

DATED 1st March 2002

THE DISTRICT COUNCIL OF  
CHICHESTER

- to -

AMBERLEY HOUSE INVESTMENTS  
LIMITED

/Counterpart

LEASE  
of

Plot 5b, Terminus Road Industrial Estate,  
Chichester

Lease Pkt. No:  
IND/1/6B

M.J. Kelley,  
District Solicitor  
East Pallant House,  
East Pallant,  
Chichester,  
West Sussex. PO19 1TY



PA462-1

THIS L E A S E is made the 1st day of March  
Two thousand and ~~four~~ <sup>two</sup> B E T W E E N THE DISTRICT COUNCIL of  
CHICHESTER of East Pallant House, East Pallant, Chichester, West Sussex PO19  
ITY (hereinafter called "the Council" which expression shall where the context so  
admits include the estate owner or estate owners for the time being of the premises  
hereby demised immediately expectant on the term hereby granted) of the one part  
and AMBERLEY HOUSE INVESTMENTS LIMITED whose registered office is  
situate at 13-17, Station Avenue, Caterham, Surrey CR3 6LB (hereinafter called "the  
Lessee")



WITNESSETH as follows:-

1. IN consideration of the rent hereby reserved and of the covenants on the part  
of the Lessee hereinafter contained the Council hereby demises unto the Lessee ALL  
THAT piece or parcel of land containing 0.9439 acres (.382 Hectare) or thereabouts  
which said land is for the purpose of identification only more particularly delineated  
on the plan annexed hereto and thereon edged red and known as Plot 5b, Terminus  
Road Industrial Estate, Chichester being part of land owned by the Council at  
Terminus Road, Chichester, West Sussex (hereinafter called "the Council's Estate")

TOGETHER with any Buildings erected or to be erected thereon (hereinafter  
called "the premises") TOGETHER ALSO with the free and uninterrupted passage  
and running of water soil gas and electricity through the sewers drains watercourses  
pipes wires and channels serving the premises EXCEPT AND RESERVED out of  
this demise the free passage and running of water and soil from any other buildings or  
land on the Council's Estate in and through the sewers and drains and water mains  
laid or to be laid in or under the premises AND also the right to lay down upon or  
under and through the premises gas and water mains sewers and drains and electric  
light, telephone and telegraph poles, wires and cables with power from time to time  
on prior written notice to enter upon the premises for the purposes aforesaid or for the  
purpose of examining the state of repair thereof and to repair or renew the same doing  
as little damage as possible to the premises and making good any such damage caused  
to the reasonable satisfaction of the Lessee AND FURTHER EXCEPTED AND  
RESERVED unto the Council the free and uninterrupted passage and running of  
water soil gas and electricity through the sewers drains watercourses pipes wires and  
channels now laid or hereafter to be laid in through or under the premises and the

right at all reasonable times on prior written notice in the daytime to enter upon the premises with or without workmen and others for the purpose of repairing maintaining renewing and replacing such sewers drains watercourses pipes wires and channels AND ALSO EXCEPT AND RESERVED unto the Council at any time hereafter or from time to time at all reasonable times in the daytime on prior written notice the full right and liberty to enter upon the premises with or without workmen or others to build rebuild or alter any of the buildings erected on the Council's Estate the Council in respect of all rights of access hereby reserved making good all damage thereby occasioned TO HOLD the same (except and reserved as aforesaid and subject to the provisions covenants and conditions hereinafter contained) unto the Lessee from the Twenty fifth day of December Two thousand for the term of One Hundred and Fifty Years ("the Term") YIELDING AND PAYING to the Council the yearly rents ascertained in accordance with the next clause hereof without any deduction by equal quarterly payments in advance on the usual quarter days the first payment or apportioned part thereof being made on the date hereof

2. (a) In this Lease:

"review date" means the Twenty fifth day of December Two Thousand and ten and in every fifth year thereafter

"review period" means the period starting with any review date up to the next review date or starting with the last review date up to the end of the term hereof

(b) Until the first review date the yearly rent shall be SEVEN THOUSAND EIGHT HUNDRED AND SEVENTY FIVE POUNDS (£7,875) and during each successive review period a rent equal to the rent previously payable hereunder since the previous review date or such revised rent as may be ascertained as provided in the following sub clauses whichever shall be the greater

(c) 7½ per centum of the open market rental value of either (1) the land and buildings on the premises at the date of the rent review or (2) a total of 1,400 metres square of modern industrial space and the open market rental value per square metre of the premises shall be deemed to be the average of the open market rent attributable to industrial buildings and offices of standard construction at the time of review whichever shall be the greater on the following assumptions:

(i) that the premises are to be let for a term of 15 years subject to a rent review at the expiry of the tenth year on the same basis as this review and subject to the terms of this Lease (other than the amount of the rent hereby reserved but including the provisions for review of that rent)

(ii) that the premises are fit and available for immediate occupation and that all services required for such occupation and uses are connected to the premises

(iii) that the covenants herein contained on the part of the Lessee have been fully performed and observed

(iv) that no work has been carried out to the premises by the Lessee its subtenants or their predecessors in title which has diminished the rental value and that in case the premises have been destroyed or damaged they have been fully restored

but disregarding:

(v) that the premises have been internally decorated every five years

(i) any effect on rent of the fact that the Lessee its sub-tenants or their respective predecessors in title have been in occupation of the premises

(ii) any goodwill attached to the premises by reason of the carrying on thereof of the business of the tenant its sub-tenants or their predecessors in title in their respective businesses and

(d) With respect to all periods of time referred to in the rent review clause time shall not be deemed to be of the essence of the contract

(e) Such rack rent value for any review period may be agreed at any time between the Council and the Lessee or (in the absence of agreement) determined not earlier than the relevant review date by an arbitrator to be appointed by agreement between the parties and in the absence of agreement to be nominated by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors on the application of either party made not earlier than six months before the relevant review date but not later than the end of the relevant review period

(f) IT IS HEREBY FURTHER PROVIDED in relation to the ascertainment and payment of revised rent as follows:

(i) the fees and expenses of the arbitrator including the cost of his nomination shall initially be borne equally by the Council and the Lessee who shall otherwise bear their own costs and the arbitrator shall afford the Council and the Lessee an opportunity to make representations to him verbally or in writing with regard to the

revised rent and a reasoned apportioned award on his costs and those of the parties and if the arbitrator nominated pursuant to sub-clause (g) of this clause shall die delay or become unwilling unfit or incapable of acting or if for any other reason the President for the time being of the Royal Institution of Chartered Surveyors or the person acting on his behalf shall in his absolute discretion think fit he may on the application of either the Council or the Lessee by writing discharge the arbitrator and appoint another in his place

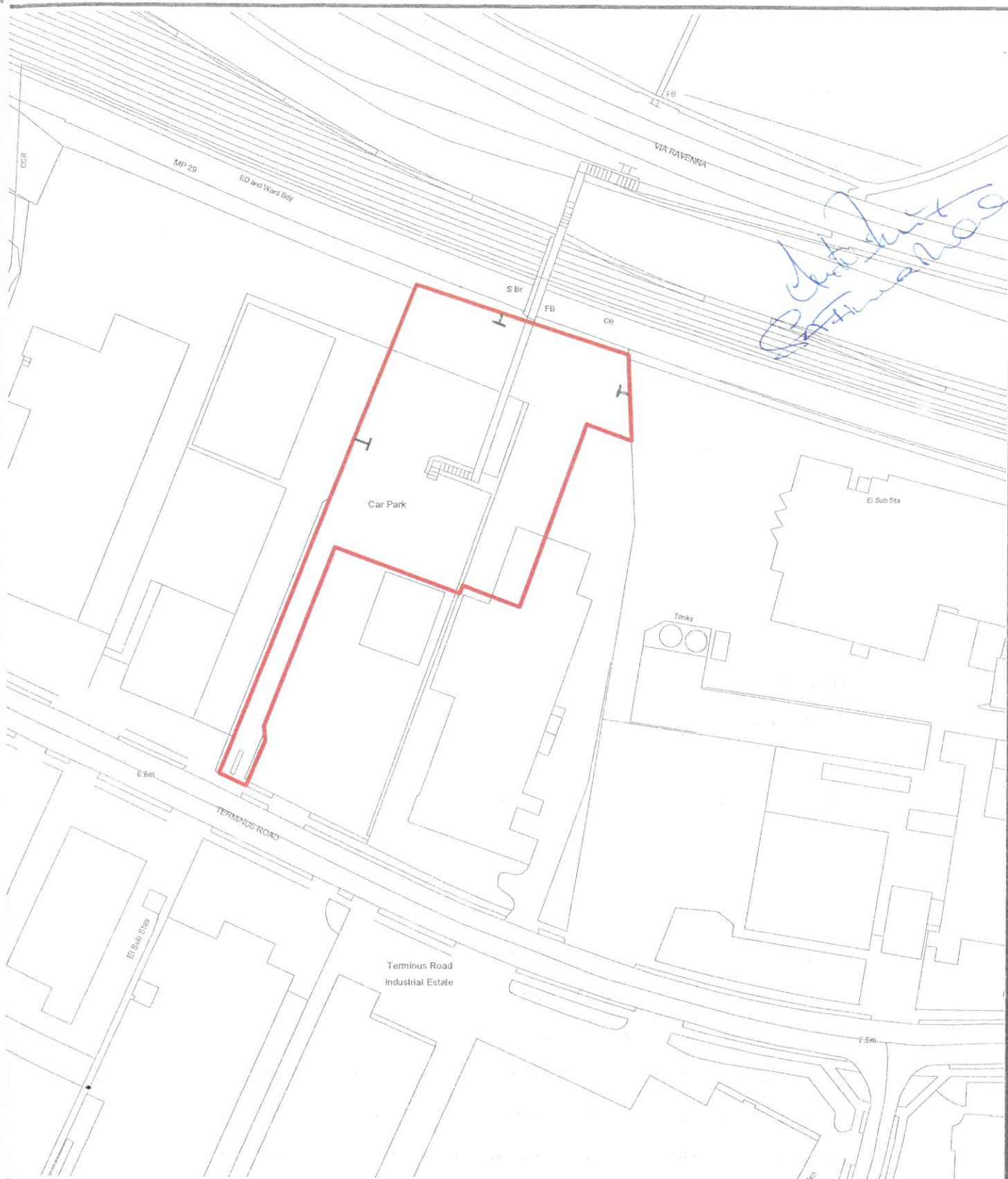
(ii) when the amount of any rent to be ascertained as hereinbefore provided shall have been so ascertained memoranda thereof shall thereupon be signed by or on behalf of the Council and the Lessee and annexed to this Lease and the counterpart thereof and the Council and the Lessee shall bear their own costs in respect thereof

(iii) if the revised rent payable on and from any review date has not been agreed by that review date rent shall continue to be payable at the rate previously payable and forthwith upon the revised rent being ascertained the Lessee shall pay to the Council any shortfall between the rent and the revised rent payable up to and on the preceding quarter day together with interest on any shortfall at the base lending rate of the HSBC Bank plc or such other clearing bank as may be nominated by the Council such interest to be calculated on a day-to-day basis from the relevant review date on which it would have been payable if the revised rent had then been ascertained to the date of actual payment of any shortfall and the interest so payable shall be recoverable in the same manner as rent in arrear

(iv) for the purposes of this proviso the rent shall be deemed to have been ascertained on the date when the same has been agreed between the Council and the Lessee or as the case may be the date of the determination by the arbitrator

(v) if either the Council or the Lessee shall fail to pay the moiety of the fees and expenses of the arbitrator under the provisions hereof within twenty-one days of the same being demanded by the arbitrator the other shall be entitled to pay the same and the amount so paid shall be repaid by the party chargeable on demand

(vi) if at any of the review dates there shall be in force a statute which shall prevent restrict or modify the Council's right to review the Rent in accordance with this Lease and/or to recover any increase in the Rent the Council shall when such restriction or modification is removed relaxed or modified be entitled (but without prejudice to its rights (if any) to recover any rent the payment of which has only been



**CHICHESTER DISTRICT COUNCIL**  
**P.E. OVER Bsc (Hons) F.R.I.C.S Head of Property Services**  
**Property Services Division**



**Location** PLOT 5B TERMINUS ROAD CHICHESTER  
 0.9439 acres

**Drawing No**  
 1367

**Date** 17/12/2001  
**Scale** 1:1250

**Produced on GIS by**  
**G.R.FRYER**



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deferred by law) on giving not less than 1 month's nor more than 3 months' notice in writing to the Lessee at any time within 6 months (time not to be of the essence of the contract) of the restriction or modification being removed relaxed or modified to invoke the provisions of sub-clause (f) (vii) of this clause

(vii) Upon the service of a notice pursuant to sub-clause (f) (vi) of this clause the Council or the lessee shall be entitled to proceed with any review of the Rent which may have been prevented or further to review the Rent in respect of any review where the landlord's right was restricted or modified and the date of expiry of such notice shall be deemed for the purposes of this Lease to be a review date (provided that without prejudice to the operation of this paragraph nothing in this paragraph shall be construed as varying any subsequent review dates) AND the Council shall be entitled to recover any increase in Rent together with interest with effect from the earliest date permitted by law

3. THE Lessee hereby covenants with the Council as follows:-

(1) To pay the said yearly rent at the times and in the manner hereinbefore appointed for payment thereof and to bear and pay all rates taxes charges assessments and outgoings whatsoever of an annual or recurring nature (whether parliamentary parochial or of any other description) which now are or may at any time hereafter be assessed charged or imposed upon or payable in respect of the premises or upon the owner or occupier thereof or payable by either of them

(2) At the Lessee's expense to do and execute all such works as under or by virtue of any act of Parliament for the time being in force shall be required to be done or executed in or upon the premises whether by the Council or otherwise save as to any environmental liability under Clause 4 hereof

(3) To keep and maintain all boundary walls and fences marked "T" on the said plan in good repair and condition and

(4) Not to excavate or dig any sand, gravel, earth or minerals of any description out of the premises except for the purpose of building (as permitted by this Lease) upon the premises

(5) To insure and keep insured all buildings now or at any time hereafter erected or standing on the premises against loss or damage by fire lightning explosion storm flood riot civil commotion bursting and overflowing of waterpipes and tanks and other apparatus impact by vehicles aircraft or articles dropped therefrom and such

other risks as the Council may decide (acting reasonably) ("the insured risks") and also (for the benefit of the Council) the loss of two years' full rent thereof) with an Insurance Company first approved in writing by the Council (such approval not to be unreasonably withheld) and to pay all premiums and sums of money necessary for that purpose and when reasonably required so to do to produce to the Council the policy or policies of such insurance and the receipts for the premium or premiums payable in respect of the same and to cause all moneys received by virtue of such insurance to be laid out in reinstating the said buildings in case such monies shall be insufficient for the purpose the deficiency shall be made good by the Lessee out of his own moneys in the event that the Lessees shall at any time fail to insure or keep insured the buildings on the premises as aforesaid the Council may do all things necessary to effect or maintain such insurance and any moneys expended by the Council for that purpose shall be repayable by the Lessee on demand

(6) Not to do anything of whatsoever nature which prejudicially affects the value of the Council's freehold interest in the premises and in the event of any dispute in relation to this clause such dispute to be resolved in accordance with clause 6(3) hereof

(7) Not to do or suffer to be done on the premises anything which may prejudice the insurance of the buildings thereon against loss or damage by fire nor without the consent in writing of the Council (which consent shall not be unreasonably withheld) to keep or permit to be kept on the premises materials of a dangerous or explosive nature or do or suffer to be done on the premises anything whereby the premium for the insurance of adjacent premises shall be increased

(8) At the end or sooner determination of the term hereby granted to yield up unto the Council the premises so repaired maintained decorated cleansed in accordance with the terms of this lease together with all fixtures improvements and things which now are or at any time during the said term shall be set up fixed or fastened to or upon or in or about the premises or any part thereof (but excluding tenants' and trade fixtures and fittings) and if at the expiration or sooner determination of the said term any dispute or difference shall arise as to the state of repair of the premises or as to the moneys to be paid by the Lessee in respect of any want of repair to refer such dispute or difference to arbitration as hereinafter provided

~~(9) To use its reasonable endeavours to ensure that no obstruction is caused or nuisance committed on the land hatched blue on the attached plan or on the junction with Terminus Road~~

Amf  
SPF

(10) In case any dispute or controversy shall at any time arise between the Lessee and the tenants or occupiers of any adjoining or contiguous premises belonging to the Council relating to the ditches watercourses culverts sewers drains or gutters or to any easements or privileges whatsoever affecting or relating to the premises or any adjoining or contiguous premises belonging to the Council to allow the same from time to time to be settled and determined by the Council or their Assistant Director (Property Services) in such manner as the Council by any writing under their seal or under the hand of their Assistant Director (Property Services) shall direct in that behalf

(11) A.1 (a) Not to assign part only of the Premises

(b) Not to assign the whole of the Premises without first:

A.1.1 Obtaining the written licence of the Council which shall not be unreasonably withheld:

A.1.2 Satisfying the circumstances specified for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 which are:-

(a) All sums due from the Lessee under this Lease have been paid at the date of the application for the licence to assign:

(b) In the Councils opinion there are at the date of the application for the licence to assign no material outstanding breaches of any tenant covenant under this Lease or any personal covenants undertaken by the Lessee:

A.1.3 Complying with the conditions specified for the purposes of section 19 (1A) of the Landlord and Tenant Act 1927 which are that upon or before any assignment and before giving occupation to the assignee the Lessee shall covenant by way of indemnity and guarantee and in a separate Deed entered into by the Lessee with the Council in reflecting the terms set out below:-

(a) that the Assignee will pay the rents reserved and observe and perform its covenants and conditions in this Lease and the Lessee will indemnify the Council on demand against all losses damages costs and expenses arising out of any default by the Assignee.

- (b) that if for any reason the term of this lease shall be prematurely determined or liquidated or a trustee in bankruptcy of the Assignee disclaims this Lease or if this Lease shall otherwise be disclaimed in circumstances releasing the estate of the Assignee from liability or if this Lease is determined by forfeiture or re-entry and if within six months of any such event the Council shall by notice in writing so require the Lessee will enter into a new lease of the premises at the cost of the Lessee on the same terms as are contained in this Lease for the residue of the term which would have remained had there been no such determination, disclaimer, forfeiture or re-entry.

A.1.4 Ensuring that any assignee enters into a direct covenant with the Council in similar terms to those contained in Clause 3 of this Lease

A.2. Not to sub-let the whole or any part of the premises without the consent of the Council (such consent not to be unreasonably withheld) PROVIDED THAT such underlease/sublease

- (1) is granted without taking any fine or premium (unless previously agreed with the Landlord such consent not to be unreasonably withheld)
- (2) contains a covenant on the part of the underlessee or sublessee to observe and perform the covenants contained herein (save for the payment of rent)
- (3) reserves the best rent reasonably obtainable in the Open Market upon the grant of such underlease unless previously agreed in writing with the Council
- (4) incorporates provisions for the upward review of rent at intervals not exceeding ten years
- (5) provides for reimbursement by the Tenant of insurance premiums paid by the Landlord;
- (6) makes the Tenant responsible for, or for a proper proportion of, the cost of all repairs and of all services provided by the Landlord;
- (7) makes the Tenant responsible for payment of all rates, taxes and other outgoings;
- (8) provides for the written notification to the immediate superior landlord and the Council of any incident causing material contamination or

other circumstances whereby latent contamination becomes apparent on that part of the premises comprised within such underlease

(12) Within one month next after the making thereof without any demand by the Council to produce to the Council for registration;

(i) copies of all assignments under leases and other dispositions which shall at any time during the Term be made of the premises or any part thereof and to pay to the Council for the registration of every such document the sum of Twenty Pounds or such other sum as the Council may reasonably request

(ii) copies of all completed rent reviews

(13) Following the construction of any buildings or structures on the premises to keep the same in good repair and condition (except damage caused by an Insured Risk (save for the amount of any reasonable excess) other than where and to the extent that the insurance money or any part of the insurance money is irrecoverable in consequence of any act or default of the Lessee (or anyone at the premises expressly or by implication with the Lessees authority) and in particular but not by way of limitation:

(i) to replace from time to time the Council's fixtures and fittings in the premises which may be or become beyond repair at any time during or at the expiration of the Term with new fixtures and fittings of similar type and of no less quality

(ii) to replace any cracked or broken windows at the premises and to regularly clean the windows at the premises

(iii) to keep the premises in a clean and tidy condition

(iv) to keep any open area adequately surfaced in good condition and free from weeds

(v) to keep all landscaped areas at the premises properly cultivated

(vi) to use all reasonable endeavours to keep all trees shrubs and hedges growing at the premises in good order and to replace any such trees or shrubs or hedges which may die during the Term

(14) in every fourth year following commencement of the term hereby granted ("the Term") and in the last year of the Term to redecorate the exterior of the premises in a good and workmanlike manner and with appropriate materials

of good quality to the reasonable satisfaction of the Council

- (15) Not to erect or place any new or additional building or structure on the premises including any temporary or moveable building without the Council's consent (such consent not to be unreasonably withheld) nor unite the premises with any adjoining property nor commit waste of any kind on the premises
- (16) Not to make any alteration or addition to the premises unless:
  - (i) the prior consent of the Council has been obtained (such consent not to be unreasonably withheld or delayed) subject to such conditions as the Council shall reasonably require
  - (ii) all necessary consents of any competent authority have been obtained and are complied with
  - (iii) the Lessee has entered into such covenants as the Council may reasonably require as to the execution and reinstatement of the alterations
  - (iv) before commencing the works the Lessee has given notice to the Council and to the insurers of the premises of its intention to carry them outand to carry out such permitted work ("the Works") with the least possible inconvenience or annoyance to the owners and occupiers of any adjoining property and forthwith make good all damage arising out or incidental to their execution
- (17) To indemnify the Council against all losses arising from:
  - (i) any failure by the Lessee to obtain any statutory or other necessary consents
  - (ii) any failure to comply with the terms of such consents or the provisions of building regulations or any statute relating to the Works or the requirements of any competent authorities
  - (iii) the carrying out of the Works
- (18) Not to connect with install replace alter amend or remove any conducting media serving the premises unless the Lessee has obtained the approval of the relevant competent authority and the consent of the Council (such consent not to be unreasonably withheld or delayed) and to carry out such work only in accordance with the plans and specifications approved by the authority and

the Council such approval on the part of the Council not to be unreasonably withheld or delayed

(19) Not to erect any aerial mast pole satellite dish or similar apparatus on the premises without the Council's prior consent (such consent not to be unreasonably withheld or delayed)

(20) To keep any open area free of litter waste and refuse and not to store or deposit any rubbish or refuse at or outside the premises except in proper receptacles and whilst awaiting collection and:

(i) not to park or keep any:

(a) caravans or trailers (other than trailers on a temporary basis)

(b) crates boxes materials equipment or any other items

on any open area in an unsightly and/or dangerous manner nor in a manner which creates a fire hazard

(ii) not do anything which causes any road drive footpath or forecourt adjoining the premises to become littered dirty or untidy

(21) To permit the duly authorised agents and servants of the Council with or without workmen and others in every year at reasonable times upon given reasonable notice to the Lessee to enter upon and examine the condition of the premises and thereupon the Council may serve upon the Lessee a notice in writing specifying any repairs necessary to be done for which the Lessee is liable under these presents and require the Lessee forthwith to execute the same and if the Lessee shall not within twenty eight days after service of such notice proceed diligently with the execution of such repairs then to permit the Council to enter upon the premises and execute such repairs and the cost thereof shall subject to statute be a debt due from the Lessee to the Council and be forthwith recoverable by action.

(22) Not to do or consent to anything whereby or by reason whereof any adverse right of light or air or other easement may be enjoyed over or in respect of the premises or any part thereof and in case at any time during the said term any building erection or structure shall be commenced which shall or may if completed obstruct or cause any injury to the access of light or air to or give rise to any easement over the premises or any building erected or to be erected thereon or on any part thereof as aforesaid forthwith to give notice thereof in writing to the Council and to permit the

Council in the name of the Lessee or in such other name or names as it may think fit but at the cost of the Council to take such legal proceedings or other steps as it may think reasonable or proper with a view to restraining the erection or continuance of any such building erection or structure or preventing the acquisition of any such easement as aforesaid

(23) Not to do or permit to be done or bring or allow to be brought in or upon the premises or any part thereof any act matter or thing which shall be or become a nuisance or annoyance to the Council their tenants or Lessees or to the owners Lessees or occupiers for the time being of any adjoining or neighbouring premises or to the residents for the time being in the neighbourhood or to the public and on receiving notice from the Council or their duly authorised officer of any such act matter or thing as aforesaid forthwith to discontinue or remove the same and to take to the satisfaction of the Council all steps necessary and practicable to prevent any recurrence of the acts matters or things mentioned in such notice

(24) Not to use the premises or any part thereof or suffer the same to be used for any illegal or immoral purposes

(25) (i) Not to allow any liquid solid or gaseous pollutants to contaminate the premises and in the event of any such contamination by the Lessee to remedy the same forthwith to the reasonable satisfaction of the Council

(ii) To impose in any sublease of part of the premises covenants on the part of the sub-tenant similar to that contained in Clause (25)(i) above and in the event of any contamination by the sub-tenant to procure that such sub-tenant remedies the same forthwith to the reasonable satisfaction of the Council

(26) To erect any buildings or other structures hereafter to be erected on the premises or any permitted addition or alteration to existing or future buildings or other structures in a good substantial and workmanlike manner with sound and proper materials and where necessary with drains and connections with sewers in conformity with the building and general regulations of the Council for the time being in force and to pay and discharge the fees and charges of all local or other authorities whose approval of such buildings operations is required and their surveyors and to produce to the Council when required such vouchers or other reasonable evidence as shall be

necessary to satisfy it that the said buildings or other erections additions or alterations have been erected or made in all respects in accordance with the foregoing covenants

(27) Not to carry on or permit to be carried on upon the premises or any part thereof any trade business or activity other than any use within Use Class B1 (b) and (c) B2 and B8 (with no retail sales or office use except where ancillary to the principal use) or for such other use to which the Council shall give its prior written consent (such consent not to be unreasonably withheld) and for which planning permission shall be obtained

(28) In all respects to comply with all statutory provisions and any other obligations imposed by law in regard to the Lessee's use of the premises and to indemnify the Council from and against all actions claims demands and expenses which may be brought made or incurred against or by the Council in consequence of such non-compliance as aforesaid

(29) Not to permit any steam or other engine or motor or furnace or any chimney or flue to be erected on the premises without the consent in writing of the Council (such consent not to be unreasonably withheld) (providing always that this clause shall not prohibit the erection of methane gas escape or monitoring flues) in locations to be agreed with the Council

(30) (a) Not to permit any oil or grease or any deleterious objectionable dangerous poisonous or explosive matter or substance to be discharged into the ditches watercourses culverts drains or sewers and to take all reasonable measures for ensuring that any effluent discharged will not be corrosive or otherwise harmful or cause obstruction or deposit within the said ditches watercourses culverts drains or sewers to or within the sewage disposal works or to the bacteriological process of sewage purification

(b) The Lessee must take all practicable precautions to ensure that no noxious substances are spilled or deposited on the premises

(c) The Lessee must not deposit on the premises any controlled waste as defined in the Environmental Protection Act 1990, or special waste as defined in the Special Waste Regulations 1996, or radioactive waste as defined in the Radioactive Substances Act 1993 section 18, or any other substance that may produce concentrations or accumulations of

noxious gasses or noxious liquids that may cause pollution of the environment or harm to human health or which may react adversely with substances already existing on in or under the premises

- (d) Within 14 days of the spilling or deposit on the Premises of any noxious substance in a quantity that may cause serious damage to or pollution of the environment or serious damage to property or serious harm to human health, the Lessee must inform the Council of this and permit him to enter and inspect the premises

(31) Not at any time during the Term to permit any sale by public auction to be held upon the premises or any part thereof without the consent in writing of the Council

(32) To permit the Council during the last three months of the Term or in the case of earlier determination of the said term as hereinafter provided during the three months immediately preceding such determination to affix on a conspicuous part of the premises a notice announcing that the same are to be let and at all reasonable hours in the daytime to allow prospective tenants on production of a permit to view the premises

(33) Not without the previous consent in writing of the Council to use or let the premises or any part thereof or suffer the same to be used for the purpose of the trade or business of a licensed victualler or a manufacturer or retailer of wine beer spirits or other intoxicating liquors or of a club in which wine beer spirits or other intoxicating liquors are sold or consumed (but not so that this shall prohibit the warehousing or storage of such substances)

(34) To pay the reasonable costs and expenses (including professional fees) which the Council incurs in:

- (a) dealing with any application by the Lessee for consent or approval whether or not it is given
- (b) preparing and serving a notice of a breach of the Lessee's obligations under Section 146 of the Law of Property Act 1925, even if forfeiture of this Lease is avoided without a Court Order
- (c) preparing and serving Schedules of Dilapidations either during the Lease period or recording failure to give up the property in the appropriate state of repair when this Lease ends

#### 4. CONTAMINATION

##### 4.1 Definitions

In this clause the following terms shall apply:

“Costs” means all liabilities judgements settlement amounts losses (including economic and consequential losses) penalties fines damages costs expenses (including without limitation reasonable legal and other professional fees and disbursements) incurred and including without limitation the full cost of Remediation

“Dangerous Substance” means any natural or artificial substance (in solid or liquid form or in the form of a gas or vapour) whether alone or in combination with any other substance capable of causing significant harm to man or any other living organism supported by the Environment or damaging the Environment or public health or welfare including but not limited to any controlled special hazardous toxic or dangerous waste

“Environment” means:

- (a) land including without limitation surface land sub-surface strata sea bed and river bed under water (as defined in paragraph (b)) and natural and man-made structures;
- (b) water including without limitation inland waters surface waters ground waters and water in drains and sewers;
- (c) air including without limitation air inside buildings and other natural and man-made structures above or below ground; and
- (d) any living systems or organisms supported by the media set out in (a) (b) (c) above

“Environmental Claim” means the receipt by the Lessee or the Lessor of:

- (i) any lawful written claim demand suit or notice from a third party or any order of a court of competent jurisdiction; or
- (ii) any suit claim demand or notice from a Regulatory Authority; or
- (iii) any charge or condition imposed by any governmental authority or any notice served by a Regulatory Authority requiring Remediation or any written indication from any Regulatory Authority that a requirement to carry out Remediation will be imposed unless the Lessee or Lessor agrees to carry out Remediation

“Environmental Law” means all and any laws common law statutes directives regulations notices clean-up standards (including but not limited to ICERL threshold figures) judgements decrees or orders codes of practice circulars guidance notes (statutory or otherwise) and the like from time to time (whether in the United Kingdom or elsewhere) as such may have been or may hereafter be enacted adopted amended or supplemented concerning the protection of human health or the environment or the conditions of the workplace or the generation transportation storage treatment or disposal of any Dangerous Substance

“Regulatory Authority” means any government entity or other public or quasi public authority or privatised utility having responsibility for any matters concerning the Environment or Environmental Law

“Relevant Date” means the date of this Lease

“Remediation” means any and all monitoring investigating sampling analysing removing remedying cleaning up abating containing controlling or ameliorating the presence in or effect on the Environment of any contamination or pollution including without limitation the removal treatment and disposal of material and the treatment and monitoring of groundwaters and gases and emissions to air and the obtaining of expert technical and legal advice (including all project management functions) in relation thereto

#### Environmental Indemnity

- 4.2 The Lessee hereby covenants with and undertakes to indemnify and hold harmless the Lessor and keep the Council indemnified against any and all Costs incurred arising out of any Environmental Claim received by the Council during or after the Lease term in respect of any liabilities under the Lease and/or Environmental Laws which have arisen been incurred exacerbated enhanced or caused due to:-
- (a) any acts or omissions of the Lessee after the Relevant Date during the term of the lease; and/or
  - (b) the introduction of any Dangerous Substances which are the subject matter of such liability in on at under or about the premises by the Lessee or its agents during the term of the Lease; and/or
  - (c) the introduction by the Lessee or its agents during the term of the Lease of any pathways and/or receptors which are the subject of such liability on the premises
- 4.3 The covenant and indemnity contained herein shall remain in full force and effect after the expiration of the term created by this Lease

#### Payment under the Indemnity

- 4.4 In the event of an Environmental Claim being received by the Council which causes the Council to incur Costs then the Council shall upon having actually incurred those costs serve upon the Lessee a written notice requesting payment of such Costs pursuant to the indemnity. The said written notice shall set out particulars of such Costs. Upon service of the notice the sum claimed therein shall be a debt due and owing to the Council which unless disputed shall be payable within twenty-eight (28) days by the Lessee.

#### Dispute Resolution

- 4.5 The Council and Lessee shall submit the factual issues in relation to any dispute under this clause 4 for determination by an independent environmental consultant acting as an Arbitrator. The Council and Lessee shall in good faith jointly select and agree upon the identity of the independent expert within twenty-eight (28) days of the inception of the dispute and the rules that shall apply to the determination shall include as a minimum the following:

- (a) the independent expert shall schedule the determination no later than thirty (30) business days after his/her appointment;
- (b) the determination shall be as expeditious and cost effective as possible and shall last no more than two (2) business days unless the Arbitrator reasonably determines that additional time is necessary;
- (c) submissions to the Arbitrator by the Council and Lessee and their respective legal counsel and experts shall be kept to the minimum necessary to resolve the dispute. All submissions shall be provided to the other party not less than two (2) business days prior to submission to the Arbitrator;

- (d) the Arbitrator shall provide a decision with full answers as to how the Arbitrator has arrived at his decision to the parties within five (5) business days of the close of the determination unless the Arbitrator determines additional time is necessary;
- (e) the costs and expenses of the Arbitrator and the determination itself shall be shared equally by the Council and Lessee provided that each party shall bear the costs and expenses of its own legal counsel and experts;
- (f) the Arbitrator shall not be precluded from imposing reasonable extra procedural requirements to further the resolution of the matters in issue but only to the extent that such requirements do not detract from the overriding principles that the dispute resolution shall be expeditious and cost-effective and submissions shall be kept to a minimum

4.7 Any failure to agree the independent expert (acting as an Arbitrator) under this Clause 4 shall be referred to the Royal Institution of Chartered Surveyors in accordance with Clause 6(3) of this Lease

4.8 Subject to the provisions of this Clause 4 to comply with all environmental laws including but not limited to the Environmental Protection Act 1990 and subsequent enactments of environmental laws and any regulations guidance or codes of practice under any environmental laws and all orders notices and instructions of any Regulatory Authority including but not limited to any requirement for monitoring of the Premises for signs of contamination

5. THE Council hereby covenants with the Lessee that the Lessee paying the rent hereby reserved at the times and in the manner aforesaid and observing and performing the several covenants herein contained and on its part to be observed and performed shall and may peaceably and quietly hold and enjoy the premises during the term hereby granted without any interruption by the Council or any persons claiming through under or in trust for it or by title paramount

6. PROVIDED ALWAYS as follows:-

- (1) That the Council shall have power at all times without obtaining any consent from or making any compensation to the Lessees to deal as the Council may think fit with any other property belonging to the Council and to erect or suffer to be erected on such neighbouring property any buildings whatsoever whether such buildings shall or shall not affect or diminish the light or air which may now or at any time during the term hereby granted be enjoyed by the Lessees or any tenants or occupiers of the premises or any part thereof
- (2) That if the said yearly rents hereby reserved or made payable shall at any time be in arrear and unpaid for twenty eight days after the same shall have become due (whether any formal or legal demand therefor shall have been made or not) or if the Lessees shall at any time materially fail or neglect to observe or perform any of the material covenants conditions or agreements herein contained and on the Lessees' part to be observed and performed then and in any of such cases it shall be lawful for the Council to enter into or upon the premises or any part thereof in the name of the whole and to re-enter and to repossess and enjoy the same as their former estate and thereupon the said term shall absolutely determine but without prejudice to any right of action or remedy of the Council in respect of any antecedent breach of any of the covenants herein contained
- (3) That in the event of any dispute or difference arising between the parties hereto as to the construction of this lease or as to the rights duties or obligations of the parties hereto or as to any other matter in anywise arising out of or connected with the subject matter thereof the same shall be referred to arbitration or for the decision of an independent arbitrator to be appointed as the parties hereto may agree or failing such agreement to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors (these presents being deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force) and it is hereby agreed and declared that the decision of such arbitrator as aforesaid shall be final and binding but so that this clause shall not include or be deemed to apply to any dispute or matter in difference touching or with respect to the yearly rents hereby reserved or made payable

(4) No permission granted by the Council as local authority under the Building Regulations or under the Town and Country Planning Act 1990 or any amendment or statutory re-enactment thereof shall be deemed to signify the consent or approval of the Council for any purpose for which such consent or approval is required under the terms of this Lease

(5) Any licence approval consent authority or notice required or authorised to be given by the Council may be given under the hand of its District Solicitor or any authorised officer or other agent for the time being of the Council and shall not require to be given under the Seal of the Council

(6) (i) Any notice requiring to be given to the Lessees shall be well and sufficiently given if sent by the Council by registered letter post or the recorded delivery service addressed to the Lessees at the premises or left for him at the premises and any notice requiring to be given to the Council shall be well and sufficiently given if sent by the Lessees by registered letter post or the recorded delivery service addressed to the Secretary and Solicitor of the Council at his office at East Pallant House, East Pallant, Chichester or left for the said Secretary and Solicitor at his office aforesaid and notice sent by registered post or the recorded delivery service in either case shall be assumed to have been delivered in the usual course of post

(ii) Any notice or document shall be sufficient served if sent by telex or by facsimile transmission or other means of electronic transmission to the party to be served and that service shall be deemed to be made on the day of transmission if transmitted before 4.00 p.m. on a working day but otherwise on the next following working day but if the sender knows or ought reasonably to know that the transmission has failed or is incomplete service is not effected until the transmission is properly completed

(7) If any rent additional rent or other moneys due to the Council under the terms of this Lease shall be unpaid for twenty one days after the same shall have become due or if the Council shall refuse to accept tender thereof (in respect of which the Council has previously notified the Lessee in writing) by reason of a breach of a Covenant or Covenants in the Lease by the Lessee the Lessee shall pay interest to the Council thereof at the rate of four per centum above the base lending rate of HSBC Bank PLC or such other clearing bank as may be nominated by the Council from the

due date until receipt thereof by the Council such interest to be payable as additional rent for the purpose of this Lease

(8) IN this Deed where the context so admits:-

(1) Words importing the masculine gender only include the feminine gender

(2) Words importing the singular number only include the plural number and vice versa and where two or more persons are included in the expression "the Lessee" covenants agreements and declarations expressed to be made and entered into by the Lessee shall be deemed to be made and entered into by such persons jointly and severally

(9) We certify that there is no Agreement for Lease to which this Lease gives effect

(10) Nothing in this lease confers or purports to confer on any third party any benefit or any right to enforce any terms of this lease pursuant to the Contract (Rights of Third Parties) Act 1999

IN WITNESS whereof the Council and the Lessee have caused their Common Seals to be hereunto affixed the day and year first above written

THE COMMON SEAL OF AMBERLEY )  
HOUSE INVESTMENTS LIMITED was affixed )  
to this Deed in the presence of:- )

Director



Director/Secretary

