

Dated

2012

**LEASE
relating to
Land at Stag Lane, Newport**

ISLE OF WIGHT COUNCIL

(1)

And

[]

(2)

CONTENTS

1 MAIN TERMS, DEFINITIONS AND INTERPRETATION..... 3

2 LETTING..... 6

3 TENANT'S OBLIGATIONS..... 8

4 LANDLORD'S OBLIGATIONS 14

5 INSURANCE AND REINSTATEMENT 14

6 AGREEMENTS..... 14

- Date of lease**
- LR1**
- ◆ 2012
- LR2 Title number(s)**
- LR2.1 Landlord's title number(s)**
- IW68191
- LR2.2 Other title numbers**
- None
- LR3 Parties to this lease**
- Landlord**
- ISLE OF WIGHT COUNCIL** of County Hall, High Street, Newport, Isle of Wight
- Tenant**
- LR4 Property**
- In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.**
- Land at Stag Lane, Newport as shown delineated in red on the attached plan numbered 1
- LR5 Prescribed statements etc**
- LR5.1** None
- LR5.2** Not applicable
- LR6 Term for which the Property is leased**
- The Contractual Term
- LR7 Premium**
- None
- LR8 Prohibitions or restrictions on disposing of this lease**

This lease contains a provision that prohibits or restricts dispositions.

LR9 Rights of acquisition etc

LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None

LR9.2 Tenant's covenant to (or offer to) surrender this lease

None

LR9.3 Landlord's contractual rights to acquire this lease

None

LR10 Restrictive covenants given in this lease by the Landlord in respect of land other than the Property

None

LR11 Easements

LR11.1 Easements granted by this lease for the benefit of the Property

The rights granted by clause 2.2

LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property

The rights granted or reserved by clause 2.3

LR12 Estate rentcharge burdening the Property

None

LR13 Application for standard form of restriction

The parties to this lease apply to enter the following standard form of restriction against the title of the Property: None

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

Not applicable

THIS LEASE is made on the date set out in clause LR1 **BETWEEN** the parties respectively named in clause LR3.

1 MAIN TERMS, DEFINITIONS AND INTERPRETATION

1.1 Main Terms

- (a) The Property is the land and premises known as the Depot at Smallbrook Stadium, Ashe Road, Ryde which the Landlord lets to the Tenant in connection with the PFI Contract.
- (b) The Contractual Term shall run co-terminously with the PFI Contract and if the PFI Contract is terminated this Lease will terminate with immediate effect and any proper costs incurred by the Landlord arising from the Tenant's failure to give vacant possession within 28 days notice of the date of termination will be due in full to the Landlord.
- (c) The rent is one peppercorn per annum (if demanded).
- (d) In the event of a Civil Emergency Declaration as defined in clause 39 (*Civil Emergency*) of the PFI Contract. The Tenant will comply in full with its obligations under Clause 39 (*Civil Emergency*) of the PFI Contract.

1.2 Definitions

In this lease the terms set out in the clauses LR1 to LR14 have the respective meanings given there and:

"1954 Act" means the Landlord and Tenant Act 1954;

"1995 Act" means the Landlord and Tenant (Covenants) Act 1995;

"Basic Rent" means one peppercorn each year;

"Business Day" means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday;

"CDM Regulations" means the Construction (Design and Management) Regulations 2007 together with the guidance contained in the then latest approved code of practice relating to such regulations;

"Contractual Term" means from and including the Date of Entry until the Expiry Date as defined in the PFI Contract;

"Date of Entry" means 1 April 2013;

"Dealing" means any assignment, underlease, charge or any other dealing relating to the Property or this lease;

"Environment" means the natural and man-made environment including all or any of the following media, namely air, water and any living organisms (including man) or systems supported by those media;

"Environmental Law" means all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes which are legally binding and in force as at the date of this Lease in so far as they relate to the protection of the Environment;

"Hazardous Substance" means any natural or artificial substance or substances (whether in solid, liquid, gaseous form or vapour) which are capable of causing harm to the Environment having been established/identified as a risk by the Survey;

"Invitee" means persons in the Property with the express or implied consent of the Tenant;

"Landlord" means the party so referred to in clause LR3 and includes that party's successors in title to the Landlord's Interest;

"Landlord's Interest" means the reversion immediately expectant on the determination of the Term;

"Legislative Consent" means a consent or authority required under a Legislative Requirement;

"Legislative Requirement" means the requirement of any legislative provision, or any decision, directive or regulation of the European Union or of the government of the United Kingdom, or any notice or order lawfully made by any other competent authority, or a court order;

"Permitted Use" means use of the Property as a highways maintenance depot and any part of the Property which comprises office premises as offices within the meaning of Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 in each case in connection with the provision of the services under the PFI Contract;

"PFI Contract" means the Landlord's Highways Management and Maintenance Private Finance Initiative Contract of even date herewith made between the Landlord (1) and the Tenant (2);

"Property" means the property defined in clause LR4 and includes:

- (a) any part of it;
- (b) all additions and alterations to it;
- (c) any Service Media exclusively serving it so far as these are not owned by a utility company; and
- (d) any landlord's fixtures and fittings in or on it

but excludes:

- (e) any Service Media serving premises other than the Property or owned by a utility company; and
- (f) tenant's fixtures and fittings;

"Ringway" means Ringway Island Roads Limited (registered in the United Kingdom with Company Number 08108944) whose registered office is at Albion House, Springfield road Horsham, West Sussex, RH12 2RW;

"Service Media" means all conducting media used to supply services to the occupiers of the Property (together with all ancillary equipment including meters) which now are or may in the future be installed;

"Survey" means a joint survey to identify any Hazardous Substance which may be present at the Property carried out by the Parties prior to the Date of Entry;

"SWMP Regulations" means the Site Waste Management Plans Regulations 2008 and any modification or replacement of them;

"Tenant" means the party so referred to in clause LR3 and includes that party's successors in title to this lease;

"Term" means the Contractual Term; and

"VAT" means value added tax and includes any similar or substituted tax

and terms of similar origin are to be interpreted accordingly.

1.3 Interpretation

In this lease:

- (a) obligations undertaken by a party which comprises more than one person bind those persons jointly and severally;

- (b) an obligation to do something includes an obligation to procure that it is done and an obligation not to do something includes an obligation not to allow it to be done;
- (c) each right reserved by the Landlord may be exercised by any superior landlord, any mortgagee of the Landlord's Interest or of any other interest in the Property which is superior to the Landlord's Interest and any person authorised by such persons;
- (d) any reference to any legislative provision includes any subsequent re-enactment or amending provision;
- (e) words referring to persons include firms and corporate bodies and vice versa, words in singular form include the plural and vice versa and words with any one gender include either other gender;
- (f) each of the headings, contents list and frontsheet is for reference only and is not to be referred to when interpreting this lease;
- (g) the rights and remedies provided by this lease for the Landlord do not exclude any rights or remedies that the Landlord may have under the general law;
- (h) any obligation undertaken by the Landlord is a covenant with the Tenant and any obligation undertaken by either the Tenant or the Guarantor is a covenant with the Landlord by the relevant party;
- (i) references to the "**determination**" of the Term and words of similar meaning are to the determination of the Term for any reason;
- (j) the word "**including**" and similar words do not limit the general effect of the words which precede them; and
- (k) the term "**this lease**" includes this lease, any document which is supplemental to or collateral with it, and any document entered into because this lease requires it.
- (l) in the event of any conflict between the terms contained in this lease and the terms of the PFI Contract, the terms of the PFI contract shall prevail.

2 LETTING

2.1 Consideration

In consideration of the obligations undertaken by the Tenant in this lease, the Landlord lets the Property to the Tenant for the Contractual Term.

2.2 Rights granted

- (a) The right, subject to temporary interruption for repair, alteration or replacement, in common with the Landlord and all other persons having a like right, to the free passage and running of services to and from the Property through the Service Media in, on, over or under the Landlord's adjoining land and not exclusively serving the Property.
- (b) The right of support and protection for the benefit of the Property that is now enjoyed from all other parts of the Landlord's adjoining land.

2.3 Rights reserved

The Landlord reserves the following rights:

- (a) the right to use for the intended purpose any existing Service Media at the Property which are owned or used by the Landlord and which serve other premises;
- (b) the right to enter the Property on giving reasonable notice (except in an emergency when no notice is required) for any purpose associated with the maintenance, cleaning or repair of such Service Media provided that the person exercising such right shall cause as little disruption as reasonably practicable and shall make good all physical damage caused;
- (c) upon reasonable prior written notice to the Tenant (except in emergency when no notice need be given) to enter the Property for any of the following purposes provided that such right of entry is exercised in accordance with Clause 15.1 of the PFI Contract:
 - (i) inspecting or making surveys or drawings of the Property for any purpose complying with the Landlord's obligations under this lease or with any other legal obligation of the Landlord
 - (ii) inspecting altering repairing maintaining demolishing or rebuilding any property adjacent to the Property
 - (iii) carrying out any works which are the responsibility of the Tenant under this lease but which the Tenant has failed to do
- (d) The right of support and protection for any neighbouring property from the Property.

2.4 Matters to which this lease is subject

- (a) The Property is let on the terms of this lease and in accordance with the provisions of clause 7.5 of the PFI Contract;
- (b) Save that any liability under Environmental Law or in respect of claims by third parties arising in respect of a Hazardous Substance identified by the Survey as being on the Property, on or before the Date of Entry, shall be the sole responsibility of the Landlord.

3 TENANT'S OBLIGATIONS

3.1 Basic Rent

The Tenant will pay the Landlord the Basic Rent annually in advance if demanded.

3.2 Outgoings

The Tenant will pay (or indemnify the Landlord against) all outgoings that are imposed on the Property or on its owner or occupier. This obligation does not apply to tax on any actual or deemed dealing by the Landlord with the Landlord's Interest.

3.3 Repair and decoration

- (a) The Tenant will keep the Property in good repair and condition.
- (b) All work that the Tenant is to carry out pursuant to this clause 3.3 is to be carried out in accordance with good building or property maintenance practice then current.
- (c) If the Landlord gives the Tenant notice of a breach of an obligation by the Tenant relating to the condition of the Property, the Tenant will remedy such breach. If the Tenant has not done so within two months of such notice being given (or sooner if reasonably required by the Landlord), the Landlord may enter the Property to do so and the Tenant will reimburse the Landlord for the proper costs and expenses it incurs together with interest at the Default Rate from the date of expenditure of each item comprising such costs and expenses to the date of payment by the Tenant. All of such costs, expenses and interest will constitute a debt immediately due and payable to the Landlord.
- (d) The Tenant will:
 - (i) on becoming aware of any defect in the Property that might give rise to a duty on the Landlord, notify the Landlord immediately;

- (ii) display all notices at the Property that the Landlord may reasonably require to be displayed having regard to any duty imposed on the Landlord;
- (iii) keep the Property clean.

3.4 Alterations

- (a) The Tenant shall be permitted to make any alteration to any parts of the Property without Landlord's consent if such alterations are required to be carried out by the Tenant under the terms of the PFI Contract.
- (b) Subject to clause 3.4 (a) the Tenant will not:
 - (i) unite the Property with any other premises; or
 - (ii) make any alteration to the parts of the Property which provide structural integrity and/or protection from the weather; or
 - (iii) make or alter any connection to any Service Media serving other premises; or
 - (iv) alter the external appearance of the Property; or
- (c) make any other alteration to the Property unless:
 - (i) the Landlord's consent has been obtained such consent not to be unreasonably withheld;
 - (ii) the Tenant has executed as a deed and delivered to the Landlord a licence containing such obligations as the Landlord may reasonably require (including those relating to reinstating the Property at the determination of the Contractual Term and making good any damage so caused).
- (d) The Tenant will carry out any work permitted under this lease in accordance with good building practice then current and to the Landlord's reasonable satisfaction.
- (e) The Tenant shall comply with its obligations relating to CDM Regulations contained in clause 36 (CDM Regulations) of the PFI Contract.
- (f) The Tenant shall comply with the SWMP Regulations if and to the extent that they are applicable.

3.5 Entry by the Landlord

- (a) The Tenant will allow the Landlord to enter the Property at reasonable times as agreed with the Tenant (save in the case of emergencies where no notice will be required) and subject to the provisions of clause 15.1 of the PFI Contract for any proper purpose related to:
- (i) this lease; or
 - (ii) the protection of the Landlord's Interest; or
 - (iii) any dealing with the Landlord's Interest, or
 - (iv) the PFI Contract

with such personnel and equipment as may be necessary for fulfilling that purpose. The Landlord will promptly make good any damage so caused to the Property or the Tenant's assets in the Property to the Tenant's reasonable satisfaction and shall not interfere with the Tenant's business or the provision of services under the PFI Contract. In the case of an emergency, the Tenant will allow the Landlord such access without notice and at any time.

3.6 Use

- (a) The Tenant will use the Property only for the Permitted Use and not use the Property for residential, illegal or immoral purposes or in a way which involves the attendance at the Property of members of the public in relation to the obtaining of state or similar benefits or of any licence or similar documents or the payment of taxes, penalties or similar sums.
- (b) The Tenant will not:
- (i) do anything on the Property that is a nuisance to the Landlord or any other person; or
 - (ii) overload any parts of the Property which provide structural integrity and/or protection from the weather or overload or misuse any Service Media; or
 - (iii) display any signage which is visible from outside the Property without the Landlord's consent save that the Tenant will be able to display any signage showing the Tenant's corporate or trading name in their usual corporate style or such signage as may be required by statutory provision or is necessary for the provision of the Services as defined in the PFI Contract; or

- (iv) obstruct or interfere with any easement which benefits the Property or any other premises; or
- (v) acquiesce in the acquisition by any person of rights against the Property.
- (c) The Tenant will notify the Landlord immediately of any attempt by any person to acquire rights against the Property or to obstruct any rights enjoyed by the Property.
- (d) On receipt at the Property of any correspondence or notice addressed to the Landlord or relating to the Property or its use or to the Landlord's Interest, the Tenant will promptly give the Landlord a copy.

3.7 Dealings

Subject to clauses 3.7 (a) and 3.7 (b) below the Tenant will not part with assign underlet or share possession or occupation of the whole or any part of the Property nor hold the Property or any part of it in favour of any party.

(a) Assignment

In the event of an assignment or novation of the PFI Contract the Tenant shall be permitted to assign this lease to the party to whom the PFI Contract has been assigned or novated without the Landlord's consent.

(b) Underletting

The Tenant may:

- (i) underlet whole or part of the Property to Ringway (to which the Landlord hereby consents);
- (ii) underlet whole or part of the Property to a Sub-Contractor providing the Services (each as defined in the PFI Contract) under the terms of the PFI contract without consent of the Landlord and the Tenant shall notify the Landlord of any underletting under this clause 3.7 (b) (ii) within 10 working days of such underlease being entered into.

Any underlease granted in accordance with this clause 3.7 shall contain:

- (iii) a valid and enforceable agreement between the Tenant and the undertenant that sections 24 to 28 (inclusive) of the 1954 Act be excluded from the tenancy to be created by the underlease and the

Tenant must produce to the Landlord adequate evidence of such valid exclusion prior to any underlease being completed; and

- (iv) a clause providing for the said underlease to determine immediately upon the termination of the PFI Contract.

3.8 Legislative Requirements and Legislative Consents

(a) The Tenant will:

- (i) comply with every Legislative Requirement and every condition to any Legislative Consent relating to the Property or its use whether or not the Tenant is the person on whom either the Legislative Requirement or such condition is imposed; and
- (ii) complete before the determination of the Term any work required to be done to the Property as a condition to a Legislative Consent that the Tenant has begun to implement.

(b) The Tenant will not:

- (i) do anything on or in relation to the Property that breaches a Legislative Requirement affecting other premises owned or occupied by the Landlord; or
- (ii) enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 in relation to the Property; or
- (iii) serve a notice, or counter-notice, under the Party Wall etc Act 1996; or
- (iv) serve a notice relating to the Property under part VI of the Town and Country Planning Act 1990; or
- (v) (unless it is required to comply with a Legislative Requirement or to carry out an alteration permitted under this lease or to implement the Permitted Use or to comply with its obligations in the PFI Contract) apply for a Legislative Consent relating to the Property.

3.9 Notices relating to Landlord's dealings

The Tenant will allow the Landlord to fix in a reasonable position on the exterior of the Property a notice relating to any dealing with the Landlord's Interest or any other interest superior to this lease and not remove or obscure it if such notice neither obstructs the Tenant's own signage nor diminishes the access of light and air to the Property in a material way.

3.10 Indemnity

The Tenant will indemnify the Landlord in accordance with the provisions contained in the PFI Contract.

3.11 Determination

At the determination of the Term the Tenant will comply with its obligations contained in the PFI Contract relating to Expiry Condition B Requirements (as defined in the PFI Contract and clauses 7.13.2 and 7.13.3 of the PFI Contract:

3.12 VAT

The Tenant will:

- (a) pay the VAT chargeable on sums due from the Tenant and any other consideration to be provided or deemed to be provided by the Tenant under this lease; and
- (b) where the Tenant agrees in this lease to reimburse the Landlord for a payment made by the Landlord, pay the Landlord an amount equal to the relevant VAT paid by the Landlord unless such VAT is recovered by the Landlord.

3.13 Land registration

The Tenant will, at its own expense, procure that it becomes registered at the Land Registry as proprietor of this lease and that any rights granted and reserved by this lease are properly noted against the affected titles and, as soon as practicable after such registration, will supply the Landlord with an official copy of the register relating to the title created by this lease showing the Tenant registered as proprietor.

3.14 Landlord's title

The Tenant will comply with all obligations referred to in clause 2.4 so far as any of them are capable of taking effect and relate to the Property or the exercise of rights granted by this lease.

3.15 Costs

- (a) The Tenant will pay the Landlord the costs and expenses properly incurred by the Landlord in connection with dealing with an application by the Tenant for an approval or consent under this lease (except where such application is held by the court to have been unlawfully refused).
- (b) For the avoidance of doubt the Tenant shall pay the entire properly incurred cost and expenses of obtaining the Survey.

4 LANDLORD'S OBLIGATIONS

4.1 No unlawful interruptions

The Landlord will allow the Tenant to enjoy the Property during the Term without any unlawful interruption by the Landlord or any person claiming under or in trust for the Landlord.

5 INSURANCE AND REINSTATEMENT

The Tenant shall comply with its obligations relating to provision of insurance for the property contained in clause 68 (Insurance) of the PFI Contract

6 AGREEMENTS

The parties agree as follows:

6.1 Notices

(a) Any notice to be given under this lease must be in writing and given in accordance with the notice procedures set out in clause 101 (Notices) in the PFI Contract.

6.2 Easements and rights

(a) Section 62 of the Law of Property Act 1925 does not operate in relation to this lease.

(b) The only rights granted to the Tenant are those expressly set out in this lease.

(c) The Landlord may use or allow to be used or carry out or allow works to nearby premises (including the erection of scaffolding) even if any light or any other facility enjoyed by the Property is adversely affected by them.

6.3 Landlord's consents and approvals

(a) The Landlord will not be obliged to consider an application for its consent or approval under this lease until:

(i) it has been supplied with all information it properly requires in order to determine the application; and

(ii) it holds either a solicitor's undertaking to pay the Landlord an amount that the Landlord reasonably estimates its costs and expenses under clause 3.15 would be or a payment in cleared funds of such amount to be held by the Landlord on account of such costs.

- (b) Any consent or approval of the Landlord required under this lease:
- (i) must be obtained before the matter to which it relates is carried out;
 - (ii) is effective only if it is given in writing and, where so specified, by deed;
 - (iii) is only effective if any necessary consent from any superior landlord and any mortgagee of the Landlord's Interest or any other interest in the Property superior to this lease has been obtained; and
 - (iv) (unless otherwise stated) is not to be unreasonably withheld or delayed but may be issued subject to proper and reasonable conditions.

6.4 VAT

Unless stated otherwise, any sum to be paid or consideration to be provided or deemed to be provided under this lease is exclusive of VAT.

6.5 Jurisdiction

This lease and any matter arising from it are to be governed by and interpreted in accordance with English law. The parties agree to submit to the exclusive jurisdiction of the English courts in relation to this lease and any such matter.

6.6 New tenancy

For the purposes of the 1995 Act this lease is a new tenancy.

6.7 Third party rights

A person who is not party to this lease has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This clause does not affect any right or remedy of any person which exists or is available otherwise than under that Act.

6.8 Accidents

Except to the extent stipulated by law, the Landlord is not liable for any loss sustained by the Tenant or any Invitee in the Property unless it is due to the direct act or omission of the Landlord or a person acting in accordance with the Landlord's instructions.

6.9 Severance

If any term of this lease is held to be illegal or unenforceable to any extent, then that term will be deemed not to form part of this lease to that extent and the remainder of this lease will be unaffected.

6.10 Exclusion of warranties

- (a) The Tenant confirms that it is not entering into this lease in reliance on any representation or warranty given by or on behalf of the Landlord other than any made in writing by the Landlord's solicitors to the Tenant's solicitors.
- (b) The Landlord does not warrant that the law allows the Property to be used for any purpose (including the Permitted Use) or that the Property is in repair or free from defects.

6.11 Continuation

The determination of the Term does not affect the enforceability of any outstanding obligation under this lease.

6.12 Data protection

Where appropriate under the Data Protection Act 1998 the Tenant:

- (a) acknowledges that information relating to this lease (including information relating to them and/or their respective personnel) may be held in electronic and other systems by the Landlord or by any managing agent retained by the Landlord for the purposes of the administration and enforcement of this lease and the management and disposal of the Landlord's Interest; and
- (b) agrees that such information may be used and, where necessary, disclosed to third parties for such purposes.

6.13 Delivery

This lease is executed as a deed and the parties intend that it is delivered today.

6.14 Compensation

Any statutory right of the Tenant or any undertenant to claim compensation from the Landlord on vacating the Property is excluded as far as the law allows.

6.15 Exclusion of security of tenure

- (a) Under section 38A(1) of the 1954 Act, the parties agree that the provisions of sections 24 to 28 (inclusive) of the 1954 Act are excluded in relation to the tenancy created by this lease.
- (b) Before today:

- (i) the Landlord served the notice ("**Notice**") referred to in section 38A(3)(a) of the 1954 Act on the Tenant in relation to the tenancy created by this lease; and
 - (ii) the Tenant or a person duly authorised by the Tenant made the statutory declaration ("**Declaration**") referred to in schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 in relation to the Notice.
- (c) Where the Declaration was made by a person other than the Tenant, the Tenant confirms that the declarant was duly authorised by the Tenant to make the Declaration on the Tenant's behalf.
- (d) In all respects relevant to the agreement to exclude security of tenure the form of this lease is the same as that which was in the parties' contemplation at the time of service of the Notice.

6.16 Determination of the Term

If the PFI Contract shall be terminated (for whatever reason) the Term shall immediately cease and determine but without prejudice to any rights either party may have against the other for any antecedent breach of this lease.

6.17 Yielding up at the end of the Lease

On the expiry or sooner termination of this Lease to give up vacant possession of the Property.

6.18 Dispute Determination

Clause 83 (Dispute Resolution Procedure) of the PFI Contract shall apply to this Lease.

6.19 Landlord's Capacity and Powers

The Landlord enters into this Lease solely in its capacity as a landowner in respect of the Property and not in any other capacity. Nothing in this Lease shall restrict the Landlord's powers or rights as a local authority, local planning authority or statutory body to perform any of its statutory functions.

The Common Seal of **ISLE OF WIGHT**)
COUNCIL was hereunto affixed in the presence)
of:

Authorised Signatory

EXECUTED as a DEED by)

)

)

acting by a Director/its duly authorised attorney)

Director/Attorney

Witness

Name of witness

Address

Occupation

Dated

2012

**LEASE
relating to
Depot at Smallbrook Stadium, Asheys
Road, Ryde**

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LR2

Title number(s)

LR2.1 Landlord's title number(s)

IW70589

LR2.2 Other title numbers

None

LR3

Parties to this lease

Landlord

ISLE OF WIGHT COUNCIL of County Hall, High Street, Newport, Isle of Wight

Tenant

LR4

Property

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Depot at Smallbrook Stadium, Ashey Road, Ryde as shown delineated in red on the attached plan numbered 1

LR5

Prescribed statements etc

LR5.1 None

LR5.2 Not applicable

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Premium

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1 MAIN TERMS, DEFINITIONS AND INTERPRETATION

1.1 Main Terms

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"Business Day" means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday;

"CDM Regulations" means the Construction (Design and Management) Regulations 2007 together with the guidance contained in the then latest approved code of practice relating to such regulations;

"Contractual Term" means from and including the Date of Entry until the Expiry Date as defined in the PFI Contract;

"Date of Entry" means 1 April 2013;

"Dealing" means any assignment, underlease, charge or any other dealing relating to the Property or this lease;

"Environment" means the natural and man-made environment including all or any of the following media, namely air, water and any living organisms (including man) or systems supported by those media;

"Environmental Law" means all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes which are legally binding and in force as at the date of this Lease in so far as they relate to the protection of the Environment;

"Hazardous Substance" means any natural or artificial substance or substances (whether in solid, liquid, gaseous form or vapour) which are capable of causing harm to the Environment having been established/identified as a risk by the Survey;

"Invitee" means persons in the Property with the express or implied consent of the Tenant;

"Landlord" means the party so referred to in clause LR3 and includes that party's successors in title to the Landlord's Interest;

"Landlord's Interest" means the reversion immediately expectant on the determination of the Term;

"Legislative Consent" means a consent or authority required under a Legislative Requirement;

"Legislative Requirement" means the requirement of any legislative provision, or any decision, directive or regulation of the European Union or of the government of the United Kingdom, or any notice or order lawfully made by any other competent authority, or a court order;

"Permitted Use" means use of the Property as a highways maintenance depot and any part of the Property which comprises office premises as offices within the meaning of Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 in each case in connection with the provision of the services under the PFI Contract;

"PFI Contract" means the Landlord's Highways Management and Maintenance Private Finance Initiative Contract of even date herewith made between the Landlord (1) and the Tenant (2);

"Property" means the property defined in clause LR4 and includes:

- (a) any part of it;
- (b) all additions and alterations to it;
- (c) any Service Media exclusively serving it so far as these are not owned by a utility company; and
- (d) any landlord's fixtures and fittings in or on it

but excludes:

- (e) any Service Media serving premises other than the Property or owned by a utility company; and
- (f) tenant's fixtures and fittings;

"Ringway" means Ringway Island Roads Limited (registered in the United Kingdom with Company Number 08108944) whose registered office is at Albion House, Springfield road Horsham, West Sussex, RH12 2RW;

"Service Media" means all conducting media used to supply services to the occupiers of the Property (together with all ancillary equipment including meters) which now are or may in the future be installed;

"Survey" means a joint survey to identify any Hazardous Substance which may be present at the Property carried out by the Parties prior to the Date of Entry;

"SWMP Regulations" means the Site Waste Management Plans Regulations 2008 and any modification or replacement of them;

"Tenant" means the party so referred to in clause LR3 and includes that party's successors in title to this lease;

"Term" means the Contractual Term; and

"VAT" means value added tax and includes any similar or substituted tax

and terms of similar origin are to be interpreted accordingly.

1.3 Interpretation

In this lease:

- (a) obligations undertaken by a party which comprises more than one person bind those persons jointly and severally;

- (b) an obligation to do something includes an obligation to procure that it is done and an obligation not to do something includes an obligation not to allow it to be done;
- (c) each right reserved by the Landlord may be exercised by any superior landlord, any mortgagee of the Landlord's Interest or of any other interest in the Property which is superior to the Landlord's Interest and any person authorised by such persons;
- (d) any reference to any legislative provision includes any subsequent re-enactment or amending provision;
- (e) words referring to persons include firms and corporate bodies and vice versa, words in singular form include the plural and vice versa and words with any one gender include either other gender;
- (f) each of the headings, contents list and frontsheet is for reference only and is not to be referred to when interpreting this lease;
- (g) the rights and remedies provided by this lease for the Landlord do not exclude any rights or remedies that the Landlord may have under the general law;
- (h) any obligation undertaken by the Landlord is a covenant with the Tenant and any obligation undertaken by either the Tenant or the Guarantor is a covenant with the Landlord by the relevant party;
- (i) references to the "**determination**" of the Term and words of similar meaning are to the determination of the Term for any reason;
- (j) the word "**including**" and similar words do not limit the general effect of the words which precede them; and
- (k) the term "**this lease**" includes this lease, any document which is supplemental to or collateral with it, and any document entered into because this lease requires it.
- (l) in the event of any conflict between the terms contained in this lease and the terms of the PFI Contract, the terms of the PFI contract shall prevail.

2 LETTING

2.1 Consideration

In consideration of the obligations undertaken by the Tenant in this lease, the Landlord lets the Property to the Tenant for the Contractual Term.

2.2 Rights granted

- (a) The right, subject to temporary interruption for repair, alteration or replacement, in common with the Landlord and all other persons having a like right, to the free passage and running of services to and from the Property through the Service Media in, on, over or under the Landlord's adjoining land and not exclusively serving the Property.
- (b) The right of support and protection for the benefit of the Property that is now enjoyed from all other parts of the Landlord's adjoining land.

2.3 Rights reserved

The Landlord reserves the following rights:

- (a) the right to use for the intended purpose any existing Service Media at the Property which are owned or used by the Landlord and which serve other premises;
- (b) the right to enter the Property on giving reasonable notice (except in an emergency when no notice is required) for any purpose associated with the maintenance, cleaning or repair of such Service Media provided that the person exercising such right shall cause as little disruption as reasonably practicable and shall make good all physical damage caused;
- (c) upon reasonable prior written notice to the Tenant (except in emergency when no notice need be given) to enter the Property for any of the following purposes provided that such right of entry is exercised in accordance with Clause 15.1 of the PFI Contract:
 - (i) inspecting or making surveys or drawings of the Property for any purpose complying with the Landlord's obligations under this lease or with any other legal obligation of the Landlord
 - (ii) inspecting altering repairing maintaining demolishing or rebuilding any property adjacent to the Property
 - (iii) carrying out any works which are the responsibility of the Tenant under this lease but which the Tenant has failed to do
- (d) The right of support and protection for any neighbouring property from the Property.

2.4 Matters to which this lease is subject

- (a) The Property is let on the terms of this lease and in accordance with the provisions of clause 7.5 of the PFI Contract;
- (b) Save that any liability under Environmental Law or in respect of claims by third parties arising in respect of a Hazardous Substance identified by the Survey as being on the Property, on or before the Date of Entry, shall be the sole responsibility of the Landlord.

3 TENANT'S OBLIGATIONS

3.1 Basic Rent

The Tenant will pay the Landlord the Basic Rent annually in advance if demanded.

3.2 Outgoings

The Tenant will pay (or indemnify the Landlord against) all outgoings that are imposed on the Property or on its owner or occupier. This obligation does not apply to tax on any actual or deemed dealing by the Landlord with the Landlord's Interest.

3.3 Repair and decoration

- (a) The Tenant will keep the Property in good repair and condition.
- (b) All work that the Tenant is to carry out pursuant to this clause 3.3 is to be carried out in accordance with good building or property maintenance practice then current.
- (c) If the Landlord gives the Tenant notice of a breach of an obligation by the Tenant relating to the condition of the Property, the Tenant will remedy such breach. If the Tenant has not done so within two months of such notice being given (or sooner if reasonably required by the Landlord), the Landlord may enter the Property to do so and the Tenant will reimburse the Landlord for the proper costs and expenses it incurs together with interest at the Default Rate from the date of expenditure of each item comprising such costs and expenses to the date of payment by the Tenant. All of such costs, expenses and interest will constitute a debt immediately due and payable to the Landlord.
- (d) The Tenant will:
 - (i) on becoming aware of any defect in the Property that might give rise to a duty on the Landlord, notify the Landlord immediately;

- (ii) display all notices at the Property that the Landlord may reasonably require to be displayed having regard to any duty imposed on the Landlord;
- (iii) keep the Property clean.

3.4 Alterations

- (a) The Tenant shall be permitted to make any alteration to any parts of the Property without Landlord's consent if such alterations are required to be carried out by the Tenant under the terms of the PFI Contract.
- (b) Subject to clause 3.4 (a) the Tenant will not:
 - (i) unite the Property with any other premises; or
 - (ii) make any alteration to the parts of the Property which provide structural integrity and/or protection from the weather; or
 - (iii) make or alter any connection to any Service Media serving other premises; or
 - (iv) alter the external appearance of the Property; or
- (c) make any other alteration to the Property unless:
 - (i) the Landlord's consent has been obtained such consent not to be unreasonably withheld;
 - (ii) the Tenant has executed as a deed and delivered to the Landlord a licence containing such obligations as the Landlord may reasonably require (including those relating to reinstating the Property at the determination of the Contractual Term and making good any damage so caused).
- (d) The Tenant will carry out any work permitted under this lease in accordance with good building practice then current and to the Landlord's reasonable satisfaction.
- (e) The Tenant shall comply with its obligations relating to CDM Regulations contained in clause 36 (CDM Regulations) of the PFI Contract.
- (f) The Tenant shall comply with the SWMP Regulations if and to the extent that they are applicable.

3.5 Entry by the Landlord

- (a) The Tenant will allow the Landlord to enter the Property at reasonable times as agreed with the Tenant (save in the case of emergencies where no notice will be required) and subject to the provisions of clause 15.1 of the PFI Contract for any proper purpose related to:
- (i) this lease; or
 - (ii) the protection of the Landlord's Interest; or
 - (iii) any dealing with the Landlord's Interest, or
 - (iv) the PFI Contract

with such personnel and equipment as may be necessary for fulfilling that purpose. The Landlord will promptly make good any damage so caused to the Property or the Tenant's assets in the Property to the Tenant's reasonable satisfaction and shall not interfere with the Tenant's business or the provision of services under the PFI Contract. In the case of an emergency, the Tenant will allow the Landlord such access without notice and at any time.

3.6 Use

- (a) The Tenant will use the Property only for the Permitted Use and not use the Property for residential, illegal or immoral purposes or in a way which involves the attendance at the Property of members of the public in relation to the obtaining of state or similar benefits or of any licence or similar documents or the payment of taxes, penalties or similar sums.
- (b) The Tenant will not:
- (i) do anything on the Property that is a nuisance to the Landlord or any other person; or
 - (ii) overload any parts of the Property which provide structural integrity and/or protection from the weather or overload or misuse any Service Media; or
 - (iii) display any signage which is visible from outside the Property without the Landlord's consent save that the Tenant will be able to display any signage showing the Tenant's corporate or trading name in their usual corporate style or such signage as may be required by statutory provision or is necessary for the provision of the Services as defined in the PFI Contract; or

- (iv) obstruct or interfere with any easement which benefits the Property or any other premises; or
- (v) acquiesce in the acquisition by any person of rights against the Property.
- (c) The Tenant will notify the Landlord immediately of any attempt by any person to acquire rights against the Property or to obstruct any rights enjoyed by the Property.
- (d) On receipt at the Property of any correspondence or notice addressed to the Landlord or relating to the Property or its use or to the Landlord's Interest, the Tenant will promptly give the Landlord a copy.

3.7 Dealings

Subject to clauses 3.7 (a) and 3.7 (b) below the Tenant will not part with assign underlet or share possession or occupation of the whole or any part of the Property nor hold the Property or any part of it in favour of any party.

(a) Assignment

In the event of an assignment or novation of the PFI Contract the Tenant shall be permitted to assign this lease to the party to whom the PFI Contract has been assigned or novated without the Landlord's consent.

(b) Underletting

The Tenant may:

- (i) underlet whole or part of the Property to Ringway (to which the Landlord hereby consents);
- (ii) underlet whole or part of the Property to a Sub-Contractor providing the Services (each as defined in the PFI Contract) under the terms of the PFI contract without consent of the Landlord and the Tenant shall notify the Landlord of any underletting under this clause 3.7 (b) (ii) within 10 working days of such underlease being entered into.

Any underlease granted in accordance with this clause 3.7 shall contain:

- (iii) a valid and enforceable agreement between the Tenant and the undertenant that sections 24 to 28 (inclusive) of the 1954 Act be excluded from the tenancy to be created by the underlease and the

Tenant must produce to the Landlord adequate evidence of such valid exclusion prior to any underlease being completed; and

- (iv) a clause providing for the said underlease to determine immediately upon the termination of the PFI Contract.

3.8 Legislative Requirements and Legislative Consents

- (a) The Tenant will:
 - (i) comply with every Legislative Requirement and every condition to any Legislative Consent relating to the Property or its use whether or not the Tenant is the person on whom either the Legislative Requirement or such condition is imposed; and
 - (ii) complete before the determination of the Term any work required to be done to the Property as a condition to a Legislative Consent that the Tenant has begun to implement.
- (b) The Tenant will not:
 - (i) do anything on or in relation to the Property that breaches a Legislative Requirement affecting other premises owned or occupied by the Landlord; or
 - (ii) enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 in relation to the Property; or
 - (iii) serve a notice, or counter-notice, under the Party Wall etc Act 1996; or
 - (iv) serve a notice relating to the Property under part VI of the Town and Country Planning Act 1990; or
 - (v) (unless it is required to comply with a Legislative Requirement or to carry out an alteration permitted under this lease or to implement the Permitted Use or to comply with its obligations in the PFI Contract) apply for a Legislative Consent relating to the Property.

3.9 Notices relating to Landlord's dealings

The Tenant will allow the Landlord to fix in a reasonable position on the exterior of the Property a notice relating to any dealing with the Landlord's Interest or any other interest superior to this lease and not remove or obscure it if such notice neither obstructs the Tenant's own signage nor diminishes the access of light and air to the Property in a material way.

3.10 Indemnity

The Tenant will indemnify the Landlord in accordance with the provisions contained in the PFI Contract.

3.11 Determination

At the determination of the Term the Tenant will comply with its obligations contained in the PFI Contract relating to Expiry Condition B Requirements (as defined in the PFI Contract and clauses 7.13.2 and 7.13.3 of the PFI Contract:

3.12 VAT

The Tenant will:

- (a) pay the VAT chargeable on sums due from the Tenant and any other consideration to be provided or deemed to be provided by the Tenant under this lease; and
- (b) where the Tenant agrees in this lease to reimburse the Landlord for a payment made by the Landlord, pay the Landlord an amount equal to the relevant VAT paid by the Landlord unless such VAT is recovered by the Landlord.

3.13 Land registration

The Tenant will, at its own expense, procure that it becomes registered at the Land Registry as proprietor of this lease and that any rights granted and reserved by this lease are properly noted against the affected titles and, as soon as practicable after such registration, will supply the Landlord with an official copy of the register relating to the title created by this lease showing the Tenant registered as proprietor.

3.14 Landlord's title

The Tenant will comply with all obligations referred to in clause 2.4 so far as any of them are capable of taking effect and relate to the Property or the exercise of rights granted by this lease.

3.15 Costs

- (a) The Tenant will pay the Landlord the costs and expenses properly incurred by the Landlord in connection with dealing with an application by the Tenant for an approval or consent under this lease (except where such application is held by the court to have been unlawfully refused).
- (b) The Tenant will pay to the Landlord on demand a 50% share of the entire properly incurred costs and expenses of obtaining the Survey.

4 LANDLORD'S OBLIGATIONS

4.1 No unlawful interruptions

The Landlord will allow the Tenant to enjoy the Property during the Term without any unlawful interruption by the Landlord or any person claiming under or in trust for the Landlord.

5 INSURANCE AND REINSTATEMENT

The Tenant shall comply with its obligations relating to provision of insurance for the property contained in clause 68 (Insurance) of the PFI Contract

6 AGREEMENTS

The parties agree as follows:

6.1 Notices

(a) Any notice to be given under this lease must be in writing and given in accordance with the notice procedures set out in clause 101 (Notices) in the PFI Contract.

6.2 Easements and rights

(a) Section 62 of the Law of Property Act 1925 does not operate in relation to this lease.

(b) The only rights granted to the Tenant are those expressly set out in this lease.

(c) The Landlord may use or allow to be used or carry out or allow works to nearby premises (including the erection of scaffolding) even if any light or any other facility enjoyed by the Property is adversely affected by them.

6.3 Landlord's consents and approvals

(a) The Landlord will not be obliged to consider an application for its consent or approval under this lease until:

(i) it has been supplied with all information it properly requires in order to determine the application; and

(ii) it holds either a solicitor's undertaking to pay the Landlord an amount that the Landlord reasonably estimates its costs and expenses under clause 3.15 would be or a payment in cleared funds of such amount to be held by the Landlord on account of such costs.

- (b) Any consent or approval of the Landlord required under this lease:
- (i) must be obtained before the matter to which it relates is carried out;
 - (ii) is effective only if it is given in writing and, where so specified, by deed;
 - (iii) is only effective if any necessary consent from any superior landlord and any mortgagee of the Landlord's Interest or any other interest in the Property superior to this lease has been obtained; and
 - (iv) (unless otherwise stated) is not to be unreasonably withheld or delayed but may be issued subject to proper and reasonable conditions.

6.4 VAT

Unless stated otherwise, any sum to be paid or consideration to be provided or deemed to be provided under this lease is exclusive of VAT.

6.5 Jurisdiction

This lease and any matter arising from it are to be governed by and interpreted in accordance with English law. The parties agree to submit to the exclusive jurisdiction of the English courts in relation to this lease and any such matter.

6.6 New tenancy

For the purposes of the 1995 Act this lease is a new tenancy.

6.7 Third party rights

A person who is not party to this lease has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This clause does not affect any right or remedy of any person which exists or is available otherwise than under that Act.

6.8 Accidents

Except to the extent stipulated by law, the Landlord is not liable for any loss sustained by the Tenant or any Invitee in the Property unless it is due to the direct act or omission of the Landlord or a person acting in accordance with the Landlord's instructions.

6.9 Severance

If any term of this lease is held to be illegal or unenforceable to any extent, then that term will be deemed not to form part of this lease to that extent and the remainder of this lease will be unaffected.

6.10 Exclusion of warranties

- (a) The Tenant confirms that it is not entering into this lease in reliance on any representation or warranty given by or on behalf of the Landlord other than any made in writing by the Landlord's solicitors to the Tenant's solicitors.
- (b) The Landlord does not warrant that the law allows the Property to be used for any purpose (including the Permitted Use) or that the Property is in repair or free from defects.

6.11 Continuation

The determination of the Term does not affect the enforceability of any outstanding obligation under this lease.

6.12 Data protection

Where appropriate under the Data Protection Act 1998 the Tenant:

- (a) acknowledges that information relating to this lease (including information relating to them and/or their respective personnel) may be held in electronic and other systems by the Landlord or by any managing agent retained by the Landlord for the purposes of the administration and enforcement of this lease and the management and disposal of the Landlord's Interest; and
- (b) agrees that such information may be used and, where necessary, disclosed to third parties for such purposes.

6.13 Delivery

This lease is executed as a deed and the parties intend that it is delivered today.

6.14 Compensation

Any statutory right of the Tenant or any undertenant to claim compensation from the Landlord on vacating the Property is excluded as far as the law allows.

6.15 Exclusion of security of tenure

- (a) Under section 38A(1) of the 1954 Act, the parties agree that the provisions of sections 24 to 28 (inclusive) of the 1954 Act are excluded in relation to the tenancy created by this lease.
- (b) Before today:

- (i) the Landlord served the notice ("**Notice**") referred to in section 38A(3)(a) of the 1954 Act on the Tenant in relation to the tenancy created by this lease; and
 - (ii) the Tenant or a person duly authorised by the Tenant made the statutory declaration ("**Declaration**") referred to in schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 in relation to the Notice.
- (c) Where the Declaration was made by a person other than the Tenant, the Tenant confirms that the declarant was duly authorised by the Tenant to make the Declaration on the Tenant's behalf.
- (d) In all respects relevant to the agreement to exclude security of tenure the form of this lease is the same as that which was in the parties' contemplation at the time of service of the Notice.

6.16 Determination of the Term

If the PFI Contract shall be terminated (for whatever reason) the Term shall immediately cease and determine but without prejudice to any rights either party may have against the other for any antecedent breach of this lease.

6.17 Yielding up at the end of the Lease

On the expiry or sooner termination of this Lease to give up vacant possession of the Property.

6.18 Dispute Determination

Clause 83 (Dispute Resolution Procedure) of the PFI Contract shall apply to this Lease.

6.19 Landlord's Capacity and Powers

The Landlord enters into this Lease solely in its capacity as a landowner in respect of the Property and not in any other capacity. Nothing in this Lease shall restrict the Landlord's powers or rights as a local authority, local planning authority or statutory body to perform any of its statutory functions.

The Common Seal of **ISLE OF WIGHT**)
COUNCIL was hereunto affixed in the presence)
of:

Authorised Signatory

EXECUTED as a DEED by)
)
)

acting by a Director/its duly authorised attorney)

Director/Attorney

Witness

Name of witness

Address

Occupation