

**Note:** This lease document represents a **template only**. Anyone who is considering entering into this or indeed any lease **must seek their own legal and professional advice** to ensure that the terms are right for them and, crucially in this case, that the template is adapted to suit their specific requirements and needs.

The template itself has been developed to cover a situation where a GP practice holding an NHS core contract is taking a lease of a specific part of a larger building, such as a floor or unit, from NHS Property Services. Where you are taking lease of a whole building, the template lease will be different to take account of this fact. However, the core principles provided for in the agreed template, including those referred to in this note, will be read across.

**DATED**

-----

**LEASE**

relating to

**[DESCRIPTION OF THE PROPERTY]**

between

**NHS PROPERTY SERVICES LIMITED**

and

**[PARTY 2]**

and

**[PARTY 3]**

**14. TEMPLATE GP LEASE OF PART**

## CONTENTS

---

### CLAUSE

1.	Interpretation .....	7
2.	Grant .....	16
3.	Ancillary rights .....	17
4.	Rights excepted and reserved .....	19
5.	Third Party Rights .....	21
6.	The Annual Rent.....	21
7.	Review of the Annual Rent.....	21
8.	Services and Service Charge.....	29
9.	Insurance.....	35
10.	Rates and taxes .....	38
11.	Utilities .....	38
12.	Common items.....	38
13.	VAT.....	39
	[Subject to the provisions of Clause 38.2:] .....	39
14.	Default interest and interest.....	39
15.	Costs.....	39
16.	Compensation on vacating.....	40
17.	Set-off .....	40
18.	[Registration of this lease] .....	40
19.	Assignments .....	40
20.	Underlettings .....	42
21.	Sharing occupation .....	44
22.	Charging .....	44
23.	Prohibition of other dealings .....	44
24.	Registration and notification of dealings and occupation .....	44
25.	Closure of the registered title of this lease .....	45
26.	Repairs .....	45
27.	Decoration .....	46
28.	Alterations and signs.....	46
29.	Returning the Property to the Landlord.....	47
30.	Use .....	48
31.	Management of the Building .....	48
32.	Compliance with laws .....	49
33.	Energy Performance Certificates .....	50
34.	Encroachments, obstructions and acquisition of rights.....	51
35.	Breach of repair and maintenance obligations.....	51
36.	Indemnity.....	52
37.	Contracted Practice.....	52
38.	Landlord's covenants .....	53
39.	Lease break .....	53
40.	Guarantee and indemnity .....	56

41.	Re-entry and forfeiture .....	56
42.	Joint and several liability.....	57
43.	Entire agreement and exclusion of representations.....	57
44.	Notices, consents and approvals .....	58
45.	Governing law .....	59
46.	Jurisdiction .....	59
47.	Exclusion of sections 24-28 of the LTA 1954.....	59
48.	Contracts (Rights of Third Parties) Act 1999 .....	60
49.	Control and substitution of Common Parts .....	60
50.	Landlord’s right to nominate .....	60
51.	[Tenant’s Option to renew .....	61

**SCHEDULE**

SCHEDULE 1	GUARANTEE AND INDEMNITY .....	63
1.	Guarantee and indemnity .....	63
2.	Guarantor's liability.....	63
3.	Variations and supplemental documents .....	64
4.	Guarantor to take a new lease or make payment .....	65
5.	Rent at the date of forfeiture or disclaimer .....	66
6.	Payments in gross and restrictions on the Guarantor .....	66
7.	Other securities.....	66

**PRESCRIBED CLAUSES**

**LR1 Date of lease**

[DATE]

**LR2 Title number(s)**

**LR2.1 Landlord's title number(s)**

[INSERT TITLE NUMBER(S) OR LEAVE BLANK IF NONE]

**LR2.2 Other title numbers**

[TITLE NUMBER(S)] OR [None]

**LR3 Parties to this lease**

**Landlord**

NHS PROPERTY SERVICES LIMITED  
4<sup>th</sup> Floor, Skipton House, 80 London Road, London SE1 6LH  
Company Registration number 0788810

**Tenant**

[INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] OR

[[COMPANY] NAME]  
[[REGISTERED OFFICE] ADDRESS]  
[COMPANY REGISTERED NUMBER]

**Other parties**

[INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] OR

[[COMPANY] NAME]  
[[REGISTERED OFFICE] ADDRESS]  
[COMPANY REGISTERED NUMBER]

**Guarantor**

[INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] OR

[[COMPANY] NAME]  
[[REGISTERED OFFICE] ADDRESS]  
[COMPANY REGISTERED NUMBER]<sup>1</sup>

**LR4 Property**

**In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.**

See the definition of "Property" in clause 1.1 of this lease.

**LR5 Prescribed statements etc.**

**LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.**

None.

**LR5.2 This lease is made under, or by reference to, provisions of:**

None.

**LR6 Term for which the Property is leased**

The term as specified in this lease at clause 1.1 in the definition of "Contractual Term".

**LR7 Premium**

None.

**LR8 Prohibitions or restrictions on disposing of this lease**

This lease contains a provision that prohibits or restricts dispositions.

**LR9 Rights of acquisition etc.**

**LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land**

None.

**LR9.2 Tenant's covenant to (or offer to) surrender this lease**

None.

**LR9.3 Landlord's contractual rights to acquire this lease**

None.

---

<sup>1</sup> Where the GP Tenant holds a Core Contract and has no history or persistent late payment of rent and / or arrears a guarantor is unlikely to be required.

**LR10 Restrictive covenants given in this lease by the Landlord in respect of land other than the Property**

None.

**LR11 Easements**

**LR11.1 Easements granted by this lease for the benefit of the Property**

The easements as specified in clause 3 of this lease.

**LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property**

The easements as specified in clause 4 of this lease.

**LR12 Estate rentcharge burdening the Property**

None.

**LR13 Application for standard form of restriction**

**The Parties to this lease apply to enter the following standard form of restriction**

[against the title of the Property] [against title number]

None.

**LR14 Declaration of trust where there is more than one person comprising the Tenant**

[OMIT ALL INAPPLICABLE STATEMENTS]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.]

[The Tenant is more than one person. They are to hold the Property on trust [COMPLETE AS NECESSARY]]

**THIS LEASE** is dated [DATE]

**PARTIES**

- (1) NHS PROPERTY SERVICES LIMITED incorporated and registered in England and Wales with company number 0788810 whose registered office is at 4<sup>th</sup> Floor, Skipton House, 80 London Road, London SE1 6LH (**Landlord**).
- (2) [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS]; [and] [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] (**Tenant**)

OR

[FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**).

- (3) [[FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] **OR** [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] and [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] (**Guarantor**).]

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this lease.

1.1 Definitions:

**Act of Insolvency:**

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor;
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off;
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies); or
- (i) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor.

PROVIDED ALWAYS that where the Tenant consists of more than one individual who collectively are in partnership with a view to operating the Contracted Practice, the happening of an event that would ordinarily constitute an Act of Insolvency in respect of one of those named individuals shall not be treated as an Act of Insolvency for the purposes of this Lease where (unless there are no other Partners from the Contracted Practice who are not already named parties to the Lease) that individual is replaced by another GP from the Contracted Practice as Tenant.

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended).

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction.

**Annual Rent:** rent at an initial rate of £[AMOUNT] per annum OR [the Demise Rent and Shared Area Rent] and then as revised pursuant to this lease [and any interim rent determined under the LTA 1954<sup>2</sup>].

**APMS Contract:** a contract to provide alternative provider medical services made pursuant to Section 92 of the National Health Service Act 2006 or any subsequent or similar legislation.

**Building:** [DESCRIPTION OF THE BUILDING] of which the Property and other Lettable Units form part and refers to each and every part of the Building shown edged [COLOUR] on Plan 2<sup>3</sup>.

**CDM Regulations:** the Construction (Design and Management) Regulations 2015.

---

<sup>2</sup> All leases are to be excluded from the LTA 1954.

<sup>3</sup> Area to include external areas, not just footprint of building.



**Clinical Commissioning Group:** any clinical commissioning group established pursuant to the Health and Social Care Act 2012 and any successor body to the commissioning function.

**Common Parts:** the areas and amenities made available from time to time by the Landlord for use in common by the tenants and occupiers of the Building, structural parts of the Building, [Shared Areas,] any common Service Media and any [footpaths, forecourts, car parks, loading bays, service roads, estate roads, landscaped areas, entrance halls, landings, lifts, lift-shafts, staircases, passages and areas designated for the keeping and collecting of refuse].

**Contractual Term:** a term of years beginning on, and including the date of this lease and ending on, and including [DATE]<sup>4</sup>.

**Contracted Practice:** any person, persons or organisation with a Core Contract.

**Core Contract:** an APMS Contract, GMS Contract or PMS Contract held by the Contracted Practice or such other alternate or replacement contract from time to time introduced for the provision of health and social care and community services within or in connection with the national health service to members of the public that is in receipt of NHS Funding.

**Default Interest Rate:** 4% per annum above the Interest Rate.

**[Demise Rent:** rent at an initial rate of £[AMOUNT] per annum and then as reviewed pursuant to this lease.]

**Energy Assessor:** an individual who is a member of an accreditation scheme approved by the Secretary of State in accordance with regulation 22 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118) or regulation 30 of the Building Regulations 2010 (SI 2010/2214).

**Energy Performance Certificate:** a certificate as defined in regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

**GMS Contract:** a contract to provide general medical services made pursuant to section 84 of the National Health Act 2006 or any subsequent or similar legislation.

**GP:** a person who is registered as a medical practitioner with the General Medical Council under the provisions of the Medical Act 1983 or any subsequent or similar legislation.

**Insurance Rent:** the aggregate in each year of:

- (a) the Tenant's Proportion of the gross cost of the premium before any discount or commission for:

---

<sup>4</sup> The contractual term will be what is negotiated and agreed between the parties and will range between a short term and up to thirty years. NHS PS would expect there to be a synergy between this lease term and the terms of other leases within the building.

- (i) either (but, for the avoidance of doubt, not both):
  - (A) the insurance of the Building, for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring-up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of all those costs, fees and expenses; or
  - (B) the cost of the Landlord's contribution to the Property Expenses Scheme which is payable in respect of the Property; and
- (ii) public liability insurance in relation to the Common Parts;
- (b) the gross cost of the premium before any discount or commission for insurance for loss of Annual Rent from the Property for three years; and
- (c) any insurance premium tax payable on the above.

**Insured Risks:** the risks and events that a reasonable landlord of a property of the same type as the Building would commonly insure against together with such other risks as the Landlord acting reasonably may from time to time require provided that where the Landlord has elected to join the Property Expenses Scheme an **Insured Risk** will be the risks and events covered by such scheme.

**Interest Rate:** the base rate from time to time of Barclays Bank PLC, or if that base rate stops being used or published then a comparable commercial rate reasonably determined by the Landlord.

**Landlord Break Date:** [either of the following:]

- (a) In the event of a limb (a) Landlord Break Event occurring the date identified in the Landlord Break Notice which shall be a date no sooner than 14 days following the service of the Landlord Break Notice
- (b) In the event either limb (b) Landlord Break Event occurring, the date identified in the Landlord Break Notice which shall be a date no later than 14 days following the service of the Landlord Break Notice ; [or
- (c) In the event limb (c) of the Landlord Break Event applies the date identified in the Landlord Break Notice which shall the date 3 days prior to the expiry of the Superior Lease.]

**Landlord Break Event:** any of the following:

- (a) the Tenant ceases to be a Contracted Practice and subject to clause 39.4, 39.5 and 39.6 any challenge of the NHS Funder's decision to terminate the Tenant's Core Contract has been unsuccessful or withdrawn by the Tenant;
- (b) the Tenant has, for a consecutive and continuing period of two or more calendar months leading up to and including the date the Landlord's Break

Notice is served, materially ceased to either provide or procure the provision of essential services under its Core Contract; [or  
(c) [INSERT DETAILS OF SUPERIOR LEASE BREAK(IF ANY)]]

**Landlord Break Notice:** a notice served by the Landlord on the Tenant to determine the lease, issued on or after a Landlord Break Event.

**Landlord's Neighbouring Property:** each and every part of the adjoining and neighbouring property in which the Landlord has an interest.

**Lettable Unit:** all accommodation within the Building from time to time let or otherwise exclusively occupied, or capable of, or designed, or intended for letting and exclusive occupation.

**Lifts:** all lifts and lift machinery and equipment in the Building (if any).

**LTA 1954:** Landlord and Tenant Act 1954.

**NHS Body:** has the same meaning given as at the date hereof to a health service body in section 9(4) of the National Health Service Act 2006 and shall also include any body referred to in section 30 of the National Health Service Act 2006 or any qualifying company as defined in Section 300 of the Health and Social Care Act 2012 and any health service body referred to in any updates or re-enactments of statutes from time to time in force together with any successor to any of the statutory functions of the Tenant and the Secretary of State for Health and the phrase "NHS Bodies" shall be construed accordingly.

**NHS Funding:** reimbursement from the NHS Funder for the Annual Rent.

**NHS Funder:** the NHS Commissioning Board (known as NHS England) or any Clinical Commissioning Groups or any statutory successors which, amongst other things, provides NHS Funding.

**[NIA:** the Net Internal Area as ascertained in accordance with the Code of Measuring Practice published by the Royal Institution of Chartered Surveyors [and having regard to its Practice Standards GN60/2010 Valuation of Medical Centre and Surgery Premises 2<sup>nd</sup> edition] (or [in each case] any substitution from time to time).]

**Permitted Hours:** [0800 - 1900] on working days and such additional hours as the Tenant is required to work pursuant to its Core Contract or as may be agreed between the parties acting reasonably.

**Permitted Part:** any part of the Property that is capable of separate occupation.<sup>5</sup>

**Permitted Use:** the provision of health and social care and community services within or in connection with the national health service to members of the public and for associated purposes thereto provided that use of any part of the Property as a retail and/or dispensing pharmacy shall be prohibited (such prohibition shall in no way fetter the right of health professionals at the Property who are licensed to dispense and/or distribute medication or related products from dispensing and/or distributing such medication or related products in the normal course of providing

---

<sup>5</sup> Configuration and nature and use of Property to be considered.

general healthcare services to members of the public) and provided further than such uses are within class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any substitution of such order from time to time).

**Plan 1:** the plan[s] attached to this lease [each of which is] marked "Plan 1".

**Plan 2:** the plan attached to this lease marked "Plan 2".

**PMS Contract:** a contract to provide personal medical services made pursuant to Section 92 of the National Health Service Act 2006 or any subsequent or similar legislation.

**Premises Costs Directions:** means National Health Service (General Medical Services – Premises Costs) (England) Directions 2013/ National Health Service (Primary Medical Services – Premises Costs) (England) Directions 2013 or any other statement of fees and allowances or the like which may be substituted.

**President:** the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf.

**Property:** the floor(s) of the Building the floor plan(s) of which are shown hatched [COLOUR] on Plan 1 [in respect of each of those floors] bounded by and including<sup>6</sup>:

- (a) [the [floorboards] [floor screed] [OTHER FLOORING BOUNDARY]];
- (b) [suspended ceilings] [and all internal surfaces of the ceilings] OR [the description of ceiling boundary];
- (c) the interior plaster finishes of exterior walls and columns;
- (d) the plaster finishes of the interior load-bearing walls and columns that adjoin another Lettable Unit or the Common Parts;
- (e) the doors and windows within the interior, load-bearing walls and columns that adjoin another Lettable Unit or the Common Parts and their frames and fittings;
- (f) one half of the thickness of the interior, non-load-bearing walls and columns that adjoin another Lettable Unit or the Common Parts;
- (g) the doors and windows within the interior, non-load-bearing walls and columns that adjoin the Common Parts and their frames and fittings;

but excluding:

- (h) the windows in the exterior walls and their frames and fittings;
- (i) the whole of the interior load-bearing walls and columns within that part of the Building [other than their plasterwork and] other than the doors and windows and their frames and fittings within such walls; and
- (j) all Service Media within that part of the Building but which do not exclusively serve that part of the Building.

---

<sup>6</sup> What is included in and excluded from the demise will be considered on a case by case basis.

**Property Expenses Scheme:** the NHS Litigation Authority Property Expenses Scheme or other such scheme or means of insurance as are from time to time prescribed by the Secretary of State for Health.

**Public Authority:** a public authority constituted to deliver health care services within or in connection with the national health service.

**Recommendation Report:** a report as defined in regulation 4 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

**Rent Commencement Date:** [DATE].

**Rent Payment Dates:** 1 January, 1 April, 1 July, 1 October.

**Reservations:** all of the rights excepted, reserved and granted to the Landlord by this lease.

**Review Date:** [Fifth anniversary of the Term Commencement Date] and every [third] anniversary of that date [and the last day of the lease term]<sup>7</sup>.

**Service Charge:** the Tenant's Proportion of the Service Costs.

**Service Charge Year:** is the annual accounting period relating to the Services and the Service Costs beginning on [DATE] in [YEAR] and each subsequent year during the term, or otherwise as the Landlord may decide and notify the Tenant.

**Service Costs:** the costs listed in clause 8.2.

**Service Media:** all media for the supply or removal of heat electricity, gas, water, sewage, [ventilation], [air-conditioning,] energy, telecommunications, data, fire and other alarm systems and all other services and utilities and all structures, machinery and equipment ancillary to those media.

**Services:** the services listed in clause 8.1.

**[Schedule of Condition:** the [photographic] schedule signed by the parties annexed to this lease and marked "Schedule of Condition".]<sup>8</sup>

**[Shared Areas:** those parts<sup>9</sup> of the Building shown hatched [COLOUR] on the Plan [1][2] or such other areas which are provided by the Landlord from time to time acting reasonably for the use of the Tenant and in common with the other occupiers of the Building.]

**[Shared Area Proportion:** a fair proportion<sup>10</sup> of the Shared Areas as adjusted at the Landlord's discretion (acting reasonably ) from time to time.]

---

<sup>7</sup> All leases are to be excluded from the LTA 1954.

<sup>8</sup> Only to be used if agreed by parties during negotiation of heads of terms and is suggested by the BMA as good practice where the Property was not in full repair at the date of first occupation

<sup>9</sup> Shared areas include such areas as lobbies, waiting rooms, circulation space/corridors, pram parks, patient WCs, cafeteria, kitchenettes, and break-out areas.

<sup>10</sup> The Shared Area Proportion will not include unlet lettable units.

**[Shared Area Rent:** rent at an initial rate of [AMOUNT] per annum which shall be reviewed in accordance with the following calculation:-

(Demise Rent as reviewed from time to time / NIA of the Property) x (Shared Area Proportion x NIA of the Shared Areas)].

**Tenant Break Date:**

- (a) the later of
  - ii) [5<sup>11</sup> (five)] calendar months after the date the Tenant serves a Tenant Break Notice on the Landlord, or
  - iii) the date the Core Contract held by the Tenant or (if different) the Contracted Practice they represent, determines.

**Tenant Break Event:** means any of the following

- (a) The Tenant has received notice from the NHS Funder to terminate (whether immediately or otherwise) its Core Contract; or
- (b) The Tenant has served notice on the NHS Funder to terminate its Core Contract; or
- (c) The term of the Tenant's Core Contract (where applicable) has expired or is set to expire and there is no intention on the part of the NHS Funder and or the Tenant to enter into a new or renewal Core Contract.

**Tenant Break Notice:** a notice served by the Tenant on the Landlord to determine the lease, such notice to include (where appropriate and known) the date upon which the Core Contract shall determine.

**Tenant's Proportion:** a fair proportion having regard to the Tenant's NIA of the Property in relation to the total NIA of all Lettable Units.

**Third Party Rights:** all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this lease in [the property register] [and [entry **OR** entries] [STATE RELEVANT ENTRY NUMBER(S)] of the charges register] of title number [TITLE NUMBER] **OR** [DESCRIPTION OF RELEVANT MATTERS AFFECTING AN UNREGISTERED REVERSION].

**Uninsured Risk:** means any risk other than an Insured Risk.

**VAT:** value added tax chargeable under the VATA 1994 and any similar replacement tax and any similar additional tax.

**VATA 1994:** Value Added Tax Act 1994.

---

<sup>11</sup>

The notice period is to be tied to the Tenant's notice period under their Core Contract, and as such, the notice period will be 1 month less than the contract Regulations i.e. 5 months other than where the lease is to a GMS sole practitioner in which case the notice period will be 2 months.

- 1.2 A reference to this **lease**, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.
- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns. A reference to a **guarantor** is a reference to any guarantor of the tenant covenants of this lease including a guarantor who has entered into an authorised guarantee agreement.
- 1.4 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) but reasonably by the Landlord.
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, references to the **Building**, the **Common Parts**, [the **Shared Areas**,] a **Permitted Part**, a **Lettable Unit** and the **Property** are to the whole and any part of them or it.
- 1.7 The expression **neighbouring property** does not include the Building.
- 1.8 A reference to the **term** is to the Contractual Term [and statutory continuation of this lease].
- 1.9 A reference to the **end of the term** is to the end of the term however it ends.
- 1.10 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 44.5 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 44.6.
- 1.11 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.12 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.13 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or

statutory provision and all orders, notices, codes of practice and guidance made under it.

- 1.14 Any obligation on the Tenant not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.15 Unless the context otherwise requires, any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.16 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.17 A reference to **writing** or **written** does not include fax or e-mail.
- 1.18 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this lease and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.19 Clause, Schedule and paragraph headings shall not affect the interpretation of this lease.
- 1.20 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.21 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

## **2. GRANT**

- 2.1 [At the request of the Guarantor, the **OR** The] Landlord lets the Property with limited title guarantee to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:
- (a) the Annual Rent and (to the extent payable) all VAT in respect of it;
  - (b) the Service Charge and all VAT in respect of it;



- (c) the Insurance Rent;
- (d) all interest payable under this lease; and
- (e) all other sums due under this lease.

### 3. ANCILLARY RIGHTS

#### 3.1 The Landlord grants the Tenant the following rights (the **Rights**):

- (a) the right to support and protection from the Common Parts to the extent that the Common Parts provide support and protection to the Property at the date of this lease;
- (b) [the right to use such external areas of the Common Parts as designated by the Landlord from time to time for the purposes of vehicular and pedestrian access to and egress from the interior of the Building [and to and from the parts of the Common Parts referred to in clause 3.1(c) to clause 3.1(f)];]
- (c) [the [nonexclusive/exclusive] right to park [ ] private cars or motorbikes belonging to the Tenant, its employees and visitors within the area hatched [ ] on Plan 2;]
- (d) [the right to use such areas as designated by the Landlord from time to time for keeping bicycles belonging to the Tenant, its employees and visitors;]
- (e) [the right to use such areas as designated by the Landlord from time to time for loading and unloading goods and materials;]
- (f) [the right to use [ ] bins;]
- (g) [the right to use the clinical waste areas on the [ ] and [ ] floors[s] of the Building;]
- (h) the right to use the Lifts, the hallways, corridors, stairways and landings of the Common Parts for the purposes of access to and egress from the Property [and the lavatories and washrooms referred to in clause 3.1(i)];
- (i) [the right to use the lavatories [and washrooms] on the [ ] [and [ ]] floor[s] of the Building;]
- (j) [the right to shared use of reception on the [ ] floor of the Building;]
- (k) [the right to use the Shared Areas]; and]
- (l) the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property;
- (m) [the right to display the name and logo of the Tenant (and any authorised undertenant) [and information relating to the hours of operating and services offered from the Property] on a [sign or noticeboard] provided by the Landlord [in the entrance hall of] the Building [and on the Common Parts at the entrance to the Property, in each case] [and] [outside] [on the

exterior of the Building] in a form and manner [reasonably] approved by the Landlord;

(n) the right to enter the Common Parts or any other Lettable Unit so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease;

(o) [ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE GRANTED].

3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord.

3.3 The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Common Parts and the Tenant shall not do anything that may interfere with any Third Party Right.

3.4 The Tenant shall exercise the Rights (other than the Right mentioned in clause 3.1(a)) only in connection with its use of the Property for the Permitted Use and only during the Permitted Hours and in accordance with any reasonable regulations made by the Landlord as mentioned in clause 31.1.

3.5 The Tenant shall comply with all laws relating to its use of the Common Parts pursuant to the Rights.

3.6 Subject to clause 3.9, in relation to the Rights mentioned in clause 3.1(b) to clause 3.1(k), the Landlord may, at its discretion, change the route of any means of access to or egress over the Common Parts and the Landlord's Neighbouring Property from the Property or the interior of the Building and may change the area within the Common Parts and the Landlord's Neighbouring Property over which any of those Rights are exercised.

3.7 Subject to clause 3.9, in relation to the Rights mentioned in clauses 3.1(c) to 3.1(g), and clause 3.1(k) the Landlord may from time to time acting reasonably designate within the Common Parts or the Landlord's Neighbouring Property the spaces or bins (as the case may be) in respect of which the Tenant may exercise that Right.

3.8 Subject to clause 3.9, in relation to the Rights mentioned in clause 3.1(l), the Landlord may, in its reasonable discretion, re-route or replace over the Common Parts or the Landlord's Neighbouring Property any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced

3.9 In the exercise of the Landlord's discretion or right to designate under clauses 3.6 – 3.8 inclusive the Landlord will use reasonable endeavours to ensure that the altered rights are not materially less commodious than the previous rights.

- 3.10 In exercising the Right mentioned in clause 3.1(n), the Tenant shall:
- (a) except in case of emergency, give reasonable notice to the Landlord and any occupiers of the relevant Lettable Unit(s) of its intention to exercise that Right;
  - (b) where reasonably required by the Landlord or the occupier of the relevant Lettable Unit(s), exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant Lettable Unit(s);
  - (c) cause as little damage as reasonably possible to the Common Parts and the other Lettable Units and to any property belonging to or used by the Landlord or the tenants or occupiers of the other Lettable Units;
  - (d) cause as little inconvenience as reasonably possible to the Landlord and the tenants and occupiers of the other Lettable Units as is reasonably practicable; and
  - (e) promptly make good (to the reasonable satisfaction of the Landlord) any damage caused to the Common Parts (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.

3.11 Except as mentioned in this clause 3, neither the grant of this lease nor anything in it confers any right over the Common Parts or any other Lettable Unit or any neighbouring property nor is to be taken to show that the Tenant may have any right over the Common Parts or any other Lettable Unit or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.

#### **4. RIGHTS EXCEPTED AND RESERVED**

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Building and the Landlord's Neighbouring Property [and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term]:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) the right to use and to connect into Service Media at, but not forming part of, the Property; the right to install and construct Service Media at the Property to serve any part of the Building (whether or not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this clause;
- (c) at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;

- (d) the right to erect scaffolding at the Property or the Building and attach it to any part of the Property or the Building in connection with any of the Reservations;
- (e) the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations;
- (f) the right to re-route any means of access to or egress from the Property or the Building and to change the areas over which the Rights mentioned in clause 3.1(b) to clause 3.1(k) are exercised; [and]
- (g) the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1(l) are exercised; [and]
- (h) [ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE RESERVED.]

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or the Common Parts or loss of amenity for the Property or the Common Parts provided that they do not materially adversely affect the use and enjoyment of the Property for the Permitted Use.

4.2 The Landlord reserves the right to enter the Property:

- (a) to repair, maintain, install, construct, re-route or replace any Service Media or structure relating to any of the Reservations;
- (b) to carry out any works to any other Lettable Unit; and
- (c) for any other purpose mentioned in or connected with:
  - (i) this lease;
  - (ii) the Reservations; and
  - (iii) the Landlord's interest in the Property, the Building or the Landlord's Neighbouring Property.

4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.

4.4 Subject to complying with any reasonable requirements of the Tenant, the Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) provided that where reasonably practicable the Landlord will exercise such rights outside the usual business hours and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.

4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other

occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:

- (a) physical damage to the Property; or
- (b) any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

## **5. THIRD PARTY RIGHTS**

5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not knowingly do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.

5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

## **6. THE ANNUAL RENT**

6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by four equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant. The Landlord shall provide the Tenant with an invoice although this shall not be a precondition to the payment of the Annual Rent.

6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on [the date of this lease and shall be the proportion, calculated on a daily basis, in respect of the period beginning on the date of this lease and ending on the day before the next Rent Payment Date] **OR** [the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the period beginning on the Rent Commencement Date and ending on the day before the next Rent Payment Date].

## **7. REVIEW OF THE ANNUAL RENT<sup>12</sup>**

This clause 7 shall, to the extent that the same is applicable, be subject to the provisions of clause 7A. In the event that 7A is applicable and there is a conflict between the two provisions those contained in clause 7A shall prevail.

---

<sup>12</sup> Substitute term Demise Rent in place of Annual Rent where Shared Areas exist.

- 7.1 In this clause the **President** is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf, and the **Surveyor** is the independent valuer appointed pursuant to clause 7.7.
- 7.2 In this clause a **Review Notice** is a notice service by the Landlord on the Tenant triggering the review of Annual Rent for the relevant Review Date served up to 6 months before a relevant Review Date or any time after it.
- 7.3 The Annual Rent shall be reviewed on each Review Date to equal the open market rent agreed or determined pursuant to this clause provided always that the Landlord serves a Review Notice.
- 7.4 The open market rent agreed between the Landlord and Tenant or determined by the Surveyor shall be the best annual rent (exclusive of any VAT) at which the Property could reasonably be expected to be let:
- (i) in the open market;
  - (ii) at the relevant Review Date;
  - (iii) on the assumptions listed in clause 7.5; and
  - (iv) disregarding the matters listed in clause 7.6.
- 7.5 The assumptions are:
- (a) the Property is available to let in the open market:
    - (i) by a willing lessor to a willing lessee;
    - (ii) as a whole;
    - (iii) with vacant possession;
    - (iv) without a fine or a premium;
    - (v) for a term equal to the unexpired residue of the Contractual Term at the relevant Review Date or a term of [10]<sup>13</sup> years commencing on the relevant Review Date, if longer; and
    - (vi) otherwise on the terms of this lease other than as to the amount of the Annual Rent but including the provisions for review of the Annual Rent.
  - (b) the willing lessee has had the benefit of any rent-free or other concession or contribution which would be offered in the open market at the relevant Review Date in relation to fitting out works at the Property;

---

<sup>13</sup> Where the contractual term is less than 10 years, this period should be adjusted so that the hypothetical lease term should be the higher of the remainder of the contractual term and [x] years, with x being the length of the actual contractual term.

- (c) the Property may lawfully be used, and is in a physical state to enable it to be lawfully used, by the willing lessee (or any potential undertenant or assignee of the willing lessee) for any purpose permitted by this lease;
- (d) the Landlord and the Tenant have fully complied with their obligations in this lease;
- (e) if the Property or any other part of the Building or any Service Media serving the Property, has been destroyed or damaged, it has been fully restored;
- (f) no work has been carried out on the Property or any other part of the Building that has diminished the rental value of the Property [other than work carried out in compliance with clause 28];
- (g) any fixtures, fittings, machinery or equipment supplied to the Property by the Landlord that have been removed by or at the request of the Tenant, or any undertenant or their respective predecessors in title (otherwise than to comply with any law) remain at the Property; and
- (h) the willing lessee and its potential assignees and undertenants shall not be disadvantaged by any actual or potential exercise of an option to tax under Part 1 of Schedule 10 to the VATA 1994 in relation to the Property.

7.6 The matters to be disregarded are:

- (a) any effect on rent of the fact that the Tenant or any authorised undertenant has been in occupation of the Property;
- (b) any goodwill attached to the Property by reason of any business carried out there by the Tenant or by any authorised undertenant or by any of their predecessors in business;
- (c) any effect on rent attributable to any physical improvement to the Property [and Service Media within or exclusively serving the Property] carried out [before or] after the date of this lease, by or at the expense of the Tenant or any authorised undertenant with all necessary consents, approvals and authorisations and not pursuant to an obligation to the Landlord (other than an obligation to comply with any law);
- (d) any effect on rent of any obligation on the Tenant [to fit out the Property or] [to reinstate the Property to the condition or design it was in before any alterations or improvements were carried out]; and
- (e) any statutory restriction on rents or the right to recover them.

7.7 If the Landlord and Tenant cannot agree the open market rent then they may jointly appoint a Surveyor who shall be an independent valuer who is a Member or Fellow of the Royal Institution of Chartered Surveyors having substantial experience in valuing property of a like kind and character to the Property. Where the Landlord

and the Tenant can not agree on the appointment of the Surveyor then either the Landlord or Tenant may apply to the President for the Surveyor to be appointed.

- 7.8 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor shall determine the open market rent. The Surveyor's decision shall be given in writing, and the Surveyor shall provide reasons for any determination. The Surveyor's written decision on the matters referred to him shall, be final and binding in the absence of manifest error or fraud.
- 7.9 The Surveyor shall give the Landlord and the Tenant an opportunity to make written representations to the Surveyor and to make written counter-representations commenting on the representations of the other party to the Surveyor. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision .
- 7.10 If the Surveyor dies, or becomes unwilling or incapable of acting, or unreasonably delays in making any determination, then either the Landlord or the Tenant may apply to the President to discharge the Surveyor and clause 7.7 shall then apply in relation to the appointment of a replacement.
- 7.11 The fees and expenses of the Surveyor and the cost of the Surveyor's appointment and any counsel's fees, or other fees, reasonably incurred by the Surveyor shall be payable by the Landlord and the Tenant in the proportions that the Surveyor directs (or if the Surveyor makes no direction, then equally). The Landlord and the Tenant shall each bear their own costs in connection with the rent review.
- 7.12 If the revised Annual Rent has not been agreed by the Landlord and the Tenant or determined by the Surveyor on or before the relevant Review Date, the Annual Rent payable from and including that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Annual Rent is agreed or the Surveyor's determination is notified to the Landlord and the Tenant, and depending on whether the Annual Rent has increased or decreased as part of the review, either
- (a) The Tenant shall pay:
    - (i) the shortfall (if any) between the amount that it has paid for the period from and including the Review Date until the Rent Payment Date following the date of agreement or notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been agreed or determined on or before that Review Date; and
    - (ii) interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the revised Annual Rent had



been agreed or determined on or before that Review Date and the date payment is received by the Landlord.

- (b) The Landlord shall repay to the Tenant:
  - (i) the overpayment between the amount that the Tenant has paid for the period from and including the Review Date until the Rent Payment Date following the date of agreement or notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been agreed or determined on or before that Review Date; and
  - (ii) interest at the Interest Rate on that overpayment calculated on a daily basis by reference to the Rent Payment Dates on which overpayments have been made until the date payment is received by the Tenant.

7.13 Time shall not be of the essence for the purposes of this clause.

7.14 If at any time there is a guarantor, the guarantor shall not have any right to participate in the review of the Annual Rent.

7.15 As soon as practicable after the amount of the revised Annual Rent has been agreed or determined a memorandum recording the amount shall be signed by or on behalf of the Landlord and the Tenant and endorsed on or attached to this lease and its counterpart. The Landlord and the Tenant shall each bear their own costs in connection with the memorandum.

## 7A **PROVISO**

7A.1 In this clause 7A the following words and expressions have the following meaning:

**“Appeal”**: the referral of the dispute over the level of the Funder’s Assessment to the NHS Litigation Authority for it to determine in accordance with the Premises Costs Directions and the relevant provisions of the NHS Statement of Financial Entitlements 2012 or the like which may be substituted.

**“Challenge”** means a challenge that Funder’s Assessment should be increased to the level of the revised Annual Rent as provisionally agreed between the Landlord and Tenant pursuant to clause 7 before being submitted to the NHS Funder for approval, to be conducted:

- (a) In the first instance by local dispute resolution carried out in accordance with the Protocol; and

- (b) Following the exhaustion of local dispute resolution carried out in accordance with the Protocol, by way of Appeal.

**“Challenge Period”**: means the period starting on the relevant Review Date and ending on the date that the revised Annual Rent is determined or agreed pursuant to the Challenge.

**“Determination Date”**: the date defined in clause 7A.6

**“Funder’s Assessment”**: means as defined in clause 7A.4 (c).

**“Premises Cost Direction”** means National Health Service (General Medical Services – Premises Costs) (England) Directions 2013/ National Health Service (Primary Medical Services – Premises Costs) (England) Directions 2013 or any other statement of fees and allowances or the like which may be substituted.

**“Protocol”**: means the Protocol for Local Dispute Resolution for The Determination of Current Market Rent Under the NHS (GMA Premises Costs) Directions 2013, the NHS (GMS Contracts) Regulations 2004 and the NHS (PMS Agreements) Regulations 2004 (as amended) or any other relevant protocol or requirement relating to a dispute over the level of rent reimbursed by NHS Funding.

**"Surveyor"**: shall have the same meaning as in clause 7.1.

7A.2 The provisions of this clause 7A shall only apply:

- (a) where the Tenant is a Contracted Practice having the benefit of NHS Funding; and
- (b) to the proportion of the Annual Rent that qualifies for NHS Funding.

7A.3 Where clause 7A applies the agreement or determination of the revised Annual Rent in accordance with clause 7 will be provisional only, and the memorandum referred to in clause 7.15 will not be signed by the Landlord and Tenant and the revised Annual Rent shall be determined pursuant to the provisions of this Clause 7A.

7A.4 (a) Immediately following the provisional agreement or determination of the revised Annual Rent pursuant to clause 7 the Tenant shall by notice in writing supply the NHS Funder with a copy of the unsigned memorandum and details of the negotiation for the purposes of enabling the NHS Funder to assess the level of NHS Funding to the Tenant pursuant to the Premises Cost Directions and the Tenant shall supply without delay the Landlord with copies of its letter addressed to the NHS Funder and of its enclosures.

- (b) In the event that the NHS Funder (or its agent) shall accept that revised Annual Rent is the equivalent current market rent reimbursable by NHS Funding then the revised Annual Rent shall be the revised Annual Rent as provisionally determined pursuant to clause 7 and the Tenant shall supply as soon as reasonably possible to the Landlord written evidence of such confirmation by or on behalf of the NHS Funder.
- (c) In the event that the NHS Funder (or its agent) assesses the revised Annual Rent as provisionally determined pursuant to clause 7 to be more than the current market rent reimbursable by NHS Funding (“the Funder’s Assessment”) then either:
  - i. the Tenant or the Landlord (acting as the Tenant’s agent in accordance clause 7A.7 at the Landlord’s sole cost) may bring a Challenge; or
  - ii. if no Challenge is made by either the Landlord or the Tenant the revised Annual Rent shall be the Funder’s Assessment and the Landlord and the Tenant shall sign a memorandum which evidences the Funder’s Assessment of the revised Annual Rent.
- (d) Where there is a Challenge, the Tenant (in the circumstance where the Tenant has elected to Challenge) or Landlord (in the circumstance where it has requested the Challenge) shall make all proper representations to the NHS Funder and/or the NHS Litigation Authority (as the case may be) (including the reasonable and proper representations of the other party) and shall provide the Surveyors determination of the revised Annual Rent (if one exists) and the copy of the memorandum (referred to at clause 7.15) and evidence of negotiations between the Tenant and the Landlord in respect of the provisionally agreed revised Annual Rent together with any additional information or material either party (acting reasonably) considers appropriate PROVIDED ALWAYS that in the event that neither the Tenant or Landlord requests such review within the timescale permitted by the NHS Statement of Financial Entitlements or other relevant period prescribed by the NHS Funder the revised Annual Rent shall be the Funder’s Assessment.
- (e) If the Challenge is upheld the revised Annual Rent will be such sum as was provisionally agreed or determined as between the Tenant and Landlord (or the Surveyor) pursuant to clause 7 and the Landlord and Tenant shall sign a memorandum as evidence of the revised Annual Rent being the sum provisionally agreed.
- (f) If the Challenge is partially upheld and results in a revised Funder’s Assessment the revised Annual Rent shall be the revised Funder’s Assessment and the Landlord and the Tenant shall sign a new memorandum to evidence the revised Annual Rent as the revised Funder’s Assessment.

- (g) If the Challenge is rejected (whether due to a refusal to hear the Challenge or otherwise) the revised Annual Rent shall be the Funder's Assessment and the Landlord and the Tenant shall sign a new memorandum to evidence the revised Annual Rent as being the Funder's Assessment.

7A.5 Where a Challenge is made the revised Annual Rent payable under this lease during the Challenge Period shall be the higher of:

- (a) the rent payable immediately before the Review Date; and
- (b) the amount of the Funder's Assessment that is reimbursed to the Tenant.

7A.6 No later than 10 working days after the agreement or determination of revised Annual Rent pursuant to clause 7A ("the **Landlord Determination Date**") either:-

- (a) the Tenant shall pay:
  - (i) the shortfall between the amount that it has paid during the Challenge Period and the amount that would have been payable had the revised Annual Rent been agreed pursuant to clause 7A on or before that Review Date; and
  - (ii) interest at the Interest Rate on that shortfall calculated on a daily basis from the Determination Date until the date the shortfall and accrued interest is paid.

(b) The Landlord shall repay:

- (i) the overpayment between the amount that the Tenant has paid during the Challenge Period and the amount that would have been payable had the revised Annual Rent been agreed pursuant to clause 7A on or before that Review Date; and
- (ii) interest at the Interest Rate on that overpayment calculated on a daily basis from the Determination Date until the repayment and accrued interest is paid.

7A.7 Where the Landlord has requested a Challenge the Tenant shall appoint the Landlord or any person nominated by the Landlord to act as the Tenant's sole agent for the purpose of conducting an Appeal and the Landlord shall pay the cost of an Appeal. Any such appointment of the agent shall be irrevocable, and the Tenant shall take such steps as the Landlord may reasonably require and not interfere with or otherwise adversely affect the agent's ability to conduct an Appeal. For the avoidance of doubt the Tenant shall only be required to provide reasonable non financial assistance (in the sense that it will not involve the Tenant incurring cost) in connection with any Challenge and/or resulting Appeal made at the request of the Landlord.

7A.8 In the event of a change or substitution of either the Protocol or the Premises Costs Direction which changes the method of dealing with a dispute or ascertaining the

level of rent reimbursed by NHS Funding, the Landlord and Tenant shall, acting reasonably, agree amendments to clause 7A to reflect such change or substitution. If the Landlord and the Tenant fail to reach agreement under this clause to the required amendments the required amendments shall be determined by the Surveyor. The Surveyor shall have full power to determine the required amendments and the Landlord and Tenant shall enter into a deed of variation to this lease documenting the required amendments.

## **8. SERVICES AND SERVICE CHARGE**

### **8.1 The Services are:**

- (a) cleaning, maintaining and repairing and replacing (if beyond economic repair) the Common Parts including all Service Media forming part of the Common Parts;
- (b) cleaning the outside of the windows of the Building;
- (c) lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;
- (d) emptying, cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;
- (e) cleaning, maintaining, repairing and replacing signage for the Common Parts;
- (f) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television, fencing and gates) on the Common Parts;
- (g) cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers [in the entrance hall of the Building];
- (h) [maintaining the landscaped and grassed areas of the Common Parts;]
- (i) [salting and gritting the car park, roads and footpaths within the Building external areas]
- (j) [cleaning, maintaining, repairing [and replacing] the Lifts in the Common Parts;]
- (k) decorating the Common Parts;
- (l) cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;
- (m) cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;
- (n) [cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in the lavatories [and washrooms ] on the Common Parts and

providing hot and cold water, soap, paper, towels and other supplies for them;]

- (o) heating the internal areas of the [Common Parts][Building] and cleaning, maintaining, repairing and replacing heating machinery and equipment serving the [Common Parts][Building];
- (p) [providing ventilation and air conditioning for the internal areas of the [Common Parts] [Building] and cleaning, maintaining, repairing and replacing ventilation and air conditioning equipment serving the [Common Parts][Building];
- (q) [providing [security] [reception] [cleaning and maintenance] staff for the Building and additional accommodation, equipment and telephone/data for such [security] [reception] [cleaning and maintenance] staff;
- (r) providing services for the removal of domestic, commercial, confidential and clinical waste from the Common Parts; and
- (s) enforcing, at the reasonable request of a tenant of the Building, covenants against other tenants of the Building; [and]
- (t) [ANY OTHER SPECIFIC SERVICES REQUIRED; and]
- (u) any other service or amenity that the Landlord may in its reasonable discretion acting in accordance with the principles of good estate management provide for the benefit of the tenants and occupiers of the Building.

8.2 The **Service Costs** are the total of:

- (a) the whole of the reasonable and proper costs incurred in:
  - (i) providing the Services;
  - (ii) connection with the supply and removal of electricity, gas, water, sewage and other utilities to and from the [Common Parts][Building];
  - (iii) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);
  - (iv) complying with all laws relating to the Common Parts, their use and any works carried out at them, and relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;
  - (v) complying with the Third Party Rights insofar as they relate to the Common Parts;
  - (vi) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Common Parts or to prevent the acquisition of any right over the Common Parts (or the Building as a whole) or to remove any

obstruction to the flow of light or air to the Common Parts (or the Building as a whole); and

- (vii) putting aside such sum as shall reasonably be considered necessary by the Landlord to provide reserves or sinking funds for items of known future expenditure to be or reasonably expected to be incurred at any time in connection with providing the Services;
- (b) the reasonable and proper costs, fees and disbursements on a full indemnity basis of:
  - (i) managing agents employed by the Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same;
  - (ii) accountants employed by the Landlord to prepare and audit the service charge accounts; and
  - (iii) consultants for procurement of utilities, health and safety and or asbestos audits.
- (c) [the reasonable and proper costs of the salaries and employer costs (including pension, welfare and insurance contributions) and uniforms of [security] [reception] [cleaning and maintenance] staff for the Building and of all equipment and supplies needed for the proper performance of their duties ;]
- (d) all rates, taxes, impositions and outgoings payable in respect of the Common Parts (or the Building when it is not separately assessed for rates), their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and
- (e) any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord obtains credit for such VAT under the Value Added Tax Act 1994.
- (f) the reasonable and proper costs of an annual amount based on the original cost to the Landlord of replacing or repairing specified equipment plant or elements of the building fabric which reflects the gradual expiry of the life of that equipment plant or element.

PROVIDED ALWAYS that the following shall be excluded from the Service Costs:

- (i) unless improvement constitutes the most economic method of repair, the cost of improvements to the Building;
- (ii) unless and to the extent that the Landlord's insurance is vitiated or made void by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them the cost of repair of the Property and/or Building following damage or destruction by an Insured Risk or, to

- the extent that the Landlord insures via the Property Expenses Scheme, such risks as are covered by the Property Expenses Scheme;
- (iii) The management costs (which shall include, without limitation, costs of lettings, costs of collecting rent, the cost of implementing rent reviews and conducting disputes with other tenants of the Building) other than those specifically identified as being within the Services as defined in clause 8.1 [(a) - (u)];
  - (iv) The cost of repair of the Building which is recovered by the Landlord under a collateral warranty; and
  - (v) The costs of remedying inherent defects of the Building; [and]
  - (vi) [OTHER PREMISES SPECIFIC EXCLUSIONS TO APPLY.]<sup>14</sup>

8.3 The Landlord shall use all reasonable endeavours:

- (a) to repair [the structural parts of] the Common Parts;
- (b) to provide heating [and [ventilation] [air conditioning]] to the internal areas of the Common Parts [and the Property] during such periods of the year as the Landlord considers appropriate;
- (c) [to provide electricity [and water] to the Property;]
- (d) to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Building as often as the Landlord considers appropriate;
- (e) to keep the internal areas of the Common Parts [reasonably well] lit;
- (f) [to supply hot and cold water, soap, paper, towels and other supplies for the lavatories [and washrooms] on the Common Parts;]
- (g) [to keep the Lifts in reasonable working order]; [and]
- (h) [to deliver services (whether provided pursuant to clause 8.1 or this clause 8.3) to a specification and standard which is reasonably necessary to ensure that the Tenant is compliant with its obligations, from time to time, in respect of the working environment that the Tenant is required to maintain under its Core Contract and or in order to comply with the requirements of the Care Quality Commission (or such other successor organisation) provided that the Tenant has informed the Landlord in writing of such obligations and requirements, identifying what additional works or measures are required to comply with such obligations and requirements.]

---

<sup>14</sup>

Any premises specific exclusions to be agreed as between NHSPS and the Tenant prior to entering into the Lease. This may include any backlog in repairs to the Building and/or Common Parts but only where agreed between the parties.



Where any such works or measures go beyond that which would ordinarily be provided by a landlord of a commercial premises and any part of the costs incurred by the

Landlord in delivering these cannot or should not be recovered from other occupiers via the Service Charge, the Tenant will reimburse the Landlord the whole or balance of the irrecoverable costs.]

- 8.4 The Landlord may, but shall not be obliged to, provide any of the other Services. The Landlord shall not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure.
- 8.5 The Landlord shall not be obliged to provide any of the Services outside the Permitted Hours.
- 8.6 The Landlord shall not be liable for:
- (a) any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord; or
  - (b) any injury, loss or damage suffered by the Tenant as a result of any absence or insufficiency of any of the Services or of any breakdown or defect in any Service Media, except where due to the negligence of the Landlord.
- 8.7 Before or as soon as possible after the start of each Service Charge Year, the Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.
- 8.8 The Tenant shall pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Rent Payment Dates.
- 8.9 In relation to the Service Charge Year current at the date of this lease, the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of those amounts, such apportioned part to be calculated on a daily basis for the period from and including the date of this lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on [the date of this lease and] the [remaining] Rent Payment Days during the period from and including the date of this lease until the end of the Service Charge Year.
- 8.10 As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a statement showing the Service Costs and the Service Charge for that Service Charge Year.

- 8.11 If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord shall be entitled to include it in the estimate and statement of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error or a dispute pursued pursuant to clause 8.16, the Service Charge statement shall be conclusive as to all matters of fact to which it refers.
- 8.12 Without prejudice to clause 9.4(f), where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by an Insured Risk, the costs of that Service shall not be included in the Service Charge.
- 8.13 If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference within 21 days of written demand. If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall credit the difference against the Tenant's next instalment of the estimated Service Charge (and where the difference exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited).
- 8.14 The Landlord shall pay the Service Costs in relation to any unlet parts of the Building.
- 8.15 The Landlord shall use all reasonable endeavours to provide the Services.
- 8.16 The Landlord shall use best endeavours to handle the recovery of Service Charge Costs in a transparent and reasonable manner.
- 8.17 Any dispute concerning the Service Charge or any payment on account or any other matter arising under this clause 8 may in any case where the parties so agree be determined by an independent surveyor nominated in default of agreement by or on behalf of the President of the Royal Institution of Chartered Surveyors to act as an expert whose determination shall be final and binding on the parties subject to the statutory rights of challenge on the grounds of lack of jurisdiction or serious irregularity, and appeals on a point of law.
- 8.18 Any surveyor appointed pursuant to clause 8.16 shall give the Landlord and the Tenant an opportunity to make written representations and to make written counter-representations commenting on the representations of the other party. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision on the dispute.

**9. INSURANCE**

9.1 Subject to clause 9.2, the Landlord covenants to either (or at its election, both):

9.1.1 keep the Building insured against loss or damage by the Insured Risks for the sum which the Landlord considers to be its full reinstatement cost (taking inflation of building costs into account); or

9.1.2 join the Property Expenses Scheme (or such scheme or means of insurance as are from time to time prescribed by the Secretary of State for Health) and to pay promptly any required contributions to the Property Expenses Scheme.

The Landlord shall not be obliged to insure any part of the Property installed by the Tenant and any Tenant's fixtures and fittings.

9.2 The Landlord's obligation to insure is subject to:

- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
- (b) insurance being available in the London insurance market or the Property Expenses Scheme (as applicable) on reasonable terms acceptable to the Landlord.

9.3 The Tenant shall pay to the Landlord within 7 days of written demand:

- (a) the Insurance Rent;
- (b) any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and
- (c) the Tenant's Proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes PROVIDED THAT such valuation shall occur no more frequently than once every [3] years.

9.4 The Tenant shall:

- (a) immediately inform the Landlord if any matter occurs in relation to the Tenant or the Property that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Building and shall give the Landlord notice of that matter;
- (b) not do or omit anything as a result of which any insurance of the Building or any neighbouring property which have been notified to the Tenant from time to time may become void or voidable or otherwise prejudiced, or the payment of any insurance money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or

additional premium) anything as a result of which any increased insurance or additional premium may become payable;

- (c) comply at all times with the requirements and recommendations of the insurers that are from time to time identified to the Tenant which relate to the Property and the use by the Tenant of the Common Parts;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk (to the extent that the Insured Risk has been notified to the Tenant by the Landlord);
- (e) not effect any insurance of the Property, but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property pay those proceeds or cause them to be paid to the Landlord; and
- (f) pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay (in relation to the Building) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them.

9.5 The Landlord shall, where it has not elected to terminate the lease in accordance with clause 9.7, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) in connection with any damage to the Building to repair the damage for which the money has been received or (as the case may be) in rebuilding the Building. The Landlord shall not be obliged to:

- (a) provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property and its access, services and amenities is provided; or
- (b) repair or rebuild if the Tenant has failed to pay any of the Insurance Rent up to the date of the relevant damage or destruction; or
- (c) repair or rebuild the Building after a notice has been served pursuant to clause 9.8 or clause 9.9.

9.6 The Landlord shall at their sole cost meet any shortfall between any insurance monies received as a result of any damage or destruction (whether such shortfall is due to the fact that the damage or destruction was caused by an Uninsured Risk or otherwise) unless:-

- (a) In the case of an Insured Risk, the insurance in relation to the Property has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them; or
- (b) In the case of an Uninsured Risk, the damage or destruction has occurred as a consequence of any act or omission of the Tenant, any undertenant or

their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them.

- 9.7 If the Property is damaged or destroyed so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed so as to make the Property inaccessible or unusable then (unless in the case of an Insured Risk the insurance in relation to the Property or the Common Parts has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them) payment of the Annual Rent or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use or the Common Parts have been reinstated so as to make the Property accessible or useable (as the case may be), or until the end of [three] years from the date of damage or destruction, if sooner.
- 9.8 If, following damage to or destruction of the Building or Common Parts (whether by an Insured Risk, Uninsured Risk or otherwise), so as to make the Property unfit for occupation and use or inaccessible or unusable the Landlord may acting reasonably having regard to, amongst other things, the extent of the damage and destruction terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.
- 9.9 Provided that the Tenant has, in all material respects, complied with its obligations in this clause, the Tenant may terminate this lease by giving notice to the Landlord if, following damage or destruction of the Property or the Common Parts (whether by an Insured Risk, Uninsured Risk or otherwise), either:
- (a) the Property has not been reinstated so as to be accessible and fit for occupation and use within [three years] after the date of damage or destruction; or
  - (b) the Landlord has not substantially commenced the reinstatement of the Property and/or (to the extent that the same is needed so as to make the Property accessible) the Building or Common Parts within 18 months after the date of damage or destruction.

On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.

**10. RATES AND TAXES**

- 10.1 The Tenant shall pay all present and future rates, taxes and other impositions and outgoing payments payable in respect of the Property, its use and any works carried out there, except:
- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
  - (b) any taxes (other than VAT payable under the lease and insurance premium tax) payable by the Landlord by reason of the receipt of any of the rents due under this lease.
- 10.2 If any such rates, taxes or other impositions and outgoing payments are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.
- 10.3 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

**11. UTILITIES**

- 11.1 The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Property.
- 11.2 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

**12. COMMON ITEMS**

- 12.1 The Tenant shall pay the Landlord within 7 days of written demand the Tenant's Proportion of all proper costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.
- 12.2 The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

### **13. VAT**

[Subject to the provisions of Clause 38.2:]<sup>15</sup>

- 13.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.
- 13.2 Every obligation on the Tenant, under or in connection with this lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994.

### **14. DEFAULT INTEREST AND INTEREST**

- 14.1 If any Annual Rent or any other money payable under this lease has not been paid within 21 days of the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from and including the due date to and including the date of payment.
- 14.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from and including the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

### **15. COSTS**

- 15.1 The Tenant shall pay the proper costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:
- (a) the enforcement of the tenant covenants of this lease;
  - (b) serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;

---

<sup>15</sup> The wording in square brackets is only to be inserted where clause 38.2 is included in the lease

- (c) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- (d) the preparation and service of a schedule of dilapidations in connection with this lease which are served either during or within 56 days after the determination of the lease (howsoever the same shall occur); or
- (e) any consent or approval applied for under this lease, whether or not it is granted (unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonable to withhold it or the Landlord has imposed unreasonable conditions on such consent).

15.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

**16. COMPENSATION ON VACATING**

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

**17. SET-OFF**

The Annual Rent and all other amounts due under this lease shall be paid by the Tenant or any guarantor (as the case may be) in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**18. [REGISTRATION OF THIS LEASE]**

18.1 [Promptly following the grant of this lease, the Tenant shall apply to register this lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.]

**19. ASSIGNMENTS**

19.1 Save where permitted by clause 19.6 the Tenant shall not assign the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.



- 19.2 The Tenant shall not assign part only of this lease.
- 19.3 Where consent to assignment of this lease is required the Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to either of the following conditions:
- (a) a condition that the assignor and guarantor enters into an authorised guarantee agreement which:
    - (i) is in respect of all the tenant covenants of this lease;
    - (ii) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;
    - (iii) imposes principal debtor liability on the assignor;
    - (iv) requires (in the event of a disclaimer of liability of this lease) the assignor to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and
    - (v) is otherwise in a form reasonably required by the Landlord;
  - (b) a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this lease in the form set out in Schedule 1 (but with such amendments and additions as the Landlord may reasonably require).
- 19.4 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment if any of the following circumstances exist at the date of the Tenant's application for consent to assign this lease:
- (a) the Annual Rent, or any other money due and demanded, under this lease is outstanding or there is a material breach of covenant by the Tenant that has not been remedied;
  - (b) in the Landlord's reasonable opinion the assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants and conditions contained in this lease;
  - (c) the assignee and the Tenant are group companies within the meaning of section 42 of the LTA 1954.
- 19.5 Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.
- 19.6 The Tenant may assign the whole of this lease without consent of the Landlord to:

- (a) other GPs or another GP [or (where relevant) non GP Partners] in the same practice as the Tenant (provided that the Tenant [or at least one of their number] continues to be a GP of a Contracted Practice operating in whole or part of the Property [and provided further that the assignment to non GP partners would not lead to a reduction in NHS Funding]);
- (b) a Contracted Practice

PROVIDED THAT the Tenant shall if required by the Landlord prior to the date of such assignment obtain from the assignee a direct covenant with the Landlord in such form as the Landlord may reasonably require that the assignee will during the Contractual Term perform and observe the covenants on the part of the Tenant contained in the lease.

## **20. UNDERLETTINGS**

- 20.1 The Tenant shall not underlet the whole of the Property.
- 20.2 The Tenant shall not underlet part only of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 20.3 The Tenant may underlet a Permitted Part provided that:
- (a) the number of underlettings of a Permitted Part shall not exceed [2]<sup>16</sup>; and
  - (b) the total proportion of the Property which is underlet to:
    - (i) entities which are not a Public Authority; or
    - (ii) entities whose rent is not reimbursed by NHS Funding;
 is no more than 10%.
- 20.4 The Tenant shall not underlet the Property:
- (a) together with any property or any right over property that is not included within this lease;
  - (b) at a fine or premium or reverse premium; nor
  - (c) allowing any rent free period to the undertenant.
- 20.5 The Tenant shall not underlet the Property unless, before the underlease is granted, the Tenant has given the Landlord:
- (a) a certified copy of the notice served on the undertenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be created by the underlease; and

---

<sup>16</sup> Property specifics to be considered.

- (b) a certified copy of the declaration or statutory declaration made by the undertenant in accordance with the requirements of section 38A(3)(b) of the LTA 1954.

20.6 Any underletting by the Tenant shall be by deed and shall include:

- (a) an agreement between the Tenant and the undertenant that the provisions of sections 24 to 28 of the LTA 1954 are excluded from applying to the tenancy created by the underlease;
- (b) the reservation of a rent which is at least equal to the Annual Rent value (relative to the proportion of the Property underlet) which is payable under this lease at the time of the underletting and which is payable at the same times as the Annual Rent under this lease;;
- (c) provisions for the review of rent at the same dates and unless the Landlord agrees otherwise on the same basis as the review of rent in this lease, unless the term of the underlease does not extend beyond the next Review Date;
- (d) provisions prohibiting the subtenant to underlet;
- (e) a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this lease, except the covenants to pay the rents reserved by this lease; and
- (f) provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this lease,

and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the level of Annual Rent and the prohibition on underletting) than those in this lease [and in a form approved by the Landlord, such approval not to be unreasonably withheld or delayed].

20.7 In relation to any underlease granted by the Tenant, the Tenant shall:

- (a) not vary the terms of the underlease nor accept a surrender of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld;
- (b) enforce the tenant covenants in the underlease and not waive any of them nor allow any reduction in the rent payable under the underlease; and
- (c) ensure that in relation to any rent review the revised rent is not agreed without the approval of the Landlord, such approval not to be unreasonably withheld.

**21. SHARING OCCUPATION**

The Tenant may share occupation of the Property with GPs, private organisations and associated health personnel who are supporting the Tenant in delivering services falling within the Permitted Use or with a NHS Body or Public Authority and on condition that:-

- (a) no tenancy is created by that occupation; and
- (b) the Landlord is promptly advised in writing at the beginning and end of any sharing arrangement of the arrangement and of the identity of the sharing GPs and associated health personnel or a NHS Body or Public Authority; and
- (c) there is no breach of clause 37.3

**22. CHARGING**

22.1 The Tenant shall not charge the whole or any part of this lease.

**23. PROHIBITION OF OTHER DEALINGS**

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

**24. REGISTRATION AND NOTIFICATION OF DEALINGS AND OCCUPATION**

24.1 In this clause a **Transaction** is:

- (a) any dealing with this lease or the devolution or transmission of, or parting with possession of any interest in it; or
- (b) the creation of any underlease or other interest out of this lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or
- (c) the making of any other arrangement for the occupation of the Property.

24.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title).

- 24.3 No later than one month after a Transaction the Tenant shall:
- (a) give the Landlord's solicitors notice of the Transaction; and
  - (b) deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors; and
  - (c) pay the Landlord's solicitors a registration fee of £40 (plus VAT).
  - (d) deliver to the Landlord's solicitors a copy of any Energy Performance Certificate and Recommendation Report issued as a result of the Transaction.

24.4 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.

**25. CLOSURE OF THE REGISTERED TITLE OF THIS LEASE**

Within one month after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

**26. REPAIRS**

26.1 [Subject to clause 26.4] the Tenant shall keep the Property clean and tidy and in good repair and condition and shall ensure that any Service Media within and exclusively serving the Property is kept in good working order.

26.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk or, to the extent that the Landlord insures via the Property Expenses Scheme, such risks as covered by the Property Expenses Scheme, unless and to the extent that the Landlord's insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property or Common Parts with the actual or implied authority of any of them.

26.3 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Uninsured Risk unless the disrepair is caused by an act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property or Common Parts with the actual or implied authority of any of them.

26.4 [Notwithstanding any provision to the contrary the Tenant shall not be required to put the Property into any better state of repair and condition than it was in at the date of this lease as evidenced by the Schedule of Condition.]<sup>17</sup>

**27. DECORATION**

27.1 The Tenant shall decorate the Property every 5 years and also in the last three months before the end of the term.

27.2 All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

27.3 All decoration carried out in the last three months of the term shall also be carried out to the reasonable satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

**28. ALTERATIONS AND SIGNS**

28.1 The Tenant shall not make any alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld or delayed, other than as mentioned in clause 28.2.

28.2 The Tenant may

- (a) make non-structural alterations subject to the consent of the Landlord (not to be unreasonably withheld or delayed) and
- (b) erect demountable non- structural partitions (without consent of the Landlord)

provided that the Tenant shall:

- (c) not carry out any such works until it has given the Landlord two copies of the plans and specification for the works; and
- (d) make good any damage to the Property and to any part of the Common Parts.

28.3 The Tenant shall not install nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

---

<sup>17</sup> Only to be used if agreed by parties during negotiation of heads of terms. Where the Tenant requires a schedule the tenant shall meet the cost of its preparation.

- 28.4 The Tenant shall not attach any sign, fascia, placard, board, poster or advertisement to the Property so as to be seen from the outside of the Building without the Landlord's consent (not to be unreasonably withheld or delayed).
- 28.5 The Tenant shall not carry out any alteration to the Property which would, or may reasonably be expected to, have an adverse effect on the asset rating in any Energy Performance Certificate commissioned in respect of the Property.
- 28.6 Where the consent of the Landlord is required under this clause, the Landlord shall use reasonable endeavours to determine the Tenant's application for consent within 30 working days of receiving all the information that the Landlord reasonably considers necessary to allow the Landlord to determine the application.
- 28.7 In the case of the installation or erection of any telecommunications apparatus (as defined in the Communications Act 2003) to procure that:-
- (a) the apparatus is for the exclusive use of the Tenant in connection with the business carried on from the Property;
  - (b) the apparatus is not subcontracted to or used in any way by a third party;
  - (c) the installation of the apparatus does not adversely affect the value of the Landlord's interest in the Property and/or the Building; and
  - (d) the Tenant must not allow any circumstances to arise where by the apparatus or its use might be or become subject to or have the benefit of the Communications Act 2003;
- 28.8 The Tenant shall pay the Landlord's proper and reasonable professional fees in respect of the Landlord providing consent under this clause 28.

**29. RETURNING THE PROPERTY TO THE LANDLORD**

- 29.1 At the end of the term the Tenant shall, subject to clause 29.2:
- (a) return the Property to the Landlord with vacant possession and in the repair and condition required by this lease;
  - (b) remove items it has fixed to the Property and remove all signage installed by the Tenant at the Property or elsewhere at the Building, and make good any damage caused to the Property or Building by that removal; and
  - (c) deliver to the Landlord any registers or records maintained by the Tenant pursuant to any statutory duty that relate to the Property including any health & safety file, EPC and asbestos survey.
- 29.2 If the Landlord reasonably so requires and gives the Tenant notice no later than three months before the end of the term (time shall be of the essence), the Tenant shall remove and make good any alterations it has made to the Property at any time

during the term (or during any period of occupation prior to the Contractual Term), and well and substantially to reinstate the Property in such manner as the Landlord shall reasonably direct and to its reasonable satisfaction.

- 29.3 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.
- 29.4 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.

### **30. USE**

- 30.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 30.2 The Tenant shall not use the Property outside the Permitted Hours.
- 30.3 If the Permitted Hours are extended beyond [0800 – 1900] on working days to at the request of the Tenant or otherwise allow the Tenant to meet its obligations under the Core Contract that it [(or, if different, the Contracted Practice they represent] holds, the Tenant shall observe all reasonable and proper regulations that the Landlord makes relating to that use and shall pay the Landlord all costs (or, where other tenants are similarly using the Building outside of the Permitted Hours, a fair proportion of the costs) incurred by the Landlord in connection with that use, including the whole of the cost of any Services provided by the Landlord attributable to the use by the Tenant of the Property outside [0800 – 1900] on working days.
- 30.4 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Lettable Units or any owner or occupier of neighbouring property.
- 30.5 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

### **31. MANAGEMENT OF THE BUILDING**

- 31.1 The Tenant shall observe all reasonable and proper regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Common Parts and the management of the Building.



31.2 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any other Lettable Unit or any neighbouring property.

31.3 The Tenant shall:

- (a) keep and dispose of all clinical waste generated on the Property (if any) in such a way as shall comply with all relevant statutory provisions and in accordance with best medical practice and so as not to cause a nuisance or annoyance to neighbours or neighbouring property; and
- (b) if drugs or other chemicals are kept on the Property, comply with all relevant statutory provisions and to store the same securely and in accordance with best medical practice.

## **32. COMPLIANCE WITH LAWS**

32.1 The Tenant shall comply with all laws relating to:

- (a) the Property and the occupation and use of the Property by the Tenant;
- (b) [the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used or operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation];<sup>18</sup>
- (c) any works carried out at the Property; and
- (d) all materials kept at or disposed from the Property.

PROVIDED THAT the Tenant shall not be liable under this clause 32.1 for any breaches of such laws which occurred prior to the earlier of either:

- i) the date of this lease; or
- ii) the date the Tenant first took occupation, save where the same was not excluded in any previous licence, lease, tenancy or other agreement or arrangement with the Landlord.

32.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.

32.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:

---

<sup>18</sup> BMA Note: a full report should be commissioned by the Tenant to ascertain whether the service media, machinery and equipment located at the Property are in good repair and condition.

- (a) send a copy of the relevant document to the Landlord; and
- (b) in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

32.4 The Tenant shall not apply for any planning permission for the Property.

32.5 Where works are carried out to the Property by or on behalf of the Tenant, the Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file.

32.6 Where works are carried out to the Property by or on behalf of the Tenant, the Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.

32.7 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.

32.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection save where this forms part of the Service Media.

### **33. ENERGY PERFORMANCE CERTIFICATES**

33.1 The Tenant shall:

- (a) cooperate with the Landlord so far as is reasonably necessary to allow the Landlord to obtain an Energy Performance Certificate and Recommendation Report for the Property or the Building including providing the Landlord with copies of any plans or other information held by the Tenant that would assist in obtaining an Energy Performance Certificate; and
- (b) allow such access to any Energy Assessor appointed by the Landlord as is reasonably necessary to inspect the Property for the purposes of preparing an Energy Performance Certificate and/or Recommendation Report for the Property or the Building.

33.2 The Tenant shall not commission an Energy Performance Certificate for the Property without the Landlord's consent such consent not to be unreasonably withheld.

33.3 At the written request of the Tenant, the Landlord shall provide the Tenant with a copy of any Energy Performance Certificate relating to the Property held by the Landlord, provided that the Tenant shall pay the reasonable cost of providing the copy to the Landlord.

**34. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

34.1 Save as permitted under this lease, the Tenant shall not grant any right or licence over the Property to a third party.

34.2 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:

- (a) immediately inform the Landlord and shall give the Landlord notice of that encroachment or action; and
- (b) take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.

34.3 The Tenant shall not obstruct the flow of light or air to the Property or any other part of the Building nor obstruct any means of access to the Property or any other part of the Building.

34.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Property or any other part of the Building is enjoyed with the consent of any third party.

34.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:

- (a) immediately inform the Landlord and shall give the Landlord notice of that action; and
- (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

**35. BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS**

35.1 The Landlord may on reasonable notice and, to the extent practicable, outside the usual Permitted Hours enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in

this lease relating to the condition or repair of the Property. Any entry to the Property pursuant to this clause shall be subject to the Landlord (or their agents) complying with any reasonable requirements required by the Tenant.

- 35.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.
- 35.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable within 7 days of written demand.
- 35.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 41.

**36. INDEMNITY**

- 36.1 The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs claims, damage and loss (including any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) arising from any breach of any tenant covenants in this lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them.

**37. CONTRACTED PRACTICE**

- 37.1 The Tenant covenants that it is a Contracted Practice.
- 37.2 This Clause 37 shall have no applicability at any time when the Tenant is an NHS Body and shall not preclude an assignment to an NHS Body or preclude the Tenant from taking steps to become an NHS Body;
- 37.3 The Tenant covenants to use all reasonable endeavours not to do anything or permit anything to be done which is within its reasonable control which will materially adversely affect its entitlement to NHS Funding of the Annual Rent unless otherwise agreed in this lease, arises as a result of something done in compliance with this Lease or is agreed in writing by the Landlord. For the avoidance of doubt, and without limitation, situations that will be outside the Tenant's control shall include a change in the NHS Funding regime.

**38. LANDLORD'S COVENANTS**

38.1 The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this lease.

38.2 [As a concession to the Tenant as part of the Landlord's lease regularisation programme, the Landlord hereby covenants with the Tenant and any successors in title who:

- (a) hold a Core Contract,
- (b) are in receipt of NHS Funding,
- (c) are capable of obtaining reimbursement for recurring premises costs pursuant to the Premises Costs Directions (whether as a result of being a contractor under the Premises Costs Directions or as a result of those directions being, in whole or part, incorporated into their Core Contract); and
- (d) are unable to reclaim VAT

that the Landlord shall not make any VAT election in respect of the Property during the Contractual Term without first obtaining the agreement of both the Tenant and the NHS Funder to the making of such a VAT election . For the avoidance of doubt, this covenant shall only apply for the duration of the Contractual Term of this lease and shall not apply following the determination of this lease (howsoever the same shall occur),<sup>19</sup>

38.3 The Landlord shall provide such information as the Tenant reasonably requires in order to enable the Tenant to complete all necessary forms and feedbacks for the Care Quality Commission whether generally or specifically in relation to an inspection of the Property.

**39. LEASE BREAK**

39.1 The Tenant may at any time during the Term, on the occurrence of a Tenant Break Event terminate this lease by serving a valid Tenant Break Notice. Where the Tenant intends to exercise the break, and albeit not a pre condition of the Tenant being able to exercise their ability to break the Lease, the Tenant shall use all reasonable endeavours to serve the Tenant Break Notice within one month of either of the relevant event occurring.

---

<sup>19</sup> This concession shall only apply to those leases granted prior to 30<sup>th</sup> November 2017, in respect of leases of NHS PS freehold premises where there has been no prior VAT election.

- 39.2 Upon serving the Tenant Break Notice the lease will terminate on the Tenant Break Date.
- 39.3 A Tenant Break Notice shall be of no effect if at the Tenant Break Date the Tenant:
- (a) has not paid any part of the Annual Rent which was due to have been paid; or
  - (b) has failed to give up possession the Property; or
  - (c) has failed to terminate all subleases; or
  - (d) has failed to ensure that all sub tenants and occupiers have given up possession the Property.
- 39.4 On the occurrence of any Landlord Break Event and subject to clauses 39.5 and (where applicable) 39.6, the Landlord may terminate this lease by serving a Landlord Break Notice. Upon serving the Landlord Break Notice the lease will terminate on the Landlord Break Date.
- 39.5 If prior to the Landlord serving a Landlord Break Notice the Tenant brings a challenge of the NHS Funder's determination of the Tenant's Core Contract ("Termination Challenge") and notifies the Landlord in writing of the Termination Challenge then subject to the Tenant complying with its obligations in clause 39.6 (where applicable) the Landlord will not terminate this lease until any Tenant challenge of the NHS Funder's determination of the Tenant's Core Contract has been withdrawn by the Tenant or finally determined to have been unsuccessful ("the Challenge Period").
- 39.6 Where during the Challenge Period the Tenant is prohibited from providing or procuring the provision of essential services or otherwise does not provide or procure the provision of essential services, the Tenant shall at the request of the Landlord allow the NHS Funder or its nominee service provider (an "Alternate Service Provider") into occupation of the Property on the following basis:
- (a) The Alternative Service Provider will occupy the Property as a tenant at will only and the Tenant authorises the Landlord on its behalf to sign a tenancy at will (complying with clause 39.6 (b)) in favour of the Alternative Service Provider, to enforce the terms of the tenancy at will against the Alternative Service Provider and to terminate the tenancy at will.
  - (b) The tenancy at will to be granted shall require the Alternative Service Provider to comply with the tenant covenants and conditions contained in the lease (including those related to the payment of sums due under the lease and all repair and maintenance obligations) and shall contain:-
    - (i) a reservation allowing the Tenant reasonable access to the Property on prior appointment in order to view records and other

information of the Tenant relating to the operation of their practice; and

- (ii) a reservation allowing the Tenant to take such reasonable measures as are necessary to ensure their continue compliance with laws (including, without limitation, those relating to patient confidentiality and data protection).
- (c) The Landlord shall in so far as it is able procure that the Alternate Service Provider complies with all of the tenant covenants and conditions under the lease (including the payment of sums due under the lease and all repair and maintenance obligations) in complete substitution of the Tenant provided it is acknowledged that the Alternate Service Provider will not be liable for past breaches of covenant by the Tenant;
- (d) The Landlord shall not be entitled to invoke its right of forfeiture during any period of occupation by the Alternate Service Provider as a result of:
  - (i) any breach of any condition of, or tenant covenant, in this lease caused by the Alternate Service Provider or their workers, contractors or agents or any person on the Property or Common Parts with the Alternate Service Provider's actual or implied authority; or
  - (ii) any non payment or Annual Rent, Service Charge or Insurance Rent during the period of occupation by the Alternate Service Provider ;
- (e) The Landlord shall in so far as it is able to procure that the Alternate Service Provider vacates promptly, having due regard to the date upon which the Tenant is required by the NHS Funder to resume providing or procuring the provision of services under its Core Contract, after the Tenant's challenge against the NHS Funder's decision to determine of the Tenant's Core Contract being successful and/or any prohibition on the Tenant providing or procuring the provision of essential services being lifted; and
- (f) The Landlord agrees that it shall, at their sole cost, made good any breach or failure to comply with the tenant covenants and conditions under this lease which are caused by any act or omission of the Alternate Service Provider or their workers, contractors or agents or any person on the Property or Common Parts with the Alternate Service Provider's actual or implied authority.
- (g) The Tenant agrees that during the Challenge Period where this clause 39.6 applies:
  - (i) It will promptly vacate the Property and, subject to the reserved rights benefitting the Tenant pursuant to clause 39.6 (b), provide unrestricted access to the Alternative Service Provider whilst they are entitled to occupy in accordance with this clause 39.6;

- (ii) subject to the reserved rights benefitting the Tenant pursuant to clause 39.6 (b), it will not interfere with or restrict the occupation and use of the Alternative Service Provider whilst they are entitled to occupy in accordance with this clause 39.6;
- (iii) it will not terminate or attempt to terminate the tenancy at will without the written consent of the Landlord; and
- (iv) it will act in good faith in respect of any challenge brought and promptly notify the Landlord of the outcome of the challenge.

39.7 Termination of this lease in accordance with this clause 39 shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease.

39.8 If this lease terminates in accordance with this clause 39 then, within 28 days after the relevant break date, the Landlord shall refund the Tenant the proportion of the Annual Rent paid in respect of it, for the period from and excluding the relevant break date up to and excluding the next Rent Payment Date, calculated on a daily basis.

#### **40. GUARANTEE AND INDEMNITY**

40.1 [The provisions of the Schedule 1 apply.]

40.2 [If an Act of Insolvency occurs in relation to a guarantor, or if any guarantor (being an individual) dies or becomes incapable of managing his affairs the Tenant shall, if the Landlord requests, procure that a person of standing acceptable to the Landlord, within 10 days of that request, enters into a replacement or additional guarantee and indemnity of the tenant covenants of this lease in the same form as that entered into by the former guarantor.]

40.3 [Clause 40.2 shall not apply in the case of a person who is guarantor by reason of having entered into an authorised guarantee agreement.]

40.4 For so long as any guarantor remains liable to the Landlord, the Tenant shall, if the Landlord requests, procure that that guarantor joins in any consent or approval required under this lease and consents to any variation of the tenant covenants of this lease.

#### **41. RE-ENTRY AND FORFEITURE**

41.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:



- (a) the Annual Rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) any Service Charge or Insurance Rent is unpaid 21 days after becoming payable following a formal demand unless, in respect of any Service Charge, such sum is referred to the independent surveyor pursuant to the provisions of clause 8.16;
- (c) any breach of any condition of, or tenant covenant, in this lease; or
- (d) an Act of Insolvency.

41.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor.

**42. JOINT AND SEVERAL LIABILITY**

42.1 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this lease. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

42.2 Where a guarantor comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of a guarantor arising under this lease. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

42.3 The obligations of the Tenant and any guarantor arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

42.4 In any case where the facts are or should reasonably be known to the Tenant, the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this lease, [unless and until the Tenant has given the Landlord notice of the facts that give rise to the failure and the Landlord has not remedied that failure within a reasonable time].

**43. ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

43.1 This lease and any documents annexed to it constitutes the whole agreement between the parties and supersede[s] all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to [its **OR** their] subject matter.

43.2 Each party acknowledges that in entering into this lease and any documents annexed to it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently).

43.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this lease.

43.4 Nothing in this clause shall limit or exclude any liability for fraud.

**44. NOTICES, CONSENTS AND APPROVALS**

44.1 Except where this lease specifically states that a notice need not be in writing, any notice given under or in connection with this lease shall be:

- (a) in writing and for the purposes of this clause an e-mail or fax is not in writing; and
- (b) given by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the party's principal place of business.

44.2 If a notice complies with the criteria in clause 44.1 whether or not this lease requires that notice to be in writing, it shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address; or
- (b) if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting.

44.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

44.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

44.5 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:

- (a) it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and
- (b) it expressly states that the Landlord waives the requirement for a deed in that particular case.

If a waiver is given, it shall not affect the requirement for a deed for any other consent.

44.6 Where the approval of the Landlord is required under this lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

- (a) the approval is being given in a case of emergency; or
- (b) this lease expressly states that the approval need not be in writing.

44.7 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

#### **45. GOVERNING LAW**

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

#### **46. JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this lease or its subject matter or formation (including non-contractual disputes or claims).

#### **47. EXCLUSION OF SECTIONS 24-28 OF THE LTA 1954**

47.1 The parties confirm that:

- (a) the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy created by this lease, [not less than 14 days] before [this lease **OR** DETAILS OF AGREEMENT FOR LEASE] was entered into [a certified copy of which notice is annexed to this lease];
- (b) [the Tenant **OR** [NAME OF DECLARANT] who was duly authorised by the Tenant to do so] made a [statutory] declaration dated [DATE] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 [a certified copy of which [statutory] declaration is annexed to this lease]; and
- (c) [there is no agreement for lease to which this lease gives effect.]

47.2 The parties agree that the provisions of sections 24 to 28 of the LTA 1954 are excluded in relation to the tenancy created by this lease.

47.3 The parties confirm that:

- (a) the Landlord served a notice on the Guarantor, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be entered into by the Guarantor pursuant to paragraph 4 of the Schedule, [not less than 14 days] before [this lease **OR** DETAILS OF AGREEMENT FOR LEASE] was entered into (a certified copy of which notice is annexed to this lease); and
- (b) [the Guarantor **OR** [NAME OF DECLARANT], who was duly authorised by the Guarantor to do so], made a [statutory] declaration dated [DATE] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 (a certified copy of which [statutory] declaration is annexed to this lease). ]

**48. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

**49. CONTROL AND SUBSTITUTION OF COMMON PARTS**

49.1 The Common Parts shall at all times be subject to the exclusive control and management of the Landlord and the Landlord shall be entitled:

- (a) to alter stop up divert or otherwise use any part of the Common Parts or any of them provided that no such alteration stopping up diversion other use or change which has any material adverse effect on the Property or any part thereof or on the use or enjoyment of or access to the same shall be effected unless it is unavoidable or avoidable only at a cost which the Landlord considers to be disproportionate and in any event the Landlord shall use all reasonable endeavours to minimise any such material adverse effect;
- (b) to close all or any of the Common Parts for the purpose of repairing renovating replacing cleansing and maintaining the same provided that the Landlord shall use all reasonable endeavours to minimise the length of any such closure and where practicable to action any closures that would prevent or restrict access to the property to outside of the Permitted Hours.

**50. LANDLORD'S RIGHT TO NOMINATE**

50.1 Clause 50 is personal to NHS Property Services Limited and is only applicable where NHS Property Services Limited is the Landlord. In this clause 50 the following words and expressions have the following meanings:

**Landlord's Nominated Facilities Management Provider:** the Landlord or any other party reasonably nominated by the Landlord and notified to the Tenant from time to time.

**Tenant Services:**

- (a) obligations and covenants in respect of Repair (Clause 26), Decoration (Clause 27) and Compliance with Laws (Clause 32) to be performed by the Tenant under this lease; and
- (b) such other services to be agreed between the Landlord and Tenant acting reasonably.

50.2 The Tenant will at the Landlord's request and subject to agreeing terms of engagement pursuant to clause 50.3, use the Landlord's Nominated Facilities Management Provider to perform selected or all Tenant Services within the Property.

50.3 The Landlord and Tenant shall use reasonable endeavours to negotiate, agree and upon agreement enter into a contract which will detail the Tenant Services to be provided by the Landlord's Nominated Facilities Management Provider and the costs and method of payment associated with the provision of the Tenant Services.

50.4 Both parties will following the Landlord's request referred to in Clause 50.2 enter into and conduct the negotiations in relation to the Landlord's Nominated Facilities Management Provider providing the Tenant Services promptly and in good faith.

50.5 Where no agreement is reached between the Landlord and the Tenant in relation to Tenant Services the Tenant will continue to comply with and perform all obligations and covenants contained in the lease which could otherwise have been Tenant Services.

50.6 The Tenant acknowledges that clause 50 shall not operate to excuse the Tenant from any liability to perform any obligation or covenant under this lease or statutory obligation as the occupier of the Property (including, in respect of statutory obligations, any period prior to the term commencement date).

**51. [TENANT'S OPTION TO RENEW**

51.1 The Landlord grants to the Tenant the option to renew set out in Schedule [2] and on the terms contained therein. ]

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## Schedule 1 Guarantee and indemnity

### 1. GUARANTEE AND INDEMNITY

- 1.1 The Guarantor guarantees to the Landlord that the Tenant shall:
- (a) pay the rents reserved by this lease and observe and perform the tenant covenants of this lease and that if the Tenant fails to pay any of those rents or to observe or perform any of those tenant covenants, the Guarantor shall pay or observe and perform them; and
  - (b) observe and perform any obligations the Tenant enters into in an authorised guarantee agreement made in respect of this lease (the **Authorised Guarantee Agreement**) and that if the Tenant fails to do so, the Guarantor shall observe and perform those obligations.
- 1.2 The Guarantor covenants with the Landlord as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under paragraph 1.1 to indemnify and keep indemnified the Landlord against any failure by the Tenant:
- (a) to pay any of the rents reserved by this lease or any failure to observe or perform any of the tenant covenants of this lease; or
  - (b) to observe or perform any of the obligations the Tenant enters into in the Authorised Guarantee Agreement.

### 2. GUARANTOR'S LIABILITY

- 2.1 The liability of the Guarantor under paragraph 1.1(a) and paragraph 1.2(a) shall continue until the end of the term, or until the Tenant is released from the tenant covenants of this lease by virtue of the Landlord and Tenant (Covenants) Act 1995, if earlier.
- 2.2 The liability of the Guarantor shall not be reduced, discharged or otherwise adversely affected by:
- (a) any time or indulgence granted by the Landlord to the Tenant; or
  - (b) any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or in making any demand in respect of any of them; or
  - (c) any refusal by the Landlord to accept any rent or other payment due under this lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property; or

- (d) the Landlord exercising any right or remedy against the Tenant for any failure to pay the rents reserved by this lease or to observe or perform the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement); or
- (e) the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Tenant's liability to pay the rents reserved by this lease or observe and perform the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) including the release of any such security; or
- (f) [a release or compromise of the liability of any one of the persons who is the Guarantor, or the grant of any time or concession to any one of them; or]
- (g) any legal limitation or disability on the Tenant or any invalidity or irregularity of any of the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or any unenforceability of any of them against the Tenant; or
- (h) the Tenant being dissolved, or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs; or
- (i) without prejudice to paragraph 4, the disclaimer of the Tenant's liability under this lease or the forfeiture of this lease; or
- (j) the surrender of the lease in respect of part only of the Property, except that the Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender; or

by any other act or omission except an express [written] release [by deed] of the Guarantor by the Landlord.

2.3 [The liability of each of the persons making up the Guarantor is joint and several.]

2.4 Any sum payable by the Guarantor shall be paid without any deduction, set-off or counter-claim against the Landlord or the Tenant.

### **3. VARIATIONS AND SUPPLEMENTAL DOCUMENTS**

3.1 The Guarantor shall, at the request of the Landlord, join in and give its consent to the terms of any consent, approval, variation or other document that may be entered into by the Tenant in connection with this lease (or the Authorised Guarantee Agreement).



- 3.2 The Guarantor shall not be released by any variation of the rents reserved by, or the tenant covenants in, this lease (or the Tenant's obligations under the Authorised Guarantee Agreement) whether or not:
- (a) the variation is material or prejudicial to the Guarantor; or
  - (b) the variation is made in any document; or
  - (c) the Guarantor has consented, in writing or otherwise, to the variation.

3.3 The liability of the Guarantor shall apply to the rents reserved by and the tenant covenants in this lease (and the Tenant's obligations under the Authorised Guarantee Agreement) as varied except to the extent that the liability of the Guarantor is affected by section 18 of the Landlord and Tenant (Covenants) Act 1995.

#### **4. GUARANTOR TO TAKE A NEW LEASE OR MAKE PAYMENT**

4.1 If this lease is forfeited or the liability of the Tenant under this lease is disclaimed and the Landlord gives the Guarantor notice not later than [six] months after the forfeiture or the Landlord having received notice of the disclaimer, the Guarantor shall enter into a new lease of the Property on the terms set out in paragraph 4.2.

4.2 The rights and obligations under the new lease shall take effect from the date of the forfeiture or disclaimer and the new lease shall:

- (a) be granted subject to the right of any person to have this lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of the grant;
- (b) be for a term that expires at the same date as the end of the Contractual Term of this lease had there been no forfeiture or disclaimer;
- (c) reserve as an initial annual rent an amount equal to the Annual Rent payable under this lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it (subject to paragraph 5) and which is subject to review on the same terms and dates provided by this lease; [and]
- (d) [be excluded from sections 24 to 28 of the LTA 1954; and]
- (e) otherwise be on the same terms as this lease (as varied if there has been any variation).

4.3 The Guarantor shall pay the Landlord's solicitors' costs and disbursements (on a full indemnity basis) and any VAT in respect of them in relation to the new lease and shall execute and deliver to the Landlord a counterpart of the new lease within one month after service of the Landlord's notice.

4.4 The grant of a new lease and its acceptance by the Guarantor shall be without prejudice to any other rights which the Landlord may have against the Guarantor or against any other person or in respect of any other security that the Landlord may have in connection with this lease.

4.5 The Landlord may, instead of giving the Guarantor notice pursuant to paragraph 4.1 but in the same circumstances and within the same time limit, require the Guarantor to pay an amount equal to [six] months Annual Rent and the Guarantor shall pay that amount within 7 days of written demand.

#### **5. RENT AT THE DATE OF FORFEITURE OR DISCLAIMER**

5.1 If at the date of the forfeiture or disclaimer there is a rent review pending under this lease, then the initial annual rent to be reserved by the new lease shall be subject to review on the date on which the term of the lease commences and on the same terms as those that apply to a review of the Annual Rent under this lease, such review date to be included in the new lease.

5.2 If paragraph 5.1 applies, then the review for which it provides shall be in addition to any rent reviews that are required under paragraph 4.2.3.

#### **6. PAYMENTS IN GROSS AND RESTRICTIONS ON THE GUARANTOR**

6.1 Any payment or dividend that the Landlord receives from the Tenant (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Tenant shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.

6.2 The Guarantor shall not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Tenant in respect of any payment made by the Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it shall hold that money on trust for the Landlord to the extent of its liability to the Landlord.

6.3 The Guarantor shall not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Tenant or any other person) in respect of any amount paid or other obligation performed by the Guarantor under this guarantee and indemnity unless and until all the obligations of the Guarantor under this guarantee and indemnity have been fully performed.

#### **7. OTHER SECURITIES**

- 7.1 The Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Tenant in respect of any liability of the Tenant to the Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.
- 7.2 This guarantee and indemnity is in addition to and independent of any other security that the Landlord may from time to time hold from the Guarantor or the Tenant or any other person in respect of the liability of the Tenant to pay the rents reserved by this lease and to observe and perform the tenant covenants of this lease. It shall not merge in or be affected by any other security.
- 7.3 The Guarantor shall not be entitled to claim or participate in any other security held by the Landlord in respect of the liability of the Tenant to pay the rents reserved by this lease or to observe and perform the tenant covenants of this lease.

Executed as a deed by NHS PROPERTY SERVICES LIMITED acting by [NAME OF DIRECTOR], a director, in the presence of:

.....  
[SIGNATURE OF WITNESS]  
[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

.....  
[SIGNATURE OF DIRECTOR]  
Director

Executed as a deed by [NAME OF TENANT] acting by [NAME OF FIRST DIRECTOR], a director and [NAME OF SECOND DIRECTOR OR SECRETARY], [a director **OR** its secretary]

**OR**

Executed as a deed by [NAME OF TENANT] acting by [NAME OF DIRECTOR], a director, in the presence of:

.....  
[SIGNATURE OF WITNESS]  
[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

.....  
[SIGNATURE OF FIRST DIRECTOR]  
Director  
.....  
[SIGNATURE OF SECOND DIRECTOR OR SECRETARY]  
[Director **OR** Secretary]

Executed as a deed by [NAME OF GUARANTOR] acting by [NAME OF FIRST DIRECTOR] and [NAME OF SECOND DIRECTOR/SECRETARY]

Signed as a deed by [NAME OF GUARANTOR]

in the presence of [NAME OF WITNESS]

.....  
Director  
.....  
Director/Secretary  
.....  
[SIGNATURE OF GUARANTOR]

.....  
[SIGNATURE OF WITNESS]

.....  
[NAME OF WITNESS]  
.....

Signed as a deed by [NAME OF  
GUARANTOR]

in the presence of [NAME OF  
WITNESS]

.....  
[ADDRESS OF WITNESS]

.....  
[SIGNATURE OF GUARANTOR]

.....  
[SIGNATURE OF WITNESS]

.....  
[NAME OF WITNESS]

.....  
.....  
[ADDRESS OF WITNESS]

## [SCHEDULE [2]

### Option to Renew

#### DEFINITIONS

- Completion Date:** The date determined in accordance with 1.7 of this Schedule
- New Lease:** The lease of the Property (the terms of which are set out in clause 1.4 of this Schedule) to be granted upon the exercise of the Option.
- Option:** The option granted by the Landlord to the Tenant by this Schedule.
- Option Notice:** Written notice exercising the Option in accordance with the terms of this Schedule.
- Option Period:** The period from the date 12 months prior to the expiry of the Contractual Term up to and including the date 6 months prior to the expiry of the Contractual Term

#### CLAUSE

##### 1. OPTION TO RENEW

- 1.1. The Landlord grants the Tenant, during the Option Period, an option to take the New Lease
- 1.2. The Tenant may exercise the Option at any time during the Option Period by serving an Option Notice on the Landlord. The Option Notice must:
- 1.2.1. be given in writing and served in accordance with the provisions of this lease.
  - 1.2.2. exercise the Option in respect of the whole of the Property and not in respect of part only [; and] [.]
  - 1.2.3. [Be signed by the Guarantor, confirming its agreement to guarantee the Tenant's obligations under the New Lease.]
- 1.3. If the Option is exercised in accordance with the terms of this clause, the Landlord will grant to the Tenant and the Tenant will accept from the Landlord the New Lease, provided that:
- 1.3.1. the Tenant cannot require the Landlord to grant the New Lease to any person other than the Tenant (for the avoidance of doubt a reference to the Tenant in this

Schedule 1 shall be to the individual, individuals or Contracted Practice that represents the Tenant as at the time the Option is exercised and shall not act in any way to make this Option personal to the initial parties named as Tenants to this Lease) [; and] [.]

1.3.2. [the Guarantor agrees to execute and deliver the counterpart New Lease at least [NUMBER] working days prior to the Completion Date.]

1.4. The New Lease shall:

1.4.1. include all of the terms, requirements, covenants and conditions contained in this lease except to the extent that they are inconsistent with the terms of this clause;

1.4.2. be for a term of [ ] years beginning on and including the date after the expiry of this lease and ending on and including [DATE]; **[DN: Term to be no greater than original lease term]**

1.4.3. be at an annual rent of an amount equal to the annual rent payable by the Tenant at the end of the term of this lease as revised on the last day of the Contractual Term of this lease pursuant to the provisions for rent review in this lease; and

1.4.4. [unless otherwise agreed between the Landlord and the Tenant] not include an option to renew the New Lease.

1.5. The Landlord will grant the New Lease with limited title guarantee.

1.6. The parties confirm that:

1.6.1. The Landlord served a notice on the Tenant, as required by section 38A (3)(a) of the LTA 1954 and which applies to the tenancy to be created by the New Lease, [not less than 14 days] before this lease was entered into (a certified copy of which notice is annexed to this lease); [and]

1.6.2. [the Tenant] OR [[NAME OF DECLARANT], who was duly authorised by the Tenant to do so], made a [statutory] declaration dated [DATE] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 (a certified copy of which [statutory] declaration is annexed to this lease)[.];]

1.6.3. [the Landlord served a notice on the Guarantor, as required by section 38A(3)(a) of the LTA 1954 and which applies to the tenancy to be entered into by the

Guarantor pursuant to the New Lease, [not less than 14 days] before this lease was entered into (a certified copy of which notice is annexed to this lease); and]

- 1.6.4. [[the Guarantor] OR [[NAME OF DECLARANT], who was duly authorised by the Guarantor to do so], made a [statutory] declaration dated [DATE] in accordance with the requirements of section 38A(3)(b) of the LTA 1954 (a certified copy of which [statutory] declaration is annexed to this lease).]
- 1.7. Completion of the New Lease will take place on the day after the expiry of the Contractual Term of this lease.
- 1.8. The Option will immediately lapse if this lease is ended pursuant to clause [38] Lease Break or clause [40] Re-entry and Forfeiture.
- 1.9. If the Option is not exercised in accordance with the terms of this Schedule during the Option Period or the Option lapses pursuant to clause 1.8 then, the Tenant will immediately remove all entries relating to the Option registered against the Landlord's title to the Property][the name of the Landlord]. ]