

Grounds Maintenance Agreement

Reference No GMA001

THIS AGREEMENT IS MADE THE 10TH DAY OF MAY 2004

BETWEEN:

Moorhaven Village Management Co Ltd (MVMCL).

Having it's registered office at 19, High Street, Totnes, Devon, England.

Hereinafter referred to as "the Company".

AND

Moorhaven Maintenance (MM).

Hereinafter referred to as "the Contractor MM".

represented by: James D Abraham as Proprietor.

EXECUTED IN TWO ORIGINALS COMPLETED BY (FIVE) APPENDICIES

BY

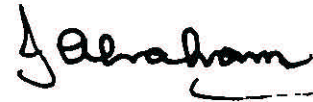
BY

TITLE

TITLE

SIGNED
SECRETARY

SIGNED



DIRECTOR



FOR AND ON BEHALF OF MVMCL

FOR AND ON BEHALF OF MM

DATE 10/5/04

DATE 10/5/04

PREAMBLE

DEFINITIONS

The terms listed below and used in the Agreement shall have the following meaning:

"Grounds" shall mean Moorhaven Village Nr Ivybridge, Devon.

"the Proposal" shall mean the proposals and quotations from the Contractor dated 27th March 2004 tabled to and reviewed by the Company, including the Grounds Maintenance Specification, attached as Annex A, and 2 letters both dated 27th March 2004, attached as Annex C and Annex D. The plans referred to in Annex A are also attached as Annex E.

"the Grounds Maintenance Specification" shall include the scope of work as agreed by both parties and defined in Annex A and as varied by the Company from time to time in agreement with the Contractor and as the Contractor shall be required to carry out in respect of the maintenance of the grounds of Moorhaven Village.

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"the Contractors staff" shall mean the permanent or temporary staff employed by MM, listed in Annex B and hereby authorised by the Company to enter the Grounds to carry out the works as defined in the Grounds Maintenance Specification and as varied by the Company from time to time in agreement with the Contractor.

"the Works" shall mean the specific tasks as defined in the Grounds Maintenance Specification performed at the periodicity and frequency defined therein

"the Equipment" shall mean the Contractors powered machines, trailers, hand tools, protective clothing and protective head, feet, eye and ear gear.

"Waste Disposal" shall mean all cut fresh or dry vegetable material including but not limited to grass clippings, branches, twigs, leaves and litter in the Grounds which shall be disposed off site from the Grounds of the Company by the Contractor at no extra charge to the Company in full compliance with the prevailing Environmental conditions laid down by the Agencies of HM Government including the Health & Safety Executive, the Department of the Environment and the Environment Agency

WHEREAS

The Company has placed a temporary Purchase Order on the Contractor to commence the Works in accordance with the Grounds Maintenance Specification; this is conditional upon the Contractor undertaking such in accordance with the terms of this Agreement

The Contractor has relevant experience and background and the Company wished to engage the Contractor to undertake the Works in accordance with the Grounds Maintenance Specification and the Contractor hereby agrees to execute such Works in accordance with the terms of the Agreement.

The Parties now wish enter into this Agreement.

NOW THEREFORE IT IS AGREED AS FOLLOWS: -

1. SCOPE OF THIS AGREEMENT

The purpose of this Agreement is to record the understanding between the Parties in relation to the pursuit of Grounds Maintenance of Moorhaven Village in accordance with the Grounds Maintenance Specification with the following objectives:

- 1.1. The relationship between the Parties and their reciprocal rights and obligations
- 1.2. The precise quality of service levels expected by the Company from the Contractor and which the Contractor shall use it's best endeavours to deliver.
- 1.3. The performance of the tasks by the Contractor as detailed in this Agreement to the satisfaction of the Company over the term of the Agreement.

2. RELATIONSHIP BETWEEN THE PARTIES

2.1. The Company has elected to enter into this Agreement on an arms length basis with the Contractor in the full knowledge that the current Proprietor of the Contractor (Mr. James Abraham) is currently also a Director of the Company subject to certain conditions as set out below.

2.2. The Contractor agrees to notify the Company as soon as is practicable after the change of ownership, structure or change of partners of the Contractor.

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2.3. As long as The Proprietor of the Contractor (Mr. James Abraham) is the Proprietor of the Contractor and also a Director of the Company he shall surrender his voting rights as Director of the Company during all Board, Annual General and Extraordinary General Meetings on the Grounds Maintenance or matters thereto in order to avoid any conflict of interest.

2.4. This Agreement shall not be taken to create any joint venture, partnership or other similar arrangement and the Parties shall at all times, stand in relation to each other as independent legal entities. The Contractor shall not hold itself out to any third party as the sole and exclusive Grounds maintenance contractor of the Company without the prior written permission of the Company.

2.5. The Contractor hereby agrees to attend and be subject to quarterly service level reviews at the Estate Office of the Company conducted by two or more Directors of the Company during the term of the Agreement. The results of such reviews will be formally recorded by the Company and tabled to the Contractor within one week from date of the review. The Contractor hereby undertakes to put right to the satisfaction of the Company, as set out below, any agreed deficiencies in service levels arising from these periodic reviews.

3. SERVICES FROM AND SERVICE LEVELS REQUIRED OF CONTRACTOR

3.1. The Contractor hereby agrees to provide the full range of services defined in the Grounds Maintenance Schedule, including but not limited to Waste Disposal and to be bound by the service levels defined herein and shall have overall responsibility for executing the Works in a proper and professional manner to the satisfaction of the Company and in accordance with the prevailing Health & Safety at Work regulations.

3.2. The Contractor shall ensure that all the staff who will undertake the Works at Moorhaven Village have been adequately and correctly briefed in the scope of the Works and are trained in all Health and Safety matters and shall execute their duties for the Company with full compliance with these regulations.

3.3. The Contractor shall ensure that it and its staff to be engaged in undertaking the Works for the Company are indemnified by third party and employee liability insurance to the level of at least £3 000 000. The Contractor hereby undertakes to maintain such insurance cover for the term of this Agreement and to provide the Company with a copy of the policy document and certificate of insurance.

3.4 The Contractor shall undertake all the Works at the periodicity and frequency defined in the Ground Maintenance Specification. In the event that adverse weather conditions or illness of staff prevent the Contractor in fulfilling its obligations as set out in this Agreement the Contractor hereby undertakes to carry out the delayed tasks and the scheduled Works within 30 days from due date of execution, or any extension thereof granted by the Company in writing to the Contractor. Any further delay shall constitute a material breach of contract and the Company shall have the right to terminate this Agreement.

3.5. The Contractor shall undertake all the Works with due regard to the property of the Company and its shareholders. The Contractor shall be responsible for any damage, loss or injury caused by its staff to the property of the Company or its shareholders specifically in the Grounds, roadways, access paths or the grounds of the shareholders of the Company during execution of the Works by the Contractor. The Company will notify the Contractor in writing of any damage caused by a member of staff of the Contractor to the Property of the Company or its shareholders, or loss or injury caused in the Grounds or shareholders property by a member of staff of the Contractor to any employee of the Company or any one of its shareholders, relatives and friends. The Contractor hereby undertakes to repair, replace or compensate for loss, or put right any damage so caused by its staff within 30 days from date of the letter of notice from the Company to the Contractor. Failure to remedy the damage or notify the Company in writing that the insurers of the Contractor are dealing with the claims for loss or injury shall constitute a material breach of contract and the Company shall have the right to terminate this Agreement.

3.6. The Company shall set up a Sub-committee of at least two Directors of the Company to supervise the service levels of the Contractor and the performance of the Contractor. The Company requires the Contractor to attend service level reviews at three monthly intervals from date of this Agreement. In the event that the Contractor does not perform its duties in full compliance with the terms of this Agreement or in compliance with the requirements of the Health and Safety at Work act, the Company shall issue a notice of default in writing to the Contractor and the Contractor hereby undertakes to remedy such defaults within 30 days from date of letter of notice and failure to do so within this notice period shall constitute a material breach contract and the Company shall have the right to terminate this Agreement.

3.7. The Contractor will ensure that it has sufficient human and financial resources and equipment to execute this Agreement in accordance with the terms herein.

4. PERFORMANCE OF THE CONTRACT

4.1. If, subsequent to the completion by both Parties of this Agreement, the Contractor is unable or unwilling to carry out the Works the Contractor shall advise the Company in writing that it wishes to terminate this Agreement. In this event the Contractor shall provide the Company with at least three calendar months advance notice of termination.

4.2. The Contractor shall be permitted by the Company to store in a proper and safe manner any Equipment of the Contractor during of the term of this Agreement in the Estate Shed of the Company at the full risk for loss, damage, fire, etc. of the Contractor. The Contractor shall ensure that its Equipment so stored does not cause any damage or loss to the property of the Company and shall remove within 30 days any Equipment of the Contractor that the Company deems unsafe. In compensation for this free use of the Estate Shed of the Company, the Contractor undertakes to maintain the internal walls and external aspects of the Estate Shed at no additional charge to the Company.

4.3. The Contractor shall not enter into any discussions or correspondence with Shareholders of the Company in performance with this Agreement or in connection to the scope of the Works. The Contractor shall notify the Company forthwith in writing if one or more shareholders of the Company complain verbally or in writing about it or a member of its staff. The Contractor hereby undertakes to work with the Sub-Committee of the Company to assess the validity of such complaint and in the event the complaint is accepted by the Contractor it will act in good faith to the complaint and take such action as is required by it or its staff to ensure that it does not repeat the incidences or actions which could result in the same complaint being repeated.

4.4. The Contractor shall be responsible for all consumables and fuel and repair and maintenance of its Equipment required to undertake all the Works for the Company. The Company shall not be required to make any further payments to the Contractor in respect of the aforementioned items.

4.5. The Company is prepared to renew this Agreement with the Contractor subject to the Contractor executing its obligations under the terms of this Agreement to the full satisfaction of the Company. Both Parties hereby undertake to enter into such renewal negotiations three calendar months prior to expiry of the term of this Agreement.

5. CHARGES AND PAYMENT TERMS

5.1. The total annual fees due to the Contractor subject to the performance of its obligations under this Agreement shall be £45,000 (excluding VAT) to be reviewed annually but not to be increased by more than the published Retail Price Index of the UK.

5.2. The Company undertakes during the term of this Agreement to pay the Contractor a fixed monthly amount in arrears by standing order into the bank account specified by the Contractor. The fixed payment will equate to 1/12th of the annually agreed amount.

6. REFERENCES

The Contractor shall secure the prior written approval of the Company prior to mentioning his participation in this Agreement with the Company for the external communication needs of the Contractor for publicity purposes or for the Company to be used as a referee to prospective Client of the Contractor

7. NON-ASSIGNMENT

As this Agreement is entered into *intuitu personae*, the Parties are not authorised to transfer all or part of their rights and obligations under this Agreement without prior written consent from the other Party.

8. DURATION AND TERMINATION

8.1. The Agreement shall come into effect on 1st April 2004 and shall continue in force for 36 calendar months or until both Parties mutually agree to terminate this Agreement.

8.2. Notwithstanding the terms and conditions contained in this Agreement and without prejudice to any other right to terminate and cancel, this Agreement may be terminated or cancelled in its entirety by written notice by one Party to the other upon the occurrence of one or more of the following:

- a) Should a Party commit a substantial breach of this Agreement and not remedy that breach within 30 (thirty) working days of receipt of written notice from the other Party requiring remedy of the same.
- b) Should a Party become insolvent, or have a receiving order made against it, or compound with its creditors, or being a corporation to be wound up (not being a party's voluntary winding up for the purpose of reconstruction or amalgamation), or carry on its business under a receiver for the benefit of its creditors, or take or suffer any other like action in-consequence of debt. In such event, the other Party may, as an alternative to giving notice of termination, give the receiver, liquidator or other person charged with carrying on the business of the fiscally compromised Party, the option of carrying out this Agreement subject to his providing a guarantee, up to an amount to be agreed, for the due and faithful performance of the remainder of the Agreement

9. GENERAL

9.1 Entire Agreement

The Parties acknowledge that this Agreement constitutes the whole Agreement entered into between them and replaces and supersedes any earlier written or oral proposal, provision or agreement.

9.2 Modification of the Agreement

No subsequent document or modification of the Agreement, irrespective of its form, shall have effect between the Parties if not recorded in an amendment duly dated and signed by the Parties.

9.3 Titles

In case of a discrepancy between any of the clauses in this Agreement and its title, the contents of the clause shall be senior to its title

9.4 Severability

If any of the provisions of this Agreement is null or invalid under existing law or a final legal ruling, it shall be deemed not to have been written. However, this shall not entail the avoidance of this Agreement or affect the validity of its other provisions.

9.5 Non-Waiver

The fact that either Party does not claim enforcement of a clause in this Agreement or passes over its non-performance, whether permanently or temporarily shall not be construed as a waiver by such Party of its rights under the said clause.

9.6 Applicable law and disputes

This contract and any deeds following hereon shall be governed by English law.

In case of a dispute regarding the understanding or performance of this Agreement, the Parties undertake to begin by seeking an out-of-court settlement.

Should this attempt fail, the dispute shall be referred exclusively to the courts of England, even in cases where there are several defendants or third-Party impleaders.

Annexes to this Agreement: -

Annex A – Grounds Maintenance Specification

Annex B – Schedule of Contractors Staff

Annex C – Letter to Directors dated 27th March 2004 from Moorhaven Maintenance

Annex D – Second Letter to Directors dated 27th March 2004 from Moorhaven Maintenance

Annex E – Two Plans as referred to in Annex A

Annex B – Contractors Staff Authorised to Access Grounds of Company and Shareholders of the Company

James Abraham
Karl Tomlinson
John Pomeroy
Daniel Paterson