

## Schedule 11 The Lease

1<sup>st</sup> April

DATED

2022

-----

**LEASE**

relating to

**The Nursery, Building 99, RAF Brize Norton, Carterton, OX18 3LX**

between

**THE SECRETARY OF STATE FOR DEFENCE (1)**

and

**RAFAKIDZ LIMITED (2)**



MINISTRY OF DEFENCE

**Defence  
Infrastructure  
Organisation**

## Contents

1.	INTERPRETATION .....	5
2.	GRANT.....	8
3.	ANCILLARY RIGHT.....	8
4.	RENT SUSPENSION .....	9
5.	RIGHTS EXCEPTED AND RESERVED .....	9
6.	THIRD PARTY RIGHTS .....	10
7.	THE ANNUAL RENT, SERVICE CHARGE AND INSURANCE RENT	11
8.	LANDLORD SERVICES .....	11
9.	INSURANCE .....	11
10.	RATES AND TAXES .....	13
11.	UTILITIES.....	13
12.	VAT .....	14
13.	DEFAULT INTEREST AND INTEREST.....	14
14.	COSTS.....	14
17.	PROHIBITION OF DEALINGS .....	15
18.	MAINTENANCE OF THE PROPERTY .....	15
19.	DECORATION.....	15
20.	ALTERATIONS.....	16
21.	RETURNING THE PROPERTY TO THE LANDLORD.....	17
22.	USE .....	17
23.	MANAGEMENT OF THE PROPERTY.....	18
24.	COMPLIANCE WITH LAWS.....	18
25.	ENERGY PERFORMANCE CERTIFICATES .....	20
26.	ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS .....	20
27.	BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS .....	21
28.	INDEMNITY.....	21
30.	RE-ENTRY AND FORFEITURE .....	22
31.	DETERMINATION.....	23
33.	ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS	24
35.	GOVERNING LAW AND JURISDICTION.....	25



THIS LEASE is dated

PARTIES

THE SECRETARY OF  
care of Defence

1<sup>st</sup> April

STATE FOR DEFENCE  
Infrastructure Organisation

Building 35, Winstanley Way, Royal Military Academy, Sandhurst, Camberley, GU15 4PQ  
(Landlord).

RAFAKIDZ LIMITED whose registered address is Atlas House, Wembley Road, Leicester, LE3 11UT [details of the present trustees being set out in the Annex to this Lease] (Tenant).

AGREED TERMS

1. INTERPRETATION

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

**Annual Rent:** rent at an initial rate of £REDACTED per annum (exclusive of VAT).

**Common Parts:** such parts of the Landlord's Neighbouring Land which are not from time to time comprised in the Property or in any other part of the Landlord's Neighbouring Land exclusively occupied or used or intended for occupation and use by the Landlord or its employees or other permitted occupiers, which are used, or available for use, by the Tenant or are incidental to the Tenant's use of the Property, or from which the Tenant or the Property derive benefit.

**Contractual Term:** a term of five years beginning on 1<sup>st</sup> April 2022

**CDM Regulations:** The Construction (Design and Management) Regulations 2015.

**Default Interest Rate:** four percentage points above the Interest Rate.

**Energy Assessor:** an individual who is a member of an accreditation scheme approved by the Secretary of State in accordance with regulation 22 of the EPC Regulations.

**Energy Performance Certificate:** a certificate as defined in regulation 2(1) of the EPC Regulations.

**EPC Regulations:** Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118).

**Insurance Rent:** means £N/A

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

**Interest Rate:** interest at the base lending rate from time to time of Barclays Bank plc, or if that base lending rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.

**Landlord's Neighbouring Property:** each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as RAF Brize Norton as edged green on Plan 1 and registered at HM Land Registry with title number ON266308.

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

**Permitted Use:** use as a day nursery and/ or creche within Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 as at the date this lease is granted.

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

**Property:** The Nursery, Building 99, RAF Brize Norton shown edged red on the Plan including all Service Media that are in or on and exclusively serve the same.

**Recommendation Report:** a report as defined in regulation 4 of the EPC Regulations.

**Rent Commencement Date:** 1<sup>st</sup> April 2022

**Rent Payment Dates:** 25 March, 24 June, 29 September and 25 December.

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

**Service Charge:** £ REDACTED per annum (exclusive of VAT)

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

**SLA:** the service level agreement between the station commander of RAF Brize Norton and RAFAKIDZ Limited the Tenant.

**Station Commander:** The officer commanding RAF Brize Norton from time to time or such other person as the Landlord may from time to time appoint to manage the Landlord's Neighbouring Property.

**The Schedule:** the SLA.

**Third Party Rights:** all rights, covenants and restrictions affecting the Property.

**VAT:** value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

A reference to this **lease**, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.

A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns.

In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.

The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.

Unless the context otherwise requires, references to the **Property** is to the whole and any part of it.

The expression **neighbouring property** does not include the Property.

A reference to the **term** is to the Contractual Term.

A reference to the **end of the term** is to the end of the term however it ends.

References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 0 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 0.

A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

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.

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.

Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.

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.

A **person** includes a corporate or unincorporated body.

References to **writing** or **written** do not include faxes or email.

Except where a contrary intention appears, a reference to a clause or Schedule, is a reference to a clause of, or Schedule to, this lease and a reference in a Schedule to a paragraph is to a paragraph of that Schedule.

Clause, Schedule and paragraph headings do not affect the interpretation of this lease.

## **2. GRANT**

- 2.1 The Landlord lets with limited title guarantee the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary right set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 5, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:
- a. the Annual Rent and all VAT in respect of it;
  - b. the Service Charge and all VAT in respect of it;
  - c. the Insurance Rent and all VAT in respect of it;
  - d. all interest payable under this lease; and
  - e. all other sums due under this lease.

## **3. ANCILLARY RIGHT**

- 3.1 The Landlord grants the Tenant the right to use any Service Media at the Landlord's Neighbouring Property which the Property is connected to at the date of this lease (the **Right**).
- 3.2 The Landlord grants the Tenant access to and from the Property
- (a) The right (in common with the Landlord and others properly authorised) to pass and repass with or without vehicles over and along the access roads to the car parks on the Landlord's Neighbouring Property along such routes as shall from time to time be reasonably designated in writing by the Station Commander.
  - (b) The right to use such roads and footpaths on the Landlord's Neighbouring Property as the Landlord shall reasonably designate for access only to and from the Property.
  - (c) The right to park (in common with the Landlord and others properly authorised) to park such motor cars or other vehicles (if any) free of additional charge in such parts of the car park on the Estate and to use the designated dropping off points as directed from time to time by the Station Officer.
- 3.2 The Right is granted in common with the Landlord and any other person authorised by the Landlord.
- 3.3 The Landlord may, at its discretion, re-route or replace any Service Media on the Landlord's Neighbouring Property and the Right shall then apply in relation to the Service Media as re-routed or replaced.

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

#### **4. RENT SUSPENSION**

- 
- If the whole or any part of the Property and or Common Parts are destroyed or damaged by an Insured Risk so as to render the Property inaccessible or unfit for the Permitted Use then the Annual Rent and the Service Charge or a fair proportion of it according to the nature and extent of the damage shall be suspended until the earlier of the date that the Property and or Common Parts are reinstated so as to render the Property accessible and fit for the Permitted Use or the date of termination of the Lease except where the Landlord provides suitable alternative premises UNLESS any part of the Property and or Common Parts are destroyed or damaged by the Tenant so as to render the Property inaccessible or unfit for the Permitted Use in which case the Annual Rent and the Service Charge will not be suspended until the earlier of the date that the Property and or the Common Parts are reinstated so as to render the Property accessible and fit for the Permitted Use or the date of termination of the Lease.

#### **5. RIGHTS EXCEPTED AND RESERVED**

5.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

- 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. the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this lease or which are installed or constructed during the term; the right to install and construct Service Media at the Property to serve any part of the Landlord's Neighbouring Property (whether or not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this clause;
- c. at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;
- d. the right to erect scaffolding at the Property and attach it to any part of the Property in connection with any of the Reservations;
- e. the right to attach any structure, fixture or fitting to the boundary of the

Property in connection with any of the Reservations;

- f. 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.

5.2 The Landlord reserves the right to enter the Property:

- a. to carry out routine inspections, maintenance or other works to the Property in connection with its obligations on this Lease; and
- b. to repair, maintain, install, construct re-route or replace any Service Media or structure relating to any of the Reservations; and
- c. for any other purpose mentioned in or connected with:
  - i. this lease; ii. the Reservations; and
  - iii. the Landlord's interest in the Property or the Landlord's Neighbouring Property.

5.3 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.

5.4 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).

5.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:

- a. physical damage to the Property; or
- b. any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

## **6. THIRD PARTY RIGHTS**

6.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.

6.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

## **7. THE ANNUAL RENT, SERVICE CHARGE AND INSURANCE RENT**

7.1 The Tenant shall pay

- a. the Annual Rent and any VAT in respect of it; and
- b. the Service Charge and any VAT in respect of it

by equal instalments in advance on or before the Rent Payment Dates.

7.2 The payments of the Annual Rent and Service Charge shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant.

7.3 The first instalments of the Annual Rent and the Service Charge (and any VAT in respect of them) shall be made on the date of this lease and shall be the proportion, calculated on a daily basis, in respect of the period beginning on 01.04.2022 and ending on the day before the next Rent Payment Date.

7.4 The Tenant shall pay the Insurance Rent to the Landlord on demand.

## **8. LANDLORD SERVICES**

8.1 Subject to payment of the Service Charge by the Tenant and save to the extent that the Tenant is liable for the same pursuant to this Lease, the Landlord shall keep the Property in repair and shall comply with all laws relating to the Property (including carrying out legionella testing, electrical testing and gas safety testing when reasonably required) provided that:

- a. the Landlord shall not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by and Insured Risk or a risk against which the Landlord is not obliged to insure; and
- b. the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any covenant in this clause 8, unless and until the Tenant has given the Landlord notice of the failure and the Landlord has not remedied the failure within a reasonable time of service of that notice

## **9. INSURANCE**

9.1 The Tenant shall effect insurance with a reputable insurance company against any third party public and occupier's liability risks in respect of the Property and the Property on such terms and for a sum of not less than Five Million Pounds (£5,000,000.00) per claim or such other reasonable sum as may be required by the

Landlord and such insurance shall also include a 'Leased Premises' extension covering damage to the Property and the Property arising out of any act or omission of the Tenant or any of its servants workmen contractors agents subtenants licensees or invitees.

9.2 The insurance required by Clause 9.1 will be in the joint names of the Landlord and the Tenant.

9.3 The Tenant's obligation to include a 'Leased Premises' extension is subject to any exclusions, limitations, excesses and conditions that may be imposed by the insurers.

9.4 The Tenant shall:

- a. give the Landlord notice immediately any matter occurs in relation to the Tenant or the Property and the Property 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 and the Property;
- b. not do or omit anything as a result of which any policy of insurance of the Property and 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 (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased insurance or additional premium may become payable;
- c. comply at all times with the requirements and recommendations of the insurers relating to the Property and the Property and the use by the Tenant of the Property;
- d. give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property and the Property arising from an Insured Risk;
- e. pay the Landlord an amount equal to any insurance money that the insurers of the Property and the Property refuse to pay (in relation to the Property and the Property) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property and the Property with the actual or implied authority of any of them.

9.5 If, following damage to or destruction of the Property and the Property, the Landlord considers that it is impossible or impractical to reinstate the Property and the Property, the Landlord may terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.

9.6 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this lease by giving notice to the Landlord if, following damage or destruction of the Property and the Property by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use or the have not been reinstated so as to make the Property accessible or useable within one year after the date of damage or destruction. On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance shall belong to the Landlord.

9.7 The Landlord is not obliged to insure any part of the Property.

## **10. RATES AND TAXES**

10.1 Should the Property be separately assessed, the Tenant shall pay the Landlord all present and future rates taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, other than:

- a. any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or
- b. any taxes, other than VAT and insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this lease.
- c. If any such rates, taxes or other impositions and outgoings are payable in respect of the Property together with other land (including any other part of the Landlord's Neighbouring Property) the Tenant shall pay a fair proportion of the total.

10.2 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

10.3 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

## **11. UTILITIES**

11.1 The Tenant shall pay the Landlord by way of Service Charge in connection with the supply and removal of electricity, gas, water and sewage to or from the Property payable in equal instalments in advance on the Rent Payment Dates.

11.2 The Tenant must pay promptly all costs in connection with the supply of any other services and utilities to or from the Property.

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

## **12. VAT**

12.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

12.2 Every obligation on the Tenant, under or in connection with this lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include

an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994.

## **13. DEFAULT INTEREST AND INTEREST**

13.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period beginning on the due date and ending on the date of payment.

13.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period beginning on the date the amount (or each part of it) became due and ending on the date it is accepted by the Landlord.

## **14. COSTS**

14.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:

- a. the enforcement of the tenant covenants of this lease;
- b. serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- c. serving any notice in connection with this lease under section 17 of the

Landlord and Tenant (Covenants) Act 1995;

- d. the preparation and service of a schedule of dilapidations in connection with this lease; or
- e. any consent or approval applied for under this lease, whether or not it is granted (unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonably to withhold it).

14.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

**15. COMPENSATION ON VACATING**

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the Landlord and Tenant Act 1927 or the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

**16. NO DEDUCTION, COUNTERCLAIM OR SET-OFF**

The Annual Rent and all other amounts due under this lease are to be paid by the Tenant or any guarantor (as the case may be) in full without deduction, counterclaim, set-off or withholding.

**17. PROHIBITION OF DEALINGS**

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.

**18. MAINTENANCE OF THE PROPERTY**

18.1 The Tenant shall keep the Property clean and tidy, including cleaning the inside and outside of the windows at the Property, and shall make good any damage caused to the Property by any act or omission of the Tenant or any person under the control of the Tenant to the reasonable satisfaction of the Landlord.

18.2 The Tenant shall keep the play equipment at the Property and any alterations approved pursuant to clause 19.3 in good repair and condition.

**19. DECORATION**

19.1 The Tenant shall decorate the Property as often as is reasonably necessary and also in the last three months before the end of the term.

19.2 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.

19.3 All decoration carried out in the last three months of the term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

19.4 The Tenant shall replace the floor coverings at the Property within the three months before the end of the term with new ones of good quality and appropriate to the Property and the Permitted Use.

## **20. ALTERATIONS**

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

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

20.3 The Tenant shall not make any internal, non-structural alteration to the Property without the consent of the Landlord and the Tenant shall obtain any other required approvals for such alterations in advance of starting the works.

20.4 The Tenant shall not attach any sign, fascia, placard, board, poster or advertisement to the exterior of the Property or display any inside the Property so as to be seen from the outside of the Property except of a design, size and number and in a position that is appropriate to the Property and the Permitted Use, without the consent of the Landlord, such consent not to be unreasonably withheld.

20.5 The Tenant shall not erect any pole or mast (whether in connection with telegraphic telephonic radio or television communication or otherwise) or other matter or thing upon the Property provided that the Tenant shall be permitted to install wireless and/or television aerials brackets stays and ancillary wiring in connection with the Permitted Use subject to obtaining the Landlord's prior written consent, such consent not to be unreasonably withheld.

20.6 Before the end of the term, the Tenant shall remove any sign, fascia, placard, board, poster or advertisement placed by it at the Property and shall make good any damage caused to the Property by that removal.

20.7 The Tenant shall allow the Landlord to fix to and keep at the Property any sale or reletting board as the Landlord reasonably requires and shall permit the Property to be viewed by prospective tenants during the last six months of the term subject to the Landlord giving reasonable prior notice.

## **21. RETURNING THE PROPERTY TO THE LANDLORD**

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

21.2 Subject to clause 21.3, the Tenant shall remove items it has fixed to the Property, remove any alterations it has made to the Property during its period of occupancy and make good any damage caused to the Property by that removal.

21.3 If the Landlord gives notice in writing to the Tenant before the last three months of the Term that the Landlord does not require the reinstatement of the whole or any part of any alterations made by the Tenant, the Tenant shall not reinstate the alterations (or the relevant parts) specified in that notice.

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

21.5 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.

21.6 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.

## **22. USE**

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

22.2 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, nuisance or inconvenience to the Landlord or any owner or occupier of neighbouring property.

22.3 The Tenant shall not overload any structural part of the Property nor any machinery or equipment nor any Service Media at or serving the Property.

## **23. MANAGEMENT OF THE PROPERTY**

23.1 The Tenant shall observe all regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the management of the Property.

23.2 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any neighbouring property.

23.3 The Tenant shall not take or allow to be taken any photographs of the Landlord's Neighbouring Property

23.4 The Tenant shall ensure that at all times the Landlord has written notice of the names and addresses and telephone numbers of at least one authorised key holder of the Property.

23.5 If in the reasonable opinion of the Landlord any electrical or other equipment or appliance used installed on or in the Property under the provisions of this lease might overload the electric or other wiring or cabling serving the Property or cause interference to any telecommunication system radio reception or transmission of or computer system installed by the Landlord or any other Minister of the Crown or Government Department forthwith to rectify or reduce such interference to the reasonable satisfaction of the Landlord or remove the equipment or appliance in question.

## **24. COMPLIANCE WITH LAWS**

24.1 The Tenant shall comply with all laws relating to:

- a. the occupation and use of the Property by the Tenant (and shall procure that a fire risk assessment is carried out as often as required) and to comply with the Landlord's asbestos register in addition to the Control of Asbestos Regulations 2012;
- b. the use of all Service Media and machinery and equipment at or serving the Property (and shall carry out PAT testing as often as required) and comply with the Landlord's asbestos register in addition to the Control of Asbestos Regulations 2012;
- c. any works carried out by the Tenant at the Property and comply with the Landlord's asbestos register in addition to the Control of Asbestos Regulations 2012; and
- d. all materials kept at or disposed from the Property and comply with the Landlord's asbestos register in addition to the Control of Asbestos Regulations 2012.

- 24.2 the Tenant shall ensure that it is, and remains, registered with OFSTED (or any successor organisations) and meets all statutory and regulatory rules and requirements in respect of the use of the Property as a children's day nursery.
- 24.3 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required complying at all times with the Landlord's asbestos register and the Control of Asbestos Regulations 2012 and any law to be carried out at the Property whether by the owner or the occupier.
- 24.4 Within five working days after receipt of any notice or other communication affecting the Property (and whether or not served pursuant to any law) the Tenant shall:
- a. send a copy of the relevant document to the Landlord; and
  - b. in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection
- with it as the Landlord may require, save to the extent that the Landlord is liable to comply with the same pursuant to clause 8 of this Lease.
- 24.5 The Tenant shall not apply for any planning permission for the Property without the Landlord's consent.
- 24.6 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file. The Tenant shall maintain the health and safety file for the Property in accordance with the CDM Regulations and shall give it to the Landlord at the end of the term.
- 24.7 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.
- 24.8 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.
- 24.9 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.

## **25. ENERGY PERFORMANCE CERTIFICATES**

25.1 The Tenant shall:

- a. co-operate with the Landlord so far as is reasonably necessary to allow the Landlord to obtain an Energy Performance Certificate and Recommendation Report for the Property including providing the Landlord with copies of any plans or other information held by the Tenant that would assist in obtaining an Energy Performance Certificate and Recommendation Report; and
- b. allow such access to any Energy Assessor appointed by the Landlord as is reasonably necessary to inspect the Property for the purposes of preparing an Energy Performance Certificate and Recommendation Report for the Property.

25.2 The Tenant shall not commission an Energy Performance Certificate for the Property unless required to do so by the EPC Regulations.

25.3 Where the Tenant is required by the EPC Regulations to commission an Energy Performance Certificate for the Property, the Tenant shall at the request of the Landlord either:

- a. commission an Energy Performance Certificate from an Energy Assessor approved by the Landlord; or
- b. pay the costs of the Landlord of commissioning an Energy Performance Certificate for the Property.

25.4 The Tenant shall deliver to the Landlord a copy of any Energy Performance Certificate and Recommendation Report for the Property that is obtained or commissioned by the Tenant or any other occupier of the Property.

## **26. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS**

26.1 The Tenant shall not grant any right or licence over the Property to any person.

26.2 If any person 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:

- a. immediately give notice to the Landlord; and
- b. take all steps (including any proceedings) the Landlord reasonably requires to prevent or licence the continuation of that encroachment or action.

26.3 The Tenant shall not obstruct the flow of light or air to the Property nor obstruct any means of access to the Property.

26.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or that the means of access to the Property is enjoyed with the consent of any third party.

26.5 The Tenant shall immediately notify the Landlord if any person takes or threatens to take any action to obstruct the flow of light or air to the Property and take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

## **27. BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS**

27.1 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.

27.2 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.

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

27.3 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 0.

## **28. INDEMNITY**

28.1 The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs, claims, damage and loss (including but not limited to any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) suffered or incurred by the Landlord arising out of or in connection with any breach of any tenant covenants in this lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property with the actual or implied authority of any of them.

28.2 The Tenant shall not have or make any claim against the Crown or the Landlord in respect of any loss of or damage to the Property which may be suffered by the Tenant in the exercise of the Permitted Use or any rights granted by this lease whatever the cause of such loss damage or injury may be and whether or not the same shall have been caused by any negligent act omission or default on the part of the Landlord or any officer servant or agent of the Crown.

**29. LANDLORD'S COVENANT FOR QUIET ENJOYMENT**

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 except as otherwise permitted by this lease.

**30. RE-ENTRY AND FORFEITURE**

30.1 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. any breach of any condition of, or tenant covenant, in this lease;
- c. where the Tenant or any guarantor is a corporation:
  - i. the taking of any step-in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or guarantor; or
  - ii. the making of an application for an administration order or the making of an administration order in relation to the Tenant or guarantor; or
  - iii. the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the tenant or the guarantor; or
  - iv. the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or guarantor; or
  - v. the commencement of a voluntary winding-up in respect of the Tenant or guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies; or
  - vi. the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or guarantor; or
  - vii. the striking-off of the Tenant or guarantor from the Register of Companies or the making of an application for the Tenant or the guarantor to be struck-off; or
  - viii. the Tenant or guarantor otherwise ceasing to exist;
- d. where the Tenant or any guarantor is an individual:

- i the taking of any step-in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or guarantor; or
- ii. the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or guarantor.

30.2 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 or any guarantor.

### **31. DETERMINATION**

31.1 The Landlord may determine this Lease at any time after the third anniversary of the commencement of the Contractual Term without cause by serving a notice in writing on the Tenant at least three months prior to the proposed date of determination and upon the expiration of such notice this Lease shall determine but without prejudice to any right or remedy which either of the parties hereto may have in respect of any antecedent breach of any of the covenants and conditions contained in this Lease

31.2 The Landlord may determine this Lease at any time on giving notice in writing to the Tenant in the event that the SLA for the provision of nursery services on the Landlord's premises, which the Parties acknowledge is the sole purpose for which the Lease is granted by the Landlord to the Tenant, is terminated in accordance with its terms and this lease. In such circumstances, the Lease shall terminate with immediate effect but without prejudice to any antecedent breach of either party.

31.3 The Landlord may resume possession of the Property instantly in case of national emergency (whether declared or not) under Crown exemption provided that the determination of this Lease pursuant to this clause shall be without prejudice to any right or remedy which either of the parties hereto may have in respect of any antecedent breach of any of the covenants or conditions contained in this lease.

31.4 The Landlord may determine this Lease immediately in the event that the Tenant breaches any of the terms of this lease and, where such breach is reasonably considered by the Landlord capable of remedy, fails to remedy any breach within 10 business days of being notified by the Landlord in writing of the breach and the measures required to remedy the breach. Where the breach is reasonably considered by the Landlord as not capable of remedy the Landlord shall be entitled to immediately determine this lease on simple written notice.

31.5 On the date of determination of this Lease pursuant to this clause 30, the Landlord shall repay to the Tenant any part of the rents paid in advance by the Tenant in respect of

the period from the date of such determination to the day before the next payment date of such rents.

## **32. LIABILITY**

32.1 At any time when the Landlord, the Tenant or a guarantor is more than one person, then in each case those persons shall be jointly and severally liable for their respective obligations arising by virtue of this lease. The Landlord may release or compromise the liability of any one of those persons or grant any time or concession to any one of them without affecting the liability of any other of them.

32.2 The obligations of the Tenant and any guarantor arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

32.3 In any case where the facts are or should reasonably be known to the Tenant, the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this lease unless and until the Tenant has given the Landlord notice of the facts that give rise to the failure and the Landlord has not remedied the failure within a reasonable time.

## **33. ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

33.1 This lease constitutes the entire agreement and understanding of the parties relating to the transaction contemplated by the grant of this lease and supersedes any previous agreement between the parties relating to the transaction.

33.2 The Tenant acknowledges that in entering into this lease it has not relied on nor shall have any remedy in respect of, any statement or representation made by or on behalf of the Landlord.

33.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this lease.

33.4 Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

## **34. NOTICES, CONSENTS AND APPROVALS**

34.1 Except where this lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this lease shall be in writing.

34.2 A written notice shall be delivered by hand or sent by pre-paid first-class post or recorded delivery. A correctly addressed notice sent by pre-paid first-class post shall be deemed

to have been delivered at the time at which it would have been delivered in the normal course of the post.

34.3 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

34.4 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:

- a. it is given in writing and signed by a person duly authorised on behalf of the Landlord; and
- b. it expressly states that the Landlord waives the requirement for a deed in that particular case.

If a waiver is given, it shall not affect the requirement for a deed for any other consent.

34.5 Where the approval of the Landlord is required under this lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

- a. the approval is being given in a case of emergency; or
- b. this lease expressly states that the approval need not be in writing.

34.6 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

### **35. GOVERNING LAW AND JURISDICTION**

35.1 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.

35.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this lease or its subject matter or formation (including non-contractual disputes or claims).

### **36. EXCLUSION OF SECTIONS 24-28 OF THE LTA 1954**

36.1 The parties confirm that:

- a. the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy created by this lease, was entered into a certified copy of which notice is annexed to this lease;

b. *Ruth Brutnall* ] who was duly authorised by the Tenant to do so made a statutory declaration dated

.....30<sup>th</sup> March..... 2022 in accordance with the requirements of section 38A(3)(b) of the LTA 1954 a certified copy of which statutory declaration is annexed to this lease; and

c. there is no agreement for lease to which this lease gives effect.

36.2 The parties agree that the provisions of sections 24 to 28 of the LTA 1954 are excluded in relation to the tenancy created by this lease.

**39. 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 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

**40. LANDLORD AND TENANT (COVENANTS) ACT 1995**

This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

**41. CROWN PRIVILEGE**

Nothing herein contained shall be construed or be deemed to have effect so as to in any way to restrict or otherwise prejudicially affect any Crown privilege or exemption enjoyed by the Landlord.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it and the Corporate Seal of The Secretary of State for Defence has been hereunto affixed the day and year first before written

The Corporate Seal of **THE SECRETARY OF STATE FOR DEFENCE**

hereunto affixed is authenticated by

.....  
Authorised by the Secretary of State

Position held  
.....

**Executed as a DEED**  
By RAFAKIDZ Limited

REDACTED  
Authorised by the Tenant