

- (1) Landlord: **Rhatigan Developments Limited**
- (2) Tenant: **Robert Fitzsimons and Jeffrey Roe**

Lease

- of -

Warehouse Unit C, Chancery Lane, Dublin 8.

Term: 4 years and 11 months from day of June 2010

Initial Rent: €12,000.00 p.a. exclusive of VAT

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THIS LEASE made the day of

BETWEEN

(a) **Rhatigan Developments Limited (“the Landlord”)**

Being a company incorporated in Ireland whose registered office
is at Wolfe Tone House, Fr Griffin Road, Galway

(b) **Robert Fitzsimons and Jeffrey Roe (“the Tenant”)**

Of 26 Blackthorn Green, Sandyford, Dublin 16 and 5 Clifflands Court, Rush Co Dublin, respectively.

WITNESSETH as follows:

1. **DEFINITIONS**

In this Lease, unless the context otherwise requires,

1.1 **“Adjoining Property”** means any land and buildings adjoining or neighbouring the Demised Premises;

1.2 **“Building Control Act”** means the Building Control Act 1990;

1.3 **“Conduits”** means all sewers, drains, soakaways, pipes, gullies, gutters, ducts, mains, watercourses, channels, subways, wires, cables, shafts, flues and other transmission or conducting media and installations (including all fixings, covers, cowls, louvres and other ancillary apparatus) of whatsoever nature or kind or any of them;

1.4 **“Decorate”** means paint (with at least two coats of good quality paint), polish, repaper or otherwise treat as appropriate all surfaces usually or requiring to be so treated and includes preparation of such surfaces by stripping off, stopping, priming or otherwise, as necessary, washing down washable surfaces, treatment with suitable preservative and restoration, pointing and making good stonework, brickwork, stucco, concrete and other surfaces;

1.5 **“Demised Premises”** means, save as provided in clause 5.3.7, the premises demised by this Lease and more particularly described in the First Schedule;

1.6 **“External Decoration Year”** means the year ending 1st May 2015 and thereafter in every subsequent 5th year of the Term (if applicable);

1.7 **“Gale Days”** means the first day of each calendar month after the Rent Commencement Date in every year of the Term.

1.8 **“Initial Rent”** means twelve thousand euro (€12,000.00) per annum, exclusive of VAT;

1.9 **“Insured Risks”** means, subject always to such insurance as may ordinarily and reasonably be available to the Landlord and to such exclusions, excesses and limitations as may be imposed by the Landlord’s insurers for the time being in respect of any or all of the following risks:
fire (including subterranean fire), storm, tempest, flood, earthquake, lightning, explosion, impact by any road vehicle, aircraft and other aerial devices and articles dropped there from, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks as the Landlord may in its absolute discretion from time to time determine;

1.10 **“Internal Decoration Year”** means the year ending 1st June 2013 and thereafter in every subsequent 3rd year of the Term;

- 1.11 **“Landlord”** means the party or parties named as “Landlord” at the commencement of this Lease and includes the person for the time being entitled to the reversion immediately expectant on the determination of the Term;
- 1.12 **“this Lease”** includes the Schedules and any document which is made supplemental hereto or which is entered into pursuant to or in accordance with the terms hereof;
- 1.13 **“Outgoings”** means all rates, taxes and charges (including emergency service charges) of any description (whether or not of a capital or non-recurring nature) which may at any time during the Term be payable in respect of the Demised Premises and the Utilities enjoyed in connection therewith **INCLUDING** any insurance excesses or other sums not recoverable by the Landlord (unless due to its neglect or default) but **EXCLUDING** any tax payable by the Landlord upon the rents herein reserved or occasioned by any disposition of or dealing with the reversion on this Lease;
- 1.14 **“Permitted User”** means the use of the premises as a community operated physical space run by members of Tog.
- 1.15 **“the Perpetuity Period”** means the period of 21 years from the date of this Lease;
- 1.16 **“Plan”** means the plan (if any) annexed to this lease;
- 1.17 **“Planning Acts”** means the Planning and Development Act 2000 as amended;
- 1.18 **“Plant”** means any lifts, lift machinery, central heating and air conditioning systems, sprinkler system, boilers and other electrical and mechanical machinery, equipment and apparatus of whatsoever nature or kind and wherever installed in the Demised Premises;
- 1.19 **“Prescribed Rate”** means the rate per centum per month which exceeds by one half per centum per month the monthly rate of interest for the time being chargeable under Section 550 of the Income Tax Act 1967 (or such other monthly rate of interest as may from time to time be chargeable upon arrears of income tax) or, as the Landlord may from time to time elect, the rate of fifteen per centum per annum;
- 1.20 **“Rent Commencement Date”** means the day of June 2010.
- 1.21 **“Tenant”** means the party or parties named as “Tenant” at the commencement of this Lease and includes the person entitled for the time being to the Tenant’s interest created by this Lease;
- 1.22 **“Term”** means 4 years and 11 months;
- 1.23 **“Term Commencement Date”** means the day of June 2010.
- 1.24 **“Utilities”** means water, soil, steam, air, gas, electricity, radio, television, telegraphic, telephonic and other communications, and other services of whatsoever nature;
- 1.25 **“the 1860 Act”** and **“the 1881 Act”** mean respectively the Landlord and Tenant Law Amendment Act, Ireland, 1860 and the Conveyancing Act, 1881.

2. **INTERPRETATION**

- 2.1 Where two or more persons are included in the expression “the Landlord” or “the Tenant” such expressions include all or either or any of such persons and the covenants which are expressed to be made by the Landlord or the Tenant shall be deemed to be made by or with

such persons jointly and severally.

2.2 Unless the context otherwise requires-

2.2.1 words importing a person include any unincorporated association or corporate body and vice versa;

2.2.2 any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders;

2.2.3 any reference to the singular includes reference to the plural.

2.3 Any covenant by the Tenant not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.

2.4 Reference to any right of the Landlord to have access to or entry upon the Demised Premises shall be construed as extending to all persons authorised by the Landlord, including agents, professional advisers, prospective purchasers of any interest of the Landlord in the Demised premises or in the Adjoining Property, contractors, workmen and others.

2.5 Any reference to a statute (whether specifically named or not) or to any sections of sub-sections therein includes any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, byelaws, certificates, permissions and plans for the time being made, issued or given there under or deriving validity there from.

2.6 Headings are inserted for convenience only and do not affect the construction or interpretation of this Lease.

2.7 Any reference to a clause, sub-clause or schedule means a clause, sub-clause or schedule of this Lease.

2.8 Wherever in this Lease either party is granted a future interest in property there shall be deemed to be included in respect of every such grant a provision requiring that future interest to vest within the Perpetuity Period.

2.9 If any term or provision in this Lease is held to be illegal or unenforceable in whole or in part, such term shall be deemed not to form part of this Lease but the enforceability of the remainder of this Lease is not affected.

3. **DEMISE AND RENTS**

The Landlord in consideration of the rents herein reserved (including the increases thereof which may arise as hereinafter provided) and the covenants on the part of the Tenant hereinafter contained **HERBY DEMISES** unto the Tenant the Demised Premises but **EXCEPTING AND RESERVING** the rights and easements specified in the Third Schedule TO **HOLD** the Demised Premises unto the Tenant from and including the Term Commencement stipulations of whatsoever nature affecting the Demised Premises **YIELDING AND PAYING** unto the Landlord during the Term:

3.1 Yearly and proportionately for any fraction of a year the Initial Rent and in every case the same is to be paid in the manner notified from time to time by the Landlord by equal payments in

advance on the Gale days; notwithstanding the above, the rent for the first 3 months of the term only will be €1,000 per month inclusive of VAT;

- 3.2 All sums (including the cost of periodic valuations for insurance purposes) which the Landlord may from time to time pay for insuring the Demised Premises against the Insured Risks and other matters referred to in clause 5.3. all such sums to be paid on demand;
- 3.3 Any other sum recoverable by the Landlord as costs or expenses under this Lease, the same to be paid on demand.
- 3.4 A deposit payment equivalent to 2 months rent (€2,400.00) on the signing hereof together with the first months rent in advance.

4. **TENANTS COVENANTS**

The Tenant throughout the Term **HEREBY COVENANTS** with the Landlord as follows:

4.1 **Rents**

To pay the rents in the manner specified in clause 3 (save for the first payments which shall be made on the execution of this Lease) and without any deduction, set-off or counterclaim whatsoever.

4.2 **Interest on Arrears**

Without prejudice to any other right, remedy or power herein contained or otherwise available to the Landlord, if any of the rents (whether formally demanded or not) or other sums specified in clause 3 remain unpaid for more than seven days after the date when payment was due, to pay interest thereon at the Prescribed Rate from and including the date on which payment was due to the date of payment to the Landlord (both before and after any judgment).

4.3 **Outgoings**

To pay and indemnify the Landlord against all outgoing.

4.4 **Repairs**

- 4.4.1 To repair the Demised Premises and keep them in good repair and as often as may be necessary, to rebuild, reinstate or replace the Demised Premises;
- 4.4.2 To maintain, repair and keep in good working order and condition and, as often as may be necessary, to renew and replace by articles of a similar kind and quality all Plant and conduits in, upon, over or under the Demised Premises and to repair any damage caused to the Demised Premises by the breakdown, misuse of, or failure to repair such Plant and Conduits and to indemnify the Landlord against any loss or liability resulting there from:
Provided that the Tenant's liability under clauses 4.4.1 and 4.4.2 does not extend to damage in respect of which the Landlord is indemnified under a policy of insurance effected under clause 5.3.1.1 or to damage in respect of which the Landlord has no such entitlement through his own default and, if the damage caused by any of the Insured Risks would otherwise give rise to a right to surrender this Lease under the provisions of Section 40 of the 1860 Act or otherwise, the tenant hereby absolutely waives and abandons such right.

4.5 **Decorations**

To decorate in a good and workmanlike manner, using good quality materials-

4.5.1 in every external decoration year and also during the last six months of the Term (whether determined by effluxion of time or otherwise) all exterior parts of the Demised Premises requiring decoration in colours to be approved in writing by the Landlord (such approval not to be unreasonably withheld) and

4.5.2 in every Internal Decoration Year and also during the last three months of the Term (whether determined by effluxion of time or otherwise) all interior parts of the Demised Premises requiring decoration and, during the said last three months, in such colours as the Landlord may reasonably require in writing.

4.6 **Cleaning and Maintenance**

4.6.1 To keep all parts of the Demised Premises clean and tidy.

4.6.2 To keep those parts which are not built upon properly surfaced and free from weeds.

4.6.3 To keep all landscaped areas properly cultivated and maintained, preserving any trees and shrubs in those areas.

4.6.4 To clean properly at least once in every month all windows and window frames and all other glass forming part of the Demised Premises.

4.7 **Yielding Up**

At the expiration or sooner determination of the Term to yield up the Demised Premises having-

4.7.1 complied with all Tenant's covenants contained in this Lease, and

4.7.2 removed any moulding, sign, writing or painting of the name or business of the Tenant or occupiers, and

4.7.3 if so required by the Landlord, but not otherwise, removed all alterations or additions made to the Demised Premises by the Tenant, together with any Tenant's fixtures, fittings, furniture and effects, and restored the Demised Premises to their original prevailing condition.

4.8 **Tenant's fixtures and effects**

4.8.1 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of (subject to any conditions which the Landlord thinks fit) any fixtures, fittings, furniture and effects left by the Tenant on the Demised Premises for more than seven days after the expiry or sooner determination of the Term;

4.8.2 In acting under clause 4.8.1 the Landlord is not liable to the Tenant save having to account for the net proceeds of sale less the cost of storage (if any) and any other expenses reasonably incurred by the Landlord.

4.9

4.10 **Rights of entry by Landlord**

To permit the Landlord with all necessary materials and appliance at all reasonable times upon reasonable prior notice (except in cases of emergency) to enter and remain upon the Demised Premises for any of the following purposes:

4.10.1 to view and examine the state and condition of the Demised Premises and to take schedules or inventories of the Landlord's fixtures and fittings;

- 4.10.2 to exercise any of the rights excepted and reserved by, and to carry out any obligations arising under, this Lease;
- 4.10.3 for any other purpose connected with the interest of the Landlord in the Demised Premises, including, but not limited to, valuing or disposing of the said interest.

4.11 Compliance with notices

Upon written notice being given by the Landlord to the Tenant of any breach o covenant-

- 4.11.1 to make good and remedy within sixty days of such notice, or sooner if required in the notice, the breach to the reasonable satisfaction of the Landlord'
- 4.11.2 if the Tenant fails within twenty-one days of such notice, or as soon as reasonably possible in the case of an emergency, to commence and then diligently and expeditiously to continue to comply with such notice, to permit the Landlord to enter the Demised Premises and carry out all or any of the works or other steps necessary for compliance with the notice;
- 4.11.3 to pay all costs and expenses thereby incurred to the Landlord on demand.

4.12 Operation of the Demised Premises

- 4.12.1 Not to engage in any activity in or on the Demised Premises which may result in-
 - 4.12.1.1 a material increase in the risk of one or more of the Insured Risks happening or of contamination, pollution, or overloading in, on or to the Demised Premises;
 - 4.12.1.2 the creation of any nuisance, annoyance or disturbance affecting the enjoyment of the Adjoining Property or the value or character of the Demised Premises;
 - 4.12.1.3
 - 4.12.1.4 the interference with or malfunctioning of any fire and safety equipment or appliances installed in the Demised Premises;
 - 4.12.1.5 the Landlord incurring liability or expense under any statutory provision;
- 4.12.2 Not to erect, place or display on the exterior or on the windows of the Demised Premises any sign or other item whatsoever without obtaining the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

4.12 User

- 4.13.1 Not without the prior written consent of the Landlord (which consent shall not be unreasonably withheld) to use the Demised Premises except for the Permitted User nor to make any application for planning permission or a fire and safety certificate in regard to any change of user or other development relating to the Demised Premises without first giving notice in writing to the Landlord of the intention to make such application;
- 4.13.2 Not to leave the Demised Premises continuously unoccupied without notifying the Landlord;
- 4.13.3 To provide such caretaking or security arrangements as the Landlord or the insurers of the Demised Premises shall reasonably require in order to protect the Demised Premises from vandalism, theft or unlawful occupation;
- 4.13.4 To provide the Landlord with the name, address and home telephone number of at least two authorised key holders for the time being of the Demised Premises and to notify the Landlord of any changes in the persons so authorised as key holders of the Demised remises;
- 4.13.5 Not to use the Demised Premises for any public or political meeting, public exhibition or public

entertainment, show or spectacle of any kind, nor for any dangerous, noisy, noxious or offensive trade, business or occupation whatsoever, nor for any illegal or immoral purpose, nor for residential or sleeping purposes;

4.14 Alterations

- 4.14.1 Not to erect any new building or structure or to engage in any works on, or to make any addition or alteration to, the Demised Premises of such a kind that the Demised Premises lose their original identity;
- 4.14.2 Not to make any other addition or alteration to the Demised Premises without the prior written consent of the Landlord (which consent shall not be unreasonably withheld);
- 4.14.3 The Landlord may, as a condition of giving consent under the immediately preceding sub-clause, require the Tenant to enter into covenants or undertakings as to the carrying out and insurance of the additions or alterations to the Demised Premises and as to their reinstatement to their original state at the expiration or sooner determination of the Term;
- 4.14.4 In respect of such additions or alterations, to comply in all respects with the provisions, as appropriate, of the Planning Acts and the Building Control Act and to carry out any related works in a good and workmanlike manner to the satisfaction of the Landlord.

4.15 Alienation

- 4.15.1 Not to assign, sub-let, part with or share possession of the entirety of the Demised Premises without the prior written consent of the Landlord;
- 4.15.2 Not under any circumstances to assign, sub-let, part with or share possession of or otherwise alienate a part of the Demised Premises;
- 4.15.3 The Tenant in seeking consent to any proposed alienation shall apply in writing to the Landlord and shall provide all information concerning the alienation as the Landlord may reasonably require;
- 4.15.4 In granting consent to any such proposed alienation the Landlord may impose such conditions as are reasonable in all the circumstances.

4.16 Registration of dispositions

To furnish to the Landlord or its solicitors within twenty-one days of the alienation a certified copy of the deed or other instrument evidencing or effecting any alienation of or relating to the Demised Premises.

4.17 Landlord's expenses

To pay and indemnify the Landlord against all reasonable costs and expenses properly incurred by the Landlord in relation to:

- 4.17.1 the preparation and service of any notice and of any proceedings under the 1860 Act or the 1881 Act;
- 4.17.2 the preparation and service of any notice and schedule relating to disrepair;
- 4.17.3 the recovery or attempted recovery of arrears of rent or other sums payable under this Lease;
- 4.17.4 procuring the remedying of any breach of covenant by the Tenant;
- 4.17.5 any application for consent required under the terms of this Lease (whether such consent is granted or not);

4.17.6 any other action taken at the request of the Tenant.

4.18 Statutory requirements

4.18.1 At the Tenant's own expense, to comply in all respects in relation to the Demised Premises with-

4.18.1.1 all obligations and requirements arising from or under any statutory provision or imposed under powers conferred on any authority or court of competent jurisdiction:

4.18.1.2 any reasonable demand by the Landlord for production of plans, documents and other evidence which the Landlord may require in order to satisfy itself that the provisions of this clause have been or will be complied with.

4.18.2 Upon receipt of any notice or order relating to the Demised Premises or the occupier thereof or of any proposal for the same served or given under the Planning Acts, the Building Control Act or any other statutory provisions, forthwith-

4.18.2.1 to furnish the Landlord with a true copy thereof and any further particulars required by the Landlord;

4.18.2.2 to take all necessary steps to comply with the notice or order:

4.18.2.3 at the written request of the Landlord but at the cost of the Tenant, to make or join with the Landlord in making such objection or representation against or in respect of any such notice, order or proposal as the Landlord may reasonably require.

4.19 Encroachments and easements

4.19.1 Not to stop up, darken or obstruct any window, rights of light or rights of ways belonging to the Demised Premises;

4.19.2 Not to permit any new easement, encroachment, or any other third party rights to be made or enjoyed over or in respect of the Demised Premises or to acknowledge their existence or to grant any such rights;

4.19.3 As soon as the Tenant is aware of any attempt to claim or exercise such third party rights, forthwith to give written notice thereof to the Landlord and, at the request of the Landlord, to take such steps as may be reasonably required by the Landlord to prevent their acquisition or otherwise deal with them.

4.20 Re-letting and planning application notices

To permit the Landlord at all reasonable times during the last six months of the Term to enter upon the Demised Premises and affix and retain without interference upon any suitable parts of the Demised Premises (but not so as materially to affect the access of light and air to the Demised Premises) notices of re-letting the same and, as appropriate, any site notice relating to a planning application and to permit all persons with the written authority of the Landlord or its agent to view the Demised Premises at all reasonable hours in the daytime, upon prior notice having been given.

4.21 Indemnity

4.21.1 To keep the Landlord fully indemnified from and against all actions, proceedings, claims, demands, losses, costs, expenses, damages and liability arising directly or indirectly from-

4.21.1.1 breach by the Tenant of any of the provisions of this Lease;

4.21.1.3 any act, neglect or default by the Tenant or any person on the Demised Premises with its actual or implied authority.

4.21.2 To effect and keep in force such public liability, employer's liability and other policies of insurance (to the extent that such insurance cover is available) as may be necessary to cover the Tenant against any claim arising under the preceding sub-clause and to extend such policy or policies so that the Landlord is indemnified by the insurers in the same manner as the Tenant.

4.21.3 Whenever required to do so by the Landlord, to produce to the Landlord the said policy or policies together with satisfactory evidence that the same is/are valid and subsisting and that all premiums due thereon have been paid.

4.22 Stamp Duty and Value Added Tax

To pay to the Landlord-

4.22.1 any stamp duty payable on this Lease and its counterpart together with registration fees;

4.22.2 any Value Added Tax arising from the grant of this Lease or on the rents reserved by it.

4.23 Insurance

4.23.1 Not to do or omit to do anything which might cause any policy of insurance relating to the Demised Premises or any Adjoining Property owned by the Landlord to become void or voidable wholly or in part nor (unless the Tenant has previously notified the Landlord and agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable.

4.23.2 Subject to the Landlord furnishing the Tenant with a copy of any policy of insurance effected under clause 5.3, to comply, at the Tenant's own expense, with all the requirements under that policy and the recommendations of the insurers relating to the Demised Premises.

4.23.3.1 If so requested by the Landlord, to insure and keep insured in the joint names of the Landlord and the Tenant any glass forming part of the Demised Premises against breakage (other than as a result of the Insured Risks) for a sum which is not less than the full replacement value thereof for the time being with such insurance company as may from time to time be approved by the Landlord;

4.23.3.2 To pay within seven days of their becoming payable all premiums relating to any such insurance and, whenever reasonably required by the Landlord, to produce the policy of insurance and the receipt for the current year's premium.

4.24 Registration of Company

To comply with all statutory requirements necessary to ensure that the Tenant remains on the register of companies.

5. LANDLORD'S COVENANTS

The Landlord **HEREBY COVENANTS** with the Tenant as follows:

5.1 Quiet enjoyment

To permit the Tenant, provided he pays the rent reserved by and otherwise complies with the provisions of this Lease, peaceably to hold and enjoy the Demised Premises during the Term without any interruption by the Landlord or any person lawfully claiming through, under or in

trust for it.

5.2 **Exercise of rights**

In exercising any of the Landlord's rights of entry or other rights in relation to the Demised Premises-

- 5.2.1 to take all necessary steps to ensure that as little damage is done to the Demised Premises and as little inconvenience is caused to their occupiers as is reasonably practicable;
- 5.2.2 to make good without delay any damage which may be caused by such exercise.

5.3 **Insurance**

- 5.3.1 Subject to reimbursement by the Tenant of the premiums payable by the Landlord, to insure and keep insured with an insurer of repute located in Ireland in the name of the Landlord-

- 5.3.1.1 the Demised Premises against loss or damage by the Insured Risks in the full reinstatement costs thereof (to be determined from time to time by the Landlord or his professional adviser) including:

- (i) Architects, Surveyors, Consultants and other professional fees (including Value Added Tax thereon);
 - (ii) the costs of shoring up, demolishing, site clearing and similar expense;
 - (iii) all stamp duty and other taxes or duties exigible on any building or like contract as may be entered into and all incidental expenses (including planning and building regulation fees) relative to the reconstruction, reinstatement or repair of the Demised Premises;
 - (iv) such provision for inflation as the Landlord in its absolute discretion shall deem appropriate;

- 5.3.1.2 the loss of rent from time to time payable, or reasonably estimated to be payable, under this Lease (taking account of any review of the rent which may become due under this Lease) following loss or damage to the Demised Premises by the Insured risks, for three years or such longer period as the Landlord may, from time to time, reasonably deem to be necessary, having regard to the likely period required for rebuilding and for obtaining planning permission and any other consents, certificates and approvals in connection with the reinstatement of the Demised Premises;

- 5.3.1.3 the property owner's, public, employer's and other liability of the Landlord arising out of or in relation to the Demised Premises;

- 5.3.1.4 such other insurances as the Landlord may, in its discretion, from time to time deem necessary to effect.

- 5.3.2 At the request of the Tenant, the Landlord shall produce to the Tenant a copy or extract duly certified by the Landlord of such insurance policy or policies and a copy of the receipt for the last premium or (at the Landlord's option) reasonable evidence from the insurers of the terms of the insurance policy or policies and the fact that it is or they are subsisting and in effect;

- 5.3.3 If the Demised Premises are destroyed or damaged by any of the Insured Risks then:

- 5.3.3.1 unless payment of any of the insurance moneys is refused by reason of any act or default of the Tenant, any under-tenant or any person under its or their control; and

- 5.3.3.2 subject to the Landlord being able to obtain any necessary planning permission and other necessary licences, certificates, approvals and consents (which the Landlord shall use its

- reasonable endeavours to obtain); and
- 5.3.3.3 subject to the necessary labour and materials being and remaining available (which the Landlord shall use its reasonable endeavours to obtain as soon as practicable); and
- 5.3.3.4 subject to exercise of the right to terminate the Lease under this clause;
the Landlord shall as soon as possible lay out the proceeds of insurance effected under clause 5.3.1.1 in rebuilding and reinstating the Demised Premises as necessary to make them substantially the same as they were prior to the destruction or damage (but not so as to provide accommodation identical in layout and manner or method of construction if it would not be reasonably practical to do so);
- 5.3.4 If the Landlord is prevented (for any reason other than its act or default) from compliance with the previous provisions of this clause the following provisions apply:
- 5.3.4.1 the Landlord is relieved of its obligations and is solely entitled to all insurance moneys;
- 5.3.4.2 if the prevention continues for three years and the Lease is not otherwise terminated, the Landlord or the Tenant may at any time after expiry of that period by not less than three months written notice given to the other party determine this Lease, but without prejudice to any claim by either party against the other in respect of any antecedent breach of its terms;
- 5.3.5 If the destruction or damage to the Demised Premises renders them unfit for use and occupation and provided the insurance has not been vitiated nor payment of any insurance moneys refused by reason of any act or default of the Tenant, any undertenant or any person under its or their control, the rent payable under clause 3.1 of this Lease shall be suspended in accordance with the following provisions:
- 5.3.5.1 the rent suspended shall be the whole rent or such proportion as is fair according to the nature and extent of the damage to the Demised Premises;
- 5.3.5.2 the suspension shall last until either the Demised Premises are again rendered fit for use and occupation or the expiration of three years (or such longer period as the Landlord may have insured against) from the date of destruction or damage, whichever is the earlier;
- 5.3.5.3 where the destruction or damage occurs during a quarter in respect of which rent has been paid in advance, the Landlord shall refund to the Tenant the proportion of that rent (apportioned on a daily basis) which is attributable to the period following the date of destruction or damage;
- 5.3.5.4 any dispute regarding suspension of rent shall be conclusively determined by a single arbitrator to be appointed, in default of agreement, upon the application of either party, by or on behalf of the President or acting President for the time being of the Society of Chartered Surveyors in accordance with the provisions of the Arbitration Acts, 1954 –1980.
- 5.3.6 As and when requested from time to time by the Tenant, the Landlord shall use its reasonable endeavours:
- 5.3.6.1 to obtain from the Landlord's insurers a waiver of its subrogation rights (if any) against the Tenant in respect of the Demised Premises so long as such a waiver is available in the insurance market from a reputable insurer located in Ireland and any costs reasonably incurred thereby are discharged by the Tenant;
- 5.3.6.2 to ensure that the insurance policy or policies in respect of the Insured Risks contain a

provision that the insurance is not invalidated by any change of occupancy or increase or risk taking place in or on the Demised Premises without the knowledge of the Landlord provided that the Landlord shall immediately upon the same coming to its knowledge give notice to the insurers and the Tenant shall pay any additional premiums as may be required from the date of such increase of risk.

- 5.3.7 For the purpose of this clause “Demised Premises” do not include (unless otherwise specified by the Landlord) any additions, alterations or improvements carried out or being carried out by the Tenant.

6. **PROVISOS**

PROVIDED ALWAYS as follows:

6.1 **Forfeiture**

Without prejudice to any other right, remedy or power herein contained or otherwise available To the Landlord if:

- 6.1.1 the whole or any part of the rents or other sums reserved by this Lease is unpaid for fourteen days after becoming payable (whether formally demanded or not); or
- 6.1.2 there is a breach of any of the Tenant’s covenants; or
- 6.1.3 if the Tenant (being a body corporate) has a winding-up petition presented against it or passes a winding-up resolution (other than in connection with a member’s voluntary winding-up (whether in Ireland or elsewhere) or a Receiver and Manager is appointed in respect of the Demised Premises or of the Tenant; or
- 6.1.4 if the Tenant (being an individual, or if more than one individual, then any one of them) has a bankruptcy petition presented against him or is adjudged bankrupt (whether in Ireland or elsewhere) or suffers any distress or execution to be levied on the Demised Premises or enters into composition with his creditors or has a received order made against him;

THEN, and in any such case, the Landlord may at any time thereafter re-enter the Demised premises and thereupon the Term absolutely ceases and determines, but without prejudice to any rights or remedies which may then have accrued to the Landlord against the Tenant in respect of any antecedent breach of any of the covenants or conditions contained in this Lease.

6.2 **No implied easements**

Nothing in this Lease shall impliedly confer upon or grant to the Tenant any easement, right or privilege other than those expressly granted (if any) by it.

6.3 **Exclusion of warranty as to user**

Nothing contained in this Lease or in any consent granted or approval given by the Landlord under it implies or warrants that the Demised Premises may be used under the Planning Acts or the Building Control Act for the purpose herein authorised or any purpose subsequently authorised and the tenant hereby acknowledges that the Landlord has not given or made at any time any representation or warranty that any such use is or will be or will remain a permitted use under those Acts.

6.4 **Covenants relating to Adjoining Property**

Nothing contained in or implied by this Lease shall give to the Tenant the benefit of or the right

to enforce or to prevent the release or modification of any covenant, agreement or condition entered into by any tenant of the Landlord in respect of the Adjoining Property.

6.5 Effect of waiver

Each of the Tenant's covenants shall remain in full force both at law and in equity notwithstanding that the Landlord may have appeared to have waived or released temporarily any such covenant, or waived or released temporarily or permanently, revocably or irrevocably a similar covenant affecting other property belonging to the Landlord.

6.6 Applicable Law

This Lease and all relationships created thereby shall in all respects be governed by and construed and interpreted in accordance with Irish Law.

6.7 Notices

6.7.1 Any demand or notice required to be made, given to, or served on the Tenant under this Lease is duly and validly made, given or served if addressed to the Tenant (or, if the Tenant comprises more than one person, then to any of them) and delivered personally, or sent by prepaid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed (in the case of a company) to its registered office or (whether a company or individual) to its last known address, or to the Demised Premises;

6.7.2 Any notice required to be given or served on the Landlord is duly and validly given or served if sent by pre-paid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed to the Landlord at its registered office.

6.8. If the landlord wishes to terminate this lease at the end of the 1st, 2nd, 3rd or 4th year of the term and gives the tenant not less than 3 months notice in writing of such wish and observes all the material covenants and conditions herein contained and on his part to be performed and observed up to such termination then immediately after the expiration of the relevant year this lease shall cease and be void but without prejudice to any claim by either party against the other in respect of any antecedent breach of any covenant or condition herein contained. If the tenant wishes to terminate this lease at the end of the 2nd, 3rd or 4th year of the term and gives the landlord not less than 3 months notice in writing of such wish and observes all the material covenants and conditions herein contained and on his part to be performed and observed up to such termination then immediately after the expiration of the relevant year this lease shall cease and be void but without prejudice to any claim by either party against the other in respect of any antecedent breach of any covenant or condition herein contained.

7. REVENUE CERTIFICATES

7.1 It is hereby certified that the consideration (other than rent) for the lease is wholly attributable to property which is not residential property and that the transaction effected by this instrument does not form part of a larger transaction of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds €70,000.00;

7.2 It is further hereby certified that section 53 (lease combined with building agreement for dwelling house/apartment) of the Stamp Duties Consolidation Act, 1999, does not apply to this instrument.

IN WITNESS whereof the parties hereto have executed this Lease in the manner following and on the day and year first above **WRITTEN**.

FIRST SCHEDULE

(Demised Premises)

ALL THAT the entire of the lands and premises together with the buildings erected thereon shown for the purposes of identification only outlined in red on the Plan and each and every part thereof and all the appurtenances belonging thereto and known as Warehouse Unit C, Chancery Lane, Dublin 8 and including without prejudice to the generality of the foregoing:

1. all the conduits and Plant in, upon, over or under and exclusively serving the same;
2. all Landlord's fixtures and fittings now or hereafter in or upon the same;
3. all additions, alterations and improvements thereto;
4. the right to park 3 cars adjacent to the property at all times;

but excluding the airspace above and the ground below the Demised Premises.

THIRD SCHEDULE

(Exceptions and Reservations)

The following rights and easements are excepted and reserved out of the Demised Premises to the Landlord and all other persons authorised by the Landlord or having the like rights and easements:

1. The free and uninterrupted passage and running of the Utilities through the Conduits which are now, or may at any time during the Term be in, on, under, or passing through or over the Demised Premises;
2. The right to erect scaffolding for the purpose of repairing or cleaning or building now or hereafter erected on the Adjoining Property or in connection with the exercise of any of the rights mentioned in this Schedule notwithstanding that such scaffolding may temporarily interfere with the proper access to or the enjoyment and use of the Demised Premises;
3. The right to erect and maintain signs on the Demised Premises and any premises abutting the same advertising the sale or letting of any premises or for the purposes of a planning or other application in respect of any premises.
4. The rights of light, air, support, protection and shelter and all other easements and rights now or hereafter belonging to or enjoyed by the Adjoining Property;
5. The air space over and the ground below the Demised Premises;
6. The right, subject to recompensing the Tenant for any damage caused thereby, to build on or into any boundary or party wall of the Demised Premises and, after giving not less than seven

days prior written notice, to enter the Demised Premises to place and lay in, under or upon the same such footings for any intended party wall or party structure with the foundations therefore as the Landlord shall reasonably think necessary and for such purposes to excavate the Demised Premises along the line of the junction between the Demised Premises and the Adjoining Property and also to keep and maintain the said footings and foundations;

7. All mines and mineral in or under the Demised Premises with full power of working and getting to the same provided reasonable compensation is paid to the Tenant for any damage thereby occasioned to the Demised Premises.

PRESENT when the Common Seal
of the **LANDLORD**
was affixed hereto:

SIGNED SEALED and DELIVERED
By the **TENANT**
In the presence of:

The day of

Rhatigan Developments Limited

And

Rob Fitzsimons & Jeffrey Roe

Lease of Warehouse Unit C, Chancery Lane, Dublin 8