

Date: 26/02/2016

Sherbourne House Management
C/O CPBigwood

-and-
Tappings Garden Services

CONTRACT FOR GROUNDS MAINTENANCE SERVICES
At
Sherbourne House

CP **BIGWOOD**

CONTRACT FOR GROUNDS MAINTENANCE SERVICES

Dated: 26/02/2016

Parties

1. **Client C/O CPBigwood**
Sherbourne House Management
C/O CPBigwood
45 Summer Row
Birmingham
B3 1JJ
Company Registration Number OC30409

2. **Contractor**
Tappings Garden Services
35 Caithness Close
Mount Nod
Coventry
CV5 7LY

Operative Clauses

1. Definitions and Interpretation

- 1.1. In this Agreement, unless the contrary intention appears, the following definitions apply:
 - 1.1.1. 'Client' means the Company on whose behalf CPBigwood acts as agent the details of which are set out in Schedule 5;
 - 1.1.2. 'Commencement Date' means the date stated in Schedule 3;
 - 1.1.3. 'Confidential Information' means confidential information relating to the business organisation, transactions, finances, technology, processes, specifications, methods, designs, formulae, activities or affairs, of and concerning CPBigwood and its clients;
 - 1.1.4. 'Fee' means the fee payable by CPBigwood for the Services set out in Schedule 4;
 - 1.1.5. 'Force Majeure' means Acts of God, explosion, flood, tempest, fire, accident, war or threat of war, sabotage, terrorism, insurrection, civil disturbance or requisition; Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial actions or trade disputes involving third parties; difficulties in obtaining raw materials, labour, fuel, power failure or any other issue outside of a Party's control;

- 1.1.6. 'Lessees' means the owners of the dwellings which form part of the Property;
 - 1.1.7. 'Notice' means notice complying with the terms of clause 9;
 - 1.1.8. 'Notice Period' means the period stated in Schedule 3;
 - 1.1.9. 'Property' means the land and buildings described in Schedule 1 and any communal fixtures, fittings plant or equipment thereon;
 - 1.1.10. 'Services' means the services supplied by the Contractor in respect of the Property pursuant to this Agreement as set out in Part I of Schedule 2;
 - 1.1.11. 'Term' means the period stated in Schedule 3; and
 - 1.1.12. 'VAT' means Value Added Tax chargeable under the Value Added Tax Act 1994.
- 1.2. Where the Property consists of freeholds and this Agreement arises as a consequence of covenants imposed in the original transfers of the freeholds, the term "Freeholders" shall be substituted for the term "Lessees".
 - 1.3. If any party to this Agreement at any time consists of more than one person the obligations of that party are joint and several obligations.
 - 1.4. The clause and paragraph headings do not affect the construction of this Agreement.
 - 1.5. Any reference to a Clause or a Schedule not otherwise attributed is a reference to a clause or schedule of this Agreement.
 - 1.6. Words importing persons include firms companies and corporations and vice versa.
 - 1.7. Words importing one gender include other genders and the singular includes the plural and vice versa.

2. Engagement and Commencement

- 2.1. CPBigwood shall engage the Contractor to provide the Services for CPBigwood on the terms of this Agreement.
- 2.2. The Contractor's engagement under this Agreement starts on the Commencement Date and continues until the expiry of the Term or earlier termination under the provisions of this Agreement.

3. Contractor's obligations

The Contractor will:

- 3.1. supply the Services in a timely and professional manner by appropriately skilled and qualified persons using reasonable care and skill;
- 3.2. provide all necessary labour, materials, plant and equipment in order to carry out the Services in a proper and workmanlike manner;
- 3.3. report to CPBigwood immediately any matters which interfere with and/or affect the Contractor's ability to carry out the Services in a proper and workmanlike manner;

- 3.4. not take instructions directly from any Lessee, resident or any party other than CPBigwood but will report such requests to CPBigwood immediately;
- 3.5. not delegate any duties or obligations arising under this Agreement otherwise than may be expressly permitted under its terms or as permitted in writing by CPBigwood;
- 3.6. observe all Health and Safety at Work regulations and provide such documentation as is appropriate to confirm observance;
- 3.7. indemnify and keep indemnified CPBigwood from and against any and all loss damage or liability (whether criminal or civil) suffered and legal fees and costs incurred by CPBigwood resulting from a breach of this Agreement by the Contractor including breaches in respect of any matter arising from the supply of the Services resulting in any successful claim by any third party;
- 3.8. maintain at the Contractor's own cost a comprehensive policy of insurance to cover the liability of the Contractor in respect of any act or default for which it may become liable to indemnify CPBigwood under the terms of this Agreement and provide CPBigwood with proof of such insurance if requested to do so by them; and
- 3.9. Comply with the terms of any Notice specifying a breach of the provisions of this Agreement and requiring the breach to be remedied so far as it may be but nothing in this clause is intended to require CPBigwood to serve notice of any breach before taking action in respect of it.
- 3.10. Comply with any special obligations set out in Part II of Schedule 2.

4. CPBigwood Obligations

CPBigwood agree to:

- 4.1. provide the Contractor with such information, as it reasonably requires, to perform the Services;
- 4.2. allow the Contractor uninterrupted access to the Property at reasonable times to perform the Services;
- 4.3. Allow the Contractor to connect to water and/or electricity supplies - without charge - at the Property as may be necessary for the purpose of performing the Services.

5. Fees and payment

- 5.1. The Contractor shall be paid the Fee per year by CPBigwood (or a proportionate sum for any part of a year) in equal monthly instalments.
- 5.2. A proportion of the Fee is payable on the periodic basis stated in Schedule 2.
- 5.3. The Fee is exclusive of VAT, which shall be added at the prevailing rate at the time of invoicing.
- 5.4. The Fee shall be paid within 28 days after the date of delivery of the invoice from the Contractor.
- 5.5. CPBigwood shall be notified in writing immediately if the Contractor becomes aware of any changes to the Contractor's VAT status.

5.6. All expenses incurred by the Contractor in connection with supplying the Services under this Agreement shall be recoverable through the Fee.

5.7. The Contractor is not to carry out any additional services unless written instructions are provided by CPBigwood and a fee agreed between the Parties.

6. Cancellation

CPBigwood may cancel this Agreement at any time and shall then be liable to pay to the Contractor such amount of Fees as is reasonable in the circumstances in respect of the Services already (but not to be) provided.

7. Termination for breach

The following obligations are conditions of this Agreement and any breach of them shall be deemed a fundamental breach, which shall terminate this Agreement immediately, and the rights and liabilities of the Parties shall then be determined in accordance with clause 8:

7.1. Failure on the part of the Contractor or CPBigwood to observe any obligation under this Agreement not requiring Notice to be served and in the case of obligations requiring Notice to be served failure to comply with the terms of any Notice;

7.2. The levying of any distress or execution against the Contractor or the making by them of any composition or arrangement with creditors or being a company the Contractor's liquidation (other than a members' voluntary liquidation with the written consent of CPBigwood);

8. Termination consequences

In the event of this Agreement being determined whether by effluxion of time notice breach or otherwise:

8.1. CPBigwood shall immediately pay to the Contractor all arrears of Fees and any other sums due under the terms of this Agreement as and when funds are made available by the Client.

8.2. Either party shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of this Agreement and the determination of this Agreement shall not affect or prejudice such rights and remedies and each party shall be and remain liable to perform all outstanding liabilities under this Agreement notwithstanding that the other may have exercised one or more of the rights and remedies against it.

9. Notices

9.1. Any notice to be given from one Party to the other may be sent by fax, delivered by hand or sent by first class post to the address given in this Agreement (or such other address as shall be notified from time to time for this purpose).

9.2. Any such notice shall take effect at the:

9.2.1. time of despatch in the case of fax;

9.2.2. time of delivery in the case of a delivery by hand; or

9.2.3. The opening of business on the first business day after despatch in the case of a notice sent by first class post.

10. Miscellaneous

10.1. Confidentiality

The Parties will at all times keep Confidential Information acquired in consequence of this Agreement, except for information which they may be entitled or bound to disclose under compulsion of law or where requested by regulatory agencies or to their professional advisers where reasonably necessary for the performance of their professional services.

10.2. Warranty

Each of the Parties warrants its power to enter into this Agreement.

10.3. Status of the Contractor

During the Term the Contractor shall be an independent contractor and not a servant of CPBigwood.

10.4. Status of CPBigwood

CPBigwood is at all times acting as agent for the Client

10.5. Third Party Rights

A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to benefit from or enforce any provision of this Agreement.

10.6. Force Majeure

10.6.1. Subject to clause 8.2, non-performance by either Party of any of its obligations under this Agreement caused by Force Majeure shall not be a breach of this Agreement provided that:

10.6.1.1. the Party claiming that non-performance is caused by Force Majeure (the "Non-Performing Party") could not have avoided the effect of the Force Majeure by taking precautions which, having regard to all matters known to it before the occurrence of the Force Majeure and all relevant factors, it ought to have taken but did not take; and

10.6.1.2. The Non-Performing Party has used its best endeavours to mitigate the effect of the Force Majeure and to carry out its obligations under this Agreement in any other way that is practicable.

10.6.2. If non-performance of any obligation(s) under this Agreement caused by any Force Majeure shall continue for more than three months then the other Party may terminate this Agreement forthwith by serving Notice on the Non-Performing Party.

10.7. Assignment

The rights and obligations under this Agreement are personal to the Parties and shall not be assigned or transferred by either of them except with the previous written consent of the other.

10.8. Whole Agreement

This Agreement contains the whole agreement between the Parties in respect of grounds maintenance and supersedes any prior written or oral agreement between them relating to it and the Parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement.

10.9. Supersedes prior agreements

This Agreement supersedes any prior agreement between the Parties whether written or oral and any such prior agreements are cancelled as at the Commencement Date but without prejudice to any rights which have already accrued to either of the Parties.

10.10. Variation

Any variation to this Agreement (including any special terms agreed between the Parties) shall have no effect unless agreed in writing by the Parties.

Schedule 1: Address

Propware Ref - 1559

Sherbourne House

Vicarage Lane

Sherbourne

Warwick

CV35 8AB

Schedule 2: Specification

Part 1:

Frequency:

Fortnightly in Summer & Monthly in Winter

Day/Week of visit

Not specified

Part 2:

1. Visit the Property on the frequency stated above to carry out grounds maintenance in respect of common areas of the Property.
2. Report all matters which may prevent the grounds being well maintained, such as, but not limited to, damaged fencing and paving, heavy wheel marks on grassed areas, broken external fittings, pest control problems, excessive amounts of animal faeces, etc.

3. Report any encroachment on the grounds by any Lessee(s) which may prevent maintenance or breach Lease conditions.
4. Advise CPBigwood of any plant, shrub, tree, hedge, etc. that requires replacing/replanting/severely reducing.
5. In the summer period (March-October)
 - 5.1 Clear and remove from the Property, any litter and faeces from grassed areas, beds, shrubs, hedges, paths, roadways and parking areas.
 - 5.2 Cut all grassed areas to a neat and tidy length.
 - 5.3 Trim all grass edges to paths, borders, beds and at the building line to the same height as the grassed areas.
 - 5.4 Remove all weeds and weed seedlings from all areas of the Property.
 - 5.5 Where deep rooted weeds, such as docks, are present, treat with touch weeder as required.
 - 5.6 Apply weed killer in accordance with manufacturer's instructions to any appropriate area, as required, displaying a warning notice as directed by the manufacturer.
 - 5.7 Tidy, prune or cut shrubs and hedges to maintain a neat line and definition, as required.
 - 5.8 Maintain the definition of beds by trenching the earth, as required.
 - 5.9 Lop and trim fast growing conifers to maintain a wedge in line with the Property, as required.
 - 5.10 Sweep the car park and garage yard areas, as required.
 - 5.11 Where beds have no bark, mulch or similar covering, hoe or dig the soil, as required, but at least every four visits.
 - 5.12 Remove all cuttings and trimmings from the Property.
6. In the winter period (November-February)
 - 6.1 Clear and remove from the Property, any litter and faeces from grassed areas, beds, shrubs, hedges, paths, roadways and parking areas.
 - 6.2 Cut all grassed areas to a neat and tidy length.
 - 6.3 Trim all grass edges to paths, borders, beds and at the building line to the same height as the grassed areas.
 - 6.4 Remove all weeds and weed seedlings from all areas of the Property.
 - 6.5 Tidy, prune or cut shrubs and hedges to maintain a neat line and definition, as required.

- 6.6 Sweep the car park and garage yard areas, as required.
 - 6.7 Sweep, machine blow all leaf fall in order to remove from site.
 - 6.8 Remove all cuttings and trimmings from the Property.
 - 6.9 Prepare all grassed areas for re-seeding, as required.
 - 6.10 When requested, to clear away snow from the building, walkways and paths.
 - 6.11 Apply weed killer in accordance with manufacturer's instructions to any appropriate area, as required, displaying a warning notice as directed by the manufacturer.
7. Green Roof maintenance [**Delete if not applicable**]
- 7.1 Hand weed the area
 - 7.2 Provide a specific risk assessment for maintaining the green roof
 - 7.3 Clean, buff, polish any walls, glass or mirrors and removing all droppings, stains or water marks.

Part 3: Special Obligations - Grounds Maintenance

The contractor is to use special care and skill in applying any weed killer or other chemical, taking into account the use of the Property by animal and children, and make good any damage caused to plants, shrubs, trees or grassed areas and any pollution to water by their use.

Part 4: COSHH

All gardening equipment and chemicals are to be removed from site after completion of grounds maintenance.

Part 5: Gardening Equipment details

<u>Equipment</u>	<u>Purpose of equipment</u>

Schedule 3: Notice Period

(Term, Commencement Date and Notice Period)

Expiry date of Contract	31 ST October 2017
Commencement Date	1 st November 2016
Notice Period	1 calendar month

Schedule 4: Fee

The Fee (Not including VAT)	£1920.00 PA PRO RATA'D
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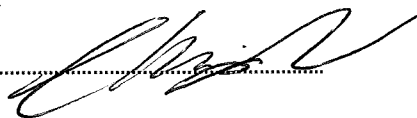
Payable	Monthly in arrears
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Schedule 5: Client

(Client)

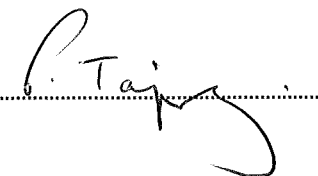
Name: Sherbourne House Management
Address: C/O CPBigwood
45 Summer Row
Birmingham
B3 1JJ

Signed by Edward Knight
Acting on behalf of CPBigwood



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Signed by
Acting on behalf of the Contractor



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