

**DATED**

**2022**

**DORSET COUNCIL**

**to**

**WEYMOUTH TOWN COUNCIL**

**LEASE**

**of**

**Lodmoor Country Park Weymouth**

Dorset Council  
South Walks House  
South Walks Road  
Dorchester  
DT1 1UZ  
18-0184/HN



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**LR1. Date of lease**

**LR2. Title number(s)**

**LR2.1 Landlord's title number(s)**

DT316589

**LR2.2 Other title numbers**

None

**LR3. Parties to this lease**

**Landlord**

**DORSET COUNCIL** of South Walks House South Walks Road Dorchester Dorset DT1 1UZ

**Tenant**

**WEYMOUTH TOWN COUNCIL** of Council Offices Commercial Road Weymouth Dorset DT4 8NG

**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**

None.

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

**THIS LEASE** is dated

## **Parties**

- (1) **DORSET COUNCIL** of South Walks House South Walks Road Dorchester Dorset DT1 1UZ (**'Landlord'**)
- (2) **WEYMOUTH TOWN COUNCIL** of Council Offices Commercial Road Weymouth Dorset DT4 8NG (**'Tenant'**)

## **Agreed terms**

### **1. Interpretation**

The following definitions and rules of interpretation apply in this lease.

#### **1.1 Definitions:**

**Access:** the roads and paths shown coloured green on Plan 1 or such other roads and paths as may be designated as the Access under the provisions of clauses 3 and 4 of 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 any guarantor;
- b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;
- 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 any guarantor;
- d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;
- e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor 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 or any guarantor;

- g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off;
- h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies);
- i) the making of an application for a bankruptcy order the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor; or

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 the annual rate of a peppercorn (if demanded).

**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.

**Building:** the building coloured blue on Plan 2

**Café Tenant:** the tenant or occupier from time to time of that part of the Building which is not edged red

**Contractual Term:** a term of years beginning on and including 1<sup>st</sup> April 2019 and ending on and including 1<sup>st</sup> April 2144.

**Default Interest Rate:** 4% per annum above the Interest Rate.

**Equipment:** all fixtures fittings and equipment situated at the Property at the date of this lease or hereafter provided installed or erected by the Tenant during the Contractual Term including but not limited to all items of play or exercise equipment, fencing, seating and litter bins and other similar receptacles.

**Insured Risks:** means fire, explosion, lightning, earthquake and impact by aircraft and articles dropped from them and such 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 HSBC 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 being the remainder of the land registered at HM Land Registry with title number DT316589

**LTA 1954:** Landlord and Tenant Act 1954.



**Permitted Use:** use as a play area and associated open space within Class D2 of the Town and Country Planning (Use Classes) Order 1987 as at the date this lease is granted (“Use Classes Order”) and to use the Public Conveniences as public toilets and ancillary facilities and for no other purpose.

**Plan 1:** the plan attached to this lease marked "Plan 1".

**Plan 2:** the plan attached to this lease marked "Plan 2".

**Property:** the land edged red and shaded pink as shown on Plan 1 forming part of title number DT316589 including for the avoidance of doubt that part of the Building shown edged red on Plan 2

**Public Conveniences:** that part of the Building shown edged red and coloured blue on Plan 2 and marked “PCs”

**Rent Commencement Date:** 1<sup>st</sup> April 2019.

**Rent Payment Date:** 1<sup>st</sup> April in each year.

**Reservations:** all of the rights excepted reserved and granted to the Landlord by this lease.

**Safety Organisations:** the British Standards Institution the Royal Society for the Prevention of Accidents and all other appropriate safety bodies and organisations.

**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 covenants and restrictions affecting the Property including the matters referred to at the date of this lease in the registers of title number DT316589.

**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 this lease is a reference to this deed and any deed licence consent approval or other instrument supplemental to it.
- 1.3 The Landlord is the successor in title to Weymouth and Portland Borough Council by virtue of The Dorset (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2018 No. 636, The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 No. 648 and the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 (as amended) SI 2008/2176 and the Property and the rights and obligations of the former Weymouth and Portland Borough Council became vested in the Landlord on 1 April 2019.

- 1.4 A reference to the Landlord includes a reference to the person entitled to the immediate reversion to this lease.
- 1.5 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.
- 1.6 The expressions landlord covenant and tenant covenant each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 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 34.5 and references to the approval of the Landlord are to the approval of the Landlord given in accordance with clause 34.6.
- 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 fax or email.

- 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 shall include the singular.

## **2. Grant**

- 2.1 The Landlord lets with full title guarantee 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:
- (a) the Annual Rent and all VAT in respect of it;
  - (b) all interest payable under this lease; and
  - (c) all other sums due under this lease.

## **3. Ancillary rights**

- 3.1 The Landlord grants the Tenant the following rights (the Rights):
- (a) the right to use the Access for the purposes of vehicular and pedestrian access to and egress from the Property;
  - (b) rights of light air support and protection to the extent those rights are capable of being enjoyed at any time during the term;
  - (c) the right to use and to connect into any Service Media that belong to the Landlord including those within the Building and which serve (but do not form part of) the Property which are in existence at the date of this lease or are installed or constructed during the Contractual Term.
- 3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord.

- 3.3 The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Property and the Tenant shall not do anything that may interfere with any Third Party Right.
- 3.4 The Tenant shall exercise the Rights only in connection with its use of the Property for the Permitted Use.
- 3.5 In relation to the Rights mentioned in clause 3.1 the Landlord may at its discretion change the route of the Access over the Landlord's Neighbouring Property and may change the area of the Landlord's Neighbouring Property (other than within the Property) over which any of those Rights are exercised.
- 3.6 Except as mentioned in this clause 3 neither the grant of this lease nor anything in it confers any right over the Landlord's Neighbouring Property nor is to be taken to show that the Tenant may have any right over the Landlord's Neighbouring Property and section 62 of the Law of Property Act 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:
- (a) the right to use the land hatched grey on Plan 1 for the purposes of vehicular and pedestrian access to and egress from the Landlord's Neighbouring Property;
  - (b) the right to use the footpaths on the Property for the purposes of pedestrian access to and egress from the Landlord's Neighbouring Property;
  - (c) rights of light air support and protection to the extent those rights are capable of being enjoyed at any time during the term;
  - (d) the right to use and to connect into Service Media at but not forming part of the Property which are in existence at the date of this lease or which are installed or constructed during the Contractual Term; the right to install and construct Service Media at the Property to serve any part of the Landlord's Neighbouring Property including the Building (whether or not such Service Media also serve the Property) and the right to re-route any Service Media mentioned in this clause;
  - (e) at any time during the term the full and free right to develop any part of 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;
  - (f) the right to build on or into any boundary wall of the Property in connection with any of the Reservations;

- (g) the right to erect and maintain promotional and other signage on the Property subject to the Landlord meeting the cost of erecting, repairing or replacing such signage;
- (h) the right to suspend close dispose of or otherwise deal with the car parks within the Landlord's Neighbouring Property at its absolute discretion;
- (i) the right to suspend the rights mentioned in clause 3.1 for limited periods so long as the Landlord gives as much notice as reasonably practical and where possible not less than forty eight hours except in the case of an emergency;
- (j) the right to re-route the Access and to change the areas over which the Rights mentioned in clause 3.1 are exercised either temporarily or permanently upon giving reasonable notice and subject to ensuring that such access is maintained and there is no more than minimal disruption;
- (k) the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1(c) are exercised either temporarily or permanently upon giving reasonable notice and there is no more than minimal disruption;

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 adversely affect the use and enjoyment of the Property for the Permitted Use and no compensation for any disturbance will be payable.

4.2 The Landlord reserves the right to enter the Property:

- (a) to repair or maintain that part of the Building which is situated on the Landlord's Neighbouring Property;
- (b) to maintain install construct re-route or replace any Service Media or structure relating to any of the Reservations; and
- (c) for any other purpose mentioned in or connected with:
  - (i) this lease;
  - (ii) the Reservations; and
  - (iii) the Landlord's interest in the Property or the Landlord's Neighbouring 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 the Reservations except for:
- (a) physical damage to the Property; or
  - (b) 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**

The Tenant shall pay the Annual Rent and any VAT in respect of it annually in advance on 1 April in each year.

## **7. Insurance**

- 7.1 The Tenant must at all times during the Term procure that adequate and proper insurance is effected and maintained against all third party liabilities and risks to a minimum cover of not less than £10 million in respect of any one claim, such insurance to be with a recognised and reputable insurance company and the Tenant, whenever reasonably required must produce to the Landlord evidence of such insurances and of payment of the then current year's premium.
- 7.2 The Tenant must at all times during the Term insure the Public Conveniences against loss or damage by the Insured Risks for its full reinstatement value such insurance to be with a recognised and reputable insurance company and the Tenant, whenever reasonably required must produce to the Landlord evidence of such insurances and of payment of the then current year's premium.

7.3 The Landlord shall not be obliged to insure the Equipment or any other item on the Property installed by the Tenant.

## **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:

- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
- (b) 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 total.

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 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. Common items**

10.1 The Tenant shall pay the Landlord on demand a fair proportion of all costs payable by the Landlord for the maintenance repair lighting cleaning and renewal of all Service Media structures and other items used by the Property and the Building in common with other land.

10.2 The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media structures or other items.

## **11. VAT**

- 11.1 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.
- 11.2 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 VATA 1994.

## **12. Default interest and interest**

If any 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 and to and including the date of payment.

## **13. Costs**

- 13.1 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:
- (a) the enforcement of the tenant covenants of this lease;
  - (b) 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;
  - (c) the preparation and service of a schedule of dilapidations in connection with this lease; or
  - (d) any consent or approval applied for under this lease whether or not it is granted (unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonably able to withhold it).
- 13.2 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.



**14. 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.

**15. Set-off**

The 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).

**16. Registration of this lease**

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.

**17. Alienation**

17.1 The Tenant shall not assign charge underlet share occupation of or part with the possession of the whole this lease or permit any person or body to occupy the whole of the same as a licensee or hold the lease on trust for any person or body.

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

17.3 The Tenant shall not underlet the Property:

- (a) together with any property or any right over property that is not included within this lease;
- (b) at a fine or premium or reverse premium; nor
- (c) 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 The Tenant shall not underlet the Property unless, before the underlease is granted, the Tenant has given the Landlord:

- (a) a certified copy of the notice served on the undertenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be created by the underlease; and

- (b) a certified copy of the declaration or statutory declaration made by the undertenant in accordance with the requirements of section 38A(3)(b) of the LTA 1954.

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

- (a) 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;
- (b) 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; and
- (c) 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 and in a form approved by the Landlord, such approval not to be unreasonably withheld.

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

- (a) 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; and
- (b) enforce the tenant covenants in the underlease.

## **18. Sharing occupation**

18.1 The Tenant may share occupation of part or parts of the Property by granting concessions to third parties to operate within the Property or may share occupation of the Property by hiring out on an informal basis any part or parts of the Property for the purpose of events.

18.2 Such sharing shall be subject always to the Tenant retaining control of the whole of the Property and each and every part and ensuring that such concessions or hirings do not have or acquire business security of tenure or a legal interest in the Property other than a personal non-assignable licence without exclusive possession terminable by the licensor as to concessions on not more than one day's notice, and that no relationship of landlord and tenant is established by the arrangement and that the arrangement is consistent with this lease and is documented in writing.

## **19. Closure of the registered title of this lease**

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.

## **20. Equipment**

- 20.1 As at the date of this lease the Equipment then situated on the Property shall become the absolute property of the Tenant and shall become entirely the Tenant's responsibility.
- 20.2 The Tenant shall throughout the Contractual Term keep the Equipment in good repair and in a good clean safe condition suitable for use by members of the public as a children's play area.
- 20.3 The Tenant shall ensure that the Equipment is in compliance with and is checked and maintained in accordance with the proper standards and current recommendations and guidance for the time being published by the Safety Organisations.
- 20.4 The Tenant shall renew and replace from time to time as and when necessary, any Equipment that becomes beyond repair during the Term.

## **21. Requirements relating only to the Public Conveniences**

- 21.1 The Tenant shall keep the Public Conveniences clean and tidy and in good repair and condition and open to the public at all reasonable times.
- 21.2 The Tenant shall be responsible for all outgoings in respect of the Public Conveniences.
- 21.3 The Tenant is aware that the water and electricity charges to the Café Tenant are calculated by reference to a sub-meter within the Public Conveniences and acknowledges that it will be responsible for collecting the amount due from the Café Tenant in this regard.

## **22. Repairs relating to the remainder of the Property**

- 22.1 The Tenant shall keep the Property clean and tidy and free from weeds and rubbish and where required suitably surfaced for a children's play area and keep that surface in good and sound repair and keep all grassed and landscaped areas of the Property regularly trimmed.

22.2 The Tenant shall in particular be responsible for all lighting and associated electrical equipment within the Property and shall keep all boundary and other fences and gates in good repair and in a safe condition with the gates in proper working order.

22.3 The Tenant shall ensure that any Service Media within and exclusively serving the Property are kept in good working order.

### **23. Alterations**

Other than any resurfacing or fencing or similar works or any works recommended or required to comply with the standards for the time being of the Safety Organisations or any temporary structures erected during events held at the Property, the Tenant shall not make any structural alteration to the Property or erect any buildings and shall not make any opening in any boundary structure 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 display any Signs on the Property except Signs of a design size and number and in a position that are appropriate to the Property and the Permitted Use and shall ensure that they comply with all relevant planning legislation.

24.3 Subject to clause 22.2 the Tenant shall throughout the Contractual Term erect and maintain at the Property sufficient Signs advising that the Property is managed and controlled by the Tenant and shall keep such Signs in good repair and up to date (including all contact details) and replace them where necessary.

24.4 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.

### **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 state and condition required by this lease.

25.2 At the end of the term (except where the term has ended because the Landlord has exercised the early termination provisions set out in clause 36 of this lease) the Tenant shall remove from the Property all chattels belonging to or used by it and shall remove the Equipment and the surfacing of the play area and make good any damage caused by such removal if required to do so by the Landlord.

25.3 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.

## **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 allow anything to be brought on to the property except as may be reasonably necessary for the Permitted use and shall not deposit or store anything on or outside the Property.

26.3 The Tenant shall not park or store any vehicle equipment or items on the Landlord's Neighbouring Property.

26.4 The Tenant shall not obstruct the Access or the land hatched grey on Plan 1.

26.5 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 or any owner or occupier of neighbouring property.

26.6 The Tenant shall comply with the Balloon and Sky Lantern Release Policy 2018 made by Weymouth and Portland Borough Council and with any similar policy in respect of the use of drones at the Property that the Landlord may make (in its capacity as local authority) or such other policy or policies made by Landlord (in its capacity as local authority) as may replace the previous policy or policies.

26.7 The Tenant shall take all practical precautions to ensure that no noxious substances are spilled or deposited on the Property and that no toxic plants are allowed to grow on the Property.

26.8 Nothing in this lease shall impose or be deemed to impose any restriction on the use of the Landlord's Neighbouring Property or any neighbouring property.

## **27. Compliance with laws**

27.1 The Tenant shall comply with all laws relating to:

- (a) the Property and the occupation and use of the Property by the Tenant;

- (b) 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; and
  - (c) any works carried out at the Property.
- 27.2 In particular the Tenant shall ensure that the fire alarm is at all times throughout the Term installed and maintained in accordance with the then current fire safety standards and in compliance with building regulations.
- 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 or the Landlord's Neighbouring Property (and whether or not served pursuant to any law) the Tenant shall:
  - (a) send a copy of the relevant document to the Landlord; and
  - (b) insofar as it relates to the Property 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 not to be unreasonably withheld.
- 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.

## **28. Encroachments obstructions and acquisition of rights**

- 28.1 The Tenant shall not grant any right or licence over the Property to any person.
- 28.2 If any person 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:
  - (a) immediately inform the Landlord and shall give the Landlord notice of that encroachment or action; and
  - (b) 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 or any part of any adjoining or neighbouring property of the Landlord nor obstruct any means of access thereto.
- 28.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any part of any adjoining or neighbouring property of the Landlord or the means of access to the Property or such adjoining or neighbouring 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:
- (a) immediately inform the Landlord and shall give the Landlord notice of that action; and
  - (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

## **29. Breach of repair and maintenance obligations**

- 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 31.

## **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:

- (a) the use of the Property;

- (b) the exercise of any of the Tenant's rights;
- (c) any breach of any tenant covenants in this lease; or
- (d) any act or omission of the Tenant or its 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:

- (a) any breach of any condition of or tenant covenant in this lease;
- (b) 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.

**33. Entire agreement**

33.1 This lease constitutes the whole agreement between the parties and supersedes all previous discussions correspondence negotiations arrangements understandings and agreements between them relating to its subject matter.

33.2 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) before the date of this lease.

33.3 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.

33.4 Nothing in this clause shall limit or exclude any liability for fraud.

**34. Notices consents and approvals**

34.1 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:



- (a) in writing and for the purposes of this clause an email is not in writing; and
- (b) given by hand or by pre-paid first-class post or other next working day delivery service at the party's principal place of business.

34.2 If a notice complies with the criteria in clause 34.1 whether or not this lease requires that notice to be in writing it shall be deemed to have been received:

- (a) if delivered by hand at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service on the second working day after posting.

34.3 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.

34.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

34.5 Where the consent of the Landlord is required under this lease a consent shall only be valid if it is given by deed unless:

- (a) it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and
- (b) 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.

34.6 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:

- (a) the approval is being given in a case of emergency; or
- (b) this lease expressly states that the approval need not be in writing.

34.7 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.

## **35. 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.

### **36. 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).

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

37.1 The parties confirm that:

- (a) 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;
- (b) Jane Biscombe who was duly authorised by the Tenant to do so made a declaration dated 2022 in accordance with the requirements of section 38A(3)(b) of the LTA 1954;
- (c) the copies of the warning notice and of the declaration referred to above annexed to this lease are true copies of their respective originals; and
- (d) 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. Early termination**

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

38.2 A Break Notice served by the Tenant shall be of no effect if, at the Break Date:

- (a) vacant possession of the whole of the Property is not given; or
- (b) there is a subsisting material breach of any of the tenant covenants of this lease relating to the state of repair and condition of the Property.

38.3 Subject to clause 2.1, following service of a Break Notice this lease shall terminate on the Break Date.

38.4 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 the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

**40. Provisos**

40.1 Nothing herein contained shall prejudice or abridge any of the rights and powers for the time being vested in Dorset Council or its local authority successor as the local authority for the area in which the Property is situate and all such rights and powers in regard to the Property or the occupiers thereof shall be enforceable and exercisable by Dorset Council or its local authority successor fully and freely as if it was not a party to this lease.

40.2 Each provision in this lease is severable from the others; if any provision is or becomes unenforceable, the enforceability of the other provisions is not affected.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by affixing the  
Common Seal of **DORSET COUNCIL**  
in the presence of:

Authorised Signatory:

.....

Print Name:

.....

Executed as a deed by affixing the  
Common Seal of **WEYMOUTH**  
**TOWN COUNCIL** in the presence of  
two members:

Member Signature:

.....

Print Name:

.....

Member Signature:

.....

Print Name:

.....