



FIRST AID HUT LEASE

TOWN COUNCIL MEETING

REPORT 92/18

8 OCTOBER 2018

The purpose of this Report is for Members to consider and agree the draft new Lease for the First Aid Hut provided by the Isle of Wight Council.

No. DETAILS

1) BACKGROUND

- a) The Town Council took over the management of the old Lifeguard Hut on the Esplanade in 2012 as the base for its first Beach Safety Project following the Isle of Wight Council's withdrawal of funding for Lifeguards on the Island.
 - b) The basis of that arrangement was a five year lease.
 - c) By the time the lease expired in 2017 the Hut was in serious need of substantial repairs and the Town Council, at its meeting of 12 February 2018, approved expenditure of £5,060 for the refurbishment after the Isle of Wight Council had said it was unable to provide funds for that purpose but would offer a 10-year lease for the Town Council's continued management of it.
 - d) The Town Council agreed Heads of Terms for the new lease by Minute 36/18 of its meeting of 12 March 2018.
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2) DRAFT LEASE

- a) The Isle of Wight Council have now provided a draft for the 10-year lease and that was considered by the Assets & Services Group at its meeting of 25 September.
 - b) A copy of the draft lease is attached to this Report.
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3) RECOMMENDATION

The Town Council is recommended to agree the draft lease and authorise its signature and registration at the Land Registry.

Dated

2018

ISLE OF WIGHT COUNCIL
and
VENTNOR TOWN COUNCIL

LEASE

relating to

The Lifeguard Hut, Ventnor, Isle of Wight



TABLE OF CONTENTS

1.	Interpretation	5
2.	Grant	8
3.	Ancillary rights	8
4.	Rights excepted and reserved	8
5.	Third Party Rights.....	10
6.	The Annual Rent	10
7.	Insurance	10
8.	Rates and taxes	11
9.	Utilities.....	11
10.	VAT	12
11.	Default interest and interest.....	12
12.	Costs.....	12
13.	Set-off.....	13
14.	Registration of this Lease	13
15.	Assignments.....	13
16.	Underlettings	14
17.	Charging.....	15
18.	Prohibition of other dealings	15
19.	Registration and notification of dealings and occupation	15
20.	Closure of the registered title of this Lease	16
21.	Repairs.....	16
22.	Decoration.....	16
23.	Alterations	16
24.	Signs	17
25.	Returning the Property to the Landlord	17
26.	Use.....	18
27.	Compliance with laws	18
28.	Encroachments, obstructions and acquisition of rights	19
29.	Breach of repair and maintenance obligation.....	19
30.	Indemnity.....	20
31.	Landlord's covenant for quiet enjoyment	20
32.	Re-entry and forfeiture.....	20
33.	Joint and several liability.....	20
34.	Entire agreement.....	21
35.	Notices, consents and approvals.....	21
36.	Governing law	22
37.	Jurisdiction	22
38.	Exclusion of sections 24-28 of the LTA 1954.....	22
39.	Break Clause.....	22
40.	Contracts (Rights of Third Parties) Act 1999.....	23

PRESCRIBED CLAUSES

LR1. Date of lease

LR2. Title number(s)

LR2.1 Landlord's title number(s)

IW83129

LR2.2 Other title numbers

None

LR3. Parties to this Lease

Landlord

ISLE OF WIGHT COUNCIL, of County Hall, High Street, Newport, Isle of Wight
PO30 1UD

Tenant

VENTNOR TOWN COUNCIL, of 1 Salisbury Gardens, Dudley Road, Ventnor, Isle of
Wight PO38 1EJ

Other parties

None

LR4. Property

In the case of a conflict between this clause and the remainder of this Lease then, for the purposes of registration, this clause shall prevail

See the definition of "Property" in clause 1.1 of this Lease.

LR5. Prescribed statements etc

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003

None

LR5.2 This Lease is made under, or by reference to, provisions of:

None

LR6. Term for which the Property is leased

The term as specified in this Lease at clause 1.1 in the definition of "Contractual Term"

LR7. Premium

None

LR8. Prohibitions or restrictions on disposing of this Lease

This Lease contains a provision that prohibits or restricts dispositions

LR9. Rights of acquisition etc

LR9.1 Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None

LR9.2 Tenant's covenant to (or offer to) surrender this Lease

None

LR9.3 Landlord's contractual rights to acquire this Lease

None

LR10. Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property

None

LR11. Easements

LR11.1 Easements granted by this Lease for the benefit of the Property

The easements as specified in clause 3 of this Lease

LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property

The easements as specified in clause 4 of this Lease

LR12. Estate rentcharge burdening the Property

None

LR13. Application for standard form of restriction

The Parties to this Lease apply to enter the following standard form of restriction

None

LR14. Declaration of trust where there is more than one person comprising the Tenant

None

This lease is made on the

day of

2018

BETWEEN

- (1) ISLE OF WIGHT COUNCIL, of County Hall, High Street, Newport, Isle of Wight PO30 1UD (the '**Landlord**'); and
- (2) VENTNOR TOWN COUNCIL, of 1 Salisbury Gardens, Dudley Road, Ventnor, Isle of Wight PO38 1EJ (the '**Tenant**')

AGREED TERMS

1. Interpretation

The following definitions and rules of interpretation apply in this Lease

1.1 Definitions:

'Act of Insolvency';

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant;
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant;
- (e) the commencement of a voluntary winding-up in respect of the Tenant, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;
- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant;
- (g) the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck-off;
- (h) the Tenant otherwise ceasing to exist (but excluding where the Tenant dies); or
- (i) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (*SI 1994/2421*) (as amended), and a limited liability partnership (as

defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (*SI 2001/1090*) (as amended)

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction

'Annual Rent'; rent at an initial rate of ONE POUND (£1.00) per annum if and then as revised pursuant to this Lease and any interim rent determined under the LTA 1954

'Contractual Term'; a term of ten years beginning on, and including 1 April 2018 and ending on, and including 31 March 2028

'Default Interest Rate'; 4% per annum above the Interest Rate

'Insured Risks'; means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Tenant decides to insure against from time to time and **Insured Risk** means any one of the Insured Risks

'Interest Rate'; the base rate from time to time of National Westminster Bank plc, or if that base rate stops being used or published then a comparable commercial rate reasonably determined by the Landlord

'Landlord's Neighbouring Property'; each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as Ventnor, Isle of Wight and registered under title number IW83129

'LTA 1954'; Landlord and Tenant Act 1954

'Permitted Use'; for the purpose of First Aid, Beach Safety and Lifeguarding only

'Property'; All that land known as the Lifeguard Hut, Ventnor, Isle of Wight shown edged red on the attached plan

'Rent Commencement Date'; 1 April 2018

'Rent Payment Dates'; 1 April in each year of the Contractual Term

'Reservations'; all of the rights excepted, reserved and granted to the Landlord by this Lease

'Service Media'; all media for the supply or removal of electricity, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media

'Third Party Rights'; all rights, covenants and restrictions affecting the Property including if any the matters referred to at the date of this Lease in the property and charges register of title number IW83129

'VAT'; value added tax chargeable under the VATA 1994 and any similar replacement tax and any similar additional tax

'VATA 1994'; Value Added Tax Act 1994

- 1.2 A reference to this **lease**, except a reference to the date of this Lease or to the grant of the lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it
- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this Lease. A reference to the **Tenant** includes a reference to its successors in title and assigns.
- 1.4 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995
- 1.6 Unless the context otherwise requires, a reference to the **Property** is to the whole and any part of it
- 1.7 A reference to the **term** is to the Contractual Term
- 1.8 A reference to the **end of the term** is to the end of the term however it ends
- 1.9 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 35.5 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 35.6
- 1.10 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England
- 1.11 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them
- 1.12 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it
- 1.13 Any obligation on the Tenant not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person
- 1.14 Unless the context otherwise requires, any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as

illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms

- 1.15 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)
- 1.16 A reference to **writing** or **written** does not include e-mail or fax
- 1.17 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this Lease and references to paragraphs are to paragraphs of the relevant Schedule
- 1.18 Clause, Schedule and paragraph headings shall not affect the interpretation of this Lease
- 1.19 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders
- 1.20 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular

2. Grant

- 2.1 The Landlord with full title guarantee lets the Property to the Tenant for the Contractual Term
- 2.2 The grant is made together with the ancillary rights set out in clause 3 excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:
 - 2.3.1 the Annual Rent and all VAT in respect of it;
 - 2.3.2 all interest payable under this Lease; and
 - 2.3.3 all other sums due under this Lease

3. Ancillary rights

- 3.1 Except as mentioned in clause 3.2 Neither the grant of this Lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Tenant may have any right over neighbouring property, and section 62 of the LPA 1925 does not apply to this Lease
- 3.2 The Landlord grants to the Tenant a right of way with or without vehicles or on foot only (as appropriate) over the Landlords adjoining property for the purpose of gaining access to and egress from the Property

4. Rights excepted and reserved

- 4.1 The following rights are excepted and reserved from this Lease to the Landlord for the benefit of the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

- 4.1.1 rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- 4.1.2 the right to use and to connect into Service Media at the Property which are in existence at the date of this Lease or which are installed or constructed during the commencement of the Contractual Term;
- 4.1.3 at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;
- 4.1.4 the right to build on or into any boundary wall of the Property in connection with any of the Reservations; and
- 4.1.5 the right to re-route any Service Media at or serving the Property or re-route any means of access to or egress from the Property;
notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or loss of amenity for the Property
- 4.2 The Landlord reserves the right to enter the Property:
 - 4.2.1 to repair, maintain or replace any Service Media or structure relating to any of the Reservations; and
 - 4.2.2 for any other purpose mentioned in or connected with:
 - (a) this Lease;
 - (b) the Reservations; and
 - (c) the Landlord's interest in the Property
- 4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord
- 4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant
- 4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of those Reservations except for:
 - 4.5.1 physical damage to the Property; or
 - 4.5.2 any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability

5. Third Party Rights

- 5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights (insofar as those obligations relate to the Property) and shall not do anything (even if otherwise permitted by this Lease) that may interfere with any Third Party Right
- 5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms

6. The Annual Rent

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it on or before the Rent Payment Date. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant

7. Insurance

- 7.1 The Tenant shall:-
 - 7.1.1 Keep the Property insured against loss or damage by the Insured Risks for the full reinstatement cost (taking inflation of building costs into account)
 - 7.1.2 The Tenant shall responsible for providing the Landlord with the current property rebuild value within six months of the start of the Lease and to provide the same every three to five years for the remaining term of the lease
- 7.2 The Tenant's obligation to insure is subject to:
 - 7.2.1 any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
 - 7.2.2 insurance being available in the London insurance market on reasonable terms acceptable to the Landlord
- 7.3 Insure against third party claims in respect of the Property and in respect of the operation of this Lease in the sum of at least Ten Million (£10,000,000) Pounds with a recognised Insurance Company or such higher sum as the Landlord or Tenant reasonably consider necessary to provide sufficient insurance and the Tenant undertakes to increase the level of insurance should the above sum be reasonably deemed insufficient by the Landlord and upon request of the Landlord to produce the policy of such insurance and the receipt for the latest premium. If the Tenant fails to insure in accordance with this clause the Landlord shall be entitled upon default to insure against third party claims and recover the cost from the Tenant
- 7.4 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use then, unless the policy of insurance of the Property has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on

the Property with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use, or until the end of three years from the date of damage or destruction, if sooner

- 7.5 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this Lease by giving notice to the Landlord if, following damage or destruction by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use within three years after the date of damage or destruction. On giving this notice this Lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this Lease. Any proceeds of the insurance shall belong to the Landlord

8. Rates and taxes

- 8.1 The Tenant shall pay all present and future rates, taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, except:
- 8.1.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this Lease; or
- 8.1.2 any taxes, other than VAT and insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this Lease
- 8.2 If any rates, taxes or other impositions and outgoings are payable in respect of the Property together with other property, the Tenant shall pay a fair proportion of the amount payable
- 8.3 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord
- 8.4 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost

9. Utilities

- 9.1 The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property
- 9.2 If any of those costs are payable in relation to the Property together with other property, the Tenant shall pay a fair proportion of all those costs
- 9.3 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities

10. VAT

- 10.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this Lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes
- 10.2 Every obligation on the Tenant, under or in connection with this Lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994

11. Default interest and interest

- 11.1 If any Annual Rent or any other money payable under this Lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period beginning on the due date to and including the date of payment
- 11.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this Lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this Lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period beginning on the date the amount (or each part of it) became due until the date it is accepted by the Landlord

12. Costs

- 12.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses incurred (both during and after the end of the term) in connection with or in contemplation of any of the following:
- 12.1.1 the enforcement of the tenant covenants of this Lease;
- 12.1.2 serving any notice in connection with this Lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- 12.1.3 serving any notice in connection with this Lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- 12.1.4 the preparation and service of a schedule of dilapidations in connection with this Lease; or
- 12.1.5 any consent or approval applied for under this Lease, whether or not it is granted

12.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this Lease) that obligation extends to those costs and expenses assessed on a full indemnity basis

13. Set-off

The Annual Rent and all other amounts due under this Lease shall be paid by the Tenant in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law)

14. Registration of this Lease

14.1 Promptly following the grant of this Lease, the Tenant shall apply to register this Lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title

15. Assignments

15.1 The Tenant shall not assign the whole or any part of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld

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

- 15.2.1 a condition that the assignor enters into an authorised guarantee agreement which:
- (a) is in respect of all the tenant covenants of this Lease;
 - (b) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;
 - (c) imposes principal debtor liability on the assignor;
 - (d) requires (in the event of a disclaimer of liability under this Lease) the assignor to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and
 - (e) is otherwise in a form reasonably required by the Landlord;

15.2.2 a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this Lease in such form as the Landlord may reasonably require.

15.3 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment

if any of the following circumstances exist at the date of the Tenant's application for consent to assign this Lease:

- 15.3.1 the Annual Rent or any other money due under this Lease is outstanding or there has been a breach of covenant by the Tenant that has not been remedied;
- 15.3.2 in the Landlord's reasonable opinion the assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants and conditions contained in the lease; or
- 15.3.3 the assignee and the Tenant are group companies within the meaning of section 42 of the LTA 1954
- 15.4 The Landlord and Tenant agree that the Tenant will pay the Landlord 5% of any purchase price agreed between the Tenant and an assignee in relation to the Property by way of premium for each assignment of the Property to an assignee, such payment to be made within five working days of any assignment.
- 15.5 Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.

16. Underlettings

- 16.1 The Tenant shall not underlet the whole or any part of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld
- 16.2 The Tenant shall not underlet the Property:
 - 16.2.1 together with any property or any right over property that is not included within this Lease;
 - 16.2.2 at a fine or premium or reverse premium; nor
 - 16.2.3 allowing any rent free period to the undertenant
- 16.3 Any underletting by the Tenant shall be by deed and shall include:
 - 16.3.1 an agreement between the Tenant and the undertenant that the provisions of sections 24 to 28 of the LTA 1954 are excluded from applying to the tenancy created by the underlease;
 - 16.3.2 the reservation of a rent which is not less than the full open market rental value of the Property at the date the Property is underlet and which is payable at the same times as the Annual Rent under this Lease;
 - 16.3.3 provisions for the review of rent at the same dates and on the same basis as the review of rent in this Lease, unless the term of the underlease does not extend beyond the next Review Date;
 - 16.3.4 a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in

their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this Lease, except the covenants to pay the rents reserved by this Lease; and

16.3.5 provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this Lease, and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the Annual Rent) than those in this Lease

16.4 In relation to any underlease granted by the Tenant, the Tenant shall:

18.4.1 not vary the terms of the underlease nor accept a surrender of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld;

16.4.2 enforce the tenant covenants in the underlease and not waive any of them nor allow any reduction in the rent payable under the underlease; and

16.4.3 ensure that in relation to any rent review the revised rent is not agreed without the approval of the Landlord, such approval not to be unreasonably withheld

17. Charging

17.1 The Tenant shall not charge the whole of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld

17.2 The Tenant shall not charge part only of this Lease

18. Prohibition of other dealings

Except as expressly permitted by this Lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this Lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this Lease at HM Land Registry or by reason only of joint legal ownership)

19. Registration and notification of dealings and occupation

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

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

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

19.1.3 the making of any other arrangement for the occupation of the Property

19.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion

of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title)

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

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

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

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

20. Closure of the registered title of this Lease

Within one month after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this Lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application

21. Repairs

21.1 The Tenant shall keep the Property clean and tidy and in good repair and condition and shall ensure that any Service Media within and exclusively serving the Property are kept in good working order

21.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

21.2.1 the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or

21.2.2 the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 7.2

22. Decoration

22.1 The Tenant shall decorate the outside and the inside of the Property as often as is reasonably necessary

22.2 All decorations shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work

23. Alterations

23.1 The Tenant shall not make any external or structural alteration or addition to the Property without the consent of the Landlord, such consent not to be unreasonably withheld. and shall not make any opening in any boundary structure of the Property

- 23.2 The Tenant shall not install any Service Media on the exterior of the Property nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld
- 23.3 The Tenant shall not make any internal, non-structural alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld. Any alterations are to be made in a good and workmanlike manner.
- 23.4 The Tenant shall not carry out any alteration to the Property which would, or may reasonably be expected to, have an adverse effect on the asset rating in any Energy Performance Certificate commissioned in respect of the Property.

24. Signs

- 24.1 In this clause **Signs** include signs, fascia, placards, boards, posters and advertisements
- 24.2 The Tenant shall not attach any Signs to the Property without the consent of the Landlord, such consent not to be unreasonably withheld
- 24.3 Before the end of the term, the Tenant shall remove any Signs placed by it at the Property and shall make good any damage caused to the Property by that removal
- 24.4 The Tenant shall allow the Landlord to fix to and keep at the Property any sale or re-letting board as the Landlord reasonably requires

25. Returning the Property to the Landlord

- 25.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this Lease
- 25.2 No later than the end of the term, the Tenant shall remove items it has fixed to the Property, remove any alterations it has made to the Property and make good any damage caused to the Property by that removal
- 25.3 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it
- 25.4 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal
- 25.5 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its

obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord

26. Use

- 26.1 The Tenant shall not use the Property for any purpose other than the Permitted Use
- 26.2 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, its other tenants or any other owner or occupier of neighbouring property
- 26.3 The Tenant shall not overload any structural part of the Property nor any machinery or equipment at the Property nor any Service Media at or serving the Property

27. Compliance with laws

- 27.1 The Tenant shall comply with all laws relating to:
 - 27.1.1 the Property and the occupation and use of the Property by the Tenant;
 - 27.1.2 the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used or operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation;
 - 27.1.3 any works carried out at the Property; and
 - 27.1.4 all materials kept at or disposed from the Property
- 27.2 The Tenant will be responsible for all health and safety matters relating to the use of the Property including compliance with The Lifting Operations and Lifting Equipment Regulations 1998 and The Provision and Use of Work Equipment Regulations 1998 regarding pressure vessels and lifting equipment and all other relevant legislation
- 27.3 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this Lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier
- 27.4 Within five working days after receipt of any notice or other communication affecting the Property (and whether or not served pursuant to any law) the Tenant shall:
 - 27.4.1 send a copy of the relevant document to the Landlord; and
 - 27.4.2 take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require
- 27.5 The Tenant shall not apply for any planning permission for the Property without the Landlord's consent
- 27.6 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this Lease

27.7 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection

28. Encroachments, obstructions and acquisition of rights

28.1 The Tenant shall not grant any right or licence over the Property to a third party

28.2 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:

28.2.1 immediately inform the Landlord and shall give the Landlord notice of that encroachment or action; and

28.2.2 take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action

28.3 The Tenant shall not obstruct the flow of light or air to the Property nor obstruct any means of access to the Property

28.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or that the means of access to the Property is enjoyed with the consent of any third party

28.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:

28.5.1 immediately inform the Landlord and shall give the Landlord notice of that action; and

28.5.2 take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction

29. Breach of repair and maintenance obligation

29.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this Lease relating to the condition or repair of the Property

29.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed

29.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand

29.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 322

30. Indemnity

The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) suffered or incurred by the Landlord arising out of or in connection with any breach of any tenant covenants in this Lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them

31. Landlord's covenant for quiet enjoyment

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

32. Re-entry and forfeiture

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

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

32.1.2 any breach of any condition of, or tenant covenant, in this Lease;

32.1.3 an Act of Insolvency

32.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this Lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor

33. Joint and several liability

33.1 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this Lease. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them

33.2 The obligations of the Tenant arising by virtue of this Lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant

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

34. Entire agreement

- 34.1 This Lease constitutes the whole agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter
- 34.2 Each party acknowledges that in entering into this Lease it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently)
- 34.3 Nothing in this Lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this Lease
- 34.4 Nothing in this clause shall limit or exclude any liability for fraud

35. Notices, consents and approvals

- 35.1 Except where this Lease specifically states that a notice need not be in writing, any notice given under or in connection with this Lease shall be:
 - 35.1.1 in writing and for the purposes of this clause an e-mail is not in writing; and
 - 35.1.2 given by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the party's principal place of business;
- 35.2 If a notice complies with the criteria in clause 35.1, whether or not this Lease requires that notice to be in writing, it shall be deemed to have been received:
 - 35.2.1 if delivered by hand, at the time the notice is left at the proper address;
 - 35.2.2 if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting;
- 35.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution
- 35.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this Lease.
- 35.5 Where the consent of the Landlord is required under this Lease, a consent shall only be valid if it is given by deed, unless:
 - 35.5.1 it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and
 - 35.5.2 it expressly states that the Landlord waives the requirement for a deed in that particular caseIf a waiver is given, it shall not affect the requirement for a deed for any other consent
- 35.6 Where the approval of the Landlord is required under this Lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:
 - 35.6.1 the approval is being given in a case of emergency; or

35.6.2 this Lease expressly states that the approval need not be in writing

35.7 If the Landlord gives a consent or approval under this Lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party

36. Governing law

This Lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

37. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Lease or its subject matter or formation (including non-contractual disputes or claims)

38. Exclusion of sections 24-28 of the LTA 1954

38.1 The parties confirm that:

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

38.1.2 the Tenant made a simple declaration dated in accordance with the requirements of section 38A(3)(b) of the LTA 1954 a certified copy of which declaration is annexed to this Lease; and

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

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

39. Break Clause

39.1 Definitions:

Break Date: a date which is at least 3 months after service of the Break Notice.

Break Notice: written notice to terminate this lease specifying the Break Date and the reason for the termination.

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

39.3 A Break Notice served by the Tenant shall have no effect if, at the Break Date:

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

39.3.2 vacant possession of the whole of the Property is not given.

- 39.4. A Break Notice served by the Landlord shall only be permitted if the Property is required for redevelopment purposes
- 39.5 Subject to Clause 39.2, following service of a Break Notice this lease shall terminate on the Break Date.
- 39.6 Termination of this lease on the Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease.

40. Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this Lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease.

IN WITNESS WHEREOF THIS DOCUMENT HAS BEEN EXECUTED AND DELIVERED ON THE DATE FIRST STATED ABOVE.

The COMMON SEAL of ISLE OF WIGHT COUNCIL was hereunto affixed in the presence of:-

.....
 Authorised Signatory

Executed as Deed by
 VENTNOR TOWN COUNCIL
 by two Council Members
 in the presence of:

.....
 Signature of Witness

.....
 Authorised Signatory

.....

 Name and Address of Witness

.....
 Authorised Signatory