

LICENCE TO OCCUPY OPEN SPACE FOR AN EVENT ON A SHORT TERM BASIS

INCLUDING

TERMS AND CONDITIONS OF THE OCCUPATION

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CLAUSE

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The terms and conditions set out in this licence form part of the contract made between the Licensor and the Licensee for the Event.

1. Interpretation

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

1.1 Definitions:

Common Parts: means any such roads, paths, entrance ways and other means of access in or upon the Venue, the use of which is necessary for obtaining access to and egress from the Property as designated from time to time (if any).

Competent Authority: means 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.

Event: means the activity set out in the Event Permit at the Property

Event Permit: means the document confirming that the Licensor has reserved the Property for the Event for the Licence Period setting out the specific terms of the Licensee's occupation including the licence fee and specifying the Site Services to be provided by the licensor and at the fees payable by the Licensee for the Site Services.

Event Opening Hours: means the times when the Licensee may use the Property during the Event Period as set out in the Event Permit.

Event Period: means the dates set out in the Event Permit during which the Event shall run and be open to members the public (subject to the terms of this licence) commencing on the date stated to be the "Start event" date and ending on the date stated to be the "End event" date as set out in the Event Permit.

Force Majeure Event means any circumstance not within a party's reasonable control including:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition
- f) collapse of buildings, fire, explosion or accident; and
- g) interruption or failure of utility service.

Insolvency Event: subject to clause 1.15 , any one or more of the following:

- a) the Licensee suspending payment of its debts or being or becoming unable to pay its debts as they fall due or admitting inability to pay its debts or (being a company) being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986
- b) the Licensee, or any person on its behalf, proposing a voluntary arrangement, scheme of arrangement, restructuring plan or any other compromise or arrangement with the Licensee's creditors or any class of them;
- c) the making of an application for an administration order or the making of an administration order in relation to the Licensee;
- d) the giving of any notice of intention to appoint an administrator, or the filing at court of any notice of appointment of, or notice of intention to appoint, an administrator in relation to the Licensee;
- e) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Licensee;
- f) the commencement of a voluntary winding-up in respect of the Licensee, except a voluntary winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;
- g) the presentation of a petition for a winding-up order or the making of a winding-up order in respect of the Licensee;
- h) the striking-off of the Licensee from the Register of Companies or the making of an application for the Licensee to be struck-off;
- i) the Licensee otherwise ceasing to exist (or, if a natural person, dying);
- j) the making of an application for a bankruptcy order, the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Licensee;
- k) the making of an application to court for, or obtaining, a moratorium under Part A1 of the Insolvency Act 1986 in relation to the Licensee.

Licence Fee: the amount of set out in the Event Permit.

Licence Period: the period from and including the date stated in the Event Permit as being the "On site" date and ending on the date stated in the Event Permit as being the "Off site" date or until the date on which this licence is determined in accordance with clause 4.

Licensee: means the person or body granted a licence as set out in the Event Permit to use the Property under the terms of the Event Permit and this licence.

Licensor: means Nottingham City Council of Loxley House, Station Street, Nottingham NG2 3NG

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: means holding the Event including installing equipment and apparatus and building any temporary structures to set-up the Event and the removal of all such equipment, apparatus and temporary structures in accordance with the terms of this licence.

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

Property: the land at the Venue shown edged red on the Plan or such other space as allocated to the Licensee from time to time under clause 2.2(f).

Service Media: all media for the supply or removal of electricity, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

Site Services: means any or all of the following as set out in the Event Permit:

- a) the supply of any the following: electricity, water, drainage sewage, energy, telecommunications, data and all other services and utilities;
- b) waste management, overnight security, carpark management, arboreal works and grounds maintenance;
- c) use of events equipment;
- d) local crew and event management staffing;
- e) event marketing

VAT: value added tax chargeable in the UK.

Venue: means the wider area or grounds in which the Property is located.

- 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 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.
- 1.15 For the purposes of the definition of **Insolvency Event**:
- (a) where any of the paragraphs in that definition apply in relation to:
 - (i) a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively), that paragraph shall apply subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended); and
 - (ii) a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000), that paragraph shall apply subject to the

modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended); and

- (b) **Insolvency Event** includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a licensee incorporated or domiciled in such relevant jurisdiction.

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 and during Event Period for the Event Opening 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;
- (c) the Licensee has no right to exclude the Licensor's officers, agents, workers (and all others authorised by the Licensor) (such as by way of example, police officers, fire officers and emergency services) to enter the Property at any time and shall comply with all directions of such persons.
- (d) 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
- (e) without prejudice to its rights under clause 4, the Licensor shall be entitled at any time on giving reasonable notice to require the Licensee to transfer to alternative space elsewhere within the Venue and the Licensee shall comply with such requirement.
- (f) without prejudice to its rights under clause 4, the Licensor shall be entitled at any time on giving reasonable notice to require the Licensee to transfer to alternative space elsewhere within the Venue and the Licensee shall comply with such requirement.

3. Licensee's obligations

3.1 The Licensee agrees and undertakes:

- (a) to pay by bank transfer:

- (i) to the Licensor the Licence Fee payable without any deduction within 30 days of demand together with such VAT as may be chargeable on the Licence Fee; and
- (ii) to the Licensor the fees payable for the Site Services as set out in the Event Permit;
- (iii) to the relevant suppliers all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Property which are not supplied by the Licensor as set out in the Event Permit (as appropriate);

and payment shall not be deemed to have been made until the funds have cleared in the Licensor's bank account;

- (b) to keep the Property clean, tidy and clear of rubbish;
- (c) not to use the Property other than for the Permitted Use;
- (d) not to make any alteration or addition whatsoever to the Property;
- (e) not to display any advertisement, signboards, nameplate, inscription, flag, banner, placard, poster, signs or notices at the Property or elsewhere in the Venue without the prior written consent and approval of the Licensor who may impose conditions on the content and type of advertising materials and the timing of any marketing campaign and for the avoidance of doubt all advertising and branding shall be temporary in nature, and shall be only displayed during the Licence Period or as otherwise stated in the Event Permit PROVIDED that such consent shall not obviate the need for the consent of any person other than the Landlord (including Nottingham city Council as local planning authority) that may be required to advertise the Event AND such consent shall not be required for advertisements relating to the visit of a travelling circus, fair or similar travelling entertainment to any specified place within the locality as specified in Class 3F of Part 1 of Schedule 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;
- (f) 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 any tenants or occupiers of the Venue (if any) or any owner or occupier of neighbouring property;
- (g) not to cause or permit to be caused any damage to:
 - (i) the Property, Venue or any neighbouring property; or
 - (ii) any property of the owners or occupiers of the Property, [Venue] or any neighbouring property;
- (h) not to obstruct the Common Parts, make them dirty or untidy or leave any rubbish on them;

- (i) not to apply for any planning permission in respect of the Property;
- (j) do not apply for a premises licence for regulated entertainment or the sale of alcohol without the Licensor's consent (such consent not to be unreasonably withheld);
- (k) 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 [and Venue]] from time to time;
- (l) to comply with all laws and with any recommendations of the relevant suppliers relating to the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Property;
- (m) to observe any 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;
- (n) to leave the Property in a clean and tidy condition and to remove the Licensee's furniture, equipment, goods and advertising boards, banners and any other promotional materials from the Property at the end of the Licence Period;
- (o) 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;
- (p) to pay to the Licensor interest at the statutory rate for late payments on the Licence Fee or other any payments due plus a fixed sum and the reasonable costs of recovering the debt if the Licensee shall fail to pay the Licence Fee or any other payments due under this licence within 30 days of the due date (whether formally demanded or not);
- (q) to observe and perform the Licensee's obligations set out in Schedule 2 of this licence;

4. Termination

- 4.1 Save for the Licensee's obligations in clause 3 of this licence, this licence shall end on the earliest of:
- (a) At midnight on the last day of the Licence Period; or

- (b) 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; or
- (c) the expiry of reasonable notice given by the Licensor to the Licensee; and
- (d) the expiry of a notice given by the Licensor to the Licensee at any time following the occurrence of an Insolvency Event.
- (e) the expiry of not less than three months' prior written notice given by the Licensee to the Licensor.

4.2 In the event that termination of this licence is effected by a notice served by the Licensee on the Licensor under sub-clauses 4.1(e) the Licensee shall pay any such costs incurred by the Licensor in connection with this licence including providing Site Services as follows:

- (a) Where the Event Period is less than Eight days then the notice period and costs set out in this clause 4.2 (a) shall apply:

| Notice period | Amount |
|----------------------|---|
| 6 days or more | Any costs incurred by the Licensor in connection with providing Site Services |
| 5 days or less | 50% of Licence Fee plus any costs incurred by the Licensor in connection with providing Site Services |

- (b) Where the Event Period is longer than Seven days then the notice period and costs set out shall apply:

| Notice period | Amount |
|----------------------|---|
| 29 days or more | Any costs incurred by the Licensor in connection with providing Site Services |
| 28 days or less | 50% of Licence Fee plus any costs incurred by the Licensor in connection with providing Site Services |

Save that where a Licensor is a not-for-profit company or unincorporated community association running an event that will not generate a profit then the Licensor shall not pay the costs amounting to 50% of the Licence Fee (and for the avoidance of doubt such a body shall be liable to pay any costs incurred by the Licensor in connection with providing Site Services).

4.3 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. Force Majeure Event

5.1 Subject to clause 5.2, the Parties agree that neither Party shall be liable for delay in performing or failure to perform its obligations under this licence if such delay or failure directly results from a Force Majeure Event for so long as, and to the extent that, its performance is directly prevented, hindered or delayed by a Force Majeure Event;

5.2 upon becoming aware of any Force Majeure Event, either party shall promptly notify the other party in writing of the start of a Force Majeure Event and shall use reasonable endeavours to limit the effect of the Force Majeure Event on the performance of its obligations.

5.3 If the Force Majeure Event continues for more than 48 hours after service of the notice either party may give written notice to the other to terminate the licence with immediate effect.

5.4 The Licensor may immediately suspend this licence on grounds of emergency or other serious ground (including but not limited to fire or flooding) or in the event of serious adverse weather conditions creating a serious risk of damage to health or safety in the reasonable opinion of the Licensor acting on the advice of a relevant competent Authority or public body, In such circumstances the Licensor will notify the Licensee as soon as possible if and when the Event may resume.

5.5 If this licence is terminated due to an Force Majeure Event or suspended in accordance with clause 5.4 above, neither party will have any liability to the other except that any rights and liabilities accrued prior to termination or suspension will continue to exist.

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 (if a company) or its principal place of business (in any other case).

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 fax.

6.5 Any notice served under this Licence must be sent to the following address:

Nottingham Events
1st Floor, Loxley House
Station Street
Nottingham
NG2 3NG

And an electronic copy of the notice should also be sent to the following email address:
nottinghamevents@nottinghamcity.gov.uk

7. No warranties for use or condition

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

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

7.3 The Licensor gives no warranty that Site Services are fit for the purposes specified in clause 2.

7.4 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 7.1 or clause 7.2.

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

8. Limitation of Licensor's liability

8.1 Subject to clause 8.2, 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.

8.2 Nothing in clause 8.1 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.

9. 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.

10. 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.

11. 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.

Schedule 1 Rights granted to Licensee

1. The right for the Licensee to use:
 - 1.1 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;
 - 1.2 Any Service Media serving the Property and as specifically designated and agreed by the Licensor;
 - 1.3 Use of Site Services as may be agreed between the parties and at such cost or financial provision as is set out in the Event Permit.

Schedule 2 Obligations of the Licensee

2. The Licensee shall:
 - 2.1 comply with all statutory and regulatory requirements affecting the Licensee's occupation and use of the Property for the Permitted Use;
 - 2.2 obtain all Necessary Consents and observe and perform any conditions of Necessary Consents and produce any relevant documentation to the Licensor on request;
 - 2.3 operate, manage and promote the Event complying at all times with all legal requirements and regulatory guidance and best practice regarding security, fire prevention, health and safety and food safety and hygiene;
 - 2.4 comply at all times with the conditions set out in the Event Permit and the terms of this licence;
 - 2.5 comply with all reasonable directions and instructions given by authorised officers of the Licensor;
 - 2.6 where designated in the Event Permit, provide stewards to control entrance to the Event and to preserve order during the Event (where appropriate)
 - 2.7 produce on demand, when at the Venue or the Property a copy of the Event Permit for the Event and any documentation relating to all Necessary Consents;
 - 2.8 in the event that the Licensee appoints another party to distribute and display publicity materials, prior to distribution and display, the Licensee shall notify the Licensor of the full contact details of such other party;
 - 2.9 not give any sub-licence over the whole of the Property;
 - 2.10 not give any sub-licence to a third party over part of the Property without the Licensor's prior consent, (such consent not to be unreasonably withheld or delayed) and the terms of any such sub-licence shall be approved by the Licensor and impose the same obligations as are contained in the clauses of this licence SAVE FOR any sub-licences explicitly provided for by the Event Permit (such as for retail or food and beverage stall

- holders or to fun fair rides and attractions), which if stated in the Event Permit, shall not require the prior consent of the Licensor;
- 2.11 pass on to the Licensor any correspondence received at the Property and addressed to the Licensor or relevant to the Licensor's interest in the Property;
 - 2.12 prevent the public access to the Property or any part thereof:
 - (a) during the build and set up phase of the Licence Period or
 - (b) before proper health and safety certificates have been issued
 - 2.13 ensure that in the exercise of the Permitted Use all reasonable adjustments to accommodate persons with protected characteristics as defined in the Equalities Act 2010 shall be made.
 - 2.14 appoint a representative to act on their behalf and shall inform the Licensor of the representative including providing full contact details;
 - 2.15 indemnify the Licensor against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Licensor arising out of or in connection to the Permitted Use of the Property during or after the Licence Period;
 - 2.16 maintain fully comprehensive public liability insurance during the Licence / Event Period in a sum not less than the amount agreed determined by the Licensor based on the activity being staged at the Event.