



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : CHI/ 00HE/LDC/2020/0016

**Property** : Various Properties in Hampshire and SW  
England

**Applicant** : Aster Group

**Representative** : Capsticks Solicitors

**Respondents** : The Lessees

**Representative** :

**Type of Application** : To dispense with the requirement to  
consult lessees about major works

**Tribunal Member(s)** : Mr D Banfield FRICS

**Date of Directions** : 9 March 2020

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**DIRECTIONS ON AN APPLICATION UNDER SECTION 20ZA OF  
THE LANDLORD AND TENANT ACT 1985**

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**This is a formal order of the Tribunal which must be complied with by the parties. The Tribunal directs that the parties must comply with the STATEMENT ON TRIBUNAL RULES AND PROCEDURE issued 1 February 2019 which is enclosed with the directions.**

### **Background**

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that it wishes to enter into Qualifying Long Term Agreements for the supply of gas and electricity for its various properties. Due to the nature of the energy markets it is not able to comply with all the consultation requirements. Stage 1 Notices of Intention were served on 30 October 2018 and Stage 2 Notices of Proposals on 30 March 2019 Dispensation is required for the remaining requirements of Section 20.
3. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

### **DIRECTIONS**

4. The application is to be determined on the papers **without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013** unless a party objects in writing to the Tribunal within 14 days of the date of receipt of these directions.

### **The Applicant's case**

5. The application shall stand as the Applicant's case.
6. By **24 March 2020 the Applicant** must write to each of the Respondents concerned by this Application, setting out the following:
  - a. Informing the Respondents of the Application;
  - b. Advising the Respondents that a copy of the Application (with any personal details deleted, including the omission of Appendix 1), the Tribunal's Directions and all relevant document and correspondence will be available on the Applicant's website;
  - c. Informing the Respondents that if they wish to receive a hard copy of the Application, they should write to the Applicant, which

will then send a copy, with any personal details deleted, and omitting Appendix 1; and

d. Advising the Respondents that as the Application progresses, additional documents will be added to the Applicant's website, including the final decision of the Tribunal.

**By 24 March 2020 the Applicant** must confirm in writing to the Tribunal that this has been done.

7. **By 31 March 2020 those Respondents** who oppose the Application shall complete the reply form and sent it to the Tribunal and the Applicant. Those Respondents who do not return the reply form and those agreeing with the application will be removed as Respondents.
8. **By 7 April 2020, those Respondents** who completed and returned the reply form shall send to the Applicant a statement in response to the Application, including copies of any documents upon which they wish to rely. Only those Respondents who comply with this requirement shall remain Participating Respondents.
9. **By 28 April 2020 the Applicant** shall prepare and serve on the tribunal two copies of the bundle of documents on which the Applicant wishes to rely. The bundle shall be in a file, with an index and numbered pages. The bundle must contain all the documents upon which the Applicant relies, including specimen copies of tenancy agreements, any witness evidence, and copies of any replies from the leaseholders. A copy of the bundle shall also be uploaded onto the Aster website.
10. The Tribunal will also rely on the following documents already on file:
  - a. The Application form and accompanying documents;
  - b. These directions;

## **Form for Respondents**

CHI/ 00HE/LDC/2020/0016

Various Properties in Hampshire and SW  
England

Please return this form to the Tribunal as soon as possible but at the latest by  
**31 March 2020**

Return address: First Tier Tribunal (Property Chamber), Residential Property,  
Havant Justice Centre, Elmleigh Road, Havant, Hants PO9 2AL.

Also send a copy to the Applicant's representative at the address shown on the  
application form:

	Yes	No
I/We agree with the application (whole or in part)		
I/We have sent written representations to the Applicant		
I/We agree that the Tribunal may decide the matter on the basis of written representations only (no hearing).		
Name and address of any spokesperson or representative appointed for the Respondent:	<div>.....</div> <div>.....</div> <div>.....</div> <div>.....</div>	

Signed: .....

Print name: .....

Date: .....

Property Address: .....

Telephone number(s): .....

Email address: .....

**FIRST TIER TRIBUNAL (RESIDENTIAL PROPERTY)  
SOUTHERN REGION**

**STATEMENT ON TRIBUNAL RULES AND PROCEDURE**

**THIS STATEMENT MUST BE ADHERED TO BY PARTIES TO  
APPLICATIONS**

**1. Correspondence with and Applications to the Tribunal**

- 1.1. The Tribunal cannot respond to general correspondence and cannot make directions/orders **without formal application**. There cannot be private communication with a Tribunal Judge or a Member about a case and any letters to the judge/member will be copied to all other parties.
- 1.2. Any correspondence including application forms with the **Tribunal must be sent by prepaid post or hand delivered to the Office**. The Tribunal will not accept correspondence by e-mail unless where an application is urgent the Tribunal will accept it as an attachment to an e-mail sent to the generic email address **rpsouthern@justice.gov.uk**.
- 1.3. **Any application must be made on the prescribed form**. The Tribunal will not accept emails in place of the prescribed form. A copy of which is enclosed with the guidance.
- 1.4. Where the parties are exchanging documents or correspondence between themselves they are entitled to send them by email provided no party objects.
- 1.5. **The address of the Tribunal is** First-tier Tribunal (Residential Property), Havant Justice Centre, Elmleigh Road, Havant, PO9 2AL.

**2. Advice**

- 2.1. The Tribunal is not able to give legal advice about your case. Details of bodies who may be able to help are set out in the attached advice list.

**3. Service of Documents by the Tribunal**

- 3.1. The Tribunal will send documents to the parties by pre-paid post to the address given in the Application form.
- 3.2. The Tribunal and each party will assume **the address given in the Application form remains the address to which documents should be sent** until written notification is given to the contrary.
- 3.3. The parties have the obligation to inform the Tribunal of **changes of address** which are required to be sent in writing.

- 3.4. The Tribunal may send a document as an attachment to an email when the matter is urgent.

#### 4. Directions of the Tribunal

- 4.1. They are **formal Orders** made to assist the parties and the Tribunal in dealing with the application swiftly and economically.
- 4.2. They must be **complied with**. Failure to comply may result in the Tribunal refusing to hear the defaulting party's case and ordering that party to pay costs.
- 4.3. If a party wants to alter the directions or propose new ones the parties **can agree the change provided it does not affect the date for delivery of hearing bundles and the date fixed for hearing**. The parties must **inform the Tribunal** of their agreement.
- 4.4. If the parties **do not agree to the change to directions** or the proposed change to directions affects the date for receipt of hearing bundles or the hearing date the applying party must make an **application using the prescribed form** and serve that application on the other side. The Tribunal will not consider an application to vary directions unless it is on a prescribed form AND made no later than 2 working days before the date of the event in question unless exceptional circumstances apply AND has been served on the other side.
- 4.5. If a party wishes to seek the **sanctions** of the Tribunal for alleged breach of directions it must do so on a prescribed form which must be served on the other party.

#### 5. Hearings

- 5.1. If the Tribunal considers it necessary for the proper determination of the matter it may at any time order that an oral hearing is held. The parties will be given sufficient time to prepare themselves for any such hearing.
- 5.2. A hearing means an oral hearing and includes a hearing conducted in whole or in part by telephone.
- 5.3. **Once a hearing date has been fixed no adjournment will be considered unless exceptional circumstances apply.**
- 5.4. If a party wishes to put forward exceptional circumstances it must do so on the prescribed form and include copies of medical certificates if illness is relied upon. The party applying for the adjournment or his representative may be required to attend the hearing either in person or by telephone to make the application.
- 5.5. The Tribunal is entitled to proceed with the hearing in the absence of a party who does not attend after being notified of the hearing.

- 5.6. Where a party is required to produce document bundles for a hearing, they should have sequential page numbers, an index and put in a file.

## **6. Inspections (where directed)**

- 6.1. The Tribunal will give written reasonable notice of the date and time of the proposed inspection.
- 6.2. The Tribunal will expect the parties to make the necessary arrangements for the inspection of the property.
- 6.3. The Tribunal will inspect the property in the presence of both parties.
- 6.4. The Tribunal will assume **that the parties have given their consent to the inspection unless written notification is given to the contrary by a party.**
- 6.5. If a party refuses consent to the inspection of the property the Tribunal may draw adverse inferences from the refusal.

## **7. Representatives**

- 7.1. If a party appoints a representative the party must send or deliver to the Tribunal and to each other party written notice of the representative's name and address.
- 7.2. Where the Applicant has completed an application form which contains a signed statement of truth and gives a name of a representative, the application form will constitute good notice of the representative's name and address.
- 7.3. Where a representative is appointed the Tribunal and the other party will send all documentation to the Representative at the address given in the written notice.

## **8. Witness Statements (where directed)**

- 8.1. Witness statements should identify the name and reference number of the case, have numbered paragraphs and end with a statement of truth (i.e. "I believe that the facts stated in this witness statement are true") and the signature of the witness. Original witness statements should be brought to the hearing. In addition, witnesses are expected to attend the hearing to be cross-examined as to their evidence, unless their statement has been agreed by the other party.

## **9. Expert Witnesses (where directed)**

- 9.1. No party may adduce expert evidence without the permission of the Tribunal.

9.2. Expert evidence is to be given in a written report.

9.3. The written report must contain:

9.3.1. confirmation that the expert understands his/her duty to help the Tribunal on matters within the expert's expertise and this duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid"

9.3.2. contains the words "I believe that the facts stated in this report are true and that the opinions expressed are correct",

9.3.3. comply with the requirements of any practice directions as regard its form and contents.

9.3.4. that the expert is not acting under a conditional fee agreement or that the expert's fee does not depend on the value determined by the Tribunal.

9.3.5. be signed by the expert.

## **10. Fees**

10.1. The Tribunal will not proceed with an application or a hearing unless the correct fees are paid.

10.2. Where a case has started the application will be deemed withdrawn 14 days after the date on which the Tribunal sends to the party a written notification that the fee has not been paid.

## **11. Withdrawal**

11.1. If a party wishes to withdraw an application s/he must give written notice on the prescribed form which must be:

11.2. It must be signed and dated

11.2.1. Identify the case or part of the case withdrawn

11.2.2. State whether anything else remains to be determined

11.2.3. Confirm that a copy has been sent to the other side(s)

11.2.4. and state when done

11.2.5. Include the written consent of the other party(ies) who have consented to the withdrawal.

11.3. Notice of withdrawal will not take effect unless the Tribunal consents to the withdrawal.



**CASE REFERENCE**

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**FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)**

**APPLICATION:**

**INSERT THE FOLLOWING DETAILS**

**Property and address :**

**Applicant :**

**Representative :**

**Respondent One :**

**Representative :**

**Respondent Two :**

**Representative :**

**Brief Description of the Application sought and the Order that you wish the Tribunal to Make**

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**Grounds for the Application are as follows**

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**If the Tribunal decides to deal with this by means of a conference call, are there any dates/times to avoid in the next ten working days?**

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**Statement of Truth (Must be Signed and Dated)**

I believe that the facts stated in this application are true, and **a copy has been served on the other party**

Signed

Dated

PLEASE PRINT YOUR NAME

Version 2 1 February 2019

**CASE REFERENCE**

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**FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY)**

**APPLICATION TO WITHDRAW A CASE**

**INSERT THE FOLLOWING DETAILS**

**Property and address :**

**Applicant :**

**Representative :**

**Respondent One :**

**Representative :**

**Respondent Two :**

**Representative :**

The Applicant applies to withdraw the above case because **[insert reasons]**

The Applicant confirms that nothing remains to be determined in the above case  
**[Yes/No] if no advise which part remains to be determined**

The Applicant attaches the written consent of other parties who have consented to  
the withdrawal **(Delete if not applicable)**

Claim No ..... is being dealt with at the same time as the above case and  
application is made to discontinue the Claim **(Delete if not applicable)**

**Statement of Truth (Must be Signed and Dated)**

I believe that the facts stated in this application are true, and **a copy has been served on the other party on [insert]**

Signed

Dated

PLEASE PRINT NAME OF SIGNATORY

**TRIBUNAL USE ONLY**

The Tribunal consents to the Application to withdraw

**Insert Official Stamp**

**NOTES**

**A party may apply in writing to the Tribunal within 28 days of the date of this notice for the case or part of a case to be reinstated.**

Version 2 1 February 2019

## **LIST OF ADVICE AGENCIES**

### **FTT (PROPERTY CHAMBER)**

- **Lease**, Fleetbank House, 2-6 Salisbury Square, LONDON EC4Y 8JX  
TEL: 0207 832 2500 **Park Homes Advice** TEL: 0207 832 2525 E:MAIL:  
INFO@LEASE-ADVICE.ORG  
WEB: [WWW.LEASE-ADVICE.ORG](http://WWW.LEASE-ADVICE.ORG)
- **Upper Tribunal (Lands Chamber)** 5<sup>th</sup> Floor, Rolls Building, 7 Rolls Buildings,  
Fetter Lane, LONDON EC4A 1NL TEL: 0207 6129710 FAX: 0207 6129723 E-  
MAIL: [LANDS@HMCTS.GSI.GOV.UK](mailto:LANDS@HMCTS.GSI.GOV.UK) WEB:  
[WWW.JUSTICE.GOV.UK/TRIBUNAL/LANDS](http://WWW.JUSTICE.GOV.UK/TRIBUNAL/LANDS)
- **Shelter** have a telephone advice line on 0808 800 4444 which is open 365 days of the  
year. You can also find advice on their website: <http://england.shelter.org.uk/>
- **Valuation office agency**: Network support office Wycliffe House, Green Lane, Co  
Durham DH1 3UW TEL: 0300 0037 100
- **Independent park homes owners Association**. IPHAS 17 LITTLE WITCOMBE  
COURT PARK GREEN LANE WITCOMBE GLOUCESTER GL3 4TZ TEL: 0800  
612 8938 [info@iphas.co.uk](mailto:info@iphas.co.uk)
- **Park homes owners justice campaign**  
<http://www.parkhomeownersjusticecampaign.co.uk>
- **National Association of Caravan Owners (NACO)** [www.nacoservices.com](http://www.nacoservices.com)
- **National Association of Park Home Residents** Call 01746 768287 Email  
[membershipnaphr@yahoo.co.uk](mailto:membershipnaphr@yahoo.co.uk) Visit [www.naphr.co.uk](http://www.naphr.co.uk)
- **Federation of Private Residents Associations** Address: Epping CM16 9DB Phone:  
0871 200 332
- **Pro Bono support** is available through the College of Law at Guildford who run the  
Brighton Leasehold Advice Clinic. Tel: 01483 216865 Fax:01483 454133 and the  
address is; University of Law, Braboeuf Manor, Portsmouth Road, St.Catherines,  
Guildford GU3 1HA. Catchment area is roughly 15 miles from Brighton.  
  
Or University of Portsmouth call 02392 844114 or e-mail [advice@port.ac.uk](mailto:advice@port.ac.uk)
- **National Landlords Association** 2<sup>nd</sup> Floor, 200 Union Street, London SE1 0LX  
Head Office:020 7840 8900 Advice Line 020 7840 8939

## **GENERAL**

- **Law Centres** You can find your local Law Centre through the Law Centres Network website. <http://www.lawcentres.org.uk/>
- **Citizens Advice** have centres available throughout the country and may be able to provide advice on your housing issue. Visit their website to find your local centre and their contact details: <https://www.citizensadvice.org.uk>
- **You can find a Solicitor** through the Law Society directory: <http://solicitors.lawsociety.org.uk/>
- **You can contact a Barrister** directly through the direct access portal: <http://www.directaccessportal.co.uk/search/1/barrister>
- **LawWorks** maintains a list of services including Law Centres and other free Legal Advice Clinics that may be able to provide you with support. Please visit [www.LawWorks.org.uk](http://www.LawWorks.org.uk)

# Application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985

Section 20ZA of the Landlord and Tenant Act 1985

**It is important that you read the notes below carefully before you complete this form.**

This is the correct form to use if you want to ask the Tribunal to dispense with all or any of the consultation requirements set out in section 20 of the Landlord and Tenant Act 1985 and in the Service Charges (Consultation Requirements)(England) Regulations 2003.

**A fee is payable for this application (see section 13 for Help with Fees).** Please note that fee changes were made on 25 July 2016 in respect of all applications made on or after that date. The new fees are set out in this form.

**Please send your completed application form and fee (if applicable), together with the documents listed in section 13 of this form to the appropriate regional Tribunal.** (See the Annex to this form for regional office addresses). **Please do not send any other documents.** If and when further evidence is needed, you will be asked to send it in separately.

**If you have any questions about how to fill in this form, the fee payable, or the procedures the Tribunal will use, please call the appropriate regional office.**

**If you are completing this form by hand please use BLOCK CAPITAL LETTERS.**

## 1. DETAILS OF APPLICANT(S) (if there are multiple applicants please continue on a separate sheet)

Name: Aster Group

Capacity: Freehold Owner and Landlord

Address (including postcode):

Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ

Address for correspondence (if different from above):

N/A

Telephone:

Day: Evening: Mobile:

Email address: Fax:

**Representative name and address, and other contact details:** Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting for you.

Name: Capsticks Solicitors LLP

Reference no. (if any) CDA/140964

Address (including postcode):

Staple House, Staple Gardens, Winchester, Hampshire SO23 8SR  
DX 2532 - Winchester

Telephone:

Day: 01962 678 377

Mobile: 07702 367 695

Email  
address:

clive.adams@capsticks.com

Fax: 01962 678 311

## 2. ADDRESS (including postcode) of SUBJECT PROPERTY (if not already given)

Various properties in Hampshire and the South West of England. Please see the attached schedule at Appendix 1.

## 3. BRIEF DESCRIPTION OF BUILDING (e.g. 2 bedroom flat in purpose built block of 12 flats)

The application relates to various types of dwellings throughout the Applicant's housing stock, please refer to the schedule attached at Appendix 1 for a description of the property status, needs category and type of property.

## 4. DETAILS OF RESPONDENT (S) the person against whom an applicant seeks determination from the tribunal – this will only be the landlord's managing agent if they are a party to the lease. If there are multiple respondents, please continue on a separate sheet.

Name: Various tenants and leaseholders - please see the schedule attached at Appendix 1.

Capacity: Please see Appendix 1 attached.



Address (including postcode):

Please see Appendix 1 attached.

Reference no. for correspondence (if any)

Address for correspondence (if different from above):

Please see Appendix 1 attached.

Telephone:

Day:

Evening:

Mobile:

Email  
address:

Fax:

**Note:** If this is an application by a landlord, then usually all tenants liable to pay a service charge for the costs in question should be joined as respondents. If tenants are not joined in this way, the landlord should provide the Tribunal with a list of the names and addresses of service charge payers. If this is not possible or is impractical, then a written explanation must be provided with this application.

If you are the landlord/management company making the application please omit, if known, the telephone/fax numbers and email address of the respondent(s) when completing Box 4 and include them on a separate sheet. This is because the application form may be copied by the tribunal to other appropriate persons (e.g. other service charge paying leaseholders in the building or development).

## 5. DETAILS OF LANDLORD (if not already given)

Name:

Address (including postcode):

Reference no. for correspondence (if any)

Telephone:

Day:

Evening:

Mobile:

Email  
address:

Fax:

## 6. DETAILS OF ANY RECOGNISED TENANTS' ASSOCIATION (if known)

Name of  
Secretary

N/A

Address (including postcode):

Telephone:

Day:

Evening:

Mobile:

Email  
address:

Fax:

## 7. DISPENSATION SOUGHT

Applicants may seek a dispensation of all or any of the consultation requirements in respect of either qualifying works or long-term agreements.

Does the application concern qualifying works?

☐ Yes ☒ No

If Yes, have the works started/been carried out?

☐ Yes ☐ No

Does the application concern a qualifying long-term agreement?

☒ Yes ☐ No

If Yes, has the agreement already been entered into?

☐ Yes ☒ No

For each set of qualifying works and/or qualifying long-term agreements please complete one of the sheets of paper entitled '**GROUND FOR SEEKING DISPENSATION**'

## 8. OTHER APPLICATIONS

Do you know of any other cases involving either: (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application?

☐ Yes ☒ No

If Yes, please give details

## 9. CAN WE DEAL WITH YOUR APPLICATION WITHOUT A HEARING?

If the Tribunal thinks it is appropriate, and all the parties and others notified of their right to attend a hearing consent, it is possible for your application to be dealt with entirely on the basis of written representations and documents and without the need for parties to attend and make oral representations. ('A paper determination').

Please let us know if you would be content with a paper determination if the Tribunal thinks it appropriate.

☒ Yes ☐ No

**Note:** Even if you have asked for a paper determination the Tribunal may decide that a hearing is necessary. Please complete the remainder of this form on the assumption that a hearing will be held. Where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

## 10. TRACK PREFERENCES

We need to decide whether to deal with the case on the Fast Track or the Standard Track (see Guidance Note for an explanation of what a track is). Please let us know which track you think appropriate for this case.

☐ Fast Track  
☒ Standard Track

Is there any special reason for urgency in this case?

☐ Yes ☒ No

If Yes, please explain how urgent it is and why:

### Note

The Tribunal will normally deal with a case in one of three ways: on paper (see section 10 above) or 'fast track' or 'standard track'. The fast track is designed for cases that need a hearing but are very simple and will not generate a great deal of paperwork or argument. A fast track case will usually be heard within 10 weeks of your application. You should indicate here if you think your case is very simple and can be easily dealt with. The standard track is designed for more complicated cases where there may be numerous issues to be decided or where for example, a lot of documentation is involved. A standard track case may involve the parties being invited to a Case Management Conference which is a meeting at which the steps that need to be taken to bring the case to a final hearing can be discussed.

## 11. AVAILABILITY

If there are any dates or days we must avoid during the next four months (either for your convenience or the convenience of any expert you may wish to call) please list them here.

Please list the dates on which you will NOT be available:

N/A

## 12. VENUE REQUIREMENTS

Please provide details of any special requirements you or anyone who will be coming with you may have (e.g. the use of a wheelchair and/or the presence of a translator):

N/A

Applications handled by the London regional office are usually heard in Alfred Place, which is fully wheelchair accessible. Elsewhere, hearings are held in local venues which are not all so accessible and the case officers will find it useful to know if you or anyone you want to come to the hearing with you has any special requirements of this kind.

### 13. CHECKLIST

Please check that you have completed this form fully. The Tribunal will not process your application until this has been done and it has the following documents together with the application fee (if applicable).

A copy of the lease(s). ☒

A statement that service charge payers have been named as respondents or a list of names and addresses of service charge payers ☒

A crossed cheque or postal order for the application fee of £100 (if applicable) is enclosed. ☒

**DO NOT send cash under any circumstances. Cash payment will not be accepted.**

**Fees should be paid by a crossed cheque made payable to, or a postal order drawn in favour of, HM Courts and Tribunals Service.**

Please note where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

#### Help with Fees

If you think you may be entitled to a reduced fee, the guide EX160A 'Apply for help with court, tribunal and probate fees' outlines how you can submit an application for Help with Fees.

You can submit your Help with Fees application online at [www.gov.uk/help-with-court-fees](http://www.gov.uk/help-with-court-fees) or by completing the form EX160 'Apply for help with fees'. You can get a copy of the 'Apply for help with fees' form online at [www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees](http://www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees) or from your regional tribunal office.

If you have completed an online application for Help with Fees please enter the reference number you have been given here.

H	W	F	-				-			
---	---	---	---	--	--	--	---	--	--	--

If you have completed form EX160 "Apply for Help with Fees" it must be included with your application.

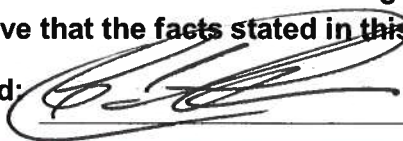
The 'Apply for help with fees' form will not be copied to other parties.

### 14. STATEMENT OF TRUTH

**The statement of truth must be signed and dated.**

**I believe that the facts stated in this application are true.**

Signed:



Dated:

19 February 2020

## GROUNDWORK FOR SEEKING DISPENSATION

Please use the space below to provide information mentioned in section 7 of this form.

You will be given an opportunity later to give further details of your case and to supply the Tribunal with any documents that support it. At this stage you should give a clear outline of your case so that the Tribunal understands what your application is about. Please continue on a separate sheet if necessary.

1. Describe the qualifying works or qualifying long-term agreement concerned, stating when the works were carried out or planned to be carried out or in the case of a long-term agreement, the date that agreement was entered into or the proposed date it is to be entered into.

### GAS SUPPLY

The Applicant entered into a three year fixed term contract for the supply of gas to their communal boilers with effect from 1st April 2019. This affected approximately 250 variable service charge payers.

Gas is the fuel supply used to provide the central heating and hot water, as required under the terms of the Lease. By entering into a contract, the Applicant is able to source more competitive rates than if they were a "pay-as-you-go" customer. Out-of-contract rates prices change on an hourly basis and can fluctuate wildly over a period of time due to geopolitical and economic factors, such as the Brexit uncertainty, international trade disagreements between US and China and conflicts/civil unrest in parts of the world. The Applicant therefore believes it to be in the residents' best interests to enter into the fixed term contract.

### Procurement

The Applicant entered into a traditional fixed term contract for its gas supply. The Applicant believes that this type of contract offers good value for money, as the market conditions at the point of contract were particularly volatile with prices changing on an hourly basis. Entering into a contract offers the residents some stability in prices over the contract term and enables the residents to take advantage of "economies of scale" through the Applicant's purchasing power.

The Applicant used the services of the Monarch Partnership who acted as brokers. Monarch Partnership are the preferred suppliers from the Procurement for Housing Consortium, a procurement club set up for registered providers of social housing to be able to source goods and services at better prices. Monarch Partnership have extensive knowledge of the energy market and have tendered framework agreements with the major energy suppliers across Europe and are advertised in the Official Journal for the European Union (OJEU). These framework agreements are in line with EU regulations.

To ensure the Applicant had a good idea of the prevailing overall market conditions at the point of contract, it tendered for several types of contract, these included:

- a) Fixed term for three years
- b) Fixed term for two years
- c) Fixed term for one year

The problem for the Applicant following the Section 20 consultation procedure is that it would be obliged to comply with EU Procurement Regulations which require a "standstill" period of ten days between the decision to award the contract and the signing of the contract. The energy market does not operate in this way. Quotes provided by energy suppliers are only valid for the day they are provided due to the fact the market changes daily, the suppliers can technically pull the prices at any time if the market sees a jump. It does mean a quick turnaround. Energy market opens around 9am, quotes around midday and typically contracts are required to be signed by 4.00pm on the day of the quote to secure the price quoted.

The method of reconciling these conflicting situations was to use a third party intermediary ("a TPI") to obtain quotes from energy suppliers. Monarch Partnership was used for this purpose. It is impossible for the time periods for consultation laid down in section 20 LTA 1985 to be followed, since the quote price cannot be held for the period necessary to carry out the consultation. Hence the necessity for



this application. The purpose of entering into such a long term agreement at a fixed price for the supply for energy is to ensure, as far as reasonably possible, that the best price was achieved for that supply.

As the cost per leaseholder is likely to exceed £100.00 per annum in most cases, such a contract is a qualifying long term agreement.

“Out-of-contract” prices are significantly higher than “in-contract” prices and so securing a fixed term contract achieves best values for the service charge payers.

Monarch Partnership had advised the Applicant that the long term trend for wholesale energy prices is upward due to Brexit uncertainty, international trade disagreements and conflict/civil unrest in parts of the world and that the most cost effective option was to move away from annual contracts and to lock in more stability and security for their residents by mitigating exposure to price shocks by procuring longer term fixed “peace of mind” contracts using purchase in advance (PIA) strategies.

Early indications showed that if the Applicant had continued with annual purchasing of gas, the prices were likely to increase by more than 30% over the three year period of the fixed term contract. However, with the three-year fixed contract, the price rise for the supply of gas is approximately 15%. The Applicant obtained a prediction for price increase over the three year period and a copy of the table is attached at Appendix 3. The terms of the three-year fixed contract saw an average price rise per unit of energy of 15% in year one of the contract (2019/20) but no rise in the cost per unit of energy for the subsequent two years (2020/21 and 2021/22).

## ELECTRICITY SUPPLY

The Applicant entered into a contract for the supply of electricity to all communal areas with effect from 1st April 2019. This would affect approximately 9200 variable service charge payers.

Electricity is necessary for the running of communal services within Aster's blocks and estates. The services which the Applicant is obliged to provide include lighting in communal areas (within stairwells, landings and in external areas) and powering essential communal facilities such as lifts and door entry systems (where installed). By entering into a contract, the Applicant is able to source more competitive rates than if they were a “pay-as-you-go” customer. The Applicant therefore believes it to be in the residents' best interests to enter into a fixed term contract.

### Procurement

The Applicant entered into a traditional fixed term contract for its electricity supply. The Applicant believes that this type of contract offers good value for money, as the current market conditions are particularly volatile with prices changing on an hourly basis. Entering into a contract offers the residents some stability in prices over the contract term and enables the residents to take advantage of “economies of scale” through the Applicant's purchasing power.

The problem for the Applicant following the Section 20 consultation procedure is that it would be obliged to comply with EU Procurement Regulations which require a “standstill” period of ten days between the decision to award the contract and the signing of the contract. The energy market does not operate in this way. Quotes provided by energy suppliers are only valid for the day they are provided due to the fact the market changes daily, the suppliers can technically pull the prices at any time if the market sees a jump. It does mean a quick turnaround. Energy market opens around 9am, quotes around midday and typically contracts are required to be signed by 4.00pm on the day of the quote to secure the price quoted.

The method of reconciling these conflicting situations was to use a third party intermediary (“a TPI”) to obtain quotes from energy suppliers. Monarch Partnership was used for this purpose. It is impossible for the time periods for consultation laid down in section 20 LTA 1985 to be followed, since the quote price cannot be held for the period necessary to carry out the consultation. Hence the necessity for this application. The purpose of entering into such a long term agreement at a fixed price for the supply for energy is to ensure, as far as reasonably possible, that the best price was achieved for that supply.

The Applicant used the services of the Monarch Partnership who act as brokers. Monarch Partnership

are the preferred suppliers from the Procurement for Housing Consortium, a procurement club set up for registered providers of social housing to be able to source goods and services at better prices. Monarch Partnership have extensive knowledge of the energy market and have tendered framework agreements with the major energy suppliers across Europe and are advertised in the Official Journal for the European Union (OJEU). These framework agreements are in line with EU regulations.

To ensure the Applicant has a good idea of the overall market conditions, it tendered for several types of contract, including

- a) Fixed term for three years
- b) Fixed term for two years
- c) Fixed term for one year

As the cost per leaseholder is likely to exceed £100.00 per annum in most cases, such a contract will be a qualifying long term agreement.

Early indications showed that if the Applicant had continued with annual purchasing of electricity, the prices would have risen by more than 30% over the three year period of the fixed term contract. However, with the three-year fixed contract, the price rise for the supply of electricity will be between 8.28% and 13.25%. The Applicant obtained a prediction for price increase over the three year period and a copy of the table is attached at Appendix 3. The terms of the current three-year fixed contract show a price rise per unit of energy of between 8.28% and 13.25% in year one of the contract (2019/20) but no rise in the cost per unit of energy for the subsequent two years (2020/21 and 2021/22).

The Applicant therefore believes it to be in the residents' best interests for the Applicant to have entered into the three year fixed term contract.

## 2. Describe the consultation that has been carried out or is proposed to be carried out.

The Applicant served the variable service charge payers with a Stage 1 Notice of Intention in respect of the intended energy procurement contracts and process on 30 October 2018. A copy of this notice is attached at Appendix 4. The Applicant offered a 30 day consultation period and a summary of the observations received is attached at Appendix 5.

The Applicant also served the variable service charge payers with a Stage 2 Notice of to Proposals in respect of the energy procurement contracts entered in to on 30 March 2019. A copy of this notice is attached at Appendix 6. The Applicant offered a 30 day consultation period and a summary of the observations received is attached at Appendix 7.

The Applicant shall notify the Respondents of this application to dispense with the consultation requirements.

The Applicant proposes to publish an article in the residents' newsletter advising why it entered into the energy contracts and explain the reasons why the Applicant is unable to consult on prices prior to entering into the contracts.

The Applicant notified the residents of the chosen supplier, contract term, prices and reasons for selecting that supplier and duration as soon as was reasonably practical after the terms had been agreed.

## 3. Explain why you seek dispensation of all or any of the consultation requirements.

Schedule 2 of the Service Charges (Consultation Requirements) regulations 2003 sets out the consultation requirements for qualifying long term agreements for which public notice is required. These regulations require a notice of intention to be sent to each tenant and recognised residents association, facility for inspection of documents and impose a duty to have regard to residents' observations, followed by a detailed preparation of a landlord's proposal. This proposal should include the observations of the tenants and amount of estimated expenditure; and also allow a period of 30 days for tenants to make observations, to which we must have regard



prior to entering into the contract

The most pressing matter concerning the procurement of energy is the timescales involved in purchasing a commodity, which operates differently to a typical procurement exercise for works. In procuring energy contracts the procuring party only has a small time window within which to accept the tendered price for the commodity being procured, typically this is a matter of a few hours. Because of fluctuations in prices, suppliers are unwilling to hold open price offers for any longer than normally 4pm of the day of the quote.

As a result of this it is not possible to offer a 30 day consultation period between obtaining estimated costs and entering into a contract. The Applicant therefore seeks dispensation from paragraphs (4) to (8) regarding the requirement to prepare a proposal, notify tenants of the proposal and to have regard to tenants' observations.

The Applicant has notified residents of the details of the parties to the agreement, the contract term and pricing structure.

It is perhaps worth remembering the statutory provisions by which the Tribunal are empowered to grant dispensation. That power derives from section 20ZA(1) and provides that the Tribunal may make a determination "if satisfied that it is reasonable to dispense with the requirements". In *Daejan Investments Limited v Benson and others* [2013] UKSC 14 the majority of the Supreme Court held that the existence or absence of prejudice to lessees due to non-compliance with the Regulations is the fundamental (and normally sole) consideration for a Tribunal when considering whether to grant dispensation.

Daejan concerned qualifying works; however the principals apply equally to Qualifying Long Term Agreements. The majority confirmed that the obligation to consult has two purposes, being the means to the end of protecting lessees from (a) paying for inappropriate works, or (b) paying more than would be appropriate. As Lord Neuberger stated, the first of these purposes is encapsulated in section 19(1)(b), and the second in section 19(1)(a). The obligation to consult, in sections 20 and 20ZA, is "intended to reinforce, and to give practical effect to, those two purposes." As he then said:

"Thus, the obligation to consult the tenants in advance about proposed works goes to the issue of the appropriateness of those works, and the obligations to obtain more than one estimate and to consult about them go to both the quality and the cost of the proposed works."

Consistent with this approach, in considering dispensation requests, the Tribunal should focus on whether the failure, or inability, to comply with the Regulations has caused, or will cause, lessees prejudice, either by having to pay for inappropriate works/services, or by having to pay more than would be appropriate. As Lord Neuberger said, it follows that in a case where the extent, quality and cost of the works/services is not affected by the failures, or inability, to comply with the Regulations, it is hard to see why dispensation should not be granted.

There can be no complaint from the proposed Respondents that the supply of electricity to communal areas or gas to communal boilers is an inappropriate service and the inability for the Applicant to consult under the Regulations cannot have caused the Respondents to suffer any relevant prejudice.

## ANNEX: Addresses of Tribunal Regional Offices

### NORTHERN REGION

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential  
Property, 1<sup>st</sup> Floor, Piccadilly Exchange, Piccadilly  
Plaza, Manchester M1 4AH

**Telephone:** 01612 379491

**Fax:** 01264 785 128

**This office covers the following Metropolitan districts:** Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

**It also covers the following unitary authorities:** Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

**It also covers the following Counties:** Cumbria, Durham, East Cheshire, Lancashire, Lincolnshire, Northumberland, North Yorkshire and West Cheshire.

## MIDLAND REGION

HM Courts & Tribunals Service  
First-tier Tribunal (Property Chamber) Residential  
Property, Centre City Tower, 5-7 Hill Street,  
Birmingham, B5 4UU

**Telephone:** 0121 600 7888

**Fax:** 01264 785 122

**This office covers the following Metropolitan districts:** Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

**It also covers the following unitary authorities:** Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

**It also covers the following Counties:** Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

## EASTERN REGION

HM Courts & Tribunals Service  
First-tier Tribunal (Property Chamber) Residential  
Property, Cambridge County Court, 197 East Road  
Cambridge, CB1 1BA

**Telephone:** 01223 841 524

**Fax:** 01264 785 129

**DX** 97650 Cambridge 3

**This office covers the following unitary authorities:** Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

**It also covers the following Counties:** Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

## SOUTHERN REGION

HM Courts & Tribunals Service  
First-tier Tribunal (Property Chamber) Residential  
Property, Havant Justice Centre, The Court House,  
Elmleigh Road, Havant, Hants, PO9 2AL

**Telephone:** 01243 779 394

**Fax:** 0870 7395 900

**This office covers the following unitary authorities:** Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

**It also covers the following Counties:** Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex and Wiltshire.

## LONDON REGION

HM Courts & Tribunals Service  
First-tier Tribunal (Property Chamber) Residential  
Property, 10 Alfred Place, London WC1E 7LR

**Telephone:** 020 7446 7700

**Fax:** 01264 785 060

**DX** 134205 Tottenham Court Road

**This office covers all the London boroughs.**

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

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To receive a paper copy of this privacy notice, please call 0300 123 1024/ Textphone 18001 0300 123 1024.

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**APPENDIX 1**

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**DETAILS OF PROPERTIES AND RESPONDENTS  
(APPLICATION – PARAGRAPH 2 AND 4)**

TO BE FILED WITH TRIBUNAL ONLY AND  
NOT TO BE SERVED UPON ALL RESPONDENTS

[intentionally left blank]

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**APPENDIX 2**

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**COPIES OF MODEL LEASE  
(APPLICATION – PARAGRAPH 13)**

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## **TYPE 1 MODEL LEASE**

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## Shared Ownership Flat Lease

Relating to ▼ ( *insert full postal address from the schedule of variables* )

Dated

(1) Aster Communities

(2) ▼

**Important Notice for Leaseholders**  
**A guide to the key terms of this Lease is set out in Appendix 3**

**Note for completion of lease and counterpart:**

- Record date of completion on front page
- Record date of completion in Panel LR1
- Record date of completion above the Parties

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### Prescribed Clauses

LR1. Date of Lease	The date of this Lease is the date written on the front page. [▼Also write date of lease completion here.]
LR2. Title Information	<p>LR2.1 Landlord's title number(s) ▼</p> <p>LR2.2 Other title numbers ▼</p>
LR3. Parties to this lease	<p><b>Landlord</b></p> <p><b>Aster Communities</b> (a charitable registered society as defined in section 1 of the Co-operative and Community Benefit Societies Act 2014 with number 31530R) whose registered office is at Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ</p> <p><b>Tenant</b> ▼ of ▼ and defined in this Lease as the "Leaseholder"</p>
LR4. Property	<p><b>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</b></p> <p>As specified in Schedule 1 (<i>The Premises</i>) and Schedule 9 (<i>Defined Terms</i>) of this Lease and defined in this Lease as the "<b>Premises</b>"</p>
LR5. Prescribed statements etc	<p><b>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</b></p> <p>The Property is held by (or in trust for) Aster Communities which is an exempt charity.</p> <p><b>LR5.2 This lease is made under, or by reference to, provisions of:</b></p> <p>Not applicable</p>
LR6. Term for which the Property is leased	<p><b>The term is as follows:</b></p> <p>The term as specified in this Lease at Clause 2 (<i>The Letting Terms</i>)</p>

	and as defined in Schedule 9 ( <i>Defined Terms</i> )
<b>LR7. Premium</b>	£▼
<b>LR8. Prohibitions or restrictions on disposing of this lease</b>	This Lease contains a provision that prohibits or restricts dispositions
<b>LR9. Rights of acquisition etc.</b>	<p><b>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</b></p> <p>None</p> <p><b>LR9.2 Tenant's covenant to (or offer to) surrender this lease</b></p> <p>As specified in <b>Clauses 3.19 (<i>Pre-emption Provisions</i>)</b>, <b>Clause 6.7 <i>Frustration</i></b>, and <b>Schedule 8 (<i>Surrender by Leaseholder (Pre-emption)</i>)</b> of this Lease.</p> <p><b>LR9.3 Landlord's contractual rights to acquire this lease</b></p> <p>None</p>
<b>LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</b>	None
<b>LR11. Easements</b>	<p><b>LR11.1 Easements granted by this lease for the benefit of the Property</b></p> <p>As specified in Clause 2 (<i>The Letting Terms</i>) and in Schedule 3 (<i>Easements, Rights and Privileges</i>)</p> <p><b>LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property</b></p> <p>As specified in Clause 2 (<i>The Letting Terms</i>) and in Schedule 4 (<i>Exceptions and Reservations</i>)</p>
<b>LR12. Estate rentcharge burdening the Property</b>	Not applicable
<b>LR13. Application for standard form of restriction</b>	<p>The Parties to this Lease apply to enter the following standard form of restriction against the title of the Property:</p> <p>"No disposition of the registered estate (other than a charge) by the</p>

	<p>proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under title number ▼ or their conveyancer that the provisions of <b>Clause 3.18 (Alienation)</b> and <b>Clause 3.19 (Pre-emption Provisions)</b> and <b>Clause 3.21 (Register Disposals)</b> of the registered lease have been complied with or that they do not apply to the disposition.”</p>
<p><b>LR14. Declaration of trust where there is more than one person comprising the Tenant</b></p>	<p>The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.</p> <p>OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.</p> <p>OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust.</p>

## PARTICULARS

<b>Commencement Date</b>	:	<b>[01 April 2015].</b>
<b>Initial Market Value</b>	:	The sum of £ ▼
<b>Initial Percentage</b>	:	▼ %
<b>Premium</b>	:	The sum of £ ▼
<b>Gross Rent</b>	:	£ ▼ per annum, subject to review in accordance with Schedule 5 ( <i>Rent Review</i> ).
<b>Specified Rent</b>	:	A sum equal to the Unacquired Percentage of the Gross Rent (the Specified Rent on the date of this Lease being £ ▼ per annum) or (if greater) the Minimum Rent.
<b>Specified Proportion</b>	:	A fair and proper proportion to be conclusively determined from time to time by the Landlord (who shall act reasonably).
<b>Review Date</b>	:	The first 1 <sup>st</sup> April following the date of this Lease, and each successive 1 <sup>st</sup> April during the Term and the term the “ <b>Relevant Review Date</b> ” shall be construed accordingly.
<b>Parking Space</b>	:	None/ ▼ The parking space[s] shown edged blue on the Lease Plan or such other space[s] as the Landlord shall from time to time allocate to the Premises.

### List of plan(s) attached to this Lease and designations on plan(s)

#### Plan attached to this Lease labelled: Lease Plan

ITEM ON PLAN	DESIGNATION ON PLAN (if any)
Property	Edged Red

#### Plan attached to this Lease labelled: Parking Space Plan

ITEM ON PLAN	DESIGNATION ON PLAN (if any)
Parking Space	Edged Blue

**Plan attached to this Lease labelled: Estate Plan**

<b>ITEM ON PLAN</b>	<b>DESIGNATION ON PLAN (if any)</b>
<b>Estate</b>	<b>Edged Green</b>

DATED ▼

## PARTIES

(1) **ASTER COMMUNITIES** (registered with the Regulator of Social Housing under number 4691 and which is a charitable registered society as defined in section 1 of the Co-operative and Community Benefit Societies Act 2014 under number 31530R) whose registered office is at Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ (the “**Landlord**”)

(2) ▼ of ▼ (the “**Leaseholder**”)

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Lease the terms defined in the **Particulars** and in **Schedule 9 (Defined Terms)** shall have the meanings specified.
- 1.2 Any obligation on a party to this Lease to do any act includes an obligation to procure that it is done.
- 1.3 Where the Leaseholder is placed under a restriction in this Lease, the restriction includes the obligation on the Leaseholder not to permit or allow the infringement of the restriction by any person.
- 1.4 References to liability include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.
- 1.5 The Clause and paragraph headings in this Lease are for ease of reference only and are not to be taken into account in the interpretation of any provision to which they refer.
- 1.6 The Key Information for Shared Owners set out in **Appendix 3** is for information purposes only and is not to be taken into account in the interpretation of any provision of this Lease.
- 1.7 Unless the contrary intention appears, references:
  - 1.7.1 to defined terms are references to the relevant defined term in **the Particulars** and **Schedule 9 (Defined Terms)**;
  - 1.7.2 to numbered Clauses and Schedules are references to the relevant Clause in, or Schedule to, this Lease; and
  - 1.7.3 to a numbered paragraph in any Schedule are references to the relevant paragraph in that Schedule.
- 1.8 Words in this Lease denoting the singular include the plural meaning and vice versa.
- 1.9 References in this Lease 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.

- 1.10 Words in this Lease importing one gender include both genders, and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.
- 1.11 Words and expressions which appear in the first column of **the Particulars**, shall in this Lease have the meaning shown opposite them in the second column of the Particulars.
- 1.12 The parties to this Lease agree that any reference to any right exercisable by the Landlord shall be construed as including (where appropriate) the exercise of such right upon the same terms by a duly appointed management company and/or its agents and all persons authorised by any such duly appointed management company.
- 1.13 The parties to this Lease agree that any obligation of the Landlord under this Lease may be performed by the Landlord by procuring performance of it by a duly appointed management company (where relevant).

## 2 THE LETTING TERMS

In consideration of the Premium (receipt of which the Landlord acknowledges), the Specified Rent and the Leaseholder's covenants in this Lease the Landlord lets the Premises to the Leaseholder:

- 2.1 **[together with but]** subject to the matters contained mentioned or referred to in the Landlord's title **[to the Estate]** (save and except any financial charges); and
- 2.2 together with the rights set out in **Schedule 3 (Easements, Rights and Privileges)**; and
- 2.3 together with the rights but subject to the provisions set out in **Schedule 6 (Staircasing Provisions)**; and
- 2.4 except and reserved to the Landlord the rights set out in **Schedule 4 (Exceptions and Reservations)**;
- 2.5 for the Term,

the Leaseholder paying during the Term the Specified Rent (subject to revision under **Schedule 5 (Rent Review)**) by equal monthly payments in advance on the first day of each month.

## 3 LEASEHOLDER'S COVENANTS

The Leaseholder covenants with the Landlord as follows:

### 3.1 **Pay Rent**

To pay (by Bank or Building Society Direct Debit Mandate or such other means as the Landlord shall require to a Bank or Building Society account nominated by the Landlord):

- 3.1.1 the Specified Rent at the times and in the manner mentioned in Clause 2 (The Letting Terms); and
- 3.1.2 the Service Charge in accordance with clause 7 of this Lease; and
- 3.1.3 all other sums due under this Lease

in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) and unless otherwise stated, by equal monthly payments in advance on the first day of each month, the first payment to be made on the date of this Lease for the remainder of the month including the date on which this Lease is completed and the whole of the next following month.

### 3.2 **Interest**

To pay interest calculated on a day to day basis at an annual rate of 4% above the Base Rate of **Barclays Bank PLC** for the time being in force on so much of the Specified Rent and/or any other monies due to the Landlord under this Lease that remain unpaid for a period of 14 days after becoming due for payment.

### 3.3 **Pay Outgoings**

- 3.3.1 To pay the Outgoings in relation to the Premises or any part of the Premises.
- 3.3.2 To refund to the Landlord on demand (where Outgoings relate to the whole or part of the Building or other property including the Premises) a proper proportion of the Outgoings attributable to the Premises, such proportion to be conclusively determined by the Landlord (who shall act reasonably).
- 3.3.3 To pay all costs in connection with the supply and removal of gas electricity water sewage data telecommunications and other services and utilities to or from the Premises together with all connection and standing charges and to comply at the Leaseholder's expense with all relevant legislation and with all requirements of the relevant suppliers relating the use of those services, utilities and the Service Media at or serving the Premises.
- 3.3.4 To pay to the Landlord (if required) the relevant excess (if any) in respect of each and every claim made under the Landlord's insurance policy relating to the Premises.

### 3.4 Repair

- 3.4.1 To repair and keep the Premises (and the surface of any Balcony/Terrace/Patio which the Leaseholder is granted a right to use by this Lease) clean and in good and substantial repair and condition and to keep the garden area included within the Premises (if any) clean and tidy and properly tended and to maintain and repair in good and substantial condition the fences marked with inward facing "T" marks on the Plan (if any) (damage by risks insured under **Clause 5.2 (Insure)**) excepted unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder).
- 3.4.2 To repair and maintain and keep in full working order all gas appliances within the Premises, which solely serve the Premises and to arrange for gas safety inspections every twelve months by a suitably qualified registered gas installer to ensure that all gas appliances (if any) in the Premises are maintained in good working order and are safe to use and to produce to the Landlord upon demand but at least once in every year and not less than 5 working days after receipt of the same from such installer a copy of such inspection and the gas safety certificate **PROVIDED THAT** if any of the gas appliances should be deemed unsafe or in need of replacement the Leaseholder shall notify the Landlord immediately and where such appliance has been damaged or has fallen into disrepair due to the Leaseholder causing or allowing damage to be caused to such appliance or by not complying with this covenant to repair and maintain then the Leaseholder shall bear the full cost of the replacement appliance.

### 3.5 Decorate

As often as is reasonably necessary during the Term and in the last month of the Term however determined in a proper and workmanlike manner (and in the last month of the Term in colours approved by the Landlord) to paint paper treat and decorate in a style appropriate to property of a like character all the inside of the Premises (and the surface of any Balcony/Terrace/Patio which the Leaseholder is granted a right to use by this Lease) previously or usually so painted papered treated and decorated.

### 3.6 Provide Floor Coverings

To provide carpets to the floors of the Premises or, subject to obtaining the Landlord's prior written consent, such other suitable floor coverings having sound proofing or sound deadening qualities to the Landlord's reasonable satisfaction.

### 3.7 Damage To The Estate and Common Parts

In respect of any damage or disrepair to the Estate and/or the Common Parts caused or contributed to by any act, neglect or default of the Leaseholder or the Leaseholder's family, servants or licensees or by any other person under the control

of the Leaseholder, at the option of the Landlord, the Leaseholder will on demand indemnify the Landlord in respect of all costs, charges and expenses incurred the Landlord in repairing, making good, renewing and/or reinstating such damage or disrepair.

### 3.8 Alterations

#### 3.8.1 Not to:

- (a) make any alterations or additions to the exterior of the Premises;
- (b) make any structural alterations or structural additions to the interior of the Premises;
- (c) erect any new buildings on the Premises;
- (d) in any way interfere with the outside of the Building; or
- (e) remove any of the Landlord's fixtures from the Premises.

3.8.2 Not to make any alteration or addition of a non-structural nature to the interior of the Premises without the previous written consent of the Landlord (such consent not to be unreasonably withheld) **SAVE THAT** the Landlord's consent shall not be required to hang pictures or posters or secure furniture, for health and safety reasons, to any walls of the Premises whether structural or non-structural **PROVIDED THAT** the structure and integrity of the Premises is not affected and that any holes created are fully repaired and re-decorated prior to the Leaseholder vacating the Premises.

3.8.3 The Leaseholder shall not carry out any work of repair renewal or maintenance to the floor, ceiling or walls of the Premises unless at least forty-eight hours prior written notice is given to the Adjoining Occupier in accordance with this sub-clause, save in case of emergency where as much notice as is practicable should be given.

3.8.4 The Leaseholder shall make good, at its own expense and to the reasonable satisfaction of the Adjoining Occupier or the tenant of the Adjoining Part, any damage which that work referred to in **Clause 3.8.3** may have caused.

### 3.9 Comply With Requirements of Public Authorities

To execute and do at the expense of the Leaseholder all works and things as may at any time during the Term be directed or required by any national or local or other public authority to be executed or done upon or in respect of the Premises or any part of the Premises provided that the Leaseholder shall not be liable by virtue of this **Clause 3.9** to execute or do any works which fall within the scope of **Clause 5.3 (Repair Redecorate Renew the Structure)**.

### **3.10 Provide Copies of Notices**

Promptly to serve on the Landlord a copy of any notice, order or proposal relating to the Premises and served on the Leaseholder by any national, local or other public authority.

### **3.11 Payment of the Landlord's Costs**

To pay all costs, charges and expenses (including solicitors' costs and surveyors' fees) reasonably incurred by the Landlord:

- 3.11.1 for the purpose of or incidental to the preparation and service of a notice under section 146 or section 147 of the Law of Property Act 1925 even if forfeiture is avoided otherwise than by relief by the court; or
- 3.11.2 in connection with every application made by the Leaseholder for a consent, approval or licence under the terms of this Lease whether or not such consent, approval or licence is granted (whether or not such grant is subject to any law qualification or condition), refused or withdrawn; or
- 3.11.3 in connection with the assignment of this Lease:
  - (a) any administration fee (if any) charged by the local authority or other body who is in a position to nominate a buyer or any other body or person who may be involved in the nomination process (including but not limited to HomeBuy Agents or other agents) to the Landlord under the terms of a nomination of other similar agreement in relation to the Premises; and/or
  - (b) any estate agent's fees and/or
  - (c) any valuer's fees; or
- 3.11.4 otherwise incurred by the Landlord in respect of any breach of covenant by the Leaseholder under this Lease including the recovery of any arrears of Specified Rent or any other sums due from the Leasehold under the terms of this Lease.

### **3.12 Obtain Consents**

To obtain all licences, permissions and consents and do all works and things and pay all expenses required or imposed by any existing or future legislation in respect of any works carried out by the Leaseholder on the Premises or any part of the Premises or in respect of any use of the Premises during the Term.

### **3.13 Permit Entry to Landlord to Inspect And Repair**

- 3.13.1 To permit the Landlord and its employees or agents at reasonable times (or at any time in an emergency) to enter the Premises and examine their condition and also to take a schedule of fixtures and fittings in the Premises.

- 3.13.2 If any breach of covenant, defects, disrepair, removal of fixtures and fittings or unauthorised alterations or additions are found on inspection for which the Leaseholder is liable, then, on notice from the Landlord, to execute to the reasonable satisfaction of the Landlord or the Landlord's surveyor all repairs, works, replacements or removals required within three months (or sooner if necessary) after receipt of notice.
- 3.13.3 If the Leaseholder fails to comply with a notice under **Clause 3.13.2** the Landlord may itself or by its workpeople or agents enter the Premises and execute the repairs, works, replacements or removals.
- 3.13.4 To pay to the Landlord on demand all expenses incurred (including but not limited to surveyor's fees and the Landlord's administration fee) under **Clause 3.13.3**.

**3.14 Permit Entry**

At all reasonable times during the Term on notice (or at any time in an emergency) to permit the Landlord and the lessees of other Premises in the Building with workmen and others to enter the Premises for the purpose of repairing any adjoining or neighbouring Premises and for the purpose of repairing, maintaining and replacing all Service Media or other conveniences belonging to or serving the same, the party so entering making good any damage caused to the Premises.

**3.15 Yield Up**

At the expiry or earlier termination of this Lease to quietly yield up the Premises repaired, maintained, cleaned, decorated and kept in accordance with the covenants in this Lease (except in respect of damage by risks insured under **Clause 5.2 (Insure)** unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder).

**3.16 Use**

Not to use the Premises for any purpose other than as a private residence in the occupation of a single household.

Not to use that part of the Premises designated by the Landlord as a flat for any purpose other than as a private residence in the occupation of a single household and not use that part of the Premises designated by the Landlord as a garage for any purpose other than parking one private motor car or motorcycle in accordance with the terms of this Lease.

**3.17 Restrictions on Use**

Not to do any act or thing which may:

- 3.17.1 render void or voidable any policy of insurance on the Premises or the Estate or may cause an increased premium to be payable in respect of the Premises;

- 3.17.2 cause or permit to be caused nuisance, annoyance, disturbance or damage to the owners lessees or occupiers of premises in the neighbourhood or visitors to such premises;
- 3.17.3 result in any form of harassment or intimidation of any other person, including the Landlord's staff, contractors and agents; or
- 3.17.4 result in the use of the Premises for any unlawful or immoral purpose; or
- 3.17.5 result in any trade or business whatsoever being carried out upon the Premises; or
- 3.17.6 cause or permit the storage in the Premises or the Estate of any flammable dangerous explosive or offensive substance or good **PROVIDED THAT** the storage of petrol, oil or diesel fuel in a motor vehicle, motor bike or lawn mower (but not in any other receptacle) which the Leaseholder is permitted to keep on the Premises or the Estate by the terms of this Lease shall be permitted where the petrol tank is properly sealed and forms part of such motor vehicle, motor bike or lawn mower.

### 3.18 **Alienation**

- 3.18.1 Not to assign, underlet, charge, mortgage, or part with possession of part only of the Premises.
- 3.18.2 Not to underlet or part with possession of the whole of the Premises before Final Staircasing has been accomplished.
- 3.18.3 Not without the prior written consent of the Landlord (such consent not to be unreasonably withheld and which shall be deemed withheld in circumstances where Clause 3.19 is not complied with) to assign the whole of the Premises before Final Staircasing has been accomplished.

### 3.19 **Pre-emption Provisions**

- 3.19.1 Subject to **Clause 3.19.5**, during the Pre-emption Period the Leaseholder shall not assign the whole of the Premises otherwise than as permitted pursuant to the provisions of **Clauses 3.19.2 and 3.19.3**.
- 3.19.2 If the Leaseholder wishes to assign the whole of the Premises during the Pre-emption Period he shall first serve written notice on the Landlord (such notice to be accompanied with a Valuer's Certificate dated no earlier than eight weeks before the notice) offering a surrender of this Lease and within eight weeks of receipt the Landlord may serve written notice on the Leaseholder:
  - (a) declining the offer of a surrender but nominating a purchaser to take an assignment of the whole of the Premises, in which case the provisions of **Schedule 7 (Assignment of Whole to Nominated Purchasers)** will apply; or

- (b) stating that the Landlord will accept a surrender of this Lease, in which case the provisions of **Schedule 8 (Surrender by Leaseholder (Pre-emption))** will apply.

3.19.3 If the Landlord does not serve a notice under **Clause 3.19.2** within the eight week period specified in **Clause 3.19.2** (as to which time shall be of the essence) the Leaseholder may assign or underlet the whole of the Premises subject to exchange of contracts (or completion where there is no prior exchange of contracts) for the assignment or underletting taking place within twelve months of service of the Leaseholder's notice pursuant to **Clause 3.19.2** provided that if no exchange of contracts or completion has taken place within such twelve month period and the Leaseholder wishes to assign or underlet the whole of the Premises the procedure set out in **Clause 3.19.2** and this **Clause 3.19.3** shall be repeated.

3.19.4 The Leaseholder covenants to apply within 30 days of the date of this Lease to the Chief Land Registrar to enter a restriction in the form required pursuant to Prescribed Clause LR13 in the proprietorship register of the Leaseholder's title and to pay any necessary Land Registry fee and to provide the Landlord with an official copy of the Leaseholder's title to show such restriction immediately after being notified of completion of registration.

3.19.5 Where this Lease is assigned:

- (a) under a will or intestacy;
- (b) under Section 24 or 24A of the Matrimonial Causes Act 1973 or Section 2 of the Inheritance (Provision for Family and Dependents) Act 1975;
- (c) under section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, etc);
- (d) under paragraph 1 of schedule 1 to the Children Act 1989 (orders for financial relief against parents); or
- (e) under part 2 or 3 of schedule 5 or paragraph 9 of schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership;

the provisions of **Clauses 3.19.1 to 3.19.3** will not apply.

### 3.20 **Landlord's Administration Costs**

Prior to the completion of any disposal of the Leaseholder's interest in the Premises the Leaseholder shall pay (in addition to any sums due under clause 3.11 of this Lease) to the Landlord a sum equivalent to 1.5% (plus VAT) of the Market Value of



the Premises as at the date of assignment in consideration of the Landlord's internal and administrative costs.

### **3.21 Register Disposals**

Within one month of any assignment underletting mortgage charge or other dealing with the Leaseholder's interest in the Premises to give notice of it together with a certified copy of the document effecting the assignment underletting mortgage charge or other dealing to the Landlord and to pay a reasonable fee (which shall not be less than £50 plus VAT) to the Landlord for the registration of the notice.

### **3.22 Prevent Loss of Easements**

To do such acts and things as may reasonably be required by the Landlord to prevent any easement or right belonging to or used with the Premises from being obstructed or lost and not knowingly to allow any encroachment to be made on or easement acquired over the Premises and in particular not to allow the right of access of light from or over the Premises to any neighbouring property to be acquired.

### **3.23 Comply With Covenants on the Registers Of Title**

To observe and perform the covenants restrictions stipulations agreements and declarations (if any) contained or referred to in the registers of the Landlord's title to the Estate (save and except for any financial charges) [including but not limited to the covenants conditions restrictions and stipulations on the part of the Transferee [define] contained in the Main Transfer] in each case so far as the same are still subsisting and relate to the Premises and to indemnify the Landlord against all actions proceedings damages costs claims expenses and liabilities arising in respect of any breach thereof and on any transfer of the Premises to require the transferee to covenant with the Landlord to observe and perform the covenant contained in this Clause.

### **3.24 Comply With Planning**

3.24.1 To observe and perform at all times during the Term all statutes and the requirements or directions of any government department, local authority or other competent authority (including but not limited to the covenants, conditions, exceptions, reservations, declarations, agreements and stipulations and all other matters contained or referred to in any planning permission or in any planning agreement) so far as the same relate to the Premises or their use and occupation.

3.24.2 To enter in to any agreement deed or other arrangement (including but not limited to adoption agreements and deeds of easement) as may be required by the Landlord for the grant of any easement or any other right exception reservation or other matter in favour of any local authority, statutory authority or utility provider relating to any services provided or to be provided to the Premises or the Building or any part of the Estate without payment of any consideration.

**3.25 Not to Make Any Claim Against Building Warranty Without Notifying Landlord**

Not to make any claim under any Warranty Documents without first notifying the Landlord in writing and thereafter to comply at all times with the Landlord's reasonable directions regarding the conduct and settlement of the claim.

**4 LEASEHOLDER'S FURTHER COVENANTS**

The Leaseholder **covenants** with the Landlord and with and for the benefit of the tenants and occupiers from time to time of the other premises in the Building and the Estate as follows:

**4.1 Observe the Covenants Contained in Schedule 2**

That the Leaseholder and the persons deriving title under the Leaseholder will at all times observe the covenants set out in the **Schedule 2 (*Mutual Covenants*)**.

**4.2 Comply with Regulations**

That the Leaseholder and the persons deriving title under the Leaseholder will at all times comply with such reasonable regulations as the Landlord may make from time to time relating to the putting out of refuse for removal and such other matters as the Landlord considers necessary or desirable for the purpose of securing the safety orderliness or cleanliness of the Building or the Estate or the Common Parts or the comfort or convenience of the tenants of the Building or the Estate or the efficient or economical performance by the Landlord of its obligations under this Lease.

**5 LANDLORD'S COVENANTS**

The Landlord **hereby covenants** with the Leaseholder as follows:

**5.1 Quiet Enjoyment**

That the Leaseholder paying the rents reserved by this Lease and performing and observing the covenants contained in this Lease may peaceably enjoy the Premises during the Term without any lawful interruption by the Landlord or any person rightfully claiming under or in trust for it.

**5.2 Insurance**

At all times during the Term (unless such insurance shall be cancelled, invalidated or revoked by any act or default of the Leaseholder) to keep the Building insured against loss or damage by fire and such other risks as the Landlord may from time to time reasonably determine or the Leaseholder's mortgagee may reasonably require in some insurance office of repute to its full reinstatement value (including all professional fees in connection with any reinstatement and two years' loss of rent) and whenever required (but not more than once without charge in each insurance period) will produce to the Leaseholder the insurance policy and the receipt for the last premium and will in the event of the Building being damaged or destroyed by fire or other risks covered by such insurance as soon as reasonably practicable make a

claim against the insurers and lay out the insurance monies in the repair, rebuilding or reinstatement of the Building.

### 5.3 **Repair, Redecorate, Renew the Structure**

Except to such extent as the Leaseholder or the tenant of any other part of the Building or the Estate shall be liable in respect thereof (under the terms of this Lease or of any other lease) and subject to **Clause 5.5** and to payment of the Specified Rent and Service Charge, the Landlord shall maintain, repair, redecorate, renew and (in the event in the Landlord's reasonable opinion such works are required) improve:

- 5.3.1 the load bearing framework and all other structural parts of the Building, the roof, foundations, joists and external walls of the Building and Service Media and machinery and plant within (but not exclusively serving) the Premises and all parts of the Building which are not the responsibility of the Leaseholder under this Lease or of any other leaseholder under a similar lease of other Premises in the Building; and
- 5.3.2 the Service Media, cisterns and tanks and other gas, electrical, drainage, ventilation and water apparatus and machinery in under and upon the Building (except such as serve exclusively an individual flat in the Building and except such as belong to any utility supply authority or company); and
- 5.3.3 the Common Parts; and
- 5.3.4 the Parking Space.

### 5.4 **Light and Clean the Common Parts**

Subject to **Clause 5.3** (*Repair Redecorate Renew the Structure*) and **Clause 5.5** (*Landlord's Protection Provisions*) and so far as practicable to keep the Common Parts of the Building adequately cleaned and lighted.

### 5.5 **Landlord's Protection Provisions**

- 5.5.1 The Landlord shall not be liable to the Leaseholder for any failure in or interruption of the services referred to in **Clauses 5.3** (*Repair, Redecorate, Renew the Structure*) or **Clause 5.4** (*Light and Clean the Common Parts*) not attributable to its neglect or default nor for any failure or interruption unless and until the Leaseholder has given notice of the failure or interruption and the Landlord has not remedied the failure or interruption within a reasonable time of service of that notice.
- 5.5.2 The Landlord may add to, diminish, modify or alter any service referred to in **Clauses 5.3** (*Repair Redecorate Renew the Structure*) or **Clause 5.4** (*Light and Clean the Common Parts*) if by reason of any change of circumstances during the Term such addition, diminution or alteration is in the opinion of the Landlord reasonably necessary or desirable in the interests of good estate management or for the benefit of the occupiers of the Building.

## 5.6 Leases for Other Flats

That every shared ownership lease or tenancy of any flat in the Building granted after the date of this Lease by the Landlord shall contain covenants to be observed by the tenant of that flat similar to those set out in **Schedule 2 (Mutual Covenants)** and (save in the case of any flat which may be let at a rent on a periodic basis or for a fixed term of seven years or less) shall be substantially in the same form as this Lease.

## 5.7 Enforce Covenants in Other Leases

If so required by the Leaseholder to enforce the tenant's covenants similar to those contained in this Lease which are or may be entered into by the tenants of other flats in the Building so far as they affect the Premises provided that the Leaseholder indemnifies the Landlord against all costs and expenses of such enforcement.

## 5.8 Pre-emption Obligations

That the Landlord will promptly in response to a request from the Leaseholder provide a certificate confirming where applicable that for the purposes of the restriction contained in Prescribed Clause LR13 the provisions of **Clause 3.18 (Alienation)** and **Clause 3.19 (Pre-emption provisions)** have either been complied with or do not apply to the disposition.

## 5.9 Cesser of Liability in Respect of Covenants

A party who was formerly the Landlord is to cease to be liable to perform and observe the covenants and conditions on the part of the Landlord contained in this Lease at and from the date of an assignment of the immediate reversion to this Lease.

# 6 PROVISOS

The parties agree the following provisos:

## 6.1 Re-entry

6.1.1 This **Clause 6.1** shall apply where:

- (a) the whole or any part of the Specified Rent or any other rent reserved by this Lease shall be unpaid for 21 days after becoming payable (whether formally demanded or not); or
- (b) if any covenant on the part of the Leaseholder shall not be performed or observed

6.1.2 Subject to the Landlord obtaining any court order required the Landlord may at any time re-enter the Premises or any part of them and terminate this Lease.

6.1.3 **Clause 6.1.2** does not affect any right of action or remedy of the Landlord in respect of any earlier breach of any of the Leaseholder's covenants or the

conditions contained in this Lease provided that (without prejudice to the Landlord's rights under this Lease):

- (a) The Landlord shall give notice to the Mortgagee or any mortgagee of the Leaseholder of whom the Landlord has received notice pursuant to **Clause 3.21 (Register Disposals)** (as the case may be) before commencing any proceedings for forfeiture of this Lease or proceedings for possession of the Premises; and
- (b) If within a period of 28 days (or within such other period specified in the Landlord's notice as the notice period, if longer) the Mortgagee or such mortgagee of the Leaseholder of whom the Landlord has received notice (as the case may be) indicates in writing to the Landlord that it wishes to remedy such breach, and/or is going to take such action as may be necessary to resolve the problem complained of by the Landlord, the Landlord shall allow 28 days (or such longer time as may be reasonable in view of the nature and extent of the breach) to remedy such breach and take the action necessary to resolve such problem.

## 6.2 Limitation Of Landlord's Liability

The Landlord shall not be liable for any damage suffered by the Leaseholder or any member of the Leaseholder's family or any employee, servant or licensee of the Leaseholder through any defect in any fixture, tank, Service Media, staircase, machinery, apparatus or thing in the Building or the Estate or through the neglect, default or misconduct of any servant employed by the Landlord acting outside the Landlord's instruction in connection with the Building or the Estate or for any damage to the Premises due to the bursting or overflowing of any tank, boiler or Service Media in the Building or the Estate except insofar as any such liability may be covered by insurance effected by the Landlord.

## 6.3 Landlord's Power to Deal with Other Premises

Notwithstanding anything contained in this Lease the Landlord shall have power without obtaining any consent from or making any compensation to the Leaseholder to deal as the Landlord may think fit with any other land, buildings or premises adjoining or near to the Building or the Estate and to erect, rebuild or heighten on such other land or premises any buildings whether such buildings shall or shall not affect or diminish the light or air which may now or at any time during the Term be enjoyed by the Leaseholder or other tenants or occupiers of the Premises.

## 6.4 Power to Alter Common Parts

The Landlord shall have power at its discretion to alter the arrangement of the Common Parts **PROVIDED THAT** after such alteration access to and from the amenities of the Premises are not substantially less convenient than before.

## 6.5 Party Walls

Every internal wall separating the Premises from any other part of the Building shall be a party wall severed medially.

## 6.6 Suspension of the Rent in Case of Insured Damage

If the whole or any part of the Premises (or the Common Parts necessary for access to it) are destroyed or damaged by fire or any other risks covered by the Landlord's insurance so as to be rendered unfit for use then (unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder) the Specified Rent or a fair proportion of it shall be suspended until the Premises (and the Common Parts necessary for access) are again fit for use.

## 6.7 Frustration

6.7.1 Subject to **Clause 6.7.2**, in the event of the repair, rebuilding or reinstatement of the Premises being frustrated by any reason beyond the control of the Landlord the Leaseholder will surrender to the Landlord this Lease in consideration of the Landlord paying to the Leaseholder a sum equal to the Acquired Percentage of any insurance monies received by the Landlord in respect of the Premises.

6.7.2 If at the time of such frustration (i) there is any Loan outstanding to a Mortgagee of the Premises and (ii) the Unacquired Percentage is greater than nil then the consideration for such surrender shall be the amount referred to in **Clause 6.7.1** plus the Mortgage Protection Claim (calculated on the basis that paragraph (h) in the definition of "Loss" in **Schedule 9 (Defined Terms)** is the amount referred to in **Clause 6.7.1**).

6.7.3 Any overpayment of insurance monies shall be a debt due from the Leaseholder to the Landlord and shall be payable on demand.

## 6.8 Expert Determination

6.8.1 In this Lease, where any issue is required to be dealt with by, or submitted for the determination of, an independent expert, the following provisions of this Clause 6.8 (*Expert determination*) are to apply but, in case of conflict with other provisions specifically relating to expert determination elsewhere in this Lease, those other provisions are to prevail to the extent of the conflict.

6.8.2 The expert is to be appointed by the parties jointly, or if they cannot or do not agree on the appointment, appointed by whichever of the following is appropriate:

- (a) the president from time to time of the Royal Institution of Chartered Surveyors; or

(b) the president from time to time of the Institute of Chartered Accountants in England and Wales,

or in either case the duly appointed deputy of the president, or other person authorised by him to make appointments on his behalf.

6.8.3 The person so appointed is to:

(a) act as an expert, and not as an arbitrator; and

(b) must afford the parties the opportunity within such a reasonable time limit as he may stipulate to make representations to him (accompanied by professional valuations, reports or other appropriate evidence in the relevant circumstances) and permit each party to make submissions on the representations of the other.

6.8.4 Neither the Landlord nor the Leaseholder may without the consent of the other disclose to the expert correspondence or other evidence to which the privilege of non-production ("without prejudice") properly attaches.

6.8.5 The fees and expenses of the expert, including the cost of his nomination, are to be borne as the expert may direct (but in the absence of such a direction, by the parties in equal shares), but (unless they otherwise agree) the parties shall bear their own costs with respect to the determination of the issue by the expert.

6.8.6 One party may pay the costs required to be borne by another party if they remain unpaid for more than 21 days after they become due and then recover these and any incidental expenses incurred from the other party on demand.

6.8.7 If the expert refuses to act, becomes incapable of acting or dies, the Landlord or the Leaseholder may request the appointment of another expert in his stead under Clause 6.8.2.

6.8.8 The determination of the independent expert, except in case of manifest error, is to be binding on the Landlord and the Leaseholder.

## **6.9 Rights of Light or Air**

The Leaseholder shall not become entitled to any right of light or air or any right of easement or quasi-easement which would in any way prejudicially affect the free and unrestricted use by the Landlord or any occupier of any other flat in the Building or of any adjoining or neighbouring land of the Landlord or any part of the Building for building or other purposes.

## **6.10 Ancillary Rights**

Except as mentioned in Clause 2 and in Schedule 3 of this Lease, neither the grant of this Lease nor anything in it confers any right over neighbouring property nor is to be

taken to show that the Leaseholder may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this Lease.

## **7 SERVICE CHARGE**

### **7.1 Covenant to Pay**

The Leaseholder covenants with the Landlord to pay the Service Charge during the Term by equal payments in advance at the times at which and in the manner in which the Specified Rent is payable under this Lease.

### **7.2 When Calculated**

The Service Provision in respect of any Account Year shall be calculated before the beginning of the Account Year and shall be calculated in accordance with Clause 7.3 (*How calculated*) and the Landlord or the Authorised Person shall provide an estimate of expenditure for the forthcoming year to the Leaseholder prior to the commencement of the Account Year **PROVIDED THAT** if the Landlord is unable to produce such estimate prior to the commencement of the Account Year the Leaseholder shall continue to pay the Service Charge at the rate for the previous Account Year until such time as it is provided with such estimate.

### **7.3 How Calculated**

The Service Provision shall consist of a sum comprising the expenditure estimated by the Authorised Person as likely to be incurred or payable in the Account Year on those matters specified in Clause 7.4 (*Service Provision*) together with:

7.3.1 a sum that the Landlord considers an appropriate amount as a reserve for or towards such of the matters specified in **Clause 7.4** as are likely to give rise to expenditure after such Account Year being matters which are likely to arise either only once during the then unexpired term of this Lease or at intervals of more than one year including (without limitation) such matters as the decoration of the exterior of the Building (the said amount to be calculated in such manner as to ensure as far as is reasonably possible that the Service Provision shall not fluctuate unduly from year to year); but

7.3.2 reduced by any unexpended reserve already made pursuant to **Clause 7.3.1**.

### **7.4 Provision of Services**

The relevant expenditure to be included in the Service Provision shall comprise all expenditure reasonably incurred or payable by the Landlord in connection with the repair, management, maintenance and provision of services for the Estate and/or the Building and/or the Common Parts and shall include (without prejudice to the generality of the foregoing):



- 7.4.1 the costs of and incidental to the performance of the Landlord's covenants contained in Clause 5.2 (*Insure*) and Clause 5.3 (*Repair redecorate renew structure*) and Clause 5.4 (*Light and clean the Common Parts*);
- 7.4.2 the costs of and incidental to compliance by the Landlord with every notice, regulation or order of any competent local or other authority in respect of the Estate or the Building or the Common Parts (which shall include compliance with all relevant statutory requirements);
- 7.4.3 all fees, charges and expenses payable to the Authorised Person, any solicitor, accountant, surveyor, valuer or architect that the Landlord may from time to time reasonably employ in connection with the management or maintenance of the Building and/or the Estate and/or the Common Parts including the calculation and collection of service charges and rents as the case may be (but excluding fees charges or expenses in connection with the effecting of any letting or sale of any Premises) and including the cost of preparation of the account of the Service Charge and if any such work shall be undertaken by an employee of the Landlord then a reasonable allowance for the Landlord for such work;
- 7.4.4 any Outgoings assessed, charged, imposed or payable on or in respect of the whole or any part of the Estate or the Building or the Common Parts;
- 7.4.5 [Amend further if it's a CHP scheme] All costs expenses and demands incurred by the Landlord in the supply of gas central heating to the Premises and in the servicing and maintenance and repair of the central heating system or for any service or maintenance contracts in respect thereof;
- 7.4.6 any administrative charges incurred by or on behalf of the Landlord including but not limited to:
- (a) the grant of approvals under this Lease or applications for such approvals;
  - (b) the provision of information or documents by or on behalf of the Landlord;
  - (c) costs arising from non-payment of a sum due to the Landlord; and/or
  - (d) costs arising in connection with a breach (or alleged breach) of this Lease;
- 7.4.7 any other costs that the Landlord incurs in respect of any other service or amenity that the Landlord deems necessary (acting in accordance with the principles of good estate management) to provide for the benefit of tenants owners or occupiers of the Estate;
- 7.4.8 any sums paid or payable by the Landlord in connection with any matters contained mentioned or referred to in the Landlord's title to the Estate

[including but not limited to the sums paid or payable by the Landlord pursuant to the Main Transfer]; and

7.4.9 any sums paid or payable by the Landlord in connection with the Wider Development.

#### 7.5 **Adjustment to Annual Expenditure**

As soon as practicable after the end of each Account Year the Landlord shall determine and certify the amount by which the estimate referred to in Clause 7.3 (*How Calculated*) shall have exceeded or fallen short of the actual expenditure in the Account Year and shall supply the Leaseholder with a copy of the certificate and the Leaseholder shall be allowed (in that such sums shall not be returned to the Leaseholder but shall be allowed against future payments of the Service Charge) or (as the case may be) shall pay immediately following receipt of the certificate the Specified Proportion of the excess or the deficiency.

#### 7.6 **Landlord to Contribute to Reserve for Unlet Parts**

The Landlord will, for the period that any flats in the Building are not let or sold on terms making the tenant or owner liable to pay a service charge corresponding to the Service Charge payable under this Lease provide, in respect of all such flats, a sum equal to the total that would be payable by such tenants by way of contribution to the reserve referred to in **Clause 7.3.1** and the said reserve shall be calculated accordingly.

#### 7.7 **Declaration re. Landlord and Tenant Act 1985**

The parties agree that that the provisions of sections 18 to 30B of the Landlord and Tenant Act 1985 and of Part V of the Landlord and Tenant Act 1987 all of which regulate service charges shall apply to the provisions of this Lease.

#### 7.8 **Variation of Specified Proportion**

The Landlord may from time to time at its discretion in the event of any circumstances which it reasonably regards to be relevant vary the Specified Proportion of the Service Provision payable by the Leaseholder in such a manner as the Landlord reasonably deems fair and appropriate upon giving to the Leaseholder written notice to that effect in which event the new Specified Proportion of Service Provision specified in such notice shall forthwith take effect in substitution for the Specified Proportion specified in the Particulars (if any) or any previous substituted Specified Proportion notified to the Leaseholder pursuant to this provision.

### **8 MORTGAGE PROTECTION**

8.1 If a Mortgagee enforces its security in respect of the Loan then (subject to the other provisions of this **Clause 8** the Mortgagee is entitled to deduct the amount of the Mortgagee Protection Claim from monies that would otherwise be paid to the

Landlord as the price for the Final Staircasing. There is no obligation on a Mortgagee to accomplish Final Staircasing.

- 8.2 The deduction under **Clause 8.1** is conditional upon the Mortgagee agreeing simultaneously with the deduction under **Clause 8.1** that upon such deduction or, if later, promptly upon the Mortgagee recovering the whole of its Loss, the Mortgagee shall assign to the Landlord any guarantees, insurance policies and any other collateral security given to the Mortgagee or secured by the Mortgagee in respect of the Loan together with all other rights to enforce the same and all sums payable under them.
- 8.3 A claim may only be made to the extent:
- 8.3.1 the Mortgagee has made a Loss; and
  - 8.3.2 the Mortgagee has obtained the Landlord's consent to the terms of each and every Loan; and
  - 8.3.3 the disposal of the Leaseholder's interest in the Premises was made on an arm's length basis at the best price reasonably obtainable in the market at the time of sale. For the purpose of this **Clause 8.3.3** the onus of proof is on the Landlord to show the sale was at an undervalue; and
  - 8.3.4 the Leaseholder has not, prior to any default occurring under the Loan, accomplished Final Staircasing.
- 8.4 When applying for the Landlord's consent under **Clause 8.3.2** the Mortgagee must provide full details of the terms of the proposed Loan. The Landlord must respond promptly to any request for consent and give its decision within 28 days. If such consent is given it must be given in writing, and must be retained by the Mortgagee. In addition such consent shall be deemed to be given in the event that the Landlord receives any amounts advanced by the Mortgagee which are applied in protecting, preserving or enforcing its security over this Lease (including any amounts advanced by the Mortgagee and applied in discharging any arrears of rent and/or Service Charge under this Lease).
- 8.5 If the Landlord makes a payment to the Mortgagee or a deduction is made by the Mortgagee the Landlord shall be entitled to claim against the Leaseholder for any such amount together with interest on such sum calculated in accordance with the provisions of **Clause 3.2 (Interest)**.
- 8.6 The Leaseholder hereby authorises:
- 8.6.1 the Landlord to disclose to any Mortgagee of the Leaseholder from time to time personal information relating to the Leaseholder or to the provisions of this Lease (including details of any rent or service charge arrears); and

- 8.6.2 any Mortgagee from time to time of the Leaseholder to disclose to the Landlord such information as the Landlord may request regarding the Leaseholder and the Loan (including details of any arrears).

## **9 SDLT DECLARATION**

For the purposes of paragraph 4 of schedule 9 of the Finance Act 2003 the Landlord and the Leaseholder confirm that the premium obtainable on the open market for the Premises (by reference to which the Premium is calculated) is the Initial Market Value and the minimum rent payable is the Minimum Rent and that the Leaseholder intends stamp duty land tax to be charged in accordance with the said paragraph 4 of schedule 9 by reference to the Initial Market Value and the Minimum Rent.

## **10 NOTICES**

For the purposes of Section 48 of the Landlord and Tenant Act 1987 the address at which any notices (including notices in any proceedings) may be served on the Landlord by the Leaseholder is (until the Leaseholder is notified to the contrary) as follows. A notice to be served under this Lease shall be served in writing and shall be properly served if served upon the Landlord at its registered office and/or upon the Leaseholder at the Premises and shall be deemed to have been made or delivered if left at such address or two days after being posted postage prepaid and by first class recorded delivery in an envelope addressed to them at such address.

## **11 LANDLORD AND TENANT (COVENANTS ACT) 1995**

For the purposes of the Landlord and Tenant (Covenants) Act 1995 the covenants on the part of the Landlord and on the part of the Leaseholder under this Lease are not personal covenants.

## **12 THIRD PARTY RIGHTS**

Save as expressly provided by this Lease 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.

## **13 VALIDITY PROVISION**

If (at any time during the term) any provision of this Lease is held by a court to be unenforceable or illegal then that provision (to such extent) shall be excluded from this Lease and the enforceability of the remaining provisions shall not be affected

## **14 VALUE ADDED TAX**

Any obligation to pay money under this Lease refers to a sum exclusive of VAT and the amount of any VAT payable in addition (whether by the Landlord or by the Leaseholder) shall be paid by the Leaseholder to the Landlord.

## **15 LEASEHOLD REFORM ACT 1967 DECLARATION**

Pursuant to paragraph 3(2)(g) of Schedule 4A to the Leasehold Reform Act 1967 the Landlord declares that in its opinion this Lease is excluded from the operation of Part 1 such Act. [IF A FOG]

**16 CHARITY**

The land demised is held by (or in trust for) Aster Communities which is an exempt charity.

**17 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.

**18 JURISDICTION**

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

**Delivered as a deed on the date of this document.**

## Schedule 1 – The Premises

- 1 Plot ▼ Flat ▼ [(including [one/the] garage/parking space(s))] as shown edged red on the Lease Plan.
- 2 The Premises include:
  - 2.1 The flooring, raised floors and floor screeds down to the joists, slabs, beams or other structural parts supporting the flooring of the Premises together with any infill insulation material in the void between the floor surface and such supporting structural parts;
  - 2.2 the plaster or other surfaces of the ceilings and false ceilings within the Premises and the voids between the ceilings and false ceilings up to the joists, slabs, beams or other structural ceiling supports supporting them;
  - 2.3 the internal plaster or other surfaces of load bearing or structural walls or partitions and columns within the Premises and of walls which form boundaries of the Premises back to the brick, block, slab or frame (where the Building is of timber or metal construction) to which the surface of the walls or partitions is attached, affixed or rendered;
  - 2.4 the whole of any non-load bearing walls completely within the Premises;
  - 2.5 any Service Media which are laid in any part of the Building and which service exclusively the Premises;
  - 2.6 the doors, door frames, equipment, fitments and any glass relating to the doors within the Premises including the interior surfaces of any doors and door frames fitted in the walls bounding the Premises and the internal surfaces of the equipment, fitments and any glass relating to those doors;
  - 2.7 the inside and outside of the windows and other lights and the frames, glass, equipment and fitments relating to windows and lights within the Premises;
  - 2.8 the Service Media within and exclusively serving the Premises;
  - 2.9 appurtenances, fixtures, fittings and rights granted by this Lease; and
  - 2.10 [TAKE CLIENT INSTRUCTIONS BECAUSE NO LONGER JUST THE SURFACE OF THE BALCONY] [the surface of, and the airspace immediately above (but only so far as the [supporting structure of the balcony immediately above or] even height to the rest of the Premises whichever is the lower), any balcony [terrace/patio] belonging to and enjoyed exclusively by the Premises and which is shown edged red on the Lease Plan (the "Balcony"/"Terrace"/"Patio")],

and improvements and additions made to, and fixtures, fittings and appurtenances in, the Premises.

- 3 The Premises do not include:
- 3.1 the load bearing framework and all other structural parts of the Building;
  - 3.2 the roof, foundations, joists and external walls of the Building;
  - 3.3 Service Media and machinery and plant within (but not exclusively serving) the Premises including for the avoidance of doubt any solar panels and any similar or associated equipment;
  - 3.4 All doors and door frames [(including for the avoidance of doubt the garage door and door frame)] fitted in the walls bounding the Premises including the equipment, fitments and any glass relating to those doors excluding the interior surfaces of such doors, door frames, equipment, fitments and any glass relating to those doors;
  - 3.5 All windows and other lights fitted in the walls bounding the Premises including the frames, glass, equipment and fitments relating to those windows and lights; and
  - 3.6 the loft space above the Premises (if any); and
  - 3.7 the air source heat pumps (if any) attached to the Building.

## Schedule 2 – Mutual Covenants

### Part 1 – Restrictive Covenants

The Leaseholder shall not:

- 1 Use the Premises nor permit the same to be used for any purpose whatever other than as a private residence in the occupation of a single household only; [Use that part of the Premises designated by the Landlord as a flat for any purpose other than as a private residence in the occupation of a single household and shall not use that part of the Premises designated by the Landlord as a garage for any purpose other than parking one private motor car or motorcycle in accordance with the terms of this Lease]
- 2 Cause, permit or suffer anything to happen or occur in the Premises which shall or may cause a nuisance, annoyance, inconvenience or disturbance to owners, lessees or occupiers of other dwellings in the Building or on the Estate or to the occupiers, owners or lessees of adjoining or neighbouring property (whether within the Estate or otherwise) or which may tend to lessen or depreciate the value of the Premises or the Estate or other property in the neighbourhood;
- 3 Commit or allow members of the Leaseholder's household or invitees to commit any form of harassment including any harassment on the grounds of race colour religion sex sexual orientation or disability;
- 4 Do or permit to be done by any members of the Leaseholder's household or visitors any act or thing which may:
  - 4.1 render void or voidable any policy of insurance on the Building or the Estate or may cause an increased premium to be payable in respect thereof;
  - 4.2 cause or permit to be caused nuisance annoyance or disturbance to the owners lessees or occupiers of premises in the neighbourhood or visitors thereto;
  - 4.3 result in any form of harassment or intimidation of any other person, including the Landlord's staff, contractors and agents; or
  - 4.4 result in the use of the Premises for any illegal or unlawful or immoral purpose;
- 5 Do or permit to be done anything which may cause an obstruction to the use of the roads or accessways on the Estate or to any of the Common Parts or to any Shared Accessway;
- 6 Park at any time on any part of the Estate (including the Premises) any caravan, trailer, motor home, commercial vehicle, trailer, boat or untaxed or dilapidated vehicle;
- 7 Abandon any car, motorbike, van or other vehicle on the Estate;
- 8 Park at any time or suffer or permit to be parked:



- 8.1 on any part of the Premises or on any Parking Space any vehicle other than a private motor car or motor cycle which is in a good and or roadworthy condition and that is at all times taxed and insured and which has an MOT certificate if required and which is in the regular use of the Leaseholder or other occupier of the Premises without the prior written consent of the Landlord,
- 8.2 any motor vehicle on parking spaces allocated from time to time for the use of visitors to the Estate the same being intended for use by visitors only other than in accordance with the terms of Schedule 3 of this Lease,
- 8.3 motor vehicles on any part of the Premises or the Estate other than on appropriately constructed hardstanding designated by the Landlord for the parking of motor vehicles and which is a Parking Space or is a parking space which forms part of the Premises,
- 8.4 any commercial vehicle at any time on any part of the Estate except for temporary use for the purposes of furniture removals or delivery to and from the Premises;
- 9 Use or cause any designated parking areas to be used to carry out motor vehicle repairs;
- 10 Do or allow to be done anything which may obstruct or interfere with any of the pipes or drains or other Service Media on the Estate or in the Building nor to throw dirt, rubbish, rags or other refuse or allow the same to be thrown into the sinks, baths, lavatories, cisterns, waste or soil pipes in the Premises except via a waste disposal unit fitted for such purpose;
- 11 Play or use any musical instrument, television, radio, loudspeaker or mechanical or other noise-making instrument or machine (including motorcycle or motor-vehicle noise) or equipment for making or reproducing sound of any kind nor sing or dance in the Premises nor to act in such a manner so as to cause annoyance to the owners or occupiers of any of the other parts of the Building or the Estate or so as to be audible outside the Premises between the hours of 11.00pm and 7.30am;
- 12 Place any "For Sale" or "To Let" sign on the Premises without the Landlord's prior written consent nor put on or in any window on the exterior of the Premises so as to be visible from the outside of the Premises any name, writing, drawing, signboard, plate or placard of any kind;
- 13 Store trade or business materials or produce in the Premises;
- 14 Place or display outside the Premises or inside the Premises so as to be visible from the outside any offensive poster notice advertisement name or sign;
- 15 Erect a shed, outhouse, wireless or television aerial, satellite receiver or similar apparatus, advertisement board or hoarding or any other structure of any kind whether temporary or permanent on the Premises, the Building or on the Estate or any part thereof;
- 16 Bring or keep any inflammable, explosive, dangerous, noxious or offensive substances or goods onto the Premises or the Building or the Estate (except fuel in the fuel tank of any

private motor vehicle parked on the Parking Space or the Premises in accordance with the terms of this Lease);

- 17 Sell or suffer to be sold any wines spirits or intoxicating liquors of any kind on the Premises or any part thereof nor to do or keep or suffer to be done or kept thereon any act or thing which may be or become a nuisance or annoyance or cause inconvenience to the Landlord or to the occupiers or owners of adjoining or neighbouring property or which may tend to lessen or depreciate the value of the Premises the Building or the Estate or other property in the neighbourhood;
- 18 Hold or permit or cause to be held a sale by auction on the Premises;
- 19 Obstruct the access of light or air to any building adjoining the Premises by erecting or altering any building or other structure on the Premises;
- 20 Leave any vehicle bicycle tricycle perambulator toy motor car or other contrivance or thing on any part of the Building or the Estate so as to cause a nuisance annoyance or inconvenience to the owners and occupiers of the Building and the Estate;
- 21 Suffer or permit any mat, carpet or similar articles to be shaken or beaten at any time out of the windows of the Building;
- 22 Form a rubbish dump at the Premises nor deposit any dust or rubbish anywhere in the Building or on the Estate but to keep all rubbish and refuse in properly covered receptacles in the spaces designated by the Landlord from time to time for the deposit of such rubbish and refuse;
- 23 Hang or expose or permit to be hung or exposed any washing or clothing or materials on any part of the Premises (save in any drying area provided for such use) so as to be visible from the outside;
- 24 Use any electrical device without an effective suppressor being fitted thereto;
- 25 Install or suffer to be installed any machinery on the Premises which shall be noisy or cause dangerous vibration or be a nuisance to the Landlord or the owners or lessees or occupiers of the Building or the Estate;
- 26 Alter or extend the electrical installation or wiring and any gas installation and piping in the Premises;
- 27 Use any apparatus which overloads the electrical installation in the Premises and to ensure that the electrical installation and any gas installation is maintained in a safe condition;
- 28 Overload the Premises nor place or suspend or permit to be placed or suspended any excessive weight on or from the floors, ceilings or walls of the Premises or set up upon the Premises any machinery, engine or other apparatus other than the usual domestic appliances;
- 29 Commit any breach of planning control and the Leaseholder shall comply with all requirements under any planning legislation which affects the Premises;

- 30 Make any application for planning permission affecting the Premises nor implement any such permission without the Landlord's prior written consent;
- 31 Use or permit or suffer to be used any parts of the Building or the Estate consisting of open space and/or amenity or play areas except for recreational purposes and in accordance with regulations made by the Landlord from time to time relating to the user of such areas.
- 32 Use the **Balcony/Terrace/Patio** (if any) for any purpose other than quiet relaxation;
- 33 Interfere with the use of the Estate by the owners lessees or occupiers of the other premises in the Building or on the Estate;
- 34 No bird, dog or other animal shall be kept in the Premises or on the Estate without the Landlord's prior written consent which may in the Landlord's absolute discretion be withheld if the Landlord considers that annoyance may thereby be caused to any other owner, lessee or occupier on the Estate or be granted subject to conditions or be revoked if in the Landlord's opinion such annoyance as aforesaid does result.
- 35 Use the roof space within the Building.
- 36 Do anything which would be a breach of the covenants on the part of the Transferee contained in the Main Transfer;
- 37 Obstruct or otherwise prevent or restrict the Landlord or the owners or occupiers of other dwellings on the Estate at any time from entering upon any Shared Accesssway

## Part 2 – Positive Covenants

The Leaseholder shall:

- 1 Maintain and keep in good repair and order and tidy and properly cultivated the garden or patio area (if any) forming part of the Premises;
- 2 Keep the windows of the Premises properly cleaned and at least once in every month, be responsible for, and bear the full cost of, cleaning the windows of the Premises both internally and externally;
- 3 Keep any Parking Space or any designated parking areas within the Premises (if any) clean and free from all rubbish and not to dispose of any substance down gullies and drains;
- 4 Observe and perform any reasonable rules and regulations imposed by the Landlord from time to time for the management of the Estate or for the benefit of the leaseholders of the Building and/or for the use of the Premises and shall co-operate at all times with the Landlord and all others interested in the Estate in all measures reasonably necessary for repairing maintaining or upholding the Estate to high standards of appearance and amenity;
- 5 Perform and observe all conditions contained in any planning permission affecting the Premises;

- 6 Unless the Landlord shall otherwise direct to carry out before the expiration or sooner determination of this Lease any works required to be carried out to or upon the Premises as a condition of any planning permission which may have been granted during the term irrespective of the date before which such works were required by such planning permission to be carried out;
- 7 Comply with the requirements and the recommendations of the insurers relating to the Premises and shall repay to the Landlord on demand all sums paid or payable by way of increased premiums and all losses or damages suffered by the Landlord by reason of any breach by the Leaseholder which has invalidated any insurance policy effected by the Landlord over the Premises;
- 8 Notify the Landlord as soon as reasonably practicable and in any event within 24 hours of any outbreak of fire in the Building or the Common Parts or the Estate or other event likely to lead to a claim on the insurance relating to the Building or the Common Parts or the Estate providing that the Leaseholder is aware of such an outbreak of fire or any other event likely to lead to a claim;
- 9 Pay for all electricity and gas and all other services consumed in the Premises;
- 10 Comply with all requirements and regulations of the gas electricity water and telephone supply authorities concerning the service installations in the Premises.
- 11 Ensure that any domestic pet or other animal bird or reptile kept in the Premises is kept under control at all times and not to allow such domestic pet or other animal bird or reptile to cause nuisance, annoyance, harm or damage to the Landlord or to the owners lessees or occupiers of premises in the neighbourhood or visitors to such premises or to the Common Parts or to the Building or to the Estate.
- 12 Observe and perform the covenants and stipulations on the part of the Transferee under the Main Transfer insofar as they affect the Premises and their use and occupation as permitted by this Lease including but not limited to observing and performing any Estate Regulations and procuring that any occupiers of the Premises and any visitors to the Premises observe and perform any Estate Regulations [define Estate Regulations].

## Schedule 3 - Rights

### Easements Rights and Privileges included in the Lease

The Leaseholder:

- 1 The right for the Leaseholder and all persons authorised by the Leaseholder (in common with all other persons entitled to the like right) at all times to use the Common Parts (but only for the purposes that they are designed for and save and excepting any vehicle parking spaces designated or intended by the Landlord for the sole use by any other party) for all purposes incidental to the occupation and enjoyment of the Premises (but not further or otherwise).
- 2 The right to subjacent and lateral support and to shelter and protection from the other parts of the Building.
- 3 The free and uninterrupted passage and running of water, steam, soil, air, gas, electricity and telephone communications from and to the Premises through the Service Media which now are or may at any time during the Term be in, under or passing through the Building or the Estate or any part of either.
- 4 The right for the Leaseholder with workmen and others at all reasonable times on notice to enter upon other parts of the Building and the Estate:
  - 4.1 for the purpose of repairing, cleansing, maintaining or renewing any Service Media; or
  - 4.2 for the purpose of repairing, redecorating, maintaining, renewing or rebuilding the Premises or any part of the Building giving subjacent or lateral support shelter or protection to the Premisescausing as little disturbance or inconvenience as possible and making good any damage caused.
- 5 [The right subject to the terms of this Lease to use any balcony, terrace or patio (if any) shown [edged blue] on the Lease Plan (the "Balcony"/"Terrace"/"Patio") in connection with the beneficial use and occupation of the Premises (but not further or otherwise).]
- 6 [The right subject to the relevant provisions of this Lease to park one private motor car or motorcycle (that is at all times taxed insured and in a roadworthy condition) on each Parking Space (if any) in connection with the beneficial use and occupation of the Premises (but not further or otherwise).]
- 7 [The right to permit visitors to park private motor cars in any visitors' parking spaces within the Estate designated for such use by the Landlord from time to time on a first come first served basis provided that such private motor cars shall not be permitted to occupy the visitors' spaces for a continuous period of 24 hours without the Landlord's written consent.]
- 8 The benefit of the rights set out in ▼ of the Main Transfer so far as those rights are capable of benefiting the Premises and are applicable and necessary in connection with the use and

occupation of the Premises in accordance with the terms of this Lease (but not further or otherwise) and so far as the Landlord is able to grant the same.].

- 9 [The benefit of those rights contained in the Landlord's title to the Estate to the extent that they are necessary in connection with the use and occupation of the Premises in accordance with the terms of this Lease (but not further or otherwise)].

PROVIDED ALWAYS that none of the rights specified in this Schedule shall apply to or be exercised over any electricity sub-station site or sites land or apparatus of any statutory undertakers or of British Telecom or of any other persons having similar rights included in the Estate.

## Schedule 4 – Exceptions and Reservations

There are excepted and reserved out of this Lease to the Landlord and (unless otherwise specified below) the lessees and owners of the other premises comprised in the Building and the Estate and all persons authorised by it or them and for the benefit of the Building (excluding the Premises) and the Estate and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the Term the following:

- 1 The right to subjacent and lateral support and to shelter and protection from the Premises.
- 2 The free and uninterrupted passage and running of water, steam, soil, air, gas, electricity, telephone and digital communications and other comparable services from and to the Building or the Estate through the Service Media which now are or may at any time during the Term be in, under or passing through the Premises or any part of them.
- 3 The right for the Landlord with or without workmen (and equipment and materials) and others at all reasonable times on notice (or at any time in an emergency) to enter upon the Premises for the purpose of:
  - 3.1 viewing, inspecting, repairing, cleansing, maintaining, relaying, re-routing, replacing or renewing any Service Media; or
  - 3.2 repairing, maintaining, renewing or rebuilding any part of the Estate; or
  - 3.3 inspecting cleansing laying maintaining repairing and renewing any building walls fences or other boundary structures on the Estate and any landscaping required by the local authoritycausing as little disturbance as possible and making good any damage caused to the Premises.
- 4 The right for the Landlord with or without workmen and others at all reasonable times on notice (or at any time in an emergency) to enter the Premises for the purposes of carrying out its obligations under this Lease or for any other purpose mentioned in or connected with this Lease including the right to enter the Premises to carry out repairs if the Leaseholder fails to do so.
- 5 Any easement or right of light or air which may restrict or interfere with the free use of any neighbouring or adjoining land belonging to the Landlord or its successors in title or assigns for building or other purposes and the Leaseholder shall not become entitled to any such easements or rights in respect of the Premises.
- 6 (For the Landlord only or as authorised by it) at any time during the Term to install lay connect to and/or use inspect maintain renew repair or alter any Service Media drains sewers services or other conducting media or apparatus as the Landlord shall consider necessary in on or under the Premises or part thereof whereon for the time being there shall not be any buildings with power to enter the Premises for all the said purposes and any rights of entry required by the Landlord to effect any works in connection with the fulfilment of any conditions or obligations relating to the development of the Estate or other land (all rights of entry herein

reserved being inclusive of the right to erect maintain and use scaffolding on the Premises for the erection of buildings providing such right shall not substantially interfere with the occupation and use of the Premises) the person exercising such rights causing as little damage and disturbance as possible and forthwith making good all damage caused by the exercise of such rights to the Premises.

- 7 All such rights as may be required by any drainage services, electricity boards and other statutory or public authorities and undertakings in connection with services usually provided by them in connection with any Service Media sewers drains services and other conducting media and apparatus and the right of the Landlord to grant to such authorities during the Term all easements wayleaves licences rights and privileges needed in connection with the services usually provided or maintained by them.
- 8 The right for the Landlord at any time upon reasonable notice to temporarily suspend or revoke the Parking Space (if any) which the Leaseholder has been granted rights to use by this Lease for the purpose of repair to any part of the Estate or for any reasonable other purpose together with the right to reallocate any or all of the parking spaces previously allocated to the Premises.
- 9 The right to re-route and replace any Service Media on the Estate over which the Leaseholder is granted rights by this Lease.
- 10 All rights covenants and restrictions affecting the Premises and such rights exceptions and reservations as are contained or referred to in the Registers of the Landlord's title to the Building and the Estate so far as these rights are subsisting and capable of affecting the Premises.
- 11 [The right for the Landlord and the owners or occupiers of any other part of the Estate and those authorised by them at any time to enter upon that part of the Premises [shown coloured blue on the plan or the drive through portion of access passing beneath the Premises] /(if any) laid out as footpaths or drives or accessways [and shown ▼ on the Lease Plan] including any Shared Accessway (in motor vehicles or on foot, as appropriate) insofar as their use is necessary for the purpose of pedestrian or vehicular access to and from any premises or to and from any parking space comprised in the Estate but not further or otherwise.]



## Schedule 5 – Rent Review

### 1 Definitions

In this **Schedule 5**:

<b>“A”</b>	means the monthly figure shown in the Index published for the Relevant Month in the year of the immediately preceding Relevant Review Date or (if none) in the year of the date of the Commencement Date.
<b>“B”</b>	means the monthly figure shown in the edition of the Index for the Relevant Month in the year of the Relevant Review Date.
<b>“Index”</b>	means the all items retail prices index published by the Office for National Statistics.
<b>“Relevant Month”</b>	means the September which is at least two clear calendar months before and no more than fourteen clear calendar months before the Relevant Review Date.

### 2 Gross Rent review

With effect from each Review Date the Gross Rent for the purposes of this Lease shall be the reviewed Gross Rent (as agreed or determined in accordance with this **Schedule 5**).

### 3 Upwards only rent review

- 3.1 The reviewed Gross Rent is to be the greater of:
- 3.1.1 the Gross Rent under this Lease immediately preceding the Relevant Review Date x 1.005; and
  - 3.1.2 (the Gross Rent under this Lease immediately preceding the Relevant Review Date x  $(\frac{B}{A}) + 0.005$ ).
- 3.2 If the Index is re-based after A is published, but before B is published, then an appropriate adjustment shall be made in the calculation to ensure that both B and A are calculated on the same basis.
- 3.3 If the Index ceases to be published then there shall be substituted in the calculation in **Paragraph 3.1.2** such other index as the Landlord shall (acting reasonably) determine as being a generally respected measure of the general increase in retail prices.

3.4 If, because of any change after the date of this Lease in the method used to compile the Index or for any other reason it becomes impossible or impracticable to calculate fairly the fraction referred to in **Paragraph 3.1.2** by reference to the Index, or if any dispute or question arises between the parties to this Lease with respect to any such calculation pursuant to **Paragraph 3.1.2** or with respect to the construction or effect of this provision, then such dispute or question shall (if it is not resolved within 3 months of the Relevant Review Date) be referred to an independent expert pursuant to **Clause 6.8 (Expert Determination)**.

#### **4 Specified Rent Review**

With effect from each Review Date the Specified Rent reserved under this Lease shall be reviewed to an amount equal to the Unacquired Percentage of the Gross Rent as at that Review Date as agreed or determined in accordance with the terms of this Schedule.

#### **5 Time**

Whilst the parties are encouraged to act promptly and reasonably in order to resolve disputes as soon as possible, in agreeing or determining the reviewed Gross Rent, the reviewed Specified Rent or in appointing an expert, no rights or obligations are extinguished by the passage of time.

#### **6 Rental Adjustments**

6.1 If the reviewed Specified Rent payable from a Review Date is not agreed or determined in accordance with the provisions of this **Schedule 5** before the Relevant Review Date, then until the reviewed Specified Rent has been so agreed or determined, the Leaseholder will continue to pay on account Specified Rent at the rate payable immediately before the Relevant Review Date.

6.2 Within 14 days after the time that the reviewed Specified Rent has been agreed or determined the Leaseholder will pay to the Landlord all arrears of the reviewed Specified Rent which have accrued in the meantime, with interest equal to the base rate of **Barclays Bank PLC** on each of the instalments of the arrears from the time that it would have become due if the reviewed rent had then been agreed or determined until payment becomes due from the Leaseholder to the Landlord under this **Paragraph 6.2**.

#### **7 Notice of Review**

Immediately following each Review Date the Landlord shall serve written notice on the Leaseholder, substantially in the form set out in **Appendix 2** specifying the amount of the reviewed Gross Rent and the amount of the Specified Rent then payable.

## Schedule 6 – Staircasing Provisions

### 1 The Procedure

- 1.1 At any time or times during the Term the Leaseholder may serve notice in writing on the Landlord stating the Portioned Percentage he proposes to acquire. The provisions of this **Schedule 6** shall also be exercisable by any mortgagee of the Leaseholder of whom the Landlord has received proper notice pursuant to **Clause 3.21 (Register Disposals)**.
- 1.2 The Landlord shall apply to the Valuer to determine the Market Value as at the date of service of the Leaseholder's notice served pursuant to **Paragraph 1.1** (upon which the price of acquisition will be based) within 14 days of receipt of the Leaseholder's notice (or, if later, within 14 days of the Valuer's appointment) and shall notify the Leaseholder of the amount of the Valuer's determination in writing within 7 days of receipt of the said determination.
- 1.3 At any time within 3 months of the Valuer's determination the Leaseholder may pay for a Portioned Percentage in accordance with the provisions of **Paragraph 1.4**.
- 1.4 The Leaseholder may pay for a Portioned Percentage by paying to the Landlord a sum equal to that Portioned Percentage of Market Value (as agreed or determined under this **Schedule 6** plus any unpaid sums under **Paragraph 1.5** and as from the date of such payment:
  - 1.4.1 the Portioned Percentage so acquired shall form part of the Acquired Percentage; and
  - 1.4.2 the Specified Rent payable under this Lease shall be a sum equal to the Unacquired Percentage of the Gross Rent.
- 1.5 On completion of the payment for a Portioned Percentage in addition to the sum or the price payable for the Portioned Percentage the Leaseholder shall pay any arrears of rent and any other sums due to the Landlord under this Lease including any unpaid costs under **Paragraph 3**. The Landlord and the Leaseholder shall, save as provided in **Paragraph 3** pay their own costs and expenses in connection with such payment or purchase.
- 1.6 Whenever the Leaseholder completes the payment for a Portioned Percentage the Landlord and the Leaseholder shall forthwith execute and deliver to the other (to be attached to the original and counterpart of this Lease) a memorandum substantially in the form set out in **Appendix 1** specifying the Portioned Percentage paid for and the Specified Rent then payable.
- 1.7 If the provisions of this **Schedule 6** are exercised by any mortgagee under **Paragraph 1.1** then provided that the Premises are being sold by the mortgagee on an arm's length basis at the best price reasonably obtainable at the time of sale:

- 1.7.1 The Market Value shall be deemed to be the price at which the Premises are being sold by the mortgagee on the assumption that the Unacquired Percentage is nil; and
- 1.7.2 The relevant Portioned Percentage shall be calculated on the basis of that deemed Market Value; and
- 1.7.3 If so required by the mortgagee, the Landlord shall co-operate with the mortgagee to ensure that there occurs simultaneously:
  - (a) The payment to the Landlord of the relevant Portioned Percentage under **Paragraph 1.4**; and
  - (b) delivery by the Landlord to the mortgagee of the memorandum under **Paragraph 1.6**; and
  - (c) completion of the sale of the Premises by the mortgagee.

## **2 Amendments to the Lease After Accomplishing Final Staircasing**

Upon payment of the sum referred to in **Paragraph 1.4** in circumstances where the Acquired Percentage has become 100%:

- 2.1 the definition of "Acquired Percentage" shall be amended to mean a 100% percentage interest in the Premises; and
- 2.2 the Specified Rent shall be reduced to the Minimum Rent; and
- 2.3 the following provisions of this Lease shall no longer have effect:
  - 2.3.1 Definition of "Default", "Enforcement Date", "Final Staircasing", "Loss", "Mortgagee Protection Claim", "Payment Sum", "Portioned Percentage", "Pre-emption Period", "Unacquired Percentage", "Valuer" and "Valuer's Certificate";
  - 2.3.2 **Clause 3.18.2**;
  - 2.3.3 **Clause 3.19**;
  - 2.3.4 **Clause 5.8**;
  - 2.3.5 **Clause 8 (Mortgage Protection)**;
  - 2.3.6 **Schedule 5 (Rent Review)**; and
  - 2.3.7 This **Schedule 6** (except this paragraph 2);
  - 2.3.8 **Schedule 7 (Assignment of the Whole to Nominated Purchasers)**; and
  - 2.3.9 **Schedule 8 (Surrender by Leaseholder (Pre-emption))**.

**3 Costs**

The costs of any determination by the Valuer pursuant to the provisions of this **Schedule 6** shall be paid by the Leaseholder to the Landlord on demand.

**4 Decision of the Valuer**

The parties agree that the decision of the Valuer shall be final and binding on the parties to this Lease.

## Schedule 7 – Assignment of Whole to Nominated Purchasers

- 1 If the Landlord serves notice on the Leaseholder pursuant to **Clause 3.19.2(a)** the Leaseholder shall as soon as reasonably practicable make an offer to the Landlord's nominee on the terms mentioned in **Paragraph 2** and **Paragraph 3**.
- 2 The Leaseholder's offer shall be an unconditional written offer to sell the Premises with vacant possession and free from encumbrances (except any which may affect the Premises at the time of the grant of this Lease) and to remain open for acceptance for a period of six weeks and to stipulate a completion date not earlier than four weeks after acceptance of the offer and otherwise the offer to be subject to current Law Society Standard Conditions of Sale.
- 3 The price at which such offer shall be made shall be the Acquired Percentage of the open market value of the Premises with vacant possession assessed as at the date of the Landlord's notice served under the provisions of **Clause 3.19.2(a)** in accordance with any relevant guidance notes on the valuation of land and buildings for the time being in force of the Royal Institution of Chartered Surveyors by an independent qualified valuer (acting as an expert) who is an associate or a fellow of the Royal Institution of Chartered Surveyors or the Incorporated Society of Valuers and Auctioneers and whose appointment shall be agreed between the Landlord and the Leaseholder or failing agreement on the application of either party by the president for the time being of the Royal Institution of Chartered Surveyors whose decision shall be final and binding on the Landlord and the Leaseholder but whose costs and expenses shall be borne by the Leaseholder.
- 4 If an offer is made to the Landlord's nominee pursuant to **Paragraph 2** and **Paragraph 3** and is refused or the said nominee does not accept the offer within the six week period specified in **Paragraph 2** or does not enter into a binding contract for purchase within the four week period specified in **Paragraph 2** then the Leaseholder may assign the whole of the Premises subject to exchange of contracts (or completion where there is no prior exchange of contracts) for the assignment taking place within 12 months of the date of the Leaseholder's offer made pursuant to **Paragraph 2** and **Paragraph 3** provided that if no exchange of contracts is effected within such 12 month period and the Leaseholder wishes to assign the whole of the Premises the procedure set out in **Clauses 3.19.2 and 3.19.3** shall be repeated.

## Schedule 8 – Surrender by Leaseholder (Pre-emption)

- 1 If the Landlord serves notice on the Leaseholder pursuant to Clause 3.19.2(b) completion of the surrender to the Landlord shall take place and vacant possession shall be given on a date agreed between the Landlord and the Leaseholder but failing agreement on the date four weeks from the date the Payment Sum is determined.
- 2 The Landlord shall be entitled to deduct from the Payment Sum such sums as may be due and owing at the date of surrender in respect of arrears of rents and other sums due under this Lease.
- 3 If before the date of surrender of this Lease the Landlord has received notice pursuant to **Clause 3.21 (Register Disposals)** of a mortgage or charge of this Lease:
  - 3.1 the Landlord shall (and the Leaseholder irrevocably requests and directs the Landlord to do so) pay the Payment Sum less the deductions referred to in **Paragraph 2** (or (if less) such sufficient part thereof as is necessary to discharge the said mortgage or charge) to the mortgagee or chargee named in the said notice upon trust for the Leaseholder;
  - 3.2 the receipt of the said mortgagee or chargee shall absolutely discharge the Landlord from its obligations under this **Schedule 8**;
  - 3.3 the Landlord and the Leaseholder agree that completion of the surrender cannot take place until the Payment Sum (or such part as is sufficient to discharge the said mortgage or legal charge) is paid to the mortgagee or chargee to the intent that the security afforded to the mortgagee or chargee by this Lease shall not lapse until the Payment Sum or a sufficient part of it as is necessary to discharge the said mortgage or charge is paid to the mortgagee; and
  - 3.4 if at the time of such surrender under this **Schedule 8** (i) there is any Loan outstanding to a Mortgagee of the Premises and (ii) the Unacquired Percentage is greater than nil then the consideration for such surrender shall be the Payment Sum plus the Mortgage Protection Claim (calculated on the basis that paragraph (h) in the definition of “Loss” is the Payment Sum in **Schedule 9 (Defined Terms)**).
- 4 Save as otherwise provided any costs incurred by either party pursuant to the provisions of this **Schedule 8** shall be borne by that party.

## Schedule 9 – Defined Terms

In this Lease:

<b>“Account Year”</b>	means a year ending on 31 <sup>st</sup> March.
<b>“Acquired Percentage”</b>	means the percentage figure equal to the aggregate of the Initial Percentage and any Portioned Percentage or Portioned Percentages paid for pursuant to <b>Schedule 6 (Staircasing Provisions)</b> ;
<b>“Adjoining Occupier”</b>	means the occupier of an Adjoining Part.
<b>“Adjoining Part”</b>	means <ul style="list-style-type: none"><li>(a) in case of work to the floor of the Premises means the flat or part of the Building immediately beneath the Premises;</li><li>(b) in the case of work to the ceiling of the Premises means the flat or part of the Building immediately above the Premises; and</li><li>(c) in the case of work to the walls of the Premises means the flat or part of the Building immediately adjacent to the Premises.</li></ul>
<b>“Authorised Person”</b>	means the individual nominated by the Landlord to estimate expenditure in relation to the Service provision in accordance with Clause 7.3 (How calculated).
<b>“Building”</b>	means the building within the Estate of which the Premises form part and each and every part of the Building and the car park, service or loading area, service road (if any) and any other areas within the Estate the use and enjoyment of which is appurtenant to the Building, whether or not within the structure of the Building.
<b>“Common Parts”</b>	means those parts of the Building (whether or not within the structure of the Building) and the Estate to be used in common by any of the Leaseholder, other tenants and occupiers of the



Building and/or the Estate, the Landlord, and those properly authorised or permitted by them to do so, and “Common Parts” includes (but without limitation and in each case, if any,) the atrium and entrance hall, corridors, lobbies, staircases, lavatories, access ways, passages, lifts, escalators, turntables, courtyards, external pavements, car park, and its ramp, service and loading areas, service road, gardens and other such amenities, but excluding any such parts as may be within the Premises or as may be within any premises forming part of the Building or the Estate that are capable of being let and occupied as a single private dwelling.

**“Default”**

means:

- (a) the existence of arrears of at least 3 months’ payments in respect of the Loan; or
- (b) any other breach by the Leaseholder of the terms applicable to the Loan.

**“Enforcement Date”**

means the date on which the Mortgagee commences its enforcement of any of the security for the Loan by reason of a Default.

**“Estate”**

means the land and buildings now or formerly registered at the Land Registry under title number ▼.

**“Final Staircasing”**

means the purchase by the Leaseholder from the Landlord of such Portioned Percentage that reduces the Unacquired Percentage to nil.

**“Ground Rent”**

means until Final Staircasing, one peppercorn per month if demanded and once Final Staircasing has been accomplished:

- (a) For the first 25 years of the Term the sum of £150 per annum;
- (b) For years 26-50 of the Term the sum of £300 per annum;
- (c) For years 51-75 of the Term the sum of £600 per annum; and
- (d) For years 76 – 100 of the Term the sum of £1200 per annum; and
- (e) For years 101 – 125 of the Term the sum of £2400 per annum.

<b>“Landlord”</b>	includes all persons from time to time entitled to the immediate reversion to this Lease.
<b>“Lease”</b>	includes any documents supplemental to this lease.
<b>“Lease Plan”</b>	means the plan attached to this Lease and marked “Lease Plan”.
<b>“Leaseholder”</b>	includes the Leaseholder’s successors in title and assigns in whom this Lease may for the time being be vested.
<b>“Loan”</b>	means the loans made by the Mortgagee to the Leaseholder (after first obtaining the Landlord’s written consent to each and all such loans) and which loans are secured by a valid and binding first ranking mortgage over the Premises. For the purposes of this definition repayments of capital shall not reduce the Loan.
<b>“Loss”</b>	<p>means the amount by which the aggregate of:</p> <ul style="list-style-type: none"> <li>(a) a sum representing the Loan advanced for the purchase of the Initial Percentage share in the Premises;</li> <li>(b) the Loan made (if any) to accomplish Final Staircasing in the Premises as part of the enforcement process or as a result of further Loan being made;</li> <li>(c) Loans for other sums in relation to the Premises or any other purpose;</li> <li>(d) interest accruing at the rate applicable to the Loan;</li> <li>(e) costs incurred in relation to the enforcement of the Loan or any security for it (including advances to cover arrears of rent and service charges) provided that costs of actual disposal shall not exceed 3% of Market Value at the time;</li> <li>(f) costs incurred in relation to the protection or preservation of the Loan or any security for it; and</li> </ul>

- (g) any other sums due to the Mortgagee in respect of the Loan made to the Leaseholder,

(less any repayments which have been made), exceeds the aggregate of:

- (i) the gross sale proceeds to be received from a disposal (including a surrender) of the Leaseholder's interest in the Premises; and
- (j) all amounts (if any) received by the Mortgagee as a result of the enforcement by the Mortgagee of all (if any) security which the Mortgagee may have including, without limitation, all security, guarantees and insurance policies given to the Mortgagee.

**"Main Transfer"** means the transfer of property including the Premises dated ▼ made between ▼ and ▼.

**"Management Company"** has the meaning ascribed to that term by the Main Transfer.

**"Market Value"** shall at the date of this Lease mean the Initial Market Value and shall at any subsequent date mean the price which the interest of the Leaseholder would then fetch if sold on the open market by a willing seller upon the terms and conditions contained in this Lease and on the assumption that the Unacquired Percentage is nil and disregarding the following matters:

- (a) any mortgage of the Leaseholder's interest;
- (b) any interest in or right over the Premises created by the Leaseholder;
- (c) any improvement made by the Leaseholder or any predecessor in title of his; and
- (d) any failure by the Leaseholder or any predecessor in title to carry out the obligations contained in **Clause 3.4 (Repair)** and **Clause 3.5 (Decoration)**.

**“Minimum Rent”**

means the Ground Rent.

**“Mortgagee”**

means a lender who shall have made available to the Leaseholder a Loan (which expression includes its successors and assigns and also any persons for whom the Mortgagee is acting as agent or trustee).

**“Mortgagee Protection Claim”**

means the Loss capped at a maximum of the aggregate of:

- (a) an amount equivalent to interest on the Loan for a period of 18 months from the Enforcement Date at the interest rate applicable to the Loan immediately before the Enforcement Date;
- (b) the Loan;
- (c) any amounts advanced by the Mortgagee and applied in discharging any arrears of rent and/or Service Charge under this Lease; and
- (d) any costs and fees incurred in enforcing the Mortgagee’s security for the Loan (capped at 3% of Market Value at the time of such enforcement).

**“Outgoings”**

means all existing and future rates, taxes, charges, assessments, impositions and outgoings whatsoever (whether parliamentary or local) which are now or may at any time be payable, charged or assessed on property, or the owner or occupier of property.

**“Particulars”**

means the Particulars set out in this Lease.

**“Payment Sum”**

means the sum equal to a the Acquired Percentage of the Market Value of the Premises as at a date no more than eight weeks prior to either the date of exchange of contracts for the assignment or the date of surrender of this Lease (as the case may be) assessed by a Valuer on the instruction of the Leaseholder provided that in assessing the Market Value the Valuer shall not disregard the matters referred to in **Paragraph (c)** and **Paragraph (d)** of the definition of “Market Value”.

<b>“Portioned Percentage”</b>	means at any relevant time (including for the avoidance of doubt on the Final Staircasing) the percentage interest in the Premises which the Leaseholder proposes to acquire (or has already acquired) under the provisions of <b>Schedule 6 (Staircasing Provisions)</b> being a portion of the then Market Value of the Premises up to a maximum of 100%, each Portioned Percentage being at least 10% and so that the Portioned Percentage which accomplishes Final Staircasing shall be at least 10%.
<b>“Pre-emption Period”</b>	means the period commencing on the Commencement Date and ending on the date of Final Staircasing.
<b>“Premises”</b>	means the premises described in <b>Schedule 1 (The Premises)</b> .
<b>“Service Charge”</b>	means the Specified Proportion of the Service Provision.
<b>“Service Media”</b>	means drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires, mains, electrical risers, aerials, solar panels and equipment and associated apparatus and any other conducting media and any structures incident to the user thereof (and all apparatus for the supply of water gas electricity telephone or television signals) which now are or may at any time hereafter be constructed.
<b>“Service Provision”</b>	means the sum calculated in accordance with Clause 7.3 ( <i>How calculated</i> ), Clause 7.4 ( <i>Service Provision</i> ) and Clause 7.5 ( <i>Adjustment to actual expenditure</i> ).
<b>“Shared Accessway”</b>	means the area forming part of the Estate and/or falling within the demise of the Premises and/or within the demise of other properties on the Estate and which is shown coloured/hatched blue on the Lease Plan.
<b>“Standard Conditions of Sale”</b>	means the Standard Conditions of Sale (Fourth Edition).

<b>"Term"</b>	means the term of 125 years from and including the Commencement Date.
<b>"Unacquired Percentage"</b>	shall mean the percentage figure equal to 100% less the Acquired Percentage.
<b>"Valuer"</b>	means an independent expert who is an associate or fellow of the Royal Institution of Chartered Surveyors agreed between the Landlord and the Leaseholder or in default of agreement appointed on the application of either Landlord or Leaseholder by or on behalf of the president of the Royal Institution of Chartered Surveyors.
<b>"Valuer's Certificate"</b>	means a written certificate from an associate or fellow of the Royal Institution of Chartered Surveyors confirming the amount of the Payment Sum.
<b>"VAT"</b>	means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.
<b>"Warranty Documents"</b>	means any warranty documents issued by any warranty provider (including but not limited to Premier Guarantee, NHBC House Building Council and LABC New Home Warranty) in relation to the Premises.
<b>"Wider Development"</b>	means the wider development in which the Estate and the Premises are located and which is now or was formerly registered with title number ▼.

**EXECUTED** as a deed by affixing the )  
common seal of **Aster Communities** in the )  
presence of: )

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Authorised signatory

Name:

Position:

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Authorised signatory

Name:

Position:

SIGNED as a deed by ▼ in the )  
presence of the witness named )  
below and delivered by ▼ )  
)

Signature of Witness

Name of Witness

Address

Occupation

## Appendix 1 – Memorandum of Staircasing

### MEMORANDUM OF STAIRCASING

(Number [•] )

Premises :

Date of Lease :

Leaseholder :

Landlord :

#### **THIS IS TO RECORD THE FOLLOWING:**

On the       day of       20   on the payment of £[•] (the “**Premium**”) being [•] % of the Market Value of the Premises as assessed by the Valuer on the       20   the Leaseholder purchased a Portioned Percentage of [•] %.

The total share in the Premises now owned by the Leaseholder is [•] %

The Specified Rent (the rent payable) as from the       day of 20   (date of payment of the Premium) is £[•] per annum (subject to review).

Signed by the Leaseholder /for and on behalf of the Landlord.



## Appendix 2 – Example of Notice of Rent Increase

To: Leaseholder

[insert details of the Premises] (“the Premises”)

The next Rent Review Date under your shared ownership lease of the Premises is [●] [20 ]. The rent which you currently pay is [●] per month.

The rent which you must pay on and after [●] [20 ] is [●] per month.

The new figure of [●] per month is calculated as follows:

- RPI Index for [●] [20 ] was [●] (this was the Index on which the rent review in [●] [20 ] was based);
- The Gross Rent fixed at the rent review in [●] [20 ] was [●] per month;
- RPI Index for [●] [20 ] is [●] (this is the Index on which the rent review in [●] [20 ] is being based);
- The reviewed Gross Rent as at [●] [20 ] is therefore [●] per month being:  $(£[●] \times ((\frac{[●]}{[●]}) + 0.005))$

But because your share of the Premises is currently [●%] and our share is [●%], the rent which you must actually pay is only [●%] of [£●], which is the sum of [£●] per month.

### WORKED EXAMPLE:

#### Assumptions

The notice set out below would have been given in relation to a rent review in November 2012 in the following circumstances:

- The Lease had Rent Review Dates on 30 November 2011 and 2012;
- As at November 2012, the Leaseholder’s share in the Premises was 45%;
- The Gross Rent in November 2011 had been £100 per month (based on the RPI in September 2011), and so the actual rent payable would have been £55 per month (being 55% of £100).
- The RPI was 237.9 in September 2011, and 244.2 in September 2012.

#### Worked Example Notice

*The next Rent Review Date under your shared ownership lease of the Premises is [30 November 2012]. The rent which you currently pay is [£55.00] per month.*

*The rent which you must pay on and after [30 November 2012] is [£56.73] per month.*

*The new figure of [£56.73] per month is calculated as follows:*

- *RPI Index for [September 2011] was [237.9] (this was the Index on which the rent review in [November 2011] was based);*
- *The Gross Rent fixed at the rent review in November 2011 was [£100.00] per month;*
- *RPI Index for [September 2012] is [244.2] (this is the Index on which the rent review in [November 2012] is being based);*
- *The reviewed Gross Rent as at [30 November 2012] is therefore [£103.15] per month being:  $(£100 \times ((\frac{244.2}{237.9}) + 0.005))$*

*But because your share of the Premises is currently [45%] and our share is [55%], the rent which you must actually pay is only [55%] of [£103.15], which is the sum of [£56.73] per month.*



## **Appendix 3 – Key Information for Shared Owners**

This note is intended as a brief guide for Leaseholders (i.e. shared owners) of the key provisions of the Shared Ownership Lease.

**All Leaseholders should carefully consider the terms of this note and the attached lease and discuss any issues that arise with his or her solicitor before entering into the lease.**

### **1 How does Shared Ownership Work?**

Under a shared ownership lease, the Leaseholder buys a 'share' of the property and pays rent on the remaining share of the property (which remains in the ownership of the Landlord).

The Leaseholder can buy further shares in the property (at the market value of those shares at the time of purchase), until he or she owns 100%. Buying further shares is referred to as 'staircasing'.

As the Leaseholder buys further shares, the rent will be reduced proportionately to reflect the fact that the Landlord's interest in the property has reduced.

### **2 Standard Lease Obligations**

Although initially the property is not owned outright, the Leaseholder does have the normal responsibilities of a full owner. This means, for example, that the Leaseholder will be obliged to pay 100% of the outgoings relating to the property and to keep the property in good and substantial repair and condition.

The lease also contains other 'standard' obligations on the Leaseholder. For example, the Leaseholder will:

- 2.1 if applicable, need to contribute towards the costs incurred by the Landlord in providing services (sometimes known as service charges);
- 2.2 need to seek the Landlord's consent before making certain alterations; and
- 2.3 comply with regulations relating to the management of the building or the estate of which the property forms part.

### **3 Rent Review**

The rent will be reviewed periodically at the times set out in the lease. Typically, the rent will be reviewed every year. The reviewed rent will be increased in line with any proportionate increases in the retail prices index (RPI).

The rent will be reviewed on an 'upwards only' basis. This means that the level of rent will not go down when it is reviewed. However, any increase in the rent will be capped at a figure representing the RPI increase plus 0.5%. This means that where the RPI is zero or negative the most the rent can increase by is 0.5%.

A worked example demonstrating how the rent is recalculated at review is set out in Appendix 2 of the lease.

#### **4 Disposals of or Dealings with the Premises**

Subject to the Landlord's Right of First Refusal, referred to in paragraph 5 below, the Leaseholder's ability to sell or otherwise dispose of or deal with the property can be summarised as follows:

##### **Assignment or Transfer**

If the Leaseholder assigns or transfers the lease before he or she staircases to 100%, the consent of the Landlord must be obtained. Such consent is not required once the Leaseholder has staircased to 100%.

##### **Sub-letting**

The Leaseholder is not permitted to sub-let or part with possession of the property in any other way until the Leaseholder staircases to 100% ownership of the property.

#### **5 Landlord's right of first refusal**

With a view to ensuring that the property remains in the ownership of people in need of shared ownership units there are restrictions on the transfer, assignment and subletting of the Premises. The restrictions apply from the date that the lease is granted up to the date that the Leaseholder staircases to 100%.

If the Leaseholder gives the Landlord notice that he or she wishes to sell his or her interest in the lease, the Landlord can require the Leaseholder either to surrender (or hand back) the lease to the Landlord or assign the lease to a person nominated by the Landlord, in both cases the price will be no more than the market value of the Leaseholder's share of the property).

The Landlord's right of first refusal does not apply if the lease is transferred or assigned as a result of the divorce or death of the Leaseholder. It also does not apply after the Leaseholder has staircased to 100% ownership of the property.

#### **6 Mortgagee Protection Provisions**

Loans from banks and building societies to Leaseholders would often require Leaseholders to take out mortgage indemnity insurance or other forms of additional security which would increase the expense to the Leaseholder of acquiring a shared ownership interest in the property. So with the aim of cutting down or avoiding such expense arising (so that mortgage indemnity insurance is not required and encouraging banks and building societies to lend the shared owners), the Landlord agrees that if the Leaseholder defaults the Landlord will compensate the Lender for some part of any loss incurred if the proceeds from the sale of the Leaseholder's share of the property are insufficient. For this reason the Leaseholder's lender will need to obtain the consent of the Landlord to the terms of the Leaseholder's mortgage.

If the Landlord has to cover some of the mortgage debt in this way the Leaseholder will become liable to pay the Landlord back. In such cases the Landlord will be able to pursue the Leaseholder to recover its loss and may also enforce any other security guarantees or insurance that were originally granted to the Lender.

To assist the Landlord and the Lender in operating these compensation provisions, by signing the lease the Leaseholder authorises the Landlord and the Lender to exchange personal information relating to the Leaseholder in relation to various matters, including the terms of the lease, details of any arrears and any loan secured against the property.

## **7 Important Notice Regarding Payment of the Rent and Lease Obligations**

You need to be aware that if the Leaseholder fails to pay the rent reserved by the Lease and/or fails to observe and perform his or her obligations in the Lease the Landlord may be entitled to terminate the lease (subject to the Landlord obtaining any necessary court order). If the lease is terminated the Leaseholder will lose (and will not be entitled to any compensation for), any shares in the property which he or she had acquired.

## **8 Variations to the standard form lease**

Paragraphs 1 to 7 above summarise the key terms of the standard form Shared Ownership Lease issued by the Homes and Communities Agency.

This Lease has been amended to tailor it to the specific requirements of the development. In particular please see the following clauses:

- Clause 3.20;
- Clause 3.24
- Clause 3.25; and
- Schedule 2.

**This guidance note does not form part of the Lease and is not to be taken into account in the interpretation of any provision in the Lease. It is important that the Leaseholder gets legal advice before entering into the Lease.**

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## **TYPE 2 MODEL LEASE**

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# Shared Ownership House Lease

Relating to Plot ▼ *(Insert details from the Index)*

Dated ▼

(1) Aster Communities

(2) ▼

[is the base rate reference in rent review schedule okay?]

Add enforcement clause

**Important Notice for Leaseholders**  
A guide to the key terms of this Lease is set out in Appendix 3

**Note for completion of lease and counterpart:**

- Record date of completion on front page
- Record date of completion in Panel LR1
- Record date of completion above the Parties

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## LAND REGISTRY PRESCRIBED CLAUSES

<b>LR1. Date of Lease</b>	The date of this Lease is the date written on the front page. [▼Also write date of lease completion here.]
<b>LR2. Title number(s)</b>	<b>LR2.1 Landlord's title number(s)</b>
	▼
	<b>LR2.2 Other title numbers</b>
	[▼/None]
<b>LR3. Parties to this Lease</b>	<b>Landlord</b>
	<b>Aster Communities</b> (a charitable registered society as defined under section 1 of the Co-operative and Community Benefit Societies Act 2014 with number 31530R) whose registered office is at Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ
	<b>Tenant</b>
	▼ of ▼  and defined in this Lease as the "Leaseholder"
<b>LR4. Property</b>	<b>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</b>
	As specified in Schedule 1 ( <i>The Premises</i> ) and Schedule 6 ( <i>Defined Terms</i> ) of this Lease and defined in this Lease as the " <b>Premises</b> "
<b>LR5. Prescribed statements etc</b>	<b>LR5.1</b> <i>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</i>

	The Property is held by (or in trust for) Aster Communities which is an exempt charity.
	<b>LR5.2 This Lease is made under, or by reference to, provisions of:</b>
	Not applicable
<b>LR6. Term for which the Property is leased</b>	The term as specified in this Lease at Clause 2 ( <i>The Letting Terms</i> ) and as defined in Schedule 6 ( <i>Defined Terms</i> )
<b>LR7. Premium</b>	£▼
<b>LR8. Prohibitions or restrictions on disposing of this Lease</b>	This Lease contains a provision that prohibits or restricts dispositions
<b>LR9. Rights of acquisition etc</b>	<b>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</b>
	As specified in Schedule 5 ( <i>Staircasing</i> )
	<b>LR9.2 Tenant's covenant to (or offer to) surrender this Lease</b>
	As specified in clause 5.7 ( <i>Frustration clause</i> )
	<b>LR9.3 Landlord's contractual rights to acquire this lease</b>
	Not applicable
<b>LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</b>	None
<b>LR11. Easements</b>	<b>LR11.1 Easements granted by this lease for the benefit of the Property</b>
	As referred to at clause 2 ( <i>The Letting Terms</i> ) and as specified in Schedule 2 ( <i>Easements Rights and Privileges</i> )
	<b>LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property</b>
	As referred to at clause 2 ( <i>The Letting Terms</i> ) and as specified in Schedule 3 ( <i>Exceptions and Reservations</i> ).

<b>LR12. Estate rent charge burdening the Property</b>	Not applicable
<b>LR13. Application for standard form of restriction</b>	<p><b>The Parties to this Lease apply to enter the following standard form of restriction against the title of the Property:</b></p> <p>“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under title number ▼ or their conveyancer that the provisions of Clause 3.19 (<i>Alienation</i>) and Clause 3.20 (<i>Disposals of the Premises when the Acquired Percentage is less than 100%</i>) and Clause 3.21 (<i>Register disposals</i>) of the registered lease have been complied with or that they do not apply to the disposition”.</p>
<b>LR14. Declaration of trust where there is more than one person comprising the Tenant</b>	<p>The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.</p> <p style="text-align: center;">OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.</p> <p style="text-align: center;">OR</p> <p>The Tenant is more than one person. They are to hold the Property on trust.</p>

## PARTICULARS

<b>Commencement Date</b>	:	[01 April 2017].
<b>Initial Market Value</b>	:	The sum of £ ▼
<b>Initial Percentage</b>	:	▼ %
<b>Premium</b>	:	The sum of £ ▼
<b>Gross Rent</b>	:	£ ▼ per annum, subject to review in accordance with Schedule 4 ( <i>Rent Review</i> ).
<b>Specified Rent</b>	:	A sum equal to the Unacquired Percentage of the Gross Rent (the Specified Rent on the date of this Lease being £ ▼ per annum) or (if greater) the Minimum Rent.
<b>Review Date</b>	:	The first 1 <sup>st</sup> April following the date of this Lease, and each successive 1 <sup>st</sup> April during the Term and the term the " <b>Relevant Review Date</b> " shall be construed accordingly.
<b>Specified Proportion [only include if there's a Service Charge]</b>	:	A fair and proper proportion to be conclusively determined from time to time by the Landlord (who shall act reasonably).
<b>Parking Space</b>	:	None/▼ The parking space[s] shown edged blue on the Lease Plan or such other space[s] as the Landlord shall from time to time allocate to the Premises. [ENSURE LANDLORD CAN RECOVER FOR COST OF REPAIR]

### List of plan(s) attached to this Lease and designations on plan(s)

#### Plan attached to this Lease labelled: Lease Plan

ITEM ON PLAN	DESIGNATION ON PLAN (if any)
Property	Edged Red

#### Plan attached to this Lease labelled: Water Main Plan

ITEM ON PLAN	DESIGNATION ON PLAN (if any)
Water Main	The solid Black line indicating the approximate centre line of the water main

**DATED** ▼

**PARTIES**

(1) **ASTER COMMUNITIES** (registered with the Regulator of Social Housing under number 4691 and which is a charitable registered society as defined under section 1 of the Co-operative and Community Benefit Societies Act 2014 under number 31530R) whose registered office is at Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ (the “**Landlord**”)

(2) ▼ of ▼ (the “**Leaseholder**”)

**OPERATIVE PROVISIONS**

**1 Definitions and interpretation**

- 1.1 In this Lease the terms defined in the Particulars and in Schedule 6 (*Defined Terms*) shall have the meanings specified.
- 1.2 Any obligation on a party to this Lease to do any act includes an obligation to procure that it is done.
- 1.3 Where the Leaseholder is placed under a restriction in this Lease, the restriction includes the obligation on the Leaseholder not to permit or allow the infringement of the restriction by any person.
- 1.4 References to liability include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.
- 1.5 The Clause and paragraph headings in this Lease are for ease of reference only and are not to be taken into account in the interpretation of any provision to which they refer.
- 1.6 The Key Information for Shared Owners set out in Appendix 3 is for information purposes only and is not to be taken into account in the interpretation of any provision of this Lease.
- 1.7 Unless the contrary intention appears, references:
  - 1.7.1 to defined terms are references to the relevant defined term in the Particulars and in Schedule 6 (*Defined Terms*);
  - 1.7.2 to numbered Clauses and Schedules are references to the relevant Clause in, or Schedule to, this Lease; and
  - 1.7.3 to a numbered paragraph in any Schedule are references to the relevant paragraph in that Schedule.
- 1.8 Words in this Lease denoting the singular include the plural meaning and vice versa.

- 1.9 References in this Lease 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.
- 1.10 Words in this Lease importing one gender include both genders, and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.
- 1.11 Words and expressions which appear in the first column of the Particulars, shall in this Lease have the meaning shown opposite them in the second column of the Particulars.
- 1.12 The parties to this Lease agree that any reference to any right exercisable by the Landlord shall be construed as including (where appropriate) the exercise of such right upon the same terms by a duly appointed management company and/or its agents and all persons authorised by any such duly appointed management company.
- 1.13 The parties to this Lease agree that any obligation of the Landlord under this Lease may be performed by the Landlord procuring performance of it by a duly appointed management company.

## **2 The Letting Terms**

In consideration of the Premium (receipt of which the Landlord acknowledges), the Specified Rent and the Leaseholder's covenants in this Lease the Landlord lets the Premises to the Leaseholder:

- 2.1 [together with but] subject to the matters contained mentioned or referred to in the Landlord's title [to the Estate] (save and except any financial charges); and
- 2.2 together with the rights set out in Schedule 2 (*Easements, Rights and Privileges*); and
- 2.3 together with the rights but subject to the provisions set out in Schedule 5 (*Staircasing*); and
- 2.4 except and reserved to the Landlord the rights set out in Schedule 3 (*Exceptions and Reservations*);
- 2.5 for the Term,

the Leaseholder paying during the Term the Specified Rent (subject to revision under Schedule 4 (*Rent Review*)) by equal monthly payments in advance on the first day of each month.

## **3 Leaseholder Covenants**

The Leaseholder covenants with the Landlord as follows.



### **3.1 Pay rent**

To pay (by Bank or Building Society Direct Debit Mandate or such other means as the Landlord shall require to a Bank or Building Society account nominated by the Landlord):

**3.1.1** the Specified Rent at the times and in the manner mentioned in Clause 2 (The Letting Terms); and

**3.1.2** [the Service Charge in accordance with the provisions of clause 6 of this Lease; and]

**3.1.3** all other sums due under this Lease

in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) and unless otherwise stated, by equal monthly payments in advance on the first day of each month, the first payment to be made on the date of this Lease for the remainder of the month including the date on which this Lease is completed and the whole of the next following month.

### **3.2 Interest**

To pay interest calculated on a day to day basis at an annual rate of 4% above the Base Rate of Barclays Bank PLC for the time being in force on so much of the Specified Rent and/or any other monies due to the Landlord under this Lease that remain unpaid for a period of 14 days after becoming due for payment.

### **3.3 Insurance premiums**

**3.3.1** To refund to the Landlord on demand a fair and proper proportion attributable to the Premises, such proportion to be conclusively determined by the Landlord (who shall act reasonably) of the insurance premiums incurred by the Landlord in connection with the Premises. [this clause is not necessary if the lease includes a Service Charge]

**3.3.2** To pay to the Landlord (if required) the relevant excess (if any) in respect of each and every claim made under the Landlord's insurance policy relating to the Premises.

### **3.4 Outgoings**

**3.4.1** To pay the Outgoings in relation to the Premises or any part of the Premises.

**3.4.2** To refund to the Landlord on demand (where Outgoings relate to the whole or part of property which includes the Premises [and which are not otherwise covered by the Service Charge]) a fair and proper proportion of the Outgoings attributable to the Premises, such proportion to be conclusively determined by the Landlord (who shall act reasonably).

**3.4.3** To pay all costs in connection with the supply and removal of gas electricity water sewage data telecommunications and other services and utilities to or from the Premises together with all connection and standing charges and to comply at the Leaseholder's expense with all relevant legislation and with all requirements of the

relevant suppliers relating the use of those services, utilities and the Service Media at or serving the Premises.

3.4.4 To pay to the Landlord on demand a fair and proper proportion (to be conclusively determined by the Landlord (who shall act reasonably)) of:

- (a) the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding any Communal Facilities; and
- (b) the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding any Service Media, cisterns and tanks and other gas, electrical, drainage, ventilation and water apparatus and machinery in under and upon the Estate (except such as form part of the Premises [or which exclusively serve individual premises on the Estate] and except such as belong to any utility supply authority or company)
- (c) the expense of repairing, renewing, maintaining and rebuilding the [Parking Space]/[car parking space(s) demised by this Lease] and those parts of the Premises (if any) shown coloured blue on the attached plan;
- (d) the reasonable costs, charges and expenses incurred by the Landlord in connection with the provision, maintenance and management of the Communal Facilities including but not limited to the reasonable fees, charges and expenses of either a professional qualified surveyor or any accountant or other person whom the Landlord may from time to time reasonably employ appoint or delegate (with or without others) in connection with the management and maintenance of the Communal Facilities including the computation and collection of rent and any other monies due from the Leaseholder under this Lease and if any such work shall be undertaken by an employee of the Landlord then a reasonable allowance for such work; and
- (e) the cost of and incidental to the performance of the Landlord's covenants contained in clause 4; and
- (f) any sums paid or payable by the Landlord in connection with the Estate;
- (g) [any sums paid or payable by the Landlord in connection with any matters contained mentioned or referred to in the Landlord's title to the Estate including but not limited to the sums paid or payable by the Landlord pursuant to the Main Transfer.]; [ALSO KEEP THIS SUB CLAUSE WHERE CHARGING A FULL SERVICE CHARGE BUT WHERE THERE IS AN ESTATE CHARGE/RENTCHARGE IN THE MAIN TRANSFER – AMEND TP1 TOO – TO ENSURE SUMS ARE PAYABLE ON DEMAND. MAKE SURE EQUIVALENT OBLIGATION IS REMOVED FROM SERVICE CHARGE] and
- (h) any sums paid or payable by the Landlord in connection with the Wider Development.

3.4.5 For the purposes of Clause 3.4.4, the provisions of sections 18 to 30B (inclusive) of the Landlord and Tenant Act 1985 and of Part V of the Landlord and Tenant Act 1987 shall apply.

[but clause 3.4.4 and 3.4.5 should not be necessary if a Service Charge is included.]

### 3.5 Repair

3.5.1 To repair and keep the Premises in good and substantial repair and condition (except in respect of damage by risks insured under Clause 4.2 (*Insure*) unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder) **except that the Leaseholder shall not be obliged to maintain the surface of the car parking space(s) demised by this Lease nor those parts of the Premises (if any) shown coloured blue on the plan.**

3.5.2 To keep clean and tidy and properly tended the garden (if any) forming part of the Premises.

3.5.3 To repair and maintain and keep in full working order all gas appliances within the Premises, which solely serve the Premises and to arrange for gas safety inspections every twelve months by a suitably qualified registered gas installer to ensure that all gas appliances (if any) in the Premises are maintained in good working order and are safe to use and to produce to the Landlord upon demand but at least once in every year and not less than 5 working days after receipt of the same from such installer a copy of such inspections and the gas safety certificate **PROVIDED THAT** if any of the gas appliances should be deemed unsafe or in need of replacement that Leaseholder shall notify the Landlord immediately and where such appliance has been damaged or has fallen into disrepair due to the Leaseholder causing or allowing damage to be caused to such appliance or by not complying with this covenant to repair and maintain then the Leaseholder shall bear the full cost of the replacement appliance.

### 3.6 Decoration

As often as is reasonably necessary and in the last month of the Term in a proper and workmanlike manner (and in the last month of the Term in colours approved by the Landlord) to paint, paper, treat and generally decorate in a style appropriate to property of a like character all the inside and outside of the Premises previously or usually so painted, papered, treated and decorated.

### 3.7 Provide floor coverings

To keep the floors of the Premises properly covered in good quality carpeting and underlay or such other suitable floor coverings.

### 3.8 Damage to the Estate and Communal Facilities

In respect of any damage or disrepair **to the Estate or the** Communal Facilities caused or contributed to by any act, neglect or default of the Leaseholder or the Leaseholder's family,

servants or licensees or by any other person under the control of the Leaseholder, at the option of the Landlord, the Leaseholder will on demand indemnify the Landlord in respect of all costs, charges and expenses incurred the Landlord in repairing, making good, renewing and/or reinstating such damage or disrepair.

### **3.9 Not to alter**

#### **3.9.1 Not to:**

- (a) make any alterations or additions to the exterior of the Premises;
- (b) make any structural alterations or structural additions to the Premises;
- (c) erect any new buildings on the Premises nor in any way interfere with the exterior of the Premises; or
- (d) remove any of the Landlord's fixtures from the Premises.

3.9.2 Not to make any alteration or addition of a non-structural nature to the interior of the Premises without the previous written consent of the Landlord (such consent not to be unreasonably withheld) **SAVE THAT** the Landlord's consent shall not be required to hang pictures or posters or secure furniture, for health and safety reasons, to any walls of the Premises whether structural or non-structural **PROVIDED THAT** the structure and integrity of the Premises is not affected and that any holes created are fully repaired and re-decorated prior to the Leaseholder vacating the Premises.

3.9.3 Not to make any application to the relevant authority for planning permission for a change of use or for any other development without the Landlord's prior written consent.

### **3.10 Comply with requirements of public authorities**

To execute and do at the expense of the Leaseholder all works and things as may at any time during the Term be directed or required by any national or local or other public authority to be executed or done upon or in respect of the Premises or any part of the Premises.

### **3.11 Provide copies of notices**

Promptly to serve on the Landlord a copy of any notice, order, planning permission or proposal relating to the Premises and served on the Leaseholder by any national, local or other public authority.

### **3.12 Expenses of the Landlord**

To pay all costs, charges and expenses (including solicitors' costs, surveyors' fees) reasonably incurred by the Landlord:

3.12.1 for the purpose of or incidental to the preparation and service of a notice under section 146 or section 147 of the Law of Property Act 1925 even if forfeiture is avoided otherwise than by relief by the court; or

3.12.2 in connection with every application made by the Leaseholder for a consent, approval or licence under the terms of this Lease whether or not such consent, approval or licence is granted (and whether or not such grant is subject to any law qualification or condition), refused or withdrawn; or

3.12.3 in connection with the assignment of this Lease:

(a) any administration fee (if any) charged by the local authority or other body who is in a position to nominate a buyer or any other body or person who may be involved in the nomination process (including but not limited to HomeBuy or other agents) to the Landlord under the terms of a nomination or other similar agreement in relation to the Premises; and/or

(b) any estate agent's fees; and/or

(c) any valuer's fees; or

3.12.4 in respect of any surveyor any accountant or other person whom the Landlord may from time to time reasonably employ in connection with the computation, collection of and review of the Specified Rent and in the event of any such work being undertaken by an employee of the Landlord then a reasonable allowance for such work; or

3.12.5 otherwise incurred by the Landlord in respect of any breach of covenant by the Leaseholder under this Lease including the recovery of any arrears of Specified Rent or any other sums due from the Leaseholder under the terms of this Lease.

### **3.13 Obtain consents**

To obtain all licences, permissions and consents and do all works and things and pay all expenses required or imposed by any existing or future legislation in respect of any works carried out by the Leaseholder on the Premises or any part of the Premises or in respect of any use of the Premises during the Term.

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

3.14.1 To permit the Landlord and its employees or agents at reasonable times (or at any time in an emergency) to enter the Premises and examine their condition and also to take a schedule of fixtures and fittings in the Premises.

3.14.2 If any breach of covenant, defects, disrepair, removal of fixtures and fittings or unauthorised alterations or additions are found on inspection for which the Leaseholder is liable, then, on notice from the Landlord, to execute to the reasonable satisfaction of the Landlord or the Landlord's surveyor all repairs, works, replacements or removals required within three months (or sooner if necessary) after receipt of notice.

3.14.3 If the Leaseholder fails to comply with a notice under Clause 3.14.2, the Landlord may itself or by its workpeople or agents enter the Premises and execute the repairs, works, replacements or removals.

3.14.4 To pay to the Landlord on demand all expenses (including but not limited to surveyor's fees and the Landlord's administration fee) incurred under Clause 3.14.3.

### **3.15 Permit entry**

At all reasonable times during the Term on notice (or at any time in an emergency) to permit the Landlord and the lessees of other adjoining or neighbouring premises with workmen and others to enter the Premises for the purpose of repairing any adjoining or neighbouring premises and for the purpose of repairing, maintaining and replacing all Service Media or other conveniences belonging to or serving the same, the party so entering making good any damage caused to the Premises.

### **3.16 Yield up**

At the expiry or earlier termination of this Lease to quietly yield up the Premises repaired, maintained, cleaned, decorated and kept in accordance with the covenants in this Lease (except in respect of damage by risks insured under Clause 4.2 (*Insure*) unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder).

### **3.17 Use**

Not to use the Premises for any purpose other than as a private residence in the occupation of a single household.

### **3.18 Restrictions on use**

Not to do any act or thing which may:

- 3.18.1 render void or voidable any policy of insurance on the Premises or the Estate or may cause an increased premium to be payable in respect of the Premises;
- 3.18.2 cause or permit to be caused nuisance, annoyance, disturbance or damage to the owners lessees or occupiers of premises in the neighbourhood or visitors to such premises;
- 3.18.3 result in any form of harassment or intimidation of any other person, including the Landlord's staff, contractors and agents; or
- 3.18.4 result in the use of the Premises for any unlawful or immoral purpose; or
- 3.18.5 result in any trade or business whatsoever being carried out upon the Premises; or
- 3.18.6 cause or permit the storage in the Premises or the Estate of any flammable dangerous explosive or offensive substance or good **PROVIDED THAT** the storage of petrol, oil or diesel fuel in a motor vehicle, motor bike or lawn mower (but not in any other receptacle) which the Leaseholder is permitted to keep on the Premises or the Estate by the terms of this Lease shall be permitted where the petrol tank is properly sealed and forms part of such motor vehicle, motor bike or lawn mower.

### **3.19 Alienation**

- 3.19.1 Not to assign, underlet, charge, mortgage or part with possession of part only of the Premises.
- 3.19.2 Not to underlet or part with possession of the whole of the Premises.
- 3.19.3 Not without the prior written consent of the Landlord (such consent not to be unreasonably withheld) to assign the whole of the Premises.

### **3.20 Disposals of the Premises when the Acquired Percentage is less than 100%**

- 3.20.1 Subject to Clause 3.20.3 and Clause 3.20.4, the Leaseholder shall pay to the Landlord on demand a sum equal to the Unacquired Percentage of the Market Value if:
  - (a) this Lease is assigned when the Acquired Percentage is less than 100%; and
  - (b) within two months after receipt of notice of the assignment pursuant to Clause 3.21 (*Register disposals*) the Landlord serves notice on the Leaseholder requiring such payment.
- 3.20.2 Within 14 days of the date of the Landlord's notice pursuant to Clause 3.20.1(b) the Landlord shall apply to the Valuer to determine the Market Value as at the date of service of the Leaseholder's notice of assignment served pursuant to Clause 3.21 (*Register disposals*) and shall notify the Leaseholder of the amount of the Valuer's determination in writing within 7 days of receipt of such determination.
- 3.20.3 The provisions of Clause 3.20.1 shall not apply when the Lease is assigned by way of either:
  - (a) a disposal under a will or intestacy;
  - (b) a disposal under section 24 of the Matrimonial Causes Act 1973 or section 2 of the Inheritance (Provision for Family and Dependants) Act 1975;
  - (c) a grant of a sub-tenancy in respect of which a notice has been given under section 52(1)(b) of the Housing Act 1980 (notice that a tenancy is to be a protected shorthold tenancy) or of a kind mentioned in any of Cases 11 to 18 or 20 in Schedule 15 to the Rent Act 1977;
  - (d) a grant of a sub-tenancy of part of the house, if any other part of the house remains in the possession of the tenant; or
  - (e) a grant of a mortgage.
- 3.20.4 The circumstances in which the Landlord may not require payment under the provisions of Clause 3.20.1 are either:
  - (a) when the Lease is assigned both:

- (i) to a person nominated by the Landlord within a period of eight weeks from the receipt by the Landlord of notice from the Leaseholder to the effect that the Leaseholder wishes to assign his interest in the Premises ("the **Nomination Period**"); and
  - (ii) at a price no greater than the Acquired Percentage of the Market Value of the Premises (calculated excluding paragraph (iii) and paragraph (iv) of the definition of Market Value) as at a date no more than eight weeks prior to the date of exchange of contracts for the assignment which shall be confirmed by a Valuer's Certificate which the Leaseholder shall serve on the Landlord together with the notice of assignment served pursuant to Clause 3.21 (*Register disposals*); or
- (b) if the Landlord fails within the Nomination Period to make any nomination or the Landlord's nominee (without any fault or obstruction on the part of the Leaseholder) fails to enter into a binding contract for purchase from the Leaseholder within twelve weeks from the receipt of a draft contract by the solicitors or other persons acting for the Landlord's nominee (which draft contract shall be supplied by the solicitor or other persons acting for the Leaseholder and shall contain reasonable terms based on the Standard Conditions of Sale).

### **3.21 Register disposals**

Within one month of any assignment, underletting, mortgage, charge or other dealing with the Leaseholder's interest in the Premises to give notice of it together with a certified copy of the document effecting the assignment, underletting, mortgage, charge or other dealing to the Landlord and to pay a reasonable fee (which shall not be less than £50 plus VAT) to the Landlord for the registration of the notice.

### **3.22 Nomination Fee**

On completion of an assignment to a person nominated by the Landlord under clause 3.20.4 the Leaseholder shall pay (in addition to any sums due under clause 3.12 of this Lease) to the Landlord a sum equivalent to 1.5% (plus VAT) of the Market Value of the Premises as at the date of assignment in consideration of the Landlord's internal and administrative costs.

### **3.23 Prevent loss of easements**

To do such acts and things as may reasonably be required by the Landlord to prevent any easement or right belonging to or used with the Premises from being obstructed or lost and not knowingly to allow any encroachment to be made on or easement acquired over the Premises and in particular not to allow the right of access of light from or over the Premises to any neighbouring property to be acquired.



### **3.24 Comply with Covenants on the Registers of Title**

To observe and perform the covenants restrictions stipulations agreements and declarations (if any) contained or referred to in the registers of the Landlord's title **to the Estate** (save and except for any financial charges) **[including but not limited to the covenants conditions restrictions and stipulations on the part of the Transferee [define] contained in the Main Transfer]** in each case so far as the same are still subsisting and relate to the Premises and to indemnify the Landlord against all actions proceedings damages costs claims expenses and liabilities arising in respect of any breach thereof and on any transfer of the Premises to require the transferee to covenant with the Landlord to observe and perform the covenant contained in this Clause.

### **3.25 Comply with Planning and Statutory Agreements**

To observe and perform at all times during the Term all statutes and the requirements or directions of any government department, local authority or other competent authority (including but not limited to the covenants, conditions, exceptions, reservations, declarations, agreements and stipulations and all other matters contained or referred to in any planning permission or in any planning agreement) so far as the same relate to the Premises or their use and occupation.

### **3.26 Estate Covenants**

The Leaseholder covenants with the Landlord and (as a separate covenant) with and for the benefit of all other persons for the time being holding a legal interest in any premises within the Estate that the Leaseholder and the members of their household and all persons deriving title under them will observe and perform the covenants and conditions set out in Schedule 7 (*Mutual Covenants*).

### **3.27 Enter into Agreements required by the Landlord**

To enter in to any agreement deed or other arrangement (including but not limited to adoption agreements and deeds of easement) as may be required by the Landlord for the grant of any easement or any other right exception reservation or other matter in favour of any local authority, statutory authority or utility provider relating to any services provided or to be provided to the Premises or any part of the Estate without payment of any consideration.

### **3.28 Not to Make Any Claim Against Building Warranty Without Notifying Landlord**

Not to make any claim under any Warranty Documents without first notifying the Landlord in writing and thereafter to comply at all times with the Landlord's reasonable directions regarding the conduct and settlement of the claim.

### **3.29 Register Restrictions**

The Leaseholder covenants to apply within 30 days of the date of this Lease to the Chief Land Registrar to enter a restriction in the form required pursuant to Prescribed Clause LR13 in the proprietorship register of the Leaseholder's title and to pay any necessary Land Registry fee

and to provide the Landlord with an official copy of the Leaseholder's title to show such restriction immediately after being notified of completion of registration.

#### **4 Landlord's covenants**

The Landlord covenants with the Leaseholder as follows.

##### **4.1 Quiet enjoyment**

That the Leaseholder paying the rents reserved by this Lease and performing and observing the covenants contained in this Lease may peaceably enjoy the Premises during the Term without any lawful interruption by the Landlord or any person rightfully claiming under or in trust for it.

##### **4.2 Insure**

At all times during the Term (unless such insurance shall be cancelled, invalidated or revoked by any act or default of the Leaseholder) to keep the Premises insured against loss or damage by fire and such other risks as the Landlord may from time to time reasonably determine or the Leaseholder or the Leaseholder's mortgagee may reasonably require in some insurance office of repute to its full reinstatement value (including all professional fees in connection with any reinstatement and two years' loss of rent) and whenever required (but not more than once in every 12 months) will produce to the Leaseholder the insurance policy and the receipt for the last premium and will in the event of the Premises being damaged or destroyed by fire or other risks covered by such insurance as soon as reasonably practicable make a claim against the insurers and lay out the insurance monies in the repair, rebuilding or reinstatement of the Premises.

##### **4.3 Provide Services [Use this clause if including a Service Charge, the alternative is to rely on clause 3.4.4 and 3.4.5]**

Except to the extent that the Leaseholder or any tenant or owner of any other part of the Estate shall be liable (under the terms of this Lease or any other lease or transfer) and subject to Clause 4.4 (*Landlord's Protection Provisions*) and to payment of the Specified Rent and Service Charge, the Landlord shall maintain, repair, redecorate, renew and (and in the event in the Landlord's reasonable opinion such works are required) improve:

4.3.1 the Communal Facilities; and

4.3.2 the [Parking Space]/[car parking space(s) demised by this Lease] and those parts of the Premises (if any) shown coloured blue on the plan; and

4.3.3 the Service Media, cisterns and tanks and other gas, electrical, drainage, ventilation and water apparatus and machinery in under and upon the Estate (except such as form part of the Premises [or which exclusively serve individual premises on the Estate] and except such as belong to any utility supply authority or company).

**OR**

[Where estate is largely run by third party and there are significant charges payable under a Main Transfer and no service charge then optional but may be requested by purchaser's solicitor and subject to client's instructions]

That (subject to the payment of the Specified Rent and the sums due pursuant to clause [3.4.4] of this Lease) the Landlord shall procure the payment of all sums of money as become due and payable by the Landlord as transferee pursuant to the provisions of the Main Transfer.

OR

[Where Communal Facilities are to be maintained by the Landlord but the lease does not contain a service charge then optional but may be requested by purchaser's solicitor]

That (subject to the payment of the Specified Rent and the sums due pursuant to clause [3.4.4] of this Lease and except to such extent as the Leaseholder shall be liable and subject to clause 4.4 below) the Landlord shall procure the maintenance repair renewal and (where necessary in the Landlord's reasonable opinion) improvement and/or rebuilding of the Communal Facilities and the [Parking Space]/[car parking space(s) demised by this Lease] and those parts of the Premises (if any) shown coloured blue on the plan.

#### **4.4 Landlord's Protection Provisions**

4.4.1 The Landlord shall not be liable to the Leaseholder for any failure in or interruption of the services referred to in Clause 4.3 (*Provide Services*) not attributable to its neglect or default nor for any failure or interruption unless and until the Leaseholder has given notice of the failure or interruption and the Landlord has not remedied the failure or interruption within a reasonable time of service of that notice.

4.4.2 The Landlord may add to, diminish, modify or alter any service referred to in Clause 4.3 (*Provide Services*) if by reason of any change of circumstances during the Term such addition, diminution or alteration is in the opinion of the Landlord reasonably necessary or desirable in the interests of good estate management or for the benefit of the occupiers of the Estate.

#### **4.5 Management Company Covenant**

[is this the version being used?] If required to do so by the Leaseholder and subject to the Leaseholder paying the Specified Rent, [▼the Service Charge] and all other sums due pursuant to clause 3.4 of this Lease and performing and observing the covenants contained in this Lease the Landlord shall use reasonable endeavours to enforce the obligations and covenants on the part of the [▼Management Company] in relation to the [▼] under the Main Transfer provided that:

4.5.1 the Leaseholder shall indemnify the Landlord against all costs and expenses incurred by or on behalf of the Landlord pursuant to complying with this clause 4.5; and

4.5.2 the Landlord shall not be required to take any action or incur any costs under this clause until the Leaseholder has given to the Landlord such security as the Landlord shall in its reasonable discretion require; and

4.5.3 the Leaseholder shall join in any action or proceedings if so requested by the Landlord.

## **5 Provisos**

The parties agree the following provisos.

### **5.1 Proviso for re-entry**

5.1.1 This Clause 5.1 (*Proviso for re-entry*) shall apply where:

- (a) the whole or any part of the Specified Rent or any other rent reserved by this Lease shall be unpaid for 21 days after becoming payable (whether formally demanded or not); or
- (b) if any covenant on the part of the Leaseholder shall not be performed or observed.

5.1.2 Subject to the Landlord obtaining any court order required the Landlord may at any time re-enter the Premises or any part of them and terminate this Lease.

5.1.3 Clause 5.1.2 does not affect any right of action or remedy of the Landlord in respect of any earlier breach of any of the Leaseholder's covenants or the conditions contained in this Lease provided that (without prejudice to the Landlord's rights under this Lease):

- (a) the Landlord shall give notice to the Mortgagee or any mortgagee of the Leaseholder of whom the Landlord has received notice pursuant to Clause 3.21 (*Register disposals*) (as the case may be) before commencing any proceedings for forfeiture of this Lease or proceedings for possession of the Premises; and
- (b) if within a period of 28 days (or within such other period specified in the Landlord's notice as the notice period, if longer) the Mortgagee or such mortgagee of the Leaseholder of whom the Landlord has received notice (as the case may be) indicates in writing to the Landlord that it wishes to remedy such breach, and/or is going to take such action as may be necessary to resolve the problem complained of by the Landlord, the Landlord shall allow 28 days (or such longer time as may be reasonable in view of the nature and extent of the breach) to remedy such breach and take the action necessary to resolve such problem.

### **5.2 Limitation of Landlord's Liability**

The Landlord shall not be liable for any damage suffered by the Leaseholder or any member of the Leaseholder's family or any employee, servant or licensee of the Leaseholder through

any defect in any fixture, tank, Service Media, staircase, machinery, apparatus or thing in the Premises or the Estate or through the neglect, default or misconduct of any servant employed by the Landlord acting outside the Landlord's instruction in connection with the Premises or the Estate or for any damage to the Premises due to the bursting or overflowing of any tank, boiler or Service Media in the Premises or the Estate except insofar as any such liability may be covered by insurance effected by the Landlord.

### **5.3 Landlord's power to deal with other Property**

Notwithstanding anything contained in this Lease the Landlord shall have power without obtaining any consent from or making any compensation to the Leaseholder to deal as the Landlord may think fit with any other land, buildings or premises adjoining or near to the Premises and to erect, rebuild or heighten on such other land or premises any buildings whether such buildings shall or shall not affect or diminish the light or air which may now or at any time during the Term be enjoyed by the Leaseholder or other tenants or occupiers of the Premises.

### **5.4 Power to alter Communal Facilities**

The Landlord shall have power at its discretion to alter the arrangement of the Communal Facilities provided that after such alteration the access to and from the amenities of the Premises are not substantially less convenient than before.

### **5.5 Party walls**

Every internal wall separating the Premises from any other building on the Estate shall be a party wall severed medially./ Any wall dividing any building or structure situate partly on the Premises and partly on an adjoining part of the Estate or neighbouring property is a party wall and shall be maintained and repaired accordingly.

### **5.6 Suspension of rent in case of insured damage**

If the whole or any part of the Premises are destroyed or damaged by fire or any other risks covered by the Landlord's insurance so as to be rendered unfit for use then (unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder) the Specified Rent or a fair proportion of it shall be suspended until the Premises are again fit for use.

### **5.7 Frustration clause**

5.7.1 Subject to Clause 5.7.2, in the event of the repair, rebuilding or reinstatement of the Premises being frustrated by any reason beyond the control of the Landlord the Leaseholder will surrender to the Landlord this Lease in consideration of the Landlord paying to the Leaseholder a sum equal to the Acquired Percentage of any insurance monies received by the Landlord in respect of the Premises.

5.7.2 If at the time of such frustration (i) there is any Loan outstanding to a Mortgagee of the Premises and (ii) the Unacquired Percentage is greater than nil then the consideration for such surrender shall be the amount referred to in Clause 5.7.1 plus

the Mortgage Protection Claim (calculated on the basis that paragraph (viii) in the definition of "Loss" in Schedule 6 (*Defined Terms*) is the amount referred to in Clause 5.7.1).

- 5.7.3 Any overpayment of insurance monies shall be a debt due from the Leaseholder to the Landlord and shall be payable on demand.

## **5.8 Expert determination**

- 5.8.1 In this Lease, where any issue is required to be dealt with by, or submitted for the determination of, an independent expert, the following provisions of this Clause 5.8 (*Expert determination*) are to apply but, in case of conflict with other provisions specifically relating to expert determination elsewhere in this Lease, those other provisions are to prevail to the extent of the conflict.

- 5.8.2 The expert is to be appointed by the parties jointly, or if they cannot or do not agree on the appointment, appointed by whichever of the following is appropriate:

- (a) the president from time to time of the Royal Institution of Chartered Surveyors; or
- (b) the president from time to time of the Institute of Chartered Accountants in England and Wales

or in either case the duly appointed deputy of the president, or other person authorised by him to make appointments on his behalf.

- 5.8.3 The person so appointed is to:

- (a) act as an expert, and not as an arbitrator; and
- (b) must afford the parties the opportunity within such a reasonable time limit as he may stipulate to make representations to him (accompanied by professional valuations, reports or other appropriate evidence in the relevant circumstances) and permit each party to make submissions on the representations of the other.

- 5.8.4 Neither the Landlord nor the Leaseholder may without the consent of the other disclose to the expert correspondence or other evidence to which the privilege of non-production ("without prejudice") properly attaches.

- 5.8.5 The fees and expenses of the expert, including the cost of his nomination, are to be borne as the expert may direct (but in the absence of such a direction, by the parties in equal shares), but (unless they otherwise agree) the parties shall bear their own costs with respect to the determination of the issue by the expert.

- 5.8.6 One party may pay the costs required to be borne by another party if they remain unpaid for more than 21 days after they become due and then recover these and any incidental expenses incurred from the other party on demand.

5.8.7 If the expert refuses to act, becomes incapable of acting or dies, the Landlord or the Leaseholder may request the appointment of another expert in his stead under Clause 5.8.2.

5.8.8 The determination of the independent expert, except in case of manifest error, is to be binding on the Landlord and the Leaseholder.

## **5.9 Cesser of Liability in respect of covenants**

A party who was formerly the Landlord is to cease to be liable to perform and observe the covenants and conditions on the part of the Landlord contained in this Lease at and from the date of an assignment of the immediate reversion to this Lease.

## **5.10 Ancillary Rights**

Except as mentioned in Clause 2 and in Schedule 2 of this Lease, neither the grant of this Lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Leaseholder may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this Lease.

## **6 Service Charge**

### **6.1 Covenant to Pay**

The Leaseholder covenants with the Landlord to pay the Service Charge during the Term by equal payments in advance at the times at which and in the manner in which the Specified Rent is payable under this Lease.

### **6.2 When Calculated**

The Service Provision in respect of any Account Year shall be calculated before the beginning of the Account Year and shall be calculated in accordance with Clause 6.3 and the Landlord shall provide an estimate of expenditure for the forthcoming year to the Leaseholder prior to the commencement of the Account Year **PROVIDED THAT** if the Landlord is unable to produce such estimate prior to the commencement of the Account Year the Leaseholder shall continue to pay the Service Charge at the rate for the previous Account Year until such time as it is provided with such estimate.

### **6.3 How Calculated**

The Service Provision shall consist of a sum comprising the expenditure estimated by the Authorised Person as likely to be incurred or payable in the Account Year on those matters specified in Clause 6.4; and

6.3.1 a sum that the Landlord considers an appropriate amount as a reserve for or towards the matters specified in Clause 6.4 (*Service Provision*) as are likely to give rise to expenditure after such Account Year being matters which are likely to arise either only once during the then unexpired term of this Lease or at intervals of more than one year (the said amount to be calculated in a manner which will ensure as far as is

reasonably possible that the Service Provision shall not fluctuate unduly from year to year); but

6.3.2 reduced by any unexpended reserve already made pursuant to Clause 6.3.1.

#### **6.4 Service Provision**

The relevant expenditure to be included in the Service Provision shall comprise all expenditure reasonably incurred or payable by the Landlord in connection with the repair, management, maintenance and provision of services for the Estate and/or the Communal Facilities and shall include (without prejudice to the generality of the foregoing):

- 6.4.1 the costs of and incidental to the performance of the Landlord's covenants contained in Clause 4.2 (*Insure*) and Clause 4.3 (*Provide Services*);
- 6.4.2 the costs of and incidental to compliance by the Landlord with every notice, regulation or order of any competent local or other authority in respect of the Estate and/or the Communal Facilities (which shall include compliance with all relevant statutory requirements);
- 6.4.3 all fees, charges and expenses payable to the Authorised Person, any solicitor, accountant, surveyor, valuer or architect that the Landlord may from time to time reasonably employ in connection with the management or maintenance of the Estate and/or the Communal Facilities including the calculation and collection of service charges and rents as the case may be (but excluding fees charges or expenses in connection with the effecting of any letting or sale of any premises) and including the cost of preparation of the account of the Service Charge and if any such work shall be undertaken by an employee of the Landlord then a reasonable allowance for the Landlord for such work;
- 6.4.4 any Outgoings assessed, charged, imposed or payable on or in respect of the whole or any part of the Estate or the Communal Facilities;
- 6.4.5 **[Only relates to CHP, amend if it is a CHP scheme]** *All costs expenses and demands incurred by the Landlord in the supply of gas central heating to the Premises and in the servicing and maintenance and repair of the central heating system or for any service or maintenance contracts in respect thereof;*
- 6.4.6 any administrative charges incurred by or on behalf of the Landlord including but not limited to:
  - (a) the grant of approvals under this Lease or applications for such approvals;
  - (b) the provision of information or documents by or on behalf of the Landlord;
  - (c) costs arising from non-payment of a sum due to the Landlord; and/or
  - (d) costs arising in connection with a breach (or alleged breach) of this Lease;



- 6.4.7 any other costs that the Landlord incurs in respect of any other service or amenity that the Landlord deems necessary (acting in accordance with the principles of good estate management) to provide for the benefit of tenants owners or occupiers of the Estate;
- 6.4.8 the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding the car parking space demised by this Lease and those parts of the Premises (if any) shown coloured blue on the attached plan;
- 6.4.9 [any sums paid or payable by the Landlord in connection with any matters contained mentioned or referred to in the Landlord's title to the Estate including but not limited to the sums paid or payable by the Landlord pursuant to the Main Transfer.]; and
- 6.4.10 any sums paid or payable by the Landlord in connection with the Wider Development and the reasonable costs charges and expenses incurred by the Landlord in connection with its obligations in relation to the Wider Development.

## **6.5 Adjustment to Annual Expenditure**

As soon as practicable after the end of each Account Year the Landlord shall determine and certify the amount by which the estimate referred to in Clause 6.3 (*How Calculated*) shall have exceeded or fallen short of the actual expenditure in the Account Year and shall supply the Leaseholder with a copy of the certificate and the Leaseholder shall be allowed (in that such sums shall not be returned to the Leaseholder but shall be allowed against future payments of the Service Charge) or (as the case may be) shall pay immediately following receipt of the certificate the Specified Proportion of the excess or the deficiency.

## **6.6 Landlord to Contribute to Reserve for Unlet Parts**

The Landlord will, for the period that any premises on the Estate are not let or sold on terms making the tenant or owner liable to pay a service charge corresponding to the Service Charge payable under this Lease provide in respect of all such premises a sum equal to the total that would be payable by such tenants or owners by way of contribution to the reserve referred to in Clause 6.3.2 and the said reserve shall be calculated accordingly.

## **6.7 Declaration re. Landlord and Tenant Act 1985**

The parties agree that that the provisions of sections 18 to 30B of the Landlord and Tenant Act 1985 and of Part V of the Landlord and Tenant Act 1987 all of which regulate service charges shall apply to the provisions of this Lease.

## **6.8 Variation of Specified Proportion**

The Landlord may from time to time at its discretion in the event of any circumstances which it reasonably regards to be relevant vary the Specified Proportion of the Service Provision payable by the Leaseholder in such a manner as the Landlord reasonably deems fair and appropriate upon giving to the Leaseholder written notice to that effect in which event the new Specified Proportion of Service Provision specified in such notice shall forthwith take effect in

substitution for the Specified Proportion specified in the Particulars (if any) or any previous substituted Specified Proportion notified to the Leaseholder pursuant to this provision.

## **7 Mortgage protection**

- 7.1 If a Mortgagee enforces its security in respect of the Loan then (subject to the other provisions of this Clause 7 (*Mortgage protection*)) the Mortgagee is entitled to deduct the amount of the Mortgagee Protection Claim from monies that would otherwise be paid to the Landlord as the price for the Final Staircasing. There is no obligation on a Mortgagee to accomplish Final Staircasing.
- 7.2 The deduction under Clause 7.1 is conditional upon the Mortgagee agreeing simultaneously with the deduction under Clause 7.1 that upon such deduction or, if later, promptly upon the Mortgagee recovering the whole of its Loss, the Mortgagee shall assign to the Landlord any guarantees, insurance policies and any other collateral security given to the Mortgagee or secured by the Mortgagee in respect of the Loan together with all other rights to enforce the same and all sums payable under them.
- 7.3 A claim may only be made to the extent:
- 7.3.1 the Mortgagee has made a Loss; and
  - 7.3.2 the Mortgagee has obtained the Landlord's consent to the terms of each and every Loan; and
  - 7.3.3 the disposal of the Leaseholder's interest in the Premises was made on an arm's length basis at the best price reasonably obtainable in the market at the time of sale. For the purpose of this Clause 7.3.3 the onus of proof is on the Landlord to show the sale was at an undervalue; and
  - 7.3.4 the Leaseholder has not, prior to any default occurring under the Loan, accomplished Final Staircasing.
- 7.4 When applying for the Landlord's consent under Clause 7.3.2 the Mortgagee must provide full details of the terms of the proposed Loan. The Landlord must respond promptly to any request for consent and give its decision within 28 days. If such consent is given it must be given in writing, and must be retained by the Mortgagee. In addition such consent shall be deemed to be given in the event that the Landlord receives any amounts advanced by the Mortgagee which are applied in protecting, preserving or enforcing its security over this Lease (including any amounts advanced by the Mortgagee and applied in discharging any arrears of rent and/or other sums payable under this Lease).
- 7.5 If the Landlord makes a payment to the Mortgagee or a deduction is made by the Mortgagee the Landlord shall be entitled to claim against the Leaseholder for any such amount together with interest on such sum calculated in accordance with the provisions of clause 3.2 (*Interest*)
- 7.6 The Leaseholder hereby authorises:

- 7.6.1 the Landlord to disclose to any Mortgagee of the Leaseholder from time to time personal information relating to the Leaseholder or to the provisions of this Lease (including details of any arrears of rent or other sums payable under this Lease); and
- 7.6.2 any Mortgagee from time to time of the Leaseholder to disclose to the Landlord such information as the Landlord may request regarding the Leaseholder and the Loan (including details of any arrears).

## **8 Stamp duty certificate as shared ownership**

For the purposes of paragraph 4 of schedule 9 of the Finance Act 2003 the Landlord and the Leaseholder confirm that the premium obtainable on the open market for the Premises (by reference to which the Premium is calculated) is the Initial Market Value and the minimum rent payable is the Minimum Rent and that the Leaseholder intends stamp duty land tax to be charged in accordance with the said paragraph 4 of schedule 9 by reference to the Initial Market Value and the Minimum Rent.] [For buyer's solicitor to delete or amend as applicable]

## **9 Notices**

For the purposes of Section 48 of the Landlord and Tenant Act 1987 the address at which any notices (including notices in any proceedings) may be served on the Landlord by the Leaseholder is (until the Leaseholder is notified to the contrary) as follows. A notice to be served under this Lease shall be served in writing and shall be properly served if served upon the Landlord at its registered office and/or upon the Leaseholder at the Premises and shall be deemed to have been made or delivered if left at such address or two days after being posted postage prepaid and by first class recorded delivery in an envelope addressed to them at such address.

## **10 Landlord and Tenant (Covenants) Act 1995 declaration**

For the purposes of the Landlord and Tenant (Covenants) Act 1995 the covenants on the part of the Landlord and on the part of the Leaseholder under this Lease are not personal covenants.

## **11 Value Added Tax**

Any obligation to pay money under this Lease refers to a sum exclusive of VAT and the amount of any VAT payable in addition (whether by the Landlord or by the Leaseholder) shall be paid by the Leaseholder to the Landlord.

## **12 Leasehold Reform Act 1967 Declaration**

Pursuant to paragraph 3(2)(g) of Schedule 4A to the Leasehold Reform Act 1967 the Landlord declares that in its opinion this Lease is excluded from the operation of Part 1 such Act.

## **13 Third Party Rights**

Save as expressly provided by this Lease 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.

**14 Validity Provision**

If (at any time during the term) any provision of this Lease is held by a court to be unenforceable or illegal then that provision (to such extent) shall be excluded from this Lease and the enforceability of the remaining provisions shall not be affected.

**15 Charity**

The land demised is held by (or in trust for) Aster Communities, which is an exempt charity.

**16 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.

**17 Jurisdiction**

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

**Delivered as a deed on the date of this document.**

### Schedule 1 - The Premises

- 1 Plot ▼, ▼ *[insert full postal address from the Index]* [(including ▼ parking space(s))] as shown edged red on the Lease Plan.
- 2 The Premises include:
  - 2.1 all buildings, erections and structures on the Premises from time to time;
  - 2.2 the Service Media within and exclusively serving the Premises; and
  - 2.3 appurtenances, fixtures, fittings and rights granted by this Leaseand improvements and additions made to, and fixtures, fittings and appurtenances in, the Premises.
- 3 The Premises excludes the airspace above the level of the roof of the house located on the Premises as at the date of this Lease.

## Schedule 2 - Easements, Rights and Privileges

- 1 The right (subject to the payment of a proper proportion of the cost of repair maintenance and renewal thereof) for the Leaseholder and all persons authorised by the Leaseholder (in common with all other persons entitled to the like right) at all times to use the Communal Facilities (but only for the purposes that they are designed for and excluding any parking spaces allocated or intended by the Landlord for sole use by any other party) for all purposes incidental to the Leaseholder's occupation and enjoyment of the Premises (but not further or otherwise).
- 2 The right (subject to the payment of a proper proportion of the cost of repair maintenance and renewal thereof) to pass and repass, at all times and for all lawful purposes, with or without vehicles (as appropriate) over and along the roads and accessways (if any) and on foot only over the footpaths (if any) comprised in the Communal Facilities for the purposes of access to and egress from the Premises [and the Parking Space (if any)].
- 3 The right to subjacent and lateral support and to shelter and protection from adjacent buildings and structures on the Estate.
- 4 The right for the eaves gutters and foundations of the Premises to protrude into or over any other adjoining plots on that part of the Estate.
- 5 The free and uninterrupted passage and running of water steam soil air gas electricity telephone and digital communications and other comparable services from and to the Premises through the Service Media which now are or may be at any time during the Term in under or passing through the Estate or any part of it so far as the Landlord is able to grant the same.
- 6 The right for the Leaseholder with or without workmen and others at all reasonable times on no less than 24 hours' prior written notice (or at any time in an emergency) to enter upon other parts of the Estate so far as the Landlord can grant the same for the purpose of:
  - 6.1 repairing cleansing maintaining or renewing the Service Media; or
  - 6.2 repairing maintaining renewing or rebuilding the Premises or any part of the Estate giving subjacent or lateral support shelter or protection to the Premisescausing as little disturbance as possible and making good any damage caused.
- 7 [The right subject to the relevant provisions of this Lease to park one private motor vehicle (that is at all times taxed insured and in a roadworthy condition) on each Parking Space (if any) in connection with the beneficial use and occupation of the Premises (but not further or otherwise).]
- 8 [The right to permit visitors to park private motor cars in any visitors' parking spaces within the Estate designated for such use by the Landlord from time to time on a first come first served basis provided that such private motor cars shall not be permitted to occupy the visitors' spaces for a continuous period of 24 hours without the Landlord's written consent.]

- 9 [The benefit of the rights set out in ▼ of the Main Transfer so far as those rights are capable of benefiting the Premises and are applicable and necessary in connection with the use and occupation of the Premises in accordance with the terms of this Lease (but not further or otherwise) and so far as the Landlord is able to grant the same.]/
- 10 [The benefit of those rights contained in the Landlord's title to the Estate to the extent that they are necessary in connection with the use and occupation of the Premises in accordance with the terms of this Lease (but not further or otherwise).]
- 11 [add x rights as applicable, e.g. A right of way (subject to the payment on demand to the owner or owners of the Shared Accessway from time to time of a fair proportion of the cost of repair maintenance and renewal of the Shared Accessway) for the Leaseholder and its successors in title and those authorised by it or them to pass with or without vehicles over and along [any part of the Shared Accessway serving the Premises and the Parking Space to the extent necessary]/[ only so much of the Shared Accessway serving the Premises (if any) as is necessary] for the purpose of gaining access to and egress from the Premises (but not further or otherwise).]]

PROVIDED ALWAYS that none of the rights specified in this Schedule shall apply to or be exercised over any electricity sub-station site or sites land or apparatus of any statutory undertakers or of British Telecom or of any other persons having similar rights included in the Estate.

### Schedule 3 - Exceptions and Reservations

There are excepted and reserved out of this Lease to the Landlord and (unless otherwise specified below) the lessees and owners of the other premises comprised in the Estate and all persons authorised by it or them and for the benefit of the Estate (excluding the Premises) and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the Term the following:

- 1 The right to subjacent and lateral support and to shelter and protection from the Premises.
- 2 The right for the eaves gutters and foundations of any other properties on the Estate to protrude into or over the Premises.
- 3 The free and uninterrupted passage and running of water, steam, soil, air, gas, electricity, telephone and digital communications and other comparable services from and to the Estate through the Service Media which now are or may at any time during the Term be in, under or passing through the Premises or any part of them.
- 4 The right for the Landlord with or without workmen (and equipment and materials) and others at all reasonable times on notice (or at any time in an emergency) to enter upon the Premises for the purpose of:
  - (a) viewing, inspecting, repairing, cleansing, maintaining, relaying, re-routing, replacing or renewing any Service Media; or
  - (b) repairing, maintaining, renewing or rebuilding any part of the Estate; or
  - (c) inspecting cleansing laying maintaining repairing and renewing any building walls fences or other boundary structures on the Estate and any landscaping required by the local authority

causing as little disturbance as possible and making good any damage caused to the Premises.

- 5 The right for the Landlord with or without workmen and others at all reasonable times on notice (or at any time in an emergency) to enter the Premises for the purposes of carrying out its obligations under this Lease or for any other purpose mentioned in or connected with this Lease.
- 6 Any easement or right of light or air which may restrict or interfere with the free use of any neighbouring or adjoining land belonging to the Landlord or its successors in title or assigns for building or other purposes.
- 7 (For the Landlord only or as authorised by it) at any time during the Term to install lay connect to and/or use inspect maintain renew repair or alter any Service Media drains sewers services or other conducting media or apparatus as the Landlord shall consider necessary in on or under the Premises or part thereof whereon for the time being there shall not be any buildings with power to enter the Premises for all the said purposes and any rights of entry required by the Landlord to effect any works in connection with the fulfilment of any conditions or obligations relating to the development of the Estate or other land (all rights of entry herein reserved being inclusive of the right to erect maintain and use scaffolding on the Premises for the erection of buildings providing such right shall not substantially interfere with the



occupation and use of the Premises) the person exercising such rights causing as little damage and disturbance as possible and forthwith making good all damage caused by the exercise of such rights to the Premises.

- 8 All such rights as may be required by any drainage services, electricity boards and other statutory or public authorities and undertakings in connection with services usually provided by them in connection with any sewers drains services and other conducting media and apparatus and the right of the Landlord to grant to such authorities during the Term all easements wayleaves licences rights and privileges needed in connection with the services usually provided or maintained by them.
- 9 The right for the Landlord at any time upon reasonable notice to temporarily suspend or revoke the Parking Space (if any) which the Leaseholder has been granted rights to use by this Lease for the purpose of repair to any part of the Estate or for any reasonable other purpose together with the right to reallocate any or all of the parking spaces previously allocated to the Premises.
- 10 The right to re-route and replace any Service Media on the Estate over which the Leaseholder is granted rights by this Lease.
- 11 All rights covenants and restrictions affecting the Premises and such rights exceptions and reservations as are contained or referred to in the Registers of the Landlord's title to the Estate so far as these rights are subsisting and capable of affecting the Premises.
- 12 The right for the Landlord and the owners or occupiers of any other part of the Estate and those authorised by them to use at all times that part of the Premises (if any) laid out as footpaths or drives or accessways [and shown ▼ on the Lease Plan] including any Shared Accessway, insofar as their use is necessary for the purpose of pedestrian or vehicular access to and from any premises or to and from any parking space comprised in the Estate but not further or otherwise.

## Schedule 4 - Rent Review

### 1 Definitions

In this Schedule 4 (*Rent Review*):

"**A**" means the monthly figure shown in the Index published for the Relevant Month in the year of the immediately preceding Relevant Review Date or (if none) in the year of the date of the Commencement Date.

"**B**" means the monthly figure shown in the edition of the Index for the Relevant Month in the year of the Relevant Review Date.

"**Index**" means the all items retail prices index published by the Office for National Statistics.

"**Relevant Month**" means the September which is at least two clear calendar months and no more than 14 clear calendar months before the Relevant Review Date.

### 2 Gross Rent review

With effect from each Review Date the Gross Rent for the purposes of this Lease shall be the reviewed Gross Rent (as agreed or determined in accordance with this Schedule 4 (*Rent Review*)).

### 3 Upwards only rent review

3.1 The reviewed Gross Rent is to be the greater of:

3.1.1 the Gross Rent under this Lease immediately preceding the Relevant Review Date x 1.005; and

3.1.2 (the Gross Rent under this Lease immediately preceding the Relevant Review Date x  $(\frac{B}{A}) + 0.005$ ).

3.2 If the Index is re-based after A is published, but before B is published, then an appropriate adjustment shall be made in the calculation to ensure that both B and A are calculated on the same basis.

3.3 If the Index ceases to be published then there shall be substituted in the calculation in paragraph 3.1.2 such other index as the Landlord shall (acting reasonably) determine as being a generally respected measure of the general increase in retail prices.

3.4 If, because of any change after the date of this Lease in the method used to compile the Index or for any other reason it becomes impossible or impracticable to calculate fairly the fraction referred to in paragraph 3.1.2 by reference to the Index, or if any dispute or question arises between the parties to this Lease with respect to any such calculation pursuant to paragraph 3.1.2 or with respect to the construction or effect of this provision, then such dispute or question shall (if it is not resolved within 3 months

of the Relevant Review Date) be referred to an independent expert pursuant to Clause 5.8 (*Expert determination*).

4 Specified Rent Review

With effect from each Review Date the Specified Rent reserved under this Lease shall be reviewed to an amount equal to the Unacquired Percentage of the Gross Rent as at that Review Date as agreed or determined in accordance with the terms of this Schedule.

5 Time

Whilst the parties are encouraged to act promptly and reasonably in order to resolve disputes as soon as possible, in agreeing or determining the reviewed Gross Rent, the reviewed Specified Rent or in appointing an expert, no rights or obligations are extinguished by the passage of time.

6 Rental Adjustments

6.1 If the reviewed Specified Rent payable from a Review Date is not agreed or determined in accordance with the provisions of this Schedule 4 before the Relevant Review Date, then until the reviewed Specified Rent has been so agreed or determined, the Leaseholder will continue to pay on account Specified Rent at the rate payable immediately before the Relevant Review Date.

6.2 Within 14 days after the time that the reviewed Specified Rent has been agreed or determined the Leaseholder will pay to the Landlord all arrears of the reviewed Specified Rent which have accrued in the meantime, with interest equal to the base rate of **Barclays Bank PLC** on each of the instalments of the arrears from the time that it would have become due if the reviewed rent had then been agreed or determined until payment becomes due from the Leaseholder to the Landlord under this paragraph 6.2.

7 Notice of Review

Immediately following each Review Date the Landlord shall serve written notice on the Leaseholder, substantially in the form set out in Appendix 2 specifying the amount of the reviewed Gross Rent and the amount of the Specified Rent then payable.

## **Schedule 5 - Staircasing**

### **Part 1 Staircasing Provisions**

1

- 1.1 At any time or times during the Term the Leaseholder may serve notice in writing on the Landlord stating the Portioned Percentage he proposes to acquire. The provisions of this Schedule 5 (*Staircasing*) shall also be exercisable by any mortgagee of the Leaseholder of whom the Landlord has received proper notice pursuant to Clause 3.21 (*Register disposals*).
- 1.2 The Landlord shall apply to the Valuer to determine the Market Value as at the date of service of the Leaseholder's notice served pursuant to paragraph 1.1 (upon which the price of acquisition will be based) within 14 days of receipt of the Leaseholder's notice (or, if later, within 14 days of the Valuer's appointment) and shall notify the Leaseholder of the amount of the Valuer's determination in writing within 7 days of receipt of the said determination.
- 1.3 At any time within 3 months of the Valuer's determination the Leaseholder may pay for a Portioned Percentage in accordance with the provisions of paragraph 1.4.
- 1.4 The Leaseholder may pay for a Portioned Percentage by paying to the Landlord a sum equal to that Portioned Percentage of Market Value (as agreed or determined under this Schedule 5 (*Staircasing*)) plus any unpaid sums under paragraph 1.5 and as from the date of such payment (a) the Portioned Percentage so acquired shall form part of the Acquired Percentage and (b) the Specified Rent payable under this Lease shall be a sum equal to the Unacquired Percentage of the Gross Rent.
- 1.5 On completion of the payment for a Portioned Percentage in addition to the sum or the price payable for the Portioned Percentage the Leaseholder shall pay any arrears of rent and any other sums due to the Landlord under this Lease including any unpaid costs under paragraph 2. The Landlord and the Leaseholder shall, save as provided in paragraph 2 pay their own costs and expenses in connection with such payment or purchase.
- 1.6 Whenever the Leaseholder completes the payment for a Portioned Percentage the Landlord and the Leaseholder shall forthwith execute and deliver to the other (to be attached to the original and counterpart of this Lease) a memorandum substantially in the form set out in Appendix 1 specifying the Portioned Percentage paid for and the Specified Rent then payable.
- 1.7 If the provisions of this Schedule 5 (*Staircasing*) are exercised by any mortgagee under paragraph 1.1 then provided that the Premises are being sold by the mortgagee on an arm's length basis at the best price reasonably obtainable at the time of sale:

- 1.7.1 the Market Value shall be deemed to be the price at which the Premises are being sold by the mortgagee on the assumption that the Unacquired Percentage is nil;
- 1.7.2 the relevant Portioned Percentage shall be calculated on the basis of that deemed Market Value; and
- 1.7.3 if so requested by the mortgagee, the Landlord shall co-operate with the mortgagee to ensure that there occurs simultaneously (A) the payment to the Landlord of the relevant Portioned Percentage under paragraph 1.4, (B) delivery by the Landlord to the mortgagee of the memorandum under paragraph 1.6, and (C) completion of the sale of the Premises by the mortgagee.

2

- 2.1 At any time the Leaseholder shall have the right on giving notice to the Landlord to acquire the freehold of the Premises for no charge and otherwise by a transfer/conveyance in the form set out in Schedule 5, Part 2 (*Draft Freehold Transfer/Conveyance*) provided that such notice shall not take effect (i) before the Acquired Percentage has become 100% and (ii) until all sums payable to the Landlord pursuant to paragraph 1 have been paid.
  - 2.2 The freehold of the Premises shall be transferred by the Landlord to the Leaseholder as soon as practicable following the date of the Leaseholder's notice served pursuant to paragraph 2.1. For the purposes of the transfer of the freehold to the Leaseholder the Landlord shall supply to the Leaseholder copies of the subsisting entries in the register of its title and of the title plan and of any document referred to, but not set out, in the registers of title.
- 3 The costs of any determination by the Valuer pursuant to the provisions of this Schedule 5 (*Staircasing*) shall be paid by the Leaseholder to the Landlord on demand.
- 4 The parties agree that the decision of the Valuer shall be final and binding on the parties to this Lease.

Part 2 - Draft Freehold Transfer/Conveyance

Land Registry  
Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

1	Title number(s) out of which the property is transferred: ▼
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any: ▼
3	Property: ▼ The property is identified  <input checked="" type="checkbox"/> on the attached plan and shown: edged red and being all that land registered at the Land Registry with title number ▼.  <input type="checkbox"/> on the title plan(s) of the above titles and shown:
4	Date:
5	Transferor: <b>Aster Communities</b>  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <b>Registered Society No. 31530R</b>  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:
6	Transferee for entry in the register: ▼  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:  <u>For overseas companies</u> (a) Territory of incorporation:

(b) Registered number in the United Kingdom including any prefix:	
7	<p>Transferee's intended address(es) for service for entry in the register:</p> <p>▼</p>
8	The transferor transfers the property to the transferee
9	<p>Consideration</p> <p><input type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures):</p> <p>X <input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input type="checkbox"/> Insert other receipt as appropriate:</p>
10	<p>The transferor transfers with</p> <p><input checked="" type="checkbox"/> full title guarantee</p> <p><input type="checkbox"/> limited title guarantee</p> <p>10.1 The Transferor will transfer the Property with full title guarantee as modified in accordance with this Clause:</p> <p>10.2 The covenant implied by section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 is varied by the deletion of the words 'at his own cost' and the substitution of the words 'at the cost of the person requiring compliance with this covenant'</p> <p>10.3 The covenant implied by section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to any charge encumbrance or rights created before the date of this Transfer and shall be modified by the deletion of the words "and could not reasonably be expected to"</p>
11	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>
12	<p>Additional provisions</p> <p>12.1 Definitions</p>

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

**"Account Year"** means a year ending on 31st March.

**"Authorised Person"** means the individual nominated by the Transferor to estimate expenditure in accordance with Clause 12.7.

**"Communal Facilities"** means (and in each case, if any) party walls, fences, gutters, drains, roadways, pavements, entrance ways, staircases, lavatories, accessways, passages, lifts, escalators, turntables, courtyards, external pavements, car parks and service or loading areas, service roads and other such amenities within the Estate which are or may be used or enjoyed by an occupier of the Property in common with any other person or persons.

**"Estate"** means all the land and buildings now or formerly registered at the Land Registry under title number ▼.

**"Estate Rentcharge"** means the Fixed Rentcharge and the Variable Rentcharge.

**"Fixed Rentcharge"** means a fixed rent charge of one pound (£1) per annum to be forever charged upon and issuing out of the Property.

**"Main Transfer"** means the transfer of property including the Property dated ▼ and made between ▼ and ▼.

**"Outgoings"** means all existing and future rates, taxes, charges, assessments, impositions and outgoings whatsoever (whether parliamentary or local) which are now or may at any time be payable, charged or assessed on property, or the owner or occupier of property.

**"Parking Space"** None/ ▼ The parking space[s] shown edged blue on the **Plan** or such other space[s] as the Transferor shall from time to time allocate to the Property.

**"Plan"** means the plan attached to this Transfer.

**"Property"** means the property described in Panel 3 of this Transfer.

**"Service Media"** means all drains, channels, sewers, pipes, wires, cables, conduits, flues, aerials, mains electrical risers, tanks, watercourses, gutters, gullies, shafts, soakaways, ventilating ducts, cisterns, radiators, solar panels and associated apparatus and other conducting media and any structures incident to the user thereof (and all apparatus for the supply of water, gas, electricity, telephone or television signals) which now are or may at any time hereafter be constructed.

**"Service Provision"** means the sum calculated in accordance with Clauses 12.7.4 and 12.7.5 and 12.7.6.

**"Shared Accessway"** [means the [private roadway] [footpath] [driveway] forming part of the Estate and which is shown [hatched blue] on the Plan]/[ means those paths (if any) on the Estate and/or forming part of the Property and/or forming part of other properties on the Estate intended for pedestrian use only].

**"Specified Proportion"** means a fair and proper proportion to be conclusively determined from time to time by the Transferor (who shall act reasonably).

**"Transferee"** means the transferee as described in Panel 6 of this Transfer and where the context so admits includes his/her/their successors in title.



**"Transferor"** means the transferor as described in Panel 5 of this Transfer and where the context so admits includes its successors in title.

**"Variable Rentcharge"** means the Specified Proportion of the Service Provision to be calculated and paid in accordance with clause 12.7 of this Transfer.

**"VAT"** means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

**"Wider Development"** means the development in which the Estate and the Property are located and which is now or was formerly registered with title number ▼..

12.1.2 Any obligation on a party to this Transfer to do any act includes an obligation to procure that it is done.

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

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

12.1.5 The Clause and paragraph headings in this Transfer are for ease of reference only and are not to be taken into account in the interpretation of any provision to which they refer.

12.1.6 Unless the contrary intention appears, references to numbered Clauses and Panels are references to the relevant Clause or Panel in this Transfer.

12.1.7 Words in this Transfer denoting the singular include the plural meaning and vice versa.

12.1.8 References in this Transfer 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.

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

12.1.10 Rights and easements granted to the Transferee are (unless otherwise stated) granted in common with the Transferor and all others having similar rights.

12.1.11 Rights excepted and reserved to the Transferor are (unless otherwise stated) excepted and reserved also in favour of the owner or owners for the time being of the Estate and any part or parts thereof capable of being benefited (excluding the Property) and all persons authorised by it or them and where appropriate, all relevant highways and planning authorities water and sewerage undertakers and companies or other bodies

responsible for the supply of gas electricity telecommunications and other services and all other persons having the like or similar right.

12.1.12 The parties to this Transfer agree that any reference to any right exercisable by the Transferor shall be construed as including (where appropriate) the exercise of such right upon the same terms by a duly appointed management company and/or its agents and all persons authorised by any such duly appointed management company.

12.1.13 The parties to this Transfer agree that any obligation of the Transferor under this Transfer may be performed by the Transferor procuring performance of it by a duly appointed management company.

12.1.14 The Property shall not, by virtue of this Transfer, have any rights or easements or the benefit of any other matters over land retained by the Transferor other than those (if any) which are expressly mentioned in or granted by this transfer and section 62 of the Law of Property Act 1925 is qualified so as not to include any liberties, privileges, easements, rights or advantages over land retained by the Transferor except as expressly mentioned in or created by this Transfer.

12.1.15 Where the Transferee is more than one person, unless otherwise expressly provided in this deed, they shall be jointly and severally liable for their respective obligations arising under this deed. The Transferor may take action against, or release or compromise the liability of, any one of those persons or grant time or other indulgence to any one of them without affecting the liability of any other of them.

## 12.2 Rights granted for the benefit of the property

The Transferor grants to the Transferee for the benefit of the Property:

12.2.1 The right (subject to the payment of a proper proportion of the cost of repair maintenance and renewal thereof) for the Transferee and all persons authorised by the Transferee (in common with all other persons entitled to the like right) at all times to use the Communal Facilities (but only for the purposes that they are designed for and excluding any parking spaces allocated or intended by the Transferor for sole use by any other party) for all purposes incidental to the Transferee's occupation and enjoyment of the Property (but not further or otherwise).

12.2.2 The right (subject to the payment of a proper proportion of the cost of repair maintenance and renewal thereof) to pass and repass, at all times and for all lawful purposes, with or without vehicles (as appropriate) over and along the roads and accessways comprised in the Communal Facilities and on foot only over the footpaths (if any) for the purposes of access to and egress from the Property [and the Parking Space (if any)].

12.2.3 The right to subjacent and lateral support and to shelter and protection from adjacent buildings and structures on the Estate.

12.2.4 The right for the eaves gutters and foundations of the Property to protrude into or over any other adjoining plots on that part of the Estate.

12.2.5 The right (subject to the payment of a proper proportion of the cost of repair maintenance and renewal thereof) to the free and uninterrupted passage and running of water steam soil air gas electricity telephone and digital communications and other comparable services from and to the Property through the Service Media which now are or may at any time after the date of this Transfer be in under or passing through the Estate or any part of it so far as the Transferor is able to grant the same right.

12.2.6 The right for the Transferee with workmen and others at all reasonable times on no less than 24 hours' prior written notice (or at any time in an emergency) to enter upon other parts of the Estate so far as the Transferor can grant the same for the purpose of:

12.2.6.1 repairing cleansing maintaining or renewing the Service Media; or

12.2.6.2 repairing maintaining renewing or rebuilding the Property or any part of the Estate giving subjacent or lateral support shelter or protection to the Property

causing as little disturbance as possible and making good any damage caused.

12.2.7 [The right subject to the relevant provisions of this Transfer to park one private motor vehicle [(that is at all times taxed insured and in a roadworthy condition)] on each Parking Space (if any) in connection with the beneficial use and occupation of the Property (but not further or otherwise).]

12.2.8 [The right to permit visitors to park private motor cars in any visitors' parking spaces within the Estate designated for such use by the Transferor from time to time on a first come first served basis provided that such private motor cars shall not be permitted to occupy the visitors' spaces for a continuous period of 24 hours without the Transferor's written consent.]

12.2.9 [The benefit of the rights set out in ▼ of the Main Transfer so far as those rights are capable of benefiting the Property and are applicable and necessary in connection with the use and occupation of the Property in accordance with the terms of this Transfer (but not further or otherwise) and so far as the Transferor is able to grant the same.]/[The benefit of those rights contained in the Transferor's title to the Estate to the extent that they are necessary in connection with the use and occupation of the Property in accordance with the terms of this Transfer (but not further or otherwise).]

12.2.10 [add x rights as applicable, e.g. A right of way (subject to the payment on demand to the owner or owners of the Shared Accessway from time to time of a fair proportion of the cost of repair maintenance and renewal of the Shared Accessway) for the Transferee and its successors in title and those authorised by it or them to pass with or without vehicles over and along [any part of the Shared Accessway serving the Property and the Parking Space to the extent necessary]/[ only so much of the Shared Accessway serving the Property (if any) as is necessary] for the purpose of gaining access to and egress from the Property (but not further or otherwise).]]

PROVIDED ALWAYS that none of the rights specified in this Clause shall apply to or be exercised over any electricity sub-station site or sites land or apparatus of any statutory undertakers or of British Telecom or of any other persons having similar rights included in the Estate.

Rights reserved for the benefit of other land

12.3 The Transferor excepts and reserves out of the Property for the benefit of the Estate

(excluding the Property) and to the extent possible for the benefit of any neighbouring or adjoining property in which the Transferor acquires an interest after the date of this Transfer the following:

12.3.1 The right to subjacent and lateral support and to shelter and protection from the Property.

12.3.2 The right for the eaves gutters and foundations of any other properties on the Estate to protrude into or over the Property.

12.3.3 The free and uninterrupted passage and running of water, steam, soil, air, gas, electricity, telephone and digital communications and other comparable services from and to the Estate through the Service Media which now are or may at any time after the date of this Transfer be in, under or passing through the Property or any part of them.

12.3.4 The right with or without workmen (and equipment and materials) and others at all reasonable times on notice (or at any time in an emergency) to enter upon the Property for the purpose of:

12.3.4.1 viewing, inspecting, repairing, cleansing, maintaining, relaying, re-routing, replacing or renewing any Service Media; or

12.3.4.2 repairing, maintaining, renewing or rebuilding any part of the Estate; or

12.3.4.3 inspecting cleansing laying maintaining repairing and renewing any building walls fences or other boundary structures on the Estate and any landscaping required by the local authority;

causing as little disturbance as possible and making good any damage caused to the Property.

12.3.5 The right for the Transferor with or without workmen and others at all reasonable times on notice (or at any time in an emergency) to enter the Property for the purposes of carrying out its obligations under this Transfer or under any other transfer, lease or deed of covenant or for any other purpose mentioned in or connected with this Transfer.

12.3.6 Any easement or right of light or air which may restrict or interfere with the free use of any neighbouring or adjoining land belonging to the Transferor or its successors in title or assigns for building or other purposes.

12.3.7 (For the Transferor only or as authorised by it) at any time after the date of this Transfer to install lay connect to and/or use inspect maintain renew repair or alter any Service Media drains sewers services or other conducting media or apparatus as the Transferor shall consider necessary in on or under the Property or part thereof whereon for the time being there shall not be any buildings with power to enter the Property for all the said purposes and any rights of entry required by the Transferor to effect any works in connection with the fulfilment of any conditions or obligations relating to the development of the Estate (excluding the Property) or other land (all rights of entry herein reserved being inclusive of the right to erect maintain and use scaffolding on the Property for the erection of buildings providing such right shall not substantially interfere with the occupation and use of the Property) the person exercising such rights causing as little damage and disturbance as possible and forthwith making good all damage caused by the exercise of such rights to the Property.

12.3.8 All such rights as may be required by any drainage services, electricity boards and other statutory or public authorities and undertakings in connection with services usually provided by them in connection with any sewers drains services and other conducting media and apparatus and the right of the Transferor to grant to such authorities at any time

after the date of this Transfer all easements wayleaves licences rights and privileges needed in connection with the services usually provided or maintained by them.

12.3.9 The right for the Transferor at any time upon reasonable notice to temporarily suspend or revoke the Parking Space (if any) which the Transferee has been granted rights to use by this Transfer for the purpose of repair to any part of the Estate or for any reasonable other purpose together with the right to reallocate any or all of the parking spaces previously allocated to the Property.

12.3.10 The right to re-route and replace any Service Media on the Estate over which the Transferee is granted rights by this Transfer.

12.3.11 All rights covenants and restrictions affecting the Property and such rights exceptions and reservations as are contained or referred to in the Registers of the Transferor's title to the Estate so far as such rights covenants and restrictions are subsisting and capable of affecting the Property.

12.3.12 [The right for the Transferor and the owners or occupiers of any other part of the Estate and those authorised by them to use that part of the Property (if any) laid out as footpaths or drives or accessways and shown ▼ on the Plan including any Shared Accessway insofar as their use is necessary for the purpose of pedestrian or vehicular access to and from any premises or to and from any parking space comprised in the Estate but not further or otherwise.]

#### 12.4 Restrictive covenants by the transferee

The Transferee covenants with the Transferor, for the benefit of the Estate (excluding the Property) and each and every part of it and every other person owning land forming part of the Estate, with the intention of binding the Property and each and every part of it that the Transferee shall not:

12.4.1 Use the Property or permit the same to be used for any purpose whatsoever other than as a private residence in the occupation of a single household only nor carry on any trade or business at the Property;

12.4.2 Cause, permit or suffer anything to happen or occur in the Property or on the Estate which shall or may cause a nuisance, annoyance, inconvenience or disturbance to owners, lessees or occupiers of other dwellings on the Estate or to the occupiers, owners or lessees of adjoining or neighbouring property (whether within the Estate the Wider Development or otherwise) or which may tend to lessen or depreciate the value of the Property or the Estate or other property in the neighbourhood;

12.4.3 Use or permit or suffer the Property to be used for illegal or unlawful or immoral purposes nor to commit or allow members of the Transferee's household or invitees to commit any form of intimidation or harassment including any harassment on the grounds of race colour religion sex sexual orientation or disability;

12.4.4 Do or permit or suffer to be done any act or thing which may render void or voidable or which may invalidate, revoke or result in the cancellation of any policy of insurance covering any part of the Estate or may cause an increased premium to be payable in respect of such insurance;

12.4.5 Do or permit to be done anything which may cause an obstruction to the use of the

roads or accessways on the Estate or to any of the Communal Facilities [or to the Shared Accessway];

12.4.6 Park at any time on any part of the Estate (including the Property) any caravan, boat, commercial vehicle (save as specified below), trailer or untaxed or dilapidated vehicle;

12.4.7 Abandon any car, motorbike, van or other vehicle on the Estate;

12.4.8 Park at any time or suffer or permit to be parked:

12.4.8.1 on any part of the Property or on any Parking Space any vehicle other than a private motor car or motor cycle which is in a good and or roadworthy condition and which is taxed and insured and which has an MOT certificate if required and which is in the regular use of the Transferee or other occupier of the Property without the prior written consent of the Transferor,

12.4.8.2 any motor vehicle on parking spaces allocated from time to time for the use of visitors to the Estate the same being intended for use by visitors only other than in accordance with the terms of Paragraph 12.2 of this Transfer,

12.4.8.3 motor vehicles on any part of the Estate other than an appropriately constructed hardstanding designated by the Transferor for the parking of motor vehicles and which is a Parking Space or is a parking space which forms part of the Property,

12.4.8.4 any commercial vehicle at any time on any part of the Estate except for temporary use for the purposes of furniture removals or delivery to and from the Property,

12.4.10 At any time to erect or place any structure on any part of the Estate;

12.4.11 Overload the Property nor place or suspend or permit to be placed or suspended any excessive weight on or from the floors, ceilings or walls of the Property or set up upon the Property any machinery, engine or other apparatus other than the usual domestic appliances;

12.4.12 Erect any shed, outhouse, wireless or television aerials or satellite receiver or similar apparatus, advertisement board or hoarding or any other structure of any kind on the Property without the prior written consent of the Transferor (to be given or withheld at the Transferor's absolute discretion) and, where required, to obtain any consents or permissions required by (including but not limited to) any public or statutory authority and the beneficiary for the time being of any restriction relating to the erection of such apparatus as may be contained or referred to in the Transferor's registered title to the Estate [and subject always to the terms of the Main Transfer];

12.4.13 Place or keep dustbins or refuse bags or any other such thing outside any buildings on the Property or place or keep the same on the Estate except on such days as are recognised as refuse collection days and the Transferee shall take such steps as may from

time to time be required by the relevant authorities to facilitate collection of rubbish by the said authorities on the said recognised refuse collection days;

12.4.14 Keep or store any dirt, rubbish or other refuse or permit or suffer the same to be kept on the Property save in an appropriate refuse receptacle and in the spaces designated by the Transferor from time to time for the deposit of such rubbish and refuse;

12.4.15 Damage or remove any tree or shrub which may have been planted or retained on any part of the estate in which the Property is located;

12.4.16 Interfere with damage or remove any street furniture or fittings and fitments ancillary thereto which may be placed on in or attached to the Estate;

12.4.17 Place or fix outside the windows of the Property any sunblinds, window boxes, flower pots or other articles without the prior written consent of the Transferor and shall not put or hang or permit to be hung any washing clothing or other articles on any part of the Property other than in any back garden of the Property on a rotary line or in any other location within the Property designated for such purpose by the Transferor;

12.4.18 Place any "For Sale" or "To Let" sign on the Property without the Transferor's prior written consent nor put on or in any window on the exterior of the Property so as to be visible from the outside of the Property any name, writing, drawing, signboard, plate or placard of any kind.

12.4.19 Store trade or business materials or produce in the Property;

12.4.20 Obstruct the access of light or air to any building adjoining the Property by erecting or altering any building or other structure on the Property;

12.4.21 Do or permit to be done anything which may cause obstruction in any of the pipes or drains or other Service Media nor throw dirt, rubbish or other refuse or permit or suffer the same to be thrown into the sinks, baths, lavatories, cisterns or waste or soil pipes in or attached to the Property except via a waste disposal unit fitted for such purpose;

12.4.22 Bring or keep any inflammable, explosive, dangerous, noxious or offensive substances or goods onto the Property or the Estate (except fuel in the fuel tank of any private motor vehicle parked on the Parking Space or the Property in accordance with the terms of this Transfer).

12.4.23 Play or use any musical instrument, television, radio, loudspeaker or mechanical or other noise-making instrument or machine (including motorcycle or motor-vehicle noise) or equipment for making or reproducing sound of any kind nor sing or dance in the Property nor to act in such a manner so as to cause annoyance to the owners or occupiers of any neighbouring premises or premises on the Estate or so as to be audible outside the Property between the hours of 11.00pm and 7.30am.

12.4.24 Erect or permit to be erected on the Property in front of the prescribed building line any fence or wall or any other structure or permit and plant to grow in excess of one metre in height any shrub, tree, plant, hedge or bush PROVIDED ALWAYS that no such wall,

fence or other structure shall be erected if prohibited by planning conditions or other restrictions relating to the Property and PROVIDED FURTHER that no items whatsoever shall be grown, planted or erected on any piece of land at the front of the Property which is not intended to be cultivated nor so as to impede access by the statutory undertakers to all pipes, wires, drains, cable and other conducting media laid thereunder; or

12.4.25 Plant any tree over or within the protected zone around any Service Media;

12.4.26 Dig or cultivate deeper than 50cm beneath the surface of the garden over or within the protected zone of any Service Media located beneath the garden of the Property;

12.4.27 Use or permit or suffer to be used any parts of the Communal Facilities and/or the Estate consisting of open space and/or amenity or play areas except for recreational purposes and in accordance with regulations made by the Transferor from time to time relating to the user of such areas;

12.4.28 Alter or extend the electrical installation or wiring and any gas installation and piping in the Property;

12.4.29 Use any apparatus which overloads the electrical installation in the Property and the Transferee shall ensure that the electrical installation and any gas installation is maintained in a safe condition;

12.4.30 Commit any breach of planning control and the Transferee shall comply with all requirements under any planning legislation which affects the Property;

12.4.31 Make any application for planning permission affecting the Property nor implement any such permission without the Transferor's prior written consent;

12.4.32 Make any alterations or additions to the exterior of the Property or any structural alterations or additions to the interior of the Property nor erect any new buildings thereon nor in any way interfere with the outside of the Property without the prior written consent of the Transferor.

12.4.33 Keep any animal or bird on the Property other than a reasonable number of common household domestic pets and not to breed such domestic pets on the Property.

12.4.34 Do anything which would be a breach of the covenants on the part of the Transferee (as defined in the Main Transfer) contained in the Main Transfer.

12.4.35 Obstruct or otherwise prevent or restrict the Transferor or the owners or occupiers of other dwellings on the Estate at any time from entering upon the Shared Accessway.

## 12.5 Positive covenants by the Transferee

The Transferee covenants with the Transferor, for the benefit of the Estate (excluding the Property) and each and every part of it, with the intention of binding the Property and each and every part of it that the Transferee shall:



- 12.5.1 To observe and perform at all times all statutes and the requirements or directions of any government department, local authority or other competent authority (including but not limited to the covenants, conditions, exceptions, reservations, declarations, agreements and stipulations and all other matters contained or referred to in any planning permission or in any planning agreement) so far as the same relate to the Property or its use and occupation and shall indemnify the Transferor against all losses, costs, damages, proceedings and claims arising as a result of any breach or non observance of this clause;
- 12.5.2 Keep the windows of the Property properly cleaned and at least once in every month, be responsible for, and bear the full cost of, cleaning the windows of the Property both internally and externally;
- 12.5.3 Keep any Parking Space or any designated parking areas within the Property (if any) clean and free from all rubbish and not to dispose of any substance down gullies and drains or use the designated parking areas (if any) to carry out motor vehicle repairs;
- 12.5.4 Observe and perform any reasonable regulations imposed by the Transferor from time to time for the management of the Estate and/or the use of the Property and shall co-operate at all times with the Transferor and all others interested in the Estate in all measures reasonably necessary for repairing maintaining or upholding the Estate to high standards of appearance and amenity;
- 12.5.5 At all times hereafter maintain the fences or boundary walls at the Property where marked 'T' (if any) on the Plan and not to alter or reposition or construct any fences whether on or within the boundaries of the Property;
- 12.5.6 Repair and keep the Property in good and substantial repair and condition except that the Transferee shall not be obliged to maintain the surface of the car parking space(s) transferred by this Transfer nor those parts of the Premises (if any) shown coloured blue on the plan;
- 12.5.7 Keep the garden (if any) forming part of the Property properly tended and in a clean and tidy condition, free from weeds and where necessary to replace existing shrubs;
- 12.5.8 As often as is reasonably necessary and at the reasonable request of the Transferor in a proper and workmanlike manner (and in colours approved by the Transferor) to paint, treat and generally decorate in a style appropriate to property of a like character all the outside of the Property previously or usually so painted, treated and decorated;
- 12.5.9 Notify the Transferor as soon as reasonably practicable and in any event within 24 hours of any outbreak of fire in the Communal Facilities and/or the Estate or other event likely to lead to a claim on the Transferor's insurance relating to the Communal Facilities and/or the Estate providing that the Transferee is aware of such an outbreak of fire or any other event likely to lead to a claim;
- 12.5.10 Enter in to any agreement deed or other arrangement (including but not limited to adoption agreements and deeds of easement) as may be required by the Transferor for the grant of any easement or any other right exception reservation or other matter in favour of any local authority, statutory authority or utility provider relating to any services provided or to be provided to the Property or any part of the Estate without payment of any consideration;

- 12.5.11 Pay all costs in connection with the supply and removal of gas electricity water sewage data telecommunications and other services and utilities to or from the Property together with all connection and standing charges and shall comply at the Transferee's expense with all relevant legislation and with all requirements of the relevant suppliers relating the use of those services, utilities and the Service Media at or serving the Property;
- 12.5.12 Pay Outgoings in relation to the Property or any part of the Property and shall refund the Transferor on demand (where Outgoings relate to the whole or part of property which includes the Property) a fair and proper proportion of the Outgoings attributable to the Property, such proportion to be conclusively determined by the Transferor (who shall act reasonably);
- 12.5.13 At all reasonable times on notice (or at any time in an emergency) to permit the Transferor and adjoining or neighbouring occupiers with workmen and others to enter the Property for the purpose of repairing any adjoining or neighbouring property and for the purpose of repairing maintaining and replacing all Service Media party structures or other conveniences belonging to or serving the same the party so entering making good any damage thereby caused;
- 12.5.14 Ensure that any pet or other animal bird or reptile kept in the Property is kept under control at all times and not to allow such pet or other animal bird or reptile to cause nuisance, annoyance, harm or damage to the Transferor or to the owners lessees or occupiers of premises in the neighbourhood or visitors to such premises or to the Communal Facilities or to the Estate;
- 12.5.15 Observe and perform the covenants and stipulations on the part of the transferee under the Main Transfer insofar as they affect the Property and its use and occupation as permitted by this Transfer including but not limited to observing and performing any Estate Regulations and procuring that any occupiers of the Premises and any visitors to the Premises observe and perform any Estate Regulations [define Estate Regulations];
- 12.5.16 Pay on demand to the owner or owners of the Shared Accessway from time to time a fair and proper proportion of the costs of repair and maintenance of the Shared Accessway [▼ footpaths/shared accessway or drives] shown coloured ▼ on the Plan. [add if need access over footpath/accessway or drives on adjoining premises].
- 12.5.17 [To pay to the Transferor [or as the Transferor directs] on demand a fair and proper proportion (to be conclusively determined by the Transferor (who shall act reasonably)) of the [First Rentcharge and the Estate Rentcharge] and any other any costs, fees, charges, expenses and other liabilities paid or payable by the Transferor pursuant to the Main Transfer.] [NEED THIS TO BE PAYABLE ON DEMAND RATHER THAN BY MONTHLY INSTALLMENTS PURSUANT TO THE RENT CHARGE]

## 12.6 Transferor's Covenants

In consideration of the grant of the [Estate Rentcharge/ payment of the sums due pursuant to clause 12.7 of the Transfer] the Transferor hereby covenants with the Transferee as follows:

- 12.6.1 [Use this clause if including an Estate Rentcharge] Except to the extent that the Transferee or any tenant or owner of any other part of the Estate shall be liable (under the terms of this Transfer or any other transfer or lease) and subject to Clauses 12.6.2 and

12.6.3 and to payment of the Estate Rentcharge, the Transferor shall maintain, repair, redecorate, renew and (and in the event in the Transferor's reasonable opinion such works are required) improve:

12.6.1.1 the Communal Facilities; and

12.6.1.2 the Service Media, cisterns and tanks and other gas, electrical, drainage, ventilation and water apparatus and machinery in under and upon the Estate (except such as form part of the Property or which exclusively serve individual premises on the Estate or which belong to any utility supply authority or company); and

12.6.1.3 the [Parking Space]/[the parking space transferred by this Transfer] and those parts of the Property (if any) shown coloured blue on the Plan.

OR

[Where Communal Facilities are to be maintained by the Transferor but the transfer does not contain an Estate Rentcharge then optional if requested by purchaser's solicitor]

[That (subject to the payment of the sums due pursuant to clause 12.7 of this Transfer and except to such extent as the Transferee shall be liable and subject to clause 12.6.2 and clause 12.6.3) the Transferor shall procure the maintenance repair renewal and (where necessary in the Transferor's reasonable opinion) improvement and/or rebuilding of the Communal Facilities and the Parking Space.]

12.6.2 The Transferor shall not be liable to the Transferee for any failure in or interruption of the services referred to in Clause 12.6.1 not attributable to its neglect or default nor for any failure or interruption unless and until the Transferee has given notice of the failure or interruption and the Transferor has not remedied the failure or interruption within a reasonable time of service of that notice.

12.6.3 The Transferor may add to, diminish, modify or alter any service referred to in Clause 12.6.1 if by reason of any change of circumstances at any time after the date of this Transfer such addition, diminution or alteration is in the opinion of the Transferor reasonably necessary or desirable in the interests of good estate management or for the benefit of the occupiers of the Estate.

12.6.4 The Transferor shall not be liable for any breach of the covenants referred to in this clause arising after the Transferor:

12.6.4.1 has parted with all interest in the Estate; or

12.6.4.2 has transferred ownership of the Estate Rentcharge.

12.6.5 The Transferee shall not be entitled to enforce any of the Transferor's covenants while any sums payable by the Transferee under the terms of this Transfer are due but unpaid or the Transferee is otherwise in substantial breach of the covenants on his part contained in this Transfer.

Other

## 12.7 Estate Charge

The Transferee hereby covenants with the Transferor:

12.7.1 [use where no rent charge] To pay to the Transferor on demand a fair and proper proportion (to be conclusively determined by the Transferor (who shall act reasonably)) of:

- (a) the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding any Communal Facilities; and
- (b) the expense of cleaning lighting, repairing renewing, decorating, maintaining and rebuilding the Service Media, cisterns and tanks and other gas, electrical, drainage, ventilation and water apparatus and machinery in under and upon the Estate (except such as form part of the Property or which exclusively serve individual premises on the Estate or which belong to any utility supply authority or company)
- (c) the reasonable costs, charges and expenses incurred by the Transferor in connection with the provision, maintenance and management of the Communal Facilities and the Service Media referred to in clause 12.7.1(b) [▼and Parking Space] including but not limited to the reasonable fees, charges and expenses of either a professional qualified surveyor or any accountant or other person whom the Transferor may from time to time reasonably employ appoint or delegate (with or without others) in connection with the management and maintenance of the Communal Facilities and also in the computation and collection of other monies due from the Transferee under this Transfer and if any such work shall be undertaken by an employee of the Transferor then a reasonable allowance for such work; and
- (d) [the expense of repairing, renewing, maintaining and rebuilding the [Parking Space]]/[the parking space transferred by this Transfer] and those parts of the Property (if any) shown coloured blue on the Plan]; and
- (e) [the cost of and incidental to the performance of the Transferor's covenants contained in clause 12.6; and]
- (f) [any sums paid or payable by the Transferor in connection with the Estate;
- (g) any sums paid or payable by the Transferor in connection with the Wider Development and the reasonable costs charges and expenses incurred by the Landlord in connection with its obligations in relation to the Wider Development;

12.7.7 any sums paid or payable by the Transferor in connection with any matters contained mentioned or referred to in the Transferor's title to the Estate including but not limited to the sums paid or payable by the Transferor pursuant to the Main Transfer.]

[Where estate is largely run by a third party and there are significant charges payable under a Main Transfer but check whether client wants to keep control]

12.7.2 (a) To pay a proportion of the [rent charges due pursuant to the Main Transfer] and any other sums paid or payable pursuant to the Main Transfer by the transferee under the Main Transfer to the [Management Company] in accordance with the terms of the Main Transfer and in accordance with any [deed of covenant] entered into with the [Management Company] pursuant to the terms of the Main Transfer.

(b) In default of payment as required by clause 12.7.2(a) above to pay to the Transferor on demand a fair proportion (to be conclusively determined by the Transferor (who shall act reasonably)) of the [rent charges due pursuant to the Main Transfer] and any other sums paid or payable pursuant to the Main Transfer by the transferee under the Main Transfer.

(c) To pay to the Transferor on demand a fair proportion (to be conclusively determined by the Transferor (who shall act reasonably)) of any sums paid or payable by the Transferor in connection with any matters contained mentioned or referred to in the

Transferor's title to the Estate (in addition to the [rent charges due pursuant to the Main Transfer] and any other sums paid or payable by the Transferor pursuant to the Main Transfer).

(d) To pay the Transferor's reasonable costs, charges and expenses incurred by the Transferor in connection with procuring the payment of any sums due pursuant to this clause 12.7.2 such cost, charges and expenses to include (but not limited to) the reasonable fees, charges and expenses of either a professional qualified surveyor or any accountant or other person whom the Transferor may from time to time reasonably employ appoint or delegate (with or without others) in connection with the computation and collection of monies due from the Transferee under this Transfer and if any such work shall be undertaken by an employee of the Transferor then a reasonable allowance for such work and to indemnify the Transferor against all actions proceedings damages costs claims expenses and liabilities arising in respect of any breach of this clause 12.7.2.

[OR – where there will be a rent charge] [but may still need clause 12.7.2]

12.7.1 In consideration of the covenant on the part of the Transferor in Clause 12.6.1 the Transferee hereby grants to the Transferor the Estate Rentcharge.

12.7.2 The Transferee HEREBY COVENANTS with the Transferor to pay the Estate Rentcharge by equal monthly payments in advance on the first day of each month, the first payment to be made on the date of this Transfer.

12.7.3 The Service Provision in respect of any Account Year shall be calculated before the beginning of the Account Year and shall be calculated in accordance with Clause 12.7.4 and the Transferor shall provide an estimate of expenditure for the forthcoming year to the Transferee prior to the commencement of the Account Year PROVIDED THAT if the Transferor is unable to produce such estimate prior to the commencement of the Account Year the Transferee shall continue to pay the Estate Rentcharge at the rate for the previous Account Year until such time as it is provided with such estimate.

12.7.4 The Service Provision shall consist of a sum comprising the expenditure estimated by the Authorised Person as likely to be incurred or payable in the Account Year by the Transferor for the matters specified in Clause 12.7.5; and

12.7.4.1 a sum that the Transferor considers an appropriate amount as a reserve for or towards the matters specified in Clause 12.7.5 as are likely to give rise to expenditure after such Account Year being matters which are likely to arise at intervals of more than one year (the said amount to be calculated in a manner which will ensure as far as is reasonably possible that the Service Provision shall not fluctuate unduly from year to year); but

12.7.4.2 reduced by any unexpended reserve already made pursuant to Clause 12.7.4.1.

12.7.5 The relevant expenditure to be included in the Service Provision shall comprise all expenditure reasonably incurred or payable by the Transferor in connection with the repair, management, maintenance and provision of services for the Estate and/or the Communal Facilities and shall include (without prejudice to the generality of the foregoing):

12.7.5.1 the costs of and incidental to the performance of the Transferor's covenants contained in Clause 12.6 of this Transfer;

12.7.5.2 the costs of and incidental to compliance by the Transferor with every notice, regulation or order of any competent local or other authority in respect of the Estate and/or the Communal Facilities (which shall include compliance with all relevant statutory requirements);

12.7.5.3 all fees, charges and expenses payable to the Authorised Person any solicitor, accountant, surveyor, valuer or architect that the Transferor may from time to time reasonably employ in connection with the management or maintenance of the Estate and/or the Communal Facilities including the calculation and collection of service charges and rents as the case may be (but excluding fees charges or expenses in connection with the effecting of any letting or sale of any premises) and including the cost of preparation of the account of the Variable Rentcharge [and of any sums due under the Main Transfer] and if any such work shall be undertaken by an employee of the Transferor then a reasonable allowance for the Transferor for such work;

12.7.5.4 any Outgoings assessed, charged, imposed or payable on or in respect of the whole or any part of the Estate or the Communal Facilities;

12.7.5.5 [Is this a reference to CHP?] All costs expenses and demands incurred by the Transferor in the supply of gas central heating to the Property and in the servicing and maintenance and repair of the central heating system or for any service or maintenance contracts in respect thereof;

12.7.5.6 any administrative charges incurred by or on behalf of the Transferor including but not limited to:

- (a) the grant of approvals under this Transfer or applications for such approvals;
- (b) the provision of information or documents by or on behalf of the Transferor;
- (c) costs arising from non-payment of a sum due to the Transferor; and/or
- (d) costs arising in connection with a breach (or alleged breach) of this Transfer;

12.7.5.7 any other costs that the Transferor incurs in respect of any other service or amenity that the Transferor may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of tenants owners or occupiers of the Estate;

12.7.5.8 any sums paid or payable by the Transferor in connection with the Wider Development and the reasonable costs charges and expenses incurred by the Landlord in connection with its obligations in relation to the Wider Development;

12.7.5.9 any sums paid or payable by the Transferor in connection with any matters contained mentioned or referred to in the Transferor's title to the Estate [including but not limited to the sums paid or payable by the Transferor pursuant to the Main Transfer]; and

12.7.5.10 in connection with the transfer of this Transfer:

- (a) any administration fee (if any) charged by the local authority or other body who is in a position to nominate a buyer or any other body or person who may be involved in the nomination process (including but not limited to HomeBuy or other agents) to the Transferor under the terms of a nomination of other similar agreement in relation to the Property; and/or
- (b) any estate agent's fees; and/or
- (c) any valuer's fees; and

12.7.5.11 [the expense of repairing, renewing, maintaining and rebuilding the car parking space transferred by this Transfer and those parts of the Property (if any) shown coloured blue on the Plan]; and

12.7.5.12 [a fair proportion of maintaining repairing and renewing the land coloured [●]].

12.7.6 As soon as practicable after the end of each Account Year the Transferor shall

determine and certify the amount by which the estimate referred to in Clause 12.7.4 shall have exceeded or fallen short of the actual expenditure in the Account Year and shall supply the Transferee with a copy of the certificate and the Transferee shall be allowed or (as the case may be) shall pay immediately following receipt of the certificate the Specified Proportion of the excess or the deficiency.

12.7.7 If for any reason it should at any time become necessary or equitable so to do the Transferor shall have the authority to recalculate on an equitable basis the Specified Proportion and to notify the Transferee accordingly and in any such case as from the date specified in such notice the recalculation so notified shall be substituted for the Specified Proportion and all references to the Variable Rentcharge shall be construed as reference to the Specified Proportion as altered.

## 12.8 Incumbrances

The disposition effected by this transfer is subject to:

12.8.1 any matters contained or referred to in the title of the Estate out of which the Property is transferred; and

12.8.2 all matters contained or referred to in any agreement pursuant to which this Transfer is made.

## 12.9 Indemnity covenant

12.9.1 The Transferee covenants with the Transferor by way of indemnity to observe and perform the covenants restrictions stipulations agreements and declarations (if any) contained or referred to in the registers of the title to the Estate (save and except for any financial charges) [including but not limited to the covenants conditions restrictions and stipulations on the part of the transferee (as defined in and) contained in the Main Transfer] in each case so far as the same are still subsisting and relate to the Property and to indemnify the Transferor against all actions proceedings damages costs claims expenses and liabilities arising in respect of any breach thereof and on any transfer of the Property to require the transferee to covenant with the Transferor to observe and perform the covenant contained in this clause.

## 12.10 Deed of Covenant

12.10.1 The Transferee covenants with the Transferor that the Transferee shall not transfer the whole or any part of the Property or grant a lease of the whole or any part of the Property for a term exceeding seven years nor shall any such transfer or lease be registered unless the transferee or lessee:

12.10.1.1 enters into a deed of covenant with the Transferor in the form set out in the Schedule to this Transfer such deed to be prepared by the Transferor's solicitors whose costs and expenses shall be discharged by the person transferring or letting the Property such completed deed to be delivered to such solicitors within thirty days of the said transfer or lease together with any registration fees in connection with that deed; and

12.10.1.2 (in the case of a lease) agrees to a restriction being entered on the registers of title to the lease in the form set out in clause 12.10.2 of this Transfer and covenants with the Transferor not to grant an underlease for a term exceeding seven years without incorporating in that underlease a covenant by the underlessee in similar terms to this clause 12.10.1 and clause 12.10.2.



12.10.2 The parties HEREBY APPLY to the Chief Land Registrar to enter the following standard form of restriction against the title to the Property:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under title number [insert Transferor's title number] or their conveyancer that the provisions of Clause 12.10 (Deed of Covenant) of the transfer dated ▼[insert date of this transfer] made between Aster Communities and ▼[insert purchaser's name] have been complied with or that they do not apply to the disposition.”

## 12.11 Agreements and declarations

It is agreed and declared as follows:

12.11.1 All rights granted or reserved by this Transfer must be exercised so as to cause as little damage and inconvenience as possible to the Property or the Estate respectively and their owners and occupiers for the time being.

12.11.2 Any wall dividing any building or structure situate partly on the Property and partly on an adjoining part of the Estate is a party wall and shall be maintained and repaired accordingly.

12.11.3 The Transferee shall pay interest calculated on a day to day basis at an annual rate of 4% above the Base Rate of Barclays Bank PLC for the time being in force on so much of any monies due to the Transferor under this Transfer that remain unpaid for a period of 14 days after becoming due for payment.

12.11.4 The Transferor is not bound by any scheme of development of the Estate and is entitled to sell the Estate in such plots or parcels and subject to such rights and declarations and covenants as it considers appropriate and is entitled to vary the layout of the Estate as it considers fit.

12.11.5 The Transferor or any other owner or beneficiary of the Estate Rentcharge (the “Estate Rentcharge Owner”) shall have all the powers and remedies conferred by the Law of Property Act 1925 to enable it to recover and compel the payment of the Estate Rentcharge and in addition if the Estate Rentcharge (or any part of it) is unpaid two months after the date that payment has been demanded (payment having become due) the Estate Rentcharge Owner may enter the Property and at its discretion:

12.11.5.1 hold the Property or

12.11.5.2 do anything which is necessary to make good any default and remain in possession of the Property or the rents and profits from it until all monies due and the costs incurred by the exercise of this power are fully discharged

PROVIDED that before any such right to enter the Property is exercised the Estate Rentcharge Owner shall have given notice of its intention to do so to any mortgagee of the Property whose interest has been notified to the Estate Rentcharge Owner in writing.

12.11.6 Any dispute arising in connection with the determination of the Transferee's proportion of the costs referred to in clause 12.7 shall be referred to a surveyor who is a Member or Fellow of the Royal Institution of Chartered Surveyors (who shall act as an



expert and not as an arbitrator) to be agreed upon by the parties or (in the event of failure so to agree) to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors and the written decision of such person (including any determination as to the costs of such decision) shall accordingly be final and binding on both the parties in the absence of manifest error or fraud.

12.11.7 Any obligation to pay money under this Transfer refers to a sum exclusive of VAT and the amount of any VAT payable in addition (whether by the Transferor or by the Transferee) shall be paid by the Transferee to the Transferor.

12.11.8 A person who is not a party to this transfer shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from under that Act.

12.11.9 This deed 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.

12.11.10 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 Transfer or its subject matter or formation (including non-contractual disputes or claims).

### **Schedule**

#### **Form of Deed of Covenant**

THIS DEED OF COVENANT is made the

BETWEEN

(1) [new owner] of [ ] (the Transferee) and

(2) Aster Communities whose registered office is at Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ (the Company)

#### **Background**

This Deed is supplemental to a transfer dated the \_\_\_\_\_ made between [ ] (1) the Company (2) and \_\_\_\_\_ (3) (the Transfer) in respect of [ ] formerly plot [ ] (the Property)

#### **Operative Provisions**

1. The Transferee covenants with the Company to observe and perform the covenants on the part of the Transferee in the Transfer as if he was a party to the Transfer
2. The Transferee shall pay the reasonable costs of the Company in connection with this Deed

Executed as a Deed by the Transferee

in the presence of [witness]

13 Execution

**EXECUTED** as a deed by affixing     )  
the common seal of **Aster**             )  
**Communities** in the presence of:     )

\_\_\_\_\_  
Authorised signatory

Name:

Position:

\_\_\_\_\_  
Authorised signatory

Name:

Position:

Executed as a deed by **the Transferee** in     )  
the presence of:                                     )  
                                                           )

Executed as a deed by **the Transferee** in     )  
the presence of:                                     )  
                                                           )

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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## Schedule 6 - Defined Terms

In this Lease:

**"Account Year"** means a year ending on 31<sup>st</sup> March.

**"Acquired Percentage"** means the percentage figure equal to the aggregate of the Initial Percentage and any Portioned Percentage or Portioned Percentages paid for pursuant to Schedule 5 (*Staircasing*).

**"Authorised Person"** means the individual nominated by the Landlord to estimate expenditure in accordance with Clause 6.3.

**"Communal Facilities"** means (and in each case, if any) party walls, fences, gutters, drains, roadways, pavements, entrance ways, staircases, lavatories, accessways, passages, lifts, escalators, turntables, courtyards, external pavements, car parks and service or loading areas, service roads and other such amenities within the Estate which are or may be used or enjoyed by an occupier of the Premises in common with any other person or persons.

**"Default"** means:

- (a) the existence of arrears of at least 3 months' payments in respect of the Loan; or
- (b) any other breach by the Leaseholder of the terms applicable to the Loan.

**"Enforcement Date"** means the date on which the Mortgagee commences its enforcement of any of the security for the Loan by reason of a Default.

**"Estate"** means all the land and buildings now or formerly registered at the Land Registry under title number ▼.

**"Final Staircasing"** means the purchase by the Leaseholder from the Landlord of such Portioned Percentage that reduces the Unacquired Percentage to nil.

**"Landlord"** includes all persons from time to time entitled to the immediate reversion to this Lease.

**"Lease"** includes any documents supplemental to this lease.

**"Lease Plan"** means the plan attached to this Lease and marked "Lease Plan".

**"Leaseholder"** includes the Leaseholder's successors in title and assigns in whom this Lease may for the time being be vested.

**"Loan"** means the loans made by the Mortgagee to the Leaseholder (after first obtaining the Landlord's written consent to each and all such loans) and which loans are secured by a valid and binding first ranking mortgage over the Premises. For the purposes of this definition repayments of capital shall not reduce the Loan.

**"Loss"** means the amount by which the aggregate of:

- i) a sum representing the Loan advanced for the purchase of the Initial Percentage share in the Premises;
- ii) the Loan made (if any) to accomplish Final Staircasing in the Premises as part of the enforcement process or as a result of further Loan being made;
- iii) Loans for other sums in relation to the Premises or any other purpose;
- iv) interest accruing at the rate applicable to the Loan;
- v) costs incurred in relation to the enforcement of the Loan or any security for it (including advances to cover arrears of rent and/or other sums payable under this Lease) provided that costs of actual disposal shall not exceed 3% of Market Value at the time;
- vi) costs incurred in relation to the protection or preservation of the Loan or any security for it; and
- vii) any other sums due to the Mortgagee in respect of the Loan made to the Leaseholder

(less any repayments which have been made), exceeds the aggregate of:

- viii) the gross sale proceeds to be received from a disposal (including a surrender) of the Leaseholder's interest in the Premises; and
- ix) all amounts (if any) received by the Mortgagee as a result of the enforcement by the Mortgagee of all (if any) security which the Mortgagee may have including, without limitation, all security, guarantees and insurance policies given to the Mortgagee.

**"Main Transfer"** means the transfer of property including the Premises dated ▼ made between ▼ and ▼.

**"Market Value"** shall at the date of this Lease mean the Initial Market Value and shall at any subsequent date mean the price which the interest of the Leaseholder would then fetch if sold on the open market by a willing seller and on the assumption that the Unacquired Percentage is nil and disregarding the following matters:

- (i) any mortgage of the Leaseholder's interest;
- (ii) any interest in or right over the Premises created by the Leaseholder;
- (iii) any improvement made by the Leaseholder or any predecessor in title of his; and
- (iv) any failure by the Leaseholder or any predecessor in title to carry out the obligations contained in Clause 3.5 (*Repair*) and Clause 3.6 (*Decoration*).

**"Minimum Rent"** means One peppercorn per month (if demanded).

**"Mortgagee"** means a lender who shall have made available to the Leaseholder a Loan (which expression includes its successors and assigns and also any persons for whom the Mortgagee is acting as agent or trustee).

**"Mortgagee Protection Claim"** means the Loss capped at a maximum of the aggregate of:

- (i) an amount equivalent to interest on the Loan for a period of 18 months from the Enforcement Date at the interest rate applicable to the Loan immediately before the Enforcement Date;
- (ii) the Loan;
- (iii) any amounts advanced by the Mortgagee and applied in discharging any arrears of rent and/or other sums payable under this Lease; and
- (iv) any costs and fees incurred in enforcing the Mortgagee's security for the Loan (capped at 3% of Market Value at the time of such enforcement).

**"Outgoings"** means all existing and future rates, taxes, charges, assessments, impositions and outgoings whatsoever (whether parliamentary or local) which are now or may at any time be payable, charged or assessed on property, or the owner or occupier of property.

**"Particulars"** means the Particulars set out in this Lease.

**"Portioned Percentage"** means at any relevant time (including for the avoidance of doubt on the Final Staircasing) the percentage interest in the Premises which the Leaseholder proposes to acquire (or has already acquired) under the provisions of Schedule 5 (*Staircasing*), being a portion of the then Market Value of the Premises up to a maximum of 100%, each Portioned Percentage being at least 10% and no more than 25%, and so that the Portioned Percentage which accomplishes Final Staircasing shall be at least 10%.

**"Premises"** means the premises described in Schedule 1 (*The Premises*).

**"Service Charge"** means the Specified Proportion of the Service Provision.

**"Service Media"** means all drains channels sewers pipes wires cables conduits flues aerials mains electrical risers tanks watercourses gutters gullies shafts soakaways ventilating ducts cisterns radiators solar panels and associated apparatus and any other conducting media and any structures incident to the user thereof (and all apparatus for the supply of water gas electricity telephone or television signals) which now are or may at any time hereafter be constructed.

**"Service Provision"** means the sum calculated in accordance with **Clause 6.3 (How Calculated)**, **Clause 6.4 (Service Provision)** and **Clause 6.5 (Adjustment to Actual Expenditure)**.

**"Shared Accessway"** means the [private roadway] [footpath] [driveway] forming part of the Estate and/or falling within the demise of the Premises and/or within the demise of other properties on the Estate and which is shown [hatched blue] on the Lease Plan]/[ means those

paths (if any) on the Estate and/or falling within the demise of other properties on the Estate intended for pedestrian use only.]

**"Standard Conditions of Sale"** means the Standard Conditions of Sale (Fifth Edition).

**"Term"** means the term of 125 years from and including the Commencement Date.

**"Unacquired Percentage"** shall mean the percentage figure equal to 100% less the Acquired Percentage.

**"VAT"** means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

**"Valuer"** means an independent expert who is an associate or fellow of the Royal Institution of Chartered Surveyors agreed between the Landlord and the Leaseholder or in default of agreement appointed on the application of either Landlord or Leaseholder by or on behalf of the president of the Royal Institution of Chartered Surveyors.

**"Valuer's Certificate"** means a written certificate from an associate or fellow of the Royal Institution of Chartered Surveyors confirming the amount of the Market Value for the purposes of clause 3.20.4.

**"Warranty Documents"** means any warranty documents issued by any warranty provider (including but not limited to Premier Guarantee, NHBC House Building Council and LABC New Home Warranty) in relation to the Premises.

**"Wider Development"** means the wider development in which the Estate and the Premises are located and which is now or was formerly registered with title number ▼.

## **Schedule 7 - Mutual Covenants**

### **Part 1 Restrictive Covenants**

The Leaseholder shall not:

- 1 Use the Premises or permit the same to be used for any purpose whatsoever other than as a private residence in the occupation of a single household only nor carry on any trade or business at the Premises;
- 2 Cause, permit or suffer anything to happen or occur in the Premises which shall or may cause a nuisance, annoyance, inconvenience or disturbance to owners, lessees or occupiers of other dwellings on the Estate or to the occupiers, owners or lessees of adjoining or neighbouring property (whether within the Estate the Wider Development or otherwise) or which may tend to lessen or depreciate the value of the Premises or the Estate or other property in the neighbourhood;
- 3 Use or permit or suffer the Premises to be used for illegal or unlawful or immoral purposes nor to commit or allow members of the Leaseholder's household or invitees to commit any form of intimidation or harassment including any harassment on the grounds of race colour religion sex sexual orientation or disability;
- 4 Do or permit or suffer to be done any act or thing which may render void or voidable or which may invalidate, revoke or result in the cancellation of any policy of insurance covering the Premises or any part of the Estate or may cause an increased premium to be payable in respect of such insurance;
- 5 Do or permit to be done anything which may cause an obstruction to the use of the roads or accessways on the Estate or to any of the Communal Facilities **[or to any Shared Accessway]**;
- 6 Park at any time on any part of the Estate (including the Premises) any caravan, trailer, motor home, commercial vehicle (save as specified below), trailer, boat or untaxed or dilapidated vehicle.
- 7 Abandon any car, motorbike, van or other vehicle on the Estate;
- 8 Park at any time or suffer or permit to be parked:
  - 8.1 on any part of the Premises or on any Parking Space any vehicle other than a private motor car or motor cycle which is in a good and or roadworthy condition and which is taxed and insured and which has an MOT certificate if required and which is in the regular use of the Leaseholder or other occupier of the Premises without the prior written consent of the Landlord,
  - 8.2 any motor vehicle on parking spaces allocated from time to time for the use of visitors to the Estate the same being intended for use by visitors only other than in accordance with the terms of Schedule 2 of this Lease,
  - 8.3 motor vehicles on any part of the Premises or the Estate other than on appropriately constructed hardstanding designated by the Landlord for the parking of motor



vehicles and which is a Parking Space or is a parking space which forms part of the Premises,

- 8.4 any commercial vehicle at any time on any part of the Estate except for temporary use for the purposes of furniture removals or delivery to and from the Premises;
- 9 At any time to erect or place any structure on any part of the Estate;
- 10 Overload the Premises nor place or suspend or permit to be placed or suspended any excessive weight on or from the floors, ceilings or walls of the Premises or set up upon the Premises any machinery, engine or other apparatus other than the usual domestic appliances;
- 11 Erect any shed, outhouse, wireless or television aerials or satellite receiver or similar apparatus, advertisement board or hoarding or any other structure of any kind on the Premises without the prior written consent of the Landlord (to be given or withheld at the Landlord's absolute discretion) and, where required, to obtain any consents or permissions required by (including but not limited to) any public or statutory authority and the beneficiary for the time being of any restriction relating to the erection of such apparatus as may be contained or referred to in the Landlord's registered title to the Estate **[and subject always to the terms of the Main Transfer]**;
- 12 Place or keep dustbins or refuse bags or any other such thing outside any buildings on the Premises or place or keep the same on the Estate except on such days as are recognised as refuse collection days and the Leaseholder shall take such steps as may from time to time be required by the relevant authorities to facilitate collection of rubbish by the said authorities on the said recognised refuse collection days;
- 13 Keep or store any dirt, rubbish or other refuse or permit or suffer the same to be kept on the Premises save in an appropriate refuse receptacle and in the spaces designated by the Landlord from time to time for the deposit of such rubbish and refuse;
- 14 Damage or remove any tree or shrub which may have been planted or retained on any part of the Estate;
- 15 Interfere with damage or remove any street furniture or fittings and fitments ancillary thereto which may be placed on in or attached to the Estate;
- 16 Place or fix outside the windows of the Premises any sunblinds, window boxes, flower pots or other articles without the prior written consent of the Landlord;
- 17 Put or hang or permit to be hung any washing clothing or other articles on any part of the Premises other than in any back garden of the Premises on a rotary line or in any other location within the Premises designated for such purpose by the Landlord;
- 18 Place any "For Sale" or "To Let" sign on the Premises without the Landlord's prior written consent nor put on or in any window on the exterior of the Premises so as to be visible from the outside of the Premises any name, writing, drawing, signboard, plate or placard of any kind;

- 19 Store trade or business materials or produce in the Premises;
- 20 Obstruct the access of light or air to any building adjoining the Premises by erecting or altering any building or other structure on the Premises;
- 21 Do or permit to be done anything which may cause obstruction in any of the pipes or drains or other Service Media nor throw dirt, rubbish or other refuse or permit or suffer the same to be thrown into the sinks, baths, lavatories, cisterns or waste or soil pipes in or attached to the Premises except via a waste disposal unit fitted for such purpose;
- 22 **Bring or keep any inflammable, explosive, dangerous, noxious or offensive substances or goods onto the Premises or the Estate (except fuel in the fuel tank of any private motor vehicle parked on the Parking Space or the Premises in accordance with the terms of this Lease);**
- 23 Play or use any musical instrument, television, radio, loudspeaker or mechanical or other noise-making instrument or machine (including motorcycle or motor-vehicle noise) or equipment for making or reproducing sound of any kind nor sing or dance in the Premises nor to act in such a manner so as to cause annoyance to the owners or occupiers of any neighbouring premises or premises on the Estate or so as to be audible outside the Premises between the hours of 11.00pm and 7.30am;
- 24 Erect or permit to be erected on the Premises in front of the prescribed building line any fence or wall or any other structure or permit and plant to grow in excess of one metre in height any shrub, tree, plant, hedge or bush **PROVIDED ALWAYS** that no such wall, fence or other structure shall be erected if prohibited by planning conditions or other restrictions relating to the Premises and **PROVIDED FURTHER** that no items whatsoever shall be grown, planted or erected on any piece of land at the front of the Premises which is not intended to be cultivated nor so as to impede access by the statutory undertakers to all pipes, wires, drains, cable and other conducting media laid thereunder; or
- 25 Plant any tree over or within the protected zone around any Service Media;
- 26 Dig or cultivate deeper than 50cm beneath the surface of the garden over or within the protected zone of any Service Media located beneath the garden of the Premises;
- 27 Use or permit or suffer to be used any parts of the Communal Facilities and/or the Estate consisting of open space and/or amenity or play areas except for recreational purposes and in accordance with regulations made by the Landlord from time to time relating to the user of such areas;
- 28 Alter or extend the electrical installation or wiring and any gas installation and piping in the Premises;
- 29 Use any apparatus which overloads the electrical installation in the Premises and the Leaseholder shall ensure that the electrical installation and any gas installation is maintained in a safe condition;

- 30 Commit any breach of planning control and the Leaseholder shall comply with all requirements under any planning legislation which affects the Premises;
- 31 Make any application for planning permission affecting the Premises nor implement any such permission without the Landlord's prior written consent;
- 32 Keep any animal or bird on the Premises other than a reasonable number of common household domestic pets and not to breed such domestic pets on the Premises.
- 33 Do anything which would be a breach of the covenants on the part of the Transferee (as defined in the Main Transfer) contained in the Main Transfer;
- 34 Obstruct or otherwise prevent or restrict the Landlord or the owners or occupiers of other dwellings on the Estate at any time from entering upon the Shared Accesssway.

## Part 2 Positive Covenants

The Leaseholder shall:

- 1 Keep the windows of the Premises properly cleaned and at least once in every month, be responsible for, and bear the full cost of, cleaning the windows of the Premises both internally and externally;
- 2 Keep any Parking Space or any designated parking areas within the Premises (if any) clean and free from all rubbish and not to dispose of any substance down gullies and drains or use the designated parking areas (if any) to carry out motor vehicle repairs;
- 3 Observe and perform any reasonable regulations imposed by the Landlord from time to time for the management of the Estate and/or the use of the Premises and shall co-operate at all times with the Landlord and all others interested in the Estate in all measures reasonably necessary for repairing maintaining or upholding the Estate to high standards of appearance and amenity;
- 4 Perform and observe all conditions contained in any planning permission affecting the Premises;
- 5 At all times hereafter maintain the fences or boundary walls at the Premises where marked 'T' (if any) on the Lease Plan and not to alter or reposition or construct any fences whether on or within the boundaries of the Premises;
- 6 Comply with perform and observe all the terms of any statutory agreement including but not limited to any agreement pursuant to Section 106 Town and Country Planning Act 1990 affecting the Premises and shall indemnify the Landlord against all losses, costs, damages, proceedings and claims arising as a result of any breach or non observance of this paragraph;
- 7 Keep the garden (if any) forming part of the Premises properly tended and in a clean and tidy condition, free from weeds and where necessary to replace existing shrubs;
- 8 As often as is reasonably necessary and at the reasonable request of the Landlord (but at least once in every sixth year of the Term) and in the last month of the Term in a proper and workmanlike manner (and in the last month of the Term in colours approved by the Landlord) to paint, treat and generally decorate in a style appropriate to property of a like character all the outside of the Premises previously or usually so painted, treated and decorated;
- 9 Ensure that any pet or other animal bird or reptile kept in the Premises is kept under control at all times and not to allow such pet or other animal bird or reptile to cause nuisance, annoyance, harm or damage to the Landlord or to the owners lessees or occupiers of premises in the neighbourhood or visitors to such premises or to the Communal Facilities or to the Estate;
- 10 Observe and perform the covenants and stipulations on the part of the transferee under the Main Transfer insofar as they affect the Premises and their use and occupation as permitted by this Lease [including but not limited to observing and performing any Estate Regulations

and procuring that any occupiers of the Premises and any visitors to the Premises observe and perform any Estate Regulations [define Estate Regulations]];

- 11 Pay on demand to the owner or owners of the Shared Accessway from time to time a fair and proper proportion of the costs of repair and maintenance of the Shared Accessway [▼ footpaths/shared accessway or drives] shown coloured ▼ on the Lease Plan. [add if need access over footpath/accessway or drives on adjoining premises];
- 12 Comply with the requirements and the recommendations of the insurers relating to the Premises and shall repay to the Landlord on demand all sums paid or payable by way of increased premiums and all losses or damages suffered by the Landlord by reason of any breach by the Leaseholder which has invalidated any insurance policy effected by the Landlord over the Premises;
- 13 Notify the Landlord as soon as reasonably practicable and in any event within 24 hours of any outbreak of fire in the Communal Facilities and/or the Estate or other event likely to lead to a claim on the Landlord's insurance relating to the Communal Facilities and/or the Estate providing that the Leaseholder is aware of such an outbreak of fire or any other event likely to lead to a claim.

## EXECUTION PAGE

**EXECUTED** as a deed by affixing     )  
the common seal of **Aster**             )  
**Communities** in the presence of:     )

---

Authorised signatory

Name:

Position:

---

Authorised signatory

Name:

Position:

Executed as a deed by ▼ in the presence     )  
of:                                                     )  
                                                           )

Executed as a deed by ▼ in the presence     )  
of:                                                     )  
                                                           )

## Appendix 1 - Memorandum of Staircasing

(Number [▼] )

Premises :

Date of Lease :

Leaseholder :

Landlord :

### THIS IS TO RECORD THE FOLLOWING:

On the      day of      20   on the payment of £[▼] (the "**Premium**") being [▼] % of the Market Value of the Premises as assessed by the Valuer on the      20      the Leaseholder purchased a Portioned Percentage of [▼] %.

The total share in the Premises now owned by the Leaseholder is [▼] %

The Specified Rent (the rent payable) as from the      day of 20      (date of payment of the Premium) is £ [▼] per annum (subject to review).

Signed by the Leaseholder/for and on behalf of the Landlord.

## Appendix 2 - Example of Notice of Rent Increase

To: Leaseholder

[insert details of the Premises] ("the Premises")

The next Rent Review Date under your shared ownership lease of the Premises is [▼] [20 ]. The rent which you currently pay is [▼] per month.

The rent which you must pay on and after [▼] [20 ] is [▼] per month.

The new figure of [▼] per month is calculated as follows:

- RPI Index for [▼] [20 ] was [▼] (this was the Index on which the rent review in [▼] [20 ] was based);
- The Gross Rent fixed at the rent review in [▼] [20 ] was [▼] per month;
- RPI Index for [▼] [20 ] is [▼] (this is the Index on which the rent review in [▼] [20 ] is being based);
- The reviewed Gross Rent as at [▼] [20 ] is therefore [▼] per month (being  $(£[▼] \times \frac{[•]}{1.005})$  x

But because your share of the Premises is currently [▼%] and our share is [▼%], the rent which you must actually pay is only [▼%] of [£▼], which is the sum of [£▼] per month.

### WORKED EXAMPLE:

#### Assumptions

The notice set out below would have been given in relation to a rent review in November 2012 in the following circumstances:

- The Lease had Rent Review Dates on 30 November 2011 and 2012;
- As at November 2012, the Leaseholder's share in the Premises was 45%;
- The Gross Rent in November 2011 had been £100 per month (based on the RPI in September 2011), and so the actual rent payable would have been £55 per month (being 55% of £100).
- The RPI was 237.9 in September 2011, and 244.2 in September 2012.

#### Worked Example Notice

*The next Rent Review Date under your shared ownership lease of the Premises is [30 November 2012]. The rent which you currently pay is [£55.00] per month.*

*The rent which you must pay on and after [30 November 2012] is [£56.73] per month.*

*The new figure of [£56.73] per month is calculated as follows:*



- *RPI Index for [September 2011] was [237.9] (this was the Index on which the rent review in [November 2011] was based);*
- *The Gross Rent fixed at the rent review in November 2011 was [£100.00] per month;*
- *RPI Index for [September 2012] is [244.2] (this is the Index on which the rent review in [November 2012] is being based);*
- *The reviewed Gross Rent as at [30 November 2012] is therefore [£103.15] per month  
being:  $(£100 \times ((\frac{244.2}{237.9}) + 0.005))$*

*But because your share of the Premises is currently [45%] and our share is [55%], the rent which you must actually pay is only [55%] of [£103.15], which is the sum of [£56.73] per month.*

### **Appendix 3 - Key Information for Shared Owners**

This note is intended as a brief guide for Leaseholders (i.e., shared owners) of the key provisions of the Shared Ownership Lease.

**All Leaseholders should carefully consider the terms of this note and the attached lease and discuss any issues that arise with his or her solicitor before entering into the lease.**

#### **1 How does Shared Ownership Work?**

Under a shared ownership lease, the Leaseholder buys a 'share' of the property and pays rent on the remaining share of the property (which remains in the ownership of the Landlord).

The Leaseholder can buy further shares in the property at the market value of those shares at the time of purchase. Buying further shares is referred to as 'staircasing'. When the Leaseholder owns 100%, he or she can acquire the freehold in the property for no charge.

As the Leaseholder buys further shares, the rent will be reduced proportionately to reflect the fact that the Landlord's interest in the property has reduced.

#### **2 Standard Lease Obligations**

Although initially the property is not owned outright, the Leaseholder does have the normal responsibilities of a full owner. This means, for example, that the Leaseholder will be obliged to pay 100% of the outgoings relating to the property and to keep the property in good and substantial repair and condition.

The lease also contains other 'standard' obligations on the Leaseholder. For example, the Leaseholder will:

- if applicable, need to contribute towards the costs incurred by the Landlord in providing services;
- need to seek the Landlord's consent before making certain alterations; and
- if applicable, comply with regulations relating to the management of the estate of which the property forms part.

#### **3 Rent Review**

The rent will be reviewed periodically at the times set out in the lease. Typically, the rent will be reviewed every year. The reviewed rent will be increased in line with any proportionate increases in the retail prices index (RPI).

The rent will be reviewed on an 'upwards only' basis. This means that the level of rent will not go down when it is reviewed. However, any increase in the rent will be capped at a figure representing the RPI increase plus 0.5%. This means that where the RPI is zero or negative the most the rent can increase by is 0.5%.

A worked example demonstrating how the rent is recalculated at review is set out in Appendix 2 of the lease.

#### 4 Disposals of or Dealings with the Lease

##### **Assignment or Transfer**

If the Leaseholder assigns or transfers the lease before he or she staircases to 100% ownership of the property, the Landlord can require the Leaseholder's purchaser to buy (at market value) all remaining shares in the property. This is often referred to as 'back to back' staircasing.

However, back to back staircasing will not be required by the Landlord:

- if the lease is transferred or assigned as a result of the divorce or death of the Leaseholder;
- if the Leaseholder gives the Landlord notice that he or she wishes to sell its interest in the lease and either the lease is assigned to a person nominated by the Landlord, or, the Leaseholder surrenders (or returns) the Lease to the Landlord (in both cases for a price that is no more than the market value of the Leaseholder's share of the property);
- if the Landlord fails to nominate a purchaser, the nominated purchaser fails to purchase the Leaseholder's share or completion of the surrender of the Lease does not take place.

##### **Subletting**

The Leaseholder is not permitted to sub-let or part with possession of the property in any other way until the Leaseholder staircases to 100% ownership of the property.

#### 5 Mortgagee Protection Provisions

Loans from banks and building societies to Leaseholders would often require Leaseholders to take out mortgage indemnity insurance or other forms of additional security which would increase the expense to the Leaseholder of acquiring a shared ownership interest in the property. So with the aim of cutting down or avoiding such expense arising (so that mortgage indemnity insurance is not required and encouraging banks and building societies to lend to shared owners), the Landlord agrees that if the Leaseholder defaults the Landlord will compensate the Lender for some part of any loss incurred if the proceeds from the sale of the Leaseholder's share of the property are insufficient. For this reason the Leaseholder's lender will need to obtain the consent of the Landlord to the terms of the Leaseholder's mortgage.

If the Landlord has to cover some of the mortgage debt in this way the Leaseholder will become liable to pay the Landlord back. In such cases the Landlord will be able to pursue the Leaseholder to recover its loss and may also enforce any other security guarantees or insurance that were originally granted to the Lender.

To assist the Landlord and the Lender in operating these compensation provisions, by signing the lease the Leaseholder authorises the Landlord and the Lender to exchange personal information relating to the Leaseholder in relation to various matters, including the terms of the lease, details of any arrears and any loan secured against the property.

## 6 Important Notice Regarding Payment of the Rent and Lease Obligations

You need to be aware that if the Leaseholder fails to pay the rent reserved by the Lease and/or fails to observe and perform his or her obligations in the Lease the Landlord may be entitled to terminate the lease (subject to the Landlord obtaining any necessary court order. If the lease is terminated the Leaseholder will lose (and will not be entitled to any compensation for), any shares in the property which he or she had acquired.

## 7 Variations to the standard form lease

Paragraphs 1 to 7 above summarise the key terms of the standard form Shared Ownership Lease issued by the Homes and Communities Agency.

The Landlord summarises below the terms of the lease that materially depart from the standard form:

The Lease has been amended to tailor it to the requirements of the development. In particular, please refer to the following clauses:

- Clause 3.22 (Assignment Fee);
- Clause 3.24 (Comply with Covenants on the Registers of Title);
- Clause 3.25 (Comply with Planning and Statutory Agreements);
- Clause 3.26 (Estate Covenants);
- Clause 3.27 (Enter into Agreements required by the Landlord);
- Clause 3.28 (Not to Make Any Claim Against Building Warranty Without Notifying Landlord)
- Clause 3.29 (Register Restrictions)
- Clause 4.3 ([ ]) and clause 4.4 ([ ]) and clause 4.4 ([ ])
- Clause 6 (Service Charge) [ANY OTHERS?].

**This guidance note does not form part of the Lease and is not to be taken into account in the interpretation of any provision in the Lease. It is important that the Leaseholder gets legal advice before entering into the Lease.**

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## **APPENDIX 3**

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### **PRICE INCREASE PREDICTION TABLE (APPLICATION – PAGE 8)**

Price increase prediction over the three-year fixed term contract provided by Monarch Partnership

Energy Type	Winning Supplier	Current estimated Spend (2018/19)	Per annum Estimate (for three year fixed contract)	Three Year contract value Estimate	% Rise Year 1	% Rise Year 2	% Rise Year 3	% Rise Spread over 3 years
Electricity Non-Half Hourly	EDF	£777,839.	£880,873	£2,642,619	13.25	0	0	4.416
Electricity Half Hourly	EDF	£416,447	£450,924	£1,352,772	8.28	0	0	2.76
Gas	Gazprom	£434,500	£499,668	£1,499,004	15	0	0	5
Totals		£1,628,786	£1,831,465	£5,494,395	36.53	0	0	12.176

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**APPENDIX 4**

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**MODEL NOTICE OF INTENTION  
DATED 30.10.2018**

**Please contact:** Section 20 Officer

**E-mail:** Observations@aster.co.uk

**Date:** 30<sup>th</sup> October 2018

**Our ref:**  
**S20G0010**

**Your ref:**

Dear The Occupier

**Section 20 Consultation**

Please find enclosed a Notice of Intention in respect of a Long Term Qualifying Agreement that we propose to enter into in relation to the supply of our communal gas and electricity. We are intending to enter into a three-year contract with an option to extend for a further two years.

We also enclose some Frequently Asked Questions which may help answer any queries you have regarding the consultation and services provided.

I am sorry for the somewhat legal tone of the notice but unfortunately this is unavoidable because the Section 20 legislation means we must give you information in a certain way.

Anyone who pays a service charge whether they are a leaseholder, shared owner or tenant maybe be affected by a Section 20 consultation. Through your service charge you pay a proportional share for various services provided to your property or the estate in which you live, for example grounds maintenance. If you are a leaseholder you have also committed to paying a proportional cost for repairs, maintenance or improvements to your home or to the building or estate in which you live.

The S20 process was put in place to protect service charge payers and to make sure that landlords only carry out work or enter into service contracts that are necessary and at a reasonable cost.

The process also allows service charge payers the chance to comment on the works and sometimes to suggest contractors for the works depending on the value of the contract. If you want to make a comment this needs to be in writing or by email.



More information about the Section 20 process can be found on our website at <https://www.aster.co.uk/existing-customers/manage-my-home/i-own-my-home>

This letter and enclosures are not a demand for payment. Any charges will be communicated to you separately and applied through your service charges.

Yours sincerely

A handwritten signature in black ink, appearing to be 'TB' or similar, written in a cursive style.

Tom Broome  
Section 20 Officer

«household\_name»

«correspondence\_address\_line  
\_2»

«correspondence\_address\_line  
\_3»

«correspondence\_address\_line  
\_4»

«correspondence\_address\_line  
\_5»

«correspondence\_postcode»

**Please contact:** Section 20 Officer

**Please respond in writing:**

**E-mail:** Observations@aster.co.uk

**Date:** 30<sup>th</sup> October 2018

**Our  
S20G0010**

**ref:**

**Your  
«tenancy\_number»**

Dear «household\_salutation»

**NOTICE OF INTENTION TO ENTER INTO A QUALIFYING LONG TERM  
AGREEMENT UNDER SCHEDULE 2 OF THE SERVICE CHARGES  
(CONSULTATION REQUIREMENTS) (ENGLAND) REGULATIONS 2003**

**«property\_address»**

It is the intention of Aster to enter into a long-term agreement for which we are required to consult with you. The long-term agreement we intend to enter into is in relation to the supply of our communal gas and electricity. We are intending to enter into a three-year contract with an option to extend for a further two years.

A description of the service to be provided under the agreement can be found on our website [www.aster.co.uk](http://www.aster.co.uk) – search for ‘Have Your Say’ or inspected *by appointment between the hours of 9.30am and 3.30 pm* at the following main offices. Please contact your housing officer to make an appointment. Reasonable notice should be given for any appointment request:

**SOMERSET**

*Flourish House  
2 Cathedral Avenue  
Wells  
Somerset (Sat nav postcode BA5 1TY)  
BA5 1FD*

**DEVON AND CORNWALL**

*Suite 2, Ground Floor  
Envoy House  
Longbridge Road  
Marsh Mills  
Plymouth  
PL6 8LU*

**HAMPSHIRE**

*Testway House  
Greenwich Way  
Andover  
Hampshire  
SP10 4BF*

**WILTSHIRE**

*Sarsen Court  
Horton Avenue  
Devizes  
Wiltshire  
SN10 2AZ*

**DORSET**

*Prospect House  
Sandford Lane  
Wareham  
Dorset  
BH20 4DY*

We consider it necessary to enter into the agreement because of rising energy supply costs. We hope to mitigate large year on year price rises by securing a longer-term energy deal.

You do not have to comment or raise any observations upon this notice. However, if you wish to do so any observations must be received within the consultation period of 30 days from the date of this notice. The consultation period will end on **4<sup>th</sup> December 2018**. Any comments received after this date will not be considered.

We invite you to make written observations in relation to the proposals by sending them to Section 20 Officer, Aster Group, Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ. Alternatively you can email any observations to [observations@aster.co.uk](mailto:observations@aster.co.uk) quoting yours and our reference.

The reason why you are not invited to propose a person from whom we should try to obtain an estimate is because the proposed agreement requires public advertisement within the European Community.

Yours sincerely



Tom Broome  
Section 20 Officer

**THIS LETTER IS IMPORTANT.**

**PLEASE KEEP IT IN A SAFE PLACE FOR FUTURE REFERENCE AND IN PARTICULAR IF YOU ARE SELLING YOUR PROPERTY THEN MAKE SURE YOU SUPPLY IT TO YOUR CONVEYANCERS SO THAT THEY CAN MAKE IT AVAILABLE TO YOUR BUYER. THE INFORMATION SET OUT IN THIS NOTICE MAY BE RELEVANT FOR A BUYER.**

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## **APPENDIX 5**

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### **STAGE 1 CONSULTATION OBSERVATIONS WITH REPLIES**

**Observations received during Stage 1 of the Section 20 Consultation to enter into a qualifying long-term agreement under schedule 2 of the Service Charges (consultation requirements) (England) regulations 2003**

Observation	Response
<p>Thank you for the S20 notice received today. Just one Section troubles me. In the FAQs I can see "What is a Section 20 and how does it affect me?" In the answer it says "if you are a leaseholder you have also committed to paying proportional cost for repairs, maintenance or improvements". My lease does not give Aster the option to charge for improvements to our property, only for repairs or maintenance.</p>	<p>The FAQ's are a generic document that we have provided to cover all those who have been consulted with, some of whom will have a lease that allows for improvements.</p> <p>This consultation is not in relation to any improvement works it is in relation to our intention to switch suppliers of our communal gas and electricity. Aster currently go out to the market each year to find the best landlord gas and electricity price. However, with the price of energy continuing to rise, one way to help potentially mitigate a large year on year price rise is to secure a longer term energy deal, typically for a three year period. Because this is over 12 months we need to consult with all service charge payers about this proposed change.</p>
<p>I have read your letter with regard to the electricity used by tenants. The only electricity we pay is for the communal lighting and electric used by the cleaners appliances.</p> <p>Landlords electricity is paid for in our Service Charges. You will see that we pay for an annual lump sum given without any meter readings</p> <p>I fail to see that this would affect me personally as my total payment per year is £69.</p> <p>What I would say is that you do not comply with the Resale of Gas and Electricity Guidance for Resellers which shows how Landlords should work it out.</p> <p>They also emphasise that Landlords should charge a domestic cost, not a business cost and not charge more than your costs.</p>	<p>We have consulted with you as Aster are looking to switch their communal gas and electricity supplier. As you have correctly pointed out you currently pay through your service charge a sum in relations to "Landlords Electricity". Aster has sought to protect customers from energy price rises as much possible. Aster currently go out to the market each year to find the best landlord gas and electricity price. However, with the price of energy continuing to rise, one way to help potentially mitigate a large year on year price rise is to secure a longer term energy deal, typically for a three year period. Because this is over 12 months we need to consult with all service charge payers about this proposed change.</p> <p>Your comments regarding compliance with the Resale of Gas and Electricity Guidance for Resellers are noted. Perhaps you could confirm why you consider we are not complying. We are not charging more than our costs.</p> <p>Finally, contrary to your understanding our service charge team have confirmed that meter readings have been used in</p>

	calculation of your service charge.
Please can someone contact me to discuss the section 20 letter received to clarify what is happening and potential impacts for me, as its not clear from the letter.	<p>Aster are looking to switch their gas and electricity supplier. This relates to Aster's communal supply, which is often referred to as "Landlord Gas and Electricity" on service charge statements. This will be the supply to any communal area. We are not switching any personal supplier. Aster has sought to protect customers from energy price rises as much possible. Aster currently go out to the market each year to find the best landlord gas and electricity price. However, with the price of energy continuing to rise, one way to help potentially mitigate a large year on year price rise is to secure a longer term energy deal, typically for a three year period. Because this is over 12 months we need to consult with all service charge payers about this proposed change, which is the reason for the letter you have received.</p>
I am a little surprised to get this letter as I do not receive communal gas or electric.	<p>Section 20 of the Landlord and Tenant Act 1985 requires the Landlord to consult with tenants on works or services the cost of which will be met by the tenant through their service charge. Anyone who pays a service charge whether they are a leaseholder, shared owner or tenant maybe be affected by a Section 20 consultation.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Gas and/or Electricity we are required to consult with you in relation to our proposal to switch our communal supply. It is for this reason that you received our letter of the 30th October.</p> <p>I hope the above provides an explanation as to the reason for our letter, however if you wish to discuss this any further please do not hesitate to get in touch.</p>
I am not able to take your gas or electric as I am in contract with another energy supplier which will probably be cheaper than yours.	<p>Please note that this consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier.</p> <p>If you take a look at a recent rent statement you will see that as part of your service charge you pay a weekly cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service</p>

	charge, of which a proportion is made up of the cost of Landlord Electricity and/or gas we are required to consult with you in relation to our proposal to switch our communal supply. It is for this reason that you received our letter of the 30th October.
<p>I am in receipt of your letter dated 30 October in respect of entering into a long term agreement for communal gas and electricity supply.</p> <p>I cannot locate the service charge statement and would like to check if/what is being paid at the moment</p> <p>Is it possible to say at this stage how we will be affected?</p>	<p>At this stage of the consultation we are unable to provide details as to the likely cost as a result of the switch. Details as to the costs will be provided at Stage 2 of this consultation. I would however point out that our intention for switching our communal gas and electricity is due to continuing price rises year on year. Given the rising costs we are taking this opportunity to try and mitigate price rises for customers and ensure that we have the most appropriate supplier providing the services required.</p>

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**APPENDIX 6**

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**MODEL NOTICE OF INTENTION  
DATED 30.03.2019**



«household\_name»  
«correspondence\_address\_line\_1»  
«correspondence\_address\_line\_4»  
«correspondence\_address\_line\_5»  
«correspondence\_postcode»

**Please contact:** Section 20 Officer

**E-mail:** Observations@aster.co.uk

**Date:** 30<sup>th</sup> March 2019

**Our ref:**  
**S20G0010**

**Your ref:**  
**«tenancy\_number»**

Dear «household\_salutation»

## **Section 20 Consultation – Stage 2**

**«property\_address»**

We wrote to you in October 2018 about our plan to enter into a new Long Term Agreement for the supply of our communal gas and electricity. Given rising energy costs we have taken this opportunity to test the market with the aim of trying to mitigate these price rises and ensure value for money for our customers. 11 energy suppliers were invited to tender for the new contract. Our only criteria for the procurement exercise was best price.

We have reviewed all the tenders received and we are now pleased to enclose a Notice of Proposal. This is the second stage in the S20 consultation process. Costs have risen as we anticipated, however we have been able to secure a contract with fixed costs for 3 years. We have also enclosed any comments received during stage 1 (Notice of Intention) of this consultation along with our answers to these.

I am sorry for the legal tone of the notice but unfortunately this is unavoidable because the Section 20 legislation means we must give you information in a certain way. I hope however that the attached frequently asked questions will answer any questions you have about this consultation.

### **What happens next?**

Should you wish you now have until the **4<sup>th</sup> May 2019** to raise any comments in relation to the enclosed notice. You will find below some frequently asked questions which may help answer any questions you may have.

Finally, please note that this letter and enclosures are ***not*** a demand for payment. Any charges will be communicated to you separately and applied through your service charges.

Yours sincerely

A handwritten signature in black ink, appearing to be 'TB' with a large, sweeping flourish underneath.

Tom Broome  
Section 20 Officer

## **FAQs – S20: - Gas and Electricity Energy Supply**

### **What are you changing?**

Aster has sought to protect customers from energy price rises as much possible. We currently go out to the market each year to find the best landlord gas and electricity price. This is like a very large annual energy supplier switch. However, with the price of energy continuing to rise, one way to help potentially mitigate a large year on year price rise is to secure a longer term energy deal. We are switching to a 3 year fixed price contract. This is similar to the deals some utilities offer to domestic customers with a fixed-price tariff for three years. Because this is over 12 months we need to consult with you about this proposed change.

### **Why are you changing it?**

As advised above gas and electric prices have been rising over the last few years and are due to continue rising. Given the rising costs we are taking this opportunity to mitigate price rises for customers and ensure that we have the most appropriate supplier providing the services required.

### **What gas and electricity supply are you renewing?**

This consultation relates to communal supply, often referred to as “Landlord Gas and Electricity” on your service charge statement. We are not switching your personal supplier. A small number of customers are charged for electricity and/or gas to their homes by Aster where you are charged on usage through one meter that covers more than one property but no communal area. If you are one of these customers this new contract will also apply to these personal charges.

### **Why has there been a rise in energy prices?**

As of February 2019, all the big six suppliers have announced energy price rises. Energy companies raised their prices after the Government revealed that it would be increasing the rate of the energy price cap from April 2019 - with the new price cap level of £1,254.

Meanwhile, many smaller suppliers including Co-Operative Energy, GB Energy, Ebico, TOTO Energy and Flow Energy, have also announced price rises.

### **What causes energy prices to rise?**

In the UK, gas and electricity prices are not regulated, and are set by the suppliers directly. Market forces can cause the wholesale price of gas to go up (or down). The supply of energy is affected by trade disagreements, conflict and either conditions in the UK and overseas. Government policies such as VAT, the price cap, infrastructure costs such as building new nuclear power stations or stimulating provision of lower carbon energy can also raise energy prices.

**How is Aster protecting customers from the rise in energy prices?**

When Aster purchases energy we seek the cheapest energy price from more than 10 energy suppliers through a regulated energy procurement exercise. Our energy brokers, who are experts in the energy markets, have advised that energy prices are forecast to continue to rise. To mitigate this rise in price, Aster has entered a fixed energy tariff for three years. The fixed energy tariff offers guaranteed standing charges and unit rates. Whilst customers will see a rise in energy price in 2019 there will be no price rises in 2020 and 2021. The actual cost charged through your service charge will depend on usage but the unit rates will be fixed.

**When is the contract with the new suppliers due to start?**

1<sup>st</sup> April 2019.

**How much will this cost me?**

Please refer to the attached Notice of Proposals.

**How much do I currently pay in my service charge towards gas and/or electricity supply?**

This information should be contained in your latest service charge statement. In the absence of this you will be able to check this with our Service Charge team – [Servicecharges@aster.co.uk](mailto:Servicecharges@aster.co.uk)

**Will my service charges increase?**

Your service charge will depend on the services you receive in the building/estate that you live in. We will not be asking you to pay for anything for which you are not receiving or will not receive a service for in the future. Your service charge budget for 2019/20 has already been set. The new costs will be taken into account when we undertake our service charge reconciliation process after March 2020. Your actual cost will be dependent on usage however unit prices for the energy from the 1<sup>st</sup> April will be higher than previously but will not then increase in 2020 or 2021.

**What will I pay for services?**

You will pay for the energy used plus any standing charges. You would only pay for the cost of the service you receive and these costs will be included in your service charges.

**When will I start paying for the new supplier?**

The first time you will see the new costs in your service charge budget will be 2020/21.

**What are standing charges**

Standing charges appear on your gas and electricity bills as a fee from your energy supplier to pay for the service of supplying your house with power.

These standing charges remain the same no matter how much energy you use. They pay for costs such as meter readings and connection to the main electricity and gas supply.

**What is a unit of energy.**

A kilowatt hour (kWh) is the standard measurement of energy that your energy supplier will use to bill you. A kilowatt hour refers to a person using 1,000 watts of electricity for 1 hour. Your prices will be set per kilowatt hour (kWh) of energy you use. Gas is also converted to a kilowatt hour as a standard charge.

**You say this is a legal consultation, are you now going to add legal costs to my service charges?**

No. Although this consultation process is required by law there are no legal costs involved.

**Please send more information about the services you are looking to provide**

A description of the services to be provided under the agreement can be found on our website [www.aster.co.uk](http://www.aster.co.uk) – search for 'Have Your Say' or inspected by appointment at our main offices. Alternatively we can email this specification to you.

**Do I need to reply to this Notice?**

You only need to reply if you want to make an observation about the energy supplier switch. You will find details below about how to make an observation.

**What is a section 20 consultation and why does it affect me?**

Anyone who pays a service charge whether they are a leaseholder, shared owner or tenant maybe be affected by a section 20 consultation.

Through your service charge you pay a proportional share for various services provided to your property or the estate in which you live, for example grounds maintenance.

If you are a leaseholder you have also committed to paying a proportional cost for repairs, maintenance or improvements to your home or to the building or estate in which you live.

The Section 20 consultation process (sometimes referred to as S20) was put in place to protect service charge payers and to make sure that landlords only carry out work or enter into service contracts that are necessary and at a reasonable cost.

The process also allows service charge payers the chance to comment on the works and sometimes to suggest contractors for the works depending on the value of the contract.

Because of the legal terminology we are required to include in our letters and notices by law, section 20 consultations can be quite difficult to understand. To help you to understand the process and what you need to do, we've included below some useful FAQs, these can also be found on our website.

**When is the S20 consultation process used?**

For any one-off work that will cost an individual service charge payer over £250 or for any new service (for example ground maintenance) that lasts longer than 12 months and will cost any service charge payer over £100, we need to let you know and give you the chance to comment on what we are planning.

Your comments form part of a formal consultation between us and you and it's our legal requirement under section 20 of the Landlord and Tenant Act 1985 to involve you.

**How does the Section 20 consultation process work?**

This may vary according to the type of work and the cost but it's usually along these lines:

1. We send you a legal Notice telling you what work or type of contract we are planning. This will include letting you know where you can find out more details and how you can provide your comments.
2. We get some quotes from contractors, taking in to account any comments we've received.
3. We send you a 'notice of estimates' which gives you the details of the estimated costs. You are able to provide feedback to us on the estimates.
4. Taking into account any feedback we received we award the contract to a preferred supplier to carry out the work.
5. If the contractor is not the cheapest we will write to explain why they have been awarded the contract.

**Can I nominate a company to provide the brokerage or energy supply?**

While the opinions and views of Tenants, Leaseholders & Shared Owners are invited and considered, you are not invited to nominate a contractor or company for us to approach. This is in line with the regulations set out in the Landlord and Tenant Act 1985 as amended by the Common-hold and Leasehold Reform Act 2002, as the invitation to tender is made by way of a public notice.

**What is an observation?**

You have a right to reply with your comments to a Section 20 notice up to 30 calendar days from the date of the notice. Your reply is known as an 'observation'. We will acknowledge any observations we receive within 21 calendar days.

A summary of all the observations received and our responses to them are sent out with the next stage of the consultation documents and may also be available on the website.

All the comments and feedback we receive are taken in to account when planning the work and awarding the contract.

### **How do I make an observation?**

You can make an observation about a notice in writing either by letter or e-mail. You can't make observations verbally either over the telephone or in person.

### **Is this notice a bill?**

No, this is not a bill. You don't need to make any payment in response to receiving this letter or any enclosed notices.

### **What if I cannot afford to pay?**

If you are worried about how you will meet the cost please speak to your housing officer. For more information visit <https://www.aster.co.uk/existing-customers/leaseholder/what-to-do-if-you-are-struggling-to-pay>

### **I have received a S20 notice but I don't think it's for me**

If you receive a notice to your address but not in your name please let us know, it may be that our records need updating or that the leaseholder is subletting the property to you.

If you are a leaseholder sub-letting your property please let us have a correspondence address so we can send S20 Notices to you there.

### **I am planning to sell my property before the service described in the S20 notice is completed**

You should keep the documents safe and pass them to your solicitor when you have accepted an offer. Any potential purchaser needs to be aware of any Section 20 consultation.

### **Where can I go for advice?**

You can contact your local Citizens Advice Bureau for independent advice. The following websites also have useful information about the S20 process:

<http://www.lease-advice.org>

<http://www.leaseholderadvicecentre.co.uk>

«household\_name»

«correspondence\_address\_line  
\_1»

«correspondence\_address\_line  
\_4»

«correspondence\_address\_line  
\_5»

«correspondence\_postcode»

**Please contact:** Section 20 Officer

**Please respond in writing:**

**E-mail:** observations@aster.co.uk

**Date:** 30<sup>th</sup> March 2019

**Our ref:**  
**S20G0010**

**Your ref:**  
**«tenancy\_number»**

Dear «household\_salutation»

**NOTICE OF PROPOSALS TO ENTER INTO A QUALIFYING LONG TERM  
AGREEMENT UNDER SCHEDULE 2 OF THE SERVICE CHARGES  
(CONSULTATION REQUIREMENTS) (ENGLAND) REGULATIONS 2003**

**«property\_address»**

This notice is given following the notice of intention to enter into a long-term agreement issued on the 30<sup>th</sup> October 2018. The consultation period in respect of the notice of intention ended on the 4<sup>th</sup> December 2018.

We have now prepared a proposal in respect of the service to be provided under the agreement based on the estimates received, and a copy of the proposal accompanies this notice.

As expected prices have risen this year as announced by the energy companies and reported in the press. Aster has sought to mitigate future rise in energy prices by securing the lowest tariff and locking into a three-year deal with EDF to supply electricity and Gazprom to supply Gas. The exception to this is York Place in Marlborough which has a meter that EDF do not quote on. For this site Total Gas and Power will be our supplier.

Whilst the above will mean a rise in your service charge for energy in 2019, there will be no rise in energy cost in 2020 and 2021. Actual incurred costs may go up or down depending on actual energy use, VAT status, plus any other changes to tax or Government energy policies in the next three years.

You do not have to comment or raise any observations upon this notice. However, if you wish to do so any observations must be received within the consultation period of 30 days from the date of this notice. The consultation period will end on the **4<sup>th</sup> May 2019**. Any comments received after this date will not be considered.

We invite you to make written observations in relation to the proposals by sending them to Section 20 Officer, Aster Group, Sarsen Court, Horton Avenue, Cannings Hill,



Devizes, Wiltshire, SN10 2AZ. Alternatively you can email any observations to [observations@aster.co.uk](mailto:observations@aster.co.uk) quoting yours and our reference.

Finally, we summarise as attached, the written observations received during Stage 1 of this consultation and our response to the same.

Yours sincerely

A handwritten signature in black ink, appearing to be 'TB' or similar, written in a cursive style.

Tom Broome  
Section 20 Officer

**THIS LETTER IS IMPORTANT.**

**PLEASE KEEP IT IN A SAFE PLACE FOR FUTURE REFERENCE AND IN PARTICULAR IF YOU ARE SELLING YOUR PROPERTY THEN MAKE SURE YOU SUPPLY IT TO YOUR CONVEYANCERS SO THAT THEY CAN MAKE IT AVAILABLE TO YOUR BUYER. THE INFORMATION SET OUT IN THIS NOTICE MAY BE RELEVANT FOR A BUYER.**

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## **APPENDIX 7**

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### **STAGE 2 CONSULTATION OBSERVATIONS WITH REPLIES**

Observations received during Stage 2 of the Section 20 Consultation to enter into a qualifying long-term agreement under schedule 2 of the Service Charges (consultation requirements) (England) regulations 2003

Observation	Response
<p>I am replying to the letter received today about the supply of communal gas and electricity. I wish to inform you I do not receive either as I pay for mine through coop energy</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>In response to your letter dated 30th March 2019, Your Ref: SG0G0010, I am finding the language hard to understand. Are we to be charged more rent or has it already been included for the new financial year? Could do with reassurance.</p>	<p>The recent rises in energy prices will mean that you will see a rise in your service charge, however the first time you will see the new costs in your service charge will not be until 2020/21. Your service charge budget for 2019/20 has already been set. The new costs will be taken into account when we undertake our service charge reconciliation process after March 2020.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>We are with SSE.</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for</p>

	<p>Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>Please can you advise as I have a key meter and gas card for my services so don't really understand the nature of the letter as it shouldn't affect me as I have pre-payment meters.</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier for which you have your key meter and gas card.</p> <p>As part of your service charge/rent you pay a cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge/rent, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. This will be for things such as communal lighting. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>I don't understand why I have received a letter about communal gas and electricity as I don't receive it..?</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. It is for</p>

	<p>this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
What is the gas component of "Landlord Gas and Electricity"? I'm unaware of any communal heating or cooking facilities in my block.	The Section 20 consultation is for communal Gas and/or Electricity. Your block is only charged for communal electricity and not gas.
I have just received a section 20 letter regarding gas and electricity but as Aster does not provide my gas and electricity and I do not live in a purpose built block of flats why have I been sent it.	<p>This Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier. The communal supply does not just relate to blocks of flats, this also covers things such as street lighting.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>Thank you for contacting me with information regarding the proposal for the three year communal contract.</p> <p>I would like to register my strong objections to this proposal for the following reasons:</p> <p>I have chosen my energy supplier because of their ethical stance on the environment and renewable energy. I object to EDF as a company and am extremely disturbed that it appears that my right to chose is being taken from me.</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity and/or Gas.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas</p>

<p>Looking from the financial position, the estimated costs proposed in the statement will leave me paying more than double my current monthly fuel expenditure. I have no idea how I will be able to afford the proposed charges and it doesn't seem right that I am being forced into this position. Is there any other option for me?</p>	<p>we are required to consult with you in relation to the switch in supplier of our communal Electricity and/or Gas. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p> <p>Kind regards</p>
<p>I have received a letter about a new proposed long-term agreement on energy supply and prices. I am in the middle of switching my gas and electricity supply to this address. My query is simple: Does this new agreement prevent me from going ahead with switching my energy suppliers.</p>	<p>This Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier therefore this will not prevent you from proceeding with your switch.</p>
<p>Thank you for the Electricity Cost Information I take it that you will equate last year's Landlords costs.</p> <p>Or the Estimated costs as Of Gen Regulations i.e. as from the 1st of Aprils Electricity Reading.</p> <p>Also Next year's Final reading stating the Number of Electricity Units Use 12 hrs per day units cost and 12 hours Night Units cost.</p> <p>As well as the daytime Unit cost, at so many days, which is as specified by Ofgen, as it is against the Law to charge more than what the Electricity costs</p> <p>In the past we have never had any actual reading stating the amount of units or costs just a figure.</p> <p>If you have a been Stated cost or Contract over three years the Electric will not change in cost and the government states the VAT which is 5% .</p> <p>I have a contract for my own Private Electricity and Gas over 2 years, it will not go up but it may go down.</p>	<p>I can confirm that we would not charge you via your service charge more than the cost/usage of the electricity as this would be checked as part of the service charge reconciliation process.</p> <p>Should you wish to see actual meter readings/unit costs you do have the right, within 6 months of receiving a written summary of costs, to request evidence of this supporting the summary. You can make this request to our Service Charge team.</p>
<p>I am a bit confused, as the communal heating here is oil fired, there is no gas, and each household is responsible for their own electricity. Who will be providing the oil for our homes? Is that also to be provided under a 3-year fixed price contract? And what are the costs involved?</p>	<p>This Section 20 consultation is only in relation to our switch in supplier of our communal gas and electricity. I am sorry I am unable to comment on oil as this is not part of the consultation or for which I have knowledge.</p> <p>If you take a look at a recent rent/service</p>

	<p>charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity. Landlord Electricity costs include such things as external street lighting.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to our switch in supplier. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>I have been sent; as part of section 20 consultation - stage 2, the information for communal power supply for YORK PLACE, MARLBOROUGH, SN8 1AT. While I am interested in other peoples business can I remind you that I don't have any connection with this address.</p> <p>Should I expect a pertinent set of forms for my property?</p> <p>Further, I am informed that no record is apparent of the historic problem of the SOIL PIPE failure. Please consult jennie kearley, I hope she can give you a picture; as I am quite frustrated at repeating my self.</p> <p>It appears that ASTER has a fundamental problem with information continuity. Can these items be resolved in-house?</p>	<p>I will pick up the first part of your email in relation to the Section 20 consultation. Your further comments about the Soil Pipe will be picked up separately by those you have emailed.</p> <p>The letter and enclosures are relevant for your property. It is only a small section of the letter which relates to York Place as they have a different arrangement for their gas and electricity than the remainder of Aster properties/blocks that receive communal gas and/or electricity.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
<p>I am emailing regarding the proposal for change of energy supplier that you recently sent out. Although I can see no immediate problem with the proposal I would recommend that you actually sort out the lighting in the buildings before trying to save money on suppliers.</p> <p>I live in a block of flats, where the communal lighting, is on 24 hours a day. This communal lighting used to come on either on a timer or as daylight dimmed and also act on a motion sensor but it seems that now it is on all day and all night,</p>	<p>Thank you for your email and for bringing to our attention the position with the communal lighting at your block. Your email has been referred internally to bring awareness to those necessary.</p>

<p>presumably at quite a cost to Aster and in turn to Aster tenants. Please look at rectifying these issues before considering other sways of saving</p>	
<p>We do not have a communal gas supply but, we have a communal electricity supply. I take it that this fact will be taken into consideration when it comes to calculating future Service Charges for all Leaseholders?</p> <p>To save money on electrical power supplies, why can't the lighting in the communal areas be controlled by motion sensors? I mention this because there are times when the lights come on as early as 14.30hrs and are still on at 08.30hrs the next day. Surely this has to be an unnecessary waste of electricity and charges!</p>	<p>We can confirm that you will only be charged for the cost of the service you receive.</p> <p>Thank you for your comments about the communal lighting. Your email has been referred internally to bring awareness of this to those necessary.</p>
<p>It is interesting how we are receiving a Stage 2 consultation letter and have until May 4th 2019 to make observations, when the contract started back on April 1st 2019? Your letter was only dated March 30th and, of course, did not arrive until after April 1st. How is this following the consultation procedure?</p> <p>Also, once again, the charges are not clear nor is the supplier you will be using for each area. You have the "York Place SN8 1AT only" clearly stated. Is it to be assumed that EDF and Gazprom will be supplying all your other sites, including Cornwall? And what about the non half-hourly and half-hourly meter estimates? How do we know which one applies to our site? There seems to be quite a difference in estimates. More clarity would be much appreciated.</p>	<p>Unfortunately the way in which energy is procured has meant that we have been unable to follow the formal Section 20 consultation procedure. EU Procurement Regulations require a "standstill" period of at least ten calendar days between the decision to award the contract and the signing of the contract. The energy market does not operate in this way as bids are requested and contracts have to be signed within a 24 hour period. It is impossible for the time periods for consultation (30 days) laid down in the Consultation Regulations to be followed, since the price offered by the Energy Supplier will not be held open for the period necessary to carry out a full consultation. It is for this reason that contracts with the new energy suppliers started on the 1st April despite the consultation period not ending until the 4th May.</p> <p>Our only criteria for the procurement exercise was best price. By undertaking this exercise we have secured the lowest tariff and entered into a three-year deal with EDF to supply electricity and Gazprom to supply Gas</p> <p>I hope that you agree that given the current volatility within the energy market that it is prudent to secure a fixed price.</p>



	<p>With regards to suppliers I can confirm asides from York Place in Marlborough Gazprom and EDF will be our suppliers of gas and electricity respectively.</p> <p>I can advise that for your block the Electricity supply will be Non-Half Hourly which is the same for the bulk of our residential communal electricity. The estimated Standing Charge is £15.82 per month and the unit cost rate is £0.14 per kilowatt hour.</p>
<p>I would appreciate it if you could give me an indication of what my charges are likely to be.</p>	<p>I can advise that for your block the supply will be Non-Half Hourly which is the same for the bulk of our residential communal electricity. The estimated Standing Charge is £14.53 per month and the unit cost rate is £0.14 per kilowatt hour.</p> <p>You will only pay for the energy used plus any standing charges and these costs will be included in your service charges. The new costs will be taken into account when we undertake our service charge reconciliation process after March 2020 and the first time you will see the new costs in your service charge budget will be 2020/21. Your actual cost will be dependent on usage.</p>
<p>I would like you to know that we have no gas and our electricity is our own private supplier, Good Energy, which is a sustainable energy company that uses organic material and wind and wave power. We are very happy with them and we will not change them for anything else.</p>	<p>Please note that this Section 20 consultation relates to the communal supply of gas and electricity. We are not looking to switch your personal supplier of electricity, whom we note you are very happy with.</p> <p>If you take a look at a recent rent/service charge statement you will see that as part of your service charge you pay a cost for Landlord Electricity.</p> <p>As a tenant of ours who pays a service charge, of which a proportion is made up of the cost of Landlord Electricity and/or Gas we are required to consult with you in relation to our switch in</p>

	<p>supplier. It is for this reason that you received our recent letter.</p> <p>You will find a number of frequently asked questions with our recent letter, which we hope should address any questions you may have.</p>
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