

DATED

2020

- (1) **ANDREW WARD ROBERTS as attorney for BERYL
MARIE ROBERTS**
- (2) **JEREMY SEAN CHARLES CAVE and DERMOT
FRANCIS BURKE**
- (3) **BELLS SOLICITORS LIMITED**
- (4) **JEREMY SEAN CHARLES CAVE and DERMOT
FRANCIS BURKE as guarantors**

LICENCE TO ASSIGN

relating to

11 South Street
Farnham
GU9 7QX

THIS AGREEMENT is made the day of 2020

HM Land Registry

Landlord's title number: SY591511

Tenant's title number: SY762817

PARTIES

- (1) **ANDREW WARD ROBERTS** of The Bishops Barn, Heath Road, Rollesby, Great Yarmouth NR29 5HN acting as attorney for **BERYL MARIE ROBERTS** of Pelham Cottage, Newton Valence, Alton GU34 3NQ under an Enduring Power of Attorney registered at the Office of the Public Guardian on 3 August 2018 ("**the Landlord**")
- (2) **JEREMY SEAN CHARLES CAVE** and **DERMOT FRANCIS BURKE** both of 11 South Street, Farnham, Surrey GU9 7QX (together "**the Tenant**")
- (3) **BELLS SOLICITORS LIMITED** incorporated and registered in England and Wales with company number 07827988 whose registered office is at 11 South Street, Farnham, Surrey, GU9 7QX ("**the Assignee**") and
- (4) **JEREMY SEAN CHARLES CAVE** and **DERMOT FRANCIS BURKE** both of 11 South Street, Farnham, Surrey GU9 7QX (together "**the Assignee's Guarantor**").

BACKGROUND

- (A) This licence is supplemental and collateral to the Lease.
- (B) The Landlord is entitled to the immediate reversion to the Lease.
- (C) The residue of the term granted by the Lease is vested in the Tenant.
- (D) The Tenant intends to assign the Lease to the Assignee and, under the terms of the Lease, requires the consent of the Landlord to that assignment.

IT IS AGREED as follows:

1 INTERPRETATION

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

1.1 Definitions:

- Landlord's Solicitors** Charles Russell Speechlys LLP, One London Square, Cross Lanes, Guildford, Surrey GU1 1UN (reference 221357/00001);
- Lease** a lease of the Property dated 4 May 2007 made between Reginald Edgar Roberts and Beryl Marie Roberts (1) and Jeremy Sean Charles Cave and Dermot Francis Burke (2) and all documents supplemental or collateral to that lease, as is

registered at the Land Registry under title number SY762817;

LTA 1954 Landlord and Tenant Act 1954;

LTCA 1995 Landlord and Tenant (Covenants) Act 1995;

Property 11 South Street, Farnham GU9 7QX as more particularly described in and demised by the Lease;

- 1.2 References to the “**Landlord**” include a reference to the person entitled to the immediate reversion to the Lease from time to time. Except in clause 1.5 and clause 2, references to the **Assignee** include a reference to its successors in title and assigns.
- 1.3 References to the **Assignee’s Guarantor** include a reference to the personal representatives of any individual who comprises the Assignee’s Guarantor.
- 1.4 The expression “**tenant covenants**” has the meaning given to it by the LTCA 1995.
- 1.5 References to “**completion of the assignment**” (and similar expressions) are to the date on which the deed of assignment to the Assignee is dated and not to the registration of that deed at HM Land Registry.
- 1.6 Clause, Schedule and paragraph headings shall not affect the interpretation of this licence.
- 1.7 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.8 The Schedule forms part of this licence and shall have effect as if set out in full in the body of this licence. Any reference to this licence includes the Schedule.
- 1.9 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.10 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.11 Unless otherwise specified, reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.12 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.13 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.14 A reference to **writing** or **written** includes fax but not email.

- 1.15 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.16 A reference to **this licence** or to any other agreement or document referred to in this licence is a reference to this licence or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this licence) from time to time.
- 1.17 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this licence and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.18 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.19 A **working day** is any day, other than a Saturday, a Sunday, a bank holiday or a public holiday in England.

2 **CONSENT TO ASSIGN**

- 2.1 Subject to clause 2.2, the Landlord consents to the Tenant assigning the Lease to the Assignee.
- 2.2 The consent given by clause 2.1 is valid for three months from (and including) the date of this licence. If that consent ceases to be valid before the assignment is completed, all the terms of this licence (except clause 2.1) shall remain in force.
- 2.3 Nothing in this licence shall operate to waive or be deemed to waive any subsisting breach of any of the tenant covenants of the Lease.
- 2.4 Any sum which becomes due under the Lease after completion of the assignment but which relates to any period before completion of the assignment shall be payable in full by the Assignee.
- 2.5 The consent given by clause 2.1 does not obviate the need for the consent or licence of any person other than the Landlord that may be required for the assignment.

3 **OBLIGATIONS RELATING TO THE ASSIGNMENT**

- 3.1 Immediately following completion of the assignment, the Assignee shall notify the Landlord (or its managing agents) of the name and address of the person to whom demands for rent should be sent.
- 3.2 Within one month after completion of the assignment, the Assignee shall:
 - 3.2.1 notify the Landlord of completion;
 - 3.2.2 send the Landlord's Solicitors a certified copy of the assignment; and
 - 3.2.3 pay the Landlord's registration fee of £75 plus value added tax.

4 **GUARANTEE OF ASSIGNEE'S OBLIGATIONS**

4.1 The provisions of the Schedule shall take effect on completion of the assignment.

4.2 If:

4.2.1 any of the events mentioned in clause 18.1 or 18.2 of the Lease occur in relation to the Assignee's Guarantor or any of the individuals who is an Assignee's Guarantor; or

4.2.2 the Assignee's Guarantor or any of the individuals who is an Assignee's Guarantor dies or becomes incapable of managing their affairs;

the Assignee must, if the Landlord requests, procure that a person of standing acceptable to the Landlord, within 28 days of that request, enters into a replacement or additional guarantee and indemnity of the tenant covenants of the Lease in the same form as that entered into by the Assignee's Guarantor.

4.3 For so long as the Assignee's Guarantor remains liable to the Landlord, the Assignee shall, if the Landlord requests, procure that the Assignee's Guarantor joins in any consent or approval required under the Lease and consents to any variation of the tenant covenants of the Lease.

5 **COSTS**

On completion of this licence the Tenant shall pay the reasonable costs and disbursements of the Landlord's solicitors and its managing agents in connection with this licence. This obligation extends to costs and disbursements assessed on a full indemnity basis and to any value added tax in respect of those costs and disbursements except to the extent that the Landlord is able to recover that value added tax.

6 **THE RIGHT OF RE-ENTRY IN THE LEASE**

The right of re-entry in the Lease shall be exercisable if any covenant or condition of this licence is breached as well as if any of the events stated in the provision for re-entry in the Lease occurs.

7 **INDEMNITY**

The Tenant and the Assignee shall indemnify the Landlord against all reasonable liabilities, costs, expenses, damages and losses suffered or incurred by the Landlord arising out of or in connection with any breach of their respective obligations in this licence.

8 **NOTICES**

8.1 Any notice given to a party under or in connection with this licence shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next

working day delivery service, at the address given for that party in this licence or as otherwise notified in writing to each other party.

8.2 A notice shall be deemed to have been received:

8.2.1 if delivered by hand, on signature of a delivery receipt or otherwise at the time the notice is left at the proper address; or

8.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting or at the time recorded by the delivery service.

8.3 A notice given under this licence is not valid if sent by fax or email.

8.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

9 **LIABILITY**

9.1 The obligations of each of the Tenant, the Assignee and the Assignee's Guarantor in this licence are owed to the Landlord.

9.2 Where a party to this licence comprises more than one person, then those persons shall be jointly and severally liable for the obligations and liabilities of that party arising under this licence or the assignment. The party to whom those obligations and liabilities are owed may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons, without affecting the liability of any other of them.

10 **THIRD PARTY RIGHTS**

This licence does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this licence.

11 **REGISTRATION AT THE LAND REGISTRY**

11.1 The Assignee shall:

11.1.1 apply for registration of the assignment at HM Land Registry within one month following completion of the assignment;

11.1.2 ensure that any requisitions raised by HM Land Registry in connection with its registration application are responded to promptly and properly; and

11.1.3 send the Landlord official copies of its title within one month after the registration has been completed.

12 **GOVERNING LAW**

This licence and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

13 **JURISDICTION**

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

SCHEDULE

Guarantee of Assignee's obligations

1 **GUARANTEE AND INDEMNITY**

- 1.1 The Assignee's Guarantor guarantees to the Landlord that the Assignee shall:
- 1.1.1 pay the rents reserved by the Lease and any interim rent determined under the LTA 1954 and observe and perform the tenant covenants of the Lease and that if the Assignee fails to pay any of those rents or to observe or perform any of those tenant covenants, the Assignee's Guarantor shall pay or observe and perform them; and
 - 1.1.2 observe and perform any obligations the Assignee enters into in an authorised guarantee agreement made in respect of the Lease (an **Assignee's AGA**) and that if the Assignee fails to do so, the Assignee's Guarantor shall observe and perform those obligations.
- 1.2 The Assignee's Guarantor covenants with the Landlord as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under paragraph 1.1 to indemnify and keep indemnified the Landlord against any failure by the Assignee:
- 1.2.1 to pay any of the rents reserved by the Lease and any interim rent determined under the LTA 1954 or to observe or perform any of the tenant covenants of the Lease; and
 - 1.2.2 to observe or perform any of the obligations the Assignee enters into in an Assignee's AGA.

2 **ASSIGNEE'S GUARANTOR'S LIABILITY**

- 2.1 The liability of the Assignee's Guarantor under paragraph 1.1.1 and paragraph 1.2.1 shall continue until the end of the term of the Lease (however it may end) and during any statutory continuation of it or until the Assignee is released from the tenant covenants of the Lease by virtue of the LTCA 1995, if earlier.
- 2.2 The liability of the Assignee's Guarantor shall not be reduced, discharged or otherwise adversely affected by any of the following:
- 2.2.1 any time or indulgence granted by the Landlord to the Assignee (or to any person to whom the Assignee has assigned the Lease pursuant to an assignment that is an excluded assignment under section 11 of the LTCA 1995);
 - 2.2.2 any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant

covenants of the Lease (or the Assignee's obligations under an Assignee's AGA) or in making any demand in respect of any of them;

- 2.2.3 any refusal by the Landlord to accept any rent or other payment due under the Lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property;
 - 2.2.4 the Landlord exercising any right or remedy against the Assignee for any failure to pay the rents reserved by the Lease or to observe or perform the tenant covenants of the Lease (or the Assignee's obligations under an Assignee's AGA);
 - 2.2.5 the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Assignee's liability to pay the rents reserved by the Lease and observe and perform the tenant covenants of the Lease (or the Assignee's obligations under an Assignee's AGA), including the release of any such security;
 - 2.2.6 a release or compromise of the liability of any one of the persons who is the Assignee's Guarantor, or the grant of any time or concession to any one of them;
 - 2.2.7 any legal limitation on or disability of the Assignee or any invalidity or irregularity of any of the tenant covenants of the Lease (or the Assignee's obligations under an Assignee's AGA) or any unenforceability of any of them against the Assignee;
 - 2.2.8 the Assignee being dissolved, or being struck off the register of companies or otherwise ceasing to exist or, if the Assignee is an individual, by the Assignee dying or becoming incapable of managing its affairs;
 - 2.2.9 without prejudice to paragraph 4, the disclaimer of the liability of the Assignee under the Lease or the forfeiture of the Lease;
 - 2.2.10 the surrender of the Lease in respect of part only of the Property, except that the Assignee's Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender; or
 - 2.2.11 any other act or omission except an express written release by deed of the Assignee's Guarantor by the Landlord.
- 2.3 Any sum payable by the Assignee's Guarantor shall be paid without any deduction, set-off or counter-claim against the Landlord or the Assignee.

3 VARIATIONS AND SUPPLEMENTAL DOCUMENTS

- 3.1 The Assignee's Guarantor shall, at the request of the Landlord, join in and give its consent to the terms of any consent, approval, variation or other document that may be entered into by the Assignee in connection with the Lease (or an Assignee's AGA).

- 3.2 The Assignee's Guarantor shall not be released by any variation of the rents reserved by, or the tenant covenants in, the Lease (or an Assignee's AGA), whether or not:
 - 3.2.1 the variation is material or prejudicial to the Assignee's Guarantor;
 - 3.2.2 the variation is made in any document; or
 - 3.2.3 the Assignee's Guarantor has consented, in writing or otherwise, to the variation.
- 3.3 Except to the extent that its liability is affected by section 18 of the LTCA 1995, the liability of the Assignee's Guarantor shall apply to:
 - 3.3.1 the rents reserved by the Lease as varied and any interim rent determined under the LTA 1954; and
 - 3.3.2 the tenant covenants of the Lease (and the Assignee's obligations under an Assignee's AGA) as varied.

4 GUARANTOR TO TAKE NEW LEASE OR MAKE PAYMENT

- 4.1 If this Lease is forfeited or the liability of the Assignee under the Lease is disclaimed and the Landlord gives the Assignee's Guarantor written notice not later than six months after the forfeiture or the Landlord receiving notice of the disclaimer, the Assignee's Guarantor shall enter into a new lease of the Property on the terms set out in paragraph 4.2.
- 4.2 The rights and obligations under the new lease shall take effect from the date of the forfeiture or disclaimer and the new lease shall:
 - 4.2.1 be granted subject to the right of any person to have the Lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of grant;
 - 4.2.2 be for a term that expires at the same date as the end of the contractual term granted by the Lease had there been no forfeiture or disclaimer;
 - 4.2.3 (subject to paragraph 5.1) reserve as an initial annual rent an amount equal to the rent which is reserved under the Lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of such annual rent or restriction on the right to collect it and which is subject to review on the same terms and dates provided by the Lease; and
 - 4.2.4 otherwise be on the same terms as the Lease (as varied, save to the extent that the Assignee's Guarantor is not bound by any such variation by virtue of section 18 of the LTCA 1995).

- 4.3 The Assignee's Guarantor shall pay the Landlord's solicitors' costs and disbursements (on a full indemnity basis) and any value added tax on them in relation to the new lease and shall execute and deliver to the Landlord a counterpart of the new lease within one month after service of the Landlord's notice under paragraph 4.1.
- 4.4 The grant of a new lease and its acceptance by the Assignee's Guarantor shall be without prejudice to any other rights which the Landlord may have against the Assignee's Guarantor or against any other person or in respect of any other security that the Landlord may have in connection with the Lease.
- 4.5 The Landlord may, instead of giving the Assignee's Guarantor notice pursuant to paragraph 4.1 but in the same circumstances and within the same time limit, require the Assignee's Guarantor to pay an amount equal to six months of the rent reserved by the Lease and the Assignee's Guarantor shall pay that amount on demand.

5 RENT AT THE DATE OF FORFEITURE OR DISCLAIMER

- 5.1 If at the date of forfeiture or disclaimer there is a rent review pending under the Lease, then:
- 5.1.1 the initial annual rent to be reserved by the new lease shall be subject to review on the date on which the term of the new lease commences on the same basis as a review of the rent reserved under the Lease, such review date to be included in the new lease; and
- 5.1.2 the provisions in the new lease relating to the payment of any shortfall and interest following agreement or determination of a rent review shall apply in relation to any shortfall between the rent reserved under paragraph 4.2.3 and the rent determined under paragraph 5.1.1, in respect of the period after the date of the forfeiture or disclaimer.
- 5.2 If paragraph 5.1 applies, then the review for which it provides shall be in addition to any rent reviews that are required under paragraph 4.2.3.

6 PAYMENTS IN GROSS AND RESTRICTIONS ON THE ASSIGNEE'S GUARANTOR

- 6.1 Any payment or dividend that the Landlord receives from the Assignee (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Assignee shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Assignee's Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.
- 6.2 The Assignee's Guarantor shall not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Assignee in respect of any payment made by the Assignee's Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it shall hold that money on trust for the Landlord to the extent of its liability to the Landlord.

6.3 The Assignee's Guarantor shall not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Assignee or any other person) in respect of any amount paid or other obligation performed by the Assignee's Guarantor under this guarantee and indemnity unless and until all the obligations of the Assignee's Guarantor under this guarantee and indemnity have been fully performed.

7 OTHER SECURITIES

7.1 The Assignee's Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Assignee in respect of any liability of the Assignee to the Assignee's Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.

7.2 This guarantee and indemnity is in addition to and independent of any other security that the Landlord may at any time hold from the Tenant, the Assignee or the Assignee's Guarantor or any other person in respect of the liability of the Assignee to pay the rents reserved by the Lease and to observe and perform the tenant covenants of the Lease. It shall not merge in or be affected by any other security.

7.3 The Assignee's Guarantor shall not be entitled to claim or participate in any other security held by the Landlord in respect of the liability of the Assignee to pay the rents reserved by the Lease or to observe and perform the tenant covenants of the Lease.

SIGNED as a DEED by ANDREW WARD)
ROBERTS as attorney for BERYL MARIE)
ROBERTS in the presence of:)

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Witness Signature:

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Name:

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Address:

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Occupation:

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