

**DATED**

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**LICENCE TO OCCUPY**

**Relating to land at Broad Street Car Park, Broad Street, Cuckfield  
West Sussex  
RH17 5JX**

between

**MID SUSSEX DISTRICT COUNCIL**

and

**CUCKFIELD PARISH COUNCIL**

Kevin Toogood,  
Assistant Director, Legal and Democratic Services  
Mid Sussex District Council  
Oaklands Oaklands Road  
Haywards Heath West Sussex  
RH16 1SS

**Ref: RK/004335**

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This licence is dated [                                  ] 2023

## Parties

- (1) **MID SUSSEX DISTRICT COUNCIL** of Oaklands, Oaklands Road, Haywards Heath, West Sussex (RH16 1SS) (**Licensor**)
- (2) **CUCKFIELD PARISH COUNCIL** of The Queen's Hall, High Street, Cuckfield, West Sussex, RH17 5EL (**Licensee**)

## Agreed terms

### 1. Interpretation

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

#### 1.1 Definitions:

**Car Park:** the Licensor's land shown edged red on the Plan other than the Property

**Competent Authority:** any statutory undertaker or any statutory public local or other authority or regulatory body or any court of law or government department or any of them or any of their duly authorised officers.

**Licence Fee:** a peppercorn.

**Licence Fee Commencement Date:** the date of this licence.

**Licence Period:** 12 months from and including the date of this agreement and then from year to year until the date on which this Licence is terminated in accordance with clause 4

**Necessary Consents:** all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required by any Competent Authority for the Permitted Use and the Works.

**Permitted Flags:** means the following flags:

- a) the Cuckfield Parish Flag (the design and dimensions of are annexed)
- b) the flag of the Commonwealth
- c) the flag of the Ceremonial County of West one
- d) the Rainbow flag (comprising six horizontal equal stripes)

of red, orange, yellow, green, blue and yellow)

e) the Union Flag

and Permitted Flag means any of the Permitted Flags

**Permitted Use:** as a flag pole for flying the Permitted Flags

**Plan :** the plan attached to this licence labelled “Plan: flagpole at Broad Street Car Park”.

**Property:** the part of Licensor’s land shown by a green semi-circle on the Plan.

**VAT:** value added tax or any equivalent tax chargeable in the UK.

**Works:** the installation of one flag pole (‘the Flag Pole’) in accordance with a specification approved by the Licensor;

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this licence.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedule forms 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 Schedule.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.9 A reference to **writing** or **written** excludes fax and e-mail.
- 1.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.11 Reference to clauses and schedules are to the clauses and schedules of this licence and reference to paragraphs are to the paragraphs of the schedule.

1.12 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.

1.13 A working day is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

## **2. Licence to occupy**

2.1 Subject to clause 3 and clause 5, the Licensor permits the Licensee to occupy the Property for the Permitted Use for the Licence Period, together with the rights mentioned in the Schedule.

2.2 The Licensor consents to the Licensee carrying out the agreed Works in accordance with the terms of this licence.

2.3 The Licensee acknowledges that:

- (a) the Licensee shall occupy the Property as a licensee and that no relationship of landlord and tenant is created between the Licensor and the Licensee by this licence;
- (b) the Licensor retains control, possession and management of the Property and the Licensee has no right to exclude the Licensor from the Property;
- (c) the licence to occupy granted by this agreement is personal to the Licensee and is not assignable and the rights given in clause 2 may only be exercised by the Licensee, its employees and its contractors;

## **3. Licensee's obligations**

The Licensee agrees and undertakes:

- a) not to start the Works until it has obtained all Necessary Consents that may be required to carry them out;
- b) to maintain at all times not less than £5 million (in respect of each claim) public liability and employer's liability insurance cover in respect of the Licensee's use of the Property and the Works, and procure that any contractor involved in the Works holds the same insurance, and provide the Licensor with a summary of the main terms of the insurance policies and evidence that the premiums have been paid;
- c) to provide the Licensor with any information relating to the Works as may be required by its insurers and pay any additional insurance premium payable due to the carrying out of the Works;
- d) to carry out the Works:

- (i) in accordance with the specifications approved by the Licensor;
  - (ii) in a good and workmanlike manner, using good quality materials as agreed within the Design Specification, and which are fit for their intended purpose;
  - (iii) to the satisfaction of the Licensor and its surveyors;
  - (iv) in a timely manner and complete the Works as soon as reasonably possible and, in any event, within six months of the date of this licence;
  - (v) in accordance with the requirements of the insurers and any Competent Authority;
  - (vi) causing as little disturbance and inconvenience as reasonably practicable to the Licensor and the users of the Licensor's adjoining property;
  - (vii) without leaving or storing any plant or materials on the land surrounding the Property and without allowing any rubbish or debris to accumulate on or around the Property;
  - (viii) to make good any damage caused by the installation, maintenance and/or removal of the Flag Pole to the Landlord's reasonable satisfaction;
- e) to pay to the Licensor the Licence Fee payable without any deduction if demanded:
- f) State of the property:
- (i) to keep the Flag Pole in good repair and condition and to carry out regular maintenance of the Flag Pole as and when required so long as it remains installed at the Property; For the avoidance of doubt, the Licensee shall retain ownership of the Flag Pole and the Licensor shall have no responsibility for it;
  - (ii) not to obstruct the Car Park, or leave any rubbish on it;
  - (iii) not to cause or permit to be caused any damage to the Property, or any neighbouring property;
  - (iv) not to use the Property other than for the Permitted Use;
  - (v) not to make any alteration or addition to the Property, save as otherwise permitted by this licence;
  - (vi) in the event of any vandalism or damage to the Flag Pole, to remove it from the Property;
  - (vii) not to erect any signs or notices on or outside the Property relating to the Works other than necessary warning signs approved in writing by the Licensor;

- g) not to do or permit to be done on the Property anything which is illegal or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to the Licensor or any owner or occupier of neighbouring property;
- h) not to do anything that will or might constitute a breach of any Necessary Consents affecting the Property or which will or might vitiate in whole or in part any insurance effected by the Licensor in respect of the Property from time to time;
- i) to observe any rules and regulations the Licensor makes (acting reasonably) and notifies to the Licensee in writing from time to time governing the Licensee's use of the Property and the Car Park;
- j) to indemnify the Licensor and keep the Licensor indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability in any way arising from:
  - (i) this licence;
  - (ii) any breach of the Licensee's undertakings contained in clause 3; and/or
  - (iii) the exercise of any rights given in clause 2;
  - (iv) the carrying out of the Works or any reinstatement of the Works;
  - (v) any repairs or maintenance done to the Property and Flag Pole on the Property;
- k) not to fly any flag other than a Permitted Flag from the Flag Pole at the Property.
- l) Not to attach any advertising to and not to fly any flags containing advertising material from the Flag Pole at the Property.
- m) if the Licensee wishes to fly two Permitted Flags simultaneously from the Flag Pole and one of the flags is the Union Flag, the Union Flag must be flown in the superior position.

#### **4. Termination**

4.1 This licence shall end on the earliest of:

- (a) the expiry of any notice given by the Licensor to the Licensee at any time on breach of any of the Licensee's obligations contained in clause 3
- (b) the expiry of not less than one months' written notice given by either party to the other.

4.2 Termination of this licence shall not affect the rights of either party in connection with any breach of any obligation under this licence which existed at or before the date of termination.



## **5. Reinstatement**

The Licensee covenants with the Licensor

- (i) no later than the end of the Licence Period to remove the Works
- (ii) all such works to be carried out on the terms of this licence in so far as they are applicable to the removal works, and to make good any damage caused in so doing to the Licensor's satisfaction (acting reasonably).

## **6. Notices**

6.1 Any notice given to a party under or in connection with this licence shall be in writing and shall be given by hand or by pre-paid first-class post or other next working day delivery service at its registered office.

6.2 If a notice complies with the criteria in clause 6.1, it shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address; or
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting.

6.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

6.4 A notice given under this licence is not valid if sent by e-mail or fax.

## **7. Costs**

- (a) On completion of this Licence, the Licensee shall be liable to pay to the Licensor £250 as a contribution towards the Licensor's legal costs of preparing this licence and £250 towards the Licensor's surveying costs.
- (b) The Licensor has a standard fee policy to recover the Licensor's Costs in all property transactions and this being the case, the Licensor's Costs are usually chargeable to and payable by the Licensee. However, recognising that the Licensee is a Parish Council, the Licensor has adopted a policy of not recovering the first One Thousand Pounds (£1,000) of its In-House Legal Fees and the first One Thousand Pounds (£1,000) of its In-House Surveyor Fees (the Costs Allowance) in any given financial year, being the period commencing on 1st April in any one year and ending on the 31st March in the next year (the financial year). This being the case, the Licensee shall not be liable to pay the Licensor's Costs unless when they are aggregated with similar costs attributable another property

transaction made between the Licensor and the Licensee, during the same financial year, the aggregated sum exceeds the Costs Allowance, in which case the Licensee shall be liable to pay the difference between the aggregated sum and the Costs Allowance, such sum to be paid on the signing hereof.

## **8. No warranties for use or condition**

- 8.1 The Licensor gives no warranty that the Property possesses the Necessary Consents for the Permitted Use.
- 8.2 The Licensor gives no warranty that the Property is physically fit for the purposes specified in clause 2.
- 8.3 The Licensee acknowledges that it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by or on behalf of the Licensor before the date of this licence as to any of the matters mentioned in clause 8.1 or clause 8.2.
- 8.4 Nothing in this clause shall limit or exclude any liability for fraud.

## **9. Limitation of Licensor's liability**

- 9.1 Subject to clause 10.2, the Licensor is not liable for:
  - (a) the death of, or injury to the Licensee, its employees, customers or invitees to the Property; or
  - (b) damage to any property of the Licensee or that of the Licensee's employees, customers or other invitees to the Property; or
  - (c) any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Licensee or the Licensee's employees, customers or other invitees to the Property in the exercise or purported exercise of the rights granted by clause 2.
- 9.2 Nothing in clause 9.1 shall limit or exclude the Licensor's liability for:
  - (a) death or personal injury or damage to property caused by negligence on the part of the Licensor or its employees or agents; or
  - (b) any matter in respect of which it would be unlawful for the Licensor to exclude or restrict liability.

**10. Third party rights**

This licence does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this licence.

**11. Governing law**

This licence and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

**12. Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this licence or its subject matter or formation.

This licence has been entered into on the date stated at the beginning of it.

The Schedule  
Rights Granted to the Licensee

1. The right for the Licensee:

1.1 to install and thereafter maintain a flag pole on the Property in accordance with the terms set out in this licence.

1.2 (in so far as the Licensor is able to grant the same) of access from the public highway and from the Licensee's property known as the Public Conveniences, Broad Street, Cuckfield to the Property over the Car Park on foot and with vehicles and machinery for the Licensee its agents employees and contractors to carry out the Works and to attach and remove Permitted Flags to and from the Flag Pole

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Signed by [            ]  
for and on behalf of West Sussex County Council

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Authorised Signatory

Signed by [            ]  
for and on behalf of Mid Sussex District Council

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Authorised Signatory

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