



**Lambert  
Smith  
Hampton**

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## **Heads of Terms Proposal**

### **Lease**

Between

**Essex County Council**

and

**TBC**

For

**Harlowbury Nursery**

**Old Oak Way**

**Harlow**

**CM17 0JF**

Prepared by

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Chelmsford, Essex

Tel: 01245 215 521

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## **SECTION 1 – THE PARTIES**

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**Landlord:** Essex County Council  
of  
County Hall,  
Chelmsford,  
Essex  
CM1 1LX

**Tenant:** TBC



## SECTION 2 – TRANSACTION DETAILS

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<b>Property:</b>	The standalone 56 place Nursery Building shown edged red on the attached plan L2697 A										
<b>Demised Premises:</b>	<p>The premises comprising the buildings and external areas outlined in red on the attached plan L2697 A</p> <p>For information purposes only, based on the plan attached 'HBEY-CF-ZZ-XX-DR-A-0510 – Ground Floor As Proposed Plan', this standalone building provides a net internal area of 2,422 sq ft (225m2)</p>										
<b>Transaction:</b>	<p>A New Lease of the Demised Premises for a term of 25 years.</p> <p>The Lease will be excluded from the Security of Tenure and Compensation provisions of the Landlord &amp; Tenant Act 1954 Part II.</p>										
<b>Rent:</b>	<p>Stepped rent:</p> <table> <tr> <td>Year 1</td><td>£9,700</td></tr> <tr> <td>Year 2</td><td>£13,500</td></tr> <tr> <td>Year 3</td><td>£19,400</td></tr> <tr> <td>Year 4</td><td>£23,200</td></tr> <tr> <td>Year 5</td><td>£27,000</td></tr> </table> <p>The rent is to be paid quarterly in advance on the usual quarter days</p>	Year 1	£9,700	Year 2	£13,500	Year 3	£19,400	Year 4	£23,200	Year 5	£27,000
Year 1	£9,700										
Year 2	£13,500										
Year 3	£19,400										
Year 4	£23,200										
Year 5	£27,000										
<b>Rent Review(s):</b>	There will be an Upward Only Rent Review upon each fifth anniversary of the term to either open market rental value or RPI which ever is greater (taking into account offering of Funded Early Education Entitlement Places as per the user clause).										
<b>Rent Deposit:</b>	N/A										
<b>Lease Commencement Date:</b>	On receipt of Practical completion certificate.										
<b>Rent Commencement Date or Incentives:</b>	<p>The initial rent reserved under the lease will commence on the date of occupation.</p> <p>The liability for all other payments due under the terms of the Lease will be from the Lease Commencement Date</p>										



**Break:**

Mutual Break Clause every 5 years which is subject to not less than six months written notice.

In addition to the above, in the event that the Tenant during the lease term the OFSTED registration falls below a "good" (or equivalent) rating the Tenant must immediately notify the Landlord and if any OFSTED requirements to improve such rating to a "good" (or equivalent) or above are not dealt with within a reasonable period of time (such time to be determined at the absolute discretion of the Landlord) to the satisfaction of the Landlord then the Landlord can determine the Lease on giving no less than one month's prior written notice to the Tenant.

**Repair:**

The **Tenant** will be responsible for:-

Keeping the Demised Premises in good and substantial repair, condition and decorative order at all times to the reasonable satisfaction of the Landlord.

To repair and maintain landlords fixtures and fittings located within the Demised Premises. For the avoidance of doubt this will include solar panels, Air Source Heat Pump and the EV charging point within the car park.

Keeping the external areas of the Demised Premises in good repair and condition to include but not exclusive to the bin store, fences (marked with an inward 'T'), play equipment, sheds and storage & shading canopies. At all times to the reasonable satisfaction of the Landlord.

To repair and maintain all security systems including keys, alarms, locks, electronic key and access pads used in connection with the Demised Premises.

Not to allow to pass into the pipes any noxious or deleterious effluent or other substance which will or may cause an obstruction in or injure or damage the pipes and in the event of any such obstruction, injury or damage, to make good any such damage to the satisfaction of the Landlord structural damage to drains and drainage pipes to be reported to the Landlord.



**Insurance:**

The Landlord to effect buildings insurance and the tenant to be responsible for paying the premium. If the Landlord self-insures then a notional premium to be calculated and recovered from the Tenant. There will be a £500 excess on each and every claim

The Tenant to effect or cause to be effected throughout the term a Public Liability Insurance of no less than Ten Million Pounds (£10,000,000)] or be a member of the risk protection arrangement

The Tenant to arrange contents insurance (including items provided by the Landlord and alarm systems and phone lines)

The Tenant to insure any plate glass against breakages/damage and to reinstate as soon as possible

The Tenant to insure against any damage to the security and alarm systems.

If the Tenant is a member of the Risk Protection Arrangement (RPA) this will be acceptable.

**Rates and Outgoings:**

The Tenant will be responsible for the payment of all rates, taxes, assessment, impositions, duties, charges, outgoings and utilities including electric, water/sewerage, phone /broadband/ internet lines/equipment including the standing charges.

*(N.B – there is no gas supply to the Property)*

In addition to the above, an annual contribution will be applicable depending on site specific arrangements such as maintenance of shared access areas, grounds maintenance and landscaping as determined by the Tenant of the adjacent Primary School based on floor area.



## **Statutory Testing**

The Tenant will be responsible for complying with all statutory obligations (including those for Planning and Health & Safety) for the Demised Premises.

The Tenant will provide the Landlord with evidence of compliance when requested. Any non-compliance can be rectified by the Landlord and recharged to the Tenant.

For Clarity the Tenant is responsible for (including but not limited to) the :-

Annual Fire Alarm test  
Annual Water tank test  
Six monthly Emergency Lighting Tests  
Annual (or as required) Fire Risk Assessment and reviews and to undertake any recommendations.  
Five yearly electrical systems and lighting protection testing.  
Inspection of all lifting equipment in accordance with current regulations  
Inspection of edge protection in accordance with current regulations  
Annual test and inspection of lightening protection  
Inspection of all pressure systems in accordance with current regulations  
Weekly fire alarm callpoint/sounder testing  
Fire Fighting equipment inspections  
Repair and replacement of fire alarm, fire detection, fire prevention of fire fighting equipment  
Maintenance of evacuation chairs in accordance with current legislative guidelines.  
Monthly emergency lighting tests  
Tenant responsibilities Cont'd

## **Statutory Testing Cont'd:**

Testing of Water at the premises in accordance with the ACOP L8. Frequency will be defined within the site-specific Risk Assessment  
To undertake any actions as defined within the Asbestos Management Plan  
All works having a material impact on electrical installation including Solar Panels.  
Portable appliance testing in accordance with current regulations and guidance  
Monthly testing of panic alarms  
Monthly testing of disabled toilet alarms  
Monthly provision of meter readings  
Fire Drills (see FRA for guidance and frequency)  
Compliance with any recommendations or requirements defined within FRA  
Provision of sufficient Fire Marshalls in accordance with legislative guidelines  
To comply with actions as defined in the Asbestos Management Plan  
Keep electrical equipment in good repair and report all faults in a timely manner.



**Alterations:**

There will be a complete prohibition on Structural alterations or additions.

Non-Structural external alterations or additions will be subject to Landlords Consent not to be unreasonably withheld save that anything that invalidates warranties relating to construction & design of the property (as a new build) would be grounds for refusal.

Non Structural internal alterations are permitted subject to Landlord's consent, such consent not to be unreasonably withheld or delayed.

Upon each application for alteration the Tenant will provide the Landlord with drawings and specifications for approval.

Aerials – not to erect any pole, mast or wire (whether in connection with radio, television and/or mobile phone) without the Landlords prior written consent and confirmation that the works do not invalidate warranties





**Alterations Cont'd..**

Signs – not to affix/exhibit on the outside of the premises any placard, sign, notice, fascia, board or advertisement without the Landlord's prior written consent and subject to the Tenant obtaining and complying with Planning requirements and consents and confirmation that the works do not invalidate warranties save that signage in respect of the nursery itself will be permitted.

**Landlord's Regulations:**

The Tenant will comply with any Regulations which may at any time be imposed by the Landlord, or its acting surveyors and/or solicitors, regarding the Demised Premises, common areas and retained areas.

**Alienation:**

Assignment not permitted without Landlords Consent.

Not to underlet or charge whole or any part of the Demised Premises

Not to part with possession of whole or any part of the Demised Premises

Not to permit another to occupy whole or any part of the Demised Premises save for those providing services ancillary to the permitted use

**User:**

The Tenant shall use the Demised Premises for the purpose of a Full Day Care facility for children to include offer of the Funded Early Education Entitlement for eligible 0 to 4 year olds in accordance with Class E(f) of the Town and Country Planning (Use Classes) Order 1987 as at 1st September 2020 or as amended by any subsequent legislation and the provision of ancillary services consisting of breakfast club, after school club and holiday club.

**Access:**

To permit the Landlord and all authorised personnel at reasonable times (except in an emergency) and on reasonable notice to survey, inspect or repair the demised premises.

To permit the Landlord and their contractors on reasonable notice permission to enter the Demised Premises to undertake snagging repairs.

**Access to Tenant**

The nursery is accessed via estate roads that will be constructed to an adoptable standard and in accordance with the s106 Agreement will be adopted in due course.

**Retained Land**

Shared (with the adjacent Primary School) Pedestrian access shown shaded Brown on the enclosed plan. L2697 A.  
The area shown outlined in blue Harlowbury Primary School on plan L2697 A

**Car Parking:**

The 9 space carpark is within the area demised. This includes one Disabled space and one EV charging space.



**Other:**

The Tenant to clear ice and snow from access ways within their demise in adverse weather.

The Landlord is under no obligation to provide the Tenant with alternative accommodation at the termination of this lease.



### SECTION 3 – OTHER MATTERS

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<b>Rights:</b>	<p>Free passage of water soil and electricity to and from the Demised Premises if such services pass through any land retained by the Landlord.</p> <p>Right of support from adjoining parts of the Demised Premises to the demised premises if applicable.</p> <p>The Tenant will require access rights as follows:</p> <p>Pedestrian access shown hatched brown on the enclosed plan. L2697 A</p>
<b>Rights Reserved:</b>	<p>ECC reserves the right to connect into, use and lay new service media for the benefit of the Retained Land together with all ancillary rights of access, inspection, support and if necessary maintenance and repair.</p>
<b>Other:</b>	<p>There will be a requirement for the provider to submit an application to Early Years at Essex County Council prior to confirmation of the lease offer and for the Tenant to confirm agreement with these terms.</p>
<b>Legal Costs:</b>	<p>Each party to be responsible for their own legal costs and other professional costs incurred in the transaction.</p>
<b>VAT:</b>	<p>Rent, insurance and service charges <u>may</u> be subject to VAT at the prevailing rate.</p>
<b>Timetable:</b>	<p>An Agreement for Lease subject to these terms will be entered into as soon as possible with the lease being completed on practical completion of the building on the Demised Premises,</p> <p>the Agreement to Lease will provide for the Tenant to have early access to enable set-up for and inspection by OFSTED – for clarity no alterations or other works can be carried out during this period of access. For the avoidance of doubt no access can be granted without completion of the Agreement to Lease or Lease. Early Access to be agreed with the Contractor, the Landlord will use reasonable endeavors in arranging early access with the contractor.</p>



#### SECTION 4 - CONDITONS

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**Landlord's Conditions:**

- i) Subject to Agreement For Lease/Development
- ii) Subject to Landlord's Approval

**Tenant's Conditions:**

- i) Subject to agreement for lease
- ii) Subject to Tenant's Approval

**Confidentiality:**

The Parties agree that the terms of this transaction shall remain confidential between the Parties and any press release shall be agreed prior to circulation.

**Notes:**

- i) These heads of terms is not intended to be legally binding.
- ii) The plan attached to these heads of terms has been attached for illustrative purposes only and has not been based on the plans contained in the title deeds to the Property. Lambert Smith Hampton does not warrant the accuracy and/or correctness of the attached plan and it is recommended that the Tenant inspect the title deeds in order to obtain an accurate and correct plan of the Property.



## **SECTION 5 – ADVISORS**

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<b>Landlord's Solicitor:</b>	Essex Legal Services Seax House Victoria Road South Chelmsford Essex, CM1 1QH  FAO: TBC Tel: 01245 506738 Email:
<b>Landlord's Agent:</b>	Lambert Smith Hampton Greenwood House 91-99 New London Road Chelmsford Essex, CM2 0PP  FAO:TBC Tel: Email:
<b>Tenant's Solicitor:</b>	TBC



## **SECTION 6 - CIRCULATION**

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**Copies to:**

Landlord  
Tenant  
Landlord's Solicitor  
Landlord's Agent  
Tenant's Solicitor



**SECTION 7 – DEMISED PREMISES PLAN**

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