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DATED 29 April 2015

**LICENCE TO ASSIGN,
RENT DEPOSIT AGREEMENT AND
DEED OF VARIATION**

relating to

**LEASE OF LAND AT RYKAS CAFÉ, BURFORD BRIDGE, MICKLEHAM,
SURREY RH5 6BY**

between

SURREY COUNTY COUNCIL

and

KELIDAN LIMITED

and

IAIN DONALD ANDERSON AND KAREN ELIZABETH ANDERSON

and

SHEPPARD'S FLOCK LIMITED

and

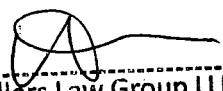
MICHAEL SHEPPARD AND GILLIAN SHEPPARD

We hereby certify this to be
a true copy of the original

S

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This licence is dated

29 April

2015

PARTIES

- (1) SURREY COUNTY COUNCIL of County Hall Kingston upon Thames KT1 2DN (**Council**).
- (2) KELIDAN LIMITED incorporated and registered in England and Wales with company number 3301748 whose registered office is at Maria House 25 Millers Road Brighton BN1 5NP (**Tenant**).
- (3) IAIN DONALD ANDERSON and KAREN ELIZABETH ANDERSON both of 7 Lazell Gardens Brockham Betchworth Surrey RH3 7BF (**Original Guarantor**).
- (4) SHEPPARD'S FLOCK LIMITED incorporated and registered in England and Wales with company number 09527346 whose registered office is at 79 Wingletye Lane Hornchurch Essex RM11 3AT (**Assignee**).
- (5) MICHAEL SHEPPARD and GILLIAN SHEPPARD both of 126 Murray Avenue Bromley Kent BR1 3DT (**New Guarantor**).

BACKGROUND

- (A) This licence is supplemental and collateral to the Lease.
- (B) The Council 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 Council for that assignment.

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

Authorised Guarantee Agreement: the authorised guarantee agreement incorporated into this licence in the form set out in Schedule 1.

Lease: a lease of the Property dated 17 May 2011 and made between the Council, the Tenant and the Original Guarantor and all documents supplemental or collateral to that lease.

Property: Rykas Café Burford Bridge Mickleham Surrey RH5 6BY as more particularly described in and demised by the Lease.

Rent Deposit Agreement: the rent deposit agreement to be entered into between the Council, the Assignee and the New Guarantor as set out in Clause 5.

- 1.2 References to the **Council** include a reference to the person entitled for the time being to the immediate reversion to the Lease.
- 1.3 The expression **tenant covenants** has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.4 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.
- 1.5 Clause, Schedule and paragraph headings shall not affect the interpretation of this licence.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 The Schedules form 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 Schedules.
- 1.8 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.11 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.12 A reference to **writing** or **written** includes fax but not e-mail.
- 1.13 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.
- 1.14 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.
- 1.15 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.

2. CONSENT TO ASSIGN

- 2.1 In consideration of the obligations on the Assignee and the Tenant in this licence the Council consents to the Tenant assigning the Lease to the Assignee.
- 2.2 This consent is valid for three months from (and including) the date of this licence. If the assignment has not been completed within that time the Council may give notice to the Tenant extending the period of validity. If this consent ceases to be valid and the Council has not given notice extending its validity, all the terms of this licence except clause 2.1 shall remain in force.
- 2.3 It is a condition of this consent that the Tenant enters into the Authorised Guarantee Agreement.
- 2.4 It is also a condition of this consent that:
 - (a) the Property is given over to the Assignee with vacant possession upon the completion of the assignment;
 - (b) all the rent payable on the part of the Tenant under the Lease is paid to the Council in full prior to the assignment of the Lease.
- 2.5 This consent does not obviate the need for the consent or licence of any person other than the Council that may be required for the assignment.

3. OBLIGATIONS RELATING TO THE ASSIGNMENT

- 3.1 The Assignee shall not occupy and the Tenant shall not allow the Assignee to occupy the Property or any part of it before completion of the assignment.
- 3.2 Immediately following completion of the assignment the Assignee shall notify the Council (or its managing agents) of the name and address of the person to whom demands for rent should be sent.
- 3.3 Within one month after completion of the assignment the Assignee shall notify the Council of completion and at the same time send the Council a certified copy of the assignment
- 3.4 The Assignee shall apply for registration of the assignment and the variation as set out in Clause 6 of this licence, at the Land Registry within one month following completion of the assignment. The Assignee shall ensure that any requisitions raised by the Land Registry in connection with its application to register the assignment are dealt with promptly and properly. The Assignee shall send to the Council official copies of its title within one month after the registration has been completed.

3.5 In addition to the Assignee, the New Guarantor covenants to observe and perform the obligations set out in the Rent Deposit Agreement as set out in Clause 5 of this licence.

3.6 The Assignee and/or the New Guarantor covenants with the Council and the Tenant that at all times after the completion of the assignment during the residue of the term of the Lease, or until completion of a Genuine Assignment, whichever is the sooner, the Assignee and/or the New Guarantor shall pay the rents reserved by and observe and perform the covenants on the Tenant's part and the conditions contained in the Lease'

4. **AUTHORISED GUARANTEE AGREEMENT**

4.1 The Tenant covenants to observe and perform the obligations set out in the Authorised Guarantee Agreement.

4.2 The obligations on the Tenant in the Authorised Guarantee Agreement are made in consideration of the consent granted in clause 2.1 and the Authorised Guarantee Agreement is made pursuant to the condition in clause 2.3.

4.3 The Authorised Guarantee Agreement shall take effect on the date the Tenant is released from the tenant covenants of the Lease by virtue of the Landlord and Tenant (Covenants) Act 1995, and 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 Landlord and Tenant (Covenants) Act 1995, if earlier.

4.4 For the avoidance of doubt, references in the Authorised Guarantee Agreement to the Lease are to the Lease as varied by this licence.

5. **RENT DEPOSIT**

5.1 Prior to the completion of the assignment the Assignee shall deposit with the Council the sum of FIVE THOUSAND THREE HUNDRED AND SEVENTY FIVE POUNDS (£5,375.00) (**the Deposit**) to be held by the Council or its agents to the Assignee's credit against any breach of the tenant covenants in the Lease or any non payment of any monies due to the Council.

5.2 Upon any breach of the tenant covenants in the Lease or non payment of monies due the Council shall serve notice on the Assignee setting out the breach or non payment and in the event that the breach is not remedied within 21 days from the date of the Council's notice the Council may withdraw from the Deposit such sums as may be reasonably necessary to make good such breach or non payment.

5.3 In the event that the Council does make a withdrawal from the Deposit in accordance with clause 5.2 above, the Council shall serve notice on the Assignee specifying the

amount of the withdrawal and the Assignee shall, within 10 working days of the date of such notice, repay to the Council to be held as the Deposit the amount so withdrawn.

5.4 This Rent Deposit Agreement shall remain binding upon the Assignee until such time as:

- (a) the Assignee lawfully assigns the Lease to another strictly in accordance with the provisions of the Lease and any later licences, consents or agreements with the Council, or
- (b) the Lease comes to an end, however so determined.

6. VARIATIONS

The parties agree to vary clause 4.2 (a) of the Lease for the purposes of clarity so that clause 4.2 states:

- '4.2 Such revised rent for any review period shall be an amount equal to the greater of:
- (a) an amount to be found by multiplying the Base Rent (for the first rent review) or the rent passing immediately before the relevant Review Date (for each subsequent rent review) by the Index for the month preceding the review date and then dividing the result by the Base Figure, or
 - (b) an amount equal to the Turnover Rent'

7. COSTS

On or before completion of this Licence the Tenant shall pay the costs and disbursements of the Council's solicitors and its surveyors in connection with this Licence in the sum of SEVEN HUNDRED AND FIFTY POUNDS (£750).

8. 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 occur.

9. INDEMNITY

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

10. NOTICES

Any notice given 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 recorded delivery or by

any other means permitted by the Lease. 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.

11. **LIABILITY**

Where any party to this licence (other than the Council) comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the party arising under this Licence or the assignment. The Council 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.

12. **THIRD PARTY RIGHTS**

A person who is not a party to this licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

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

Schedule 1 - Authorised Guarantee Agreement

THIS GUARANTEE is made the day of 2015
BETWEEN

- (1) **KELIDAN LIMITED** incorporated and registered in England and Wales with company number 3301748 whose registered office is at Maria House 25 Millers Road Brighton BN1 5NP ("The Guarantor") and
- (2) **SURREY COUNTY COUNCIL** of County Hall Kingston upon Thames KT1 2DN ("the Council")

NOW IT IS AGREED as follows:

1 Definitions and interpretations

In this guarantee the following expressions shall (where the context permits) have the following meanings respectively:

- 1.1 "the Assignee" means **SHEPPARD'S FLOCK LIMITED** incorporated and registered in England and Wales with company number 09527346 whose registered office is at 79 Wingletye Lane Hornchurch Essex RM11 3AT
- 1.2 "the Lease" means the lease dated 17 May 2011 and made between the Council, Kelidan Limited and Iain Donald Anderson and Karen Elizabeth Anderson for a term of 20 years from 17 May 2011 to 16 May 2031
- 1.3 "the Premises" means the premises demised by the Lease
- 1.4 "the Liability Period" means the period during which the Assignee is bound by the tenant covenants of the Lease and any additional period during which the Assignee is liable under an authorised guarantee agreement
- 1.5 the expressions "authorised guarantee agreement" and "tenant covenants" shall have the same meaning in this guarantee as in the Landlord and Tenant (Covenants) Act 1995 Section 28(1)

2 Recitals

- 2.1 By clause 5.15 of the Lease the Council's consent is required to the assignment of the Lease
- 2.2 The Council has agreed to give consent to the assignment to the Assignee on condition that the Guarantor enters into this guarantee

2.3 This guarantee takes effect only when the Lease is assigned to the Assignee

3 Covenant

In consideration of the Council's consent to the assignment the Guarantor covenants with the Council and without the need for any express assignment with all its successors in title that

3.1 To pay observe and perform

The Assignee shall punctually pay the rents and observe and perform the covenants and other terms of the Lease throughout the Liability Period and if at any time during the Liability Period the Assignee shall make any default in payment of the rents or in observing or performing any of the covenants or other terms of the Lease the Guarantor will pay the rents and observe or perform the covenants or terms in respect of which the Assignee shall be in default and make good to the Council on demand and indemnify the Council against all losses damage costs and expenses arising or incurred by the Council as a result of such non-payment non-performance or non-observance notwithstanding:

- 3.1.1 any time or indulgence granted by the Council to the Assignee or any neglect or forbearance of the Council in enforcing the payment of the rents or the observance or performance of the covenants or other terms of this Lease or any refusal by the Council to accept rents tendered by or on behalf of the Assignee at a time when the Council was entitled (or would after the service of a notice under the Law of Property Act 1925 Section 146 have been entitled) to re-enter the Premises
- 3.1.2 that the terms of this Lease may have been varied by agreement between the parties
- 3.1.3 that the Assignee shall have surrendered part of the Premises in which event the liability of the Guarantor under this Lease shall continue in respect of the part of the Premises not so surrendered after making any necessary apportionments under the Law of Property Act 1925 Section 140 and
- 3.1.4 any other act or thing by which but for this provision the Guarantor would have been released

3.2 To take lease following disclaimer

If during the Liability Period the Assignee (being an individual) shall become bankrupt or (being a company) shall enter into liquidation and the trustee in bankruptcy or liquidator shall disclaim the Lease the Guarantor shall if the Council shall by notice within [60] days after such disclaimer so require take from the Council a lease of the Premises for the residue of the contractual term of the Lease which would have remained had there been no disclaimer at the rent then being paid under the Lease and subject to the same covenants and terms as in the Lease (except that the Guarantor shall not be required to procure that any other person is made a party to that lease as guarantor) such new lease to take effect from the date of such disclaimer

and in such case the Guarantor shall pay the costs of such new lease and execute and deliver to the Council a counterpart of it

3.3 To make payments following disclaimer

If during the Liability Period the Lease shall be disclaimed and for any reason the Council does not require the Guarantor to accept a new lease of the Premises in accordance with clause 3.2 above the Guarantor shall pay to the Council on demand an amount equal to the difference between any money received by the Council for the use of occupation of the Premises and the rents in both cases for the period commencing with the date of such disclaimer and ending on whichever is the earlier of the following dates

3.3.1 the date 6 months after such disclaimer and

3.3.2 the date (if any) upon which the Premises are relet

4. The Council's covenant

The Council covenants with the Guarantor that it will notify the Guarantor in writing within 28 days of being informed of the facts bringing the Liability Period to an end

IN WITNESS whereof the parties hereto have duly executed this instrument as a deed the day and year first before written

(Attestation clauses for the Authorised Guarantee Agreement)

SHA Executed as a DEED by affixing THE)
COMMON SEAL of SURREY)
COUNTY COUNCIL in the presence)
of attested by:)

Authorised signatory

Position

Executed as a DEED by KELIDAN)
LIMITED acting by a director in the)
presence of:)

Signature of Witness

Full Name of Witness

Address of Witness Baldwin & Robinson Law
4 Oxted Chambers
185-187 Station Road East
Oxted
RH8 0QE

Solicitor

Signed as a DEED by IAIN DONALD)
ANDERSON in the presence of the witness)
named below and DELIVERED by the)
before named in the presence of:)

Signature of Witness

Full Name of Witness

Address of Witness Baldwin & Robinson Law
4 Oxted Chambers
185-187 Station Road East
Oxted
RH8 0QE

Solicitor

SURREY COUNTY COUNCIL

No. IN SEALING
REGISTER

ORDERED TO
BE SEALED

12958-12960

V No. 69/2015

Signed as a DEED by KAREN)
ELIZABETH ANDERSON in the presence)
of the witness named below and)
DELIVERED by the before named in the)
presence of:)

K. Anderson

Signature of Witness *Tim McHugh*

Full Name of Witness *Tim McHugh*

Address of Witness *Baldwin & Robinson Law*
4 Oxted Chambers
185-187 Station Road East
Oxted
RH8 0QE
Solicitors

Executed as a DEED by
SHEPPARD'S FLOCK LIMITED
acting by:

Director *GILLIAN SHEPPARD*) *GAS Sheppard*

Director/~~Company Secretary~~)
MICHAEL SHEPPARD) *M.R. Sheppard*

Signed as a DEED by MICHAEL)
SHEPPARD in the presence of the witness)
named below and DELIVERED by the)
before named in the presence of:)

M.R. Sheppard

Signature of Witness *[Signature]*

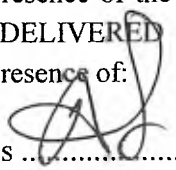
Full Name of Witness *Susan Head*

Address of Witness

1a Bowley Ave
Cuscut Kent BR76LT

Signed as a DEED by GILLIAN)
SHEPPARD in the presence of the witness)
named below and DELIVERED by the)
before named in the presence of:)

GASheppard

Signature of Witness 

Full Name of Witness Susan Head

Address of Witness

1a Bromley lane

Chichester Kent BR76LT1