

108. LAND AT JERICHO CANAL SIDE: 14/01441/FUL

The Head of City Development submitted a report (previously circulated now appended) which detailed an application to demolish various structures including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance.

The Planning Officer presented the report, she outlined the four further letters of representation received.

- Correspondence from the Jericho Wharf trust (JWT) who were seeking deferral until all the elements of the s106 agreement had been clarified;
- Agreement from the Canal and River Trust (CRT), as land owners, for the site of the proposed bridge.
- A letter from Price Waterhouse Copper on behalf of Spring Residential (in administration) in support of the proposal and
- A letter from St Barnabas PCC who confirmed their enthusiasm for the proposal and if their concerns regarding the bridge were allayed then they would support the proposal; they noted the officers' report regarding the level of affordable housing.

Dr Phyllis Starkey (Chair, Jericho Wharf Trust), Charlotte Christie (Chair, Jericho Community Association), Bruce Heagerty (Director, Jericho Community Boatyard), Henry Gibbon (St Barnabas Parochial Church Council), Adrian Arbib, Rukhsana Ali Moughal and Edward Surridge spoke against the application. Johnny Sandelson (the applicant) spoke in favour of the application. The applicant had offered a unilateral contribution of £150,000 towards the fund

raising to assist with the construction of the new community centre. The email confirming this contribution will be added to the planning portal on the council's website.

In answer to a Member question, Allison Blakeway (Evolution PDR Ltd) spoke on the viability issues of the site. No direct comparisons could be made as the canal site is quite unique however comparing a 'similar' residential development she had concluded that an indicative price would be between £430- 860 per sqft.

In answer to a Member question, Mr Sandelson confirmed his commitment to building the entirety of the boatyard and the chandlery building.

Officers were asked to negotiate with the applicant to seek a reduction in the height of the chandlery to mitigate the impact of excessive overshadowing and overbearing to the gardens of 7 and 9 Coombe Road; and to arrange a meeting between St Barnabas Parochial Church Council and the Canal and River Trust to discuss the bridge location.

The Committee requested a further report to agree the full completed legal agreement to include the following matters as changes to the draft terms of the s106 agreement:

Legal Agreement: Indicative S106 Heads of Terms:

City:

1. Affordable Housing: 40% all social rent (9 flats);
2. Bridge & maintenance: Exact figures to be confirmed. Bridge fully automated with a call out mechanism in the event of mechanical failure, in conjunction with CRT as Landowner;
3. Canal works (bank and winding hole (and boatyard docks)) in conjunction with CRT;
4. Transfer of land to Community Body to receive £150,000 unilateral contribution from applicant, with cascade mechanisms to ensure community

facilities provision. Jericho Wharf Trust to be preferred receiving body for unencumbered title to the land.

5. Public open space works, details of hard surfacing and street furniture and maintenance use and management strategy: by Applicant;

6. Moorings: Replacement moorings will need to be created on the canal bank to the north of the Mount Place Bridge on the Western bank as a result of the new bridge, at Applicant's expense (which has been agreed);

7. Dog bin and Sign: Contribution towards provision of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow in order to comply with the Habitat Regulations and to mitigate the impact of the development. Applicant agreed, sum to be confirmed (indicative £1000);

8. Triggers for construction/ phasing of the development; residential units not occupied until the construction of the public open space, works to the Canal, docks/ boatyard etc. has been completed.

9. Restaurant site to revert to social affordable housing if restaurant usage fails.

County:

1. Monitoring fees of £1240 for the Framework Travel Plan - other elements of the scheme may trigger additional fees if they are large enough to require individual travel plans;

2. £1,000 for a new pole/flag/information case unit at the Canal Street Bus Stop (if required to be relocated);

3. £5,000 to amend the existing Traffic Regulation Order (TRO) - to include changes to existing short stay parking bays in the area and the exclusion of the residential dwellings from parking permit eligibility.

The Committee requested this report to also provide further information on:

- Outcome of talks with applicant over the chandlery design
- Outcome of meeting between St Barnabas Parochial Church Council and the

Canal and River Trust

The Committee also requested the details under the compliance application for Condition 28 – Landscape Management Plan is put to Committee for determination when submitted.

The Committee resolved to:

1. NOTE the additional information in the addendum report
2. SUPPORT the proposal in principle subject to and including the conditions listed below, and subject to the s106 agreement being agreed by the Committee and only once agreed to defer to Offices to issue the permission. If a legal agreement is not completed then Committee authorises Officers to refuse the planning application.

Conditions

1. Time – outline / reserved matters.
2. Plans – in accordance with approved plans.
3. Materials – samples agree prior to construction.
4. Contamination, phased risk assessment – prior to construction.
5. Strategy for control of dust and dirt from demolition and construction; prior to demolition.
6. Drainage Strategy & SUDS Strategy– Implement in accordance with DS & SUDS S. Further SUDs details required.
7. Biodiversity - 6 integrated bat roosting devices.
8. Biodiversity - A lighting scheme designed to minimise disturbance to foraging bats.
9. Biodiversity - Vegetation clearance will only take place outside of the bird nesting season or following an inspection from a suitably qualified ecologist and under guidance arising from that inspection.
10. Archaeology – Watching Brief - Prior to demolition/ Construction.

11. Public open Space; no parking; access only except in exceptional circumstances (e.g. deliveries, emergency services/ in conjunction with events).
12. Parking -Residents exclude from CPZ.
13. Parking layout in accordance with plan; for Church and disabled use only.
14. Deliveries Strategy for Community Centre/ Nursery/ Boatyard and Restaurant.
15. Construction Traffic Management Plan – details prior to construction.
16. Restaurant – Restrict opening hours: 09:00hrs to 22:30hrs Mon-Fri; 09:00hrs to 23:00hrs Saturday only; 09.00hrs to 22:00hrs Sundays.
17. Cycle & bin storage – further details.
18. Windows – obscure glazing, as on approved plans; at all times.
19. PD rights removed – houses.
20. NRIA – build in accordance with; provide further details of PV's (size, location), CHP prior to that phase of construction of development.
21. Details of boundary treatment prior to occupation inc. pre-school railings.
22. Vicarage – construct rear extension prior to restaurant/flats.
23. Vicarage – rear extension: first floor bathroom window obscure glazed, revised details of sitting room window to avoid overlooking.
24. Landscape plan – details required prior to substantial completion.
25. Landscape carried out.
26. Landscape Management Plan
27. Trees- hard surfaces –tree roots.
28. Trees -underground services –tree roots.
29. Trees - tree protection plan Prior Demolition.
30. Trees -Arboricultural Method statement – to include details of the suspended, cantilevered floor slab for the house at the southern end of the site which is

required to ensure that roots of trees that stand adjacent to the site within the ground of Worcester College are not damaged during construction.

31. Noise- details of air conditioning.

32. Noise- mechanical ventilation or associated plant.

33. Noise- restriction on noise in relation to neighbouring residential properties.

34. Noise- details of a scheme for treating cooking odours.

35. Noise - details of a management plan for the boatyard including how noise from operational procedures will be mitigated in practice.

36. Flooding -Implement in accordance with revised FRA Rev C

37. Phased contamination risk assessment and remediation

38. Details of scheme to dispose of surface water

39. Heritage - programme of architectural recording of the buildings and structures on the site by measurement, drawing and photography before work commences.

40. Heritage -architectural features and structures exposed by demolition and/or during the progress of the works shall be preserved in situ or relocated in accordance with submitted details, prior to demolition.

41. Heritage- a written scheme of investigation, details of architectural salvage prior to demolition.

42. Heritage - details of a scheme for protection of heritage assets during demolition and construction (hoarding etc) prior to demolition.

43. Details of visual improvements to the existing metal enclosure of the sub station

44. Detail of trellises on the south and western wall of 9 Coombe Road

Community Infrastructure Levy requirements

The CIL contribution will be £272,978.79.

THIS AGREEMENT by way of Deed is made on the day of2015

B E T W E E N:

1 (Insert names and addresses of all those with interests (not chargees/mortgagees) in the land to be bound (registered office and registration numbers for companies)) “the Owner”

2 THE OXFORD CITY COUNCIL of The Town Hall Blue Boar Street Oxford OX1 4EY (“the City Council”)

3 (Insert names and addresses of all chargees/mortgagees in the land to be bound (registered office and registration numbers for companies)) “the Chargee”

WHEREAS

1.1 The Owner is interested in land at [describe land (by reference to registered title is applicable)] (“the Land”) in the manner and to the extent set out in Schedule One hereto

1.2 The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the Town and Country Planning Act 1990 (“the Act”)

1.3 Application bearing reference [planning application number] (“the Application”) has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] (“the Development”)

1.4 The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application

NOW THIS DEED WITNESSTH AS FOLLOWS

1 Interpretation

1.1 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this Deed was an Act of Parliament

1.2 Save where contrary intention is shown the following expressions shall bear the following meanings herein

“Commencement of Development” means the date on which the Development permitted by the Permission is initiated within the meaning of section 56 of the Act and “commence”

“commencement” and similar expressions shall be construed accordingly

“Index” means

in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East

in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors

“Permission” means planning permission granted in determination of the Application

2 Statutory Authority

2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council

2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972

3 Obligations

3.1 The Owner covenants with the City Council to observe and perform the requirements contained in the Schedules hereof

4 Miscellaneous

4.1 All sums payable hereunder shall be exclusive of any value added tax properly payable

4.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement

4.3 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment ("the Payment Date Value") exceed the value of the Index as at the date of this Agreement ("the Base Date Value") the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value

4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder

4.5 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of clause 4.3 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank PLC compounded monthly for the period from the due date until payment of the full amount due as at the date of payment

4.6 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the City Council in the exercise of its functions in any capacity

4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several

4.9 All notifications approvals permissions consents or similar hereunder shall be in writing

4.10 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than 24 hours written notice) for any purpose in connection with this Agreement

IN WITNESS whereof the parties have executed this Agreement as a deed on the day and year first before written

EXECUTED AS A DEED by.....

Schedule One

[Set out land ownership details (freehold and leasehold if relevant) including charges

If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]

Schedule Two

Affordable Housing – on site provision

1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide

1.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that

[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX]

[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]

and showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than 125 years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor

1.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing

2 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement or continuance of the Development prior to that Registered Proprietor having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing

3 The Owner shall not cause or permit the occupation of more than seven of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

3.1 Six of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

3.2 (as regards those six dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

4 The Owner shall not cause or permit the occupation of more than ten of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

4.1 all nine of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

4.2 (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

5 The Owner will procure that all dwellings comprised within the Affordable Housing shall

5.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them

5.2 comply with Lifetime Homes standards then applicable

5.3 show compliance with Secure By Design standards then applicable

6 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme

7 The Owner shall not commence the Development prior to paying to the City Council the sum of £2,000 in respect of the monitoring and administration of the affordable housing requirements

Schedule Three

Matters other than Affordable Housing

1 The costs of the City Council

1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement

1.2 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

2 Restaurant

2.1 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing

3 Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within 14 days of the disposal or other event giving rise to a successor in title

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4 Bridge

4.1 The Owner shall not cause or permit the Commencement or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a fully automated lifting bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/occupation of specified elements of the Development

4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council and shall notify the Council of the completion of each distinct element

4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme

5 Public Open Space

5.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide

5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met

5.1.2 a timetable for the provision of each and every element by reference to such element being available for functional public use to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 5.1 above first being made available for public use

5.3 The Owner shall in respect of each and every element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council

5.3.2 maintain it such that it does not materially deteriorate

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6 Canal Works [ARE THESE WORKS SHOWN ON A DWG?]

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme")

for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge (“the Canal Works”) such scheme to provide

6.1.1 the locations and details of each element of the works comprised within the Canal Works

6.1.2 a timetable for the provision of each and every element by reference to such element being completed to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

6.1.3 post completion maintenance and protection arrangements

6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 6.1 above being completed

6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme

7 Dog Bin and Sign

7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of [XXXXX ?£1000?] as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow

8 Community Centre / Boatyard

8.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to offering to transfer the land shown edged red and particularised on dwg no [XXXXX] (“the Community Centre Drawing”) annexed hereto (“the Community Centre Land”) to the Jericho Wharf Trust [check legal persona] such offer to remain open for acceptance for three months

8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted

8.2.1 within three months of the Commencement of the Development the Owner shall not continue the Development more than four months after commencement unless and until he has submitted the names of alternative potential transferees (up to three of the Community Centre Land

8.2.2 within 14 days of the City Council given written notice approving any one or more of those potential transferees the Owner shall offer to transfer the Community Centre Land to one of those approved potential transferees such offer to remain open for acceptance for three months

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust to any transferee approved under paragraph 8.2 above or to the City Council

8.4 Any transfer (and offer to transfer) under this paragraph 8 shall

8.4.1 be in respect of the entirety of the Community Centre Land

8.4.2 be for the consideration of one pound

8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing ("the Community Centre Development") and thereafter used for its design purpose as set out on that drawing ("the Community Centre Use")

8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing

8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing

8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than 18 months from the Commencement of Development

8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use

8.4.8 provide for a payment of One Hundred and Fifty Thousand Pounds from the transferor to the transferee upon transfer

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B E T W E E N:

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2 THE OXFORD CITY COUNCIL of The Town Hall Blue Boar Street Oxford OX1 4EY (“the City Council”)

3 (Insert names and addresses of all chargees/mortgagees in the land to be bound (registered office and registration numbers for companies)) “the Chargee”

CAPITAL LAW COMMENT: Query whether or not JWT should be a party to the section 106 Agreement – Michael Morgan does not consider this to be the case, but given the provisions of paragraph 8 it may be justified.

CAPITAL LAW COMMENT: Does the Canals and Rivers Trust need to be a party (for at least the purposes of paragraph 6. Council to confirm that CRT have been/will be consulted in respect of the Section 106 Agreement.

WHEREAS

1.1 The Owner is interested in land at [describe land (by reference to registered title is applicable)] (“the Land”) in the manner and to the extent set out in Schedule One hereto

1.2 The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the Town and Country Planning Act 1990 (“the Act”)

1.3 Application bearing reference [planning application number] (“the Application”) has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] (“the Development”)

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in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East

in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors

“Permission” means planning permission granted in determination of the Application

CAPITAL LAW COMMENT: NB: a copy of the draft planning permission should be annexed to the section 106 agreement and JWT would want to see and comment upon this.

2 Statutory Authority

2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council

2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972

3 Obligations

3.1 The Owner covenants with the City Council to observe and perform the requirements contained in the Schedules hereof

4 Miscellaneous

4.1 All sums payable hereunder shall be exclusive of any value added tax properly payable

4.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement

4.3 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment (“the Payment Date Value”) exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value

CAPITAL LAW COMMENT: This should also apply to the £150,000 being paid by the Developer

4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder

4.5 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of clause 4.3 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank PLC compounded monthly for the period from the due date until payment of the full amount due as at the date of payment

4.6 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity

4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several

4.9 All notifications approvals permissions consents or similar hereunder shall be in writing

4.10 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than 24 hours written notice) for any purpose in connection with this Agreement

IN WITNESS whereof the parties have executed this Agreement as a deed on the day and year first before written

EXECUTED AS A DEED by.....

Schedule One

[Set out land ownership details (freehold and leasehold if relevant) including charges

If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]

CAPITAL LAW COMMENT: exact landholding to be confirmed

CAPITAL LAW COMMENT: The Agreement is unclear how existing land ownership rights are going to be incorporated in particular relating to the Dawson Place Land (owned by OCC); land owned by the Church etc. The timing of the delivery of these parcels and to whom (assume JWT if they form part of the public open space: the Developer if not) and how such mechanism will work needs to be considered.

Schedule Two

Affordable Housing – on site provision

1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide

1.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that

[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX]

[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]

and showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than 125 years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor

1.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing

2 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement or continuance of the Development prior to that Registered Proprietor having entered into a framework agreement applicable to the Affordable Housing to be provided

hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing

3 The Owner shall not cause or permit the occupation of more than seven of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

3.1 Six of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

3.2 (as regards those six dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

4 The Owner shall not cause or permit the occupation of more than ten of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

4.1 all nine of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

4.2 (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

5 The Owner will procure that all dwellings comprised within the Affordable Housing shall

5.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them

5.2 comply with Lifetime Homes standards then applicable

5.3 show compliance with Secure By Design standards then applicable

6 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme

7 The Owner shall not commence the Development prior to paying to the City Council the sum of £2,000 in respect of the monitoring and administration of the affordable housing requirements

Schedule Three

Matters other than Affordable Housing

1 The costs of the City Council

1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement

1.2 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

2 Restaurant

2.1 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing

CAPITAL LAW COMMENT: query what part of the property does this affect?

3 Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within 14 days of the disposal or other event giving rise to a successor in title

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4 Bridge

CAPITAL LAW COMMENT: Whilst not a matter for JWT I imagine the Developer will need to agree this with the CRT. As a general comment the parties need to ensure that this is deliverable.

4.1 The Owner shall not cause or permit the Commencement or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a fully automated lifting bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto such scheme to provide for

consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/occupation of specified elements of the Development

4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council and shall notify the Council of the completion of each distinct element

4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme

5 Public Open Space

CAPITAL LAW COMMENT: The expectation of JWT is that the public open space is transferred to it together with all obligations relating to the maintenance and management of the same.

Either this can be dealt with in the same manner as Paragraph 8 by it being offered to JWT or will require direct negotiation with the Developer.

5.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide

CAPITAL LAW COMMENT: If this land is to be transferred to JWT then JWT will need to be at the very least consulted upon in respect of the public open space scheme.

5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met

CAPITAL LAW COMMENT: Details of these will need to be provided and agreed. query whether or not this process should be part of the section 106 arrangements.

5.1.2 a timetable for the provision of each and every element by reference to such element being available for functional public use to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

CAPITAL LAW COMMENT: Again full details to be agreed as above.

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 5.1 above first being made available for public use

CAPITAL LAW COMMENT: as above

5.3 The Owner shall in respect of each and every element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council

CAPITAL LAW COMMENT: JWT to note requirement

5.3.2 maintain it such that it does not materially deteriorate

CAPITAL LAW COMMENT: JWT to note requirement

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

CAPITAL LAW COMMENT: JWT to note that this may fall to them if they take a transfer of the public open space. Further details of what the Council require for this mechanism is required in order to be able to comply with the requirement.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

CAPITAL LAW COMMENT: There will need to be co-operation between JWT and the Developer in respect of this requirement. Query how this "gap" is bridged.

6 Canal Works [ARE THESE WORKS SHOWN ON A DWG?]

CAPITAL LAW COMMENT: Unless specified later in paragraph 8 the detailed commitment to build the boatyard and chandlery needs to either appear in full in this paragraph. As with Paragraph 5 the assumption is the CRT will need to be fully consulted in respect of these obligations.

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide

6.1.1 the locations and details of each element of the works comprised within the Canal Works

6.1.2 a timetable for the provision of each and every element by reference to such element being completed to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

6.1.3 post completion maintenance and protection arrangements

CAPITAL LAW COMMENT: JWT will need to check whether or not any of these obligations end up with them as part of the transfer of Community Space

6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 6.1 above being completed

6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme

CAPITAL LAW COMMENT: There will need to be co-operation between JWT and the Developer in respect of this requirement. Query how this "gap" is bridged.

7 Dog Bin and Sign

7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of [XXXXX ?£1000?] as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow

8 Community Centre / Boatyard

CAPITAL LAW COMMENT: there does not appear to be any obligation on the Developer to construct the boatyard to roof level and chandlery building (unless this falls within the works under paragraph 6).

8.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to offering to transfer the land shown edged red and particularised on dwg no [XXXXX] ("the Community Centre Drawing") annexed hereto ("the Community Centre Land") to the Jericho Wharf Trust [check legal persona] such offer to remain open for acceptance for three months

CAPITAL LAW COMMENT: Whether or not three months is sufficient time needs to be considered. Seems too short.

Further there is no indication of when the transfer is to take place (although provisions of 8.3 are noted).

8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted

8.2.1 within three months of the Commencement of the Development the Owner shall not continue the Development more than four months after commencement unless and until he has submitted the names of alternative potential transferees (up to three of the Community Centre Land

CAPITAL LAW COMMENT: Query why should the Developer nominate the alternative transferee rather than OCC?

8.2.2 within 14 days of the City Council given written notice approving any one or more of those potential transferees the Owner shall offer to transfer the Community Centre Land to one of those approved potential transferees such offer to remain open for acceptance for three months

CAPITAL LAW COMMENT: JWT to note

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust to any transferee approved under paragraph 8.2 above or to the City Council

CAPITAL LAW COMMENT: this would allow the residential element of the scheme to be built first. Perhaps this should be prior to implementation rather than occupation. It could then allow for development obligations to be agreed between the Developer and JWT to be agreed and implemented.

8.4 Any transfer (and offer to transfer) under this paragraph 8 shall

CAPITAL LAW COMMENT: I would prefer for the form of Transfer to be drafted ahead and appended to the Section 106 (subject to such reasonable modifications). Otherwise it is going to make it difficult for JWT to accept an offer if the obligations/covenants/rights in the form of Transfer are not drafted and negotiated. Need to avoid a situation of an agreement to agree.

8.4.1 be in respect of the entirety of the Community Centre Land

CAPITAL LAW COMMENT: this will need to be clearly defined with reference to a plan.

8.4.2 be for the consideration of one pound

CAPITAL LAW COMMENT: should be fine – need to check SDLT effect.

8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing (“the Community Centre Development”) and thereafter used for its design purpose as set out on that drawing (“the Community Centre Use”)

CAPITAL LAW COMMENT: these rights need to be clearly drafted and understood.

8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing

CAPITAL LAW COMMENT: this obligation does not sit very well in a Land Registry transfer. It could be done by having a development schedule, but the drafting may prove complex. It would be more suitable to sit in a Development Agreement.

There are numerous elements to be considered including for example

If the land has been transferred prior to these works then JWT would have to grant a licence to occupy.

The Developer needs to provide warranties and allow step in rights for JWT under a building contract

8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing

CAPITAL LAW COMMENT: as above – this is better suited in a Development Agreement

8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than 18 months from the Commencement of Development

CAPITAL LAW COMMENT: as above – this is better suited in a Development Agreement

8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use

CAPITAL LAW COMMENT: again if the form of Transfer was agreed in advance then it would be easier to

8.4.8 provide for a payment of One Hundred and Fifty Thousand Pounds from the transferor to the transferee upon transfer

CAPITAL LAW COMMENT: should be index linked, Query – should this not be paid on completion of the Section 106 Agreement.

DATED _____ 2015

(1) ~~???~~CHEER TEAM CORPORATION
LIMITED

~~-and-~~

~~(2) THE OXFORD CITY COUNCIL~~

- and -

~~(3) ???~~

(2) THE OXFORD CITY COUNCIL

SECTION 106 AGREEMENT

relating to

Land at Jericho, Oxford



**PENNINGTONS
MANCHES**

DX:155710 Oxford 13

Ref: NDO/RAS/ELV/3500033

Table of Contents

<u>Clause</u>	<u>Subject Matter</u>	<u>Page</u>
	Parties	2
	WHEREAS	2
1.	Definitions and Interpretation	2
2.	Construction of this Agreement	4
3.	Statutory Authority	35
4.	Conditionality	5
3-5.	Owner's Obligations	35
6.	The City Council's Covenants	5
4-7.	Miscellaneous	35
8.	Indexation	6
9.	Interest	7
10.	Change in Ownership	7
11.	VAT	7
12.	Waiver	7
13.	Dispute Provisions	7
14.	Jurisdiction	8
15.	Delivery	8
	Schedule One	1
	Schedule Two	1
	Schedule Three	2
	Schedule Four	11

SECTION 106 AGREEMENT

Dated:

2015

Parties

- (1) ~~???~~CHEER TEAM CORPORATION LIMITED a company incorporated in ~~[country of incorporation]~~ Hong Kong with Company Number 1890409 whose registered office ~~/ principal place of business~~ is at ~~???~~ is situated at 11/F Johnson Industrial Mansion, 340 Kwun Tong Road, Kowloon Hong Kong ("the Owner"); and
- (2) THE OXFORD CITY COUNCIL ~~a company incorporated in [country of incorporation]~~ is at ~~of~~ The Town Hall, Blue Boar Street, Oxford OX1 4EY ("the City Council"); and
- (3) ~~???~~ ~~a company incorporated in [country of incorporation]~~ is at ~~???~~ ~~whose [registered office / principal place of business]~~ is at ~~???~~ ("the Chargee").

WHEREAS

- (A) The Owner is interested in land at [describe land (by reference to registered title is applicable)] ("the Land") in the manner and to the extent set out in Schedule One hereto.
- (B) The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the ~~Town and Country Planning Act 1990 ("the Act")~~ being the area in which the Land is situated.
- (C) Application bearing reference [planning application number] ("the Application") has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] ("the Development").
- (D) The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application.

1. Definitions and Interpretation

- 1.1 Save where contrary intention is shown the following expressions shall bear the following meanings herein:

<u>Act</u>	<u>Town and Country Planning Act 1990;</u>
Commencement of Development	means the date on which <u>any material operation (as defined in Section 56(4) of the Act) forming part of the Development</u> permitted by the Permission is initiated within the meaning of section 56 of the Act and “commence” <u>begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;</u>
<u>Development</u>	<u>the Development of the Site with [...insert description of the development...] as set out in the Application;</u>
<u>Dwelling</u>	<u>any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;</u>
Index	means: <ul style="list-style-type: none"> (a) in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East; (b) in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors; and
<u>Interest</u>	<u>interest at 4% per cent above the base lending rate of the Lloyds TSB Bank Plc from time to time;</u>
<u>Occupation and Occupied</u>	<u>occupation for the purposes permitted by the</u>

	<u>Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;</u>
<u>Plan</u>	<u>the plan attached to this Agreement;</u>
<u>Planning Permission</u>	means planning permission <u>subject to conditions to be granted in determination of by the Council pursuant to the Application- as set out in the Second Schedule;</u>
<u>Property Transfer Trigger</u>	<u>the restriction on occupation of more than [...specify no. of dwellings/square metres as applicable...] set out in paragraph [1] of the Third Schedule; and</u>
<u>Site</u>	<u>the land against which this Agreement may be enforced as shown edged red on the Plan</u>

1.2 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this ~~Deed~~Agreement was an Act of Parliament.

2. Construction of this Agreement

2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or

re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3. ~~2.~~ Statutory Authority

~~2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council.~~

~~2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972.~~

3.1 This Agreement is made pursuant to Section 106 of the Act.

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the City Council as local planning authority against the Owner.

4. Conditionality

4.1 This Agreement is conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

4.2 save for the provisions of Clauses 7.1, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Agreement.

5. ~~3.~~ Owner's Obligations

5.1 ~~3.1~~ The Owner covenants with the City Council ~~to observe and perform the requirements contained in the Schedules hereof~~ as set out in the Third Schedule.

6. The City Council's Covenants

6.1 The City Council covenants with the Owner as set out in the Fourth Schedule.

7. ~~4.~~ Miscellaneous

~~4.1~~ ~~All sums payable hereunder shall be exclusive of any value added tax properly payable.~~

7.1 The Owner shall pay to the Council on completion of this Agreement the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Agreement.

7.2 ~~4.2~~ The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement.

7.3 This Agreement shall be registrable as a local land charge by the Council.

7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the City Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the City Council by the Head of Development and Building Control.

7.5 Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7.6 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 7.8 This Agreement shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them
- 7.9 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 7.10 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the City Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.11 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity.
- 7.12 Where more than one person is liable under any provision hereof the liability shall be joint and several.
- 7.13 All notifications approvals permissions consents or similar hereunder shall be in writing.
- 7.14 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty-four (24) hours written notice) for any purpose in connection with this Agreement.

8. Indexation

- 8.1 ~~4.3~~ All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment (“the Payment Date Value”) exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value.

- ~~4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder.~~

9. Interest

- 9.1 ~~4.5~~ If any sum payable to the City Council hereunder is not paid in full (including any

increase in consequence of ~~clause 4.3~~Clause 7.4 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank plc compounded monthly for the period from the due date until payment of the full amount due as at the date of payment.

10. Change in Ownership

10.1 The Owner agrees with the City Council to give the City Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

11. VAT

11.1 All sums payable hereunder shall be exclusive of any value added tax properly payable.

12. Waiver

12.1 ~~4.6~~ No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder.

~~4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the City Council in the exercise of its functions in any capacity.~~

~~4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several.~~

~~4.9 All notifications approvals permissions consents or similar hereunder shall be in writing.~~

13. Dispute Provisions

13.1 In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an

agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) working days after the conclusion of any hearing that takes place or twenty-eight (28) working days after he has received any file or written representation.

13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) working days.

13.5 The provisions of this clause shall not affect the ability of the City Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Agreement and consequential and interim orders and relief.

14. Jurisdiction

14.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

15. Delivery

15.1 ~~4.10~~ ~~The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty four (24) hours written notice) for any purpose in connection with this Agreement.~~ The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof the parties hereto have executed this Agreement as a ~~deed~~ Agreement and delivered the same the day and year first above written.

Schedule One

~~[Set out land ownership details (freehold and leasehold if relevant) including charges~~

~~If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]~~

The Freehold land know being land on the east side of the Oxford Canal, Jericho Oxford all of which property is registered at the Land Registry with title number ON268665.

—

Schedule Two

Form of Notice of Planning Permission

Schedule ~~Two~~Three

The Owner's Covenants with the City Council

1. Affordable Housing — ~~On Site Provision~~

1.1 Definitions

<u>“Affordable Housing”</u>	<u>subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;</u>
<u>“Affordable Housing Units”</u>	<u>that part of the Development comprising [.....] residential units [...describe mix of units...] together with [.....] car parking spaces shown on drawing numbers [drawing references]; or any one or more of them</u>
<u>“Chargee”</u>	<u>any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925¹;</u>
<u>“Chargee’s Duty”</u>	<u>the tasks and duties set out in paragraph 1.9 to the Affordable Housing Part of the Third Schedule</u>
<u>“Market Housing Units”</u>	<u>that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;</u>
<u>“Practical Completion”</u>	<u>issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;</u>
<u>“Protected Tenant”</u>	<u>any tenant who:</u>

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (c) has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) by the Registered Social Landlord in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

“Registered Provider”

Oxford City council or a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed).

1.2 ~~4.~~ The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide:

1.2.1 ~~1.1~~ that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that:

(a) ~~1.1.1~~[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX];

(b) ~~1.1.2~~[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]; and

(c) ~~1.1.3~~ showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2.2 ~~1.2~~ the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than one hundred and twenty-five (125) years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor; and

1.2.3 ~~1.3~~ the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing.

1.3 ~~2~~. In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to that Registered ~~Proprietor~~Provider having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing.

~~3.~~ ~~The Owner shall not cause or permit the occupation of more than seven (7) of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until:~~

~~3.1~~ ~~six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme; and~~

- 1.4 ~~3.2~~ Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than seven (7) of Market Housing Units shall be Occupied until six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those six (6) dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph ~~4.21.2.2~~ above.
- ~~4.~~ The Owner shall not cause or permit the occupation of more than ten (10) of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until:-
- ~~4.4~~ all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme; and
- 1.5 ~~4.2~~ Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than ten (10) of the Market Housing Units authorised by the Permission until all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph ~~4.21.2.2~~ above.
- 1.6 Subject to the provisions of this paragraph 1.6 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing other than by:
- 1.6.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- 1.6.2 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 1.7 ~~5.~~ The Owner will procure that all dwellings comprised within the Affordable Housing shall:

- 1.7.1 ~~5.1~~ meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them;
- 1.7.2 ~~5.2~~ comply with Lifetime Homes standards then applicable; and
- 1.7.3 ~~5.3~~ show compliance with Secure By Design standards then applicable.
- 1.8 ~~6~~—The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme.
- ~~7. The Owner shall not commence the Development prior to paying to the City Council the sum of two thousand (£2,000.00) in respect of the monitoring and administration of the affordable housing requirements.~~

~~1. Schedule Three~~

~~Matters Other Than Affordable Housing~~

- ~~1. The costs of the City Council~~
- ~~1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement~~
- 1.9 Any Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than three (3) months' prior notice to the Council of its intention to dispose and:
- 1.9.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer; or
- 1.9.2 if the Council does not serve its response to the notice served under paragraph 1.9.1 within one (1) month then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply; or
- 1.9.3 if the Council or any other person cannot within three (3) months of the date of service of its response under paragraph 1.9.1 secure such transfer

then provided that the Chargee shall have complied with its obligations under paragraph 4.4(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply.

PROVIDED THAT at all times the rights and obligations in paragraphs 1.9.1 - 1.9.3 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

2. Costs

2.1 ~~4.2~~ The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

~~2. Restaurant~~

~~2.4 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing.~~

3. Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement.

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within fourteen (14) days of the disposal or other event giving rise to a successor in title.

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4. Bridge

- 4.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development unless the written approval of the City Council has been obtained for a scheme (“the Bridge Scheme”) for the provision of a ~~fully automated lifting~~ bridge (“the Bridge”) across the canal in the approximate position shown marked on the plan annexed hereto (or in such alternative position as the City Council may from time to time agree in writing) such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/ occupation of specified elements of the Development.
- 4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council (acting reasonably) and shall notify the Council of the completion of ~~each distinct element~~the Bridge
- 4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

~~4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme.~~

5. Public Open Space

- 5.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide:
- 5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met; and
- 5.1.2 a timetable for the provision of ~~each and every element~~the open space scheme by reference to ~~such~~each element being available for functional public use to the reasonable satisfaction of the City Council either prior to

a defined part of the Development being commenced or occupied for the purpose permitted by the Permission.

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each ~~and every~~ element of the approved scheme referred to in paragraph 5.1 above first being made available for public use.

5.3 The Owner shall in respect of each ~~and every~~ element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use:

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council; and

5.3.2 maintain it such that it does not materially deteriorate.

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

6. **Canal Works** ~~[ARE THESE WORKS SHOWN ON A DWG]~~

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length, the improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide:

6.1.1 the locations and details of each element of the works comprised within the Canal Works;

6.1.2 a timetable for the provision of each ~~and every~~ element by reference to such element being completed to the reasonable satisfaction of the City

Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission; and

- 6.1.3 post completion maintenance and protection arrangements,
- 6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each ~~and every~~ element of the approved scheme referred to in paragraph 6.1 above being completed.
- 6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

~~6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme.~~

7. Dog Bin and Sign

- 7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of ~~[XXXXX-?£1000?]~~ as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow.

8. Community Centre/~~Boatyard~~

- 8.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to offering to ~~transfer the land shown edged red and particularised on dwg no [XXXXX] (“the Community Centre Drawing”)~~ annexed hereto enter into an agreement for lease in substantially the form annexed (“the Community Centre Land”) to the Jericho Wharf Trust [check legal persona] the Agreement for Lease such offer to remain open for acceptance for three (3) months.
- 8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted:
- 8.2.1 within three (3) months of the Commencement of the Development the Owner shall not continue the Development more than four (4) months after commencement unless and until he has submitted the names of alternative potential ~~transferees~~ lessees (up to three ~~of the Community Centre Land~~); or
- 8.2.2 within fourteen (14) days of the City Council given written notice approving any one or more of those potential ~~transferees~~ lessees the Owner shall

offer to enter into the transfer the ~~Community Centre Land to~~Agreement for Lease with one of those approved ~~potential transferees~~lessees such offer to remain open for acceptance for three (3) months.

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to ~~the transfer of the Community Centre Land~~entering into the Agreement for Lease to the Jericho Wharf Trust ~~to~~or any ~~transferee~~other lessee approved under paragraph 8.2 above or to the City Council.

~~8.4 Any transfer (and offer to transfer) under this paragraph 8 shall:~~

~~8.4.1 be in respect of the entirety of the Community Centre Land;~~

~~8.4.2 be for the consideration of one pound (£1.00);~~

~~8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing ("the Community Centre Development") and thereafter used for its design purpose as set out on that drawing ("the Community Centre Use");~~

~~8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing;~~

~~8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing;~~

~~8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than eighteen (18) months from the Commencement of Development;~~

~~8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use; and~~

~~8.4.8 provide for a payment of one hundred and fifty thousand pounds (£150.00) from the transferor to the transferee upon transfer.~~

Schedule Four

City Council's Covenants

At the written request of the Owner the City Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

Executed ~~and Delivered~~ as a Deed) by-???)
Affixing the common seal of
Cheer Team Corporation Limited
in the presence of:)

.....
Director

.....
Director / Secretary

~~Executed and Delivered as a Deed~~)
~~by~~ THE COMMON SEAL of THE
OXFORD CITY COUNCIL ~~→~~ was
~~in the presence of:~~)
~~— Director~~
~~— Director / Secretary~~

~~Executed and Delivered as a Deed~~)
~~by ???~~)
affixed to this deed by order of
the Council in the presence of:)
~~— Director~~
~~— Director / Secretary~~

.....
Nominated Officer

Document comparison by Workshare Compare on 20 May 2015 18:04:03

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Document 2 ID	interwovenSite://OXFDMAPP01/DMS/55234301/2
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<u>Moved to</u>	
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Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Deletions	134
Moved from	12
Moved to	12
Style change	0
Format changed	0
Total changes	400

DATED _____ 2015

(1) CHEER TEAM CORPORATION
LIMITED

- and -

(2) THE OXFORD CITY COUNCIL

SECTION 106 AGREEMENT

relating to

Land at Jericho, Oxford



**PENNINGTONS
MANCHES**

Table of Contents

<u>Clause</u>	<u>Subject Matter</u>	<u>Page</u>
	Parties	2
	WHEREAS	2
1.	Definitions and Interpretation	2
2.	Construction of this Agreement	4
3.	Statutory Authority	5
4.	Conditionality	5
5.	Owner's Obligations	5
6.	The City Council's Covenants	5
7.	Miscellaneous	5
8.	Indexation	6
9.	Interest	7
10.	Change in Ownership	7
11.	VAT	7
12.	Waiver	7
13.	Dispute Provisions	7
14.	Jurisdiction	8
15.	Delivery	8
	Schedule One	1
	Schedule Two	1
	Schedule Three	2
	Schedule Four	11

SECTION 106 AGREEMENT

Dated:

2015

Parties

- (1) CHEEER TEAM CORPORATION LIMITED a company incorporated in *Hong Kong* with Company Number whose 1890409 whose registered office is situated at 11/F Johnson Industrial Mansion, 340 Kwun Tong Road, Kowloon Hong Kong ("the Owner"); and
- (2) THE OXFORD CITY COUNCIL of The Town Hall, Blue Boar Street, Oxford OX1 4EY ("the City Council").

WHEREAS

- (A) The Owner is interested in land at [describe land (by reference to registered title is applicable)] ("the Land") in the manner and to the extent set out in Schedule One hereto.
- (B) The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the being the area in which the Land is situated.
- (C) Application bearing reference [planning application number] ("the Application") has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] ("the Development").
- (D) The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application.

1. Definitions and Interpretation

- 1.1 Save where contrary intention is shown the following expressions shall bear the following meanings herein:

Act

Town and Country Planning Act 1990;

Commencement of Development

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site

clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;

Development	the Development of the Site with [... <i>insert description of the development...</i>] as set out in the Application;
Dwelling	any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;
Index	means: (a) in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East; (b) in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors;
Interest	interest at 4% per cent above the base lending rate of the Lloyds TSB Bank Plc from time to time;
Occupation and Occupied	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
Plan	the plan attached to this Agreement;
Planning Permission	means planning permission subject to conditions

to be granted by the Council pursuant to the Application as set out in the Second Schedule;

Property Transfer Trigger

the restriction on occupation of more than [...specify no. of dwellings/square metres as applicable...] set out in paragraph [1] of the Third Schedule; and

Site

the land against which this Agreement may be enforced as shown edged red on the Plan

1.2 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this Agreement was an Act of Parliament.

2. Construction of this Agreement

2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3. Statutory Authority

- 3.1 This Agreement is made pursuant to Section 106 of the Act.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the City Council as local planning authority against the Owner.

4. Conditionality

- 4.1 This Agreement is conditional upon:
- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 the Commencement of Development
- 4.2 save for the provisions of Clauses 7.1, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Agreement.

5. Owner's Obligations

- 5.1 The Owner covenants with the City Council as set out in the Third Schedule.

6. The City Council's Covenants

- 6.1 The City Council covenants with the Owner as set out in the Fourth Schedule.

7. Miscellaneous

- 7.1 The Owner shall pay to the Council on completion of this Agreement the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Agreement.
- 7.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement.
- 7.3 This Agreement shall be registrable as a local land charge by the Council.
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the City Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the City Council by the Head of Development and Building Control.
- 7.5 Following the performance and satisfaction of all the obligations contained in this

Agreement the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

- 7.6 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 This Agreement shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them
- 7.9 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 7.10 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the City Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.11 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity.
- 7.12 Where more than one person is liable under any provision hereof the liability shall be joint and several.
- 7.13 All notifications approvals permissions consents or similar hereunder shall be in writing.
- 7.14 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty-four (24) hours written notice) for any purpose in connection with this Agreement.

8. Indexation

- 8.1 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment ("the Payment Date Value")

exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value.

9. Interest

9.1 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of Clause 7.4 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank plc compounded monthly for the period from the due date until payment of the full amount due as at the date of payment.

10. Change in Ownership

10.1 The Owner agrees with the City Council to give the City Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee’s full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

11. VAT

11.1 All sums payable hereunder shall be exclusive of any value added tax properly payable.

12. Waiver

12.1 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

13. Dispute Provisions

13.1 In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the

dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) working days after the conclusion of any hearing that takes place or twenty-eight (28) working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) working days.
- 13.5 The provisions of this clause shall not affect the ability of the City Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Agreement and consequential and interim orders and relief.

14. Jurisdiction

- 14.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

15. Delivery

- 15.1 The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof the parties hereto have executed this Agreement as a Agreement and delivered the same the day and year first above written.

Schedule One

The Freehold land know being land on the east side of the Oxford Canal, Jericho Oxford all of which property is registered at the Land Registry with title number ON268665.

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Schedule Two

Form of Notice of Planning Permission

Schedule Three

The Owner's Covenants with the City Council

1. Affordable Housing

1.1 Definitions

- “Affordable Housing”** subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;
- “Affordable Housing Units”** that part of the Development comprising [.....] residential units [...*describe mix of units*...] together with [.....] car parking spaces shown on drawing numbers [*drawing references*]; or any one or more of them
- “Chargee”** any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925¹;
- “Chargee’s Duty”** the tasks and duties set out in paragraph 1.9 to the Affordable Housing Part of the Third Schedule
- “Market Housing Units”** that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;
- “Practical Completion”** issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;
- “Protected Tenant”** any tenant who:
- (a) has exercised the right to acquire

pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (c) has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) by the Registered Social Landlord in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

“Registered Provider”

Oxford City council or a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed).

1.2 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide:

1.2.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites

and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that:

- (a) [X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX];
- (b) [9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]; and
- (c) showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than one hundred and twenty-five (125) years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor; and

1.2.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing.

1.3 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to that Registered Provider having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing.

1.4 Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than seven (7) of Market Housing Units shall be Occupied until six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those six (6) dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2.2 above.

- 1.5 Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than ten (10) of the Market Housing Units authorised by the Permission until all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2.2 above.
- 1.6 Subject to the provisions of this paragraph 1.6 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing other than by:
- 1.6.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- 1.6.2 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 1.7 The Owner will procure that all dwellings comprised within the Affordable Housing shall:
- 1.7.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them;
- 1.7.2 comply with Lifetime Homes standards then applicable; and
- 1.7.3 show compliance with Secure By Design standards then applicable.
- 1.8 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme.
- 1.9 Any Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than three (3) months' prior notice to the Council of its intention to dispose and:
- 1.9.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as

Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer; or

1.9.2 if the Council does not serve its response to the notice served under paragraph 1.9.1 within one (1) month then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply; or

1.9.3 if the Council or any other person cannot within three (3) months of the date of service of its response under paragraph 1.9.1 secure such transfer then provided that the Chargee shall have complied with its obligations under paragraph 4.4(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply.

PROVIDED THAT at all times the rights and obligations in paragraphs 1.9.1 - 1.9.3 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

2. Costs

2.1 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

3. Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement.

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within fourteen (14) days of the disposal or other event giving rise to a successor in title.

- 3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4. Bridge

- 4.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto (or in such alternative position as the City Council may from time to time agree in writing) such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/ occupation of specified elements of the Development.
- 4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council (acting reasonably) and shall notify the Council of the completion of the Bridge
- 4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

5. Public Open Space

- 5.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide:
- 5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met; and

- 5.1.2 a timetable for the provision of the open space scheme by reference to each element being available for functional public use to the reasonable satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission.
- 5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each element of the approved scheme referred to in paragraph 5.1 above first being made available for public use.
- 5.3 The Owner shall in respect of each element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use:
- 5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council; and
- 5.3.2 maintain it such that it does not materially deteriorate.
- 5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.
- 5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

6. Canal Works

- 6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length, the improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide:
- 6.1.1 the locations and details of each element of the works comprised within the Canal Works;

- 6.1.2 a timetable for the provision of each element by reference to such element being completed to the reasonable satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission; and
 - 6.1.3 post completion maintenance and protection arrangements,
- 6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each element of the approved scheme referred to in paragraph 6.1 above being completed.
- 6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

7. Dog Bin and Sign

- 7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of £1000 as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow.

8. Community Centre

- 8.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to offering to enter into an agreement for lease in substantially the form annexed (the Agreement for Lease) such offer to remain open for acceptance for three (3) months.
- 8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted:
- 8.2.1 within three (3) months of the Commencement of the Development the Owner shall not continue the Development more than four (4) months after commencement unless and until he has submitted the names of alternative potential lessees (up to three); or
 - 8.2.2 within fourteen (14) days of the City Council given written notice approving any one or more of those potential lessees the Owner shall offer to enter into the transfer the Agreement for Lease with one of those approved lessees such offer to remain open for acceptance for three (3) months.

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to entering into the Agreement for Lease to the Jericho Wharf Trust or any other lessee approved under paragraph 8.2 above or to the City Council.

Schedule Four

City Council's Covenants

At the written request of the Owner the City Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

Executed as a Deed by
Affixing the common seal of
Cheer Team Corporation Limited
in the presence of:

.....
Director

.....
Director / Secretary

THE COMMON SEAL of THE
OXFORD CITY COUNCIL was
affixed to this deed by order of
the Council in the presence of:

.....
Nominated Officer

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

AGREEMENT FOR LEASE WITH LANDLORD'S
WORKS

relating to

Land at the Jericho Boat Yard, Land at the East Side of
the Oxford Canal, Jericho, Oxford



**PENNINGTONS
MANCHES**

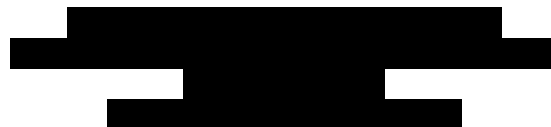


Table of Contents

<u>Clause</u>	<u>Subject Matter</u>	<u>Page</u>
1.	Interpretation	1
2.	Agreement For Lease	7
3.	Landlord's Works	7
4.	Inspection	9
5.	Professional Team	9
6.	Building Contract	10
7.	Practical Completion And Rectification Period	11
8.	Insurance	12
9.	Damage After Practical Completion	12
10.	Landlord's Obligations	13
11.	Development Of The Landlord's Property	13
12.	Conditions	13
13.	Satisfactory Funding	14
14.	Tenant's Works	14
15.	Deducing Title	14
16.	Title Guarantee	14
17.	Matters Affecting The Property	15
18. Tenant	Termination On Tenant's Insolvency And Material Non-compliance By The 16	
19.	Consequences Of Termination	17
20.	Timetable For Engrossments	18
21.	Completion Of Grant Of The Lease and the Licence to Carry out Works	18
22.	Legal Costs	18
23.	VAT	18
24.	Entire Agreement	19
25.	Joint And Several Liability	20
26.	Notices	20

27.	Third Party Rights	21
28.	Governing Law	21
29.	Jurisdiction	21
Schedule 1	Disclosed Matters	22
Schedule 2	Professional Indemnity Insurance	23

is made between the following parties :

- (1) **CHEER TEAM CORPORATION LIMITED** incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Background:

The Landlord owns the freehold of the land and buildings on Land to the East of The Oxford Canal, Jericho, Oxford known as The Jericho Boat Yard and has agreed to grant the Tenant a lease of the Property on the terms contained in this Agreement.

Now it is agreed as follows:

1. Interpretation

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

1.1 Definitions:

Architect	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement architect for the time being by the Landlord [or the Building Contractor][, with the approval of the Tenant (such approval not to be unreasonably withheld or delayed),] in relation to this Agreement and the Building Contract;
Base Rate	the higher of 5% and the base rate from time to time of Barclays Bank PLC;
Building Contract	to be entered into [as a deed] between the Landlord and the Building Contractor based on the [JCT Design and Build Contract, 2011 edition] and incorporating such amendments as may be approved in writing by the Tenant (such approval not to be unreasonably withheld or delayed) or such other building contract with similar effect as may be approved by the Tenant (such approval not to be unreasonably withheld or delayed);
Building Contractor	Such building contractor as may be appointed by

	the Landlord to carry out the Landlord's Works together with any replacement building contractor that may be appointed by the Landlord in accordance with the terms of this Agreement;
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Collateral Warranties	deeds of collateral warranty from the parties identified in the relevant annex to this Agreement together with any replacement party that may from time to time be appointed by the Landlord or the Building Contractor be in the agreed forms annexed to this Agreement;
Condition	any one of the Part 1 Conditions;
Contract Rate	4% per annum above the Base Rate;
Design Sub-Contractors	all sub-contractors of the Building Contractor having a design responsibility in relation to the Landlord's Works under the Building Contract;
Development	The re-development of the Landlord's Property pursuant to the Planning Permission;
Development Specification	the plans, specifications, drawings and other data in respect of that part of the Development in the form annexed to this Agreement including any variations or amendments that may be made in accordance with clause 3.4 and clause 3.5;
Employer's Agent	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement employer's agent for the time being by the Landlord in relation to this Agreement and the Building Contract;
Event of Default	any of the events set out in clause 18.1;
Internal Area	the gross internal area in square feet of the Property (calculated in accordance with the RICS Code of Measuring Practice, 6th edition);
Landlord's Conveyancer	Penningtons Manches LLP, [REDACTED] [REDACTED] any other conveyancer whose details may be notified in writing from time to time by the Landlord to the Tenant;
Landlord's Property	the land and premises known as the Jericho Boat Yard at the East Side of Oxford Canal shown edged [in blue] on the Landlord's Property Plan and more particularly described in the Lease;
Landlord's Property Plan	the plan annexed to this Agreement marked "Landlord's Property Plan";

Landlord's Works	the works to construct the Development on the Property and the Landlord's Property to be carried out by the Landlord in accordance with the Property Specification and the Development Specification;
Lease	a lease of the Property to be granted to the Tenant by the Landlord on the Lease Completion Date in substantially the form annexed to this Agreement subject to amendments as are from time to time agreed in writing by or on behalf of the parties or are made necessitated by any variations made to the Development Specification under 3.5
Lease Completion Date	the day that is ten working days after the Practical Completion Date provided that the Tenant has given to the Landlord no later than three working days after the Practical Completion Date a Satisfactory Funding Certificate;
Licence Period	the period from but excluding the Practical Completion Date until completion of the Lease;
Licence to Carry out Works	a licence to carry out works between the Landlord and Tenant in substantially the form annexed to this Agreement;
M&E Engineer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement mechanical and electrical engineer for the time being by the Landlord [or the Building Contractor in relation to this Agreement and the Building Contract;
Material	all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, calculations, schedules, programmes, bills of quantities, budgets and any other materials provided in connection with the Landlord's Works and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to the Landlord's Works;
Notice of Completion of Making Good	the Employer's Agent's certificate or written statement issued in accordance with the Building Contract certifying that any defects, shrinkages or faults appearing in the Landlord's Works during the Rectification Period and for which the Building Contractor was responsible under the Building Contract have been made good;
Part 1 Conditions	part 1 of the Standard Commercial Property Conditions (Second Edition);
Part 2 Conditions	part 2 of the Standard Commercial Property

	Conditions (Second Edition);
Planning Agreement	the Section 106 Agreement made between (1) [] and (2) [] dated [] 2015;
Planning Permission	detailed planning permission for the Development [Reference:] dated [] 2015;
Practical Completion Date	the date stated in the Practical Completion Statement;
Practical Completion Statement	the Employer's Agent's written statement issued in accordance with the Building Contract stating that sectional completion of the Landlord's Works has occurred according to the terms of the Building Contract and setting out the date on which sectional completion occurred;
Principal Designer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement principal designer for the time being by the Landlord for the purposes of this Agreement and the CDM Regulations;
Professional Appointment	the appointment of a member of the Professional Team substantially in the forms of the relevant and appropriate drafts annexe ;
Professional Team	the Architect, the Principal Designer, the Employer's Agent, the M&E Engineer, the Quantity Surveyor, the Structural Engineer and any other specialist advisors or sub-consultants that may, with the approval of the Tenant (not to be unreasonably withheld or delayed), be appointed for the time being in connection with the design and/or management of the Development;
Property	the property to be known as the Community Centre, First Floor and Second Floors, Jericho Boat Yard as more particularly defined in the Lease;
Quantity Surveyor	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement quantity surveyor for the time being by the Landlord or Building Contractor, in relation to this Agreement and the Building Contract;
Rectification Period	the defects liability period or rectification period for the making good of defects, shrinkages or other faults in the Landlord's Works under the Building Contract;
Rent	a peppercorn if so demanded by the Landlord;
Rent Commencement Date	the Lease Completion Date;

Requisite Consents	building regulation approvals, by-law approvals, and any other consents, licences and authorisations required from any competent authority, statutory undertaker or person for the carrying out of the Landlord's Works or, as the case may be, the Tenant's Works;
RICS	Royal Institution of Chartered Surveyors;
Satisfactory Funding	pursuant to clause 13, to the Landlord's reasonable satisfaction funding of no less than [£5,000,000.00 (five million pounds)] to enable the Tenant to finance, commence and complete the Tenant's Works in accordance with the Licence to Carry Out Works after the Completion Date without delay
Satisfactory Funding Certificate	a certificate provided by the Tenant to the Landlord within 5 working days of Practical Completion with satisfactory documentary evidence which confirms to the Landlord's reasonable satisfaction that the Tenant has Satisfactory Funding in place
Structural Engineer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement structural engineer for the time being by the Landlord [or the Building Contractor in relation to this Agreement and the Building Contract;
Tenant's Conveyancer	[NAME, ADDRESS, FAX NUMBER, REFERENCE] [or any other conveyancer whose details may be notified in writing from time to time by the Tenant to the Landlord];
Tenant's Surveyor	[NAME, ADDRESS, FAX NUMBER, REFERENCE] [or any other surveyor whose details may be notified in writing from time to time by the Tenant to the Landlord];
Tenant's Works	the construction works to be carried out by the Tenant after the Lease Completion Date in accordance with the Licence to Carry out Works;
Third Party	a person other than: <ul style="list-style-type: none"> (a) the Landlord; or (b) the Tenant; or (c) anyone acting on the Landlord's or Tenant's behalf.
VAT	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to writing or written includes fax but not e-mail.
- 1.11 References to a document in agreed form are to that document in the form agreed by the parties.
- 1.12 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.13 Unless the content otherwise requires, references to clauses, Schedules and Annexes are to the clauses, Schedules and Annexes of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 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.
- 1.15 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

- 1.16 Unless this Agreement otherwise expressly provides, a reference to the Property or the Landlord's Property or the Development or the Landlord's Works or the Tenant's Works is to the whole and any part of them.
- 1.17 Any reference to the Landlord's consent or approval being required is to a consent or approval in writing which must be obtained before the relevant act is taken or event occurs.

2. Agreement For Lease

- 2.1 In consideration of the Tenant's obligations under this Agreement, the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord the Lease on the terms set out in this Agreement. No purchase price, premium, or deposit is payable.
- 2.2 The Tenant cannot require the Landlord to grant the Lease to any person other than the Tenant (here meaning [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER], only).
- 2.3 The Tenant cannot assign, sublet, charge, or otherwise share or part with the benefit of this Agreement whether in relation to the whole or any part of the Property.
- 2.4 Conditions 1.5 and 2.2 do not apply to this Agreement.

3. Landlord's Works

- 3.1 The Landlord shall apply for and use reasonable endeavours to obtain the Requisite Consents in respect of the Landlord's Works.
- 3.2 The Landlord shall use reasonable endeavours to procure that the Landlord's Works are carried out:
- 3.2.1 with due diligence and in a good and workmanlike manner;
 - 3.2.2 using only good quality materials and well-maintained plant and equipment;
 - 3.2.3 in accordance with this Agreement, the Planning Permission, the Development Specification and the Requisite Consents in respect of the Landlord's Works;
 - 3.2.4 in accordance with all statutory or other legal requirements and the recommendations or requirements of the local authority or statutory undertakings;

- 3.2.5 in compliance with all relevant British Standards, codes of practices and good building practice; and
 - 3.2.6 by selecting and using materials so as to avoid known hazards to the health and safety of any person and to ensure the long term integrity of the Property and the Landlord's Property.
- 3.3 The Landlord shall:
- 3.3.1 co-ordinate or procure co-ordination of the Professional Team;
 - 3.3.2 keep the Tenant's Surveyor informed as to progress of the Landlord's Works;
 - 3.3.3 promptly notify the Tenant's Surveyor of any material problems or delays in the performance of the Building Contract
- 3.4 The Landlord shall not, (subject to clause 3.5), vary, alter, add to or remove anything from the Development Specification without the Tenant's consent (such consent not to be unreasonably withheld or delayed).
- 3.5 The Landlord may make minor variations to the Development Specification without the Tenant's consent provided that:
- 3.5.1 the variations are insubstantial and immaterial and will not adversely affect the Property and the Tenant's proposed use thereof;
 - 3.5.2 the variations are in accordance with the Satisfactory Planning Permission, the Requisite Consents in respect of the Landlord's Works and any statutory requirements;
 - 3.5.3 any substitute materials used are of an equal or better quality and suitability to those originally specified;
 - 3.5.4 the variations do not delay the completion of the Landlord's Works;
 - 3.5.5 the Landlord informs the Tenant of the variations within a reasonable time; and
 - 3.5.6 the variations are required by any local or competent authority or statutory undertaking as a condition of the grant or continuance of the Satisfactory Planning Permission or any of the Requisite Consents in respect of the Landlord's Works.

4. Inspection

- 4.1 The Tenant and the Tenant's Surveyor may enter the Property, at any time after the commencement of the Landlord's Works, upon reasonable notice and at reasonable times to the Building Contractor, to inspect progress of the Landlord's Works and the materials used. In entering the Property, the Tenant and Tenant's Surveyor shall not obstruct progress of the Landlord's Works and shall:
- 4.1.1 not give any instructions or make any representations directly to the Building Contractor or Professional Team; and
 - 4.1.2 comply with the Landlord and Building Contractor's health and safety and site rules.
- 4.2 The Landlord shall procure that any instructions or representations made to the Landlord by the Tenant or the Tenant's Surveyor that comply with the terms of this Agreement are promptly dealt with to the Tenant's reasonable satisfaction.

5. Professional Team

- 5.1 The Landlord confirms it has taken (or in the case of a substitute member of the Professional Team shall take) all reasonable steps to be reasonably satisfied that each member of the Professional Team is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 5.2 Subject to clause 5.1, the Landlord shall once such of the Requisite Consents have been obtained so as to enable the Landlord's Works to commence appoint the members of the Professional Team.
- 5.3 The Landlord shall use reasonable endeavours to procure that each member of the Professional Team grants to the Tenant an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the relevant member of the Professional Team for any purpose relating to the Landlord's Works. Such licence shall:
- 5.3.1 carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Landlord or the relevant member of the Professional Team; and
 - 5.3.2 provide that the relevant member of the Professional Team has no liability for use of the Material for any purpose other than that for which it was prepared or provided.

- 5.4 The Landlord shall use reasonable endeavours to procure that each member of the Professional Team performs and observes the terms of its Professional Appointment.
- 5.5 The Landlord shall not do or omit to do anything that would entitle any member of the Professional Team to regard its employment under its Professional Appointment as terminated.
- 5.6 The Landlord shall not terminate the employment of any member of the Professional Team under its Professional Appointment or treat such Professional Appointment as repudiated without first notifying the Tenant of its intention to do so.

6. Building Contract

- 6.1 The Landlord confirms it has taken (and in the case of a substitute Building Contractor shall take), all reasonable steps to be reasonably satisfied that the Building Contractor is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 6.2 The Landlord shall once such of the Requisite Consents have been obtained so as to enable the Landlord's Works to commence enter into the Building Contract with the Building Contractor, appoint the Building Contractor as the principal contractor for the purposes of the CDM Regulations, and supply a certified copy of the Building Contract to the Tenant.
- 6.3 The Landlord shall use reasonable endeavours to procure that the Building Contractor and each Design Sub-Contractor grants to the Tenant an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the Building Contractor or the relevant Design Sub-Contractor for any purpose relating to the Landlord's Works. Such licence shall:
- 6.3.1 carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Building Contractor or the relevant Design Sub-Contractor; and
- 6.3.2 provide that the Building Contractor or the relevant Design Sub-Contractor has no liability for use of the Material for any purpose other than that for which it was prepared or provided.
- 6.4 The Landlord shall reasonable endeavours to procure that the Building Contractor performs and observes the terms of the Building Contract.

- 6.5 The Landlord shall not do or omit to do anything that would entitle the Building Contractor to regard the Building Contract as terminated by breach. The Landlord shall immediately notify the Tenant if the Landlord believes the Building Contractor may be intending to rescind the Building Contract.
- 6.6 The Landlord shall not terminate the employment of the Building Contractor or treat the Building Contract as repudiated without first notifying the Tenant of its intention to do so.

7. Practical Completion And Rectification Period

- 7.1 The Landlord shall use reasonable endeavours to procure that the Employer's Agent:
- 7.1.1 gives at least 5 working days' notice to the Tenant of the Employer's Agent's intention to inspect the Landlord's Works for the purpose of issuing the Practical Completion Statement and allows the Tenant and the Tenant's Surveyor to attend the inspection and make representations to the Landlord either during the inspection or in writing immediately thereafter; and
- 7.1.2 without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 7.1.1 when considering whether to issue the Practical Completion Statement in accordance with the terms of the Building Contract.
- 7.2 The Landlord shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Practical Completion Statement to the Tenant as soon as practicable after its issue.
- 7.3 The issue of the Practical Completion Statement shall be conclusive evidence binding on the parties that the Landlord's Works have been completed in accordance with the terms of this Agreement, subject to the Landlord's obligations during the Rectification Period.
- 7.4 Without prejudice to the generality of clause 6.4, the Landlord shall use reasonable endeavours to enforce the Building Contractor's obligations under the Building Contract to remedy any defects, shrinkages or faults appearing in the Landlord's Works during the Rectification Period.
- 7.5 During the Rectification Period, the Tenant or the Tenant's Surveyor may make written representations to the Landlord identifying defects, shrinkages or faults in the

Landlord's Works which the Building Contractor is obliged to remedy in accordance with the Building Contract. Without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, the Landlord shall use reasonable endeavours to ensure that the Employer's Agent takes proper account of any such representations.

7.6 The Landlord shall use reasonable endeavours to procure that the Employer's Agent:

7.6.1 gives at least [5] working days' notice to the Tenant of the Employer's Agent's intention to inspect the Landlord's Works for the purpose of issuing the Notice of Completion of Making Good and allows the Tenant and the Tenant's Surveyor to attend the inspection and make representations to the Landlord either during the inspection or in writing immediately thereafter; and

7.6.2 without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 7.6.1 when considering whether to issue the Notice of Completion of Making Good in accordance with the terms of the Building Contract.

7.7 The Landlord shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Notice of Completion of Making Good to the Tenant as soon as practicable after its issue.

7.8 The Landlord shall use reasonable endeavours to procure the grant of the Collateral Warranties in favour of the Tenant on or before the date on which the Lease is completed.

8. Insurance

Conditions 7.1.1, 7.1.2, 7.1.3 and 7.1.4(b) do not apply to this Agreement.

9. Damage After Practical Completion

9.1 The Tenant shall not be entitled to refuse to complete or to delay completion of the grant of the Lease due to any event occurring after the Practical Completion Date that results in:

9.1.1 any damage to the Landlord's Works or any part of it;

9.1.2 any damage to the means of access to the Property;

9.1.3 any deterioration in the Property's condition.

9.2 The provisions in the Lease relating to insurance of the Property shall apply from the Practical Completion Date to the date of grant of the Lease.

10. Landlord's Obligations

10.1 The Landlord's obligations in clause 5 to clause 10 are personal and binding only on Cheer Team Corporation Limited, incorporated and registered in England and Wales with company number (Hong Kong company number 1890409) whose registered office is at [REGISTERED OFFICE ADDRESS].

10.2 Cheer Team Corporation Limited shall be released from all liability in respect of its obligations referred to in clause 10.1 after a period of 3 months after the Practical Completion Date, except in relation to any claim made against or notified to it prior to the end of that period.

11. Development Of The Landlord's Property

11.1 The Tenant:

11.1.1 acknowledges and accepts that the Landlord is intending to develop the whole of the Landlord's Property and that works at the Landlord's Property may continue after the Practical Completion Date; and

11.1.2 waives any right against the Landlord under the Lease or otherwise to claim damages, compensation or any other remedy arising from the disturbance, nuisance or inconvenience caused by such continuing works.

12. Conditions

12.1 The Part 1 Conditions are incorporated in this Agreement, in so far as they:

12.1.1 are applicable to the grant of a lease;

12.1.2 are not inconsistent with the other clauses in this Agreement; and

12.1.3 have not been modified or excluded by any of the other clauses in this Agreement.

12.2 The Part 2 Conditions are not incorporated in this Agreement.

12.3 Condition 1.1.1(d) is amended so that "completion date" means the "Lease Completion Date" as defined in this Agreement.

12.4 Condition 1.1.1(e) is amended so that reference to the contract rate in Condition 1.1.1(e) refers instead to the Contract Rate as defined in this Agreement.

12.5 Condition 1.1.4(a) does not apply to this Agreement.

13. Satisfactory Funding

The Tenant shall secure Satisfactory Funding no later than three months of the date hereof being [DN. Insert date 3 months from date of exchange] ("Satisfactory Funding Date") and shall provide written evidence of the same to the Landlord's reasonable satisfaction on or before the Satisfactory Funding Date.

14. Tenant's Works

14.1 From the date hereof the Tenant shall apply for and use best endeavours to obtain all Requisite Consents for the Tenant's Works.

14.2 The Tenant shall not commence any of the Tenant's Works until after the Lease Completion Date and until the Licence to Carry Out Works has been entered into.

14.3 The Tenant's Works shall be carried out in accordance with the Lease and the Licence to Carry Out Works.

15. Deducing Title

15.1 The Landlord's freehold title to the Property has been deduced to the Tenant's Conveyancer before the date of this Agreement.

15.2 The Tenant is deemed to have full knowledge of the Landlord's title and is not entitled to raise any objection, enquiry or requisition in relation to it.

15.3 Conditions 6.1, 6.2, 6.3, 6.4.2, 10.2.4, 10.2.5, and 10.3 do not apply to this Agreement.

16. Title Guarantee

16.1 The Landlord shall grant the Lease with full title guarantee.

16.2 The implied covenants for title are modified so that:

16.2.1 the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 (LP(MP)A 1994) shall not extend to costs arising from the Tenant's failure to:

- (a) make proper searches; or
 - (b) raise requisitions on title or on the results of the Tenant's searches before the date of this Agreement (or by completion in the case of searches referred to in clause 17.1); and
- 16.2.2 the covenant set out in section 3(3) of the LP(MP)A 1994 shall extend only to charges or encumbrances created by the Landlord.
- 16.3 Condition 6.6.2 does not apply to this Agreement.

17. Matters Affecting The Property

- 17.1 The Landlord shall grant the Lease to the Tenant free from encumbrances other than:
- 17.1.1 any matters, other than financial charges, contained or referred to in the entries or records made in registers maintained by the Land Registry as at [DATE AND TIME OF OFFICIAL COPIES] under title number ON268665;
 - 17.1.2 all matters contained or referred to in the Lease;
 - 17.1.3 any matters discoverable by inspection of the Property before the date of this Agreement;
 - 17.1.4 any matters which the Landlord does not and could not reasonably know about;
 - 17.1.5 any matters, other than financial charges, disclosed or which would have been disclosed by the searches and enquiries that a prudent tenant would have made before entering into this Agreement;
 - 17.1.6 public requirements;
 - 17.1.7 any matters which are, or (where the Lease will not be registered) would be, unregistered interests which override first registration under Schedule 1 to the Land Registration Act 2002;
 - 17.1.8 any matters disclosed in the documents listed in Schedule 1; and
 - 17.1.9 any Planning Agreement.
- 17.2 The Tenant is deemed to have full knowledge of the matters referred to in clause 17.1 and shall not raise any enquiry, objection, requisition or claim in respect of any of them; and

17.3 Conditions 3.1.1, 3.1.2, 3.1.3, 3.2.1, 3.3 and 6.6.3 do not apply to this Agreement.

18. Termination On Tenant's Insolvency And Material Non-compliance By The Tenant

18.1 An Event of Default is any of the following:

18.1.1 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;

18.1.2 the making of an application for an administration order or the making of an administration order in relation to the Tenant;

18.1.3 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;

18.1.4 the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant;

18.1.5 the commencement of a voluntary winding-up in respect of the Tenant [or 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;

18.1.6 the making of a petition for a winding-up order or a winding-up order in respect of the Tenant;

18.1.7 the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck-off;

18.1.8 the Tenant.

18.2 If an Event of Default occurs, the Landlord may, at any time prior to grant of the Lease, determine this Agreement by giving written notice to the Tenant.

18.3 If at any time there is any material non-compliance by the Tenant with any of its obligations under this Agreement and such default is either:

18.3.1 not capable of being remedied; or

18.3.2 is capable of remedy but the Tenant has not remedied the default within ten working days (or such longer period as may be reasonable in the

circumstances) after service on the Tenant by the Landlord of a notice specifying the default;

the Landlord may, at any time prior to grant of the Lease, determine this Agreement by giving written notice to the Tenant.

- 18.4 If by 5.00pm on the Satisfactory Funding Date the Tenant has not been able to satisfy the condition contained in clause 13 the Landlord may terminate this Agreement by giving written notice to the Tenant.

19. Consequences Of Termination

- 19.1 If the Landlord gives notice to terminate this Agreement under clause 18.2 18.3 or 18.4.

19.1.1 subject to clause 19.1.2 this Agreement shall be terminated with immediate effect from the date of the notice to terminate and none of the parties shall have any further rights or obligations under this Agreement save for:

(a) the rights of any party in respect of any earlier breach of this Agreement; and

(b) the obligations in the clauses referred to in clause 19.1.2;

19.1.2 clause 15, clause 19 and clause 22 shall continue in force notwithstanding the termination of this Agreement under clause 19.1.1;

19.1.3 the Tenant shall immediately cancel all entries relating to this Agreement registered against the Landlord's title; and

19.1.4 the Tenant shall immediately:

(a) vacate the Property;

(b) remove all of the Tenant's chattels from the Property;

(c) (to the extent required by the Landlord) remove the Tenant's Works or any other fixtures constructed by or for the Tenant; and

(d) make good all damage caused by the Tenant as a result of such removal.

20. Timetable For Engrossments

20.1 The Landlord's Conveyancer shall send:

the engrossed counterpart Lease and Licence to Carry Out Works to the Tenant's Conveyancer within ten working days after the Practical Completion Date; and

20.2 The Tenant shall execute the counterpart Lease and Licence to Carry out Works within ten working days after the engrossed counterpart Lease and Licence to Carry out Works has been submitted to the Tenant's Conveyancer.

21. Completion Of Grant Of The Lease and the Licence to Carry out Works

Completion of the grant of the Lease and the Licence to Carry out Works shall take place on the Lease Completion Date.

21.1 If completion is delayed due to the Tenant's default or the Tenant fails to pay any sum due under this Agreement in full on completion, the Tenant shall pay interest in addition to damages for losses incurred by the Landlord as a result of the delayed completion. The interest shall be payable at the Contract Rate on any unpaid amount for the period from the Lease Completion Date to the date of actual payment.

21.2 Condition 8.7 is amended to read: "The Tenant is to pay the money due on completion to the Landlord's Conveyancer by a method that gives immediately available funds".

21.3 Condition 9.3 does not apply to this Agreement.

22. Legal Costs

The Tenant shall pay on a full indemnity basis the Landlord's legal costs and disbursements incurred in connection with this Agreement and the grant of the Lease plus an amount equivalent to VAT on them. The Tenant shall make the payment by cleared funds or by a conveyancer's client account cheque on the Lease Completion Date or, as the case may be, on the date of termination of this Agreement pursuant to clause the terminations provisions of this Agreement.

23. VAT

23.1 Each amount stated to be payable under or pursuant to this Agreement is exclusive of VAT (if any).

23.2 If any VAT is chargeable on any supply made by one party to the other party under or pursuant to this Agreement, the paying party shall pay to the other party an amount equal to that VAT.

23.3 Condition 1.4 does not apply to this Agreement.

24. Entire Agreement

24.1 This Agreement and the documents annexed to it constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

24.2 The Tenant acknowledges that:

24.2.1 in entering into this Agreement, the Tenant has not relied on and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than:

(a) as expressly set out in this Agreement or the documents annexed to it;
or

(b) in any written replies which the Landlord's Conveyancer has given to any written enquiries raised by the Tenant's Conveyancer before the date of this Agreement.;

24.2.2 no representation or warranty is given or is to be implied by:

(a) the Landlord entering into this Agreement; or

(b) any step taken by or on behalf of the Landlord in connection with this Agreement;

as to the suitability of the Property or the building of which it forms part for the Tenant's Works; and

24.2.3 nothing in this clause 24.2 shall limit or exclude any liability for fraud.

24.3 Condition 9.1.1 is varied to read "If any plan or statement in the agreement or in written replies which the Landlord's Conveyancer has given to any written enquiries raised by the Tenant's Conveyancer before the date of this Agreement is or was misleading or inaccurate due to any error or omission, the remedies available are as follows."

25. Joint And Several Liability

25.1 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 Agreement. 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.

25.2 Condition 1.2 does not apply to this Agreement.

26. Notices

26.1 Any notice or other communication required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to each party required to receive the notice or communication as set out below:

26.1.1 Landlord: [CONTACT] [ADDRESS]

26.1.2 Tenant: [CONTACT] [ADDRESS]

or as otherwise specified by the relevant party by notice in writing to each other party.

26.2 Any notice or other communication shall be deemed to have been duly received:

26.2.1 if delivered personally, when left at the address and for the contact referred to in this clause;

26.2.2 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second working day after posting; or

26.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

26.3 A notice or other communication required to be given under this Agreement shall not be validly given if sent by e-mail.

26.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

26.5 Condition 1.3 does not apply to this Agreement.

27. Third Party Rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

28. Governing Law

This Agreement 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.

29. 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 Agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1

Disclosed Matters

[LIST MATTERS DISCLOSED UNDER clause 17.1.8.]

Schedule 2

Professional Indemnity Insurance

Role	Identity	Required level of insurance

Signed by []

for and on behalf of Cheer Team Director
Corporation Limited

Signed by []

for and on behalf of [the Tenant] Director

[Annex A

Copy Building Contract OR Agreed form of Building Contract]

[Annex B

List of parties required to give Collateral Warranties]

[Annex C

Agreed forms of Collateral Warranties]

This deed is made the _____ day of _____ 20____

Between:

- (1) [●Contractor] (Company number [●]) whose registered office is at [●] (the **Contractor**);
- (2) [●Beneficiary] (Company number [●]) whose registered office is at [●] (the **Beneficiary**); and
- (3) [●Employer] (Company number [●]) whose registered office is at [●] (the **Employer**).

Background:

- (A) The Employer has entered into or is about to enter into a Contract with the Contractor regarding the Works;
- (B) The Beneficiary [●provided finance] [●purchased or is about to purchase] [●entered into or is about to enter into a lease] [●regarding] [●the whole of] [●part of] the Works;
- (C) The Contractor has agreed to enter into this Deed for the benefit of the Beneficiary.

Operative provisions:

1 Definitions and interpretation

- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

Beneficiary	includes any person to whom the benefit of this Deed and/or any rights arising under it shall have been validly assigned in accordance with clause 6
Contract	the building contract entered into or about to be entered into between the Employer and the Contractor in relation to the Works
Design Documents	all drawings, details, plans, specifications, schedules, reports, models, bills of quantities, calculations, software and other work (and any designs, ideas, concepts and inventions contained in them whether patentable or not) which may be prepared, conceived or developed by or on behalf of the Contractor in the course of or as a result of carrying out the Works
Employer	includes any person to whom the benefit of the Contract has been validly assigned in accordance with its terms
Practical Completion	taking over of the Works as certified or otherwise evidenced pursuant to the terms of the Contract

Property	the location of the Works being [●]
Statutory Requirements	any requirements imposed by <ul style="list-style-type: none"> (a) any act of parliament, statutory instrument, rule or order made under any act of parliament; (b) any regulation or bye law or approved code of practice of any local authority, statutory undertaker or other body which has jurisdiction with regard to the Works or to whose systems the Works are or will be connected; or (c) the terms of any planning permission, building regulation approval or other consent or approval required for the execution of the Works
Works	the design and construction of the works as detailed in the Contract

1.2 In this deed, unless the context otherwise requires:

1.2.1 any obligation on a party to this Deed to do any act includes an obligation to procure that it is done;

1.2.2 the clause and paragraph headings in this Deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer;

1.2.3 unless the contrary intention appears, references:

(a) to numbered clauses and schedules are references to the relevant clause in, or schedule to, this Deed; and

(b) to a numbered paragraph in the schedule are references to the relevant paragraph in the schedule;

1.2.4 words in this Deed denoting the singular include the plural meaning and vice versa;

1.2.5 references in this Deed to any statutes or statutory instruments include 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 it;

1.2.6 words in this Deed importing one gender include both genders and may be used interchangeably, and words denoting persons, where the context allows, include corporations and vice versa.

2 Contractor's warranties

2.1 The Contractor warrants and undertakes to the Beneficiary that it has observed and performed and will continue to observe and perform each and all of the obligations on its part to be observed and performed under the Contract in accordance with the terms of the Contract, provided always that:

- 2.1.1 the Contractor shall owe no greater obligations to the Beneficiary under this Deed than it would have owed had the Beneficiary been named as a joint employer with the Employer under the Contract; and
- 2.1.2 the Contractor shall not be liable to the Beneficiary in respect of any delay to the completion of the Works unless and until the Beneficiary shall have given notice to the Contractor under clause 4.3.
- 2.2 Without limiting clause 2.1, the Contractor warrants and undertakes to the Beneficiary that:
- 2.2.1 insofar as the design of the Works is the responsibility of the Contractor under the Contract, it has exercised and will continue to exercise all such professional skill, care and diligence as may reasonably be expected of a skilled and competent architect, structural engineer, services engineer, acoustics engineer, landscape architect, fire consultant or as the case may be other appropriate professional designer holding itself out as competent to take on the design work of a similar type, nature and complexity to the Works;
- 2.2.2 using the standard of skill and care set out in clause 2.2.1, there has not been used or specified for use or authorised or permitted to be used in the Works or any part or parts thereof nor shall there be cause to use or suffer the use of any substances or materials:
- (a) known or suspected to be in themselves or as a result of the manner of their use a hazard to health;
- (b) which at the time the works are being carried out are within the building industry generally known or accepted as or reasonably suspected of:
- (i) being deleterious in themselves;
- (ii) becoming deleterious when used in a particular situation in combination with other substances or materials and with passage of time or through poor workmanship during construction or without a higher level of maintenance than that which would normally be expected in works of the type under construction; or
- (iii) being damaged by or causing damage to the structure on which they are incorporated or to which they are affixed;
- 2.2.3 for the purposes of clause 2.2.2 **deleterious** materials or substances are those whose durability is lower than specified or lower than might reasonably be expected of a substance or material specified or used for the purpose in which it is used or specified in the Works, or one which reduces or might reduce the durability of substances or materials to which they are applied or fixed, or reduce the durability of the structures into which they are incorporated or which reduce or might reduce the durability of the Works or part of the Works.
- 2.2.4 the Works as completed will in all respects comply with the Statutory Requirements;
- 2.2.5 it shall not raise any defence to a claim by the Beneficiary under this Deed on the grounds that the losses in respect of which the Beneficiary seeks damages, compensation or other relief are not losses suffered or to be suffered by the Employer or that the Employer has suffered no loss. The Contractor shall not be entitled to rely upon set off, counterclaim or defence arising from non-payment by the Employer of any monies due under the Contract.
- 2.3 The Contractor extends to the Beneficiary the benefit of all warranties and undertakings on the part of the Contractor contained in the Contract.
- 2.4 The Contractor acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties and undertakings given by the Contractor under this clause 2.

- 2.5 The Contractor acknowledges to the Beneficiary that, at the date of this Deed, the Contract remains in full force and effect and the Employer has paid all sums properly due to the Contractor under the Contract.

3 Obligations prior to determination of the Contractor's employment

- 3.1 The Contractor covenants with the Beneficiary that it will not exercise nor seek to exercise any right to determine its employment under the Contract or to discontinue the performance of any of its obligations in relation to the Works for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than 28 days' notice of its intention to do so and specifying the grounds for the proposed determination or discontinuance.
- 3.2 Any period, whether stipulated in the Contract or otherwise, for the exercise by the Contractor of a right of determination shall be extended, as may be necessary, to take account of the period of notice required under clause 3.1.
- 3.3 Compliance by the Contractor with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Contractor from exercising its rights after the expiration of notice, unless the right of determination shall have ceased under the provisions of clause 4.

4 Step in right

- 4.1 The right of the Contractor to determine its employment under the Contract shall cease if, within the period of 28 days referred to in clause 3.2, the Beneficiary shall give notice to the Contractor:
- 4.1.1 requiring it to continue its obligations under the Contract;
 - 4.1.2 acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Contract; and
 - 4.1.3 undertaking to the Contractor to discharge all payments which may subsequently become due to the Contractor under the terms of the Contract and to pay to the Contractor any sums which have become due and payable to it under the Contract but which remain unpaid.
- 4.2 Upon the compliance by the Beneficiary with the requirements of clause 4.1 the Contract shall continue in full force and effect as if the right of determination on the part of the Contractor had not arisen and in all respects as if the Contract had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.
- 4.3 Notwithstanding that as between the Contractor and the Employer the Contractor's right of determination of its employment under the Contract may not have arisen the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Contractor and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1.
- 4.4 The Contractor shall be bound to assume that, as between the Employer and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.5 The Employer acknowledges that the Contractor, acting in accordance with the provisions of this clause 4 shall not incur any liability to the Employer.

5 Use of Design Documents

- 5.1 The copyright in the Design Documents shall remain vested in the Contractor, but the Contractor grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Design Documents for any purpose connected with the Works and/or the Property including, but without limitation, the execution and completion of the Works and the maintenance, letting, occupation, management, sale, advertisement, extension, alteration, demolition, reinstatement and repair of the Property.

- 5.2 The licence referred to in clause 5.1 shall carry the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Contractor's employment under the Contract, provided always that the Contractor shall not be liable for the consequences of any use of the Design Documents for any purpose other than that for which it was prepared.
- 5.3 Insofar as the Contractor is the author of the Design Documents and of the Works, the Contractor waives any moral rights which it might otherwise be deemed to possess in respect of them. The Contractor shall not exercise his moral rights against the Beneficiary and the Contractor agrees that the Beneficiary is entitled to make any reasonable changes or amendments to the design prepared by or on behalf of the Contractor.
- 5.4 The Contractor shall procure for the Beneficiary a waiver corresponding to that in clause 5.3 from any sub-contractor or consultant employed by the Contractor who is an author of any part of the Design Documents and of the Works in respect of them.
- 5.5 The Contractor shall indemnify the Beneficiary against any liability which the Beneficiary may incur by reason of the Contractor's infringing or being held to have infringed any copyright or other intellectual property rights of any person.
- 5.6 The Contractor shall within 28 days of the Beneficiary's request provide a complete set of copies of the Design Documents to the Beneficiary without charge.

6 Assignment

- 6.1 The Beneficiary may assign the benefit of this Deed and/or any rights arising under it on notice to the Contractor at any time without the Contractor's consent.
- 6.2 The Contractor shall not be entitled to contend that any person to whom this Deed is assigned is precluded from recovering any loss incurred by such assignee from any breach of this Deed (whenever occurring) by reason that such a person is an assignee and not a named Beneficiary under this Deed.

7 Insurance

- 7.1 The Contractor undertakes to the Beneficiary to maintain with reputable insurers carrying on business in the United Kingdom, from the date of this Deed and for a period expiring no earlier than 12 years after the date of Practical Completion and notwithstanding the determination for any reason of the Contractor's employment under the Contract, professional indemnity insurance, with a limit of indemnity of not less than £[●],000,000 ([●] million pounds) in respect of each and every claim, provided always that such insurance continues to be available in the United Kingdom market upon reasonable terms and at commercially reasonable premium rates.
- 7.2 As and when it is reasonably required to do so by the Beneficiary, the Contractor shall produce for inspection by the Beneficiary documentary evidence that such insurance is being properly maintained.
- 7.3 The Contractor shall notify the Beneficiary immediately if such insurance ceases to be available upon reasonable terms and at commercially reasonable premium rates or if for any other reason the Contractor is unable to continue to maintain such insurance.
- 7.4 The Contractor shall not compromise, settle or waive any claim which it may have under such insurance in respect of any professional liability which it may incur under this Deed without the prior written consent of the Beneficiary provided that nothing in this clause 7.4 shall preclude the Contractor's insurers from taking over (in the name of the Contractor) the defence of any claim made by the Beneficiary under this Deed and (in that capacity) from conducting and settling it as they see fit.
- 7.5 The Contractor shall take out and maintain the insurance cover required under this clause 7 on terms which are satisfactory to the Beneficiary.

8 Other remedies

- 8.1 Nothing in this Deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this Deed.
- 8.2 The liability of the Contractor under this Deed shall not be released, diminished or in any other way affected by:
- 8.2.1 the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Works or to inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;
 - 8.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or
 - 8.2.3 any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

9 Limitation

No action or proceedings for any breach of this Deed shall be commenced against the Contractor after the expiry of 12 years following Practical Completion of the Works.

10 Notices

- 10.1 Any notice or consent required or permitted under this Deed shall be in writing and shall be sent by first class post, hand delivery or fax. There shall be no right to serve notices or consents by email.
- 10.2 Any such notice, consent or other document shall be deemed to have been duly received:
- 10.2.1 if despatched by first class post - 48 hours from the time of posting to the relevant party; or
 - 10.2.2 if despatched by hand delivery - at the time of actual delivery; or
 - 10.2.3 if despatched by fax - 24 hours after the time of the despatch.
- 10.3 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses given for a party in this Deed or such other addresses subsequently notified in writing as being the registered office or principal address of business of the relevant party. In proving service by fax it shall be sufficient to prove that it was properly addressed and dispatched to the numbers as notified in writing by the relevant party to other parties.
- 10.4 A party shall not attempt to prevent or delay the service on it of a notice under this Deed.

11 Governing law and disputes

The application and interpretation of this Deed shall in all respects be governed by the laws of England and any dispute or difference arising under this Deed shall be subject to the jurisdiction of the courts of England.

12 Third Party Rights

- 12.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed.

12.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

In witness this deed has been executed and delivered on the date appearing at the beginning

Signature page to the Deed of Warranty between [●Contractor], [●Beneficiary] and [●Employer].

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

[Annex D

Development Specification in agreed form]

Annex E

Agreed form of Lease

Annex F

Agreed form of Licence to Carry out Works

[Annex G

Agreed forms of Professional Appointments]

DATED

2015

Appendix 4-4

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

LEASE

relating to

property and airspace at the Jericho Boat Yard,
land at the east side of the Oxford Canal,
Jericho, Oxford



**PENNINGTONS
MANCHES**



Table of Contents

<u>Clause</u>	<u>Subject Matter</u>	<u>Page</u>
1.	Interpretation	4
2.	Grant	10
3.	Ancillary Rights	11
4.	Rights Excepted And Reserved	13
5.	Third Party Rights	14
6.	The Annual Rent	15
7.	Services And Service Charge	15
8.	Insurance	19
9.	Rates And Taxes	21
10.	Utilities	22
11.	Common Items	22
12.	VAT	22
13.	Default Interest And Interest	23
14.	Costs	23
15.	Compensation On Vacating	24
16.	Set-off	24
17.	Registration Of This Lease	24
18.	Assignments	24
19.	Underlettings	24
20.	Prohibition Of Other Dealings	24
21.	Registration And Notification Of Dealings And Occupation	25
22.	Closure Of The Registered Title Of This Lease	25
23.	Repairs	26
24.	Decoration	26
25.	Windows and landscaping	27
26.	Sewers and drains	27
27.	Stability	27

28.	Alterations And Signs	27
29.	Returning The Property To The Landlord	29
30.	Use	29
31.	Management Of The Building	29
32.	Compliance With Laws	30
33.	Encroachments, Obstructions And Acquisition Of Rights	31
34.	Breach Of Repair And Maintenance Obligations	31
35.	Indemnity	32
36.	Landlord's Covenant For Quiet Enjoyment	32
37.	Re-entry And Forfeiture	32
38.	Joint And Several Liability	33
39.	Entire Agreement	34
40.	Notices, Consents And Approvals	34
41.	Governing Law	36
42.	Jurisdiction	37
43.	Contracts (Rights Of Third Parties) Act 1999	37

PRESCRIBED CLAUSES

LR1. Date of lease

2015

LR2. Title number(s)

LR2.1 Landlord's title number(s)

[REDACTED]

LR2.2 Other title numbers

None.

LR3. Parties to this Lease

Landlord

Cheer Team Corporation Limited

[REDACTED]

Hong Kong Company Number 1890409

Tenant

[COMPANY NAME]

[REGISTERED OFFICE ADDRESS]

[COMPANY REGISTERED NUMBER]

[TO BE CONFIRMED]

Other parties

None.

Guarantor

None.

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.

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

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 dated

2015 is made between the following parties:

- (1) CHEER TEAM CORPORATION LIMITED incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Now it is agreed as follows:

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.

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 a rate of one peppercorn per annum (if so demanded by the Landlord);
Building	The Jericho Boat Yard and buildings shown [edged blue on Plan 2] which shall include the Underlying Property, the Property and the Community Centre has been constructed;
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Common Parts	the Building other than the Property and the Lettable Units;
Community Centre	the Community Centre to be built on the Property by the Tenant pursuant to the Licence to Carry out Works;

Contractual Term	a term of 999 years beginning on, and including the date of this Lease;
Default Interest Rate	4% per annum above the Interest Rate;
Insurance Rent	<p>the aggregate in each year of:</p> <p>(a) a fair proportion of the gross cost of the premium before any discount or commission for:</p> <p>(i) the insurance of the Building, [other than any plate glass,] 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; and</p> <p>(ii) public liability insurance in relation to the Common Parts;</p> <p>(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</p> <p>(c) any insurance premium tax payable on the above.</p>
Insured Risks	means fire, explosion, [terrorism] lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Landlord decides to insure against from time to time and Insured Risk means any one of the Insured Risks;
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's Neighbouring Property	each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as The Jericho Boat Yard registered at the Land Registry with title number ON268665 shown edged green on the attached

	Plan 1;
Lettable Unit	part of the Building other than the Property, that is capable of being let and occupied;
Licence to Carry out Works	the Licence to Carry out Works of even date entered into between (1) the Landlord and (2) the Tenant which permits the Tenant to construct the Tenant's Works.
LTA 1954	Landlord and Tenant Act 1954;
Permitted Use	a community centre with ancillary services within Use Class [D1] of the Town and Country Planning (Use Classes) Order 1987 as at the date this Lease is granted;
Plan 1	the plan attached to this Lease marked "Plan 1";
Plan 2	the plan attached to this Lease marked "Plan 2";
Property	<p>the part of the first and second floors of the Building (the floor plan of which is shown [edged red on Plan 1]) bounded by and including:</p> <ul style="list-style-type: none"> (a) the Slab; (b) 10 meters of airspace above the Slab; <ul style="list-style-type: none"> and once constructed pursuant to the Licence to Carry out Works (c) the Community Centre including the roof, the roof space and all external, structural or load bearing walls, columns, beams and supports, including: <ul style="list-style-type: none"> (i) the paint and other decorative finishes of the interior and wooden cladding and other finishes and treatments of the exterior walls and columns; and (ii) the plasterwork and finishes of the interior structured load bearing walls and columns that adjoin another Lettable Unit or the Common Parts. (d) the doors and windows and their fittings and frames within the interior, and exterior of the Property (e) one half of the thickness of the interior walls and columns that adjoin another Lettable Unit or the Common Parts; (f) the doors and windows within the interior

walls and columns that adjoin the Common Parts and their frames and fittings;

Rent Commencement Date	the date hereof;
Rent Payment Dates	25 March, 24 June, 29 September and 25 December;
Reservations	all of the rights excepted, reserved and granted to the Landlord by this Lease;
Service Charge	a fair 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;
Service Costs	the costs listed in clause 7.2;
Service Media	all media for the supply or removal of heat electricity, gas, water, sewage, [air-conditioning,] energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media;
Services	the services listed in clause 7.1;
Tenant's Works	the works to be undertaken by the Tenant in respect of the construction of the Community Centre pursuant to the Licence to Carry out Works
The Slab	means the slab forming part of the Property being immediately over the Underlying Property or any part thereof
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 of the charges register of title number ON268665;
Underlying Property	the land and buildings belonging the Landlord (other than the Property) over which the Property is located
VAT	value added tax chargeable under the Valued Added Tax Act 1994 and any similar replacement tax and any similar additional tax;

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.
- 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) 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, 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 40.5 and references to the approval of the Landlord are to the approval of the Landlord given in accordance with clause 40.6.
- 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 includes fax but not email.
- 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 The Landlord lets with full title guarantee the Property 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:
- 2.3.1 the Annual Rent and all VAT in respect of it;
 - 2.3.2 the Service Charge and all VAT in respect of it;
 - 2.3.3 the Insurance Rent;
 - 2.3.4 all interest payable under this Lease; and
 - 2.3.5 all other sums due under this Lease.

3. Ancillary Rights

- 3.1 In so far as the Landlord is able to grant them the Landlord grants the Tenant the following rights (the Rights):
- 3.1.1 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;
 - 3.1.2 the right to use external areas of the Common Parts shown [hatched green on Plan 2] 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;
 - 3.1.3 the right to use accesways stairways and landings of the Common Parts for the purposes of access to and egress from the Property;
 - 3.1.4 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 which are in existence at the date of this Lease or are installed or constructed during the period of 80 years from commencement of the Contractual Term;
 - 3.1.5 the right to attach any item to the Common Parts adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this Lease;
 - 3.1.6 the right to enter the Common Parts or any other Lettable Unit including the Underlying Property so far as is absolutely necessary to carry out any works to the Property required or permitted by this Lease;
- 3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord or otherwise entitled to exercise such or similar right.
- 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 3.1.1) only in connection with its use of the Property for the Permitted Use and in accordance with any 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 In relation to the Rights mentioned in clause 3.1.3, 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 that Right is exercised.
- 3.7 In relation to the Rights mentioned in clause 3.1.4, the Landlord may, at its 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.
- 3.8 In relation to the Right mentioned in clause 3.1.5, where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.
- 3.9 In exercising the Right mentioned in clause 3.1.6, the Tenant shall:
- 3.9.1 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;
 - 3.9.2 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);
 - 3.9.3 cause as little damage as 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;
 - 3.9.4 cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the other Lettable Units as is reasonably practicable; and
 - 3.9.5 promptly make good (to the satisfaction of the Landlord) any damage caused to the Common Parts or any Lettable Unit (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.
- 3.10 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 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 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:

4.1.1 rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;

4.1.2 the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this Lease or which are installed or constructed during the term; 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;

4.1.3 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;

4.1.4 the right to erect scaffolding and to place ladders 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;

4.1.5 the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations;

4.1.6 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 are exercised and the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1.4 are exercised;

4.1.7 and

4.1.8 [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.

- 4.2 The Landlord reserves the right to enter the Property:
- 4.2.1 to repair, maintain, install, construct, re-route or replace any Service Media or structure relating to any of the Reservations;
 - 4.2.2 to carry out any works to any other Lettable Unit; and
 - 4.2.3 for any other purpose mentioned in or connected with:
 - (a) this Lease;
 - (b) the Reservations; and
 - (c) 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 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) 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:
- 4.5.1 physical damage to the Property; or
 - 4.5.2 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 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 If so demanded 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.

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.

7. Services And Service Charge

7.1 The Services are:

7.1.1 cleaning, maintaining and repairing the Common Parts including all Service Media forming part of the Common Parts;

7.1.2 cleaning the outside of the windows of the Common Parts;

7.1.3 lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;

7.1.4 cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;

7.1.5 cleaning, maintaining, repairing and replacing signage for the Common Parts;

7.1.6 cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Common Parts;

7.1.7 cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;

7.1.8 cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers;

- 7.1.9 maintaining the landscaped and grassed areas of the Common Parts;
 - 7.1.10 decorating the internal areas of the Common Parts;
 - 7.1.11 cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;
 - 7.1.12 cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;
 - 7.1.13 providing security cleaning and maintenance staff for the Common Parts;
 - 7.1.14 **[ANY OTHER SPECIFIC SERVICES REQUIRED];** and
 - 7.1.15 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.
- 7.2 The Service Costs are the total of:
- 7.2.1 the whole of the costs of:
 - (a) providing the Services;
 - (b) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Common Parts;
 - (c) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);
 - (d) 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;
 - (e) complying with the Third Party Rights insofar as they relate to the Common Parts; and
 - (f) 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);

- 7.2.2 the costs, fees and disbursements (on a full indemnity basis) of:
- (a) 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; and
 - (b) accountants employed by the Landlord to prepare and audit the service charge accounts;
- 7.2.3 the costs of the salaries and employer costs (including pension, welfare and insurance contributions) and uniforms of security staff for the Building and of all equipment and supplies needed for the proper performance of their duties;
- 7.2.4 all rates, taxes, impositions and outgoings payable in respect of the Common Parts, 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
- 7.2.5 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.
- 7.3 Subject to the Tenant paying the Service Charge, the Landlord shall use its reasonable endeavours:
- 7.3.1 to repair the structural parts of the Common Parts;
 - 7.3.2 to provide heating to the internal areas of the Common Parts during such periods of the year as the Landlord considers appropriate;
 - 7.3.3 to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Common Parts as often as the Landlord considers appropriate; and
 - 7.3.4 to keep the internal and external areas of the Common Parts reasonably well lit
- 7.4 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.
- 7.5 The Landlord shall not be liable for:

- 7.5.1 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
- 7.5.2 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.
- 7.6 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.
- 7.7 The Tenant shall pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Rent Payment Dates.
- 7.8 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.
- 7.9 As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for that Service Charge Year. The certificate shall be in accordance with the service charge accounts prepared and audited by the Landlord's managing agents.
- 7.10 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 certificate of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error, the Service Charge certificate shall be conclusive as to all matters of fact to which it refers.
- 7.11 Without prejudice to clause 8.4.6, where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by a risk against which the Landlord is obliged to insure an Insured Risk, the costs of that Service shall not be included in the Service Charge.

7.12 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 on 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. Insurance

8.1 Subject to clause 8.2, the Landlord shall 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).

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

8.2.1 any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and

8.2.2 insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

8.3 The Tenant shall pay to the Landlord on demand:

8.3.1 the Insurance Rent;

8.3.2 any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and

8.3.3 a fair proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes.

8.4 The Tenant shall:

8.4.1 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;

8.4.2 not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy 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;

- 8.4.3 comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of the Common Parts;
 - 8.4.4 give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk;
 - 8.4.5 not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
 - 8.4.6 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.
- 8.5 The Landlord shall, 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:
- 8.5.1 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
 - 8.5.2 repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
 - 8.5.3 repair or rebuild the Building after a notice has been served pursuant to clause 8.7 or clause 8.8.
- 8.6 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed by an Insured Risk so as to make the Property inaccessible or unusable then, unless the policy of 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, 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.

- 8.7 If, following damage to or destruction of the Building, the Landlord considers that it is impossible or impractical to reinstate the Building, the Landlord may 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.
- 8.8 Provided that the Tenant has 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 by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use or the Common Parts have not been reinstated so as to make the Property accessible or useable within three years 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.

9. Rates And Taxes

- 9.1 The Tenant shall pay all present and future rates, taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, except:
- 9.1.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this Lease; or
- 9.1.2 any taxes (other than VAT and insurance premium tax) payable by the Landlord by reason of the receipt of any of the rents due under this Lease.
- 9.2 If any such rates, taxes or other impositions and outgoings 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.

- 9.3 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.
- 9.4 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

10. Utilities

- 10.1 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.
- 10.2 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.

11. Common Items

- 11.1 The Tenant shall pay the Landlord on demand a fair proportion of all 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.
- 11.2 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.

12. VAT

- 12.1 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.
- 12.2 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.

13. Default Interest And Interest

- 13.1 If any Annual Rent or any other money payable under this Lease has not been paid by 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.
- 13.2 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.

14. Costs

- 14.1 The Tenant shall pay the 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:
- 14.1.1 the enforcement of the tenant covenants of this Lease;
 - 14.1.2 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;
 - 14.1.3 serving any notice in connection with this Lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
 - 14.1.4 the preparation and service of a schedule of dilapidations in connection with this Lease; or
 - 14.1.5 any consent or approval applied for under this Lease, whether or not it is granted,
- 14.2 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.

15. 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.

16. Set-off

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

17. Registration Of This Lease

Promptly following the grant of this Lease, the Tenant shall apply to register this Lease at the Land Registry. The Tenant shall ensure that any requisitions raised by the 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.

18. Assignments

The Tenant shall not assign the whole or any part of this Lease.

19. Underlettings

The Tenant shall not underlet the whole or any part of the Property.

20. Charging

20.1 The Tenant shall not charge the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

20.2 The Tenant shall not charge part only of this lease

21. 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 the Land Registry or by reason only of joint legal ownership).

22. Registration And Notification Of Dealings And Occupation

22.1 In this clause a Transaction is:

22.1.1 any dealing with this Lease as permitted by the terms of this Lease or the devolution or transmission of, or parting with possession of any interest in it; or

22.1.2 the creation of any interest out of this Lease (as permitted by the terms of this Lease) and any dealing devolution or transmission of, or parting with possession of any such interest; or

22.1.3 the making of any other arrangement for the occupation of the Property.

22.2 In respect of every Transaction that is registrable at the 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 the 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.

22.3 No later than one month after a Transaction the Tenant shall:

22.3.1 give the Landlord's solicitors notice of the Transaction;

22.3.2 deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors;

22.3.3 pay the Landlord's solicitors a registration fee of £50 (plus VAT); and

22.3.4 deliver to the Landlord's solicitors a copy of any Energy Performance Certificate and Recommendation Report issued as a result of the Transaction.

22.4 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.

23. 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 the 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.

24. The Tenant's Works

24.1 The Tenant must

24.1.1 complete the Tenant's Works within three years from the date of the Licence to Carry out Works, time being of the essence, and

24.1.2 notify the Landlord as soon as they have been completed and send the Landlord three copies of plans showing the Property as altered by the Works

25. Repairs

25.1 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.

25.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

25.2.1 the policy of 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 with the actual or implied authority of any of them; or

25.2.2 the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 8.2.

25.3 Without prejudice to the generality of clause 23.1 the Tenant shall keep the Slab and other structural parts of the Property in impermeable condition so as to prevent the passage of other water or other fluids into the Underlying Property

26. Decoration

As often as is reasonably necessary and at least every three years and in the last year of the term (howsoever determined), to decorate or treat as appropriate all parts of the exterior of the Property that are usually decorated, cleaned, painted or treated

in a good and proper manner, using good quality, suitable materials that are appropriate to the Property and in the last year of the term to use materials, designs and colours approved by the Landlord provided that the Tenant will not be required to perform these obligations in the last year of the term if it has done so in the preceding 12 months.

27. Windows and landscaping

To clean the windows of the Property as often as is reasonably necessary.

28. Sewers and drains

Not to allow to pass into the Service Media serving the Property any noxious or deleterious effluent or other substance which may obstruct or damage them or any other neighbouring property.

29. Stability

Not to do or permit to suffer any act to be done upon the Property which may endanger or weaken the safety or stability or structural integrity of the Slab or the structural elements of the property and shall not overload the Property in such a way as to endanger or prejudice the safety / and or operation of the Underlying Property.

30. Alterations And Signs

30.1 Not to make any alterations or additions to the Property and not to make any opening in any boundary structure of the Property which in each case might vitiate the structural integrity of the Building and shall not carry out any alterations or make any additions which might vitiate the structural integrity of the Underlying Property in any circumstances without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.

30.2 The Tenant shall not carry out or permit or suffer to be carried out any works (including without prejudice to the generality of the foregoing works of repair interfering with or adding to or altering the Slab or any part of the Property immediately adjoining or abutting the Underlying Property or which could adversely affect the safety or operation of the Underlying Property otherwise than with the prior written consent of the Landlord to the works and the specification and manner of execution of the same.

- 30.3 The Tenant shall not carry out any alterations to the exterior or the structure of the Property without the Landlord's prior consent which shall not be unreasonably withheld or delayed.
- 30.4 The Tenant shall be entitled to carry out internal non-structural alterations to the Property without the Landlord's consent.
- 30.5 Not to install, alter the route of, damage or remove any Service Media at the Property without the prior written consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 30.6 In carrying out any works on the Premises the Tenant shall observe and perform the obligations listed in this clause 28.
- 30.6.1 if as a result of any such works, settlement or other damage to the Landlord's structures or facilities on the Underlying Property occurs, during or after such works, the Tenant shall reimburse the Landlord all costs incurred in consequence of such settlement or other damage.
- 30.6.2 the Tenant shall pay the reasonable and proper costs incurred by the Landlord in the examination of drawings, calculations, statements (and for the avoidance of doubt such costs shall include reasonable and proper professional costs in addition to those of the Engineer where appropriate).
- 30.6.3 structures, facilities and services on the Underlying Property shall not be interfered with or damaged by or on behalf of the Tenant in any way unless specifically authorised by the Landlord.
- 30.6.4 the Tenant shall be responsible for all temporary fences, hoardings, lighting, signs, accessways and other conveniences necessary in the reasonable opinion of the Landlord for the protection of persons using the Underlying Property during the construction of any works as aforesaid.
- 30.7 In consenting to any alterations the Landlord shall not guarantee:
- 30.7.1 the structural stability of either the alterations to the Property as altered by them
- 30.7.2 the suitability of any materials to be used in the alterations
- 30.7.3 that the Property as altered will comply with the requirements of any statute.

31. Returning The Property To The Landlord

- 31.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this Lease.
- 31.2 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.
- 31.3 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.
- 31.4 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.

32. Use

- 32.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 32.2 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.
- 32.3 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

33. Management Of The Building

- 33.1 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.

33.2 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.

34. Compliance With Laws

34.1 The Tenant shall comply with all laws relating to:

34.1.1 the Property and the occupation and use of the Property by the Tenant;

34.1.2 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;

34.1.3 any works carried out at the Property; and

34.1.4 all materials kept at or disposed from the Property.

34.2 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.

34.3 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:

34.3.1 send a copy of the relevant document to the Landlord; and

34.3.2 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.

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

34.5 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.

34.6 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.

34.7 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.

34.8 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.

35. Encroachments, Obstructions And Acquisition Of Rights

35.1 The Tenant shall not grant any right or licence over the Property to a third party.

35.2 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:

35.2.1 immediately inform the Landlord and shall give the Landlord notice of that encroachment or action; and

35.2.2 take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.

35.3 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.

35.4 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.

35.5 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:

35.5.1 immediately inform the Landlord and shall give the Landlord notice of that action; and

35.5.2 take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

36. Breach Of Repair And Maintenance Obligations

36.1 The Landlord may 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.

- 36.2 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.
- 36.3 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 on demand.
- 36.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 37.

37. Indemnity

The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) suffered or incurred by the Landlord arising out of or in connection with 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.

38. Landlord's Covenant For Quiet Enjoyment

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.

39. Re-entry And Forfeiture

- 39.1 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:
- 39.1.1 at any time after a breach of the Tenant's covenant in clause 23 in this Lease
- 39.1.2 any sum due under this Lease is unpaid 21 days after becoming payable whether it has been formally demanded or not;

39.1.3 any breach of any condition of, or tenant covenant in, this Lease;

39.1.4 an Act of Insolvency.

PROVIDED ALWAYS THAT the Landlord shall not re-enter upon the Property or any part thereof or otherwise forfeit or attempt to forfeit this Lease or the term by peaceable re-entry save pursuant to an order of the Court and in any event not until after the expiration of a reasonable period of time (such period in any event not to exceed one year) from the date of service upon the Tenant and the person having the benefit of any mortgage or charge over the Property in respect of which the Landlord has received written notice and any person whose interest is noted on the Tenant's registered title to the Property and at the address stipulated in such notice (or any notice varying it) of written notice of the Landlord's intention to re-enter upon the Property or any part thereof or otherwise forfeit or attempt to forfeit this Lease or the term by peaceable re-entry specifying the particular breach complained of and requiring in so far as possible that the breach is remedied and then only if the breach so complained of has not been remedied (and the Landlord acknowledges that it will accept the action of any such mortgagee or charge as the action of the Tenant in such circumstances without asserting that such mortgagee or charge is in possession of the Property).

39.2 For the avoidance of doubt any dispute as to whether any breach has occurred and over liability for all or any part of the breach complained of may be referred to independent determination under clause 43.

39.3 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.

40. Joint And Several Liability

40.1 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.

40.2 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.

40.3 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.

40.4 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 failure and the Landlord has not remedied the failure within a reasonable time of service of that notice.

41. Entire Agreement

41.1 This Lease and any documents annexed to it constitute the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.

41.2 Each party acknowledges that in entering into this Lease and any documents annexed to it it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) other than those contained in any written replies that Penningtons Manches has given to any written enquiries raised by [DETAILS OF ORIGINAL TENANT'S LEGAL ADVISERS] before the date of this Lease.

41.3 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.

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

42. Notices, Consents And Approvals

42.1 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:

42.1.1 in writing and for the purposes of this clause an email is not in writing; and

42.1.2 given:

(a) 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; or

(b) by fax to the party's main fax number.

42.2 If a notice complies with the criteria in clause 40.1, whether or not this Lease requires that notice to be in writing, it shall be deemed to have been received:

42.2.1 if delivered by hand, at the time the notice is left at the proper address;

42.2.2 if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting; or

42.2.3 if sent by fax, at 9.00 am on the next working day after transmission.

42.3 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.

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

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

42.5.1 it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and

42.5.2 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.

42.6 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:

42.6.1 the approval is being given in a case of emergency; or

42.6.2 this Lease expressly states that the approval need not be in writing.

42.7 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.

43. Disputes as to Tenant's Works

- 43.1 If there shall be any dispute between the Landlord and the Tenant arising out of any of the provisions of this lease relating to the Tenant's Works it may be required by either party to be determined by an independent person in accordance with this clause 43.
- 43.2 Where the parties cannot reach agreement they shall refer the matter to an independent person for determination such independent person shall be a chartered surveyor agreed upon by the Landlord and the Tenant but in default of agreement appointed at the request of either the Landlord or the Tenant by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors and such independent person shall act as an expert and not an arbitrator.
- 43.3 Where an independent person is in accordance with this clause 43 required to act as an expert:
- 43.3.1 He will give to the Landlord and the Tenant written notice of his appointment and in such notice he will invite the Landlord and the Tenant to submit to him within 10 working days their representations on the dispute;
- 43.3.2 He will consider the representations of the landlord and the Tenant but his decision will not be limited or fettered by them;
- 43.3.3 He will rely on his own judgment and opinion;
- 43.3.4 He will not be required to state any reasons for his determination;
- 43.3.5 He will give the Landlord and the Tenant written notice of his determination within 20 working days after his appointment or such longer or shorter period as the Landlord and the Tenant may agree in writing; and
- 43.3.6 His determination will be final and binding on the Landlord and the Tenant.
- 43.4 If an independent person as referred to in this clause 43 is appointed and:
- 43.4.1 Does not give notice of his determination within the time and in the manner referred to above; or
- 43.4.2 He relinquishes his appointment or dies; or
- 43.4.3 For any reason it becomes apparent that he will be unable to complete his duties under this clause 43

either the Landlord or the Tenant may apply for the appointment of a new independent person (and the provisions of this clause 43 will operate in relation to that appointment) and this procedure may be repeated as many times as may be necessary.

43.5 The fees and disbursements of any independent person shall be appointed pursuant to this clause 43 shall be borne by the Landlord and the Tenant in such shares and such manner as the independent person shall determine and in default of determination shall be borne by the Landlord and the Tenant in equal shares.

44. 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.

45. 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 agreement or its subject matter or formation (including non-contractual disputes or claims).

46. 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.

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

[Insert Cheer Team Corporation
Limited's signature requirements]

[Insert Tenant's signature
requirements]

DATED

2015

Appendix 4-5

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

LICENCE FOR ALTERATIONS
relating to
construction of the Community Centre, Jericho
Boat Yard, Land at Ease Side of the Oxford Canal,
Jericho



**PENNINGTONS
MANCHES**

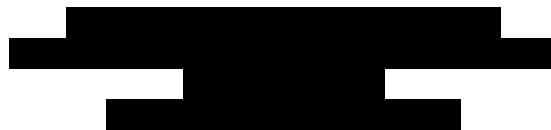


Table of Contents

<u>Clause</u>	<u>Subject Matter</u>	<u>Page</u>
1.	Interpretation	1
2.	Consent To Carry Out The Works	3
3.	Starting The Works	3
4.	Carrying Out And Completing The Works	3
5.	The CDM Regulations	4
6.	Additional Works	5
7.	Insurance Of The Works	5
8.	Fees, Rates And Taxes	5
9.	The Lease Covenants And Conditions	6
10.	No Warranty By The Landlord	6
11.	Costs	6
12.	The Right Of Re-entry In The Lease	7
13.	Indemnity	7
14.	Notices	7
15.	Liability	7
16.	Third Party Rights	7
17.	Governing Law	7
18.	Jurisdiction	8
Schedule 1	Details of the Works	9

THIS LICENCE dated

2015 is made between the following parties :

- (1) **CHEER TEAM CORPORATION LIMITED** incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Background:

- A. This Licence is supplemental and collateral to the Lease.
- B. The Landlord is entitled to the immediate reversion to the Lease.
- C. The residue of the Term is vested in the Tenant.
- D. The Tenant intends to carry out the Works and, under the terms of the Lease, requires the consent of the Landlord to do so.

Now it is agreed as follows:

1. Interpretation

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

1.1 Definitions:

Building	the land and buildings known as the Jericho Boat Yard
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Collateral Warranties	deeds of collateral warranty from the parties identified in the relevant annex to this Licence together with any replacement party that may from time to time be appointed by the Tenant, such deeds to be in the agreed forms annexed to this licence with such amendments as may be approved by the Landlord (such approval not to be unreasonably withheld or delayed);
Energy Performance Certificate	a certificate as defined in regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012 (<i>SI 2012/3118</i>);
Lease	a lease of property and airspace to be known as The Community Centre, First Floor, Jericho Boat Yard, Jericho, Oxford of even date and made between (1) the Landlord and (2) the Tenant and all documents supplemental or collateral to that

- lease;
- Property** the property and airspace granted to the Tenant pursuant to and more particularly defined in the Lease
- Recommendation Report** a report as defined in regulation 4 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (*SI 2012/3118*);
- Long Stop Date** 3 years from the date hereof
- Term** the term of years granted by the Lease and any agreed or statutory continuation of the Lease;
- Works** the works to be carried out at the Property which are referred to in the Schedule together with making good any damage to the Property caused by carrying out such works.
- 1.2 References to the Landlord include a reference to the person entitled for the time being to the immediate reversion to the Lease. References to the Tenant include a reference to its successors in title and assigns.
- 1.3 References to the end of the Term are to the end of the Term however it ends.
- 1.4 The expression tenant covenants has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.5 Clause, Schedule and paragraph headings shall not affect the interpretation of this Licence.
- 1.6 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 The Schedules form part of this Licence and shall have effect as if set out in full in the body of this Licence. Any reference to this Licence includes the Schedules.
- 1.8 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 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.
- 1.11 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.12 A reference to writing or written includes fax but not e-mail.
- 1.13 A reference to this Licence or to any other agreement or document referred to in this Licence is a reference to this Licence or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Licence) from time to time.

- 1.14 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this Licence and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.15 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 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. Consent To Carry Out The Works

- 2.1 In consideration of the obligations on the Tenant in this Licence, the Landlord consents to the Tenant carrying out the Works on the terms set out in this Licence.
- 2.2 This consent will cease to be valid if the Works have not been started (in accordance with the terms of this Licence) within six months from (and including) the date of this Licence, unless the Landlord gives the Tenant notice extending the period of validity. If the Landlord does agree to an extension, then this consent will remain valid for the period stated in that notice and the time period stated in clause 4.7.1 will be extended by the same amount. If this consent ceases to be valid and the Landlord has not given notice extending its validity, all the terms of this Licence except clause 2.1 will remain in force.
- 2.3 This consent does not obviate the need for the consent of any person other than the Landlord that may be required to carry out the Works.

3. Starting The Works

- 3.1 The Tenant must not start the Works until it has complied with the requirements of this clause and of clause 5.1.
- 3.2 The Tenant must obtain all licences and consents that are required for the Works under all laws and by the owner or occupier of any neighbouring land or otherwise.
- 3.3 The Tenant must provide details of the Works to the insurers of the Property and obtain their consent to carrying out the Works.
- 3.4 The Tenant must produce all such licences and consents to the Landlord and obtain the Landlord's confirmation they are satisfactory to the Landlord such confirmation not to be unreasonably withheld.
- 3.5 The Tenant must give the Landlord three copies of the plans and specification for the Works.
- 3.6 The Tenant must notify the Landlord and the insurers of the Property of the date it intends to start carrying out the Works.

4. Carrying Out And Completing The Works

- 4.1 The Tenant must carry out the Works:

- 4.1.1 using good quality, new materials which are fit for the purpose for which they will be used;
 - 4.1.2 in a good and workmanlike manner and in accordance with good building and other relevant practices, codes and guidance; and
 - 4.1.3 to the reasonable satisfaction of the Landlord.
- 4.2 In carrying out the Works the Tenant must comply with all laws and the terms of all other licences and consents, the requirements and recommendations of all relevant utility suppliers and those of the insurers of the Property.
- 4.3 The Tenant must take all proper steps to ensure that carrying out the Works does not make any of the following unsafe: the structure of the Building and any plant or machinery at the Building any neighbouring land or building.
- 4.4 The Tenant must cause as little disturbance and inconvenience as possible to the Landlord and the owners and occupiers of the Building and any neighbouring land. The Tenant must not infringe any of their rights nor the rights of any other person in relation to the Property.
- 4.5 The Tenant must immediately make good, to the reasonable satisfaction of the Landlord, any damage (including decorative damage) to any land or building or any plant and machinery (other than the Property) which is caused by carrying out the Works.
- 4.6 The Tenant must allow the Landlord and its surveyors access to the Property, both while the Works are being carried out and afterwards, and will give the Landlord the information it reasonably requests to establish that the Works are being and have been carried out in accordance with this Licence.
- 4.7 The Tenant must:
- 4.7.1 complete the Works by the Longstop Date; and
 - 4.7.2 must notify the Landlord as soon as the Works have been completed, and send the Landlord three copies of plans showing the Property as altered by the Works.
- 4.8 The Tenant shall provide the Landlord with a copy of any Energy Performance Certificate and Recommendation Report issued as a result of the Works within one month of such documents being issued.

5. The CDM Regulations

- 5.1 By entering into this Licence, the Tenant and the Landlord agree that, to the extent that the Landlord may be a client for the purposes of the CDM Regulations, the Tenant is to be treated as the only client in respect of the Works for the purposes of the CDM Regulations.
- 5.2 The Tenant must comply with its obligations as a client for the purposes of the CDM Regulations and must ensure that the principal designer and the principal contractor

that it appoints in relation to the Works comply with their respective obligations under the CDM Regulations.

- 5.3 The Tenant must ensure that all relevant documents relating to the Works are placed in the health and safety file for the Property by the principal designer or principal contractor in accordance with the CDM Regulations. The Tenant must maintain the health and safety file for the Property in accordance with the CDM Regulations and give the health and safety file to the Landlord at the end of the Term. The Tenant must allow the Landlord and its agents or appointees to enter the Property to inspect the health and safety file and must at its own cost supply the Landlord with copies of it or any of the documents in it.

6. Additional Works

- 6.1 If the terms of any planning permission, licence or consent (other than this Licence) obtained for the Works, require any other works to be carried out (whether to the Property or to any other land or building) the Tenant must carry out such other works within any time limit imposed by such permission, licence or consent and in any event before the end of the Term.
- 6.2 The terms of this Licence, other than clause 2 and clause 4.7.1 will apply to the carrying out of such other works as if they formed part of the Works.
- 6.3 This clause is without prejudice to any requirement on the Tenant to obtain the consent of the Landlord to such other works pursuant to the Lease and the consent of any other person that may be required for such other works.

7. Insurance Of The Works

- 7.1 The Landlord will only be obliged to insure the Works if they form part of Property, and only:
- 7.1.1 after they have been completed in accordance with this Licence;
 - 7.1.2 for the amount for which the Tenant has notified the Landlord that they should be insured; and
 - 7.1.3 otherwise in accordance with the terms of the Lease.
- 7.2 Until the Landlord is obliged to insure the Works they will be at the sole risk of the Tenant.
- 7.3 The Tenant must pay on demand any increase in the insurance premium and the amount of any additional insurance premium for the Property or any neighbouring land of the Landlord or the Building that arises because of the Works.

8. Fees, Rates And Taxes

The Tenant must pay all fees, rates, levies and taxes that arise by reason of the Works (including any arising under any laws applying to the Works) whether imposed

on the Landlord or the Tenant and must indemnify the Landlord from all liability in relation to such fees, rates, levies and taxes.

9. The Lease Covenants And Conditions

- 9.1 The tenant covenants in the Lease will extend to the Works and apply to the Property as altered by the Works.
- 9.2 In the event that the Works have not been completed by the Longstop Date the Landlord may exercise its right to forfeit the Lease under clause 39 of the Lease.

10. No Warranty By The Landlord

- 10.1 No representation or warranty is given or is to be implied by the Landlord entering into this Licence or by any step taken by or on behalf of the Landlord, in connection with it as to:
- 10.1.1 the suitability of the Property or the Building for the Works; or
- 10.1.2 whether the Works or any removal or reinstatement of them may be lawfully carried out.
- 10.2 The Tenant acknowledges that it does not rely on, and will have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by or on behalf of the Landlord before the date of this Licence as to any of the matters mentioned in clause 10.1.
- 10.3 Nothing in this clause shall limit or exclude any liability for fraud.

11. Costs

- 11.1 On completion of this Licence the Tenant must pay the reasonable costs and disbursements of the Landlord, its solicitors, surveyors managing agents and insurers in connection with this Licence.
- 11.2 The Tenant must pay on demand any further reasonable costs and disbursements of the Landlord, its solicitors, surveyors managing agents and insurers incurred in connection with the Works or any removal of them and reinstatement of the Property or in making good any damage to any land or building, plant or machinery (other than the Property) which is caused by the carrying out of the Works or by the removal of them or the reinstatement of the Property.
- 11.3 The obligations in this clause extend to costs and disbursements assessed on a full indemnity basis and to any value added tax in respect of those costs and disbursements except to the extent that the Landlord is able to recover that value added tax.

12. The Right Of Re-entry In The Lease

The right of re-entry in the Lease will be exercisable if any covenant or condition of this Licence is breached, as well as if any of the events stated in the provision for re-entry in the Lease occurs.

13. Indemnity

The Tenant shall indemnify the Landlord against all liabilities, costs, expenses, damages and losses suffered or incurred by the Landlord arising out of or in connection with any breach of the terms of this Licence.

14. Notices

Any notice given under or in connection with this Licence must be in writing and must be delivered by hand or sent by pre-paid first class post or other next working day delivery service or by any other means permitted by the Lease. A correctly addressed notice delivered by hand shall be deemed to have been delivered at the time the notice is left at the proper address. A correctly addressed notice sent by pre-paid first class post or other next working day delivery service will be deemed to have been delivered on the second working day after posting.

15. Liability

15.1 The obligations of the Tenant in this Licence are owed to the Landlord and are made in consideration of the consent granted by clause 2.1.

15.2 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 Licence. 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 those persons.

16. Third Party Rights

A person who is not a party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

17. Governing Law

This Licence 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.

18. 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 Licence or its subject matter or formation (including non-contractual disputes or claims).

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

The Schedule

Details of the Works

[Insert Works Specification and Drawings]

[Insert Landlord and Tenant's execution requirements]

Appendix Agreed Form of Collateral Warranties

This deed is made the _____ day of _____ 20____

Between:

- (1) [●Contractor] (Company number [●]) whose registered office is at [●] (the **Contractor**);
- (2) [●Beneficiary] (Company number [●]) whose registered office is at [●] (the **Beneficiary**); and
- (3) [●Employer] (Company number [●]) whose registered office is at [●] (the **Employer**).

Background:

- (A) The Employer has entered into or is about to enter into a Contract with the Contractor regarding the Works;
- (B) The Beneficiary [●provided finance] [●purchased or is about to purchase] [●entered into or is about to enter into a lease] [●regarding] [●the whole of] [●part of] the Works;
- (C) The Contractor has agreed to enter into this Deed for the benefit of the Beneficiary.

Operative provisions:

1 Definitions and interpretation

- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

Beneficiary	includes any person to whom the benefit of this Deed and/or any rights arising under it shall have been validly assigned in accordance with clause 6
Contract	the building contract entered into or about to be entered into between the Employer and the Contractor in relation to the Works
Design Documents	all drawings, details, plans, specifications, schedules, reports, models, bills of quantities, calculations, software and other work (and any designs, ideas, concepts and inventions contained in them whether patentable or not) which may be prepared, conceived or developed by or on behalf of the Contractor in the course of or as a result of carrying out the Works
Employer	includes any person to whom the benefit of the Contract has been validly assigned in accordance with its terms
Practical Completion	taking over of the Works as certified or otherwise evidenced pursuant to the terms of the Contract
Property	the location of the Works being [●]
Statutory Requirements	any requirements imposed by (a) any act of parliament, statutory instrument,

rule or order made under any act of parliament;

- (b) any regulation or bye law or approved code of practice of any local authority, statutory undertaker or other body which has jurisdiction with regard to the Works or to whose systems the Works are or will be connected; or
- (c) the terms of any planning permission, building regulation approval or other consent or approval required for the execution of the Works

Works the design and construction of the works as detailed in the Contract

1.2 In this deed, unless the context otherwise requires:

1.2.1 any obligation on a party to this Deed to do any act includes an obligation to procure that it is done;

1.2.2 the clause and paragraph headings in this Deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer;

1.2.3 unless the contrary intention appears, references:

(a) to numbered clauses and schedules are references to the relevant clause in, or schedule to, this Deed; and

(b) to a numbered paragraph in the schedule are references to the relevant paragraph in the schedule;

1.2.4 words in this Deed denoting the singular include the plural meaning and vice versa;

1.2.5 references in this Deed to any statutes or statutory instruments include 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 it;

1.2.6 words in this Deed importing one gender include both genders and may be used interchangeably, and words denoting persons, where the context allows, include corporations and vice versa.

2 Contractor's warranties

2.1 The Contractor warrants and undertakes to the Beneficiary that it has observed and performed and will continue to observe and perform each and all of the obligations on its part to be observed and performed under the Contract in accordance with the terms of the Contract, provided always that:

2.1.1 the Contractor shall owe no greater obligations to the Beneficiary under this Deed than it would have owed had the Beneficiary been named as a joint employer with the Employer under the Contract; and

2.1.2 the Contractor shall not be liable to the Beneficiary in respect of any delay to the completion of the Works unless and until the Beneficiary shall have given notice to the Contractor under clause 4.3.

2.2 Without limiting clause 2.1, the Contractor warrants and undertakes to the Beneficiary that:

- 2.2.1 insofar as the design of the Works is the responsibility of the Contractor under the Contract, it has exercised and will continue to exercise all such professional skill, care and diligence as may reasonably be expected of a skilled and competent architect, structural engineer, services engineer, acoustics engineer, landscape architect, fire consultant or as the case may be other appropriate professional designer holding itself out as competent to take on the design work of a similar type, nature and complexity to the Works;
- 2.2.2 using the standard of skill and care set out in clause 2.2.1, there has not been used or specified for use or authorised or permitted to be used in the Works or any part or parts thereof nor shall there be cause to use or suffer the use of any substances or materials:
- (a) known or suspected to be in themselves or as a result of the manner of their use a hazard to health;
- (b) which at the time the works are being carried out are within the building industry generally known or accepted as or reasonably suspected of:
- (i) being deleterious in themselves;
- (ii) becoming deleterious when used in a particular situation in combination with other substances or materials and with passage of time or through poor workmanship during construction or without a higher level of maintenance than that which would normally be expected in works of the type under construction; or
- (iii) being damaged by or causing damage to the structure on which they are incorporated or to which they are affixed;
- 2.2.3 for the purposes of clause 2.2.2 **deleterious** materials or substances are those whose durability is lower than specified or lower than might reasonably be expected of a substance or material specified or used for the purpose in which it is used or specified in the Works, or one which reduces or might reduce the durability of substances or materials to which they are applied or fixed, or reduce the durability of the structures into which they are incorporated or which reduce or might reduce the durability of the Works or part of the Works.
- 2.2.4 the Works as completed will in all respects comply with the Statutory Requirements;
- 2.2.5 it shall not raise any defence to a claim by the Beneficiary under this Deed on the grounds that the losses in respect of which the Beneficiary seeks damages, compensation or other relief are not losses suffered or to be suffered by the Employer or that the Employer has suffered no loss. The Contractor shall not be entitled to rely upon set off, counterclaim or defence arising from non-payment by the Employer of any monies due under the Contract.
- 2.3 The Contractor extends to the Beneficiary the benefit of all warranties and undertakings on the part of the Contractor contained in the Contract.
- 2.4 The Contractor acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties and undertakings given by the Contractor under this clause 2.
- 2.5 The Contractor acknowledges to the Beneficiary that, at the date of this Deed, the Contract remains in full force and effect and the Employer has paid all sums properly due to the Contractor under the Contract.
- 3 Obligations prior to determination of the Contractor's employment**
- 3.1 The Contractor covenants with the Beneficiary that it will not exercise nor seek to exercise any right to determine its employment under the Contract or to discontinue the performance of

any of its obligations in relation to the Works for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than 28 days' notice of its intention to do so and specifying the grounds for the proposed determination or discontinuance.

- 3.2 Any period, whether stipulated in the Contract or otherwise, for the exercise by the Contractor of a right of determination shall be extended, as may be necessary, to take account of the period of notice required under clause 3.1.
- 3.3 Compliance by the Contractor with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Contractor from exercising its rights after the expiration of notice, unless the right of determination shall have ceased under the provisions of clause 4.

4 Step in right

- 4.1 The right of the Contractor to determine its employment under the Contract shall cease if, within the period of 28 days referred to in clause 3.2, the Beneficiary shall give notice to the Contractor:
 - 4.1.1 requiring it to continue its obligations under the Contract;
 - 4.1.2 acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Contract; and
 - 4.1.3 undertaking to the Contractor to discharge all payments which may subsequently become due to the Contractor under the terms of the Contract and to pay to the Contractor any sums which have become due and payable to it under the Contract but which remain unpaid.
- 4.2 Upon the compliance by the Beneficiary with the requirements of clause 4.1 the Contract shall continue in full force and effect as if the right of determination on the part of the Contractor had not arisen and in all respects as if the Contract had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.
- 4.3 Notwithstanding that as between the Contractor and the Employer the Contractor's right of determination of its employment under the Contract may not have arisen the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Contractor and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1.
- 4.4 The Contractor shall be bound to assume that, as between the Employer and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.5 The Employer acknowledges that the Contractor, acting in accordance with the provisions of this clause 4 shall not incur any liability to the Employer.

5 Use of Design Documents

- 5.1 The copyright in the Design Documents shall remain vested in the Contractor, but the Contractor grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Design Documents for any purpose connected with the Works and/or the Property including, but without limitation, the execution and completion of the Works and the maintenance, letting, occupation, management, sale, advertisement, extension, alteration, demolition, reinstatement and repair of the Property.
- 5.2 The licence referred to in clause 5.1 shall carry the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Contractor's employment under the Contract, provided always that the Contractor shall not be liable for the consequences of any use of the Design Documents for any purpose other than that for which it was prepared.
- 5.3 Insofar as the Contractor is the author of the Design Documents and of the Works, the Contractor waives any moral rights which it might otherwise be deemed to possess in respect

of them. The Contractor shall not exercise his moral rights against the Beneficiary and the Contractor agrees that the Beneficiary is entitled to make any reasonable changes or amendments to the design prepared by or on behalf of the Contractor.

- 5.4 The Contractor shall procure for the Beneficiary a waiver corresponding to that in clause 5.3 from any sub-contractor or consultant employed by the Contractor who is an author of any part of the Design Documents and of the Works in respect of them.
- 5.5 The Contractor shall indemnify the Beneficiary against any liability which the Beneficiary may incur by reason of the Contractor's infringing or being held to have infringed any copyright or other intellectual property rights of any person.
- 5.6 The Contractor shall within 28 days of the Beneficiary's request provide a complete set of copies of the Design Documents to the Beneficiary without charge.

6 Assignment

- 6.1 The Beneficiary may assign the benefit of this Deed and/or any rights arising under it on notice to the Contractor at any time without the Contractor's consent.
- 6.2 The Contractor shall not be entitled to contend that any person to whom this Deed is assigned is precluded from recovering any loss incurred by such assignee from any breach of this Deed (whenever occurring) by reason that such a person is an assignee and not a named Beneficiary under this Deed.

7 Insurance

- 7.1 The Contractor undertakes to the Beneficiary to maintain with reputable insurers carrying on business in the United Kingdom, from the date of this Deed and for a period expiring no earlier than 12 years after the date of Practical Completion and notwithstanding the determination for any reason of the Contractor's employment under the Contract, professional indemnity insurance, with a limit of indemnity of not less than £[●],000,000 ([●] million pounds) in respect of each and every claim, provided always that such insurance continues to be available in the United Kingdom market upon reasonable terms and at commercially reasonable premium rates.
- 7.2 As and when it is reasonably required to do so by the Beneficiary, the Contractor shall produce for inspection by the Beneficiary documentary evidence that such insurance is being properly maintained.
- 7.3 The Contractor shall notify the Beneficiary immediately if such insurance ceases to be available upon reasonable terms and at commercially reasonable premium rates or if for any other reason the Contractor is unable to continue to maintain such insurance.
- 7.4 The Contractor shall not compromise, settle or waive any claim which it may have under such insurance in respect of any professional liability which it may incur under this Deed without the prior written consent of the Beneficiary provided that nothing in this clause 7.4 shall preclude the Contractor's insurers from taking over (in the name of the Contractor) the defence of any claim made by the Beneficiary under this Deed and (in that capacity) from conducting and settling it as they see fit.
- 7.5 The Contractor shall take out and maintain the insurance cover required under this clause 7 on terms which are satisfactory to the Beneficiary.

8 Other remedies

- 8.1 Nothing in this Deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this Deed.
- 8.2 The liability of the Contractor under this Deed shall not be released, diminished or in any other way affected by:

- 8.2.1 the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Works or to inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;
- 8.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or
- 8.2.3 any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

9 Limitation

No action or proceedings for any breach of this Deed shall be commenced against the Contractor after the expiry of 12 years following Practical Completion of the Works.

10 Notices

- 10.1 Any notice or consent required or permitted under this Deed shall be in writing and shall be sent by first class post, hand delivery or fax. There shall be no right to serve notices or consents by email.
- 10.2 Any such notice, consent or other document shall be deemed to have been duly received:
 - 10.2.1 if despatched by first class post - 48 hours from the time of posting to the relevant party; or
 - 10.2.2 if despatched by hand delivery - at the time of actual delivery; or
 - 10.2.3 if despatched by fax - 24 hours after the time of the despatch.
- 10.3 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses given for a party in this Deed or such other addresses subsequently notified in writing as being the registered office or principal address of business of the relevant party. In proving service by fax it shall be sufficient to prove that it was properly addressed and dispatched to the numbers as notified in writing by the relevant party to other parties.
- 10.4 A party shall not attempt to prevent or delay the service on it of a notice under this Deed.

11 Governing law and disputes

The application and interpretation of this Deed shall in all respects be governed by the laws of England and any dispute or difference arising under this Deed shall be subject to the jurisdiction of the courts of England.

12 Third Party Rights

- 12.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed.
- 12.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

In witness this deed has been executed and delivered on the date appearing at the beginning

Signature page to the Deed of Warranty between [●Contractor], [●Beneficiary] and [●Employer].

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation



DO NOT SCALE

THE CONTRACTOR IS TO CHECK AND VERIFY ALL BUILDING AND SITE DIMENSIONS, LEVELS AND SEWER INVERT LEVELS AT CONNECTION POINTS BEFORE WORK STARTS

THIS DRAWING IS TO BE READ AND CHECKED IN CONJUNCTION WITH ENGINEERS AND OTHER SPECIALIST DRAWINGS

THE DRAWING AND THE WORKS DEPICTED ARE THE COPYRIGHT OF THIS PRACTICE AND MAY NOT BE REPRODUCED EXCEPT BY WRITTEN PERMISSION

- NOTES**
- BOATYARD
 - COMMUNITY CENTRE
 - DELI/RESTAURANT
 - FLATS
 - TERRACED HOUSES
 - SINGLE HOUSE
 - VICARAGE EXTENSION
 - SITE BOUNDARY
(NOTE THAT THE BOUNDARY TO BRIDGE AREA IS INDICATIVE)
 - * LOCATION OF CONTROL BOX AND PROTECTIVE BARRIERS TBA WITH THE CRT

PLANNING CHANGES:

- POSITION OF BRIDGE MOVED TO THE SOUTH (PLANNING BOUNDARY LINE AMENDED TO SUIT)
- BRIDGE WIDTH INCREASED TO SUIT EA REQUIREMENTS
- CORNER OF RESTAURANT BLOCK CHANGED
- ROOF TERRACES AROUND VICARAGE AMENDED
- REAR OF 3 TERRACED HOUSES MOVED BACK
- MASSING OF COMMUNITY CENTRE & BOATYARD AMENDED
- MAIN ROOF OVER COMMUNITY CENTRE & BOATYARD CHANGED TO 3 PITCHES
- NEW HOUSE ON ST. BARNABAS STREET CHANGED TO FLATS
- BIN STORE TO REAR OF RESTAURANT RECONFIGURED

REV	DATE	DESCRIPTION
P5	20.05.15	PLANNING CHANGES
P4	09.01.15	PLANNING CHANGES
P3	12.12.14	PLANNING CHANGES
P2	17.11.14	PLANNING CHANGES
P1	14.05.14	PLANNING SUBMISSION

JOB 1018, JERICO WHARF	
DRAWING TITLE GROUND FLOOR PLAN PROPOSED	
DRG No 1018/0/010	REV P3
SCALE 1:250 @ A1	DATE 28.04.14
DRAWN BY	CHECKED BY
Drawing Status FOR INFORMATION	

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This official copy is issued on 14 May 2015 shows the state of this title plan on 14 May 2015 at 19:20:31. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the Land Registry, Gloucester Office .

F.A.O. Michael Morgan

Oxford City Council
St Aldate's
Oxford
OX1 1DS

1 June 2015

Your Ref:

Our Ref: JRM/JWT

Direct Line:

Email:

Dear Mr Morgan

My client: Jericho Wharf Trust
Property: Land at Jericho Wharf, Oxford

Thank you for your e-mails of 21 May 2015. I refer to our subsequent telephone conversation and my client's e-mail of 29 May 2015.

In the short time available, and noting the many information gaps in the documents provided, I have had the opportunity to prepare an overview for my client of the following documents as amended by Penningtons the solicitors acting for Cheer Team Corporation Limited (**the Developer**):

- i) Section 106 Agreement between (1) Cheer Team Corporation Limited and (2) The Oxford City Council;
- ii) Agreement for Lease with Landlord's Works between (1) Cheer Team Corporation Limited and (2) [Tenant];
- iii) Lease between (1) Cheer Team Corporation Limited and (2) [Tenant]; and
- iv) Licence for Alterations between (1) Cheer Team Corporation Limited and (2) [Tenant].

The following documents are enclosed:

1. Official copy entries and title plan for title number ON268665;



in association with



2. Transfer dated 22 December 2006 between (1) British Waterways Board and (2) Spring Residential Limited (**the December 2006 Transfer**);
3. Option Agreement dated 22 December 2006 between (1) Spring Residential Limited and (2) British Waterways Board (**the December 2006 Option Agreement**);
4. Deed of Covenant dated 22 December 2006 between (1) Spring Residential Limited and (2) British Waterways Board (**the December 2006 Deed of Covenant**); and
5. Sale Contract dated 3 May 2007 between (1) Spring Residential Limited and (2) Jericho Community Association (**the 2007 Sale Contract**);
6. Two indicative plans showing the extent of the JCA Land (see below).

By way of background you will recall that I sent through to both you and the Developer's solicitors some commentary on the initial draft of the Section 106 Agreement on 14 April 2015.

After that I tried to contact Penningtons on a number of occasions to discuss the structure of the transaction. They have not responded substantively.

The Developer's Commitments

My client's understanding of the Developer's commitments come in part from the verbal representations made by Mr Sandelson of the Developer at the WAPC meeting on 10 February 2015 (these are set out in italics below); the Minutes of that meeting dated 13 February 2015 and an e-mail from Mr Sandelson dated 10 February 2015 and are as follows:

- a commitment to undertake canal works (bank, winding hole and boatyard docks) in conjunction with the Canals & Rivers Trust;

"...if you promote our plan tonight the city will be delivered...a community boatyard, a chandlery, a bridge, a winding hole, a public piazza..."

This point was subsequently added to the final form Minutes which state "Mr Sandelson confirmed his commitment to building the entirety of the boatyard and the chandlery building".

- the transfer of land (being the freehold to the boatyard, community centre and public open space) to a Community Body with cascade mechanisms to ensure the community facilities provision is achieved. My client is to be preferred receiving body for the unencumbered title to the land; and

"...land donated to the community group unencumbered for £1..."

- a payment of £150,000 to a Community Body;

"...I wanted to demonstrate to the Councillors and I suppose to the Community that we really did want to see this thing promoted tonight. And we don't think there is an actual necessity for it. But sometimes you know at the 11th hour it is nice to make a

gesture, so we did offer £150,000 at the signing of the Section 106 to the JWT to help with their fundraising for the community centre...".

Further and as reflected in the Minutes the triggers for construction/phasing of the development and the occupation of the residential units not being occupied until the construction of the public open space, works to the Canal, docks/boatyard etc has been completions.

Again the Developer made this commitment verbally at the WAPC Meeting:

"...we have confirmed as part of our commitment to the city that none of the private house will occupied until all of these facilities are built..."

These matters are not reflected in the amendments to the Section 106 Agreement and the draft documentation supplied.

Amendments to the Section 106 Agreement

Concentrating on the commitments detailed above and turning to the Section 106 Agreement it is clear to see that the structure proposed in respect of these items is so different that, in our opinion, it is simply not acceptable to my client (or any other Community Body for that matter). For example many of the funding streams normally accessible to Community Organisations are unlikely to be available for leasehold entities Further the timetables laid down for most public grant applications are incompatible with the timings required by the structure proposed.

I would suggest that the amendments should not be acceptable to the Council, whose decision to relax the requirement for affordable housing was based on delivery of the community facilities and the public square (which now appears to be at risk).

- Payment of £150,000

There is no obligation anywhere in the revised documentation for the payment of £150,000 to the Community Body. In fact that obligation has been deleted.

This is a far cry from Mr Sandelson's assurance in the WAPC Meeting when pressed by the Chair as to whether or not this commitment would be in the Section 106 Agreement

"...I would not make a commitment and then renege on it..."

Further this commitment was repeated in a live interview given with Radio Oxford.

"Interviewer: is that right you offered £150,000 to kick start this?"

JS: 'We did. We wanted to show a last minute act of goodwill and support to the community trusts, who as you say have been working on the thing for years. We though that would give them a boost in their fundraising efforts.'

- Timing of occupation of Residential Units

A key element of accountability is that the residential units will not be occupied until the buildings works that the Developer is committing to have been completed. As originally drafted paragraph 8.3 stated

"The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust."

However that obligation has been changed dramatically to simply:

"...prior to entering into the Agreement for Lease..."

Looking at this element of the Agreement for Lease the document simply has a reasonable endeavours obligation at Clause 3 of the Agreement for Lease for the Landlord to carry out a set of works (which are not fully described or specified).

There is no obligation on the Landlord to start or complete the works within a set period of time.

However the Agreement for Lease is conditional on the Community Body raising £5 million in "Satisfactory Funding" within 3 months of exchange of the Agreement for Lease after which the document could be terminated. That timeframe, as the Developer well knows, is simply too onerous if not impossible. Furthermore there is no justification provided or known for the sum designated as "Satisfactory".

Therefore this structure allows the Developer to sell the residential units before completing the works that it has committed to do and then putting the onus on the Community Body to raise its funds.

- Transfer of Community Land

The structure suggested is a leasehold structure. Given that this is not a transfer and therefore not what the Developer has committed to I do not propose in this letter to set out my issues with the documents in any great detail.

Such issues include:

- a forfeiture clause in a 999 year lease;
- a best endeavours obligation on my client to build the Community Centre within three years (time being of the essence) but the Developer's obligation is just a reasonable endeavours obligation without any set time period;
- the Tenant is to pay the Developer's costs in negotiating the Agreement for Lease, Lease and Licence for Alterations; and
- there is a blanket prohibition on alienation and in particular underletting which may be inappropriate.

My client's continuing and reasonable expectation, based on the assurances given by the Developer is that the completed boatyard, community land and the maintenance/management obligations for the Community Centre and Public Open Space will be transferred to it.

However under the structure proposed the freehold of all land, and the control of the boatyard, remains with the Developer and a service charge regime is being introduced for the leasehold property (once constructed at community expense).

Title Number ON268665

Finally the leasehold structure ignores a fundamental legal point in respect of the title to the Property itself.

The Developer has stated that he has acquired the Property. Looking at the official copy entries and title plan for title number ON268665 it should be noted that there is an application pending at the Land Registry in favour of the Seller. I can only assume this is the Transfer to the Developer and it will be necessary to see a copy of that document.

There is a restriction at entry 3 of the Proprietorship Register which states

"No disposition of the registered estate in respect of the land tinted pink on the title plan by the proprietor of the registered estate is to be registered without a certificate signed by British Waters Board of Willow Grange, Church Road, Watford, WD17 4QA or their conveyancer that the provisions of Clause 13.2.5 of the Transfer dated 22 December 2006 referred to in the Charges Register have been complied with"

Clause 13.2.5 of the 2006 Transfer states

"not to transfer the JCA Land to the Jericho Community Association and/or the Trustees of the Church Institute of 45-46 Cardigan Street Oxford...without obtaining a direct covenant from the Buyer that

13.2.5.1 the JCA Land will be held for a period of 40 years from the date of the Transfer to the Buyer ("Perpetuity Period") upon trust in accordance with the charitable objects set out in the constitution of Jericho Community Association dated [] (sic) ("the Constitution")

13.2.5.2 in the event the JCA Land is subsequently sold by the Buyer during the Perpetuity Period the proceeds of sale will be used exclusively for the charitable purposes as set out in the Constitution".

Therefore if the Developer has completed the acquisition of the Property then it will need to have given this covenant to the Canals & Rivers Trust in order to be registered as the proprietor.

Further the 2006 Transfer transferred the Property subject to the December 2006 Option Agreement.

The Property is also subject to a conditional contract for sale in respect of the land coloured pink on the title plan (**the Community Centre Land**) being the 2007 Sale Contract.

These documents are protected by way of Unilateral Notices on the title.

The December 2006 Option Agreement gives the Canals & Rivers Trust the ability to take a transfer back of the Community Centre Land at any time after 22 December 2016.

The ability to call for this transfer falls away if planning consent for the "Proposed Development" has been "Substantially Implemented" before 22 December 2016.

The Proposed Development is defined as

"the construction of a new community centre and ancillary facilities".

Substantially Implemented is defined as

"the completion of all the foundations of the Proposed Development and the erection of no less than one course of bricks (or equivalent material) on at least 50% of the perimeter of the footprint of the Proposed Development".

If they exercise the Option the amount the Board is required to pay is a peppercorn.

Spring then entered into the 2007 Sale Contract with Jericho Community Association in respect of the sale of Community Centre Land for a consideration of £1.00.

The 2007 Sale Contract is conditional on the grant of planning permission authorising "community use of the Property (with or without other land)" and Spring obtaining planning permission for the development of the remainder of the Property (i.e excluding the Community Centre Land) as residential land.

If the conditionality is not satisfied by 3 May 2017 then either party may terminate the contract. Only Spring can elect to waive the conditionality.

Once planning has been obtained (and was free from any challenge) then the Community Centre Land would be transferred and the obligation referred to in the 2006 Deed of Covenant relating to "Buyer's Works" would be removed from the title to Community Centre Land.

The 2007 Sale Contract is personal to Jericho Community Association (although there is a provision that the transfer of the Community Centre Land may be taken jointly with the Church Institute, Oxford).

It is within this legal framework that the Developer is operating and I have no contrary evidence to suggest that any of provisions of the December 2006 Transfer, the December 2006 Option Agreement, the December 2006 Deed of Covenant or the 2007 Sale Contract are not binding on the Developer.

The enclosed plans show that the Developer's planning permission is based upon a design which for around one-third of the footprint uses the JCA land. In the structure when the freehold land was being transferred to my client for £1 these title points would have been eliminated since my client and the Jericho Community Association would simply combine these two plots.

Therefore because of this I doubt the proposed leasehold structure would allow the Developer to build the boatyard and the slab 'roof' without entering into a separate agreement with the Jericho Community Association.

Conclusion

My advice to my client is that the proposals put forward are unacceptable and importantly key elements of what the Developer had previously indicated would be included as its obligations in the Section 106 Agreement have not been included.

It is not clear whether this is deliberate, by error or by a lack of understanding on the part of the Developer and or its solicitors.

Therefore I would suggest that the proposal to discuss this matter at a Committee hearing on 9 or 11 June is postponed. A meeting should then be convened between the Council, the Developer and my client (with legal representation) to properly examine the structure that is required to deliver the scheme and to meet the proper and reasonable expectations of each of the interested parties.

At such a meeting the title issues detailed above can also be addressed.

A copy of this letter and the enclosures has been sent to Penningtons.

I look forward to hearing from you.

Kind regards

Justin Mason
Partner
Capital Law LLP

From: Stephen Green
Sent: 26 October 2015 09:13
To: BYRNE Felicity
Cc: Johnny Sandelson
Nick Owens
Subject: Jericho Canalside Scheme. Application Ref: 14/01441/FUL

Appendix 6

MORGAN Michael;

Dear Mrs Byrne

I thought it helpful to write to you, on behalf of our clients , to summarise the progress that has been made in respect of the 106 issues, following the in principle decision to approve the application at the Planning Committee on 10th February 2015. The points below address issues raised by the Parochial Church Council and Jericho Wharf Trust.

Second Bridge link to the square.

Both the PCC and JWT have been keen to see a bridge link into the square to promote more activity and vitality.

Various issues on bridge type and location were discussed at length at our stakeholders meeting in March (11 people present) and we have come to the inescapable conclusion, that the only way to satisfy the disparate aspirations, is for a second bridge to be provided linking to the square.

You are aware of the difficulties this has caused, most notably the CRT'S requirement that a second bridge has to be located at least 40 metres from the winding hole on safety grounds. You are aware also that the design of the bridge was amended last week to accommodate the needs of horse boat users. We understand the PCC are in support of the second bridge, as this fulfils their requirements.

The first bridge

The design principles have now been approved by the CRT and an agreement has been reached to pay the CRT a commuted sum for maintenance of the bridge in perpetuity.

The Boatyard

Certain parties have suggested that are unlikely to deliver certain elements of the scheme. It is worth pointing out there is no obligation from the Council for to build the boatyard. Notwithstanding this, propose to build the Boatyard and to install a professional operator, given the Health & Safety issues and also amenity issues potentially affecting the neighbouring residents of both the affordable and private housing. This will not preclude the community from having access to the facilities of the Boatyard.

Community centre site

We can confirm that the freehold of that element of the community centre that does not oversail the boatyard would be available on a freehold basis, either from or as a result of JCA/JWT exercising their option to acquire this part of the site. The area above the boatyard has to be conveyed on a long leasehold basis (999 years at a peppercorn) given that it oversails the boatyard and therefore would otherwise be a flying freehold. A structural deck is to be provided by above the Boatyard to accommodate the development of a Sports Hall above. We understand that funds from the disposal of the PCC'S freehold asset in Canal Street could be put towards the construction of the freehold element of the community centre.

Piazza

Lawyers representing JWT have suggested that the public open space is transferred to them, but they should have no ongoing maintenance obligation. SIAHAF propose that custodianship of the new square

is undertaken by the management company of the restaurant and residential units, with each party paying a service charge to defray costs of maintenance of both the piazza and the second bridge. It is noted that the Church may wish to encourage the presence of the farmers' market in the square.

Payment of £150,000

It is confirmed that this payment will be paid on the signing of the 106 Agreement, but on stipulation that it is used for the development of the community centre.

Timing of the community centre transfer

At the meeting of the Planning Committee on 10th February, it was proposed in the first instance that the community centre site should be offered to the JWT and they would have a period of time (three months) to take up the offer or not. JWT have indicated that this would be insufficient time to make a commitment and SIAHAF have therefore agreed to extend this period to 12 months. Given the time that has elapsed since the committee resolution February, has any fundraising been undertaken during this period??

Transfer costs

It is proposed that each party pay their own legal costs in finalising any transfer.

JCA conditional contract

A letter from Capital Law acting for JWT refers to a sale contract between JCA and Spring Residential, to secure part of the site for a community centre. Capital Law point out various issues.

Timing of construction

... need to be reassured, particularly as JWT will not provide sight of their business plan, that construction of the community centre can be carried out on a timely basis. It is likely that this contract will be ongoing after the boatyard, winding hole, repairs to the canal wall and provision of the restaurant and residential units are completed.

To summarise, you are aware of just how complicated it has been to ensure that all stakeholders and others aspirations are fulfilled, whilst at the same time ensuring that the project is capable of delivery.

We have, over the intervening eight months, progressed the scheme to the point where we feel it now time for the committee to review the 106 proposals. We trust the committee will now endorse these proposals in order that the scheme can progress, with the ensuing enhancements and benefits that it will bring to the area.?

Perhaps you could telephone me on receipt of this letter, to advise on how matters can now be progressed.

Regards

Stephen Green MA FRICS

Future Heritage Group

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From: Stephen Green
Sent: 18 November 2015 15:31
To: BYRNE Felicity
Cc: MORGAN Michael; Nick Owens; Johnny Sandelson

Appendix 7

Subject: Jericho: Bridges 1 and 2.
Attachments: Jericho Wharf estimated service charge November 2015.pdf

Dear Mrs. Byrne,

When we last met, I confirmed that the CRT have agreed (subject to Cheer Team making a commuted payment) to maintain in perpetuity the lifting bridge (bridge 1) that links with Great Clarendon Street.

The second bridge (bridge 2) which links with the square is a simpler steel and timber structure and the intention is that long term maintenance will be undertaken by the Residents Management Company. All the residents of the private houses will make an annual contribution towards the maintenance and upkeep of the 'Estate', which will also include the canalside path and Piazza.

As you will appreciate this is a standard arrangement commonly in operation for many Estates and blocks of flats etc.

Don't hesitate to contact me if you need any further clarification.
Attached is a draft service charge budget.

Regards

Stephen Green
Future Heritage Group

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