

Alice Park Trust Sub-Committee

Date: Monday, 23rd December, 2019

Time: 9.30 am

Venue: Kaposvar Room - Guildhall, Bath

Councillor Rob Appleyard (Chair)

Councillor Paul Myers (Vice Chair)

Councillor Joanna Wright

Co-opted members non-voting: Graham Page (Independent)

Chief Executive and other appropriate officers

Press and Public



Marie Todd

Democratic Services

Lewis House, Manvers Street, Bath, BA1 1JG

Telephone: 01225 394414

Web-site - <http://www.bathnes.gov.uk>

E-mail: Democratic_Services@bathnes.gov.uk

NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the Guildhall - Bath.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings: -**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

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<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

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Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Decision Making Powers of the Sub-Committee:

1. To discharge the Council's role as Corporate Trustee for the Alice Park Trust, in line with Charities Commission guidance. The objects of the Alice Park Trust are for use as a public park and children's recreation ground.
2. To agree the Trust's annual budget and business plan.
3. To approve the use of any reserves.
4. To agree the Trust's annual accounts.
5. To receive and respond to the audit findings relating to the annual accounts.
6. To receive reports on the effective day to day management and financial performance of the Trust.
7. To allow interested parties to give their view on the performance and direction of the Trust.

Alice Park Trust Sub-Committee - Monday, 23rd December, 2019

at 9.30 am in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out on the Agenda.

3. APOLOGIES FOR ABSENCE AND SUBSTITUTION

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**,
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair will announce any items of urgent business accepted since the agenda was prepared under the Access to Information provisions.

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. MINUTES OF THE MEETING OF 4 SEPTEMBER 2019 (Pages 7 - 12)

To confirm and sign the minutes of the meeting held on 4 September 2019.

8. APPROVAL OF LEASE TERMS FOR THE TENNIS COURTS AND ANCILLARY LAND (Pages 13 - 78)

The Sub-Committee is asked to approve the terms for the tennis courts lease.

9. APPROVAL OF LEASE TERMS FOR THE SKATE PARK LEASE (Pages 79 - 142)

The Sub-Committee is asked to approve the terms of the skate park lease.

10. DATE OF NEXT MEETING

To note that the next meeting will take place on 22 January 2020 at 4pm.

The Committee Administrator for this meeting is Marie Todd who can be contacted on 01225 394414.

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ALICE PARK TRUST SUB-COMMITTEE

Minutes of the Meeting held

Wednesday, 4th September, 2019, 6.00 pm

Councillor Rob Appleyard	-	Bath and North East Somerset Council
Councillor Paul Myers	-	Bath and North East Somerset Council
Councillor Joanna Wright	-	Bath and North East Somerset Council
Paul Hooper	-	Independent Member
Graham Page	-	Independent Member

1 ELECTION OF CHAIR

RESOLVED: To elect Cllr Rob Appleyard as Chair of the Alice Park Trust Sub-Committee.

2 ELECTION OF VICE CHAIR

RESOLVED: To elect Cllr Paul Myers as Vice-Chair of the Alice Park Trust Sub-Committee.

3 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

4 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer explained the emergency evacuation procedure.

5 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence.

6 DECLARATIONS OF INTEREST

There were no declarations of interest.

7 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

It was noted that there was one urgent item relating to an event to be held on the park at the end of October. This would be discussed later in the meeting.

8 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

Mr Derek Swift had submitted a number of questions. Responses to some of these questions were circulated at the meeting. The remaining questions will be answered in writing in due course. *(A copy of the questions and answers is attached as an*

appendix to these minutes).

Mr Swift then asked a supplementary question relating to legal fees and whether a budget had been prepared for the current financial year. The Chair explained that a new Group Accountant had just been appointed to support the Trust and that members were not able to answer detailed financial questions at this time.

The Legal Services Manager explained that B&NES Council is the sole corporate trustee and therefore individual members of the sub-committee are not trustees.

Paul Hooper expressed concern about the lack of information about the financial position of the Trust. The Legal Services Manager explained that members can request financial reports as required and pointed out that all previous reports are available on the Council website. It was agreed that the current financial position will be considered at the next meeting.

Cllr Myers stated that all Sub-Committee members should take some ownership of Trust matters. Cllr Appleyard agreed with this approach noting that officers would be taking a “lighter touch” approach in future with the Sub-Committee becoming more self-sufficient.

9 MINUTES OF THE MEETING OF 25 FEBRUARY 2019

The minutes of the meeting held on 25 February 2019 were confirmed and signed as a correct record.

10 CHAIR'S UPDATE

The Chair gave the following updates:

- Notice Boards – Graham Page has been leading on this project. The work is ready to be carried out except for one grammatical error which needs to be rectified. The Sub-Committee confirmed that Graham Page can progress with the provision of the notice boards and the necessary correction provided there are no cost implications.
- Footpath Join-Up – The footpath has brought a huge benefit to park users and many positive comments have been received.
- General Maintenance – This matter will be discussed at the next meeting.

11 HEADS OF TERMS FOR SKATEPARK LEASE

The Sub-Committee considered a report by the Team Manager, Parks and Bereavement Services. It was noted that to commence the installation of the skatepark the Council must enter into a lease with the Alice Park Trust for the land required.

The following issues were discussed:

- The delivery of the skate park is the responsibility of the Council.

- Paul Hooper noted that one of the recommendations asked the Sub-Committee to allocate some funding towards legal costs. The Team Manager explained that this was now required because the original plan had been to install the skate park at the same time as the footpath works to save money. A fence is also now required to keep the skate park separate from the children's play area.
- Graham Page stated that if the Council has not made adequate provision in its budget for the skatepark then the Trust should not be expected to contribute towards its legal costs. He also asked that the area to be leased for the skate park be changed for health and safety and child protection reasons. The skate park should be clearly separated from the children's playground as there are foreseeable risks.
- Paul Hooper supported the provision of the skate park and its design but had concerns around the way the contract had been awarded and why Canvas had been selected.
- The Legal Services Manager explained that the Council would be required to remove and replace the skate park at the end of its life. The Council would also be responsible for all repairs and maintenance. He also confirmed that the Council had followed its contract standing orders when awarding the contract to Canvas.
- Cllr Myers queried the extent to which there was a conflict of interest if the Trust gave money to the Council.
- Cllr Appleyard explained that the Council had allocated money for a skate park. Private donations were also given to provide the facility. Following discussions the Sub-Committee had agreed to allocate £25k from the skate park monies towards other park improvements. Some of this funding had already been spent but what was being requested from the Trust was a return of some of the original skate park funds.
- The Legal Services Manager explained that the Council, as sole corporate trustee for the Alice Park Trust, was being advised by external solicitors. He confirmed that a copy of the lease, when finalised, would be brought back to the Sub-Committee.
- Graham Page raised the issue of a potential conflict of interest for Cllrs Appleyard and Wright as they had campaigned during the election for a skate park. The Legal Services Manager confirmed that Councillors can campaign on an issue and then make decisions relating to that issue provided they are not "predetermined".
- Cllr Myers stressed the importance of being clear about reinstatement. It was important to have the power to remove the skate park if it was no longer required. He was concerned about the lack of budget information and felt that the Sub-Committee needed to know the facts before agreeing to release any funding. He supported the recommendation provided:
 - There are clear plans in the Heads of Terms regarding reinstatement.
 - Full details of the Trust's budget are made available at the next meeting.

RESOLVED:

- (1) To approve the proposed Heads of Terms as set out in the report.

- (2) To work with assistance from the Council, to gain Charity Commission approval for the disposal of land via a lease, commensurate with its formal asset valuation by a qualified surveyor and through their agreement to advertise the disposal via public notice upon the site.
- (3) To ask the Team Manager, Parks and Bereavement Services to provide a specific quote for the disposal fees and other contingencies. To agree expenditure of up to £6k from the Alice Park Trust budget for these items to enable the project to move forward.
- (4) Once the lease is finalised the Trust Sub-Committee will formally approve the lease with the Council subject to Charity Commission approval.

12 **TENNIS COURTS LEASE**

The Sub-Committee considered a report by the Leisure Team Manager regarding a proposal for the refurbishment, operation and management of the tennis courts in Alice Park.

It was noted that the tennis pavilion would not be included in the proposed refurbishment at this stage because the necessary funds are not available.

Officers confirmed that the lease would come back to the Sub Committee for approval once finalised.

RESOLVED: To approve the grant of a 25 year lease of the 6 tennis courts to the Council to carry out a refurbishment project and take on the operation and all liabilities associated with the courts throughout the 25 year period.

13 **PETANQUE FACILITY**

Chris Garrett from the Bath Grand Cru Petanque Club addressed the Sub-Committee on the following matters:

- The old playing area in the park has been expanded to create a 13 x 14m terrain. The new area is now ready for use and appears to be a very high quality playing area, with a suitable top surface, and a solid and stable substrate underneath.
- No formal user agreement has been completed and when the project was underway it was inferred that the club would have some “ownership” of the amenity. This control would be accompanied by a degree of responsibility for regular use and maintenance. It seems that the park’s regular maintenance team would have neither the time nor the technical expertise to ensure this is carried out satisfactorily in the future.
- The Bath Grand Cru Petanque Club is now a well-established and successful club. The club would like to see the terrain and amenity completed by:
 - Installation of a semi-permanent surround area boundary e.g. old railway sleeper style.
 - Signage to indicate the terrain use.
 - Electricity connection to enable use of portable lighting to enable play

- to take place some evenings and during Winter months.
- Some means of securely storing playing equipment and sundry items.

Such works would enable the club to make regular use of the facility. The club could ensure that the facility is maintained in good order and well enough to allow competitive and casual use at all times.

Cllr Appleyard queried what the club could commit to in terms of usage and “in kind” contributions.

Paul Hooper noted that sports facilities generally charged users and suggested that people could book to hire per track.

The Legal Services Manager explained that charging for hire would lead to health and safety obligations. A lease for the area may be required.

Cllr Myers stated that a system should be put in place for the use and maintenance of this facility and that the Sub-Committee should be aware of activities that are taking place within the park. It was noted that this is not a Council facility and it will be important to ensure that any charging regime is as simple as possible.

RESOLVED: To agree that Cllr Rob Appleyard, Cllr Paul Myers and Chris Garrett meet to discuss and formulate proposals for the future use and management of the petanque facility and report back to the Sub-Committee.

(Note: At this point Cllr Myers left the meeting).

14 **WILDLIFE GARDEN**

Sam McGuire gave a brief update on the wildlife garden that has been created in the park. He showed a number of photographs of the garden area.

The Sub-Committee thanked Sam for his work to create the wildlife garden and stated that it was a beautiful area that was an asset to the park.

The annual cut and maintenance could be discussed as part of the Council’s service level agreement.

15 **PROCESS FOR MEMORIAL BENCHES ETC**

Requests have been received regarding the provision of a memorial park bench and a memorial tree in Alice Park. The Trust will need to agree a process for this type of request including future maintenance.

Cllr Wright stated that the Cabinet has discussed plans for future tree planting and there is likely to be a policy on this in due course.

RESOLVED: To discuss this matter at the next meeting.

16 **CAFE LEASE**

The Chair confirmed that the café lease would be discussed, in confidential session, at the next meeting when a comprehensive report has been prepared by officers.

17 **PARK IN THE DARK EVENT**

It was noted that a “park in the dark” event is planned for 26 October 2019. This will be the fourth such event and will take the same format as in previous years. An event management plan has been submitted to the Trust.

There was some discussion around health and safety matters and the merits of closing the park to enable set-up for the event.

RESOLVED: To take advice on this proposal and liaise with Tony Hickman the event organiser to finalise arrangements.

18 **DATE OF NEXT MEETING**

RESOLVED: That the next meeting be arranged once the skate park and tennis court leases and independent valuation report are available for formal approval.

The meeting ended at 8.00 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

Bath & North East Somerset Council	
MEETING	Alice Park Trust Sub Committee
MEETING	23 December 2019
TITLE:	Approval of Lease Terms for the Tennis Courts and ancillary land
WARD:	Lambridge
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Appendix 1 Advice of Independent solicitors appointed on behalf of the Trust</p> <p>Appendix 2 Advice of Independent surveyors appointed on behalf of the Trust</p> <p>Appendix 3 Draft Lease</p> <p>Appendix 4 Draft Assignment of Lease</p> <p>Appendix 5 Application to the Charity Commission for an order consenting to the grant of a lease</p>	

1 THE ISSUE

1.1 To commence the refurbishment of the tennis courts the Trust must enter into a lease, with a nominee, appointed by the Council, who will then assign the lease to the Council.

1.2 This report outlines the process for the granting of the lease and the reasons why a nominee is required

2 RECOMMENDATION

The Sub-Committee is asked, subject to approval by the Charity Commission and subject to the Council securing grant funding from the Lawn Tennis Association & Sport England to;

2.1 Approve the terms of the draft lease on the basis that these are the best terms that can reasonably be obtained.

2.2 Approve the grant of the lease (Appendix 3) to the nominee and consent to the simultaneous assignment of the lease to the Council in its corporate capacity.

2.3 Authorise the clerk to submit the application (Appendix 5) for Charity Commission consent to the lease on behalf of the Trust.

3 THE REPORT

3.1 The Council as sole corporate trustee of the Alice Park charity cannot grant a lease directly to the Council in its corporate capacity. The advice of the Independent solicitors (Appendix 1) appointed on behalf of the Trust outlines the process for the lawful grant of a lease from the Official Custodian for charities, through a nominee and ultimately to the Council in its corporate capacity.

3.2 The Council, through the Monitoring Officer, proposes to appoint the Deputy Monitoring Officer, by an officer delegated decision, to act as the nominee and to direct the nominee to simultaneously effect an assignment of the lease to the Council in its corporate capacity.

3.3 Members of the sub-committee acting in its capacity as the sole corporate charitable trustee must act in the best interest of the charity in the grant of the lease to the Council. Because the Council is a Connected Person, the approval of the Charity Commission is required before the grant can take effect. To assist the sub-committee in its determination of whether the terms of the proposed transaction are the best that can reasonably be obtained for the charity a valuation and advice has been obtained from independent surveyors (Appendix 2).

3.4 The sub-committee has previously approved the heads of terms for the grant of a lease of the tennis courts which have now been embodied into the draft lease by the independent solicitors and these have been agreed with the Council's solicitors (Appendix 3). The sub-committee is requested to approve the draft lease and authorise its execution once approval to the transaction has been given by the Charity Commission.

3.5 Upon the grant and assignment of a lease to it the Council intends to procure an operator to sublet this site together with 2 Council owned park tennis court sites on a profit share arrangement. There is no guarantee that the Council will secure an operator or that an operator will enter into a profit share arrangement with the Council. Even if it is possible to secure an operator on a profit share arrangement there is no guarantee that this site will generate a profit. If however, the site does generate a profit the Council will arrange to pass through to the Trustees any payments received for this site under any profit share arrangement with its operator.

4 STATUTORY CONSIDERATIONS

4.1 The Council is sole corporate trustee of the Alice Park Trust. The Alice Park Trust's Sub-Committee's terms of reference are to undertake the operational management functions in respect of the Alice Park site and its resources, in accordance with Trust's objects and the duties it owes pursuant to the Charities legislation

- 4.2 Members in their capacity as sole corporate trustee must administer the Trust in good faith, abiding strictly to the objects of the Trust and administering the Trust for the benefit of the public which may at times conflict with the interests of the Council.
- 4.3 The Council in its corporate capacity is, pursuant to section 118 Charities Act 2011 treated as a Connected Person and the legislation requires that a transaction to a Connected Person requires an order of the Charity Commission. The legislation also provides a number of statutory safeguards to ensure objectivity and transparency in regard to the transaction. In particular the members must, before entering into a lease of the land—
- 4.3.1 obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity,
 - 4.3.2 advertise the proposed disposition for such period and in such manner as is advised in the surveyor's report (unless it advises that it would not be in the best interests of the charity to advertise the proposed disposition), and
 - 4.3.3 decide that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.
- 4.4 Members must consider the Independent surveyors report and satisfy themselves that the requirements in 4.3.1 have been met.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The Council will, subject to receipt of grants from the Lawn Tennis Association and Sport England, refurbish, manage, insure and create a sinking fund to maintain the site during the lease term. The grant of the lease to the Council will relieve the Trust of maintaining and operating the tennis courts during the term of the lease while ensuring delivery on the objects of the charity

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 CLIMATE CHANGE

- 7.1 There are no climate change implications arising directly from this report

8 CONSULTATION

- 8.1 The Monitoring officer and S.151 officer have been consulted on the contents of this report.

Contact person	Michael Hewitt, Deputy Monitoring Officer Tel: 01225 395125 E-mail: Michael_Hewitt@bathnes.gov.uk
Background papers	Alice Park Trust sub-committee report dated 4 September 2019
Please contact the report author if you need to access this report in an alternative format	

Alice Park, Lambridge, Bath

Advice Note

Bath and North East Somerset Council

1 November 2019

Contents

1	Background	3
2	Nominees.....	4
3	Power to appoint a nominee	4
4	Selection of the nominee.....	4
5	Acting as nominee.....	5

1 Background

- 1.1 Bath and North East Somerset Council (**BANES**) is the sole corporate trustee of the charitable trust known as "The Alice Park" (the **Charity**). The Charity was established by a conveyance dated 19 May 1937, as amended by a Charity Commission Scheme dated 17 December 1973 (the **Governing Document**).
- 1.2 BANES has established a committee known as the "Alice Park Trust Sub-Committee" (the **Committee**). The Committee has delegated authority from BANES to take certain actions and decisions in respect of the Charity.
- 1.3 The main asset of the Charity is Alice Park which is situated in Lambridge, Bath (the **Park**). The Park is registered at the Land Registry under title number ST277651. The legal title of the Park is held by The Official Custodian for Charities as custodian trustee for the Charity.
- 1.4 BANES in its capacity as trustee of the Charity proposes to grant two leases of part of the Park to BANES (in its local authority capacity) for the development of a skate park and tennis courts (the **Leases**). The skate park and tennis courts will then be operated by BANES (in its local authority capacity) in line with other of its leisure facilities. The proposed rent under the Leases is a peppercorn, (if demanded).
- 1.5 The Heads of Terms for the Leases have been agreed and draft Leases have been prepared in line with these terms.
- 1.6 Clause 5 of the Governing Document gives BANES in its capacity as trustee of the Charity the power to let the Park (or part of it), provided that the provisions of the Charities Act 2011 (the **Act**) regulating the disposal of charity land are complied with. In exercising this power, BANES (in its capacity as trustee of the Charity) will need to ensure that the grant of the Lease is in the best interests of the Charity. Conflicts of interest/duty should be appropriately managed and documented.
- 1.7 In 2008, BANES instructed Anthony Tanner of Falcon Chambers to advise on the proposed grant of a lease by BANES in its capacity as trustee of the Recreation Ground, Bath to BANES (in its local authority capacity).
- 1.8 In his advice, Counsel confirmed that BANES could not grant the lease, even if it acted in each case in different capacities, as it would be void¹.
- 1.9 As a solution to the issue, Counsel advised that BANES should consider granting the leases to a nominee. The nominee would not be an agent for BANES and therefore the leases would not be void². Also, once the leases are granted, they could be assigned by the nominee to BANES (in its local authority capacity).
- 1.10 BANES proposes to follow Counsel's advice in relation to the grant of the Leases of the Park by appointing a nominee, who would then assign the Leases to BANES (in its local authority capacity).
- 1.11 The purpose of this advice note is therefore to:
 - 1.11.1 advise on whether BANES (in its local authority capacity) has the power to appoint a nominee;
 - 1.11.2 comment on who could act as the nominee; and

¹ This follows the court's decision in the case of *Rye -v- Rye* [1962] AC 496.

² This approach was supported by the court in the case of *Ingram -v- IRC* [1999] All ER 297.

1.11.3 identify any issues for the nominee in acting as such.

2 Nominees

2.1 Reference to nominee in this advice is to an individual who has been nominated to act as BANES' nominee.

2.2 A nominee could be appointed if:

2.2.1 it is within BANES' powers as trustee of the Charity to grant the leases; and

2.2.2 BANES in its local authority capacity under local government law is able to hold property in its statutory corporate capacity in the name of a nominee.

2.3 We have considered at section 3 below whether BANES, in its statutory corporate capacity, is able to hold property in the name of a nominee.

2.4 We have confirmed at paragraph 1.6 above that BANES (as trustee of the Charity) has the power to grant leases of the Park. However, there is still a requirement to comply with the provisions governing the disposal of charity land contained in the Charities Act 2011. In this case, the grant of the Leases would be considered a lease to a "connected person" for the purposes of section 118 of the Act. Therefore, in order to enter into the Leases, an Order of the Charity Commission will be required to authorise the arrangements. This authorisation is required regardless of the leases in the first instance to BANES' nominee.

2.5 While the Order of the Commission would allow BANES (in its capacity as trustee of the Charity) to grant the Leases to the nominee (which will then be assigned to BANES as local authority), conflicts of interest/duty will need to be appropriately managed. We recommend that there is a clear audit trail of the decision-making processes adopted, which includes demonstrating how conflicts of interest/duty were managed by the Committee and particularly that decisions were taken solely and exclusively in the interests of the Charity.

3 Power to appoint a nominee

3.1 Section 1 of the Localism Act 2011 grants a Power of General Competence to Local Authorities. This grants a local authority "a power to do anything that individuals generally may do". Since an individual could appoint a nominee, we consider that BANES can also do so.

4 Selection of the nominee

4.1 The nominee could be any individual, but, in these circumstances, our view is that the nominee should either be a member or officer of BANES.

4.2 BANES (in both of its capacities) has an interest in ensuring that the Leases are ultimately granted to BANES (in its local authority capacity) and therefore, the nominee in our view should be someone who BANES is able to control. In practice, it is likely that BANES (in its local authority capacity) will have more control over an officer due to the employment relationship.

4.3 The nominee will hold the Leases as a bare trustee and therefore will be required to act at the direction of BANES (in its local authority capacity), unless to do so would be to act in breach of trust. Therefore, it may be more practical for BANES to appoint one of its employees as its nominee as it will be able to use its role as employer to direct the nominee in the assignment of the Leases. There is likely to be less control over a Council member.

4.4 Although it is intended that the Leases are assigned shortly after they are granted by BANES (as sole trustee of the Charity), if this is not possible, then BANES (in its local authority

capacity) will want to be able to retain control over that individual during the period for which he or she holds the Leases.

- 4.5 A member would have duties under the Localism Act 2011 in terms of managing conflicts of interest. While in this instance we do not foresee that a Council member would have a personal interest in the Leases, there is likely to be a conflict of duty which would need to be managed.
- 4.6 Our view therefore is that the nominee should be an officer of BANES. We understand that there is likely to be an officer willing to act in this capacity.

5 **Acting as nominee**

- 5.1 We have confirmed at paragraph 4.3 above, that any nominee appointed to take the grant of the Lease initially would be acting in the capacity of a bare trustee. This requires the nominee to act at the direction of BANES (as local authority), unless to do so would be to act in breach of trust.

Taking on the Lease

- 5.2 As the freehold title to the Property is held by the Official Custodian for Charities, the intention is that the appointed nominee will take the Lease from the Official Custodian. The Official Custodian itself is in a similar role to the nominee in that it must act at the direction of BANES (as the trustee of the Charity) in granting the Leases (unless to do so would be to act in breach of trust).

Consequences of accepting the grant of the Lease

- 5.3 Upon entering into the Leases, the nominee will become liable for the costs involved. These may include:
- 5.3.1 Any lease premium (in this case, there is none).
- 5.3.2 Rent due under the lease (in this case, a peppercorn).
- 5.3.3 Other liabilities under the lease, such as the repairing covenant.
- 5.3.4 Any Stamp Duty Land Tax (**SDLT**) due on the grant of the leases (see below).
- 5.3.5 Land registry fees for registration of the leases - If a Lease is for a term of more than seven years, it must legally be registered at the Land Registry against the property title and a registration fee must be paid.

The proposed term of the Lease is 25 years and registration at Land Registry will therefore be required.

- 5.4 In practice we have assumed that BANES (as local authority) will meet any costs incurred by its nominee.
- 5.5 In our view, it is unlikely that any liabilities will arise for the nominee. However, in the unlikely event that any liabilities arise the nominee by virtue of section 265 of the Public Health Act 1875 (as amended) would when acting in the course of their duties and in good faith, has statutory immunity and is not personally liable for the actions they take. The Act provides for indemnity in relation personal liabilities and also costs. In addition to this statutory indemnity, we have included a specific contractual indemnity in the deeds of assignment which will transfer the leases from the nominee to the Council.

Assignment of the Lease

- 5.6 Once the Leases are granted to the nominee, the Leases can then be assigned to BANES. The assignment is the transfer by the nominee of their rights and obligations under the Leases to BANES (as local authority).
- 5.7 As drafted, the Leases provide that the tenant (i.e. the nominee) is permitted to assign the Leases to BANES without the consent of the landlord (i.e. the Charity). The landlord's consent is required if the Tenant wishes to assign or underlet the Lease to anyone other than BANES (this consent is not to be unreasonably withheld). Therefore, in the very unlikely event that the nominee attempted to assign the Leases to someone other than BANES (as local authority), BANES in its capacity as trustee of the Charity would have knowledge of this.
- 5.8 In order to assign the Leases, the nominee will need to enter into a deed of assignment.
- 5.9 We propose that the deed of assignment will be entered into immediately following the grant of the Leases meaning that, in practice, the nominee will hold the Leases for a very short period of time.
- 5.10 Following the assignment of the Leases, the assignment should be registered at the Land Registry. In practice, we would register the grant of the leases and the assignment within the same application.

Liability of the nominee following assignment

- 5.11 As a lease which is granted after 1 January 1996 (not pursuant to an agreement dated before that date), the Leases will qualify as a "new lease" under the Landlord and Tenant (Covenants) Act 1995.
- 5.12 As new leases, the position is that the original tenant (in this case, the nominee) will be released from liability on assignment. Since the nominee will only hold the Leases for a very short period of time between the grant of the leases and completion of the assignment, we consider the risk of any liabilities falling to the nominee to be minimal.
- 5.13 In any event, we have included a specific contractual indemnity in the deeds of assignment from the Council to the nominee.

SDLT

- 5.14 We understand that you have commissioned a qualified surveyor to prepare a valuation report (in accordance with the Charities Act 2011) to advise on the terms of the proposed Leases, including the peppercorn rent.
- 5.15 Given that the surveyors report confirms that the Lease of a peppercorn (for both the Skate Park and the Tennis Courts) represents the market rate for the Property, the "Net Present Value" (the figure used to calculate your SDLT liability) would be nominal and therefore no SDLT would be payable and no return would be required to be made to HM Revenue & Customs.

If you have any questions in relation to this advice, please contact Rebekah Moore.

VWV LLP
1 November 2019

Valuation

Private & confidential

Hayley Ponsford
Bath & North East Somerset Council
Northgate House
Upper Borough Walls
Bath
BA1 1RG

James Davies MRICS
RICS Registered Valuer
BNP Paribas Real Estate
Portwall Place
Portwall Lane
Bristol
BS1 6NA
Tel: +44 (0) 117 984 8468
Fax: +44 (0) 117 984 8401
E-mail: James.d.davies@bnpparibas.com

Our Ref: ADS/TAM/193746

23 September 2019

Dear Hayley,

**TENNIS COURTS AT ALICE PARK, GLOUCESTER ROAD, BATH, BA1 7BL: (THE
"PROPERTY")**

BATH AND NORTH EAST SOMERSET COUNCIL AS TRUSTEE OF ALICE PARK

1 TERMS OF REFERENCE

1.1 Instructions

Our valuation has been prepared in accordance with your instructions of 15 August 2019, the terms of our letter of 23 September 2019, and the Valuation Procedures and Assumptions enclosed with that letter. Copies of these documents are enclosed in Appendix 1.

The Property comprises six tennis courts. This valuation has been prepared for internal purposes, however, we acknowledge that it may be that it may be published in the public domain.

1.2 Date of valuation

23 September 2019. The importance of the valuation date must be stressed as property values may change over a relatively short period.

1.3 Standards

The report has been prepared in accordance with RICS Valuation – Global Standards 2017, (the "Red Book"). In particular we have had regard to UKVPGA 8, 'Valuation of Charity Assets'; Section 119 of the Charities Act 2011; and the Charities (Qualified Surveyors' Reports) Regulations 1992. We have also had regard to the Charities Statement of Recommended Practice ("SORP"), which broadly follows UK Generally Accepted Accounting Principles ("UK GAAP").



The courts are tarmac covered and fenced with wire mesh fencing. They presented in a relatively poor state of repair, although still useable, and appeared to be nearing the end of their useful life. The tennis court area also includes a very small building of timber construction on a masonry base, which was also in a poor condition.

We provide pictures taken at the time of our inspection below.



You have informed us that the courts bring in a total income of £1,500 per annum. The Lawn Tennis Association recommendation for annual maintenance and lifecycle replacement costs for six tennis courts is £9,000 per annum, therefore, the courts are currently operating at a loss of £7,500 per annum.

3 PROPOSAL

You have informed us that it is the intention for Alice Park Trust (the Trust) to grant a lease to Bath & North East Somerset Council (the Authority), who are sole corporate Trustees of the Trust. You have provided us with Heads of Terms for the proposed lease, the salient terms of which are outlined below.

Landlord	The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP, C/o Alice Park Trust Sub Committee
Tenant	Bath & North East Somerset Council Parks & Green Spaces (Environmental Services)
Rent	Peppercorn
Lease length and start date	25 years from date to be agreed



Tenant's initial works	Construction and refurbishment of six tennis courts and pavilion and associated land. To be dealt with by a Licence for Alterations (or appropriate document) and is conditional on obtaining any requisite consents and funding.			
Break clauses	None			
Rent reviews	None			
Alienation		Prohibited	If not prohibited Is CNUW	Permitted without consent
	Assignment of whole	Yes	Yes	Yes
	Sub-Lease whole	Yes	Yes	Yes
	Sub-Lease part	Yes	N/A	Yes
	Sub-sub-lease	Yes	N/A	No
	Concession	N/A	N/A	Yes
	Group sharing	Yes	Yes	Yes
Repairing obligations	Full repairing. The tenant to put and keep the demised area in good repair.			
Dilapidations	Tenant to reinstate at the end of the lease limited by Schedule of Condition.			
Incentives	None			
1954 Act protection	No			
Service charge	None			
Alterations		Prohibited	If not prohibited Is CNUW	Permitted without consent
	External	No	Yes	No
	External structural	No	Yes	No
	Internal structural	No	Yes	No
	Internal non structural	No	Yes	No
Permitted use	Tennis Courts and ancillary recreational use.			
Insurance	Tenant to insure			
Rates and utilities	Tenant to be directly liable for all outgoings associated with the facility, if applicable.			

4 VALUATION

We have valued the Property using a two-layer approach, which comprises the value of the facility itself and the value of the underlying land. We note that the below methodology applies to the valuation of the freehold title of the Property and does not reflect the terms of the proposed lease. This will be discussed in Section 4.3.

4.1 Freehold land valuation

Tennis Court Facility

We have valued the tennis court facility by using the Depreciated Replacement Cost method, where the cost of constructing a modern replacement of the facility is depreciated to account



for age and obsolescence, taking into account the overall lifespan of the facility and its remaining useful life.

According to research the average useful lifespan of a tennis court is approximately 20 to 25 years. It is our understanding the courts are in excess of 20 years old and as such are towards the end of their useful life. On inspection the courts were in a relatively poor state of repair, however, they were still in a useable condition. As such we have decided to adopt a depreciation rate of approximately 85%.

We have assumed a cost of improving the sub base, resurfacing the courts and the replacing of the fencing is approximately £150,000. We have also factored in costs for fees, contingency and finance.

Our opinion of Market Value of this element, once depreciated, is approximately £25,700 (say £25,000).

Land Element

We have then valued the land element that the tennis court facility is sited on. Our opinion of the Market Value of the wider park was £25,000 per acre in our previous valuation in 2015, which was primarily based on one piece of comparable evidence, the sale of Bath Rugby's Lambridge Training Ground, which was sold in 2013. Comparable evidence of transactions of land of a similar use is extremely scarce, and as such, as we have found no further evidence, the sale of the Lambridge Training Ground remains the best source of comparable evidence. As this transaction is now historic, we have analysed published indices (outlined below), which track movement in the value of defined asset classes over time, in order to adjust our previous opinion of Market Value of the underlying land to account for the time differential.

Land Price Indices

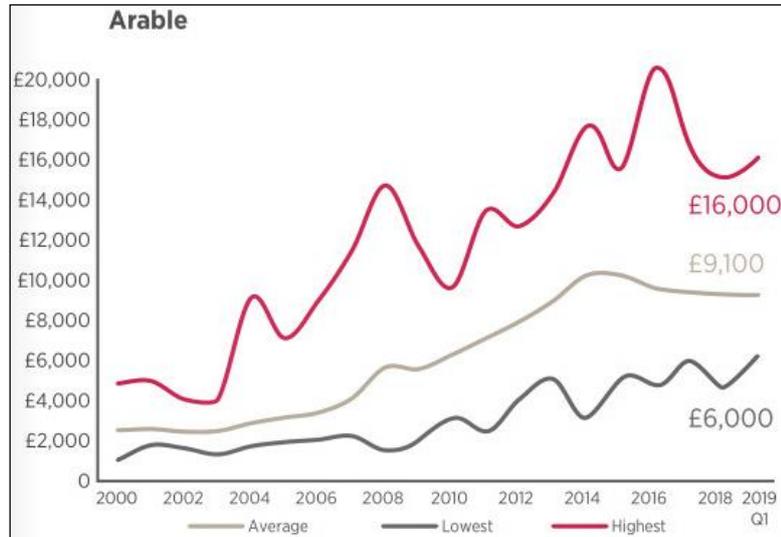
We are not aware of any specific index that relates to parkland, so we have adopted an index that relates to farmland. The index is based on statistics provided by our colleagues at Strutt and Parker, as published in their English Estates and Farmland Review Q1, which is the most recent publication.

The average price of transacted arable land in England are set out below:

2019 - £9,100 per acre

2015 - £10,000 per acre

This highlights a decrease of 9% in the average price transacted for arable land in England between 2015 and 2019. This is highlighted in the graph below.



Source: Strutt and Parker - English Estates and Farm Land Review Spring 2019.

Once adjusted, this equates to a Market Value of the land element of £22,750 per acre, or £20,248 when applied to the area that is occupied by the tennis courts.

Combined Value

Our opinion of Market Value is therefore the addition of the tennis court element (£25,000) and the Land element (£20,248, say £20,000).

We have not attributed any value to the small building adjacent to the tennis courts due to age and obsolescence, however, we have included the land area on which it is sited within our calculation of underlying land value.

We highlight that we have made the assumption that if the tennis courts were to be sold independently to the rest of the park, access rights would be granted across the park for the benefit of the tennis courts.

4.2 Market Value

We are therefore of the opinion that the Market Value of the freehold interest in the Property as at 23 September 2019, is in the region of:

£45,000

(FORTY FIVE THOUSAND POUNDS)

Market Value definition

Market Value is an internationally recognised basis and is defined as:

“The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion”.

The Market Value is our estimate of the price that would be agreed, with no adjustment made for the costs that would be incurred by the parties in any transaction, including any liability for VAT, stamp duty or other taxes. It is also gross of any mortgage or similar financial encumbrance.



4.3 Valuation having regard to the terms of the proposed lease

As highlighted above, the Trust are proposing to grant a lease of 25 years to the Authority for the consideration of a peppercorn. The lease provides for the refurbishment of the tennis courts by the tenant (subject to funding), along with ongoing maintenance. You have informed us that profits gained from the operation of the tennis courts will be split between the Trust and the Authority. You have also informed us that currently, the tennis courts make a net loss.

The terms of the proposed lease, and the connected nature of the relevant parties, is a fairly unique proposition, which is difficult to compare to that of a standard commercial leasehold transaction.

We highlight that the current loss making status of the facility, the significant investment provided for by the lease and the future profit sharing element of the agreement does not represent a commercially viable scheme. The prospective tenant, the Authority, are also a connected body with a vested interest in the success and development of the wider park, with the motivation of increasing community engagement and involvement. A commercial entity would be very unlikely to offer the same extent of investment, management and added value to the community.

As such, in our opinion, the proposed lease represents the optimum disposition of the Property.

With regards to Rental Value and Market Value of the Property, factoring in the terms of the proposed lease, the level of investment required by the Authority and the net get gain to the Authority, our opinion is that both the Rental Value and Market Value is one peppercorn.

4.3.1 Rental Value factoring in the terms of the proposed lease

We are therefore of the opinion that the Rental Value of the freehold interest in the Property factoring in the terms of the proposed lease, as at 23 September 2019, is in the region of:

ONE PEPPERCORN

4.3.2 Market Value on the Special Assumption that the proposed lease is in place

We are therefore of the opinion that the Market Value of the freehold interest in the Property on the Special Assumption that the proposed lease is in place as at 23 September 2019, is in the region of:

ONE PEPPERCORN

5 RECOMMENDATION

It is the requirement of Charities Act 2011, that we offer our recommendation on a number of factors with regards to the proposed disposition.

We are required to recommend whether any alterations/refurbishment works are required in order to obtain best value. The proposed lease contains provisions for the upgrade and ongoing maintenance of the Property and as such, we recommend that no alterations or improvement are undertaken prior to the disposition.



We are also required to comment on whether it is in the best interest of the Charity to advertise the disposition in order insure best value is achieved. In our opinion, due to the added value of the Authority as Tenant, the investment in facilities offered by the proposed lease, and the community value gain to the wider park due to the provision of the facilities, it is our opinion that in this instance, the disposition is not advertised.

6 GENERAL CONDITIONS

This report and valuation has been prepared on the basis that there has been full disclosure of all relevant information and facts which may affect the valuation.

This report is provided for the stated purpose and only for the use of Alice Park Trust and Bath and North East Somerset Council, however, we understand that you may wish publish this report in the public domain. We give permission for the report to be published in this manner, however, it must be in a redacted form.

Yours sincerely

James Davies BSc PG Dip Surv MRICS
RICS Registered Valuer

For and on behalf of BNP Paribas Real Estate

This report has been reviewed by

Andrew Shoubridge MSc MRICS

RICS Registered Valuer



Valuation

Private & confidential

Hayley Ponsford
Bath & North East Somerset Council
Northgate House
Upper Borough Walls
Bath
BA1 1RG

James Davies MRICS
RICS Registered Valuer
BNP Paribas Real Estate
Portwall Place
Portwall Lane
Bristol
BS1 6NA
Tel: +44 (0) 117 984 8468
Fax: +44 (0) 117 984 8401
E-mail: James.d.davies@bnpparibas.com

Our Ref: ADS/TAM/193746

23 September 2019

Dear Hayley

TENNIS COURTS AND SKATE PARK SITE, ALICE PARK, GLOUCESTER ROAD, BATH, BA1 7BW: (THE "PROPERTIES")

I thank you for your email of 15 August 2019. I confirm that we are delighted to accept your instruction to undertake valuations of the Properties for internal purposes. The Properties comprise six tennis courts and a parcel of land that has been designated for a skate park. We understand that that you require, as Trustees of Alice Park Trust, a Red Book valuation in order to facilitate the grant of a lease of the Properties to yourselves, to allow the refurbishment and management of the tennis courts and the development of a skate park.

I confirm that the valuation will be undertaken in accordance with the current RICS Valuation - Global Standards 2017, (the "Red Book").

Attached to this letter is a document entitled "Valuation Procedures and Assumptions" which describes the work that we would normally undertake, the sources of information upon which we would normally rely and the assumptions and limitations that would normally apply to our investigations and report.

A copy of our Terms and Conditions of Business is also attached.

We confirm that we have previously valued Alice Park in 2015, along with providing you with a variety of ad-hoc property advice. We are satisfied that this does not create a conflict and that we are acting objectively and that this report represents our independent opinion.

We will provide you with our opinion of the Market Value of the Properties (in two separate reports) at the date of our report.

I can confirm that we hold professional indemnity insurance in respect of the service to be provided.

The valuation will be undertaken by James Davies MRICS RICS Registered Valuer and reviewed by Andrew Shoubridge MRICS RICS Registered Valuer, and I confirm that they have the knowledge, skills and understanding necessary to undertake the valuation required.



BNP PARIBAS REAL ESTATE

I confirm that we will inspect the Properties.

Our fee for undertaking this work will be £1,750 (£750 for the skate park and £1,000 for the tennis courts). This figure will be subject to the addition of VAT.

Our report will be addressed to you and is for your use only. No responsibility will be accepted to any other party. Our prior consent in writing will be required if you wish to reproduce the report or refer to it in any published document. Our valuation file may be subject to confidential monitoring in order to ensure compliance with the RICS conduct and disciplinary regulations.

I do not believe that any of these conditions conflict with your requirements but if you believe they do, please do not hesitate to contact me. Otherwise I would be grateful if you could sign and return the attached duplicate of this letter as confirmation that you wish us to proceed on this basis. If I do not hear from you to the contrary prior to the issue of our report I shall assume that these conditions are agreed.

Yours sincerely

James Davies BSc PG Dip Surv MRICS
RICS Registered Valuer

for and on behalf of BNP Paribas Real Estate

Enc.

I confirm that I / we* agree that this letter and the accompanying documents it refers to is an accurate summary of the service that I require, and of the terms that I / we* accept for its provision.

Signed:

Position:

Date:

* delete as appropriate

The investigations and enquiries on which our valuations are based are carried out by valuation surveyors, making appropriate investigations having regard to the purpose of the valuation. Our reports and valuations are prepared in accordance with the RICS Valuation – Professional Standards (the “Red Book”).

Subject to any variation expressly agreed and recorded in the accompanying letter, our work will be on the basis set out below:

1 Condition and Repair

Unless specifically instructed to carry out a separate building survey, or commission a test of service installations, our valuation will assume:

- (i) That except for any defects specifically noted in our report, the property is in good condition.
- (ii) That no construction materials have been used that are deleterious, or likely to give rise to structural defects.
- (iii) That no hazardous materials are present, including Asbestos.
- (iv) That all relevant statutory requirements relating to use or construction have been complied with.
- (v) That any services, together with any associated computer hardware and software, are fully operational and free from impending breakdown or malfunction

We shall, however, reflect the general condition noted during the course of our valuation inspection and any defects or hazards of which we become aware in the course of our investigations. Any matters that we consider material to the valuation will be referred to in our report.

2 Ground Conditions and Environmental Risks

Unless provided with information to the contrary, our valuation will assume:

- (i) That the site is physically capable of development or redevelopment, when appropriate, and that no special or unusual costs will be incurred in providing foundations and infrastructure.
- (ii) That there are no archaeological remains on or under the land which could adversely impact on value.
- (iii) That the property is not adversely affected by any form of pollution or contamination.
- (iv) That there is no abnormal risk of flooding.
- (v) That there are no high voltage overhead cables or large electrical supply equipment at or close to the property.
- (vi) That the Property is not located within a radon affected area.
- (vii) That no Japanese Knotweed is present at the Property or within close proximity to the Property.

We shall, however, comment on any factors discovered during the course of our valuation enquiries that could affect the market perception of risks caused by these factors.

3 Tenure and tenancies

We shall rely upon information provided by you or your solicitor relating to tenure and related matters. We will not commission a formal legal search and will assume the information provided to be accurate, up-to-date and complete.

4 Planning and highway enquiries

We shall make informal enquiries of the local planning and highway authorities and also rely on information that is publicly published or available free of charge. Any information obtained will be assumed to be correct. No local searches will be instigated.

Except where stated to the contrary, we shall assume that the use to which the property is put is lawful and that there are no local authority planning or highway proposals that might involve the use of compulsory purchase powers or otherwise directly affect the property.

VALUATION PROCEDURES AND ASSUMPTIONS

5 Floor areas

All measurements will be taken in accordance with the RICS Property Measurement Professional Standard. The floor areas in our report will be derived from measurements taken on site or that have been scaled from the drawings supplied and checked by sample measurements on site. The floor areas will be within a tolerance that is appropriate having regard to the circumstances and purpose of the valuation instruction. We have adopted a conversion factor of 10.7639 for converting from square metres to square feet rounding up or down to the nearest square foot.

6 Plant and machinery

We will include in our valuations those items of plant and machinery normally considered to be part of the service installations to a building and which would normally pass with the property on a sale or letting. We will exclude all items of process plant and machinery and equipment, together with their special foundations and supports, fixtures and chattels, vehicles, stock and loose tools, and tenants fixtures and fittings.

7 Mains services

We shall assume that all mains services are connected to the Property. We shall not obtain written confirmation from the service providers and will be unable to report on condition or offer any warranty.

8 Miscellaneous regulatory requirements

We shall assume that the Property is compliant with all regulatory requirements relating to its occupation including the Equality Act 2010 and the Regulatory Reform (Fire Safety) Order 2005.

9 Tenant status

Although we reflect our general understanding of a tenant's status in our valuation, we will make no detailed enquiries about the financial status of tenants. We will assume that appropriate enquiries were made when leases were originally exchanged, or when consent was granted to any assignment or underletting.

10 Development properties

For properties in course of development, we will reflect the stage reached in construction and the costs remaining to be spent at the date of valuation. We have regard to the contractual liabilities of the parties involved in the development and any cost estimates that have been prepared by the professional advisers to the project. For recently completed developments we will take no account of any retentions, nor will we make allowance for any outstanding development costs, fees, or other expenditure for which there may be a liability.

11 VAT, taxation and costs

We will not make any adjustments to reflect any liability for taxation that may arise on disposal, or for any costs associated with disposal incurred by the owner. No allowance will be made to collect any liability or repay any government or other grants, taxation allowance or lottery funding that may arise on disposal

If calculating the market value as an investment, we will made deductions to reflect purchasers normal acquisition costs.

Unless advised to the contrary we shall assume that the option to tax has not been exercised and that accordingly VAT will not be payable on the capital and rental values reported.

DEFINITIONS

In these Conditions:

“BNPPRE Person” means any of Our or any Group Company's employees, officers, directors, subcontractors or consultants whether permanent, fixed term or part-time;

“Conditions” means these terms and conditions of business;

“Confidential Information” means any technical, financial and commercial information obtained or received by You directly or indirectly from Us (and vice versa) in the course of or in anticipation of the Services;

“EEA” means European Economic Area, which consists of the EU member states plus Iceland, Liechtenstein and Norway;

“Engagement Letter” means the engagement letter from Us to You setting out the basis on which We shall carry out the particular Services for You;

“EU Data Protection Law” means the GDPR as well as all related EEA member states' laws and regulations;

“Fees” means the fees payable by You to Us for the Services, as set out in the Terms of Engagement and/or as otherwise agreed by Us in writing;

“GDPR” means the Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“Group Company” means in relation to Us, any of our subsidiaries, affiliates or holding companies from time to time and any subsidiary from time to time of a holding company of Ours;

“Information” means any deeds, documents, advice, information, reports, plans, drawings, instructions and/or assistance that We may require from You or which We may require you to procure on Our behalf;

“Intellectual Property Rights” means patents, registered and unregistered trademarks and service marks, registered and unregistered design rights, copyright, database rights, rights in know-how and confidential information, applications for and rights to apply for any of the above, and any other similar rights recognised from time to time in any country, together with all rights of action in relation to the infringement of any of the above;

“Major Sanctioned Countries” means any countries that are subject to comprehensive embargoes or high-risk countries from time to time and for which We have decided to maintain the same restrictive control measures. The current MSCs are Cuba, Iran, Sudan, Syria, North Korea, Crimea/Sevastopol. **“MSC”** and **“MSCs”** shall be construed accordingly;

“Materials” includes, in addition to any document in writing, any drawing, map, plan, diagram, design, brochure, picture, photograph or other image, tape, disk or other device, file or record embodying information or data in any form;

“Property” means the property/ies, which is/are the subject of Your instructions to Us;

“Services” means the services and/or work performed or to be performed by Us as set out in the Engagement Letter and/or Service Specific Terms of Engagement, together with any other services and/or work which We provide or agree to provide to You from time to time;

“Service Specific Terms of Engagement” means the specific terms of engagement, if any, referred to in the Engagement Letter;

“Terms of Engagement” means these Conditions, the Engagement Letter and the Service Specific Terms of Engagement, in each case as may be varied in writing and agreed by Us and You from time to time;

“Transaction” means any transaction entered or intended to be entered into by You in relation to which the Services are to be performed (including but not limited to a transaction effecting a sale or letting of the Property);

“We, Us and Our” means BNP Paribas Real Estate Advisory & Property Management UK Limited, a private limited company

registered in England and Wales with company number 04176965 and whose registered office is at 5 Aldermanbury Square, London EC2V 7BP; and

“You, Your and Yourself” means the person or persons, firm, company, authority or other organisation to whom We are to supply the Services, as set out in the Engagement Letter.

1 Terms of Engagement

1.1 The Services will be provided pursuant to the Terms of Engagement.

1.2 The Terms of Engagement comprise the whole agreement between Us and You in relation to the provision of Services and supersede all prior agreements in connection with the subject matter hereof except where expressly agreed in the Engagement Letter. Both parties acknowledge and agree that, in entering into the Terms of Engagement, they do not rely on, or have not relied on, any undertaking, promise, assurance, statement, representation, warranty or understanding (whether made orally or in writing) of any person (including Us and You) relating to the subject matter of the Terms of Engagement, other than as expressly set out in the Terms of Engagement.

1.3 If any provision (or part of a provision) of the Terms of Engagement is found by any court of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions (or remainder of the affected provision) will remain in force.

1.4 Subject to the rights of any BNPPRE Person granted under clause 14.7, the Terms of Engagement are made solely for the benefit of Us and You, and (where applicable) Our or Your successors and permitted assigns, and are not intended to benefit, or be enforceable by, anyone else. Except as stated in clause 14.7, and for the purpose of the Contracts (Rights of Third Parties) Act 1999, the Terms of Engagement do not and are not intended to give any rights, or right to enforce any of their provisions, to any person who is not a party to them.

1.5 The Engagement Letter constitutes an offer by Us to You to provide the Services specified in it on the Terms of Engagement. By counter-signing the Engagement Letter (or, in the alternative, accepting the Services referred to therein) You formally accept the Terms of Engagement. Notwithstanding the previous sentence, You agree that all and any Services provided prior to Your counter-signature of the Engagement Letter shall be governed by the Terms of Engagement.

1.6 By entering into the Agreement, You warrant that You have the authority to instruct us to perform the Services.

1.7 In the event of any conflict arising between the documents comprising the Terms of Engagement, the following order of precedence shall apply:

- (a) Engagement Letter;
- (b) Service Specific Terms of Engagement;
- (c) these Conditions.

1.8 The Terms of Engagement and any dispute arising out of or in connection with them or their subject matter, shall be governed by and construed in accordance with the laws of England. The parties both irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Terms of Engagement or their subject matter.

2 Changes in Scope

2.1 The scope of the Services will be limited to the matters set out in the Terms of Engagement. However, this does not preclude Us from considering and agreeing with You, in writing, changes to the scope of the Services from time to time.

3 Timetable

3.1 We will discuss with You the nature and timing of the delivery of Services and the most effective way of

- implementing them. The timetable for completion of the Services assumes that the Information will be made available in good order and in a timely manner and will be provided in accordance with the provisions of clause 5.
- 3.2 Dates for performance and/or completion of the Services are estimates only and shall not be construed as being of the essence to the Terms of Engagement. We will, however, use reasonable endeavours to perform the Services on or by the dates specified and agreed in writing.
- 4 Services**
- We undertake to perform the Services using reasonable care and skill and in accordance with the professional standards to which We are subject.
- 5 Information**
- 5.1 You shall provide (or procure the provision) to Us, free of charge and within any specified time limits, all Information as may be necessary or reasonably requested by Us at such time as shall enable Us to:
- (a) perform the Services in accordance with Our obligations under the Terms of Engagement; and/or
 - (b) comply with Our internal anti money laundering policies and procedures and any relevant legislation or regulations as may be in force from time to time (including but not limited to Information about You or any third party on whose behalf you act in respect of receipt of the Services).
- 5.2 You warrant that all and any Information is accurate, complete and consistent. Accordingly, You agree that We are not liable for (and shall indemnify Us against) the direct or indirect consequences of any inaccuracies, inadequacies or inconsistencies contained in the Information, whether prepared by You or by a third party, or any shortfalls in or absence of such Information and whether or not supplied directly to Us by You or by such a third party.
- 5.3 You will notify Us immediately if anything occurs to render any Information untrue, inaccurate or misleading and/or if any claim is made by a third party in respect of any Information.
- 6 Intellectual Property Rights and Use of Our Materials**
- 6.1 All Intellectual Property Rights in any Materials prepared by Us or otherwise generated in the course of carrying out the Services shall be owned exclusively by Us. Without limiting clause 6.3, no part of any such Materials may be reproduced or transmitted or disclosed in any form or by any means without Our prior written permission.
- 6.2 All information, advice and Materials provided by Us to You are provided for Your use only and solely for the purpose(s) to which they refer. Accordingly, We accept no responsibility for (and you shall indemnify Us in respect of) any reliance that any third party may place on such information, advice or Materials, and/or for any reliance that You may place on such information, advice or Materials for any other purpose.
- 6.3 Neither the whole nor any part of the Materials referred to under clause 6.1, nor any reference thereto, may be included in any published document, circular or statement or published in any way without Our prior written approval.
- 7 Recommendations**
- 7.1 The Services and any findings arising out of the Services will not in any way constitute recommendations on matters outside the scope of the Terms of Engagement.
- 7.2 You are responsible for determining whether the scope of the Services as specified in the Terms of Engagement are sufficient for Your purposes in the context of Your wider investigations and due diligence.
- 8 Fees and Disbursements**
- 8.1 The Fees will be as set out in the Terms of Engagement or as otherwise agreed by Us in writing.
- 8.2 You shall pay the Fees, and all other costs or charges agreed in the Terms of Engagement and/or as otherwise agreed by us in writing. If the Fees are not stated in the Terms of Engagement, Our Fees will be based on Our standard hourly rates in force from time to time multiplied by the number of hours spent by each person on the work in question (the "**Time Charge Fee**").
- 8.3 Unless agreed otherwise, Our Fees are exclusive of any reasonable disbursements and expenses that any of the personnel engaged in providing the Services may incur in connection with the provision of the Services and any applicable VAT, for all of which You will additionally be liable.
- 9 Payment Terms**
- 9.1 Where We quote a fixed fee for Our Services, this quotation will only be valid for a period of 30 days from issue or as otherwise agreed. No contract will arise from any such quotation until We give written confirmation to You. You accept that We reserve the right to increase such fixed fee by such amount as is reasonable, as a result of any matters beyond Our control, a change in instructions from You or a failure by You to provide Us with satisfactory Information pursuant to clause 5 and We will give You prior written notice of any such increase.
- 9.2 We reserve the right to render regular and/or interim invoices where appropriate. Specifically where We are working on an hourly rate basis We may bill monthly except where We agree otherwise in writing. We also reserve the right to invoice You immediately for the cost of any reasonable disbursements or expenses that We may incur in relation to the Services.
- 9.3 Save where otherwise agreed in writing, Our terms of payment are net cash 28 days from the date of invoice. Time for payment will be of the essence.
- 9.4 If any invoice is overdue for payment, We will be entitled to refrain from continuing to perform any Services for You until such invoice is paid in full (including interest). We will also be entitled to retain any Materials produced by Us in the course of the Services and/or any Information belonging to You until all outstanding sums have been paid. We retain the right to charge interest on such outstanding sums at the annual rate of 4% accruing on a daily basis from the due date until the date of actual payment of the overdue amount, compounded quarterly, whether before or after judgement. You must pay Us interest together with the overdue amount. Our rights under this clause 9.4 are without prejudice to any rights that may accrue pursuant to clause 9.3.
- 9.5 In certain circumstances (which We will discuss with You), We may require You to make payment on account of any anticipated fees and/or disbursements and/or expenses to be incurred prior to the Services being commenced or continued.
- 9.6 We may at any time, without notice to You, set off any obligation due from You to Us against any obligation owed by Us to You, whether either liability is present or future and whether or not either liability arises under the Terms of Engagement. Any exercise by Us of Our rights under this clause shall not limit or affect any other rights or remedies available to Us under the Terms of Engagement or otherwise.
- 9.7 We may submit Our invoice(s) electronically or in hard copy. All invoices will be deemed to have been received the working day immediately following the day they are sent.
- 10 Confidentiality**
- Both parties will (and will procure that their directors, officers, agents, contractors, consultants and employees will) at all times keep in strict confidence, and not use, any of the other party's Confidential Information, except:



- (a) in connection with the performance of the Services or as reasonably necessary for the purposes of the Transaction; or
- (b) as expressly stated in the Engagement Letter; or
- (c) as subsequently agreed to in writing by both parties; or
- (d) as otherwise required or permitted to be disclosed by law; or
- (e) where such Confidential Information is public knowledge (save where it becomes public knowledge through a breach of this clause 10).

You agree that, without reference to You, We may disclose to our professional liability insurers and their agents and advisers, on terms of confidence, such Confidential Information as we are required to disclose in order to comply with the terms of our insurance programmes.

11 Complaints

11.1 If You are for any reason dissatisfied with the Services We should be advised immediately so that We can investigate it further. You agree that You will not take any action or commence any proceedings against Us before You have first referred Your complaint to Us in accordance with Our complaints procedure, details of which are available from: The Chief Operating Officer, BNP Paribas Real Estate Advisory & Property Management UK Limited, 5 Aldermanbury Square, London, EC2V 7BP. The purpose of such referral is to enable Us to provide You with details of Our complaints handling procedure and for Your complaint to be reviewed and responded to by Us, with a view to resolving the dispute or difference in a manner satisfactory to both parties.

11.2 If following Our response in accordance with clause 11.1 You remain dissatisfied, You may refer Your complaint or dispute to;

For consumer clients: Property Redress Scheme
Premiere House, 1st Floor
Elstree Way
WD6 1JH
www.theprs.co.uk

For commercial clients: RICS Dispute Resolution Service
Surveyor Court
Westwood Way
Coventry
CV4 8JE
www.rics.org/drs

12 Client Money and Anti-Money Laundering Procedures

12.1 All client money retained by us shall be held in separate client accounts in accordance with and subject to the requirements of the Members' Accounts Rules of the Royal Institution of Chartered Surveyors ("RICS"). To ensure compliance with the anti-money laundering legislation we reserve the right to decline cash receipts. We also reserve the right to refuse to pay to any third party money due to you.

12.2 You agree to comply with all anti-money laundering procedures We have in place from time to time, and understand and accept that We are unable to provide the Services unless such procedures have been successfully completed in advance.

12.3 The parties hereby represent and warrant that:

- (a) they each shall comply with all applicable anti-corruption laws;
- (b) they each shall not directly or indirectly pay, offer, give, promise to pay or authorise the payment of, any portion of the compensation received in connection with these Terms of Engagement or

any other monies or other things of value in connection with its performance to a government official to obtain or retain business or secure any improper advantage nor shall it permit such actions by a third party;

- (c) Neither party nor any subsidiary or affiliate of either Party is or will become an official or employee of the government during the term of these Terms of Engagement without prior written approval of the other.

12.4 Any breach by You of the representations and warranties in this clause shall constitute a material breach for the purposes of clause 13.2(b)(ii) of these Terms of Engagement.

12.5 In the event one party has reason to believe that a material breach has occurred or may occur, that party shall have the right to audit or to have a third party acceptable to each party at the joint expense of the Parties conduct the audit, in order to satisfy that no such breach has occurred. The Parties shall cooperate in any audit conducted by or on behalf of the other.

13 Termination

13.1 The Terms of Engagement shall terminate automatically on completion of the Services.

13.2 Without prejudice to any other rights or remedies which the parties may have:

- (a) either party has the right to terminate the Terms of Engagement on not less than 28 days' written notice to the other (except where our Instructions include ongoing management work, in which case either party may only terminate the Agreement by giving not less than six months' notice in writing to the other); and

- (b) We may terminate the Terms of Engagement immediately on giving written notice to You if:

- (i) a conflict of interest arises;
- (ii) You commit a material breach of any of the provisions of the Terms of Engagement (including, but not limited to, any breach of the payment terms specified at clause 9 or any breach of clause 22);
- (iii) a person or persons, firm, company, authority or other organisation acquires control of You who did not have control immediately before the acquisition;
- (iv) a counterparty to any Transaction in respect of which we are providing the Services fails within a reasonable period (as determined by Us) to provide or make available to us any information or documentation we may require to satisfy our obligations pursuant to The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; or
- (v) We have reason to believe that the source of funds to be utilised pursuant to any Transaction originate either directly or indirectly from any MSCs or may derive either directly or indirectly from any illegitimate activities as determined by Us.

13.3 Either party may terminate the Terms of Engagement immediately on giving written notice to the other if the other party becomes bankrupt or insolvent, or if an order is made or a resolution is passed for its winding up (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of its assets or business, or if it makes any composition with its creditors or takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

- 13.4 On termination of the Terms of Engagement for any reason, You will immediately pay Us for all outstanding unpaid sums and interest, and in respect of Services supplied prior to termination but for which no invoice has been submitted (including: (i) any costs which we have incurred; and (ii) any abortive fees, as defined in either the Letter of Engagement or the Service Specific Terms of Engagement). We may submit an invoice, which shall be payable immediately upon receipt. If You instruct another agent during or after the period of our instruction, this may result in a dual fee liability for You.
- 13.5 Termination of the Terms of Engagement for any reason will not affect the parties' accrued rights and the following clauses shall survive: 5.2, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 22 and 23 and all provisions necessary to interpret or enforce the Terms of Engagement.
- 14 Liability**
- YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION 14**
- 14.1 This Condition 14 sets out Our entire financial liability (including any liability for the acts or omissions of Our employees, directors, officers, agents, contractors and consultants) in respect of:
- (a) any breach of the Terms of Engagement;
 - (b) any use made by You of the Services or the Materials, information and advice provided by Us in performing the Services; and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the provision of the Services, whether made by Us or any third party.
- 14.2 All warranties, conditions and other terms implied by law are, to the fullest extent permitted by law, excluded from the Terms of Engagement.
- 14.3 Nothing in these Conditions limits or excludes Our liability for:
- (a) death or personal injury resulting from negligence; or
 - (b) any damage or liability incurred by You as a result of any fraud or fraudulent misrepresentation made by Us; or
 - (c) such other matters for which liability cannot lawfully be limited or excluded.
- 14.4 Subject to clause 14.2 and clause 14.3:
- (a) We shall not be liable for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill or similar loss; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of savings; or
 - (viii) loss of use; or
 - (ix) loss of opportunity; or
 - (x) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; or
 - (xi) loss of, or corruption of, data or information; or
 - (xii) any loss arising in connection with Our inability to provide the Services as a result of Your failure to comply with clause 12.2;
 - (xiii) any loss (including but not limited to those losses identified in sub-paragraphs (i) to (x) of this sub-paragraph 14.4a)) arising in connection with the termination of these
- Terms of Engagement by Us pursuant to clause 13.2(b);
- irrespective of whether or not We knew or ought to have known that such a loss might arise.
- (b) Subject to clause 14.3 Our aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising under or in connection with all matters under the Terms of Engagement will be limited to £5,000,000 (five million pounds sterling) per claim or series of related claims.
- 14.5 Without prejudice to the other provisions of this clause 14, We will not be liable in respect of any of the following:
- (a) any failure or delay in providing the Services where You have not complied with the Terms of Engagement;
 - (b) any failure by Us to remind You of relevant deadlines;
 - (c) in respect of any third party providers whom We may engage on Your behalf with Your prior written consent in the course of the Services or to whom We may refer You (save as set out in clause 18.2);
 - (d) any findings or recommendations not expressly set out in Our final report (if applicable);
 - (e) checking the accuracy of the Information, including without limitation boundary lines;
 - (f) advising You in relation to taxation matters save and to the extent that these are identified explicitly in the Letter of Engagement and form part of the Services We are providing;
 - (g) any failure by You to hold any necessary consents, permissions or authorisations required for the Transaction;
 - (h) any other matters set out in the Service Specific Terms of Engagement.
- 14.6 Where You are comprised of more than one entity, then Your liability under the Terms of Engagement will be joint and several with such other entity or entities.
- 14.7 You agree not to bring any claim for losses arising in connection with any matter under the Terms of Engagement against any BNPPRE Person. You accept that any such claim must be brought against Us. Both parties agree that any BNPPRE Person may enforce this clause under the Contracts (Rights of Third Parties) Act 1999, but that these Conditions (including this clause) may be varied at any time without the need for consent from any BNPPRE Person. Where a loss is suffered by You for which We and any other person are jointly responsible, any recoverable loss by You from Us will be proportionate to Our relative contribution to the loss suffered.
- 14.8 You agree to indemnify Us and keep Us indemnified against any liability which arises from a third party obtaining from You or using any Confidential Information and/or any Materials, information or advice provided by Us to You, unless We have agreed in writing to accept liability to such third party or the third party is a client of Ours and is permitted to obtain and use such Materials, Information or advice.
- 15. Force Majeure**
- We will not be liable to You for any delay or failure to fulfil Our obligations under the Terms of Engagement caused by circumstances outside Our reasonable control.
- 16 Correspondence, Papers and File Destruction**
- 16.1 All Materials in Our possession or control that have been generated for Our internal purposes or are addressed to Us relating to the Services (unless expressly notified otherwise upon their provision) shall be Our sole property. We will not be obliged to provide or make available to You such Materials unless We agree otherwise.



- 16.2 Subject to clause 9.4, all Confidential Information provided to Us by You will be returned or destroyed upon Your request, provided that We may retain copies of any Confidential Information which forms the basis of Our Materials and advice.
- 16.3 It is acknowledged that certain Materials may legally belong to You. Subject to clause 9.4, We shall return such Materials to you upon Your request. Where You do not request that such Materials are returned Our practice is to retain such Materials electronically or otherwise for six years from the date on which the Services or Transaction was effectively completed. After this time, Your Materials and all correspondence may be destroyed in accordance with our archiving policy.
- 16.4 Storage of Your Materials under clause 16.3 may be provided by third party contractors and You consent to this arrangement. You agree to meet our reasonable costs in accessing Your Materials at Your request, for reasons which do not relate to on-going work where such Materials have been archived following the completion of the relevant Services or Transaction. Such retention of Your Materials by Us shall be at Your risk and We shall have no liability to You for or caused by the destruction of or damage to such Materials.
- 17 Staff**
- If, without Our prior written approval, You directly and/or indirectly employ, engage and/or otherwise use the services of any member of Our or any of Our Affiliates' staff ("**Staff**") to work on an engagement for You during the term of the Terms of Engagement or during the twelve-month period following expiry or termination of the Terms of Engagement, You will be liable to pay to Us a recruitment fee equal to four months' total average fee income for the Staff member concerned. You acknowledge and agree that this sum is a genuine attempt to estimate the loss of income and costs that will be incurred by Us whilst we recruit (and as a consequence of recruiting) a replacement for such member of Staff.
- 18 Assignment**
- 18.1 Neither party may transfer or assign any rights or obligations under the Terms of Engagement without the prior written consent of the other party except as set out in this clause 18. We may assign all or any of the rights (and transfer all or any of the obligations) under the Terms of Engagement to any Group Company or any of Our successors in title in the relevant business, without any requirement to notify You or obtain Your further consent. You agree to execute a novation to give full effect to this.
- 18.2 We may sub-contract any incidental part or parts of any of the Services to be supplied to You, such as the preparation of plans, photography, advertising or courier services.
- 19 Notice**
- Notices given under these Conditions shall be in writing in the English language, and may be delivered in person or sent by courier or post to the address set out in the Terms of Engagement, or to such other address as may be notified by either party to the other from time to time. Notices will not be deemed validly served if sent by e-mail or any other form of electronic communication.
- 20 Publicity**
- We are keen to obtain publicity for work undertaken on behalf of Our clients. Unless details of the Services undertaken for You are publicly available, We will not externally publicise such details without Your prior written permission. However, You hereby agree to Us including such details in proposals or other similar submissions made to Our prospective clients, unless You subsequently expressly prohibit such disclosure in writing.
- 21 Health, Safety, Environment & Quality**
- 21.1 We maintain BS EN ISO 9001, BS EN ISO 14001 and Safecontractor accreditations. When visiting Our premises, You shall comply with Our Safety, Health, Environment and Quality Policies and Procedures, copies of which can be obtained by contacting Our Director of Facilities.
- 21.2 Where We agree to provide the Services at Your premises, or at a third party's premises, You shall be responsible for giving or obtaining any Information, safe access licences, consents or permissions which may be necessary to enable Us and Our personnel to provide the Services at the premises in question. You or the operator of the premises shall also ensure that all appropriate health & safety acts, regulations, codes of practice or information sheets have been followed so as to ensure the health and safety of Our personnel.
- 21.3 Our Safety, Health & Environmental risk assessments and control measures are given on the basis of, and in strict reliance upon, all material facts and Information having been accurately and fully disclosed to Us by You and You agree to confirm all such facts and Information in writing. Details of Our policies, procedures and completed risk assessments are available for Your inspection on reasonable notice and without additional charge.
- 22 Major Sanctioned Countries and Regions**
- 22.1 We are strongly committed to complying with the international financial sanctions enforced by the European Union, France and the United States to advance a range of foreign policy goals including but not limited to counterterrorism, non-proliferation, democracy and human rights promotion, conflict resolution and cybersecurity.
- 22.2 You represent, warrant and undertake that the Services to be provided and any Transaction contemplated hereunder has and will have no link with MSC-related proceeds or investments and that the source of funds to be used for payment of the Services and/or in the funding of any transaction contemplated pursuant to the Services do not originate (either directly or indirectly) from any MSCs.
- 22.3 We reserve the right to terminate the Terms of Engagement with immediate effect upon the provision of written notice in the event of a breach by You of Your obligations and undertakings pursuant to this clause 22.
- 23 Data Protection**
- 23.1 The provisions in this clause 23 are incorporated to comply with the EU Data Protection Law and in particular article 28 (Processor) GDPR. Capitalised terms used in this clause 23 but not otherwise defined in these Terms of Engagement, have the meanings assigned to them in the GDPR (in particular under its article 4 (Definitions) and/or in this clause.
- 23.2 You shall be the Data Controller and We shall be the Data Processor in respect of any Personal Data processed by Us on Your behalf ("**Your Personal Data**") under the Agreement.
- 23.3 The parties shall comply with applicable data protection laws and regulations including the EU Data Protection Law.
- 23.4 Information on the following elements required by the GDPR are as follows:
- (a) Subject-matter of the processing: For the provision of Services in accordance with these Terms of Engagement;
 - (b) Nature and purpose of the processing: Collection, storage, duplication, electronic viewing, deletion and destruction;
 - (c) Duration of the processing: Until the earliest of termination of this Agreement in accordance with its terms or the date upon which processing is no longer necessary for the purposes of either party performing its respective obligations under these Terms of Engagement (to the extent applicable);
 - (d) Type of Personal Data: personal details (title, first name, last name), position, contact information, location data, employer, ID data, delivery information, nationality, goods and services



- provided, financial information (bank or credit/debit card details), internet protocol address; and
- (e) Categories of Data Subjects: your tenants/landlords (as applicable), officers, employees and Your temporary staff and partners, complainants, correspondents, enquirers, suppliers, advisers, consultants and professional experts.
- 23.5 We shall process and transfer Your Personal Data only as required to deliver the Services or as instructed in accordance with documented instructions from You, unless We are required to otherwise process or transfer Your Personal Data under the laws of the European Union or one of its member states. Where such a requirement is placed on Us, We shall provide reasonable prior notice to You, unless the law prohibits such notice on important grounds of public interest as determined by Us.
- 23.6 We shall ensure that all BNPPRE Persons authorised to process Your Personal Data have committed themselves to confidentiality (e.g. via the confidentiality provision in their work contract for employees) or are under another appropriate obligation of confidentiality and do not process Your Personal Data except on instructions from You (as may be communicated via Us) unless they are required to otherwise process or transfer Your Personal Data under the laws of the European Union or one of its member states subject to the same rules as set out in clause 23.5.
- 23.7 In respect of security of processing:
- (a) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, We shall implement appropriate technical and organisational measures, with the aim of ensuring a level of security appropriate to the risk, it being understood that, if You require Us to take additional security measures beyond those foreseen in this clause, You shall pay the corresponding charges to Us on a time and materials basis (to be determined by Us); and
- (b) We shall notify You without undue delay, after becoming aware of a Personal Data Breach.
- 23.8 We shall not engage another processor, except under the conditions set out in clause 23.15.
- 23.9 We shall immediately inform You, if, in Our reasonable opinion, an instruction from You infringes the EU Data Protection Law.
- 23.10 At Your request and at Your expense, We shall provide reasonable assistance to enable You, in accordance with Your obligations under the EU Data Protection Law:
- (a) to answer to requests from the supervisory authority in the performance of its tasks;
- (b) to notify Personal Data Breaches to the supervisory authority and communicate the Personal Data Breach to the individuals to whom Your Personal Data relates;
- (c) to conduct data protection impact assessments and consult the supervisory authority on that basis;
- (d) to implement technical and organisational security measures to ensure the security of the processing;
- (e) to respond to requests from individuals to whom Your Personal Data relates who are exercising the data subject's rights laid down in Chapter III (Right of the Data Subject) under the GDPR, it being understood that We shall notify You of any request made by a Data Subject to access Your Personal Data or exercise any other Data Subject right set out in Chapter III "Right of the Data Subject" under the GDPR in respect of such data and act only as per Your instructions regarding the handling of such request; and;
- (f) more generally, to enable You to comply with the obligations pursuant to articles 32 to 36 GDPR taking into account the nature of processing and the Information available to Us.
- 23.11 In the event a court and/or a data protection authority initiates proceedings against a party and upon request of the other party, the latter shall cooperate in good faith and without undue delay to assist at no additional cost such party to the extent it requires during such proceedings.
- 23.12 At Your choice and Your expense, We shall either (i) delete or (ii) return all Your Personal Data to You after the end of the provision of Services relating to processing, and delete existing copies, unless the laws of the European Union or one of its member states requires storage of Your Personal Data.
- 23.13 At Your request and at Your expense, We shall make available to You all information necessary to demonstrate compliance with the obligations laid down in this clause 23.13 and allow for and contribute to audits, including inspections, conducted by You or another auditor mandated by You. If any audit reveals that We are not in compliance with the provisions of this clause and/or EU Data Protection Law, Your exclusive remedy, and Our exclusive obligation, shall be that: (i) the parties will discuss such findings and (ii) You shall take, at Your own cost, all corrective actions including any temporary work-arounds necessary to comply with the provisions of this clause and/or EU Data Protection Laws. We may charge You for any corrective actions if the corrective actions were required due to changes of EU Data Protection Laws.
- 23.14 We shall be entitled to transfer Your Personal Data to a country located outside the EEA which has not been recognised by the EU Commission as ensuring an adequate level of protection, if You (i) have provided appropriate safeguards in accordance with the EU Data Protection Law (e.g. the European Union standard clauses on the transfer of Personal Data from Controller to Processor) or (ii) can rely on a derogation foreseen by the data protection legislation enabling such transfer. You shall from time to time execute such documents and perform such acts as We may reasonably require to implement any such appropriate safeguards.
- 23.15 You hereby provide a general written authorisation to Us to engage sub-processors to process Your Personal Data. We shall inform you of any addition or replacement of sub-processors, giving You the opportunity to object to such changes. If You reasonably object to such change, You shall refrain from making that addition or replacement and shall be entitled to terminate the Agreement. Where We engage another processor under this clause 23.15, We shall ensure that the obligations set out in this clause are imposed on that processor by way of a written contract.

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Dated

2019

Lease

relating to

Tennis Courts, Alice Park, Lambridge, Bath

between

The Official Custodian for Charities

(Landlord)

and

[]

(Tenant)

Contents

Clause

1	Definitions	5
2	Interpretations	6
3	Demise	7
4	Rent	7
5	Outgoings	7
6	Repair and Decoration	8
7	Alterations	8
8	User	8
9	Alienation	9
10	Legal Obligations	9
11	Planning	9
12	Defective Premises	10
13	Encroachments	10
14	Landlord's Rights	10
15	Costs	10
16	Interest	10
17	Indemnity	10
18	Yielding up	10
19	Tenant's Insurance Covenants	11
20	Quiet Enjoyment	11
21	Easements	11
22	Covenants	11
23	Landlord's Liability	12
24	Compensation	12
25	Notices	12
26	Distinction between Landlord and Local Authority	12
27	Arbitration	13
28	Right of Re-Entry	13
29	Insolvency	13
31	Exclusion of Security of Tenure	14
32	Rights of Third Parties	14
33	Land Registry Applications	14

Schedule

Schedule 1	Description of the Premises	16
Schedule 2	Rights granted to the Tenant that are included in the Lease	17
Schedule 3	Rights reserved by the Landlord from this Lease	18
Schedule 4	Regulations	19

Land Registration Rules 2003 (as amended) - prescribed clauses

LR1. Date of lease	[] 2019
LR2. Title number(s)	
LR2.1 Landlord's title number(s)	ST277651
LR2.2 Other title number(s)	None
LR3. Parties to this lease	
Landlord	The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP c/o Alice Park Trust Sub Committee
Tenant	[]
LR4. Property	The Premises defined in the First Schedule of this Lease. 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
LR5. Prescribed statements etc	
LR5.1	This lease does not contain prescribed statements
LR5.2	Not applicable
LR6. Term for which the Property is leased	the Term defined in 1.1 of this Lease.
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	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
LR9.2 Tenant's covenant to (or offer to) surrender this lease	Tenant's covenants to (or offer to) surrender this Lease
LR9.3 Landlord's contractual rights to	Landlord's contractual rights to acquire this

	acquire this lease	Lease
LR10.	Restrictive covenants given in this lease by the Landlord in respect of land other than the Property	this lease does not contain such a provision
LR11.	Easements	
	LR11.1 Easements granted by this lease for the benefit of the Property	None
	LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property	None
LR12.	Estate rentcharge burdening the Property	this lease does not contain such a provision
LR13.	Application for standard form of restriction	None
LR14.	Declaration of trust where there is more than one person comprising the Tenant	None

Parties

- (1) The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP c/o Alice Park Trust Sub Committee (**Landlord**)
- (2) [Nominee details TBC] (**Tenant**)

Agreed terms

1 Definitions

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Authority: means any statutory, public, local or other competent authority or a court of competent jurisdiction.

Clause: means a clause of this Lease.

Common Parts: means the area and other parts of the Estate other than the Premises and any Lettable Area over which rights of access and/or egress are granted to the Tenant in common with the Landlord and its lessees and tenants and all persons authorised by the Landlord or having a similar right.

Conduit: means except as may be comprised within the Premises any pipe, drain, culvert, sewer, flue, duct, gutter, wire, cable, optic fibre, conduit, channel and other medium for the passage or transmission of water, soil, gas, air, smoke, electricity, light, information or other matter and all ancillary equipment or structures as may reasonably be provided by the Landlord from time to time.

Determination of the Term: means the determination of the Term by re-entry notice, surrender, effluxion of time or otherwise.

Estate: means each and every part of the property in which the Landlord has an interest known as Alice Park, Lambridge, Bath registered at HM Land Registry with title number ST277651 shown edged in blue on Plan 2.

Facilities: means such systems and facilities as may reasonably be provided by the Landlord from time to time.

Interest: means interest at the Interest Rate (both before and after any judgment) calculated on a daily basis from the date on which interest becomes chargeable on any payment pursuant to any provision of this Lease to the date upon which such payment is made.

Interest Rate: means 3 % per annum above the base lending rate from time to time of National Westminster Bank Plc (or such other bank as the Landlord may notify to the Tenant from time to time).

Landlord's Reservations: means the rights reserved by the Landlord as set out in the Third Schedule.

Lease: means this Lease as from time to time varied or supplemental whether by deed, licence or otherwise.

Lettable Area: an area on the Estate, other than the Property, that is capable of being let and occupied on terms similar to those of this lease.

Party: means the Landlord or the Tenant.

Permitted Use: means to operate as tennis courts and ancillary recreational use.

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

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

Planning Acts: means as defined in Section 336 of the Town and Country Planning Act 1990 and all subsequent statutes, statutory instruments, regulations and orders containing provisions relating to town and country planning when from time to time in force and all other statutes, statutory instruments, regulations and orders include by virtue of clause 2.1.6.

Premises: means the property more fully described in the First Schedule and includes all and any part of such property and additions thereto.

Regulations: means the regulations set out in the Fourth Schedule and any others from time to time published by the Landlord in addition to or in substitution for those regulations in the interests of good estate management.

Rent: means a peppercorn to be paid annually (if demanded).

Rent Commencement Date: means the date of this lease.

Schedule: means a schedule to this Lease.

Tenant's Initial Works: means the works set out at Appendix 1 of this Lease for the construction and refurbishment of a six tennis courts, pavilion and associated land on the Premises conditional upon the Tenant obtaining any requisite consents required to undertake such works.

Tenant's Rights: means the rights granted to the Tenant as set out in the Second Schedule.

Term: means 25 years from and including the Term Commencement Date.

Term Commencement Date: means the date of this lease.

VAT: means Value Added Tax or other tax of a similar nature (and unless otherwise expressly stated all references to Rent or other monies payable by the Tenant are exclusive of any VAT charge or chargeable thereon).

2 Interpretations

2.1 The provisions of the Lease shall unless the context otherwise requires be construed as follows:-

2.1.1 Obligations and liabilities of a Party comprising more than one person are obligations and liabilities of such persons jointly and severally.

2.1.2 Words importing one gender include all other genders.

2.1.3 The singular includes the plural and vice versa.

2.1.4 Covenants:

(a) A covenant by the Tenant not to do something shall be construed as including a covenant not to permit or suffer it to be done by a third party

(b) Covenants and obligations of the Landlord are binding on the Landlord only so long as the immediate reversion to this Lease is vested in the Landlord.

2.1.5 A consent or approval to be given by the Landlord is not effective for the purposes of this Lease unless it is in writing and signed by or on behalf of the Landlord.

2.1.6 Reference to a statute, statutory instrument, regulation, order or code of practice whether expressly or by implication includes any amendment, modification, extension, consolidation or re-enactment thereof as the case may be.

2.1.7 Headings to Clauses, Schedules or parts of the Lease do not affect the interpretation or construction of the Lease.

3 Demise

3.1 The Landlord demises the Premises to the Tenant:-

3.1.1 Together with the Tenant's Rights.

3.1.2 Except and reserving to the Landlord the Landlord's Reservations.

3.1.3 To hold the same to the Tenant for the Term.

3.1.4 Subject to all rights, easements, restrictions, covenants and liabilities affecting the Premises.

3.1.5 Yielding and paying to the Landlord the Rent without any deduction or legal or equitable set off annually.

4 Rent

4.1 The Tenant shall pay the Rent on and from the Rent Commencement Date without deduction or set off at the times and in the manner aforesaid and in the event payment of any rent is made by any person other than the Tenant such payment shall be accepted as payment for and on behalf of the Tenant.

5 Outgoings

5.1 The Tenant shall pay and indemnify the Landlord against all rates, taxes, assessments, impositions, duties, charges and outgoings now or at any time during the Term payable by the owner or occupier of or otherwise due in respect of the Premises (except any tax assessed on the Landlord or any superior landlord in respect of its ownership of rental income from or any dealing with its reversionary interest).

5.2 The Tenant shall pay and keep the Landlord indemnified against all VAT which may from time to time be charged on the Rent or on any other any monies payable by the Tenant under the Lease.

5.3 The Landlord and Tenant are of the opinion that this Lease constitutes a VAT exempt exclusive right over land under Item 1, Group 1, Schedule 9, Value Added Tax Act 1994 (as amended); the Landlord confirms that it has not exercised an option to tax in respect of the Alice Park. Should HMRC subsequently determine that payments made under this Lease constitute a taxable supply for VAT purposes the Tenant agrees to pay this VAT to the Landlord on receipt of a VAT invoice.

6 Repair and Decoration

6.1 The Tenant shall:-

- 6.1.1 keep the Premises at all times in good condition to the reasonable satisfaction of the Landlord although this obligation does not extend to keeping the Premises in a better state of repair and condition than they are at the date of this Lease as evidenced by the Schedule of Condition attached to this Lease.
- 6.1.2 keep the Premises at all times in a clean and tidy condition.
- 6.1.3 within three months (or sooner in emergency) of receipt of notice from the Landlord of any breach of this Clause carry out the repair or cleaning required to remedy the breach and if the Tenant fails diligently to comply with such notice and the Landlord enters the Premises to carry out such work which the Landlord shall not be obliged to do, the Tenant shall upon demand pay to the Landlord all costs which the Landlord so incurs.

7 Alterations

The Tenant shall make any external or internal structural and non- structural alterations including alteration or addition to the Premises including the Tenant's Initial Works without the Landlord's consent subject to compliance with clause 10 and 11 of this Lease.

8 User

- 8.1 The Tenant shall not use the Premises or any part thereof for any purpose other than the Permitted Use.
- 8.2 The Tenant shall use the premises for their intended purpose ensuring safety risks and/or anti-social behaviour occurrences are assessed, (proportionately) addressed and maintained as being reasonable throughout the term of the lease. Further, the Tenant shall not knowingly use the Premises in a manner which may be or become or cause a nuisance, annoyance, disturbance, inconvenience, injury or damage to the Landlord or any other person or any neighbouring occupier of the Premises.
- 8.3 The Tenant shall not reside or sleep on the Premises nor use them for any sale by auction or for any dangerous, noisy or offensive purpose, or for any illegal or immoral activity, nor as a betting shop, an amusement arcade or a sex shop.
- 8.4 The Tenant shall not overload the structure of the Premises.
- 8.5 The Tenant shall not make use of Conduits beyond their capacity nor in a manner which may block or damage them and in particular will not stop up or obstruct or permit oil, grease or other deleterious matter or substance to enter any drain or sewer.
- 8.6 The Tenant shall comply with the Regulations.
- 8.7 The Tenant shall not cause any obstruction to the Premises or danger to persons using it and shall not permit persons to gather around the Premises so as to cause danger to any persons using the Premises.
- 8.8 The Tenant shall not park any vehicle on the footway or verge of the Premises save in connection with compliance with their obligations under this Lease and then not overnight or for an excessive amount of time .

9 Alienation

- 9.1 Unless otherwise provided in this clause, the Tenant shall not assign, underlet, charge, share occupation or possession of the whole or any part of this lease.
- 9.2 The Tenant shall be permitted to assign or underlet the whole of this lease with the consent of the Landlord, such consent not to be unreasonably withheld or delayed save as permitted by clause 9.3 below.
- 9.3 The Tenant is permitted to assign this lease to Bath and North East Somerset Council or its successors in title without the consent of the Landlord.

10 Legal Obligations

- 10.1 In this clause "Legal Obligation" means a duty under any present or future statute, statutory instrument or bye-law or any present or future regulation, order, notice, direction, code of practice or requirement of any Authority insofar as it relates to the Premises or to their occupation or use, but irrespective of the person on whom such obligation is imposed and whether or not specific notice of the Legal Obligations is given to the Tenant.
- 10.2 If the Tenant receives from an Authority formal notice of a requirement pursuant to a Legal Obligation it shall forthwith produce a copy to the Landlord (even if the Authority is the Landlord) and if such notice is, in the Landlord's opinion, contrary to the interests of the Landlord the Tenant shall at the joint cost of the Landlord and the Tenant make such objection or representation against such Legal Obligation as the Landlord may require.
- 10.3 Subject to clause 10.2 above the Tenant shall observe and comply with all Legal Obligations relating to the duties of a Tenant.
- 10.4 Where a Legal Obligation requires the carrying out of works to the Premises the Tenant shall, so far as such Legal Obligation permits, also comply with the provisions of the Lease in relation to such works.
- 10.5 The Tenant shall not cause or permit a nuisance on or in relation to the Premises and if a nuisance occurs shall forthwith take all necessary action to abate it.
- 10.6 Without prejudice to the generality of this Clause the Tenant shall in particular observe and comply with all Legal Obligations relating to health and safety, means of escape in case of fire, facilitating access by disabled persons and the protection and preservation of life and property, carrying out such works of modification and improvement to the Premises as may from time to time be required by such Legal Obligations.
- 10.7 The Tenant shall observe and comply with all statutory and Legal Obligations necessary for the Permitted Use and the welfare of the persons using or employed in or about the Premises.
- 10.8 The Tenant shall perform and observe all covenants and other provisions contained or referred to in the registers of the Landlord's freehold Title Number ST277651.

11 Planning

- 11.1 The provisions of this Clause are supplement to the general obligations imposed by Clause 10.
- 11.2 The Tenant shall observe and comply with the Planning Acts in relation to the Premises and any works carried out to the Premises.

12 Defective Premises

The Tenant shall promptly give notice to the Landlord of any defect in the Premises in respect of which the Landlord may have a liability or duty of care under the Lease or the Defective Premises Act 1972 or otherwise.

13 Encroachments

The Tenant shall not stop up, darken or obstruct any light to the Premises.

14 Landlord's Rights

The Tenant shall permit the Landlord, any superior landlord and persons authorised by any of them, to exercise any right excepted and reserved by the Third Schedule.

15 Costs

15.1 The Tenant shall pay and indemnify the Landlord against all liability, costs, fees, charges, disbursements and expenses (including without prejudice to the generality of the above those payable to counsel, solicitors, accountants, surveyors and bailiffs) connected with, incidental to, consequent upon and (where appropriate) in contemplation of:-

15.1.1 every application made by the Tenant for a consent or licence required by the provisions of this Lease or in consequence of a Legal Obligation within the meaning of clause 10 above, whether such consent or licence is granted or refused or proffered subject to any qualification or condition or whether the application is withdrawn.

16 Interest

Without prejudice to any other right or remedy of the Landlord the Tenant shall pay to the Landlord Interest on any sum which is not paid to the Landlord by the later of the date it is due and the date fourteen days after a demand for payment is made.

17 Indemnity

The Tenant is responsible for and shall indemnify and keep the Landlord indemnified against all claims, demands, actions or proceedings made or brought and all losses, injury, damages, costs, expenses and liabilities incurred, suffered or arising directly or indirectly in respect of or otherwise connected with:-

17.1 the use and occupation of the Premises.

17.2 the state of repair and condition of the Premises (except to the extent (if any) caused by any act or default of the Landlord).

17.3 any act, omission or negligence of the Tenant or of any other person at the Premises with the express or implied authority of the Tenant or of anyone deriving title through the Tenant.

17.4 any breach of any covenant or other provision of the Lease to be observed or performed by the Tenant.

18 Yielding up

Upon the Determination of the Term the Tenant shall:-

- 18.1 The Tenant shall remove items it has fixed to the Premises, remove any alterations it has made to the Premises and make good any damage caused to the Premises by that removal unless the Landlord expressly permits such fixtures or alterations to remain.
- 18.2 At the end of the term, the Tenant shall remove from the Premises all chattels, signs, refuse, litter and other items belonging to or used by the Tenant, making good any damage caused to the Premises.
- 18.3 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 Premises and which have been left by the Tenant on the Premises 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. The Landlord may retain, sell or otherwise dispose of any such thing not removed by the Tenant without giving notice thereof to the Tenant and may retain the proceeds of any such sale and the Tenant will further reimburse the Landlord for all the expenses so incurred in such disposal and rendering the Premises clean and tidy (so far as they are not covered by the proceeds of any such sale).
- 18.4 Yield up the Premises in a state and condition consistent with due compliance by the Tenant with its covenants and obligations under this Lease.

19 Tenant's Insurance Covenants

The Tenant covenants with the Landlord that from and including the Term Commencement Date to effect and maintain insurance cover in respect of public liability insurance cover and employer's liability insurance and shall provide the Landlord with details of such insurance as the Landlord may reasonably require.

20 Quiet Enjoyment

Subject to the Tenant paying the Rent and other sums due under the Lease and complying with its covenants the Landlord covenants with the Tenant from and including the Term Commencement Date until the Determination of the Term to permit the Tenant peaceably and quietly to hold and enjoy the Premises without any interruption or disturbance from or by the Landlord or any person claiming under or in trust for the Landlord.

21 Easements

- 21.1 The Tenant is not entitled to and the Premises do not enjoy any right of light or air which might restrict or interfere with the free use of any other property or premises for any purpose.
- 21.2 The operation of Section 62 of the Law of Property Act 1925 is excluded from the Lease and the only rights granted with the Premises are those expressly granted in this Lease.

22 Covenants

- 22.1 Nothing contained or implied in this Lease gives the Tenant the benefit of or the right to enforce or to prevent the release or modification of any covenant agreement or condition relating to other property.
- 22.2 Each covenant in this Lease by the Tenant remains in full force at law and in equity notwithstanding any waiver or release temporarily or permanently, revocable or irrevocably, of any other covenant in the Lease or of any covenant affecting other property.

23 Landlord's Liability

- 23.1 The Landlord is not responsible to the Tenant or to anyone with the Tenant's express and implied authority for any accident, injury, damage or loss.
- 23.2 The Landlord is not so far as the law permits responsible for any accident, injury, damage or loss resulting or alleged to result from the negligence, act or omission of any tenant, employee, officer or agent of the Landlord.

24 Compensation

Any statutory right of the Tenant to claim compensation from the Landlord, whether on vacating the Premises or otherwise, is excluded to the extent that the law allows.

25 Notices

- 25.1 A notice given under or in connection with this Lease to the Tenant or party other than the Landlord shall be:-
- 25.1.1 in writing unless this Lease expressly states otherwise; and
 - 25.1.2 given by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the Premises or last known address.
- 25.2 If a notice is given in accordance with clause 20.1 it shall be deemed to have been received:-
- 25.2.1 if delivered by hand at the time the notice is left at the proper address; or
 - 25.2.2 if sent by pre-paid first-class post or other next working day delivery service on the second working day after posting;
- 25.3 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.
- 25.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease to the Tenant or party other than the Landlord.
- 25.5 A notice under this Lease to the Landlord or other party with an interest in the property in reversion to the Lease must be in writing and unless the Landlord or the authorised agent of the Landlord or other party with an interest in the property in reversion to the Lease acknowledges receipt is valid, if (and only if) it is given by hand, sent by registered post or recorded delivery.
- 25.6 Unless it is returned through the Royal Mail undelivered, a notice sent by registered post or recorded delivery is to be treated as served on the second Working Day after posting whenever and whether or not it is received.
- 25.7 "writing" does not include fax, e-mail or other electronic transmission.
- 25.8 In this Clause "working day" means any day except Saturday, Sunday or a bank or public holiday.

26 Distinction between Landlord and Local Authority

Nothing in this Lease shall prejudice or affect the rights, powers, duties and obligations of the Landlord under any statute, statutory instrument, bye-law, order or regulation, or in the exercise of any of its functions as a Local Authority and any approval or consent or

representation given by the Landlord under the provisions of this Lease is only given in exercise of its powers as Landlord.

27 Arbitration

Any dispute between the parties about the rights, duties and obligations set out in this Lease (except any dispute or difference for the settlement of which this Lease makes specific arrangements) may, failing agreement, be referred by either party to a sole arbitrator agreed between the parties or in default of agreement nominated on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors and such reference in either case shall be deemed to be a submission to arbitration under the provisions of the Arbitration Act 1996 or any re-enactment or modification thereof for the time being in force provided that in the event of subsequent agreement between the parties including agreement on the payment of the arbitration fees before an award is made the reference to the arbitrator shall be withdrawn.

28 Right of Re-Entry

28.1 The Landlord may at any time after the occurrence of any of the following events re-enter the Premises or any part of the Premises in the name of the whole whereupon this demise shall absolutely determine (but without prejudice to any right of action of the Landlord in respect of any arrears of Rent or any antecedent breach of covenant):-

28.1.1 if any Rent remains unpaid 21 days after it is due (whether formally demanded or not), or

28.1.2 if any covenant or stipulation in the Lease which is to be performed or observed by the Tenant is not performed or observed, or

28.1.3 if the Tenant (or any one party included within the definition of the Tenant) is a company and effects a return or reduction of capital, or

23.1.4 if the Tenant permits any execution or distress to be levied on any goods in the Premises, or

23.1.5 if the Tenant (or any one party included within the definition of the Tenant) become Insolvent (as defined in the next Clause).

29 Insolvency

29.1 Insolvent means for the purposes of this part of the Lease:

29.1.1 in relation to a company that:-

(a) it is deemed unable to pay its debts as defined in section 123 of the Insolvency Act 1986 (referred to as "the Act" in the remainder of this Clause), or

(b) a proposal is made for a voluntary arrangement under Part I of the Act, or

(c) a petition is presented for an administration order under Part II of the Act, or

(d) a receiver or manager is appointed whether under Part III of the Act (including an administrative receiver) or otherwise, or

- (e) it goes into liquidation as defined in section 247(2) of the Act (other than a voluntary winding up solely for the purpose of amalgamation or reconstruction while solvent), or
- (f) a provisional liquidator is appointed under Section 135 of the Act, or
- (g) a proposal is made for any compromise or arrangement for the benefit of any creditors of the Tenant or guarantor.

29.1.2 in relation to an individual that:-

- (h) an application is made for an interim order or a proposal is made for a voluntary arrangement under Part VIII of the Act, or
- (i) a bankruptcy petition is presented to the Court or his circumstances are such that a bankruptcy petition could be presented under Part IX of the Act, or
- (j) he enters into a deed of arrangement.

31 Exclusion of Security of Tenure

- 31.1 The Landlord and the Tenant agree that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 are excluded in relation to this lease and confirm that (a) on [2019] the Landlord served on the Tenant notice in the form attached and (b) on [2019] the Tenant (or a person duly authorised on its behalf) made the statutory declaration in the form attached.
- 31.2 On vacation of the Premises the Tenant shall not be entitled to claim compensation under the provisions of Section 37 of the Landlord and Tenant Act 1954 or any other statutory provisions in respect of alterations made by the Tenant, the Tenant's fixtures and fittings or loss of this tenancy.

32 Rights of Third Parties

For the purposes of sub-section 1(1)(b) of the Contracts (Rights of Third Parties) Act 1999 the parties certify that they do not intend any term of this Lease to be enforceable by any third party except to the extent that the third party has any right or remedy that exists or is available and is enforceable apart from that Act.

33 Land Registry Applications

- 33.1 At the end of the Term the Tenant is to return the original lease to the Landlord and use all reasonable endeavours to assist the Landlord in removing any notice of the Lease and the rights granted and reserved by it from the Landlord's title to the Premises if that title has by then become registered at the Land Registry.
- 33.2 The Landlord will not be liable to the Tenant for any failure by the Tenant to register or note any of the rights granted or reserved by this Lease.

34 Charities Act 2011

- 34.1 The Demised Premises are held by Alice Park Trust a non-exempt charity and this Lease is not one falling within paragraph (a), (b) , (c) or (d) of Section 117(3) of the

Charities Act 2011 so that the restrictions on disposition imposed by Sections 117-121 of that Act apply to the Premises.

34.2 The directors of Alice Park Trust, being the persons who have the general control and management of its administration certify that:

- (a) they have power under the trusts of the charity and regulating its purposes and administration to effect this disposition; and
- (b) that they have complied with the provisions of the said Sections 117-121 so far as applicable to this Lease.

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 Description of the Premises

That area of land shown edged red on Plan 1 to be known as the Tennis Courts forming part of the Estate and INCLUDING all pipes sewers drains mains ducts conduits gutters watercourses wires cables channels flues and all other conducting media and ancillary apparatus wholly in or on the Premises including security devices (if any) to secure the Premises.

Schedule 2 Rights granted to the Tenant that are included in the Lease

- 1 The right to connect into and use (subject to the regulations of any appropriate Authority) the Conduits and such other Conduits as may from time to time be available for connection to the Premises.
- 2 The right at all reasonable times (or at any time in an emergency) for access and egress on foot and vehicular access across existing constructed pathways comprised in the Estate for all purposes connected with the Permitted Use.
- 3 The foregoing rights are to be enjoyed in common with the Landlord, its lessees and tenants and all persons authorised by the Landlord or having a similar right.

Schedule 3 Rights reserved by the Landlord from this Lease

- 1 The right to free and uninterrupted passage and running of water, drainage, gas, electricity, oil, communication and other services by any present or future Conduit or Facility forming part of the adjoining or adjacent property of the Landlord although in or passing through the Premises.
- 2 The right at all reasonable times on not less than two days' written notice (except in an emergency) to enter upon any part of the Premises with tools and equipment:-
 - 2.1 in order to connect into and to inspect, test, clean, maintain, repair or renew, remove, divert, make connections with or install any new Conduit or Facility which serves any adjoining or adjacent property of the Landlord.
 - 2.2 for the purpose of inspecting, repairing, maintaining, decorating, altering or improving and/or any adjoining or adjacent property of the Landlord notwithstanding interference with the access of light or air to the Premises or temporary interference with any other right or easement.
 - 2.3 to inspect the Premises (a) to ascertain whether the Tenant is complying with this Lease or (b) to view their state and condition or (c) to make surveys or (d) (during the six months preceding the Determination of the Term only) to show the Premises to prospective tenants or (e) to show the Premises to prospective purchasers or (f) for any other reasonable purpose.
 - 2.4 to execute works following the Tenant's failure to comply with a notice served under Clause 7.6 (without prejudice to any other remedy available to the Landlord) and also pursuant to Clause 12.7.
 - 2.5 to take schedules or inventories.

Provided that in such cases the Landlord shall enter causing as little damage and disturbance as is reasonably practicable and make good as soon as reasonably practicable any physical loss and damage resulting from its exercising this right.
- 3 All rights of light, air support and protection and other easements and rights (but without prejudice to those expressly granted to the Tenant by this Lease) now and in the future belonging to or enjoyed by any adjoining or neighbouring land or building from and over the Premises.

Schedule 4 Regulations

- 1 No unnecessary obstruction must be caused in any part of the Common Parts.
- 2 Refuse is to be kept in suitable containers and collected on a frequent basis.

Appendix 1 - Schedule of Condition

Executed as deed by affixing the
common seal of [] in the presence of:

.....
Authorised Signatory

Any signatures on this document are conditional upon the document being dated by or under the
authority of the signatories' solicitor.

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Dated

2019

Deed Of Assignment

Of Leasehold Property Known As

Tennis Courts, Alice Park, Lambridge, Bath

between

[]

(Assignor)

and

Bath and North East Somerset Council

(Assignee)

Contents

Clause

1	Interpretation	3
2	Assignment	4
3	Title guarantee	4
4	Indemnity	4
5	VAT	4
6	Entire agreement.....	4
7	Third party rights	4
8	Governing law.....	5
9	Jurisdiction	5

DRAFT

This deed is dated

2019.

Parties

- (1) [NOMINEE DETAILS] (**Assignor**).
- (2) **Bath and North East Somerset Council** [incorporated and registered in England and Wales with company number] [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Assignee**).

Background

- (A) The residue of the term granted by the Lease remains vested in the Assignor.
- (B) Under the terms of the Lease, the consent of the landlord is not required for the assignment.

Agreed terms

1 Interpretation

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

1.1 Definitions:

Lease: a lease of Tennis Courts, Alice Park, Lambridge, Bath dated [DATE] and made between (1) The Official Custodian for Charities and (2) [NOMINEE].

Lease Obligations: the tenant covenants and all terms and conditions contained or referred to in the Lease.

LTA 1954: Landlord and Tenant Act 1954.

Property: Tennis Courts, Alice Park, Lambridge, Bath as more particularly described in and demised by the Lease.

Rent: the rent reserved by the Lease.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

- 1.2 Clause and Schedule headings shall not affect the interpretation of this deed.
- 1.3 A reference to the Lease includes any deed, licence, consent, approval or other instrument supplemental to it.
- 1.4 A reference to the Property is to the whole and any part of it.
- 1.5 The expression tenant covenants has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.10 References to clauses and Schedules are to the clauses and Schedules to this deed.

2 Assignment

2.1 The Assignor assigns the Property to the Assignee for the unexpired residue of the term granted by the Lease subject to the payment of the Rent and the Lease Obligations.

2.2 The Property is assigned free from encumbrances.

3 Title guarantee

3.1 The Property is assigned with full title guarantee.

4 Indemnity

4.1 In consideration of the covenants given by the Assignee in this deed, the Assignee covenants with the Assignor that the Assignee shall from the date of this deed for the residue of the term of the Lease:

4.1.1 pay the Rent and any VAT payable on it and observe and perform the Lease Obligations; and

4.1.2 keep the Assignor indemnified against all liabilities, expenses, costs (including but not limited to any solicitors', surveyors' or other professionals' costs and expenses, and any VAT on them, assessed on a full indemnity basis), claims, damages and losses suffered or incurred by the Assignor arising out of or in connection with any failure to do so.

5 VAT

5.1 All sums payable under or pursuant to this deed are exclusive of any VAT that may be chargeable.

5.2 If any VAT is chargeable in respect of such sums, the party paying those sums shall pay an amount equal to that VAT, in addition to such sums except to the extent that the party receiving the payment obtains credit for such VAT under the Value Added Tax Act 1994.

6 Entire agreement

6.1 This deed 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.

6.2 The Assignee acknowledges that in entering into this deed, the Assignee does not rely on any representation or warranty (whether made innocently or negligently) other than those set out in this deed.

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

7 Third party rights

7.1 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.

8 Governing law

8.1 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.

9 Jurisdiction

9.1 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).

This deed has been entered into on the date stated at the beginning of it.

Executed as deed by [NAME OF Assignee], in the presence of:

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Executed as deed by affixing the common seal of Bath and North East Somerset Council in the presence of:

.....

Authorised Signatory

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Sell or lease property to someone connected to your charity - TENNIS COURTS

Use this form to apply for the Charity Commission's consent to sell or lease property to someone connected to your charity.

Before you start You should read our information on selling and leasing charity property: Disposals that need our authority: sales, leases, transfers or mortgages – detailed guidance Disposing of land to a connected person - detailed guidance

What you will need to tell us You will need to have the following to hand:

- name of the connected person or people and how they are connected with your charity
- full explanation about why selling or leasing to this person is in the best interests of your charity
- details of how the conflict of interest has been managed
- qualified surveyor's report in accordance with the regulations
- description of the property whether the property includes designated land (land designated for a particular purpose)
- details of any opposition to the proposal

Apply to dispose of charity land to a connected person · ·	
All fields marked * must be answered	
About this application	
Your charity name* ·	The Alice Park
Your registered charity number (if applicable) ·	304650
Name of the person we should contact about this disposal* ·	Laura Chesham

Contact email address* ·	Ichesham@vww.co.uk
Contact telephone number* ·	0117 314 5314
Charity Commission case reference number (if applicable)	N/A
About the connected person	
· Full name of connected person*	<p>Stage 1: Michael Hewitt (Nominee), an employee of Bath and North East Somerset Council (BANES)</p> <p>Stage 2: BANES</p> <p>It is proposed that a lease is first granted to the Nominee and then this lease will be assigned to BANES. This two-stage process is required because BANES (in its capacity as trustee of the charity) is not able to grant a lease directly to itself in its local authority capacity.</p>
<p>How is this person connected? * ·</p> <ul style="list-style-type: none"> • A trustee of or for the charity • A donor of any land to the charity • A close relative of either of the above, for example, a child, parent, grandchild, grandparent, brother or sister (or husband, wife or civil partner of any of these) • An officer, agent or employee of the charity • An institution controlled by any of the above • A body corporate in which any of those above have a substantial 	<p>The Nominee is an employee of BANES.</p> <p>BANES is the sole corporate trustee of The Alice Park.</p>

interest	
Did the connected person have any involvement in the decision-making process to dispose of the land?	There is a sub-committee established for the charity which considers the business of the charity and takes decisions on BANES' behalf. Although the sub-committee is comprised of Councillors, BANES considers that conflicts of interest/duty are appropriately managed, and the sub-committee acts independently and solely and exclusively in the interests of the charity when taking decisions concerning the charity.
Did the connected person have any access to information in connection with other bids or offers for the land / property?	N/A
How did the trustees make the decision to dispose of the land to this person?	At a public meeting of the Alice Park Trust sub-committee dated 23 December 2019. The Agenda and minutes of which can be found here https://democracy.bathnes.gov.uk/ieListDocuments.aspx?Cid=579&Mid=5720&Ver=4
What options were considered?	No other options were considered by the charity. The terms of the proposed disposal are unique and are unlikely to be viable if a different third party were involved.
Why the disposal is in the charity's best interests	
You should say when the trustees met to discuss the disposal and explain why they feel it is in the charity's best interests. For example, the connected person is offering market price or better. * Maximum 5,000 characters	The charity provides a public park and play area (for children under 14 years of age) in Bath in advancement of its charitable purposes. The park is open to the public throughout the year. There are various facilities available at the park, including tennis courts, a children's cycling track, table tennis and space for team sports to be played. There is a chalet situated at the park, which the charity leases to a third party for use as a café There is a cottage within the park that is leased to a third party to use as a Nursey and a public convenience leased to Healthmatic. The rental income is used in the upkeep of the park. The charity also receives income from the hire of tennis

courts. The total income from this activity is approximately £1,500 per annum.

There are six tennis courts situated within the park (approximately 0.89 acres of the 8 acres comprising the park). The courts are tarmac covered and fenced. They are now over 20 years old and, as a result, they are in a relatively poor state of repair. Although the courts remain useable, the charity has been advised that they are nearing the end of their useful life.

The Lawn Tennis Association recommends annual maintenance and lifecycle replacement costs for six tennis courts would cost approximately £9,000 per annum. As the annual income from the courts is only £1,500, clearly this is not sufficient to be able to maintain the tennis courts to an appropriate standard. Each year the tennis courts are not capable of being maintained to this standard by the charity, the further disrepair they fall into. As we have referred to above, the charity's other income is also limited and therefore it is not possible to use this to supplement the income from the tennis courts to meet the upkeep and maintenance costs. There is increasing concern that health and safety issues may arise if no steps are taken to improve the facility.

The charity considers that if a modern replacement facility could be provided at the park, it would increase the number of users of the tennis courts; thereby increasing the public benefit arising from the charity's activities. The cost of a replacement facility is likely to be around £150,000. However, as we have identified above, the charity has a limited income. BANES (in its capacity as local authority) supplements the charity's income to cover its costs. The charity therefore does not have any reserves with which to expand the charity's activities/facilities.

A proposal to re-develop the tennis courts was presented to the sub-committee in September 2019.

Under the proposed new lease arrangements, the charity and BANES will share in the profit arising from the hire of the tennis courts to the public. The charity will therefore benefit from this income whilst not being required to meet the cost of

	<p>maintaining the facility.</p> <p>The sub-committee therefore considers it is in the best interests of the charity to enter into a lease of part of the tennis courts to BANES to allow BANES to re-develop the existing facilities, and that the grant of the proposed lease is in furtherance of the charity's purposes. The charity considers that being able to offer modern replacement tennis courts at the park will allow the charity to benefit a larger section of the public.</p>
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
· About your surveyor's report	
Have the trustees received a surveyor's report?	Yes
What does the report say about marketing the property? We may request a copy of the report at a later date.	The report confirms that, due to the unique terms of the proposed disposition, including the investment by the tenant, the proposed disposition should not be advertised.
Have the trustees acted on the advice about marketing?	Yes
What does the report say about the value of the land to be disposed?	One peppercorn
Have the trustees acted on the advice about the value of the land?	Yes
What are the terms of the lease or sale the trustees are considering accepting?	<p>Term: 25 years</p> <p>Rent: one peppercorn</p> <p>Permitted use: tennis courts and ancillary recreational use</p>

	<p>Break clause: none</p> <p>Rent reviews: none</p> <p>Alienation: prohibited (except to allow for the assignment of the lease to complete the second stage transfer referred to above)</p> <p>Repairing obligations: fully repairing; requirement for the tenant to keep the demised area in good repair</p> <p>Dilapidations: tenant to reinstate the demised area (limited by reference to a schedule of condition)</p> <p>Landlord and Tenant Act 1954 protection: none</p> <p>Alterations: external and internal structural and non-structural alterations permitted with landlord's consent (such consent not to be unreasonably withheld)</p> <p>Service charge: none</p> <p>Rates and utilities: tenant directly liable for all outgoings associated with the tennis courts (if any)</p>
About the land	
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
Do the trustees have the power to dispose of the land?	Yes
Do the trustees own the legal interest in the property or land to be disposed?	Yes

<p>· Full postal address or brief description of the land*</p> <p>Maximum 5,000 characters</p>	Part of the land known as "The Alice Park" Gloucester Road, Larkhall, Bath, BA1 7BL
Is the land registered with HM Land Registry? *	[TBC]
If Yes, Land Registry or Registered lease title number	[TBC]
· If the land is not registered give details of the conveyance or lease by which it was acquired	Conveyance dated 19 May 1937
· What the land is used for	
<p>If any part of the land is leased to another party, please give details of the lease</p> <p>Maximum 2,000 characters</p>	N/A
Is it designated land (that is land settled on specific charitable trusts held by the charity and required to be used for a particular purpose or purposes of the charity)? *	No
If No, Is the land used for other purposes of the charity? *	Yes
<p>If Yes (Explain briefly what purposes the land is used for (you may need to refer to the deeds of the land or your charity's governing document) *</p> <p>Or</p>	<p>The land is used as a public park and children's play area. Various recreational facilities are offered, including tennis courts, a children's cycling track, table tennis and space for team sports to be played.</p> <p>There is a cottage situated within the park which is leased to a third party who</p>

If No (Explain briefly how the land is used) *	provides a café.
<p>Disposing of designated land</p> <p>You must tell us in this form whether the designated land will be replaced - if not, you usually need to give public notice and we may need to contact you about changing your charity's purposes. Read our detailed guidance for more information.</p> <p>Explain briefly what specific purposes the land is required to be used for (you may need to refer to the deeds of the land or your charity's governing document). *</p> <p>Maximum 2,000 characters</p>	N/A
Are you replacing the designated land? *	N/A
About the disposal	
<p>Select an option that best describes the disposal* ·</p> <ul style="list-style-type: none"> • Freehold sale • Easement or grant of right of way • Lease for more than 7 years • Lease for 7 years or less with a fine or premium • Lease for 7 years or less with no fine or premium • Other (If 'Other' please specify*) <p>About fines and premiums</p>	Lease for more than 7 years

A fine or premium is a lump sum or other benefit, other than rent, paid to the charity on the granting of a lease.	
<p>If you are aware of any opposition to the disposal give details and explain the steps the trustees have taken to resolve these issues</p> <p>Maximum 5,000 characters</p>	None.
<p>Declaration</p> <p>You must confirm the following statements are correct:</p>	
<ul style="list-style-type: none"> All the facts and information supplied by or on behalf of this charity on this form are correct 	Yes
<ul style="list-style-type: none"> The trustees are satisfied they have been properly appointed 	Yes
<ul style="list-style-type: none"> The trustees have the power to dispose of the land 	Yes
<ul style="list-style-type: none"> There is no clause/provision in the governing document of the charity prohibiting the disposal of the charity's land to a connected person 	Yes
<ul style="list-style-type: none"> The charity owns the legal interest in the property described in section 4 	Yes
<ul style="list-style-type: none"> The trustees have taken appropriate steps to manage the conflict of interest: 	Yes
<ul style="list-style-type: none"> The connected person took no part in the decision-making 	Yes

process regarding disposal of the land	
<ul style="list-style-type: none"> The connected person has had no access to information in connection with other bids or offers for the land 	Yes
<ul style="list-style-type: none"> The trustees have received a report from a qualified surveyor who has reported in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992 	Yes
<ul style="list-style-type: none"> The trustees have met validly and decided that the disposal of the property is in the best interests of the charity 	Yes
<p>I confirm that all of the statements above are true and correct to the best of my knowledge, and that I am authorised to act on behalf of the trustees. *</p> <p>Conflicts of interest The person signing the form must not be the connected person in question. Read our guidance about conflicts of interest https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity</p>	
Name of signatory*	Marie Todd
Capacity (for example trustee, secretary or clerk to the trustees, legal adviser etc) *	Clerk to the Alice Park Trust sub-committee
<p><i>Note: Providing false information</i></p> <p><i>It is an offence under section 60(1)(b) of the Charities Act 2011 to knowingly or recklessly provide false or misleading information.</i></p>	

Bath & North East Somerset Council	
MEETING	Alice Park Trust Sub Committee
MEETING	23 December 2019
TITLE:	Approval of Lease Terms for the Skatepark Lease
WARD:	Lambridge
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Appendix 1 Advice of Independent solicitors appointed on behalf of the Trust</p> <p>Appendix 2 Advice of Independent surveyors appointed on behalf of the Trust</p> <p>Appendix 3 Draft Lease</p> <p>Appendix 4 Draft Assignment of Lease</p> <p>Appendix 5 Application to the Charity Commission for an order consenting to the grant of a lease</p>	

1 THE ISSUE

- 1.1 To commence the installation of the skatepark the Trust must enter into a lease, with a nominee, appointed by the Council, who will then assign the lease to the Council.
- 1.2 This report outlines the process for the granting of the lease and the reasons why a nominee is required

2 RECOMMENDATION

The Sub-Committee is asked, subject to approval by the Charity Commission, to;

- 2.1 Approve the terms of the draft lease on the basis that these are the best terms that can reasonably be obtained.**

2.2 Approve the grant of the lease (Appendix 3) to the nominee and consent to the simultaneous assignment of the lease to the Council in its corporate capacity.

2.3 Authorise the clerk to submit the application (Appendix 5) for Charity Commission consent to the lease on behalf of the Trust.

3 THE REPORT

3.1 The Council as sole corporate trustee of the Alice Park charity cannot grant a lease directly to the Council in its corporate capacity. The advice of the Independent solicitors (Appendix 1) appointed on behalf of the Trust outlines the process for the lawful grant of a lease from the Official Custodian for charities, through a nominee and ultimately to the Council in its corporate capacity.

3.2 The Council, through the Monitoring Officer, proposes to appoint the Deputy Monitoring Officer, by an officer delegated decision, to act as the nominee and to direct the nominee to simultaneously effect an assignment of the lease to the Council in its corporate capacity.

3.3 Members of the sub-committee acting in its capacity as the sole corporate charitable trustee must act in the best interest of the charity in the grant of the lease to the Council. Because the Council is a Connected Person, the approval of the Charity Commission is required before the grant can take effect. To assist the sub-committee in its determination of whether the terms of the proposed transaction are the best that can reasonably be obtained for the charity a valuation and advice has been obtained from independent surveyors (Appendix 2).

3.4 The sub-committee has previously approved the heads of terms for the grant of a lease of the skate park which have now been embodied into the draft lease by the Independent solicitors and these have been agreed with the Council's solicitors (Appendix 3). The sub-committee is requested to approve the draft lease and authorise its execution once approval to the transaction has been given by the Charity Commission.

4 STATUTORY CONSIDERATIONS

4.1 The Council is sole corporate trustee of the Alice Park Trust. The Alice Park Trust's Sub-Committee's terms of reference are to undertake the operational management functions in respect of the Alice Park site and its resources, in accordance with Trust's objects and the duties it owes pursuant to the Charities legislation

4.2 Members in their capacity as sole corporate trustee must administer the Trust in good faith, abiding strictly to the objects of the Trust and administering the Trust for the benefit of the public which may at times conflict with the interests of the Council.

4.3 The Council in its corporate capacity is, pursuant to section 118 Charities Act 2011 treated as a Connected Person and the legislation requires that a transaction to a Connected Person requires an order of the Charity Commission. The legislation also provides a number of statutory safeguards to ensure

objectivity and transparency in regard to the transaction. In particular the members must, before entering into a lease of the land:

- 4.3.1 obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity,
- 4.3.2 advertise the proposed disposition for such period and in such manner as is advised in the surveyor's report (unless it advises that it would not be in the best interests of the charity to advertise the proposed disposition), and
- 4.3.3 decide that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

4.4 Members must consider the Independent surveyors report and satisfy themselves that the requirements in 4.3.1 have been met.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 The Council will build, manage, insure and reinstate the site at the end of the lease term.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 CLIMATE CHANGE

7.1 There are no climate change implications arising directly from this report

8 CONSULTATION

8.1 The Monitoring officer and S.151 officer have been consulted on the contents of this report.

Contact person	Michael Hewitt, Deputy Monitoring Officer Tel: 01225 395125 E-mail: Michael_Hewitt@bathnes.gov.uk
Background papers	Alice Park Trust sub-committee report dated 4 September 2019
Please contact the report author if you need to access this report in an alternative format	

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Alice Park, Lambridge, Bath

Advice Note

Bath and North East Somerset Council

1 November 2019

Contents

1	Background	3
2	Nominees.....	4
3	Power to appoint a nominee	4
4	Selection of the nominee.....	4
5	Acting as nominee.....	5

1 Background

- 1.1 Bath and North East Somerset Council (**BANES**) is the sole corporate trustee of the charitable trust known as "The Alice Park" (the **Charity**). The Charity was established by a conveyance dated 19 May 1937, as amended by a Charity Commission Scheme dated 17 December 1973 (the **Governing Document**).
- 1.2 BANES has established a committee known as the "Alice Park Trust Sub-Committee" (the **Committee**). The Committee has delegated authority from BANES to take certain actions and decisions in respect of the Charity.
- 1.3 The main asset of the Charity is Alice Park which is situated in Lambridge, Bath (the **Park**). The Park is registered at the Land Registry under title number ST277651. The legal title of the Park is held by The Official Custodian for Charities as custodian trustee for the Charity.
- 1.4 BANES in its capacity as trustee of the Charity proposes to grant two leases of part of the Park to BANES (in its local authority capacity) for the development of a skate park and tennis courts (the **Leases**). The skate park and tennis courts will then be operated by BANES (in its local authority capacity) in line with other of its leisure facilities. The proposed rent under the Leases is a peppercorn, (if demanded).
- 1.5 The Heads of Terms for the Leases have been agreed and draft Leases have been prepared in line with these terms.
- 1.6 Clause 5 of the Governing Document gives BANES in its capacity as trustee of the Charity the power to let the Park (or part of it), provided that the provisions of the Charities Act 2011 (the **Act**) regulating the disposal of charity land are complied with. In exercising this power, BANES (in its capacity as trustee of the Charity) will need to ensure that the grant of the Lease is in the best interests of the Charity. Conflicts of interest/duty should be appropriately managed and documented.
- 1.7 In 2008, BANES instructed Anthony Tanner of Falcon Chambers to advise on the proposed grant of a lease by BANES in its capacity as trustee of the Recreation Ground, Bath to BANES (in its local authority capacity).
- 1.8 In his advice, Counsel confirmed that BANES could not grant the lease, even if it acted in each case in different capacities, as it would be void¹.
- 1.9 As a solution to the issue, Counsel advised that BANES should consider granting the leases to a nominee. The nominee would not be an agent for BANES and therefore the leases would not be void². Also, once the leases are granted, they could be assigned by the nominee to BANES (in its local authority capacity).
- 1.10 BANES proposes to follow Counsel's advice in relation to the grant of the Leases of the Park by appointing a nominee, who would then assign the Leases to BANES (in its local authority capacity).
- 1.11 The purpose of this advice note is therefore to:
 - 1.11.1 advise on whether BANES (in its local authority capacity) has the power to appoint a nominee;
 - 1.11.2 comment on who could act as the nominee; and

¹ This follows the court's decision in the case of *Rye -v- Rye* [1962] AC 496.

² This approach was supported by the court in the case of *Ingram -v- IRC* [1999] All ER 297.

1.11.3 identify any issues for the nominee in acting as such.

2 Nominees

2.1 Reference to nominee in this advice is to an individual who has been nominated to act as BANES' nominee.

2.2 A nominee could be appointed if:

2.2.1 it is within BANES' powers as trustee of the Charity to grant the leases; and

2.2.2 BANES in its local authority capacity under local government law is able to hold property in its statutory corporate capacity in the name of a nominee.

2.3 We have considered at section 3 below whether BANES, in its statutory corporate capacity, is able to hold property in the name of a nominee.

2.4 We have confirmed at paragraph 1.6 above that BANES (as trustee of the Charity) has the power to grant leases of the Park. However, there is still a requirement to comply with the provisions governing the disposal of charity land contained in the Charities Act 2011. In this case, the grant of the Leases would be considered a lease to a "connected person" for the purposes of section 118 of the Act. Therefore, in order to enter into the Leases, an Order of the Charity Commission will be required to authorise the arrangements. This authorisation is required regardless of the leases in the first instance to BANES' nominee.

2.5 While the Order of the Commission would allow BANES (in its capacity as trustee of the Charity) to grant the Leases to the nominee (which will then be assigned to BANES as local authority), conflicts of interest/duty will need to be appropriately managed. We recommend that there is a clear audit trail of the decision-making processes adopted, which includes demonstrating how conflicts of interest/duty were managed by the Committee and particularly that decisions were taken solely and exclusively in the interests of the Charity.

3 Power to appoint a nominee

3.1 Section 1 of the Localism Act 2011 grants a Power of General Competence to Local Authorities. This grants a local authority "a power to do anything that individuals generally may do". Since an individual could appoint a nominee, we consider that BANES can also do so.

4 Selection of the nominee

4.1 The nominee could be any individual, but, in these circumstances, our view is that the nominee should either be a member or officer of BANES.

4.2 BANES (in both of its capacities) has an interest in ensuring that the Leases are ultimately granted to BANES (in its local authority capacity) and therefore, the nominee in our view should be someone who BANES is able to control. In practice, it is likely that BANES (in its local authority capacity) will have more control over an officer due to the employment relationship.

4.3 The nominee will hold the Leases as a bare trustee and therefore will be required to act at the direction of BANES (in its local authority capacity), unless to do so would be to act in breach of trust. Therefore, it may be more practical for BANES to appoint one of its employees as its nominee as it will be able to use its role as employer to direct the nominee in the assignment of the Leases. There is likely to be less control over a Council member.

4.4 Although it is intended that the Leases are assigned shortly after they are granted by BANES (as sole trustee of the Charity), if this is not possible, then BANES (in its local authority

capacity) will want to be able to retain control over that individual during the period for which he or she holds the Leases.

- 4.5 A member would have duties under the Localism Act 2011 in terms of managing conflicts of interest. While in this instance we do not foresee that a Council member would have a personal interest in the Leases, there is likely to be a conflict of duty which would need to be managed.
- 4.6 Our view therefore is that the nominee should be an officer of BANES. We understand that there is likely to be an officer willing to act in this capacity.

5 **Acting as nominee**

- 5.1 We have confirmed at paragraph 4.3 above, that any nominee appointed to take the grant of the Lease initially would be acting in the capacity of a bare trustee. This requires the nominee to act at the direction of BANES (as local authority), unless to do so would be to act in breach of trust.

Taking on the Lease

- 5.2 As the freehold title to the Property is held by the Official Custodian for Charities, the intention is that the appointed nominee will take the Lease from the Official Custodian. The Official Custodian itself is in a similar role to the nominee in that it must act at the direction of BANES (as the trustee of the Charity) in granting the Leases (unless to do so would be to act in breach of trust).

Consequences of accepting the grant of the Lease

- 5.3 Upon entering into the Leases, the nominee will become liable for the costs involved. These may include:
- 5.3.1 Any lease premium (in this case, there is none).
- 5.3.2 Rent due under the lease (in this case, a peppercorn).
- 5.3.3 Other liabilities under the lease, such as the repairing covenant.
- 5.3.4 Any Stamp Duty Land Tax (**SDLT**) due on the grant of the leases (see below).
- 5.3.5 Land registry fees for registration of the leases - If a Lease is for a term of more than seven years, it must legally be registered at the Land Registry against the property title and a registration fee must be paid.

The proposed term of the Lease is 25 years and registration at Land Registry will therefore be required.

- 5.4 In practice we have assumed that BANES (as local authority) will meet any costs incurred by its nominee.
- 5.5 In our view, it is unlikely that any liabilities will arise for the nominee. However, in the unlikely event that any liabilities arise the nominee by virtue of section 265 of the Public Health Act 1875 (as amended) would when acting in the course of their duties and in good faith, has statutory immunity and is not personally liable for the actions they take. The Act provides for indemnity in relation personal liabilities and also costs. In addition to this statutory indemnity, we have included a specific contractual indemnity in the deeds of assignment which will transfer the leases from the nominee to the Council.

Assignment of the Lease

- 5.6 Once the Leases are granted to the nominee, the Leases can then be assigned to BANES. The assignment is the transfer by the nominee of their rights and obligations under the Leases to BANES (as local authority).
- 5.7 As drafted, the Leases provide that the tenant (i.e. the nominee) is permitted to assign the Leases to BANES without the consent of the landlord (i.e. the Charity). The landlord's consent is required if the Tenant wishes to assign or underlet the Lease to anyone other than BANES (this consent is not to be unreasonably withheld). Therefore, in the very unlikely event that the nominee attempted to assign the Leases to someone other than BANES (as local authority), BANES in its capacity as trustee of the Charity would have knowledge of this.
- 5.8 In order to assign the Leases, the nominee will need to enter into a deed of assignment.
- 5.9 We propose that the deed of assignment will be entered into immediately following the grant of the Leases meaning that, in practice, the nominee will hold the Leases for a very short period of time.
- 5.10 Following the assignment of the Leases, the assignment should be registered at the Land Registry. In practice, we would register the grant of the leases and the assignment within the same application.

Liability of the nominee following assignment

- 5.11 As a lease which is granted after 1 January 1996 (not pursuant to an agreement dated before that date), the Leases will qualify as a "new lease" under the Landlord and Tenant (Covenants) Act 1995.
- 5.12 As new leases, the position is that the original tenant (in this case, the nominee) will be released from liability on assignment. Since the nominee will only hold the Leases for a very short period of time between the grant of the leases and completion of the assignment, we consider the risk of any liabilities falling to the nominee to be minimal.
- 5.13 In any event, we have included a specific contractual indemnity in the deeds of assignment from the Council to the nominee.

SDLT

- 5.14 We understand that you have commissioned a qualified surveyor to prepare a valuation report (in accordance with the Charities Act 2011) to advise on the terms of the proposed Leases, including the peppercorn rent.
- 5.15 Given that the surveyors report confirms that the Lease of a peppercorn (for both the Skate Park and the Tennis Courts) represents the market rate for the Property, the "Net Present Value" (the figure used to calculate your SDLT liability) would be nominal and therefore no SDLT would be payable and no return would be required to be made to HM Revenue & Customs.

If you have any questions in relation to this advice, please contact Rebekah Moore.

VWV LLP
1 November 2019



Valuation

Private & confidential

Hayley Ponsford
Bath & North East Somerset Council
Northgate House
Upper Borough Walls
Bath
BA1 1RG

James Davies MRICS
RICS Registered Valuer
BNP Paribas Real Estate
Portwall Place
Portwall Lane
Bristol
BS1 6NA
Tel: +44 (0) 117 984 8468
Fax: +44 (0) 117 984 8401
E-mail: James.d.davies@bnpparibas.com

Our Ref: ADS/TAM/193746

23 September 2019

Dear Hayley,

SKATE PARK AT ALICE PARK, GLOUCESTER ROAD, BATH, BA1 7BL: (THE "PROPERTY")

BATH AND NORTH EAST SOMERSET COUNCIL AS TRUSTEE OF ALICE PARK

1 TERMS OF REFERENCE

1.1 Instructions

Our valuation has been prepared in accordance with your instructions of 22 August 2019, the terms of our letter of 23 September 2019, and the Valuation Procedures and Assumptions enclosed with that letter. Copies of these documents are enclosed in Appendix 1.

The Property comprises a parcel of land which has been allocated for a skate park. This valuation has been prepared for internal purposes, however, we acknowledge that it may be published in the public domain.

1.2 Date of valuation

23 September 2019. The importance of the valuation date must be stressed as property values may change over a relatively short period.

1.3 Standards

The report has been prepared in accordance with RICS Valuation – Global Standards 2017, (the "Red Book"). In particular we have had regard to UKVPGA 8, 'Valuation of Charity Assets'; Section 119 of the Charities Act 2011; and the Charities (Qualified Surveyors' Reports) Regulations 1992. We have also had regard to the Charities Statement of Recommended Practice ("SORP"), which broadly follows UK Generally Accepted Accounting Principles ("UK GAAP").

1.4 Independence and Objectivity

We confirm that we have previously valued Alice Park in 2015, along with providing you with a variety of ad-hoc property advice. We are satisfied that this does not create a conflict and



that we are acting objectively and that this report represents our independent opinion.

We are acting in the capacity of External Valuer.

1.5 Valuer details

This report has been prepared by James Davies MRICS RICS Registered Valuer, and reviewed by Andrew Shoubridge MRICS Registered Valuer. We confirm that we have the knowledge, skills and understanding to undertake this valuation competently.

1.6 Inspection

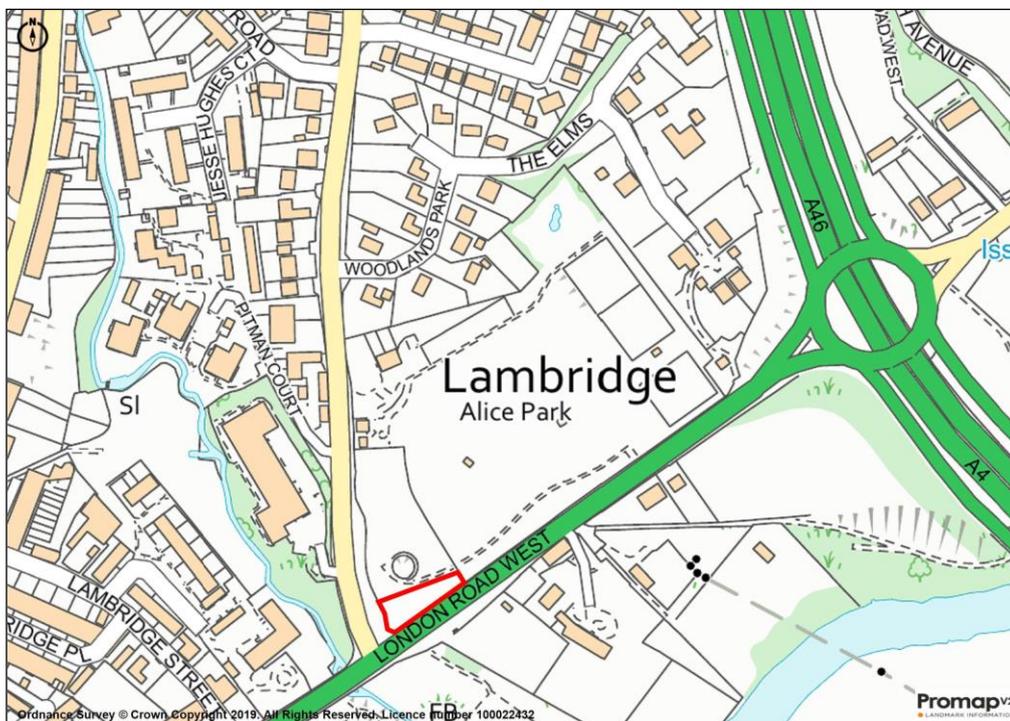
The Property was previously inspected by James Davies on 20 August 2015. The Property was re-inspected on 1 September 2019 by Andrew Shoubridge MSc MRICS.

2 PROPERTY INFORMATION

Alice Park is located in Bath at the junction of London Road (A4) and Gloucester Road (where the entrance is located) approximately 0.1 km from the A46, the primary arterial route into Bath. The M4 motorway is 13 km to the north via the A46 and the city centre is approximately 2.5 km to the west via the A4.

You have provided us with an indication of the area of land which will be utilised for the skate park, which extends to 0.22 acres (according to Promap mapping software), which is highlighted in red on the map below. We have adopted this area for the basis of our valuation.

The Property comprises a gently sloping grass covered parcel of parkland within Alice Park, located to the south west corner.





We provide below pictures taken at the time of our inspection.



3 PROPOSAL

You have informed us that it is the intention for Alice Park Trust (the Trust) to grant a lease to Bath & North East Somerset Council (the Authority), who are sole corporate Trustees of the Trust. You have provided us with Heads of Terms for the proposed lease, the salient terms of which are outlined below.

Landlord	The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP, C/o Alice Park Trust Sub Committee			
Tenant	Bath & North East Somerset Council Parks & Green Spaces (Environmental Services)			
Rent	Peppercorn			
Lease length and start date	25 years from date to be agreed			
Tenant's initial works	Construction of a Skate Park. To be dealt with by a Licence for Alterations (or appropriate document) and is conditional on obtaining any requisite consents and budget allowance.			
Break clause	Tenant only break clause, no conditions, at years 15 and 20. Six months prior written notice.			
Rent reviews	None			
Alienation		Prohibited	If not prohibited Is CNUW	Permitted without consent
	Assignment of whole	Yes		
	Sub-Lease whole	Yes		
	Sub-Lease part	Yes		
	Sub-sub-lease	Yes		
	Concession	Yes		
	Group sharing	Yes		
Repairing obligations	Full repairing. The tenant to keep the demised area in good repair.			
Dilapidations	At the end of the term, however arising, the Tenant shall (unless the Landlord requires otherwise) reinstate the land comprising the demised area to grassland to the Landlord's reasonable satisfaction.			



Incentives	None			
1954 Act protection	No			
Service charge	None			
Alterations		Prohibited	If not prohibited Is CNUW	Permitted without consent
	External			Yes
	External structural			Yes
	Internal structural			Yes
	Internal non structural			Yes
Permitted use	Skate Park and ancillary recreational use.			
Insurance	Tenant to insure			
Rates and utilities	Tenant to be directly liable for all outgoings associated with the facility, if applicable.			

4 VALUATION

You have instructed us to value a parcel of parkland, as outlined above, which is to be used for the construction of a skate park. We note that the below methodology applies to the valuation of the freehold title of the Property and does not reflect the terms of the proposed lease. This will be discussed in Section 4.3.

4.1 Freehold land valuation

Our opinion of the Market Value of the wider park was £25,000 per acre in our previous valuation in 2015, which was primarily based on one piece of comparable evidence, the sale of Bath Rugby's Lambridge Training Ground, which was sold in 2013. Comparable evidence of transactions of land of a similar use is extremely scarce, and as such, as we have found no further evidence, the sale of the Lambridge Training Ground remains the best source of comparable evidence. As this transaction is now historic, we have analysed published (outlined below), which track movement in the value of defined asset classes over time, in order to adjust our previous opinion of Market Value of the underlying land to account for the time differential.

Land Price Indices

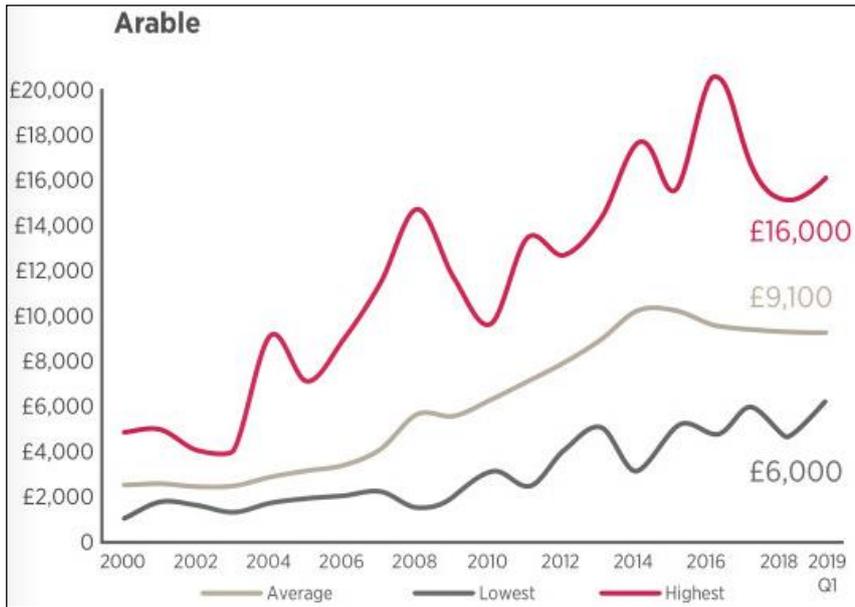
We are not aware of any specific index that relates to parkland, so we have adopted an index that relates to farmland. The index is based on statistics provided by our colleagues at Strutt and Parker, as published in their English Estates and Farmland Review Q1, which is the most recent publication.

The average price of transacted arable land in England are set out below:

2019 - £9,100 per acre

2015 - £10,000 per acre

This highlights a decrease of 9% in the average price transacted for arable land in England between 2015 and 2019. This is highlighted in the graph below.



Source: Strutt and Parker - English Estates and Farm land review Spring 2019.

Once adjusted, this equates to a Market Value of the land element of £22,750 per acre, or £5,005 (say £5,000) when applied to the area that is occupied by the skate park.

We note that, although the Property comprises a very small parcel of land, which would usually be subject to an inflated value on a rate per acre basis due to quantum, we have made no such adjustment in this instance due to the location of the parcel of land being in a less desirable area of the park, due to its location adjacent to two busy roads.

We highlight that we have made the assumption that if the skate park were to be sold independently to the rest of the park, access rights would be granted across the park for the benefit of the skate park.

4.2 Market Value

We are therefore of the opinion that the Market Value of the freehold interest in the Property as at 23 September 2019, is in the region of:

£5,000

(FIVE THOUSAND POUNDS)

Market Value definition

Market Value is an internationally recognised basis and is defined as:

“The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion”.

The Market Value is our estimate of the price that would be agreed, with no adjustment made for the costs that would be incurred by the parties in any transaction, including any liability for VAT, stamp duty or other taxes. It is also gross of any mortgage or similar financial encumbrance.

4.3 Valuation having regard to the terms of the proposed lease

As highlighted above, the Trust are proposing to grant a lease of 25 years to the Authority for the consideration of a peppercorn.

The lease provides for the construction and maintenance of a skate park.

The terms of the proposed lease, and the connected nature of the relevant parties, is a fairly unique proposition, which is difficult to compare to that of a standard commercial leasehold transaction.

We highlight that the significant investment by the tenant provided for by the lease in terms of the construction and ongoing maintenance of the of the proposed facility does not represent a commercially viable scheme. The prospective tenant, the Authority, are also a connected body with a vested interest in the success and development of the wider park, with the motivation of increasing community engagement and involvement. A commercial entity would be very unlikely to offer the same extent of investment, management and added value to the community.

As such, in our opinion, the proposed lease represents the optimum disposition of the Property.

With regards to Rental Value and Market Value of the Property, factoring in the terms of the proposed lease, the level of investment required by the Authority and the net get gain to the Authority, our opinion is that both the Rental Value and Market Value is one peppercorn.

4.3.1 Rental Value factoring in the terms of the proposed lease

We are therefore of the opinion that the Rental Value of the freehold interest in the Property factoring in the terms of the proposed lease is in place, as at 23 September 2019, is in the region of:

ONE PEPPERCORN

4.3.2 Market Value on the Special Assumption that the proposed lease is in place

We are therefore of the opinion that the Market Value of the freehold interest in the Property on the Special Assumption that the proposed lease is in place as at 23 September 2019, is in the region of:

ONE PEPPERCORN

5 RECOMMENDATION

It is the requirement of Charities Act 2011, that we offer our recommendation on a number of factors with regards to the proposed disposition.

We are required to recommend whether any alterations/refurbishment works are required in order to obtain best value. The proposed lease contains provisions for the construction and maintenance of a skate park facility on what is currently a parcel of parkland and as such, we recommend that no alterations or improvement are undertaken prior to the disposition.



We are also required to comment on whether it is in the best interest of the Charity to advertise the disposition in order insure best value is achieved. In our opinion, due to the added value of the Authority as Tenant, the investment in facilities offered by the proposed lease, and the community value gain to the wider park due to the provision of the facilities, it is our opinion that in this instance, the disposition is not advertised.

6 GENERAL CONDITIONS

This report and valuation has been prepared on the basis that there has been full disclosure of all relevant information and facts which may affect the valuation.

This report is provided for the stated purpose and only for the use of Alice Park Trust and Bath and North East Somerset Council, however, we understand that you may wish publish this report in the public domain. We give permission for the report to be published in this manner, however, it must be in a redacted form.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Davies'.

James Davies BSc PG Dip Surv MRICS
RICS Registered Valuer

For and on behalf of BNP Paribas Real Estate

This report has been reviewed by

A handwritten signature in black ink, appearing to read 'A. Shoubridge'.

Andrew Shoubridge MSc MRICS
RICS Registered Valuer



Valuation

Private & confidential

Hayley Ponsford
Bath & North East Somerset Council
Northgate House
Upper Borough Walls
Bath
BA1 1RG

James Davies MRICS
RICS Registered Valuer
BNP Paribas Real Estate
Portwall Place
Portwall Lane
Bristol
BS1 6NA
Tel: +44 (0) 117 984 8468
Fax: +44 (0) 117 984 8401
E-mail: James.d.davies@bnpparibas.com

Our Ref: ADS/TAM/193746

23 September 2019

Dear Hayley

TENNIS COURTS AND SKATE PARK SITE, ALICE PARK, GLOUCESTER ROAD, BATH, BA1 7BW: (THE "PROPERTIES")

I thank you for your email of 15 August 2019. I confirm that we are delighted to accept your instruction to undertake valuations of the Properties for internal purposes. The Properties comprise six tennis courts and a parcel of land that has been designated for a skate park. We understand that that you require, as Trustees of Alice Park Trust, a Red Book valuation in order to facilitate the grant of a lease of the Properties to yourselves, to allow the refurbishment and management of the tennis courts and the development of a skate park.

I confirm that the valuation will be undertaken in accordance with the current RICS Valuation - Global Standards 2017, (the "Red Book").

Attached to this letter is a document entitled "Valuation Procedures and Assumptions" which describes the work that we would normally undertake, the sources of information upon which we would normally rely and the assumptions and limitations that would normally apply to our investigations and report.

A copy of our Terms and Conditions of Business is also attached.

We confirm that we have previously valued Alice Park in 2015, along with providing you with a variety of ad-hoc property advice. We are satisfied that this does not create a conflict and that we are acting objectively and that this report represents our independent opinion.

We will provide you with our opinion of the Market Value of the Properties (in two separate reports) at the date of our report.

I can confirm that we hold professional indemnity insurance in respect of the service to be provided.

The valuation will be undertaken by James Davies MRICS RICS Registered Valuer and reviewed by Andrew Shoubridge MRICS RICS Registered Valuer, and I confirm that they have the knowledge, skills and understanding necessary to undertake the valuation required.



BNP PARIBAS REAL ESTATE

I confirm that we will inspect the Properties.

Our fee for undertaking this work will be £1,750 (£750 for the skate park and £1,000 for the tennis courts). This figure will be subject to the addition of VAT.

Our report will be addressed to you and is for your use only. No responsibility will be accepted to any other party. Our prior consent in writing will be required if you wish to reproduce the report or refer to it in any published document. Our valuation file may be subject to confidential monitoring in order to ensure compliance with the RICS conduct and disciplinary regulations.

I do not believe that any of these conditions conflict with your requirements but if you believe they do, please do not hesitate to contact me. Otherwise I would be grateful if you could sign and return the attached duplicate of this letter as confirmation that you wish us to proceed on this basis. If I do not hear from you to the contrary prior to the issue of our report I shall assume that these conditions are agreed.

Yours sincerely

James Davies BSc PG Dip Surv MRICS
RICS Registered Valuer

for and on behalf of BNP Paribas Real Estate

Enc.

I confirm that I / we* agree that this letter and the accompanying documents it refers to is an accurate summary of the service that I require, and of the terms that I / we* accept for its provision.

Signed:

Position:

Date:

* delete as appropriate

The investigations and enquiries on which our valuations are based are carried out by valuation surveyors, making appropriate investigations having regard to the purpose of the valuation. Our reports and valuations are prepared in accordance with the RICS Valuation – Professional Standards (the “Red Book”).

Subject to any variation expressly agreed and recorded in the accompanying letter, our work will be on the basis set out below:

1 Condition and Repair

Unless specifically instructed to carry out a separate building survey, or commission a test of service installations, our valuation will assume:

- (i) That except for any defects specifically noted in our report, the property is in good condition.
- (ii) That no construction materials have been used that are deleterious, or likely to give rise to structural defects.
- (iii) That no hazardous materials are present, including Asbestos.
- (iv) That all relevant statutory requirements relating to use or construction have been complied with.
- (v) That any services, together with any associated computer hardware and software, are fully operational and free from impending breakdown or malfunction

We shall, however, reflect the general condition noted during the course of our valuation inspection and any defects or hazards of which we become aware in the course of our investigations. Any matters that we consider material to the valuation will be referred to in our report.

2 Ground Conditions and Environmental Risks

Unless provided with information to the contrary, our valuation will assume:

- (i) That the site is physically capable of development or redevelopment, when appropriate, and that no special or unusual costs will be incurred in providing foundations and infrastructure.
- (ii) That there are no archaeological remains on or under the land which could adversely impact on value.
- (iii) That the property is not adversely affected by any form of pollution or contamination.
- (iv) That there is no abnormal risk of flooding.
- (v) That there are no high voltage overhead cables or large electrical supply equipment at or close to the property.
- (vi) That the Property is not located within a radon affected area.
- (vii) That no Japanese Knotweed is present at the Property or within close proximity to the Property.

We shall, however, comment on any factors discovered during the course of our valuation enquiries that could affect the market perception of risks caused by these factors.

3 Tenure and tenancies

We shall rely upon information provided by you or your solicitor relating to tenure and related matters. We will not commission a formal legal search and will assume the information provided to be accurate, up-to-date and complete.

4 Planning and highway enquiries

We shall make informal enquiries of the local planning and highway authorities and also rely on information that is publicly published or available free of charge. Any information obtained will be assumed to be correct. No local searches will be instigated.

Except where stated to the contrary, we shall assume that the use to which the property is put is lawful and that there are no local authority planning or highway proposals that might involve the use of compulsory purchase powers or otherwise directly affect the property.

VALUATION PROCEDURES AND ASSUMPTIONS

5 Floor areas

All measurements will be taken in accordance with the RICS Property Measurement Professional Standard. The floor areas in our report will be derived from measurements taken on site or that have been scaled from the drawings supplied and checked by sample measurements on site. The floor areas will be within a tolerance that is appropriate having regard to the circumstances and purpose of the valuation instruction. We have adopted a conversion factor of 10.7639 for converting from square metres to square feet rounding up or down to the nearest square foot.

6 Plant and machinery

We will include in our valuations those items of plant and machinery normally considered to be part of the service installations to a building and which would normally pass with the property on a sale or letting. We will exclude all items of process plant and machinery and equipment, together with their special foundations and supports, fixtures and chattels, vehicles, stock and loose tools, and tenants fixtures and fittings.

7 Mains services

We shall assume that all mains services are connected to the Property. We shall not obtain written confirmation from the service providers and will be unable to report on condition or offer any warranty.

8 Miscellaneous regulatory requirements

We shall assume that the Property is compliant with all regulatory requirements relating to its occupation including the Equality Act 2010 and the Regulatory Reform (Fire Safety) Order 2005.

9 Tenant status

Although we reflect our general understanding of a tenant's status in our valuation, we will make no detailed enquiries about the financial status of tenants. We will assume that appropriate enquiries were made when leases were originally exchanged, or when consent was granted to any assignment or underletting.

10 Development properties

For properties in course of development, we will reflect the stage reached in construction and the costs remaining to be spent at the date of valuation. We have regard to the contractual liabilities of the parties involved in the development and any cost estimates that have been prepared by the professional advisers to the project. For recently completed developments we will take no account of any retentions, nor will we make allowance for any outstanding development costs, fees, or other expenditure for which there may be a liability.

11 VAT, taxation and costs

We will not make any adjustments to reflect any liability for taxation that may arise on disposal, or for any costs associated with disposal incurred by the owner. No allowance will be made to collect any liability or repay any government or other grants, taxation allowance or lottery funding that may arise on disposal

If calculating the market value as an investment, we will made deductions to reflect purchasers normal acquisition costs.

Unless advised to the contrary we shall assume that the option to tax has not been exercised and that accordingly VAT will not be payable on the capital and rental values reported.

DEFINITIONS

In these Conditions:

“BNPPRE Person” means any of Our or any Group Company's employees, officers, directors, subcontractors or consultants whether permanent, fixed term or part-time;

“Conditions” means these terms and conditions of business;

“Confidential Information” means any technical, financial and commercial information obtained or received by You directly or indirectly from Us (and vice versa) in the course of or in anticipation of the Services;

“EEA” means European Economic Area, which consists of the EU member states plus Iceland, Liechtenstein and Norway;

“Engagement Letter” means the engagement letter from Us to You setting out the basis on which We shall carry out the particular Services for You;

“EU Data Protection Law” means the GDPR as well as all related EEA member states' laws and regulations;

“Fees” means the fees payable by You to Us for the Services, as set out in the Terms of Engagement and/or as otherwise agreed by Us in writing;

“GDPR” means the Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“Group Company” means in relation to Us, any of our subsidiaries, affiliates or holding companies from time to time and any subsidiary from time to time of a holding company of Ours;

“Information” means any deeds, documents, advice, information, reports, plans, drawings, instructions and/or assistance that We may require from You or which We may require you to procure on Our behalf;

“Intellectual Property Rights” means patents, registered and unregistered trademarks and service marks, registered and unregistered design rights, copyright, database rights, rights in know-how and confidential information, applications for and rights to apply for any of the above, and any other similar rights recognised from time to time in any country, together with all rights of action in relation to the infringement of any of the above;

“Major Sanctioned Countries” means any countries that are subject to comprehensive embargoes or high-risk countries from time to time and for which We have decided to maintain the same restrictive control measures. The current MSCs are Cuba, Iran, Sudan, Syria, North Korea, Crimea/Sevastopol. **“MSC”** and **“MSCs”** shall be construed accordingly;

“Materials” includes, in addition to any document in writing, any drawing, map, plan, diagram, design, brochure, picture, photograph or other image, tape, disk or other device, file or record embodying information or data in any form;

“Property” means the property/ies, which is/are the subject of Your instructions to Us;

“Services” means the services and/or work performed or to be performed by Us as set out in the Engagement Letter and/or Service Specific Terms of Engagement, together with any other services and/or work which We provide or agree to provide to You from time to time;

“Service Specific Terms of Engagement” means the specific terms of engagement, if any, referred to in the Engagement Letter;

“Terms of Engagement” means these Conditions, the Engagement Letter and the Service Specific Terms of Engagement, in each case as may be varied in writing and agreed by Us and You from time to time;

“Transaction” means any transaction entered or intended to be entered into by You in relation to which the Services are to be performed (including but not limited to a transaction effecting a sale or letting of the Property);

“We, Us and Our” means BNP Paribas Real Estate Advisory & Property Management UK Limited, a private limited company

registered in England and Wales with company number 04176965 and whose registered office is at 5 Aldermanbury Square, London EC2V 7BP; and

“You, Your and Yourself” means the person or persons, firm, company, authority or other organisation to whom We are to supply the Services, as set out in the Engagement Letter.

1 Terms of Engagement

1.1 The Services will be provided pursuant to the Terms of Engagement.

1.2 The Terms of Engagement comprise the whole agreement between Us and You in relation to the provision of Services and supersede all prior agreements in connection with the subject matter hereof except where expressly agreed in the Engagement Letter. Both parties acknowledge and agree that, in entering into the Terms of Engagement, they do not rely on, or have not relied on, any undertaking, promise, assurance, statement, representation, warranty or understanding (whether made orally or in writing) of any person (including Us and You) relating to the subject matter of the Terms of Engagement, other than as expressly set out in the Terms of Engagement.

1.3 If any provision (or part of a provision) of the Terms of Engagement is found by any court of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions (or remainder of the affected provision) will remain in force.

1.4 Subject to the rights of any BNPPRE Person granted under clause 14.7, the Terms of Engagement are made solely for the benefit of Us and You, and (where applicable) Our or Your successors and permitted assigns, and are not intended to benefit, or be enforceable by, anyone else. Except as stated in clause 14.7, and for the purpose of the Contracts (Rights of Third Parties) Act 1999, the Terms of Engagement do not and are not intended to give any rights, or right to enforce any of their provisions, to any person who is not a party to them.

1.5 The Engagement Letter constitutes an offer by Us to You to provide the Services specified in it on the Terms of Engagement. By counter-signing the Engagement Letter (or, in the alternative, accepting the Services referred to therein) You formally accept the Terms of Engagement. Notwithstanding the previous sentence, You agree that all and any Services provided prior to Your counter-signature of the Engagement Letter shall be governed by the Terms of Engagement.

1.6 By entering into the Agreement, You warrant that You have the authority to instruct us to perform the Services.

1.7 In the event of any conflict arising between the documents comprising the Terms of Engagement, the following order of precedence shall apply:

- (a) Engagement Letter;
- (b) Service Specific Terms of Engagement;
- (c) these Conditions.

1.8 The Terms of Engagement and any dispute arising out of or in connection with them or their subject matter, shall be governed by and construed in accordance with the laws of England. The parties both irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Terms of Engagement or their subject matter.

2 Changes in Scope

2.1 The scope of the Services will be limited to the matters set out in the Terms of Engagement. However, this does not preclude Us from considering and agreeing with You, in writing, changes to the scope of the Services from time to time.

3 Timetable

3.1 We will discuss with You the nature and timing of the delivery of Services and the most effective way of

- implementing them. The timetable for completion of the Services assumes that the Information will be made available in good order and in a timely manner and will be provided in accordance with the provisions of clause 5.
- 3.2 Dates for performance and/or completion of the Services are estimates only and shall not be construed as being of the essence to the Terms of Engagement. We will, however, use reasonable endeavours to perform the Services on or by the dates specified and agreed in writing.
- 4 Services**
- We undertake to perform the Services using reasonable care and skill and in accordance with the professional standards to which We are subject.
- 5 Information**
- 5.1 You shall provide (or procure the provision) to Us, free of charge and within any specified time limits, all Information as may be necessary or reasonably requested by Us at such time as shall enable Us to:
- perform the Services in accordance with Our obligations under the Terms of Engagement; and/or
 - comply with Our internal anti money laundering policies and procedures and any relevant legislation or regulations as may be in force from time to time (including but not limited to Information about You or any third party on whose behalf you act in respect of receipt of the Services).
- 5.2 You warrant that all and any Information is accurate, complete and consistent. Accordingly, You agree that We are not liable for (and shall indemnify Us against) the direct or indirect consequences of any inaccuracies, inadequacies or inconsistencies contained in the Information, whether prepared by You or by a third party, or any shortfalls in or absence of such Information and whether or not supplied directly to Us by You or by such a third party.
- 5.3 You will notify Us immediately if anything occurs to render any Information untrue, inaccurate or misleading and/or if any claim is made by a third party in respect of any Information.
- 6 Intellectual Property Rights and Use of Our Materials**
- 6.1 All Intellectual Property Rights in any Materials prepared by Us or otherwise generated in the course of carrying out the Services shall be owned exclusively by Us. Without limiting clause 6.3, no part of any such Materials may be reproduced or transmitted or disclosed in any form or by any means without Our prior written permission.
- 6.2 All information, advice and Materials provided by Us to You are provided for Your use only and solely for the purpose(s) to which they refer. Accordingly, We accept no responsibility for (and you shall indemnify Us in respect of) any reliance that any third party may place on such information, advice or Materials, and/or for any reliance that You may place on such information, advice or Materials for any other purpose.
- 6.3 Neither the whole nor any part of the Materials referred to under clause 6.1, nor any reference thereto, may be included in any published document, circular or statement or published in any way without Our prior written approval.
- 7 Recommendations**
- 7.1 The Services and any findings arising out of the Services will not in any way constitute recommendations on matters outside the scope of the Terms of Engagement.
- 7.2 You are responsible for determining whether the scope of the Services as specified in the Terms of Engagement are sufficient for Your purposes in the context of Your wider investigations and due diligence.
- 8 Fees and Disbursements**
- 8.1 The Fees will be as set out in the Terms of Engagement or as otherwise agreed by Us in writing.
- 8.2 You shall pay the Fees, and all other costs or charges agreed in the Terms of Engagement and/or as otherwise agreed by us in writing. If the Fees are not stated in the Terms of Engagement, Our Fees will be based on Our standard hourly rates in force from time to time multiplied by the number of hours spent by each person on the work in question (the "Time Charge Fee").
- 8.3 Unless agreed otherwise, Our Fees are exclusive of any reasonable disbursements and expenses that any of the personnel engaged in providing the Services may incur in connection with the provision of the Services and any applicable VAT, for all of which You will additionally be liable.
- 9 Payment Terms**
- 9.1 Where We quote a fixed fee for Our Services, this quotation will only be valid for a period of 30 days from issue or as otherwise agreed. No contract will arise from any such quotation until We give written confirmation to You. You accept that We reserve the right to increase such fixed fee by such amount as is reasonable, as a result of any matters beyond Our control, a change in instructions from You or a failure by You to provide Us with satisfactory Information pursuant to clause 5 and We will give You prior written notice of any such increase.
- 9.2 We reserve the right to render regular and/or interim invoices where appropriate. Specifically where We are working on an hourly rate basis We may bill monthly except where We agree otherwise in writing. We also reserve the right to invoice You immediately for the cost of any reasonable disbursements or expenses that We may incur in relation to the Services.
- 9.3 Save where otherwise agreed in writing, Our terms of payment are net cash 28 days from the date of invoice. Time for payment will be of the essence.
- 9.4 If any invoice is overdue for payment, We will be entitled to refrain from continuing to perform any Services for You until such invoice is paid in full (including interest). We will also be entitled to retain any Materials produced by Us in the course of the Services and/or any Information belonging to You until all outstanding sums have been paid. We retain the right to charge interest on such outstanding sums at the annual rate of 4% accruing on a daily basis from the due date until the date of actual payment of the overdue amount, compounded quarterly, whether before or after judgement. You must pay Us interest together with the overdue amount. Our rights under this clause 9.4 are without prejudice to any rights that may accrue pursuant to clause 9.3.
- 9.5 In certain circumstances (which We will discuss with You), We may require You to make payment on account of any anticipated fees and/or disbursements and/or expenses to be incurred prior to the Services being commenced or continued.
- 9.6 We may at any time, without notice to You, set off any obligation due from You to Us against any obligation owed by Us to You, whether either liability is present or future and whether or not either liability arises under the Terms of Engagement. Any exercise by Us of Our rights under this clause shall not limit or affect any other rights or remedies available to Us under the Terms of Engagement or otherwise.
- 9.7 We may submit Our invoice(s) electronically or in hard copy. All invoices will be deemed to have been received the working day immediately following the day they are sent.
- 10 Confidentiality**
- Both parties will (and will procure that their directors, officers, agents, contractors, consultants and employees will) at all times keep in strict confidence, and not use, any of the other party's Confidential Information, except:



- (a) in connection with the performance of the Services or as reasonably necessary for the purposes of the Transaction; or
- (b) as expressly stated in the Engagement Letter; or
- (c) as subsequently agreed to in writing by both parties; or
- (d) as otherwise required or permitted to be disclosed by law; or
- (e) where such Confidential Information is public knowledge (save where it becomes public knowledge through a breach of this clause 10).

You agree that, without reference to You, We may disclose to our professional liability insurers and their agents and advisers, on terms of confidence, such Confidential Information as we are required to disclose in order to comply with the terms of our insurance programmes.

11 Complaints

11.1 If You are for any reason dissatisfied with the Services We should be advised immediately so that We can investigate it further. You agree that You will not take any action or commence any proceedings against Us before You have first referred Your complaint to Us in accordance with Our complaints procedure, details of which are available from: The Chief Operating Officer, BNP Paribas Real Estate Advisory & Property Management UK Limited, 5 Aldermanbury Square, London, EC2V 7BP. The purpose of such referral is to enable Us to provide You with details of Our complaints handling procedure and for Your complaint to be reviewed and responded to by Us, with a view to resolving the dispute or difference in a manner satisfactory to both parties.

11.2 If following Our response in accordance with clause 11.1 You remain dissatisfied, You may refer Your complaint or dispute to;

For consumer clients: Property Redress Scheme
Premiere House, 1st Floor
Elstree Way
WD6 1JH
www.theprs.co.uk

For commercial clients: RICS Dispute Resolution Service
Surveyor Court
Westwood Way
Coventry
CV4 8JE
www.rics.org/drs

12 Client Money and Anti-Money Laundering Procedures

12.1 All client money retained by us shall be held in separate client accounts in accordance with and subject to the requirements of the Members' Accounts Rules of the Royal Institution of Chartered Surveyors ("RICS"). To ensure compliance with the anti-money laundering legislation we reserve the right to decline cash receipts. We also reserve the right to refuse to pay to any third party money due to you.

12.2 You agree to comply with all anti-money laundering procedures We have in place from time to time, and understand and accept that We are unable to provide the Services unless such procedures have been successfully completed in advance.

12.3 The parties hereby represent and warrant that:

- (a) they each shall comply with all applicable anti-corruption laws;
- (b) they each shall not directly or indirectly pay, offer, give, promise to pay or authorise the payment of, any portion of the compensation received in connection with these Terms of Engagement or

any other monies or other things of value in connection with its performance to a government official to obtain or retain business or secure any improper advantage nor shall it permit such actions by a third party;

- (c) Neither party nor any subsidiary or affiliate of either Party is or will become an official or employee of the government during the term of these Terms of Engagement without prior written approval of the other.

12.4 Any breach by You of the representations and warranties in this clause shall constitute a material breach for the purposes of clause 13.2(b)(ii) of these Terms of Engagement.

12.5 In the event one party has reason to believe that a material breach has occurred or may occur, that party shall have the right to audit or to have a third party acceptable to each party at the joint expense of the Parties conduct the audit, in order to satisfy that no such breach has occurred. The Parties shall cooperate in any audit conducted by or on behalf of the other.

13 Termination

13.1 The Terms of Engagement shall terminate automatically on completion of the Services.

13.2 Without prejudice to any other rights or remedies which the parties may have:

- (a) either party has the right to terminate the Terms of Engagement on not less than 28 days' written notice to the other (except where our Instructions include ongoing management work, in which case either party may only terminate the Agreement by giving not less than six months' notice in writing to the other); and

- (b) We may terminate the Terms of Engagement immediately on giving written notice to You if:

- (i) a conflict of interest arises;
- (ii) You commit a material breach of any of the provisions of the Terms of Engagement (including, but not limited to, any breach of the payment terms specified at clause 9 or any breach of clause 22);
- (iii) a person or persons, firm, company, authority or other organisation acquires control of You who did not have control immediately before the acquisition;
- (iv) a counterparty to any Transaction in respect of which we are providing the Services fails within a reasonable period (as determined by Us) to provide or make available to us any information or documentation we may require to satisfy our obligations pursuant to The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; or
- (v) We have reason to believe that the source of funds to be utilised pursuant to any Transaction originate either directly or indirectly from any MSCs or may derive either directly or indirectly from any illegitimate activities as determined by Us.

13.3 Either party may terminate the Terms of Engagement immediately on giving written notice to the other if the other party becomes bankrupt or insolvent, or if an order is made or a resolution is passed for its winding up (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of its assets or business, or if it makes any composition with its creditors or takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

- 13.4 On termination of the Terms of Engagement for any reason, You will immediately pay Us for all outstanding unpaid sums and interest, and in respect of Services supplied prior to termination but for which no invoice has been submitted (including: (i) any costs which we have incurred; and (ii) any abortive fees, as defined in either the Letter of Engagement or the Service Specific Terms of Engagement). We may submit an invoice, which shall be payable immediately upon receipt. If You instruct another agent during or after the period of our instruction, this may result in a dual fee liability for You.
- 13.5 Termination of the Terms of Engagement for any reason will not affect the parties' accrued rights and the following clauses shall survive: 5.2, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 22 and 23 and all provisions necessary to interpret or enforce the Terms of Engagement.
- 14 Liability**
- YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION 14**
- 14.1 This Condition 14 sets out Our entire financial liability (including any liability for the acts or omissions of Our employees, directors, officers, agents, contractors and consultants) in respect of:
- (a) any breach of the Terms of Engagement;
 - (b) any use made by You of the Services or the Materials, information and advice provided by Us in performing the Services; and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the provision of the Services, whether made by Us or any third party.
- 14.2 All warranties, conditions and other terms implied by law are, to the fullest extent permitted by law, excluded from the Terms of Engagement.
- 14.3 Nothing in these Conditions limits or excludes Our liability for:
- (a) death or personal injury resulting from negligence; or
 - (b) any damage or liability incurred by You as a result of any fraud or fraudulent misrepresentation made by Us; or
 - (c) such other matters for which liability cannot lawfully be limited or excluded.
- 14.4 Subject to clause 14.2 and clause 14.3:
- (a) We shall not be liable for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill or similar loss; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of savings; or
 - (viii) loss of use; or
 - (ix) loss of opportunity; or
 - (x) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; or
 - (xi) loss of, or corruption of, data or information; or
 - (xii) any loss arising in connection with Our inability to provide the Services as a result of Your failure to comply with clause 12.2;
 - (xiii) any loss (including but not limited to those losses identified in sub-paragraphs (i) to (x) of this sub-paragraph 14.4a)) arising in connection with the termination of these
- Terms of Engagement by Us pursuant to clause 13.2(b);
- irrespective of whether or not We knew or ought to have known that such a loss might arise.
- (b) Subject to clause 14.3 Our aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising under or in connection with all matters under the Terms of Engagement will be limited to £5,000,000 (five million pounds sterling) per claim or series of related claims.
- 14.5 Without prejudice to the other provisions of this clause 14, We will not be liable in respect of any of the following:
- (a) any failure or delay in providing the Services where You have not complied with the Terms of Engagement;
 - (b) any failure by Us to remind You of relevant deadlines;
 - (c) in respect of any third party providers whom We may engage on Your behalf with Your prior written consent in the course of the Services or to whom We may refer You (save as set out in clause 18.2);
 - (d) any findings or recommendations not expressly set out in Our final report (if applicable);
 - (e) checking the accuracy of the Information, including without limitation boundary lines;
 - (f) advising You in relation to taxation matters save and to the extent that these are identified explicitly in the Letter of Engagement and form part of the Services We are providing;
 - (g) any failure by You to hold any necessary consents, permissions or authorisations required for the Transaction;
 - (h) any other matters set out in the Service Specific Terms of Engagement.
- 14.6 Where You are comprised of more than one entity, then Your liability under the Terms of Engagement will be joint and several with such other entity or entities.
- 14.7 You agree not to bring any claim for losses arising in connection with any matter under the Terms of Engagement against any BNPPRE Person. You accept that any such claim must be brought against Us. Both parties agree that any BNPPRE Person may enforce this clause under the Contracts (Rights of Third Parties) Act 1999, but that these Conditions (including this clause) may be varied at any time without the need for consent from any BNPPRE Person. Where a loss is suffered by You for which We and any other person are jointly responsible, any recoverable loss by You from Us will be proportionate to Our relative contribution to the loss suffered.
- 14.8 You agree to indemnify Us and keep Us indemnified against any liability which arises from a third party obtaining from You or using any Confidential Information and/or any Materials, information or advice provided by Us to You, unless We have agreed in writing to accept liability to such third party or the third party is a client of Ours and is permitted to obtain and use such Materials, Information or advice.
- 15. Force Majeure**
- We will not be liable to You for any delay or failure to fulfil Our obligations under the Terms of Engagement caused by circumstances outside Our reasonable control.
- 16 Correspondence, Papers and File Destruction**
- 16.1 All Materials in Our possession or control that have been generated for Our internal purposes or are addressed to Us relating to the Services (unless expressly notified otherwise upon their provision) shall be Our sole property. We will not be obliged to provide or make available to You such Materials unless We agree otherwise.



- 16.2 Subject to clause 9.4, all Confidential Information provided to Us by You will be returned or destroyed upon Your request, provided that We may retain copies of any Confidential Information which forms the basis of Our Materials and advice.
- 16.3 It is acknowledged that certain Materials may legally belong to You. Subject to clause 9.4, We shall return such Materials to you upon Your request. Where You do not request that such Materials are returned Our practice is to retain such Materials electronically or otherwise for six years from the date on which the Services or Transaction was effectively completed. After this time, Your Materials and all correspondence may be destroyed in accordance with our archiving policy.
- 16.4 Storage of Your Materials under clause 16.3 may be provided by third party contractors and You consent to this arrangement. You agree to meet our reasonable costs in accessing Your Materials at Your request, for reasons which do not relate to on-going work where such Materials have been archived following the completion of the relevant Services or Transaction. Such retention of Your Materials by Us shall be at Your risk and We shall have no liability to You for or caused by the destruction of or damage to such Materials.
- 17 Staff**
- If, without Our prior written approval, You directly and/or indirectly employ, engage and/or otherwise use the services of any member of Our or any of Our Affiliates' staff ("**Staff**") to work on an engagement for You during the term of the Terms of Engagement or during the twelve-month period following expiry or termination of the Terms of Engagement, You will be liable to pay to Us a recruitment fee equal to four months' total average fee income for the Staff member concerned. You acknowledge and agree that this sum is a genuine attempt to estimate the loss of income and costs that will be incurred by Us whilst we recruit (and as a consequence of recruiting) a replacement for such member of Staff.
- 18 Assignment**
- 18.1 Neither party may transfer or assign any rights or obligations under the Terms of Engagement without the prior written consent of the other party except as set out in this clause 18. We may assign all or any of the rights (and transfer all or any of the obligations) under the Terms of Engagement to any Group Company or any of Our successors in title in the relevant business, without any requirement to notify You or obtain Your further consent. You agree to execute a novation to give full effect to this.
- 18.2 We may sub-contract any incidental part or parts of any of the Services to be supplied to You, such as the preparation of plans, photography, advertising or courier services.
- 19 Notice**
- Notices given under these Conditions shall be in writing in the English language, and may be delivered in person or sent by courier or post to the address set out in the Terms of Engagement, or to such other address as may be notified by either party to the other from time to time. Notices will not be deemed validly served if sent by e-mail or any other form of electronic communication.
- 20 Publicity**
- We are keen to obtain publicity for work undertaken on behalf of Our clients. Unless details of the Services undertaken for You are publicly available, We will not externally publicise such details without Your prior written permission. However, You hereby agree to Us including such details in proposals or other similar submissions made to Our prospective clients, unless You subsequently expressly prohibit such disclosure in writing.
- 21 Health, Safety, Environment & Quality**
- 21.1 We maintain BS EN ISO 9001, BS EN ISO 14001 and Safecontractor accreditations. When visiting Our premises, You shall comply with Our Safety, Health, Environment and Quality Policies and Procedures, copies of which can be obtained by contacting Our Director of Facilities.
- 21.2 Where We agree to provide the Services at Your premises, or at a third party's premises, You shall be responsible for giving or obtaining any Information, safe access licences, consents or permissions which may be necessary to enable Us and Our personnel to provide the Services at the premises in question. You or the operator of the premises shall also ensure that all appropriate health & safety acts, regulations, codes of practice or information sheets have been followed so as to ensure the health and safety of Our personnel.
- 21.3 Our Safety, Health & Environmental risk assessments and control measures are given on the basis of, and in strict reliance upon, all material facts and Information having been accurately and fully disclosed to Us by You and You agree to confirm all such facts and Information in writing. Details of Our policies, procedures and completed risk assessments are available for Your inspection on reasonable notice and without additional charge.
- 22 Major Sanctioned Countries and Regions**
- 22.1 We are strongly committed to complying with the international financial sanctions enforced by the European Union, France and the United States to advance a range of foreign policy goals including but not limited to counterterrorism, non-proliferation, democracy and human rights promotion, conflict resolution and cybersecurity.
- 22.2 You represent, warrant and undertake that the Services to be provided and any Transaction contemplated hereunder has and will have no link with MSC-related proceeds or investments and that the source of funds to be used for payment of the Services and/or in the funding of any transaction contemplated pursuant to the Services do not originate (either directly or indirectly) from any MSCs.
- 22.3 We reserve the right to terminate the Terms of Engagement with immediate effect upon the provision of written notice in the event of a breach by You of Your obligations and undertakings pursuant to this clause 22.
- 23 Data Protection**
- 23.1 The provisions in this clause 23 are incorporated to comply with the EU Data Protection Law and in particular article 28 (Processor) GDPR. Capitalised terms used in this clause 23 but not otherwise defined in these Terms of Engagement, have the meanings assigned to them in the GDPR (in particular under its article 4 (Definitions) and/or in this clause.
- 23.2 You shall be the Data Controller and We shall be the Data Processor in respect of any Personal Data processed by Us on Your behalf ("**Your Personal Data**") under the Agreement.
- 23.3 The parties shall comply with applicable data protection laws and regulations including the EU Data Protection Law.
- 23.4 Information on the following elements required by the GDPR are as follows:
- (a) Subject-matter of the processing: For the provision of Services in accordance with these Terms of Engagement;
 - (b) Nature and purpose of the processing: Collection, storage, duplication, electronic viewing, deletion and destruction;
 - (c) Duration of the processing: Until the earliest of termination of this Agreement in accordance with its terms or the date upon which processing is no longer necessary for the purposes of either party performing its respective obligations under these Terms of Engagement (to the extent applicable);
 - (d) Type of Personal Data: personal details (title, first name, last name), position, contact information, location data, employer, ID data, delivery information, nationality, goods and services



- provided, financial information (bank or credit/debit card details), internet protocol address; and
- (e) Categories of Data Subjects: your tenants/landlords (as applicable), officers, employees and Your temporary staff and partners, complainants, correspondents, enquirers, suppliers, advisers, consultants and professional experts.
- 23.5 We shall process and transfer Your Personal Data only as required to deliver the Services or as instructed in accordance with documented instructions from You, unless We are required to otherwise process or transfer Your Personal Data under the laws of the European Union or one of its member states. Where such a requirement is placed on Us, We shall provide reasonable prior notice to You, unless the law prohibits such notice on important grounds of public interest as determined by Us.
- 23.6 We shall ensure that all BNPPRE Persons authorised to process Your Personal Data have committed themselves to confidentiality (e.g. via the confidentiality provision in their work contract for employees) or are under another appropriate obligation of confidentiality and do not process Your Personal Data except on instructions from You (as may be communicated via Us) unless they are required to otherwise process or transfer Your Personal Data under the laws of the European Union or one of its member states subject to the same rules as set out in clause 23.5.
- 23.7 In respect of security of processing:
- (a) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, We shall implement appropriate technical and organisational measures, with the aim of ensuring a level of security appropriate to the risk, it being understood that, if You require Us to take additional security measures beyond those foreseen in this clause, You shall pay the corresponding charges to Us on a time and materials basis (to be determined by Us); and
- (b) We shall notify You without undue delay, after becoming aware of a Personal Data Breach.
- 23.8 We shall not engage another processor, except under the conditions set out in clause 23.15.
- 23.9 We shall immediately inform You, if, in Our reasonable opinion, an instruction from You infringes the EU Data Protection Law.
- 23.10 At Your request and at Your expense, We shall provide reasonable assistance to enable You, in accordance with Your obligations under the EU Data Protection Law:
- (a) to answer to requests from the supervisory authority in the performance of its tasks;
- (b) to notify Personal Data Breaches to the supervisory authority and communicate the Personal Data Breach to the individuals to whom Your Personal Data relates;
- (c) to conduct data protection impact assessments and consult the supervisory authority on that basis;
- (d) to implement technical and organisational security measures to ensure the security of the processing;
- (e) to respond to requests from individuals to whom Your Personal Data relates who are exercising the data subject's rights laid down in Chapter III (Right of the Data Subject) under the GDPR, it being understood that We shall notify You of any request made by a Data Subject to access Your Personal Data or exercise any other Data Subject right set out in Chapter III "Right of the Data Subject" under the GDPR in respect of such data and act only as per Your instructions regarding the handling of such request; and;
- (f) more generally, to enable You to comply with the obligations pursuant to articles 32 to 36 GDPR taking into account the nature of processing and the Information available to Us.
- 23.11 In the event a court and/or a data protection authority initiates proceedings against a party and upon request of the other party, the latter shall cooperate in good faith and without undue delay to assist at no additional cost such party to the extent it requires during such proceedings.
- 23.12 At Your choice and Your expense, We shall either (i) delete or (ii) return all Your Personal Data to You after the end of the provision of Services relating to processing, and delete existing copies, unless the laws of the European Union or one of its member states requires storage of Your Personal Data.
- 23.13 At Your request and at Your expense, We shall make available to You all information necessary to demonstrate compliance with the obligations laid down in this clause 23.13 and allow for and contribute to audits, including inspections, conducted by You or another auditor mandated by You. If any audit reveals that We are not in compliance with the provisions of this clause and/or EU Data Protection Law, Your exclusive remedy, and Our exclusive obligation, shall be that: (i) the parties will discuss such findings and (ii) You shall take, at Your own cost, all corrective actions including any temporary work-arounds necessary to comply with the provisions of this clause and/or EU Data Protection Laws. We may charge You for any corrective actions if the corrective actions were required due to changes of EU Data Protection Laws.
- 23.14 We shall be entitled to transfer Your Personal Data to a country located outside the EEA which has not been recognised by the EU Commission as ensuring an adequate level of protection, if You (i) have provided appropriate safeguards in accordance with the EU Data Protection Law (e.g. the European Union standard clauses on the transfer of Personal Data from Controller to Processor) or (ii) can rely on a derogation foreseen by the data protection legislation enabling such transfer. You shall from time to time execute such documents and perform such acts as We may reasonably require to implement any such appropriate safeguards.
- 23.15 You hereby provide a general written authorisation to Us to engage sub-processors to process Your Personal Data. We shall inform you of any addition or replacement of sub-processors, giving You the opportunity to object to such changes. If You reasonably object to such change, You shall refrain from making that addition or replacement and shall be entitled to terminate the Agreement. Where We engage another processor under this clause 23.15, We shall ensure that the obligations set out in this clause are imposed on that processor by way of a written contract.

Dated

2019

Lease

relating to

Skate Park, Alice Park, Lambridge, Bath

between

The Official Custodian for Charities

(Landlord)

and

[]

(Tenant)

Contents

Clause

1	Definitions	5
2	Interpretations	6
3	Demise	7
4	Rent	7
5	Outgoings	7
6	Repair and Decoration	7
7	Alterations	8
8	Signs	8
9	User	8
10	Alienation	9
11	Legal Obligations	11
12	Planning	12
13	Defective Premises	12
14	Encroachments	12
15	Landlord's Rights	12
16	Costs	12
17	Interest	13
18	Indemnity	13
19	Yielding up	13
20	Tenant's Insurance Covenants	14
21	Quiet Enjoyment	14
22	Repair	14
23	Recovering of Money	14
24	User	15
25	Easements	15
26	Covenants	15
27	Landlord's Liability	15
28	Compensation	15
29	Notices	15
30	Distinction between Landlord and Local Authority	16
31	Arbitration	16
32	Right of Re-Entry	16
33	Insolvency	17
34	Break Clause	17
35	Exclusion of Security of Tenure	18
36	Rights of Third Parties	18
37	Land Registry Applications	18

Schedule

Schedule 1	Description of the Premises	19
Schedule 2	Rights granted to the Tenant that are included in the Lease	20
Schedule 3	Rights reserved by the Landlord from this Lease	21
Schedule 4	Regulations	23

Land Registration Rules 2003 (as amended) - prescribed clauses

LR1.	Date of lease	[] 2019
LR2.	Title number(s)	
	LR2.1 Landlord's title number(s)	ST277651
	LR2.2 Other title number(s)	None
LR3.	Parties to this lease	
	Landlord	The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP c/o Alice Park Trust Sub Committee
	Tenant	[]
LR4.	Property	The Premises defined in the First Schedule of this Lease. 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
LR5.	Prescribed statements etc	
	LR5.1	This lease does not contain prescribed statements
	LR5.2	Not applicable
LR6.	Term for which the Property is leased	the Term defined in 1.1 of this Lease.
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	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
	LR9.2 Tenant's covenant to (or offer to) surrender this lease	Tenant's covenants to (or offer to) surrender this Lease
	LR9.3 Landlord's contractual rights to	Landlord's contractual rights to acquire this

acquire this lease	Lease
LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property	this lease does not contain such a provision
LR11. Easements	
LR11.1 Easements granted by this lease for the benefit of the Property	None
LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property	None
LR12. Estate rentcharge burdening the Property	this lease does not contain such a provision
LR13. Application for standard form of restriction	None
LR14. Declaration of trust where there is more than one person comprising the Tenant]	None

Parties

- (1) The Official Custodian for Charities of Harmsworth House, 13-15 Bouverie Street, London EC4Y 8DP c/o Alice Park Trust Sub Committee (**Landlord**)
- (2) [Nominee details TBC] (**Tenant**)

Agreed terms

1 Definitions

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Authority: means any statutory, public, local or other competent authority or a court of competent jurisdiction.

Clause: means a clause of this Lease.

Common Parts: means the area and other parts of the Estate other than the Premises and any Lettable Area over which rights of access and/or egress are granted to the Tenant in common with the Landlord and its lessees and tenants and all persons authorised by the Landlord or having a similar right.

Conduit: means except as may be comprised within the Premises any pipe, drain, culvert, sewer, flue, duct, gutter, wire, cable, optic fibre, conduit, channel and other medium for the passage or transmission of water, soil, gas, air, smoke, electricity, light, information or other matter and all ancillary equipment or structures as may reasonably be provided by the Landlord from time to time.

Determination of the Term: means the determination of the Term by re-entry notice, surrender, effluxion of time or otherwise.

Estate: means each and every part of the property in which the Landlord has an interest known as Alice Park, Lambridge, Bath registered at HM Land Registry with title number ST277651 shown edged in blue on Plan 2.

Facilities: means such systems and facilities as may reasonably be provided by the Landlord from time to time.

Interest: means interest at the Interest Rate (both before and after any judgment) calculated on a daily basis from the date on which interest becomes chargeable on any payment pursuant to any provision of this Lease to the date upon which such payment is made.

Interest Rate: means 3 % per annum above the base lending rate from time to time of National Westminster Bank Plc (or such other bank as the Landlord may notify to the Tenant from time to time).

Landlord's Reservations: means the rights reserved by the Landlord as set out in the Third Schedule.

Lease: means this Lease as from time to time varied or supplemental whether by deed, licence or otherwise.

Lettable Area: an area on the Estate, other than the Property, that is capable of being let and occupied on terms similar to those of this lease.

Party: means the Landlord or the Tenant.

Permitted Use: means to operate as a skate park and ancillary recreational use.

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

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

Planning Acts: means as defined in Section 336 of the Town and Country Planning Act 1990 and all subsequent statutes, statutory instruments, regulations and orders containing provisions relating to town and country planning when from time to time in force and all other statutes, statutory instruments, regulations and orders include by virtue of clause 2.1.6.

Premises: means the property more fully described in the First Schedule and includes all and any part of such property and additions thereto.

Regulations: means the regulations set out in the Fourth Schedule and any others from time to time published by the Landlord in addition to or in substitution for those regulations in the interests of good estate management.

Rent: means a peppercorn to be paid annually (if demanded).

Rent Commencement Date: means the date of this lease.

Schedule: means a schedule to this Lease.

Tenant's Initial Works: means the works set out at Appendix 1 of this Lease for the construction of a skate park on the Premises conditional upon the Tenant obtaining any requisite consents required to undertake such works.

Tenant's Rights: means the rights granted to the Tenant as set out in the Second Schedule.

Term: means 25 years from and including the Term Commencement Date.

Term Commencement Date: means the date of this lease.

VAT: means Value Added Tax or other tax of a similar nature (and unless otherwise expressly stated all references to Rent or other monies payable by the Tenant are exclusive of any VAT charge or chargeable thereon).

2 Interpretations

2.1 The provisions of the Lease shall unless the context otherwise requires be construed as follows:-

2.1.1 Obligations and liabilities of a Party comprising more than one person are obligations and liabilities of such persons jointly and severally.

2.1.2 Words importing one gender include all other genders.

2.1.3 The singular includes the plural and vice versa.

2.1.4 Covenants:

(a) A covenant by the Tenant not to do something shall be construed as including a covenant not to permit or suffer it to be done by a third party

(b) Covenants and obligations of the Landlord are binding on the Landlord only so long as the immediate reversion to this Lease is vested in the Landlord.

2.1.5 A consent or approval to be given by the Landlord is not effective for the purposes of this Lease unless it is in writing and signed by or on behalf of the Landlord.

2.1.6 Reference to a statute, statutory instrument, regulation, order or code of practice whether expressly or by implication includes any amendment, modification, extension, consolidation or re-enactment thereof as the case may be.

2.1.7 Headings to Clauses, Schedules or parts of the Lease do not affect the interpretation or construction of the Lease.

3 Demise

3.1 The Landlord demises the Premises to the Tenant:-

3.1.1 Together with the Tenant's Rights.

3.1.2 Except and reserving to the Landlord the Landlord's Reservations.

3.1.3 To hold the same to the Tenant for the Term.

3.1.4 Subject to all rights, easements, restrictions, covenants and liabilities affecting the Premises.

3.1.5 Yielding and paying to the Landlord the Rent without any deduction or legal or equitable set off annually.

4 Rent

4.1 The Tenant shall pay the Rent on and from the Rent Commencement Date without deduction or set off at the times and in the manner aforesaid and in the event payment of any rent is made by any person other than the Tenant such payment shall be accepted as payment for and on behalf of the Tenant.

5 Outgoings

5.1 The Tenant shall pay and indemnify the Landlord against all rates, taxes, assessments, impositions, duties, charges and outgoings now or at any time during the Term payable by the owner or occupier of or otherwise due in respect of the Premises (except any tax assessed on the Landlord or any superior landlord in respect of its ownership of rental income from or any dealing with its reversionary interest).

5.2 The Tenant shall pay and keep the Landlord indemnified against all VAT which may from time to time be charged on the Rent or on any other any monies payable by the Tenant under the Lease.

5.3 The Landlord and Tenant are of the opinion that this Lease constitutes a VAT exempt exclusive right over land under Item 1, Group 1, Schedule 9, Value Added Tax Act 1994 (as amended); the Landlord confirms that it has not exercised an option to tax in respect of the Alice Park. Should HMRC subsequently determine that payments made under this Lease constitute a taxable supply for VAT purposes the Tenant agrees to pay this VAT to the Landlord on receipt of a VAT invoice.

6 Repair and Decoration

6.1 The Tenant shall:-

- 6.1.1 keep the Premises at all times in good condition to the reasonable satisfaction of the Landlord.
- 6.1.2 keep the Premises at all times in a clean and tidy condition.
- 6.1.3 within three months (or sooner in emergency) of receipt of notice from the Landlord of any breach of this Clause carry out the repair or cleaning required to remedy the breach and if the Tenant fails diligently to comply with such notice and the Landlord enters the Premises to carry out such work which the Landlord shall not be obliged to do, the Tenant shall upon demand pay to the Landlord all costs which the Landlord so incurs.

7 Alterations

The Tenant shall make any external or internal structural and non- structural alterations including alteration or addition to the Premises including the Tenant's Initial Works without the Landlord's consent subject to compliance with clause 10 and 11 of this Lease.

8 User

- 8.1 The Tenant shall not use the Premises or any part thereof for any purpose other than the Permitted Use.
- 8.2 The Tenant shall use the premises for their intended purpose ensuring safety risks and/or anti-social behaviour occurrences are assessed, (proportionately) addressed and maintained as being reasonable throughout the term of the lease. Further, the Tenant shall not knowingly use the Premises in a manner which may be or become or cause a nuisance, annoyance, disturbance, inconvenience, injury or damage to the Landlord or any other person or any neighbouring occupier of the Premises.
- 8.3 The Tenant shall not reside or sleep on the Premises nor use them for any sale by auction or for any dangerous, noisy or offensive purpose, or for any illegal or immoral activity, nor as a betting shop, an amusement arcade or a sex shop.
- 8.4 The Tenant shall not overload the structure of the Premises.
- 8.5 The Tenant shall not make use of Conduits beyond their capacity nor in a manner which may block or damage them and in particular will not stop up or obstruct or permit oil, grease or other deleterious matter or substance to enter any drain or sewer.
- 8.6 The Tenant shall comply with the Regulations.
- 8.7 The Tenant shall not cause any obstruction to the Premises or danger to persons using it and shall not permit persons to gather around the Premises so as to cause danger to any persons using the Premises.
- 8.8 The Tenant shall not park any vehicle on the footway or verge of the Premises save in connection with compliance with their obligations under this Lease and then not overnight or for an excessive amount of time .

9 Alienation

- 9.1 Unless otherwise provided in this clause, the Tenant shall not assign, underlet, charge, share occupation or possession of the whole or any part of this lease.

9.2 The Tenant shall be permitted to assign or underlet the whole of this lease with the consent of the Landlord, such consent not to be unreasonably withheld or delayed save as permitted by clause 9.3 below.

9.3 The Tenant is permitted to assign this lease to Bath and North East Somerset Council or its successors in title without the consent of the Landlord.

10 Legal Obligations

10.1 In this clause "Legal Obligation" means a duty under any present or future statute, statutory instrument or bye-law or any present or future regulation, order, notice, direction, code of practice or requirement of any Authority insofar as it relates to the Premises or to their occupation or use, but irrespective of the person on whom such obligation is imposed and whether or not specific notice of the Legal Obligations is given to the Tenant.

10.2 If the Tenant receives from an Authority formal notice of a requirement pursuant to a Legal Obligation it shall forthwith produce a copy to the Landlord (even if the Authority is the Landlord) and if such notice is, in the Landlord's opinion, contrary to the interests of the Landlord the Tenant shall at the joint cost of the Landlord and the Tenant make such objection or representation against such Legal Obligation as the Landlord may require.

10.3 Subject to clause 10.2 above the Tenant shall observe and comply with all Legal Obligations relating to the duties of a Tenant.

10.4 Where a Legal Obligation requires the carrying out of works to the Premises the Tenant shall, so far as such Legal Obligation permits, also comply with the provisions of the Lease in relation to such works.

10.5 The Tenant shall not cause or permit a nuisance on or in relation to the Premises and if a nuisance occurs shall forthwith take all necessary action to abate it.

10.6 Without prejudice to the generality of this Clause the Tenant shall in particular observe and comply with all Legal Obligations relating to health and safety, means of escape in case of fire, facilitating access by disabled persons and the protection and preservation of life and property, carrying out such works of modification and improvement to the Premises as may from time to time be required by such Legal Obligations.

10.7 The Tenant shall observe and comply with all statutory and Legal Obligations necessary for the Permitted Use and the welfare of the persons using or employed in or about the Premises.

10.8 The Tenant shall perform and observe all covenants and other provisions contained or referred to in the registers of the Landlord's freehold Title Number ST277651.

11 Planning

11.1 The provisions of this Clause are supplement to the general obligations imposed by Clause 10.

11.2 The Tenant shall observe and comply with the Planning Acts in relation to the Premises and any works carried out to the Premises.

12 Defective Premises

The Tenant shall promptly give notice to the Landlord of any defect in the Premises in respect of which the Landlord may have a liability or duty of care under the Lease or the Defective Premises Act 1972 or otherwise.

13 Encroachments

The Tenant shall not stop up, darken or obstruct any light to the Premises.

14 Landlord's Rights

The Tenant shall permit the Landlord, any superior landlord and persons authorised by any of them, to exercise any right excepted and reserved by the Third Schedule.

15 Costs

15.1 The Tenant shall pay and indemnify the Landlord against all liability, costs, fees, charges, disbursements and expenses (including without prejudice to the generality of the above those payable to counsel, solicitors, accountants, surveyors and bailiffs) connected with, incidental to, consequent upon and (where appropriate) in contemplation of:-

15.1.1 every application made by the Tenant for a consent or licence required by the provisions of this Lease or in consequence of a Legal Obligation within the meaning of clause 10 above, whether such consent or licence is granted or refused or proffered subject to any qualification or condition or whether the application is withdrawn.

16 Interest

Without prejudice to any other right or remedy of the Landlord the Tenant shall pay to the Landlord Interest on any sum which is not paid to the Landlord by the later of the date it is due and the date fourteen days after a demand for payment is made.

17 Indemnity

The Tenant is responsible for and shall indemnify and keep the Landlord indemnified against all claims, demands, actions or proceedings made or brought and all losses, injury, damages, costs, expenses and liabilities incurred, suffered or arising directly or indirectly in respect of or otherwise connected with:-

17.1 the use and occupation of the Premises.

17.2 the state of repair and condition of the Premises (except to the extent (if any) caused by any act or default of the Landlord).

17.3 any act, omission or negligence of the Tenant or of any other person at the Premises with the express or implied authority of the Tenant or of anyone deriving title through the Tenant.

17.4 any breach of any covenant or other provision of the Lease to be observed or performed by the Tenant.

18 Yielding up

Upon the Determination of the Term the Tenant shall:-

- 18.1 At the end of the term the Tenant shall reinstate the Premises to grass land to the Landlord's reasonable satisfaction unless the Landlord requires the Premises to remain as a skate park
- 18.2 The Tenant shall remove items it has fixed to the Premises, remove any alterations it has made to the Premises and make good any damage caused to the Premises by that removal.
- 18.3 At the end of the term, the Tenant shall remove from the Premises all chattels, signs, refuse, litter and other items belonging to or used by the Tenant, making good any damage caused to the Premises.
- 18.4 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 Premises and which have been left by the Tenant on the Premises 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. The Landlord may retain, sell or otherwise dispose of any such thing not removed by the Tenant without giving notice thereof to the Tenant and may retain the proceeds of any such sale and the Tenant will further reimburse the Landlord for all the expenses so incurred in such disposal and rendering the Premises clean and tidy (so far as they are not covered by the proceeds of any such sale).
- 18.5 Yield up the Premises in a state and condition consistent with due compliance by the Tenant with its covenants and obligations under this Lease.

19 Tenant's Insurance Covenants

The Tenant covenants with the Landlord that from and including the Term Commencement Date to effect and maintain insurance cover in respect of public liability insurance cover and employer's liability insurance and shall provide the Landlord with details of such insurance as the Landlord may reasonably require.

20 Quiet Enjoyment

Subject to the Tenant paying the Rent and other sums due under the Lease and complying with its covenants the Landlord covenants with the Tenant from and including the Term Commencement Date until the Determination of the Term to permit the Tenant peaceably and quietly to hold and enjoy the Premises without any interruption or disturbance from or by the Landlord or any person claiming under or in trust for the Landlord.

21 Easements

- 21.1 The Tenant is not entitled to and the Premises do not enjoy any right of light or air which might restrict or interfere with the free use of any other property or premises for any purpose.
- 21.2 The operation of Section 62 of the Law of Property Act 1925 is excluded from the Lease and the only rights granted with the Premises are those expressly granted in this Lease.

22 Covenants

- 22.1 Nothing contained or implied in this Lease gives the Tenant the benefit of or the right to enforce or to prevent the release or modification of any covenant agreement or condition relating to other property.

22.2 Each covenant in this Lease by the Tenant remains in full force at law and in equity notwithstanding any waiver or release temporarily or permanently, revocable or irrevocably, of any other covenant in the Lease or of any covenant affecting other property.

23 Landlord's Liability

23.1 The Landlord is not responsible to the Tenant or to anyone with the Tenant's express and implied authority for any accident, injury, damage or loss.

23.2 The Landlord is not so far as the law permits responsible for any accident, injury, damage or loss resulting or alleged to result from the negligence, act or omission of any tenant, employee, officer or agent of the Landlord.

24 Compensation

Any statutory right of the Tenant to claim compensation from the Landlord, whether on vacating the Premises or otherwise, is excluded to the extent that the law allows.

25 Notices

25.1 A notice given under or in connection with this Lease to the Tenant or party other than the Landlord shall be:-

25.1.1 in writing unless this Lease expressly states otherwise; and

25.1.2 given by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the Premises or last known address.

25.2 If a notice is given in accordance with clause 20.1 it shall be deemed to have been received:-

25.2.1 if delivered by hand at the time the notice is left at the proper address; or

25.2.2 if sent by pre-paid first-class post or other next working day delivery service on the second working day after posting;

25.3 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.

25.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease to the Tenant or party other than the Landlord.

25.5 A notice under this Lease to the Landlord or other party with an interest in the property in reversion to the Lease must be in writing and unless the Landlord or the authorised agent of the Landlord or other party with an interest in the property in reversion to the Lease acknowledges receipt is valid, if (and only if) it is given by hand, sent by registered post or recorded delivery.

25.6 Unless it is returned through the Royal Mail undelivered, a notice sent by registered post or recorded delivery is to be treated as served on the second Working Day after posting whenever and whether or not it is received.

25.7 "writing" does not include fax, e-mail or other electronic transmission.

25.8 In this Clause "working day" means any day except Saturday, Sunday or a bank or public holiday.

26 Distinction between Landlord and Local Authority

Nothing in this Lease shall prejudice or affect the rights, powers, duties and obligations of the Landlord under any statute, statutory instrument, bye-law, order or regulation, or in the exercise of any of its functions as a Local Authority and any approval or consent or representation given by the Landlord under the provisions of this Lease is only given in exercise of its powers as Landlord.

27 Arbitration

Any dispute between the parties about the rights, duties and obligations set out in this Lease (except any dispute or difference for the settlement of which this Lease makes specific arrangements) may, failing agreement, be referred by either party to a sole arbitrator agreed between the parties or in default of agreement nominated on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors and such reference in either case shall be deemed to be a submission to arbitration under the provisions of the Arbitration Act 1996 or any re-enactment or modification thereof for the time being in force provided that in the event of subsequent agreement between the parties including agreement on the payment of the arbitration fees before an award is made the reference to the arbitrator shall be withdrawn.

28 Right of Re-Entry

28.1 The Landlord may at any time after the occurrence of any of the following events re-enter the Premises or any part of the Premises in the name of the whole whereupon this demise shall absolutely determine (but without prejudice to any right of action of the Landlord in respect of any arrears of Rent or any antecedent breach of covenant):-

28.1.1 if any Rent remains unpaid 21 days after it is due (whether formally demanded or not), or

28.1.2 if any covenant or stipulation in the Lease which is to be performed or observed by the Tenant is not performed or observed, or

28.1.3 if the Tenant (or any one party included within the definition of the Tenant) is a company and effects a return or reduction of capital, or

28.1.4 if the Tenant permits any execution or distress to be levied on any goods in the Premises, or

28.1.5 if the Tenant (or any one party included within the definition of the Tenant) become Insolvent (as defined in the next Clause).

29 Insolvency

29.1 Insolvent means for the purposes of this part of the Lease:

29.1.1 in relation to a company that:-

(a) it is deemed unable to pay its debts as defined in section 123 of the Insolvency Act 1986 (referred to as "the Act" in the remainder of this Clause), or

(b) a proposal is made for a voluntary arrangement under Part I of the Act, or

(c) a petition is presented for an administration order under Part II of the Act, or

- (d) a receiver or manager is appointed whether under Part III of the Act (including an administrative receiver) or otherwise, or
- (e) it goes into liquidation as defined in section 247(2) of the Act (other than a voluntary winding up solely for the purpose of amalgamation or reconstruction while solvent), or
- (f) a provisional liquidator is appointed under Section 135 of the Act, or
- (g) a proposal is made for any compromise or arrangement for the benefit of any creditors of the Tenant or guarantor.

29.1.2 in relation to an individual that:-

- (h) an application is made for an interim order or a proposal is made for a voluntary arrangement under Part VIII of the Act, or
- (i) a bankruptcy petition is presented to the Court or his circumstances are such that a bankruptcy petition could be presented under Part IX of the Act, or
- (j) he enters into a deed of arrangement.

30 Break Clause

The Tenant shall be entitled to determine this lease on [] 2034 or [] 2039 ("Break Date") by giving to the Landlord, not less than six calendar months' prior notice in writing ("Break Notice") to that effect. Following service of a Break Notice this lease shall terminate on the relevant Break Date

31 Exclusion of Security of Tenure

31.1 The Landlord and the Tenant agree that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 are excluded in relation to this lease and confirm that (a) on [2019] the Landlord served on the Tenant notice in the form attached and (b) on [2019] the Tenant (or a person duly authorised on its behalf) made the statutory declaration in the form attached.

31.2 On vacation of the Premises the Tenant shall not be entitled to claim compensation under the provisions of Section 37 of the Landlord and Tenant Act 1954 or any other statutory provisions in respect of alterations made by the Tenant, the Tenant's fixtures and fittings or loss of this tenancy.

32 Rights of Third Parties

For the purposes of sub-section 1(1)(b) of the Contracts (Rights of Third Parties) Act 1999 the parties certify that they do not intend any term of this Lease to be enforceable by any third party except to the extent that the third party has any right or remedy that exists or is available and is enforceable apart from that Act.

33 Land Registry Applications

33.1 At the end of the Term the Tenant is to return the original lease to the Landlord and use all reasonable endeavours to assist the Landlord in removing any notice of the Lease and the rights granted and reserved by it from the Landlord's title to the Premises if that title has by then become registered at the Land Registry.

33.2 The Landlord will not be liable to the Tenant for any failure by the Tenant to register or note any of the rights granted or reserved by this Lease.

34 Charities Act 2011

34.1 The Demised Premises are held by Alice Park Trust a non-exempt charity and this Lease is not one falling within paragraph (a), (b), (c) or (d) of Section 117(3) of the Charities Act 2011 so that the restrictions on disposition imposed by Sections 117-121 of that Act apply to the Premises.

34.2 The directors of Alice Park Trust, being the persons who have the general control and management of its administration certify that:

- (a) they have power under the trusts of the charity and regulating its purposes and administration to effect this disposition; and
- (b) that they have complied with the provisions of the said Sections 117-121 so far as applicable to this Lease.

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 Description of the Premises

That area of land shown edged red on Plan 1 to be known as the Skate Park forming part of the Estate and INCLUDING all pipes sewers drains mains ducts conduits gutters watercourses wires cables channels flues and all other conducting media and ancillary apparatus wholly in or on the Premises including security devices (if any) to secure the Premises.

Schedule 2 Rights granted to the Tenant that are included in the Lease

- 1 The right to connect into and use (subject to the regulations of any appropriate Authority) the Conduits and such other Conduits as may from time to time be available for connection to the Premises.
- 2 The right at all reasonable times (or at any time in an emergency) for access and egress on foot and vehicular access across existing constructed pathways comprised in the Estate for all purposes connected with the Permitted Use.
- 3 The foregoing rights are to be enjoyed in common with the Landlord, its lessees and tenants and all persons authorised by the Landlord or having a similar right.

Schedule 3 Rights reserved by the Landlord from this Lease

- 1 The right to free and uninterrupted passage and running of water, drainage, gas, electricity, oil, communication and other services by any present or future Conduit or Facility forming part of the adjoining or adjacent property of the Landlord although in or passing through the Premises.
- 2 The right at all reasonable times on not less than two days' written notice (except in an emergency) to enter upon any part of the Premises with tools and equipment:-
 - 2.1 in order to connect into and to inspect, test, clean, maintain, repair or renew, remove, divert, make connections with or install any new Conduit or Facility which serves any adjoining or adjacent property of the Landlord.
 - 2.2 for the purpose of inspecting, repairing, maintaining, decorating, altering or improving and/or any adjoining or adjacent property of the Landlord notwithstanding interference with the access of light or air to the Premises or temporary interference with any other right or easement.
 - 2.3 to inspect the Premises (a) to ascertain whether the Tenant is complying with this Lease or (b) to view their state and condition or (c) to make surveys or (d) (during the six months preceding the Determination of the Term only) to show the Premises to prospective tenants or (e) to show the Premises to prospective purchasers or (f) for any other reasonable purpose.
 - 2.4 to execute works following the Tenant's failure to comply with a notice served under Clause 7.6 (without prejudice to any other remedy available to the Landlord) and also pursuant to Clause 12.7.
 - 2.5 to take schedules or inventories.

Provided that in such cases the Landlord shall enter causing as little damage and disturbance as is reasonably practicable and make good as soon as reasonably practicable any physical loss and damage resulting from its exercising this right.
- 3 All rights of light, air support and protection and other easements and rights (but without prejudice to those expressly granted to the Tenant by this Lease) now and in the future belonging to or enjoyed by any adjoining or neighbouring land or building from and over the Premises.

Schedule 4 Regulations

- 1 No unnecessary obstruction must be caused in any part of the Common Parts.
- 2 Refuse is to be kept in suitable containers and collected on a frequent basis.

Appendix 1 - Tenant's Initial Works

[INSERT WORKS]

Executed as deed by affixing the
common seal of [] in the presence of:

.....
Authorised Signatory

Any signatures on this document are conditional upon the document being dated by or under the
authority of the signatories' solicitor.

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Dated

2019

Deed Of Assignment

Of Leasehold Property Known As

Skate Park, Alice Park, Lambridge, Bath

between

[]

(Assignor)

and

Bath and North East Somerset Council

(Assignee)

Contents

Clause

1	Interpretation	3
2	Assignment	4
3	Title guarantee	4
4	Indemnity	4
5	VAT	4
6	Entire agreement.....	4
7	Third party rights	4
8	Governing law.....	5
9	Jurisdiction	5

DRAFT

This deed is dated

2019.

Parties

- (1) [NOMINEE DETAILS] (**Assignor**).
- (2) **Bath and North East Somerset Council** [incorporated and registered in England and Wales with company number] [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Assignee**).

Background

- (A) The residue of the term granted by the Lease remains vested in the Assignor.
- (B) Under the terms of the Lease, the consent of the landlord is not required for the assignment.

Agreed terms

1 Interpretation

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

1.1 Definitions:

Lease: a lease of Skate Park, Alice Park, Lambridge, Bath dated [DATE] and made between (1) The Official Custodian for Charities and (2) [NOMINEE].

Lease Obligations: the tenant covenants and all terms and conditions contained or referred to in the Lease.

LTA 1954: Landlord and Tenant Act 1954.

Property: Skate Park, Alice Park, Lambridge, Bath as more particularly described in and demised by the Lease.

Rent: the rent reserved by the Lease.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

- 1.2 Clause and Schedule headings shall not affect the interpretation of this deed.
- 1.3 A reference to the Lease includes any deed, licence, consent, approval or other instrument supplemental to it.
- 1.4 A reference to the Property is to the whole and any part of it.
- 1.5 The expression tenant covenants has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.10 References to clauses and Schedules are to the clauses and Schedules to this deed.

2 Assignment

2.1 The Assignor assigns the Property to the Assignee for the unexpired residue of the term granted by the Lease subject to the payment of the Rent and the Lease Obligations.

2.2 The Property is assigned free from encumbrances.

3 Title guarantee

3.1 The Property is assigned with full title guarantee.

4 Indemnity

4.1 In consideration of the covenants given by the Assignee in this deed, the Assignee covenants with the Assignor that the Assignee shall from the date of this deed for the residue of the term of the Lease:

4.1.1 pay the Rent and any VAT payable on it and observe and perform the Lease Obligations; and

4.1.2 keep the Assignor indemnified against all liabilities, expenses, costs (including but not limited to any solicitors', surveyors' or other professionals' costs and expenses, and any VAT on them, assessed on a full indemnity basis), claims, damages and losses suffered or incurred by the Assignor arising out of or in connection with any failure to do so.

5 VAT

5.1 All sums payable under or pursuant to this deed are exclusive of any VAT that may be chargeable.

5.2 If any VAT is chargeable in respect of such sums, the party paying those sums shall pay an amount equal to that VAT, in addition to such sums except to the extent that the party receiving the payment obtains credit for such VAT under the Value Added Tax Act 1994.

6 Entire agreement

6.1 This deed 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.

6.2 The Assignee acknowledges that in entering into this deed, the Assignee does not rely on any representation or warranty (whether made innocently or negligently) other than those set out in this deed.

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

7 Third party rights

7.1 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.

8 Governing law

8.1 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.

9 Jurisdiction

9.1 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).

This deed has been entered into on the date stated at the beginning of it.

Executed as deed by [NAME OF Assignee], in the presence of:

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Executed as deed by affixing the common seal of Bath and North East Somerset Council in the presence of:

.....

Authorised Signatory

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Sell or lease property to someone connected to your charity - SKATE PARK

Use this form to apply for the Charity Commission's consent to sell or lease property to someone connected to your charity.

Before you start You should read our information on selling and leasing charity property: Disposals that need our authority: sales, leases, transfers or mortgages – detailed guidance Disposing of land to a connected person - detailed guidance

What you will need to tell us You will need to have the following to hand:

- name of the connected person or people and how they are connected with your charity
- full explanation about why selling or leasing to this person is in the best interests of your charity
- details of how the conflict of interest has been managed
- qualified surveyor's report in accordance with the regulations
- description of the property whether the property includes designated land (land designated for a particular purpose)
- details of any opposition to the proposal

Apply to dispose of charity land to a connected person · ·	
All fields marked * must be answered	
About this application	
Your charity name* ·	The Alice Park
Your registered charity number (if applicable) ·	304650
Name of the person we should contact about this disposal* ·	Laura Chesham

Contact email address* ·	Ichesham@vww.co.uk
Contact telephone number* ·	0117 314 5314
Charity Commission case reference number (if applicable)	N/A
About the connected person	
· Full name of connected person*	<p>Stage 1: Michael Hewitt (Nominee), an employee of Bath and North East Somerset Council (BANES)</p> <p>Stage 2: BANES</p> <p>It is proposed that a lease is first granted to the Nominee and then this lease will be assigned to BANES. This two-stage process is required because BANES (in its capacity as trustee of the charity) is not able to grant a lease directly to itself in its local authority capacity.</p>
<p>How is this person connected? * ·</p> <ul style="list-style-type: none"> • A trustee of or for the charity • A donor of any land to the charity • A close relative of either of the above, for example, a child, parent, grandchild, grandparent, brother or sister (or husband, wife or civil partner of any of these) • An officer, agent or employee of the charity • An institution controlled by any of the above • A body corporate in which any of those above have a substantial 	<p>The Nominee is an employee of BANES.</p> <p>BANES is the sole corporate trustee of The Alice Park.</p>

interest	
Did the connected person have any involvement in the decision-making process to dispose of the land?	There is a sub-committee established for the charity which considers the business of the charity and takes decisions on BANES' behalf. Although the sub-committee is comprised of Councillors, BANES considers that conflicts of interest/duty are appropriately managed, and the sub-committee acts independently and solely and exclusively in the interests of the charity when taking decisions concerning the charity.
Did the connected person have any access to information in connection with other bids or offers for the land / property?	N/A
How did the trustees make the decision to dispose of the land to this person?	At a public meeting of the Alice Park Trust sub-committee dated 23 December 2019. The Agenda and minutes of which can be found here https://democracy.bathnes.gov.uk/ieListDocuments.aspx?CId=579&MId=5720&Ver=4
What options were considered?	No other options were considered by the charity. The terms of the proposed disposal are unique and are unlikely to be viable if a different third party were involved.
Why the disposal is in the charity's best interests	
You should say when the trustees met to discuss the disposal and explain why they feel it is in the charity's best interests. For example, the connected person is offering market price or better. * Maximum 5,000 characters	The charity provides a public park and play area (for children under 14 years of age) in Bath in advancement of its charitable purposes. The park is open to the public throughout the year. There are various facilities available at the park, including tennis courts, a children's cycling track, table tennis and space for team sports to be played. There is a chalet situated at the park, which the charity leases to a third party for use as a café There is a cottage within the park that is leased to a third party to use as a

Nursey and a public convenience leased to Healthmatic. The rental income is used in the upkeep of the park. The charity also receives income from the hire of tennis courts. The total income from this activity is approximately £1,500 per annum.

The charity would like to further develop the nature of the recreational facilities available at the park to increase its use by certain user groups, including children over the age of 14 and young adults. The charity has identified that there is need in the local area for a skate park.

However, as we have identified above, the charity has a limited income. BANES (in its capacity as local authority) supplements the charity's income to cover its costs. The charity therefore does not have any reserves with which to expand the charity's activities/facilities.

A proposal to develop the skate park was first presented to the sub-committee in August 2016 and received in principle approval on the 25 June 2018 subject to agreement on the final design. The sub-committee wishes to be able to provide the best facilities possible to the charity's beneficiaries. However, it just does not have the funding to be able to develop and maintain new facilities without support from third parties.

The sub-committee therefore considers it is in the best interests of the charity to enter into a lease of part of the park to BANES to allow BANES to develop and maintain a skate park. The charity considers that being able to offer a skate park at the park will widen the charity's class of beneficiaries and is therefore benefiting a larger section of the public. Although only a peppercorn rent is proposed under the lease (and therefore the charity's income will not increase as a result of the proposed arrangements), the charity considers that the grant of the lease clearly advances its charitable purposes for the public benefit.

The park itself comprises 8 acres of land. The proposed area for the development of the skate park is 0.22 acres and therefore will affect only a small part of the charity's land. Although this area will not be generally available to users of the park (other than as a skate park), the charity considers the benefit of setting this area aside as a

	skate park and being able to offer a different type of recreational facility will outweigh any disadvantages of the land not being available for more general use.
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
About your surveyor's report	
Have the trustees received a surveyor's report?	Yes
What does the report say about marketing the property? We may request a copy of the report at a later date.	The report confirms that, due to the unique terms of the proposed disposition, including the investment by the tenant, the proposed disposition should not be advertised.
Have the trustees acted on the advice about marketing?	Yes
What does the report say about the value of the land to be disposed?	One peppercorn
Have the trustees acted on the advice about the value of the land?	Yes
What are the terms of the lease or sale the trustees are considering accepting?	<p>Term: 25 years</p> <p>Rent: one peppercorn</p> <p>Permitted use: skate park and ancillary recreational use</p> <p>Break clause: tenant only at years 15 and 20; 6 months prior written notice to the landlord required.</p> <p>Rent reviews: none</p> <p>Alienation: prohibited (except to allow the assignment of the lease to complete the</p>

	<p>second stage transfer referred to above)</p> <p>Repairing obligations: fully repairing; requirement for the tenant to keep the demised area in good repair</p> <p>Dilapidations: tenant to reinstate the demised area to grassland to the landlord's reasonable satisfaction</p> <p>Landlord and Tenant Act 1954 protection: none</p> <p>Alterations: external and internal structural and non-structural alterations permitted without consent</p> <p>Service charge: none</p> <p>Rates and utilities: tenant directly liable for all outgoing associated with the skate park facility (if any)</p>
About the land	
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
Do the trustees have the power to dispose of the land?	Yes
Do the trustees own the legal interest in the property or land to be disposed?	Yes
<p>· Full postal address or brief description of the land*</p> <p>Maximum 5,000 characters</p>	Part of the land known as "The Alice Park" Gloucester Road, Larkhall, Bath, BA1 7BL
Is the land registered with HM Land Registry? *	[TBC]

If Yes, Land Registry or Registered lease title number	[TBC]
· If the land is not registered give details of the conveyance or lease by which it was acquired	Conveyance dated 19 May 1937
· What the land is used for	
If any part of the land is leased to another party, please give details of the lease Maximum 2,000 characters	N/A
Is it designated land (that is land settled on specific charitable trusts held by the charity and required to be used for a particular purpose or purposes of the charity)? *	No
If No, Is the land used for other purposes of the charity? *	Yes
If Yes (Explain briefly what purposes the land is used for (you may need to refer to the deeds of the land or your charity's governing document) * Or If No (Explain briefly how the land is used) *	The land is used as a public park and children's play area. Various recreational facilities are offered, including tennis courts, a children's cycling track, table tennis and space for team sports to be played. There is a cottage situated within the park which is leased to a third party who provides a café.
Disposing of designated land You must tell us in this form whether the designated land will be replaced - if not, you usually need to give public notice and we may need to contact you about changing your charity's purposes. Read our detailed	N/A

<p>guidance for more information.</p> <p>Explain briefly what specific purposes the land is required to be used for (you may need to refer to the deeds of the land or your charity's governing document). *</p> <p>Maximum 2,000 characters</p>	
<p>Are you replacing the designated land? *</p>	<p>N/A</p>
<p>About the disposal</p>	
<p>Select an option that best describes the disposal* ·</p> <ul style="list-style-type: none"> • Freehold sale • Easement or grant of right of way • Lease for more than 7 years • Lease for 7 years or less with a fine or premium • Lease for 7 years or less with no fine or premium • Other (If 'Other' please specify*) <p>About fines and premiums</p> <p>A fine or premium is a lump sum or other benefit, other than rent, paid to the charity on the granting of a lease.</p>	<p>Lease for more than 7 years</p>
<p>· If you are aware of any opposition to the disposal give details and explain the steps the trustees have taken to resolve these issues</p>	<p>Historically the community and indeed the sub-committee were split on the proposal of use of the park for a skatepark, but compromise resulted in a scaled down facility suitable for children up to the age of 14. There is more general acceptance of the use</p>

Maximum 5,000 characters	of the site for this purpose albeit there are still residents that object to its use as a skatepark.
Declaration	
You must confirm the following statements are correct:	
<ul style="list-style-type: none"> All the facts and information supplied by or on behalf of this charity on this form are correct 	Yes
<ul style="list-style-type: none"> The trustees are satisfied they have been properly appointed 	Yes
<ul style="list-style-type: none"> The trustees have the power to dispose of the land 	Yes
<ul style="list-style-type: none"> There is no clause/provision in the governing document of the charity prohibiting the disposal of the charity's land to a connected person 	Yes
<ul style="list-style-type: none"> The charity owns the legal interest in the property described in section 4 	Yes
<ul style="list-style-type: none"> The trustees have taken appropriate steps to manage the conflict of interest: 	Yes
<ul style="list-style-type: none"> The connected person took no part in the decision-making process regarding disposal of the land 	Yes (the sub-committee is comprised of Councillors but they understand that their first obligation is to the Charity)
<ul style="list-style-type: none"> The connected person has had no access to information in connection with other bids or offers for the land 	Yes

<ul style="list-style-type: none"> The trustees have received a report from a qualified surveyor who has reported in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992 	Yes
<ul style="list-style-type: none"> The trustees have met validly and decided that the disposal of the property is in the best interests of the charity 	Yes
<p>I confirm that all of the statements above are true and correct to the best of my knowledge, and that I am authorised to act on behalf of the trustees. *</p> <p>Conflicts of interest The person signing the form must not be the connected person in question. Read our guidance about conflicts of interest https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity</p>	
Name of signatory*	Marie Todd
Capacity (for example trustee, secretary or clerk to the trustees, legal adviser etc) *	Clerk to the Alice Park Trust sub-committee
<p><i>Note: Providing false information</i></p> <p><i>It is an offence under section 60(1)(b) of the Charities Act 2011 to knowingly or recklessly provide false or misleading information.</i></p>	