**Dated 20**[ • ]

**CERTIFICATE OF TITLE**

**COMMERCIAL REAL ESTATE (GENERAL)**

**SECOND EDITION 2021**

**Property: [ • ]**

**Transaction: [ • ]**

*This Certificate is in the form prepared and approved by the Property PSL Forum for use in accordance with the associated guidance note and disclaimer.*

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**CERTIFICATE OF TITLE**

To: [*Insert name and address of each addressee*] (the “**Addressee**” which where the context so admits or requires includes any New Addressee (as defined below))and in this Certificate“**you**”and “**Addressee**” have the same meaning.

Re: [*Insert name of owner*] (the “**Owner**”) – [*Insert short address or description of the Property*].

1. Reliance on this Certificate
	1. This Certificate is addressed to and is intended solely for the benefit of the Addressee for the purposes of the Transaction. It may not be relied upon by any other person or used for any other purpose.
	2. This Certificate is given by the Firm in its sole capacity as solicitor for the Owner and the giving of this Certificate shall not create any contract or retainer with the Addressee.
	3. This Certificate may be disclosed to a third party for a *bona fide* purpose but it cannot be relied on by that party.
	4. Only an Addressee may bring a claim under this Certificate (whether as principal or agent).
	5. We acknowledge that you are entitled to rely on the statements contained in this Certificate even if any document or matter referred to in a statement:
		1. is in the public domain; or
		2. is contained in any specialist report made available by or on behalf of the Owner to you or your professional team; or
		3. is contained in any data room to which you or your professional team have access or is contained in or relates to any Title Document or any other document which has been disclosed to you or your professional team.
	6. We acknowledge that it is not incumbent on the Addressee’s Solicitors to examine the list of Title Documents and no knowledge shall be imputed to the Addressee or the Addressee’s Solicitors or deemed disclosure made on the basis of the list of Title Documents.
	7. You agree that no individual solicitor, consultant or employee of the 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 provided that this shall not prevent the Addressee bringing a claim against the Firm under this Certificate.
	8. This Certificate is issued for the sole benefit of the Addressee for the purposes of the Transaction and any lender who becomes a [Finance Party][[1]](#footnote-1) (as defined in the Loan Document) before a date which is no later than six (6) months from the date of this Certificate (any such party being referred to as a “**New Addressee**”) provided that the Firm will not be liable to such New Addressee in any circumstances where the Firm would not be liable to the original Addressee and will not have greater liability by reason of there being a New Addressee than it would have had if there was no New Addressee. The identity of the New Addressee shall be notified to the Firm in writing within ten (10) Working Days of the New Addressee becoming a Finance Party.
2. Limitation of Liability
	1. [The total aggregate liability of the Firm and/or its partners for any damage, loss, cost, claim or expense arising directly or indirectly out of, or in connection with this Certificate [and all other certificates of title issued by the Firm in connection with the Transaction][[2]](#footnote-2) [and any connected reports or documents issued by the Firm and relied on by any Addressee],[[3]](#footnote-3) whether such liability arises in tort, negligence or as a result of a claim for misrepresentation or breach of statutory duty or otherwise, shall not exceed the total sum of €[ • ].]
	2. 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 the Firm’s liability will not be increased by that limitation or exclusion. The Firm’s liability will be calculated as if there were no such limitation or exclusion.
	3. Where the Addressee constitutes more than one party, the Addressees acknowledge that the Firm’s aggregate liability to all the Addressees is no greater than the liability the Firm would have had if the Addressees were a single party.
3. Certification

On the basis of our investigations mentioned in this Certificate, we certify that:

* 1. Title
		1. We have investigated the title of the Owner to the Property in accordance with prudent standards of current conveyancing practice in Ireland in the knowledge that you are relying on this Certificate for the purpose of the Transaction.
		2. We have:
			+ 1. examined and considered the documents of title and other documents and papers relating to the Property produced to or obtained by us which are listed in Schedule 6 (the “**Title Documents**”);
				2. undertaken such enquiries of the Owner as are appropriate or necessary in the circumstances of the Transaction and having regard to the nature of the Property in accordance with prudent standards of current conveyancing practice in Ireland (the “**Enquiries**”) and considered the replies to the Enquiries; and
				3. caused such public registry searches as are appropriate or necessary in accordance with prudent standards of current conveyancing practice in Ireland (the “**Searches**”) to be undertaken and considered the results of the Searches

and this Certificate is given solely on the basis of that examination and consideration of the Title Documents, the replies to the Enquiries, the results of the Searches and from information provided to us by the Owner and which, so far as we are aware, is the documentation and information which we need in order to give this Certificate.

* + 1. The Owner has confirmed to us that it has provided us with all deeds and documents 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.
		2. Subject to any Disclosures:
			- 1. in our opinion, the Owner has a good marketable title to the Property, being a title of a quality commensurate with prudent standards of current conveyancing practice in Ireland, and is solely legally and beneficially entitled to the Property. [[4]](#footnote-4)[We do not know, and the Owner has confirmed to us that it does not know, of any reason why:

[the Owner should not be registered as registered owner of the Property with absolute title; and][[5]](#footnote-5)

from a title perspective only, a charge cannot be registered against the Property;]

* + - * 1. the details of the Property set out in Schedule 2 Part 1 constitute a sufficiently accurate and complete description of the Property for the purpose of an assurance and/or charge of the entire of it;
				2. if the Owner holds the Property under the terms of a lease or fee farm grant, the terms of that lease or fee farm grant are fairly summarised in Schedule 4 Part 1 and the statements set out in Schedule 4 Part 2 are complete and accurate in all respects;
				3. either no consents are required from any third parties for the Transaction or any consents referred to in a Disclosure have been obtained and are unconditional; and
				4. if the title to the Property is registered in the Land Registry, the quality of the title is title absolute.
	1. Matters affecting the Property

Subject to any Disclosures:

* + 1. the statements set out in Schedule 3 are complete and accurate in all respects; and
		2. there are no other matters relating to the title to the Property disclosed by our investigations referred to in this Certificate which, in our opinion, should be brought to your attention.
	1. Letting Documents

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

* 1. Searches and Enquiries

Save as stated in any Disclosures, the results of the Searches and Enquiries do not disclose matters which, in our opinion, having regard to prudent standards of current conveyancing practice in Ireland, should be brought to your attention. The Searches, with explanations endorsed, have been placed with the Title Documents.

1. Confirmation of Statements[[6]](#footnote-6)
	1. The Owner has confirmed to us within the five (5) 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 complete and accurate in all respects.
	2. [[7]](#footnote-7)[Where the Owner has purchased the Property from the Seller immediately prior to or as part of the completion of the Transaction:
		1. The Owner’s knowledge of the Property and related documents and information have been acquired through:
			* 1. its own investigations of the Property as part of that purchase including the Searches and Enquiries;
				2. the replies given by the Seller’s Solicitors to Requisitions on Title;
				3. the replies given by the Seller’s Solicitors to any additional enquiries or rejoinders raised by the Firm to enable us to provide this Certificate;
				4. other information provided to us by the Seller’s Solicitors;
				5. the Owner’s own knowledge of the Property; and
				6. information provided by any other parties as mentioned in the Disclosures.
		2. Whenever this Certificate refers to the Owner’s knowledge, information and belief or this Certificate states that the Owner has “**told us**” or “**confirmed**” something (or uses words with similar meaning), it is the case that the Seller or the Seller’s Solicitors are the primary source.
		3. References in this Certificate to notices given or received by the Owner, or to any actions taken by the Owner or expected by the Owner, are references to the Owner’s knowledge of notices given or received by the Seller, or actions taken by the Seller or expected by the Seller, as the case may be.
		4. Where information has been provided to us by the Seller’s Solicitors, our investigations have given us no reasonable basis to doubt the accuracy of that information, but we do not accept responsibility for it.
		5. Where the replies given by the Seller’s Solicitors to our enquiries or other information provided by the Seller’s Solicitors are, in our opinion, inadequate, we have disclosed such inadequacy in the relevant part of this Certificate.]
2. Professional Indemnity Insurance

We hold professional indemnity insurance with underwriters approved by the Law Society of Ireland for a sum not less than €[ • ]. The renewal date is [ • ] and such insurance covers us to provide this Certificate.

1. Capacity and Due Execution

Subject only to such review of all deeds and documents as is required to establish good marketable title to the Property in accordance with prudent standards of current conveyancing practice in Ireland, we have assumed that all documents relating to the Property have been validly executed and delivered by the parties to them and that all documents are within the capacity and powers of, and have been validly authorised by, each party.

1. Qualifications
	1. This Certificate relates to Matters of Title only. “**Matters of Title**” means only such matters as relate to the title to the Property in the context of a conveyancing transaction and does not include any matters relating to the physical condition of the Property, the capital or rental value of the Property, the merits of the Transaction or any other matter save as expressly stated in this Certificate.
	2. We have not:
		1. inspected the Property;
		2. verified the extent of the Property, the accuracy of areas or measurements expressed in, or the conclusiveness of boundaries shown on, maps and/or plans attached to or referred to in the Title Documents;
		3. made any enquiries of the occupiers of the Property (other than [the Seller and] the Owner); or
		4. where the Property is leasehold, made any enquiries of any landlord or superior landlord.
	3. In giving this Certificate, the Firm has not verified the compliance or otherwise of any maps and/or plans with the Land Registry Mapping Guidelines.
	4. This Certificate does not consider:
		1. any environmental or flood assessments, audits, surveys or other reports on the environmental condition of the Property or specialist planning or building control reports or other technical reports or surveys relating to statutory compliance or the condition or other physical aspects of the Property;
		2. the content of any Construction Documents;
		3. the terms or adequacy of any policies of insurance in place in respect of the Property (save to the extent of any Disclosure against paragraph 10 of Schedule 3); or
		4. matters relating to tax (save in respect of the statement contained in paragraph 1 of Schedule 3).

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

7.6 Save as expressly stated in this Certificate, we express no opinion on whether any transaction affecting the title to the Property may have been at an under-value or otherwise liable to be set aside for reasons of unfair or fraudulent preference under the Land and Conveyancing Law Reform Act 2009, the Companies Act 2014 and/or the Bankruptcy Act 1988. The Owner 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 those Acts.

1. Applicable Law and Jurisdiction

This Certificate is limited to Irish law as applied by the Irish courts as at the date of this Certificate and is given on the basis that it will be governed by and construed in accordance with Irish law. The Irish courts shall have exclusive jurisdiction to determine any dispute, claim or difference arising out of or in connection with this Certificate.

1. Definitions

The definitions contained in Schedule 1 shall apply to this Certificate.

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| ***Disclosures******All Disclosures made to the Schedules to this Certificate.***[[8]](#footnote-8)***[Here make any Disclosures in respect of the main body of this Certificate e.g. any consents referred to in paragraph 3.1(d)(iv) or paragraph 4]******[Note: It is recommended that all Disclosures are made in italic script and are contained in boxes as indicated in this Certificate.]*** |

1.
2. Definitions and Interpretation
3. Definitions and Interpretation
	1. In this Certificate the following expressions have the following meanings:

**2014 Regulations** means the Building Control (Amendment) Regulations 2014;

**1980 Act** means the Landlord and Tenant (Amendment) Act 1980;

**Addressee’s Solicitors** means [ • ];

**Applicable Laws** means every Act of the Oireachtas and of Parliament, law of the European Union and all statutory instruments, directives, regulations, orders, rules, codes, schemes, decisions, awards, bye-laws and permissions made or granted by any court, government minister, local authority, regulatory body or other competent authority having force of law in Ireland;

**Appurtenant Rights** means all easements, rights (including any acquired by prescription), reservations, exceptions, privileges, covenants, conditions, restrictions or other right or interest in or over land benefitting the Property in each case whether or not registered including any which are capable of affecting registered land without registration (but not including any reserved under the terms of any Letting Document);

**Building Control Act** means the Building Control Acts 1990 to 2020;

**Building Control Legislation** means the Building Control Act and the Building Regulations;

**Building Regulations** means all regulations made under the Building Control Act including the Building Control Regulations 1997 to 2020 and the Building Regulations 1997 to 2019;

**Certificate of Compliance on Completion** means a certificate of compliance in respect of works to the Property to be lodged with the relevant building control authority in accordance with the 2014 Regulations;

**Charge** means the legal charge over the Property to be entered into in favour of the [Addressee] dated on or about the date hereof;

**Construction Documents** means any agreements, certificates, guarantees, warranties or insurance policies (save for buildings insurance) relating to the construction, repair, replacement, treatment or improvement of any building or structure on the Property;

**Development** has the meaning ascribed to it by the Local Government (Planning and Development) Act 1963 or by the Planning and Development Act 2000 whichever meaning shall be applicable to the circumstances but excludes:

* + 1. any works which are no longer material by reason of having been replaced by new works which were carried out pursuant to planning permission or constituted exempted development;
		2. any use which is no longer continuing, having been replaced with a new use which was authorised under Planning Legislation; or
		3. any works carried out by any party in occupation of any part of the Property under a Letting Document;

**Disclosure** means any disclosure made against a statement in this Certificate or any Schedule to this Certificate;

**Environmental Laws** means all Applicable Laws concerning environmental matters, control and prevention of pollution and/or the protection, preservation or improvement of the environment;

**Existing Use** means the actual use to which the Property is put as referred to in Schedule 2 Part 4;

**Family Law Legislation** means the Family Home Protection Act 1976, the Family Law Act 1981, the Judicial Separation and Family Law Reform Act 1989, the Family Law Act 1995, the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

**Firm** means [ • ];

**Incumbrance** means:

* + 1. all easements, rights, reservations, exceptions, privileges, covenants, conditions, restrictions, rents, taxes and other liabilities evident from the Title Documents, Enquiries or Searches or which are known by the Owner to affect the Property (but not including any granted to a tenant under the terms of any Letting Document); and
		2. any interest evident from the Title Documents, Enquiries or Searches or which is known to the Owner but not included in paragraph (a) above that affects registered land without registration (but not including any granted to a tenant under the terms of any Letting Document);

**Land Registry Mapping Guidelines** means ‘Practitioner’s Guide 2014 Mapping Procedures for First Registration of a Property, Sub-divisions of Registered Property & Rights over Registered Property’ published by the Property Registration Authority as amended, updated or replaced from time to time;

**Lease** means the lease by virtue of which the Owner holds the Property or part thereof (as amended or supplemented);

**Letting Document** means any lease, sub-lease, tenancy, licence or other agreement or arrangement giving rise to rights of occupation and enjoyment to which the Property is subject (in each case as amended or supplemented);

**Loan Document** means the facility agreement dated [ • ] between[, among others,] [ • ] (as [ • ]) and [ • ] (as [agent and as security [agent/trustee]]) providing for the loan referred to in it, which loan is to be secured by inter alia the Charge;

**Planning Legislation** means the Local Government (Planning and Development) Acts 1963 to 1999, the Planning and Development Acts 2000 to 2020, the Building Bye-Laws and Building Control Legislation;

**Premises** means the whole or any part of the Property demised by any Letting Document;

**Property** means the property described in Schedule 2 Part 1, a brief description of which is given at the head of this Certificate;

**Property Registration Authority** means the Property Registration Authority established under section 9 of the Registration of Deeds and Title Act 2006;

**Requisitions on Title** means the edition of the Law Society of Ireland Requisitions on Title current at the date of this Certificate;

**Safety Act** means the Safety, Health and Welfare at Work Acts 2005 to 2014;

**Safety Regulations** means the Safety Act and any and all legislation pursuant thereto (including but not limited to the Safety, Health and Welfare at Work (Construction) Regulations 2013);

**Seller** means [ • ];

**Seller’s Solicitors** means [ • ];

**Transaction** means [ • ]; and

**Working Day(s)** means a day (other than a Saturday or Sunday or public holiday in Ireland) on which clearing banks are open for business in Ireland.

* 1. Any reference to the Property, Leasehold Property, Fee Farm Grant Property or Premises includes each and every part of it and all buildings and structures on it.
	2. Any reference to legislation includes reference to:
		1. that legislation as amended, extended, consolidated, re-enacted or applied at the date of this Certificate;
		2. any legislation which that legislation re-enacts (with or without modification); and
		3. any subordinate legislation under such legislation at the date of this Certificate.
	3. Any reference in this Certificate to month shall mean calendar month.
	4. The headings in this Certificate do not affect its interpretation.
	5. Unless the context otherwise requires, the singular includes the plural and vice versa.
	6. Any Disclosure in this Certificate in relation to any particular clause or paragraph is to be treated as being disclosed in relation to any other relevant clause or paragraph.
1.
2. Property Details
	* 1. – The Property

**Particulars**

**ALL THAT AND THOSE** [ • ]

**Tenure**

**HELD** [ • ]

* + 1. – Appurtenant Rights

[ • ]

* + 1. – Incumbrances

[ • ]

* + 1. – Existing Use

[ • ]

1.
2. Matters affecting the Property
3. Title Documents and Stamp Duty
	1. All deeds and documents necessary to show the Owner’s title to the Property are:
		1. held by us; or
		2. under the control of the Owner

subject only to the rights of the Addressee.

* 1. All deeds and documents required to evidence the Owner’s title to the Property appear to be fully stamped.
	2. The Owner has told us that no further payment in relation to stamp duty is required in respect of any deed or document relevant to the Owner’s title to the Property and to which it is a party.

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| ***Disclosures*** |

1. Registrations
	1. Where title to the Property is not registered in the Land Registry:
		1. there are no Title Documents which should be registered in the Registry of Deeds and which have not been so registered;
		2. no event has occurred in consequence of which registration of title in the Land Registry should have been effected; and
		3. clear or fully explained Registry of Deeds searches against all relevant parties on title are held with the Title Documents.

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| ***Disclosures*** |

* 1. Where title to the Property is registered in the Land Registry:
		1. there are no Title Documents which should be registered in the Land Registry and which have not been so registered; and
		2. clear or fully explained Land Registry searches against all relevant folios are held with the Title Documents.

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| ***Disclosures*** |

* 1. Where there are Land Registry registrations outstanding, either:
		1. an application, containing all deeds and documents required to effect registration in accordance with Land Registry practice at the date of lodgement of the application, has been lodged, together, where required, with a map or plan of the Property, is pending registration with the Land Registry and there are no outstanding queries to be addressed; or
		2. where the Owner has acquired the Property as part of the Transaction, the Title Documents include all deeds and documents required to register the Owner’s title to the Property in the Land Registry in accordance with current Land Registry practice, together, where required, with a map or plan of the Property produced by the Seller in connection with the Transaction.

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| ***Disclosures*** |

1. Access and Services
	1. The Owner has confirmed to us the location of each point of access to and egress from the Property.
	2. The Property either:
		1. appears to abut a roadway and, where appropriate, a footpath which is in charge of the relevant local authority at each point of access or egress, in which case, and where required in accordance with prudent standards of current conveyancing practice in Ireland, a letter from the local authority confirming the position is held with the Title Documents; or
		2. has the benefit of all necessary rights of way to and from such a roadway and footpath.
	3. The Owner has confirmed to us that the Property is served by mains water, drainage (foul sewer and surface water), electricity, gas and telecommunications.
	4. Either:
		1. the water supply and drainage system (foul sewer and surface water) for the Property each appear to connect directly to conduits which are in charge of Irish Water and/or the relevant local authority in which case, and where required in accordance with prudent standards of current conveyancing practice in Ireland, a letter from the relevant entity confirming the position is held with the Title Documents; or
		2. the Property has the benefit of all necessary easements to and, where appropriate, from such conduits.

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| ***Disclosures*** |

1. Appurtenant Rights
	1. The Appurtenant Rights, if any, briefly summarised in Schedule 2 Part 2 are:
		1. appurtenant to the Property;
		2. held for the same estate or interest as the Owner’s estate or interest in the Property;
		3. subject only to such terms and conditions as would be expected for a property of this nature without payment or restriction as to hours of use or otherwise, free from third party termination or curtailment rights; and
		4. enjoyed together with all relevant incidental rights appropriate to the exercise of the main Appurtenant Right (e.g. including but not limited to appropriate rights of repair and maintenance, replacement and connection and access for such incidental purposes).
	2. Where Appurtenant Rights are summarised in Schedule 2 Part 2, the Owner has told us that, so far as it is aware, those Appurtenant Rights are the only Appurtenant Rights necessary for the use and enjoyment of the Property for the Existing Use and are enjoyed freely without interruption. The Owner has told us that it is not aware of any breach of the Appurtenant Rights. Where no Appurtenant Rights are set out in Schedule 2 Part 2, the Owner has told us that, so far as it is aware, none are required for the use and enjoyment of the Property for the Existing Use.
	3. Where any Appurtenant Right requires protection (whether from extinguishment or in order to bind all other persons) by:
		1. registration on the title to any registered land; or
		2. registration in the Registry of Deeds in respect of any unregistered land

such protection has been properly effected.

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| ***Disclosures*** |

1. Incumbrances
	1. The only Incumbrances to which the Property is subject are briefly summarised in Schedule 2 Part 3. The Owner has told us that it is not aware of any breach of those Incumbrances and that those Incumbrances do not adversely affect the Existing Use.
	2. The Owner has told us that it is not aware that any person is in the process of acquiring an Incumbrance over the Property through prescription, nor is it aware of any agreement or commitment to give or create an Incumbrance over the Property. Unless a specific claim has been raised with the Owner for a right to light or a right to air, such rights are excluded from this confirmation.

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| ***Disclosures*** |

1. Charges
	1. There are no mortgages, charges or debentures (whether legal or equitable and whether specific or floating), liens (whether for costs or to an unpaid vendor or otherwise), pledges or any other form of security or trusts (whether for securing money or otherwise) affecting the Property or the proceeds of sale thereof or the Title Documents relating thereto and the Owner has confirmed that there is no agreement or commitment to give or create any of the foregoing and no claim has been made by any person to be entitled thereto.
	2. Where such matters as referred to in paragraph 6.1 above are disclosed, the Owner has told us that it has not received notice of any breach of and is not aware of any breach of the terms and conditions contained therein.

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| ***Disclosures*** |

1. Agreements
	1. The Owner has confirmed that there are no agreements for sale, options, pre-emption rights or similar matters affecting the Property the provisions of which remain to be observed or performed nor is there any agreement or commitment to give or create any of the foregoing.
	2. The Owner has confirmed that there are no obligations binding on the Property to make future payments in respect of overage, clawback, deferred consideration or other payments of a similar nature.

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| ***Disclosures*** |

1. Adverse Rights

The Owner 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 Owner, has any right (actual or contingent) to possession, occupation or use of, or interest in, the Property or is in the process of acquiring any rights adversely affecting the Property. Unless a specific claim has been raised with the Owner for a right to light or a right to air, such rights are excluded from this confirmation.

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| ***Disclosures*** |

1. Identity
	1. Either:
		1. the Property is sufficiently identified from:
			* 1. the descriptions in the deeds of assurance; and/or
				2. the Land Registry folios

evidencing the Owner’s title to the Property; or

(b) a declaration of identity appropriate to the title is held with the Title Documents.

* 1. The Owner has told us that it has reviewed the title maps and/or plan(s) for the Property including, where relevant, any maps and/or plans lodged in the Land Registry in connection with an application for registration, and that the Property on the ground appears to conform to the Property as shown on such title maps and/or plan(s).

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| ***Disclosures*** |

1. Title Policies

The Owner has told us that there are no insurance policies relating to any question of title or planning affecting the Property.

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| ***Disclosures*** |

1. Complaints and Disputes

The Owner has told us that:

* 1. it has not made and has not had occasion to make any claim or complaint in relation to any neighbouring property or its use or occupation; and
	2. there are no disputes, claims, actions, demands or complaints in respect of the Property which are outstanding or which are expected by it.

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| ***Disclosures*** |

1. Notices

The Owner has told us that no notices affecting the Property or any of the Appurtenant Rights have been given or received by the Owner.

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| ***Disclosures*** |

1. Existing Use
	1. The Owner has told us that the Property is used for the Existing Use.
	2. The Existing Use is the permitted use for planning purposes under the Planning Legislation.

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| ***Disclosures*** |

1. Planning
	1. Unauthorised Development
		1. The Owner has told us that it is not on actual notice of any breach or non-compliance with Planning Legislation affecting the Property and that, since it acquired its interest in the Property, there has been no unauthorised Development of the Property.
		2. Where the Owner has first acquired its interest in the Property as part of the Transaction, the Seller has warranted to the Owner that it is not on actual notice of any breach or non-compliance with Planning Legislation affecting the Property which arose prior to the date upon which the Owner first acquired an interest in the Property.

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| ***Disclosures*** |

* 1. Planning Search

We have caused a search to be made in respect of the Property in the office of the relevant planning authority on the date of this Certificate (the “**Planning Search**”) and:

* + 1. the Owner has confirmed to us that so far as it is aware no Development to the Property requiring planning permission has been carried out in respect of which a corresponding final grant of planning permission does not appear on the Planning Search results;
		2. in respect of each final grant of planning permission appearing on the Planning Search results either:-
			- 1. a satisfactory certificate of or opinion on compliance with planning permission from a suitably qualified professional in accordance with prudent standards of current conveyancing practice in Ireland pertaining to each such Development is with the Title Documents; and

each such certificate or opinion confirms that all of the conditions (except financial conditions) contained in any relevant planning permissions have been substantially complied with; and

if there are any conditions contained in any relevant planning permissions requiring compliance with Part V of the Planning and Development Act 2000, appropriate evidence of compliance is held with the Title Documents; and

if there are financial conditions contained in any relevant planning permissions, evidence of compliance from the relevant planning authority is held with the Title Documents; or

* + - * 1. it does not relate to the Property; or
				2. it has been confirmed to us by the Owner as not having been acted upon;
		1. there are no current warning letters or enforcement notices on the Planning Search and the Owner has told us that it is not aware of any pending or threatened proceedings under Planning Legislation or any proposal to serve any warning letter or enforcement notice;
		2. there are no applications awaiting final determination; and
		3. there are no other adverse acts appearing on the Planning Search results.

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| ***Disclosures*** |

* 1. Exempted Development
		1. The Owner has confirmed to us that, so far as it is aware, either:
			+ 1. there has been no exempted development of the Property within the meaning of the Planning and Development Act 2000; or
				2. the only exempted development of the Property within the meaning of the Planning and Development Act 2000 is that for which a corresponding certificate or opinion on exemption from planning control is held with the Title Documents.
		2. Where paragraph 14.3(a)(ii) applies, each relevant certificate or opinion is from a suitably qualified professional and is satisfactory in accordance with prudent standards of current conveyancing practice in Ireland.

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| ***Disclosures*** |

* 1. Planning Conditions

Where any planning permission affecting the Property is subject to conditions of continuing relevance, the Owner has told us that those conditions are:

* + 1. being complied with and the Owner knows of no reason why they should not continue to be so complied with; and
		2. not unusual or unduly onerous.

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| ***Disclosures*** |

* 1. Protected Structure / Conservation Area / National Monuments

The Owner has told us that:

* + 1. the Property is not situated in an area which is designated as or proposed to be designated as an architectural conservation area, an area of special planning control, an area of special amenity, a landscape conservation area, a strategic development zone or other area designated under any Applicable Law for any specific purpose or objective;
		2. the Property is not a protected structure or proposed protected structure as defined in Planning Legislation;
		3. the Property is not subject to any preservation or other orders under Planning Legislation; and
		4. there is no national monument located on the Property.

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| ***Disclosures*** |

* 1. Compulsory Acquisition

The Owner has told us that it is not aware of any written request or acquisition notice indicating any statutory authority’s intention to acquire all or any part of the Property or any private access to it or any proposal to serve such a request or notice.

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| ***Disclosures*** |

* 1. Validity of Planning Permissions

The Owner has told us that no planning permission affecting the Property is the subject of an existing challenge as to its validity. The Planning Search did not reveal that any planning permission has been issued within the three (3) months immediately before the date of that search.

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| ***Disclosures*** |

* 1. Pending Applications

The Owner has told us that there is no application for planning permission in respect of the Property awaiting determination and no planning decision which is subject to appeal.

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| ***Disclosures*** |

* 1. Planning Agreements / Compensation

The Owner has told us that there are no agreements in place with the relevant planning authority restricting or regulating the future development or use of the Property and that no application for or award of compensation has been made under Planning Legislation.

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| ***Disclosures*** |

1. Building Control Legislation
	1. Where the Owner has told us that works were carried out on the Property which were affected by Building Control Legislation but such works were carried out pursuant to a commencement notice lodged with the relevant building control authority prior to the commencement of the2014 Regulations:
		1. a satisfactory certificate of or opinion on compliance with Building Regulations from a suitably qualified professional in accordance with prudent standards of current conveyancing practice in Ireland pertaining to such works is with the Title Documents; and
		2. copies of all relevant fire safety certificates and disability access certificates referred to in each such certificate or opinion are held with the Title Documents.
	2. Where the Owner has told us that works were carried out on the Property which were affected by Building Control Legislation and such works were carried out pursuant to a commencement notice lodged with the relevant building control authority on or after the commencement of the 2014 Regulations and required a Certificate of Compliance on Completion**,** a copy (or certified copy if the certificate on the building control authority register is not accessible to the public) of the Certificate of Compliance on Completion and evidence that the Certificate of Compliance on Completion was registered by the relevant building control authority is held with the Title Documents.
	3. Where the Owner has told us that works were carried out on the Property which were affected by Building Control Legislation and such works were carried out pursuant to a commencement notice lodged with the relevant building control authority on or after the commencement of the 2014 Regulations but did not require a Certificate of Compliance on Completion, a certificate that the works were exempt from the requirement for statutory certification under the 2014 Regulations and an opinion on or certificate of compliance with Building Regulations from a suitably qualified professional in accordance with prudent standards of current conveyancing practice in Ireland pertaining to such works is held with the Title Documents.
	4. The Owner has told us that:
		1. no enforcement notice under section 8 of the Building Control Act 1990 has been served; and
		2. no application has been made under section 9 of the Building Control Act 1990.

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| ***Disclosures*** |

1. Derelict Sites Act 1990

The Owner has confirmed that the Property has not been entered on the derelict sites register under the Derelict Sites Act 1990 and the Owner is not aware of any notice of intention to enter the Property on the derelict sites register.

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| ***Disclosures*** |

1. Urban Regeneration and Housing Act 2015

The Owner has confirmed that the Property has not been entered on the vacant sites register under the Urban Regeneration and Housing Act 2015 and the Owner is not aware of any notice of intention to enter the Property on the vacant sites register.

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| ***Disclosures*** |

1. Multi-Storey Buildings
	1. The Owner has told us that no part of the Property is a specified building within the meaning of the Local Government (Multi‑Storey Buildings) Act 1988 (the “**1988 Act**”).
	2. Where the Owner has told us that the Property or any part of it is such a specified building, a certificate from a competent person (as defined in the 1988 Act) has been submitted to the local authority in accordance with section 3(1)(a) and section 3(2) of the 1988 Act and is in accordance with the appropriate form provided for in the regulations made and in force under the 1988 Act and a copy of the certificate is with the Title Documents, together with a letter from the relevant local authority confirming that the certificate has been placed on the register maintained by the local authority.

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| ***Disclosures*** |

1. Construction Work and Warranties

The Owner has told us that:

* 1. no buildings or other structures on the Property have been erected or been subject to extension or major alteration within the six (6) year period prior to the date of this Certificate; and
	2. there are no subsisting Construction Documents relating to the Property other than those listed in the Disclosure below.

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| ***Disclosures*** |

1. Statutory Compliance

The Owner has told us that:

* 1. it has not received notice of any breach and is not aware of any breach of the requirements of Applicable Laws at the date of this Certificate which affects the Property; and
	2. it is not aware of any outstanding order, notice, certificate or other requirement of any local or other authority that affects the Property or the Existing Use or involves expenditure in compliance with it nor of any other circumstances which may result in any such order, notice, certificate or other requirement being made or served.

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| ***Disclosures*** |

1. Family Law

The Owner has confirmed for the purpose of the Transaction that the Property is not adversely affected by Family Law Legislation.

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| ***Disclosures*** |

1. Safety Health and Welfare at Work

The Owner has told us that where required by the Safety Regulations, a safety file containing the information required by the Safety Regulations is held by the Owner.

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| ***Disclosures*** |

1. Competition

The Owner has confirmed, having taken appropriate legal advice, that:

* 1. the Transaction did not require notification to the Competition and Consumer Protection Commission (“**CCPC**”) pursuant to section 18(1) of the Competition Act 2002; or
	2. the Transaction required notification to the CCPC pursuant to section 18(1) of the Competition Act 2002 and in such circumstances the requisite notification was made and the CCPC determined that the Transaction could be put into effect.

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| ***Disclosures*** |

1. Environmental Notices and Permits

The Owner has told us that:

* 1. it holds all necessary permits, licences, consents, authorisations, registrations or any other approvals (together “**Environmental Permits**”) under Environmental Laws in respect of the Existing Use of the Property; and
	2. it is not aware of any breach of Environmental Laws or Environmental Permits affecting the Property or the Existing Use nor has it received any written notices, notifications, orders, certificates, requirements under any Environmental Laws in respect of the Property or the Existing Use of the Property.

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| ***Disclosures*** |

1. Outgoings

The Owner has told us that the Property is not subject to the payment of any outgoings other than commercialrates and water rates (and where the title to the Property is leasehold or held under a fee farm grant, sums due under the Lease or fee farm grant as the case may be). Evidence of up-to-date payment of rates is held with the Title Documents (or rates are the liability of a tenant under a subsisting Letting Document).

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| ***Disclosures*** |

1. Fixtures and Fittings

The Owner has told us that all fixtures and fixed plant at the Property, other than:

* 1. where the Property is leasehold, landlord’s fixtures; or
	2. where the Property is subject to a Letting Document, tenant’s fixtures,

are the Owner’s property free from third party rights.

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| ***Disclosures*** |

1. Building Energy Rating Certificate

Where required by law, a current building energy rating certificate and advisory report for the Property is held with the Title Documents.

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| ***Disclosures*** |

1. Companies Act 2014 (the “2014 Act”)
	1. The Transaction does not involve or form part of a larger transaction within the meaning of section 238 of the 2014 Act.
	2. Where applicable, all deeds of assurance evidencing the Owner’s title to the Property contain a certificate confirming that section 238 of the 2014 Act (or the corresponding provision in force prior to the commencement of the 2014 Act) does not apply or has been complied with.
	3. The Transaction does not involve or form part of a larger transaction involving a credit transaction which is prohibited by section 239 of the 2014 Act.

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| ***Disclosures*** |

1.
2. The Lease
	* 1. – Details of the Lease under which the Property is held

Note A: The term “**Lease**” shall have the meaning given in Schedule 1, and in this Schedule, where the context so admits or requires, shall include a fee farm grant and related terms shall be construed accordingly.

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

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| * 1. Nature of document (i.e. lease or fee farm grant):
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| * 1. Property the subject of the Lease (the “**Leasehold Property**”):
 |  |
| * 1. Date:
 |  |
| * 1. Original parties:
 |  |
| * 1. Length of term and commencement date:
 |  |
| * 1. Brief summary of the rights granted to the lessee:
 |  |
| * 1. Brief summary of the rights reserved to the lessor:
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| * 1. Name and address of present lessor, provided by the Owner:
 |  |
| * 1. Initial annual rent including details of any premium paid:
 |  |
| * 1. Current annual rent:
 |  |
| * 1. Manner in which annual rent payable:
 |  |
| * 1. Rent review frequency:
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| * 1. Present permitted use:
 |  |
| * 1. Specified insured risks:
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| * 1. Other material matters:
 |  |

* + 1. – Statements
1. Details of the Lease

The main terms of the Lease are fairly summarised in Part 1 of this Schedule.

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| ***Disclosures*** |

1. Payment of Rent

The Owner has told us that either:

* 1. it holds a receipt for the last instalment of rent; or
	2. the rent has not been paid because:
		1. the party entitled to receive the rent is not known by the Owner; or
		2. the rent is only payable if demanded and no rent has been demanded for six (6) years in the case of lease, or twelve (12) years in the case of a fee farm grant (the “**Appropriate Period**”); or
		3. the Property is indemnified against payment of rent,

and the Owner has made a statutory declaration for the benefit of the Addressee for the purpose of the Transaction stating the relevant facts and confirming that no notices or rent demands have been served upon or received by the Owner during the Appropriate Period.

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| ***Disclosures*** |

1. Rent Review
	1. There are no provisions for rent review or other variations of the rent.
	2. If there are any provisions for rent review or other variations of the rent, they apply with the frequency set out in Part 1 of this Schedule and are summarised in the Disclosures.
	3. Where there are any provisions for rent review or other variations of the rent:
		1. the Owner has told us that none is currently outstanding, under negotiation or the subject of a reference to an expert or arbitrator or the courts; and
		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 Title Documents.

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| ***Disclosures*** |

1. Repair

There are no unusual or unduly onerous repair obligations on the part of either the lessor or the lessee contained in the Lease.

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| ***Disclosures*** |

1. Restrictions on Use

There are no restrictions in the Lease which prevent the Leasehold Property being used now or in the future for the Existing Use or which restrict the change of use of the Leasehold Property.

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| ***Disclosures*** |

1. Alterations

There are no restrictions in the Lease which prevent the lessee making alterations or additions to the Leasehold Property*.*

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| ***Disclosures*** |

1. Alienation
	1. The Lease contains no restrictions on the lessee charging or alienating or otherwise dealing with or sharing occupation of the Leasehold Property and there are no conditions or notification requirements that the lessor might impose.
	2. The Lease contains no restriction on any change of control of the lessee.

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| ***Disclosures*** |

1. Insurance
	1. The lessee is required to insure in its sole name:
		1. the Leasehold Property against damage caused by the insured risks listed in Part 1 of this Schedule subject to standard exclusions limitations and excesses; and
		2. for the full reinstatement cost of the Leasehold Property (including professional fees and Value-Added Tax).
	2. If the Leasehold Property is damaged or destroyed by an insured risk, the lessee is required to reinstate the Leasehold Property.

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| ***Disclosures*** |

1. Service Charge

There is no provision for the payment by the lessee of a service or other similar charge or, where there is provision for the payment of such a charge, the provisions relating thereto are summarised in the Disclosures and the Owner has told us that the last instalment has been paid in full to the lessor, its agent or other relevant party.

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| ***Disclosures*** |

1. Rights of Re-Entry

The Lease is not expressed to be subject to a right of re-entry on any ground.

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| ***Disclosures*** |

1. Options and Rights of First Refusal

There are no contractualoptions to determine (including in respect of damage or destruction of the Leasehold Property by an insured risk) or to renew the term nor any contractual options to purchase or right of first refusal on the part of either the lessor or the lessee.

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| ***Disclosures*** |

1. Side Agreements and Undertakings

The Owner has told us that, so far as it is aware, no side agreements, undertakings or concessions have been made in respect of the Lease.

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| ***Disclosures*** |

1. Consents

Any consents required for the grant of the Lease, or the vesting of the Lease in the Owner, or for the grant of any sub-lease referred to in Schedule 5, or for any works or change of use effected by any lessee that have been made known to us by the Owner, have been obtained and placed with the Title Documents along with evidence that any necessary notice has been given to any third party of any such grant, vesting, works or change of use.

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| ***Disclosures*** |

1. Superior Title

If title to the Lease is not registered in the Land Registry with leasehold title absolute and the Lease was granted less than fifteen (15) years prior to the date of this Certificate, the titles of the lessor and any superior lessor to grant the Lease have been investigated in accordance with prudent standards of current conveyancing practice in Ireland and no adverse matters have been revealed. Certified copies of relevant documents are held with the Title Documents.

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| ***Disclosures*** |

1. Breaches of Covenant

The Owner has told us that:

* 1. it is not aware of any subsisting breach or non-observance of the covenants or conditions contained in the Lease, whether on the part of the lessor or the lessee, or any other event which could give rise to forfeiture of the Lease;
	2. either:
		1. it holds a receipt for the last instalment of rent; or
		2. no notice alleging any breach or non-observance of the covenants or conditions contained in the Lease, whether on the part of the lessor or the lessee, remains outstanding nor is the Owner aware of any intention to institute or threaten proceedings or to serve notices; and
	3. so far as the Owner is aware, no breach of covenant has been waived or acquiesced in.

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| ***Disclosures*** |

1. No Other Material Matters

Following our review of the Title Documents and our enquiries of the Owner, there are no other material matters that we consider ought to be brought to your attention in relation to the Lease.

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| ***Disclosures*** |

1.
2. The Letting Documents
	* 1. – Report on Letting Document

Note: The reports on the Letting Documents included in this Schedule are prepared in the overall context of the certification of title to the Property for the purposes of the Transaction and should not be reviewed, considered or relied upon in isolation.

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|  | **Date and Parties:** | [ • ] 20[ • ](1) [ • ] (as landlord)(2) [ • ] (as tenant)(3) [ • ] (as guarantor)(4) [ • ] (as management company) |
| 1.
 | **List of documents reviewed:** | (1) Lease referred to in section 1 above(2) [ • ] |
|  | **Let Premises & Rights / Easements Granted (*e.g. parking/storage/plant*):** |  |
|  | 3.1 Premises: | [ • ] (the “**Premises**”) |
|  | 3.2 Rights / easements: | [ • ] |
|  | **Current Parties:***If applicable, include company registration numbers.* |  |
|  | 4.1 Landlord: | [ • ] (the “**Landlord**”) |
|  | 4.2 Tenant: | [ • ] (the “**Tenant**”) |
|  | 4.3 Guarantor: | [[ • ] (the “**Guarantor**” ) / N/A] |
| 1. `
 | **Term and Commencement Date:** | [ • ] years and [ • ] months from [ • ] (the “**Term**”) |
|  | **Break Option(s):** |  |
|  | 6.1 Party entitled to exercise: | [Landlord and/or Tenant] |
|  | 6.2 Break Date(s): | [ • ] |
|  | 6.3 Penalty: | [[ • ] / N/A] |
|  | 6.4 Notice period: | [No later than [ • ] months’ notice in advance of break date]  |
|  | 6.5 Personal: | [Yes / No] |
|  | **Renewal Rights:** |  |
|  | 7.1 Renunciation of statutory renewal rights: | [Yes / No] |
|  | 7.2 Contractual renewal rights: | [Yes / No] |
|  | **Rent:** |  |
|  | 8.1 Current rent: | €[ • ] per annum |
|  | 8.2 Last review date: | [[ • ] / N/A] |
|  | 8.3 Payment: | [Quarterly in advance on 1 January, 1 April, 1 July and 1 October without deduction, counterclaim or set-off] |
|  | 8.4 Interest on late payments: | [Yes / No] |
|  | 8.5 Current concessions: | [N/A / [ • ]] |
|  | 8.6 Rent deposit:*If applicable, include deposit amount and details of any limitations on application of or recourse to rent deposit by Landlord during the Term.* | [N/A / €[ • ]] |
|  | **Rent Review:** | [Yes / N/A[[9]](#footnote-9)] |
|  | 9.1 Rent review date(s): | [[ • ] / N/A] |
|  | 9.2 Basis for review: | [Market rent / Upward only / Other] |
|  | 9.3 Mechanism for determination of revised rent if not agreed: | [Mutual / landlord only] right to trigger appointment of independent [arbitrator / expert] to determine the review [as arbitrator or expert] at the landlord’s discretion] |
|  | 9.4 Usual assumptions and disregards: | [Yes, save for [ • ]] |
|  | 9.5 Arrangements pending review: | [Rent continues to be paid in the amount payable up to the review date with provision for interest from review date once rent is determined] |
|  | 9.6 Other terms of note: | [[ • ] / N/A] |
|  | **Repair:** |  |
|  | 10.1 Internal: | [Tenant has full internal repair obligation] / [Tenant has internal repair obligation limited to a Schedule of condition] |
|  | 10.2 External / structural: | [Tenant has full external and structural repair obligation] / [Tenant has external and structural repair obligation limited to a Schedule of condition] / [Landlord repairs external and structural parts subject to Tenant reimbursing the cost through the service charge] |
|  | 10.3 Schedule of Condition: | [[ • ] / N/A] |
|  | 10.4 Exclusions:*If applicable, include exclusions to both tenant and landlord obligations.* | [[ • ] / N/A] |
|  | **Service Charge(s):*****If more than one service charge applies (e.g. for building and estate), details of each under the headings below should be separately provided.***  |  |
|  | 11.1 Apportionment basis: | [ • ] |
|  | 11.2 Fixed % or cap: | [No / [ • ]] |
|  | 11.3 Provision for sinking / reserve fund: | [ • ] |
|  | 11.4 Exclusions: | [ • ] |
|  | **Tenant alterations:** |  |
|  | 12.1 Internal: | [Permitted subject to landlord’s consent] |
|  | 12.2 External / structural: | [Prohibited] / [ • ] |
|  | **Tenant yield-up and reinstatement:** | [ • ] |
|  | **Tenant alienation:** |  |
|  | 14.1 Assignment: | [Assignment of the entire permitted subject to landlord’s consentAssignment of part prohibited] |
|  | 14.2 Sub-letting: | [Sub-letting of the entire permitted subject to compliance with relevant standard terms and landlord’s consentSub-letting of part [prohibited / permitted subject to a maximum of [ • ] and compliance with relevant standard terms and landlord’s consent] |
|  | 14.3 Licences / concessions / sharing possession: | [Licences and concessions of the entire prohibitedLicences, concessions or sharing possession of part [prohibited / permitted [with / without] landlord’s consent subject [to a maximum of [ • ]] and compliance with relevant standard terms] |
|  | 14.4 Sharing with group companies: | [[ • ] / N/A] |
|  | 14.5 Mortgaging or charging: | [ • ] |
|  | 14.6 Change of control: | [[ • ] / N/A] |
|  | 14.7 Landlord right of pre-emption or first refusal: | [[ • ] / N/A] |
|  | **Use:** |  |
|  | 15.1 Permitted use:*If retail, include details of any keep open covenant and exclusivity.*  | [ • ] |
|  | 15.2 Prohibited uses: | [ • ] |
| 1.
 | **Insurance:**  |  |
|  | 16.1 Landlord effects buildings insurance and Tenant reimburses cost: | [Yes / [ • ]] |
|  | 16.2 Loss of rent cover and period: | [Yes; [3 / 4] years] |
|  | 16.3 Landlord obligation to reinstate: | [Yes / [ • ]] |
|  | 16.4 Rent and service charge suspension during reinstatement period: | [Yes / [ • ]] |
|  | 16.5 Mutual termination if not reinstated within period of loss of rent cover: | [Yes / [ • ]] |
|  | **Outgoings & Payments:** | [Tenant pays all usual outgoings in respect of the PremisesNo payments due to the Landlord save for rent, service charge(s) and insurance] |
|  | **Statutory compliance:** | [Tenant has full responsibility for statutory compliance] / [Tenant responsibility for statutory compliance limited to [ • ]] |
|  | **Forfeiture or termination provisions:** | [Usual rights to forfeit for tenant breach and insolvency] |
| 1.
 | **Other material matters (other than any already set out above):** | [None save for [ • ]] |
|  | **Guarantee:** |  |
|  | 21.1 Limitations on Guarantor’s liability: | [[ • ] / None] |
|  | 21.2 Ability to put new lease to Guarantor: | [Yes / No] |
|  | **Stamp duty certificate attached to Letting Document:** | [Yes / No] |
|  | **Legal Opinions for foreign Tenant and/or Guarantor:** | [Yes / N/A] |

* + 1. – Statements
1. Details of the Letting Document

Relevant details of the Letting Document are fairly summarised in Part 1 of this Schedule.

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| ***Disclosures*** |

1. Occupation and Possession

The Owner has told us that the current tenant, the details of whom are provided in Part 1 of this Schedule, is in actual occupation of the entire of the Premises the subject of the Letting Document and that it is not aware of any sub-letting, parting with possession or sharing of occupation by any tenant.

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| ***Disclosures*** |

1. Payment of Rent

The Owner has told us that it has not refused to accept any payment of rent and that all 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.

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| ***Disclosures*** |

1. Rent Review
	1. Where there are any provisions for rent review or other variations of the rent:
		1. the Owner has told us that none is currently outstanding, under negotiation or the subject of a reference to an expert or arbitrator or the courts*;* and
		2. where the current annual rent is not the same as the annual rent originally reserved by the Letting Document, evidence of its agreement or determination has been placed with the Title Documents.

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| ***Disclosures*** |

1. Service Charge

Where the Premises comprised in the Letting Document form part of the Property, the Owner has told us that there are no lettable areas of the Property that are currently unlet.

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| ***Disclosures*** |

1. Renewal Rights
	1. The Owner has told us that the Property is not subject to any tenancy which is being continued after the contractual expiry date.
	2. The Owner has told us that no notice has been served in respect of any Letting Document pursuant to section 20 of the 1980 Act.

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| ***Disclosures*** |

1. Oral Arrangements and Undertakings

The Owner has told us that, so far as it is aware, there are no oral arrangements, undertakings or concessions which have been made by any party to any Letting Document.

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| ***Disclosures*** |

1. Consents
	1. Any consents required for the grant of the Letting Document and any dealings under the Letting Document which will be of continuing relevance following the completion of the Transaction have been obtained and placed with the Title Documents.
	2. The Owner has told us that no application is currently pending from the tenant for consent to works, change of use, alienation or any other dealings with the Premises.

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| ***Disclosures*** |

1. Breaches of Covenant and Proceedings

The Owner has told us that:

* 1. it is not aware of any subsisting material breach or material non-observances of the covenants or conditions contained in the Letting Document, whether on the Part of the landlord or the tenant, or any other event of a material nature which could give rise to forfeiture of the Letting Document;
	2. no notice alleging any breach of any covenant or condition contained in the Letting Document whether on the part of the landlord or the tenant, remains outstanding and it has not made any complaint or objection to the tenant*;*
	3. so far as the Owner is aware, no breach of covenant contained in a Letting Document has been waived or acquiesced in;and
	4. no proceedings have been instituted or threatened by it against any tenant.

|  |
| --- |
| ***Disclosures*** |

1. Notices in respect of Improvements
	1. The Owner has told us that so far as the Owner is aware:
		1. no notice of intention to make improvements has been served under section 48 of the 1980 Act; and
		2. no claims for compensation for improvements have been made and there are no such notices or claims with the Title Documents.
	2. The Owner has told us that no works or improvements which would entitle the tenant to compensation (either now or in the future) have been carried out by any current tenant or its predecessors and the Owner is not aware of any proposals to carry out such works or improvements.

|  |
| --- |
| ***Disclosures*** |

1.
2. Schedule of Title Documents

[ • ]

SIGNED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

POSITION IN FIRM Partner       /       Principal

ADDRESS OF FIRM: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_

FIRM REFERENCE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Certificate of Title**

**Commercial Real Estate (General)**

**Second Edition 2021**

**Disclaimer**

This Certificate has been prepared in good faith on a pro bono basis by the members of the Property PSL Forum and the firms they represent**,** who have agreed to make it available on the members’ area of the Law Society of Ireland’s website for free download and use by solicitors.

Users must use their own professional judgement in the use of this Certificate for any transaction or seek independent legal advice. This Certificate does not comprise, constitute or provide personal, specific or individual guidance, recommendations or advice of any kind, and does not contain legal or financial advice. The Certificate is provided without any representation or warranty as to accuracy of the content or the Certificate’s suitability for use in any transaction. The Certificate is being made available for legal professionals in Ireland to use, amend (to the extent permitted by the guidance note to the Certificate) and negotiate using their professional skill and judgement depending on the circumstances of their individual transactions, and at their own risk. Compliance with guidance contained in this Certificate is not the responsibility of the authors or the firms they represent.

While care has been taken in the drafting of this Certificate, neither the authors nor any of the firms that they represent owe a duty of care to any party in relation to its preparation or use. The authors and the firms that they represent are not liable for any errors or omissions and shall not be liable for any direct or indirect loss incurred by any person arising from use of this Certificate, whether a certifying Firm or Addressee, or any other person.

This Certificate is a live document and may be subject to change and update from time to time. The authors and the firms that they representare under no obligation to notify users of any change or update to this Certificate and/or to inform users of any updated information or changes which may render all or part of the Certificate inaccurate, out of date or incomplete.

**Certificate of Title**

**Commercial Real Estate (General)**

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**Guidance Note to Users**

The guidance given to users of this Certificate is for assistance only and does not form part of it. Neither the detail of individual statements, nor the guidance on those statements, lessens the certifying firm’s obligation to determine for itself in every given case (in accordance with prudent standards of current conveyancing practice in Ireland) that the Owner has good marketable title to the Property and to make appropriate disclosure if anything impacts on such a determination.

**Use of Certificate**

This form of Certificate is primarily intended for use in high value commercial property transactions, where the certifying solicitor’s liability on foot of the Certificate exceeds €1.5 million. It may also be considered for use in lower value transactions in accordance with client instructions or where the circumstances require it e.g. where finance is to be provided to develop the Property, either alone or in conjunction with other property, and the value of the completed development is expected to exceed €1.5 million.

The Law Society of Ireland Approved 2010 Commercial Certificate of Title Documentation is generally recommended for lower value commercial property transactions:

1. Certificate of Title De Minimis: suitable for use in a commercial property transaction where the solicitor’s liability on foot of the certificate does not exceed €75,000;
2. Certificate of Title Hybrid: suitable for use in a commercial property transaction where the solicitor’s liability on foot of the certificate does not exceed the mandatory minimum level of cover of professional indemnity insurance for solicitors in Ireland current at the time of giving the certificate of title (€1.5 million as at January 2021).

This form of Certificate assumes that the Property is a commercial property without special features or requirements. This means that it does not contain specific statements to address any special or regulatory requirements for special property types (e.g. liquor licences or other permits for hotels or pubs or Multi-Unit Developments Act 2011 compliance or residential tenancies legislation for residential investment property). It also assumes, if title to the Property is leasehold, that it is a long leasehold title with an unexpired residue commensurate with prudent standards of current conveyancing practice in Ireland. Suitability for use of this Certificate (and any adaptation of it) in respect of property or titles falling outside these general assumptions should be considered and specifically agreed at the outset of the Transaction.

**Content**

No amendments should be made to the content of this Certificate unless required to reflect the commercial agreement of the parties and only when expressly agreed in advance.

If a Particular Schedule or Part of a Schedule does not apply to the Property, the relevant heading should be retained and ‘Not applicable’ should be inserted underneath. For example, if there are no Appurtenant Rights, the heading ‘Part 2 – Appurtenant Rights’ should be retained and ‘Not applicable’ should be inserted underneath. If Schedule 4 does not apply to the Property, the heading ‘Schedule 4 – The Lease – Part 1 – Details of the Lease under which the Property is held’ should be retained and ‘Not applicable’ should be inserted underneath. The remainder of Schedule 4 can be deleted.

**Front End**

***Addressee*** – For a bilateral facility (being a loan facility with a single lender), the Addressee will simply be that named lender. For a syndicated facility (being a loan facility with numerous Finance Parties, with varying roles), the Addressee should be settled in accordance with client instructions and can be addressed to either (i) the Security Agent or (ii) the Security Agent and Finance Parties under the Loan Document. If adopting the latter approach, it is prudent to confirm that all Finance Parties under the Loan Document will have a security interest in the Property as, if they do not, they might be properly excluded as Addressees. Defined terms used should be in accordance with the relevant Loan Document (or facility agreement/letter).

***Paragraph 1.8 Reliance on this Certificate*** – The defined term ‘[Finance Party]’ should be tracked through from the Loan Document. Paragraph 1.8 is drafted in contemplation of a scenario where both (i) there is a syndicated facility and (ii) this Certificate is addressed to the Finance Parties in addition to the Security Agent. This proposal reflects the general market norm in Ireland in that scenario of reliance being acceptably extended as a minimum to a new Finance Party which either joins or replaces the existing Addressee(s) within six (6) months of the Certificate. While the provision requires notice to be served on the certifying firm if this occurs, the extension of reliance is not expressed to be conditional on that notice being served. Any extension of reliance on the Certificate beyond that proposed by paragraph 1.8 (or for bi-lateral lending transactions) will be subject to commercial agreement on a case by case basis.

***Paragraph 2.1 Limitation of Liability*** – Any limitation of the Firm’s liability will be subject to commercial agreement on a case by case basis. The proposal in paragraph 2.1 suggests a monetary cap which may be arrived at in any number of ways, e.g.:

1. the amount of the loan;
	1. the value of the Property; or
	2. the lower of the amount of the loan and the value of the Property.

Ultimately, however, any cap will depend on the commercial negotiation, client instructions and the nature of the Transaction. The Firm’s liability under the Certificate should not exceed its professional indemnity cover.

***Paragraph 3.1(b)(i)) Title Certification*** – The Firm should ensure that all documents listed in Schedule 6 have been examined and considered.

***Paragraph 0 Title Certification*** – The Firm is only certifying in effect that the title is one which is capable of being charged as security. It is not opining on, reviewing or concerned in any way with the content or form of charge or process of registration of the charge, which are the responsibility of the Addressee.

***Paragraph 4.1 Confirmation of Statements*** – The Firm may decide to send a copy of the final form of Certificate to the Owner for approval but it is ultimately for the Firm to decide how best to elicit the information to produce the Certificate.

***Paragraph 5 Professional Indemnity Insurance*** – Liability under the Certificate should not exceed the PI sum. A PI letter should be provided by the Firm if requested by the Addressee’s Solicitors.

***Paragraph 6 Capacity and Due Execution*** – This assumption recognises that reliance may be placed by the certifying Firm on certain standard assumptions, including the ‘indoor management rule’ / ‘rule in *Turquand*’s case’ in company law and provisions of the Companies Acts (whereby a person (acting in good faith) transacting with a company is entitled to assume that internal company rules have been complied with). The wording at the beginning of paragraph 6 is intended however to ensure that the certifying Firm does not make assumptions in respect of execution by either corporates or individuals on title where prudent standards of current conveyancing practice would dictate that further investigation was required. Common examples might include:

1. where a party executes by an attorney, in which case the power of attorney should be examined to establish that the document in question is “**validly executed and delivered by**” the party in question;
	1. where a trust is disclosed on title, in which case it may be necessary to examine the trust deed to establish that it is “**within the capacity and powers of**” the trustees to enter the document in question;
	2. where the certifying Firm is advising on the purchase of the Property from a company, in which case the certifying Firm would need to be satisfied, having regard to the vendor company’s constitution and to the provisions of the Companies Acts that apply to the type of company in question, in relation to the vendor company’s capacity (i.e. power) to undertake the transaction;
	3. where there is a foreign company on title, in which case the certifying Firm would be expected to consider whether there is an appropriate opinion as to due execution.

This paragraph certifies the position in respect of the documents evidencing the Owner’s title to the Property only.

***Paragraph 7.3 Qualifications*** – Where acting for the Addressee, consider advising the Addressee that they should consider what investigations they wish to make in relation to these matters.

***Paragraph 7.4(d) Qualifications*** – This Certificate does not deal with VAT matters nor does it deal with other tax matters such as CGT base cost. Where acting for the Addressee, consider advising them to obtain specialist advice on these matters.

**Schedule 1 – Definitions and Interpretation – paragraph 1.1**

***Appurtenant Rights*** – Rights which are capable of affecting registered land without registration would include rights under section 72 of the Registration of Title Act 1964.

***Incumbrance paragraph (b)*** – This would include rights affecting registered land without registration under section 72 of the Registration of Title Act 1964.

***Loan Document*** – This document could be a loan document, facility agreement or facility letter and the definition should be tailored to reflect the Transaction.

***Transaction*** – This is the current transaction in which context the Certificate is being given. Descriptions might include “*Secured lending transaction in which the Property is provided as security by the Owner*” or *“Acquisition of the Property by the Owner*”.

**Schedule 2 Part 1 – The Property**

***Particulars*** – The description of the Property should include reference to a map and the map should be attached to the Certificate.

**Schedule 2 Part 2 – Appurtenant Rights**

The covenants, rights or easements or other Appurtenant Rights (as defined) specific to and enjoyed by the Property should be referred to and briefly summarised here. In setting out the Appurtenant Rights, it is not appropriate to copy and paste tracts of text from title deeds setting out easements, rights and reservations. The onus is on the certifying Firm to confirm the nature of the Appurtenant Rights by way of brief summary. Where appropriate, for instance in the case of a property within a managed estate which enjoys the benefit of usual rights of access and other easements over common areas, this can be achieved by a simple confirmation that “*The Property has the benefit of the usual easements and rights for a property of this nature on standard acceptable terms and conditions*”.

**Schedule 2 Part 3 - Incumbrances**

The security, covenants or easements or other Incumbrances (as defined) specific to the Property (and affecting the Property when the Certificate is given) should be referred to and briefly summarised here. As for the Appurtenant Rights, in setting out the Incumbrances, it is not appropriate to copy and paste tracts of text from title deeds. The onus is on the certifying Firm to confirm the nature and effect of the Incumbrances by way of brief summary. Where appropriate, for instance where the property itself is a form of managed estate (such as a shopping centre) which is subject to usual rights of access and other easements over common areas in favour of occupiers, this can be achieved by a simple confirmation that “*The [common areas of the] Property [are/is] subject to the usual easements and rights for a property of this nature in favour of occupiers of the Property on standard acceptable terms and conditions*”.

**Schedule 3 – Matters Affecting the Property**

***Paragraph 1.2 Title Documents and Stamp Duty*** – As at the date of the Certificate, the Transaction deed of assurance may not be stamped. This fact can be disclosed but arrangements for stamping should be dealt with in a document outside this Certificate.

***Paragraph 2 Registrations*** – As at the date of the Certificate, the Transaction deed of assurance may not be registered. This fact can be disclosed but arrangements for registration should be dealt with in a document outside this Certificate. The confirmation in paragraph 2.3 regarding lodgement or production of a map or plan of the Property (where required) should be read in conjunction with the qualifications in paragraphs 7.2 and 7.3 in the front end of this Certificate and the Owner’s confirmation in paragraph 9.2 of Schedule 3.

***Paragraph 3.2 (a) Access and Services*** – If a suitable letter confirming that the roads, footpaths and services abutting the Property are in charge is held with the Title Documents, it is not necessary to disclose that you are relying on that letter either here or at paragraph 3.4 (a).

***Paragraph 4.1 Appurtenant Rights*** – See Guidance to detail to be included in Schedule 2 Part 2. Disclosures to this statement should only deal with any property-specific, unusual or adverse matters.

***Paragraph 4.3 Appurtenant Rights*** – Any easements acquired by prescription which have not been registered will need to be disclosed.

***Paragraph 5.1 Incumbrances and Paragraph 6 Charges*** – Where provision may be made as part of the Transaction for the release of existing security, which may not in fact be released at the date of the Certificate, the existing security is correctly disclosed as an existing Incumbrance. While the detailed arrangements for release of the existing security and registration of that release will be separately agreed outside of the Certificate, the certifying Firm should refer to and stand over those arrangements as being satisfactory to procure the release of the existing security e.g. as follows: “*The Seller granted security in favour of [ • ] in the form of a [ • ] dated [ • ] between [ • ] and [ • ] which is registered against the title to the Property [as burden [ • ] on Part III of Folio [ • ] /with registration no. [ • ]] (the “****Existing Security****”). Satisfactory arrangements for the release in full of the Existing Security have been made as part of the Transaction so that it shall not in fact affect the Owner’s title to the Property or postpone or in any way prejudice the interests of the Addressee”*.

***Paragraph 10 Title Policies –*** Any disclosure against this statement should refer to the insurer, the date of the policy, the risk or defect covered, the insurance period, the insured parties (i.e. the Owner, successors in title, mortgagees and the PRA), the indemnity amount and any other relevant information.

***Approach to Planning and Building Control –*** Except that the statements are not confined to the period of ownership of the Owner (on the basis that the Addressee is interested in the entire planning history of the Property to the extent that this is known and appropriate disclosure can be made where it is not), the Certificate otherwise follows very closely both General Condition 32 of the Law Society of Ireland Conditions of Sale 2019 Edition and Law Society recommended practice as to the required evidence of compliance for title purposes with both planning and building control.

The statements together effectively certify that all of the expected documentation to show or evidence exemption and /or compliance with planning and building control is held with the title documents and that enquiries of the owner and formal searches do not reveal any non-compliance.

Crucially, the certifying firm does not itself certify compliance with planning and building control. It certifies that it has reviewed and is satisfied that all the expected documentation to evidence that compliance is in order. Further and in relation to evidence of compliance with Building Regulations,if a statutory “Certificate of Compliance on Completion” is required and registered in accordance with the Building Control (Amendment) Regulations 2014 (“**BCAR**”), the Certificate contains statements to confirm the availability and registration only of the statutory certificate of compliance and does not go on to confirm the availability of any further opinion on compliance with Building Regulations in relation to the same works.

It is important, when acting for the Addressee, to understand that being satisfied with the documentation to evidence compliance is different to being satisfied either: (a) that the development is in fact in compliance; or (b) that the Owner has all potential contractual and other rights and remedies to protect itself in the event of non-compliance (whether against the professional team, contractor and sub-contractors who carried out the works or against the person who provides an opinion or certificate which proves to be untrue). This is outside of the scope of a certificate of title and a matter for further investigation by the Addressee where the circumstances require it. The circumstances likely to require it include when the Property is recently built, high value, or planning is particularly critical or complex.

***Paragraph 14.2 Planning Search*** – Depending on the location of the Property, it may not always be possible for the planning search to be returned on the date of the Certificate. If this is the case, the certifier should disclose this and the Bank’s solicitor should review the disclosure and decide if it is reasonable given the location and nature of the Property.

***Paragraph 14.2(b)(i)(A) Planning Search*** – Disclosures here might include where the Certificate excludes compliance with certain conditions or refers to development up to a certain point only.

***Paragraph*** ***0 Planning Search*** – Evidence of compliance may be in the form of a letter from the relevant planning authority or it may be covered by the architect’s certificate or opinion on compliance. For further guidance see Law Society Conveyancing Committee practice note dated 27 August 2010.

***Paragraph 15.3 Building Control Legislation*** – A Certificate of Compliance on Completion would not be required for works to a commercial property if Part IIIC of the Building Control Regulations 1997 (S.I. No. 496 of 1997) did not apply to such works.

The nature of the documentation required to satisfy this requirement may differ from case-to-case. Where there is, amongst the Title Documents, a certificate of compliance for exempt cases which broadly follows the Law Society of Ireland specimen form as issued in March 2018, and which confirms that the works in question are: (i) exempt from the requirement for statutory certification under the 2014 Regulations, (ii) designed in accordance with the requirements of the Building Control Act and (iii) constructed in compliance with the Building Regulations (all as defined in this Certificate), then no further documentation should be required. Certification that the works were exempt from the requirement for statutory certification under the 2014 Regulations and the opinion on compliance with Building Regulations may be contained in two separate documents.

***Paragraph 16 Derelict Sites Act 1990*** – Where there is a possibility that the Property is on the Derelict Sites Register, the Searches conducted for the purpose of this Certificate should include an appropriate search on that register. If the Property is on the Derelict Sites Register, it must be ascertained whether a Derelict Site Levy has been made as this is a charge on the Property. Disclose any levy here and consider appropriate disclosure against statement 6 (*Charges*).

***Paragraph 17 Urban Regeneration and Housing Act 2015*** – Where there is a possibility that the Property is on the Vacant Sites Register, the Searches conducted for the purpose of this Certificate should include an appropriate search on that register. If the Property is on the Vacant Sites Register, it must be ascertained whether a Vacant Site Levy has been made as this is a charge on the Property (payable from 1 January 2019 in respect of 2018). Disclose any levy here and consider appropriate disclosure against statement 6 (*Charges*).

***Paragraph 19 –*** The Certificate does not consider the content of any Construction Documents because construction matters are not “matters of title” which fall to be reviewed in the context of certifying good marketable title. The purpose of this statement is to elucidate if there are any subsisting Construction Documents which the Addressee may require to be reviewed separately to the Certificate: (a) to confirm that the content of same are acceptable; and (b) to ascertain if any protections contained in the Construction Documents remain relevant, in which case the Addressee may require such protections to be extended to it e.g. collateral warranties from the Owner’s design team for a new building or collateral warranties from the Owner’s design team for works carried out within the last six (6) or twelve (12) years.

***Paragraph 21 Family Law*** – It is a matter for the Firm to satisfy itself that satisfactory evidence that the Property is not otherwise adversely affected by Family Law Legislation as part of its assessment of good marketable title.

***Paragraph 24 Environmental Notices and Permits*** – In terms of the comfort it gives to the Addressee on environmental risk, this Certificate of Title is limited to the Owner’s knowledge of its need to hold any permits and/or of breach and/or of notices received. If a positive disclosure to any of these statements is made or if the Property or its use is such that there are, or are likely to be, environmental concerns and/or compliance issues, the Addressee will need to be satisfied outside of the Certificate of Title as to those environmental issues and/or risks. Depending on the facts and the circumstances, this may involve the Addressee commissioning an independent expert report, or engaging an expert to review and analyse any report or information presented by the Owner or otherwise.

***Paragraph 25 Outgoings*** – “**BID**” levies for commercial properties should be disclosed, if applicable (where the Property is let, these are the liability of the tenant as occupier).

***Paragraph 28.2*** – This is intended to capture both deeds of assurance of unregistered property and deeds of transfer of registered property which have not yet been registered in the Land Registry.

**Schedule 4 – The Lease**

For Leasehold Property the Lessee under the Lease is the Owner.

**Schedule 4 Part 1 – Details of the Lease under which the Property is held**

***Leasehold Property*** – Where there is more than one property held under a lease, distinguish them by describing the property held under each lease as First Leasehold Property, Second Leasehold Property etc. If you are reporting on property held under a fee farm grant, Leasehold Property should be amended to Fee Farm Grant Property.

**Schedule 4 Part 2 – Statements**

***Paragraph 3.2 Rent Review*** – The disclosure will require to be detailed where the rent is not nominal e.g. revenue sharing lease.

***Paragraph 9 Service Charge*** – Service/estate charge mechanics should be briefly summarised where relevant and that summary should confirm whether payment has been made to the lessor/management company up to date.

***Paragraph 10 Rights of Re-Entry*** – When acting for the Addressee, a lender client should be notified of any forfeiture conditions and whether or not there are step-in rights.

***Paragraph 14 Superior Title*** – Take care in certifying leasehold property. If the Lease requires compliance with superior leasehold covenants the certifying Firm must examine these covenants regardless of whether the Lease was granted more than fifteen (15) years ago.

**Schedule 5 Part 1 – Report on Letting Documents**

The Certificate as drafted assumes that a full lease report will be prepared for each occupational lease affecting the title. Alternatively, if it is desired to certify the details of Letting Documents by reference to one or more standard forms of Letting Document (i.e. on an exceptions basis), this, and the extent of the details to be included in such an exceptions report, should be first agreed between the certifying Firm and the Addressee and appropriately incorporated in this Schedule.

***Section 2 List of documents reviewed*** – The report on each Letting Document is to be prepared on the basis of all of the documents comprising the entire of the relationship between the parties including all side letters, deeds of variation, licences for works, consents and other ancillary documents.

***Section 9.6 Other terms of note*** – Time being of the essence for the purposes of rent review would be a notable term to be disclosed here.

***Section 15.2 Prohibited uses –*** List any commercially relevant prohibited uses set out in the Lease e.g. exclusivities granted to other tenants. Standard prohibited uses such as residential use or immoral use should not be listed.

***Section 16 Insurance –*** Any restriction in the Letting Document on the Landlord’s entitlement to the insurance proceeds in the event that reinstatement is prevented for any reason would be a notable term to be disclosed under this heading.

***Section 20 Other material matters –*** This would include any material matters set out in side letters, oral concessions, deeds of variation, agreements for lease, licences to assign or sub-let, licences for works.

**Schedule 5 Part 2 – Statements**

***Paragraph 1 Details of the Letting Document*** – The Certifier should note that this definition reflects the Letting Document as amended by side letter/ agreement etc.

***Paragraph 2 Occupation and Possession*** – 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 2 of Schedule 5 Part 2, which relates to who is in occupation and 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 Addressee 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.

1. Appropriate defined term to be tracked through from the Loan Document. [↑](#footnote-ref-1)
2. Delete if this is the only certificate of title for the Transaction. [↑](#footnote-ref-2)
3. Delete if there are no connected reports or documents prepared by the Firm and provided to the Addressee in connection with the Transaction e.g. a construction or other specialist report. [↑](#footnote-ref-3)
4. Delete the following words in brackets if not applicable. [↑](#footnote-ref-4)
5. Delete where no title registration in the Land Registry is pending or arises as a result of the Transaction. [↑](#footnote-ref-5)
6. Where the Owner is an SPV and has acquired title from a group company consider including the following statement at the beginning of this clause:

“*For the purpose of this clause 4, the Owner shall be deemed to include* [*insert name of* *group company with the relevant knowledge*]”. [↑](#footnote-ref-6)
7. Delete if not applicable, e.g. refinance. [↑](#footnote-ref-7)
8. It is not necessary to replicate all Disclosures made in Schedule 3, Schedule 4 and Schedule 5 in this box. [↑](#footnote-ref-8)
9. If not applicable, the relevant sub-headings may be deleted. [↑](#footnote-ref-9)