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DATED 6<sup>th</sup> March

2006

MARITIME HOUSING ASSOCIATION LIMITED (1)

and

URBAN FLOAT LIMITED (2)

and

PAUL MURPHY (3)  
(Guarantor)

ORIGINAL  
LEASE

relating to the Studio Accommodation  
at the Arts Village, Lydia Ann Street, Liverpool L1

HOWARTH GOODMAN  
Solicitors  
8 King Street  
Manchester  
M60 8HG

## Lease at a market rent

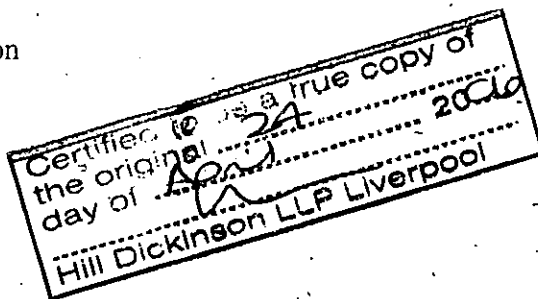
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DATE: 6<sup>th</sup> March 2006

**PARTIES:**

- (1) "The Landlord": **MARITIME HOUSING ASSOCIATION LIMITED** whose registered office is at 1 Commutation Plaza Commutation Row Liverpool L3 8QF (Industrial & Provident Society No. 16213R)
- (2) "The Tenant": **URBAN FLOAT LIMITED** of 68 Rodney Street, Liverpool L1 9AF
- (3) "The Guarantor": **PAUL MURPHY** of 68 Rodney Street, Liverpool L1 9AF

**OPERATIVE PROVISIONS:**

**1 Definitions and interpretation**

**1.1 Definitions:**

In this Lease where the context so allows:

"BUILDING" means the building of which the Premises form part and refers to each and every part of the Building and the service road and any other areas the use and enjoyment of which is appurtenant to the Building whether or not within the structure of the Building

"COMMON PARTS" means those parts of the Building (whether or not within the structure of the Building) to be used in common by any of the Tenant, other tenants and occupiers of the Building, the Landlord, and those properly authorised or permitted by them to do so, and "COMMON PARTS" includes (but without limitation) accessways, courtyards, car park ramp, service areas and other such amenities, but excludes any such parts as may be within the Premises

"CONDUCTING MEDIA" means any of the drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires and mains

"INSURED RISKS" has the meaning given to it in Schedule 2

"INTEREST" means interest at the rate of 3 per cent over the base rate of Barclays Bank PLC for the time being and from time to time (as well after as before judgment), or such other comparable rate as the Landlord may reasonably designate if the base rate ceases to be published, compounded at quarterly rests on 31 March, 30 June, 30 September and 31 December in each year

"LANDLORD" includes all persons from time to time entitled to the immediate reversion to this Lease

"LEASE" is a reference to this lease and includes any documents supplemental to this Lease

"OUTGOINGS" means in relation to the Premises all non-domestic rates (including rates for unoccupied hereditaments), water rates, water charges and all existing and future rates, taxes, charges, assessments, impositions and outgoings whatsoever (whether parliamentary municipal parochial or otherwise) which are now or may at any time be payable, charged or assessed on property or the owner or occupier of property, but "taxes" in this context does not include value added tax, nor any taxes imposed on the Landlord in respect of the yearly rent reserved by this Lease or in respect of a disposal of the interest in immediate reversion to this Lease

"PREMISES" means the property described in Part I of Schedule 1 and refers to each part of the Premises and includes:

- (1) the inside and outside of the windows and other lights and the frames, glass, equipment and fittings relating to windows and lights of the Premises;
- (2) the doors, door frames, equipment, fittings and any glass relating to the doors of the Premises;
- (3) the internal plaster or other surfaces of load bearing walls and columns within the Premises and of walls which form boundaries of the Premises;
- (4) non-load bearing walls completely within the Premises;
- (5) the flooring, raised floors and floor screeds down to the joists or other structural parts supporting the flooring of the Premises;
- (6) the plaster or other surfaces of the ceilings and false ceilings within the Premises and the voids between the ceilings and false ceilings;
- (7) the Conducting Media within and exclusively serving the Premises;
- (8) appurtenances, fixtures, fittings and rights granted by this Lease; and
- (9) machinery and plant situated within and exclusively serving the Premises; and

and improvements and additions made to, and fixtures fittings and appurtenances in, the Premises, but excludes the structural parts, loadbearing framework, roof, foundations, joists and external walls, and the Conducting Media and machinery and plant within but not exclusively serving the Premises

"PREMIUM" means the sum of Four hundred and eighty thousand pounds (£480,000) plus VAT of £84,000

"TENANT" includes the Tenant's successors in title and assigns in whom this Lease may for the time being be vested

"TERM" means the term of years granted by this Lease

## **1.2 Interpretation of restrictions and liability**

1.2.1 Where the Tenant is placed under a restriction in this Lease, the restriction includes the obligation on the Tenant not to permit or allow the infringement of the restriction by any person.

1.2.2 References to "liability" include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.

## **1.3 Clauses and clause headings**

1.3.1 The clause and paragraph headings in this Lease are for ease of reference only and are not to be taken into account in the construction or interpretation of any covenant condition or proviso to which they refer.

1.3.2 Unless the context otherwise requires, references:

1.3.2.1 to numbered clauses and Schedules are references to the relevant clause in or Schedule to this Lease; and

1.3.2.2 in any Schedule to a numbered paragraph are references to the relevant paragraph in that Schedule.

## **1.4 Singular and plural meanings**

Words in this Lease importing the singular meaning, where the context so allows, include the plural meaning and vice versa.

## **1.5 Statutes and statutory instruments**

References in this Lease to any statutes or statutory instruments include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to them.

## **1.6 Gender**

Words in this Lease importing any one gender include both other genders and may be used interchangeably, and words denoting natural persons where the context so allows include corporations and vice versa.

## **1.7 Groups of companies**

For the purposes of this Lease, two companies are members of the same group if one is the subsidiary of the other, or both are subsidiaries of a third company, "subsidiary" having the meaning given to it in s 736 of the Companies Act 1985.

## **2 The letting terms**

In consideration of the Premium paid by the Tenant to the Landlord on the date hereof and of the rent reserved by and the covenants in this Lease:

2.1 the Landlord LETS with full title guarantee to the Tenant:

2.1.1 ALL the Premises;

2.1.2 TOGETHER WITH the rights set out in Schedule 1 Part 2; and

2.1.3 EXCEPT AND RESERVED to the Landlord the rights set out in Schedule 1 Part 3;

2.2 for the TERM of 125 years commencing on \_\_\_\_\_ 2005 determinable as provided by this Lease; and

2.3 the Tenant PAYING during the Term;

2.3.1 the yearly peppercorn rent

2.3.2 as additional rent:

2.3.2.1 the monies payable by the Tenant under Schedules 2 and 3 commencing on \_\_\_\_\_ 2005;

2.3.2.2 interest payable by the Tenant under the terms of this Lease;

2.3.2.3 the monies expended by the Landlord by way of remedy of default of the Tenant in compliance with its obligations under this Lease; and

2.3.2.4 such value added tax as may be chargeable on the rent and the other additional rents reserved by this Lease.

## **3 Tenant's covenants**

THE TENANT COVENANTS with the Landlord during the Term and any extension by statute of the tenancy created by this Lease as follows:

### **3.1 Rent**

3.1.1 To pay the yearly rent reserved by this Lease, free from any deductions and rights of set-off, at the times and in the manner required in Clauses 2.3.1 and 2.3.2 by means of

a standing order to the Tenant's bankers.

3.1.2 To pay the additional rents reserved by this Lease at the times and in the manner specified in relation to each of them.

### 3.2 Interest

3.2.1 To pay Interest on so much of the monies payable under this Lease as remain unpaid twenty eight days after they have become due from the date that they became due until the payment is made to the Landlord.

3.2.2 To pay Interest under Clause 3.2.1 for any period during which the Landlord properly refuses to accept the tender of payment because of an unremedied breach of covenant of the Tenant.

### 3.3 Outgoings and contributions

3.3.1 To pay Outgoings.

3.3.2 To refund to the Landlord on demand where Outgoings relate to the whole or part of the Building or other property including the Premises, a fair and proper proportion attributable to the Premises.

3.3.3 To pay for all gas and electricity consumed on the Premises; all charges for meters, and all standing charges.

3.3.4 To pay to the Landlord on demand a fair and proper proportion of the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding:

3.3.4.1 any party walls, fences, gutters, drains, roadways, pavements, access ways and service areas which are or may be used or enjoyed by an occupier of the Premises or the Building in common with any other person or persons; and

3.3.4.2 the structural parts, loadbearing framework, roof, foundations, joists and external walls of the Building

### 3.4 Repair

3.4.1 Well and substantially to repair maintain and clean the inside of the Premises and to keep the inside of the Premises in good and substantial repair maintained and in clean condition (except in respect of damage by Insured Risks as allowed in Schedule 2).

### 3.5 Decorations

To decorate the inside of the Premises in the year 2009 and from then in every subsequent fourth year of the Term and in the last three months of the Term (howsoever it may



terminate) with two coats of good quality paint or polish, and with paper for those parts normally papered, or other suitable and appropriate materials of good quality, in a workmanlike manner (such decorations in the last three months of the Term to be executed in such colours patterns and materials as the Landlord may reasonably require);

### **3.6 Landlord's right of inspection and right of repair**

- 3.6.1 To permit the Landlord and its employees or agents at all reasonable times and upon reasonable notice to enter into inspect and view the Premises and examine their condition and also to take a schedule of fixtures in the Premises .
- 3.6.2 If any breach of covenant, defects, disrepair, removal of fixtures or unauthorised alterations or additions are found on inspection for which the Tenant is liable, then, on notice from the Landlord, to execute to the reasonable satisfaction of the Landlord or its Surveyor all repairs works replacements or removals required within two months (or sooner if necessary) after the receipt of the notice.
- 3.6.3 If the Tenant fails to comply with a notice under clause 3.6.2, the Landlord may itself or by its workpeople or agents enter the Premises and execute the repairs works replacements or removals.
- 3.6.4 To pay to the Landlord on demand all expenses so incurred under clause 3.6.3 (such expenses and any Interest on them to be recoverable as if they were rent in arrear).
- 3.6.5 To permit the Landlord and its employees or agents at all reasonable times the right of access to the Premises for the gas meters to be read on a regular basis.

### **3.7 Yield up in repair at the end of the Term**

At the termination of this Lease or at such later time as the Landlord recovers possession of the Premises from the Tenant:

- 3.7.1 quietly to yield up the Premises (with all additions and improvements to the Premises and all fixtures in the Premises, other than tenant's fixtures which the Tenant may be entitled to remove) repaired, maintained, cleaned, decorated and kept in accordance with the Tenant's covenants in this Lease (except in respect of damage by Insured Risks as allowed in Schedule 2);
- 3.7.2 if so requested by the Landlord, to remove from the Premises all the Tenant's belongings - that is to say trade fixtures and fittings and all notices, notice boards and signs bearing the name of or otherwise relating to the Tenant (including in this context any persons deriving title to the Premises under the Tenant) or its business; and
- 3.7.3 to make good to the satisfaction of the Landlord all damage to the Premises and the Building resulting from the removal of the Tenant's belongings from the Premises .

### **3.8 Landlord's right of entry for repairs, etc**

- 3.8.1 To permit the Landlord or other owners of the Building or any adjoining or neighbouring property and their respective agents, workmen and employees to enter the Premises at reasonable times, after giving to the Tenant written notice (except in an emergency):
- 3.8.1.1 to alter, maintain or repair the Building or the adjoining Premises or property of the Landlord or person so entering; or
  - 3.8.1.2 to construct, alter, maintain, repair or fix anything or additional thing serving the Building and running through or on the Premises ; or
  - 3.8.1.3 to comply with an to any third party having legal rights over the Building and the Premises ; or
  - 3.8.1.4 in exercise of a right or to comply with an obligation of repair maintenance or renewal under this Lease; or
  - 3.8.1.5 in connection with the development of the remainder of the Building or any adjoining or neighbouring land or Premises including the right to build on or into or in prolongation of any boundary wall of the Premises - without payment of compensation for any nuisance annoyance inconvenience damage or loss caused to the Tenant, subject to the Landlord (or other person so entering) exercising the right in a reasonable manner and making good any damage caused to the Premises without unreasonable delay.
- 3.8.2 on becoming aware of any defects in the Building, which are "relevant defects" for the purposes of Section 4 of the Defective Premises Act 1972, to give notice of them to the Landlord.

### 3.9 Alterations

- 3.9.1 Not to make any alterations or additions to or affecting the structure or exterior of the Premises , or the appearance of the Premises as seen from the exterior.
- 3.9.2 Not without the consent of the Landlord to make any other alterations or additions to the Premises .(but the erection, alteration or removal by the Tenant of internal demountable partitioning, and consequential adjustments of ducting, ceiling tiles, light fittings and wiring, is authorised without such consent if the plans of the partitions (or details of the alteration or removal of partitioning) are immediately deposited with the Landlord).
- 3.9.3 Not to install or erect any exterior lighting, shade, canopy or awning or other structure in front of or elsewhere outside the Premises .
- 3.9.4 On the termination of this Lease, to the extent required by the Landlord, to reinstate the Premises to the condition in which they were in at the grant of this Lease, such reinstatement to be carried out under the supervision and to the reasonable satisfaction of the Landlord or the Landlord's Surveyor.

3.9.5 To procure that any alterations or additions to the Premises permitted by the Landlord under clause 3.9.2 be carried out only by a contractor approved by the Landlord (such approval not to be unreasonably withheld).

### **3.10 Alienation**

3.10.1 Not to assign or charge or underlet part only of the Premises without the written consent of the Landlord such consent not to be unreasonably withheld except when the intended user is for a bar, nightclub, retail, restaurant or food outlet when such consent will not be given in any case.

3.10.2 Not to underlet the whole or any part of the Premises without the written consent of the Landlord such consent not to be unreasonably withheld except when the intended user is for a bar, nightclub, retail, restaurant or food outlet when such consent will not be given in any case.

### **3.11 User**

3.11.1 Not without the consent of the Landlord such consent not to be unreasonably withheld or delayed to use the ground Floor part of the Premises shown edged red on the attached Plan otherwise than for the making of physical artworks such as paintings, sculpture, print, fabric, design studios such as graphics, architecture and typography; for technical craft working such as photography, video, computer graphics for music and performance, rehearsal and recording and for the avoidance of doubt not to be used for any industrial manufacturing process.

3.11.2 Nothing in this Lease implies or is to be treated as a warranty to the effect that the use of the Premises for those purposes is in compliance with all town planning laws and regulations now or from time to time in force.

### **3.12 Restrictions affecting use of the Premises**

3.12.1 Not to erect or install in the Premises any engine, furnace, plant or machinery which causes noise fumes or vibration which can be heard smelled or felt outside the Premises

3.12.2 Not to store in the Premises any petrol or other specially inflammable explosive or combustible substance.

3.12.3 Not to store any hazardous and/or inflammable materials on the Premises without obtaining the written agreement of the Local Planning Authority (in consultation with the Health and Safety Executive and the Merseyside Fire and Civil Defence Authority as appropriate) prior to the use of the studio spaces commencing and providing any written consents to the Landlord within 7 days of receipt.

3.12.4 Not to use the Premises for any noxious, noisy or offensive trade or business nor for any illegal or immoral act or purpose.

- 3.12.5 To ensure that noise limitation devices shall be attached to control the emission of sound levels both within and from the Premises, the noise generated not to give rise to noise levels within habitable rooms in the Building which exceeds NR30 and all extract ducts be acoustically insulated from associated fans and the structure of the Premises and to obtain the written approval of the Local Planning Authority (in consultation with the Council's Environmental Health Service).
- 3.12.6 To ensure that the making of sound recordings should only take place within dedicated insulated recording booths/studio spaces and to obtain the approval of the Local Planning Authority (in consultation with the Council's Environmental Health Service)
- 3.12.7 Not to hold any sales by auction on the Premises .
- 3.12.8 Not to hold in or on the Premises any exhibition public meeting or public entertainment.
- 3.12.9 Not to permit any vocal or instrumental music in the Premises so that it can be heard outside the Premises .
- 3.12.10 Not to permit livestock of any kind to be kept on the Premises .
- 3.12.11 Not to do anything in the Premises which may be or grow to be a nuisance, annoyance, disturbance, inconvenience or damage to the Landlord or its other tenants of the Building or to the owners tenants and occupiers of adjoining and neighbouring properties.
- 3.12.12 Not to load or use the floors, walls, ceilings, or structure of the Premises or the Building so as to cause strain damage or interference with the structural parts, loadbearing framework, roof, foundations, joists and external walls of the Premises Building.
- 3.12.13 Not to overload the electrical installation or Conducting Media in the Premises and/or the Building
- 3.12.14 Not to do or omit to do anything which may interfere with or which imposes an additional loading on any ventilation, heating, air conditioning or other plant or machinery serving the Premises
- 3.12.15 Not to use the Premises as a betting shop or betting office.
- 3.12.16 Not to use the Premises for the sale of alcoholic liquor for consumption either on or off the Premises .
- 3.12.17 Not to allow any person to sleep in the Premises nor to use the Premises for residential purposes.
- 3.12.18 Not at any time to place in the Common Parts any goods, mats, trade empties, rubbish or other obstruction.

- 3.12.19 Not to accumulate trade empties on the Premises .
- 3.12.20 Not to place leave or install any articles merchandise goods or other things in front of or elsewhere outside the Premises .
- 3.12.21 Not to permit the drains to be obstructed by oil grease or other deleterious matter, but to keep thoroughly cleaned the Premises and the drains serving the Premises as often as may be necessary.
- 3.12.22 To observe and perform or cause to be observed and performed the rules and regulations from time to time made by the Landlord for the orderly and proper use of the Common Parts and the security of the Building.

### 3.13 Advertisements and signs

- 3.13.1 Not to place or display on the exterior of the Premises or on the windows or inside the Premises so as to be visible from the exterior of the Premises any name, writing, notice, sign, illuminated sign, display of lights, placard, poster sticker or advertisement other than:
    - 3.13.1.1 a suitable sign of a size and kind first approved by the Landlord or the Landlord's Surveyor showing the Tenant's name and trade not to be unduly withheld or delayed;
    - 3.13.1.2 such other notices as the Landlord may in its discretion approve; and
    - 3.13.1.3 the name of the Tenant signwritten on the entrance doors of the Premises in a style and manner approved by the Landlord or the Landlord's Surveyor; and
  - 3.13.2 If any name, writing, notice, sign, placard, poster, sticker or advertisement is placed or displayed in breach of these provisions, to permit the Landlord to enter the Premises and remove such name, writing, notice, sign, placard, poster, sticker or advertisement, and to pay to the Landlord on demand the expense of so doing
- ### 3.14 Office hours
- 3.14.1 Not to leave the Premises empty or unattended, but to keep the Premises open for the use of a office between the hours of 08:00 and 22.00 from Monday to Friday inclusive.
  - 3.14.2 At all times to keep the interior of the Premises where it is visible from the exterior of the Premises attractively laid out and furnished and with goods well displayed, and to keep display windows or showcases of the Premises clean and adequately and attractively dressed to the reasonable satisfaction of the Landlord.
  - 3.14.3 Not to load or unload vehicles except in the servicing areas or loading bays provided for such purpose, and in the course of such loading or unloading:

3.14.3.1 to comply with any regulations of the Landlord and the requirements of the local highway authority; and

3.14.3.2 not to cause avoidable obstruction.

### **3.15 Hours of user**

3.15.1 Not to use the Premises, and the Common Parts for the purposes of access to and egress from the Premises, otherwise than between the hours set out in 3.14.1.

3.15.2 Not to use the Premises on Good Friday, Christmas Day or other general holidays and days appointed for public thanksgiving or prayer except between the hours of 09:00 am to 5:00pm save that opening on other Public Holidays will be permitted by agreement with the Landlord providing details of opening are provided 28 days before approval is required.

### **3.16 Compliance with statutes, etc**

3.16.1 Except where such liability may be expressly within the Landlord's covenants in this Lease to comply in all respects with the provisions of all statutes for the time being in force and requirements of any competent authority relating to the Premises or anything done in or on them by the Tenant, and to keep the Landlord indemnified against liability in consequence of the Tenant's failure to comply with them

3.16.2 In particular but without affecting the general operation of clause 3.17.1:

3.16.2.1 to execute all works and do all things on or in respect of the Premises which are required under the Offices Shops and Railway Premises Act 1963;

3.16.2.2 to comply with all requirements under any present or future statute, order, by-law or regulation as to the use or occupation of or otherwise concerning the Premises

3.16.2.3 to execute with all due diligence (commencing work within two months or sooner if necessary and then proceeding continuously) all works to the Premises for which the Tenant is liable under this clause 3.17 and of which the Landlord has given notice to the Tenant;

and, if the Tenant does not comply with clause 3.17.2.3, to permit the Landlord to enter the Premises to carry out such works, and to indemnify the Landlord on demand for the expenses of so doing (including surveyors' and other professional advisers' fees), such expenses and any Interest on them to be recoverable as if they were rent in arrear

### **3.17 Planning permissions**

3.17.1 Not without the consent of the Landlord such consent not to be unreasonably withheld or delayed to make any application under the Town and Country Planning Acts, as

defined in the Town and Country Planning Act 1990, to any local planning authority for permission to develop, including change of use of, the Premises .

3.17.2 To indemnify the Landlord against any development charges, other charges and expenses payable in respect of such applications and to reimburse to the Landlord the costs it may properly incur in connection with such consent.

3.17.3 In the case of a change of use of the Premises to keep the Landlord indemnified against any expense incurred in consequence of the use of the Premises reverting to that existing before the change of use was made.

3.17.4 Forthwith to give to the Landlord full particulars in writing of the grant of planning permission.

3.17.5 Not to implement any planning permission if the Landlord makes reasonable objection to any of the conditions subject to which it has been granted.

### **3.18 Compliance with town planning and environmental requirements**

3.18.1 To perform and observe the requirements of statutes and regulations relating to town and country planning and environmental protection applying to the Premises, and to obtain any development or other consent permit or licence by reason of the development or manner of use of or on the Premises by the Tenant.

3.18.2 To keep the Landlord indemnified against liability by reason of the Tenant's failure to obtain any requisite development or other consent permit or licence or in complying with the requirements of statutes and regulations.

3.18.3 To give full particulars to the Landlord of any notice, or proposal for a notice, or order or proposal for an order, made given or issued to the Tenant under any statute or regulation relating to town and country planning, environmental protection or otherwise within seven days after the receipt of any such by the Tenant.

3.18.4 Forthwith to take all reasonable and necessary steps to comply with any such notice or order.

3.18.5 At the request and cost of the Landlord, to make or join with the Landlord in making such objections or representations against or in respect of any proposal for such notice or order as the Landlord may consider expedient.

### **3.19 Claims made by third parties**

3.19.1 To keep the Landlord indemnified against liability in respect of any accident, loss or damage to person or property in the Premises .

3.19.2 To keep the Landlord indemnified against liability of the Landlord to third parties by

reason of breach by the Tenant of its obligations in this Lease.

### **3.20 Expenses of the Landlord**

To pay to the Landlord on demand all expenses (including solicitors' costs, bailiffs' fees and surveyors' and architects' fees) incurred by the Landlord:

3.20.1 incidental to or in proper contemplation of the preparation and service of a schedule of dilapidations during or after the termination of this Lease and/or a notice under section 146 and 147 of the Law of Property Act 1925, even if forfeiture is avoided otherwise than by relief granted by the court;

3.20.2 in the recovery or attempted recovery of arrears of rent or additional rent due from the Tenant; and

3.20.3 in connection with every application for any consent or approval made under this Lease, whether or not consent or approval is given.

### **3.21 Obstruction of windows or lights and easements**

3.21.1 Not to stop up or obstruct any windows of the Premises or any other buildings belonging to the Landlord.

3.21.2 Not to permit any easement or similar right to be made or acquired into against or on the Premises .

3.21.3 Where any such easement or right is or is attempted to be acquired, immediately to give notice of the circumstances to the Landlord, and at the request and cost of the Landlord to adopt such course as it may reasonably require for preventing the acquisition of the easement or right to such easement.

### **3.22 Cleaning and insurance of windows**

3.22.1 To keep clean the glass in the windows of the Premises .

3.22.2 To keep insured the glass in the windows and the shop front of the Premises in the joint names of the Landlord and the Tenant in a sum equal to the full replacement cost against damage with an insurer of repute approved by the Landlord; and

3.22.2.1 whenever required to produce to the Landlord the policy and the receipt for the last premium for such insurance; and

3.22.2.2 to lay out the monies received in respect of such insurance in replacement with glass of at least the same quality and thickness as before, and to make good any deficiency out of the Tenant's own resources.

### **3.23 Value added tax**



- 3.23.1 To pay value added tax on taxable supplies of goods and services made by the Landlord in connection with this Lease, the consideration for which is to be treated as exclusive of value added tax chargeable on the payment.
- 3.23.2 Where the Landlord is entitled under this Lease to recover from the Tenant the costs of goods and services supplied to the Landlord, but in respect of which the Landlord makes no taxable supply to the Tenant, to indemnify the Landlord against so much of the input tax on the cost for which the Landlord is not entitled to credit allowance under section 26 of the Value Added Tax Act 1994.
- 3.24 Notices "to let" and "for sale"**
- 3.24.1 To allow the Landlord or its agents to enter the Premises at any time within six months next before the termination of this Lease to fix on the Premises a notice board for reletting the Premises
- 3.24.2 Not to remove or obscure any such notice board.
- 3.24.3 To permit all persons authorised by the Landlord or its agents by notice to view the Premises at reasonable hours without interruption in connection with any such letting or sale.
- 3.25 All waste materials generated by the users of the Premises whether to be discarded by recycling or refuse shall be stored within the purpose built facilities provided and shall not at any time be stored outside the designated facility and all materials kept within the cartilage of the Premises until collected.
- 3.26 The operation of the studio spaces and any kitchens shall be fitted with a scheme for the containment, acoustic insulation, filtration and ventilation of any fixed plant or machinery such as woodworking or stone cutting equipment, paint spraying apparatus or photo processing plant and be submitted to and agreed by the Local Planning Authority (in consultation with the Council's Environmental Health Service and Landlord) prior to the installation and use of such plant and machinery commencing.
- 3.27 On or before completion of any assignment the Tenant shall pay to the Landlord 0.50% of the premium (if any) of the Premises and which the Landlord considers to be a reasonable sum to provide a sinking fund for depreciation and the cost or anticipated costs of renewal and replacement of the plant within the Building upgrading and improvements to the Building and other items of future contingent capital expenditure as are not included in the Service Charge as more particularly specified in Schedule 3 of this Lease and the allocation of the items of expenditure as between the Service Charge and the fund for which provision is made in this Clause shall be at the sole discretion of the Landlord.

**4 Provisos**

THE PARTIES AGREE to the following provisos:

**4.1 Proviso for Re-Entry**

The Landlord may terminate this Lease by re-entering the Premises (or a part of them) itself or by an authorised agent if any rent remains unpaid twenty one days after becoming due for payment (whether or not formally demanded) without prejudice to any right of action of either party in respect of any previous breach by the other of this Lease.

PROVIDED THAT if a charge of the Premises subsists:-

- (i) the Landlord shall not forfeit this lease until one month after service of written notice on the Chargee (at the address given when the Chargee is registered) of the Landlord's intention specifying the breach complained of and
- (ii) if the breach is one set out in clause 4.1 above the landlord shall not forfeit the Lease if within the one month period the Chargee or some other person acceptable to the Landlord entered into and delivers to the Landlord a Deed in a form required by the Landlord covenanting to pay the rents and observe and perform the tenant's covenants in this Lease.

**4.2 Power for Landlord to deal with adjoining property**

4.2.1 The Landlord may deal as it thinks fit with other property adjoining or nearby belonging to the Landlord, and may erect or permit to be erected on such property any buildings irrespective of whether they affect or diminish the light or air which may now or at any time be enjoyed by the Tenant in respect of the Premises

4.2.2 The Landlord may at all times, without obtaining any consent from or making any arrangement with the Tenant, alter reconstruct or modify in any way whatsoever or change the use of the Common Parts so long as proper means of access to and egress from the Premises are afforded and essential services are maintained at all times

**4.3 Arbitration of disputes between tenants**

If any dispute or disagreement at any time arises between the Tenant and the tenants and occupiers of the Building or any adjoining or neighbouring property belonging to the Landlord relating to the Conducting Media serving or easements or rights affecting the Premises the Building or any adjoining or neighbouring property, the dispute or disagreement is to be determined by the Landlord by which determination the Tenant is to be bound

**4.4 Exemption from liability in respect of services**

4.4.1 The Landlord is not to be liable to the Tenant for any loss damage or inconvenience which may be caused by reason of:

4.4.1.1 temporary interruption of services during periods of inspection maintenance repair

and renewal;

4.4.1.2 breakdown of or defect in any plant and machinery services or Conducting Media in the Premises the Building or neighbouring or adjoining property; or

4.4.1.3 events beyond the reasonable control of the Landlord

4.4.2 The Landlord's duty of care to the Tenant's employees agents workpeople and visitors in or about the Building does not go beyond the obligations involved in the common duty of care (within the meaning of the Occupiers Liability Act 1957) or the duties imposed by the Defective Premises Act 1972.

#### **4.5 Accidents**

The Landlord is not to be responsible to the Tenant or the Tenant's licensees nor to any other person for any:

4.5.1 accident happening or injury suffered in the Premises ; or

4.5.2 damage to or loss of any goods or property sustained in the Building (whether or not due to any failure of any security system for which the Landlord is in any way responsible); or

4.5.3 act omission or negligence of any employee of the Landlord in the Building

#### **4.6 Compensation for disturbance**

The Tenant is not entitled on quitting the Premises to claim from the Landlord any compensation unless and to the extent that any statutory right to compensation precludes the operation of this clause

#### **4.7 Removal of property after determination of term**

4.7.1 If after the Tenant has vacated the Premises following the termination of this Lease any property of the Tenant remains in the Premises, and the Tenant fails to remove it within fourteen days after being requested in writing by the Landlord to do so, the Landlord may as the agent of the Tenant sell such property and hold the proceeds of sale, after deducting the costs and expenses of removal storage and sale reasonably and properly incurred by it, to the order of the Tenant.

4.7.2 The Tenant will indemnify the Landlord against any liability incurred by it to any third party whose property has been sold by the Landlord in the bona fide mistaken belief (which is to be presumed unless the contrary be proved) that it belonged to the Tenant and was liable to be dealt with as such under this clause 4.7

#### **4.8 Notices consents and approvals**

4.8.1 Any notice served under or in connection with this Lease is to be in writing and be treated as properly served if compliance is made with either the provisions of Section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962) or Section 23 of the Landlord and Tenant Act 1927

4.8.2 Any consent or approval under this Lease is required to be obtained before the act or event to which it applies is carried out or done and is to be treated as effective only if the consent or approval is given in writing

## 5 Landlord's covenants

THE LANDLORD COVENANTS with the Tenant as follows:

### 5.1 Quiet enjoyment

The Tenant, paying the rents reserved and performing the Tenant's covenants in this Lease, may lawfully and peaceably enjoy the Premises throughout the Term without interruption by the Landlord or by any person lawfully claiming through under or in trust for the Landlord

## 6 Guarantor Covenants

### 6.1 Guarantee

6.1.1 The Surety guarantees to the Landlord that the Tenant will pay the rents reserved by, and perform and observe all the Tenant's covenants in this Lease throughout the Term and any extension by statute of the tenancy created by this Lease, and the Surety shall pay and make good to the Landlord on demand any losses, damages, costs and expenses suffered or incurred by the Landlord by reason of any failure of the Tenant to do so.

6.1.2 The guarantee in cl. 7.1.1 remains in force for so long as, and to the extent that, the Tenant is not released by operation of law (otherwise than by disclaimer) from liability for the Tenant's covenants in this Lease.

6.1.3 The Surety also guarantees to the Landlord that the Tenant will observe and perform its obligations under an authorised guarantee agreement to be entered into by operation of the Tenant under the terms of this Lease, and shall pay and make good to the Landlord on demand any losses damages costs and expenses suffered or incurred by the Landlord if the Tenant fails to do so.

6.1.4 For the purposes of this clause 8, references to the Tenant are to the Tenant in relation to whom the Surety's guarantee is given, but not to a lawful assignee of that Tenant.

### 6.2 No waiver or release of liability

The Surety is not to be released from liability under these provisions by reason of:

6.2.1 any forbearance the granting of time or any other indulgence on the part of the Landlord, including (but without affecting the general operation of this cl. 7.2) any granting or extension of time under or varying the procedure set out in sch. 2, para. 5; or

6.2.2 any variation of this Lease, whether or not made with the consent of the Surety.

### 6.3 Surety to accept new lease upon disclaimer

6.3.1 If this Lease is determined by re-entry by the Landlord or is effectively determined by disclaimer, the Surety shall, if the Landlord by notice within three months after the date of determination so requires, take from the Landlord a lease of the Premises.

- 6.3.2 The lease to be granted to the Surety under cl. 7.3.1 is to be on the following terms:
- 6.3.2.1 the term is to commence on the date of termination of this Lease and to be equal to the residue of the Term which would have remained unexpired at that date if this Lease had not then been terminated;
  - 6.3.2.2 the yearly rent is to be the same as would have been payable under this Lease if it had continued undetermined and, if a rent review operative from a review date before the grant of the lease had not been completed, the Surety shall complete the rent review with the Landlord as if it had been the Tenant under this Lease in order to establish the commencing yearly rent under the lease;
  - 6.3.2.3 the lease is otherwise to be on the same terms and conditions as would have applied under this Lease if it had continued undetermined; and
  - 6.3.2.4 the Surety is to succeed to the rights and assume the liability of the Tenant under this Lease as if the Lease had continued undetermined.
- 6.4 Subordination of rights of the Surety
- 6.4.1 The provisions of cl. 7.4.2 are to apply unless the Landlord has no subsisting claim against the Tenant for non-payment of rent or for breach of obligation under this Lease.
  - 6.4.2 The Surety may not:
    - 6.4.2.1 seek to recover from the Tenant, or any third party, whether directly or by way of set-off lien counterclaim or otherwise, or accept any money or other property or security or exercise any rights in respect of any sum which may be or become due to the Surety on account of the failure of the Tenant to observe and perform the tenant covenants in this Lease;
    - 6.4.2.2 in competition with the Landlord claim, prove or accept any payment in a winding-up, liquidation, bankruptcy, composition with creditors or other form of arrangement on the insolvency of the Tenant, for money owing to the Surety by the Tenant; nor
    - 6.4.2.3 exercise any right or remedy in respect of an amount paid by the Surety under this Lease or any liability incurred by the Surety in observing performing or discharging the obligations and covenants of the Tenant.
  - 6.4.3 The Surety warrants that it has not taken, and undertakes with the Landlord that it shall not without the consent of the Landlord take, any security from the Tenant in respect of this guarantee and, if any security is nevertheless taken, it is to be held on trust for the Landlord as security for the respective liabilities of the Surety and the Tenant.

## **7 Obligations in Schedules to this lease**

The Landlord and the Tenant mutually covenant to observe and perform their respective obligations and the conditions in the Schedules

## **8. Services**

Subject to receipt from the Tenant of the monies hereby reserved to maintain in good condition the Building Common Parts conduits and other matters set out in the schedule under the provision of Essential Services and Heads of Charge

## **9 Expert determination**

meaning if Section 42 of the Landlord and Tenant Act 1954) to take the underlease, provided that the group company is reasonably acceptable to the Tenant.

10.2.5 Completion of the surrender or, as the case may be, the underlease shall take place on the date which is 6 weeks after the date of the Landlord's acceptance of the Offer (or if that is not a working day, the next working day after that date) and shall be on the following terms :

- the arrangement to surrender or grant the underlease shall incorporate the edition of the Standard Commercial Property Conditions current at the date on which the Tenant makes the offer, or, if there is none, then such other set of conditions for the sale and purchase of commercial property as may be in general use at that time which may be agreed by the Landlord and the Tenant (or in absence of agreement, which may be nominated by the Landlord, acting reasonably), so far as they are applicable to and not varied (expressly or by implication) by or inconsistent with the provisions of this Clause;
- the surrender or grant of the underlease shall be made subject to any local land charges, whether registered or not;
- the surrender or grant of the underlease shall be on the basis that the Tenant knows of no overriding interests affecting its estate and interest on the Premises other than those disclosed in the Assignment Notice or the Underletting Notice and those apparent on inspection;
- in the case of a surrender, completion shall not prejudice the rights of the Landlord in respect of arrears of rent or any antecedent breach of covenant by the Tenant;
- where VAT is payable on the premium (if any), the Tenant must produce a VAT invoice addressed to the Landlord (or, where the Underlease is granted to a company within the same group as the Landlord, within that company) and the Landlord (or that company) must pay VAT on the premium (if any) at the rate in force at the appropriate date.

10.2.6 If the Landlord does not accept the Offer within the Acceptance Period, then it shall be deemed to have refused it.

10.2.7 If the Landlord does not accept the Offer within the acceptance Period, the Tenant may during the period of 180 days from the end of the Acceptance Period either: -

- assign this lease to the proposed assignee referred to in the Assignment Notice for an amount not less than the premium and on terms no less beneficial to the Tenant and no more beneficial to the proposed assignee than those specified in the Assignment Notice;
- or,
- as the case may be, grant the proposed underlease to the proposed undertenant referred to in the Underletting Notice for an amount not less than the premium and at the rent and on terms no less beneficial to the Tenant and no more beneficial to the proposed undertenant than those specified in the Underletting Notice.

10.3 Underletting clause

Not to underlet the whole or any part of the premises except:-

- 9.1 In this Lease, where any issue is required to be dealt with by, or submitted for the determination of, an independent expert, the following provisions of this clause are to apply but, in case of conflict with other provisions specifically relating to expert determination elsewhere in this Lease, those other provisions are to prevail to the extent of the conflict.
- 9.2 The expert is to be appointed by the parties jointly, or if they cannot or do not agree on the appointment, appointed by whichever of the following is appropriate:-
- 9.2.1 the President for the time being of the Royal Institution of Chartered Surveyors;
- 9.2.2 the President for the time being of the Institute of Chartered Accountants in England and Wales or in each such case the duly appointed deputy of the president or other person authorised by him to make appointments on his behalf;
- 9.3 the person so appointed is to act as an expert, and not as an arbitrator;
- 9.4 the expert so appointed must afford the parties opportunity within such a reasonable time limit as he may stipulate to make representations to him (accompanied by professional rental valuations, reports or other appropriate evidence in the relevant circumstances) and permit each party to make submissions on the representations of the other; and
- 9.5 the fees and expenses of the expert, including the cost of his nomination, are to be borne as the expert may direct (but in the absence of such a direction - by the parties in equal shares), but (unless they otherwise agree) the parties will bear their own costs with respect to the determination of the issue by the expert.
- 9.6 One party may pay the costs required to be borne by another party if they remain unpaid for more than 21 days after they become due and then recover these and any incidental expenses incurred from that other party on demand.
- 9.7 If the expert refuses to act, becomes incapable of acting, or dies, the Landlord or the Tenant may require the appointment of another expert in his stead under paragraph 8.2.
- 9.8 The determination of the independent expert, except in case of manifest error, is to be binding on the Landlord and the Tenant.

## 10 Option to Surrender Back

### 10.1 Definitions

"The Acceptance Period" the period of 30 days from and including the Landlord's receipt of an Assignment Notice or an Underletting Notice (or, if later, [7] days after being given the evidence that the assignment or underletting has been negotiated in good faith and at arm's length);

"Assignment Notice" a written notice signed by the Tenant containing full and accurate particulars of :

- the period assignee ;
- the terms of the proposed assignment, including the amount of any premium (exclusive of VAT), both of which shall have been negotiated in good faith and at arm's length; and
- any consideration for the tenant's fixtures and fittings which are included in the assignment, and offering to surrender this lease to the Landlord on the same terms ;  
"the offer" the Tenant's offer to surrender this lease to the Landlord contained in the Assignment Notice or, as the case may be, to grant an underlease to the Landlord contained in the Underletting Notice;
- \*78 "Underletting Notice" a written notice signed by the Tenant containing full and accurate particulars of :
  - the proposed undertenant ;
  - [the premises to be underlet ;]
- the terms of the proposed underlease including a copy of the proposed underlease in the form agreed by the proposed undertenant, and also including the amount of the rent payable (exclusive of VAT) and the amount of any premium (exclusive of VAT) , all of which shall have been negotiated in good faith and at arm's length; and
- a warranty from the Tenant that the proposed underlease complies with the terms of this lease, and offering to grant an underlease to the Landlord on the same terms;

## 10.2 Offer Back Clause

10.2.1 Not to apply to the Landlord for consent to the assignment of the whole of the Premises or to the underletting of the whole [or any part] of the Premises without first giving to the Landlord an Assignment Notice or, as the case may be, an Underletting Notice, in each case in duplicate.

Note : Check the forms of alienation permitted by the lease. If no underletting of part is allowed, delete the words in square brackets.

10.2.2 The Landlord may require the tenant to provide written evidence reasonably satisfactory to the Landlord that the terms set out in the Assignment Notice or the Underletting Notice have been negotiated in good faith and at arm's length with the proposed assignee or undertenant and, if so required, the Tenant will provide such evidence within 7 days.

Note : Landlords may be concerned that tenants could use this clause to set up a sham deal either at an inflated price or in order to force the Landlord to accept a surrender/an underlease. This provision enables a suspicious Landlord to ask for evidence (eg agents' particulars, the identity of the agents and solicitors advising the parties to the transaction, travelling drafts) that the transaction has been negotiated at arm's length and in good faith.

10.2.3 The Landlord may accept the Offer within the Acceptance Period by signing and returning to the Tenant a copy of the Assignment Notice or the Underletting Notice.

10.2.4 Where the Landlord is accepting an Offer contained in an Underletting Notice it may nominate a company which is a member of the same group as the Landlord (within the



10.3.1 Where the Tenant has given an Underletting Notice and the Offer has not accepted by the Landlord within the Acceptance Period;

10.3.2 To a Permissible Underlease by a Permissible Underlease on terms no less beneficial to the Tenant and no more beneficial to the Permissible Underlease than those specified in the Underletting Notice.

#### 10.4 Assignment Clause

Without prejudice to the right of the Landlord to refuse consent on any other ground or grounds where such refusal would be reasonable, a refusal of consent to assign will be reasonable (and, prior to the assignment, consent previously given may be revoked) if on the ground (whether or not with other grounds) that :-

10.4.1 The Tenant has not given the Landlord an Assignment Notice or the Acceptance Period has not expired or the offer has been accepted;

#### 11 Covenant status of this lease

This lease is a new tenancy within the meaning of section 1 of the Landlord and Tenant (Covenants) Act 1995.

#### 12 Contracts (Rights of Third Parties) Act 1999

12.1 Unless the right of enforcement is expressly provided, it is not intended that a third party should have the right to enforce a provision of this Lease pursuant to the Contracts (Rights of Third Parties) Act 1999.

12.2 The parties may, by agreement, rescind or vary this lease without the consent of a third party to whom the right of enforcement of any of its terms has been expressly provided.

#### 13 Exclusion of the Landlord and Tenant Act 1954

13.1 The Tenant hereby confirms that before the date of this Lease:-

13.2 The Lessor served on the Tenant a notice dated 21st November 2005 in relation to the tenancy created by this Lease ("the Notice") in a form complying with the requirements of Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 ("the Order")

13.3 The Tenant (or as person duly authorised by the Tenant) in relation to the Notice made a statutory declaration ("the Declaration") dated [ ] 2006 in a form complying with the requirements of Schedule 2 of the Order.

13.4 The Tenant further confirms that (where the Declaration was made by a person other than the Tenant) the declarant was duly authorised by the Tenant to make the Declaration on the Tenant's behalf.

- 13.5 The Lessor and the Tenant agree to exclude the provisions of sections 24 to 28 (inclusive) of the Landlord and the Tenant Act 1954 in relation to the tenancy created by this Lease.

DELIVERED as a deed on the date at the head of this Lease

## SCHEDULE 1

### Part 1

All those Premises being part of the basement floor, ground floor and upper ground floor edged in red on the attached plan and situate at the Arts Village, Lydia Ann Street, Liverpool L1

### Part 2

## RIGHTS ENJOYED WITH DEMISE

1. The free and uninterrupted passage of water steam soil air gas electricity and telephone communications from and to any part of the Building or any adjoining or neighbouring property through the Conducting Media commonly used for those purposes which are now or may in the future but during the period of eighty years after the date of this Lease be in upon or under the Premises .
2. The right of pedestrian access along the courtyard edged blue on the attached plan.

### Part 3

## EXCEPTIONS AND RESERVATIONS

The free and uninterrupted passage of water steam soil air gas electricity and telephone communications from and to any part of the Building or any adjoining or neighbouring property through the Conducting Media commonly used for those purposes which are now or may in the future but during the period of eighty years after the date of this Lease be in upon or under the Premises .

## SCHEDULE 2

## INSURANCE PROVISIONS

### • Insured Risks

- “Insured Risks” means the risks and other contingencies against which the Premises and the Building are required to be, or which may from time to time be, insured under this Lease, but subject to any exclusions, limitations and conditions in the policy of insurance.
- Insured Risks include, without limitation, fire, lightning, explosion, storm, tempest, flood, bursting and overflowing of water tanks, apparatus or pipes, earthquake, aircraft (but not hostile aircraft) and other aerial devices dropped from aircraft, riot and civil commotion, malicious damage and such other risks as the Landlord may consider it prudent to insure.
- If a risk or contingency itemised, or otherwise included, as an Insured Risk, can no longer be insured or can only be insured at an uneconomic rate, the risk or contingency shall cease to be treated as an Insured Risk from the time that cover is withdrawn and the Landlord has notified the Tenant of its withdrawal.

### • Tenant’s liability for insurance premiums

- The Tenant will pay to the Landlord on demand the due proportion of the insurance premiums incurred by the Landlord.
- Insurance premiums are to include all monies expended, or required to be expended, by the Landlord in effecting and maintaining cover against:
  - Insured Risks;
  - such professional fees as may be incurred in connection with rebuilding or reinstatement of the Premises Building;
  - the costs of demolition, shoring up, and site clearance works;
  - third party and public liability risks; and
  - value added tax liability on such items.
- The insurance cover may take into account cover for the effects of inflation and escalation of costs and fees.
- The due proportion of the insurance premiums for which the Tenant is liable is to be such proportion of the premiums incurred with respect to the Building as may fairly be attributed to the Premises by the Landlord or the Landlord’s surveyor, and the apportionment may as appropriate take into account:

- the net internal area (as defined in the Measuring Code) of the Premises relative to the aggregate net internal areas in the Building during the Term;
- the different uses to which the various parts of the Building are put and the degree of special risk associated with those uses;
- the cost of complying with requirements of the insurer;
- an increase in the insurance premiums or expense of renewal resulting from any act or omission of the Tenant or any person occupying or enjoying the use of the Premises through or under the Tenant;
- risks and contingencies that apply only to the Tenant or the Tenant and some other of the Tenants; and
- such other matters as may properly affect the apportionment of insurance premiums between the various tenants and occupiers of the Building;

and the apportionment may where appropriate attribute the whole of a premium, or an increase in premium, to the Tenant, and the decision of the Landlord or the Landlord's surveyor acting fairly in making apportionments is (except in the case of manifest error) to be conclusive.

In this Schedule "due proportion" is to be interpreted accordingly.

- **Tenant's obligations in relation to insurance cover**

- 3.1 The Tenant will not do anything which may render void or voidable the insurance of the Landlord on the whole or a part of the Building Premises or which may cause insurance premiums to be increased.
- 3.2 The Tenant will provide efficient fire extinguishers of a type approved by the Landlord, and will adopt such other precautions against Insured Risks as the Landlord or its insurers may consider appropriate.
- 3.3 If the insurance of the Landlord is vitiated in whole or in part in consequence of an act or omission of the Tenant, persons occupying or enjoying the use of the Premises through or under the Tenant, or their respective employees workmen agents or visitors, the Tenant will pay to the Landlord on demand a sum equal to the amount of the insurance monies which have become irrecoverable in consequence of that act or omission.
- 3.4 The Tenant may not insure the Premises for any of the Insured Risks in such a manner as would permit the insurer of the Landlord to average the proceeds of insurance or cancel insurance cover.

- 3.5 The Tenant will notify the Landlord forthwith of the occurrence of damage to the Premises by any of the Insured Risks.
- 3.6 If the Building Premises are damaged by Insured Risks, the Tenant will pay to the Landlord on demand the due proportion of the amount of any uninsured excess to which the insurance cover of the Landlord is subject.
- 3.7 The obligations of the Tenant to repair and to yield up in repair the Premises are to remain operative to the extent that the insurance of the Landlord in respect of Insured Risks is vitiated or insurance monies are withheld by reason of an act or omission of the Tenant, persons occupying or enjoying the use of the Premises through or under the Tenant, or their respective employees workmen agents or visitors, but do not otherwise operate in respect of damage to the Premises by Insured Risks.

• **Landlord's obligation to insure and reinstate**

- The Landlord will keep the Building insured with an insurer of repute against Insured Risks and other items referred to in paragraph 2.2 for the full cost of reinstatement, subject to such uninsured excess as the insurer may reasonably apply and the Landlord will use its best endeavours to review the terms of the insurers annually and obtain the best value available with insurers of repute.
  - Following the occurrence of damage to or destruction of the Building Premises by an Insured Risk, the Landlord will diligently apply, or procure the application of, the proceeds of the insurance covering reinstatement and rebuilding costs for those purposes, and will make good any deficiency in the proceeds of the insurance out of its own resources.
  - The obligations of the Landlord in paragraph 4.2 do not apply:
    - if the Landlord is unable, after using its reasonable endeavours to do so, to obtain any requisite planning permission or other consents for the reinstatement or rebuilding of the Building Premises or of a building of similar size character and amenity; or
    - if the Landlord's insurance is vitiated by reason of an act or omission of the Tenant, persons occupying or enjoying the use of the Premises through or under the Landlord, or their respective employees workmen agents or visitors.
- 4.4 Where the Building is substantially damaged or destroyed, the Tenant may not object to the reinstatement or rebuilding of the Building in a form which is not identical to the Building immediately before the damage or destruction occurred if the Building as reinstated or rebuilt are of equivalent or better standard, and affords amenities which are not inferior to or deficient from those enjoyed by the Tenant before the occurrence of the damage or destruction.

### • **Landlord's obligations in relation to insurance**

- The Landlord will use its reasonable endeavours to procure that its insurers waive entitlement to rights of subrogations against the Tenant, persons occupying or enjoying the use of the Premises through or under the Landlord, and their respective employees workmen agents or visitors.
- The Landlord will notify its insurers of the Tenant's interest in the Premises and, if practicable, have it noted on the policies of insurance.
- The Landlord will provide the Tenant with a copy of its insurance policies (or other evidence of the conditions of insurance) on the Building Premises, and at the request of the Tenant with a receipt for the payment of the last premium or other evidence of renewal and up-to-date details of the amount of cover.
- The Landlord will promptly notify the Tenant of any changes in its insurance cover or of the terms on which cover has been effected.

5.5 The Landlord may retain for its exclusive benefit any discount on the insurance premiums or commission offered to it by its insurer.

### • **Suspension of Rent**

- Paragraph 6.2 applies if the Building or any part of it are at any time during the Term so damaged by an Insured Risk as to render the Premises or any part of them unfit for occupation use or enjoyment, except in the circumstances referred to in paragraph 4.3.2.
- The rent and additional rent reserved by this Lease, or a fair proportion of them according to the nature and extent of the damage sustained, is to be suspended and cease to be payable until the Premises (excluding fitting out works and replacement of contents) have been reinstated and made fit for occupation use and enjoyment or, if earlier, until the expiry of three years from the occurrence of the damage.
- A dispute as to the amount of the abatement of the rent or the duration of the period of abatement is to be submitted to a single arbitrator, by whose decision the parties are to be bound, who is to be appointed by the parties jointly if they can agree on one, but if they do not agree, then by the President for the time being of the Royal Institution of Chartered Surveyors at the request of either party, and the arbitration is to be conducted under the Arbitration Act 1996.

### • **Options to determine**

- If the Building or a substantial part of it (whether or not directly affecting the Premises) is destroyed or damaged by an Insured Risk so as to make continued use of the Premises impracticable, the Landlord may terminate this Lease by

giving to the Tenant notice to that effect at any time within 12 months after the occurrence of the damage.

- If for any reason beyond the control of the Landlord it proves impossible to commence rebuilding or reinstatement of the Building within two years of the occurrence of the damage by an Insured Risk, the Landlord may terminate this Lease by giving to the Tenant notice to that effect.
- If the rebuilding or reinstatement of the Building has not been commenced two years after the occurrence of the damage by an Insured Risk, the Tenant may give notice to the Landlord of intention to terminate this Lease, and if the rebuilding or reinstatement work has not commenced in earnest within six months of the giving of the notice, this Lease is to terminate at the expiry of the notice.
- The termination of this Lease under this paragraph 7 does not affect any liability which has accrued at any time before the time of termination.

- **Retention of insurance proceeds**

On the termination of this Lease under paragraph 7, or if this Lease is terminated by the operation of the doctrine of frustration, the proceeds of insurance are to be divided between the Landlord and the Tenant in proportion to their representative interests in the Premises.

## SCHEDULE 3

### SERVICE CHARGE PROVISIONS

#### SECTION 1

- **Tenant's liability to pay service charge**

The Tenant will pay to the Landlord by way of additional rent the due proportion (as defined below) ("service charge") excluding those items not specifically included as the responsibility of these Premises of the cost to the Landlord in any service charge period beginning or ending during the Term of providing the services specified in Sections 2 and 3 of this Schedule and defraying the costs and expenses relating and incidental to such services.

- **Definition of "due proportion"**

- In this Schedule the expression "due proportion" means in relation to the service charge the proportion which is attributable to the Premises.
- The due proportion is to be calculated primarily on a comparison at any relevant time of (1) the net internal area (as defined in the Measuring Code) of the Premises and (2) the aggregate net internal area of the Building (less the net internal area of a management area).

- A management area for these purposes is a part of the Building used for administration security and/or control maintained by the Landlord for the purposes of managing the Premises and providing the services.
- If the comparison in paragraph 2.2 is inappropriate having regard to the nature of any expenditure, or item of expenditure, incurred or the Premises in the Building which benefit from it or otherwise, the Landlord may in its discretion:
  - adopt such other method of calculation of the proportion of the expenditure to be attributed to the Premises as is fair and reasonable in the circumstances;
  - in the exercise of the discretion, the Landlord may, if it is appropriate:
    - attribute the whole of the expenditure to the Premises ; and
    - make special attributions of expenditure in the case of Sunday or other extended trading where only some traders in the Building elect so to trade throughout the year, at certain times in the year, during public holidays or outside normal trading hours.
- **Advance payments on preliminary basis**
  - The due proportion of the service charge is to be discharged by means of advance payments to be made on the same days upon which rent is payable under this Lease and by such additional payments as may be required under paragraphs 4 and 5.
  - The amount of each advance payment is to be such amount as the Landlord may reasonably determine as likely to be equal in the aggregate to the due proportion of the service charge for the relevant service charge period and which is notified to the Tenant at or before the time when the demand for an advance payment is made.
  - For the purposes of this Schedule "service charge period" means the period of twelve months from                      to                      in each year (or such other period as the Landlord may from time to time determine).
  - The service charge is to be treated as accruing on a day-to-day basis in order to ascertain yearly rates and for the purposes of apportionment in relation to periods other than of one year.
- **Service charge accounts and adjustments**
  - The Landlord will as soon as may be practicable after the end of each service charge period submit to the Tenant a statement duly certified (if so requested) by the Landlord's accountant or surveyor giving a proper summary of the service charge for the service charge period just ended.



- If the due proportion of the service charge as certified is more or less than the total of the advance payments (or the grossed-up equivalent of such payments if made for any period of less than the service charge period), then any sum due to or payable by the Landlord by way of adjustment in respect of the due proportion of the service charge is forthwith to be paid or allowed as the case may be.

- The provisions of this paragraph are to continue to apply notwithstanding the termination of this Lease in respect of any service charge period then current.

- The Tenant is entitled to:

- inspect the service charge records and vouchers of the Landlord at such location as the Landlord may reasonably appoint for the purpose during normal working hours on weekdays; and
- at the Tenant's expense take copies of them.

- **Exceptional expenditure**

- If the Landlord is required during any service charge period to incur heavy or exceptional expenditure which forms part of the service charge, the Landlord is to be entitled to recover from the Tenant the due proportion of the service charge representing the whole of that expenditure on the quarter day next following.

- If funds collected by way of advance payments of service charge prove insufficient to meet an immediate liability, (and there is no reserve fund available, or which may be applied, to meet the liability, and the circumstances arose otherwise than as mentioned in paragraph 9.1) the Landlord is to be entitled to borrow monies for the purpose from reputable banks at commercially competitive rates of interest, and the interest payable on the borrowing shall be recoverable as an item of the service charge.

- **Sinking funds and reserves**

- With a view to securing so far as may reasonably be practicable that the service charge should be progressive and cumulative rather than irregular and that tenants for the time being shall bear a proper part of accumulating liabilities which accrue in the future the Landlord is entitled to include as an item of service charge for any service charge period an amount which the Landlord reasonably determines is appropriate to build up and maintain a sinking fund and a reserve fund in accordance with the principles of good estate management.

- Any such sinking fund is to be established and maintained on normal commercial principles for the renewal and replacement of lifts plant machinery and equipment in the Building.

- Any such reserve fund is to be established and maintained to cover prospective and contingent costs of carrying out repairs decoration maintenance and renewals and of

complying with statutes by-laws regulations of all competent authorities and of the insurers in relation to the use occupation and enjoyment of the Building.

- **Advance payments deposit account**

- This paragraph applies to such part of the monies ("relevant monies") paid by the Tenant and other tenants and occupiers of the Building by way of service charge as for the time being has not been disbursed in payment of the costs and expenses of providing services in and to the Building.
- The Landlord will keep the relevant monies in a separate trust account until and to the extent that they may be required for disbursement then or in the then immediate future in payment of the costs and expenses of providing services in and to the Building.
- Interest earned upon such account (less any tax payable) is to be credited to the account at regular rests in each year.
- Until actual disbursement the relevant monies are to be held by the Landlord for the benefit of the owners and occupiers of the Building as a class.

- **Landlord's protection provisions**

The Tenant is not entitled to object to the service charge (or any item comprised in it) or otherwise on any of the following grounds:

- 8.1 the inclusion in a subsequent service charge period of any item of expenditure or liability omitted from the service charge for any preceding service charge period;
- 8.2 an item of service charge included at a proper cost might have been provided or performed at a lower cost; or
- 8.3 disagreement with any estimate of future expenditure for which the Landlord requires to make provision so long as the Landlord has acted reasonably and in good faith and in the absence of manifest error; or
- 8.4 the manner in which the Landlord exercises its discretion in providing services so long as the Landlord acts in good faith and in accordance with the principles of good estate management; or
- 8.5 the employment of managing agents to carry out and provide on the Landlord's behalf services under this Part of this Schedule; or
- 8.6 the Landlord is not concerned in the administration of, or accounting for, the Service Charge on an assignment of this Lease, and accordingly the Landlord:
  - 8.6.1 is not required to make any apportionment relative to the assignment; and

8.6.2 is entitled to deal exclusively with the Tenant in whom this Lease is for the time being vested (and, for this purpose, in disregard of an assignment of this Lease which has not been registered in accordance with clause 3.11).

- **Vacant parts of the Building and actions by the Landlord**

- The due proportion of the service charge may not be increased or altered by reason only that at any relevant time any part of the Building may be vacant or be occupied by the Landlord or that any tenant or occupier of another part of the Building may default in payment of, or be required to pay less than, due proportion of the service charge attributable to that part.
- If the Landlord recovers monies in exercise of its duties referred to in paragraph 19 representing expenditure which has been or which would otherwise fall to be included in the service charge, the Landlord will set off or credit such monies against the service charge accordingly.

- **Service charge to exclude tenants' liabilities**

There is to be excluded from the items comprising the service charge any liability or expense for which the Tenant or other tenants or occupiers of the Building may individually be responsible under the terms of the tenancy or other arrangement by which they use or occupy the Building.

- **Management charges**

The Landlord is entitled to include in the service charge:

- a reasonable fee for the provision of services;
- the cost of employing managing agents for the carrying out and provision of services under this Part of the Schedule; and
- any cost of the accountants or auditors for auditing the service charge or providing other services in connection with the service charge.

- **The Landlord's obligation to provide services**

- Subject to the payment of the due proportion of the service charge by the Tenant in the manner required and at the times required under this Lease and to the following provisions of this paragraph, the Landlord will provide the services specified in Section 2 of this Part of the Schedule and may provide the services specified in Section 3 of this Part of the Schedule.
- The Landlord is not to be liable to the Tenant for failure to provide any services in Section 2 of this Part of the Schedule to the extent that the Landlord is prevented from doing so by Insured Risks and other such perils, accident, strikes, lockouts of workmen or other cause beyond the Landlord's control.

- The Landlord is not under any obligation to the Tenant to continue the provision of the services specified in Section 3 of this Part of the Schedule and may in its absolute discretion vary extend alter or add to such services if the Landlord considers that by so doing the amenities in the Building may be improved and/or the management of the Building may be more efficiently conducted.

## SECTION 2 ESSENTIAL SERVICES AND HEADS OF CHARGE

- **Heating air conditioning and ventilation**
  - The provision during normal nursery hours of such heating as may be appropriate in the prevailing climatic conditions and air conditioning and ventilation and of hot water to the hot water taps in the Building.
  - The provision of cold water to the cold water taps in the Building.
  - The repair maintenance renewal and replacement of all plant equipment required for or in connection with heating, air conditioning and ventilation and hot and cold water.
- **Common parts**
  - The cleaning lighting and maintenance of the Common Parts.
  - The furnishing and equipping and ornamentation of the Common Parts.
  - The payment of any relevant Outgoings in respect of the Common Parts.
  - Refuse disposal.
  - The cleaning and emptying of drains serving the Building and other Conducting Media.
  - The cleaning of the outside of all windows in the Building (including the outside of the windows of the Premises).
- **Repairs and statutory requirements**
  - The repair, decoration, maintenance, renewal, replacement, rebuilding, cleaning and upkeep of the structure floors walls main drains foundations exterior and roof of the Building, the Common Parts, the Conducting Media and other common service facilities and of plant equipment tools and utensils serving or used in the Building.
  - Compliance with all statutes by-laws regulations and the requirements of all competent authorities and of the insurers in relation to the use occupation and enjoyment of the Building and which shall for the time being be in force.

- **Fire fighting, equipment, security and public address**

The operation, maintenance and replacement of:

- fire alarms, sprinkler systems and ancillary apparatus, fire prevention and fire fighting equipment and apparatus, fire telephone systems;
- security alarms apparatus and systems in the Building;
- public address system; and

- **Insurances**

- Insurance of the Landlord against employers' liability risks in respect of the Building.
- Engineering insurances for boilers, air-conditioning, plant, lightning conductor equipment, and all other electrical or mechanical equipment and apparatus in the Building.
- Such insurances other than in respect of property risks as the Landlord may reasonably effect in respect of or incidental to the Building, its operation, and management.
- Valuation of the whole or any part of the Building for insurance purposes.

- **Legal proceedings**

- Making representations which the Landlord in its discretion reasonably and properly considers should be made against, or otherwise contesting, the incidence of the provisions of any legislation, order, regulation, notice or statutory requirement relating to or affecting the whole or any part of the Building.
- The proper costs of pursuing and enforcing any claim, and taking or defending any proceedings which the Landlord may in its discretion make take or defend:
  - against contractors, consultants, architects, consulting engineers and surveyors employed or engaged in connection with the construction and/or refurbishment and/or repair of the Building and/or the Premises or any other third party for the remedy of a defect, repairs in or to the Building or otherwise for which they or any of them may be liable; and
  - for the purpose of establishing preserving or defending any rights amenities or facilities used or enjoyed by the tenants and occupiers of the Building or any part of it or to which they may be entitled.

### SECTION 3

## DISCRETIONARY SERVICES AND HEADS OF CHARGE

- **Employees**

- Employment of a caretaker cleaning staff gardener or other staff for the maintenance and upkeep of and the provision of services in the Building including (without limitation upon the general operation of this paragraph) National Insurance and pension contributions of such employees.
- The provision of uniforms overalls and protective clothing for such employees or other staff required in connection with their duties.
- The provision of living accommodation for the caretaker in or nearby the Building and the payment of Outgoings in respect of such accommodation.
- The provision of a management centre equipped with computer and other monitoring equipment.

- **Security**

- The provision of security arrangements for entry to the Building.
- Provision of security arrangements for the safety of occupiers and users of the Building and their property kept in the Building.
- The engagement of security officers and services.

- **Management Areas**

- The operating costs of management areas.
- The payment of Outgoings in respect of management areas.
- The payment of rent and service charge (if any) payable by the Landlord or any deemed rents in relation to management areas.

- **Garden areas**

Landscaping planting and replanting and the maintenance and upkeep of the Common Parts and of garden or grassed area.

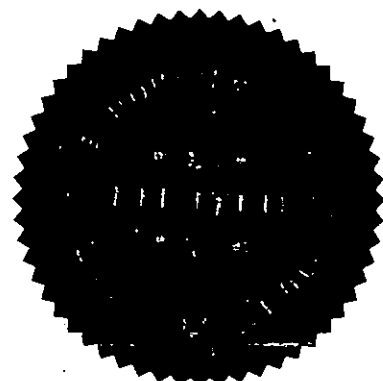
MARITIME HOUSING ASSOCIATION LTD.

THE COMMON SEAL of )  
was hereunto affixed in the presence of:- )

Director *[Signature]*

*[Signature]*

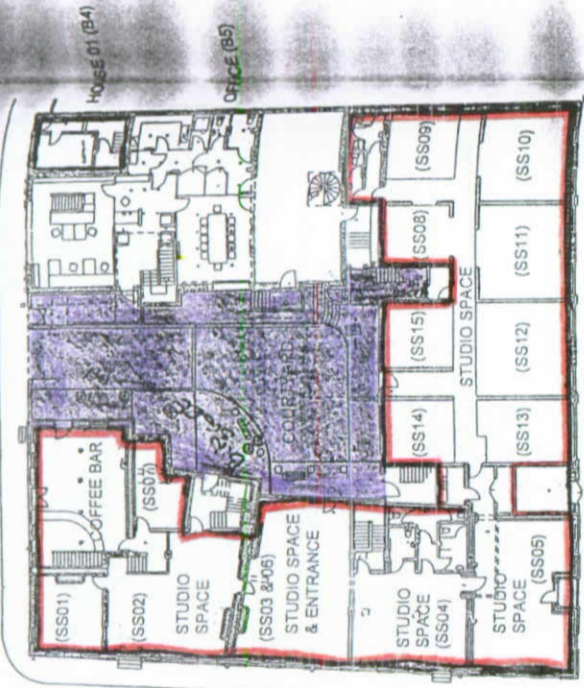
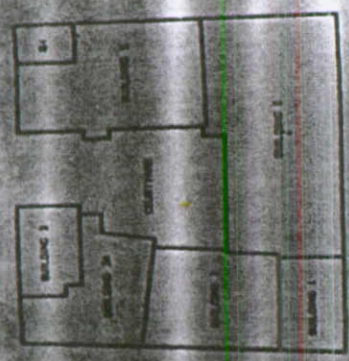
SIGNED AS A DEED by URBAN FLOAT LIMITED  
LIMITED in the presence of:-



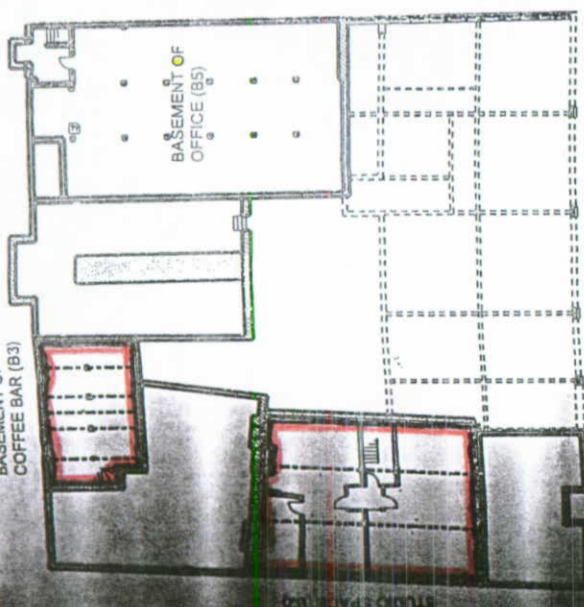
SEAL No 5303

SIGNED AS A DEED by PAUL MURPHY  
in the presence of: -

LOCATION



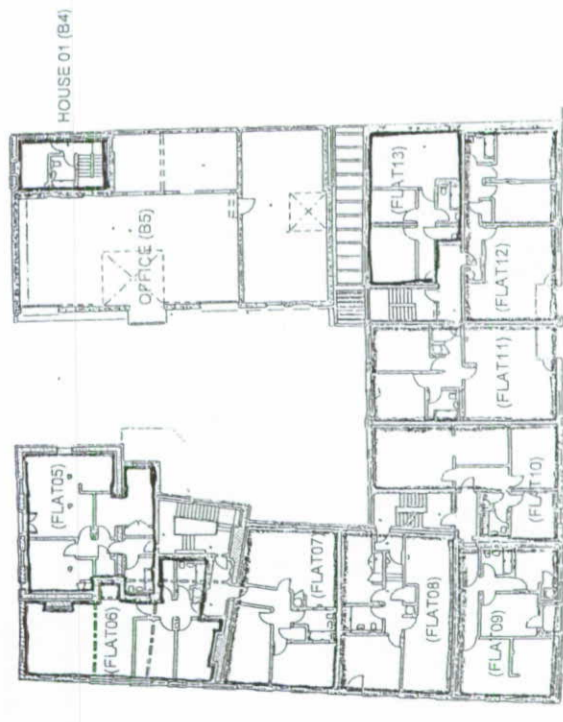
GROUND FLOOR



BASEMENT FLOOR



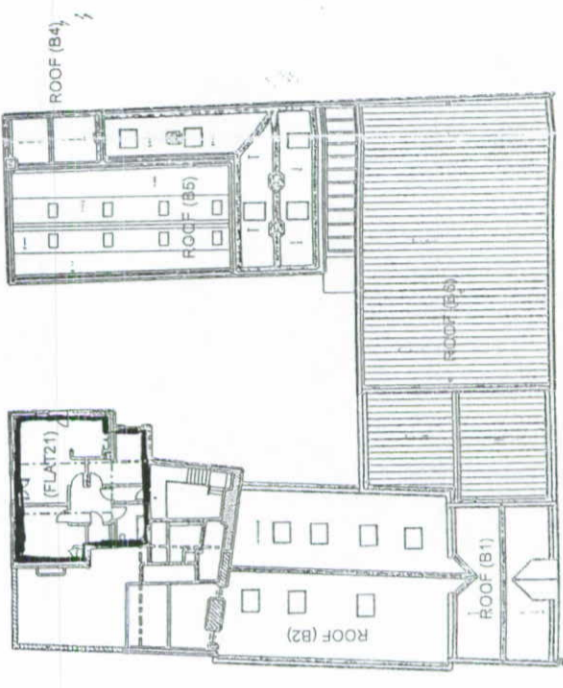
UPPER GROUND FLOOR



FIRST FLOOR



SECOND FLOOR



THIRD FLOOR



PROJECT No	521	DRAWING No	CS73
DRAWN BY	eff	CHECKED	
DATE	AUG 04	SCALE	1:500

PROJECT TITLE: ARTS VILLAGE DEV ROPEWALKS  
 FLAT NUMBERING

Shared Ownership  
 Rented Units

JOHN MCGALL ARCHITECTS LTD  
 27 SEYMOUR TERRACE, LIVERPOOL, L3 5RF, Tel: 0151 707 1818, Fax: 0151 707 1819  
 8, ASHLEY, MARINE STREET, HAYFIELD, STICHPUR, SH2 3EF, Email: admin@johnmccall.co.uk