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Gullands

Gullands,  
16 Mill Street,  
Maidstone ME15 6XT

20.12.21

DATED

17<sup>th</sup> December

2021

## LEASE

relating to:

**Part of The Kings Hill Centre, Kings Hill, West Malling, Kent**

**Between**

**KINGS HILL PARISH COUNCIL  
AND  
KINGS HILL PRE-SCHOOL**

## CONTENTS

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	PARTIES.....	4
1.	Interpretation.....	4
2.	Grant.....	8
3.	Ancillary rights .....	9
4	Rights excepted and reserved .....	10
5	Third Party Rights .....	12
6	The Annual Rent .....	12
7	Review of the Annual Rent.....	12
8	Services and Service Charge .....	15
9	Insurance .....	18
10	TERMINATION ON DAMAGE OR DESTRUCTION .....	20
11	Rates and taxes .....	20
12	Utilities .....	21
13	Common items .....	21
14	VAT .....	21
15	Default interest and interest .....	21
16	Costs.....	22
17	Compensation on vacating .....	22
18	No deduction, counterclaim or set-off .....	22
19	ALIENATION .....	22
20	Cancellation of any entry at the land registry in respect of this lease .....	23
21	Repairs .....	23
22	Decoration.....	23
23	Alterations and signs .....	23
24	Returning the Property to the Landlord .....	24
25	Use.....	24
26	Management of the Building.....	25
27	Compliance with laws.....	25
28	Encroachments, obstructions and acquisition of rights .....	26
29	Remedy breaches.....	26
30	Indemnity.....	27
31	Landlord's covenant for quiet enjoyment.....	27
32	Condition for re-entry.....	27
33	Liability.....	28
34	AGREEMENT and DECLARATION.....	29
35	Entire agreement and exclusion of representations .....	29
36	Notices, consents and approvals.....	30
37	Governing law and jurisdiction .....	30
38	Exclusion of sections 24-28 of the 1954 Act.....	31
39	Contracts (Rights of Third Parties) Act 1999 .....	31
40	Landlord and Tenant (Covenants) Act 1995.....	31
41	SUPERIOR LEASE .....	31
42	Superior Lease Tenant's Break Option.....	32

43	Mutual Break Option.....	32
44	Charities Act 2011.....	32

This lease is dated 17<sup>th</sup> December 2021

## **PARTIES**

- (1) KINGS HILL PARISH COUNCIL of 70 Gibson Drive, Kings Hill, West Malling, Kent ME19 4LG (**Landlord**) and
- (2) KINGS HILL PRE-SCHOOL incorporated and registered in England and Wales with company number 06025001 whose registered office is at 70 Gibson Drive, Kings Hill, West Malling, Kent ME19 4LG (**Tenant**).

## **AGREED TERMS**

### **1. INTERPRETATION**

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

- (i) **Estate:** the estate as described in the Estate Agreement
- (ii) **Estate Agreement:** the Agreement relating to the estate management of Kings Hill dated 1<sup>st</sup> March 1993 and made between Rouse Kent Limited (1) and Kings Hill Estate Management Company Limited (2)
- (iii) **Annual Rent:** rent at an initial rate of FIVE THOUSAND FIVE HUNDRED POUNDS (£5,500.00) plus VAT and then as revised pursuant to this Lease
- (iv) **Base RPI Month:** November annually
- (v) **Base Rent:** the Annual Rent payable immediately before a Review Date
- (vi) **Building:** The Kings Hill Centre, Kings Hill, West Malling, Kent ME19 4LG shown edged blue on Plan 2.
- (vii) **Cage and Awning:** the metal fences and material awning fixed to the rear of the Property in the location shown edged red and hatched blue on Plan 2 and more particularly shown in the attached photographs
- (viii) **Common Parts:** the Building including its roof other than the Property
- (ix) **Contractual Term:** a term of six years beginning on and including 14 January 2017 and ending on and including 13 January 2023
- (x) **Default Interest Rate:** five percentage points above the Interest Rate.
- (xi) **Insurance Rent:** the aggregate in each year of:
  - (a) (without prejudice to all other provisions of this lease relating to the use of the Property and the vitiation of any policy of insurance) any amount which the Landlord may expend in paying all additional premiums and loadings on any policy or policies of insurance required to be paid as a result of anything done or omitted by the Tenant; and
  - (b) an amount equivalent to the total of all excess sums which the insurers are not liable to pay out on any insurance claim in respect of the Property.

- (c) a fair proportion (based on a calculation of 17.63% being the Property's percentage of the square footage of the Building) of the gross cost of the premium before any discount or commission for:
  - (i) the insurance of the Building for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring-up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of all those costs, fees and expenses; and
  - (ii) public liability insurance in relation to the Common Parts;
  - (iii) any professional fees relating to insurance including fees for insurance valuations carried out at reasonable intervals by the Superior Landlord.
- (d) any insurance premium tax payable on the above.
- (e) the cost of insuring against 3 years loss of the rents reserved by this lease.
- (xii) **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 risks insured against by the Superior Landlord's policy from time to time and any other **Insured Risk** means any one of the Insured Risks.
- (xiii) **Interest Rate:** interest at the base lending rate from time to time of National Westminster Bank plc, or if that base lending rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.
- (xiv) **Indexed Rent:** the rent determined in accordance with clause 7.4
- (xv) **Permitted Use:** between the hours of 8.45 am until 3.45 pm Mondays to Fridays but excluding Bank Holidays and Public Holidays in England and Wales as a day nursery for the provision of pre-school education and outside of these hours but within the Permitted Hours for any purpose properly connected with and ancillary to the business of providing a day nursery for the provision of pre-school education.
- (xvi) **Permitted Hours:** 6 am to 9.30 pm Mondays to Fridays and 7 am to 7 pm on Saturdays other than days which are bank holidays or public holidays in England and Wales.
- (xvii) **Plan 1:** the plan attached to this lease marked "Plan 1".
- (xviii) **Plan 2:** the plan attached to this lease marked "Plan 2".
- (xix) **Property:** the part of the ground floor of the Building (the floor plan of which is shown edged red on Plan 1) bounded by and including:
  - (a) the interior plaster finishes of exterior walls, ceilings and columns;

- (b) the plaster finishes of the interior structural load-bearing walls and columns that adjoin
- (c) the Common Parts;
- (d) the doors and windows within the interior, structural load-bearing walls and columns that adjoin the Common Parts and their frames and fittings;
- (e) one half of the thickness of the interior, non-structural non-load-bearing walls and columns that adjoin the Common Parts;
- (f) the doors and windows within the interior, non-structural non-load-bearing walls and columns that adjoin the Common Parts and their frames and fittings;
- (g) any Service Media exclusively serving the Property.

but excluding:

- (a) the windows in the exterior walls and their frames and fittings;
  - (b) the whole of the interior structural load-bearing walls and columns within that part of the Building other than their plaster finishes and other than the doors and windows and their frames and fittings within such walls; and
  - (c) all Service Media within that part of the Building but which do not exclusively serve that part of the Building.
  - (d) the Common Parts and structure and foundations of the Property.
- (xx) **Rent Commencement Date:** the date of this Lease.
  - (xxi) **Rent Payment Dates:** 1<sup>st</sup> day of each calendar month in each calendar year.
  - (xxii) **Review Date:** 30<sup>th</sup> November 2017 and every anniversary of that date
  - (xxiii) **RPI:** the Retail Prices Index or any official index replacing it
  - (xxiv) **Service Charge:** a fair proportion of the Service Costs.
  - (xxv) **Service Charge Year:** is the annual accounting period relating to the Services and the Service Costs beginning on 1<sup>st</sup> January 2017 and each subsequent year during the term.
  - (xxvi) **Service Costs:** the costs incurred either by the Landlord or Superior Landlord listed in clause 8.2
  - (xxvii) **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.
  - (xxviii) **Services:** the services listed in clause 8.1.
  - (xxix) **Superior Lease:** the Lease dated 17<sup>th</sup> December 2020 made between Liberty Property Trust UK Limited (1) and the Landlord (2)
  - (xxx) **Superior Landlord:** Liberty Property Trust UK Limited (company number 05340012)

(xxxi) **Third Party Rights:** all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this lease in the property register and of the charges register of title number TT11723 and TT11720.

(xxxii) **VAT:** value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

(xxxiii) **1954 Act:** Landlord and Tenant Act 1954.

- 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 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, based on the percentage of square footage used where appropriate but otherwise 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, references to the **Building**, the **Common Parts**, and the **Property** are to the whole and any part of them or it.
- 1.7 The expression **neighbouring property** does not include the Building.
- 1.8 A reference to the **term** is to the Contractual Term
- 1.9 A reference to the **end of the term** is to the end of the term however it ends.
- 1.10 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 35.4 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 35.5.
- 1.11 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England and Wales.
- 1.12 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.
- 1.13 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.

- 1.14 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.
- 1.15 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.
- 1.16 A **person** includes a corporate or unincorporated body.
- 1.17 References to **writing** or **written** do not include faxes or email.
- 1.18 Except where a contrary intention appears, a reference to a clause or Schedule, is a reference to a clause of, or Schedule to, this lease and a reference in a Schedule to a paragraph is to a paragraph of that Schedule.
- 1.19 Clause, Schedule and paragraph headings do not affect the interpretation of this lease.
- 1.20 Reference to any right exercisable by or notice served by the Landlord includes the exercise of the right or the service of the notice by:
  - 1.20.1 any mortgagee of the Landlord's interest in the Property;
  - 1.20.2 the Superior Landlord;
  - 1.20.3 any mortgagee of the Superior Landlord's interest in the Property; and
  - 1.20.4 any person authorised by the Landlord or the Superior Landlord or their mortgagees.
- 1.21 Any reference to obtaining the Landlord's consent is deemed to include the consent of the Superior Landlord and any mortgagee of the Landlord's or the Superior Landlord's interest in the Premises but it is not implied that any of these consents will not be unreasonably withheld or delayed.

## **2. GRANT**

- 2.1 The Landlord lets with limited 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 3.1, 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) the Service Charge and all VAT in respect of it;
- (c) the Insurance Rent; and
- (d) all interest payable under this lease; and
- (e) all other sums due under this lease.

### 3. **ANCILLARY RIGHTS**

3.1 The Landlord grants the Tenant the following rights (the **Rights**):

- (a) the rights granted to the Landlord in schedule 2 of the Superior Lease insofar as relevant and applicable to the Property with the exception of the right in paragraphs 3 and 4;
- (b) the right to support and protection from the Common Parts to the extent that the Common Parts provide support and protection to the Property as at the date of this lease;
- (c) the right to use the hallways, corridors of the Common Parts for the purposes of access to and egress from the Property;
- (d) the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this lease or are installed during the perpetuity period;
- (e) the right to display the name and logo of the Tenant on a sign or noticeboard provided by the Landlord at the Building and on the Common Parts at the entrance to the Property, in each case in a form and manner approved by the Landlord and provided that the sign complies with the Kings Hill signage policy issued by the Superior Landlord from time to time; and
- (f) the right to enter the Common Parts so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease;

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 Common Parts and the Tenant shall not do anything that may interfere with any Third Party Right.

3.4 The Tenant shall exercise the Rights (other than the Right mentioned in clause 3.1b) only in connection with its use of the Property for the Permitted Use and only during the Permitted Hours and in accordance with any regulations made by the Landlord as mentioned in clause 24.3.

- 3.5 The Tenant shall comply with all laws relating to its use of the Common Parts pursuant to the Rights.
- 3.6 In relation to the Rights mentioned in clause 3.1(c) and clause 3.1(f) the Landlord may, at its discretion, change the route of any means of access to or egress from the interior of the Building and may change the area over which any of those Rights are exercised.
- 3.7 In relation to the Rights mentioned in clause 3.1(d), the Landlord may, at its discretion, re-route or replace any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced.
- 3.8 In relation to the Right mentioned in clause 3.1(f), where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.
- 3.9 In exercising the Right mentioned in clause 3.1(f), the Tenant shall:
- (a) except in case of emergency, give reasonable notice to the of its intention to exercise that Right;
  - (b) where reasonably required by the Landlord exercise that Right only if accompanied by a representative of the Landlord and/or the tenant;
  - (c) cause as little damage as possible to the Common Parts and to any property belonging to or used by the Landlord;
  - (d) cause as little inconvenience as possible to the Landlord as is reasonably practicable; and
  - (e) promptly make good (to the satisfaction of the Landlord) any damage caused to the Common Parts (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.
- 3.10 Except as mentioned in this clause 3.1, neither the grant of this lease nor anything in it confers any right over the Common Parts or any neighbouring property nor is to be taken to show that the Tenant may have any right over the Common Parts or any 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 (the **Reservations**):
- (a) the rights excepted and reserved to the Superior Landlord under the Superior Lease;
  - (b) rights of light, air, support and protection as those rights are capable of being enjoyed at any time during the term;

- (c) the right to use and to connect into Service Media at, but not forming part of, the Property; the right to install and construct Service Media at the Property to serve any part of the Building or any neighbouring property (whether or not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this paragraph;
  - (d) the right to develop any neighbouring property (whether or not belonging to the Landlord);
  - (e) the right to attach any structure, fixture or fitting to any boundary of the Property;
  - (f) the right to re-route any means of access to or egress from the Property or the Building and to change the areas over which the Rights mentioned in clause 3.1(c) are exercised;
  - (g) the right to re-route and replace any Service Media over which the Rights mentioned clause 3.1(d) are exercised;
  - (h) the right to erect scaffolding at, and attach it to any part of the Building in connection with any of the other Reservation;
  - (i) the right to enter the Property:
    - (i) to repair, maintain, install, construct, re-route or replace any Service Media or structure relevant to any of the other Reservations; or
    - (ii) to carry out any works to part of the Building where such works cannot reasonably be carried out without such entry; or
    - (iii) in connection with any of the Services; or
    - (iv) for any other purpose mentioned in this lease; or
    - (v) for any other purpose connected with this lease or with the Landlord's interest in the Building or any neighbouring property.
- 4.2 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.
- 4.3 The Reservations may be exercised notwithstanding that any works carried out in connection with the exercise of those rights result in a reduction in the flow of light or air to the Property or the Common Parts or loss of amenity for the Property or the Common Parts.
- 4.4 The Reservations mentioned in clause 4.1 apply to Service Media in existence at the date of this lease and to any that are installed or constructed during the perpetuity period.
- 4.5 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.

- 4.6 No one 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 excluding liability.

## **5 THIRD PARTY RIGHTS**

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

## **6 THE ANNUAL RENT**

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by equal monthly instalments in advance on each of the Rent Payment Dates by direct debit to the Landlord's bank.
- 6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the date of this lease.

## **7 REVIEW OF THE ANNUAL RENT**

- 7.1 In this clause, the President is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf ((**President**), and the Surveyor is the independent valuer appointed pursuant to clause 7.10 (**Surveyor**).
- 7.2 The Annual Rent shall be reviewed on each Review Date to equal the Annual Rent payable immediately before that Review Date (or which would then be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) or, if greater, the Indexed Rent.
- 7.3 The Indexed Rent for a Review Date shall be determined by multiplying the Base Rent by the All Items index value of the RPI for the month that falls two months before the month in which that Review Date falls, then dividing the product by the All Items index value of the RPI for the Base RPI Month.

- 7.4 The Landlord shall calculate the Indexed Rent as soon as reasonably practicable and shall give the Tenant written notice of the Indexed Rent as soon as it has been calculated.
- 7.5 If the revised Annual Rent has not been calculated by the Landlord and notified to the Tenant before a Review Date, the Annual Rent payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Annual Rent is notified by the Landlord to the Tenant, the Tenant shall pay:
- 7.5.1 the shortfall (if any) between the amount that it has paid for the period from the Review Date until the Rent Payment Date following the date of notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been notified at least five working days before that Review Date; and
- 7.5.2 interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the revised Annual Rent had been notified at least five working days before that Review Date and the date payment is received by the Landlord.
- 7.6 Time shall not be of the essence for the purposes of this clause.
- 7.7 Subject to clause 7.8, if there is any change to the methods used to compile the RPI, including any change to the items from which the All Items index of the RPI is compiled, or if the reference base used to compile the RPI changes, the calculation of the Indexed Rent shall be made taking into account the effect of this change.
- 7.8 The Landlord and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Annual Rent if either:
- 7.8.1 the Landlord or the Tenant reasonably believes that any change referred to in clause 7.7 would fundamentally alter the calculation of the Indexed Rent in accordance with this clause 7, and has given notice to the other party of this belief; or
- 7.8.2 it becomes impossible or impracticable to calculate the Indexed Rent in accordance with this clause 7.
- This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the RPI. In default of agreement between the Landlord and the Tenant on an alternative mechanism for setting the Annual Rent, the Surveyor shall determine an alternative mechanism.
- 7.9 The Surveyor shall determine a question, dispute or disagreement that arises between the parties in the following circumstances:

7.9.1 where any question or dispute arises between the parties as to the amount of the Annual Rent payable or as to the interpretation, application or effect of any part of this clause 7; or

7.9.2 where the Landlord and the Tenant fail to reach agreement under clause 7.8.

The Surveyor shall have full power to determine the question, dispute or disagreement. When determining such a question, dispute or disagreement, the Surveyor may, if he considers it appropriate, specify that an alternative mechanism for setting the Annual Rent should apply to this lease, and this includes (but is not limited to) substituting an alternative index for the RPI.

7.10 The Surveyor shall be an independent valuer who is a Member or Fellow of the Royal Institution of Chartered Surveyors. The Landlord and the Tenant may, by agreement, appoint the Surveyor at any time before either of them applies to the President for the Surveyor to be appointed.

7.11 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor's decision shall be given in writing, and the Surveyor shall provide reasons for any determination. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.

7.12 The Surveyor shall give the Landlord and the Tenant an opportunity to make written representations to the Surveyor and to make written counter-representations commenting on the representations of the other party to the Surveyor. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision.

7.13 Either the Landlord or the Tenant may apply to the President to discharge the Surveyor if the Surveyor:

7.13.1 dies;

7.13.2 becomes unwilling or incapable of acting; or

7.13.3 unreasonably delays in making any determination.

Clause 7.10 shall then apply in relation to the appointment of a replacement.

7.14 The fees and expenses of the Surveyor and the cost of the Surveyor's appointment and any counsel's fees, or other fees, reasonably incurred by the Surveyor shall be payable by the Landlord and the Tenant in the proportions that the Surveyor directs (or if the Surveyor makes no direction, then equally). If the Tenant does not pay its part of the Surveyor's fees and expenses within ten working days after demand by the Surveyor, the Landlord may pay that part and the amount it pays shall be a debt of the Tenant due and payable on demand to the Landlord. The Landlord and the Tenant shall otherwise each bear their own costs in connection with the rent review.

## **8 SERVICES AND SERVICE CHARGE**

### **8.1 The Services are**

- (a) "the Services" as defined in the Superior Lease
- (b) cleaning, maintaining and repairing the Common Parts including all Service Media forming part of the Common Parts;
- (c) cleaning the outside of the windows of the Building;
- (d) lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;
- (e) cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;
- (f) cleaning, maintaining, repairing and replacing signage for the Common Parts;
- (g) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Common Parts;
- (h) cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;
- (i) cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers in the entrance hall or on the exterior of the Building;
- (j) decorating the internal areas of the Common Parts;
- (k) cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;
- (l) cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;
- (m) heating the internal areas of the Common Parts and cleaning, maintaining, repairing and replacing heating machinery and equipment serving the Common Parts;
- (n) providing security reception cleaning and maintenance staff for the Building; and
- (o) any other service or amenity that the Landlord may in its reasonable absolute discretion acting in accordance with the principles of good estate management provide for the benefit of the tenants and occupiers of the Building.

### **8.2 The Service Costs are the total of:**

- (a) the whole of the costs of:
  - (i) providing the Services;

- (ii) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Common Parts;
- (iii) complying with the recommendations and requirements of the insurers of the Building;
- (iv) complying with all laws relating to the Common Parts, their use and any works carried out at them, and relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;
- (v) complying with the Third Party Rights insofar as they relate to the Common Parts; and
- (vi) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Common Parts or to prevent the acquisition of any right over the Common Parts (or the Building as a whole) or to remove any obstruction to the flow of light or air to the Common Parts (or the Building as a whole);
- (vii) planned and preventative maintenance in respect of the Property whether at the recommendation of the insurers or the Landlord's surveyor or otherwise

(b) the costs, fees and disbursements (on a full indemnity basis) of:

- (i) managing agents employed by the Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same; and
- (ii) accountants employed by the Landlord to prepare and audit the service charge accounts;
- (iii) all rates, taxes and impositions payable in respect of the Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and
- (iv) any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord is able to recover such VAT.

8.3 Subject to the Tenant paying the Service Charge, the Landlord shall use its reasonable endeavours having regard to its responsibilities in respect thereof under the Superior Lease:

- (i) to repair the Common Parts;



- (ii) to provide heating to the internal areas of the Common Parts during such periods of the year as the Landlord considers appropriate;
  - (iii) to provide electricity and water to the Property;
  - (iv) to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Building as often as the Landlord considers appropriate;
  - (v) to keep the internal areas of the Common Parts reasonably well lit;
  - (vi) to supply hot and cold water, soap, paper, towels and other supplies for the lavatories on the Common Parts;
- 8.4 The Landlord may, but shall not be obliged to, provide any of the other Services. The Landlord shall not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure.
- 8.5 The Landlord shall not be obliged to provide any of the Services outside the Permitted Hours.
- 8.6 The Landlord shall not be liable for:
  - (a) any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord and/or the Superior Landlord; or
  - (b) any injury, loss or damage suffered by the Tenant as a result of any absence or insufficiency of any of the Services or of any breakdown or defect in any Service Media, except where due to the negligence of the Landlord and/or the Superior Landlord.
- 8.7 Before or as soon as possible after the start of each Service Charge Year, the Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.
- 8.8 The Tenant shall pay the estimated Service Charge for each Service Charge Year in equal instalments on each of the Rent Payment Dates.
- 8.9 In relation to the Service Charge Year current at the date of this lease, the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of those amounts, such apportioned part to be calculated on a daily basis for the period from the date of this lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on the remaining Rent Payment Days during the period from the date of this lease until the end of the Service Charge Year.

- 8.10 As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for that Service Charge Year. The Tenant may inspect the accounts and the supporting invoices and receipts by appointment with the Landlord.
- 8.11 If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord shall be entitled to include it in the estimate and certificate of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error, the Service Charge certificate shall be conclusive as to all matters of fact to which it refers.
- 8.12 Without prejudice to clause 8.11, where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by an Insured Risk the costs of that Service shall not be included in the Service Charge.
- 8.13 If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference on demand. If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall credit the difference against the Tenant's next instalment of the estimated Service Charge (and where the difference exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited).

## **9 INSURANCE**

- 9.1 The Landlord shall procure that the Superior Landlord complies with the covenants imposed on it regarding insurance of the Building contained in the Superior Lease save to the extent that the policy of insurance has been vitiated or any insurance proceeds withheld as a result of any act or omission of the Tenant or its workers, contractors or agents or any person on the Property with the actual or implied authority of any of them. The Landlord and the Superior Landlord shall not be obliged to procure insurance for any part of the Property installed by the Tenant.
- 9.2 The Landlord's obligation to procure insurance is subject to:
- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
  - (b) insurance being available in the on reasonable terms acceptable to the Superior Landlord.
- 9.3 The Tenant shall pay to the Landlord on demand:
- (a) the Insurance Rent;
  - (b) any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and

- (c) a fair proportion of any costs that the Landlord or the Superior Landlord incurs in obtaining a valuation of the Building for insurance purposes.

9.4 The Tenant shall:

- (a) give the Landlord notice immediately any matter occurs in relation to the Tenant or the Property that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Building;
- (b) not do or omit anything as a result of which any policy of insurance of the Building or the Estate may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased insurance or additional premium may become payable;
- (c) comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of the Common Parts;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk;
- (e) not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property other than in respect of plate glass pay those proceeds or cause them to be paid to the Landlord; and
- (f) pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay (in relation to the Building) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them.

9.5 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed by an Insured Risk so as to make the Property inaccessible or unusable then, unless the policy of insurance in relation to the Property or the Common Parts has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use or the Common Parts have been reinstated so as to make the Property accessible or useable (as the case may be), or until the end of three years from the date of damage or destruction, if sooner.

9.6 If, following damage to or destruction of the Estate and/or the Building, the Landlord considers that it is impossible or impractical to reinstate the Estate and/or the Building, the Landlord may terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of

the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.

- 9.7 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 of the Property or the Common Parts by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use or the Common Parts have not been reinstated so as to make the Property accessible or useable within three years after the date of damage or destruction. On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.

#### **10 TERMINATION ON DAMAGE OR DESTRUCTION**

- 10.1 If following damage or destruction of the Building the Superior Landlord serves notice on the Landlord to terminate the Superior Lease then the Landlord may serve notice on the Tenant terminating this underlease and on the expiry of the notice this underlease will end.
- 10.2 Clause 10.1 does not affect the Landlord's right in respect of any prior breach by the Tenant of its obligations in this sub-underlease.

#### **11 RATES AND TAXES**

- 11.1 The Tenant shall pay all present and future rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:
- (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.
- 11.2 If any such rates, taxes or other impositions are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.
- 11.3 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 which shall not be unreasonably withheld.
- 11.4 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.

## **12 UTILITIES**

- 12.1 The Tenant shall reimburse the Landlord in respect of all costs in connection with the supply of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Property.
- 12.2 The Tenant shall comply with all relevant laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities.

## **13 COMMON ITEMS**

- 13.1 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 not on the Building but used or capable of being used by the Building in common with the Estate.
- 13.2 The Tenant shall comply with all reasonable regulations the Landlord and/or the Superior Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

## **14 VAT**

- 14.1 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.
- 14.2 Every obligation on the Tenant under or in connection with this lease to pay, refund or to indemnify the Landlord or any other person any money or against any liability includes an obligation to pay, refund or indemnify against any VAT, or an amount equal to any VAT, chargeable in respect of it.

## **15 DEFAULT INTEREST AND INTEREST**

- 15.1 If any Annual Rent whether it has been formally demanded or not or any other money payable under this lease after it has been formally demanded has not been paid by the date it is due, 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.
- 15.2 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.

## **16 COSTS**

16.1 The Tenant shall pay the proper and reasonable costs and expenses incurred by of the Landlord (acting reasonably) 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:

- (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) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- (d) the preparation and service of a schedule of dilapidations in connection with this lease; and
- (e) 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 to withhold it ).

16.2 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.

## **17 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 Landlord and Tenant Act 1927 or the 1954 Act is excluded, except to the extent that the legislation prevents that right being excluded.

## **18 NO DEDUCTION, COUNTERCLAIM OR SET-OFF**

The Annual Rent and all other money due under this lease are to be paid by the Tenant or any guarantor (as the case may be) without deduction, counterclaim or set-off.

## **19 ALIENATION**

19.1 Not to assign, underlet or charge or part with the possession of the whole or any part of the Property or share the occupation of the Property;

19.2 Not to transfer, share or otherwise divest any economic, beneficial or other interest in or derived from the Property or this lease, by declaring any trust or conferring on any person any agency, power or other arrangement.

**20 CANCELLATION OF ANY ENTRY AT THE LAND REGISTRY IN RESPECT OF THIS LEASE**

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

**21 REPAIRS**

21.1 The Tenant shall keep the Property in good repair and condition and shall keep the Property adequately cleaned as often as may be necessary.

21.2 Within 3 months before the end of the Contractual Term, if so requested by the Landlord acting reasonably, the Tenant shall remove the Cage and Awning fixed to the Property at its own expense and make good any damage caused to the Property by such removal at its own expense as soon as reasonably practicable and to the reasonable satisfaction of the Landlord.

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

- (a) the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or
- (b) the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 8.

**22 DECORATION**

22.1 The Tenant shall decorate the Property as often as is reasonably necessary and also in the last three months before the end of the Term.

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

22.3 All decoration carried out in the last three months of the Term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

**23 ALTERATIONS AND SIGNS**

23.1 The Tenant shall not make any structural alterations or alteration to the Service Media at the Property

- 23.2 The Tenant may make internal non-structural alterations at the Property with the consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 23.3 The Tenant shall not attach any sign, fascia, placard, board, poster or advertisement to the Property so as to be seen from the outside of the Building.
- 23.4 The Tenant shall repair and maintain any entry phone system that they may install with the Landlord's prior written approval and will remove such system at the expiry or sooner on determination of the term and reinstate the Property and the Building after such removal.

#### **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 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 including removing any alterations made during the term of the previous lease dated 14 January 2013 between Kings Hill Parish Council and The Trustees of Kings Hill Pre-School.
- 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 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 outside the Permitted Hours without the approval of the Landlord.



25.3 If the Landlord gives its approval to the Tenant using the Property outside the Permitted Hours, the Tenant shall comply with any regulations that the Landlord makes relating to that use and shall pay the Landlord all costs incurred by the Landlord in connection with that use, including the whole of the cost of any Services provided by the Landlord attributable to the use by the Tenant of the Property outside the Permitted Hours.

25.4 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, the other tenants or occupiers of the Building or any owner or occupier of neighbouring property.

25.5 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

## **26 MANAGEMENT OF THE BUILDING**

26.1 The Tenant shall observe all reasonable and proper regulations made by the Landlord and/or the Superior Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Common Parts and the management of the Building and the Estate.

26.2 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any other part of the Building 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 of all Service Media and machinery and equipment at or serving the Property;
- (c) any works carried out at the Property; and
- (d) all materials kept at or disposed from the Property.

27.2 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.

27.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:

27.3.1 send a copy of the relevant document to the Landlord; and

27.3.2 in so far 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.

- 27.4 The Tenant shall not apply for any planning permission for the Property.
- 27.5 The Tenant shall not carry out any works at the Property in respect of which the Construction (Design and Management) Regulations 1994 apply without the consent of the Landlord. Such consent is not to be unreasonably withheld in the case of works in respect of which the Landlord is not otherwise to withhold its consent unreasonably or which the Tenant is obliged to carry out under the terms of this lease.
- 27.6 The Tenant shall supply the Landlord with all documents relating to the Property that are required under the Construction (Design and Management) Regulations 1994 to be kept in the health and safety file for the Building.
- 27.7 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.
- 27.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.

**28 ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

- 28.1 The Tenant shall not grant any right or licence over the Property to any person nor permit any person to make any encroachment over the Property.
- 28.2 The Tenant shall not obstruct the flow of light or air to the Property.
- 28.3 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Building is enjoyed with the consent of any third party.
- 28.4 The Tenant shall immediately notify the Landlord if any person takes or threatens to take any action to obstruct the flow of light or air to the Property.

**29 REMEDY BREACHES**

- 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**

30.1 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 Building and loss of amenity of the Building) 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 or the Common Parts with the actual or implied authority of any of them.

30.2 The Tenant shall also perform and observe all the covenants conditions and provisions affecting the Property including those contained in the Superior Lease (except the covenants to pay rent) insofar as the same relate to the Property and also insofar as the same are still subsisting and capable of being enforced and to keep the Landlord fully and effectually indemnified from and against all costs claims demands and liabilities arising from any breach non-performance or non-observance thereof.

### **31 LANDLORD'S COVENANT FOR QUIET ENJOYMENT AND IN RESPECT OF THE SUPERIOR LEASE**

31.1 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 lawful interruption by the Landlord or any person claiming under the Landlord.

31.2 The Landlord further covenants with the Tenant to pay the rents reserved by the Superior Lease and by way of indemnity only to observe and perform the covenants and conditions on the part of the Tenant therein contained save to the extent that the same are to be observed or performed by the Tenant under this Lease.

### **32 CONDITION FOR RE-ENTRY**

32.1 The Landlord may re-enter the Property at any time after any of the following occurs:

- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) any breach of any condition of, or tenant covenant, in this lease;
- (c) where the Tenant or any guarantor is a corporation:

- (i) 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 guarantor; or
- (ii) the making of an application for an administration order or the making of an administration order in relation to the Tenant or guarantor; or
- (iii) 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 the guarantor; or
- (iv) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or guarantor; or
- (v) the commencement of a voluntary winding-up in respect of the Tenant or 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; or
- (vi) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or guarantor; or
- (vii) the striking-off of the Tenant or guarantor from the Register of Companies or the making of an application for the Tenant or the guarantor to be struck-off; or
- (viii) the Tenant or guarantor otherwise ceasing to exist;
- (d) where the Tenant or any guarantor is an individual:
  - (i) the taking of any step in connection with any voluntary arrangement or composition or arrangement for the benefit of any creditors of the Tenant or guarantor; or
  - (ii) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or guarantor.

32.2 If the Landlord re-enters the Property 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 LIABILITY**

33.1 At any time when the Landlord, the Tenant or a guarantor is more than one person, then in each case those persons shall be jointly and severally liable for their respective obligations arising by virtue of this lease. The Landlord may release or compromise the liability of any one of those persons or grant any time or concession to any one of them without affecting the liability of any other of them.

33.2 The obligations of the Tenant and any guarantor arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

33.3 In any case where the facts are or should reasonably be known to the Tenant, 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 facts that give rise to the failure and the Landlord has not remedied the failure within a reasonable time.

#### **34 AGREEMENT AND DECLARATION**

It is agreed and declared:

34.1 no liability shall attach to any person named in this lease as Tenant in respect of any breach of the obligations of the Tenant or any of them which occur at a time after the Term has ceased to be vested in such person.

34.2 the liability of the Landlord or any member of the Kings Hill Parish Council or its Management Committee in respect of any breach of the obligations of the Landlord or any of them shall be limited in amount to the realised value of the Landlord's assets and nothing contained in this lease shall entitle the Tenant to pursue exercise or enforce any right or remedy in respect of any such breach against the personal estate property effects or assets of any person or persons from time to time comprising the Landlord or being a member of the Kings Hill Parish Council or its Management Committee or against any assets for the time being vested in such person which do not form part of the Landlord's assets.

34.3 The liability of the Landlord and of the members of the Kings Hill Parish Council or its Management Committee to observe and perform the obligations of the Landlord under this Lease or any of them shall be joint only and not several

#### **35 ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

35.1 This lease constitutes the entire agreement and understanding of the parties relating to the transaction contemplated by the grant of this lease and suersedes any previous agreement between the parties relating to the transaction.

35.2 The Tenant acknowledges that in entering into this lease it has not relied on nor shall have any remedy in respect of, any statement or representation made by or on behalf of the Landlord.

35.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property or the Common Parts may lawfully be used for any purpose allowed by this lease.

35.4 Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

**36 NOTICES, CONSENTS AND APPROVALS**

- 36.1 Except where this lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this lease shall be in writing.
- 36.2 A written notice shall be delivered by hand or sent by pre-paid first class post or recorded delivery. A correctly addressed notice sent by pre-paid first class post shall be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.
- 36.3 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.
- 36.4 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:
- 36.4.1 it is given in writing and signed by a person duly authorised on behalf of the Landlord; and
- 36.4.2 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.
- 36.5 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:
- 36.5.1 the approval is being given in a case of emergency; or
- 36.5.2 this lease expressly states that the approval need not be in writing.
- 36.6 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.

**37 GOVERNING LAW AND JURISDICTION**

- 37.1 This lease shall be governed by and construed in accordance with the law of England and Wales.
- 37.2 The Landlord, the Tenant, and any guarantor irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this lease or the legal relationships established by it.

**38 EXCLUSION OF SECTIONS 24-28 OF THE 1954 ACT**

**38.1 The parties confirm that:**

- (a) the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the 1954 Act, applying to the tenancy created by this lease, a certified copy of which notice is annexed to this lease;
- (b) Sarah Louise Wilson who was duly authorised by the Tenant to do so made a statutory declaration dated 2019 in accordance with the requirements of section 38A(3)(b) of the 1954 Act a certified copy of which statutory declaration is annexed to this lease; and

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

**39 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No term of this lease shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

**40 LANDLORD AND TENANT (COVENANTS) ACT 1995**

This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

**41 SUPERIOR LEASE**

The Tenant hereby covenants with the Landlord and the Superior Landlord to observe and perform (insofar as they relate to the Property) the covenants on the part of the Tenant contained in the Superior Lease (except the covenant to pay rent thereby reserved).

**42 SUPERIOR LEASE TENANTS BREAK OPTION**

**42.1 In the event that the Landlord issues a valid notice under clause 8.1 of the Superior Lease giving the Superior Landlord at least twelve months' notice to end the Superior Lease the Landlord may issue a similar notice to the Tenant under this clause as if clause 8.1 of the Superior Lease were incorporated herein.**

**42.2 In the event that the Superior Landlord shall serve a valid notice on the Landlord pursuant to clause 8.2 of the Superior Lease either the Superior Landlord or the Landlord shall be entitled to serve a similar notice on the Tenant to end this lease.**

**43 MUTUAL BREAK OPTION**

In the event that either the Landlord or the Tenant shall desire to determine this lease at any time during the Term either party may serve upon the other at least six months' notice in writing of its desire to do so and upon the expiration of that notice this lease shall absolutely cease and determine entirely without prejudice to the rights and remedies each party may have in respect of the other in relation to any antecedent breach of the covenants on the part of either party to this lease and if the notice to determine is served by the Tenant on the Landlord subject to the Tenant vacating the Property on the date of determination and yielding up the Property to the Landlord in accordance with the terms of this lease.


**44 CHARITIES ACT 2011**

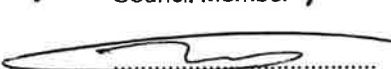
The land demised will, as a result of this lease, be held by (or in trust for) Kings Hill Pre-School, a non-exempt charity, and the restrictions on disposition imposed by sections 117 to 121 of the Charities Act 2011 will apply to the land (subject to section 117(3) of that Act).

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



Signed as a deed by KINGS HILL  
PARISH COUNCIL acting by:

  
.....  
Council Member

  
.....  
Council Member

ANTHONY PETTY  
CLIVE HENLEY

Executed as a deed by KINGS HILL  
PRE SCHOOL acting by  
....., a director, in the  
presence of:

.....  
SIGNATURE OF WITNESS

.....  
SIGNATURE OF DIRECTOR  
Director

.....  
NAME OF WITNESS IN BLOCK  
CAPITALS

.....  
ADDRESS OF WITNESS

.....  
OCCUPATION OF WITNESS



