

**WARNING: IT IS RECOMMENDED THAT THE WITHIN SHOULD NOT BE  
COMPLETED WITHOUT PRIOR LEGAL ADVICE**

**LAW SOCIETY OF IRELAND**

**GENERAL CONDITIONS OF SALE**

**2019 EDITION**

**PARTICULARS  
and  
CONDITIONS OF SALE  
of**

**Retail Unit No. 1,  
Aldborough Court,  
North Strand Road,  
Dublin**

**Vendor:** Neil Bannon and Paul Doyle in their capacity as receivers over certain assets of Patrick J (otherwise P.J., otherwise Patrick) Daly and Ann Daly

**Vendor's Solicitor:  
Address:** Mason Hayes & Curran  
South Bank House,  
Barrow Street,  
Dublin 4.

**Reference:** ACM/SCU/42104.13



## **PARTICULARS AND TENURE**

**ALL THAT** the premises known or intended to be known as Retail Unit No. 1, Aldborough Court, North Strand Road in the City of Dublin being part of the property contained in Folios 9935, 10679 and 141177F of the Register of Freeholders of County Dublin as more particularly described in the Lease (as hereinafter defined)

**HELD** under lease dated 29 December 2005 made between (1) Alan Costello Builders Limited, (2) Alderborough Management Company Limited and (3) PJ Daly and Ann Daly for a term of 335 years from 1 January 2004 subject to the rent payable thereunder and to the covenants and conditions contained therein (the "**Lease**").

(the "**Subject Property**")

**SUBJECT TO AND WITH THE BENEFIT OF** a lease dated 30 March 2006 between (1) Patrick J Daly and Ann Daly and (2) Eldermade 4 Limited and more particularly detailed in special condition 4.5.

## DOCUMENTS SCHEDULE

### Security Documents:

1. Deed of Mortgage and Charge dated 21 December 2005 between (1) Patrick (otherwise P.J.) Daly and Anne Daly and (2) The Governor and Company of the Bank of Ireland
2. Copy redacted deed of appointment dated 2 August 2013

### Title:

3. Lease dated 29 December 2005 made between (1) Alan Costello Builders Limited; (2) Alderborough Management Company Limited; and (3) PJ Daly and Ann Daly
4. Certified copy declaration of identity of James Walsh dated 20 December 2005
5. Booklet of Title
6. Replies to Requisitions on Title

### Planning:

7. Architect's opinion on compliance with planning permission dated 29 September 2005
8. Architect's opinion on compliance with building regulations dated 29 September 2005
9. Copy notification of grant of planning permission reference 3618/03 dated 4 November 2003
10. Copy An Bord Pleanála decision register reference 4242/03 dated 31 March 2004
11. Copy letter from Dublin City Council dated 2 August 2005 re financial contribution payments planning register reference No. 3618/03
12. Copy letter from Dublin City Council dated 15 July 2005 re financial contribution payments An Bord Pleanála reference No. 4242/03

### Sublease:

13. Agreement for lease dated 13 June 2005 between (1) Patrick J Daly and Ann Daly and (2) Thomas Furley and Andrew Sweeney
14. Lease dated 30 March 2006 between (1) Patrick J Daly and Ann Daly and (2) Eldermade 4 Limited
15. Deed of assignment dated 5 September 2014 between (1) Eldermade 4 Limited and (2) Lilacglen Limited
16. Deed of variation dated 5 September 2014 between (1) Patrick Daly and Anne Daly (in receivership); (2) Neil Bannon and Paul Doyle in their capacity as received of certain assets of Patrick Daly and Anne Daly; and (3) Lilacglen Limited
17. Rental Guarantee dated 12 September 2014 between (1) Neil Bannon and Paul Doyle in their capacity as received of certain assets of Patrick Daly and Anne Daly; (2) Lilacglen Limited; and (3) Musgrave Limited

### Miscellaneous:

18. Copy letter from the Registry of Deeds dated 26 July 2021
19. Deed of partial discharge dated 1 March 2006 (mortgage over freehold property)
20. Certified copy letter from Dublin City Council dated 25 May 2005 re roads and services
21. Company secretary certificate of Alan Costello Builders Limited dated 20 December 2005
22. Company secretary certificate of Aldborough Court Management Company Limited dated 20 December 2005
23. Certified copy section 72 declaration of Alan Costello dated 28 November 2005
24. Certified copy family home declaration of Alan Costello dated 28 November 2005
25. Certificate of membership of Aldborough Management Company Limited dated 20 December 2005
26. Agreement re common areas between Alan Costello Builders Limited and PJ Daly and Ann Daly dated 20 December 2005

27. Certified copy declaration of Alan Costello re non breach of covenants, non-demand of rent and no onerous covenants dated 28 November 2005
28. Copy letter dated 12 December 2005 from Alan Costello Builders Limited re areas deemed to be included in lease together with drawings referred to therein
29. Agreement to transfer the common areas dated 21 November 2005 between (1) Alan Costello Builders Limited and Aldborough Court Management Company Limited
30. MUD documentation (if provided by the management company, see special condition 16)
31. Certified copy / certificate of compliance with Land Purchase/Land Reclamation/Cottage Annuity dated 12 November 2004
32. Letter from Costello Construction dated 25 November 2005 re Integrated Area Urban Renewal Builders Statement
33. Letter from DCC re incentives dated 16 June 2004
34. Undertaking from Eugene F Collins re certified copy transfer of common areas dated 20 December 2005
35. Insurance policy wording and Insurance policy schedule
36. BER Certificate and Advisory Report.
37. Service charge statement dated 31 May 2021
38. Rent review memorandum dated 9 August 2021

### **SEARCHES SCHEDULE**

None.

## **SPECIAL CONDITIONS**

1. Save where the context otherwise requires or implies or the text hereof expresses to the contrary, the definitions and provisions as to interpretation set forth in the within General Conditions shall be applied for the purposes of these Special Conditions.
2. The said General Conditions shall:
  - 2.1. apply to the sale in so far as the same are not hereby altered or varied, and these Special Conditions shall prevail in case of any conflict between them and the General Conditions;
  - 2.2. be read and construed without regard to any amendment therein, unless such amendment shall be referred to specifically in these Special Conditions.

### **3. VAT**

#### **Sale to an accountable person**

- 3.1 In this Special Condition:

“Freehold Equivalent Interest” has the meaning attributed to that term under Section 2 and Section 19(2) of the VAT Act;

“VAT” means Value Added Tax; and

“VAT Act” means Value-Added Tax Consolidation Act 2010 and related VAT regulations.

- 3.2 On the sale of a property constituting the transfer of a business or part of a business, no VAT applies.
  - 3.2.1 The Sale is by way of a transfer of a business. The Purchaser warrants to the Vendor that the Purchaser is an Accountable Person for the purposes of Section 20(2)(c) the VAT Act and the Purchaser has taken or will take all steps necessary to be taken on the Purchaser’s part so that the Sale will qualify for relief from VAT under Section 20(2)(c) of the VAT Act, and that the Sale shall not be a supply of goods for the purposes of the VAT Act. The Purchaser shall indemnify and keep the Vendor indemnified against any loss, cost or liability which arises as a result of such warranty being or becoming untrue or incorrect in any respect due to the act, neglect or default of the Purchaser.
  - 3.2.2 For avoidance of doubt, the sale of the property is of a freehold/freehold equivalent interest in the property which, in the absence of Section 20(2)(c) of the VAT Act, would be exempt from VAT.

### **4. TITLE**

- 4.1 **PATRICK J (OTHERWISE P.J., OTHERWISE PATRICK) DALY AND ANN DALY** (hereinafter called (the “**Borrowers**”) are the owners of the Subject Property.
- 4.2 The title to the Subject Property shall consist of the documents listed in the in the Documents Schedule. No objection, requisition or enquiry shall be raised in relation to any prior title thereto.
- 4.3 The Subject Property is held under Lease dated 29 December 2005 made between (1) Alan Costello Builders Limited; (2) Alderborough Management Company Limited; and

(3) PJ Daly and Ann Daly for a term of 335 years from 1 January 2004 subject to the rent payable thereunder and to the covenants and conditions contained therein (the "**Lease**"). The Purchaser shall accept the position. The Purchaser shall not require the Vendor to furnish a declaration that the conditions contained in the Lease have been complied with. The Vendor is acting in an enforcement scenario where the Vendor has limited knowledge, if any, of the history of the Subject Property and has not been actively involved with the Subject Property. The Purchaser is on notice of the position and accepts same and shall make no objection nor raise any requisition or enquiry in this regard. No further documentation will be furnished in this regard.

4.4 The Registry of Deeds will not register the Lease of the Subject Property in the Registry of Deeds as the attestation block incorrectly spells the name of the management company. The Purchaser is furnished with the letter from the Registry of Deeds dated 26 July 2021 at document number 18 of the Document Schedule. A letter from the Alderborough Management Company Limited confirming that "Aldbrough Management Company Limited" in the attestation block was a typographical error was not accepted by the Registry of Deeds. The Purchaser is on notice of the position and accepts same and shall make no objection nor raise any requisition or enquiry in this regard. No further documentation will be furnished in this regard.

#### **4.5 . TENANCY**

4.5.1 The Purchaser shall acquire of the Subject Property subject to and with the benefit of the sublease dated 30 March 2006 between the Borrowers and Eldermade 4 Limited for a term of 25 years from 22 December 2005 (the "**Sub-Lease**"). Eldermade 4 Limited assigned the Sub-Lease to Lilacglen Limited (the "**Sub-Tenant**") by deed of assignment dated 5 September 2014. The Sub-Lease was varied by deed of variation dated 5 September 2014.

4.5.2 The rent currently payable under the Sub-Lease is €80,000 per annum. The Vendor shall not be obliged to provide any further documentation in respect of the letting.

4.5.3 The Receiver is not in receipt of a security deposit belonging to the Sub-Tenant and it shall be a matter for the Purchaser, following completion of the sale to deal with the Sub-Tenant in respect of the refund in full of any such rental security deposits (if any) as paid by the tenant. The Purchaser agrees to indemnify and keep indemnified the Receiver in respect of any claim out of, under or in connection with the rental security deposit paid by the Sub-Tenant.

4.5.4 The Vendor shall not be obliged to prove compliance with the said Sub-Lease or non-breach of its conditions which are entirely matters for the Purchaser. The Purchaser shall be deemed to have satisfied itself independently in relation to all matters concerning the Sub-Lease and the occupation of the Subject Property including the statutory rights of the occupant (if any) pursuant to legislation. For the avoidance of doubt, replies to requisitions on title nos. 9 and 10 will not be furnished by the Receiver in respect of any part of the Subject Property. No further objections, requisitions or enquires shall be raised or made by the Purchaser in that regard. The Purchaser buys the Subject Property on notice of the Sub-Lease. Accordingly, vacant possession will not be available on completion. General Condition 17 of the General Conditions of Sale is amended accordingly.

4.5.5 The Sub-Tenant and Eldermade 4 Limited created mortgages/charges over their respective sub-leasehold interests in the Subject Property. No release or evidence of discharge of said mortgages/charges will be furnished on completion. The Purchaser shall be bound to accept this position and General Condition no. 6(f) shall not apply. No objection, requisition or enquiry shall be raised or made by the Purchaser in that regard.

#### **5. MORTGAGE**

By the Mortgage and Charge listed at No. 1 of the Documents Schedule (the "**Mortgage and Charge**") the Borrowers charged their interest in the Subject Property in favour of the Governor and Company of the Bank of Ireland ("**Bank of Ireland**").

## **6. RECEIVER'S APPOINTMENT**

- 6.1 Neil Bannon and Paul Doyle of Bannons, Hambleden House, 19/26 Pembroke Street Lower, Dublin 2 (the "**Receiver**") has been appointed by Bank of Ireland as receiver to the Borrowers' interest in the Subject Property pursuant to the deed of appointment listed at No. 2 of the Documents Schedule. Pursuant to the deed of appointment, the Receiver took possession of the Subject Property on behalf of Bank of Ireland. The Purchaser shall accept the Receiver's appointment as a valid and subsisting appointment and shall make no objection nor raise any requisition or further enquiry in relation to same and shall conclusively accept the copy deed of appointment referred to in the Documents Schedule as evidence of the receiver's entitlement thereunder
- 6.2 The Purchaser shall accept the powers of the Receiver contained in the Mortgage and Charge and pursuant to statute to take possession of and sell the Subject Property. No objection, requisition or enquiry shall be raised or made by the Purchaser in that regard.
- 6.3 The Purchaser shall accept the powers of attorney granted to the Receiver as set out in the Mortgage and Charge and shall accept the Receiver's power to execute an assurance of the Subject Property. No objection, requisition or enquiry relating to the Receiver's power shall be raised or made by the Purchaser.
- 6.4 This Contract shall be executed by the Receiver as the duly appointed Receiver under the aforementioned Deed of Appointment and pursuant to the provisions of the Mortgage and Charge. The Purchaser shall make no objection nor raise any requisition or enquiry in relation to same.

## **7. DEED OF ASSURANCE**

- 7.1 On the Closing Date, the Purchaser shall, at the option of the Receiver, accept an assurance of the Subject Property executed by the Vendor acting by the Receiver pursuant to the power of attorney contained in the Mortgage and Charge or by Bank of Ireland as mortgagee (in which event the Purchaser shall conclusively acknowledge and accept that the Bank has a power of sale as mortgagee). Where the assurance of the Subject Property is from Bank of Ireland as mortgagee Bank of Ireland shall rely on all relevant statutory provisions including but not limited to section 21(1) of the Conveyancing Act 1881, section 62(10) of the Registration of Title Act 1964, section 104 of the Land and Conveyancing Law Reform Act 2009, section 1 of the Land and Conveyancing Law Reform Act 2013 and such other statutory powers as may be available to Bank of Ireland in order to sell the Subject Property free of any subsequent encumbrances affecting the Subject Property. Accordingly in such circumstances the Purchaser shall make no objection nor raise any requisition or further enquiry and no undertaking or discharges shall be furnished in relation to any judgment mortgages registered subsequent to the Mortgage and Charge or any other mortgages, charges or other interests to which the Mortgage and Charge has priority and the Purchaser shall not require any other party to join in the said assurance. The Purchaser shall be bound to accept this position. In such event the provisions of General Condition no. 6(f) hereof shall not apply. No objection, requisition or enquiry shall be raised or made by the Purchaser in that regard.
- 7.2 On the Closing Date the Receiver shall either furnish an undertaking to furnish a deed of release of the Mortgage insofar as it relates to the Subject Property as soon the Receiver receives same from Bank of Ireland after the Closing Date or, at the option of the Receiver, shall furnish a deed of release in respect of the Subject Property on the Closing Date; or



Where the assurance of the Subject Property to the Purchaser is from Bank of Ireland as mortgagee no such deed of release shall be furnished but the deed of assurance shall contain an express provision such that the Purchaser shall take the Subject Property free from all right or equity of redemption and from all claims and demands under the Mortgage and Charge.

## 8. LIMITED KNOWLEDGE OF THE RECEIVER

The Receiver has limited knowledge of the Subject Property and accordingly:

- (a) **Declarations.** The Vendor's obligations (if any) (including those contained in General Conditions 9 (b) (iii) and 10(d)) to verify certain facts by way of Statutory Declarations or certificates to be completed by a competent person shall be satisfied by providing a statutory declaration of the Receiver verifying such facts to the best of the Receiver's knowledge information and belief from matters of which the Receiver has actual notice since the date of the Receiver's appointment save where otherwise appears, and where so appearing conscientiously believing those facts to be true.
- (b) **Identity.** General Condition 11(a) of this Contract shall not apply to this sale and is hereby deleted. The Purchaser shall accept such evidence of identity as may be gathered from the description in the copy documents specified in the Documents Schedule. The Purchaser shall be deemed to be aware of and purchase with full notice of the boundaries, fences, ditches, hedges or walls of the Subject Property and the Vendor shall not be required to define same or to specify what boundaries (if any) are of a party nature or separately identify parts of the Subject Property held under different titles.
- (c) **Boundaries.** The Subject Property is believed to be and shall be taken as being correctly described as to quantity and otherwise and any error, misstatement or omission in any plan contained in the Documents Schedule of this Contract shall not annul this Contract or be a ground for the abatement or compensation of either party to this Contract. The Vendor and the Receiver give no warranty and make no representation as to:
  - (i) area or the boundaries of the Subject Property;
  - (ii) the coincidence of actual boundaries in the vicinity of the Subject Property and the boundaries of the Subject Property shown by the title furnished;
  - (iii) encroachments made by the Vendor on property adjoining the Subject Property in conjunction with the use of the Subject Property,

and the Purchaser is placed on its own enquiry in these respects and shall not require the Vendor to produce any declarations of identity or explanation to the said boundaries, walls or otherwise.

**Area.** No Warranty is given as to the extent or area of the Subject Property and no objection shall be made or requisition raised in that regard.

- (d) **Condition.** The Purchaser shall be deemed to purchase with full notice of the actual state and condition of the Subject Property in all respects whether as to the quality, state of repair, means of approach, access to light and access to, location and suitability of all and any services to the Subject Property including but not limited to drainage, foul sewer, water mains and all utilities and rights of adjoining owners and occupiers as to boundary walls and fences or otherwise howsoever and shall take the Subject Property as it is in all respects.
- (e) **Existing Services.** It shall be a matter for the Purchaser to make their own investigations in respect of access and the roads to the Subject Property including whether or not they are in charge of the relevant local authority and no objections requisitions or enquiries shall be raised in relation to same. Without prejudice the Purchaser is provided with the copy documents (if any) listed in the Documents Schedule. The Vendor is providing no warranty

that any indemnities furnished are enforceable or may be relied upon by the Purchaser. The Vendor shall not be obliged to provide any documentation or an assignment of any indemnity, including, but not limited to certificate, local authority letter, indemnity or undertaking or any other documentation from the local authority or otherwise or evidence that the roads and services abutting the Subject Property are in charge of the Local Authority and the Vendor is providing no warranty in this regard. The Purchaser is on notice of the position and accepts same and shall make no objection nor raise any requisition or enquiry in this regard.

The Vendor is unaware whether the Subject Property is serviced by a private sewage disposal/wastewater treatment system and if so whether the sewage disposal/wastewater treatment system is registered in accordance with the Water Services (Amendment) Act 2012 and the Vendor is providing no warranty in this regard. It shall be a matter for the Purchasers to make their own investigations and enquiries in this regard and if necessary to register the sewage disposal/wastewater treatment system. The Vendor is acting in an enforcement scenario where the Vendor has limited knowledge, if any, of the history of the Property and has not been actively involved with the Property. The Purchaser is on notice of the position and accepts same and shall make no objection nor raise any requisition or enquiry in this regard. No further documentation will be furnished in this regard. The Purchaser is on notice of the position and accepts same and shall make no objection nor raise any requisition or enquiry in this regard.

- (f) **Availability of Services.** It is a matter for the Purchaser to satisfy itself prior to the Date of Sale as of the availability of services to the Subject Property, both in respect of its existing use and any intended use, and no warranty is given or representation made in that regard. The Purchaser is precluded from making any objection or raising any requisition or enquiry whatsoever in relation to same.
- (g) **Rights, liabilities and condition.** General Condition 13 shall not apply to this sale and is hereby deleted. The Purchaser shall take the Subject Property as it stands subject to all matters affecting same. General Condition 14 shall be read as if the words "subject to General Condition 13" had been deleted therefrom. The Vendor shall only be obliged to disclose such easements rights privileges and liabilities not already known to the Purchaser or apparent from inspection which have come to the Receiver's actual attention prior to the date hereof. The Purchaser shall fully satisfy itself prior to the Date of Sale as to the state and condition of the Subject Property and any easements rights privileges or liabilities affecting the Subject Property or likely to affect it and the Purchaser shall have no recourse to the Vendor and/or the Receiver either prior to completion of the sale or at any time thereafter.
- (h) **Environmental.** For the avoidance of all doubt the Vendor and the Receiver do not warrant that either the Subject Property or any processes carried out thereon now or at any time in the past comply with Environmental Laws. It is a matter for the Purchaser to satisfy itself in relation to all aspects of Environmental Laws insofar as they relate to the Subject Property prior to the Date of Sale. The Purchaser is precluded from making any objection or raising any requisition or enquiry whatsoever in relation to same.

For the purposes of this Special Condition "Environmental Laws" means all laws (whether criminal, civil or administrative) including common law, statutes, regulations, statutory instruments, directives, bye-laws, orders, codes and judgments having the force of law in Ireland concerning environmental matters and protection of the environment, use of noxious or deleterious materials, contaminants or pollutants and all regulations, bye-laws, orders and codes made thereunder or regulating the use thereof.

- (j) **Disclosure of Notices.** General Condition 31 shall not apply to this sale and is hereby deleted. No orders or notices referred to therein have come to the Receiver's actual attention prior to the Date of Sale save those (if any) disclosed in the Documents Schedule hereto. It shall be a matter for the Purchaser to fully satisfy itself by appropriate searches, enquiries and investigations prior to the Date of Sale with regard to notices.

- (k) **Development.** General Condition 32 shall not apply to this sale and is hereby deleted.
- (i) No warranty is given regarding compliance of the Subject Property with the requirements of the Local Government Planning and Development Acts 1963 to 2010 and the Planning and Development Acts 2000 to 2014, the Building Control Acts 1990 to 2014 or any regulations made thereunder, or the Fire Services Act 1981 and 2003 or any legislation, orders or decisions amending or replacing same and the Purchaser shall make no objection nor raise any requisition or further enquiry in this regard.
  - (ii) The Vendor and the Receiver do not warrant that planning permission or building bye law approval has been obtained for any development that may have taken place on the Subject Property or, when any planning permission or bye law approval has been obtained, that the development has been carried out in compliance with such planning permission and/or building bye law approval.
  - (iii) The Vendor and the Receiver do not warrant the compliance of the Subject Property with the Building Control Acts 1990 to 2014 or any regulations made thereunder and/or with Fire Officers requirements.
  - (iv) The Purchaser shall make no objection nor raise any requisition or enquiry in relation to the existence or absence or adequacy of any planning permission and/or building bye law approval or the compliance or non-compliance of the Subject Property with same and/or with the Building Control Acts 1990 to 2014 and/or with Fire Officers requirements (including the conditions thereof) and shall not require the Vendor to furnish any certificates in relation thereto.
  - (v) The Purchaser shall not call for the production of a Safety File held pursuant to the Health Safety and Welfare at Work (Construction) Regulations.

The Purchaser shall make no objection nor raise any requisition or further enquiry with regard to any of these matters.

- (vi) It shall be a matter for the Purchaser to make its own enquiries and to satisfy itself with regard to planning matters, environmental and archaeological issues and any compulsory acquisition order which may affect the Subject Property and use thereof and no warranty is given or representation made in that regard. The Purchaser shall make no objection nor raise any requisition or further enquiry in regard thereto.
- (vii) Without prejudice to the foregoing, the Purchaser is furnished with the copy planning documents listed in the Documents Schedule (if any). These documents do not constitute any warranty or representation on the part of the Vendor or the Receiver. The Vendor is acting in an enforcement scenario where the Vendor has limited knowledge, if any, of the history of the Property and has not been actively involved with the Property. The Purchaser is on notice of the position and accepts same. The Purchaser shall raise no objection, requisition or enquiry in relation to same and no further planning documents will be furnished or called for.

## **9. FAMILY HOME**

A family home declaration of the Borrower when the Receiver took possession of the Subject Property will not be provided. The Receiver will provide a family home declaration on completion in respect of the period in which it has been in possession. No further family law documentation will be furnished, and no further requisition or enquiry will be raised by the Purchaser in this regard.

## **10. PURCHASE PRICE**

The receipt by the Receiver of the Purchase Price shall be an absolute and conclusive discharge to the Purchaser and shall relieve him of any obligations to see to the application of any monies paid to or by or at the direction of the Receiver.

**11. COLLATERAL WARRANTIES**

No collateral warranties will be furnished in respect of any works carried out to the Subject Property.

**12. RISK – INSURANCE**

The Vendor's liability under General Condition 39 is (in addition to the limitations imposed by General Condition 40) limited to the extent of the cover provided by the Vendor's insurers for the Subject Property under the terms of the Vendor's insurance policy and the Vendor shall not be responsible for any limitations imposed or cancellation made by the said insurers under the terms of said policy/policies and the Vendor will use his reasonable endeavours to keep the said policy/policies in force pending completion of the closing date. The Vendor does not warrant or represent that any insurance cover is or will be carried in respect of the Subject Property.

**13. LIMITATION ON LIABILITY**

The liability (if any) of the Vendor hereunder shall be limited to the amount of the consideration passing hereunder collected by the Receiver in the course of the Receiver's duties as Receiver and not expended or distributed or paid by the Receiver prior to effective notification to the Receiver of any valid claim hereunder.

**14. REPLIES TO REQUISITIONS**

The Purchaser shall accept that replies to Requisitions on Title may be completed by the Receiver on behalf of the Vendor and such replies will be limited to matters within the actual knowledge, information or belief of the Receiver. The Purchaser shall be bound to accept this position and no objections requisitions or enquiries shall be raised in relation to same. General Condition 7(a) shall be read as if the word "or" in the final line is replaced by the word "and" so that it now reads "and was not otherwise known to the Purchaser prior to the Date of Sale". No objection, requisition or enquiry shall be raised in this regard.

**15. NO ALIENATION**

The Purchaser shall not sub-sell, assign or mortgage the within Contract without the prior written consent of the Vendor.

**16. MANAGEMENT COMPANY**

16.1 The Vendor shall not be required to provide any responses to Requisition 37 (Second Hand Managed Estates) nor any enquiries in respect of the MUD Act.

16.2 The Vendor shall not be required to carry out any investigations in respect of the Management Company, its agents, membership rights, sinking fund, claims, works, contracts, insurance, applications or otherwise. It is a matter for the Purchaser to satisfy itself independently in this regard pre-contract and no further objections, requisitions or enquiry will be raised in this regard.

16.3 Without prejudice to this position, the Vendor has requested MUD Act replies and confirmation from the Management Company as to the amount of service charges (the "Service Charge") due to the Management Company in respect of the Subject Property. The Sub-Tenant is responsible for the discharge of the Service Charge. No objection requisition or enquiry shall be raised in relation to this position.

16.4 The Management Company requires the Vendor to provide it with the Purchaser's name, residential address, phone number and email address or where the Purchaser is a company its legal entity name, company registration number, registered address, name of person responsible for the Subject Property and their phone number and email address within 30 days of Completion Date. The Purchaser confirms that it will provide to the Vendor this information and the Purchaser consents to the Vendor sharing that information with the Management Company.

## **17. UNENFORCEABLE TERMS**

If any term, provision, clause or sub-clause of this Contract shall in whole or in part be held by a Court to be unlawful void or unenforceable under any enactment or rule of law that term, provision, clause or sub-clause or part thereof shall to the required extent be severed from and deemed not to form part of this Contract and the validity and enforceability of the remainder of this Contract shall not be thereby adversely affected.

## **18. ENTIRE AGREEMENT**

The Purchaser agrees and accepts that save for replies to pre-contract enquiries and replies to requisitions on title received from the Vendor's solicitors:

- (a) No information, statement, description or measurement contained in any brochure or advertisement issued or given orally by the Vendor or Receiver or any agent on behalf of the Vendor or Receiver relating to the Subject Property (whether or not in the course of any representations or negotiations leading to the sale) shall constitute a representation inducing the Purchaser to enter into the sale or any warranty forming part of this Contract.
- (b) Any information, statements, descriptions or measurements contained in any such particulars or in any verbal form given by or on behalf of the Vendor or Receiver or agents are for illustration purposes only and are not to be taken as matters of fact.
- (c) Any mistake, mis-statement, mis-description, omission, inaccuracy or incorrect measurement made orally or in the form of any printed particulars by the Vendor or Receiver or any person on the Vendor's or Receiver's behalf (whether or not in the course of any representations or negotiations leading to the sale) shall not give rise to any cause of action, claim or entitlement to compensation against or from the Vendor or any of its agents under this agreement or otherwise or to any right of rescission under this Contract.
- (d) This Contract constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and extinguishes any representations or warranties (if any) previously given or made excepting those contained in this Contract and no variation shall be effective unless agreed and signed by the parties or by some person duly authorised by each of them.
- (e) No right of action shall accrue against the Vendor or Receiver or any agent, employee, or other person whatsoever connected directly or indirectly with the Vendor whereby any mistake, omission, discrepancy, inaccuracy, misstatement or misrepresentation may have been published or communicated to the Purchaser during the course of any representations or negotiations leading up to the sale or otherwise.
- (f) General Condition 29 shall be read subject to this Special Condition.

## **19. NOTICE OF TITLE DOCUMENTATION**

Copies of the documents referred to in the Document Schedule have been made available for inspection by the Purchaser prior to the execution of this Contract and the Purchaser, whether availing of such opportunity of inspection or not, shall be deemed to have purchased the Subject Property with full knowledge of the content of the said documents. The Purchaser shall not call for any other documents whether appearing by recital or otherwise. Where any document is described in the Document Schedule as being a 'copy' or 'certified copy' (or any derivative of that expression) that document will be furnished on completion in accordance with its description in the Document Schedule and the Purchaser shall not seek any further or better copies of any such document nor shall the Purchaser call for production of the original thereof or require an explanation for the non-production of the original thereof and the Purchaser shall raise no objection, repetition or enquiry in this regard.

**20. TAX NUMBER**

The tax number of the Vendor is given on page 1 hereof. No further tax numbers or documentation shall be furnished in connection with the stamping of the deed of assurance of the Purchaser and no indemnity will be furnished in that regard.

**21. SEARCHES**

On completion, the Receiver shall explain acts on searches (excluding planning searches) to the best of its knowledge, information and belief but its explanations shall be based solely on the documents of title. General Condition 20(c) shall be read in accordance with General Condition 15.

**22. CONTENTS**

The provisions of general condition no. 46 are hereby deleted. No warranty is given as to the extent of or title to the fixtures and fittings and contents (if any) which are in the Subject Property at the time of sale and no objection, requisition or enquiry shall be raised on account thereof or regarding the ownership of the fixtures and fittings and contents within or on the Subject Property.

**23. TAX BASED INCENTIVES/DESIGNATED AREA**

It shall be a matter for the Purchaser to make her own enquiries in relation to whether the Subject Property is eligible for tax relief allowances or benefits and the Vendor provides no warranty in this regard. The Purchaser shall be conclusively bound to accept this position and no objection, requisition or enquiry shall be made or raised by the Purchaser in relation thereto, and no further information will be provided by the Vendor.

**24. WATER CHARGES**

No receipts for water charges or evidence of registration with Irish Water will be furnished on closing. No objection requisition or enquiry shall be raised in relation to this position.

**25. GENERAL CONDITIONS**

The Purchaser accepts that the General Conditions of Sale have been varied or excluded by the special conditions of this Contract for Sale on the basis that the Vendor is acting in an enforcement scenario where the Vendor has limited knowledge, if any, of the history of the Property and has not been actively involved with the Property.

**26. DEPOSIT**

The Vendor's Solicitor will hold the deposit as agent for the Vendor and not as stakeholder and General Condition 4(d) is hereby amended accordingly.

**27. FIRST REGISTRATION**

General Conditions 24 and 25 are hereby deleted from this sale. The Purchaser shall be obliged to accept without objection requisition or enquiry.

**28. CLAIMS TO TITLE**

Save in respect of any fraud, fraudulent concealment or fraudulent misrepresentation notwithstanding the provisions of this Contract, the Purchaser shall have no claim/action against the Vendor or Receiver or any member of the Vendor's or Receiver's staff or agents in respect of or arising from any valid claim to title being made by any third party to all or any of the Subject Property except the right to make a claim to be an unsecured creditor of the Vendor which right shall be deemed to be waived by the Purchaser.

**29. COMPLETION**

General Condition 21(c) is hereby deleted in its entirety. For the avoidance of doubt the Vendor shall not be obliged to complete the sale unless and until the Vendor has received all monies payable pursuant to this Contract including all interest due to the Vendor and General Condition 21(d) is hereby amended in this regard **PROVIDED ALWAYS** that the Vendor shall be entitled to require completion to take place strictly without prejudice to the right of the Vendor to pursue its claim for interest.

**30. COMPLETION NOTICE**

General Condition 36 (b) shall be amended so that the period of 28 day is replaced with 14 days. For the avoidance of doubt the remainder of general condition 36 shall remain unaltered.

**31. NO RECOURSE**

Notwithstanding the provisions of this Contract, the Purchaser shall have no recourse against the Vendor or the Receiver or any member of the Receiver's staff or the Receiver's agents in respect of or arising from any valid claim to title being made by any third party to all or any of the property except the right to make a claim to be an unsecured creditor of the Vendor which right shall not exist and shall be deemed to be waived if the legal effect of proving for such a claim would be to give the Purchaser an entitlement to be paid the value of the claim as an expense of the receivership of any or all of the Vendor.

**32. EXCLUSION OF PERSONAL LIABILITY**

The Purchaser hereby expressly acknowledges that the Receiver is executing this Contract in the Receiver's capacity as receiver for the sole purpose of facilitating the acquisition of the Subject Property by the Purchaser and the Purchaser further expressly acknowledges that any personal liability of the Receiver and/or other partner of the Receiver's firm arising out of under or in connection with the terms and provisions of this Contract is hereby excluded and the Receiver and/or any other partner of the Receiver's firm shall not be under any liability to the Purchaser affecting the assets of the Receiver and/or any other staff or partner of the Receiver's firm personally and his agents or their estate.

Nothing in this Contract nor in any agreement or matter connected herewith shall in any way affect the estate or property of the Receiver (or any other partner of the Receiver's firm or his agents) who is completing this Contract solely in the Receiver's capacity as Receiver over the Subject Property and in no other capacity whatsoever.

**33. NON APPLICATION OF SECTION 52**

It is hereby agreed by all parties that Section 52 of the Land and Conveyancing Law Reform Act 2009 shall not apply to this contract and that no beneficial interest in the Subject Property shall pass from the Vendor to the Purchaser until the full Purchase Price has been paid to the Vendor by the Purchaser.

**34. EXECUTION OF CONTRACT BY PURCHASER**

Where a company executes this Contract as Purchaser, a director of the company or in the absence of a nominated director, the bidder (in each case the "**Individual**") shall also be joined as guarantor of the Purchaser's obligations under the Contract and shall execute the Contract separately in his or her personal capacity as guarantor. The Individual shall be personally bound by the Contract and shall be liable for the performance of the Contract as guarantor in the event that the company fails to perform the Contract. The Individual agrees to keep the Vendor fully and effectively indemnified from and against all actions and proceedings, costs, damages, expenses, claims and losses whatsoever, arising as a result of the company failing to perform the Contract. Notwithstanding the foregoing, the Purchaser may be permitted, with the prior consent of the Vendor (acting through the Receiver, where relevant), to nominate that the deed of assurance to the Purchaser is executed in the name of the company or an individual only. For the avoidance of doubt in the event that the Company does not perform its obligations under the Contract, the Vendor (acting through the Receiver where relevant) may pursue the Company and the Individual either jointly or severally.

**35. COUNTERPARTS**

This Contract may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each of the parties has executed at least one counterpart and those counterparts have been exchanged. Transmission of an executed counterpart of this Contract (but for the avoidance of doubt not just a signature page) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Contract.

**36. ELECTRONIC SIGNATURE**

Each party may execute and witness this Contract for Sale by any form of electronic signature. An electronic signature is conclusive evidence of a party's intention to be bound by this Contract for Sale and has the same legal validity and enforceability as a wet ink signature for all purposes. If a party retains a duly executed copy of the Contract for Sale in permanent electronic format this constitutes an original of this Contract for Sale and may be relied on as evidence of this Contract for Sale.



**WARNING: IT IS RECOMMENDED THAT THE WITHIN SHOULD NOT BE  
COMPLETED WITHOUT PRIOR LEGAL ADVICE**

***LAW SOCIETY OF IRELAND***

**GENERAL CONDITIONS OF SALE**

**2019 EDITION**

**PARTICULARS  
and  
CONDITIONS OF SALE  
of**

**Retail Unit No. 1,  
Aldborough Court,  
North Strand Road,  
Dublin**

**Mason Hayes & Curran  
South Bank House  
Barrow Street  
Dublin 4**

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