



The purpose of this paper is to ask Members to agree a draft lease for the Spring Hill Gardens and adjacent paved area.

No. DETAIL

1) BACKGROUND

- a) The Town Council considered draft Heads of Terms for a 30-year lease enabling the Town Council to manage Spring Hill Gardens and the adjacent paved area at its meeting of 12 December 2016.
 - b) Minute 169/16 of the Meeting records the decision as follows:
It was proposed by the Mayor, seconded by Councillor Ken Knapman and unanimously resolved that the Town Council:
accepts the Heads of Terms as the basis of a draft lease subject to further discussion with the Isle of Wight Council about the proposed break clause.
 - c) A draft lease has now been offered by the Isle of Wight Council and is attached to this Report.
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2) DRAFT LEASE

- a) The draft lease provides a clear statement of the Break Clause referred to in 1(b) above to give the Isle of Wight Council protection should the area be needed for redevelopment purposes while providing the Town Council with clarity for grant application purposes in the minimum of five years plus one year's notice in Clause 38.
 - b) Councillor Brian Lucas asked that clarification be sought in relation to Clause 21.1 given the damage caused to the boundary wall with the Central Car Park by traffic within the car park.
 - c) The Isle of Wight Council Officer has responded that the Lease only refers to boundaries that are that Council's responsibility and that the boundary wall with the car park is the responsibility of Island Roads.
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3) RECOMMENDATION

The Town Council is recommended to consider and, with any proposed amendments, to agree the draft lease for signature.

LEASE

relating to Spring Hill Gardens, Ventnor, Isle of Wight

Dated

2017

- (1) ISLE OF WIGHT COUNCIL
- (2) VENTNOR TOWN COUNCIL

PREScribed CLAUSES

LR1. Date of Lease

2017

LR2. Title Number

Landlord's title number

IW47514 (freehold)

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

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 clauses 4 and 5 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 against the title of the Property

None.

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

None

This Lease is made on

2017

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**").

It is agreed as follows:

1 Interpretation

1.1 The definitions and rules of interpretation set out in this clause apply to this Lease.

"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; or
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant; or
- (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; or
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant; or
- (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; or

(f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant; or

(g) the Tenant otherwise ceasing to exist; or

(h) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant.

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 £1 per annum (if requested);
"Contractual Term"	a term of 30 years beginning on, and including the date of this Lease;
"Default Interest Rate"	four percentage points 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 Landlord decides to insure against from time to time and " Insured Risk " means any one of the Insured Risks
"Interest Rate"	interest at the base rate from time to time of National Westminster Bank Plc, or if that base rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord
"LTA 1954"	Landlord and Tenant Act 1954;
"Permitted Use"	for public open gardens and seating area for the use and enjoyment by members of the public;

"Plan"	plan marked 'Plan" annexed to this Lease;
"Property"	All that property known as Spring Hill Gardens, Ventnor, Isle of Wight together with seating area as shown edged red on the Plan and registered under Title Number IW47514;
"Rent Commencement Dates"	the date of this Lease;
"Rent Payment Date"	first day of April every year;
"Reservations"	all of the rights excepted by, reserved and granted to the Landlord by this Lease;
"Service Media"	all media for the supply or removal of heat, electricity, gas, 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, easements, covenants and restrictions affecting the Property including the matters referred to at the date of this Lease in relation to the Property under Title Numbers IW47514;
"VAT"	value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or 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 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
- 1.12 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.13 Any obligation in this Lease on the Tenant not to do something includes an obligation not to agree to or suffer 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, where the words "**include(s)**" or "**including**" are used in this Lease, they are deemed to have the words "without limitation" following them.
- 1.15 A "**person**" includes a corporate or unincorporated body.
- 1.16 References to "**writing**" or "**written**" do not include faxes or email.
- 1.17 Except where a contrary intention appears, a reference to a clause is a reference to a clause of this Lease.
- 1.18 Clause and paragraph headings do not affect the interpretation of this Lease.

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

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.

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 installed or constructed during 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 provided that they do not materially affect the use and enjoyment of the Property for the Permitted Use.

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 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 Rights.
- 5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Rights to enter the Property in accordance with its terms.

6 The Annual Rent

- 6.1 The Tenant shall pay the Annual Rent (if demanded) on 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 keep the Property insured against loss or damage by the Insured Risks for the full reinstatement cost (taking inflation of building costs into account).
- 7.2 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 (other than any insurance for plate glass) shall belong to the Landlord
- 7.3 The Tenant covenants with the Landlord to:

- 7.3.1 insure against third party claims in respect of the Property and in respect of the operation of this Agreement in the sum of at least Five million pounds (£5,000,000) with a recognised Insurance Company or such higher sum as the Council 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 Council and upon request of the Council 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 Council shall be entitled upon default to insure against third party claims and recover the cost from the Tenant;
- 7.3.2 produce to the Landlord on demand every insurance policy effected in accordance with this Lease and the receipt for the then current year's premium and if so required must supply the Landlord with a copy of every such policy;

8 Outgoings, Rates and Taxes

- 8.1 The Tenant shall pay all present and future rates, taxes, outgoings and other impositions payable in respect of the Property, its use and any works carried out there, other than:
- 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 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 VAT

- 9.1 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.
- 9.2 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.

10 Utilities

- 10.1 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
- 10.2 If any of these costs are payable in relation to the Property together with other property, the Tenant shall pay a fair proportion of all those costs
- 10.3 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities

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 at the Default Interest Rate (both before and after any judgment) on that amount for the period from 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 from 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 Compensation on Vacating

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

14 Set-Off

The Annual Rent and all other money due under this Lease are to 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).

15 Registration of this Lease

15.1 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.

16 Assignments

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

16.2 The Tenant shall not assign part only of this Lease

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

16.3.1 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;

16.3.2 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.

16.4 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:

16.4.1 the Annual Rent or any other money due under this Lease is outstanding or there has been a [material] breach of covenant by the Tenant that has not been remedied; or

16.4.2 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;

16.5 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

17 Underlettings

17.1 The Tenant shall not underlet the whole of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld

17.2 The Tenant shall not underlet part only of the Property

17.3 The Tenant shall not underlet the Property:

17.3.1 together with any property or any right over property that is not included within this Lease;

17.3.2 at a fine or premium or reverse premium; nor

17.3.3 allowing any rent free period to the undertenant [that exceeds the period as is then usual in the open market in respect of such a letting]

17.4 Any underletting by the Tenant shall be by deed and shall include:

17.4.1 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;

- 17.4.2 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;
 - 17.4.3 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;
 - 17.4.4 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
 - 17.4.5 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
- 17.5 In relation to any underlease granted by the Tenant, the Tenant shall:
- 17.5.1 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;
 - 17.5.2 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
 - 17.5.3 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
- 17.6 For the avoidance of doubt the Landlord's consent will be deemed to have been granted in respect of any recreational or leisure hires located on the Property where such hires are granted by the Tenant in the normal course of its business

18 Charging

- 18.1 The Tenant shall not charge the whole of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld
- 18.2 The Tenant shall not charge part only of this Lease.

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; or

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;

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

19.3.3 pay the Landlord's solicitors a registration fee of £50 (plus VAT).

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

20.1 Immediately 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 and Decoration

21.1 The Tenant will be responsible for all repair and maintenance of the property, structures, grounds, boundaries and other facilities constructed upon the demised premises and for keeping these in good and substantial repair and condition.

21.2 The Tenant will be responsible for keeping any buildings erected or to be erected in good decoration

22 Alterations

22.1 The Tenant shall not make any external or structural alteration or addition to the Property or erect new buildings and shall not make any opening in any boundary structure of the Property without the consent of the Landlord and the Tenant will

submit to the Landlord all plans and specifications relating to any such proposed alterations or additions for prior approval.

- 22.2 The Tenant shall not install any Service Media on 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.
- 22.3 Any alterations or additions to the Property shall be carried out in accordance with the relevant British Standards where applicable and in any event to a good and workmanlike standard using good quality new materials fit for their purpose.
- 22.4 The Tenant will be responsible for obtaining all relevant planning, building regulation, environmental and other consent required for undertaking any alterations to the Property, or for the occupation and use thereof, prior to implementing any such alteration or use.

23 Signs

- 23.1 In this clause "**Signs**" include signs, fascia, placards, boards, posters and advertisements.
- 23.2 The Tenant shall not attach any Signs to the Property without the consent of the Landlord, such consent not to be unreasonably withheld.
- 23.3 Before the end of the term, the Tenant shall remove any Signs placed by it at the Property and shall immediately make good any damage caused to the Property by that removal.
- 23.4 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.

24 Returning the Property to the Landlord

- 24.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this Lease.
- 24.2 Unless otherwise required by the Landlord, no later than two weeks before 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.
- 24.3 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.
- 24.4 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.

- 24.5 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.

25 Use

- 25.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 25.2 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.
- 25.3 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.
- 25.4 The Tenant shall keep the Property open for public use and access at all times save where, in the Tenant's reasonable discretion, the use of the Property needs to be restricted or temporarily stopped for reasons relating to health and safety or where continued use would be otherwise unlawful, provided always that the Tenant shall use its best endeavours to make the Property available for use as soon as possible after being prevented from doing so.

26 Funding

- 26.1 The benefits of and responsibilities under any grant or other source of funding in existence in respect of the Property as at the date of this Lease shall belong to the Tenant with effect from the date of this Lease.
- 26.2 The Tenant covenants that it shall comply with the entire conditions (including any repayment obligations) applicable to such grant or other source of funding, and indemnify the Landlord in full against any claim arising as a result of the Tenant's failure to so comply.
- 26.3 The Tenant will be responsible and accountable for the application of any future grants or funding from third parties in respect of the Property or any future improvements or alterations thereto.

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 of all Service Media and machinery and equipment at or serving the Property;

- 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 LOLER and PUWER 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 any buildings erected on 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 give notice to the Landlord; 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 notify the Landlord; 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 30.

30 Indemnity

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) arising from 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 and any documents annexed to it, they do not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) before the date of this Lease.

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 A notice given under or in connection with this Lease shall be:

35.1.1 in writing unless this Lease expressly states otherwise and for the purposes of this clause an e-mail is not in writing; or

- 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 is given in accordance with clause 33.1, 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; or
- 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 a person duly authorised on behalf of the Landlord; and
- 35.5.2 it expressly states that the Landlord waives the requirement for a deed in that particular case.
- If 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 and Jurisdiction

- 36.1 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.
- 36.2 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Lease or its subject matter or formation (including non-contractual disputes or claims).

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

37.1 The parties confirm that:

37.1.1 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, [not less than 14 days] before this Lease was entered into a certified copy of which notice is annexed to this Lease;

37.1.2 the Tenant made a 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

37.1.3 there is no agreement for lease to which this Lease gives effect

37.2 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

38. Break Clause

38.1 Definitions:

Break Date: a date which is at least 12 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.

38.2 The Landlord may terminate this lease by serving a Break Notice at any time after the fifth anniversary of the lease on the Tenant.

38.3 A Break Notice served by the Landlord shall only be permitted if the Property is required for redevelopment purposes

38.5 Subject to Clause 38.2, following service of a Break Notice this lease shall terminate on the Break Date.

38.6 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.

39. Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this Lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

This Lease has been executed and delivered as a Deed by the parties on the date first above written

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

.....

Authorised Signatory

Executed as a deed by
NEWPORT PARISH COUNCIL acting
in the presence of:

.....

Parish Clerk

.....

[SIGNATURE OF WITNESS]

.....

.....

.....

.....

.....

[NAME AND ADDRESS OF WITNESS]

Spring Hill Gardens, Ventnor [Scale 1:1250 @ A4]

