

EMPTY HOMES LOAN SCHEME

1. INTRODUCTION

- 1.1 The purpose of this report is to consider the approval of the Empty Homes Loan Scheme and to approve initial funding to finance the pilot project, to be allocated from capital resources enhanced by the New Homes Bonus of £50,000.
- 1.2 If approval is given, this funding will be used to bring empty properties in the New Forest back into use either by repair or conversion.
- 1.3 These homes will then be leased through the Council's Private Sector Leasing Scheme (PSL). They will increase our supply of suitable, long term temporary housing as the Council will have 100% nomination rights to these properties during the term of the Agreement between the owner and the Council.
- 1.4 In addition, these properties will assist the Council to achieve Government targets to bring empty properties back into use.
- 1.5 The funding will also be used to repair empty properties as part of any Empty Dwelling Management Order. (This order requires the Council to undertake works on an empty property and let it until the cost of the work has been repaid via the rent.)
- 1.6 As the funding will be **loaned** to the owners of the empty properties any loaned monies will be returned to the Council to be recycled into future housing projects.

2. BACKGROUND

- 2.1 New Forest District Council (the Council) has a mandatory responsibility to receive and investigate applications from homeless persons and those threatened with homelessness.
- 2.2 As part of this activity, the Council is required to provide suitable accommodation for applicants who are owed a duty under the homelessness legislation and (where applicable) their families. Therefore, a reliable supply of good quality accommodation is needed to satisfy this constant demand.
- 2.3 The Council is required, under the Housing Act 2004 to reduce the number of empty properties in our area. Our success in this area will enhance our standing and increase the probability of the Council receiving funding under the terms of the New Homes Bonus. This deal has been introduced by the Coalition Government as an incentive for Councils to increase the supply of both new build homes and those brought back into use or created from conversion. Funding will be allocated to the most successful Councils.
- 2.4 Therefore, any activity we are able to undertake which will result in extra homes being created and filled by the ever increasing number of applicants will assist our community both locally and nationally.

3. OPTIONS

Option	Benefits	Costs
<p>1. Create a budget to be used to bring empty properties back into use.</p>	<ul style="list-style-type: none"> • We will increase the number of empty properties brought back into use (Govt requirement) • We will make more properties available to use as temporary accommodation, reducing the use of Bed and Breakfast • We will be able to demonstrate that we are ready and able to use any funding which may become available from Govt • Officers will be able to approach owners who would otherwise not be able to bring their property back into use • Request is for approval to Loan money which will eventually be returned to the Council for re-use. 	<ul style="list-style-type: none"> • Initial outlay of funding – therefore this money will not accrue interest for the Council. • Longer leases will increase the possibility of the Council having to pay out more money in order to return the property to the owner in good condition.
<p>2. Continue as we are. Create nothing new.</p>	<ul style="list-style-type: none"> • Funds will remain within the Council • No additional risk to the Council when properties are returned to the owner. 	<ul style="list-style-type: none"> • Bed and Breakfast costs may increase as the demand for temporary accommodation increases. • Council will not be able to compete for Govt funding if we do not demonstrate our ability to use any funding that may be offered. • The supply of temporary accommodation will reduce over time as we exhaust the supply of “up to standard” property

4. PROPOSALS

4.1 REDUCE THE COST TO THE BED AND BREAKFAST (B&B) BUDGET

Most families that the Council places in B&B accommodation qualify for Housing Benefit (HB). The amount of HB awarded in qualifying cases depends on the B&B charge and the family's income and circumstances.

The Council reclaims HB payments back from the Department for Work and Pensions (DWP). However, the DWP has set a limit on the amount of HB that Councils can reclaim in each B&B case. That limit is set at quite a low level and is based on the Local Housing Allowance figure for one-bedroom accommodation at January 2010. In the New Forest that results in a weekly maximum HB of £126.92 per week that the Council can reclaim from the DWP, irrespective of the amount of HB it has paid for a particular family's B&B accommodation.

The chart below shows the cost to the Council of housing homeless applicants in Bed and Breakfast accommodation.

	2007/08	2008/09	2009/10	2010/11	2011/12 1 st Quarter	2011/12 * Projection
HB cost	£123,301	£128,438	£122,325	£153,456	£50,940	£203,760
Subsidy	£44,697	£45,853	£49,924	£70,688	£19,452	£77,809
Cost to NFDC	£78,504	£82,585	£72,401	£82,768	£31,488	£125,951

*This is the best projection we are able to give. It is based on "year to date" projections which are accepted by the DWP.

The chart below shows how many households were accommodated in Bed and Breakfast accommodation during the same period.

	2007/08	2008/09	2009/10	2010/11	2011/12 1 st Quarter	2011/12 Projection
Households housed In bed and breakfast	69	77	62	73	28	112

From the information contained within these charts it is clear that the use of B&B, and the subsequent cost to the Council, is predicted to increase greatly during 2011/2012.

The Empty Homes Loan scheme proposed in this report would aim to increase the supply of temporary accommodation and therefore reduce the use of B&B and the cost to the Council.

4.2 OPERATION OF THE SCHEME

4.2.1 The proposed Empty Homes Loan scheme will require initial funding in the form of a Budget to be allocated and managed by the Strategic Housing Team, under the guidance of the Head of Housing. The funding will be used for necessary works which will either convert or upgrade empty property in accordance with agreed standards.

4.2.2 Once ready for occupation these homes will be included in the Council's PSL scheme.

- 4.2.3 The Empty Homes Loan shall be repaid in full by the owner (the Borrower), at an agreed monthly rate. Such payments shall be offset from the payments due to the owner (the Borrower) under the terms of the PSL Lease Agreement. (See Section 2.5.3 of the Empty Homes Loan Agreement, Members may see full details of the document on the Council's website designated as Appendix 1 to this report. Full details have not been reproduced with this report)
- 4.2.4 During the term of the loan the property will be only occupied by applicants requiring urgent, temporary accommodation. (These applicants would otherwise have had to be housed in Bed and Breakfast accommodation, thus incurring additional costs to the Council, as detailed above).
- 4.2.5 The Council's financial outlay will be protected firstly by a Land Registry Charge (as part of the Empty Homes Loan Agreement, Members may see full details of the document on the Council's website designated as Appendix 1 to this report) and secondly by the owner signing up to the PSL Agreement (Members may see full details of the document on the Council's website designated as Appendix 2 to this report. Full details have not been reproduced with this report). Both of these Agreements have been verified by the Council's Legal team.
- 4.2.6 At present, owners enter into an initial 2 year Leasing Agreement under the PSL scheme, with the option to renew annually after the 2 years have expired. To enable the funding to be repaid, it will be necessary to be able to offer owners a longer initial Agreement. However, this change needs to be considered as part of the overall proposal, as a longer Agreement increases the risk of the Council becoming liable to undertake more work to a property – and therefore incurring extra costs - before it is returned to the owner. This risk is considered in the Options chart at paragraph 3.
- 4.2.7 Repayment of the loan

WORKED EXAMPLE OF A LOAN

Property size	Amount loaned	Repaid at PSL rent level	Months needed To repay loan	Minimum Lease length required
2 bed	£10,000	£500pcm	20 months	2 years *
2 bed	£20,000	£500pcm	40 months	4 years *
3 bed	£10,000	£580pcm	17 months	2 years *
3 bed	£20,000	£580pcm	34 months	3 years *

*Owner will receive rent after the loan has been repaid. He/she will also be encouraged to renew the PSL Agreement after the initial Agreement has expired.

5. FINANCIAL IMPLICATIONS

- 5.1 £50,000 to be allocated from capital resources enhanced by the New Homes Bonus.
- 5.2 The proposed Scheme is **self-financing** as the Owner (the Borrower) does not receive any payment due under the terms of the PSL Agreement (Appendix 2 posted on the website) until the debt to the Council has been repaid in full. (Section 2.5.3 of the Empty Homes Loan Agreement, Appendix 1 on the website refers) Therefore, £50,000 will be **repaid** to the Council. (See repayment table at 4.2.7).

- 5.3 Savings to the Bed and Breakfast Budget. Applicants housed under this scheme would otherwise be a cost against that budget.

Between April 2007 and March 2011 the Bed and Breakfast costs remained fairly stable. However, the table at 4.1 shows the predicted cost for 2011 – 2012 as **£125,951.00**. This situation is serious and the funding requested will create extra homes to be occupied by applicants who would otherwise be accommodated in bed and breakfast.

6. CRIME AND DISORDER IMPLICATIONS

- 6.1 Empty properties are statistically at higher risk for multiple unlawful entries, criminal damage including arson. Bringing empty properties in need of repair back into the housing stock will reduce the risk of those properties being targeted unlawfully.

7. CONCLUSIONS

- 7.1 The Empty Homes Loan scheme will increase the supply of Housing in the New Forest. These homes will initially be used by the Council as temporary accommodation and will return to the private sector as good quality homes for the future.

8. PORTFOLIO HOLDER ENDORSEMENT

- 8.1 This proposal is an innovative way of increasing the Council's stock of leased accommodation which will be used for temporary housing. The use of such temporary housing will ensure that the use of bed and breakfast accommodation is minimised.

9. COMMENTS

9.1 HOUSING ASSET MANAGEMENT GROUP

The Housing Asset Management Group supports this proposal.

9.2 ASSET MANAGEMENT GROUP

Asset Management Group has recommended increasing the amount up to £75,000 (subject to Portfolio Holders' agreement).

9.3 EXECUTIVE MANAGEMENT TEAM

Executive Management Team supported the Scheme as proposed

10. RECOMMENDATION

- 10.1 That a pilot project be established to implement an Empty Homes Loan Scheme in the District. A review to be carried out after 12 months and the results of the Pilot be presented to the Community, Overview and Scrutiny Panel for an assessment prior to a further report to Cabinet in due course.

For Further Information Please Contact:

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(APPENDIX 1) Empty Home Loan

Dated _____ 2011

Loan Agreement

**in respect of
premises known as**

.....

Between

.....

and

**The District Council of New Forest of Appletree Court, Lyndhurst, Hants SO43
7PA**

and made BETWEEN:

- (1) The Person named in the Schedule of Particulars to this Agreement as the Borrower (the “Borrower”); and
- (2) The District Council of New Forest of Appletree Court, Lyndhurst, Hants SO43 7PA (the “Council”)

WHEREAS:

The Council have agreed, in accordance with its Private Sector Housing Financial Assistance Policy, approved by the Council on 6 July 2009 (as may be amended from time to time) and the Borrower has applied to the Council for a home improvement loan under such scheme.

SCHEDULE OF PARTICULARS

Borrower: (Full name)

(Address)

.....

.....

Property: (Address)

.....

(Post Code).....

Title Number of
H M Land Registry

Freehold/Leasehold

Prior Mortgagee

1. (Name)

(Address)

.....

.....

(Account No.)

2. (Name)

(Address)

.....

.....

(Account No.)

3. (Name)

(Address)

.....

.....

(Account No.)

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

“*Advance*” means an advance of or on account of the Loan made or to be made by the Council to the Building Contractor and/or Service Provider (as the case may be) on behalf of the Borrower under this Agreement

“*Business Day*” means a day (not being Saturday or Sunday) on which banks in London are open for business

“*Certifier*” means the person appointed by the Council and responsible for certifying Practical Completion and issuing the Completion Certificate

“*Completion Certificate*” means a certificate issued by the Certifier certifying the Works have reached Final Completion following satisfactory completion of the defects liability period of three months following Practical Completion

“*Building Contractor*” means the Building Contractor engaged by the Council, the Home Improvement Agency or as otherwise agreed by the Council to undertake the Works

“*Empty Homes Loan*” means a loan offered by the Council to owners of an empty property which has serious hazards and falls significantly short of the decent homes standard and therefore cannot be reasonably occupied. The loan must be used to remedy the aforementioned to a specification agreed with the Council and completed in accordance thereby rendering the Property fit for purpose

“*Council’s Leasing Scheme*” means the Private Sector Leasing Scheme operated by the Council, whereby owners lease their properties to the Council. The Council shall use the properties as temporary accommodation for applicants in serious housing need.

“*Encumbrance*” means any mortgage, charge (whether fixed or floating), pledge, lien or other encumbrance or security agreement or security or preferential arrangement of any kind

“*Eligible Fees*” means the following:

- (a) valuation fees up to a maximum as determined by the Council;
- (b) architects and surveyors fees up to a maximum as determined by the Council;
- (c) administrative costs of mortgage lenders as determined by the Council;
- (d) costs of the Home Improvement Agency as determined by the Council;
- (e) solicitors fees up to a maximum as determined by the Council;
- (f) land registry fees for the first registration of an unregistered property at Her Majesty Land Registry and/or land registry fees to register additional persons as owners of the Property and/or land registry fees to register the Legal Charge and any associated notices;
- (g) any other fee that the Council may from time to time consider to be an Eligible Fee

“*Eligible Works*” means such works to the Property as are reasonably foreseeable and determined by the Council as necessary in accordance with Clause 3.1 on a full inspection of the Property and as agreed with the Borrower, but excluding any works covered by the Borrower's buildings insurance

“*Event of Default*” means any of the events or circumstances described in Clause 14.1

“*Final Completion*” means the date on which the Works are satisfactorily complete, as determined by the Council, which shall in any event be at least three months from the date of Practical Completion and confirmed by the issue of the Completion Certificate

“*Financial Indebtedness*” means Indebtedness incurred in respect of any money borrowed or raised in respect of the Property

“*Home Improvement Agency*” means the agency or Building Surveyor appointed to administer the loan application process and facilitate the Works in accordance with this agreement on behalf of the Council

“*Indebtedness*” means any obligation for the payment or repayment of money, whether present or future, actual or contingent, sole or joint

“*Legal Charge*” means the charge given by the Borrower

“*Loan*” means the total sum of the loan payable by the Council to the Building Contractor and/or Service Provider on behalf of the Borrower in accordance with the terms and conditions set out in this Agreement to enable the Borrower to fund the cost of Works together with Eligible Fees and VAT

“*Loan Amount*” means, subject to Clause 11.3, the total cost of the Works plus Eligible Fees and VAT as specified in the Completion Certificate provided that such sum shall not exceed the Maximum Amount or the Increased Maximum Amount as the case may be

“*Maximum Amount*” means £30,000 including VAT and Eligible Fees and the administration costs involved in providing the Loan

“*Potential Default*” means any event which, with the giving of notice or any certificate or the lapse of time or the making of any determination or the satisfaction of any other condition (or any combination thereof), might constitute an Event of Default

“*Practical Completion*” means the date on which the Works are determined by the Certifier as being complete but subject to a three month defect liability period

“*Property*” means the Property referred to in the Schedule of Particulars in relation to which a Loan is granted by the Council for Eligible Works and which is not excluded by the operation of clause 4.3

“*Provisional Loan Amount*” means the total cost of the Eligible Works as determined by the Council together with all Eligible Fees and VAT

“*Related Document*” means any document or instrument required by this Agreement to be executed delivered or produced by the Borrower

“*Relevant Disposal*” means the sale or transfer of the whole or part of the freehold interest in the Property or an assignment of the lease or the grant of a long lease (being a lease over 21 years otherwise than at a rack rent) in connection with the Property

“*Schedule of Particulars*” means the schedule of particulars referred to above

“*Scheme*” means the scheme for the making of loans and advances referred to in the recital to this Agreement

“*Service Providers*” means any third party approved by the Council or the Home Improvement Agency to carry out services in connection with this Agreement but excluding the Building Contractor

“*Specification*” means the specification for the Eligible Works as determined by the Council

“*Sterling*” and “*£*” means the lawful currency of the United Kingdom

“*Unforeseen Works*” means any works other than Eligible Works

“Works” means together the Eligible Works and the Unforeseen Works.

1.2 Interpretation

1.2.1 In this Agreement, unless otherwise expressly provided, any reference to:

- (a) the Borrower and the Council shall be construed so as to include their respective successors and assigns from time to time;
- (b) a “person” shall be construed as a reference to any individual, firm, company, body corporate, government, state or state entity or any association or partnership (whether or not having separate legal personality) or any two or more of the foregoing;
- (c) this Agreement or any other document or instrument is a reference to this Agreement or that other document or instrument as the same may have been, or may from time to time be, amended or supplemented;
- (d) a Clause or a Schedule is a reference to a clause of or a Schedule to this Agreement;
- (e) any statutory provision shall include a reference to such provision as from time to time re-enacted, amended, extended or replaced.

1.2.2 In this Agreement, words importing the singular shall include the plural and vice versa.

1.2.3 Headings in this Agreement are for ease of reference only and shall not affect its interpretation.

2 THE LOAN

2.1 Subject to the terms and conditions of this Agreement the Council agrees to pay to the Building Contractor on behalf of the Borrower, the Building Contractor's costs properly incurred in connection with this Agreement the totality of which shall equal the Loan Amount.

2.2 The Council, or another organisation working in partnership with the Council, shall provide the monies referred to in Clause 2.1 to the Building Contractor on behalf of the Borrower. In the event that the Council is not the provider of all or part of the financial assistance the Council shall notify the Borrower of such alternative provider.

2.3 Subject to the Council's discretion, the following conditions shall apply:

2.3.1 Eligible Works must commence within 2 months from the date of this Agreement.

2.3.2 Practical Completion of the Works must be certified on or before (TBA).

2.4 Calculation for the amount of the maximum loan, subject to available funding:

2.4.1 Any loan will be subject to the property having at least £50,000 (fifty thousand pounds) in equity after all charges and mortgages, including the required loan amount, have been taken into account.

2.5 Period of the loan:

2.5.1 The maximum period of the loan will be 7 years.

2.5.2 Once the property has been renovated to the Council's satisfaction it must be placed for letting with the Council's Leasing Scheme.

2.5.3 The Loan shall be repaid by the Borrower at the rate of £..... per calendar month (and for the avoidance of doubt shall be free of interest). Such payments shall be offset from

the payments due to the Borrower under the terms of the Lease Agreement dated.....

3 PURPOSE

3.1 Advances shall be used by the Building Contractor for Works to the Property which Property is empty and will:

3.1.1 assist landlords to bring empty homes back into use or convert space over shops. These homes to be allocated to Housing Register applicants who are in urgent housing need through the Council's Leasing Scheme.

3.1.2 to fund the works necessary under the terms of an Empty Dwelling Management Order (2004 Housing Act)

4 CONDITIONS

4.1 Conditions for eligibility

The Council shall only be required to provide Advances in accordance with this Agreement provided that:

4.1.1 the Borrower is the legal owner of the Property and has provided such proof of ownership to the Council in accordance with the Council's procedures notified to the Borrower at the time; and

4.1.2 the Borrower has provided to the Council proof of identity in the form of a valid passport or other proof of identity as accepted by the Council from time to time and the Borrower's National Insurance Number; and

4.1.3 the property is within the area of New Forest District Council's responsibility; and

4.1.5 if requested by the Council, the Borrower shall have provided the Council with permission to contact all of the Borrower's existing creditors to seek details of all registered charges. In addition, a current statement of each loan or mortgage must have been provided to the Council if requested. If the Borrower is in arrears with any of its existing creditors the Council shall use its discretion in determining whether to grant the loan.

4.2 The Council's Head of Housing (or successor or replacement post) shall however have the ability to authorise Advances on behalf of the Council notwithstanding that the terms of this Agreement have not been complied with.

4.3 The Council is not required to provide Advances for any of the following properties:

4.3.1 any property with a commercial use, unless Planning Permission has been obtained for conversion into a residential property.

4.3.2 any property in shared ownership with a Registered Social Landlord or the Council; and

4.3.3 any leasehold properties with less than 55 years of the lease remaining; and

4.3.4 any properties that have been subject to a closing or demolition order.

4.4 Financial conditions

In addition to Clauses 4.1 and 4.3 and prior to the Council making any Advance, the Borrower must satisfy the following further financial conditions that:

a declaration provided by the Council regarding independent legal and financial advice must be signed by the Borrower. No such legal or financial advice will be provided by the Council.

4.5 Conditions for Advances

The obligation of the Council to make each and every Advance is subject to the following conditions precedent that:

- 4.5.1 subject to Clause 11.1.3, at the time of any Advance, the Borrower shall have confirmed that it is satisfied with the Works and that the Building Contractor can be paid by the Council; and
- 4.5.2 at the time of any Advance, the Council shall have received, in each case in form and substance satisfactory to it, the documents, items and evidence specified in Schedule 1; and
- 4.5.3 at the time of any Advance, the representations and warranties set out in Clause 12.1 are true and correct on and as of each such time as if each were made with reference to the facts and circumstances existing at such time; and
- 4.5.4 at the time of any Advance, no Event of Default or Potential Default shall have occurred and be continuing or would result from the making of such Advance; and
- 4.5.5 at the time of any Advance, the Borrower shall have signed a statement of satisfaction of the Works. If the Borrower deems that the Works are not satisfactory, the Borrower shall have agreed to enter the Council's arbitration scheme.
- 4.5.6 the Borrower will sign the property over to the Council's Leasing Scheme for a specified period which will continue until the loan is repaid.

5 DRAWDOWN

5.1 Payment of Advances

- 5.1.1 Each Advance shall be made direct to the Building Contractor on behalf of the Borrower by the Council crediting the amount of such Advance to such bank account of the Building Contractor as specified to the Council at the time of the Building Contractor's appointment.
- 5.1.2 The Loan Amount shall be provided to the Building Contractor as determined by the Council.

6 REPAYMENT

- 6.1.1 The Borrower shall repay the Loan in accordance with 2.5.3 and in accordance with the Legal Charge

7 INTEREST

7.1 Interest

- 7.1.1 Subject to clause 7.1.2 the Borrower shall not be required to pay interest on the Loan.
- 7.1.2 If the Borrower breaches the provisions of clause 6.1, the Borrower shall pay to the Council compound interest calculated at a rate of 2% above the base rate of Natwest Bank PLC from the date of the breach following the date of issue of a notice of default by the Council.

7.2 Basis of calculation

All interest under this Agreement shall accrue from day to day and be calculated on the basis of the actual number of days elapsed and a 365-day year.

8 ELIGIBLE FEES

- 8.1 The Council shall pay all Eligible Fees on behalf of the Borrower PROVIDED THAT such sum shall not exceed the Maximum amount or Increased Maximum Amount.
- 8.2 The Borrower shall be liable for all costs and expenses which are not considered by the Council to be Eligible Fees.
- 8.3 The Borrower shall pay, on demand and on a full indemnity basis, to the Council all costs and expenses (including but not limited to legal and out-of-pocket expenses) incurred by it in connection with any actual or proposed amendment or extension of or any waiver or consent under this Agreement and in contemplation of or otherwise in connection with the enforcement (or attempted enforcement) of, or preservation (or attempted preservation) of any rights under, this Agreement and/or any Related Document or otherwise in respect of any monies from time to time owing under this Agreement.
- 8.4 Payment by deduction

The Council shall be entitled to effect payment (to the extent not already discharged) of all fees expenses and other sums due and payable by the Borrower under Clause 8.2 out of and by deduction from any Advance and the Borrower hereby irrevocably authorises the Council to do so.

9 PAYMENTS

9.1 Payments

All payments to be made by the Borrower under this Agreement shall be made in full, without any set-off or counterclaim whatsoever save as specified herein and free and clear of any deductions or withholdings, in immediately available, freely transferable, cleared funds in Sterling to the account of the Council as notified to the Borrower.

9.2 Accounts

Account(s) maintained by the Council in connection with the Loan shall (save for manifest error) be conclusive evidence of the amounts from time to time owing by the Borrower to the Council under this Agreement.

10 SECURITY

- 10.1 The Loan shall be secured against the Property at Her Majesty's Land Registry or the Land Charges Register (whichever is applicable) in accordance with the Legal Charge.
- 10.2 In the event that the Property is unregistered, the Borrower shall ensure the Property is registered prior to any Advance being provided by the Council and the Council shall not provide any Advance until such registration is complete.
- 10.3 No further person or body shall be registered under the Land Registration Act 2002 as the proprietor of the Property without the prior written consent of the Council.
- 10.4 The Borrower shall notify the Council of any proposed changes to the person(s) identified on the titled deeds of the Property. No such changes shall be made by the Borrower without the Council's prior written consent. If the Council agrees to the proposed changes, the Borrower shall meet all costs associated with the changes in full.

11 WORKS

11.1 Eligible Works

- 11.1.1 The quality of the Works shall be inspected by the Home Improvement Agency (or other Building Surveyor agreed by the Council), unless the Council has waived the condition to use the Home Improvement Agency in accordance with Clause 2.3, in which case the Works shall be inspected by the Council or such other alternative provider as approved by the Council.

11.1.2 The Council, in conjunction with the Home Improvement Agency, unless the Council has waived the condition to use the Home Improvement Agency in accordance with Clause 2.3, shall support the Borrower in ensuring that all works have been carried out satisfactorily.

11.1.3 The Borrower shall sign a statement of satisfaction with the Works prior to the Council paying the Building Contractor in accordance with Clause 5.1.2. In the event of a dispute between the Borrower and the Building Contractor over the quality of the Works, the Council shall retain the right to make payment in accordance with Clause 5.1.2 where it is satisfied with the quality of the Works.

11.2 Unforeseen Works

11.2.1 In the event the Council determines that any Unforeseen Works are necessary the Borrower agrees to the Building Contractor carrying out such Unforeseen Works and, subject to Clause 11.3.2, consents to the cost of all Unforeseen Works as identified in the Completion Certificate being added to the Loan Amount.

11.2.2 Any amounts above the maximum loan are to be paid by the Borrower.

11.3 Cost of the Works

11.3.1 Subject to Clause 11.3.2, the Council agrees to provide the Loan Amount to the Building Contractor on behalf of the Borrower in accordance with Clause 5.1.2.

11.3.2 In the event of Unforeseen Works, the following shall apply:

- a) if the Provisional Loan Amount is less than the Maximum Amount, the Provisional Loan Amount may be increased up to the Maximum Amount in the Council's absolute discretion to cover the cost of the Unforeseen Works and/or
- b) If the cost of Unforeseen Works will mean that the Provisional Loan Amount exceeds the Maximum Amount, the Maximum Amount may in the Council's absolute discretion be increased by a further £10,000 (The "Increased Maximum Amount") and in such circumstances the Provisional Loan Amount may be increased up to the Increased Maximum Amount in the Council's absolute discretion to cover the cost of Unforeseen Works or part thereof. The Borrower shall be liable for any costs in excess of the Increased Maximum Amount; and/or
- c) The Borrower shall meet the cost of any Unforeseen Works.

11.3.3 In exceptional circumstances where the cost of Works exceeds the Increased Maximum Amount, the Council shall have the right to review the terms of this Agreement and determine whether to continue with the arrangements set out therein, and to identify additional means of funding the Works and to consider all alternatives other than the Works.

11.4 Variation of Specification

11.4.1 Where the Council has approved the Specification for the Works it shall not vary or require the variation of that Specification unless the Council has obtained the consent of every person who, in the Council's opinion, is likely to be affected to any material extent by the variation.

11.4.2 If the Borrower wishes to incorporate a higher specification for the works, the Borrower shall seek approval from the Council that the higher specification meets the requirements of the Specification. If the Council approves such higher specification, the Borrower will be liable for the a additional costs associated with the higher specification and shall enter into a separate arrangement with the Building Contractor which shall be outside of the scope of this Agreement.

12.1 Representations and warranties

The Borrower represents and warrants to the Council that:

- 12.1.1 it has power and authority to execute deliver and perform its obligations under this Agreement and any Related Document;
- 12.1.2 its obligations under this Agreement and any Related Document are its direct, general and unconditional obligations and rank at least *pari passu* with all other of its present and future secured Indebtedness;
- 12.1.3 no Event of Default or Potential Default has occurred and is continuing;
- 12.1.4 there exists no Encumbrance other than those identified to the Council over the whole or any part of the Property and no obligation to create any such Encumbrance;
- 12.1.5 all factual information supplied to the Council in contemplation or for the purpose of this Agreement or the Loan was true and accurate in all material respects as at its date and did not omit anything material, no change has occurred since the date on which such information was supplied which renders the same untrue or misleading in any material respect, and all projections and statements of belief and opinion given by the Borrower to the Council were made honestly and in good faith after due and careful enquiry and remain valid.

12.2 Repetition

The representations and warranties in Clause 12.1 will be deemed to be repeated by the Borrower on and as of the date of the payment of each Advance as if made with reference to the facts and circumstances existing at such respective date.

12.3 Effect of investigation

The rights and remedies of the Council in respect of any misrepresentation or breach of warranty on the part of the Borrower shall not be prejudiced or affected by any investigation of the Borrower or any other person by or on behalf of the Council or without limitation any other act or matter which, but for this provision, would or might prejudice or affect any such rights or remedies.

13 UNDERTAKINGS

13.1 General undertakings

The Borrower undertakes with the Council that, so long as any monies or obligations are outstanding under this Agreement:

- 13.1.1 it will ensure that its obligations under this Agreement shall at all times rank at least *pari passu* with all its other present and future secured Indebtedness;
- 13.1.2 it will maintain insurances on or in relation to the Property with insurance companies of repute to the satisfaction of the Council and the Borrower shall provide such evidence of insurance as the Council may reasonably request. If the Borrower breaches this Clause 13.1.2 the Council shall have the ability (but shall not be obliged) to insure the Property at the Borrower's cost;
- 13.1.3 promptly inform the Council, upon becoming aware of the same, of any occurrence or circumstance of which it becomes aware which would be likely to adversely affect its ability to perform its obligations under this Agreement or any Related Document and of any Event of Default or Potential Default.

13.2 Negative Pledge

13.2.1 The Borrower undertakes with the Council that, so long as any monies or obligations are outstanding under this Agreement, it will not create or permit to subsist any Encumbrance over all or any part of the Property.

13.2.2 Clause 13.2.1 above shall not apply to any Encumbrance created or outstanding with the prior written consent of the Council.

13.3 Disposals

13.3.1 The Borrower undertakes with the Council that, so long as any monies or obligations are outstanding under this Agreement, the Borrower shall forthwith notify the Council of the decision to make a Relevant Disposal of the Property and enclose full details of the Relevant Disposal including the sale particulars, sale price and address of the solicitor dealing with the sale.

13.3.2 If the Borrower makes a Relevant Disposal of the Property after Final Completion of the Works, the Borrower shall repay the Loan to the Council on demand.

13.3.3 The Borrower shall refer to the Council's Leasing Scheme Agreement for conditions relating to a relevant disposal of the Property. No Relevant Disposal shall be permitted unless such Relevant Disposal is in accordance with the conditions of the Council's Leasing Scheme.

14 DEFAULT

14.1 Events of Default

There shall be an Event of Default if:

14.1.1 the Borrower commits any breach of any provision of Clauses 13 or

14.1.2 the Borrower commits any material breach of any other provision of this Agreement or any Related Document and either such breach is in the opinion of the Council not capable of remedy or such breach is in the opinion of the Council capable of remedy and is not remedied within 21 days after the date of notice by the Council requiring such remedy; or

14.1.3 any representation or warranty made or deemed to be made or repeated by the Borrower in or pursuant to this Agreement or any Related Document is or proves to have been untrue or incorrect in any material respect when made or when deemed to be repeated with reference to the facts and circumstances existing at such time; or

14.1.4 any Encumbrance to secure any Financial Indebtedness of the Borrower exceeding in aggregate £10,000 or its equivalent in any other currency becomes enforceable; or

14.1.5 this Agreement or any Related Document is or becomes (or is alleged to be) unlawful or unenforceable in any respect.

14.2 Rights on a Default

The Council may (without prejudice to any of its rights) upon and at any time after the happening of an Event of Default, so long as the same is continuing, by notice to the Borrower declare that:

14.2.1 any obligation of the Council to make any Advance shall be terminated; and/or

14.2.2 the Loan has become due and payable in accordance with the terms of the notice of default.

15 INDEMNITIES

15.1 Indemnities

The Borrower shall on demand indemnify the Council against any liability, loss or expense which the Council shall certify as incurred by it as a consequence of:

- 15.1.1. any default in payment by the Borrower of any sum under this Agreement when due;
- 15.1.2 the occurrence of any Event of Default,

including in any such case, but not limited to, any loss of profit and any loss or expense incurred in maintaining or funding the Loan or any Advance or other sum.

16 GENERAL

16.1 Set-off

16.1.1 The Council may, without prior notice to the Borrower, apply any sums due from the Council to the Borrower in or towards satisfaction of any sum then due and payable from the Borrower under this Agreement and in respect of which a default in payment has occurred. The Council will promptly notify the Borrower of such application.

16.2 Assignment

16.2.1 This Agreement shall be binding upon, and enure for the benefit of, each of the parties hereto and their respective successors and permitted assigns (and any person to whom the Council shall transfer or novate any rights and/or obligations under this Agreement).

16.2.2 The Borrower may not assign or transfer any of its rights, benefits or obligations under this Agreement.

16.2.3 The Council may assign all or any part of its rights or benefits or transfer all or any part of its obligations under this Agreement or any Related Document. The Borrower shall enter into all documents specified by the Council to be necessary to give effect to any such assignment or transfer.

16.2.4 The Council may disclose on a confidential basis to any actual or potential assignee or transferee of any rights, benefits or obligations under this Agreement or any Related Document such information about the Borrower as the Council shall reasonably consider appropriate.

16.3 Notices

16.3.1 Every notice or other communication under this Agreement shall be in writing and may be delivered personally or by letter or facsimile transmission despatched as follows:

- (a) if to the Council, at its address specified at the head of this Agreement
- (b) if to the Borrower, at its address specified at the head of this Agreement

or (in any case) to such other address and/or facsimile number as may be notified in accordance with this Clause by the relevant party to the other party for such purpose.

16.3.2 Every notice or other communication shall, subject as otherwise provided in this Agreement, be deemed to have been received (if sent by post) 24 hours after despatch and (if delivered personally or by facsimile transmission) at the time of delivery or despatch if during normal business hours in the place of intended receipt on a working day in that place and otherwise at the opening of business in that place on the next succeeding such working day, provided that any notice or communication to be made or delivered to the Council shall be effective only on actual receipt by the Council.

16.4 Waivers

No delay or omission on the part of the Council in exercising any right or remedy under this Agreement shall impair that right or remedy or operate as or be taken to be a waiver of it, nor shall any single partial or defective exercise by the Council or any such right or remedy preclude any other or further 10

exercise under this Agreement of that or any other right or remedy. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

16.5 Severance

If at any time any of the provisions of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity and enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.

16.6 Counterparts

This Agreement may be executed in any number of counterparts in which case this Agreement will be as effective as if all signatures on the counterparts were on a single copy of this Agreement.

16.7 Amendments

16.7.1 The Council shall not vary or revoke any condition to which financial assistance is subject except on the application or with the consent of the Borrower.

16.8 Service standards

16.8.1 On receiving a request in connection with this Agreement, the Council shall endeavour to provide a response within 10 Business Days.

16.9 Law and jurisdiction

16.9.1 This Agreement shall be governed by and construed in accordance with English law.

16.9.2 The Borrower irrevocably agrees for the exclusive benefit of the Council that the courts of England shall have jurisdiction to hear and determine any suit action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

AS WITNESS this Agreement has been duly executed the day and year first above written.

SCHEDULE 1

Conditions Precedent

- (1) Loan application completed to the satisfaction of the Council.
- (2) Declaration in the loan application provided to the Borrower by the Council providing that the Borrower is the owner of the freehold of the Property or has a leasehold interest in the Property of greater than 55 years unexpired at the date of the Loan application, whether the Property is owned alone or jointly with others.
- (3) Legal Charge duly executed by the Borrower and all registered owners together with evidence to the satisfaction of the Council that the Legal Charge has been duly registered at Her Majesty's Land Registry.
- (4) Consents from the freeholder or intermediate leaseholders for the Works and to the Legal Charge, if required by the Council.

SIGNED by

PRINTED

WITNESSED by:

PRINTED

ADDRESS

.....

.....

.....

THE COMMON SEAL of
New Forest District Council
was hereunto affixed
in the presence of:-

(APPENDIX 2) THIS LEASE is made the day of 2011
BETWEEN

- 1 M..... of Addresss....., ('the Landlord'); and
- 2 The District Council of New Forest of Appletree Court, Lyndhurst,
Hampshire, SO43 7PA ('the Tenant')

NOW IT IS AGREED AS FOLLOWS:

1 Definitions and Interpretation

1.1 In this lease the following expressions shall have the following meanings:

1.2 'the Premises'

means the property or properties specified in the first schedule to include the gardens paths, driveways, garages, parking spaces, fences, walls and other facilities used or available for use in conjunction with them;

1.3 'the Rent'

means the sum of £ (hundred pounds) per month which shall be paid to the Landlord on a monthly basis in arrears

1.4 'Insured Risks'

includes but is not limited to fire, lightning, explosion, aircraft (including articles dropped therefrom), subsidence, landslip, heave, riot, civil commotion, malicious persons, earthquake, storm, tempest, flood, bursting or overflowing of water pipes, tanks and other apparatus and impact by road vehicles

1.5 'the Term'

means the period of 2 years from the date of this Lease;

1.6 Words importing one gender shall be construed as importing any other gender.

1.7 Words importing the singular shall be construed as importing the plural and vice versa.

1.8 Where any party comprises more than one person the obligations and liabilities of that party under this lease shall be joint and several obligations and liabilities of those persons.

1.9 The clause headings do not form part of this lease and shall not be taken into account in its construction of interpretation.

2 Demise

2.1 The Landlord demises to the Tenant the Premises TOGETHER WITH the benefit of the rights and easements specified in the second schedule TOGETHER ALSO WITH any effects fixtures and fittings listed in the fourth schedule EXCEPTING AND RESERVING to the Landlord the rights specified in the third schedule TO HOLD the Premises to the Tenant for the Term at the Rent payable without any deductions

3 The Tenant's Covenants

The Tenant covenants with the Landlord:

3.1 to pay any water rates lawfully charged in respect of the Premises to the person making such demand

3.2 to give all appropriate consideration to issuing possession proceedings and to use its reasonable endeavours in pursuing any such proceedings against any occupant having caused a nuisance or annoyance to the Landlord or its Tenants neighbours or staff or any damage to the Premises or who is in breach of any term of his tenancy or occupation of the Premises where the Tenant reasonably considers in its own view that in all the circumstances it is appropriate and proportionate to seek to procure the eviction of the occupant in question. Further the Tenant agrees to join in the Landlord in making any such appropriate applications to the court as the Tenant deems necessary;

3.3 to permit the Landlord and its duly authorised agents and mortgagees and others authorised by the Landlord upon giving reasonable written notice at all reasonable times (or without notice in an emergency) to enter into and to examine the condition of the Premises and to enter with such workmen and appliances as may be necessary to execute repairs on the Premises or on adjoining Premises belonging to the Landlord;

3.4 not to assign or part with or share possession of the whole of the Premises

- save as set out in clauses 3.6 to 3.8;
- 3.5 not to assign or part with or share possession of part only of the Premises save as set out in clauses 3.6 to 3.8;
- 3.6 to use the Premises for the purposes of temporary housing accommodation in accordance with the Housing Act 1985 Schedule 1 paragraph 6;
- 3.7 to grant sub-Tenants tenancies substantially in the form of the draft tenancy specified in the fifth schedule hereof;
- 3.8 to encourage the sub-Tenants of the Tenant to use the Premises for residential purposes only and (without limitation) do not use the Premises for any illegal or immoral purpose or carry on any form of business at the Premises;
- 3.9 not to cut maim or make any alterations or additions whatever to the Premises;
- to seek to ensure that during the currency of the tenancy the property is maintained in a similar state of repair that it was in at the commencement of the tenancy and at the conclusion of the tenancy to return the property to the Landlord in such condition as described in clause 3.14 below.

3.10 **PROVIDED ALWAYS THAT**

The Tenant's responsibilities shall not extend to the following:

- 3.10.1 carrying out any repairs to the Premises or any fixtures or fittings thereon caused by fair wear and tear
- 3.10.2 carrying out any repairs to the Premises or any fixtures or fittings arising out of an outbreak of dry or wet rot or any rising or penetrating damp howsoever arising or caused except in so far as any such outbreak or damp is caused by any act or default of the Tenant or anyone at the Premises with the authority of the Tenant or with the authority of another himself having the authority of the Tenant
- 3.10.3 carrying out any repairs to the Premises or any fixtures or fittings caused by an insured risk other than where any insurance claim in respect of such damage has been vitiated arising out of any act or default of the Tenant or anyone at the Premises with the authority of the Tenant or with the authority

- of another himself having the authority of the Tenant
- 3.10.4 carrying out any repairs to the Premises or any fixtures or fittings for which the Landlord is responsible pursuant to any term of this Lease
 - 3.10.5 carrying out any repairs or maintenance to the gardens, driveways, garages, parking spaces, fences, walls or other outdoor facilities
 - 3.10.6 any damage howsoever caused to any chattels, carpets, floor coverings, curtains, refrigerators, cookers and washing machines at the Premises
 - 3.11 to encourage the sub-Tenants to refrain from causing nuisance or annoyance to the Landlord its agents staff or Tenants or the owners and occupiers of adjoining Premises;
 - 3.12 to inform the Landlord immediately upon becoming aware of any damage to the structure or exterior of the Premises or any other parts of the Premises which the Landlord is liable to repair and where reasonably practicable to take any measures appropriate to limit the extent of such damage;
 - 3.13 to permit the Landlord at any time during the 3 months prior to the expiry of the Term to erect or affix a signboard or boards upon the Premises advertising the Premises or part of them for sale or to rent;
 - 3.14 subject to the operation of clause 3.15 below upon the expiry of the Term or on the sooner determination of this lease peacefully to surrender and yield up the Premises with vacant possession in the same state and condition (but subject to fair wear and tear) as at the time of the commencement of this lease being detailed in the Fourth Schedule and otherwise in accordance with the Tenant's obligations set out in this lease;
 - 3.15 the Tenant's duty to surrender up the Premises as detailed in the above clause 3.14 is to be postponed in the event that the Tenant continues to be responsible for the housing needs of the relevant sub-Tenant as at the time when surrender would be required and where the Tenant has failed to find suitable alternative accommodation for that sub-Tenant. In such event the Tenant's duty to surrender will be deferred until such time as it is able to remove the relevant sub-Tenant to alternative suitable accommodation provided that the Tenant shall continue to employ its best endeavours in

- locating such alternative accommodation and during which such extended time the other terms of this Lease shall continue to operate;
- 3.16 to pay to the Landlord VAT at the rate then prevailing or any tax of a similar nature that may be substituted for it or levied in addition to it where such tax lawfully attaches to rent or other money due from the Tenant to the Landlord arising under this Lease

4 The Landlord's covenants

- The Landlord covenants with the Tenant:
- 4.1 to pay all existing and future taxes assessments and outgoings imposed or charged upon the Premises other than those to be borne by the Tenant under the terms of this lease;
- 4.2 to keep the roof structure and coverings, foundations, walls, partitions, drains, gutters, external rainwater pipes, external doors and windows, external decorations, garages, outbuildings, driveways, parking spaces, pavings, fences, boilers and central heating, hot and cold water services, pipework and sanitary ware and chimneys and all common areas in good and proper repair and to ensure that the same remain free of rot and damp and that all boilers and central heating systems are properly serviced at appropriate intervals and that in the event that a gas boiler is located at the Premises that a fully functioning carbon monoxide alarm is properly located at the Premises and is properly tested at appropriate intervals;
- 4.3 to carry out any repairs for which liability is imposed upon the Landlord by the Landlord and Tenant Act 1985 Section 11 notwithstanding the provisions of the Landlord and Tenant Act 1985 Section 14 PROVIDED THAT if the Landlord shall fail to carry out its responsibilities under this clause or clause 4.2 above within the timescales outlined in the sixth schedule and having been requested to do so by the Tenant the Tenant shall be entitled to recover its proper and reasonable costs of so doing from the Landlord by way of deduction from future rent payments or as a debt;
- 4.4 to insure and keep insured the Premises against loss or damage by the

- usual insured risks to the full reinstatement value of the Premises and to produce to the Tenant on demand a copy of the policy and the receipt or receipts for premiums in respect of the insurance and to provide documentary evidence to the Tenant that the relevant insurer has been made aware of the fact of the Premises having been leased to the Tenant pursuant to this Lease;
- 4.5 that the Tenant paying the Annual Rent reserved by this lease and complying with its obligations under this lease shall peacefully hold and enjoy the Premises during the Term without any interruption by the Landlord or any person rightfully claiming under or in trust for the Landlord;
- 4.6 not to delegate any of its obligations arising under this lease except to its employees or with the prior consent of the Tenant;

5 Sub-Tenants

- 5.1 The Tenant will be solely responsible for selecting sub-tenants to occupy the Premises

6 Provisos

- 6.1 If the Annual Rent or any part of it shall not be paid and shall remain unpaid for 28 days after becoming payable (whether formally demanded or not) or if any of the Tenant's covenants set out in this lease shall not be performed or observed the Landlord may at any time after such time re-enter the Premises or any part of them in the name of the whole and this lease shall immediately absolutely determine.
- 6.2 If the Premises or any part of them shall at any time during the Term be destroyed or damaged by fire or other insured risks so as to be unfit for occupation and use and the policy or policies of insurance effected by the Landlord shall not have been vitiated by any act or default of the Tenant the Annual Rent in respect of such part or parts of the Premises shall be suspended until the Premises shall again be rendered fit for habitation and use.

- 6.3 Any notices under this lease shall be in writing and shall be served on the Landlord either personally or by post at its address set out above and in like manner on the Tenant at its address set out above.
- 6.4 The Landlord is not a person or body capable of granting secure tenancies as defined by the Housing Act 1985.
- 6.5 For the avoidance of doubt it is confirmed that the Tenant's obligations arising under this Lease do not extend to any garage, garden or outbuilding attaching to or otherwise forming part of the Premises the maintenance of which remains the responsibility of the Landlord.
- 6.6 For the avoidance of doubt any maintenance charge, service charge or premium in respect of the Premises falling due during the currency of the term of this Lease remains the responsibility of the Landlord.
- 6.7 If at any time during the Term the housing benefit regulations change such as to result in a shortfall between the rent due under any occupancy granted by the Tenant pursuant to this Lease and the benefits payable towards that rent or if any tenancy shall end when there is less than 6 months of the term remaining or if within 4 weeks of any occupancy ending the Tenant is unable to secure a replacement occupant then the Tenant shall have the right to end the term on the date specified by the Tenant in a written notice delivered to the Landlord
- 6.8 Either the Landlord or the Tenant may end this lease by serving at least 6 months' written notice on the other. This lease shall then end on the expiry of the notice provided that, in the case of a notice served by the Tenant:
- 6.8.1 the Tenant has paid the Annual Rent due under this lease up to and including the date of the expiry of the notice; and
- 6.8.2 the Tenant returns the Premises to the Landlord with vacant possession on the expiry of the notice or such other time as provided for by the operation of clause 3.15 above, unless and to the extent that the Landlord in its absolute discretion elects in writing to waive these conditions by serving written notice on the Tenant.

THE COMMON SEAL of THE DISTRICT
COUNCIL OF NEW FOREST was
Affixed to this DEED in the presence of:

An Authorised Signatory

SIGNED as a DEED by

Mr Leonard W Osborne

Mr Michael John Osborne

Acting as Enduring Poer of Attorney for Mrs Marguerite A Clarke

In the presence of:-

Witness

Address

Occupation

FIRST SCHEDULE

The Premises

SECOND SCHEDULE

Rights Granted

- 1 Free passage of running water and soil in and through the sewers drains channels made or to be made upon through or under the Premises and the free and uninterrupted use of all gas electric telephone and other pipes wires cables and flues (if any) upon through or under the same.

- 2 **In relation to flats only**
The right for the Council and all other persons authorised by it (in common with all others entitled to such right) at all times by day or by night on foot only to go pass and repass over and along the main entrance (if any) of the building of which the Premises form part and the common passages landings and staircases thereof and to use (if any of the following exist and are necessary for the full enjoyment of the Premises by the Council) the gardens dustbin areas and dustbin hoppers forecourts roadways pathways within the curtilage of the building provided nevertheless that the Council shall not cause or authorise or permit the obstruction of any of the common parts of the building.

THIRD SCHEDULE

Rights Reserved

- 1 The free and uninterrupted use of all pipes wires flues channels drains ducts gutters and gullies and apparatus which are now in the Premises and serve other Premises or which shall com into existence within the perpetuity period after the date of this lease.
- 2 Such rights of access to and entry upon the Premises as are necessary for the performance of the Landlord's obligations or the exercise of the Landlord's rights under this lease.
- 3 The right for the Landlord to enter on the Premises to carry out works of repair improvement or renewal or redevelopment of the Landlord's other property and/or adjoining lands and the Landlord making good at its own expense all damage caused with all reasonable speed PROVIDED that the exercise of this right shall not derogate from the grant of this lease.

FIFTH SCHEDULE

Non-secure Occupation Lease



NON-SECURE OCCUPATION LEASE

LEASE DATE:

PROPERTY ADDRESS:

(referred to in this Lease as “the Property”)

THIS LEASE is a Lease between:

(1) NEW FOREST DISTRICT COUNCIL of Appletree Court, Lyndhurst, Hampshire. SO43 7PA

(referred to in this Lease as “the Council”) and

(2)

of

(referred to in this Lease as “the Occupant”)

This is an Lease between the Council and the Occupant and its purpose is to set out matters such as the amount the Occupant must pay every week (referred to in this Lease as “Rent”) in order to live in the Property and it says what the Occupant must do and must not do whilst the Occupant is living in the Property

The Council does not own the Property it has a lease of it from the owner who allows the Council to use it as temporary housing accommodation

The Occupant’s right to occupy the Property is granted to the Occupant by the Council in accordance with its duties under the homelessness legislation this means that the Council cannot grant the Occupant a secure tenancy and when the lease is brought to an end by the owner the Council must return the Property to the owner with vacant possession

Before the Council can return the Property to the owner the Council will serve the Occupant with a notice informing the Occupant that the Occupant must vacate the Property provided the Occupant is still entitled to be housed by the Council and is not in breach of the terms of this Lease the Council will offer the Occupant alternative accommodation and the Occupant will then have to leave the Property on or before the date stated in the notice

The Council may bring this Lease to an end at an earlier date if the Occupant does not observe the terms in this Lease or if the Occupant refuses an offer of suitable alternative accommodation

Unless otherwise stated the singular includes the plural and vice versa

The masculine gender includes the feminine and neuter genders and vice versa

1. THE OCCUPANT'S RESPONSIBILITIES

TO PAY RENT

1.1 The Council permits the Occupant to occupy the Property on a weekly basis starting from the date of this Lease and subject to the Occupant paying the following weekly amounts to the Council:

Net Rent	£
Other charges	£

The rent and other charges are to be paid in advance each week the amount of rent and other charges payable by the Occupant may be altered by the Council's Housing Service after giving four weeks' written notice

- For Joint Occupancies both Occupants are each responsible for all the rent and other charges
- The Council can recover rent arrears owed for the Property from any individual occupant

TO PAY COUNCIL TAX AND OTHER PAYMENTS

1.2 The Occupant must pay its own Council Tax and water rates and pay for the cost of electricity telephone and gas used in the Property

TO PAY FOR FORMER RENT ARREARS (if relevant)

1.3 The Occupant must pay £_____ for rent and charges that the Occupant owes from when the Occupant lived at _____

These arrears must either be:

- paid straight away or
- the Occupant must pay off the arrears in accordance with a payment schedule agreed with the Council or
- paid off in accordance with a repayment schedule ordered by the Court

NOT TO ASSIGN SUBLET OR PART WITH POSSESSION

1.4 The Occupant must not:

- assign his/her/their rights under this Lease to any other person
- part with possession of the Property or
- sublet the whole or any part of the Property to any other person

USE OF THE PROPERTY

1.5 The Occupant must live in the Property and use it only as a private residence and the Occupant must not commence any trade or business from the Property

1.6. The Occupant must not deliberately overcrowd the Property for example by allowing family/friends to stay with the Occupant for long periods of time

PROPERTY INSPECTIONS

The Property **will** be inspected by the Council's Housing Officer (inside and out) a minimum of every 3 months

BEHAVIOUR

1.7 The Occupant must not use the property or any Council property near the Property for any illegal or immoral purpose

1.8 The Occupant must not cause a nuisance annoyance or disturbance to the neighbours or anyone else living near the Property or in the neighbourhood

1.9 The Occupant must not encourage or allow anyone living in the Property or visiting it to harass cause a nuisance annoyance or disturbance to the neighbours or anyone else living near the Property or in the neighbourhood or to members of staff of the Council

Examples of behaviour which may be nuisance:

- Any unlawful immoral or disorderly conduct

- Parking a vehicle in an area not designated for parking
- Causing a nuisance when repairing vehicles
- Any noise or disturbance that causes annoyance or disruption to other people such as playing musical instruments using DIY tools playing loud music door-slamming and acting in an un-neighbourly fashion

Harassment may include for example:

- Any distress annoyance or offence caused by intimidation discrimination threatening use of violence actual use of violence abusive or insulting language or behaviour
- Racial harassment which includes any verbal or physical abuse directed at any individual or group on the basis of colour race nationality or ethnic origin when the victim believes that the abuse is of a racist nature and/or there is direct evidence of a racist motive

1.10 The Occupant must not cause damage to the property or to any property belonging to the Council

1.11 The Occupant must:

- keep the interior of the Property in a hygienic condition clean tidy and in good decorative order
- Not allow the Property to become filthy verminous or unwholesome
- Not store or accumulate rubbish in the Property in the garden (if any) or in any area which is shared with neighbours

1.12 The Occupant must not write graffiti on the Property or on any property belonging to the Council

1.13 The Occupant must not allow or encourage anyone in his/her family or anyone else to cause damage to the Property or on or to any property belonging to the Council or to write graffiti on it

1.14 If the Occupant damages any property belonging to the Council or writes graffiti on it or allows or encourages anyone else to do so the Occupant must pay to the Council the reasonable cost of repairing that damage, or of removing the graffiti as soon as the Council demands payment

PETS

1.15 Pets are **not** permitted at the property

REPAIRS

1.16 The Occupant must report to the Council's Housing Service as soon as possible any repairs that are needed

1.17 The Occupant must allow Council employees (or contractors) into the Property to inspect the property or do repairs (with 24 hours' notice)

1.18 The Occupant must allow Council employees or contractors into the Property without notice if in an emergency the Council's Housing Service considers that there is a risk of personal injury or damage to the property and servicing of gas appliances

ALTERATIONS TO THE PROPERTY

1.19 The Occupant must **not** make any improvements alterations or additions to the Property. This includes:

- Painting the Property
- Wallpapering the Property
- Making holes in the walls for any purpose whatsoever
- Installing laminate flooring (unless it does not require fixings into the structure of the property)
- Creating a pond in the garden
- Altering the landscape of the garden

GARDENS AND YARDS

1.20 The Occupant must keep any garden or yard or similar area that is part of your occupancy free from rubbish and litter and in a neat and tidy condition including keeping garden fences walls gates and utility boxes (for example gas and electric) in good repair

1.21 The Occupant must not:

- Allow trees bushes or shrubs to encroach onto footpaths or neighbours' land
- Cut down any trees without the written permission of the Councils Housing Service

(Neighbours have the right to cut back any shrubbery that overhangs into their garden)

1.22 The Occupant must not store household items in the garden

1.23 The Occupant must not park:

- Any vehicles for example cars caravans boats trailers motorbikes in the garden unless the property is provided with a proper hard-standing and dropped kerb access
- Any vehicle where it causes inconvenience or obstruction or damage

1.24 The Occupant must not throw anything out of the windows or door of the Property

FLAMMABLE MATERIALS

1.25 Flammable materials must **not** be stored at the Property

1.26 Gas cylinders or bottles must **not** be used at the Property

LEAVING THE PROPERTY

1.27 The Occupant must remove all property including rubbish and leave the Property in a reasonable state and condition when the Occupant moves from the Property for any reason to live somewhere else

1.28 If the Occupant does not leave the Property in a reasonable state and condition any work required before the Property can be re-let or handed back to the Owner will be charged to the Occupant

HOUSEHOLD CHANGES

1.29 When the Occupant applied to the Council for housing personal details were provided to the Council relating to the Occupant and the people who will be living with the Occupant in the Property

1.30 If any of the Occupant's details change or if the details of any of the people who are living with the Occupant in the Property change the Occupant must notify the Council's Housing Service in writing within seven days

ENDING YOUR OCCUPANCY

1.31 Occupants are required to give the Council's Housing Service at least four weeks' written notice that they wish to terminate their Occupancy and the keys to the property must be returned to the Council before 12 noon on the day after the end of the Occupancy otherwise additional rent will be due if the keys are not returned by the deadline

1.32 For Joint Occupancies if ONE of the Occupants gives notice this will end the WHOLE Occupancy

1.33 If the Council wants to end the Occupancy the Council must first serve the Occupant with a Notice informing the Occupant of the reason the Council wants the Occupant to leave and it is important that the Notice is served properly

The Council will either:

- Send it to the Occupant by recorded delivery or
- Address it to the Occupant and leave it at the Property

1.34 In the event of the death of an Occupant the following will apply:

Sole Occupancy:

Next of Kin must notify the Council's Housing Service and give 28 days' notice to end the Occupancy full rent is payable for this period if the Occupant was in receipt of Housing Benefit this will cease on the date of death

Joint Occupancy:

Occupants must notify the Council's Housing Service immediately upon the death of a joint Occupant

NOTICES

Non-secure Occupants

1.35 As a Non-Secure Occupant a Notice to Quit may be served for any breaches of Occupancy Conditions and on expiry of the Notice the Occupancy will end and Occupants will be required to vacate the Property by this date any failure to do so will result in court proceedings to gain possession

1.36 If an Occupant is served with a Notice to Quit:

- the Occupant should seek independent legal advice
- all court costs incurred by taking legal action would be added to the Occupant's rent account.

(Any Notice of Seeking Possession or Notice to Quit will be deemed as served if left at the property)

2. THE COUNCIL'S RESPONSIBILITIES

2.1 The Council's Housing Service will not interfere with the Occupant's occupation of the property except:

- To gain access in an emergency to inspect or carry out repairs or
- Where a Court has given the Council's Housing Service possession of the Property

REPAIRS TO THE STRUCTURE AND INSTALLATIONS OF THE PROPERTY

2.2 The Council's Housing Service is **not** responsible for repairs to the structure and exterior of the property but the Council's Housing Service should be notified of such repairs this includes for example repairs to:

- The outside for example the roof chimney drains gutters pipes walls doors and window frames (but not sweeping of chimneys)
- The inside for example inside walls floors ceilings skirting boards doors door frames door and window locks and hinges (but not including painting and decorating)

2.3 The Council's Housing Service **is** responsible for the urgent repair of installations to the Property such as:

- Water: pipes, tanks, basins, sinks and toilets
- Gas: pipes and boilers
- Electric: wiring sockets and light fittings
- Heating: boilers fireplaces radiators and fires

2.4 The Council will not repair damage caused by:

- anything the Occupant has done

- anyone living with the Occupant or any one visiting the Property (including anyone under the age of 18 years)
- anyone work done in the Property by the Occupant or anyone on the Occupant's behalf even if the Council has agreed that the Occupant can do this work or get it done
- anything which the occupant or anyone else has installed in the Property even if the Council has agreed that it may be installed

2.5 The Council's Housing Service will determine responsibility to undertake repairs within different timescales depending on their urgency

The categories are:

E – Emergency – within 3 hours

1 – Urgent – within 24 hours

2 – Less Urgent – within 3 days

3 – Routine – within 7 days

4 – Routine – within 28 days

2.6 In certain instances it may be necessary for tradesmen who are not employed by the Council to undertake work in the Property they will not attempt to enter the property home without prior notice and will produce identification

THE OCCUPANT'S RIGHT TO BE CONSULTED

2.7 The Council's Housing Service will consult the Occupant on any major changes or issues affecting the Property

SIXTH SCHEDULE

Repairs Timescale

CATEGORY E – EMERGENCY – WITHIN 3 HOURS – Any major fault that may cause danger to health, life or the safety of the building

Examples are:

- ◆ Total lack of hot water – urgent work undertaken and recharged to the Landlord
- ◆ Gas leaks – urgent work undertaken and recharged to the Landlord
- ◆ Total electrical failure – urgent work undertaken and recharged to the Landlord
- ◆ Total heating failure (winter) – urgent work to be carried out and charged to the Landlord
- ◆ Burst pipes – urgent work undertaken and recharged to the Landlord

CATEGORY 1 – URGENT - within 24 hours

CATEGORY 2 – LESS URGENT – within 3 working days

CATEGORY 3 – PRIORITY – within 7 working days - Work to prevent inconvenience to the resident

Examples are:

- ◆ Plumbing and drainage faults – may be recharged to the Landlord or may be referred to the Landlord for attention
- ◆ Leaking roofs – may be recharged to the Landlord or may be referred to the Landlord for attention
- ◆ Electrical faults to individual lights and sockets – may be recharged to the Landlord or referred to the Landlord for attention
- ◆ Gas repairs – will probably be referred to the Landlord or dealt with and recharged to the Landlord
- ◆ Heating system faults will be referred to the Landlord for attention

For simplicity of operation Council staff will decide the Priority of any reported fault. Therefore the priority may be subject to change at the Council's discretion and may result in a recharge to the Landlord. The Landlord will be notified of any work costing in excess of £150.00 and given the opportunity to carry out the work within an agreed timescale.

CATEGORY 4 – ROUTINE - Within 20 working days

Any other internal repairs which are not the responsibility of the Landlord – as detailed in the First schedule