism risks) as may from time to time be required by the Landlord (acting reasonably);
- 1.1.12 **"Insurers"** means such insurance office or underwriters of repute and based or formally represented in the United Kingdom as may be nominated by the Landlord;
- 1.1.13 **"Insurance Charge Percentage"** means the percentage equivalent to the proportion which the Gross Internal Area of the Property bears to the total Gross Internal Area of the Lettable Areas comprised in the Building and the Property together or such greater percentage as may from time to time be determined by the Landlord, acting reasonably and having regard to the identity of, and the use of the Property by, the Tenant and any other occupier of the Property;
- 1.1.14 **"Interested Party"** means any third party (notice of whose identity has been given by the Tenant or by or on behalf of that third party to the Landlord prior to the giving by the Landlord of any notice in terms of Sub-Clause 7.1.3) having an interest as creditor under a fixed or floating charge over the interest of the Tenant under this Lease;
- 1.1.15 **"Landlord"** means the said Deramore Holdings Limited and, in substitution therefor, any person succeeding to its interest under this Lease;
- 1.1.16 **"this Lease"** means this lease (including the Schedule) and any document which is expressed to be collateral herewith, or which is entered into pursuant to or in

accordance with the terms hereof and which is expressly stated to be so entered into;

- 1.1.17 **"Lettable Areas"** means such parts of the Building (other than the Property) as are let or capable of being let to occupational tenants (as determined by the Landlord acting properly and reasonably) but excluding items included in the Common Parts, and the expression **"Lettable Area"** shall be construed accordingly;
- 1.1.18 **"Loss of Rent and Service Charge"** means such sum of money as the Landlord acting properly and reasonably may calculate represents the loss of the rent and Service Charge payable under this Lease for a period of 3 years, in an amount which takes into account potential increases in (1) rent in accordance with (but without prejudice to) the rent review provisions contained in this Lease and on renewal/re-letting at the expiry of the Period of this Lease and (2) the Service Charge;
- 1.1.19 **"Loss of Rent and Service Charge Insurance"** means the insurance to be effected by the Landlord against Loss of Rent and Service Charge in terms of this Lease;
- 1.1.20 **"Management Regulations"** means such rules and regulations as are set down in Part 8 of the Schedule and such variations and additions as are permitted in accordance with this Lease;
- 1.1.21 **"Period of this Lease"** means the Duration together with any continuation thereof whether by tacit relocation, under an Act of Parliament or for any other reason;
- 1.1.22 **"Permitted Use"** means [the retail sale of menswear, ladieswear, childrenswear, teenswear, boyswear, footwear, jewellery, cosmetics, fashion accessories, lingerie, hosiery, handbags, confectionery, home accessories, sports goods, sports equipment or such other use within Class 1 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 as the Landlord shall approve (such approval not to be unreasonably withheld or delayed);
- 1.1.23 **"Planning Acts"** means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) (Scotland) Act 1997 and any legislation of like purpose or nature;
- 1.1.24 **"Plans"** means the demonstrative plans forming Part 10 of the Schedule;
- 1.1.25 **"Plant and Equipment"** means all electrical, mechanical and other plant, machinery and equipment in use for the common benefit of two or more occupiers of the Building where one of such occupiers is the Tenant;
- 1.1.26 **"Prescribed Rate"** means the rate of interest which is from time to time 3% above the base lending rate for the time being of The Royal Bank of Scotland plc or 3% above

such other UK national clearing bank rate which may from time to time be determined in writing by the Landlord acting reasonably;

- 1.1.27 **"Property"** means the subjects described in Part 1 of the Schedule and each and every part thereof;
- 1.1.28 **"Rent Review Plans"** means the layout drawing numbers [] forming Part 11 of the Schedule;
- 1.1.29 **"Schedule"** means the Schedule docquetted, annexed and executed as relative hereto;
- 1.1.30 **"Service Charge"** means the charge provided for in Part 6 of the Schedule;
- 1.1.31 **"Service Charge Percentage"** means the percentage equivalent to the proportion which the Gross Internal Area of the Property bears to the total Gross Internal Area of the Lettable Areas comprised in the Building and the Property together, as such percentage may be varied pursuant to paragraph 3.3 of Part 6 of the Schedule;
- 1.1.32 **"Service Expenditure"** means such expenditure as is provided for in Part 7 of the Schedule;
- 1.1.33 **"Service Systems"** means in the relevant context the channels, ventilation ducting, drains, sewers, rhones, gutters, water-courses, pipes (including sprinkler systems, if any) wires, cables, aerials or other conducting media, pumps, valves, meters and connections in and passing through or otherwise serving the Building or any part thereof except insofar as the same serve exclusively the Property and are located within the Property or serve exclusively any Lettable Area and are located within any Lettable Area;
- 1.1.34 **"Tenant"** means the said New Look Retailers Limited and in substitution therefor its permitted assignees, and in the case of an individual shall include his personal representatives;
- 1.1.35 **"Terrorist Act"** means an act or acts of a person or persons acting on behalf of or in connection with any organisation (including any association or combination of persons) which carries out activities directed towards the overthrowing or influencing by force or violence of Her Majesty's Government in the United Kingdom or any other Government de jure or de facto or towards the influencing of corporate policy of occupiers of Lettable Units;
- 1.1.36 **"Terrorist Damage"** means any damage or destruction arising out of a Terrorist Act where such Terrorist Act is not one of the risks insured against by the Landlord in terms hereof;

- 1.1.37 **"Title Deeds"** means the documents and others identified in Part 9 of the Schedule;
and
- 1.1.38 **"VAT"** means value added tax payable under the Value Added Tax Act 1994 as amended from time to time or under the directives or regulations adopted by the Council of the European Union which relate to value added tax or any similar tax introduced in substitution therefor.

1.2 **interpretation**

In this Lease:-

- 1.2.1 words importing any gender shall include the other genders;
- 1.2.2 words importing the singular number only shall include the plural number and vice versa and where there are 2 or more persons included in the expression "the Tenant" the obligations of the Tenant under this Lease shall be binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order;
- 1.2.3 where the Tenant is a firm or partnership the obligations of the Tenant hereunder shall be binding jointly and severally on all persons who are or become partners of the firm at any time during the Period of this Lease and their respective executors and representatives whomsoever as well as on the firm and its whole stock, funds, assets and estate, without the necessity of discussing them in their order and such obligations shall subsist and remain in full force and effect notwithstanding any change or changes which may take place in the firm or partnership or in the name of the firm or partnership whether by the assumption of a new partner or partners or by the retiral, bankruptcy or death of any individual partner; declaring that the retiral, death or outgoing of any individual partner shall not of itself discharge such partner or his executors from such partner's joint and several liability in terms of this Lease but the Landlord's consent will not be unreasonably withheld to the discharge of any such retiring partner or the estate of any deceased partner where the remaining partners are demonstrably capable of fulfilling the obligations of the Tenant under this Lease. If the Tenant comprises more than one person, the Landlord shall be entitled to discharge any of the persons so comprised without in any way discharging any of the remaining persons so comprised in terms of this Lease. Neither this clause nor any other provision of this Lease shall imply or include continuing liability on the part of the granter of an assignation following a permitted assignation being properly effected in accordance with the provisions of this Lease;
- 1.2.4 words denoting natural persons shall include incorporated bodies and vice versa;

- 1.2.5 any reference to an Act of Parliament (and whether that Parliament shall be devolved or otherwise) shall include any modification, extension or re-enactment thereof for the time being in force and shall also include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom provided that any reference to the Town and Country Planning (Use Classes) (Scotland) Order 1997 shall, notwithstanding any modification, extension or re-enactment thereof, nonetheless be construed as a reference to said Order in the form in which it is enacted at the Date of Entry;
- 1.2.6 the headings to Clauses, Sub-Clauses and paragraphs are for ease of reference only and shall be disregarded in the construction or interpretation of this Lease;
- 1.2.7 any right or power expressed to be reserved to or conferred on the Landlord, any inspection or works expressed to be carried out by the Landlord and any notice, request or demand expressed to be served or issued by the Landlord may be exercised, carried out, served or issued by the Landlord and/or by its duly authorised employee, factor, professional adviser, agent and/or contractor;
- 1.2.8 any obligation of the Tenant under this Lease which has the effect of prohibiting or restricting any act of the Tenant shall be deemed to incorporate an obligation on the Tenant and/or any authorised occupier of the Property not to allow or permit any other person (for whom the Tenant or any authorised occupier is responsible at law) to infringe such prohibition or restriction and to use all reasonable endeavours to prevent any other person within the reasonable control of the Tenant infringing such prohibition or restriction;
- 1.2.9 where the fulfilment of any obligation undertaken by the Tenant in this Lease includes a reference to the knowledge or awareness by the Tenant of any matter or event relevant to that obligation, the Tenant will be deemed to have such knowledge or awareness if any authorised occupier of the Property or any of its or the Tenant's employees has or ought reasonably to have had such knowledge or awareness;
- 1.2.10 any expression of liability on the part of the Tenant in respect of the act, omission, neglect or default of the Tenant shall include liability for the act, omission, neglect or default of any servant, employee, contractor or agent of the Tenant, any authorised occupier of the Property and all others for whom the Tenant or such authorised occupier is responsible in law;
- 1.2.11 references to a numbered Clause or Sub-Clause or paragraph of a Part of the Schedule without further amplification are references to the Clause or Sub- Clause of this Lease or the paragraph of the Part of the Schedule so numbered;
- 1.2.12 where any matter requires the consent or approval of the Landlord and also the consent or approval of any other person in terms of the Title Deeds or in terms of any

lease to which the Landlord's interest in the Building or any part thereof is subject, the consent or approval of such other person shall be a necessary condition of the grant of such consent or approval by the Landlord; and

1.2.13 the words "including" and "in particular" shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any foregoing words.

2 Grant and Duration

In consideration of the rent and Service Charge, and of the other undertakings by the Tenant hereinafter specified, the Landlord hereby lets to the Tenant (but excluding always assignees and sub-tenants legal or voluntary and creditors and managers for creditors in any form except where permitted in accordance with the terms of this Lease) the Property TOGETHER WITH the pertinents referred to in Part 4 of the Schedule BUT UNDER RESERVATION of the exceptions and reservations referred to in Part 5 of the Schedule and that for the Duration.

3 Tenant's acceptance of Property and Common Parts

The Tenant accepts the Property and the Building (including the Common Parts) as being in good and tenantable condition and repair at the Date of Entry.

4 Rent, Service Charge and insurance

The Tenant undertakes to pay to the Landlord:-

4.1 rent

without any written demand therefor the annual rent of ONE MILLION THREE HUNDRED THOUSAND POUNDS (£1,300,000) (subject to review under Clause 8) together with all VAT chargeable thereon by equal quarterly payments in advance on the Scottish quarter days namely 28 February, 28 May, 28 August and 28 November clear of all set-off, counterclaim or deductions whatsoever (save as provided in this Lease), the first of such payments being due on **[INSERT THE DATE THREE MONTHS AFTER THE DATE OF ENTRY]** (the "**Rent Commencement Date**") and being the proportionate amount due for the period from and including the Rent Commencement Date until and including the day preceding the quarter day following the Rent Commencement Date to be made on or before the Rent Commencement Date, the next on the quarter day following the Rent Commencement Date for the quarter following and so forth quarterly, termly and proportionally thereafter throughout the Period of this Lease;

4.2 Service Charge

the Service Charge as defined in, at the times specified in and ascertained from time to time as provided for in Part 6 of the Schedule;

4.3 **Building Insurance premiums**

within 14 days of written demand the Insurance Charge Percentage of all sums paid or payable by the Landlord from time to time in respect of effecting and maintaining the Building Insurance;

4.4 **Loss of Rent and Service Charge Insurance premiums**

within 14 days of written demand all sums paid or payable by the Landlord from time to time in respect of effecting and maintaining the Loss of Rent and Service Charge Insurance; and

4.5 **excesses**

within 14 days of written demand, a sum equal to the normal commercial excess (if any) payable in terms of any policy of insurance effected by the Landlord in terms of this Lease in the event of any relative claim or claims being made in respect of the Property, or where any such claim affects both the Property and any other part of the Building, a fair and equitable proportion of any such excess as determined by the Landlord (exercising its power of determination in a proper and reasonable manner) save, in either case, where and to the extent that such excess forms part of the Service Expenditure.

5 **Tenant's other obligations**

The Tenant undertakes to the Landlord to observe and perform throughout the Period of this Lease the conditions, obligations and others contained in, specified in, or otherwise set out in this Clause 5.

5.1 **to pay interest on sums overdue**

To pay to the Landlord on demand interest on any payment of rent or other sum of money which is due and payable under this Lease but which remains unpaid, at the Prescribed Rate from the date when the same became liquidate and due, and in the case of monies due within a certain period after demand therefor as provided in this Lease, from the date such payment became due until payment thereof (as well after as before any decree or judgment), and that without prejudice to any other right remedy or power contained in this Lease or otherwise available to the Landlord.

5.2 **to pay outgoing**

To bear, pay and discharge all existing and future rates, taxes, duties, charges, community charges, assessments, impositions and outgoing whatsoever (whether parliamentary, national, parochial, local or otherwise and whether or not of a capital or non-recurring nature) which now are or may at any time hereafter during the Period of this Lease be charged, levied, assessed or imposed upon the Property or upon the owner or occupier in respect thereof or which arise from this Lease other than:-

- 5.2.1 any rent or interest on outstanding rent payable by the Landlord or by any other person from whom the Landlord's interest in the property is derived;

5.2.2 any tax (other than VAT on the rent payable under this Lease) assessed in respect of any dealing or deemed dealing with the Landlord's interest in the Property or with any other interest from which the Landlord's interest in the Property is derived; and

5.2.3 any tax payable by the Landlord in respect of the rent and other payments arising under this Lease (except as otherwise expressly provided).

5.3 to pay for utility supplies

To pay charges for water, gas and electricity and other utilities used or consumed in or upon the Property and the hire and installation of separate meters therefor during the Period of this Lease and to keep the Landlord fully and effectively indemnified from and against the non-payment of all such charges and any discontinuance of supply resulting therefrom.

5.4 not to insure Building

Not to effect any policy of insurance of its own in respect of any part of the Building against damage or destruction by the Insured Risks; in default any insurance monies received by or payable to the Tenant shall be the property of and shall immediately be paid over to the Landlord.

5.5 to service fixed equipment

At the cost of the Tenant to enter into such contracts as may reasonably be considered advisable with persons of repute for the regular maintenance, inspection, care and servicing of all or any fixed equipment forming part of the Property including boilers, central heating apparatus, lifts, escalators, water sprinkler system (if any), and air conditioning apparatus (if any) from time to time in and about the Property.

5.6 to repair, renew and rebuild

At all times throughout the Period of this Lease at the Tenant's expense to repair, maintain, decorate, cleanse, glaze, point and when necessary to renew, rebuild and reinstate and generally in all respects to keep in good and tenantable condition and repair the Property with all necessary maintenance, cleansing and where necessary rebuilding and renewal works and amendments whatsoever, regardless of the age or state of dilapidation of the Property and (subject as aftermentioned) irrespective of the cause of the damage necessitating such repair, maintenance, and where necessary as aforesaid renewal, rebuilding or others; provided that the Tenant shall not be liable to repair, maintain, replace, renew and/or rebuild the Premises in terms of this Clause 5.6 where such repair, maintenance, replacement, renewal and/or rebuilding is rendered necessary by (i) any damage or destruction (other than damage to or breakage of the plate glass) caused by any of the Insured Risks if (but only if) the Tenant has complied with its obligations under Sub-Clause 5.16; (ii) any neglect act or omission of the Landlord or others for whom the Landlord is responsible in law; or (iii) Terrorist Damage.

5.7 to make good damage to the Building

In the event of any damage being caused to any part of the Building directly or indirectly through any act, neglect or default on the part of the Tenant or any authorised occupier or others for whom they are respectively responsible or who are under their control, the Tenant shall if so required in writing by the Landlord either (1) forthwith at its own expense restore and repair the same to the reasonable satisfaction of the Landlord or (2) refund to the Landlord upon demand all reasonable expenditure properly incurred by the Landlord in making good such damage.

5.8 to carry out works in a proper manner

To carry out any works to or upon the Property or otherwise permitted or required in accordance with the provisions of this Lease in a good and workmanlike manner, and in accordance with any recommendations or requirements issued by the manufacturers or suppliers of any items or materials incorporated in the Property and notified to the Tenant, and in accordance with any proper and reasonable regulations issued by the Landlord to the Tenant from time to time as to methods of access and working practice.

5.9 to decorate interior

In the year commencing on the 5th anniversary of the Date of Entry and thereafter in every succeeding 5th year during the Period of this Lease and also during the last year hereof (howsoever the same may be determined) (but not more frequently than once in any period of 12 months) to prepare and paint with two coats at least of good quality paint of a colour, in relation only to the last such decoration carried out by the Tenant, which if different from the present colour shall be previously approved in writing by the Landlord (such approval not to be unreasonably withheld) and well and sufficiently to varnish, paper or plaster, all the interior parts of the Property as are usually or ought to be painted, varnished, papered or plastered, and generally to redecorate throughout, restoring and making good the Property and to carry out all such work with good quality materials of their several kinds available and in a good and workmanlike manner and to the reasonable satisfaction of the Landlord.

5.10 to decorate exterior

In the year commencing on the 5th anniversary of the Date of Entry and thereafter in every succeeding 5th year during the Period of this Lease and also during the last year thereof (howsoever the same may be determined) (but not more frequently than once in any period of 12 months) to prepare and paint in a proper and workmanlike manner with two coats of good quality paint of a colour which if different from the present colour shall be previously approved in writing by the Landlord (such approval not to be unreasonably withheld) all outside parts of the Property usually painted and with every such outside painting to polish all outside parts of the woodwork usually polished and generally to carry out all such work with good quality materials of their several kinds available and in a good and workmanlike manner and to the reasonable satisfaction of the Landlord.

5.11 to clean and treat surfaces

As often as may be reasonably necessary to clean and treat in an appropriate manner all materials surfaces and finishes of the Property which ought normally to be so cleaned and treated and including without limitation all wood, plastic, metal, stonework, cladding and concrete and to wash at least once every month all surfaces requiring to be washed.

5.12 to keep the Property clean and tidy

At all times during the Period of this Lease to keep the Property (including any external areas) in a clean and tidy condition and to keep all rubbish and waste within suitable receptacles in such location as may be designated by the Landlord therefor and to empty such receptacles at least once a week and to clean at least once every week the inside and outside of the windows and window frames of the Property and all the glass (if any) in the entrance doors thereto.

5.13 to permit entry by the Landlord and others

To permit the Landlord at all reasonable times with or without workmen on giving reasonable notice to the Tenant (except in emergency in which case the Landlord shall have the aftermentioned right to enter the Property at any time) to enter upon the Property generally to inspect and examine the same, to view the state of repair and condition thereof and to take a schedule of the Landlord's fixtures and of any dilapidations and to exercise the rights reserved to or conferred upon the Landlord by this Lease where, in respect of such lastmentioned rights, such rights cannot reasonably practicably and/or economically be carried out without entry to the Premises and any other rights necessary to enable the Landlord to exercise any of the foregoing right (including, without prejudice to the forgoing generality, to open up floors and ceilings where the same is required) . The Landlord shall be obliged to ensure that such right is exercised with the minimum practicable interruption to the Tenant's business carried on from the Property and shall be obliged to make good any damage caused to the Property and the Tenant's stock (provided the Tenant uses all reasonable endeavours to safeguard and protect such stock) fixtures and fittings therein.

5.14 to comply with notices to repair

Well and substantially to repair and make good all defects and wants of reparation, repair or renewal of which notice in writing shall be served upon the Tenant by the Landlord and for which the Tenant is liable under this Lease, within 2 months after the service of such notice (or immediately in the case of emergency) and if the Tenant shall fail to comply with any such notice it shall be lawful (but not obligatory) for the Landlord (without prejudice to the rights of irritancy hereinafter specified) to enter upon the Property to make good the same at the cost of the Tenant which cost shall be repaid by the Tenant to the Landlord on demand together with all reasonable Solicitors' and Surveyors' charges and other expenses which may be properly incurred by the Landlord in connection therewith together with interest thereon in each case from the date of payment by the Landlord at the Prescribed Rate.

5.14 not to introduce dangerous things

Not to bring or permit to be brought into the Building or to place or store or permit to be placed or stored or to remain in or about the Building any article or thing which is or may become dangerous, offensive, inflammable, radio-active or explosive and not to carry on or do or permit to be carried on or done thereon any hazardous trade or act in consequence of which the Landlord would or might be prevented from insuring the Building or any other property for the time being owned by the Landlord at the ordinary rate of premium or whereby any insurance effected in respect of the Building or any such other property would or might be vitiated or prejudiced and not without the written consent of the Landlord to do or allow to be done anything whereby any additional premium may become payable for the insurance of the Building or any such other property.

5.15 to make good deficiency in insurance proceeds

In the event of the Building or any part thereof being destroyed or damaged by any of the Insured Risks and the insurance money under any insurance against the same (including the Building Insurance) being rendered wholly or partly irrecoverable by reason of any act or default of the Tenant, any authorised occupier or any of their respective servants, employees or agents or others or any person on the Property or the Building or any part thereof with the actual or implied authority of any of them, then and in every such case the Tenant shall forthwith on demand pay to the Landlord a sum equal to the irrecoverable portion of such insurance money.

5.16 to maintain a suitable temperature

So far as practicable and within the Tenant's control, to keep the temperature in the Property at a level sufficient to prevent the freezing of water and other pipes.

5.17 not to overload

Not to place or keep or permit to be placed or kept in the Property or the Building any heavy articles in such position or in such quantity or weight or otherwise in such manner howsoever as to overload or cause damage to or to be in the reasonable opinion of the Landlord likely to overload or cause damage to the Property or the Building and not to permit or suffer the electrical circuits in the Property or the Building to be overloaded.

5.18 not to cause pollution

- 5.18.1 Not to allow to pass into the Service Systems any noxious or deleterious effluent or other substance which might cause any obstruction in or injury to the Service Systems and in the event of any such obstruction or injury forthwith at the option of the Landlord (1) to make good the same to the entire satisfaction of the Landlord or (2) to pay to the Landlord on demand the properly incurred cost of making good the same.

- 5.18.2 To take all necessary steps to avoid or prevent the escape from the Property of any odour or smell which shall in the reasonable opinion of the Landlord not be in keeping with the standards required of a good quality development.
- 5.18.3 Not to release or discharge into any environmental medium (namely, air, water (including groundwater, pipes and sewers) and land) any substance that is, or in such quantities or concentrations that are, capable of causing harm to the health of man or any other living organism supported by the environment.
- 5.18.4 Not to deposit on the Property or any other part of the Building any controlled, special, hazardous, toxic, dangerous or radioactive waste, or any other substance which may produce concentrations or accumulations of noxious gases or noxious liquids in such quantities or concentrations that are capable of causing harm to the health of man or any other living organism supported by the environment.
- 5.18.5 To indemnify and keep indemnified the Landlord (both during the Period of this Lease and after the Date of Expiry) against all liability, costs, expenses or damage (including but not limited to clean-up costs, remediation costs, legal and environmental consultancy expenses, third party claims and regulatory action) to the extent that the same arise by virtue of a breach by the Tenant during the Period of this Lease of the undertakings contained in Sub-Clauses 5.18.3 and 5.18.4.

5.19 not to use otherwise than for Permitted Use

Not to carry on, use or permit the Property to be used for any noisy, noisome, offensive or dangerous trade, manufacture, business or occupation nor for any illegal or immoral purpose nor as a club, sex shop, amusement arcade, leisure centre, nor for catering of any description, nor to keep animals or birds in the Property, nor to use any loudspeakers, television sets, radios or other devices in such a manner as to be audible outside the Property, nor to stand, place, deposit or expose any goods, materials, articles or things whatsoever for display or sale or for any other purpose on the footpaths or roadway bounding and/or *ex adverso* the Premises, nor to do or suffer to be done on the Property any act or thing whatsoever which may be or tend to become a nuisance or cause of damage or disturbance or material inconvenience to the prejudice of the Landlord or the owners or occupiers of any adjoining or neighbouring property or any of them whether inside the Building or outside, nor to make or suffer to be made untidy or litter or obstruct or suffer to be littered or obstructed the Common Parts or other Lettable Areas and to use the Common Parts with the utmost consideration for all occupiers of the Building and not to use or permit the Property to be used otherwise than for the Permitted Use or for such other purpose or business as may be approved in writing by the Landlord, such approval not to be unreasonably withheld; provided that:-

- 5.19.1 the Tenant hereby acknowledges and admits that notwithstanding the foregoing provisions the Landlord does not thereby or in any other way give or make nor has given or made at any other time any representation or warranty that the Permitted Use

is or will be or will remain a permitted use within the provisions of the Planning Acts or the Title Deeds nor shall any consent in writing which the Landlord may hereafter give to any change of use be taken as including any such representation or warranty and that notwithstanding that any such use as aforesaid is not a permitted use within such provisions as aforesaid the Tenant shall remain fully bound and liable to the Landlord in respect of the obligations undertaken by the Tenant by virtue of this Lease without any compensation, recompense or relief of any kind whatsoever; and

5.19.2 if the Landlord grants consent to any change of use subject to conditions which the Landlord, acting reasonably, imposes and the Tenant refuses to accept such conditions, the Landlord's consent to such change of use will be deemed to be reasonably withheld.

5.20 to fit out and occupy

To fit out the Property in accordance with drawings and specifications previously submitted to and approved by the Landlord and to commence to occupy the Property within three months from the Date of Entry. If the Tenant leaves the Property unoccupied or ceases to occupy and use the Property as aforesaid for a period exceeding twenty-one days, it shall be bound to inform the Landlord and provide such security arrangements as the Landlord's Insurers may and as the Landlord may reasonably require.

5.21 not to permit auctions, etc

Not to hold or permit or suffer to be held upon the Property any sale by auction or public exhibition or public show or spectacle or political meetings or gambling.

5.22 not to make alterations

5.22.1 Not without the prior consent in writing of the Landlord to make or permit or suffer to be made any external or internal structural alterations or additions whatsoever to the Property or the Common Parts, which consent shall not be unreasonably withheld or delayed in respect of the Property only, and not in any event to cut, remove, maim or injure the Property or the Common Parts nor merge the Property with any adjoining property (nor permit or suffer any of the foregoing to occur) and such structural alterations or additions shall additionally be carried out in accordance with drawings and specifications previously submitted in duplicate to and approved in writing by the Landlord (such approval in the case only as aforesaid not to be unreasonably withheld or delayed), provided that:

5.22.1.1 the Landlord may as a condition of giving any such consent or approval require the Tenant to enter into such reasonable undertakings with the Landlord as the Landlord may require in regard to the execution of any such works (including in the case of works of a substantial nature providing adequate security on terms reasonably required by the

Landlord that the permitted works shall be fully completed) and the reinstatement of the Property and (where applicable) the Common Parts at the Date of Expiry,

5.22.1.2 the Tenant shall obtain, comply with, and pay any charges in respect of all necessary consents of any local or competent authority or in terms of the Title Deeds, and

5.22.1.3 in the event that the Tenant fails to observe its obligations under Sub-Clause 5.22.1 it shall be lawful for the Landlord to enter upon the Property and remove any alterations or additions and execute such works as are necessary to restore the Property and (where applicable) the Common Parts to their former state and the properly incurred expense thereof (including surveyors' and other professional fees) shall be paid by the Tenant to the Landlord on demand with interest thereon at the Prescribed Rate from the date of disbursement until payment.

5.22.2 For the avoidance of doubt the Tenant shall (subject to complying with any other obligations pertinent thereto in this Lease) be permitted without the prior consent of the Landlord to carry out non-structural alterations to the Property including, without prejudice to the foregoing generality, alterations to the Tenant's signage (to show the Tenant's trading name and/or logo) and to the shopfront , subject to the Tenant obtaining, complying with, and paying any charges in respect of all necessary consents of any local or competent authority or in terms of the Title Deeds.

5.23 **not to prejudice servitudes**

Not by building or otherwise to obstruct any window, light, servitude or any right of way, or other right belonging to or enjoyed by the Property, any of the Lettable Areas, the Common Parts or any neighbouring or adjoining property nor to permit any new wayleave, servitude, privilege or encroachment to be made or acquired into against or upon the Property and/or the Common Parts and in case any such servitude right, privilege or encroachment shall be made or attempted to be made to give immediate notice thereof to the Landlord and to permit the Landlord to enter upon the Property for the purpose of ascertaining the nature of any such servitude right, privilege or encroachment and at the request of the Landlord but at the joint cost of the Tenant and the Landlord to adopt such means as may reasonably be required or deemed proper for preventing any such encroachment or the acquisition of any such servitude right or privilege.

5.24 **not to acknowledge servitudes**

Not to give to any third party any acknowledgement that the Tenant enjoys any light, right of way, or other servitude or right in respect of the Property by the consent of such third party nor to pay to such third party any sum of money nor to enter into any agreement with such third party for the purpose of inducing or binding such third party to abstain from obstructing the access of light to

any windows or openings in the Property nor to permit any such other rights as aforesaid and in the event of any of the owners or occupiers of adjacent land or buildings doing or threatening to do anything which obstructs the access of light to any of the said windows or openings or the exercise of any other rights as aforesaid to notify the same forthwith to the Landlord and to permit the Landlord to bring such proceedings as it may think fit in the name of and at the joint cost of the Tenant and the Landlord against any of the owners and/or occupiers of the adjacent land in respect of the obstruction of the access of light to any of the said windows or openings or the exercise of such other rights as aforesaid.

5.25 **to obtain permission for signs**

Without prejudice to Part 8 of the Schedule not at any time during the Period of this Lease to affix or exhibit or permit to be affixed or exhibited in or upon any part of the Property or the Common Parts any mast, aerial, satellite dish or the like, nor any bill, placard, advertisement, flashlight, notice or other sign or thing whatsoever which in either case shall be visible from the outside of the Property except (i) a fascia signage which is consistent with the Tenant's national corporate signage from time to time to be located within the signage zone shown [coloured [] on the Signage Zone Plan/to be agreed between the Landlord and the Tenant, both parties being bound to act reasonably prior to the erection of said fascia signage] which [otherwise], for the avoidance of doubt, shall not require the consent of the Landlord, or (ii) such as shall have been approved in writing by the Landlord whose approval shall not be unreasonably withheld or delayed in respect of good quality signs located at the entrances to the Property identifying the Tenant or any other authorised occupier and the nature of the business being carried on therein, and in default the Landlord may enter and remove the same at the Tenant's cost. For the avoidance of doubt the Tenant shall be permitted without the prior consent of the Landlord to display trade placards, posters and advertisements of a temporary and not excessive nature and necessary or usual for the Permitted Use including affixing coloured film glazing to the elevation windows of the Premises consistent with the Tenant's national corporate signage from time to time.

5.26 **Alienation**

- 5.26.1 Not to assign or grant a standard security over or otherwise in any way or for any purpose dispose of or deal with the Tenant's interest in part only of the Property.
- 5.26.2 Not to assign or grant a standard security over or otherwise in any way or for any purpose dispose of or deal with the Tenant's interest in the whole of the Property without the prior written consent of the Landlord which consent shall not be unreasonably withheld in the cases of (1) an assignation to a responsible and respectable prospective assignee of sound financial standing and demonstrably capable of fulfilling the obligations incumbent upon the Tenant under this Lease or (2) the granting of a standard security to a bona fide creditor of sound financial standing and demonstrably capable of fulfilling the obligations incumbent upon the Tenant under this Lease.

5.26.3 Not to sub-let the Property or any part thereof without the prior written consent of the Landlord (the Tenant being entitled to enter into no more than two sub-lets of part of the Property at any one time), which consent shall not be unreasonably withheld in the case of a sub-letting of the whole of the Property or part of the Property to a respectable and responsible sub-tenant, at a rent which at the date when occupation shall commence is not less than the full market rental value (as defined in Sub-Clause 8.2) (ignoring any abatement of rent which may then be applying in terms of this Lease) and without payment of any fine or premium the Tenant shall ensure that in any permitted sub-lease there shall be provisions, which the Tenant undertakes to the Landlord to operate and enforce, that:-

5.26.3.1 the rent payable under such sub-lease shall be payable no less frequently than one quarter in advance and shall be subject to review in an upward direction only at such times and in such manner as to coincide with the rent reviews provided for under this Lease;

5.26.3.2 the sub-lease shall contain obligations on the sub-tenant mutatis mutandis the same as the obligations on the part of the Tenant contained in this Lease (save for payment of rent); and

5.26.3.3 the sub-tenant thereunder shall be prohibited from assigning or charging its interest under such sub-lease without the consent of the Landlord (which consent shall not be unreasonably withheld) and from granting any further sub-lease.

5.26.4 The Tenant shall:-

5.26.4.1 not vary the terms of any sub-lease without the Landlord's written approval, such approval not to be unreasonably withheld;

5.26.4.2 not permit any reduction or commutation of the rent payable under any sub-lease;

5.26.4.3 not agree the amount of the reviewed rent under the sub-lease without the Landlord's written approval, such approval not to be unreasonably withheld;

5.26.4.4 ensure that the Landlord's representations as to the rent which ought to be payable are made to the person appointed to determine the rent under such sub-lease to the reasonable satisfaction of the Landlord; and

5.26.4.5 ensure that the rent payable under any permitted sub-lease is reviewed in accordance with its terms.

5.26.5 Not to part with or share possession or occupation of the Property or any part thereof save in accordance with the provisions of Sub-Clause 5.26.6.

5.26.6 The Tenant may (i) permit the occupation of the whole of the Property or any part thereof by any company which is the holding company of the Tenant or a subsidiary of the Tenant or of such holding company (as the terms "subsidiary" and "holding company" are defined in S.736 of the Companies Act 1985) provided that:-

5.26.6.1 such company shall not be granted any legal interest in nor acquire any rights of security of tenure in the Property or any part thereof enforceable against the Landlord; and

5.26.6.2 such occupation shall cease forthwith in the event of such company ceasing to be so related to the Tenant and

(ii) grant concessions to third parties occupying in total not more than 15% of the Gross Internal Area of the Property provided that such third parties shall not be granted any legal interest in nor acquire rights of security in the Property or any part thereof enforceable against the Landlord.

5.27 to register devolutions for execution

To ensure that each and every document constituting a permitted assignment, sub-lease or other devolution of the interest of the Tenant under this Lease incorporates a clause containing a consent to registration thereof in the Books of the Lords of Council and Session for execution and is so registered.

5.28 intimation of devolution of Tenant's interest

Within 21 days after the date of any assignment of this Lease or the grant of any sub-lease or any assignment of such a sub-lease or the creation of any standard security affecting this Lease or any such sub-lease as aforesaid or any transfer or discharge of any such standard security or any devolution however remote of this Lease by will, intestacy, assent or operation of law, to produce, supply or cause to be supplied (without any demand by any person) to the Landlord for registration or as it may from time to time direct a certified copy of the deed, document or instrument effecting such assignment, sub-lease, assignment of sub-lease, standard security, transfer or discharge of standard security or devolution as aforesaid and to pay or cause to be paid the Landlord's Solicitors' properly and reasonably incurred costs in respect of the registration thereof.

5.29 to pay Landlord's costs

To pay to the Landlord within 14 days of written demand all reasonable costs, charges and expenses (including Solicitors', Counsels', Architects' and Surveyors' costs and other professional fees and commission payable to Messenger-at-Arms or Sheriff Officers) properly incurred by the Landlord:-

- 5.29.1 incidental to the preparation and service of all notices and schedules relating to wants of repair for which the Tenant is responsible in terms of this Lease requiring the Tenant to remedy any breach of any of the obligations contained in this Lease whether the same be served during the Period of this Lease or within 3 months after the Date of Expiry;
- 5.29.2 in the preparation and service of a schedule of dilapidations at any time during the Period of this Lease or within three months after the Date of Expiry (but relating in all cases only to dilapidations which accrued prior to the Date of Expiry); and
- 5.29.3 in connection with or procuring the remedying of any breach of obligation or payment of sums overdue on the part of the Tenant contained in this Lease;

in each case notwithstanding that any steps taken hereunder be rendered unnecessary by the Tenant's subsequent compliance with the provisions of this Lease.

5.30 applications for consent

Upon making an application for any consent or approval which is required under this Lease the Tenant shall disclose to the Landlord such information as the Landlord may reasonably require and shall pay the Landlord's reasonable and properly incurred legal expenses and Surveyors' and management fees and expenses (including disbursements VAT) relative to the obtaining of any such consent or approval and in respect of all Licences and the duplicate copies thereof resulting from all such applications by the Tenant including reasonable charges, expenses, fees and disbursements actually incurred in cases where consent is refused or the application is withdrawn. Provided always that the Tenant shall have no responsibility for any legal expenses or surveyors' or other professional or management fees and/or expenses to the obtaining of the Landlord's consent to the Tenant's initial fitting-out works within the Property being the works referred to in the Licence for Works to be entered into between the Landlord and the Tenant of even date with this Lease.

5.31 to observe statutory requirements

- 5.31.1 To execute all works as are or may under or in pursuance of any Act of Parliament (including the Fire Safety Legislation, the Offices Shops and Railway Premises Act 1963, the Factories Act 1961, the Health and Safety at Work etc. Act 1974 and the Disability Discrimination Act 1995) already or hereafter to be passed be directed or required to be done or executed upon or in respect of the Property or the Tenant's use thereof whether by the owner and/or the landlord and/or the tenant and/or the occupier thereof.
- 5.31.2 To comply with all the requirements of any Act of Parliament already or hereafter to be passed and all notices which may be served by any public, local or statutory authority (including gas, electricity and water supply authorities) and not to do or permit to be done on the Property, or in the exercise of its rights under this Lease in

respect of the Common Parts, any act or thing whereby the Landlord may become liable to pay any penalty imposed or to bear the whole or any part of any expenses incurred under any Act of Parliament.

- 5.31.3 Insofar as any works or other actions to be taken pursuant to this Clause fall within the Landlord's obligations under Clause 6, the same shall be the responsibility of the Landlord subject to the provisions of Part 6 of the Schedule;
- 5.31.4 Subject to the foregoing provisions of this Clause the Tenant shall indemnify the Landlord against any liability under the aforesaid statutes and others insofar as relating to the Property and against such fair proportion of any such liability relating to the Common Parts as the Landlord (acting reasonably) shall determine.

Provided always that the Tenant will not be liable to execute any of the works referred to in the foregoing provisions of this sub-clause 5.31 or to comply with any requirements or notices referred to therein insofar as they are required to remedy any damage or destruction caused by any of the Insured Risks save to the extent that (1) the costs of such works are not covered by the insurance monies received by the Landlord as a result of the policy or policies of insurance effected by the Landlord in terms of this Lease having been rendered void or unenforceable by virtue of any act, default or negligence on the part of the Tenant or those for whom they are responsible at law and (2) the Tenant has failed to comply with their obligations under sub-clause 5.16

5.32 to comply with CDM Regulations

- 5.32.1 To comply at all times throughout the Period of this Lease with the CDM Regulations.
- 5.32.2 Without prejudice to Sub-Clause 5.32.1, (1) to maintain at all times throughout the Period of this Lease, if and to the extent required by the CDM Regulations, a Health and Safety File in respect of the Property (the "**Property File**"), (2) to deliver to the Landlord a copy of the Property File immediately after its inception (3) to deliver to the Landlord copies of all information and data added from time to time to the Property File following their addition to the Property File so as to enable the Landlord to maintain at all times a true and accurate copy of the Property File and (4) if and to the extent required by the CDM Regulations the Landlord is required to maintain a Health and Safety File in respect of the Building or the Common Parts (the "**Building File**") then to deliver to the Landlord copies of all information and data referable to operations carried out by or on behalf of the Tenant on or to the Property insofar as necessary so as to enable the Landlord to maintain at all times true and accurate records in the Building File insofar as referable to the Property or the operations of the Tenant.
- 5.32.3 To produce to the Landlord as soon as reasonably practicable after demand all documents, information and other such evidence as the Landlord may reasonably

require in order to satisfy itself that the provisions of this Sub-Clause have been complied with.

5.32.4 To deliver the Property File to the Landlord at the Date of Expiry.

5.32.5 To grant as beneficial owner, or to procure that the beneficial owner shall grant, to the Landlord a royalty-free, irrevocable and non-exclusive right to use and copy any design, as built and operational information comprised in the Property File and that within 14 days of written demand by the Landlord.

5.33 to comply with fire precaution regulations and requirements

To comply at all times with the Fire Safety Legislation and without prejudice to the generality of that obligation:

5.33.1 to keep the Property sufficiently supplied and equipped with fire fighting and extinguishing apparatus (which shall be open to the inspection of and maintained to the reasonable satisfaction of the Landlord) so as to comply with statutory requirements and the requirements of the fire authority and any other competent authority and not to obstruct the access to or the means of working such apparatus and appliances by the Tenant's operations at or connected with the Property; and

5.33.2 to co-operate and co-ordinate with the Landlord and its agents in respect of the Landlord's obligations under the Fire Safety Legislation in respect of the Building.

5.34 to carry out works required by Insurers

To carry out in strict accordance with the directions of the Insurers any such works as may be recommended by the Insurers for the better protection of the Property and to comply in all respects with the terms and conditions of, and any other requirements affecting the Property and/or the use thereof and/or the Common Parts contained in, any insurance policy effected by the Landlord in respect of the Building.

5.35 to make full disclosure re insurance

Promptly to make full disclosure to the Landlord at all times of any information, facts or circumstances known to the Tenant which are or may be material to any proposal to, or acceptance of risk by, the Insurers pursuant to the obligations of the Landlord in terms of this Lease and promptly to supply to the Insurers upon request any information requested by the Insurers in connection with any such proposal or any renewal of or variation of the relative insurance.

5.36 Planning

5.36.1 At all times during the Period of this Lease to comply in all respects with the Planning Acts and to keep the Landlord indemnified in respect thereof.

- 5.36.2 During the Period of this Lease so often as occasion shall require at the expense of the Tenant to obtain all permissions as may be required for the carrying out by the Tenant of any operations on the Property or for the commencement, continuance or renewal by the Tenant thereon of any use thereof which may constitute development or any step related thereto within the meaning of the Planning Acts, provided that:
- 5.36.2.1 the Tenant shall not make any application for planning permission or give any notice to any authority of an intention to commence or to carry out any development or any step related thereto (whether by actual notice, the commencement or carrying out of any development or any step related thereto or otherwise) without the previous written consent of the Landlord (such consent not to be unreasonably withheld) but declaring that such consent shall not be required where the operation or action in question would not otherwise require the consent of the Landlord in terms of this Lease;
- 5.36.2.2 the Landlord may withhold consent where it reasonably considers that the making of any such application by the Tenant could lead either to the acquisition by any statutory authority or body of the Landlord's interest in the Property or to adverse financial or taxation consequences upon the Landlord and so that the Tenant shall (if and in so far as it is lawful for the Landlord and the Tenant to make such an arrangement) indemnify the Landlord against all charges payable in respect of any such application and shall also pay to the Landlord a reasonable sum in respect of all professional fees and expenses properly incurred by the Landlord in connection therewith; and
- 5.36.2.3 the Tenant shall forthwith after the grant or refusal of such application give to the Landlord full particulars in writing thereof and (free of cost to the Landlord) supply a copy thereof for the retention of the Landlord and in the case of a refusal of such an application or in the case of a grant thereof subject to conditions which the Landlord considers unreasonable forthwith if the Landlord so requires but at the joint expense of the Landlord and the Tenant lodge the necessary notice of appeal and at the joint cost of the Landlord and the Tenant proceed diligently with such appeal and at all times at the request of the Landlord keep the Landlord informed of the progress thereof.
- 5.36.3 Not to implement any planning permission until the same has been submitted to and approved in writing by the Landlord such approval not to be unreasonably withheld where the consent of the Landlord to the implement of any permission or development as a result thereof would otherwise require not to be unreasonably withheld in terms of any other provision of this Lease.

- 5.36.4 Unless the Landlord shall otherwise direct, to carry out before the Date of Expiry any works stipulated to be carried out to the Property by a date subsequent to the Date of Expiry as a condition of any planning permission which may have been granted to and commenced to be implemented by the Tenant or any other authorised occupier.
- 5.36.5 As soon as reasonably practicable after receiving notice of the same, to give full particulars to the Landlord of any notice or proposal for a notice or order or proposal for an order made given or issued to the Tenant by any competent authority under or by virtue of the Planning Acts and if so required by the Landlord to produce such notice, order or proposal to the Landlord.
- 5.36.6 At the request of the Landlord but at the joint cost of the Tenant and the Landlord to make or join with the Landlord in making such objection or representation against or in respect of any proposal for such a notice or order as the Landlord shall deem expedient.
- 5.36.7 If called upon so to do to produce to the Landlord all plans, documents and other evidence as the Landlord may reasonably require in order to satisfy itself that the provisions of this Sub-Clause 5.36 have been complied with.
- 5.36.8 Not without the consent of the Landlord to enter into any agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.
- 5.36.9 Not without the consent of the Landlord to serve any notice under Part V of the Town and Country Planning (Scotland) Act 1997.

5.37 to inform landlord of notices

Upon the happening of any occurrence or upon the receipt of any notice, order, requisition, direction or other thing which may be capable of affecting the Landlord's interest in the Property the Tenant shall without delay and at its own expense deliver full particulars or a copy thereof to the Landlord.

5.38 reletting notices

To permit the Landlord to fix and retain in a conspicuous position on the Property and/or the Common Parts a notice board for the re-letting (during the last six months of the Lease) and/or the sale of the same (but not so as to (i) restrict or interfere unreasonably with the access of light and air to the Property or (ii) obscure its signage or shop front displays) and not to take down or obscure the said notice board and to permit (in respect of a re-letting during the said period of the last six months of the Lease) all persons authorised in writing by the Landlord or its agents to view the Property at all reasonable hours in the daytime.

5.39 to inform Landlord of defects

To inform the Landlord in writing of any defect in the Property or the Common Parts which might give rise to a duty imposed by the Title Deeds, common law, statute or otherwise on the Landlord in favour of any person and of any destruction of or damage to the Property or the Common Parts by any cause whatsoever as soon as the same shall, or reasonably ought to have, come to the notice of the Tenant and in the latter case stating (in the Tenant's opinion, but without any liability attaching to the Tenant at the point of informing the Landlord as aforesaid but without prejudice to any liability that thereafter attaches to the Tenant in accordance with the Tenant's obligations in terms of this Lease) whether and to what extent any such destruction or damage was brought about directly or indirectly by any of the Insured Risks.

5.40 to indemnify landlord

5.40.1 Save to the extent that the Landlord is covered by the insurances effected in terms of Clause 6.2 of the Lease to indemnify the Landlord and keep the Landlord indemnified against all expenses, demands, costs, losses, claims and others arising directly or indirectly from:-

5.40.1.1 any breach of any of the obligations, conditions or restrictions of this Lease upon the Tenant's part to be performed or observed,

5.40.1.2 any use by the Tenant and/or any sub-tenant and/or any other authorised occupier or any other person for whom the Tenant is legally responsible of the Property or the Common Parts or any defect in the Property for which the Tenant is responsible in terms of this Lease,

5.40.1.3 any works carried out to the Property by or on behalf of all or any of the Tenant, any permitted sub-tenant or any other authorised occupier of the Property,

5.40.1.4 anything now or during the Period of this Lease attached to or projecting from the Property,

5.40.1.5 any act, neglect, default or omission of the Tenant, any sub-tenant or any other authorised occupier or any of their respective servants, agents, workmen or others or any person on the Property or on the Building or any part thereof with the actual or implied authority of any of them, and

5.40.1.6 any interference or alleged interference or obstruction of any right or alleged right of light, air, drainage or other right or alleged right now existing for the benefit of any adjoining or neighbouring property.

5.40.2 To free and relieve the Landlord of all liability and responsibility in respect of the Property imposed on it by the Occupiers Liability (Scotland) Act 1960.

5.41 **to comply with Management Regulations**

To observe, perform and comply with the Management Regulations and such further or other reasonable regulations as may (in accordance with the provisions of this Sub-Clause) from time to time be in force in relation to the Property or the Common Parts or the Building or any part thereof provided that the Landlord may from time to time delete, add to or vary any of the regulations or make further or other regulations if in its opinion, acting reasonably, such deletion or variation or the making of such further or other regulations is necessary or desirable in connection with the proper and efficient management of the Building or any part thereof or in the interests of the generality of tenants in the Building and so that any such deletion or variation or such further or other regulations shall take effect forthwith upon notice thereof being given to the Tenant or at such later time as the Landlord may specify; the Tenant shall take all reasonable steps to secure compliance with the Management Regulations by the Tenant's staff and visitors and shall at all times display, maintain and repair all notices of appropriate size (including the wording thereof) which the Landlord may from time to time require to be displayed or cause to be displayed in the Property relating to matters of safety, health or hygiene or to the Management Regulations.

5.42 **to observe title conditions**

To observe and perform in relation to the Property and the Tenant's use of the Common Parts the real burdens contained or referred to in the Title Deeds or for which the proprietor of the Building is responsible and to keep the Landlord indemnified against all actions, proceedings, costs, claims and demands in any way relating thereto.

5.43 **to remedy breaches of sub-tenants**

In the event of a breach, non-performance or non-observance of any of the obligations, conditions, agreements and provisions contained or referred to in this Lease by any sub-tenant or other occupier of the Property forthwith upon discovering the same to take and institute at its own expense all necessary steps and proceedings to remedy such breach, non-performance or non-observance (without prejudice however to the Landlord's right to irritate this Lease on account of such breach, non-performance or non-observance).

5.44 **to remove**

5.44.1 Immediately prior to the Date of Expiry and at the cost of the Tenant:-

5.44.1.1 to remove every moulding, sign, writing or painting of the name or business of the Tenant or other occupiers from the Property and from any other part of the Building and to remove all tenant's fixtures and fittings, furniture and effects from the Property making good to the reasonable satisfaction of the Landlord all damage caused by either such removal; and

5.44.1.2 if so requested by the Landlord to remove and make good all alterations or additions made to the Property and/or the Common Parts at any time during the Period of this Lease and well and substantially to reinstate the Property and/or the Common Parts in such manner as the Landlord shall direct and to its complete satisfaction.

5.44.2 At the Date of Expiry without any warning away or process of removal to that effect to remove from and leave vacant and clear the Property in such good and substantial repair and condition as shall be in accordance with the obligations on the part of the Tenant contained in this Lease together with all fixtures and fittings and improvements and additions which now are or which may at any time hereafter be in or about the Property (but excepting trade fixtures and fittings supplied or installed by or at the cost of the Tenant save for such items as may have been so supplied or installed by way of replacement or renewal of items forming part of the Property as let by the Landlord); if at the Date of Expiry the Property shall not be in such good and substantial repair and condition the Tenant shall carry out at its entire cost the works necessary to put the Property into such repair and condition and in default of the Tenant so doing the Landlord shall be entitled to carry out such works at the entire cost of the Tenant (the reasonable expenses thereby properly incurred being payable by the Tenant to the Landlord on demand with interest at the Prescribed Rate from the date of disbursement by the Landlord).

Provided always that, notwithstanding any other provision of this Sub-Clause 5.44 or any other provisions of this Lease, the Tenant shall be under no obligation in any circumstances to remove (or to make any payment to the Landlord in lieu of removal of) the amenity block, any lifts and/or stairs and/or escalators, floor tiles or air conditioning apparatus.

5.45 **to pay VAT**

5.45.1 To pay to the Landlord in exchange for a valid VAT invoice such amount of VAT at the rate for the time being in force as shall be lawfully chargeable on the rent and all other monies payable by the Tenant under the terms of this Lease and on all taxable supplies made by the Landlord and received by the Tenant under or in connection with this Lease and the payment of VAT to be made by the Tenant in terms of this Sub-Clause if chargeable by reference to the rent and other monies so payable under this Lease shall be made at the like times as such rents and other monies but otherwise payment of such VAT shall be made when the supply giving rise to the charge to VAT is treated as having taken place.

5.45.2 All rent and all other monies payable by the Tenant under this Lease and the consideration for all taxable supplies made by the Landlord and received by the Tenant under or in connection with this Lease shall be deemed to be exclusive of any VAT which may from time to time be chargeable thereon.

- 5.45.3 Where under this Lease the Tenant agrees to pay or contribute to, or indemnify the Landlord or any other person in respect of, any costs, fees, expenses, outgoings or other liabilities of whatsoever nature whether of the Landlord or any third party and the payment of or contribution to such fees, expenses, outgoings or other liabilities is not consideration for a taxable supply made by the Landlord to the Tenant, reference to such costs, fees, expenses, outgoings and other liability shall be taken to be increased by such a sum as to include any VAT charged in relation thereto.
- 5.45.4 Where the payment of or contribution to such costs, fees, expenses, outgoings or other liabilities as are mentioned in Sub-Clause 5.45.3 is in consideration for a taxable supply made by the Landlord to the Tenant, VAT will be chargeable and payable in relation to such taxable supply in accordance with Sub-Clauses 5.45.1 and 5.45.2.

6 Landlord's obligations

The Landlord undertakes to the Tenant that, subject to the reservations, conditions and others contained or referred to in this Lease the Landlord shall observe and perform throughout the Period of this Lease the conditions, obligations and others contained in, specified in or otherwise set out in this Clause 6.

6.1 Landlord's warranty

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

6.2 to insure Building

The Landlord will at all times during the Period of this Lease (unless such insurance shall be vitiated in whole or in part by any act, omission, neglect or default of the Tenant or any authorised occupier or any servant, employee or agent of the Tenant or such authorised occupier or others for whom the Tenant or such authorised occupier is responsible in law) insure and keep insured the Building (under exception of the plate glass, and fixtures and fittings belonging to the Tenant and other tenant's and landlord's fixtures and fittings installed by any tenant and not notified to the Landlord for insurance purposes) against loss or damage by the Insured Risks with the Insurers and through such agency as shall from time to time be nominated by the Landlord in the Full Cost of Reinstatement and insure against the Loss of Rent and Service Charge but subject always, in both cases, to such excesses, limitations, exclusions and conditions, normal for a such a commercial policy of insurance, as may be agreed with the Insurers: the Landlord's obligations under this Sub-Clause shall apply only so long as and to the extent that insurance cover is obtainable on normal and commercially acceptable terms by the Landlord and in the event of the Landlord being unable to obtain the whole or any part of such insurance on normal and commercially acceptable terms the Landlord shall notify the Tenant in writing stating the extent of such inability whereupon the obligation on the part of the Landlord so to insure shall cease, but

only to the extent of such inability. The Landlord shall use all reasonable endeavours to procure that the Tenant's interest is noted generically or specifically on the insurance policy or policies effected hereunder and shall use its reasonable endeavours to procure that the current insurers waive all subrogation rights against the Tenant .

6.3 to reinstate

Subject to (1) the provisos to this Sub-Clause, (2) obtaining all necessary planning consents and all other necessary licences, approvals and consents which the Landlord undertakes to use its reasonable endeavours to obtain and (3) receiving from the Tenant the sum or sums referred to in Sub-Clauses 4.5 and 5.16, the Landlord will rebuild and reinstate the Property and the Common Parts or such part or parts thereof as may be damaged or destroyed by any of the Insured Risks with all reasonable speed with such variations as may be necessary or in the Landlord's reasonable opinion desirable having regard to statutory provisions, bye-laws and regulations then in force and any planning approval necessary and building standards and current practice then prevailing and the provisions of Part 5 of the Schedule; and the Landlord will (subject as aforesaid) be obliged to make good out of their own monies any shortfall between such insurance monies and the cost of such rebuilding and/or reinstatement provided that:-

- 6.3.1 in the event of the Property or any part thereof or any part of the Building on which the Property depends for access, support, protection, fire escape or other such purpose being so damaged or destroyed by any of the Insured Risks so as to render the Property unfit for beneficial occupation and use by the Tenant and of any competent authority lawfully refusing permission or otherwise lawfully preventing the rebuilding or repairing of the Property or such part of the Building (all due process of all relevant applications including where the Landlord so elects any appeal procedure having been concluded) the monies received in respect of all insurances effected by the Landlord in terms of this Lease (including the Property Insurance and the Loss of Rent and Service Charge Insurance) shall forthwith be paid to the Landlord (if not already done) and, in this event only, this Lease shall be determined at the date upon which the Landlord shall notify the Tenant in writing that all the insurance monies due have been paid over to the Landlord and that the Landlord is terminating this Lease under the provisions of this Sub-Clause, but without prejudice to any right of action or remedy of either party in respect of any previous breach of any of the undertakings on the part of the other contained in this Lease; and
- 6.3.2 in the event of the Property or any part of the Building upon which the Property depends as aforesaid being so damaged or destroyed by any of the Insured Risks as to render the Property unfit for beneficial occupation and use and not being rebuilt or reinstated within 3 years after the date of such destruction or damage so as to render the Property once again fit for beneficial occupation and use then at any time after the expiry of such 3 year period the Tenant (save where the relevant policy of insurance is vitiated or payment refused or withheld in consequence of any act, neglect, default or omission of the Tenant, any authorised occupier or others for whom they are

respectively responsible and the Tenant has failed to fulfil its obligations under this Lease timeously so as to cause no delay in the Landlord's ability to remedy such destruction or damage within the said period of 3 years) or the Landlord may, by written notice to that effect, determine this Lease at any time after the expiry of the said 3 year period, provided that such notice is served prior to such rebuilding or reinstatement being completed and that without penalty but without prejudice to any right of action or remedy of either party in respect of any prior breach of any of the obligations of the other under this Lease, and the Landlord shall be entitled to retain as its own absolute property the insurance monies received under all the insurance policies effected by the Landlord.

- 6.3.3. If the Property or any part of the Common Parts on which the Property depends for access, support, protection, fire escape or other such purpose or any part thereof shall be destroyed or damaged by Terrorist Damage so as to render the Property unfit for or incapable of full beneficial occupation and use for the use permitted hereunder then the Landlord shall within twelve months of such Terrorist Damage (as to which time shall be of the essence) give written notice to the Tenant indicating whether or not the Landlord intends to reinstate the Property and the relevant parts of the Common Parts.
- 6.3.4 If the Landlord serves written notice on the Tenant confirming that it intends to reinstate the Property and the aforesaid parts of the Common Parts pursuant to Clause 6.3.3 then subject to the Landlord obtaining any necessary planning and other permissions, consents, licences and approvals (which the Landlord shall use its reasonable endeavours to obtain as soon as reasonably practicable) the Landlord shall rebuild, reinstate and make good the Property and the relevant parts of the Common Parts so damaged or destroyed by Terrorist Damage as quickly as may be reasonably practicable at their own expense with such variations as may be necessary or in the Landlord's reasonable opinion desirable having regard to statutory provisions, bye-laws and regulations then in force and any planning approval necessary and building standards and current practice then prevailing and the provisions of Part 5 of the Schedule.
- 6.3.5 If the Landlord serves written notice upon the Tenant pursuant to Clause 6.3.3 indicating that the Landlord does not intend to reinstate as aforesaid then either party shall be entitled to terminate this Lease by giving written notice to the other party to that effect, but without prejudice to any claim either party may have against the other in respect of any antecedent breach of any of their respective obligations hereunder.
- 6.3.6 If the Landlord shall fail to give notice to the Tenant in accordance with Clause 6.3.3 the either party may at the expiry of the said period of eighteen months following the date of occurrence of the Terrorist Damage terminate this Lease by written notice given to the other but without prejudice to any claim by either party against the other in respect of any antecedent breach of their respective obligations hereunder.

6.3.7 If following the service of a notice by the Landlord to the Tenant pursuant to Clause 6.3.3 indicating that the Landlord intends to reinstate the Property and the relevant part so the Common Parts, the Property and the relevant parts of the Common Parts shall not have been rendered fit for or capable of full beneficial occupation and use by the Tenant for the use permitted hereunder within three years after the occurrence of Terrorist Damage either party may thereafter at any time prior to the Property and the relevant parts of the Common Parts being reinstated and rendered capable of full beneficial occupation and use as aforesaid terminate this Lease by written notice to the other party to that effect, but without prejudice to any claim either party may have against the other in respect of any antecedent breach of their respective obligations hereunder.

6.4 to clean and maintain Common Parts

The Landlord will procure that the Common Parts will be kept clean and tidy and in good and substantial repair and condition.

6.5 to maintain Plant and Equipment and Service Systems

The Landlord will procure that the Plant and Equipment and the Service Systems forming part of the Common Parts are inspected, maintained, repaired, renewed and replaced and kept in working order.

6.6 to employ staff

The Landlord will employ and pay such contractors, agents or servants and incur such reasonable costs as the Landlord shall reasonably think necessary or desirable in and about the performance of the obligations in and provisions of this Clause 6.

6.7 to keep accounts

The Landlord will keep an account of the expenditure incurred by or for the Landlord in respect of the obligations and provisions contained in this Clause 6 (except those contained in Sub-Clause 6.3) and under Part 7 of the Schedule and will provide the Tenant with a copy of a statement summarising the expenditure therein (but so that any delay in the provision or the non-provision of such statement will not entitle the Tenant to withhold or delay payment of any sum payable under this Lease) and (in the absence of manifest error) such statement shall be sufficient evidence of all expenditure therein.

7 Provisos

7.1 Irritancy

7.1.1 If:

- 7.1.1.1 the whole or part of the rent (whether legally demanded or not) or any other sum due by the Tenant is at any time in arrears for 21 days after the due date for payment, or
- 7.1.1.2 the Tenant is at any time in breach of any of the non-monetary obligations undertaken by them under this Lease, or
- 7.1.1.3 the Tenant (being an individual or a firm) enters into any composition with its creditors or becomes apparently insolvent or is sequestered or (being a company) goes into liquidation whether compulsory or voluntary (other than a voluntary liquidation when solvent for the purpose of amalgamation or reconstruction) or has a receiver appointed in respect of any part of the Tenant's undertaking or has an administrator appointed or makes a proposal for a company voluntary arrangement under Part 1 of the Insolvency Act 1986

then and in any of such events the Landlord at its option may, subject to Sub-Clause 7.1.3 and Sub-Clause 7.1.4, by notice served on the Tenant and each Interested Party terminate this Lease forthwith and treat this Lease and all transmissions thereof with all that has followed or can competently follow thereon as void and null and that without the necessity of any declarator, process of removal, or other procedure at law and the Property shall thereupon revert to the Landlord.

- 7.1.2 In the event of termination of this Lease in accordance with Sub-Clause 7.1.1 the Landlord or any person or persons duly authorised by the Landlord may enter upon possession of the Property and uplift rents, eject tenants and occupiers and thereafter use, possess and enjoy the Property free of all claims by the Tenant as if this Lease had never been granted, but without prejudice to any other right of action or remedy available to the Landlord arising out of or in connection with any antecedent failure to pay any rent or any other sum due by the Tenant or any antecedent breach of any non-monetary obligation of the Tenant under this Lease.
- 7.1.3 In the case of a failure or contravention by the Tenant (including the non-payment of rent) which is capable of being remedied, albeit late, the Landlord shall not exercise the option to terminate this Lease in accordance with Sub-Clause 7.1.1 unless and until they shall first have given under threat of irritancy written notice to the Tenants and each Interested Party requiring the same to be remedied and the Tenant or any Interested Party shall have failed to remedy the same within such reasonable period, having due regard to the nature and extent of the failure or contravention complained of (but not the Tenant's financial circumstances), as shall be prescribed in the notice which in the case of non-payment of rent (or any other monetary amounts) will be 14 days only.

7.1.4 In the case of the Tenant becoming insolvent or apparently insolvent or going into liquidation (other than for the purpose of reconstruction or amalgamation as aforesaid) or having a receiver or an administrator appointed the Landlord shall not exercise the option to terminate this Lease in accordance with Sub-Clause 7.1.1 on the grounds of insolvency, apparent insolvency, liquidation, receivership or administration (as the case may be) unless and until they shall first have allowed the interim trustee or permanent trustee or the liquidator or the receiver or the administrator (as the case may be) and each Interested Party a period of 12 months in which to dispose of the Tenant's interest in this Lease (on the same terms mutatis mutandis as set out in Sub-Clause 5.27) but only if the trustee or liquidator or receiver or administrator (as the case may be) or such Interested Party shall personally accept full responsibility for payment of rent (whether due in respect of a period occurring before or after the date of insolvency, apparent insolvency, liquidation or the appointment of the receiver or administrator as the case may be) and for performance of all the obligations on the part of the Tenant (including performance of any outstanding obligations which may subsist at the date of insolvency, apparent insolvency, liquidation or the appointment of the receiver or administrator as the case may be) under this Lease from the date of insolvency or apparent insolvency or liquidation or the appointment of the receiver or administrator (as the case may be) to the expiry of said period or if earlier the date of entry under the disposal.

7.2 no implied servitudes

Nothing contained in this Lease shall by implication of law or otherwise operate as or be deemed to confer upon the Tenant any servitude, right or privilege whatsoever over or against any property adjoining or neighbouring the Property which now or hereafter shall belong to the Landlord which would or might restrict or prejudicially affect the future rebuilding, alteration or development of such adjoining or neighbouring property and the Landlord shall have the right at any time to make such alterations to or to pull down and rebuild or redevelop any such adjoining or neighbouring property as it may deem fit without obtaining any consent from or making any compensation to the Tenant, but subject always, where applicable, to the provisions of Part 4 of the Schedule.

7.3 no restrictions on adjoining property

Nothing contained or implied in this Lease shall impose or be deemed to impose any restriction on the use of any land or building or property not comprised in this Lease or give the Tenant the benefit of or the right to enforce or to have enforced or to permit the release or modification of any undertaking, agreement or condition entered into by any purchaser from or by any tenant or occupier of the Landlord in respect of property not comprised in this Lease or to prevent or restrict in any way the development of any land not comprised in this Lease but not so as substantially to interfere with or affect the quiet enjoyment and use of the Property by the Tenant or the rights afforded to the Tenant hereunder.

7.4 **no compensation**

Save to the extent that any Act of Parliament prohibits or modifies the right to exclude or reduce compensation by agreement, neither the Tenant nor any sub-tenant (whether immediate or derivative) shall be entitled on quitting the Property or any part thereof to claim any compensation from the Landlord under any Act of Parliament whether enacted before or after the Date of Entry or otherwise.

7.5 **suspension of rent and Service Charge**

7.5.1 All monies payable by the Insurers in respect of the Loss of Rent and Service Charge Insurance shall belong to the Landlord.

7.5.2 If the Property or any part thereof or any part of the Building on which the Property depends for access, support, protection, fire escape or other such purpose shall be so damaged or destroyed by any of the Insured Risks (or Terrorist Activity where and to the extent that it is not one of the Insured Risks from time to time) as to render the Property unfit for occupation and incapable of use in accordance with the terms and provisions of this Lease then (save to the extent that the proceeds under the Loss of Rent and Service Charge Insurance shall be irrecoverable by reason solely or in part of any act or default of the Tenant or its agents, servants, invitees or licensees where the Tenant has not made good such irrecoverable amount in terms of Clause 5.16 of this Lease) the rent and the Service Charge payable under this Lease or fair proportions thereof according to the nature and extent of the damage sustained shall be suspended until the Property shall again be rendered fit for occupation and capable of use or until the proceeds under the Loss of Rent and Service Charge Insurance received from the Insurers shall be exhausted (whichever shall be the earlier).

7.5.3 The provisions of Sub-Clause 7.5.2 shall be in substitution for, and not in supplement of, any entitlement to suspension of rent and Service Charge to which the Tenant might otherwise be entitled at common law or otherwise all to the effect and intent that any contrary provision of common law or otherwise shall be displaced.

7.5.4 Any dispute arising from the provisions of Sub-Clause 7.5.2 shall be settled by a single arbiter to be appointed on the application of either party by the Chairman of the Royal Institution of Chartered Surveyors in Scotland, which arbiter shall have power to award expenses of the one party wholly or partially against the other.

7.6 **Lease to continue**

Unless otherwise specifically provided for in this Lease, this Lease shall not be terminated by reason of the destruction or damage to the whole or any part of the Property or the Common Parts or the Building but shall remain in full force and effect notwithstanding any rule of law or practice to the contrary all to the effect and intent that any contrary provision of common law or otherwise shall be displaced; the Landlord and the Tenant undertake to one another to execute such

supplementary documentation in such form as may be necessary from time to time in order to give effect to this provision.

7.7 notices

- 7.7.1 Every consent and approval under this lease shall be in writing.
- 7.7.2 Every notice (which, for the purposes of this Sub-Clause 7.7 shall be deemed to include every request, demand, notification and intimation) under this Lease shall be in writing and shall be served upon the party to whom it falls to be issued or addressed.
- 7.7.3 Any notice shall be sufficiently served if sent by recorded delivery post:
- 7.7.3.1 to the Tenant at the address of its registered office and, whilst the Tenant is New Look Retailers Limited a copy of any such notice shall be sent to Property Department, New Look Retailers Limited, 7th Floor, Portman House, 2 Portman Street, London, W1H 6DU (or, if the Tenant is not an incorporated body at its address as last intimated to the Landlord or at the Property),
 - 7.7.3.2 to any guarantor or Interested Party at its address as last intimated to the Landlord, or
 - 7.7.3.3 to the Landlord at the address of its registered office (or, if the Landlord is not an incorporated body, at its last known address).
- 7.7.4 Any notice served in accordance with Sub-Clause 7.7.3 shall be deemed to be served on the Tenant, guarantor, Interested Party or the Landlord (as the case may be) at the expiry of 48 hours after the time of posting unless the contrary can be proved.
- 7.7.5 In proving posting it shall be sufficient to prove that an envelope containing the notice was duly addressed and posted in accordance with Sub-Clause 7.7.3.

7.8 demand for rent not a waiver

No demand for or acceptance of rent or Service Charge or other monies due under this Lease by the Landlord or its agents shall be or be deemed to be a waiver wholly or partially of any breach of any of the obligations on the part of the Tenant contained in this Lease but any such breach shall be deemed to be a continuing breach and the Tenant and any person taking any interest under or through the Tenant shall not be entitled to set up any such demand for or acceptance of rent or others by the Landlord or its agents as a defence in any action for irritancy or otherwise; further, no demand for or acceptance of rent by the Landlord or its agent (whether before or after a date of review of rent) at a rate other than that to which the Landlord may be entitled following a review of rent in terms of this Lease shall be deemed to be a waiver of the right of the Landlord to require a

review of the rent hereunder nor shall it personally bar the Landlord from requiring such a review in terms hereof.

7.9 **disclaimer of liability**

7.9.1 Except to any extent that the same results from negligence on the part of the Landlord itself (including any negligence on the part of any contractors undertaking any services on behalf of the Landlord) or from any breach or non-observance by the Landlord of any of its obligations under this Lease the Landlord shall at no time become liable to the Tenant for any loss, damage or expense sustained by the Tenant by or through any defect, decay, inadequacy, want of repair or decoration or otherwise in the Property or the Building or any part thereof or in or arising from the choking, bursting, stoppage or failure of any of the Service Systems and the Plant and Equipment or others or for any loss, damage or expense caused to the Tenant through any act or omission of the proprietors, tenants or occupiers of any adjoining or neighbouring properties.

7.9.2 Any warranty or warranties on the part of the Landlord implied by common law or otherwise relating to the condition or suitability for use of the Property or the Building or any part thereof is/are expressly displaced from this Lease and shall be inapplicable.

7.9.3 Nothing in this Lease shall render the Landlord liable (by implication of law or otherwise) to do anything which the Landlord has not expressly obliged itself in this Lease to carry out, provide or do.

7.10 **no warranty as to provision of services**

While the Landlord shall use all reasonable endeavours throughout the Period of this Lease to perform, provide and carry out or procure the performance, provision and carrying out of the obligations of the Landlord under this Lease, the Landlord will not be liable for any failure or omission to perform, provide, carry out or procure all or any of the said obligations if and only if and for so long as and to the extent that it shall be prevented, hampered or restricted in any way from so doing by reason of necessary repair or maintenance of the Building (including the Common Parts) or damage thereto or destruction thereof by fire, water, Act of God or other cause beyond the Landlord's reasonable control or by reason of mechanical or other defect or breakdown or frost or other inclement conditions or unavoidable shortages of fuel, materials, water or labour or by virtue of strikes, lock-outs, non-availability of or restriction upon supplies of materials or labour or other services or accident, emergency, or by any cause whatsoever or howsoever arising which is not within the reasonable control of the Landlord.

7.11 **exclusion of representations and warranties**

The Tenant acknowledges that this Lease has not been entered into in reliance wholly or partly upon any statement or representation made by or on behalf of the Landlord save insofar as such statement or representation is expressly set out in this Lease.

7.12 unenforceable provisions

If any term or provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the remainder of this Lease or application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

8 Rent review

8.1 date of review

With effect from the expiration of the 5th year and each period of 5 years thereafter throughout the Period of this Lease (the date of expiration of each such period being hereinafter referred to as the "**Date of Review**" and "**Relevant Date of Review**" being construed accordingly) the rent payable under this Lease shall be revised to equal the greater of (1) the yearly amount of the rent payable by the Tenant to the Landlord immediately before the Relevant Date of Review (ignoring any abatement of rent which may then be applying in terms of this Lease) and (2) an amount which shall represent the full market rental value of the Property at the Relevant Date of Review assessed in accordance with the following provisions of this Clause.

8.2 valuation

The full market rental value of the Property at the Date of Review shall be such an amount as may be agreed between the Landlord and the Tenant or determined in accordance with Sub-Clause 8.3 as representing the rent at which the Property might reasonably be expected to be let in the open market at the Date of Review for a period of 10 years commencing on the Date of Review as between a willing landlord and a willing tenant with vacant possession without payment of a fine, grassum or premium but upon the supposition (if not a fact) that:-

- 8.2.1 the Property has the benefit of adequate vertical circulation between all floors as shown on the Rent Review Plans and all parts of the Property and the Common Parts are then ready and available for occupation for fitting out and thereafter use for the purposes permitted in terms of this Lease;
- 8.2.2 the Landlord and the Tenant have complied with all the obligations on the part of the Landlord and the Tenant respectively imposed by this Lease (but without prejudice to any right of the Landlord or Tenant in regard thereto);
- 8.2.3 if the Building (including the Property) or any part thereof shall have been destroyed or damaged the same had before the Date of Review been fully reinstated;
- 8.2.4 no work has been carried out to the Property by the Tenant, its sub-tenants or their predecessors in title or any authorised occupier which has diminished the rental value of the Property;

8.2.5 that the Property would be let upon terms that the willing tenant would commence paying rent immediately upon the Relevant Review Date and that such rent would not be discounted or reduced to reflect the absence of any rent free period or reduced rent period or rental allowance or capital payment in lieu or similar concession in respect of the period of time which would normally be required to carry out the fitting-out works of the willing tenant;

8.2.6 the Tenant, a willing tenant and their respective potential assignees and sub-tenants suffer no detriment at the Relevant Date of Review or at any time during the Period of this Lease or during the period of the hypothetical letting arising from any liability actual or contingent to pay VAT on rent or on any other taxable supply received by the Tenant under or in connection with this Lease;

and disregarding any effect on rent of:-

8.2.7 any goodwill attributable to the Property by reason of any trade or business carried on therein by the Tenant or any sub-tenant or permitted occupier or any of their respective predecessors;

8.2.8 any alterations or improvements to the Property (to which the Landlord shall have given written consent where required in accordance with the provisions of this Lease) carried out by the Tenant or any sub-tenant or permitted occupier or any of their respective predecessors otherwise than in pursuance of an obligation to the Landlord or its predecessors in title whether under the provisions of this Lease or otherwise howsoever, it being declared that neither the Tenant's initial or any subsequent fitting out works shall be deemed to have been carried out in pursuance of an obligation to the Landlord, notwithstanding any other provision of this Lease which might operate to the contrary effect; and

8.2.9 the fact that the Tenant or any sub-tenant or permitted occupier or any of their respective predecessors may have been in occupation of the Property;

and in all other respects on the terms and conditions of this Lease (other than as to the amount of the rent payable hereunder but including (1) provision for review thereof as herein contained (other than Sub-Clause 8.2.6) and (2) an assumption that a five yearly rent review pattern exists).

8.3 **decision on rental value**

8.3.1 If the Landlord and the Tenant shall have failed to agree on the amount of the revised rent by the Review Date in question, it shall be determined by an independent surveyor (the "Surveyor") of not less than 10 years' standing and experienced in the valuation and leasing of property in Scotland similar to the Property.

8.3.2 The Surveyor shall be appointed by agreement between the Landlord and the Tenant or, in the absence of agreement within 28 days of one party giving written notice to the

other of their nomination, appointed at the request of the Landlord or the Tenant by the chairman (or other senior executive replacing or deputising for the chairman) for the time being of the Scottish branch of the Royal Institution of Chartered Surveyors.

8.3.3 The Surveyor shall:

8.3.3.1 who shall act and be deemed to act as an expert and not as an arbiter (but in so acting the Surveyor shall take account of the whole provisions of this Lease) and

8.3.3.2 in analysing rents payable for comparable properties for the purpose of ascertaining the revised rent, take account of any inducements offered to the tenants in such lettings with a view to ascertaining what rents would have been payable for such comparable properties in the absence of such inducements.

8.3.4 The Landlords and the Tenants agree to exclude the jurisdiction of the Court to give its opinion on any question of rent arising in such determination in terms of Section 3(1) of the Administration of Justice (Scotland) Act 1972.

8.3.5.1 Within one month after the date upon which such Surveyor is agreed upon or appointed as aforesaid, the Landlords and the Tenants shall each be entitled to submit to such Surveyor written valuations, statements and other evidence relating to or supporting their assessment of the open market rental value of the Leased Subjects, in which event they shall, at the same time, deliver to the other party a copy of all such valuations and others submitted as aforesaid.

8.3.5.2 Such Surveyor shall, if so requested by a written notice from one party (a copy of which shall be served on the other party) received by such Surveyor within 6 weeks of the date upon which such Surveyor is agreed upon or appointed as aforesaid, hold a hearing at which both parties may be heard and, if present, cross-examined and that at such time or times and such place or places as such Surveyor shall appoint for that purpose.

8.3.5.3 Such Surveyor shall if required by either party prior to or contemporaneously with his appointment give written reasons for his determination.

8.3.5.4 If such Surveyor dies or is for any reason unable to act before he shall have given his decision, then either party hereto may request the Chairman or Senior Office Holder aforesaid to nominate a further Surveyor to act on the terms of this paragraph.

8.3.3.5 The fees payable to the Chairman or Senior Office Holder and any such Surveyor and the said Surveyor who could not deliver his decision shall be borne and paid by the parties hereto in such shares and in such manner as such Surveyor shall determine and failing any such decision and subject thereto in equal shares.

8.4 **upwards only**

Notwithstanding the decision of the Chartered Surveyor hereinbefore referred to, in no event shall the rent payable by the Tenant after the Relevant Date of Review be less than the rent payable in terms of this Lease immediately before the Relevant Date of Review, or which would be payable were it not for any suspension of liability to make payment of rent in terms of this Lease.

8.5 **payment after date of review**

In the event that by the Relevant Date of Review the amount of the revised rent has not been agreed between the Landlord and the Tenant or determined as aforesaid then in respect of the period of time (hereinafter called the "**Interval**") beginning with the Relevant Date of Review and ending on the Quarter Day immediately following the date upon which the amount of the revised rent is agreed or determined as aforesaid (such Quarter Day being hereinafter called the "**Relevant Date**") the Tenant shall continue to pay to the Landlord in the manner hereinbefore provided the rent at the yearly rate payable immediately before the Relevant Date of Review but on the seventh day following the Relevant Date there shall be due as a debt payable by the Tenant to the Landlord (without any requirement for any demand therefor by the Landlord) as arrears of rent an amount equal to the difference between the revised rent and the rent actually paid during the Interval and apportioned on a daily basis in respect of the Interval together with interest at 3% below the Prescribed Rate on such amount from the Relevant Date of Review (subject always and without prejudice to Sub-Clause 5.1).

8.6 **statutory restriction**

If at the Relevant Date of Review the Landlord shall be obliged legally or otherwise to comply with any Act of Parliament dealing with the control of rent and which shall restrict or modify the Landlord's right to revise the rent in accordance with the terms of this Lease or which shall restrict the right of the Landlord to demand or accept payment of the full amount of the rent for the time being payable under this Lease then the Landlord shall on each occasion that any such enactment is removed, relaxed or modified, be entitled on giving not less than 3 months' notice in writing to the Tenant expiring after the date of each such removal, relaxation or modification to introduce an intermediate review date (hereinafter called the "**Intermediate Review Date**") which shall be the date of expiration of such notice and the rent payable under this Lease from an Intermediate Review Date to the next succeeding Date of Review or Intermediate Review Date (whichever shall first occur) shall be determined in like manner as the rent payable from each Date of Review as hereinbefore provided.

8.7 memorandum

As soon as the amount of rent payable after the Relevant Date of Review has been agreed or ascertained in accordance with the terms hereof (and if required by the Landlord so to do) the Landlord and the Tenant will, each at their own cost, forthwith execute a memorandum (incorporating a clause of consent to registration in the Books of Council and Session for preservation and execution) specifying the annual amount of the revised rent and all stamp duty land tax (if any) payable in respect thereof and the cost of registration thereof and of 3 extracts shall be borne and paid by the Tenant.

9 Law of Scotland to apply

This Lease shall be interpreted in accordance with the Law of Scotland and any dispute, difference or question of any kind which may arise between the parties shall be determined in accordance with the Law of Scotland.

10 Consent to registration

The parties consent to registration of this Lease all memoranda by and on behalf of the parties and of all certificates issued under this Lease for preservation and execution.

11 Testing clause

This document is executed as follows:-

For the Landlords, DERAMORE (S) LIMITED

.....
signature of
director/secretary/authorised signatory/witness

signature of
director/secretary/authorised signatory

.....
full name of above (print)

full name of above (print)

date of signing

.....
address of witness

place of signing

For the Tenants, NEW LOOK RETAILERS LIMITED

.....
signature of
director/secretary/authorised signatory/witness

signature of
director/secretary/authorised signatory

.....
full name of above (print)

full name of above (print)

.....	_____
.....	date of signing
.....	_____
address of witness	place of signing

This is the Schedule referred to in the foregoing Lease between Deramore (S) Limited and New Look Retailers Limited

PART 1

THE PROPERTY

ALL and WHOLE basement, ground floor and first floor premises at 121 – 123 Princes Street, Edinburgh shown outlined in red and shaded pink on the Plans, which property (1) forms part of the Building, (2) excludes the Common Parts but (3) includes the interior faces of all structural walls, ceilings, roofs, floors and columns, the whole of any non-structural part of any wall, roof, floor or column both faces of which are within the bounds of the said property, one-half in thickness of any non-structural part of any wall which forms a boundary of the said property, the interior screeding, all plasterwork and wall finishes, the false ceilings and raised floors (if any), the windows (including plate glass windows), doors and other entrances, and the frames and fittings for any of the foregoing, and also including the lift all escalators and such (if any) sprinkler apparatus, water and sanitary fittings, stop cocks, cisterns, central heating apparatus, radiators, lair, water, electricity, gas, telephone and other wires, ducts, conducting media and apparatus as serve solely and are within the said property; together with all additions, alterations and improvements thereto which may be carried out during the Period of this Lease and all landlord's fixtures and fittings from time to time in and about the same.

PART 2
THE BUILDING

ALL and WHOLE 121 – 123 Princes Street, Edinburgh being the subjects registered in the Land Register of Scotland under Title Number MID113926 and ALL and WHOLE that part of 124 Rose Street Street South Lane, Edinburgh registered in the Land Register of Scotland under Title Number MID14037 shown shaded yellow and hatched on the upper ground floor plan comprising one of the Plans; Together with (1) the whole fittings and fixtures therein and thereon; and (2) the whole rights, parts, privileges and pertinents thereof.

PART 3
THE COMMON PARTS

Those parts and pertinents of the Building which do not form part of or pertain solely to the Property or the Lettable Areas, including:-

- 1 the solum, roof, foundations, floors, floor slabs, external walls, party walls, structure and means of support of the buildings comprised in the Building including any part of any canopy, balcony or entrance structure attached to the exterior of the said buildings and any means of support thereof (always excepting any part of the roof terrace constructed above the roof the interior screeding, plasterwork, wall and ceiling finishes (including without limitation false ceilings and raised floors) and other surface treatment of the walls, any glazing, doors and other entrances and frames and fittings therefor in so far as the foregoing exceptions relate to the Property and the Lettable Areas within the said buildings);
- 2 any fire escapes to the rear of the Building provided for purposes of emergency egress from *inter alia* the Property;
- 3 [the bin store located in [] (but not the receptacles contained therein which shall be the property of and responsibility of the individual occupiers within the Building)] **[CLARIFYING THE POSITION WITH A BIN STORE]**;
- 4 the lighting, including all standards, tubes, wiring, time switches and other appurtenances thereof, used for the lighting of any of the Common Parts under exception of the Office Common Parts;
- 5 all utilities provided from time to time for public or common service of the Building;
- 6 all walls, fences and others bounding the Building;
- 7 the Service Systems; and
- 8 the Plant and Equipment.

PART 4

PERTINENTS

The right for the Tenant in common with the Landlord and its other occupiers and tenants and all other persons from time to time duly authorised for that purpose:-

1 Emergency Access

Of emergency egress only from the Property for pedestrian traffic by (1) the fire escape stairs at the rear of the Building from basement, ground, upper ground and first floors to Rose Street Lane South and (2) the fire escape stairs and lobby area to the front of the Building from basement and first floors to Princes Street as the same may be varied, altered or extended pursuant to the provisions of Part 5 of the Schedule.

2 Common Parts

To the use of such of the Common Parts (under exception of the Office Common Parts) as are necessary or required from time to time to be used to enable the Tenant or other permitted occupiers to use and enjoy the Property for the purposes permitted under this Lease.

4 Passage of utilities

The free passage of ventilation, heating, water, soil and electricity and other services in and through those parts of the Service Systems serving inter alia the Property.

5 Access for repairs etc.

To enter upon the Common Parts and the adjoining Lettable Areas upon prior appointment with the Landlord and the permitted occupier of the said Lettable Areas (except in the case of emergency) for the purpose of maintaining, repairing or renewing the Property (but only where such maintenance, repair and renewal cannot be carried out from within the Property) subject to causing the minimum disturbance and inconvenience to the Landlord and all occupiers of said Lettable Areas and the other tenants of the Building and to making good all damage thereby occasioned with all practicable speed to the reasonable satisfaction of the Landlord.

6 Support

The right of shelter, support and protection for the benefit of the Property by and from the remainder of the Building to the extent that the Property is capable of enjoying the same.

7 Plant Room Access

Of access to the plant room at first floor level for all necessary purposes by way of the fire escape stairs to the rear of the Building from ground floor level

PART 5

EXCEPTIONS AND RESERVATIONS

There are excepted and reserved to and in favour of the Landlord, the other tenants and authorised occupiers of the Building, and all others authorised by the Landlord and its and their respective duly authorised employees, factors, professional advisers, agents and/or workmen and others the following rights:-

- 1 The free passage of ventilation, heating, water, soil, electricity and other services in and through the Service Systems in, over, under or passing through the Property.
- 2 To lay or install under, over or about the Property new Service Systems and that along such line or lines or in such location or locations as the Landlord acting reasonably may specify.
- 3 Of light, air, support and protection for other Lettable Areas (to the extent that such Lettable Areas are capable of enjoying the same).
- 4 To enter the Property at any time during the Period of this Lease on giving at least 48 hours' prior written notice (except in an emergency) to carry out any works of maintenance, repair, alteration, improvement or renewal of any part of the Building (including any of the Lettable Areas) or for any necessary or reasonable purpose pertaining to the Property and/or the Building or any part or parts thereof but only to the extent that such maintenance and others cannot reasonably practicably be carried out or such purpose be achieved from outwith the Property.
- 5 To suspend temporarily or permanently any rights granted to the Tenant in respect of the Common Parts in connection with the repair and maintenance thereof or of any other part of the Building or any other necessary purpose but not so as to prevent the Tenant from trading lawfully from the Property or to render the Tenant in breach of statutory requirements applicable to the Property and provided that the Landlord will use all reasonable endeavours to provide reasonably equivalent alternative rights during such period of suspension.
- 6 To erect scaffolding for the purpose of repairing, maintaining, cleaning or altering any part of the Building notwithstanding that such scaffolding may temporarily restrict (but shall not preclude) the access to the Property.
- 7 To vary, alter or extend the Common Parts in the following manner:-

- 7.1 to extend the access roads, pedestrian footpaths and ways and service road, and
- 7.2 to resume and/or build or rebuild to such height and in such manner and otherwise as the Landlord may desire or permit upon any part of the Common Parts provided that during any period of building or rebuilding such part of the Building as is affected thereby will be hoarded off or suitably separated in some other way from the remainder of the Building, and that following such resumption and/or building or rebuilding the Common Parts will provide substantially equivalent facilities for the benefit of inter alios the Tenant as existed prior thereto.
- 8 The right to erect or to consent hereafter to any person erecting new buildings or to alter any buildings for the time being on any land adjoining, neighbouring or opposite to the Building notwithstanding that such alteration or erection may diminish the access of light and air enjoyed by the Property and the right to deal with any property adjoining opposite or near to the Building as it may think fit.

PROVIDED that on each occasion on which the Landlord exercises the rights hereinbefore reserved in paragraphs 7 and 8 of this Part of the Schedule:-

- (1) no part of the capital costs of any such extension, erection or alteration of buildings which is a material addition to the Building or the capital costs of provision and installation of plant and equipment and/or Service Systems in any such extension, erection or alteration shall be borne by the Tenant;
 - (2) if appropriate the Gross Internal Area of the additional Lettable Areas created in consequence of such extension of the Building shall from the date when such additional Lettable Areas are completed be taken into account in calculating the Service Charge Percentage applicable to the Property, which from such last mentioned date shall be amended accordingly;
 - (3) if appropriate and subject to such exclusions as shall be deemed necessary by the Landlord the Common Parts and the Building as defined and mentioned in this Lease shall as and from each occasion on which such extension, erection or alteration is completed shall be deemed to refer to the Common Parts and the Building as so extended or erected ; and
 - (4) damage to the Premises caused by the exercise of such rights is made good by the Landlord.
- 9 To the Landlord and the owners and occupiers of adjoining or neighbouring properties all rights, servitudes and privileges now or hereafter belonging to or enjoyed by all parts of any adjoining or neighbouring properties.
- 10 To maintain upon the Common Parts such features, appurtenances and fittings of ornament or utility in all cases as the Landlord (acting reasonably) from time to time thinks fit.
- 11 To only the Landlord the rights (1) to convey, and grant heritable securities over, the Property independently of the remaining parts of the Building provided always that the Tenant shall at all times be entitled to the use and enjoyment of the Pertinents set out in Part 4 of the Schedule, and

(2) to record a Deed or Deeds of Conditions in the Register of Sasines or Land Register (as appropriate) imposing real burdens and servitudes on the title to the Property and/or the Building or any part thereof and binding upon the tenants thereof provided that such Deed or Deeds of Conditions shall not derogate from the use and enjoyment of the Property to which the Tenant has right in terms of this Lease.

PROVIDED THAT the exercise of the forgoing rights shall be subject to the following provisions:-

1. unless in the event of an emergency the Landlord shall enter the Premises only after giving 48 hours prior notice;
2. unless in the event of an emergency the Landlord shall consider all reasonably practicable alternatives;
3. unless in the event of an emergency such rights can only be exercised if the purpose of such entry cannot otherwise reasonably practicably be carried out except for such entry;
4. the Landlord shall use its reasonable endeavours to cause as little disturbance and inconvenience as reasonably practicable to the Tenant and any sub-tenant or lawful occupier and the proper use by the Tenant and/or any sub-tenant or lawful occupier of the Property;
5. the Landlord shall make good any physical damage caused by the exercise of such right to the Premises and the Tenant's fixtures and fittings therein as soon as reasonably practicable;
6. notwithstanding the foregoing except in the case of an emergency (and where there is no practicable alternative) the Landlord will not purport to exercise any right of entry to the Premises during the months of November, December, January, March or April;
7. the Landlord shall not be entitled to exercise any of the foregoing rights and reservations to the extent that they or one or more of them (as the case may be) would result in the Tenant's use and enjoyment of the Property being adversely affected to any material extent; and
8. in the event of the Landlord proposing to carry out material works to or affecting the parts of Common Parts on which the Property depends for access, support, protection, fire escape or other such purpose, the Landlord shall give to the Tenant as much written notice as is reasonably practicable of its intention to carry out such works and along with such notice or as soon as reasonably practicable thereafter shall notify the Tenant of its intended programme for such works.

PART 6

SERVICE CHARGE

1 Payment of Service Charge

In order to ensure that the Landlord is fully and effectually indemnified in respect of all expenditure under Part 7 of the Schedule the Tenant shall pay to the Landlord the Service Charge.

2 Definitions

In this Part of the Schedule:-

- 2.1 **"First Year"** means the period from and including the Date of Entry to and including the last day of the Year in which the Date of Entry occurs;
- 2.2 **"Last Year"** means the period beginning 1 January (or such other date as may have been specified in accordance with sub-paragraph 2.6) immediately preceding the Date of Expiry and ending on the Date of Expiry;
- 2.3 **"Managing Agent"** means such suitably qualified or experienced person or firm as shall be appointed by the Landlord from time to time for the purposes of this Part of the Schedule, Part 7 of the Schedule, and all other associated purposes (or if none is appointed, the Landlord itself, acting reasonably);
- 2.4 **"Service Expenditure"** means the reasonable and properly incurred expenditure referred to in Part 7 of the Schedule under deduction of any costs, which would otherwise form part of the Service Expenditure, relating to the making good of any damage or destruction arising from an Insured Risk then covered under any policy or policies of insurance arranged in terms of these presents, save to the extent that (1) such costs fall within the excess provision under the relevant policy of insurance or (2) the insurance monies are irrecoverable as a result of any act, neglect, default or omission on the part of the Tenant, or the Tenant's sub-tenants, employees, agents or others for whom the Tenant is responsible in law;
- 2.5 **"Service Charge"** means the sums from time to time payable by the Tenant calculated in the manner set out in paragraph 3; and
- 2.6 **"Year"** means each consecutive period of 12 months beginning 1 January or such other date as the Landlord may specify from time to time.

3 Service charge

- 3.1 The Service Charge shall in relation to any Year other than the First Year and the Last Year consist of the Service Charge Percentage of the Service Expenditure.

- 3.2 The Service Charge shall in relation to the First Year and the Last Year consist of the Service Charge Percentage of such reasonable part of the Service Expenditure for the Year in which the First Year or the Last Year (as the case may be) occurs whenever disbursed, incurred or made and whether prior to the Date of Entry or otherwise including sums of money by way of reasonable provision for anticipated expenditure in respect thereof, all as the Managing Agent allocates as being fair and reasonable in the circumstances.
- 3.3 In the event (1) that the Building shall be varied by reason of the alteration, extension or redevelopment of the Building or any part thereof or (2) of a change in circumstances which the Landlord considers, acting reasonably, requires a variation of the Service Charge Percentage then, in either or both events, the Landlord shall be entitled to vary the Service Charge Percentage in such manner as the Landlord, acting reasonably, considers to be just and equitable.

4 Estimates

- 4.1 The Landlord shall procure that the Managing Agent shall within 2 months before or as soon as practicable after the commencement of each Year (but the Tenant shall not be entitled to object to, or withhold or delay payment of the Service Charge by reason of, any delay on the part of the Managing Agent) prepare estimates of the Service Expenditure and the Service Charge for that Year and shall in respect of the First Year prepare estimates of the Service Expenditure and the Service Charge for the First Year.
- 4.2 The Landlord shall be entitled at any time after the issue of the estimates referred to in sub-paragraph 4.1 to issue to the Tenant amended estimates of the Service Expenditure and the Service Charge in respect of the First Year or the Year in question (as the case may be) and, in that event, the Service Charge payable by the Tenant in terms of sub-paragraph 6.1 shall be adjusted accordingly.

5 Certification

- 5.1 As soon as practicable after the calculation of the Service Expenditure shall have been completed in respect of any Year or part thereof, the Managing Agent shall certify the amount of the Service Expenditure for that Year (but any delay in or absence of such certification will not entitle the Tenant to withhold or delay payment of the Service Charge) and the certificate of the Managing Agent of the Service Expenditure for such Year (in the absence of manifest error) shall be binding on the Tenant and the Landlord and shall be deemed to be sufficient evidence that:-
- 5.1.1 any estimate of future Service Expenditure is a fair and reasonable estimate; and
- 5.1.2 any item or class of past or future expenditure treated as Service Expenditure is correctly so treated.
- 5.2 Any omission by the Landlord to include in the calculation of the Service Expenditure any expenditure incurred in the Year to which such certificate relates shall not preclude the Landlord

from including such expenditure in the calculations of the Service Expenditure for any subsequent Year.

6 Times of payment

- 6.1 The Service Charge based upon the estimates referred to above in respect of each Year excluding the First Year but including the Last Year shall be payable by equal quarterly instalments in advance on the Scottish quarter days, namely 28 February, 28 May, 28 August and 28 November, or such other four quarterly dates as the Landlord may from time to time specify. The Service Charge for the First Year based upon the Managing Agent's estimates of the Service Expenditure and the Service Charge for the First Year shall be payable by a payment on the Date of Entry in respect of the period from and including the Date of Entry to the first quarter day or other payment date occurring after the Date of Entry and a payment or payments (as the case may be) on the succeeding quarter day or days or such other payment date or dates as may be substituted therefor as aforesaid and if one or more of such quarter days or such other payment dates falls between the Date of Entry and the end of the First Year apportioned pro rata.
- 6.2 As soon as the Managing Agent's certificate shall have been completed under paragraph 5.1, any overpayment by the Tenant based on the Managing Agent's estimate shall be allowed to the Tenant as a credit towards the next payment or payments of Service Charge due by the Tenant and any underpayment by the Tenant based on the Managing Agent's estimates shall be paid by the Tenant within 14 days of demand. In the event that there remains any overpayment by the Tenant in respect of Service Charge at the expiry or earlier termination of this Lease, the Landlord shall be required to reimburse any such sum in full to the Tenant within 15 Working Days of the date of completion of the Managing Agent's certificate under paragraph 5.1 for the relevant Year.
- 6.3 If the Tenant shall not have been given notice of the Managing Agent's estimates of the amounts of the Service Expenditure and the Service Charge for any Year before the first quarterly payment date in the next following Year the Tenant shall on that and any other quarter day or other payment date before such notice is given pay an amount equal to the last quarterly payment of Service Charge in respect of the previous Year and the requisite adjustment by way of addition of underpayment or deduction of overpayment shall be made to the first quarterly payment after such notice has been given.
- 6.4 The provisions of this Part of the Schedule shall continue to apply from and after the Date of Expiry but only in respect of the period down to and including the Date of Expiry.

7 Provision of information

The Landlord shall at the request and expense of the Tenant provide the Tenant with a summary of the amounts comprising the Service Expenditure but so that the Tenant shall not be entitled to require any particular which could be ascertained by inspection of any statement prepared pursuant to Sub-Clause 6.7 and so that any delay in providing or the non-provision of such summary shall not be grounds upon which the Tenant shall be entitled to withhold or delay

payment of the Service Charge. The Tenant will be entitled to inspect and the Landlord shall be obliged to provide, upon receipt of reasonable written request from the Tenant, vouchers and all reasonable information pertaining to the amounts comprised within the Service Expenditure in relation to any particular item which the Tenant, acting reasonably, considers requires further clarification.

PART 7

SERVICE EXPENDITURE

1 Performance of Landlord's obligations

The expenditure properly incurred in or about the performance of the obligations contained in Clause 6 and expenditure properly incurred or provided for pursuant to this Part of the Schedule (other than payment of premiums in respect of effecting and maintaining the Building Insurance and the Loss of Rent and Service Charge Insurance, and the costs incurred in implementing Sub-Clause 6.3 subject always to the provisions of that Sub-Clause) but including the expenditure properly incurred in respect of:-

1.1 insurance P.O.L. and third party

The cost of insuring against the Landlord's liabilities in respect of Property Owners Liability, Third Party Liability and Employers Liability in connection with the Building and staff and other personnel employed by the Landlord in connection therewith and meeting the amount of any excess payable in terms of any policy of insurance in respect of the foregoing items.

1.2 insurance valuations

The cost of carrying any independent professional valuations of the Building or revisions thereof (at intervals not more frequent than yearly) required by the Landlord for the purpose of, amongst other things, determining the Full Cost of Reinstatement.

1.3 repairs etc of Common Parts

The expenditure incurred in maintaining, repairing, decorating, lighting and cleansing, and where necessary renewing and rebuilding the Common Parts (under exception of the Office Common Parts) irrespective of the cause necessitating such maintenance, repair, renewal, rebuilding and others except where the same is or are carried out in consequence of damage or destruction to any item which at the time of relevant damage or destruction is covered by the Building Insurance, subject to the Tenant having made good any sums payable by virtue of Clause 5.15 of the foregoing Lease but then only to the extent that the relative expenditure is met from the proceeds thereunder..

1.4 compliance with Insurers' requirements

The cost incurred in complying with any requirements of the Insurers in relation to the Common Parts.

1.5 rates

The expenditure incurred in paying and discharging any existing or future taxes, rates, charges, community charges, duties, assessments, impositions and outgoings whatsoever in respect of the

Common Parts, but excluding (i) taxes imposed upon the Landlord in respect of its capital interest in or dealings by the Landlord with its interest in the Building or any part thereof; (ii) any taxes imposed on the Landlord on the rents received by it; or (iii) any rates, taxes, duties, assessments or other charges exigible in respect of any Lettable Area which is intended or capable of being let and which is not at that time the responsibility of any individual tenant within the Building.

1.6 **other outgoings**

The expenditure incurred in paying and discharging all charges, assessments and outgoings for water, electricity, fuel, telephone and public or statutory utilities payable in respect of the Common Parts, and discharging any obligations arising under the Title Deeds which are not otherwise the responsibility of a tenant of any Lettable Area.

1.7 **repairs etc of plant**

The expenditure incurred in maintaining in good working order and operating the Plant and Equipment and Service Systems including the cost of provision for necessary renewal and replacement of the same and the salaries cost or fees of repair and maintenance staff.

1.8 **refuse collections**

The cost of arranging for periodic refuse collection services together with any additional levy or charge by the local or other competent authority and arranging sanitation and pest control as may be reasonably required from time to time.

1.9 **maintenance equipment**

The expenditure incurred in procuring the supply operation and necessary replacement of any machinery, articles and materials for the purpose of refuse and litter collection, gritting and clearing of snow and ice, and repair, maintenance, renewal, servicing and cleansing of the Plant and Equipment and the Service Systems except, in the case only of renewals of or repairs to the same, where such renewal or repairs are carried out in consequence of damage or destruction to any item which at the time of the relevant damage or destruction is covered by the Building Insurance

1.10 **managing agents fees**

The expenditure incurred in paying and discharging the reasonable fees of any agents retained by the Landlord to manage the Building being a sum not in excess of any relevant scale charges for the time being authorised by the Royal Institution of Chartered Surveyors (or in the absence of scale charges being a reasonable sum). In any event, such fees shall not exceed a sum equal to 10% of the remainder of the Service Expenditure (not including such fees).

1.11 **Professional fees**

The expenditure incurred in paying and discharging the reasonable fees and other charges of any accountant, surveyor or other professional adviser employed to certify any matter or thing to be

certified for the purposes of any provisions of this Part or Part 6 of the Schedule, including the Managing Agent appointed in terms of Part 6 of the Schedule.

1.12 Landlord's management fees

The expenditure incurred in paying and discharging the proper and reasonable fees and costs of the Landlord where it carries out itself any of the services referred to as being carried out by a third party in sub-paragraphs 1.10 and 1.11,

1.13 CDM Regulations

The costs incurred by the Landlord in complying with the CDM Regulations in relation to any alterations or works to the Building the cost of which (or a proportion of such cost) is re-chargeable to the Tenant by way of the Service Charge including the costs of maintaining all relevant Health and Safety Files, the supply of copies or extracts thereby to relevant third parties and of carrying out all necessary inspections of the Building in connections therewith.

2 Amenities

The expenditure incurred in the provision, maintenance, and where necessary replacement and renewal of such amenities as the Landlord acting reasonably and in the interests of good estate management shall think fit to provide or maintain on or in the Building for the benefit or convenience of the tenants of the Building.

3 Signs

The expenditure incurred in the provision, maintenance, and where necessary replacement and renewal of occupiers directories, signs, directional signs, displays, maps and other informative notices in or upon the Common Parts or any other part of the Building.

4 Security

The expenditure in the provision of such security staff as the Landlord shall reasonably think fit and proper to employ and in the provision, maintenance, and where necessary replacement and renewal of security equipment in the Building.

5 Leasing and financing costs

The cost of leasing any item required and interest and bank charges in respect of monies borrowed for the purpose of carrying out any of the matters referred to in this Part of the Schedule.

6 VAT

VAT at the applicable rate in respect of any items of expenditure herein mentioned.

7 Orders and statutory requirements

The expenditure incurred in taking all steps deemed desirable or expedient by the Landlord acting reasonably and in the interests of good estate management for complying with or making representations against or otherwise contesting the incidence of the provisions of any legislation or orders or statutory requirements thereunder including those concerning town planning, fire precautions, health and safety, compulsory purchase, public health, highways, streets, drainage, the levying of rates or similar charges in respect of the Common Parts, or other matters relating to or likely to relate to the Building for which the Tenant is not directly liable hereunder or the tenants of other Lettable Areas within the Building or any one or more of them are not directly liable under their leases.

8 Other matters

The expenditure on the proper cost of any other service or matter which the Landlord acting reasonably and in the interests of good estate management shall think proper for the better and more efficient management of the Building or convenience of the generality of the tenants in the Building.

BUT DECLARING THAT the following items will not be included within the costs and items of expenditure forming the Service Expenditure and accordingly will not form part of the Service Charge payable by the Tenant under this Lease and shall be the personal liability of the Landlord in questions with the Tenant:-

- (1) the share of the costs which are attributable to or payable by the Tenant or occupants of any part of any Lettable Area (other than the Property) within the Building which is capable of or intended for letting;
- (2) the cost and expense of any letting of any Lettable Area or any dealing with any letting;
- (3) any costs, sums or damages due by an individual tenant (other than the Tenant) of any Lettable Area but not recovered from such tenant;
- (4) any costs, fees or expenses arising or incurred by reason of any negligent act or omission of the Landlord or any person for whom the Landlord is legally responsible;
- (5) any part of the capital cost of the initial re-development or landscaping, equipping or fitting-out of the Building or any subsequent scheme of redevelopment of the Building, other than repair or reinstatement, or (where necessary due to being beyond economic repair or reinstatement) replacement or renewal;
- (7) the costs of remedying any defect in the Common Parts arising by virtue of defective workmanship or design in the initial re-development of the Building before the Landlord has exhausted (to the extent determined by the Landlord acting reasonably) any other remedies open to it against the parties responsible for such defective workmanship or design.

PART 8**MANAGEMENT REGULATIONS****1 Not to obstruct etc**

The Tenant will not obstruct any part of the Building used or intended to be used as a fire escape, service yard, service passage, common area, stairway or others or use the same in any manner which may cause nuisance, damage or annoyance to the Landlord or to the tenants or occupiers of any other Lettable Areas or other parts of the Building or to other persons lawfully using such common areas or others.

2 Refuse

The Tenant shall ensure that all refuse from the Property is contained within the Property in receptacles specifically designed for that purpose. No refuse shall be stored on the Common Parts, save to the extent designated by the Landlord in terms of Part 4 of this Schedule.

3 Key holders

Names and addresses of all persons for the time being holding keys of the Property shall be supplied in advance to the Landlord and to the police.

4 To suppress electrical equipment

The Tenant shall not install or use or permit to be installed or used any electrical equipment without having affixed thereto an efficient suppressor so as to prevent any interference with any of the plant and equipment in the Building or in the neighbourhood.

5 Fire precautions

All fire exits must at all times be indicated by a sign reading "Fire Exit - to be kept clear of obstruction at all times". Such exits shall be kept clear of obstruction at all times and such signs shall not be obstructed in any way. The Tenant shall not make any alteration or addition to the sprinkler system (if any) or any other fire precaution, detection or fighting equipment in the Property. The Tenant shall keep the Property sufficiently equipped with fire fighting apparatus in good working order and shall ensure that the same is readily accessible for use.

6 Service areas

The Tenant:-

- 6.1 shall not load or unload vehicles outwith the Property except in any service areas or bays reasonably designated for such purpose and in the course of such loading or unloading:-

- 6.1.1 shall comply with all reasonable requirements and regulations of the Landlord including any restrictions from time to time reasonably imposed by the Landlord as to the weight or length or width of vehicles permitted to use such service areas; and
- 6.1.2 shall not cause any unnecessary obstruction nor allow any vehicle to remain standing for any period longer than is reasonably necessary for the delivering or taking away of goods from the Property;
- 6.2 shall not park stand or leave or allow any vehicles to park stand or be left in any part of the Building other than on any open parts of the Property designated to accept vehicles and any service areas or bays as aforesaid and in particular shall not park stand or leave or allow any vehicle or obstruction to be parked or left on or obstruct the roads within the Building and forming part of the Common Parts;
- 6.3 shall at all times act reasonably in relation to other users of the said roads, service areas or bays and the loading and unloading facilities.

PART 9

TITLE DEEDS

Title Number MID113926

Title Number MID14037

PART 10

PLANS

PART 11

RENT REVIEW PLANS

[TO BE PRODUCED BUT TO SHOW THE AS BUILT LAYOUT EXCLUDING THE 3 ESCALATORS WHICH ARE BEING PAID FOR BY NEW LOOK]