Subject:	RE: Planning Condition 18
From:	Paul Maidment
To:	Mamoon Khan
Date:	Thu Mar 26 2020 11:32:24 GMT+0000 (Greenwich Mean Time)
Filename:	RE_ Planning Condition 18.eml
Attachment Files:	1. Draft Lease Smithycroft.pdf (829.6 kB)

NOTE: Email originated outside of Vistry Group.

Mamoon

Clause 3.4.4 Cause as little inconvenience to the landlord and the tenants and occupier of the relevant part of the building as reasonably practical.

Clause 12.4 the tenants shall not play or use any musical instrument, record player, amplifier, loud speaker, or similar apparatus as in such a manor to be hear outside the building.

Kind regards

Paul

Paul Maidment
Development Manager - Delivery
T: E:

Housing Trust

SOUTHERN GATE, 729 PRINCESS ROAD, DIDSBURY, MANCHESTER M20 2LT
T: 0161-448-4200 E: CONNECT2SOUTHWAY@SOUTHWAYHOUSING.CO.UK WWW.SOUTHWAYHOUSING.CO.UK

From: Mamoon Khan
Sent: 26 March 2020 10:44
To: Paul Maidment
Subject: RE: Planning Condition 18

Hi Paul,

Is it just 12.4 which refers to the level of sound? Could you highlight the relavant sections which you deem address the planners request for 'confirmation of the volume of music to be played in the cafe and how this will be controlled and managed so that the appropriate noise limits are not exceeded'.

Regards,

Mamoon Khan
Design Coordinator

Direct:
Mobile:

Vistry Partnerships
Innovation House, Kelburn Court,
Birchwood, Warrington, WA3 6UT

From: Paul Maidment <
Sent: 13 March 2020 09:44
To: Mamoon Khan < >
Subject: Planning Condition 18

NOTE: Email originated outside of Vistry Group.

Mamoon

As required

Paul

Paul Maidment
Development Manager - Delivery
T: M: E:

Housing Trust

SOUTHERN GATE, 729 PRINCESS ROAD, DIDSBURY, MANCHESTER M20 2LT
T: 0161-448-4200 E: CONNECT2SOUTHWAY@SOUTHWAYHOUSING.CO.UK WWW.SOUTHWAYHOUSING.CO.UK

Registered office: Southern Gate, 729 Princess Road, Didsbury, Manchester M20 2LT
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DATED

2 July

LEASE

Relating to

BISTRO RESTAURANT AT SMITHY CROFT FINNEY LANE STOCKPORT

Between

MANCHESTER AND DISTRICT HOUSING ASSOCIATION LIMITED

and

CUPPACCINO HEALD GREEN LIMITED

THIS LEASE is dated 2 July 2014

PARTIES

(1) **Manchester and District** Housing Association Limited, a charitable Industrial and Provident Society no 16434R, registered with the TSA no L1423, registered office Apex House, 266 Moseley Road, Levenshulme, Manchester, M19 2LH (**Landlord**).

(2) **Cuppaccino Heald Green Limited**, incorporated and registered in England and Wales with company number 08916956 whose registered office is at 80 Booth Way, Tottington, Bury BL8 3JW (**Tenant**).

AGREED TERMS

1 Interpretation

1.1 The definitions and rules of interpretation set out in this clause apply to this lease.

Base Rent: rent at the rate of £ nil per annum.

Base Rent Payment Date: each date for payment of the Base Rent referred to in clause 5.1

Break Date: the end of the twelfth month of the Term being the 13 day of July 2015 or at any time thereafter

Break Notice: six (6) months' written notice to terminate this Lease specifying the Break Date

Building: Smith Croft Finney Land Stockport shown edged blue on the plan attached to this Lease ~~marked Plan~~ 1.

Interest Rate: 4% points above the base rate of Barclays Bank plc.

Kitchen Equipment: means the equipment detailed in schedule 2

LTA 1954: Landlord and Tenant Act 1954.

Permitted Use: as a bistro/restaurant for the preparation and sale of hot or cold food, drinks and refreshments for consumption on or off the Property throughout the day

Property: the bistro on that part of the ground floor of the Building, which is shown edged red on the plan attached to this lease ~~marked Plan~~ 1, including all the windows and window frames in that part but excluding all Service Media which are within that area but which do not serve it exclusively and excluding any load-bearing or structural part.

Refectory: means the eating area of the bistro as shaded green on the plan attached to this Lease marked Plan 1

Rent Commencment Date: the first anniversary of the ~~date hereof~~ being the Term Commencement Date 14 day of July 2015

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

Services Charge: means a proporionate amount calcuated by the Landlord (acting reasonably) in connection with services, utilities and other matters provided by the Landlord to the property the initial proportion of which is stated in schedule 3 (but excluding the Kitchen Equipment)

Term: a term of three (3) years beginning on, and including ~~the date of this lease~~ 14 July 2014 and ending on, and including the 12 day of July 2017

Trading Days: Monday to Friday from 9:00 am to 5:00pm and Saturday and Sundays from 10:00am to 3:00pm 365 days per year including (for the avoidance of doubt all Bank Holidays)

Turnover Rent: the rent calculated and payable in accordance with schedule 1

VAT: value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

1.2 A reference to this **lease**, except a reference to the date of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.

1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease.

1.4 Unless the context otherwise requires, references to the **Building** and the **Property** are to the whole and any part of them or it.

1.5 A reference to the **end of the Term** is to the end of the Term however it ends.

1.6 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

1.7 Unless otherwise specified, a reference to a law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it.

1.8 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.

1.9 A **person** includes a corporate or unincorporated body.

1.10 Except where a contrary intention appears, a reference to a **clause** is a reference to a clause of this lease.

1.11 Clause headings do not affect the interpretation of this lease.

2 Grant

2.1 The Landlord lets the Property to the Tenant for the Term.

2.2 The grant is made together with the ancillary rights set out in clause 0, excepting and reserving to the Landlord the rights set out in clause 0, and subject to all rights, restrictions and covenants affecting the Building including the matters referred to at the date of this lease in the property register and charges register of title number MAN29873.

2.3 The grant is made with the Tenant paying to the Landlord as rent, the Annual Rent and all VAT in respect of it, and all other sums due under this lease.

3 Ancillary rights

3.1 The Landlord grants the Tenant the following rights (the **Rights**) to use in common with the Landlord and any other person authorised by the Landlord:

3.1.1 the right of support and protection from those parts of the Building that afford support and protection for the Property at the date of this lease and to the extent that such support and protection exists at the date of this lease; and

3.1.2 the right to use any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this lease; and

3.1.3 the right to enter any part of the Building that adjoins the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease

3.1.4 the right to enter such common parts of the Building that are necessary for access and egress to and from the Property and for the purpose of receiving deliveries

3.2 The right to dispose rubbish in the refuse bins and refuse areas provided by the Landlord together with a right to access the same at all reasonable times;

3.3 In relation to the Right mentioned in clause 3.1.1, the Landlord may, at its discretion, re-route or replace any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced.

3.4 In relation to the Right mentioned in clause 3.1.3 , the Tenant shall:

3.4.1 except in case of emergency, give reasonable notice to the Landlord and the occupier of that part of the Building of its intention to exercise that Right;

3.4.2 where reasonably required by the Landlord or the occupier of the relevant part of the Building, exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant part of the Building;

3.4.3 cause as little damage as possible to the Building and to any property belonging to or used by the Landlord or the tenants or occupiers of the relevant part of the Building;

3.4.4 cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the relevant part of the Building as is reasonably practicable; and

3.4.5 promptly make good any damage caused to the Building, or to any property belonging to or used by the Landlord or the tenants or occupiers of the relevant part of the Building, by reason of the Tenant exercising that Right.

3.5 The Tenant shall exercise the Rights:

3.5.1 only in connection with its use of the Property for the Permitted Use, and in a manner that is consistent with its obligations contained in this Lease; and

3.5.2 in accordance with all relevant laws.

3.6 Except as mentioned in this clause 0, neither the grant of this lease nor anything in it confers any right over any other part of the Building or any other property or is to be taken to show that the Tenant may have any right over any other part of the Building or any other property, and section 62 of the Law of Property Act 1925 does not apply to this lease.

3.7 Within one month after the end of the Term (and notwithstanding that the Term has ended), the Tenant shall make an application to remove all entries on the Landlord's title relating to the easements granted by this lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

4 Rights excepted and reserved

4.1 The following rights are accepted and reserved from this lease to the Landlord (the **Reservations**):

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

4.1.2 the right to use and to connect into Service Media at, but not forming part of, the Property; the right to install and construct Service Media at the Property to serve any part of the Building or any other property (whether or not such Service Media also serve the Property) and to connect into and use such Service Media; and the right to re-route any Service Media mentioned in this paragraph;

4.1.3 the right to enter the Property for any purpose mentioned in this lease or connected with it or with the Landlord's interest in the Building or any other property or to carry out any works to any other part of the Building, at any reasonable time after having given reasonable notice to the Tenant (and the notice need not be in writing and need not be given in the case of an emergency);

4.1.4 at any time during the Term, the full and free right to build into any boundary of the Property, and to develop land other than the Building, whether or not such land is owned by the Landlord, as the Landlord may think fit

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

4.3 The Landlord shall not be liable for any loss or inconvenience to the Tenant by reason of the exercise of any of the Reservations (other than any loss or inconvenience in respect of which the law prevents the Landlord excluding liability).

5 Base Rent, Turnover Rent and other payments

5.1 The Tenant shall pay the Base Rent and any VAT in respect of it by 12 equal instalments in advance on the first day of each month from and including the Rent Commencement Date. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant.

5.2 The first instalment of the Base Rent and any VAT in respect of it shall be made on the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the

period beginning on, and including, the Rent Commencement Date and ending on, and including, the day before the next Base Rent Payment Date.

5.3 The Tenant shall pay the Turnover Rent and any VAT in respect of it in accordance with the provisions of Schedule 1

5.4 The Tenant shall pay within 30 days of demand all costs in connection with the supply and removal of electricity, water, sewage, telecommunications and data and other services and utilities to or from the Property including meter rents and standing charges and window cleaning and deep cleaning to be paid by way of Service Charge. If any such costs are charged in respect of the Property together with other property (including the remainder or any other part of the Building), the Tenant shall pay a fair proportion (determined conclusively by the Landlord except as to questions of law and in the absence of any manifest error) of the total and for the avoidance of doubt the Tenant shall be responsible for all waste removal costs in respect of its use of the Property.

5.5 The Tenant shall pay all rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:

5.5.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or

5.5.2 any taxes (other than VAT and insurance premium tax) payable by the Landlord by reason of the receipt of any of the rents due under this lease.

If any such rates, taxes or other impositions are payable in respect of the Property together with other property (including the remainder or any other part of the Building) the Tenant shall pay a fair proportion (determined conclusively by the Landlord except as to questions of law and in the absence of any manifest error) of the total.

5.6 All sums payable by the Tenant are exclusive of any VAT that may be chargeable and the Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease. Every obligation on the Tenant under or in connection with this lease to pay, refund or to indemnify the Landlord or any other person any money or against any liability includes an obligation to pay, refund or indemnify against any VAT, or an amount equal to any VAT, chargeable in respect of it.

5.7 The Tenant shall pay the costs and expenses (assessed on a full indemnity basis) of the Landlord, including any solicitors' or other professionals' costs and expenses and whether incurred during or after the end of the Term, in connection with or in contemplation of the enforcement of the tenant covenants of this lease and with any consent applied for in connection with this lease and the preparing and serving of any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court.

5.8 If any Base Rent Turnover Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest at the Interest Rate on that amount for the period from the due date to and including the date of payment.

5.9 The Base Rent Turnover Rent and all other money due under this lease are to be paid by the Tenant without deduction, counterclaim or set-off.

6 Insurance

6.1 The Landlord shall keep the Building (other than any plate glass or window glass) insured against loss or damage by fire and such other risks as the Landlord considers it prudent to insure against, provided that such insurance is available in the market on reasonable terms acceptable to the Landlord. The Landlord shall inform the Tenant of relevant terms of its insurance policy.

6.2 The Tenant shall pay on demand a fair proportion of the cost to the Landlord of the insurance of the Building in accordance with clause 0 and of insurance against loss of the Annual Rent for a period not exceeding twelve months (and any insurance premium tax in relation to that amount).

6.3 If the Building is damaged or destroyed by a risk against which the Landlord has insured so as to make the Property unfit for occupation and use, and the Landlord has not repaired the Building so as to make the Property fit for occupation and use within twelve months of it having been damaged or destroyed, then the Landlord may determine this lease by giving notice to the Tenant.

6.4 If the Building is damaged or destroyed by a risk against which the Landlord has insured so as to make the Property unfit for occupation and use, then provided that:

6.4.1 the Landlord's insurance policy has not been vitiated in whole or part by any act or omission of the Tenant or any person at the Building with the actual or implied authority of the Tenant; and

6.4.2 the Landlord has not repaired the Building so as to make the Property fit for occupation and use within twenty four months of it having been damaged or destroyed,

the Tenant may determine this lease by giving notice to the Landlord.

6.5 If the Building is damaged or destroyed by a risk against which the Landlord is not obliged to insure pursuant to clause 0, so as to make the Property unfit for occupation and use, and the Landlord has not repaired the Building so as to make the Property fit for occupation and use twelve months of the damage or destruction, then the Landlord or the Tenant may terminate this lease by giving notice to the other.

6.6 In any case where the Tenant is able to terminate this lease pursuant to this clause (or would be able to if the period of twenty four months mentioned in clause 6.4.2 or the period of twelve months mentioned in clause 6.5 had ended), then:

6.6.1 payment of the Base Rent (or a fair proportion of it according to the nature and extent of the damage) shall be suspended; and

6.6.2 payment of the Turnover Rent if the whole of the Property is unfit for occupation and use shall be suspended; and

6.6.3 the Tenant shall not be liable to carry out any works of repair to the Property until the Building has been repaired so as to make the Property fit for occupation and use or, if earlier, this lease is terminated.

6.7 If this lease is terminated pursuant to this clause, then the termination shall be without prejudice to any right or remedy of the Landlord in respect of any antecedent breach of the tenant covenants of this lease.

6.8 Nothing in this clause shall oblige the Landlord to repair the Building.

6.9 The Tenant shall take out and maintain employer's and public liability insurance cover of at least £5 million (for each type of cover) with a reputable insurer and provide the Landlord with evidence of such cover on request.

6.10 Within seven days of receipt of written demand, the Tenant shall pay to the Landlord a fair and reasonable proportion of monies expended by the Landlord (to be solely determined by us acting reasonably) in complying with its insurance obligations under this Lease

7 Prohibition of dealings

7.1 The Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or assign, part with or share any of the benefits or burdens of this lease, or in any interest derived from it, whether by a virtual assignment or other similar arrangement or hold the lease on trust for any person (except by reason only of joint legal ownership), or grant any right or licence over the Property in favour of any third party Provided that the Tenant may (subject to receiving the Landlord's prior written consent (such consent not to be unreasonably withheld and subject to complying with clause 7.2) assign the whole of the Property.

7.2 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to all or any of the following conditions:

7.2.1 a condition that the assignor enters into an authorised guarantee agreement which:

7.2.1.1 is in respect of all the tenant covenants of this lease;

7.2.1.2 is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;

7.2.1.3 imposes principal debtor liability on the assignor;

7.2.1.4 requires (in the event of a disclaimer of liability under this lease) the assignor to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and

7.2.1.5 is otherwise in a form reasonably required by the Landlord,

7.2.2 a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this lease in the form set out in the Schedule (but with such amendments and additions as the Landlord may reasonably require).

7.3 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment if any of the following circumstances exist at the date of the Tenant's application for consent to assign this lease:

7.3.1 the Base Rent, Turnover Rent or any other money due under this lease is outstanding or there is a material breach of covenant by the Tenant that has not been remedied;

7.3.2 in the Landlord's reasonable opinion the assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants and conditions contained in this lease; or

7.3.3 the assignee and the Tenant are group companies within the meaning of section 42 of the LTA 1954.

7.4 Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.

8 Notification of Dealings and Occupation

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

8.1.1 any dealing with this lease or the devolution or transmission of, or parting with possession of any interest in it; or

8.1.2 the creation of any underlease or other interest out of this lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or

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

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

8.2.2 give the Landlord's solicitors notice of the Transaction; and

8.2.3 deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors and

8.2.4 pay the Landlord's solicitors a registration fee of £30 (plus VAT).

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

9 Repairs and decoration

The Tenant shall keep the Property clean and tidy, and shall make good any damage caused to the Property by any act or omission of the Tenant or any person under the control of the Tenant.

10 Alterations and signs

10.1 The Tenant shall not make any structural or external alterations to the Property

10.2 The Tenant shall not make any internal alteration to the Property (including any Service Media forming part of the Property), or carry out any decorations to the Property, or any communal area without the Landlord's prior written consent (such consent not to be unreasonably withheld) and at the end of the Term where reasonably required by the Landlord, the Tenant shall remove any such fittings before the end of the Term and make good any damage to the Property and to any part of the Building caused by any such installation or removal.

10.3 The Tenant shall not attach any sign, poster or advertisement to the Property, other than:

10.3.1 Normal business signage of a design and size approved by the Landlord (such approval not to be unreasonably withheld); and

10.3.2 such trade posters, notices and advertisements of a design, size and number and in positions that are appropriate to the nature and location of the Property and to the Permitted Use.

11 Breach of repair and maintenance obligations

The Landlord may enter the Property to inspect its condition and may give the Tenant a notice of any breach of any of the tenant covenants in this lease relating to the condition of the Property. The Tenant shall carry out and complete any works needed to remedy that breach within the time reasonably required by the Landlord, in default of which the Landlord may enter the Property and carry out the works needed. The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.

12 Use

12.1 The Tenant shall not use the Property for any purpose except the Permitted Use.

12.2 The Tenant shall not do or permit anything to be done that may void any insurance cover in relation to the Property or which may cause the premium payable for such insurance to be increased.

12.3 The Tenant shall not permit or suffer any smell to emanate from the Property in a manner which causes a legal nuisance or disturbance to any person

12.4 The Tenant shall not play or use any musical instrument, record player, amplifier, loud speaker, or similar apparatus in such a manner as to be audible outside the Property

12.5 The Tenant shall not permit any oil or grease or any deleterious, objectionable, dangerous, poisonous or explosive matter or substance to be discharged into any of the conduits serving the Property, and must take all reasonable measures to ensure that any effluent discharged into such conduits does not harm the environment or corrode or otherwise harm the conduits or cause obstruction or deposit in them

12.6 The Tenant shall cook and provide regular meals, snacks, hot and cold drinks and refreshments for sale to residents, day visitors and staff in accordance with the terms of this agreement

12.7 The Tenant shall keep the Property open for business during the Trading Hours (or otherwise by arrangement)

12.8 The Tenant shall consult with the Landlord and allow the Landlord reasonable input into the menu and the Tenant shall vary the menu on a regular basis

12.9 The Tenant shall provide printed menus in a form approved by the Landlord (acting reasonably) to be placed on the tables contained in the Property and to be displayed in the food servery area

12.10 The Tenant shall permit the Landlord and the Landlord's agents and contractors free and uninhibited access (on reasonable notice and at reasonable times) to the Kitchen and Refectory in order for the Landlord to carry out its obligations under this Lease

12.11 The Tenant shall display a notice of the food being offered at all times together with details as to the price of each meal

12.12 The Tenant shall report any damage or disrepair to any part of the Property, its furnishings, fixtures and fittings or the Kitchen Equipment to the Landlord immediately

12.13 The Tenant shall ensure that any computers provided by the Landlord for the use of the customers or other users of the Property (if any) is made available for use by such persons during opening hours

12.14 The Tenant will keep all parts of the Property clean, tidy hygienic and fit for purpose at all times and in compliance with relevant legislation

12.15 Notwithstanding any routine daily cleaning carried out by the Landlord, the Tenant will keep all chairs tables and other furnishings in the Refectory well and adequately cleaned so as to be fit for the purpose of dining and specifically will ensure that the tables in the Property and any tables in the garden area used by the Property are kept clean and hygienic and befitting of dining

12.16 The Tenant shall dispose of rubbish and waste using the appropriate designated area or bin store in the appropriate receptacles and shall not leave any refuse on any street or pavement outside the Property except at such times and in such manner as accord with the arrangements for the collection of refuse from the Property by the local authority.

12.17 The Tenant shall load and unload goods only at such times as accord with any bylaws or parking restrictions imposed by the local authority

12.18 The Tenant shall lock up and secure the Property at the end of every Trading Day

12.19 The Tenant shall not use the Property, or exercise any of the Rights:

12.19.1 for any illegal purpose; or

12.19.1.1 for any purpose or in a manner that would cause any loss, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Building or any owner or occupier of any other property; or

12.19.2 in any way that would vitiate the Landlord's insurance of the Building; or

12.19.3 in a manner that interferes with any right subject to which this lease is granted.

12.20 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

12.21 at all times when the Tenant is operating the Property, the Tenant will:

12.21.1 Faithfully and diligently act in the Landlord's best interests;

12.21.2 Use reasonable care and skill;

12.21.3 Obey all of the Landlord's lawful and reasonable instructions;

12.21.4 Comply with its Equal Opportunities Policy, and comply with the Landlord's Equal Opportunities Policy,;

12.21.5 Comply with all applicable laws and regulations concerning Health and Safety;

12.21 The Tenant will keep the Landlord fully and promptly informed (in writing) as to all events, acts or omissions arising out of the operation of the Property or in connection with the property that:

12.21.1 Are material; or

12.21.2 The Landlord ought to know as owner of the Building or as a registered provider or as a charity; or

12.21.3 Are of a kind that the Landlord has asked the Tenant to be informed of

12.22 The events, act and omissions covered by clause 12.21 above include (but are not limited to):

12.22.1 Any act or threat of violence, harassment, significant property damage or other serious anti-social behaviour by a resident in or visitor to any of the properties;

12.22.2 Any incident that affects or could affect the safety or welfare of any resident of any of the properties;

12.22.3 Any claim, notice of claim or circumstances giving rise to a claim against the Landlord;

12.22.4 Any material breach by the Tenant of its obligations in the Lease;

12.22.5 Staffing issues that could interfere with the services; and

12.22.6 Notices from any local authority or government or regulatory agency relating to any property, a property or any resident of a property; and

12.22.7 Any conflict of interest that arises

12.23 The Tenant will ensure that it uses and has available sufficient suitable, skilled, trained and qualified staff as are necessary to provide the Services and the Tenant will provide the Landlord with one main named contact (with full contact details, including e-mail and mobile number). The Tenant will ensure that its staff are supervised at all times by an appropriately qualified member of staff

12.24 When providing the Services, the Tenant will comply with:

12.24.1 Any legal obligations that apply to the Tenant or us;

12.24.2 All accepted good practice; and

12.24.3 Our policies and procedures in force or issued from time to time

12.25 The Landlord will inform the Tenant if it changes any of its policies or procedures that appear in the Appendices in a way that affects the Tenant.

12.26 if required to comply with the DBS Scheme for all applicable roles and duties and where required the Tenant's staff must complete (and pass) enhanced CRB and POVA checks

13 Food Safety

13.1 The Tenant shall follow voluntary best practice guidelines on the provisions of allergen information on non pre-packed foods and adhere to best practice guidelines on managing food allergens with particular reference to cross contamination and advisory food labelling

13.2 The Tenant shall ensure that any food supplied is from a reputable supplier and that the supplier provides the Tenant with:

13.2.1 Evidence of the latest hygiene audit from the Environmental Health Department and the relevant Home Authority agreement between the supplier and the Environmental Health Department

13.2.2 Specifications on each produce

13.2.3 Details of microbiological testing of supplies

13.2.4 Records of staff training policies and training undertaken

13.2.5 Systems for due diligence

13.2.6 A Hazard Access Critical Control Point System (HACCP) to be made available as and when required

13.3 The Tenant shall ensure that its suppliers meet all legal and regulatory requirements identified by the Environmental Health Department and that it complies with Food Hygiene Regulations

14 Monitoring

14.1 the Tenant will attend regular contract review meetings between the Landlord and / or any of the Landlord's partners involved in the retirement village scheme at Smithy Croft,

14.2 To the Landlord's satisfaction, the Tenant will initiate a quality assurance system, monitoring arrangements and make regular assessments of service user satisfaction and will provide the Landlord with evidence of these upon request.

14.3 The Landlord will make random quality and service user satisfaction checks throughout the duration of this agreement. The Landlord will allow the Tenant access to the results of these checks.

14.4 The Tenant will initiate a system for ensuring and demonstrating compliance with the terms of this Lease and will permit the Landlord access to any related records and other connection documents.

15 Food Quality and Standards

15.1 The Tenant will provide evidence on nutrient content of main meals in the form of a nutritional analysis of the menu at any given time

15.2 The Tenant will ensure that the nutritional content of main meals complies with the recommendations of the national Association of Care Catering

15.3 The Tenant should ensure that the meals the Tenant provide are suitable for all customers and should also cater for customers who may have special dietary requirements

15.4 The Menu content and menu cycle should be designed to respond to Service users' needs and should incorporate variety including seasonal variations and dietary needs of individual service users including medical or religious diets and the menu should promote a nutritious and healthy diet in line with public health guidance

15.5 The Tenant will liaise with relevant health professionals such as dieticians, speech and language therapists and occupational therapists from time to time as appropriate in relation to individual service user needs

15.6 The Tenant will work to the most up to dated nutritional guidelines

16. Kitchen Equipment

16.1 The Tenant will ensure that the Tenant's staff is adequately trained in the proper use of the Kitchen Equipment and that the Kitchen Equipment is only operated by adequately trained staff

16.2 The Tenant will routinely clean the Kitchen Equipment in accordance with the appropriate operating/manufacturer's instructions and suppliers recommendations in their warranty

16.3 The Landlord will be responsible for the maintenance, repair and replacement of the Kitchen Equipment provided that the Tenant has used it in an appropriate manner

16.4 If the Tenant or the Tenant's staff or anyone under the control of the Tenant damages any of the Kitchen Equipment the Tenant shall be responsible for paying the Landlord all costs association with repair and/or replacement of any damaged Kitchen Equipment

16.5 The Tenant will ensure that any electrical equipment it brings onto the Property for the operation of the Property is UK Pat Tested

17 Fire safety

17.1 The Tenant is responsible for fire safety in the Property.

17.2 The Tenant will advise the Landlord in writing of any fire safety issues that require our attention.

17.3 The Tenant is responsible for reporting any faults to fire safety equipment (including smoke alarms, Fire alarms, emergency lighting, fir extinguishers, fire blankets and heat detectors).

17.4 The Tenant will not permit any person to smoke in the Property

18 Risk Assessment

18.1 The Tenant will carry out risk assessments in respect of the Property to identify any risks to customers and staff. If any risks are identified, the Tenant will report them to us in writing immediately. The Tenant will also inform the Landlords in writing of any risks that the Tenant has identified if the Tenant informs the Landlord of the need to carry out repair work to the Property.

18.2 The Tenant will keep written records of all risk assessments (whether or not a risk is identified) and will provide the Landlord with copies on request.

19 Regulations

The Tenant will comply with such regulations affecting the Property and the Property as reasonably required by the Landlord and communicated to the Tenant from time to time

20 Compliance with laws

20.1 The Tenant shall comply with all laws relating to the Property and the occupation and use of the Property by the Tenant, to the use of all Service Media and machinery and equipment at or serving the Property, and to all materials kept at or disposed from the Property.

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

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

20.1.3 in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

20.2 The Tenant shall not apply for any planning permission for the Property

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

21 Returning the Property to the Landlord

21.1 At the end of the Term, the Tenant shall return the Property to the Landlord in the condition required by this lease and shall remove from the Property all stock and chattels belonging to or used by it.

21.2 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any stock, chattels, fittings or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the Term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.

22 Complaints

22.1 The Tenant will inform the Landlord immediately if any complaint is made by any customer.

22.2 The Tenant shall provide the Landlord with any information that the Landlord requests concerning a complaint

23 Confidentiality

23.1 In this agreement "**confidential information**" means any information relating to the properties, residents and our business that the Tenant receives in connection with the services, any information that the Landlord has specified in writing as being confidential and any information which would appear to a reasonable person to be confidential.

23.2 The Tenant will take reasonable steps to keep and ensure that its staff keep the confidential information confidential. The Tenant shall not use or disclose the confidential information to any

third party except to the extent necessary to enable the Tenant to provide the services or as required by law or the terms of this Lease.

23.3 The restrictions contained in 23.2 above will not apply to any confidential information that is in the public domain through no fault of the Tenant.

23.4 When dealing with information concerning residents, the Tenant shall comply with its obligations under the Data Protection Act 1998 (and any successor legislation).

23.5 The Tenants obligations contained in 23.2 and 23.4 above will continue after the termination of this Lease.

24 Records and Information

24.1 The Tenant will keep proper records of all things that it does in connection with the provision of the services and in connection with the properties. At the Landlord's request, the Tenant will provide the Landlord (at the Tenant's expense) with copies of all such records (whether in paper or electronic form) and allow the Landlord to inspect the original records on not less than 48 hours prior notice in writing.

24.2 The Tenant will provide the Landlord with a monthly return in the form the Landlord may reasonably specify and any information relating to the services that the Landlord reasonably requests

24.3 The Tenant will attend regular liaison and quarterly review meetings in connection with the Property at dates, times and locations to be agreed. At these meetings, the Tenant will provide the Landlord with any reasonable information that the Landlord requests.

25 Indemnity

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss arising from any breach of any tenant covenant in this lease, or from any act or omission of the Tenant or any person on the Property or the Building with its actual or implied authority.

26 Landlord's Obligations

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

26.2 Subject to the Tenant paying the Service Charge, the Landlord shall use its reasonable endeavours:

26.3.1 to repair the structure of the Property as often as reasonably necessary and keep the Property in good decorative repair and condition in a colour scheme chosen by the Landlord;

26.3.2 to provide heating to the Property during such periods of the year as the Landlord considers appropriate;

26.3.3 to provide electricity and water to the Property;

26.3.4 to keep the internal areas of the Common Parts reasonably well lit;

26.3.5 to keep the Service Media in tenantable repair

27 Re-entry and forfeiture

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

27.1.1 any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not; or

27.1.2 any breach of any condition or tenant covenant of this lease.

27.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any antecedent breach of the tenant covenants of this lease.

28 Liability

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

28.2 The Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this lease, unless and until the Tenant has given the Landlord notice of the failure and the Landlord has not remedied the failure within a reasonable time of service of that notice

29 Break Clause

29.1 Either the Landlord or the Tenant may terminate this lease by serving a Break Notice at any time on the other party.

29.2 A Break Notice served by the Tenant shall be of no effect if, at the Break Date:

29.2.1 the Tenant has not paid any part of the Base Rent Turnover Rent, or any VAT in respect of it, which was due to have been paid;

29.2.2 vacant possession of the whole of the Property is not given; or

29.2.3 there is a subsisting material breach of any of the tenant covenants of this lease relating to the state of repair and condition of the Property.

29.3 Subject to clause 29.2 following service of a Break Notice this lease shall terminate on the Break Date.

29.4 Termination of this lease on the Break Date shall not affect:

29.4.1 any other right or remedy that either party may have in relation to any earlier breach of this lease; and

29.4.2 the continuing obligation on the Tenant to account for and pay any further Turnover Rent and VAT to the Landlord under the provisions of *paragraph 6.2* of Schedule 1 and (where applicable) to pay interest under *clause 5.8*; and

29.4.3 the continuing obligation on the Landlord to refund to the Tenant any overpayment of Turnover Rent and VAT under the provisions of paragraph 6.3 of Schedule 1.

29.5 If this lease terminates in accordance with clause 21.3 then, within 14 days after the Break Date, the Landlord shall refund to the Tenant the proportion of the Base Rent, and any VAT paid in respect of it, for the period from and excluding the Break Date up to and excluding the next Rent Payment Date, calculated on a daily basis.

30 Termination

30.1 Either party can terminate this agreement with immediate effect by giving the other party notice in writing if the other party:

30.1.1 Being an individual, is made bankrupt or enters or proposes a voluntary arrangement with creditors or is made subject to a debt relief order; or

30.2.2 Being a company, has a winding up order made against it, enters or proposes a voluntary arrangement or composition with creditors or passes a resolution for voluntary winding up or if a liquidator, receiver or manager is appointed over its affairs or any of its assets.

31 Notices

31.1 A notice given under or in connection with this lease shall be:

31.1.1 in writing unless this lease expressly states otherwise and for the purposes of this clause an e-mail is not in writing;

31.1.2 given:

(i) by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the party's principal place of business; or

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

31.2 If a notice is given in accordance with clause 31.1, it shall be deemed to have been received:

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

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

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

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

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

31.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building the Tenant shall send a copy of the relevant document to the Landlord.

32 Entire Agreement

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

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

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

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

33 Miscellaneous

33.1 The parties confirm that:

33.1.1 the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy created by this lease, before this lease was entered into ;

33.1.2 the Tenant made a statutory declaration dated 26 June 2014 in accordance with the requirements of section 38A(3)(b) of the LTA 1954 a certified copy of which statutory declaration is annexed to this lease; and

33.1.3 there is no agreement for lease to which this lease gives effect.

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

33.4 Nothing in this agreement creates or implies a partnership or joint venture between the Tenant and us.

33.5 The failure by either party to enforce any of the terms of this agreement will not be a waiver of them or of the right at any subsequent time to enforce all or any of the terms of this agreement.

33.6 If any part of this agreement is held to be invalid for any reason, the remainder of this agreement will remain in force.

33.7 A person who is not a party to this lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

33.8 This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

33.9 This agreement will be interpreted in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts.

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

Executed as a deed by affixing the common seal of Manchester and District Housing Association Limited in the presence of:

Authorised Signatory:

Authorised Signatory:

Executed as a deed by **Cuppaccino Heald Green Limited** acting by two directors or a director and its secretary ,

.....
Director

.....
Director **OR** Secretary

