

DATED 30 March 2021

- (1) HONITON TOWN COUNCIL
- (2) HONITON COMMUNITY COMPLEX

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**DEED OF VARIATION**

relating to  
a lease of

**The Beehive Dowell Street  
Honiton, EX14 1LZ**

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Michelmores 

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THIS DEED is dated 30 March 2021

HM Land Registry

Landlord's title number: DN349527

Tenant's title number: DN683128

Administrative area: Devon : East Devon

## PARTIES

- (1) **HONITON TOWN COUNCIL** of Council Offices The Beehive, Dowell Street, Honiton, EX14 1LZ (**Landlord**); and
- (2) **HONITON COMMUNITY COMPLEX** (company registration number 08409289 and charity registration number 1162412) whose registered office is at The Beehive, Dowell Street, Honiton, EX14 1LZ (**Tenant**).

## BACKGROUND

- (A) This Deed is supplemental and collateral to the Lease.
- (B) The Landlord and the Tenant have agreed to vary the Lease on the terms set out in this Deed.
- (C) The Landlord is entitled to the immediate reversion to the Lease.
- (D) The residue of the term granted by the Lease is vested in the Tenant.

## AGREED TERMS

### 1 INTERPRETATION

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

#### 1.1 Definitions:

**Compromise Payment:** the sum of £10,000 exclusive of any Value Added Tax by way of New Service Charge in respect of the New Service Charge Year ending on 31 March 2021.

**Covid Support Grant:** the sum of £15,000 exclusive of any Value Added Tax by way of a Covid support grant from the Landlord to the Tenant.

**First New Service Charge Instalment:** the sum of £2,500 exclusive of any Value Added Tax being the first quarterly instalment of the New Service Charge in respect of the period from 1 April 2021 to 30 June 2021.

**Lease:** a lease of the Property dated 9 December 2015 and made between (1) Honiton Town Council and (2) Honiton Community Complex.

**Property:** The Beehive Dowell Street Honiton, EX14 1LZ as more particularly described in and demised by the Lease.

**Value Added Tax:** value added tax or any equivalent tax chargeable in the UK.

- 1.2 Except to the extent that they are inconsistent with the definitions and interpretations in clause 1 of this Deed, the definitions and interpretations in clause 1 of the Lease (as

varied by this Deed) shall apply to this Deed (including but not limited to the terms 'New Service Charge' and 'New Service Charge Year').

- 1.3 References to the **Landlord** include a reference to the person entitled for the time being to the immediate reversion to the Lease.
- 1.4 References to the **Tenant** include a reference to its respective successors in title and assigns.
- 1.5 A reference to the **Lease** includes any deed, licence, consent, approval or other instrument supplemental to it.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.9 The expressions **tenant covenant** and **landlord covenant** have the meanings given to them by the Landlord and Tenant (Covenants) Act 1995.
- 1.10 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.11 Unless the context otherwise requires, a reference to the Property is to the whole and any part of it.
- 1.12 Except where a contrary intention appears, references to clauses are to the clauses of this Deed.
- 1.13 Clause headings shall not affect the interpretation of this Deed.

## 2 VARIATIONS TO THE LEASE

### 2.1 Variations made

In consideration of the Landlord's payment to the Tenant of (a) the Covid Support Grant (b) the Compromise Payment and (c) the First New Service Charge Instalment on the date hereof (receipt of which the Tenant acknowledges) and the parties' respective obligations in this Deed, the Lease shall, from and including the date of this Deed, be read and construed as varied as follows:

#### Re. a new Tenant's break right

- 2.1.1 Two new definitions shall be inserted alphabetically into clause 1 of the Lease with the following wording:

***"Break Date: the date stated in the Break Notice on which this Lease shall terminate under clause 46."***

***"Break Notice: a notice in writing to terminate this Lease under clause 46."***

- 2.1.2 A new clause 46 shall be inserted into the Lease with the following wording:

**"46 Tenant's break right**

- 46.1 *The Tenant may terminate this Lease at any time by serving a Break Notice on the Landlord not less than 3 months before the Break Date (which Break Notice shall specify the Break Date).*
- 46.2 *Following service of a notice under clause 46.1 this lease shall terminate on the Break Date.*
- 46.3 *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.*
- 46.4 *If this lease terminates in accordance with this clause 46 then, within ten working days after the Break Date, the Landlord and the Tenant shall respectively refund to the other party the proportion (calculated on a daily basis) of any sums paid by the other party in advance under the Lease and any VAT paid in respect of them, in each case in respect of the period from and excluding the Break Date."*

Re. variations to the Service Charge

- 2.1.3 The following shall be deleted from the Lease:
- 2.1.3.1 the definitions of "Service Charge", "Service Costs" "Service Payment Dates", "Service Charge Year" and "Tenant's Services" in clause 1 of the Lease;
  - 2.1.3.2 the words "the Service Costs" and "and the Service Costs" throughout;
  - 2.1.3.3 clauses 22.4 to 22.11 inclusive.
- 2.1.4 Three new definitions shall be inserted alphabetically into clause 1 of the Lease with the following wording:
- "New Service Charge: in respect of each New Service Charge Year from and including that which commences on 1 April 2021 - the sum of £10,000 per annum exclusive of any VAT."*
- "New Service Charge Payment Dates: 1 January, 1 April, 1 July and 1 October in each calendar year."*
- "New Service Charge Year: the annual accounting period relating to the New Service Charge beginning on 1 April in each calendar year and ending on 31 March in the subsequent year during the term or such other annual accounting period as is notified by the Tenant to the Landlord on reasonable notice."*
- 2.1.5 Two new clauses 22.4 and 22.5 shall be inserted into the Lease with the following wording:
- "22.4 In respect of each New Service Charge Year from and including that which commences on 1 April 2021 the Landlord shall pay to the*

*Tenant the New Service Charge in advance and cleared funds by equal quarterly instalments on the New Service Charge Payment Dates."*

*"22.5 Within ten working days after the end of the term, the Tenant shall refund to the Landlord the proportion (calculated on a daily basis) of any New Service Charge paid by the Landlord in advance under the Lease and any VAT paid in respect of it, in respect of the period from and excluding the date of the end of the term."*

2.1.6 In consideration of the Landlord's payment of the Compromise Payment as referred to in the opening paragraph of clause 2.1, the parties agree that the Landlord shall not be obliged to pay any 'Service Charge' (as that term is defined in the Lease immediately before the date of this Deed) in respect of the period from and including 1 April 2020.

## **2.2 Lease remains in force**

The Lease shall remain fully effective as varied by this Deed and the terms of the Lease shall have effect as though the provisions contained in this Deed had been contained in the Lease with effect from and including the date of this Deed.

## **3 LEASE COVENANTS**

The Landlord and the Tenant covenant with one another to observe and perform, respectively, the landlord covenants and the tenant covenants in the Lease as varied by this Deed.

## **4 REGISTRATION OF THIS DEED**

### **4.1 Application for registration**

Promptly following the completion of this Deed, the Tenant shall apply to note this Deed at HM Land Registry against the Tenant's registered Title Number DN683128 and the Landlord's registered Title Number DN349527.

### **4.2 Requisitions**

The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with an application for registration are responded to promptly and properly and the Landlord shall provide the Tenant with any information or documentation within the Landlord's control which HM Land Registry may require under any such requisition.

### **4.3 Official copies**

Within one month after completion of the registration, the Tenant shall send to the Landlord Official Copy Entries of the respective registered titles received from the Land Registry.

## **5 CHARITIES ACT 2011**

5.1 The Property demised by the Lease (as varied by this Deed) is held by Honiton Community Complex, a non-exempt charity, and:

5.1.1 the restrictions on dispositions imposed by sections 117-121 of the Charities Act 2011 continue to apply to the Property (subject to the provision of section

117(3) of that Act); and

5.1.2 this Deed does not give rise to a disposal or an acquisition by the charity for the purposes of sections 117-121 of the Charities Act 2011.

5.2 The directors of the charity, being the persons who have the general control and management of its administration certify that:

5.2.1 they have power under the provisions establishing the charity and regulating its purposes and administration to effect this Deed; and

5.2.2 they have complied with the provisions of sections 117 to 121 of the Charities Act 2011 so far as applicable.

## 6 **GOVERNING LAW**

This Deed 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.

## 7 **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 Deed or its subject matter or formation (including non-contractual disputes or claims).

## 8 **THIRD PARTY RIGHTS**

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

**In witness whereof** this document has been executed and delivered on the date first stated above.

[ON ORIGINAL]



Executed as a deed by affixing  
the common seal of  
**HONITON TOWN COUNCIL**  
in the presence of:

)  
)  
)  
)

*J. B. Taylor* ..... and  
*[Signature]* .....

*[Signature]* .....  
Town clerk

[ON COUNTERPART]

Executed as a deed by  
**HONITON COMMUNITY COMPLEX**  
acting by two directors or by a  
director and its company secretary

)  
)  
)  
)

.....  
Director

.....  
Director/company secretary