

TORBAY COUNCIL

TORBAY COUNCIL TENANCY AGREEMENT FRONT SHEET

Agreement between

The Council of the Borough of Torbay of Town Hall, Torquay,
Devon, TQ1 3DR

And

[Insert name, registered office address and, where applicable,
the company number of the Landlord]

Relating to

Agreement Number and Name

TCCS6821 Provision of Temporary Accommodation

Date

[Insert the date when signed by both parties]

Commencement Date

[Insert the date on which the Agreement shall commence]

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This agreement is dated [] 2022

Parties

- (1) [] incorporated and registered in England and Wales with company number [] whose registered office is at [] (**Landlord**)
- (2) THE COUNCIL OF THE BOROUGH OF TORBAY of Town Hall, Castle Circus, Torquay, TQ1 3DR (**Tenant**)

Agreed terms

1. Interpretation

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

1.1 Definitions:

Completion Date: the date determined in accordance with clause 16.6.

Contents: the furniture, furnishings and any other items set out in the Inventory and Schedule of Condition that are provided by the Landlord.

HA 1988: Housing Act 1988.

HA 2004: Housing Act 2004.

HMO: a House in Multiple Occupation as defined by the HA 2004

Insured Risks: means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Landlord decides to insure from time to time and Insured Risk means any one of the Insured Risks.

Inventory and Schedule of Condition: the list of Contents and description of the condition of the Property attached to this agreement and signed by the parties.

Lawful Occupiers: those persons for whom the Tenant is providing temporary housing accommodation in accordance with the provisions of paragraphs 4 and or 6 of Schedule 1 of the Housing Act 1985.

LTA 1954: Landlord and Tenant Act 1954.

LTA 1985: Landlord and Tenant Act 1985.

New Lease: the lease of the Property (the terms of which are set out in clause 16.4) to be granted upon the exercise of the Option.

Option: the option granted by the Landlord to the Tenant by this clause.

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Option Notice: written notice exercising the Option in accordance with the terms of this clause.

Option Period: the period from and including the date of this lease up to and including []¹ 2022.

Property: all that freehold property known as [] and registered at HM Land Registry under title number [].

Rent: [£] per calendar month (being [£] per annum).

Rent Commencement Date: the date hereof.

Rent Payment Dates: the first day of each month.

Room: any room or other part or parts of the Property sublet by the Tenant to a Lawful Occupier and which for the avoidance of doubt is not provided for common use.

Subsidiary: a company or other legal entity wholly owned or controlled by the Council of the Borough of Torbay.

Tenancy: the tenancy created under this agreement and any statutory periodic tenancy arising under section 5(2) of the Housing Act 1988 or any contractual periodic tenancy that arises after the Term has expired.

Term: a fixed term of 12 months from and including [] 2021 and expiring on and including [] 2022.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause 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 legal and personal representatives, successors and permitted assigns.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

¹ The date being 3 months before the end of the term

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- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to an agreement is a reference to this agreement.
- 1.9 A reference to **writing** or **written** excludes fax and email.
- 1.10 Any reference to the giving of consent by the Landlord requires the consent to be given in writing, signed by the Landlord.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.12 References to clauses are to the clauses of this agreement.
- 1.13 A reference to the Landlord includes a reference to the person entitled to the immediate reversion to this Tenancy. A reference to the Tenant includes a reference to its successors in title and assigns.
- 1.14 Unless otherwise expressly provided, the obligations and liabilities of the parties under this agreement are joint and several. This means that where, for example, the Tenant is more than one person, they shall be liable for all sums due under the agreement, not just liable for a proportionate part.
- 1.15 The obligations of the Tenant arising by virtue of this agreement are owed to the Landlord. The obligations of the Landlord are owed to the Tenant.

2. Grant of the Tenancy

- 2.1 The Landlord lets the Property to the Tenant for the Term.

3. Contents

- 3.1 The Tenant shall keep the Contents in good and clean condition and shall return the Contents to the Landlord at the end of the Tenancy clean and in no worse state (except for fair wear and tear) as detailed on the Inventory and Schedule of Condition.
- 3.2 The Tenant is responsible for looking after the keys and any security device for the Property during the Tenancy. If the Tenant fails to do so, the Tenant is responsible for the reasonable costs properly incurred as a result.

4. Rent

- 4.1 The Tenant shall pay the Rent in advance on or before the Rent Payment Dates.

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- 4.2 The Tenant shall pay the first instalment of the Rent on the Rent Commencement Date being the proportion of the Rent calculated on a daily basis for the period from and including the Rent Commencement Date to and including the day before the next Rent Payment Date after the Rent Commencement Date.
- 4.3 The Tenant shall pay interest at the rate of 3% per annum above the Bank of England's base rate on any rent lawfully due that is paid more than 28 days after the date on which it became due. The interest shall be payable from the date the rent should have been paid until the date the rent is actually paid.
- 4.4 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use then, unless the damage or destruction was caused by the wilful actions, negligence or default of the Tenant or the Lawful Occupiers, payment of the Rent shall be suspended until the Property is fit for occupation and use.

5. Use of Property

- 5.1 The Tenant shall not occupy the Property itself and shall only use the Property as residential accommodation for the use of the Lawful Occupiers.
- 5.2 The Tenant shall not keep any pets or any other animals on or in the Property without the prior written consent of the Landlord (such consent not to be unreasonably withheld).
- 5.3 The Tenant shall not do anything to or on the Property that:
- (a) causes a nuisance, annoyance or damage to occupiers of neighbouring, adjoining or adjacent property, or the owners or occupiers of them;
 - (b) involves using the Property for immoral or illegal purposes; or
 - (c) has the effect of invalidating the insurance that the Landlord has taken out in accordance with clause 9.2. The Landlord shall provide the Tenant with a summary of the relevant insurance requirements.
- 5.4 The Tenant shall send the Landlord a copy of any notice or other communication affecting the Property within fourteen days of receipt and shall not take any action regarding such notices or communications without the prior consent of the Landlord.

6. Assignment or subletting

- 6.1 Subject to clause 6.2 and clause 6.3, the Tenant shall not assign, sublet, part with or share possession of the whole or any part of the Property.
- 6.2 The Tenant may grant short term tenancies to the Lawful Occupiers without the consent of the Landlord.

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6.3 The Tenant may assign this Tenancy to a Subsidiary without the consent of the Landlord.

7. Repairs cleaning and alterations

7.1 The Tenant shall keep the interior of the Property clean, tidy and in no worse state and condition as at the start of the Tenancy as evidenced by the Schedule of Condition (except for fair wear and tear).

7.2 The Tenant shall carry out a thorough clean of each Room after the end of each period of its occupation by a Lawful Occupier.

7.3 The Tenant shall promptly replace all broken glass at the Property where the Tenant, or the Lawful Occupiers or their visitors cause the breakage.

7.4 The Tenant shall not cause any blockage to the drains, gutters and pipes of the Property. This obligation does not require the Tenant to carry out any works or repairs for which the Landlord is liable under clause 9.5.

7.5 The Tenant shall not make any alteration, addition, or redecorate the Property without the prior consent of the Landlord (such consent not to be unreasonably withheld).

8. Utilities and outgoings

8.1 The Tenant shall pay all charges for gas, electricity, water and sewerage services.

8.2 The Tenant shall comply with all laws of the relevant suppliers relating to the use of those services and utilities.

8.3 Where the Tenant allows, either by default of payment or specific instruction, the utility or other services to be cut off, the Tenant shall pay the costs associated with reconnecting or resuming those services.

8.4 The Tenant shall pay to the relevant local authority the Council tax for the Property.

8.5 If any of the costs in this clause are payable in relation to the Property together with other property, the Tenant shall pay a fair proportion of all those costs.

9. Landlord's covenants

9.1 The Landlord shall provide the Tenant with suitable means of access to and egress from the Property.

9.2 The Landlord shall insure the Property and Contents to their full value against loss or damage by the Insured Risks and shall provide a copy of the insurance cover to the Tenant on request.

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- 9.3 The Landlord shall make good any damage caused by an Insured Risk, unless the damage was caused by the wilful actions, negligence or default of the Tenant or the Lawful Occupiers.
- 9.4 The Landlord shall allow the Tenant quiet enjoyment of the Property without any interruption by the Landlord.
- 9.5 In accordance with section 11 of the LTA 1985 and notwithstanding section 14 of the LTA 1985, the Landlord shall:
- (a) keep in repair the structure and exterior of the Property (including drains, external pipes, gutters and external windows);
 - (b) keep in repair and proper working order the installations in the Property for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity); and
 - (c) keep in repair and proper working order the installations in the Property for space heating and heating water.
- 9.6 Without prejudice to clause 9.5 the Landlord shall carry out any works or repairs required in relation to Emergency Repairs, Urgent Repairs, First Priority Routine Repairs or Second Priority Routine Repairs as set out as follows:
- (a) "Emergency Repairs" means repairs needed to the Property as a result of damage caused by the total loss of electricity, gas or water supply, flooding, severe storm damage, blocked or ruptured drains or any other defect with or repair needed to the Property which would put the health safety or security of the Tenant, the Lawful Occupier or anyone else staying at or visiting the Property in immediate risk or danger or which would adversely affect the structure of the Property and therefore make the Property uninhabitable by the Tenant or any Lawful Occupier. Such repairs are to be carried out immediately by the Landlord or their agent as soon as the Landlord is made aware that they are required to the Property by the Tenant save for in instances where the failure of the electricity, water or gas supplies requires work to be carried out by the relevant utility company to the Property in which case such work must be done before the Landlord or his/her agent can carry out any works to or at the Property which are required in order to restore the relevant supply.
 - (b) "Urgent Repairs" means repairs needed to the Property as a result of a partial loss of electricity, water, or gas supply, rotten floorboards or stair treads, defective overflows, minor electrical faults, roof leaks, blocked gutters or severe dampness or such other defects which in the opinion of the Tenant should be classed as such repairs, these repairs must be carried out by the Landlord or his/her agent within 5 working days from the date on which the Landlord is made aware that they are required to the Property by the Tenant.
 - (c) "First Priority Routine Repairs" means repairs needed to the Property which need to be carried out to it but do not prevent the Tenant, any Lawful Occupier or any visitors from

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staying at or visiting the Property, such repairs must be carried out by the Landlord or his/her agent within 20 working days from the date on which the Landlord is made aware that they are required to the Property by the Tenant. Such repairs will include but not be limited to repairs to external walls, fences and paths, walls, brickwork, slates/tiles, plaster, repairs to gutters and down pipes and the cutting, pollarding and removal of trees and shrubs.

- (d) "Second Priority Routine Repairs" means repairs needed to the Property which need to be carried out to it but do not prevent the Tenant, any Lawful Occupier or any visitors from staying at or visiting the Property, such repairs to be carried out by the Landlord or his/her agent within 30 workingdays from the date on which the Landlord is made aware that they are required to the Property by the Tenant. Such repairs will include but not be limited to the renewal of baths, basins or toilets, the repair or replacement of gates at the Property.

9.7 The Landlord shall ensure that:

- (a) the Property complies with all applicable fire safety standards and that it contains fitted and fully operational smoke detectors throughout the Term;
- (b) all electrical and gas installations in on or at the Property are tested on a regular basis and comply with all applicable safety standards; and
- (c) every gas appliance (if any) in the Property has an up to date Gas Safety Certificate.

9.8 The Landlord shall not be required to:

- (a) carry out any works or repairs for which the Tenant is liable by virtue of this agreement; or
- (b) keep in repair or maintain anything which the Tenant is entitled to remove from the Property.

9.9 The Landlord shall keep in repair the cooker, washing machine, tumble dryer, fridge, freezer and dishwasher (if and to the extent that these appliances are at the Property and provided by the Landlord).

10. Default of Repairing Obligations by the Landlord

10.1 If the Landlord fails to carry out its responsibilities under clauses 9.5 and 9.6 of this agreement after receiving reasonable notice from the Tenant and do any works or repairs required in accordance with those clauses then the Tenant shall be entitled to carry out all necessary works or repairs needed to the Property in its reasonable opinion and all costs incurred by the Tenant in carrying out the said works or repairs shall be immediately repayable by the Landlord to the Tenant and shall be treated as a debt owed to the Tenant by the Landlord.

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11. Default by the Tenant

- 11.1 The Landlord reserves the right to re-enter the Property if:
- (a) the Rent is unpaid 28 days after becoming payable whether it has been formally demanded or not;
 - (b) the Tenant has breached the agreement; or
- 11.2 If the Landlord re-enters the Property pursuant to this clause, then the Tenancy shall immediately end. Any right or remedy of the Landlord in respect of any breach of the terms of this agreement by the Tenant shall remain in force.
- 11.3 If the Tenant breaches this agreement or fails to fulfil any of its obligations under this agreement, the Tenant shall pay any reasonable costs properly incurred by the Landlord in remedying such breaches or in connection with the enforcement of those obligations.

12. Landlord's right to enter the Property and to display signs

- 12.1 The Landlord reserves the right for the Landlord, or any person acting on behalf of the Landlord, to enter the Property on giving at least 48 hours' prior notice in writing to the Tenant:
- (a) to inspect the condition and state of repair of the Property;
 - (b) to carry out the Landlord's obligations under this agreement;
 - (c) to take gas, electricity or water meter readings; and
 - (d) for any purpose mentioned in this Tenancy or connected with the Landlord's interest in the Property or any other property.
- 12.2 The Landlord has the right to retain a set of keys to the Property which shall only be used in accordance with clause 12.1 (except in an emergency).

13. Expiry of the Tenancy

- 13.1 At the end of this Tenancy (howsoever determined), the Tenant shall return the Property and the Contents to the Landlord in the condition required by this agreement.
- 13.2 The Tenant shall remove all personal possessions from the Property once the Tenancy has ended. If any of the Tenant's personal possessions are left at the Property after the Tenancy has ended, the Landlord shall remove and store the possessions for a maximum of one month. The Landlord shall take reasonable steps to notify the Tenant at the last known address. If the items are not collected within one month, the Landlord may dispose of the items.

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14. Notices

- 14.1 Any notice to the Landlord sent under or in connection with this agreement shall be deemed to have been properly served if:
- (a) sent by first class post to the Landlord's address given in clause 14.4; or
 - (b) left at the Landlord's address given in clause 14.4.
- 14.2 Any notice sent to the Tenant under or in connection with this agreement shall be deemed to have been properly served if:
- (a) sent by first class post to [the Property;
 - (b) left at the Property.
- 14.3 If a notice is given in accordance with clause 14.1 or clause 14.2, it shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address; or
 - (b) if sent by first-class post, on the second Working Day after posting.
- 14.4 The Landlord's address for service is 312 Torquay Rd, Preston, Paignton TQ3 2DZ.
- 14.5 The Tenant's address for service is Housing Options, Town Hall, Castle Circus, Torquay TR1 3DR (marked for the attention of Lisa Furse or such other person as the Tenant shall notify in writing to the Landlord).

15. HMO Licence

- 15.1 The Landlord warrants that the Property is suitable to be used as an HMO.
- 15.2 The Landlord shall obtain and maintain throughout the Term, any necessary HMO licence and will pay the cost of obtaining such licence.
- 15.3 The Landlord shall carry out any necessary works to the Property to ensure that the Property continues to meet the relevant HMO requirements.
- 15.4 The Tenant shall comply with the Management of Houses in Multiple Occupation (England) Regulations 2006.

16. Option to renew

- 16.1 The Landlord grants the Tenant, during the Option Period, an option to take the New Lease.

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16.2 The Tenant may exercise the Option at any time during the Option Period by serving an Option Notice on the Landlord. The Option Notice must:

- (a) be given in accordance with clause 16 of this lease; and
- (b) exercise the Option in respect of the whole of the Property and not in respect of part only.

16.3 If the Option is exercised in accordance with the terms of this clause, the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord the New Lease, provided that:

- (a) the Tenant cannot require the Landlord to grant the New Lease to any person other than the Tenant or a Subsidiary; and
- (b) no premium is payable for the grant of the New Lease.

16.4 The New Lease shall:

- (a) include all of the terms, requirements, covenants and conditions contained in this lease except to the extent that they are inconsistent with the terms of this clause;
- (b) be for a term of years beginning on and including [] 2022 and ending on and including [] 2023;
- (c) be at a monthly rent of [£]; and
- (d) not include an option to renew the New Lease.

16.5 The Landlord shall grant the New Lease with full title guarantee.

16.6 Completion of the New Lease shall take place on the date twenty working days after the date of service of the Option Notice.

16.7 If the Option is not exercised in accordance with the terms of this clause then, immediately after the expiry of the Option Period, the Tenant shall remove all entries relating to the Option registered against the Landlord's title to the Property.

17. Indemnity

17.1 The Landlord to fully and effectively indemnify the Tenant and any servant or agent of the Tenant against all liabilities claims actions demands damages proceedings costs charges or expenses which may be incurred by or made against the Tenant and any servant or agent of the Tenant in respect of sickness or personal injury (including injury resulting in death) or loss of or damage to any property by reason of or in any way connected directly or indirectly with this Tenancy or the performance of it other than those arising from the negligence of the Tenant its servants or agents.

17.2 The Landlord to effect and maintain throughout the Term with an insurance company or companies of repute a policy or policies of insurance (subject to such insurance being available from a

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reputable insurer) covering all the matters which are the subject of the indemnities and undertakings herein and evidence that the insurance cover is in place shall be produced to the Tenant upon request. The minimum level of such insurance shall be £5m but it remains the responsibility of the Landlord having taken any necessary professional advice to determine the appropriate level of cover having regard to the nature of its occupation and the perceived level of risk. The Landlord shall annually review the adequacy of the level of cover.

- 17.3 The Landlord to observe and perform the matters to which this Property is subject and to indemnify and keep indemnified the Tenant against all damages losses damage costs expenses actions demands proceedings claims and liabilities made against or suffered or incurred by the Tenant arising directly or indirectly out of any breach non-observance or non-performance of the covenants conditions or other provisions of this lease or any of the matters to which the Property is subject.

18. 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.

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

[Type here]

Schedule 1 Rights

None.

Schedule 2 Reservations

None.

[Type here]

Executed as deed by [] acting by [] a director,
in the presence of:

.....

Director

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

Executed as a Deed by)
affixing the COMMON)
SEAL of **THE COUNCIL OF**)
THE BOROUGH OF)
TORBAY)
In the presence of:)
)
)

.....

Proper Officer and

Authorised Signatory

SN:

[Type here]

ANNEX A INVENTORY AND SCHEDULE OF CONDITION