

Dated

20[]

**THE CITY OF LONDON LAW SOCIETY
LAND LAW COMMITTEE
CERTIFICATE OF TITLE
(Eighth Edition 2023)**

Property:

Transaction:

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LAND LAW COMMITTEE
CERTIFICATE OF TITLE
(Eighth Edition 2023)**

To: *[Insert name and address of each addressee e.g. **the Chargee, the Banks/Finance Parties/other party**] ("Addressees" and in this Certificate "you" and Addressees have the same meaning).*

[Insert short address or description of the Property]

1. RELIANCE ON THIS CERTIFICATE

- 1.1 This Certificate is addressed to and is intended solely for the benefit of the Addressees for the purpose of the Transaction. It may not be relied on by any other person or used for any other purpose.
- 1.2 The giving of this Certificate does not create any retainer with the Addressees.
- 1.3 This Certificate may be disclosed to a third party but it cannot be relied on by that party.
- 1.4 Only an Addressee may bring a claim under this Certificate (whether as principal or agent).
- 1.5 If a claim would properly lie against any other party involved in the Transaction or this Certificate's preparation or approval, and that party has limited or excluded its liability in respect of such claim, then our liability will not be increased by that limitation or exclusion and will be calculated as if there were no such limitation or exclusion.
- 1.6 Where the Addressees constitute more than one person, the Addressees acknowledge that our aggregate liability to all the Addressees is no greater than the liability we would have had if the Addressees were a single person.
- 1.7 We acknowledge that you are entitled to rely on the statements contained in this Certificate even if any document or matter contained or referred to in a statement:
 - 1.7.1 is in the public domain; or
 - 1.7.2 has been disclosed by or on behalf of the Company to any valuers; or
 - 1.7.3 is contained in any specialist report relating to the Transaction made available by or on behalf of the Company to you or your professional team; or
 - 1.7.4 is contained or referred to in any data room to which you or your professional team have access or has otherwise been provided to you or your professional team (in either case by or on behalf of the Company relating to the Transaction).

- 1.8 You agree that no individual member, partner, shareholder, consultant or employee of this firm owes you any personal duty of care and that you will not bring any claim whether in contract, tort, under statute or otherwise against any such individual, but such agreement is not intended to relieve this firm, whether it is a partnership or otherwise, from any duty of care or liability in relation to the giving of this Certificate.
- 1.9 The total aggregate liability of this firm (including, without prejudice to clause 1.8, its members, partners, shareholders, consultants and/or employees) for any damage, loss, cost, claim or expense arising out of, or in connection with this Certificate [and all other certificates of title issued by this firm in connection with the Transaction], whether such liability arises in contract, tort, negligence or as a result of a claim for misrepresentation or breach of statutory duty or otherwise, will not exceed the total sum of £[]. *[NB The cap is a matter of negotiation which may be linked to the value of the deal, property or loan, but there are no absolutes here and the particular circumstances will dictate what is agreed. For example, if the property is of a high value, the parties will need to agree a sensible cap, which may be lower than the value of the loan or property. The certifying firm should check its internal procedures as to its policy on whether to limit its liability and, if so, the level of the cap.]*
- 1.10 Any legal proceedings arising from or in connection with this Certificate must be properly issued and validly served not later than [6] years after the date of this Certificate.
- 1.11 Any liability for fraud or dishonesty will not be excluded or limited to the extent that it cannot by law be so excluded or limited.

2. CERTIFICATION

On the basis of and insofar as the same is discoverable from our investigations mentioned in this Certificate, we certify that:

2.1 Title

2.1.1 We have investigated the title of the Company to the Property in the knowledge that you are relying on this Certificate for the purpose of the Transaction.

2.1.2 We have:

(a) examined and considered:

(i) the documents of title; and

(ii) other documents and papers;

relating to the Property produced to or obtained by us; and

(b) undertaken those of the searches and enquiries referred to in Schedule 6 which we consider appropriate or necessary in the circumstances of the Transaction and having regard to the location and nature of the Property and considered the results of the searches and replies to the enquiries;

and this Certificate is given solely on the basis of:

- (i) that examination and consideration and the results of those searches and enquiries; and
- (ii) material provided to us by the Company;

which, so far as we are aware, is the documentation and information which we need in order to give this Certificate.

2.1.3 Subject to any Disclosures:

- (a) in our opinion, [subject to due registration at HM Land Registry of the transfer of the Property from the Seller to the Company,] the Company has a good and marketable title to the Property and is solely legally and beneficially entitled to the Property [and] [[neither we nor the Company know of any reason why the Company should not be registered as proprietor of the Property with absolute title] [or the Chargee as registered proprietor of the Charge]] [neither we nor the Company know of any reason why the Chargee should not be registered as registered proprietor of the Charge];
- (b) the details of the Property, the registered proprietor or the legal owner and where relevant the Company set out in Schedule 2 Part 1 are true and accurate in all respects;
- (c) if the Company holds the Property under the terms of a lease, the terms of the lease are fairly and accurately summarised in Schedule 4 Part 1 and the statements set out in Schedule 4 Part 2 are true and accurate in all respects;
- (d) no consents are required from any third parties before the Property can be [transferred to the Company] [and] [effectively charged to the Chargee by way of legal mortgage or fixed charge] and any consents referred to in a Disclosure have been obtained and are not subject to onerous or unusual conditions;
- (e) if the Property is freehold, the Property is not registered as a freehold estate in commonhold under Part I of the Commonhold and Leasehold Reform Act 2002;
- (f) if the title to the Property is registered at HM Land Registry, the quality of the title is that specified in Schedule 2; and
- (g) if the title to the Property is not registered at HM Land Registry, then:
 - (i) where the Property is freehold, it commences with a good root of title at least 15 years old; or
 - (ii) where the Property is leasehold, it commences with the Lease and has a good root of title at least 15 years old.

2.2 **Matters affecting the Property**

Subject to any Disclosures:

- 2.2.1 the statements set out in Schedule 3 are true and accurate in all respects; and
- 2.2.2 there are no other matters disclosed by our investigations referred to in this Certificate which, in our opinion, should be brought to your attention.

2.3 **Letting Documents**

The Letting Documents are fairly and accurately summarised in Schedule 5 Part 1 and, except as stated in any Disclosures, the statements set out in Schedule 5 Part 2 are true and accurate in all respects.

2.4 **Searches and enquiries**

Except as stated in any Disclosures and subject to any general and usual caveats or disclaimers on results of searches or replies to enquiries undertaken, the results of such searches and enquiries do not disclose matters which, in our opinion, should be brought to your attention.

3. **CONFIRMATION OF STATEMENTS**

- 3.1 Where this Certificate states that the Company has “told us” or “confirmed” something (or uses words with similar meaning) (“provided information”), the Company has provided information to us in writing.
- 3.2 A copy of the final draft of this Certificate has been sent to [the purchaser of¹] the Company. The [purchaser of the] Company has confirmed to us [in writing] within the five working days before the date of this Certificate that to the best of its knowledge, information and belief the information contained in this Certificate is true and accurate in all respects.
- 3.3 [[The Company is purchasing the Property from the Seller] [The shares in the Company that owns the Property are being purchased from the Seller] as part of completion of the Transaction. That being the case:
 - 3.3.1 The Company’s knowledge of the Property and related documents and information have been acquired through:
 - (a) the investigations of the Property as part of that purchase including the searches and enquiries referred to in Schedule 6;

¹ The additional wording in square brackets in clauses 3.2, 3.3, 3.3.1(e) and 3.3.1(g) should be used if the Certificate is given in connection with an acquisition of the Company owning the Property.

- (b) the replies given by the Seller's solicitors to Commercial Property Standard Enquires – CPSE1 and such other documents in the CPSE suite and/or such other enquiries as are appropriate for the particular purchase;
- (c) the replies given by the Seller's solicitors to any additional enquiries raised by us to enable us to provide this Certificate;
- (d) other material provided by the Seller or the Seller's solicitors and other advisers or agents of the Seller;
- (e) the [purchaser of the] Company's own knowledge of the Property;
- (f) information provided by any other parties as mentioned in the Disclosures; and
- (g) an inspection of the Property by the [purchaser of the] Company or its agent or representative not more than 20 working days before the date of this Certificate.

3.3.2 Whenever this Certificate refers to the Company's knowledge, information and belief or this Certificate states that the Company has provided information (as defined in clause 3.1), it is the case that the Seller or the Seller's solicitors and its other advisers or agents are the primary source.

3.3.3 References in this Certificate to notices given or received by the Company, or to any actions taken by the Company or expected by the Company, include references to the Company's knowledge of notices given or received by the Seller, actions taken by the Seller or expected by the Seller, as the case may be.

3.3.4 The Seller has confirmed to us in writing that it has provided us with copies of all documents relating to the Property of which it has knowledge, together with such other information in its possession as is material.

3.3.5 Where information has been provided to us by the Seller, our investigations have given us no reason to doubt the accuracy of that information, but we do not accept responsibility for it.

3.3.6 Where the replies given by the Seller's solicitors to our enquiries or other information provided by the Seller or the Seller's solicitors are, in our opinion, inadequate, we have disclosed such inadequacy in the relevant part of the Certificate.]

4. FORM OF CERTIFICATE

Subject to any Disclosures referred to in the box below clause 5, this Certificate is in the form of the City of London Law Society Land Law Committee Certificate of Title (Eighth Edition 2023).

5. STATUS OF SCHEDULES

The Schedules form part of this Certificate.

Disclosures

All Disclosures made to the Schedules to this Certificate.

[Here make any Disclosures in respect of the main body of and Schedule 1 to this Certificate e.g. any consents referred to in clause 2.1.3(d)]

[Note: it is recommended that all Disclosures are made in italic script and are contained in boxes as indicated in this Certificate]

[The contents of the [Planning Report][and the][Construction Report] form part of this Certificate and include any disclosures against the relevant paragraphs of Schedule 3.]²

[Construction Report means the report on construction matters affecting the Property issued to the Addressees by us [today] and which is attached to this Certificate as Annexure [].]

[Planning Report means the report on planning matters affecting the Property issued to the Addressees by us [today] and which is attached to this Certificate as Annexure [].]

[[Construction] [and] [Planning] matters are beyond the scope of this Certificate and the Addressees should rely on the separate [construction][planning] report(s) provided by [] and dated [].]³

² Only use this wording if the firm that provides this Certificate also provides the relevant report.

³ Use this wording if there is a separate construction or planning report that is not prepared by the firm that provides this Certificate.

Lease means the lease by virtue of which the Company holds the Property or part of it (as amended or supplemented);

Letting Document means:

- (i) any lease, underlease or tenancy, or occupation contract (in the case of Wales); or
- (ii) any licence or other agreement or arrangement giving rise to rights of occupation and enjoyment which binds the Property, or in respect of which the Company is obliged to comply either generally or by way of indemnity;

(in each case as amended or supplemented);

and including any tenancy which is being continued after the contractual expiry date under the 1954 Act or otherwise;

[Loan Document means the loan/facility agreement [dated] [to be made] between [] and [] providing for the loan referred to in it, which loan is [to be] secured by [among other things] the Charge;]

Premises means the premises demised by any Lease or Letting Document as the case may be;

Property means the property described in Schedule 2 Part 1, the [address] [a brief description] of which is given at the start of this Certificate;

[Seller means [];]

Town and Country Planning Legislation means any statute relating to town and country planning, which is in force at the date of this Certificate;

Transaction means [];

1954 Act means the Landlord and Tenant Act 1954; and

1995 Act means the Landlord and Tenant (Covenants) Act 1995.

1.2 unless the context otherwise requires, any reference to the Property or the Premises includes each and every part of it or them and all buildings and structures on it or them;

1.3 any reference, express or implied, to a statute includes references to:

1.3.1 that statute as amended, extended or applied by or under any other statute or subordinate legislation at the date of this Certificate;

1.3.2 any statute at the date of this Certificate which re-enacts that statute (with or without modification); and

1.3.3 any subordinate legislation made at the date of this Certificate under that statute, as amended, extended or applied as described in paragraph 1.3.1 or under any statute referred to in paragraph 1.3.2;

- 1.4 the expressions “authorised guarantee agreement”, “excluded assignment”, “fixed charge”, “new tenancy”, “overriding lease”, “former tenant” and “guarantor” have the meanings given to them in the 1995 Act;
- 1.5 the expression “option to tax” has the meaning given in Schedule 10 to the Value Added Tax Act 1994 and includes an option to tax which has been deemed, or treated as having been, exercised;
- 1.6 in Schedule 5 “rent” includes licence fee, “tenancy” includes licence, “tenant” includes licensee and “to let” includes “to license”;
- 1.7 the headings do not affect its interpretation;
- 1.8 unless the context otherwise requires, the singular includes the plural and vice versa; and
- 1.9 any Disclosure in relation to any particular clause or paragraph is to be treated as being disclosed in relation to any other relevant clause or paragraph.

2. **ASSUMPTIONS**

- 2.1 We have assumed that all documents relating to the Property have been validly executed and delivered by the parties to them and that such documents are within the capacity and powers of, and have been validly authorised by, each party. There is nothing on the face of those documents which we have seen which indicates otherwise.
- 2.2 We have assumed, and the Company has confirmed to us in writing, that:
 - 2.2.1 the Company has provided us with all documents of title relating to the Property of which it has knowledge together with any other information in its possession as is material for the purpose of giving this Certificate; and
 - 2.2.2 each copy document produced to us is a true copy of the original.

3. **QUALIFICATIONS**

- 3.1 We have not inspected the Property nor have we made any enquiries of the occupiers of the Property (other than [the Seller and] the Company) nor, where the Property is leasehold, have we made any enquiries of any landlord or superior landlord.
- 3.2 We give no opinion as to the capital or rental value of the Property.
- 3.3 Except as disclosed by the results of the searches listed in Schedule 6, this Certificate does not consider:
 - 3.3.1 any environmental or flood assessments, audits, surveys or other reports on the environmental condition of the Property;
 - 3.3.2 any climate change risks to the Property; or
 - 3.3.3 other technical reports or surveys relating to the Property's condition

and the recipient of this Certificate should consider what investigations it wishes to make in relation to those matters.

- 3.4 Where information has been provided to us by the Company, our investigations have given us no reason to doubt the accuracy of that information but we do not accept responsibility for it.
- 3.5 Whilst we express no opinion on whether any transaction affecting the Company's title to the Property may have been at an undervalue or otherwise liable to be set aside under the provisions of the Insolvency Act 1986, the Company has told us that it is not aware of any circumstances which could render any such transaction liable to be set aside under the provisions of that Act.
- 3.6 We have not investigated whether there is an intention that the terms of any relevant document should be enforceable by third parties. Except as stated in any Disclosures, none of the documents relating to the Property expressly provides that a third party can enforce any of its terms in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 3.7 We express no opinion on whether the National Security and Investment Act 2021 applies to any transaction and have not investigated any related aspects.
- 3.8 We have not investigated whether any consents which may have been required under any mortgages or other documents which are no longer subsisting were obtained.
- 3.9 Except to the extent of any Disclosure against paragraph 9 of Schedule 3 we have not investigated what insurance may be in force (or the particular details of any policy) in respect of the Property.
- 3.10 We have not considered:
 - 3.10.1 whether any right including a right to light or a right to air is in the process of being acquired through prescription; nor
 - 3.10.2 whether any right including a right to light or a right to air has been acquired through prescription, except where a right is set out in Schedule 2 Part 2 as having been acquired through prescription.
- 3.11 We have not checked whether any Benefit referred to in paragraph 4 of Schedule 3 has been properly protected (in order to bind all other persons) by:
 - 3.11.1 registration or notice on the title to any registered land; or
 - 3.11.2 a caution against first registration or land charge in respect of any unregistered land.

4. **THIRD PARTY RIGHTS**

Nothing in this Certificate confers on any third party any rights arising pursuant to the Contract (Rights of Third Parties) Act 1999.

5. **JURISDICTION**

This Certificate is limited to the law of England and Wales as applied by the English and Welsh courts as at the date of this Certificate and is given on the basis that it and any rights or obligations arising out of or in connection with its subject matter will be governed by and construed in accordance with the law of England and Wales. Any dispute which may arise under or in connection with this Certificate or its subject matter will be irrevocably submitted to the exclusive jurisdiction of the English and Welsh courts.

SCHEDULE 2

Property Details

Part 1

The Property

Brief description: Land [and buildings] known as [] shown edged red on the attached plan.

Tenure: freehold/leasehold

If registered:

Registered title number:

Name of registered proprietor:

Quality of title registered at HM Land Registry: absolute/good leasehold/possessory/qualified

Details of restrictions in the Proprietorship Register:

If the registered proprietor is an overseas entity as defined in section 2 of the Economic Crime (Transparency and Enforcement) Act 2022 (“ECTEA”), is the entity registered in the register of overseas entities established under section 3 of ECTEA? [Yes/No/Not applicable]

If so, include the overseas entity ID for the entity and the date of registration in the register: Overseas entity ID []; Date of registration (or most recent update to the register) []

If the Company (if different from the registered proprietor) is an overseas entity as defined in section 2 of ECTEA, is the entity registered in the register of overseas entities established under section 3 of ECTEA? [Yes/No/Not applicable]

If so, include the overseas entity ID for the entity and the date of registration in the register: Overseas entity ID []; Date of registration (or most recent update to the register) []

If unregistered:

Root of title:

Name of legal owner of the unregistered property:

If the legal owner is an overseas entity as defined in section 2 of the Economic Crime (Transparency and Enforcement) Act 2022 (“ECTEA”), is the entity registered in the register of overseas entities established under section 3 of ECTEA? [Yes/No/Not applicable]

If so, include the overseas entity ID for the entity and the date of registration in the register: Overseas entity ID []; Date of registration (or most recent update to the register) []

If the Company (if different from the legal owner) is an overseas entity as defined in section 2 of ECTEA, is the entity registered in the register of overseas entities established under section 3 of ECTEA? [Yes/No/Not applicable]

If so, include the overseas entity ID for the entity and the date of registration in the register: Overseas entity ID []; Date of registration (or most recent update to the register) []

Part 2

Benefits

[The rights granted to the tenant specified in Part 1A of Schedule 4.]

Part 3

Incumbrances

[The rights reserved to the landlord specified in Part 1A of Schedule 4.]

[The restrictions in the Proprietorship Register detailed in Part 1 of this Schedule.]

Part 4

Existing Use

The Company has confirmed that the Existing Use of the Property is [].

SCHEDULE 3

Matters affecting the Property

TITLE

1. Title documents, land transaction taxes and value added tax

1.1 The documents of title referred to in clause 2.1.2(a) consist of original documents or properly examined abstracts, which include official copies, documents filed at HM Land Registry and certified copies.

1.2 Where at the date of this Certificate the title to the Property is not registered at HM Land Registry or any relevant document of title referred to in clause 2.1.2(a) is not registered at HM Land Registry, either:

1.2.1 we have seen a related certificate from HM Revenue & Customs or the Welsh Revenue Authority as applicable evidencing submission of a land transaction return for the purposes of stamp duty land tax or land transaction tax as the case may be in relation to all circumstances in respect of which a land transaction return is required to be made; or

1.2.2 where necessary, such title document is fully stamped with ad valorem stamp duty and a particulars delivered stamp.

1.3 The Company has told us that no further land transaction return or payment in relation to stamp duty land tax or land transaction tax is required in respect of any transaction involving the Property, which has an effective date prior to the date of this Certificate and there is nothing on the face of the documents to suggest otherwise.

1.4 The Company has told us that:

1.4.1 an option to tax has been exercised by the Company or a body corporate in relation to which the Company is either a relevant associate or a relevant group member over the whole Property;

1.4.2 such option is valid;

1.4.3 notice of such option was given to HM Revenue & Customs; and

1.4.4 such option has not been, or been deemed to be, disapplied or revoked in whole or in part, so that value added tax is due in respect of any supply of the Property by it.

1.5 We have been provided with either a copy of the option to tax referred to in paragraph 1.4.1 or a copy of an acknowledgment from HM Revenue & Customs in relation to the option.

Disclosures

2. **Unregistered land**

Where title to the Property is not registered at HM Land Registry:

- 2.1 there is no caution registered against first registration and no event has occurred in consequence of which registration of title should have been effected; and
- 2.2 clear Land Charges Act searches against every estate owner who was a party to any transaction, or concerned in any event, comprised in the relevant title are held with the title deeds.

Disclosures

3. **Access**

- 3.1 The Company has told us the location of each point where access is gained to the Property and that, so far as the Company is aware, there has been no challenge or objection to accessing the Property via each such point.
- 3.2 We have reviewed the title plan for the Property and a plan from the relevant Highways Authority showing the boundaries of publicly maintainable highways and we have where appropriate consulted the Company and on that basis we confirm that the Property appears to abut a roadway maintainable at public expense at each point where access is gained or to have the benefit of all necessary rights of way to and from such a roadway.

Disclosures

4. **Benefits**

- 4.1 There are appurtenant to the Property the Benefits of a material nature set out in Schedule 2 Part 2. The Company has told us that, so far as it is aware, those Benefits are the only Benefits necessary for the use and enjoyment of the Property for the Existing Use or (if no Benefits are so set out) that none are required.
- 4.2 Such Benefits are enjoyed freely without interruption and without payment or restriction as to hours of use or otherwise and are held for the same estate or interest as the Company's estate or interest in the Property. None of those Benefits is enjoyed on terms entitling any person to terminate or curtail it.

Disclosures

5. **Incumbrances**

- 5.1 The only Incumbrances of a material nature to which the Property is subject are set out in Schedule 2 Part 3. The Company has told us that it has not received notice of any breach of and is not aware

of any breach of those Incumbrances and that those Incumbrances do not materially adversely affect the Existing Use.

5.2 Where any such Incumbrance requires protection (in order to bind the Property) by:

5.2.1 registration or notice on the title to the Property (where registered); or

5.2.2 a caution against first registration or land charge in respect of the Property (where unregistered)

such protection has been properly effected.

5.3 The Company has told us that it is not aware that any person is in the process of acquiring an Incumbrance over the Property through prescription other than rights to light or rights to air.

Disclosures

6. **Charges**

There are no mortgages, charges or liens (whether legal or equitable, specific or floating) affecting the Property.

Disclosures

7. **Agreements**

7.1 There are no agreements for sale, estate contracts, options, rights of pre-emption or similar matters affecting the Property, the provisions of which remain to be observed or performed.

7.2 There are no:

7.2.1 obligations to make future payments in respect of overage, clawback, deferred consideration or other payments of a similar nature; or

7.2.2 other material positive obligations;

pursuant to the matters referred to in paragraph 7.1 which are binding on the Property, or on the Company (either generally or by way of indemnity) in relation to the Property.

Disclosures

8. **Adverse rights**

8.1 The Company has told us that it is or is entitled to be in actual occupation on an exclusive basis of those parts of the Property as are not the subject of the Letting Documents and that, except by virtue of the Letting Documents, no person, other than the Company, has any right (actual or contingent) to possession, occupation or use of, or interest in, the Property.

8.2 The Company has told us that it, or, on its behalf, its agent or representative, has inspected the Property not more than 20 working days before the date of this Certificate and that, so far as the Company is aware, no one is in adverse possession of the Property or has acquired or is acquiring any rights adversely affecting the Property other than rights to light or rights to air.

Disclosures

9. **Title policies**

The Company has told us that there are no insurance policies relating to planning, title or covenants affecting the Property.

Disclosures

10. **Complaints and disputes**

The Company has told us that:

10.1 it has not made and not had occasion to make any claim or complaint in relation to any neighbouring property or its use or occupation; and

10.2 there are no disputes, claims, actions, demands or complaints in respect of the Property which are outstanding or which are expected by it.

Disclosures

11. **Notices**

The Company has told us that no notices materially affecting the Property or any of the Benefits detailed in Schedule 2 Part 2 have been given or received by the Company.

Disclosures

PLANNING

12. Existing Use

12.1 The Company has told us that the Property is presently used for the Existing Use.

12.2 The Existing Use is a use permitted under a subsisting planning permission (which the Company has told us has been implemented) or otherwise permitted under the Town and Country Planning Legislation.

Disclosures

13. Development

13.1 The Company has told us that it is not aware that:

13.1.1 any development which has been carried out in relation to the Property is unlawful or has been carried out without any necessary consents or permissions being obtained;

13.1.2 any enforcement proceedings under the Town and Country Planning Legislation have been commenced or notices served; or

13.1.3 any such proceedings or notices have been proposed.

13.2 The Company has told us that it is not aware of any acts, omissions or other circumstances by reason of which a planning enforcement order may be applied for or made in relation to the Property.

Disclosures

14. Validity of permissions

The Company has told us that no planning permission affecting the Property is the subject of an existing challenge as to its validity. Our local authority search did not reveal that any planning permission has been issued within the six weeks immediately before the date of that search.

Disclosures

15. Conditions

15.1 The planning permissions affecting the Property are subject only to conditions which the Company has told us have either been satisfied so that nothing further remains to be done under them or, in

the case of continuing conditions, are being complied with and the Company knows of no reason why those conditions should not continue to be so complied with.

- 15.2 There are no unusual or onerous conditions attaching to any planning permission affecting the Property, and no planning permission is subject to any condition or limitation making it temporary (other than the conditions referred to in Sections 91 and 92 of the Town and Country Planning Act 1990) or personal to anyone.

Disclosures

16. **Pending applications**

The Company has told us that there is no application for planning permission, non-material amendment to a planning permission, or listed buildings consent in respect of the Property awaiting determination and no planning, non-material amendment or listed buildings decision or deemed refusal which is subject to appeal.

Disclosures

17. **Planning agreements, obligations or contributions**

- 17.1 There is no agreement or planning obligation or planning contribution (together a “Planning Agreement”) affecting the Property under Section 52 of the Town and Country Planning Act 1971, Section 38 and Section 278 of the Highways Act 1980, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982, Section 106 of the Town and Country Planning Act 1990, Section 104 of the Water Industry Act 1991 or any provision in legislation of a similar nature and the Company has told us that it is not required to enter into any such Planning Agreement.

- 17.2 Where there is any Planning Agreement, the Company has told us that, so far as it is aware:

17.2.1 all of the obligations which have fallen due as at the date of this Certificate have been observed or performed and no notice of breach has been received; and

17.2.2 there are no material obligations which remain to be observed or performed.

Disclosures

18. **Community Infrastructure Levy**

- 18.1 There is no community infrastructure levy charging schedule in place which affects the Property.

18.2 Where there is such a community infrastructure levy charging schedule in place, the Company has told us that, so far as it is aware either:

18.2.1 no demand notice has been issued; or

18.2.2 if a demand notice has been issued, it has been complied with and there are no community infrastructure levy payments outstanding in relation to the Property.

Disclosures

19. **Listed buildings etc.**

19.1 None of the buildings or other structures or erections on the Property has been listed under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“Listed”) nor has the relevant local authority served or authorised the service of any building preservation notice under Section 3 or Section 3A of the Planning (Listed Buildings and Conservation Areas) Act 1990 or any repairs notice under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of the Property, nor is the Property located within a conservation area.

19.2 Where there are any buildings or structures or erections on the Property that are Listed, the Company has told us that it is not aware that:

19.2.1 any demolition, works or alterations which have been carried out to the Listed part of the Property are unauthorised or have been carried out without any necessary consents being obtained;

19.2.2 any enforcement proceedings under the Planning (Listed Building and Conservation Areas) Act 1990 (or any other relevant Town and Country Planning Legislation) have been commenced or notices served; and

19.2.3 any such proceedings or notices have been proposed.

19.3 Where there are any buildings or structures or erections on the Property that are Listed:

19.3.1 the listed building consents affecting the Property are subject only to conditions which the Company has told us have either been satisfied so that nothing further remains to be done under them or, in the case of continuing conditions, are being complied with and the Company knows of no reason why those conditions should not continue to be so complied with; and

19.3.2 there are no unusual or onerous conditions attaching to any listed building consents affecting the Property.

Disclosures

20. **Ancient Monuments and Assets of Community Value**

20.1 The Property is not within an area of archaeological importance nor is any building or erection on the Property a scheduled monument within the meaning set out in the Ancient Monuments and Archaeological Areas Act 1979.

20.2 The Property is neither nominated nor listed as an asset of community value.

Disclosures

21. **Compulsory acquisition**

The Company has told us that it is not aware of any resolution, proposal, order or act made or contemplated for the compulsory acquisition of the Property or any private access to it or rights over it.

Disclosures

STATUTORY MATTERS

22. **Statutory requirements**

The Company has told us that it is not aware of any outstanding order, notice or other requirement of any local or other authority pursuant to statute that affects the Existing Use or involves expenditure in compliance with it, nor of any other circumstance which may result in any such order, notice or requirement being made or served.

Disclosures

23. **Statutory compliance**

The Company has told us that it has not received notice of any breach of and is not aware of any material breach of the requirements of any statute affecting the Property that are capable of enforcement at the date of this Certificate.

Disclosures

ENVIRONMENT

24. Environmental notices and permits and energy performance certificate

24.1 The Company has told us that:

24.1.1 it holds all necessary permits, licences, consents, authorisations, registrations or any other approvals (together an “environmental permit”) under any legislation relating to pollution or protection of health and the environment (together “environmental laws”) in respect of the Existing Use of the Property; and

24.1.2 it has not received any written notices, notifications or orders under any environmental laws in respect of the Property or the Existing Use and it is not aware of any circumstances which may result in any such notices, notifications or orders being made or served.

24.2 The Company holds an energy performance certificate for the Property which:

24.2.1 the Company confirms covers the whole of the Property and is registered on the relevant statutory register;

24.2.2 is stated to be valid until the date set out in the Disclosures; and

24.2.3 expresses the energy efficiency rating for the Property as is set out in the Disclosures.

Disclosures

[Specify the stated “valid until” date and the rating from the energy performance certificate.

If there is more than one energy performance certificate, provide the relevant information for each certificate including the part of the Property covered by the certificate]

GENERAL

25. Construction work and warranties

Except for any tenant’s alterations referred to in Schedule 5, the Company has told us that:

25.1 no buildings or other structures on the Property have been erected or been subject to extension or material alteration within the 12 years prior to the date of this Certificate; and

25.2 there are no subsisting agreements, certificates, guarantees, warranties, rights arising pursuant to the Contract (Rights of Third Parties) Act 1999 or insurance policies relating to the construction, repair, alteration, replacement, treatment or improvement of any building or structure on the Property.

Disclosures

26. **Outgoings**

The Company has told us that the Property is not subject to the payment of any outgoings other than the uniform business rate, water rates and other utility charges (and where the Property is leasehold sums due under the Lease) and the Company has told us that all such payments have been made to date.

Disclosures

27. **Fixtures and fittings**

The Company has told us that all fixtures and fixed plant at the Property, other than (where the Property is leasehold) landlord's fixtures or (where the Property is subject to a Letting Document) tenant's fixtures, are, or will on completion of the Transaction be, the Company's property free from incumbrances.

Disclosures

RESIDENTIAL AND MIXED USE BUILDINGS

28. The Company has told us that either:

28.1 no part of the Property is used for residential purposes; or

28.2 in the event that the whole or any part of the Property is used for residential purposes:⁴

28.2.1 for the purposes of Part I (Tenants' Rights of First Refusal) of the Landlord and Tenant Act 1987 -

- (a) the premises comprising any building or part of a building at the Property which are occupied or intended for non-residential purposes, exceed 50% of the total internal floor area of the relevant building or part building (excluding common parts); or

⁴ If there is no disclosure to be made against the statements, the stated provisions of these Acts will not apply. If a disclosure has to be made, the author and recipient of the Certificate should consider further whether the Transaction will or may trigger any of these provisions, or whether the Lease or Letting Documents triggered such provisions.

- (b) such non-residential premises within the relevant building or part building do not exceed 50% of the total internal floor area of the relevant building or part building (excluding common parts), but the number of flats held by qualifying tenants within the relevant building or part building does not exceed 50% of the total number of flats in the relevant building or part building⁵;

28.2.2 for the purposes of Chapter I of Part I (Collective Enfranchisement in case of Tenants of Flats) of the Leasehold Reform, Housing and Urban Development Act 1993 -

- (a) the whole of or that part of the Property which is used for residential purposes is a self-contained building, more than 25% of the internal floor area (excluding common parts) of which is occupied or intended for non-residential purposes; or
- (b) the whole of or that part of the Property which is used for residential purposes is a self-contained building, 25% or less of the internal floor area (excluding common parts) of which is occupied or intended for non-residential purposes, but the number of flats held by qualifying tenants within the relevant building is less than two-thirds of the total number of flats in that building;⁶

28.2.3 for the purposes of Chapter 1 of Part 2 (Right to Manage) of the Commonhold and Leasehold Reform Act 2002 -

- (a) the whole of or that part of the Property which is used for residential purposes is a self-contained building, more than 25% of the internal floor area (excluding common parts) of which is occupied or intended for non-residential purposes; or
- (b) the whole of or that part of the Property which is used for residential purposes is a self-contained building, 25% or less of the internal floor area (excluding common parts) of which is occupied or intended for non-residential purposes, but the number of flats held by qualifying tenants within the relevant building is less than two-thirds of the total number of flats in that building.⁷

Disclosures

⁵ For the definition of “qualifying tenants”, see Section 3 in Part I of the Landlord and Tenant Act 1987.

⁶ For the definition of “qualifying tenants”, see Section 5 in Chapter I of Part I Leasehold Reform, Housing and Urban Development Act 1993.

⁷ For the definition of “qualifying tenants”, see Section 75 in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.

NO OTHER MATERIAL MATTERS

29. There are no other material matters affecting the Property that we consider ought to be brought to your attention.

Disclosures

SCHEDULE 4

The Lease

Part 1

Details of the Lease under which the Property is held

Note: Please include a heading for each part of the Property held under a separate lease

Part 1A

Details of Lease

Premises the subject of the Lease:	
Date:	
Original parties:	
Length of term:	
Contractual term commencement date:	
Contractual term expiry date:	
Does the description of the term expressly include any statutory continuation?	Yes/No
Is the Lease contracted out of the 1954 Act?	Yes/No
Name and address of the present landlord, provided by the Company:	
Name and address of any present guarantor of the tenant:	
Original annual rent including start date, if not yet payable and details of any premium paid:	
Current annual rent and (if applicable) date from which last reviewed:	
Remaining rent review dates:	
Present permitted use (and whether personal):	
Summary of the rights granted to the tenant	
Summary of the rights reserved to the landlord	

Part 1B
Licences and other supplemental documents

Date	Document description	Parties	Other information

Part 2
Statements

1. Details of the Lease

Details of the Lease are fairly summarised in Part 1A of this Schedule and any licences granted and other supplemental documents entered into are listed in Part 1B of this Schedule.

Disclosures

2. Head lease

There is no lease superior to the Lease.

Disclosures

3. Payment of rent

3.1 The annual rent is payable quarterly in advance on the usual English quarter days.

3.2 The Company has told us that the last instalment of rent (and service charge if any) was paid to and was accepted by the landlord or its agents without qualification.

Disclosures

4. Rent review

4.1 There are no provisions for rent review or other increases in the rent.

4.2 If there are any provisions for rent review, they apply on the dates set out in Part 1A of this Schedule and are summarised in the Disclosures.

4.3 Where there are any provisions for rent review:

4.3.1 the Company has told us that no rent reviews are currently outstanding or under negotiation or the subject of a reference to an expert or arbitrator or the courts; and

4.3.2 where the current annual rent is not the same as the annual rent originally reserved by the Lease, evidence of its agreement or determination has been placed with the documents of title.

Disclosures

5. **Repair**

5.1 The tenant is responsible for keeping the whole of the Premises and (to the extent they form part of the Premises) fittings and plant and equipment in good repair and condition.

5.2 The tenant is responsible for the decoration of the interior and exterior of the Premises.

Disclosures

6. **Restrictions on use**

6.1 There are no restrictions in the Lease or the superior title which prevent the Premises being used now or in the future for the Existing Use.

6.2 The tenant is only permitted to change the use of the Premises from the present permitted use specified in Schedule 4 Part 1A with the prior written consent of the landlord, such consent not to be unreasonably withheld.

Disclosures

7. **Alterations**

7.1 The tenant is prohibited from making structural alterations or additions to, or alterations affecting the appearance of, the Premises without the prior written consent of the landlord, such consent not to be unreasonably withheld.

7.2 The tenant may carry out non-structural alterations to the Premises without the prior consent of the landlord.

7.3 The tenant is required to remove all alterations and additions made during the term on yielding up the Premises at the expiration or sooner determination of the term unless the landlord requires otherwise.

Disclosures

8. **Alienation**

- 8.1 There are no restrictions on the tenant dealing with, charging or sharing occupation of the Premises or conditions that the landlord might impose (including any agreement under Section 19(1A) of the Landlord and Tenant Act 1927) other than any which are fairly summarised in the Disclosures.
- 8.2 There is no restriction on any change of control of the tenant.

Disclosures

9. **Insurance**

- 9.1 Where indicated in the Disclosures to this paragraph 9:
 - 9.1.1 the landlord is required to insure with a reputable insurer:
 - (a) the Premises against damage caused by the risk(s) of fire, lightning, explosion, storm, flood, subsidence, landslip, heave, earthquake, burst or overflowing water pipes, tanks or apparatus, impact by aircraft or other aerial devices and any articles dropped from them, impact by vehicles, terrorism, riot, civil commotion and malicious damage and any other risk against which the landlord reasonably insures from time to time, to the extent that insurance is generally available on normal commercial terms in the United Kingdom insurance market, and subject to any exclusions, limitations and excesses imposed by the insurer;
 - (b) for the full reinstatement cost of the Premises (including professional fees and value added tax); and
 - (c) (unless the annual rent is a nominal amount) for the loss of at least three years' annual rent;
 - 9.1.2 the tenant is required to pay to the landlord as rent a sum equal to the premiums paid by the landlord for insuring the Premises and (if applicable) loss of rent in accordance with the landlord's obligations in the Lease briefly described in paragraph 9.1.1;
 - 9.1.3 if applicable, there is provision for suspension of rent if the Premises are damaged or destroyed by an insured risk so as to make the Premises unfit for occupation and use or inaccessible, for a period not less than the loss of rent period that the landlord is required to insure;
 - 9.1.4 if the Premises are damaged or destroyed by an insured risk, the landlord is required to reinstate the Premises once all necessary consents have been obtained and subject to payment of any insurance monies not being refused because of the act or default of the tenant or any person under the tenant's control or with the tenant's authority, unless the

tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay. The landlord is to use at least reasonable endeavours to obtain such consents;

- 9.1.5 there are no options to determine the Lease in respect of damage or destruction of the Premises;
 - 9.1.6 if the Premises are damaged or destroyed by an insured risk and reinstatement is frustrated insurance monies are to be shared between the parties in proportion to the value of their respective interests in the Premises immediately prior to the damage or destruction; and
 - 9.1.7 the Lease requires that the tenant is a composite insured or, if it does not, provides that the landlord will use reasonable endeavours to procure a waiver of insurer's subrogation rights in relation to the tenant, subject to any conditions imposed by the insurer.
- 9.2 Where indicated in the Disclosures to this paragraph 9:
- 9.2.1 the tenant is required to insure with a reputable insurer:
 - (a) the Premises against damage caused by the risk(s) of fire, lightning, explosion, storm, flood, subsidence, landslip, heave, earthquake, burst or overflowing water pipes, tanks or apparatus, impact by aircraft or other aerial devices and any articles dropped from them, impact by vehicles, terrorism, riot, civil commotion and malicious damage and any other risk against which the tenant reasonably insures from time to time, to the extent that insurance is generally available on normal commercial terms in the United Kingdom insurance market, and subject to any exclusions, limitations and excesses imposed by the insurer; and
 - (b) for the full reinstatement cost of the Premises (including professional fees and value added tax);
 - 9.2.2 the Lease requires that the landlord is a composite insured;
 - 9.2.3 if the tenant fails to insure in accordance with its obligations in the Lease briefly described in paragraphs 9.2.1 and 9.2.2:
 - (a) the landlord may insure the Premises on equivalent terms and may also insure for the loss of at least three years' annual rent (unless the annual rent is a nominal amount);
 - (b) the tenant is required to pay to the landlord as rent a sum equal to the premiums paid by the landlord for so insuring the Premises and (if applicable) loss of rent; and
 - (c) if the Premises are damaged or destroyed by an insured risk, the landlord will pay to the tenant any insurance monies (except for loss of rent), which will be used by the tenant in reinstating the Premises;

- 9.2.4 there are no options to determine the Lease in respect of damage or destruction of the Premises; and
- 9.2.5 if the Premises are damaged or destroyed by an insured risk and reinstatement is frustrated insurance monies are to be shared between the parties in proportion to the value of their respective interests in the Premises immediately prior to the damage or destruction.

Disclosures

[The landlord is required to insure and paragraph 9.1 applies, subject to the following disclosures.] OR

[The tenant is required to insure and paragraph 9.2 applies, subject to the following disclosures.] OR

[Neither the landlord nor the tenant is required to insure, neither paragraph 9.1 nor 9.2 applies and there are no options to determine the Lease in respect of damage or destruction of the Premises, subject to the following disclosures.]

10. **Service charge**

There is no provision for the payment by the tenant of a service or other similar charge.

Disclosures

11. **Rights of re-entry**

- 11.1 The landlord is entitled to re-enter the Premises in the cases of non-payment of rent or breach of covenant by the tenant, but not in the case of insolvency or on any other ground.
- 11.2 The Lease contains protection provisions in favour of any mortgagee and which have effect before the landlord can forfeit the Lease, the material terms of which are summarised in the Disclosures.

Disclosures

12. **Options and rights of first refusal**

- 12.1 There are no options to determine the Lease (excluding in respect of damage or destruction of the Premises) or to renew the term, nor any options to purchase or rights of first refusal in favour of either the landlord or the tenant.
- 12.2 If there is such an option or right, the Company has confirmed that it has not been exercised.

Disclosures

13. **1995 Act**

13.1 The Lease is a new tenancy.

13.2 The Company has confirmed that it is not aware of any former landlord having been released under Section 8 of the 1995 Act or otherwise.

Disclosures

14. **Collateral assurances and undertakings**

The Company has told us that, so far as it is aware, no collateral assurances, undertakings or concessions have been made by any party to the Lease.

Disclosures

15. **Consents**

15.1 Any consents required for the grant of the Lease, or the vesting of the Lease in each subsequent tenant, or for the grant of any sub-lease, have been obtained and placed with the documents of title along with evidence that any necessary notice has been given to any third party of any such grant or vesting.

15.2 Any consents required for any works carried out by or change of use effected by any tenant, revealed by the documents reviewed by us or by our enquiries of the Company, have been obtained and placed with the documents of title. The Company has confirmed that, so far as it is aware, there are no other works carried out or change of use effected.

Disclosures

16. **Superior title**

16.1 If title to the Lease is not registered at HM Land Registry with leasehold title absolute, the titles of the landlord and any superior landlord have been investigated and no adverse matters have been revealed. Examined abstracts of title or certified copies of relevant documents have been placed with the documents of title.

16.2 If any superior title is leasehold:

16.2.1 the landlord is entitled to re-enter in the cases of non-payment of rent or breach of covenant by the tenant, but not in the case of insolvency or on any other ground.

16.2.2 it is not subject to any contractual right of termination.

16.3 No superior lease demises property other than the Property.

Disclosures

17. **Registration of title**

If title to the Lease is not registered at HM Land Registry, neither the Lease (when it was granted) nor any subsequent disposition of it was subject to compulsory registration at the relevant time.

Disclosures

18. **Breaches of covenant**

The Company has told us that:

18.1 it is not aware of any subsisting material breach of the covenants or conditions contained in the Lease, whether on the part of the landlord or the tenant, or of any other event which could give rise to forfeiture of the Lease;

18.2 no notice alleging any breach of the covenants or conditions contained in the Lease, whether on the part of the landlord or the tenant, remains outstanding; and

18.3 so far as the Company is aware, no breach of covenant has been waived or acquiesced in.

Disclosures

19. **VAT**

19.1 The Company has told us that a valid option to tax has been exercised by the landlord or a body corporate in relation to which the landlord is either a relevant associate or a relevant group member over the whole Property and that such option has not been, or been deemed to be, disappplied or revoked (in whole or in part), so that value added tax is due in respect of any supply of the Property by the landlord.

19.2 Whether or not an option to tax over the Property is in place, there are no provisions in the Lease or the superior title which prevent either the landlord or a body corporate in relation to which the landlord is either a relevant associate or a relevant group member from exercising a valid option to

tax in respect of the Premises or from increasing the rent or other payments under the Lease by, or requiring a payment in addition of, an amount in respect of value added tax chargeable by reason of that option to tax.

19.3 The Company has told us that it is not aware of any reason why the landlord should be prevented from charging value added tax in relation to supplies made to the tenant (in particular as a result of the operation of any of the disapplication provisions in Schedule 10 to the Value Added Tax Act 1994).

19.4 The Lease reserves value added tax as rent.

Disclosures

20. **Stamp duty land tax and Land transaction tax**

The Company has told us that:

20.1 neither the grant of the Lease nor any agreement for the grant of the Lease was exempt from charge to (1) stamp duty land tax by virtue of any of the provisions specified in paragraph 11(2) of Schedule 17A ('cases where assignment of lease treated as grant of lease') to the Finance Act 2003 ("FA 2003"), or (2) land transaction tax by virtue of any of the provisions specified in paragraph 22 of Schedule 6 ('Cases where assignment of lease treated as grant of lease') to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ("LTTA 2017"); and

20.2 nothing is, or may be, required or authorised to be done by the tenant or any successor in title in respect of the grant of the Lease or any agreement for the grant of the Lease under or by virtue of any of the provisions mentioned in paragraph 12 ("Assignment of lease: responsibility of assignee for returns etc") of Schedule 17A to the FA 2003, or in paragraph 23 of Schedule 6 ('Assignment of lease') to the LTTA 2017.

Disclosures

21. **Outstanding obligations under agreement for lease following grant of the Lease**

There are no material obligations under any agreement for lease relating to the Premises that are binding on the Company and which remain outstanding following the grant of the Lease pursuant to the agreement.

Disclosures

22. **No other material matters**

There are no other material matters that we consider ought to be brought to your attention in relation to the Lease.

Disclosures

SCHEDULE 5

The Letting Documents

Part 1

[First Standard Letting Document [Unit []]]

[Note: Please include a heading for each Letting Document. Alternatively if it is desired to certify other Letting Documents by reference to one or more standard forms of Letting Document the extent of the details to be included and the extent of recording of variations and licences etc is to be agreed between the giver and the recipient of the Certificate and included in a Supplement. The drafting on pages 54 and 55 is an example of information which might be included in a supplement.]

Part 1A

Details of Letting Document

Premises let by the Letting Document (indicating whether there is an internal demise):	
Date:	
Original parties:	
Length of term:	
Contractual term commencement date:	
Contractual term expiry date:	
Does the description of the term expressly include any statutory continuation?	Yes/No
Is the Letting Document contracted out of the 1954 Act?	Yes/No
Name and address (and if applicable company registration number) of present tenant and any present guarantor:	
Original annual rent including start date, if not yet payable and details of any premium paid:	
Current annual rent and (if applicable) date from which last reviewed:	
Remaining rent review dates:	

Present permitted use (and whether personal):	
Name of every former tenant who has entered into an authorised guarantee agreement and of every former guarantor who has guaranteed the relevant former tenant's obligations in that authorised guarantee agreement:	
Name of every former tenant and former tenant's guarantor unreleased because (1) the assignment by that tenant was an excluded assignment; or (2) the letting is not a new tenancy:	
Proportion of service charge expenditure payable by the tenant and how assessed:	
Proportion of insurance payable by the tenant and how assessed:	
Summary of the rights granted to the tenant:	
Summary of the rights reserved to the landlord:	
Summary of any options to determine (other than on damage or destruction), or renew, or purchase, or rights of first refusal:	

Part 1B
Licences and other supplemental documents

Date	Document description	Parties	Other information – for example, for rent deposit deed, include amount of initial and current rent deposit

Part 2 Statements

1. Details of the Letting Document

Details of the Letting Document are fairly summarised in Part 1A of this Schedule and any licences granted and other supplemental documents entered into are listed in Part 1B of this Schedule.

Disclosures

2. Occupation

The Company has told us that the Premises the subject of the Letting Document are occupied by the tenant or the person authorised pursuant to the Letting Document to be in occupation.

Disclosures

3. Payment of rent

- 3.1 The annual rent is payable quarterly in advance on the usual English quarter days, without deduction or set-off unless required by law.
- 3.2 The Company has told us that all rent and additional rent, service charges or other payments have been paid to date and no rent or other payment has been commuted, waived or paid in advance of the due date for payment.
- 3.3 The Company has told us that where any fixed charge was not paid on the due date and is still in arrears for more than three months, an effective notice has been served under section 17 of the 1995 Act on every relevant former tenant and on every relevant guarantor of a former tenant and the Disclosures contain full particulars of all such notices.
- 3.4 Interest is payable on all rents not paid on or by the due date at a rate of at least 3% above the prevailing base rate of a recognised clearing bank subject to a grace period of not more than 14 days for rents other than the annual rent. There is no grace period for the annual rent.

Disclosures

4. Rent review

- 4.1 Where there are any provisions for rent review:
- 4.1.1 time is not of the essence;
- 4.1.2 they are upwards only;

- 4.1.3 the rent is to be reviewed to the open market rent at the date of review;
- 4.1.4 they contain a procedure for resolving disputes (either by expert determination or arbitration) and which may be initiated by either the landlord or the tenant;
- 4.1.5 the reviewed rent is backdated to the relevant review date and interest is payable on the back rent;
- 4.1.6 assumptions substantially in the following form are to be made in determining the open market rent:
 - (a) the hypothetical lease is to be on the same terms as the Letting Document except for the amount of the principal rent;
 - (b) the hypothetical lease is to be between a willing landlord and a willing tenant with vacant possession and without a premium;
 - (c) the hypothetical term is to begin on the review date and be equal to the residue of the contractual term at the review date (or ten years if longer);
 - (d) if the Premises or their means of access have been damaged or destroyed they have been reinstated;
 - (e) the Premises are fit for immediate occupation and use;
 - (f) the Premises may lawfully be let to, and used for the use permitted by the Letting Document by any person throughout the hypothetical term;
 - (g) the tenant's obligations in the Letting Document have been complied with and the landlord's obligations in the Letting Document have been complied with except to the extent there has been a material or persistent breach by the landlord; and
 - (h) the open market rent is the rent that would become payable after the willing tenant has received the benefit of a rent free period, rent concession or any other inducement of such length or amount as would be negotiated in the open market for the purpose of fitting out;
- 4.1.7 disregards substantially in the following form are to be made in determining the open market rent:
 - (a) the effect of the tenant's occupation or that of any lawful occupier and goodwill arising from such occupation;
 - (b) any reduction in rental value attributable to works carried out by the tenant or its predecessors in title or any lawful occupier whether before or during the term; and

- (c) any increase in rental value attributable to any improvements whether or not within the Premises carried out by and at the cost of the tenant or its predecessors in title or any lawful occupier, in each case with the consent of the landlord or its predecessors in title where required, whether before or during the term otherwise than pursuant to an obligation to the landlord or its predecessors in title;

4.1.8 there are no other material assumptions or disregards.

4.2 Where there are any provisions for rent review:

4.2.1 the Company has told us that all steps in current rent reviews have been duly taken and no rent reviews are currently under negotiation or the subject of a reference to an expert or arbitrator or the courts;

4.2.2 where the current annual rent is not the same as the annual rent originally reserved, evidence of its agreement or determination has been placed with the documents of title;

4.2.3 the Company has told us that no building, alteration or improvement has been carried out pursuant to an obligation to the landlord.

Disclosures

5. **Repair and yielding up**

5.1 Where the whole of the Property is comprised in a single Letting Document, the tenant is responsible for:

5.1.1 keeping the whole of the Premises and (to the extent they form part of the Premises) fittings and plant and equipment in good and substantial repair and condition (damage by insured risks excluded except to the extent that payment of any insurance monies is refused because of the act or default of the tenant, or any person under the tenant's control or with the tenant's authority, unless the tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay, and damage by uninsured risks excluded); and

5.1.2 the decoration of the interior of the Premises as and when necessary and in the final six months of the term and the exterior of the Premises not less frequently than every three years and in the final six months of the term.

5.2 Where the Premises comprised in any Letting Document form part or parts only of the Property, the tenant is responsible for:

5.2.1 keeping the whole of the interior of the Premises and fittings and plant and equipment demised to it in good and substantial repair and condition (damage by insured risks excluded except to the extent that payment of any insurance monies is refused because of the act or default of the tenant, or any person under the tenant's control or with the

tenant's authority, unless the tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay, and damage by uninsured risks excluded); and

5.2.2 the decoration of the interior of the Premises as and when necessary and in the final six months of the term.

5.3 In paragraphs 5.1 and 5.2 "insured risks" and "uninsured risks" have the meanings set out in paragraph 9.7 in Part 2 of this Schedule.

5.4 On expiry or earlier determination of the term the tenant is to yield up the Premises in a condition consistent with the performance of its repair and decoration obligations and with vacant possession.

Disclosures

6. **Restrictions on use**

6.1 The uses permitted by the Letting Document are consistent with the Existing Use.

6.2 The tenant is not permitted to change the use of the Premises from the present permitted use set out in Part 1A of this Schedule, unless the landlord in its absolute discretion agrees.

Disclosures

7. **Alterations**

7.1 The tenant is prohibited from making structural alterations or additions to, or alterations affecting the external appearance of, the Premises.

7.2 The tenant may carry out internal non-structural alterations to the Premises with the prior written consent of the landlord, such consent not to be unreasonably withheld, and erect or dismantle internal demountable partitioning that will not have an adverse impact on the Property's building services, without the consent of the landlord.

7.3 The tenant may not carry out any alterations which adversely affect the energy performance certificate rating for the Property.

7.4 The tenant is required to remove all alterations and additions made during the term, on yielding up the Premises at the expiry or earlier determination of the term, unless and to the extent that the landlord requires otherwise.

Disclosures

8. Alienation

8.1 Except as mentioned subsequently in this paragraph 8, the tenant may not:

8.1.1 share or part with possession of the Premises or any part;

8.1.2 permit another to occupy the Premises or any part;

8.1.3 share occupation of the Premises or any part;

8.1.4 hold the Premises or any part on trust; or

8.1.5 charge the Premises or any part.

8.2 The tenant may not assign part only of the Premises.

8.3 The tenant may assign the whole of the Premises with the prior written consent of the landlord, such consent not to be unreasonably withheld, and any restrictions on the tenant assigning the Premises or conditions that the landlord might impose on such assignment (including any agreement under Section 19(1A) of the Landlord and Tenant Act 1927) are, unless they are already referred to in paragraph 8.4.1, fairly summarised in the Disclosures.

8.4 Where the Letting Document is a new tenancy:

8.4.1 the landlord has an express contractual right (where reasonable) to require an authorised guarantee agreement from the tenant and to require any guarantor of the tenant (other than a guarantor under an authorised guarantee agreement) to guarantee the tenant's obligations in the authorised guarantee agreement;

8.4.2 no guarantor of the current tenant has acted as a guarantor of any previous tenant under the Letting Document; and

8.4.3 the Letting Document is not now and has not been previously vested in any guarantor of a previous tenant.

8.5 The tenant may charge the whole of the Premises with the prior written consent of the landlord, such consent not to be unreasonably withheld.

8.6 The tenant under the Letting Document may underlet the whole of the Premises, or any permitted part capable of separate occupation and use (provided that the Premises are not divided into more than the number of self-contained units of occupation specified in the Disclosures), with the prior written consent of the landlord, such consent not to be unreasonably withheld, but subject to conditions including those substantially in the following form:

- 8.6.1 the underlease is to be granted:
- (a) without a fine, premium, reverse premium or other inducement;
 - (b) at a rent which is no less than the open market rent and is not calculated by reference to the passing rent under the Letting Document; and
 - (c) on the same terms as the Letting Document with rent reviews on the same dates, except that in the case of an underlease of a permitted part the undertenant is to pay a fair and reasonable proportion of the sums payable by the tenant under the Letting Document in respect of insurance and service charge or, if the Letting Document has no provision for the payment of service charge, a fair and reasonable proportion of the costs incurred by the tenant in providing services to the Premises;
- 8.6.2 the undertenant is to covenant directly with the landlord to comply with its covenants in the underlease;
- 8.6.3 the tenant agrees with the landlord to enforce the covenants by the undertenant;
- 8.6.4 the tenant is not to vary the terms of or waive its rights under the underlease, nor accept a surrender of part of the underlease without the prior written consent of the landlord, such consent not to be unreasonably withheld;
- 8.6.5 the underlease is to be validly contracted out of the security of tenure provisions of the 1954 Act; and
- 8.6.6 the tenant is not to reduce, defer, accelerate or commute any rent payable under the underlease.
- 8.7 The tenant may share occupation of the Premises with another member of the same group of companies subject to:
- 8.7.1 no relationship of landlord and tenant being created or being allowed to arise;
 - 8.7.2 the sharing ending if the occupier is no longer a member of the same group of companies as the tenant; and
 - 8.7.3 the tenant notifying the landlord when the sharing commences and ends.
- 8.8 There is no restriction on any change of control of the tenant.

Disclosures

9. **Insurance**

9.1 The landlord is required to insure with a reputable insurer:

9.1.1 the Property against damage caused by the insured risks;

9.1.2 for the full reinstatement cost of the Property (including professional fees and value added tax); and

9.1.3 for the loss of at least three years' annual rent and (if applicable) service charge.

9.2 The tenant is required to pay to the landlord as rent a sum equal to:

9.2.1 the premiums (or a fair and reasonable proportion of the premiums) paid by the landlord for insuring the Property; and

9.2.2 the premiums paid by the landlord for insuring loss of rent and (if applicable) service charge;

in accordance with the landlord's obligations in the Letting Document briefly described in paragraph 9.1.

9.3 The tenant is required to pay to the landlord as rent the whole or a fair and reasonable proportion of:

9.3.1 the cost of valuations of the Property for insurance purposes made not more than once a year; and

9.3.2 the amount of any excess or deductible under any insurance policy that the landlord incurs in complying with its reinstatement obligation briefly described in paragraph 9.5.1.

9.4 There is provision for suspension of rent and (if applicable) service charge or a fair proportion of them if the Premises or any part of the Property are damaged or destroyed by an insured risk or an uninsured risk so as to make the Premises unfit for occupation and use or inaccessible, such suspension to commence on the date of damage or destruction and being limited to a period no longer than the loss of rent period that the landlord is required to insure. Such suspension will not apply to the extent that payment of any insurance monies is refused because of the act or default of the tenant, or any person under the tenant's control or with the tenant's authority, unless the tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay.

9.5 If the Premises or any part of the Property are damaged or destroyed by an insured risk, so as to make the Premises unfit for occupation and use or inaccessible:

9.5.1 the landlord is required to reinstate the Premises or such part of the Property once all necessary consents have been obtained and subject to payment of any insurance monies not being refused because of the act or default of the tenant, or any person under the tenant's control or with the tenant's authority, unless the tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay. The landlord is to use at least reasonable endeavours to obtain such consents;

- 9.5.2 either the landlord or the tenant is entitled to determine the Letting Document immediately if the Premises or such part of the Property has not been reinstated sufficiently so as to make the Premises fit for occupation and use and accessible by the end of the loss of rent period for which the landlord is required to insure, by notifying the other at any time after the end of such period but before such reinstatement has been completed. The tenant is not entitled to determine the Letting Document unless it has paid the landlord a sum equal to any payment of insurance monies refused because of the act or default of the tenant, or any person under the tenant's control or with the tenant's authority; and
- 9.5.3 if reinstatement is frustrated, insurance monies are payable to the landlord.
- 9.6 If the Premises or any part of the Property are damaged or destroyed by an uninsured risk, so as to make the Premises unfit for occupation and use or inaccessible:
- 9.6.1 if the landlord notifies the tenant within 12 months of the date of damage or destruction that it wishes to reinstate:
- (a) the landlord's obligations to obtain consents and reinstate briefly described in paragraph 9.5.1 will apply as if the damage or destruction had been caused by an insured risk; and
 - (b) the mutual right to determine briefly described in paragraph 9.5.2 will apply with the loss of rent period treated as beginning on the date of the landlord's notification;
- 9.6.2 if no such notification is given, the Letting Document ends on the last day of that 12 month period, or if the landlord notifies the tenant that it does not wish to reinstate, the Letting Document ends on the date of that notification.
- 9.7 For the purposes of this paragraph 9:
- 9.7.1 "insured risk(s)" means risk(s) of fire, lightning, explosion, storm, flood, subsidence, landslip, heave, earthquake, burst or overflowing water pipes, tanks or apparatus, impact by aircraft or other aerial devices and any articles dropped from them, impact by vehicles, terrorism, riot, civil commotion and malicious damage and any other risk against which the landlord reasonably insures from time to time, to the extent that insurance is generally available on normal commercial terms in the United Kingdom insurance market, and subject to any exclusions, limitations and excesses imposed by the insurer; and
- 9.7.2 "uninsured risk(s)" means any risk expressly specified in the insured risks definition that is not an insured risk because insurance is not generally available on normal commercial terms in the United Kingdom insurance market or because of an exclusion or limitation imposed by the insurer, but excludes any damage or destruction caused by the act or default of the tenant, or any person under the tenant's control or with the tenant's authority.

Disclosures

10. **Service charge**

10.1 If the whole of the Property is comprised in a single Letting Document, there is no provision in the Letting Document for the payment by the tenant of a service or other similar charge.

10.2 Where the premises comprised in the Letting Document form part of the Property:

10.2.1 there are provisions for payment of a service or other similar charge which entitle the landlord to recover from the tenant the appropriate part of the cost of:

- (a) repairing and maintaining the Property (except for the lettable areas);
- (b) paying outgoings;
- (c) providing a range of services which the Company has told us are reasonable and appropriate for the type of buildings in the Property; and
- (d) an amount for the management of the Property which either does not exceed 10% of the total service charge or is required to be reasonable;

10.2.2 the Company has told us that there are no material irrecoverable items, caps or other limitations on recovery of the costs referred to in paragraph 10.2.1;

10.2.3 the Company has told us that there are no lettable areas of the Property that are currently unlet.

Disclosures

11. **Rights of re-entry**

The landlord is entitled to re-enter the Premises in the case of:

11.1 non-payment of rent (whether or not formally demanded) for a period not exceeding 21 days;

11.2 any breach of the tenant's obligations;

11.3 bankruptcy, liquidation, whether compulsory or voluntary (except for the purpose of amalgamation or reconstruction of a solvent company), administrative receivership or the administration of the tenant or any guarantor;

11.4 appointment of a receiver of the tenant's or guarantor's property; or

11.5 the tenant or guarantor entering into any scheme of arrangement.

Disclosures

12. **Options and rights of first refusal**

12.1 Except where specified in Part 1A of this Schedule (and excluding any, which may arise under the 1954 Act), there are no:

12.1.1 options to determine (other than any in respect of damage or destruction of the Premises by an insured risk or an uninsured risk, as defined in paragraph 9.7 in Part 2 of this Schedule); or

12.1.2 options to renew the term; or

12.1.3 options to purchase or rights of first refusal.

12.2 If there is such an option or right, the Company has confirmed that it has not been exercised.

Disclosures

13. **Landlord and Tenant Act 1954**

13.1 Where a Letting Document is stated in Part 1A of Schedule 5 to be contracted out of the 1954 Act, the Letting Document states that the required warning notice has been served on the tenant and that the required declaration or statutory declaration has been made by the tenant or by an authorised person on its behalf, and the Letting Document includes a reference to the agreement between the landlord and the tenant that the provisions of sections 24 to 28 of the 1954 Act do not apply to the tenancy created by the Letting Document.

13.2 Where a Letting Document is stated in Part 1A of Schedule 5 to be contracted out of the 1954 Act, a warning notice has been served on and a declaration or statutory declaration has been made by a guarantor (or by an authorised person on its behalf) under any guarantee of the Letting Document or of an authorised guarantee agreement, or a former tenant (or by an authorised person on its behalf) under any authorised guarantee agreement.

13.3 The Company has told us that no notice has been served in respect of any Letting Document pursuant to Sections 25 or 26 of the 1954 Act.

Disclosures

14. **New tenancy**

The Letting Document is a new tenancy.

Disclosures

15. **Direct covenants**

If the Letting Document is not a new tenancy for the purposes of the 1995 Act, the present tenant and each of its predecessors in title and any guarantor for any of them has given a covenant to the landlord to observe and perform the obligations of the tenant throughout the term and our investigations do not disclose that any such persons have been released or are or may be entitled to be released.

Disclosures

16. **Overriding lease**

The Company has told us that no person has made a claim for an overriding lease under Section 19 of the 1995 Act against the Company nor, so far as it is aware, against any of its predecessors and that, so far as it is aware, no person is entitled to make such a claim and that, so far as it is aware, no notice has been served under Section 17 of the 1995 Act (other than those referred to in paragraph 3.3 in Part 2 of this Schedule) which would give rise to any such entitlement.

Disclosures

17. **Collateral assurances and undertakings**

The Company has told us that, so far as it is aware, no collateral assurances, undertakings or concessions have been made by any party to any Letting Document.

Disclosures

18. **Consents**

18.1 Any consents required under the Lease (if any) for the grant of the Letting Document and any dealings with it have been obtained and placed with the documents of title, along with evidence of the registration of the grant or dealing where requisite.

18.2 The Company has told us that, so far as it is aware, no other consents were required for the grant of the Letting Document and any dealings with it, or if required, those consents have been obtained and placed with the documents of title.

Disclosures

19. **Use of remainder of the Property**

No Letting Document contains any restriction on the use of the remainder of the Property by the landlord other than by virtue of the covenant for quiet enjoyment.

Disclosures

20. **Breaches of covenant**

The Company has told us that:

- 20.1 it is not aware of any subsisting material breach of the covenants or conditions contained in the Letting Document, whether on the part of the landlord or the tenant, or of any other event which could give rise to forfeiture of the Letting Document;
- 20.2 no notice alleging any breach of the covenants or conditions contained in the Letting Document, whether on the part of the landlord or the tenant, remains outstanding; and
- 20.3 so far as the Company is aware, no breach of covenant has been waived or acquiesced in.

Disclosures

21. **Costs**

The tenant is obliged to pay the reasonable and proper costs of the landlord in connection with the following (except that there is no reasonable and proper limitation for the costs under paragraphs 21.1 and 21.3):

- 21.1 any notice under sections 146 or 147 of the Law of Property Act 1925;
- 21.2 the preparation and service of any schedule of dilapidations;
- 21.3 any breach of obligation of the tenant; and
- 21.4 any application by the tenant for consent (unless it has been unreasonably withheld where the landlord is required to act reasonably).

Disclosures

22. **VAT**

22.1 Whether or not an option to tax over the Property is in place, there are no provisions in any of the Letting Documents (or absence of any provisions) which prevent either the Company or a body corporate in relation to which it is either a relevant associate or a relevant group member from exercising a valid option to tax in respect of the Property or from increasing the rent or other payments under the Letting Documents by, or requiring a payment in addition of, an amount in respect of value added tax chargeable by reason of that option to tax or which oblige the Company or other person to indemnify the tenant in respect of all or any part of that amount.

22.2 The Company has told us that it is not aware of any reason why it should be prevented from charging value added tax in relation to supplies made by it under any Letting Document (nor, therefore, why its recovery of input value added tax attributable to those supplies should be restricted), in particular as a result of the operation of any of the disapplication provisions in Schedule 10 to the Value Added Tax Act 1994.

22.3 Where there are provisions in any Letting Document entitling the landlord to be paid, indemnified or reimbursed by the tenant for any amount expended or to be expended by or on behalf of the landlord, that entitlement includes an amount in respect of the value added tax to the extent that the value added tax cannot be recovered from HM Revenue & Customs by the landlord.

22.4 The Letting Document reserves value added tax as rent.

Disclosures

23. **Compensation**

There are provisions in each Letting Document where applicable excluding the right of the tenant to compensation under Section 37 of the 1954 Act on quitting the Premises to the extent permitted at law.

Disclosures

24. **Notices in respect of improvements**

The Company has told us that so far as the Company is aware, no notice of intention to make improvements has been served under Section 3(1) of the Landlord and Tenant Act 1927.

Disclosures

25. **Statutory compliance**

The Letting Document contains an obligation on the part of the tenant to comply with the requirements of any statute which affects the Premises.

<u>Disclosures</u>

26. **Data sharing**

The Letting Document provides for the landlord and the tenant to share data that each holds relating to the environmental performance of the Property and the Premises, subject to each being obliged to the other to keep shared data confidential.

<u>Disclosures</u>

27. **Possession**

The Company has told us that it is not aware of any sub-letting, parting with possession or sharing of occupation by any tenant.

<u>Disclosures</u>

28. **Rent deposits**

28.1 The amount of any rent deposit is set out in Part 1B of this Schedule.

28.2 Where any sums are charged to the landlord by any corporate tenant by way of security for compliance with the tenant's obligations under any Letting Document, the charge has if necessary been properly registered at Companies House within the prescribed time limit.

<u>Disclosures</u>

29. **Variations**

The Company has told us that, so far as it is aware, the Letting Document has not been varied in such a way as to give rise to a surrender and regrant, or as to render any former tenant or the guarantor of any former tenant no longer or not fully liable to comply with their obligations, whether under the 1995 Act or at common law.

<u>Disclosures</u>

30. **Guarantee provisions**

30.1 The guarantee provisions in the Letting Document or in an authorised guarantee agreement or in any other guarantee supplemental to the Letting Document include the following:

- 30.1.1 the guarantee is of the tenant’s obligations in the Letting Document;
- 30.1.2 the guarantee is expressed to be a primary obligation on the part of the guarantor;
- 30.1.3 the guarantee contains an indemnity with regard to any loss suffered by the landlord as a result of the default of the tenant;
- 30.1.4 there is no financial limit on the guarantee;
- 30.1.5 the guarantor covenants that, in the event that the Letting Document is disclaimed or forfeited, the guarantor will, if required by the landlord within a period of six months after the disclaimer or forfeiture, enter into a new Letting Document (as tenant) on essentially the same terms as the previous Letting Document (except that in the case of an authorised guarantee agreement the guarantor’s obligation will not apply in the event that the Letting Document is forfeited); and
- 30.1.6 the guarantee contains standard protective provisions, including an acknowledgement that the guarantee is not affected by any concession granted to the tenant, any failure to enforce or delay in enforcement, any change to the terms of the underlying Letting Document, any incapacity on the part of the tenant, or the invalidity of any of the underlying obligations.

30.2 Either the guarantee provisions provide that any consent given by the landlord and any variation to the terms of the underlying Letting Document will not release the guarantor or to the extent required to ensure that the guarantee continues to be effective, the guarantor has consented to any licences granted relating to the Letting Document and any change to the terms of the Letting Document.

Disclosures

31. **Outstanding obligations under agreement for lease following grant of Letting Document**

There are no material obligations under any agreement for lease relating to the Premises that are binding on the Company and which remain outstanding following the grant of the Letting Document pursuant to the agreement.

Disclosures

32. **Residential and Mixed Use Buildings**

If the Premises are residential:

- 32.1 the Company has told us that no tenant has made a claim against the Company nor, so far as it is aware, against any of its predecessors, to acquire:
 - 32.1.1 a new lease of the Premises pursuant to Chapter II of Part I (Individual Right of Tenant of Flat to Acquire New Lease) of the Leasehold Reform, Housing and Urban Development Act 1993; or
 - 32.1.2 the freehold of the Premises pursuant to Part I (Enfranchisement and Extension of Long Leaseholds) of the Leasehold Reform Act 1967.
- 32.2 the Company has told us that any deposit paid by the tenant, or the contract-holder (in the case of Wales), pursuant to the Letting Document has been dealt with in accordance with an authorised tenancy deposit scheme as required by the Housing Act 2004, or an authorised deposit scheme as required by the Renting Homes (Wales) Act 2016.

<p><u><i>Disclosures</i></u></p>

33. **No other material matters**

There are no other material matters that we consider ought to be brought to your attention in relation to the Letting Document.

<p><u><i>Disclosures</i></u></p>

SCHEDULE 5 - SUPPLEMENT

Details of further Letting Documents

Note: Disclosures of material variations between each further Letting Document and the relevant standard Letting Document are set out below the details of each further Letting Document

Brief description of Premises let by the Letting Document and date of Letting Document	Name and address of present tenant and any present guarantor and name of any guarantor pursuant to an AGA and any sub-guarantor of an AGA	Term and expiry date	Current annual rent (including start date, if not yet payable) and future rent review date(s)	Amount of initial and current rent deposit	Present Permitted Use (and whether personal)	Summary of any options to determine (other than on damage or destruction), or renew, or purchase, or rights of first refusal	Is the Letting Document contracted out of the 1954 Act?	Type of Standard Letting Document
(eg Unit 1) []		years commencing on and expiring on	£ pa to be reviewed on on [and]				Yes/No	[First] [Second]

<u>Disclosures</u>								
(eg Unit 2) []		years commencing on and expiring on	£ to be reviewed on [and]				Yes/No	[First] [Second]

<u>Disclosures</u>

SCHEDULE 6

Searches and enquiries

Search	Date of result (or state “not made”)	Disclosures
Official search in the Index Map (SIM)		
Local search certificate and replies to Law Society CON 29 Enquiries of the local authority (2016) and any other relevant enquiries in Law Society CON 29O Optional enquiries of local authority (2016) including enquiry 22 (common land and town or village green)		
Commercial drainage and water enquiries		
Where title to the Property is not registered at HM Land Registry, Land Charges Act searches against the [Seller and the] Company and date of expiry of priority		
HM Land Registry search (whether of whole or part), date of expiry of priority, confirmation that the search from date used is the search from date stated on the official copies used to complete this Certificate, name of party having benefit of priority period and basis of search (e.g. transfer)		
Where title to the Property is not registered, date of search at Companies House of the file of all companies disclosed by the documents of title as estate		

owners of the Property since the root of title		
Search at Companies House against the [Seller and the] Company		
Enquiries of the Highways Authority to ascertain the boundaries of publicly maintainable highways abutting, and any footpaths or rights of way affecting, the Property		[Please refer to the Disclosures to paragraph 3.2 of Schedule 3.]
Details of other searches or enquiries we considered to be appropriate		

Date

202[]

Signed:

Name of firm:

Address:

Reference:

**THE CITY OF LONDON LAW SOCIETY
LAND LAW COMMITTEE
CERTIFICATE OF TITLE
(Eighth Edition 2023)**

NOTE TO USERS

This note is issued with the Eighth Edition 2023 of The City of London Law Society ("CLLS") Land Law Committee Certificate of Title ("the Certificate"), but it is not part of it.

We set out below the main changes in the Eighth Edition as compared to the previous Seventh Edition 2016 Update. There then follows general comments on the Certificate. The solicitors who give the Certificate are described in various places in this Note as the "certifier".

Main changes for the Eighth Edition 2023

Key points

The Seventh Edition of the Certificate of title of the Land Law Committee of the City of London Law Society was launched in 2012 with an update of that edition in 2016. It was, therefore, 10 years since the Committee had undertaken a thorough review of the Certificate. The Committee decided that the time was right to produce a new Eighth Edition of its Certificate of title. For the first time the Committee launched a wide-ranging consultation on the proposed new edition.

The Committee considers that the Certificate has benefited from the input of a wide group of stakeholders, helping to ensure that all key issues have been addressed and that the proposed changes are generally accepted. The Committee would like to thank everyone who took the time and trouble to respond to the consultation.

The structure of the Certificate for the Eighth Edition remains the same with the front-end provisions on reliance, certification and confirmations, and the Schedules covering interpretation, assumptions and qualifications; Property details; matters affecting the Property; the Lease; Letting Documents; and Searches and enquiries.

The accompanying documentation including the confirmation letters; questionnaire; wrapper and supplemental enquiries have also been updated. The Committee's short form report on title did not form part of the consultation and will be updated in due course.

We have made available on the website a comparison document showing the changes from the Seventh Edition 2016 Update. Set out below are further details on and explanation of some of the changes for the Eighth Edition. The numbers refer to the relevant clause or paragraph number in the Certificate.

Detail of main changes for the Eighth Edition 2023

Front end of the Certificate

Clause 1

1.8 The provision excluding liability for individual partners etc. has been amended to be clearer when the Certificate is being given by a law firm partnership. There is now a qualification that the exclusion of individual responsibility is not intended to relieve any firm that is a partnership or otherwise from liability in relation to the giving of the Certificate.

1.9 There is inclusion of a provision capping the Certificate provider's liability. Solicitors have caps in terms of engagement for their own clients, so there should be a cap for a certificate to third parties. No figure is given for the cap although **Reliance on the Certificate and limiting the liability of certifying solicitors** in this Note to Users provides some explanation on how the cap may be determined.

1.10 There is a new deadline for issuing and serving proceedings in connection with the Certificate.

Clause 2

2.1.3(f) The quality of the registered title is now dealt with in Schedule 2.

Valuers provision

The Valuers provision in the current edition has been removed as it does not reflect what usually happens in practice and it should be for the recipient of the Certificate to ensure its valuers are comfortable with the contents of the Certificate.

Clause 3

Clause 3.3 now expressly deals with the situation where the shares in the Company that owns the Property are being purchased from the Seller as part of completion of the Transaction. There is new wording in square brackets in clauses 3.2, 3.3, 3.3.1(e) and 3.3.1(g) for use if the Certificate is given in connection with such an acquisition and so that the statements in clauses 3.2 and 3.3 are applicable to the acquisition, subject to any Disclosures.

Clause 3.3.1(g) now allows for an agent or representative of the Company or the purchaser of the Company to inspect the Property.

Disclosures

There are optional disclosures referring to a Planning and a Construction Report, which may be produced by the provider of the Certificate or a third party. It is not proposed that the Committee will produce a pro-forma Construction or Planning Report, as much depends on the particular circumstances. If there is a Planning and/or Construction Report produced by the provider of the Certificate, it is envisaged that this will be annexed to the Certificate. See **Construction documents** below for further information on construction reporting.

Schedule 1

“Letting Documents” – this has been expanded to make it clear that the relevant arrangement may be

personal to the Company. There is also a new reference to “occupation contract (in the case of Wales)”.

Qualifications

Paragraph 3.3 The Qualification now confirms that the certifier has not considered any climate change risks to the Property, but the Qualification is subject to any disclosure in Schedule 6 of any climate change searches that have been carried out. This is mentioned below under **Climate change provisions**.

3.7 There is a new qualification that the provider of the Certificate expresses no opinion on whether the National Security and Investment Act 2021 applies to any transaction and has not investigated any related aspects. This reflects the difficulties for the certifying firm of confirming whether the Act applies in all the circumstances of the transaction and also avoids a certifying firm unwittingly taking on any liability if the Act does apply and this is not highlighted in the Certificate.

3.11 There is a new qualification that the provider has not checked whether benefits have been properly protected. This is a reflection of what happens in practice and the difficulties of establishing this.

Third Party Rights and Jurisdiction

Paragraph 4 There is a new provision excluding the Contracts (Rights of Third Parties) Act 1999.

5 The jurisdiction clause refers to Wales as well as England, and disputes are to be submitted to the exclusive jurisdiction of the English and Welsh courts.

Schedule 2

The quality of title (absolute etc) is now covered in Schedule 2.

Details of restrictions in the Proprietorship register must be specifically identified. Any such restrictions are cross-referred to in Part 3 of Schedule 2.

The wording for the Economic Crime (Transparency and Enforcement) Act 2022 follows that used in the Seventh Edition 2016 Update, but with minor changes including a new reference to the date of the most recent update to the register of overseas entities. The wording is intended to be a signposting exercise for both certifiers and recipients of the Certificate, alerting the parties to steps that may need to be taken to comply with the 2022 Act, rather than a detailed analysis.

The confirmation as to the Existing Use of the Property has been made a Company confirmation.

Schedule 3

Paragraph 1 The statement about documents of title being held by the provider to the order of the Company has been removed as not reflecting what usually happens in practice.

Welsh land transaction tax is now referred to as well as stamp duty land tax.

In relation to value added tax, there are new statements that the Company confirms that notice of the option to tax was given to HM Revenue & Customs, and that the Certificate provider has been provided with a copy of the option or a copy of an acknowledgment from HM Revenue & Customs in relation to the option. The reference to the option not being disapplied or revoked is now “in whole or in part” (and similarly in paragraph 19.1 of Schedule 4).

3 The access statement has an additional confirmation from the Company that so far as it is aware there has been no challenge or objection to accessing the Property at the relevant points.

7.2 The “Agreements” statement now refers to there being no obligations to make future payments of overage etc or other material positive obligations pursuant to the matters referred to in paragraph 7.1 (such as agreements for sale, estate contracts, options or rights of pre-emption), which are binding on the Property, or on the Company (either generally or by way of indemnity) in relation to the Property.

8 The “Adverse Rights” statement recognises that the inspection may be undertaken by the Company’s agent or representative on the Company’s behalf, rather than by the Company itself.

16 The “Pending applications” statement has been expanded to include a non-material amendment to a planning permission, and a listed buildings consent.

18 This is a new set of statements for the Community infrastructure levy (CIL). While CIL was previously referred to in paragraph 17.1 (Planning agreements, obligations or contributions) of Schedule 3 (through the reference to Part 11 of the Planning Act 2008), it was considered clearer if CIL had its own set of statements. Consequently, the reference to Part 11 has been removed from paragraph 17.1.

19 The “Listed buildings” statements have been expanded.

21 The “Compulsory acquisition” statement now also refers to rights over the Property.

24 The statement on Energy performance certificates has been expanded to require inclusion in the Disclosures of the rating and the date that the EPC is stated to be “valid until”. There is also a new Company confirmation that the EPC covers the whole of the Property and the EPC is registered on the relevant statutory register. If there is more than one EPC, there is a requirement to provide in the Disclosures the relevant information for each EPC including the part of the Property covered by the EPC.

25 Disclosure will be required if buildings or other structures on the Property have been erected or been subject to extension or material (replacing the word “major”) alteration within 12 years prior to the date of the Certificate (as opposed to 6 years). This reflects what construction lawyers normally expect to see when doing due diligence, it is consistent with the existing requirement to disclose any warranties/Third Party Rights (which will usually be for 12 years) and is generally what is done. As mentioned, the word “major” has been replaced with “material” - the word “major” may sometimes be inappropriate (for example, there can be an alteration that is minor but still material) and it was considered that the word alteration needed qualification with “material”, otherwise all alterations would have to be disclosed, however, immaterial. Reference is also made to Third Party rights. Tenant’s alterations referred to in Schedule 5 should not be mentioned in paragraph 25.

26 Outgoings now include “other utility charges”.

28 There is a new section for Residential and mixed use buildings. In terms of the approach adopted to the drafting of the statements for residential issues, there are too many technicalities/specific defined terms (all of which differ slightly amongst the various relevant legislation) to include all of this in detail in the Certificate. The set of statements instead seeks to enable the provider of the Certificate to establish whether there is a risk of the relevant Acts applying. If there is no Disclosure to be made against the statements, the stated provisions of these Acts will not apply. If a Disclosure has to be made, the certifier and the recipient of the Certificate should consider further whether the Transaction will or may trigger any of these

provisions, or whether the Lease or Letting Documents triggered such provisions. So the proposed statements are not intended to cover every situation, nor whether the relevant Transaction which is the subject of the Certificate triggers the relevant Act, but rather to flag where there may be an issue.

It was considered that the statements should come from the Company as they include issues that the certifying firm would not be able to ascertain from the deeds.

The new statements in paragraph 32 of Schedule 5 in relation to tenant's rights to acquire a new lease/freehold refer to a Company confirmation that no claim has been made for such an acquisition.

29 There is a new statement that there are no other material matters affecting the Property that the certifier considers ought to be brought to the attention of the recipient of the Certificate. There is an equivalent statement in Schedules 4 and 5 and it was considered appropriate to have this in Schedule 3.

There is no statement for TUPE, which is considered by the Committee to be an inappropriate topic for the Certificate.

Schedule 4

There will be no Schedule 4 equivalent for a long-term residential lease.

Part 2

Paragraph 9 One of the key changes is that there are now alternative sets of statements for the tenant and the landlord being obliged to insure the Property. The Disclosures indicate whether it is the tenant or the landlord who is required to insure and, therefore, which set of statements apply, or whether neither party is required to insure. There is a new statement that there are no options to determine the Lease in respect of damage or destruction of the Premises, reflecting the (usually) valuable and long term nature of the Lease.

11 The Certificate is now explicit in stating that the landlord cannot exercise a right of re-entry in the case of insolvency. Similarly with a superior leasehold title in paragraph 16.2 of Schedule 4.

12 If an option to determine the Lease/renew the term/purchase or a right of first refusal is disclosed, the Certificate also includes a Company confirmation that it has not been exercised.

20 The Welsh land transaction tax is covered as well as stamp duty land tax.

21 There is a new statement that there are no material obligations under any agreement for lease relating to the Premises that are binding on the Company and which remain outstanding following the grant of the Lease pursuant to the agreement.

Schedule 5

There have been suggestions that the Schedule 5 statements (on the provisions in Letting Documents) should be significantly streamlined to make it easier and more cost-effective to produce the Certificate. The Committee is mindful of the pricing of Certificates, but to make a significant reduction in the nature of the statements would undermine the confidence that recipients of the Certificate have in its contents. Schedule 5 is intended to reflect the key attributes of the institutionally acceptable lease and has been updated to

better reflect the Model Commercial Lease (“MCL”) <http://modelcommerciallease.co.uk> and to shorten the statements materially removes a key raison d’etre of the Certificate. Equally, if the statements were made more basic, they may be excessively disclosed against because much of the detail is missing and then the concern returns about the cutting and pasting of lease provisions into the Certificate (which was the main reason that the standard lease statements were introduced). The Committee thanks the authors of the MCL for their permission to use wording from the MCL in the Certificate.

The Schedule 5 statements do not mirror the MCL provisions, but the statements have been amended to be brought closer to the MCL. While not everyone uses the MCL or encounters it on a regular basis, it is a well-known industry standard lease which seeks to achieve a relatively balanced position but is still broadly institutionally acceptable, which is what most leases are doing in today’s market.

The Committee did look for opportunities to reduce the length of the statements and did so where appropriate. The purpose of the statements is not just about those points going to the value of the Property, but also practical issues related to the Property (while acknowledging that the Certificate is not an ideal management tool). The CLLS (short-form) report on title may be more suitable for lower value properties/those with less importance in the context of the overall transaction. It is also possible to include the Letting Documents schedule from the short-form report in the Certificate in place of Schedule 5 where appropriate in view of the properties and transaction and where agreed between the parties.

Please also see **Statement of Lease and Letting Document provisions** below for further information about how to approach the statements in Part 2 of Schedules 4 and 5.

Part 1A

Indication should now be given as to whether there is an internal demise under the Letting Document.

The company registration number (if applicable) should also be provided for the present tenant and any present guarantor.

Part 2

Paragraph 3.1 “Without deduction or set-off” is caveated with “unless required by law”, a common tenant’s amendment.

4.1 The rent review statement now includes the “lawfully let” assumption, usually now included in leases for the Minimum Energy Efficiency Standards. The assumption on compliance with landlord’s obligations reflects the common tenant amendment of save for material or persistent breach. The disregards statement better reflects drafting commonly encountered today.

5 In the repair statement, damage by uninsured risks is now also excluded. Paragraph 9.7 defines “insured risks” and “uninsured risks” and the latter carves out damage by the tenant’s act or default.

7.3 There is a new statement that the tenant may not carry out any alterations which adversely affect the energy performance certificate rating for the Property.

8 The alienation statement now separately refers to charging of whole. The authorised guarantee agreement requirement is “where reasonable” reflecting the Code for Leasing Business Premises and what is commonly agreed. The right to require any guarantor of the tenant to guarantee the tenant’s obligations in the authorised guarantee agreement does not apply to a guarantor under an authorised guarantee agreement (reflecting the MCL and highlighting that a guarantor under an existing authorised guarantee agreement cannot, as a matter of law, be required to enter into a further guarantee of the assignee’s obligations).

Paragraph 8.6 now provides that the tenant may underlet any permitted part (of the Premises) capable of separate occupation and use (as well as the whole of the Premises). In the case of underletting of a permitted part, the Disclosures should state the maximum number of self-contained units of occupation permitted at the Premises. Paragraph 8.6.1(c) highlights differences for an underlease of a permitted part in respect of insurance and service charge payments.

There is an additional control on underleases that the tenant (i.e. the landlord of the underlease) is not to reduce, defer, accelerate or commute any rent payable under the underlease.

The sharing of occupation statement at paragraph 8.7 has been tweaked and paragraph 8.8 is a new statement that there is no restriction on any change of control of the tenant.

9 Further detail has been included in the statement of the insurance provisions to better reflect current lease drafting. The statements refer to rent suspension and the position on reinstatement and lease termination if there is damage by an uninsured risk – the Seventh Edition did not deal with uninsured risks.

11 The forfeiture statement also covers insolvency of a guarantor.

12 If an option to determine the Letting Document/renew the term/purchase or a right of first refusal is disclosed, the Certificate also includes a Company confirmation that it has not been exercised.

13 The wording of the statements covering contracting out requirements for the tenant and for guarantors has been changed, but the principle behind the statements remains the same as in the Seventh Edition (2016 Update).

18 This statement has been split so that the certifier confirms that any consents required under the Lease for the grant of the Letting Document have been obtained and there is a Company confirmation, so far as it is aware, that consents for the grant of the Letting Document (other than those required under the Lease) have been obtained.

26 There is a statement that the landlord and the tenant will share data relating to the environmental performance of the property, subject to keeping the data confidential. This is regarded as perhaps the most important and regularly encountered green lease provision (see **Climate change provisions** below).

30 This includes a reference to forfeiture of the Letting Document as a trigger event for the landlord’s right to require the guarantor to enter into a new Letting Document, since the Committee's view was that it is still encountered regularly in leases and in particular it is included in the MCL. There is an exception for an authorised guarantee agreement, since forfeiture is not provided for in section 16 of the Landlord and Tenant (Covenants) Act 1995.

31 This new statement confirms that there are no outstanding material obligations under an agreement for lease binding on the Company following the grant of the Letting Document pursuant to the agreement.

32 There are statements for Letting Documents where the Premises are residential. A Company confirmation of no tenant claims to acquire a new lease or the freehold under the relevant legislation for residential property. There is also a Company confirmation that any deposit has been dealt with in accordance with an authorised statutory deposit scheme (the position differs in certain respects between England and Wales). The certifier and recipient of the Certificate should agree whether the Certificate should cover any assured shorthold tenancies or other residential Letting Documents and, if so, the level of detail required.

The Committee decided not to include a statement on allocation of environmental liability/contamination between the landlord and the tenant – specific allocations of responsibility do not arise regularly enough to justify a particular Certificate statement.

Schedule 6

Environmental/flood searches have not been specifically included since practice differs as to who does the search.

The coal search has been removed as a specified search as it is location dependent.

The chancel repair search has been removed as a specified search since it is questionable whether this search still needs to be done as a matter of course following the expiry in 2013 of the transitional provisions of the Land Registration Act 2002.

If these or any other searches not otherwise listed in Schedule 6 are carried out, they can be included under “Details of other searches or enquiries we considered to be appropriate”.

Climate change provisions

Should the Certificate include climate change statements/disclosures? For particular transactions it may be appropriate to include statements/disclosures for example of the type produced by the Chancery Lane Project [Climate Clauses | The Chancery Lane Project](#) (CLP). However, the Committee considers that this is not the right time to make extensive changes to the Certificate to reflect such statements/disclosures. This view is influenced by the fact that the majority of current leases do not reflect the statements in CLP’s drafting and will lead to extensive disclosures in the Certificate. However, as time passes if the majority of leases reflect CLP’s or other equivalent drafting and it is generally considered that the Certificate needs to address climate change issues in a more extensive way, then at that point the Committee will consider introducing further changes to address those issues, as an update to the Eighth Edition. This approach was endorsed by the majority of respondents to the consultation.

It is generally accepted that data sharing provisions in leases are important and the Certificate includes a statement that there are data sharing provisions relating to environmental performance (paragraph 26 of Schedule 5).

The Certificate also includes more specific information about the rating of the energy performance certificate and when the EPC is stated to be valid until (paragraph 24(2) of Schedule 3).

There is a new qualification in Schedule 1 that the Certificate does not consider any climate change risks to the Property, except as disclosed by the results of the searches listed in Schedule 6. In that sense, climate change risks are being treated in a similar way to environmental or flood assessment or reports, or other technical reports or surveys relating to the Property's condition. Practice on this may change over time and the Committee will keep this under review.

Use of Certificate

Certificates of title are used in many different transactions. However, the Certificate is most frequently used in a lending context (for example, solicitors for the borrower providing the Certificate to the lender); corporate transactions (such as where a business owns one or more critical property assets); the disposal of fractions of a property holding vehicle (for example, in a limited partnership context); in large transactions such as the disposal of portfolios; or for tenders where there are a number of bidders.

The Certificate is intended to be comprehensive and strike a reasonable balance between the interests of those to whom it is addressed and the solicitors who give it.

The Certificate is not designed to be a management tool or a report on title, although it can be of use to valuers for its key letting information. Consideration should be given to using the CLLS Report on Title, where it is intended that the document should be used for management purposes.

The Certificate is not primarily intended for a proposed development situation. If it is proposed that the Certificate will be used in that context, the certifier and the recipient should agree the approach to be taken, including the extent to which Disclosures should take account of the proposed development.

The Committee has produced a "Certificate Wrapper" (available from the CLLS website) that can be used in connection with reports on title. The production of the Certificate Wrapper was a response to the increasing use on transactions of "wrapper" documents. A common context for the wrapper is that a property has been purchased and the solicitors acting for the purchaser produced a report on title in relation to the acquisition for the purchaser's benefit. Within a short period after the production of the report, the new owner of the property wishes to re-finance the property and the party providing the finance requires a certificate of title for its benefit in the form of the Committee's Certificate of Title (Eighth Edition 2023).

Since the report was produced recently, there is considerable sense from an efficiency perspective for the solicitors, who provided the report, to re-issue it for the funder's benefit. However, since the funder requires the CLLS certificate of title, its front end must wrap around the report and certain additional confirmations have to be given by the certifying solicitors, so that the funder ends up with the benefit of a document equivalent to what it would have received if the Certificate itself had been provided.

As users will know, a primary purpose behind the Certificate is to reduce as much as possible the negotiation that takes place over the form of certificates of title. This objective seems to have been achieved, with the Certificate being accepted as the standard by most firms in England and Wales. Many lenders insist on the Certificate being used.

Users are reminded that the Certificate will not be suitable on every occasion and may require significant adaptation. For example, the Certificate is, usually, inappropriate for a rack rent lease, for which the CLLS Report on Title should be used. Also the "Lease" described in Schedule 4 is a typical long lease granted at

a premium and reserving a nominal rent with limited rent review provisions and more flexible alteration and alienation provisions than for a shorter rack rent lease. If, for example, the Certificate is to be used for a rent sharing lease, many of the standard statements in Schedule 4 will be inappropriate.

On occasions, the certifier and recipient of the Certificate may agree that a particular transaction requires a different approach to the Certificate. It is crucial that any changes to the form of the Certificate are transparent (clause 4 highlights that point). In particular, it is recognised that the Letting Documents Schedule can be difficult to complete where there are a large number of Letting Documents and the Certificate offers some flexibility in their treatment. See **Treatment of Letting Documents** below for further information about this.

The 2011 Solicitors Code of Conduct does not require the Solicitors Regulation Authority to recognise the Certificate for use in secured lending transactions, on the basis that it does not relate to a "standard" mortgage of a private residence; the Certificate, in any event, is not appropriate for those circumstances. The status of the Certificate as a well-respected standard, generally accepted by the legal and lending marketplace, reinforces the acceptability of its use by a borrower's solicitor for the benefit of the borrower's lender.

A number of Scottish firms have collaborated in producing a certificate equivalent to the Certificate for use in Scotland, which can be accessed at- www.psglegal.co.uk

The Certificate will be published in the Encyclopaedia of Forms and Precedents and is also available in the Precedent Documents section of the City of London Law Society Website at: <https://www.citysolicitors.org.uk/cls/cls-precedent-documents/certificate-of-title-and-related-documents/>

Comments on the Eighth Edition 2023 of the Certificate can be made either to LexisNexis, once the Certificate has been published, or to the administrator at the City of London Law Society mail@citysolicitors.org.uk.

Format

The Eighth Edition does not make changes to the basic structure of the Certificate. The Certificate comprises:

- Main part containing provisions on Reliance, Certification, Confirmation of statements, Form of Certificate and Schedules.
- Schedule 1 containing Definitions and Interpretation, Assumptions, Qualifications, Third Party Rights and Jurisdiction.
- Schedule 2 containing specific Property details and confirmations in relation to registration in the register of overseas entities under the Economic Crime (Transparency and Enforcement) Act 2022.
- Schedule 3 relating to Matters affecting the Property (Title, planning, statutory matters, environment, general, residential and mixed use buildings and no other material matters).
- Schedule 4 relating to the Lease. Parts 1A and 1B include specific details of the Lease, Licences

and other supplemental documents and Part 2 includes the statements.

- Schedule 5 relating to the Letting Documents. Parts 1A and 1B include specific details of the Letting Document, Licences and other supplemental documents and Part 2 includes the statements.
- Schedule 5 – Supplement, for multiple Letting Documents situations (see **Treatment of Letting Documents** below).
- Schedule 6 relating to Searches and enquiries.

In one response to the consultation on the Certificate, it was suggested that the Certificate be re-formatted and cross-referencing (including automatic updating) be included within the Certificate. The Committee's view is that any further formatting or cross-referencing that is included in the Certificate may not be compatible with user's own systems and it is for the certifier to include their own formatting or cross-referencing if they consider it appropriate, provided that the Certificate remains in the form of the City of London Law Society Land Law Committee Certificate of Title (Eighth Edition 2023), subject to any Disclosures.

Reliance on the Certificate and Limiting the liability of certifying solicitors

Some changes have been made to the provisions in the Certificate on Reliance and Limitation and they are highlighted in the **Detail of the changes for the Eighth Edition** above and are also referred to below.

Recipients of the Certificate should ensure that the definition of "Addressees" includes all relevant benefiting parties. The Certificate can be disclosed to a third party, but it cannot be relied on (clause 1.3).

The Committee recognises that the certifier often seeks to cap its liability under the Certificate. For example, where the Certificate is part of a corporate transaction, liability will sometimes be limited to the same level as other liability limits on the transaction. Some certifiers argue that if they limit their liability to their own clients under terms of engagement letters, why should they not do so for third parties in respect of the Certificate?

The Committee's view is that any limitation or cap on the liability of certifying solicitors (or any other type of limitation or cap) must be a matter to be agreed by the solicitors and the addressees on a case by case basis. In the Seventh Edition 2016 Update, the Note to Users included some limitation wording as an example, but as mentioned in the **Detail of the changes for the Eighth Edition**, the Certificate now includes limitation wording in the front-end of the Certificate.

However, no figure is given for the cap. The cap is a matter of negotiation between the parties, which may be linked to the value of the deal, property or loan, but there are no absolutes here and the particular circumstances will dictate what is agreed. For example, if the property is of a high value, the parties will need to agree a sensible cap, which may be lower than the value of the loan or property. The certifying firm should check its internal procedures as to its policy on whether to limit its liability and, if so, the level of the cap.

Some certifiers will wish to use their own forms of limitation/reliance wording, although the certifier should highlight this as a Disclosure after the front end of the Certificate.

The Committee recognises that the certifier may seek a limitation or "cap" on liability where the same Certificate is addressed to more than one person, in order to prevent a double claim against the solicitors and to ensure that the solicitors' liability to all ultimate addressees does not exceed the liability to the original addressee of the Certificate. So clause 1.6 confirms that where the recipients of the Certificate ("Addressees") are more than one person, the certifier's aggregate liability to all the Addressees is no greater than the liability they would have had if the Addressees were a single person. An issue was raised with the Committee about how this provision operates if the Addressees had different claims, for example, because one had senior debt and another mezzanine. The Committee's view is that this provision is to do with protecting the certifying firm, not working out the quantum of particular Addressees' claims and that in practice the Addressees' interests would likely be amalgamated into a single number to determine the loss and then the liability cap would be applied.

Clause 1.7 contains an acknowledgment that the Addressees are entitled to rely on the Certificate's statements even if any document or matter referred to in a statement is in the public domain or has been disclosed or made available in a number of specified ways such as via a data room. This is to prevent any argument that the Addressees cannot rely on the Certificate, because they or their professional team received Certificate information separately in the identified ways.

Clause 1.8 is an exclusion of personal liability for individual members, partners, shareholders, consultants or employees of the certifying firm. As mentioned earlier, there is now a qualification that this exclusion is not intended to relieve any firm that is a partnership or otherwise from liability in relation to the giving of the Certificate.

In clause 1.10 there is a new deadline for the issue and service of proceedings in connection with the Certificate. While 6 years is referred to in clause 1.10, the "6" is square bracketed and the number of years is a matter of negotiation between the parties.

Disclosures

There has been no change in approach in the Eighth Edition to Disclosures.

There is a Disclosures box at the end of the main body of the Certificate before the Schedules and every statement in Schedule 4 and Schedule 5 is followed by a "Disclosures" box, where any Disclosure in respect of the statement can be inserted.

It is not necessary to insert "none" on each occasion if there are no Disclosures. Disclosures should be inserted in such a manner or style (e.g. italics) so as to distinguish them clearly from the statements and other provisions of the Certificate. "Disclosures" is used, rather than "qualifications", to avoid any confusion with the qualifications referred to in paragraph 3 of Schedule 1.

A concern with allowing the insertion of Disclosures so close to the statements in the Certificate is the increased risk that the certifier unwittingly changes the substantive provisions of the Certificate. Consequently, as a matter of courtesy and good practice, when the Certificate is provided to the recipient, it should be accompanied by a blackline comparison document showing changes from the form of Certificate on the CLLS Website.

The word "material" is used in various places in the Certificate. It was suggested in responses to the

consultation on this Certificate that further guidance should be provided on what is “material”. The Committee considers that it is difficult to provide general guidance on this, as much will depend on the particular circumstances of the Property and the Transaction. This Note does highlight that there is some subjectivity in determining what is “material” and provides some specific examples in relation to paragraph 33 of Schedule 5.

Information to produce the Certificate

A considerable amount of the information contained in the Certificate will be based on information provided by the owner of the Property. To that extent, the Certificate replaces the normal enquiries before contract. This means that the certifier will have to liaise closely with the owner of the Property (or solicitors on the owner's behalf) to obtain that information.

The terms of the Certificate (clause 3.2) state that the Company (or the purchaser of the Company) has confirmed in writing to the certifier, within the five working days before the date of the Certificate, that to the best of the knowledge, information and belief of the Company (or the purchaser of the Company) the information contained in the final draft of the Certificate is true and accurate in all respects. The certifier must ensure that such a confirmation is obtained. A Disclosure may have to be made where the Company (or the purchaser of the Company) cannot provide the confirmation, for example, there may be issues of confidentiality limiting the enquiries that may have been made, or, if there is an insolvency related sale, the Certificate may need to reflect the limited information that the Seller may provide.

In the case of the Company purchasing the Property from the Seller, or the shares in the Company that owns the Property being purchased from the Seller, it is appreciated that the Seller or the Seller's solicitors and its other advisers or agents are the primary source of knowledge and information about the Property and the Company/purchaser may have little information. However, as mentioned the Certificate requires the certifier to obtain the confirmation from the Company/purchaser - the Company/purchaser must highlight to the certifier if the confirmation cannot be provided.

The certifier will need to draw the Company's attention to the fact that the Certificate states that the Company (or its agent or representative) has inspected the Property not more than 20 working days before the date of the Certificate (paragraph 8.2 of Schedule 3). If this is not the case, a Disclosure will have to be made, for example, where only a purchaser of the Company made the inspection (see clause 3.3.1(g)).

It is for the certifier to decide how best to elicit the information to produce the Certificate. To assist solicitors, examples of letters or questionnaires seeking information and confirmations from the owner of the Property or the purchaser of the shares in the Company that owns the Property appear in the Precedent Documents section (under Certificate of title and related documents) of the City of London Law Society's website, but the use of such letters and questionnaires is not obligatory.

Often, the Certificate will be given to a lender providing finance for the Company to purchase the Property, or for the purchase of the shares in the Company that owns the Property. In that case, the knowledge of the Company or the purchaser about the Property will be slight and it will be relying on the information provided by the Seller's solicitors. This is covered more fully in **Company's confirmation where there is a Seller** below.

An issue commonly encountered is the mismatch between the information received from the Seller through

replies to the Commercial Property Standard Enquiries (CPSEs) and the information needed by the buyer's solicitors to produce the Certificate for the benefit, for example, of the buyer (Company)'s lender. An example is clause 3.3.4 which states that the Seller has confirmed that it has provided all documents relating to the Property of which it has knowledge - this is not covered by the CPSEs. Some buyer's solicitors ask the Seller further enquiries to enable them to produce the Certificate, but resistance is sometimes encountered. The Committee has produced some supplemental enquiries that seek to address this mismatch.

As mentioned, clause 3.3.6 confirms that the certifier will disclose in the Certificate where inadequate replies have been given.

The information required to produce the Certificate may come from a party other than the Company or the Seller, such as a managing agent or a company in the same group of companies as the Company. In that situation, it is very likely that the certifier will want to disclose that fact in the Certificate and the recipient will want to know the information source. Clause 3.3 (in a Seller context) provides an opportunity to disclose this.

In reporting on the sources of the information, the certifier is identifying the sources as a matter of fact and it is not expected that the certifier will evaluate or highlight any inadequacies in the information sources.

It is important for the certifier to have a clear audit trail as to the information relied on to produce the Certificate. Ultimately, it is a matter of judgement for the certifier to decide whether inadequate information from the Company, Seller or any other party requires a Disclosure against part of the Certificate.

It should not be forgotten that the recipient of the Certificate should obtain a warranty directly from the Company that the information provided by or on behalf of the Company to the solicitor so that it could produce the Certificate, is accurate. Where the Certificate relates to the purchase of shares in the Company that owns the Property, the warranty must be provided by the seller of the shares in the Company, rather than the Company itself.

Opinions on enforceability

There remains considerable debate about the extent to which the certifier should advise on the enforceability of provisions, for example, in leases. Should the certifier, for example, highlight that an outgoing tenant's guarantor's guarantee of the tenant's assignee is unenforceable (see Court of Appeal decision in *K/S Victoria Street v House of Fraser (Stores Management) Limited and others* [27 July 2011]), or that a lease provision may fall foul of competition law? Alternatively, should the certifier give the information in the knowledge that the recipient of the Certificate will take its own professional advice on the Certificate's contents? The vast majority of the Committee considers that the latter approach should be adopted. Of course, the certifier should not deliberately mislead, but should give sufficient information about the relevant provision to enable the recipient's solicitors then to provide the recipient with the legal analysis including on questions of enforceability.

If the recipient of the Certificate, or those advising them, consider that more information needs to be provided by the certifier to enable a proper assessment to be made of any risks disclosed by the Certificate, the recipient or those advising them should be entitled to ask for this information.

Provision of documentation in addition to the Certificate

Another point which sometimes arises in relation to the Certificate is whether it should annex copies of documents, or extracts from documents, or should instead summarise the effect of those documents without attaching copies of them. The Committee's view is that, normally, the Certificate should summarise any relevant documents and that it should not be necessary to annex copies of them to it. The Certificate is intended to replace an investigation of title by the recipient's solicitors. If they have to read, not only the Certificate, but also a bundle of documents attached to it, the point of the Certificate is, to some extent, lost.

Having said that, the Committee appreciates that there are circumstances when a document, or a part of a document, is so important and so complex that it cannot be summarised accurately. The Committee believes that such circumstances are rare, but where they do exist, it would be appropriate for the document, or an extract from it, to be annexed to the Certificate.

See **Other miscellaneous points on the Certificate** below on the question of whether to annex search results under Schedule 6 to the Certificate.

Where documents, such as leases, are required to be provided in advance of completion, for example, as a condition precedent for lending purposes, the recipient of the Certificate (for example, a lender) is under no obligation to examine the documents and may rely solely on the contents of the Certificate including any annexures to the Certificate. Reference should also be made to clause 1.7 of the Certificate.

Special purpose vehicles

Property is frequently bought in the name of a company specially formed for that purpose, namely, a special purpose vehicle or SPV. Those giving a Certificate may wish to consider whether, in those circumstances, it is appropriate for the Certificate to be addressed to the SPV. If subsequently the shares in the SPV are sold, rather than the Property itself, the liability of the certifier will continue for the benefit of a second purchaser. Had the Property been sold, liability would effectively have ceased on sale.

Company's confirmation where there is a Seller

Clause 3.3 deals with the situation where the Company is purchasing the Property from the Seller or the shares in the Company that owns the Property are being purchased from the Seller as part of completion of the Transaction. The Seller is the primary source of knowledge and information about the Property. Clause 3.3 provides information on how the Company acquired its knowledge, which will enable the recipient of the Certificate to understand more clearly the basis for the Company's confirmations, whether it is the Company's own investigations and searches, the Seller's solicitors' replies to CPSEs or other enquiries, other material provided by the Seller or its advisers, or an inspection of the Property by the Company (or the purchaser of the Company) or its agent or representative. There is also opportunity to disclose the identity of other parties who have provided information.

In relation to the Company's confirmations, it is made clear that the Seller and its advisers are the primary source of the Company's knowledge and that while the investigations of the certifier give no reason to doubt the accuracy of information provided by the Seller, the certifier does not accept responsibility for the information. There is also a provision that references in the Certificate to notices given or received by or

actions taken or expected by the Company refer to the Company's knowledge of notices given or received by or actions taken or expected by the Seller. The recipient of the Certificate is also likely to want to know when replies or other information provided by the Seller are inadequate and clause 3.3.6 confirms that this is disclosed in the relevant part of the Certificate. Normal caveats relating to the Seller's awareness given by the Seller's solicitors in providing replies to enquiries (such as "not so far as the Seller is aware") should, usually, not be treated as an "inadequate" reply. An inadequate reply will, usually, be a lack of reply by the Seller's solicitors.

There are specific references in clauses 3.2 and 3.3 dealing with the situation where the shares in the Company that owns the Property are being purchased from the Seller as part of completion of the Transaction. So there is wording in square brackets in clauses 3.2, 3.3, 3.3.1(e) and 3.3.1(g) for use if the Certificate is given in connection with such a purchase and so that the statements in clauses 3.2 and 3.3 are applicable to the purchase, subject to any Disclosures.

Construction documents

The Certificate should reveal, through Disclosures to the statements in paragraph 25 of Schedule 3, whether there have been any construction works and provide basic details. As mentioned above, there are optional Disclosures after the front-end of the Certificate and before the Schedules that refer to a Construction Report, which may be produced by the provider of the Certificate or a third party in the relevant circumstances.

It is not proposed that the Committee will produce a pro-forma Construction Report, as much depends on the particular circumstances. Construction reporting should be appropriate in the light of the relevant transaction and the Certificate's usual use for investment/portfolio situations. The certifier and recipient of the Certificate should agree the extent of the construction reporting and how any Construction Report dovetails with the Disclosures against the relevant paragraphs of the Certificate.

If there is a Planning and/or Construction Report produced by the provider of the Certificate, it is envisaged that this will be annexed to the Certificate.

The Certificate includes no specific reference to the Building Safety Act 2022 although that Act might be relevant for certain of the Certificate's statements, for example where there is a reference to statutory compliance. Consideration should be given as to whether that Act affects the Property and if so, whether any specific disclosure should be made.

Matters relating to that Act are likely to be picked up on technical reports or surveys relating to the Property's condition and paragraph 3.3 of Schedule 1 to the Certificate provides that except as disclosed by the results of the searches listed in Schedule 6, the Certificate does not consider technical reports or surveys relating to the Property's condition and the recipient of the Certificate should consider what investigations it wishes to make in relation to those matters.

Insurance, licensing, environmental reports and climate change risks

The Certificate does not deal with insurance details, licensing or environmental reports in relation to the Property since those matters are, usually, dealt with separately. Nor as mentioned earlier, does the

Certificate deal with climate change risks to the Property. The recipient of the Certificate should consider what investigations it wishes to make in relation to those matters.

In relation to the statement in paragraph 9 of Schedule 3 on title policies, the certifier should check for any disclosure restrictions in the relevant insurance policies.

Notice of charge

The Certificate does not include a statement by the certifier that they undertake to serve notice of charge. This is something which, if needed, can be dealt with in the transaction documentation.

Statement of Lease and Letting Document provisions

The Certificate contains a series of statements describing material provisions of a "typical" headlease (in the "Lease" Schedule) and institutional occupational lease (in the "Letting Documents" Schedule). Such an approach is intended to reduce the amount of information in relation to the Lease and Letting Documents, which needs to be incorporated in the Certificate. The certifier will highlight any departures from the Certificate's statements in the Disclosures box immediately below each statement.

This approach begs the question of how much of a departure from the wording of a statement must there be for a Disclosure to be made. The precise wording of the Certificate's statements is unlikely to be reflected in the wording of the particular Lease or Letting Document and confirmation that statements are "true and accurate" is not intended to mean that the wording is the same. The Committee's view is that a Disclosure should be made when the certifier considers that there is a material difference in the wording or its legal effect. While this introduces an element of subjectivity, the certifier elsewhere in the Certificate certifies as to whether or not there are any other material matters. The Committee also considers that the Certificate's approach makes it more useful, in that it focuses on those aspects that are different from the "norm".

There is a separate definition of Premises for use in the context of the Lease and Letting Documents. This distinction is particularly relevant where the extent of the let premises differs from the Property.

Please also see **Detail of key changes for the Eighth Edition 2023, Schedule 5** above for further information about the changes to the Schedule 5, Part 2 statements.

Treatment of Letting Documents

Schedule 5 requires Parts 1A and 1B (Details of Letting Document and Licences and other supplemental documents) and Part 2 (Statements with Disclosures) to be completed for each standard Letting Document for the Property. This recognises that there will usually be at least one and possibly more standard types of occupational lease for a Property and Schedule 5 requires all of Parts 1 and 2 to be completed for each standard.

For all the other Letting Documents at the Property, the Supplement to Schedule 5 envisages that they may be certified by reference to one or more of the standard Letting Documents. The extent of the details to be

included and the recording of material variations and licences etc are to be agreed between the certifier and recipient of the Certificate and included in the Supplement. To assist users, the Certificate provides in the Supplement a tabular example of information that could be required for each Letting Document, with a box below the details of each Letting Document for Disclosures of material variations from the relevant standard. It is not mandatory to use this table.

As an alternative, Parts 1 and 2 of Schedule 5 may be completed for every Letting Document at the Property without using the Supplement.

As mentioned earlier, the certifier and recipient of the Certificate should agree whether the Certificate should cover any assured shorthold tenancies or other residential Letting Documents and, if so, the level of detail required.

Sublettings

A question that arises in relation to reporting on letting documents is whether the Certificate should cover leases derived from Letting Documents, such as a subletting. If there are such leases, they will need to be mentioned, for example, as a Disclosure to paragraph 27 of Part 2 of Schedule 5, which relates to who is in possession of the Property. It is suggested that, generally, basic details should be provided of the "subletting" such as date of lease, parties, current tenant, premises, current rent, and whether the subletting is contracted out or not. The recipient of the Certificate can request more information, if considered necessary. Treating such sublettings as Letting Documents is likely to create confusion in the presentation of the Certificate.

One possible exception where the subletting may need a more thorough treatment is if there is some underlying commercial necessity to look at the subletting, such as where the tenant under the Letting Document is surrendering its interest.

Other miscellaneous points on the Certificate

Please also consider **Detail of key changes for the Eighth Edition 2023** above.

Schedule 1

Paragraph 1 Definitions and Interpretation

"Benefit" - this does not include rights or easements being acquired through prescription, since no right has crystallised at that stage.

"Disclosures" – this includes disclosures made against Certificate statements and other disclosures relating to the Certificate such as some of the information provided in Schedule 2 and the disclosures in Schedule 6.

"Letting Document" – this includes continuation of tenancies after the contractual expiry date under the Landlord and Tenant Act 1954 or otherwise.

Paragraph 3.3 – the Qualification confirms that the certifier has not considered other technical reports or surveys relating to the Property's condition or any climate change risks to the Property, but the Qualification is subject to any disclosure in Schedule 6.

3.10 – This is a Qualification that the certifier has not considered whether a right is in the process of being acquired through prescription (see "**Benefit**" above), nor whether it has been acquired through prescription (unless it is set out in Schedule 2).

Schedule 2 Property Details

The Benefits in Part 2 specifically include rights granted to the tenant under the Lease and the Incumbrances in Part 3 specifically include the rights reserved to the landlord under the Lease. This has been done to ensure they are included in paragraphs 4.1 and 5.1 respectively of Schedule 3.

Any substation lease or wayleave should be included as an Incumbrance in Part 3 (and not in Schedule 5). It is for the certifier and recipient of the Certificate to agree the level of detail required on such documents.

Schedule 3 Matters affecting the Property

Paragraph 1.2.2 – The statement does not cover title documents registered at Land Registry since the registration will not have taken place without Land Registry having been provided with the SDLT certificate/land transaction tax certificate (where relevant).

3 Access – The wording including the use of the words "**appears to**", reflects widely held concerns about the difficulties of the certifier (for example, because of deficiencies sometimes encountered with local authority plans) in confirming that the Property abuts a roadway maintainable at public expense. The wording sets out the process commonly adopted by certifiers.

A confirmation that the Property appears to abut a roadway maintainable at public expense at each point where access is gained etc, can be given where it is not evident from a review of the plans referred to in paragraph 3.2 and any consultation with the Company, that there is a gap between the Property and the roadway at any such point. In those circumstances (where there is no manifest problem), there should be no need as a matter of course for a highway plan to be annexed to the Certificate.

5.3 – The confirmation that no person is in the process of acquiring an Incumbrance through prescription is stated to exclude rights to light and rights to air. This is also the case with paragraph 8.2. Rights to light or air are not ordinarily within the scope of the Certificate.

Schedule 4 The Lease

Part 2

Paragraph 4.3 – There is no wording relating to the disregard of tenant's improvements, since the Lease (usually being a long lease without a rack rent) is unlikely to have a rent review clause with such a disregard.

15 – The wording reflects the fact that the certifier can only give the confirmation in relation to consents to works or change of use that have been revealed to them, but there is also a Company confirmation that there have been no other works or change of use.

16 - This paragraph confirms that no superior lease lets property other than the Property. This provides an assurance that the lease cannot be forfeited, because of a breach in relation to other property let under the superior lease over which the Company has no control.

Schedule 5 The Letting Documents

Part 1B – the certifier and the recipient should agree the level of detail to be included on the Licences and other supplemental documents and, among other matters, there should be highlighted any material inconsistencies between those documents and the tenant’s obligations under the Letting Document. To the extent that the Licence or other supplemental document varies the Letting Document, it should be made clear whether the effect of the variation has been included in Part 1A of, or as a Disclosure in Part 2 of, Schedule 5.

Paragraph 7.4 - The certifier should, among other potential matters, mention in the Disclosures if the tenant is required on yielding up the Premises to remove any alterations or additions made to the Premises before the term of the Letting Document.

8.3 – In terms of the level of detail required in the Disclosures for the restrictions and conditions in relation to assignment, while this should be a summary, the key aspects of each restriction or condition need to be clearly specified. The certifier and the recipient should agree the level of detail to be included.

33 – Examples of other material matters could include provisions relating to environmental contamination; keeping open the Premises; “green lease” drafting; and landlord’s obligations (other than where already referred to in the Certificate’s statements). There may of course be other material matters and it is for the certifier to determine what is material.

Schedule 6

While plans from a search result might be annexed to the Certificate (for example, to show the route of cables or pipes), the search result itself should not normally be annexed to the Certificate and the certifier should instead disclose any material points arising from the result – this is consistent with the approach set out above under **Provision of documentation in addition to the Certificate**.