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DATED

28th November

2003

THE DISTRICT COUNCIL OF CHICHESTER

- to -

COLIN FREDERICK JAMES CUSHION &
AUDREY PAMELA CUSHION

LEASE
of
Plot 19 Quarry Lane
Industrial Estate, Chichester,
West Sussex

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

We certify this to be a true and
complete copy of the Original

Thomas Eggar
Thomas Eggar

CONTENTS

<u>Clause No.</u>	<u>Description</u>	<u>Page No.</u>
1.1	Definitions <ul style="list-style-type: none">- the 1954 Act- the 1995 Act- Contractual Term- Council's adjoining land- Demised Premises- Development- Estate- Insured Risks- Other buildings- Permitted Use- Plan- Planning Acts- Rent- Rent Commencement Date- Term- VAT	
1.2	Interpretation <ul style="list-style-type: none">- Gender and Number- Headings- Interest- Joint Recipients- Losses- Obligation not to permit or suffer- References to clauses and schedules- References to rights of access- References to statutes- Working day	
2.	Demise	
3.	Lessee's Covenants <ul style="list-style-type: none">3.1 Rent3.2 Rates3.3 Value Added Tax3.4 Repair and Decorations3.5 Alterations	

3.6	User
3.7	Insurance
3.8	Planning
3.9	Alienation
3.10	Miscellaneous
3.11	Yielding Up
4.	Contamination
5.	Council's Covenants
6.	Forfeiture
7.	General
7.1	Arbitration
7.2	Lessee Disputes
7.3	Property Not Comprised in Lease
7.4	Council's Consents
7.5	Notices and Delivery
7.6	Rights and easements
7.7	Effect of waiver
7.8	Perpetuity Period
7.9	Party Walls
7.10	Thirty Party rights
7.11	Agreement for Lease
First Schedule	Demised Premises
Second Schedule	Rights Granted
Third Schedule	Rights Excepted and Reserved
Fourth Schedule	Rent and Rent Review
Fifth Schedule	Authorised Guarantee Agreement

1005
INLAND REVENUE
1981

THIS LEASE is made the 28th day of November Two Thousand and Three BETWEEN THE DISTRICT COUNCIL OF CHICHESTER of East Pallant House, East Pallant, Chichester, West Sussex PO19 1TY (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 First part and COLIN FREDERICK JAMES CUSHION and AUDREY PAMELA CUSHION both of 169 The Causeway, Petersfield, Hampshire (hereinafter together called "the Lessee") of the other part

1. **DEFINITIONS AND INTERPRETATION**

In this Lease unless the context otherwise requires the following expressions shall have the following meanings:

1.1 **Definitions**

"1954 Act" means the Landlord and Tenant Act 1954

"1995 Act" means the Landlord and Tenant (Covenants) Act 1995

"Contractual Term" means the period of One hundred and fifty (150) years beginning on the First day of December 2001

"Council's Adjoining Land" means each and every part of any neighbouring or adjoining Premises owned by the Council including but not limited to the Estate

"Deed of Covenant" means a Deed dated 1st September 1997 and made between City Motor Holdings Limited (1) and the Council (2)

"Demised Premises" means those premises described in the First Schedule

"Development" means development as defined by the Town and Country Planning Act 1990 Section 55

"Estate" means the land owned by the Council on Quarry Lane, Chichester

"Insured Risks" means the insurance of the Demised Premises effected by the Lessee against (at a minimum) loss or damage by fire explosion storm or tempest lighting impact by vehicles aircraft articles dropped from aircraft or satellite riot civil commotion malicious damage earthquake (fire and shock) including flood and terrorism (so far as reasonably available) and such the other risks as are normally insured against in respect of premises of a like



nature under a commercial policy of insurance in the UK insurance market as the Lessee considers appropriate or the Council reasonably requires subject to such exclusions and excesses as are reasonably required in the market at the time

"Lease" means the Lease dated 29th August 1972 made between the Council (1) and I.C. Units (2) and assigned to Audrey Pamela Cushman on the 10th April 1978

"Other buildings" means any buildings now or at any time during the Term erected on the Council's adjoining land

"Permitted Use" means any or all uses falling within classes B1(b) and (c), B2 and/or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 notwithstanding any amendment or revocation of that Order and for the sale preparation and repair of and servicing of cars and accessories parts and tyres and the fitting of parts and vehicle tyres and MOT testing and for the business of the rental of motor cars and commercial vehicles and ancillary thereto their maintenance storage subsequent repair and/or in respect of any B8 use with a trade counter ancillary thereto Provided that the area of such trade counter does not exceed whichever shall be the greater of either 10% of the gross floor area of any building on the Demised Premises or the percentage permitted under planning consent granted from time to time in respect of the Demised Premises

"Plan" means the plan annexed to this Lease

"Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning and Compensation Act 1991

"Rent" means the sum of Three Thousand Nine Hundred pounds (£3,900) per annum or as ascertained in accordance with the Fourth Schedule

"Rent Commencement Date" means the 1st December 2001

"Term" means the Contractual Term and any period of holding over or extension or continuance of the Contractual Term by statute or common law

"Underlease" means an underlease of the Demised Premises dated 5th September 1997 and made between (1) the Lessee and (2) City Motor

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12/12/03

Holdings Limited for a term from (and including) 1st September 1997 to 25th March 2054 (less the last 3 days)

“VAT” means value added tax or any other tax of a similar nature and unless otherwise expressly stated all references to Rent or other sums payable by the Lessee are exclusive of VAT

1.2 Interpretation

Gender and number

Words importing one gender include all other genders; words importing the singular include the plural and vice versa

Headings

The clause paragraph and schedule headings and the table of contents do not form part of this document and must not be taken into account in its construction or interpretation

Interest means four (4) per cent above the base rate of HSBC Bank plc or such other equivalent rate as the Council shall reasonably specify

Joint Recipients

If the receiving party consists of more than one person a Notice to one of them is notice to all

Losses any references to “losses” are references to liabilities damages or losses awards of damages or compensation penalties costs disbursements or expenses arising from any claim demand action or proceedings

Obligation not to permit or suffer includes an obligation not to permit or suffer that thing to be done by another person

References to clauses and schedules

Any reference in this Lease to a clause subclause paragraph subparagraph or schedule without further designation is to be construed as a reference to the clause subclause paragraph subparagraph or schedule of this document so numbered

References to rights of access

References to any right of the Council to have access to the Premises are to be construed as extending to all agents professional advisors contractors workmen and others properly authorised in writing by the Council

References to statutes

Unless expressly stated to the contrary any reference to a specific statute includes any statutory extension or modification amendment or re-enactment of that statute and any regulations or orders made under it and any general reference to a statute includes any regulations or orders made under that statute

Working day means a day when the United Kingdom clearing banks are open for business in the City of London

2. DEMISE

In consideration of the Rent and covenants on the part of the Lessee hereinafter reserved and contained the Council with full title guarantee DEMISES to the Lessee the Demised Premises TOGETHER WITH the rights specified in the Second Schedule which (where appropriate) are exercisable in common with the Council and all others entitled to them EXCEPTING AND RESERVING to the Council the rights specified in the Third Schedule TO HOLD the Demised Premises to the Lessee for the Contractual Term SUBJECT TO all rights affecting the Demised Premises AND also subject to and (as the case may be) with the benefit of the Underlease and the Deed of Covenant YIELDING AND PAYING to the Council:

- (a) The Rent payable without any deduction by equal payments in advance on the traditional quarter days in every year
- (b) by way of further rent any VAT on the Rent payable at the same time as the Rent on which such VAT is chargeable

3. LESSEE'S COVENANTS

The Lessee covenants with the Council:-

3.1 Rent

To pay the Rent hereby reserved on the days and in the manner set out in Clause 2 above and in the sub-clauses below:

3.1.1 The first payment is due on the Rent Commencement Date

3.1.2 The first payment is for the period beginning on the Rent Commencement Date and ending on the day before the next quarter day

3.1.3 If required in writing by the Council the Lessee must make these payments by bankers standing order to any bank and account in the United Kingdom that the Council may nominate

3.1.4 Rent for a period of less than a year is to be apportioned

3.1.5 If any Rent due to the Council under the terms of this Lease shall be unpaid after the same shall have become due or in the case of other monies shall remain unpaid for a period of 14 days after becoming due or if the Council shall refuse to accept tender thereof by reason of a breach of a covenant or covenants on the Lessees part in the Lease the Lessee shall pay Interest thereon to the Council from the due date until receipt thereof by the Council (both before and after any Judgment) such Interest to be payable as additional Rent for the purpose of this Lease

3.2 Rates

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 Demised Premises or upon the owner or occupier thereof or payable by either of them excluding any payable or chargeable on the Council occasioned by any disposition in dealing with or ownership of the reversion of this Lease or the receipt of rents payable hereunder (save for VAT properly chargeable on such rents)

3.3 Value Added Tax

To pay all Value Added Tax (or any tax of a similar nature that may be substituted for it or levied in addition to it) chargeable in respect of any payment due from the Lessee under any of the terms of or in connection with this Lease on production of a VAT invoice addressed to the Lessee or in respect of any payment made by the Council (where the Lessee has agreed in this lease to reimburse the Council for such payment and the Council is unable to recover the same input) and the Council reserves the right at any time during the Term to exercise its option to charge the Lessee Value Added Tax on any rent or payments due under the terms of this lease

3.4 Repair and Decorations

- 3.4.1 Throughout the Term to keep the Demised Premises and all additions thereto and all fixtures thereon and the drains soil and other pipes conduits and sanitary and water apparatus thereof in good and substantial repair order and condition (including decorative repair and condition) and to maintain properly all lawns and flowerbeds and all trees and shrubs (if any)
- 3.4.2 To erect and thereafter to keep and maintain in good repair and condition a boundary wall and/or fence on the north eastern boundary shown with a "T" mark on the Plan and on such other boundaries as are so required under any planning consent
- 3.4.3 To permit the duly authorised agents and servants of the Council with or without workmen and others twice or more often in every year at reasonable times upon giving reasonable notice to the Lessee to enter upon and examine the condition of the Demised 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 the service of such notice be proceeding diligently with the execution of such repairs then to permit the Council to enter upon the Demised Premises and execute such repairs and the cost thereof shall subject to statute be a debt due from the Lessee to the Council and forthwith recoverable by action
- 3.4.4 During the Term to paint with two coats of good quality paint or other suitable material in a workmanlike and proper manner all the wood iron metal and other parts of the Demised Premises heretofore or usually painted as to the external work in every fifth year and as to the internal work in every fifth year the time in each case being computed from the date of commencement of the Term (and in each case the painting also to be done in the last year of the Term unless it has been done in the preceding period of 12 months)) and after every internal painting to treat with appropriate materials of good quality all such parts as have been previously been so dealt with and to repaper the parts usually papered with suitable paper of as good quality as that in use at the commencement of the Term

- 3.4.5 To keep the Demised Premises in a clean and tidy condition.
- 3.4.6 Regularly (and with appropriate frequency) clean both sides of the windows and window frames and any areas of cladding usually cleaned
- 3.4.7 To pay a fair and proper proportion (in case of dispute to be determined under the provisions of this Lease) of the expenses payable in respect of repairing rebuilding and cleansing all sewers drains roads pavements and other things the use of which is in common to the Demised Premises and other property and which are not maintained at public expense

3.5 Alterations

- 3.5.1 Not to erect or permit or suffer to be erected on the Demised Premises any other structure building or buildings
- 3.5.2 Not to make or erect or permit or suffer to be made or erected on the Demised Premises any external alterations or projections or other additions to the existing structure building or buildings or change the height or external design or appearance or cut maim or injure or permit or suffer to be cut maimed or injured any of the walls timbers steelwork (if any) or main support beams or joists thereof without first submitting to the Council for approval (which shall not be unreasonably withheld or delayed) the plans and elevations sections and specifications thereof and no work shall be effected in respect thereof in the absence of such approval in writing of the Council and in the event of the Council granting such approval to carry out such works to the reasonable satisfaction of the Council in accordance with the said plans elevations sections and specifications PROVIDED THAT the Lessee may without the consent of the Council carry out internal non-structural alterations and erect alter and remove internal demountable partitioning which do not involve cutting into the load bearing parts of the Demised Premises if the Lessee submits to the Council detailed plans and specifications showing the works once they have been completed
- 3.5.3 To pay and discharge the reasonable fees and charges of all local or other authorities and their surveyors whose approval of such building operations is required
- 3.5.4 To produce to the Council when reasonably required such documentation or other reasonable evidence as shall be necessary to satisfy it that the said

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12/12/03

erections additions or alterations have been erected or made in all respects in accordance with the foregoing covenants

3.5.5 Not to affix or exhibit or permit or suffer to be affixed to or exhibited upon any part of the Demised Premises any placard poster signboard flag notice or other advertisement except:-

- (i) notices relating to the letting or sale of the Demised Premises
- (ii) the address or description of the Demised Premises and of the occupier thereof in lettering or a pattern colour kind and size exhibited or displayed in a manner previously approved by the Council (such approval not to be unreasonably withheld or delayed)
- (iii) notices or advertisements situated in the windows on the ground floor of the Demised Premises which relate solely to the trade or business carried on therein
- (iv) Such other indication of the trade or business carried on and of the services and goods available in the Demised Premises as the Council may previously have approved (such approval not to be unreasonably withheld or delayed)

3.5.6 Not to erect any aerial mast pole satellite dish or similar apparatus on the Demised Premises other than for demonstrable private use without the Council's prior written consent PROVIDED THAT such consent shall only be granted upon payment to the Council of 50% of the annual rent payable

3.5.7 Not to excavate or dig any sand gravel earth or minerals of any description out of the Demised Premises

3.5.8 Not to permit any steam or other engine or motor or furnace or any chimney or flue to be erected on the Demised Premises without the consent in writing of the Council

3.6 User

3.6.1 Not to carry on or permit to be carried on upon the Demised Premises or any part thereof any trade business or activity other than the Permitted Use

3.6.2 Not to use the Demised Premises or any part thereof or suffer the same to be used for any illegal or immoral purposes

3.6.3 Not at any time during the Term to permit any sale by public auction to be held upon the Demised Premises or any part thereof without the consent in

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12/12/03

writing of the Council

- 3.6.4 Not without the previous consent in writing of the Council to use or let the Demised 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)
- 3.6.5 Where any land forming part of the Demised Premises has previously been approved by the Council as forming a landscaping scheme or part of a landscaping scheme not without the written consent of the Council at any time save in carrying out an alteration approved by the Council to erect construct place or build or permit to be built any construction erection building or thing upon the land other than trees bushes shrubs which may form part of such a scheme
- 3.6.6 Not to use or permit to be used any part of the Demised Premises which is unbuilt upon for storage (whether permanently or temporarily) of any goods merchandise materials crates packing cases boxes or any other kind of chattel whatsoever but for the avoidance of doubt this shall not prohibit or prevent the parking of vehicles thereon which are an integral part of the Lessees business
- 3.6.7 Nothing in this Lease or in any consent granted by the Council under this Lease is to imply or warrant that the Demised Premises may lawfully be used under the Planning Acts for the Permitted Use

3.7 Insurance

- 3.7.1 To insure forthwith the Demised Premises and at all times during the Term to keep them insured against the Insured Risks in the joint names of the Council and the Lessee (and such other person as the Lessee may require) in or with some well established insurance office or underwriters of repute in the sum sufficient at the time of loss or damage to cover the cost of complete reinstatement and the fees of architects and surveyors employed in such reinstatement and to pay all premiums necessary for that purpose within fourteen days after they shall have become due and to produce whenever reasonably required by the Council (but not more frequently than once in any

year) for perusal a copy of the policy of such insurance or such other sufficient evidence reasonably acceptable to the Council and evidence of every such payment PROVIDED ALWAYS that if the Lessee shall fail to make and maintain any such insurance or to produce such copy policy or policies or evidence of payment the Council may itself insure the Demised Premises in accordance with the terms of this Lease and the expenses incurred in so doing shall be repayable by the Lessee within 14 days of demand and may be forthwith recoverable as rent

3.7.2 In case the Demised Premises shall be destroyed or damaged by any of the Insured Risks forthwith to pay or arrange for the payment by the insurance office or underwriters into an account to be opened in the joint names of the Council and the Lessee the monies next hereinafter in this clause mentioned and as soon as practicable thereafter to lay out to the satisfaction of the Council in rebuilding the Demised Premises or any buildings thereon or reinstating or restoring it or them in or to its former condition or such other condition as the Council and the Lessee shall agree all the monies which shall by virtue of any such insurance be received in respect of such loss or damage as aforesaid and any balance necessary to complete such rebuilding reinstatement or restoration as aforesaid if such insurance monies provide insufficient for the purpose shall be provided by the Lessee out of its own monies

3.7.3 Not knowingly to do or permit or suffer to be done upon the Demised Premises anything, which may render the policy or policies of insurance void or voidable

3.7.4 Not to do or suffer to be done on the Demised Premises anything which may prejudice the insurance of the buildings thereon against loss or damage by fire

3.7.5 At the Lessees own cost every three years to obtain a reinstatement valuation of the Demised Premises and to ensure that the insurance of the Demised Premises is in the amount of the reinstatement valuation and to provide copies of such valuation to the Council

3.8 **Planning**

3.8.1 To observe and comply with the provisions and requirements of the Planning Acts affecting the Demised Premises and their use and indemnify the Council

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12/12/03

and keep it indemnified both during the Term and following the end of it against all losses in respect of any contravention of those Acts

3.8.2 Not to make any application for planning permission without prior written notice to the Council

3.8.3 To obtain all and any planning permissions and serve any notices that may be required for the carrying out of any development on or at the Demised Premises

3.8.4 Subject only to any statutory direction to the contrary to pay and satisfy any charge or levy that may subsequently be imposed under the Planning Acts in respect of the carrying out or maintenance of any development on or at the Demised Premises by the Lessee or any Undertenant or any persons authorised by them

3.9 Alienation

3.9.1 Not to hold the Demised Premises on trust for another. Not to part with possession of the Demised Premises or any part thereof or permit another to occupy them or any part thereof except pursuant to a transaction permitted by and effected in accordance with the provisions of this Lease

3.9.2 *Assignment transfer and charging of part*

Not to assign transfer or charge part only of the Demised Premises

3.9.3 *Assignment of the Whole*

Not to assign the whole of the Demised Premises without first:

3.9.3.1 Obtaining the written licence of the Council which shall not be unreasonably withheld in the case of a financially responsible and respectable firm company or individual person(s) proof of which is furnished by the Lessee and the Council shall not be deemed to be acting unreasonably in withholding consent if such proof is not provided nor if any of the following conditions fail to be complied with

3.9.3.2 Satisfying the circumstances specified for the purposes of Section 19(1A) of the Landlord and Tenant Act 1927 which are:

(a) that all sums then due from the Lessee under this Lease have been paid at the date of issue of the licence to assign

(b) in the Council's reasonable opinion there are at the date of the application for the licence to assign no material outstanding breaches of

any Lessee Covenant under this Lease or any personal covenants undertaken by the Lessee of which the Lessee has received notification prior to the date of application for Licence to Assign under the terms of this Lease

- (c) in the Council's reasonable opinion the assignee is a person who is at the date of the application for licence to assign no less likely than the Lessee was at the date on which this Lease was assigned or granted to the Lessee to be able to comply with the Lessee Covenants of this Lease and is likely to continue to be such a person following the assignment

3.9.3.3 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 a form substantially as set out in the Fifth schedule hereof reflecting the terms set out below:-

- (i) that the Assignee will during the period that the Term is vested in the Assignee pay the rents reserved and observe and perform the tenants 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
- (ii) 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

3.9.3.4 Ensuring that any assignee enters into a direct covenant with the Council for the period that the Lease is vested in such assignee to observe and perform the covenants and conditions herein contained (including the covenant to pay the

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12/12/03

rent hereby reserved) and with a covenant not to further assign or part with possession of the Demised Premises without the consent of the Council (such consent not to be unreasonably withheld or delayed)

3.9.3.5 It shall not be unreasonable for the Council to object to any proposed assignment where the Council has reasonable cause to believe that such assignment would be prejudicial to the good management of the Estate PROVIDED THAT this shall not be based upon any matter which requires the consent of the Council under the terms of this Lease

3.9.3.6 If so reasonably required by the Council the assignee shall upon or before any assignment and before taking occupation obtain up to two guarantors reasonably acceptable to the Council who shall covenant by way of indemnity and guarantee (if more than one jointly and severally) with the Council in the terms set out below:-

(1) THE Guarantor COVENANTS with the Council that:-

- (i) the Assignee will pay the rents reserved and observe and perform its covenant and conditions in the Lease during the period that the Term of the Lease is vested in the Assignee and the Guarantor will indemnify the Council on demand against all losses damages costs and expenses arising out of any default by the Assignee
- (ii) if for any reason the Term shall be prematurely determined or a liquidator or 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 Guarantor will enter into a new lease of the premises at the cost of the Guarantor on the same terms as are contained in this Lease for the residue of the term of this Lease which would have remained had there been no such determination disclaimer forfeiture or re-entry
- (iii) the liability of the Guarantor hereunder shall not be affected by any neglect or forbearance of the Council in enforcing the

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12/12/03

payment of the rents or the observance or performance of the said covenants and conditions or any refusal by the Council to accept rent at a time when the Council was entitled (or would after the service of a notice under Section 146 of the Law of Property Act 1925 have been entitled) to re-enter the premises or any variation of the terms of this Lease or any change in the constitution structure or powers of the Guarantor the Lessee or the Council or any act which is beyond the powers of the Lessee

- (iv) as between the Council and the Guarantor the Guarantor shall be deemed to be a principle debtor
- (v) the Guarantor shall not be entitled to participate in any security held by the Council in respect of the Lessee's obligations or stand in the Council's place in respect of such security
- (vi) where the Guarantor is more than one person the release of one or more of them shall not release the others

3.9.3.8 In the event of the Assignee being a Company then the following conditions must also be satisfied

- (i) the Company must have annual profits before tax in the three complete trading years immediately preceding the date of an application for licence to assign which in each year and after consolidation (whether real or notional) in each such year with the annual profits before tax of any subsidiary (within the meaning of Section 736 of the Companies Act 1985) exceed an amount representing the yearly rent payable under the Lease at the date of that application multiplied by three as evidenced by a set of properly audited accounts the latest set of which was published not earlier than eleven months before the date of the application; or
- (ii) the net assets of the Company (from which there is excluded any amount in deferred tax) which at the date of the application for the licence to assign and after consolidation (whether real or notional) with the net assets (from which there is excluded any amount in deferred tax) of any subsidiary (within the meaning of Section 736 of

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12/12/03

the Companies Act 1985) must exceed an amount representing the yearly rent payable under the Lease at the date of that application multiplied by three as evidenced by a set of properly audited accounts the latest set of which was published not earlier than eleven months before the date of the application

3.9.4 *Underletting of Whole or part*

Not to grant an underlease of the whole or part of the Demised Premises without the written consent of the Council (such consent not to be unreasonably withheld or delayed) which consent shall be on the following terms and conditions:

- (i) It shall not be unreasonable for the Council to object to any proposed sub lease where the Council has reasonable cause to believe that such sub lease would be prejudicial to the good management of the Estate PROVIDED THAT this shall not be based upon any matter which requires the consent of the Council under the terms of this Lease
- (ii) The Lessee will if required by the Council cause every person firm or company who becomes entitled on a sub-lease of the Demised Premises to an estate or interest therein to covenant directly with the Council throughout the period that the sub-let premises are vested in such sub-lessee to observe and perform the covenants and conditions herein contained (other than the covenant to pay the rents hereunder and to insure the Demised Premises) and with a covenant not to further underlet or part with the possession of the sub-let premises without the consent of the Council (such consent not to be unreasonably withheld or delayed)
- (iii) The Lessee if reasonably required by the Council shall supply any information on any underlease licence or agreement granted or made by the Lessee affecting the Demised Premises
- (iv) The Lessee shall provide the Council with a draft of the proposed Underlease for approval (such approval not to be unreasonably withheld or delayed)
- (v) That the User Clause in the Sub-lease only permits uses permitted by this Lease

- (vi) That any Underlease is for a period at least one day less than the contractual term
- (vii) In the case of an underlease for less than 5 years ("an Excluded Tenancy") this shall not be granted at a fine or a premium and shall be excluded from the provisions of the Landlord and Tenant Act 1954 ss 24-28
- (viii) An underlease for less than 21 years (other than an Excluded Tenancy) shall not be granted at a fine or a premium and shall contain provision for rent to be paid at full market value with either full repairing and insuring covenants or internal repairing and insuring obligations with a service charge provision for external repairs and maintenance of common areas in a form approved by the Council such approval not to be unreasonably withheld or delayed
- (iv) In the case of an underlease for more than 21 years this shall provide for the rent thereunder to be no less than the rent payable under this Lease with full repairing and insuring covenants and shall be for a period of not more than the term remaining under this lease less one day
- (x) Not grant to the underlessee any rent free periods or concessionary rent periods for any purpose other than fitting out works nor for a period longer than 6 months or for such other periods or purposes as are in accordance with rent free periods or purposes generally available in the market at the relevant time
- (xi) That in respect of each and every permitted sub lease it shall contain:
 - (a) covenants and conditions prohibiting the sub lessee from doing or allowing any act or thing in relation to the underlet premises inconsistent with or in breach of the provisions of this Lease
 - (b) a covenant not to further assign or underlet or part with the possession of the sub-let premises without the consent of the Council (such consent not to be unreasonably withheld or delayed) in accordance with the terms of the Lease and to provide in such Underlease that any Sub-Underlease shall

contain a similar provision

- (c) a provision that the proposed rent is no lower than the then open market rent of the sublet premises
- (d) a provision that the rent is payable in advance on the same days as the rent is payable under the lease
- (e) a provision for the rent to be reviewed to open market value at regular intervals and in any event no less frequently than the normal rental pattern prevalent at the time
- (f) a provision for the upward only review of rent
- (g) a provision for forfeiture on bankruptcy or insolvency of the sub-tenant

3.9.5 Provided always that nothing in this Clause 3.9 shall prevent or restrict the Lessee parting with or sharing occupation of the Demised Premises with a group company which is during its period of occupation a member of the same group of companies as the Lessee within the meaning of Section 42 of the 1954 Landlord and Tenant Act Provided That the same does not create for or transfer to such member a lease or any legal estate in the Demised Premises

3.9.6 Within one month next after the making thereof without any demand by the Council to produce to the Council for registration copies of all assignments under leases and other dispositions which shall at any time during the Term be made of the Demised Premises or any part thereof and to pay to the Council for the registration of every such document the sum of Twenty Five Pounds or such other sum as the Council may reasonably request

3.10 Miscellaneous

3.10.1 **Statutory Provisions**

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 Demised 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

3.10.2 **Statutory Notices**

To give full particulars to the Council of any notice direction order or proposal relating to the Demised Premises made given or issued to the Lessee

by any government department or local public regulatory or other authority or court within seven (7) days of receipt and if so requested by the Council must produce a copy of it to the Council. The Lessee must without delay take all necessary steps to comply with the notice order or direction. At the request of the Council but at his own cost the Lessee must make or join with the Council in making any objection or representation that the Council reasonably requires against or in respect of any notice direction order or proposal

3.10.3 Statutory Obligations

3.10.3.1 To comply with the requirements of any statute (existing or to be passed) or of any government department local or other authority or court of competent jurisdiction in relation to the Premises or the use to which the Premises are put whether or not such requirements are imposed on the lessor lessee or the occupier or any other person

3.10.3.2 Not to do or omit or do in or near the Premises any act or thing by reason of which the Landlord may under any enactment incur or become liable to any penalty damages compensation costs charges or expenses

3.10.4 Council's Costs

Within ten working days of demand to pay the reasonable costs and expenses (including professional legal and/or management fees) which the Council incurs in:

- (i) dealing with any application by the Lessee for consent or approval of the Council as Landlord whether it is given or lawfully refused
- (ii) preparing and serving a notice of a breach of the Lessee's obligations under Sections 146 and 147 of the Law of Property Act 1925 even if forfeiture of this Lease is avoided without a Court Order
- (iii) preparing and serving Schedules of Dilapidations either during the Lease period or within four months of the end or earlier determination of the Term recording failure to give up the property in the appropriate state of repair when this Lease ends
- (iv) in relation to the preparation and service of all notices and schedules relating to any wants of repair, whether served during or within four months after the expiration of the Term (but relating in all cases

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12/12/03

only to such wants of repair which accrued not later than the expiration or earlier determination of the Term)

- (v) in connection with the recovery or attempted recovery of arrears of Rent or other sums due from the Lessee, or in procuring the remedying of the breach of any covenant

3.10.5 Not to do anything 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 the Arbitration provisions herein

3.10.6 **Viewing on sale of reversion**

At any time during the Term upon the Council giving reasonable notice to the Lessee to permit prospective purchasers of the Council's reversion or agents instructed in connection with the sale of the reversion to view the Demised Premises without interruption provided they have the prior authority of the Council or its agent

3.10.7 **Obstruction**

To use its reasonable endeavours to ensure that no obstruction is caused or nuisance committed on Spur Road by the Lessee or persons under their control

3.10.8 **Lessee Disputes**

In case any dispute or controversy shall at any time arise between the Lessee and the tenants or occupiers of any adjoining or contiguous property belonging to the Council (excepting any dispute with the Council itself) relating to the ditches watercourses culverts sewers drains or gutters or to any easements or privileges whatsoever affecting or relating to the Demised Premises or the Council's Adjoining Land to allow the same from time to time to be settled and determined by an authorised officer of the Council in such reasonable and proper manner as the Council by any writing under the hand of its authorised officer shall direct in that behalf

3.10.9 **Evidence of compliance with this Lease**

If so requested, to produce to the Council or any person authorised by the Council any plans documents and other evidence the Council reasonably

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12/12/03

requires in order to satisfy itself that the provisions of this Lease have been complied with

3.10.10 Exercise of the Council's rights

To permit the Council to exercise any of the rights granted to it by virtue of the provisions of this Lease at all times during the Term without interruption or interference

3.10.11 Not knowingly to permit any vehicle or merchandise under the control of the Lessee to stand on any part of the Quarry Lane Industrial Estate other than the Demised Premises (except for delivery vehicles delivering to or collecting from the Demised Premises and where access to the Demised Premises is impracticable) and to incorporate a similar provision in any underlease licence or tenancy agreement which may be granted by the Lessee

3.10.12 To carry out all loading and unloading and servicing of vehicles within the curtilage of the Demised Premises unless access on to the Demised Premises is impracticable

3.10.13 Ensure the proper storage and removal of refuse from the Demised Premises on a regular (but not less often than weekly) basis

3.10.14 To permit the duly authorised agents and servants of the Council and (if duly authorised by the Council) the lessees tenants and occupiers of any adjoining premises belonging to the Council with all necessary workmen and appliances at all reasonable times and upon reasonable prior written notice to the Lessee (except in the case of emergency) to enter upon the Demised Premises to execute repairs or alterations on any of the Council's Adjoining Land or to make place lay repair cleanse maintain amend or renew any sewers drains conduits gutters watercourses wires cables and pipes in on over or under the Demised Premises and to make connections thereto for the accommodation of any of the Council's Adjoining Land the persons or person exercising such rights causing as little damage to the Demised Premises as possible and making good at their own expense all damage thereby occasioned to the Demised Premises as soon as reasonably possible to the reasonable satisfaction of the Lessee

- 3.10.15 To comply with any notice served by the Council requiring the Lessee to remedy any breach of its obligations. If the Lessee does not comply with any such notice within 28 days, the Lessee will permit the Council to enter the Demised Premises to remedy the breach. The Lessee will pay to the Council, as a debt and within 14 days of demand, all costs and expenses properly incurred by the Council in exercising its rights under this clause
- 3.10.16 Not (without the Council's prior written consent) to keep or permit to be kept on the Demised Premises materials of an unusually dangerous inflammable or explosive nature or to do or suffer to be done on the Demised Premises anything whereby the premium for the insurance of adjacent premises shall be increased Provided That this provision shall not prohibit or prevent the keeping of fuel and oils in vehicles on the Demised Premises and the storage of paints and sprays oils and glues necessary for the Lessees business carried on at the Demised Premises SUBJECT TO all such materials being kept and stored in accordance with all statutory and health and safety requirements
- 3.10.17 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 or encroachment made over or in respect of the Demised Premises or any part thereof and in case at any time during the 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 Demised 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 Lessee 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
- 3.10.18 Not to do or permit to be done or bring or allow to be brought in or upon the Demised Premises or any part thereof any act matter or thing which

shall be or become a nuisance to the Council their tenants or lessees or to the owners lessees or occupiers for the time being of any adjoining or neighbouring properties 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 reasonable satisfaction of the Council all steps necessary and practicable to prevent any recurrence of the acts matters or things mentioned in such notice

- 3.10.19 Not to allow any liquid solid or gaseous pollutants from the Lessees business or other operations to contaminate the Demised Premises and in the event of any such contamination by the Lessee to remedy the same forthwith to the reasonable satisfaction of the Council and to impose in any sublease of the Demised Premises covenants on the part of the sub-tenant similar to those contained in this clause 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
- 3.10.20 Not to permit any oil or grease or any deleterious objectionable dangerous poisonous or explosive matter or substance to be discharged from the Demised Premises into the ditches watercourses culverts drains or sewers and to take all reasonable measures for ensuring that any effluent discharged from the Demised Premises 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
- 3.10.21 Not to deposit on the Demised 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 would produce concentrations or accumulations on the Demised Premises of noxious gasses or noxious liquids that would cause pollution of the environment or significant harm to human health or which would react adversely with substances already existing on in or under the Demised Premises

3.10.22 To take all practicable precautions to ensure that no noxious substances are spilled or deposited on the Demised Premises

3.10.23 On the spilling or deposit on the Demised Premises of any noxious substance in breach of the foregoing in a quantity that would cause serious damage to or pollution of the environment or significant damage to property or significant harm to human health the Lessee shall immediately inform the Council of this and permit officers of the Council on reasonable notice to the Lessee to enter and inspect the Demised Premises

3.11 **Yielding Up**

3.11.1 At the end or sooner determination of the term hereby granted to yield up unto the Council the Demised Premises so repaired maintained decorated and 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 Term shall be set up fixed or fastened to or upon or in or about the Demised Premises or any part thereof (but excluding tenants' and trade fixtures and fittings) and if at the expiration or sooner determination of the Term any dispute or difference shall arise as to the state of repair of the Demised Premises or as to the monies to be paid by the Lessee in respect of any want of repair to refer such dispute or difference to arbitration as herein provided

3.11.2 To permit the Council during the last six months of the Term or in the case of earlier determination of the Term during the six months immediately preceding such determination to affix on a conspicuous part of the Demised Premises a notice announcing that the same are to be let and at all reasonable hours in the daytime on a prior appointment being made with the occupier to allow prospective tenants on production of a permit to view the Demised Premises

4. **CONTAMINATION**

4.1 Definitions

In this clause the following terms shall apply:

"Costs" means all liabilities judgments settlement amounts losses (including proven economic and consequential losses) penalties fines

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12/12/03

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 the Environment itself 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 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 ICRCL threshold figures) judgments decrees or orders codes of practice circulars guidance notes (statutory or otherwise) and the like from time to time as such may have been or may during the Term be

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12/12/03

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 29th August 1972

“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 where appropriate the obtaining of expert technical and legal advice (including all project management functions) in relation thereto

4.2 Environmental Indemnity

4.2.1 The Lessee hereby covenants with and undertakes to indemnify and hold harmless the Council 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 Term in respect of any of the Lessees 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; and/or
- (b) the introduction of any Dangerous Substances which are the subject matter of such liability in on at under or about the Demised Premises by the Lessee or its agents during the Term; and/or
- (c) the introduction by the Lessee or its agents during the Term of any pathways and/or receptors which are the subject of such liability on the Demised Premises

PROVIDED THAT

- (i) such Environmental claim shall have been made or brought by any Regulatory Authority in accordance with legislation
- (ii) nothing in the foregoing shall make the Lessee liable or responsible for or in respect of any Dangerous Substances existing at or on or under the Demised Premises prior to the Relevant Date

4.2.2 The covenant and indemnity contained herein shall remain in full force and effect after the expiration of the Term

4.3 Payment under the Indemnity

In the event of an Environmental Claim being received by the Lessor which causes the Lessor to incur Costs then the Lessor 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 Lessor which unless disputed shall be payable within twenty-eight (28) days by the Lessee.

4.4 Dispute Resolution

4.4.1 The Lessor and Lessee shall submit the factual issues in relation to any dispute under this clause 4 for determination by an independent environmental consultant or a lawyer (depending on the nature of the matter in dispute) acting as an Arbitrator. The Lessor 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 Lessor 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 Lessor 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

4.4.2 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 or the Law Society as the case may be in accordance with the Arbitration Provisions of this Lease

4.5 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. COUNCIL'S COVENANTS

5.1 The Council covenants with the Lessee that the Lessee paying all the rents reserved by this Lease and performing and observing all the covenants contained herein shall peaceably hold and enjoy the Demised Premises during the Term without any interruption by the Council or any person

rightfully claiming under or in trust for the Council

5.2 The Council further covenants with the Lessee and by way of separate covenant with any mortgagee of this Lease (of whom it has notice and to whom money remains due) that in the event of the Council becoming entitled to exercise any right of re-entry or forfeiture under the provisions hereof then the Council shall before seeking to exercise such rights give notice in writing of its intention so to act to any mortgagee of which it has notice and specifying the alleged breach or event giving rise to such right or rights and the Council agrees not to take any further steps with regards to forfeiture of this Lease if within a period of three months after service of such notice the said mortgagee confirms in writing and provides evidence to the Council that

- (i) the mortgagee is using and shall continue to use its bona fide efforts to remedy the breach complained of within a reasonable period of time (if capable of remedy) and/or
- (ii) the mortgagee has paid or procured the payment of the arrears of rent due to the Council (if any)

PROVIDED THAT the breach(es) complained of are in fact remedied by the mortgagee within four months of service of the notice referred to in this clause.

6. **FORFEITURE**

If and whenever during the term:-

- 6.1 the Rent hereby reserved or made payable shall at any time be in arrear and unpaid for twenty eight (28) days after the same shall have become due (whether any formal or legal demand therefor shall have been made or not) or
- 6.2 if the Lessee shall at any time 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 subject to the provisions of clause 5.2 hereof for the Council to enter into or upon the Demised 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

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12/12/03

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

7. **GENERAL**

7.1 **Arbitration**

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 on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors (or such professional body replacing or succeeding the same) (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

7.2 **Lessee Disputes**

Any disputes arising as between the Lessee and the lessees tenants and occupiers of adjoining or neighbouring premises belonging to the Council (if any) as to any easements right or privilege in connection with the use of the Demised Premises and the adjoining or neighbouring premises or as to the party or other walls separating the Demised Premises from the adjoining premises hereof shall be decided by the Council whose decision shall be binding upon all the parties to the dispute or shall be settled in such other manner by arbitration or otherwise as the Council shall direct provided that all the parties to the dispute are bound by a similar provision

7.3 Property not comprised in this Lease

Nothing herein contained or implied shall impose or be deemed to impose any restrictions of the user of any land or building not comprised in this lease or except for the specific rights granted hereunder shall give the Lessee the benefit of or the right to enforce or to have enforced or to prevent the release or modification of any covenant agreement or condition entered into by any lessee or tenant of the Council in respect of property not comprised in this lease or shall prevent or restrict in any way the development of any land not comprised in this lease

7.4 Council's Consent

7.4.1 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

7.4.2 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 other authorised officer for the time being of the Council and shall not require to be given under the Seal of the Council

7.5 Notices and Delivery

7.5.1 Any notice requiring to be given to the Lessee shall be well and sufficiently given if sent by the Council by Special Delivery or First Class Post addressed to the Lessee or left at the Lessee's registered office (being the address specified at the head of this Lease) unless and until written notification of an alternative address shall be given by the Lessee to the Council AND for the avoidance of any doubt service on the Demised Premises shall not constitute good or valid service under or for the purposes of this Lease and any notice requiring to be given to the Council shall be well and sufficiently given if sent by the Lessee by Special Delivery or First Class Post addressed to the District Solicitor at East Pallant House, East Pallant, Chichester or left for the said Solicitor at his office aforesaid (or at the registered office of any successor to the Council)

7.5.2 Subject as aforesaid the provisions of Section 196 Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1962 shall apply to the giving and service of all notices and documents under or in connection with this lease except that Section 196 shall be deemed to be amended as follows:

7.5.3 The final words of Section 196(4) "... and that service ... be delivered" shall be deleted and there shall be substituted "... and that service shall be deemed to be made on the third Working Day after the registered letter has been posted "Working Day" meaning any day from Monday to Friday (inclusive) other than Christmas Day Good Friday or any statutory public holiday"

7.5.4 Any notice or document shall also be sufficiently served if sent 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

7.6 **Rights and Easements**

The operation of the Law of Property Act 1925 Section 62 is excluded from this Lease and the only rights granted to the Lessee are those expressly set out in this Lease and the Lessee is not to be entitled to any other rights affecting either the Estate or the Council's Adjoining Land

7.7 **Effect of waiver**

Each of the Lessee's covenants is to remain in full force both at law and in equity even if the Council has waived or released that covenant or waived or released any similar covenant affecting any of either the Estate or the Council's Adjoining Land

7.8 **Perpetuity Period**

The perpetuity period applicable to this Lease is 80 years from the commencement of the Contractual Term and whenever in this Lease any party is granted a future interest it must vest within that period or be void for remoteness

7.9 **Party Walls**

Any walls dividing the buildings on the Premises from any other buildings are to be party walls within the meaning of the Law of Property Act 1925 Section 38 and must be maintained at the equally shared expense of the Lessee and the other party

7.10 **Third Party Rights**

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

8. We certify that there is no Agreement for Lease to which this Lease gives effect

IN WITNESS whereof the Council and the Lessee have executed this lease as a Deed the day and year first above written

THE COMMON SEAL OF THE DISTRICT
COUNCIL OF CHICHESTER was affixed
in the presence of:-


Authorised Signatory

)
)
)



293/
2003

FIRST SCHEDULE

Demised Premises

ALL THAT piece or parcel of land being part of land owned by the Council at Quarry Lane Industrial Estate Chichester West Sussex containing 0.28 acres (0.113 hectares) or thereabouts which said land is for the purpose of identification only more particularly delineated on the Plan and thereon edged red and known as Plot 19 Quarry Lane Industrial Estate including:

- any building or buildings and premises from time to time erected thereon or on some part or parts thereof and all alterations and additions thereto but without including any rights of light and air over other ground and premises than those demised
- the fences and walls that surround the Demised Premises
- all conducting media exclusively serving the Demised Premises

SECOND SCHEDULE

Rights Granted

1. The free and uninterrupted passage and running of water soil gas and electricity through the sewers drains watercourses pipes wires and channels now or at any time within 80 years of the date hereof serving the Demised Premises
2. At any time hereafter or from time to time at all reasonable times in the daytime on reasonable prior written notice (except in emergency) full right and liberty so far as the Council is able to grant the same to enter upon the Council's Adjoining Land with or without workmen or others to inspect rebuild repair relay replace or alter any of the buildings fences or other structures permitted to be erected on the Demised Premises and the sewers drains watercourses pipes wires and channels serving the same under the terms of this lease thereby causing as little damage and disturbance as possible to the Council's Adjoining Land and the occupiers thereof and making good as soon as practicable all damage thereby occasioned to the reasonable satisfaction of the Council and/or the occupiers of the Council's Adjoining Land

THIRD SCHEDULE
Rights Excepted and Reserved

There are excepted and reserved in favour of the Council (and may also be exercised by any person authorised by the Council or who becomes entitled to exercise them):

1. The free passage and running of water soil gas electricity and data telecommunications from and to any other buildings or premises on the Council's Adjoining Land through the sewers drains water mains wires cables watercourses conduits and gutters now made placed or laid in under over or through the Demised Premises
2. At any time hereafter or from time to time at all reasonable times in the daytime on reasonable prior written notice (except in emergency) to the Lessee the full right and liberty to enter upon the Demised Premises with or without workmen or others to build rebuild repair or alter any of the buildings fences or other structures erected on the Council's Adjoining Land causing as little damage nuisance and disturbance as possible and making good all damage thereby occasioned as soon as practicable to the reasonable satisfaction of the Lessee
3. The right at all times without obtaining any consent from or making any compensation to the Lessee to deal as the Council may think fit with any other property on the Estate or on the Council's Adjoining Land and to erect or suffer to be erected on such neighbouring property any buildings whatsoever whether such buildings shall or shall not materially affect or diminish the light or air which may now or at any time during the Term be enjoyed by the Lessee or any tenants or occupiers of the Demised Premises or any part thereof
4. The right together with the Council's Surveyor and any person appointed to determine the revised rent under the Fourth Schedule at any time to enter and to inspect and measure the Demised Premises for all purposes connected with any pending or intended step under the 1954 Act or the implementation of the provisions of the Fourth Schedule
5. The right from time to time on reasonable prior written notice to the Lessee

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12/12/03

(except in emergency) to enter upon the Demised Premises in order to erect scaffolding for the purpose of repairing or cleaning any buildings now or hereafter during the Term on any of the Council's Adjoining Land notwithstanding that such scaffolding may temporarily restrict but not prevent or hinder the access to or enjoyment and use of the Demised Premises the Council making good all damage caused to the Demised Premises as soon as practicable to the reasonable satisfaction of the Lessee

6. The rights of light air shelter and all other easements and rights now or hereafter belonging to or enjoyed by any of the Council's Adjoining Land
7. Full right and liberty at any time hereafter:
 - (a) to alter raise the height of or rebuild any building on any of the Council's Adjoining Land
 - (b) to erect any new buildings of any height on any of the Council's Adjoining Land

in such manner as it shall think fit notwithstanding the fact that the same may obstruct affect or interfere with the amenity of or access to the Demised Premises or the passage of light and air to the Demised Premises

FOURTH SCHEDULE

Rent and Rent Review Provisions

1. **Definitions**

In this Schedule the following terms shall have the following meanings:

"Review Date" means the Twenty fifth day of December in the year Two Thousand and Eleven and on the same date 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

"Rack Rental Value" means the Rack Rent Value of the Demised Premises as ascertained in accordance with this Schedule

“Rent Review Percentage” means Eleven (11)%

2. Annual Rent

The yearly Rent shall be:

- 2.1 Until the first Review Date the sum of Three Thousand Nine Hundred Pounds (£3,900) per annum
- 2.2 During each successive review period a rent equal to the rent previously payable hereunder or such revised rent as may be ascertained as herein provided whichever shall be the greater
- 2.3 At the relevant Review Date the yearly Rent for the Rent Review Period shall be ascertained by multiplying the Rent Review Percentage by the Rack Rental Value

3. Assumptions and Disregards

The Rack Rental 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 Independent Surveyor to be nominated in the absence of agreement 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 later than the end of the relevant Review Period nor earlier than the relevant Review Date) acting as an expert who shall give his decision (which shall be final and binding on the parties hereto) in writing within 3 months of the matter being referred to him

- 3.1 On the following assumptions at that date:
 - 3.1.1 (a) that the premises under review and the subject of such review comprise a total of Four thousand six hundred (4,600) square feet of modern industrial building (measured on the basis of gross internal area defined in the

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12/12/03

Code of Measuring Practice of the Royal Institution of Chartered Surveyors – Fourth Edition) which is between ten (10) and fifteen (15) years old at the relevant Review Date and may be used for the Permitted Use defined in this lease as extended or varied by any lawful deed supplemental to this lease with associated car parking on the remaining property (“the review premises”)

(b) the review premises are available to let on the open market without a fine or premium with vacant possession by a willing landlord to a willing tenant for a term normally acceptable in the open market at the relevant Review Date with review periods normally acceptable in the open market at the time of the Review Date (subject to a minimum period of five years) but not so as to consider any claim for a rent free period or reduced rent which might be granted to an incoming tenant save for tenants fitting out works

(c) the review premises are to be let as a whole subject to the terms of this Lease (other than (i) the Term (ii) the definition of the buildings comprising the Demised Premises and (iii) the amount of the Rent hereby reserved but including the provisions for review of that Rent)

(d) the review premises are fit and suitable and available (save and except for usual tenants fitting out works which shall not include heating lighting and toilets) for occupation and use

3.1.2 That the covenants contained in this Lease (save as aforesaid) on the part of the Lessee have been fully performed and observed

3.1.3 That no work has been carried out to the review premises by the lessee or any assignee sub-tenant or licensee or other person lawfully authorised which has either increased or diminished the rental value and that in case the review premises have been destroyed or damaged they have been fully restored

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12/12/03

3.1.4 That no reduction is to be made to take account of any rental concession which on a new letting with vacant possession might be granted to the incoming Lessee for a period within which its fitting out works would take place

3.2 But disregarding:

3.2.1 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 review premises

3.2.2 Any goodwill attached to the review premises by reason of the carrying on thereat of the business of the Lessee its sub-tenants or their predecessors in title in their respective businesses

3.2.3 Any increase in rental value of the review premises attributable to the existence at the relevant Review Date of any improvement and/or works to the review premises or any part thereof

3.2.4 The actual building standing on the Demised Premises at any time

4. IT IS HEREBY FURTHER PROVIDED in relation to the ascertainment and payment of revised rent as follows:

4.1 **Determination by an Independent Surveyor**

4.1.1 The fees and expenses of the Independent Surveyor including the cost of his nomination shall be borne equally by the Council and the Lessee who shall otherwise bear their own costs

4.1.2 The Independent Surveyor shall afford the Council and the Lessee an opportunity to make representations and counter representations to him

4.1.3 If the Independent Surveyor nominated pursuant hereto 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

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12/12/03

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 Independent Surveyor and appoint another in his place

4.2 Memorandum of Rent Review

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

4.3 Interest

4.3.1 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 each quarterly payment of any shortfall at the rate of 1% above the base rate for the HSBC Bank such interest to be calculated on a daily basis from the date the relevant quarterly payment of the shortfall fell due to the date of actual payment and the interest so payable shall be recoverable in the same manner as rent in arrear

4.3.2 For the purposes of this proviso the revised 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 award of the Independent Surveyor

4.4 Payment of Costs of Independent Surveyor

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

Authorised Guarantee Agreement

1. DEFINITIONS

2. RECITALS

- ### 3. LESSEE'S COVENANTS

- 43 -

is vested in the Assignee (the Guarantee Period)

(1) The Assignee will during the Guarantee Period pay the rents reserved and observe and perform the covenants and conditions in the Lease and the Lessee will indemnify the Landlord against all losses damages costs and expenses arising out of any default thereof by the Assignee

(2) If for any reason during the Guarantee Period the term created by the Lease shall be prematurely determined or a liquidator or a trustee in bankruptcy of the Assignee disclaims the Lease or if the Lease shall otherwise be disclaimed in circumstances releasing the estate of the Assignee from liability or if the Lease is determined by forfeiture or re-entry and if within six months of any such event the Landlord shall by notice in writing so require the Lessee will enter into a new lease of the Premises at the reasonable cost of the Lessee on the same terms for the residue of the term which would have remained had there been no such determination disclaimer forfeiture or re-entry

4. OPERATIVE PROVISIONS

(1) The liability of the Lessee hereunder shall not be affected by any neglect or forbearance of the Landlord in enforcing payment of rent or observance or performance of the said covenants and conditions or any refusal by the Landlord to accept rent at a time when the Landlord was entitled (or would after service of a notice under section 146 of the Law of Property Act 1925 have been entitled) to re-enter the Premises or any variation of the terms of the Lease or any change in the constitution structure or powers of the Lessee the Assignee or the Landlord or any act which is beyond the powers of the Assignee or the surrender of part of the Premises

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12/12/03

(2) As between the Landlord and the Lessee the Lessee shall be deemed to be a principal debtor

(3) The Lessee shall not be entitled to participate in any security held by the Landlord in respect of the Assignee's obligations or stand in the Landlord's place in respect of such security

(4) Where the Lessee is more than one person the release of one or more of them shall not release the others

(5) With respect of any sums paid by the Lessee under this Deed and to any other rights which may accrue to the Lessee in respect of any sums so paid or liabilities incurred under this guarantee or in the observance performance or discharge of obligations and covenants of the Assignee contained in the Lease the Lessee shall rank and be entitled to enforce its rights only after all obligations and covenants under this guarantee have been fully observed and performed, and if they have not the Lessee shall not seek to recover from the Assignee or any third party whether directly or by way of set-off lien counterclaim or otherwise or accept any money or other property or security or exercise any rights in respect of any sum which may be or become due to the Lessee on account of the failure by the Assignee to observe and perform or discharge such obligations or covenants in the Lease

5. WARRANTY

The Lessee warrants that it has not taken and undertakes with the Landlord that it will not without the consent of the Landlord:

(a) take any security from the Assignee ranking in priority to this guarantee and, if any such security is so taken it shall be held on trust for the Landlord as security for the respective liabilities of the Lessee

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and the Assignee; nor

- (b) be entitled to any right of proof in the bankruptcy liquidation or other form of insolvency of the Assignee or exercise any other right of the Lessee before discharging its liability in respect of such obligations and covenants

6. **COSTS**

In consideration of the grant by the Landlord of the Licence to Assign the Lessee covenants with the Landlord that the Lessee will pay the Landlord's solicitors' and managing agents' proper and reasonable charges and disbursements including VAT in connection with the preparation and completion of this deed and the counterpart of it and the stamp duty on it.

IN WITNESS whereof

has signed/affixed its common seal to this Deed the day and year first before written

SIGNED etc)

DATED ~~28th~~ ~~11~~

2003

CHICHESTER DISTRICT COUNCIL

- and -

COLIN FREDERICK JAMES CUSHION &
AUDREY PAMELA CUSHION

AUTHORISED GUARANTEE
AGREEMENT

relating to:

Plot 19 Quarry Lane Industrial Estate,
Chichester, West Sussex

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



CHICHESTER DISTRICT COUNCIL
P.E. OVER Bsc (Hons) F.R.I.C.S Assistant Director (Property Services)
Planning and Strategic Services Directorate



Location

Plot 19, Quarry Lane

Drawing No

1601

Date

27/11/03

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D.J.LILLEY

Scale

1:1250



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