

DATED

LICENCE TO OCCUPY

relating to the area known as

GREEN SPACE GS AND WOODLAND ZZ

between

COMMUNITY TOWN COUNCIL PC

and

CONSTITUTED GROUP AB

CONTENTS

CLAUSE

| | |
|---|---|
| 1. Interpretation..... | 2 |
| 2. Licence to occupy..... | 4 |
| 3. Licensee's obligations | 4 |
| 4. Termination..... | 6 |
| 5. Notices..... | 6 |
| 6. No warranties for use or condition | 7 |
| 7. Limitation of Licensor's liability | 7 |
| 8. Third party rights..... | 8 |
| 9. Governing law..... | 8 |
| 10. Jurisdiction | 8 |

SCHEDULE

| | |
|---|---|
| Schedule 1 Rights granted to Licensee | 9 |
|---|---|

This licence is dated

2019

Parties

- (1) **COMMUNITY TOWN COUNCIL PC** of [] (Licensor)
- (2) **CONSTITUTED GROUP AB** of [] (Licensee)

Agreed terms

1. Interpretation

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

1.1 Definitions:

Common Parts: means any footpaths or roadways required for the Licensee to gain access to and egress from the Property to the nearest adopted public highway

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.

[Designated Hours: [hours **OR** days] per week or such other [hours **OR** days] as the Licensor in its absolute discretion may determine on [NUMBER] [days' **OR** weeks'] notice to the Licensee.]

Lease: a lease dated [] and made between the (1) County Council ZZ and (2) Community Town Council PC.

Licence Fee: the amount of £1 payable on the date of this licence.

Licence Period: the period from and including the date of this licence until the date on which this licence is determined 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.

Permitted Use: the use of the Property as a community garden including the following activities:-

- (a) vegetation management: including woodland management, coppicing, tree planting, pond management, grass cutting, bracken control , invasive species control, hedge-laying,
- (b) boundary feature maintenance,

- (c) Interpretation and promotion,
- (d) events and training,
- (e) craft and activities,
- (f) wildlife recording, monitoring and conservation; and
- (h) hand tools and portable power tools,

and other such uses and activities consistent with the use of the Property as a community garden.

Plan: the plan attached to this licence marked "Plan".

Property: the land known as Green Space GS and woodland WW as shown [edged red] on the attached plan.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

- 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 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.8 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 and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 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 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.
- 1.12 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 Unless expressly provided otherwise, the obligations and liabilities of the Licensee under this licence are joint and several.
- 1.14 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in **[England OR Wales]**.

2. Licence to occupy

- 2.1 Subject to clause 3 and clause 4, the Licensor permits the Licensee to occupy the Property for the Permitted Use for the Licence Period **[during the Designated Hours]** in common with the Licensor and all others authorised by the Licensor (so far as is not inconsistent with the rights given to the Licensee to use the Property for the Permitted Use) together with the rights mentioned in the Schedule 1.
- 2.2 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; and
 - (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 and its employees and volunteers.

3. Licensee's obligations

The Licensee agrees and undertakes:

- (a) to pay to the Licensor the Licence Fee
- (b) to keep the Property clean, tidy and clear of rubbish;

- (c) to maintain suitable public liability insurance in respect of the Licensee's use of the Property with a minimum indemnity limit of £10 million;
- (d) not to use the Property other than for the Permitted Use;
- (e) not to make any alteration or addition whatsoever to the Property (save that the carrying out of the activities listed in the Permitted Use shall not constitute a breach of the same);
- (f) not to display any advertisement, signboards, nameplate, inscription, flag, banner, placard, poster, signs or notices at the Property without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed;
- (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 to tenants or occupiers of any[neighbouring property;
- (h) not to cause or permit to be caused any damage to:
 - (i) the Property; or
 - (ii) any property of the owners or occupiers of the Property or any neighbouring property;
- (i) not to obstruct the Common Parts, make them dirty or untidy or leave any rubbish on them;
- (j) not to apply for any planning permission in respect of the Property without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed;
- (k) not to use any of the Licensor's utilities at the Property;
- (l) if a generator is brought on to the Property to ensure that it is removed at the end of each day;
- (m) not to store any flammable substances on the Property at any time.
- (n) not to store any equipment or materials on the Property without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed
- (o) 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;
- (p) to observe any reasonable rules and regulations the Licensor makes and notifies to the Licensee from time to time governing the Licensee's use of the Property and the Common Parts;

- (q) not to place any skips on the Property without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed
- (r) to leave the Property in a clean and tidy condition and to remove the Licensee's equipment, tools and goods from the Property at the end of the Licence Period;
- (s) 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; and
- (t) not to do anything on or in relation to the Property that would or might cause the Licensor to be in breach of the tenant's covenants and the conditions contained in the Lease.

4. Termination

4.1 This licence shall end on the earliest of:

- (a) [.....];
- (b) the expiry of not less than one month's notice in writing given by the Licensee to the Licensor; and
- (c) 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.

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. Notices

5.1 Any notice or other communication given under this licence shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the relevant party as follows:

- (a) to the Licensor at: [ADDRESS] and marked for the attention of [NAME OR POSITION]; and
- (b) to the Licensee at: [ADDRESS] and marked for the attention of [NAME OR POSITION],

or as otherwise specified by the relevant party by notice in writing to each other party.

5.2 Any notice or other communication given in accordance with clause 5.1 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or other communication 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.

5.3 A notice or other communication given under this licence shall not be validly given if sent by e-mail.

5.4 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. No warranties for use or condition

6.1 The Licensor gives no warranty that the Property possesses the Necessary Consents for the Permitted Use.

6.2 The Licensor gives no warranty that the Property is physically fit for the purposes specified in clause 2.

6.3 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 6.1 or clause 6.2.

6.4 Nothing in this clause shall limit or exclude any liability for fraud.

7. Limitation of Licensor's liability

7.1 Subject to clause 7.2, 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.

7.2 Nothing in clause 7.1 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.

8. 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.

9. Governing law

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

10. Jurisdiction

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

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

Schedule 1 Rights granted to Licensee

1. The right for the Licensee to use during the Designated Hours such parts of the Common Parts for the purpose of access to and egress from the Property as shall from time to time be designated by the Licensor for such purpose.

Signed by []

for and on behalf of COMMUNITY TOWN COUNCIL
PC

Signed by []

for and on behalf of CONSTITUTED GROUP AB