

DATED \_\_\_\_\_

2019

**DIOCESE OF MIDDLESBROUGH TRUSTEE**

NYMNPA

12/08/2019

- and -

**ELEANOR DOUGLASS**

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**LEASE**

- of -

Part of the Ground Floor of St. Hedda's Presbytery  
Egton Bridge

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The Diocesan Solicitor  
Diocese of Middlesbrough  
The Curial Office  
50a The Avenue  
Linthorpe  
Middlesbrough  
TS5 6QT

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**THIS LEASE** is dated

day of

2019

**PARTIES**

- (1) **DIOCESE OF MIDDLESBROUGH TRUSTEE** (incorporated and registered in England and Wales with company number 03482285) whose registered office is at The Curial Office, 50a The Avenue, Linthorpe, Middlesbrough TS5 6QT (“the **Landlord**”).
- (2) **ELEANOR DOUGLASS**, of 106 Westgate, Guisborough TS14 6AP (“the **Tenant**”).

**AGREED TERMS**

**1. INTERPRETATION**

- 1.1 The definitions and rules of interpretation set out in this clause apply to this lease.

**Access Corridor:** that part of the Presbytery and shown hatched green on the Plan.

**Annual Rent:** rent at an initial rate of £3,600 (three thousand six hundred pounds) per annum and thereafter as specified in clause 5.

**Break Notice:** written notice given by one party to the other to terminate this lease in accordance with clause 21.

**Contractual Term:** a term of 5 years beginning on [TBA] 2019 and ending on [TBA] 2024.

**Hours of Use:** means 7:00am to 7:00pm Monday to Friday.

**Landlord’s Contents Fixtures and Fittings:** the contents fixtures and fittings belonging to the Landlord in Schedule 2.

**Landlord's Neighbouring Property:** each and every part of the Presbytery and the adjoining and neighbouring property in which the Landlord has an interest known as St. Hedda’s R.C. Church.

**LTA 1954:** Landlord and Tenant Act 1954.

**Permitted Use:** use for the Tenant’s Business which is a children’s day nursery within Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

**Plan :** the plan attached to this lease.

**Presbytery:** St. Hedda's Presbytery.

**Property:** that part of the ground floor of the Presbytery edged red on the Plan.

**Rent Commencement Date:** 1<sup>st</sup> August 2019.

**Rent Payment Dates:** the first day of each calendar month in each year of the Contractual Term.

**Reservations:** all of the rights excepted, reserved and granted to the Landlord by this lease.

**Service Media:** all media for the supply or removal of heat, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

**Shared facilities:** means the kitchen and the toilet which are shown edged in blue on the Plan.

**Tenant's Business:** the business known as 'Little Teapots Nursery'.

**Third Party Rights:** all rights, covenants and restrictions affecting the Property other than personal covenants and referred to at the date of this lease in the property register of title number NYK317771 so far as the same are still subsisting and capable of being enforced.

- 1.2 A reference to this lease, except a reference to the date of this lease or to the grant of the lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.
- 1.3 A reference to the Landlord includes a reference to the person entitled from time to time to the immediate reversion to this lease. A reference to the Tenant includes a reference to its successors in title and assigns.
- 1.4 The expressions landlord covenant and tenant covenant each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.5 Unless the context otherwise requires, a reference to the Property is to the whole and any part of it.

- 1.6 A reference to the term is to the Contractual Term and statutory continuation of this lease.
- 1.7 A reference to the end of the term is to the end of the term however it ends.
- 1.8 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
- 1.9 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.10 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to that thing to be done and an obligation to use reasonable endeavours to prevent that thing being done by another person.
- 1.11 Unless the context otherwise requires, where the words include(s) or including are used in this lease, they are deemed to have the words "without limitation" following them.
- 1.12 A person includes a corporate or unincorporated body.
- 1.13 References to writing or written do not include faxes or email.
- 1.14 Clause and paragraph headings do not affect the interpretation of this lease.

## **2. GRANT**

- 2.1 The Landlord lets the Property to the Tenant during the Hours of Use for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying to the Landlord the Annual Rent.

**3. ANCILLARY RIGHTS**

3.1 Except as mentioned in clause 3.2, neither the grant of this lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Tenant may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.

3.2 The following rights are granted to the Tenant:

- (a) the right to pass on foot to and from the Property along the Access Corridor.
- (b) rights of air, light support and protection currently enjoyed by the Property
- (c) subject to there being adequate capacity, to the right to connect into the Service Media at the Landlord's Neighbouring Property which are in existence at the date of this lease or which are installed for construction during the period of 80 years from the commencement of the Term.
- (d) the right to use the Shared Facilities during the Hours of Use subject to the Tenant leaving the Shared Facilities clean and tidy at the end of the Hours of Use.

**4. RIGHTS EXCEPTED AND RESERVED**

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Landlord's Neighbouring Property:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) subject to there being adequate capacity, the right to use and to connect into Service Media at the Property which are in existence at the date of this lease or which are installed or constructed during the period of 80 years from the commencement of the term;
- (c) at any time during the term, the full and free right to develop the Landlord's Neighbouring Property as the Landlord may think fit;
- (d) the right to re-route any Service Media at or serving the Property or re-route any means of access to or egress from the Property

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or loss of amenity for the Property provided that they do not materially affect the use and enjoyment of the Property for the Permitted Use.

- 4.2 The Landlord reserves the right to enter the Property:
- (a) to repair, maintain or replace any Service Media or structure relating to any of the Reservations; and
  - (b) for any other purpose mentioned in:
    - (i) this lease; and
    - (ii) the Reservations.

4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.

4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which where practicable shall be in writing) to the Tenant.

4.5 The reservations set out above are subject to those exercising the rights reserved using reasonable endeavours to cause as little interference and disturbance to the Tenant and its use and occupation of the Property as possible and as little damage as possible to the Property and making good all damage caused to the reasonable satisfaction of the Tenant as soon as reasonably possible.

## **5. THE ANNUAL RENT**

5.1 The Annual Rent shall be calculated as follows: -

- (a) For year 1 and year 2 of the Contractual Term - £3,600 per annum
- (b) For year 3 and year 4 of the Contractual term - £3,900 per annum
- (c) For the final year of the Contractual Term - £4,200 per annum.

5.2 The Tenant shall pay the Annual Rent by twelve equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order to the account in Schedule 1 or by any other method that the Landlord reasonably requires at any time by giving notice in writing to the Tenant.

5.3 The first instalment of the Annual Rent shall be made on the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the period from the Rent Commencement Date until the day before the next Rent Payment Date.

## **6. INSURANCE**

6.1 The Landlord shall keep the Property insured against loss or damage by the usual risks for the full reinstatement cost.

6.2 The Tenant shall keep the contents and fixtures and fittings in the Property insured against loss or damage by the usual risks.

6.3 The Tenant shall:

- (a) give the Landlord notice immediately it becomes aware that any matter has occurred that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Property;
- (b) not do or omit anything as a result of which any policy of insurance of the Property or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor anything as a result of which any increased or additional insurance premium may become payable;
- (c) comply at all times with the requirements and recommendations of the insurers relating to the Property;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk or of any other event that might affect any insurance policy relating to the Property;

## **7. UTILITIES**

7.1 The Landlord shall pay all costs in connection with the supply and removal of water and sewage to or from the Property.

7.2 The Tenant shall pay all costs in connection with the supply of electricity to the Property.

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



**8. ASSIGNMENTS AND UNDERLETTINGS**

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or hold the lease on trust for any person.

**9. REPAIRS**

9.1 The Tenant shall keep the Property clean and tidy and in good repair and condition.

9.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an insured risk, unless and to the extent that the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them.

**10. DECORATION**

10.1 The Tenant shall decorate the inside of the Property as often as is reasonably necessary.

10.2 All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

**11. ALTERATIONS**

11.1 The Tenant shall not make any external or internal alteration or addition to the Property and shall not make any opening in any boundary structure of the Property.

11.2 The Tenant shall not install any Service Media on the exterior of the Property nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.

**12. SIGNS**

12.1 The Tenant shall not attach any Signs to the exterior of the Property or display any inside the Property so as to be seen from the outside except Signs of a design, size and number and in a position that are appropriate to the Property and the Permitted Use, without the consent of the Landlord, such consent not to be unreasonably withheld.

12.2 Before the end of the term, the Tenant shall remove any Signs placed by it at the Property and shall make good any damage caused to the Property by that removal.

**13. RETURNING THE PROPERTY TO THE LANDLORD**

13.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this lease.

13.2 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.

13.3 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.

**14. USE**

14.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.

14.2 If the Permitted Use shall constitute a change of use for which planning permission is required under the Town & Country Planning Act 1990 (as amended) then the Tenant shall not commence the Permitted Use until planning consent has been granted by the relevant local planning authority and a copy of such consent provided to the Landlord.

14.3 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, legal nuisance or inconvenience to the Landlord, its other tenants or any other owner or occupier of neighbouring property provided that it is agreed that the Tenant's use and occupation of the Property for the Permitted Use is not a breach of this provision under any circumstances.

**15. COMPLIANCE WITH LAWS**

15.1 The Tenant shall comply with all laws relating to:

- (a) the occupation of the Property by the Tenant and the Permitted Use;
- (b) the use of all Service Media and machinery and equipment at or serving the Property; and

(c) all materials kept at or disposed from the Property by the Tenant.

15.2 The Tenant shall not apply for any planning permission for the Property save as required by clause 14.2.

15.3 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.

15.4 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.

**16. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

16.1 The Tenant shall not grant any right or licence over the Property to a third party.

16.2 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall as soon as it is aware of the same:

(a) immediately give notice to the Landlord; and

(b) take all steps (including any proceedings) the Landlord reasonably requires at the cost of the Landlord to prevent or license the continuation of that encroachment or action.

**17. BREACH OF REPAIR AND MAINTENANCE OBLIGATION**

17.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this lease relating to the condition or repair of the Property.

17.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.

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

17.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights.

**18. INDEMNITY**

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) arising from any breach of any tenant covenants in this lease, or any act or omission of the Tenant or their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them.

**19. LANDLORD'S COVENANTS**

19.1 The Landlord covenants with the Tenant that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any lawful interruption by the Landlord or any person claiming under the Landlord.

19.2 The Landlord covenants with the Tenant that in the exercise of any of the rights reserved, the Landlord and those exercising the rights shall use all reasonable endeavours to cause as little interference and disturbance to the Tenant and its use and occupation of the Premises as is reasonably practicable and as little damage as possible and shall make good any damage caused to the reasonable satisfaction of the Tenant as soon as possible.

**20. RE-ENTRY AND FORFEITURE**

20.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:

- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) the Tenant achieves an OFSTED rating below 'Good' which in the reasonable opinion of the Landlord is unacceptable;
- (c) any material breach of any condition of, or tenant covenant, in this lease.

20.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant.

**21. BREAK CLAUSE**

- 21.1 The Landlord or the Tenant may determine this Lease in each year of the Contractual Term by serving a Break Notice on the other party on or before the start of the Summer Term as defined by the local education authority.
- 21.2 Following service of a Break Notice in accordance with clause 21.1 this lease shall terminate on the final day of the Summer Term as defined by the local education authority.
- 21.3 The Landlord may determine this Lease by serving a Break Notice on the Tenant at any time following the closure of St Hedda's RC Primary School.
- 21.4 Following service of a Break Notice in accordance with clause 21.3 this lease shall terminate on the date one month following the date of the Break Notice.

**22. USE OF THE PROPERTY BY CHURCH GROUPS**

- 22.1 The parties hereby acknowledge that the Property shall from time to time outside the Hours of Use be used by groups connected with the Church ("the Church Group"), for example in connection with Children's Liturgy.
- 22.2 The parties agree that such use shall continue at times to be agreed between the parties upon two weeks' prior notice given by the Church Group to the Tenant provided that Church Groups shall have no right to use the Property more than 6 times in every calendar year.
- 22.3 In the exercise of the use in 22.1 the parties acknowledge that the Church Group shall adhere to all rules and requirements reasonably imposed by the Tenant in connection with such occasional use of the Property including but not limited to rules relating to the locking up of the Property and the removal of all items brought into the Property at the cessation of such use.

**23. THE CHARITIES ACT 2011**

- 23.1 The Property is held by the Landlord in trust for the charity known as the Middlesbrough Diocesan Trust ("the Charity") which charity is not an exempt charity and the restrictions on disposition imposed by sections 117-121 of the Charities Act 2011 apply to the Property.
- 23.2 The Landlord certifies that as the sole corporate trustee of the Charity it has the powers under the trusts of the Charity to effect this disposition and that it has complied with sections 117-121 of the Charities Act 2011 as far as applicable to it.

**24. CATHOLIC NATURE OF THE PROPERTY**

The Property may not be used for any purpose which is contrary to the teachings of the Catholic Church or which could cause offence. At all times the Catholic nature of the Property and the Building must be respected. Any breach of this condition will mean that the use of the Property is withdrawn and the Landlord may terminate this lease in accordance with clause 20.1.

**25. GOVERNING LAW AND JURISDICTION**

25.1 This lease 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.

25.2 The parties irrevocably agree that in the first instance mediation shall be sought to settle any dispute or claim that arises out of or in connection with this lease or its subject matter or formation and only should such attempts at mediation fail then the courts of England and Wales shall have exclusive jurisdiction to settle such disputes or claims (including non-contractual disputes or claims).

**26. EXCLUSION OF SECTIONS 24-28 OF THE 1954 ACT**

26.1 The parties confirm that:

- (a) On 2 July 2019 the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the 1954 Act, applying to the tenancy created by this Lease, not less than 14 days before this Lease was entered into;
- (b) The Tenant made a simple declaration dated \_\_\_\_\_ 2019 in accordance with the requirements of section 38A(3)(b) of the 1954 Act; and
- (c) there is no agreement for Lease to which this Lease gives effect.

26.2 The parties agree that the provisions of sections 24 to 28 of the 1954 Act are excluded in relation to the tenancy created by this Lease

**27. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act.

**SCHEDULE 1**

Landlord's Bank Account

Account Number: 60001864

Sort Code: 20-56-90

Account Name: Diocese of Middlesbrough Egton Bridge and Lealholm Account

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## Schedule 2

### Landlord's Contents Fixtures and Fittings

- Boxed Cutlery
- Kitchen Units and Appliances
- Cutlery and Chinaware

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

Executed as a deed by

**DIOCESE OF MIDDLESBROUGH**  
**TRUSTEE** by affixing its common seal  
in the presence of:

.....

Director

.....

Director / Secretary

Executed as a deed by

**ELEANOR DOUGLASS**

.....

Witness:

Signature.....

Name.....

Address.....

DRAFT