



The Jerwood Gallery, Hastings
Draft Head of Terms

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HATProjects

JERWOOD ART GALLERY – PROPOSED GALLERY IN HASTINGS

HEADS OF TERMS

1. Introduction

It is proposed that Gallerium Establishment, a Liechtenstein legal entity who are owned and controlled by Jerwood Foundation which is also a Liechtenstein entity (referred to in these Heads of Terms as "Jerwood") will be granted a long lease of a site in Hastings identified in the attached plan by Hastings and St Leonards Foreshore Charitable Trust Charity no. 1105649 ("the Foreshore Trust") in accordance with the heads of terms mentioned below.

2. Lease

- 2.1 Tenant : Jerwood
- 2.2 Landlord : The Foreshore Trust. It is a precondition of the exchange of agreements/completion of the lease that the Foreshore Trust is able to properly deduce title to the whole of the area to be demised and able to grant the necessary rights set out below.
- 2.3 Premises : The area shown edged red on the attached plan.
- 2.4 Rent : One peppercorn per annum (if demanded).
- 2.5 Term : 99 years.
- 2.6 Use : For use as:
- (a) an art gallery or art and education centre; or
 - (b) a charitable purpose which could be provided or supported by Hastings Borough Council and The Foreshore Trust and which is open to the inhabitants of the Borough of Hastings or the public at large.
- 2.7 Assignment : The tenant may assign the lease subject to:
- (a) the operation of a "pre-emption" allowing the landlord an option for a period of three months from a tenant's notice to take an assignment of the lease on terms which the tenant proposes to assign the lease to a third party save for any premium which shall be apportioned between the land and buildings and the landlord's right of pre-emption shall only oblige the landlord to pay the sum equal to the amount apportioned to the buildings; and
 - (b) delivery of a deed of covenant from the assignee to the landlord covenanting to observe and perform all of the obligations in the lease on the part of the tenant;
- 2.8 Underletting : No restrictions on underletting for a term of less than 15 years subject to delivery of a deed to the landlord covenanting to observe and perform the obligations in the lease insofar as they relate to the underlet premises. The tenant shall also be

allowed to grant licences and allow concessions to operate from the premises provided that no relationship of landlord and tenant is created. Underleases over 15 years are permitted subject to the operation of the "pre-emption" rights in favour of the landlord mentioned in respect of assignment at paragraph 2.7 above. The tenant may also underlet the Premises or part of them to an entity or company controlled, managed or within the same group of companies or entities as the tenant. As a requirement of any underletting the tenant must procure the delivery to the landlord of a deed of covenant from the underlessee to the landlord covenanting to observe and perform all of the obligations in the lease on the part of the tenant apart from payment of rent and in the case of sub-letting of part insofar as they relate to the part of the Premises sub-let. Initially there will be an underlease from Jerwood to Jerwood Gallery Limited, a company registered in England and Wales, and Jerwood Gallery Limited shall deliver a deed to the Foreshore Trust covenanting to observe and perform all of the obligations in the lease on the part of the tenant apart from payment of rent.

- 2.9 Alterations : No restrictions save that any requisite statutory consents must be obtained for any alteration and demolition and construction of new buildings upon the Premises may only be undertaken with the consent of the landlord, such consent not to be unreasonably withheld or delayed.
- 2.10 Re-entry : The only circumstances for re-entry shall be in the event of material breach of obligation by the tenant. However, the tenant's insolvency shall trigger a 3 month option for the landlord to take a surrender of the lease for a premium equal to the market value of the buildings upon the Premises (i.e. a nominal value being attributed to the land).
- 2.11 Rights : (a) Rights with or without vehicles for the purposes of access to and egress and other purposes in connection with the use and enjoyment of the Premises (and car parking spaces) including repair, maintenance, rebuilding, alterations and new building upon the Premises;
- (b) Rights for conduits to run from the Premises to the adopted highway; and
- (c) a soak away to the land shown shaded pink on the attached plan and associated rights of access to manhole cover and for passage and access for repair, maintenance and renewal.
- 2.12 Option to renew : The Foreshore Trust shall grant the tenant a contractual right to renew the lease for a further term of 99 years at an open market ground rent (i.e. the open market rent upon the bare land no rent being paid for buildings)

3. Other Obligations

3.1 Hastings Borough Council are to use its best endeavours to procure the undertaking of the following works:

1. Relocation of the coach park from the site, demolition of the existing Tourist Information Centre and WC building and other necessary site clearances.
2. Creating a new access road to the RNLI station across the site as per the attached plan
3. Construction of a new high quality public space on the majority of the site area abutting the Jerwood demise.
4. Construction of a new WC building on the western side of the site
5. Realignment of highways and pedestrian crossings along Rock-a-Nore Road, with taxi drop-off bays and 2no disabled parking bays, and 8no coach drop-off bays on East Beach Street as per the attached plan
6. Provision of disabled parking spaces on the western side of the site as per the attached plan

The timetable for these works is site clearance by April 2010 and completion of the works by May 2011. A representative from Jerwood will be part of the selection process for the design and construction team for these works and shall approve the team and the detailed design and specification (such approval not to be unreasonably withheld).

- 3.2 Hastings Borough Council shall covenant to grant discretionary relief from business rates to the tenant in respect of the Premises and offer a contractual indemnity in respect of any rates which are payable so long as the Premises are occupied by an organisation or person whose main objects are charitable or otherwise philanthropic or religious or concern with education, social welfare, science, literature or the arts.
- 3.3 Hastings Borough Council and the Foreshore Trust shall enter in to a restrictive covenant for the benefit of the Premises not to use the area shown hatched on the attached plan otherwise than as open space land available for use of the public
- 3.4 As a pre-condition to exchange of contracts, the Foreshore Trust shall acquire the whole of the area to be let and grant the necessary rights and permissions to Hastings Borough Council to undertake the works proposed at paragraph 3.1 above.
- 3.5 As a pre-condition to exchange of contracts, the Foreshore Trust shall obtain an approved scheme or order from the Charity Commission for the proposals.
- 3.6 As a pre-condition to exchange of contracts, Foreshore Trust shall ensure that any rights currently affecting the Premises or the area upon which the works proposed at paragraph 3.1. above are to be undertaken are varied so as to permit the scheme including any pre-existing rights for the Fishermen or the Lifeboat Station.
- 3.7 The target date for Jerwood to complete the building upon the Premises is by April 2011.
- 3.8 It is proposed that detailed planning permission for the scheme including the works on the Premises and the works proposed at paragraph 3.1 above shall be obtained prior to exchange of contracts.

4. **Timetable**

- 4.1 Submission of title information by the solicitors acting for the Foreshore Trust to Jerwood's solicitors by [].
- 4.2 Submission of a draft lease to be prepared by the Foreshore Trust to Jerwood's Solicitors by [].
- 4.3 Delivery of draft contract from Hastings Borough Council to document the commitment to undertake the works on the adjoining land and in respect of the rates relief/indemnity to be submitted by the Council's solicitors to Jerwood Foundation's solicitors by [].
- 4.4 Submission of a planning application by [].
- 4.5 Documentation of land transfer between Hastings Borough Council and Foreshore Trust to enable title for the site to be deduced by the Foreshore Trust by [].
- 4.6 Clearance of any Charity Commission restrictions or other restrictions on the Foreshore Trust granting the lease by [].
- 4.7 Contracts agreed by [].
- 4.8 Exchange of contracts by [].
- 4.9 Completion of Lease by [].
- 4.10 Completion of construction of the Jerwood Gallery by April 2011.
- 4.11 Completion of construction of the associated works by HBC by May 2011.



REVISION	DATE	DESCRIPTION
1	19.02.09	ISSUED TO TW

- NOTES:
- · · · · · INDICATES DEMISE OF JERWOOD GALLERY
 - · · · · · INDICATES EXTENT OF PUBLIC SPACE AND ASSOCIATED WORKS BY HSC
 - · · · · · SITE PLAN SHOWS NEW PROPOSED HIGHWAYS STRUCTURES TO BE DEMOLISHED AND EXISTING PAVEMENT LINES

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 DRAWING TITLE: **SITE PLAN (HEADS OF TERMS)**
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