DATED 20

PROPERTY MANAGEMENT AGREEMENT

BETWEEN

BOURNEMOUTH, CHRISTCHURCH & POOLE COUNCIL

and

[ ]

relating to the

COMMUNITY FACILITIES

at

WHITECLIFF PAVILION,
WHITECLIFF ROAD
POOLE
BH14 8DB

THIS AGREEMENT is dated 20

PARTIES

(1) **BOURNEMOUTH**, **CHRISTCHURCH & POOLE COUNCIL** of Town Hall, Bourne Avenue, Bournemouth, BH2 6DY ("**the Council"**).

(2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] OR [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] ("the Tenant Tenant")

BACKGROUND

(3) The Council is the owner of the Building which contains the Community Facilities.

(4) The Tenant is the tenant of part of the Building pursuant to the Lease and in consideration of the grant of rights to use the Community Facilities contained within the Lease the Tenant has agreed to provide the property management services for the Community Facilities.

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

Annual Meeting; a meeting to discuss, amongst other things, the Tenant's compliance with this agreement, the management of the Community Facilities, to consider proposals for Enhancements, to review charges for the following year and to review and revise the conditions of hire for the following year as per the example agenda at appendix 1 .

Base CPI Month: [month prior to PMA]

Base Management Fee: Five thousand pounds (£5000.00) per annum exclusive of VAT or as revised pursuant to clause 6.

Booking System: a system for the management of the bookings of the Sports Pitches and Community Facilities.

Building: the building known as the Pavilion, Whitecliff Recreation Ground, Poole which forms part of the Land registered at the Land Registry under title number DT383043

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Catastrophic Failure: a failure by the Tenant for whatever reason to maintain the Community Facilities in as safe and hygienic a condition as is required to enable the ongoing use by the public or any action by the Tenant, whether in relation to the Tenant's

Obligations and this agreement or otherwise, which in the reasonable opinion of the Authority's Authorised Representative has or may cause significant harm to the reputation of the Authority.

Café: the part of the Building occupied by the Tenant pursuant to the Lease and used as a café within use class A3 of the town & Country Planning (Use Classes) Order 1987

Community Facilities: means the public toilets, [community space[1]], changing rooms and other areas which form the part of the Building shown edged [ ] on the plan attached to this agreement.

Confidential Information: has the meaning given in clause [11]

Consistent Failure: the Council serving three Remediation Notices in a rolling six month period or three Default Notices in a rolling three month period. or the Tenant repeatedly breaching any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement.

Controller: as defined in the Data Protection Legislation

CPI: the Consumer Prices Index or any official index replacing it.

Cricket Season: April to September in each year

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Data Subject: as defined in the Data Protection Legislation.

Day: a period of 24 consecutive hours ending at 12.00 midnight.

Default Notice: a notice served by the Council in accordance with clause [3.4]

Enhancements: additional maintenance or works to the sports pitches to improve their quality above and beyond the current standards. Works to upgrade the sports pitches will be undertaken by the Council, at the Council's discretion and are to be solely at the cost of the Tenant.

Exit Management Plan: the plan set out in *Appendix [2]*.

Expert: has the meaning given in clause 25.

Expiry Date: [date the lease ends]

[1] This will be revised when the final design is known.

Football Season: September to March in each year

Force Majeure Event: has the meaning given in clause 9.

Lease: a lease of even date made between the Council and the Tenant demising the Cafe to the Tenant for a term of [ ] years.

Management Fee: The Base Management Fee and the Sports Charge Percentage together.

Minimum Operating Hours:

a. between 1 April and between 1 April and 30 September the hours of 10:00 to 16:00 Monday to Sunday
b. between 1 October to 31 March the hours of 10:00 to 14:00 on Saturdays and Sundays

Month: a calendar month.

Personal Data: as defined in the Data Protection Legislation.

Processor: as defined in the Data Protection Legislation.

Quarter Days: 25 March, 24 June, 29 September and 25 December

Restricted Hours: the times during which some or all of the Community Facilities must be kept and made available for use by those booking sports pitches, which are as follows:

(i) in the Football Season, four changing rooms and a match officials changing room must be available on Saturdays and Sundays between 07:00 and 18:00

in the Cricket season two changing rooms and a match officials changing room must be available on weekdays between 17:00 and 21:00 and on Saturdays and Sundays between 07:00 and 21:00

Remediation Notice: a notice served by the Authority in accordance with *Clause [12.2]* .

Review Date: [ ] and every anniversary of that date.

Sports Charge: the income received in respect of bookings for sports pitches and changing rooms.

Sports Charge Percentage: 30% of the Sports Charge

Tenant's Responsibilities: the responsibilities and obligations on the Tenant set out in Schedule One

Utility Costs: all costs in connection with the supply, use or removal of electricity, gas, water sewerage, heating and all other services and utilities to or from the Community Facilities.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Week: any period of seven consecutive days.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

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 any party shall include that party's personal representatives, successors and permitted assigns.

1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

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

1.11 A reference to **writing** or **written** does not include e-mail.

1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.13 References to a document in **agreed form** are to that document in the form agreed by the parties and initialled by or on their behalf for identification.

1.14 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.

1.15 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.

1.16 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.17 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. COMMENCEMENT AND DURATION

This agreement shall commence on the date of this agreement and shall continue, unless terminated earlier in accordance with clause 12, until the Expiry Date.

3. TENANT'S RESPONSIBILITIES

3.1 In consideration of the rights granted under the Lease and the payment of the Management Fee in accordance with clause 5 and 6 the Tenant will use all reasonable endeavours to carry out the Tenant's Responsibilities.

3.2 The Management Fee is to cover the cost of the Tenant carrying out the Tenant's Responsibilities and will not include the following items which will be payable separately and as agreed between the Council and the Tenant:

3.2.1 The cost of the water supply to the sports pitches as calculated by reference to the sub-meter.

3.2.2 Any costs incurred by the Tenant as a result of repairing insured damage to the extent that such costs are recovered by the Council under the insurance;

3.3 At the Council's discretion, a contribution towards any costs incurred in altering the Community Facilities to comply with changes in legislation.

3.4 The Council may enter the Community Facilities to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the Tenants Responsibilities set out in paragraphs 2 – 5 of Schedule One (Default Notice)

3.5 If the Tenant has not begun any works needed to remedy that breach within the timescales set out in Part two of Schedule One, then the Council may enter the Community Facilities and carry out the works required.

3.6 The costs incurred by the Council in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Council and payable on demand.

4. COUNCIL'S RESPONSIBILITIES

4.1 In consideration of the Tenant's responsibilities the Council will use all reasonable endeavours to carry out the Council's Responsibilities.

5. MANAGEMENT FEE

5.1 The Management Fee and any VAT in respect of it shall be deducted from the Sports Charge collected from the sports users by the Tenant in accordance with the Tenant's Responsibilities.

5.2 Provided that the Tenant has taken every opportunity to maximise the bookings of the sports pitches in the circumstances, If the Sports Charges collected in a single financial year in accordance with the Tenant's Responsibilities are insufficient to pay the Base Management Fee for that year then the Council will pay the balance of the Management Fee to the Tenant and any VAT in respect of it within 28 days of written demand.

6. REVIEW OF BASE MANAGEMENT FEE

6.1 In this clause, the President is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf (**President**), and the Surveyor is the independent valuer appointed pursuant to clause [6.10] (**Surveyor**).

6.2 The Base Management Fee shall be reviewed on each Review Date to equal £5000.00 per annum or, if greater, the indexed Base Management Fee determined pursuant to this clause.

6.3 The indexed fee for a Review Date shall be determined by multiplying the Base Management Fee by the All Items index value of the CPI for the month of [ ] before the month in which that Review Date falls, then dividing the product by the All Items index value of the CPI for the Base CPI Month.

6.4 The Council shall calculate the indexed Management Fee as soon as reasonably practicable and shall give the Tenant written notice of the indexed Management Fee as soon as it has been calculated.

6.5 Subject to clause [6.7], if there is any change to the methods used to compile the CPI, including any change to the items from which the All Items index of the CPI is compiled, or if the reference base used to compile the CPI changes, the calculation of the indexed rent shall be made taking into account the effect of this change.

6.6 The Council and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Management Fee if either:

6.6.1 the Council or the Tenant reasonably believes that any change referred to in clause [6.5] would fundamentally alter the calculation of the indexed rent in accordance with this clause 6, and has given notice to the other party of this belief; or

6.6.2 it becomes impossible or impracticable to calculate the indexed rent in accordance with this clause [6.]

This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the CPI. In default of agreement between the Council and the Tenant on an alternative mechanism for setting the Management Fee, the Surveyor shall determine an alternative mechanism.

6.7 The Surveyor shall determine a question, dispute or disagreement that arises between the parties in the following circumstances:

6.7.1 where any question or dispute arises between the parties as to the amount of the Management Fee payable or as to the interpretation, application or effect of any part of this clause [6;] or

6.7.2 where the Council and the Tenant fail to reach agreement under clause 6.6.

The Surveyor shall have full power to determine the question, dispute or disagreement, and shall have power to determine any issue involving the interpretation of any provision of this lease, his jurisdiction to determine the question, dispute or disagreement referred to him or his terms of reference. When determining such a question, dispute or disagreement, the Surveyor may, if he considers it appropriate, specify that an alternative mechanism for setting the Management Fee should apply to this lease, and this includes (but is not limited to) substituting an alternative index for the CPI.

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

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

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

6.11 Either the Council or the Tenant may apply to the President to discharge the Surveyor if the Surveyor:

6.11.1 dies;

6.11.2 becomes unwilling or incapable of acting; or

6.11.3 unreasonably delays in making any determination.

Clause 6.8 shall then apply in relation to the appointment of a replacement.

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

7 INTEREST

7.11 If the Tenant fails to make any payment due to the Council under this agreement by the due date for payment, then, without limiting the Council's remedies under clause 10 the Tenant shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Tenant shall pay the interest together with the overdue amount.

7.12 In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from 5 days after the dispute is resolved until payment.

8 SET-OFF

All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9 FORCE MAJEURE

9.11 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

9.11.1 acts of God, flood, drought, earthquake or other natural disaster;

9.11.2 epidemic or pandemic;

9.11.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

9.11.4 nuclear, chemical or biological contamination or sonic boom;

9.11.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

9.11.6 collapse of buildings, fire, explosion or accident; and

9.11.7 any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);

9.11.8 non-performance by Tenants or subTenants (other than by companies in the same group as the party seeking to rely on this clause); and

9.11.9 interruption or failure of utility service.

9.12 Provided it has complied with clause [9.4], if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

9.13 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

9.14 The Affected Party shall:

9.14.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than 10 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, it’s likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

9.14.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

9.15 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 8 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 6 week’s written notice to the Affected Party.

10 ASSIGNMENT AND OTHER DEALINGS

10.1 Neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement.

11 CONFIDENTIALITY

11.1 Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or Tenants of the other party except as permitted by clause [11.2.]

11.2 Each party may disclose the other party's confidential information:

11.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause [11]; and

11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

12 TERMINATION

12.1 Without affecting any other right or remedy available to it, the Council may terminate this agreement with immediate effect by giving written notice to the Tenant if:

12.1.1 the Tenant fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 28 days after being notified in writing to make such payment;

12.1.2 the Tenant commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing (**Remediation Notice)** to do so

12.1.3 If a Consistent Failure has occurred;

12.2 If a Catastrophic Failure has occurred; If the Lease is terminated for any reason prior to the Expiry Date then this agreement shall automatically cease and determine with effect from the date of termination of the Lease.

12.3 In the event of a termination the provisions of the Exit Management Plan will apply.

13 CONSEQUENCES OF TERMINATION

13.1 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

13.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

14 ANNOUNCEMENTS

No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

15 VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16 WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17 SEVERANCE

17.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

17.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid

and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

18 LANGUAGE

18.1 This agreement is drafted in the English language. If this agreement is translated into any other language, the English language version shall prevail.

19 NO PARTNERSHIP OR AGENCY

19.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

19.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

20 NOTICES

20.1 A notice given to a party under or in connection with this agreement:

20.1.1 shall be in writing and in English

20.1.2 shall be signed by or on behalf of the party giving it;

20.1.3 shall be sent to the party for the attention of the contact and at the address listed in clause 20.2;

20.1.4 shall be sent by a method listed in clause 21.2; and

20.1.5 unless proved otherwise is deemed received as set out in clause 21.5 if prepared and sent in accordance with this clause.

20.2 The parties' addresses and contacts are as set out in this table:

Party	**Contact**	**Address**
Bournemouth, Christchurch and Poole Council		
Tenant		

20.3 A party may change its details given in the table in clause 20.2 by giving notice, the change taking effect for the party notified of the change at 9.00 am on the later of:

20.3.1 the date, if any, specified in the notice as the effective date for the change; or

20.3.2 the date five Business Days after deemed receipt of the notice.

20.4 This table sets out:

20.4.1 delivery methods for sending a notice to a party under this agreement; and

20.4.2 for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied and subject to the provisions in clause [20.5]:

Delivery method	**Deemed delivery date and time**
Delivery by hand.	On signature of a delivery receipt or at the time the notice is left at the address.
Pre-paid first class recorded delivery post or other next working day delivery service	9.00 am on the second Business Day after posting.

20.5 For the purpose of [clause 20.4] and calculating deemed receipt:

20.5.1 all references to time are to local time in the place of deemed receipt; and

20.5.2 if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

20.6 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.

20.7 A notice given under this agreement is not valid if sent by e-mail.

21 THIRD PARTY RIGHTS

21.1 Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

21.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

22 GOVERNING LAW

This agreement 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.

23 JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

24 EXPERT DETERMINATION

24.1 **Expert** means a person appointed in accordance with this clause to resolve a dispute under this Agreement.

24.2 The parties shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of his appointment.

24.3 If the parties are unable to agree on an Expert or the terms of his appointment within seven days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the Royal Institute of Chartered Surveyors to appoint an Expert surveyor of repute with relevant experience to the dispute.

24.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Expert.

24.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:

24.5.1 either party may apply to the Royal Institute of Chartered Surveyors to discharge the Expert and to appoint a replacement Expert with the required expertise; and

24.5.2 this clause shall apply to the new Expert as if he were the first Expert appointed.

24.6 All matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.

24.7 The parties are entitled to make submissions to the Expert including oral submissions and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

24.8 To the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate, including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination.

24.9 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.

24.10 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the dispute which may include any issue involving the interpretation of any provision of this Agreement, his jurisdiction to determine the matters and issues referred to him and/or his terms of reference. The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.

24.11 The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.

24.12 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.

24.13 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching his determination.

25 FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS

25.1 The Council has obligations and duties under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (each as amended and superseded from time to time).

25.2 The Tenant will facilitate the Council's compliance with the Council's obligations under these provisions and comply (at its own cost) with any reasonable request from the Council for that purpose. The Tenant understands and agrees that the Council may be required to provide information relating to this agreement or the Tenant to a third party in order to comply with its obligations under these provisions.

25.3 In respect of any information submitted by the Tenant in accordance with the Freedom of Information Act that it considers to be commercially sensitive, the Tenant should:-

25.3.1 clearly identify such information as commercially sensitive;

25.3.2 explain the potential implications of disclosure of such information; and

25.3.3 provide an estimate of the period of time during which the Tenant believes such information will remain commercially sensitive.

Where the Tenant identifies information as commercially sensitive, the Council will endeavour to maintain confidentiality. The Tenant should note, however, that even where information is identified as commercially sensitive the Council might be

required to disclose such information. Accordingly, the Council cannot guarantee that any information marked "commercially sensitive" will not be disclosed.

26 HUMAN RIGHTS ACT AND DISCRIMINATION

26.1 The Tenant will comply with the Equality Act 2010 (as amended and superseded from time to time) and any relevant codes of practice and best practice guidance issued by the Government and the appropriate agencies in the performance of its obligations under this agreement.

26.2 In addition, to clause [27.1], the Tenant will in the performance of its obligations under this agreement act as if the Tenant were a public authority for the purposes of the Human Rights Act 1998.

26.3 The Tenant will comply with the Council's Equality and Diversity Policy and Diversity Promise in force from time to time (available from the Council on request).

26.4 The Tenant will make all reasonable efforts to secure compliance with the provisions of this agreement by its officers, board, directors, secretaries, employees, agents and sub-Tenants employed in the execution of this agreement.

27 ENVIRONMENTAL IMPACT

27.1 The Tenant will seek to minimise the impact of its activities on the environment. by continually evaluating operations and ensuring they are as efficient as possible.

27.2 The Tenant shall meet or exceed all the environmental legislation which applies from time to time to the business operated at the Property and taking into account the sensitivity of the Property's location.

28 THE COUNCIL AS LOCAL AUTHORITY

Nothing contained in this agreement will prejudice, override, modify or in any other way affect the rights, powers, duties and obligations of the Council in the exercise of its statutory powers as a local authority.

29 DATA PROTECTION

29.1 The Tenant shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing or at any time. Such assistance may, at the discretion of the Council, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

29.2 The Tenant shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule 3, unless the Tenant is required to do otherwise by Law. If it is so required the Tenant shall promptly notify the Council before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures to ensure a level of security appropriate to the risks, including, as appropriate, the measures referred to in Article 32(1) of the GDPR, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:

(i) nature and scope as well as context and purposes of the data to be protected;

(ii) harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that:

(i) the Tenant's personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 3);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Tenant's duties under this clause;

(ii) are subject to appropriate confidentiality undertakings with the Tenant or any Sub-processor;

(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU or European Economic Area unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:

(i) the Council or the Tenant has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Tenant complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and

(iv) the Tenant complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;

(e) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Tenant is required by Law to retain the Personal Data.

29.3 Subject to clause 1.6, the Tenant shall notify the Council immediately if it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(f) becomes aware of a Data Loss Event.

29.4 The Tenant’s obligation to notify under clause 1.5 shall include the provision of further information to the Council in phases, as details become available.

29.5 Taking into account the nature of the processing, the Tenant shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.6 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:

(a) the Council with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

(c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Council following any Data Loss Event;

(e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

29.6 The Tenant shall maintain complete and accurate records and information to demonstrate its compliance with this clause under the obligation in Articles 28(3)(h) and 30(2) GDPR. This requirement does not apply where the Tenant employs fewer than 250 staff, unless:

(a) the Council determines that the processing is not occasional;

(b) the Council determines (or the Tenant is aware that) the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and/or

(c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

29.7 The Tenant shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.

29.8 The Tenant shall designate a data protection officer if required by the Data Protection Legislation.

29.9 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Tenant must:

(a) notify the Council in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Council;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 1.9 (c) such that they apply to the Sub-processor; and

(d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require.

29.10 The Tenant shall remain fully liable for all acts or omissions of any Sub-processor.

29.11 The Council may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement) per Articles 28(6), 28(7) and 28(8) GDPR.

29.12 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on notice to the Tenant amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

29.13 Without prejudice to the rest of this clause 1.13, the Tenant shall, in relation to any Personal Data processed in connection with the performance by the Tenant of its obligations under this agreement process that Personal Data only on the written instructions of the Council unless the Tenant is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Tenant to process Personal Data (Applicable Laws). Where the Tenant is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Tenant shall promptly notify the Council of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Tenant from so notifying the Council.

29.14 The Tenant shall fully indemnify the Council in respect of all losses, liabilities, claims, actions, proceedings, demands, costs, charges or expenses arising out of or in connection with any civil claim made in respect information subject to the Data Protection Legislation , which claims would not have arisen but for some act, omission or negligence in breach of this condition on the part of the Tenant, its employees, agents or any sub-contractor or anyone acting on its or their behalf.

29.15 The Parties agree that on the termination of the Agreement, the Processor and any Sub-Processor shall, at the choice of the Controller, return all personal data and copies thereof to the Council or shall destroy all the personal data and certify to the Council that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

29.16 The Tenant shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Processor who may have access to Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Personal Data, as strictly necessary for the purposes of the Contract, and to comply with Data Protection Legislation in the context of that individual's duties to the Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

Obligations after the termination of the Service

29.17 The provisions of this clause 1.17 shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

29.18 The Parties agree that on the termination of the provision of the Service, the Data Processor and any Sub-processor shall, at the choice of the Data Controller, return all the personal data transferred and the copies thereof to the Data Controller or shall destroy all the personal data and certify to the Data Controller that it has done so, unless legislation imposed upon the Data Processor prevents it from returning or destroying all or part of the personal data transferred. In that case, the Data Processor warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

30 AUDIT REQUIREMENTS

The Council has obligations and duties under the Audit Commission Act 1998, the Tenant will facilitate the Council's compliance with the Council's obligations under these provisions and comply (at its own cost) with any reasonable request from the Council for that purpose. If either the Council's internal or external auditors or if the Local Government Ombudsman wish to investigate this agreement then the Tenant will provide such information, access and co-operation as those persons may reasonably require.

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

SCHEDULE ONE

TENANT'S RESPONSIBILITIES

The Tenant is responsible for the day to day operation and ongoing management of the Community Facilities and in satisfaction of that obligation the Tenant hereby undertakes to carry out the following activities:

1. To attend the Annual Meeting.

2. To open the public toilets within the Community Facilities for the use of all users of Whitecliff recreation ground during the Minimum Operating Hours. In addition, the toilets are to be made available to the general public and pitch hirers at all times the sports pitches have been booked and whenever the Café is open PROVIDED THAT if, for any reason, the Tenant is unable to open the Community Facilities during the Minimum Operating Hours he will inform the Council at the earliest opportunity advising the Council of any alternative arrangements that will be put in place to ensure toilet facilities can be made available.

3. To keep the toilets within the Community Facilities clean and tidy with cleaning taking place at least once every day they are open and to inspect them regularly and at least twice every day when open to ensure that high standards of cleanliness and hygiene are maintained

4. To ensure a sufficient stock of suitable consumable items is available for use within the toilets which form part of the Community Facilities.

5. To keep the Community Facilities in good repair, condition and decoration, including replacement of fixtures and fittings where repair is not possible or is uneconomical, or is required to ensure compliance with changes in legislation

6. To deal with any damage or lack of repair, howsoever caused, in accordance with the repair timescale set out in Part Two of this Schedule One.

7. The Tenant will ensure that all requirements in relation to the provision and maintenance of a health and safety file are complied with and will provide the health and safety file to the Council upon request.

8. To ensure that all staff and others undertaking cleaning duties receive appropriate training in health and safety, including but not limited to the Control of Substances Hazardous to Health.

9 To pay all rates and taxes attributable to the Community Facilities and to pay all Utility Costs incurred in the operation of the Community Facilities.

10. The Tenant will be the single point of contact for all sports bookings.

10.1 Provide, publicise and administer a booking service for the sports pitches (which will include use of the Community Facilities) for all parties that wish to utilise these facilities. This will include taking sports pitch bookings which do not require changing room provision e.g. youth football.

10.2 The Tenant must ensure that sports bookings are dealt with in two business days calculated from receipt of the initial enquiry to confirmation. This key performance indicator will be monitored by the Council.

10.3 Where potential bookings of the Community Facilities conflict they should be confirmed in the following priority order:-

10.3.1 Bookings from sports clubs or organisations seeking to utilise the pitches in conjunction with the Community Facilities on multiple occasions through the relevant season;

10.3.2 Ad hoc bookings from those seeking to utilise the sports pitches in conjunction with the Community Facilities.

10.3.3 The Tenant may only hire the Community Facilities to a user who is not making a simultaneous sports pitch booking outside of the Restricted Hours. The Tenant can recover a hire charge for the use of the Community Facilities which is separate to the Sports Charge PROVIDED THAT the booking must be included in the record of community usage.

11. Implement its own invoicing system and, in conjunction with the Council, prepare conditions of hire for all bookings received.

11.1 The key provisions of the conditions of hire shall include:

- The scale of charges for hiring (which shall be no more than charged by the Council for similar facilities at other council owned venues)
- access to the Community Facilities,
- retention and handback of keys,
- state of cleanliness, use of showers,
- use of toilets,
- access to food and drink, etc.
- hirers' obligation to provide their own goal nets, corner flags, footballs, cricket ball, cricket stumps, as appropriate.
- A communication process where it is necessary to cancel the use of the sports pitches at short notice.

11.2 The conditions of hire must be publicised to all enquirers and provided to those hiring the Community Facilities upon confirmation of each booking.

11.3 Links and references to the condition of hire and the booking system will be provided on the Council's website.

12. Invoice all hirers directly and receive and hold all Sports Charges on trust for the Council.

13. Maintain a record of all sports pitch and Community Facilities enquiries and bookings throughout the financial year and submit details of usage (in particular bookings made and enquiries received) for the sports pitches and Community Facilities (including evidence of ongoing compliance with the requirements of 10.2) to the Council within 2 weeks of a Quarter Day.

14. Ensure that the details of the payments received in respect of the Sports Charges are included in the Café accounts (as submitted pursuant to the Lease) as a separate head of income.

15. Pay 70% of the Sports Charge less the quarterly Base Management Fee to the Council every quarter. The payment will be due within 14 days of receipt of invoice from the Council, which will be issued after submission of quarterly usage figures.

16 The Tenant shall ensure that the Community Facilities are accessible during the booking period for the sports pitches, providing access to the Community Facilities for 1 hour prior to and 1 hour following a sports match.

17. Develop business relationships with sports clubs/organisations in the local area to protect and improve sport and casual play on Whitecliff Recreation Ground.

18. Prioritise sports clubs/organisations seeking to utilise the sports pitches and changing rooms above other interested parties PROVIDED THAT the Council shall be entitled to take events bookings for Whitecliff recreation ground. For the duration of a Council booked event no sports bookings can take place without the prior approval of the Council

19. The Tenant shall fefuse bookings, in so far as is reasonable, that could bring the Council in to disrepute or cause nuisance to neighbouring properties.

Part 2

Timescales for Response Repairs

Categories

Emergency - Attended to and made safe within 24 hours

Urgent – To be dealt with before the Community Facilities are next used by the public or within 5 days

Routine – Within 20 working days

Emergency:	• A lack of cleanliness or unhygienic conditions • A serious pipe leak causing severe damage • A blockage where raw sewage is overflowing • Electrical faults where there is a danger of fire or injury • Broken glass in a door or window (make safe only) • Blocked toilet pan • No electricity supply • No mains water supply • Dangerous or exposed wires • No lights in the property. • An uncontrolled water burst (if cutting off the supply does not control the leak) • A severe leak through the roof • Anything capable of being a health hazard
Urgent Repairs –	• Putting glass in a door or window that

5 Working days	has been boarded up • Repairing a toilet that is not flushing where other toilets within the Community Facilities remain available for public use • Unblocking a hand basin where other toilets remain available for public use • Replacing the rubber cone in the toilet pan where other toilets within the Community Facilities remain available for public use • Repairing the overflow from the toilet cistern where other toilets within the Community Facilities remain available for public use • Checking the electrics after a water leak • Repairing a heating system
Routine Repairs – Within 20 working days	• All other items of a day to day repair nature and may include: - • Replacing glass in shared areas (if there is no immediate danger) • Replacing showers, wash basins, toilet pans and cisterns • Adjusting windows • Plastering/decorating where damage has been sustained or following a notice from the Council • Replacing wall and floor tiles (if there is no immediate danger) • Repairs to doors, locks and handles (unless a security issue) • Repairing or replacing skirting boards • Repairing or replacing window catches

SCHEDULE TWO
COUNCIL'S RESPONSIBILITIES

1. Maintain the sports pitches to a fair, reasonable and fit-for-purpose standard.

2. Provide a schedule of programmed maintenance for the sports pitches, for information purposes.

3. Invoice the Tenant quarterly for monies owed to the Council in respect of the Sports Charge

4. Remove the goals from the sports pitches at the end of the season and store, as appropriate.

5. Maintain the public areas of Whitecliff Recreation Ground.

6. Manage all event bookings on Whitecliff Recreation Ground and notify the Tenant as soon as possible upon receipt of an event booking which will utilise some or all of the sports pitches upon the recreation ground.

7. Provide the contact details of the Tenant to all event organisers who may wish to book the Community Facilities during the event.

SCHEDULE 3

SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. The Tenant shall comply with any written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Schedule.

PROCESSING BY THE TENANT

A. Scope Description Details

The Tenant is responsible for processing the bookings relating to the hire fo the Community Facilities.

B. Duration of the processing

For so long as the Property management Agreement is in effect.

C. Nature and purposes of the processing

To record data about the hirers in elation to their hiring of the Community Facilities, regarding conditions of hire and subsequent invoicing.

D. Type(s) of Personal Data

Name of hirer, address, phone numbers, emails.

E. Categories of Data Subject

Hires may include members of the public, community groups, personal trainers, sports clubs and activity Tenants.

F. Termination Provision

Plan for return and destruction of the data once the processing is complete UNLESS there is a requirement under EU or member state law to preserve that type of data or at the written

direction of the Council, the Tenant shall delete or return Personal Data and copies thereof to the Council on termination of the agreement unless required by Applicable Law to store the Personal Data

One year after the termination of the Property Management Agreement.

The data will only be passed to the Council in the event that the Tenant is in breach of the agreement and the council have to regain operation of the Community Facilities during the term.
In this case the Council will require the contact details of the hirers to provide them with details of future hire arrangements which would then fall under the Council's booking procedures.

ECTION

Signed on behalf of **Bournemouth, Christchurch and Poole Council** by:

Authorised Signatory

Signed on behalf of **[ ]**
by:

Authorised Signatory

Appendix One – Example Agenda

Whitecliff Pavilion

Annual review of café, public toilets and changing rooms management in line with the Property Management Agreement and Lease for the Cafe

	Item
1	Welcome and Introductions
2	Minutes from last meeting
3	Updates
4	Facility Maintenance
5	Review of Sports bookings – including usage of pitches, terms and conditions and hire fees
6	Review of Management Agreement and Lease including: Compliance with current legislation Compliance with environmental/recycling policies.
7	Marketing and promotion including the contribution to recreation and casual play.
8	Future plans
9	AOB
10	Date of next meeting

APPENDIX TWO - EXIT MANAGEMENT PLAN

1. DEFINITIONS AND INTERPRETATION

In this Appendix, the following definitions shall apply:

Assets:

Contract Period: from the date of the Agreement until the earlier of the Expiry Date or termination in accordance with clause [12] [ ]

Exclusive Assets: those Assets used by the Tenant or a key sub-Tenant exclusively in the provision of the Services

Non-Exclusive Assets:

Registers: the registers to be created and maintained pursuant to clause 2.1

Unless otherwise defined in this Appendix the definitions and interpretation Clauses in the Property Management Agreement shall apply to the words in this Appendix.

2. OBLIGATIONS DURING THE CONTRACT PERIOD TO FACILITATE EXIT

2.1. During the Contract Period the Tenant shall:

2.1.1 create and maintain a register of all Assets, detailing their:

2.1.1.1.1. make, model and asset number;

2.1.1.1.2. ownership and status as either Exclusive Assets or Non- Exclusive Assets;

2.1.1.1.3. use (including technical specifications); and

2.1.2 create and maintain a register of Sub-contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Tenants Responsibilities;

2.1.3 create and maintain a database detailing the technical infrastructure and operating procedures through which the Tenant fulfils the Tenant's Responsibilities, which shall contain sufficient detail to permit the Council to understand how the Tenant provides the services and to enable the smooth transition of the Tenant's Responsibilities with the minimum of disruption;

2.1.4 at all times keep the Registers (the Registers) up to date, in particular in the event that Assets, sub-contracts or other relevant agreements are added to or removed.

2.2. The Tenant shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Tenant's Responsibilities under this Agreement.

3. OTHER TERMINATION OBLIGATIONS

3.1. At the end of the Contract Period the Tenant shall:

3.1.1. cease to use the Personal Data;

3.1.2. provide the Council with a complete and uncorrupted version of the Personal Data in electronic form (or such other format as reasonably required by the Council);

3.1.3. erase from any computers, storage devices and storage media that are to be retained by the Tenant after the end of the Contract Period all Personal Data and promptly certify to the Council that it has completed such deletion;

3.1.4. vacate the Premises and

3.1.4.1. Arrange for the transfer to the Council of utility services supply contracts including water, gas, electricity, telephone and broadband;

3.1.4.2. Arrange for the transfer to the Council of property contracts including maintenance, repair, servicing, security and health and safety contracts and handover associated documentation;

3.1.4.3. Together with the Council's representative agree the inventory/asset register for the Premises and as required by the Council which items are to be removed or to remain in accordance with paragraphs [2 and 6];

4. ASSETS, SUB-CONTRACTS AND SOFTWARE

4.1. Following notice of termination of this Agreement the Tenant shall not, without the Council's prior written consent:

4.1.1. terminate, enter into or vary any sub-contract except to the extent that such change does not or will not affect the fulfilment of the Tenant's Responsibilities;

4.1.2. (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or

4.1.3. terminate, enter into or vary any licence for software in connection with the Services.

4.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Tenant pursuant to Paragraph 4.3, the Council shall provide written notice to the Tenant setting out which, if any,

4.2.1 of the Exclusive Assets the Council requires to be transferred to the Council

4.2.2 of the contracts the Council required to be transferred to the Council (The Transferring Contracts)

4.2. The Tenant shall as soon as reasonably practicable assign or procure the novation to the Council of the Transferring Contracts. The Tenant shall execute such documents and provide such other assistance as the Council reasonably requires to effect this novation or assignment.

4.3. The Tenant shall hold any Transferring Contracts on trust for the Council until such time as the transfer of the relevant Transferring Contract to the Council has been effected.

5 EMPLOYEES

5.1 The Tenant agrees that within 20 Working Days of the earliest of:

5.1.1 receipt of a notification from the Council of termination of the Agreement Transfer;

5.1.2 receipt of the giving of notice of early termination of this;; and

5.4.3 receipt of a written request of the Council at any time,

it shall provide to the Council for the purpose of TUPE and in a suitably anonymised format so as to comply with the Data Protection Act 2018, all employee liability information relating to the Tenant's employees engaged in providing services under this Agreement (**Employee Information**).

5.2 The Council shall be permitted to use and disclose the Employee Information provided by the Tenant for the purpose of informing any prospective Replacement Tenant.

5.3 The Tenant warrants that all Employee Information provided pursuant to clause 5.1 shall be true and accurate in all material respects at the time of providing the information.

5.4 The Tenant shall indemnify and keep indemnified the Council at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or:

5.4.1 arising from or relating to the provision of the Employee Information; and

5.4.2 as a result of any claim or demand by any employee or person claiming to be an employee on any date upon which the Contract is terminated or transferred to any third party arising out of their employment or its termination.

6 TRANSFER OF SOFTWARE & LICENCES RELATING TO BOOKING SYSTEM

[*provisions will be required to deal with the handover of all necessary software & licences relating to a computerised booking system upon termination.***]**

7. NON CHARGING

The Tenant shall not make any charges for the services provided by the Tenant pursuant to, and the Council shall not be obliged to pay for costs incurred by the Tenant in relation to its compliance with, this Appendix including the preparation and implementation of the Exit Plan.