



**TENDER FOR
THE OPERATION OF AN
ENTERTAINMENT
ATTRACTION**

**THE BOURNEMOUTH AIR
FESTIVAL 19th - 22nd AUGUST
2010**

SECTION 1

CONDITIONS OF TENDER



**TENDER FOR THE OPERATION OF AN ENTERTAINMENT
ATTRACTION AT THE BOURNEMOUTH AIR FESTIVAL 19th - 22nd
AUGUST 2010**

1. INVITATION TO TENDER

- 1.1 The Council of the Borough of Bournemouth (the Council) invites Tenders for the operation of an entertainment attraction during the Bournemouth Air Festival 19th - 22nd August 2010.
- 1.2 In these Conditions of Tender, words and expressions shall have the same meanings as are respectively assigned to them in the Licence.
- 1.3 In these Conditions of Tender unless contrary intention appears:
 - 1.3.1. Words importing the masculine gender include the feminine;
 - 1.3.2. Words in the singular include the plural and vice versa;
 - 1.3.3. References to staff shall be construed as including all employees, agents, consultants that are directly or indirectly employed by the Tenderers.
- 1.4 Tenderers should seek to clarify in writing any points of doubt or difficulty as to the interpretation of any part of the tender documents with the Council before submitting a Tender.
- 1.5 The appointment of the successful Tenderer shall be a submission of the proposal by written tender.

2. TERMS AND CONDITIONS

Every Tender received by the Council shall be deemed to have been made subject to these Conditions unless the Council shall previously have expressly agreed in writing to the contrary. Any alternative terms and conditions offered on behalf of the Tenderer shall, if inconsistent with these Conditions, be rejected by the Council unless expressly accepted in writing.

3. PREPARATION OF TENDER

- 3.1 Tenderers must obtain for themselves as their own responsibility and at their own expense all information necessary for the preparation of their Tenders.

- 3.2 Information supplied to Tenderers by the Council and its Officers is only for general guidance in the preparation of the Tender. Tenderers must satisfy themselves by their own investigations with regard to the accuracy of any information given and no responsibility is accepted by the Council for any loss or damage of whatever kind or howsoever caused arising from the use by Tenderers of such information.
- 3.3 The Tenderer is required to complete and provide all information requested by the Council in accordance with these Conditions of tender. Failure to do so will lead the Council to reject the Tender unless the omissions have been previously agreed by the Council in writing.
- 3.4 A Tenderer shall be deemed for all purposes connected with the Tender and the Conditions of the Licence to have visited and satisfied themselves as to the area that is to be used for an entertainment attraction, access to, and the accessibility of the area and/or any of its parts. Accordingly the Council will neither consider any demand by the successful Tenderer for any payment by the Council or any reduction in the Licence fee by reason of any such matters nor accept any such matter as excusing the successful Tenderer from properly providing an entertainment attraction in accordance with the Specification.

4. BASIS OF TENDER

- 4.1 In consideration of being granted the Licence and of the Licence fee to be paid to the Council, the Tenderer shall collect and retain all the income derived from the provision of an entertainment attraction.
- 4.2 The said Licence fee to be paid to the Council by the Tenderer shall be entered on its Form of Tender.
- 4.3 Tenders for the provision of an entertainment attraction must be on the terms and conditions of the specification and licence.

5. THE TENDER SUBMISSION

- 5.1 Tenders must be submitted on the attached Form of Tender.
- 5.2 Tenders must be accompanied by:
 - 5.2.1. Brief biographical details of the Tenderer;
 - 5.2.2. A brief summary of the Tenderer's trading history and present trading circumstances;
 - 5.2.3. Photographs of the entertainment attraction and activities, where possible;
 - 5.2.4. Any proposals or thoughts on designs of the entertainment attraction;

- 5.2.5. The name of two trading referees, one of which must be a local authority.
 - 5.2.6. A Banker's Reference. If the Council wishes to take up a Banker's Customer Reference, the Council will write to the Tenderer requesting it to obtain the Reference directly from its Bank, who will then forward the reference to the Council. Any fee that the Bank may charge for such a service will be at the expense of the Tenderer.
- 5.3 All documents requiring a signature must be signed:
- 5.3.1. Where the Tenderer is an individual, by that individual;
 - 5.3.2. Where the Tenderer is a partnership, by two duly authorised partners;
 - 5.3.3. Where the Tenderer is a company, by two directors (at least one of whom should be an executive director) or by a director and the secretary of the company, such persons being duly authorised for the purpose.

6. DELIVERY OF TENDER

- 6.1 The form of tender and accompanying documents, all duly completed, must be delivered to the Events Department, Visitor Information Bureau, Westover Road, Bournemouth, BH1 2BU, to arrive no later than Friday 19th March 2010 at 4pm.
- 6.2 No tender will be considered if it reaches the Council after the date and time specified at 6.1 above.
- 6.3 The envelope shall in no circumstances bear any name or mark indicating the identity of the Tenderer.

7. PERIOD OF VALIDITY

Tenders shall remain open for acceptance for a period of 28 days from the closing date.

8. EVALUATION AND ACCEPTANCE

- 8.1 The Council is not bound to accept the highest bid in terms of monetary considerations to the Council or any Tender. Any acceptance shall be of the Tender most advantageous to the Council according to returns to the Council and ability to provide a suitable entertainment attraction.
- 8.2 The Council shall not be under liability in respect of any expenses or loss that may be suffered or incurred by a Tenderer in the preparation of its Tender.

9. FORM OF AGREEMENT

- 9.1 The successful Tenderer will be required to execute a Licence in the form attached.
- 9.2 Until execution of the Licence, the successful Tender, together with the Council's written acceptance thereof, will form a binding agreement between the Council and the successful Tenderer upon the terms and conditions of the said Specification and Agreement.

10. CONFIDENTIALITY OF TENDER INFORMATION AND DOCUMENTS

- 10.1 All information supplied by the Council or in connection with this invitation to tender shall be regarded as confidential to the Council.
- 10.2 This invitation to tender and its accompanying documents and publications are and shall remain the property of the Council. They shall be treated as private and confidential for use only in connection with the tender and any resulting Contract and must be returned upon demand.

11. COLLUSIVE TENDERING

Any Tenderer who:

- 11.1 fixes or adjusts the amount of the Tender by, or in accordance with any agreement or arrangement with any other person; or
- 11.2 communicates to any person other than the Council the amount or approximate amount of the Proposed tender (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the tender or insurance); or
- 11.3 enters into agreement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or
- 11.4 offers or agrees to pay or to give or does pay or gives, any sum of money, inducement, or valuable consideration, directly or indirectly to any person, for doing or having done or causing to have caused to be done in relation to any other Tender or proposed Tender, any act or omission; or
- 11.5 in connection with the granting of the Licence, commits an offence under the Prevention of Corruption Acts 1889 to 1916 or gives a fee or reward, the receipt of which is an offence under Sub-Section (2) of Section 117 of the Local Government Act 1972;

shall be disqualified without prejudice to any civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract.

12. CANVASSING

Any Tenderer who directly or indirectly canvasses any member or officer of the Council concerning the granting of the Licence for the provision of an entertainment attraction or who directly or indirectly obtains or attempts to obtain information from any such officer or member concerning any other tender or proposed tender for an entertainment attraction Contract shall be disqualified.

SECTION 2

FORM OF TENDER



TENDER FOR THE OPERATION OF AN ENTERTAINMENT
ATTRACTION AT THE BOURNEMOUTH AIR FESTIVAL 19th - 22nd
AUGUST 2010

FORM OF TENDER

To the Bournemouth Borough Council

Having examined carefully the Contract Documents comprising the Conditions of Tender, the Specification, the Form of Agreement, the Site Plan and all other documentation issued by the Council on the Tender date, we hereby offer to provide an entertainment attraction at the Bournemouth Air Festival 19th - 22nd 2010 strictly in conformity therewith.

A sum of * pounds sterling (£.....) in total for the duration of the 19th - 22nd August 2010 (excl VAT)

* Please note that the minimum amount the Organiser will accept for this Tender is £18,000 due to the loss of parking revenue.

Details of the attraction are:

.....
.....
.....
.....

Signature (1) : Signature (2):

Date (1) : Date (2):

in the capacity of in the capacity of

duly authorised to sign Tenders for and on behalf of:-

Name of the Tenderer or Firm or Company:

Postal Address:

..... Tel. No: Fax No:.....

SECTION 3

EVENT INFORMATION



EVENT INFORMATION

After two successful events in 2008 and 2009, the 2010 Bournemouth Air Festival will take place in Bournemouth from Thursday 19th - Sunday 22nd August. Organised by the Bournemouth Tourism Events Team (part of Bournemouth Borough Council) the event details are as follows:

- The Bournemouth Air Festival will take place along Bournemouth Seafront and will be centred on the length of beach from Bournemouth to Boscombe Pier.
- The event will be free to the general public and it is anticipated that the Festival will attract over 1 million visitors during the four days ranging from families to aviation enthusiasts. An estimated 1.3 million people attended the Bournemouth Air Festival in 2009 and over 750,000 in its first year 2008.
- The flying display's will take place over 2 - 4 hours on the afternoon of each day, and will include both military and civilian content.
- There will be a 'Night Air' evening entertainment programme from Thursday to Saturday.
- There will be a range of ground attractions along the seafront to include exhibition and promotional space, trading stalls, funfair rides, catering, military displays, family entertainment and music.
- The event appeals to the young and old, both families and friends
- The Festival is the biggest free aviation event of its kind.
- Further information about the Bournemouth Air Festival is available on-line at www.bournemouthair.co.uk.

SECTION 4

SPECIFICATION



TENDER FOR THE OPERATION OF AN ENTERTAINMENT
ATTRACTION AT THE BOURNEMOUTH AIR FESTIVAL
19TH - 22ND AUGUST 2010

SPECIFICATION

1. The entertainment attraction will operate on Bath Road South car park, Bournemouth as indicated on the site plans enclosed.
2. The space available is approximately 3,000m². The entertainment attraction must fit into this area and also allow for pedestrians and emergency vehicle access.
3. The entertainment attraction must operate throughout the Bournemouth Air Festival 2010 which will be held from Thursday 19th - Sunday 22nd August 2010.
4. The minimum amount the Organiser will accept for this Tender is £18,000 due to the loss of parking revenue.
5. Minimum trading hours will be from 10am - 6pm on each of the four days. Maximum trading hours will be 10am - 10pm which will be subject to evening events. Exact operating times will be confirmed by the Council two months prior to the event.
6. The tender is for the 2010 Air Festival only.
7. A funfair will not be accepted as part of this tender. The provision of a funfair has been procured under a separate tender.
8. No catering units will be allowed as part of the attraction. Catering has been procured under a separate tender. The Contractor is prohibited from selling food and drink. Sweet units (pick and mix) are also not allowed.
9. The Council does not recognise Showman's Rights.
10. A contract will be drawn up between the Contractor and the Council detailing all of the requirements. The Contractor will be required to pay a non-refundable 50% deposit to the Council on signing of the Contract. The remaining rental will be due by Tuesday 1st June 2010. If the rental is not paid by this date the contract will be cancelled.
11. The Contractor will be responsible for the cost of any reinstatement necessary to the site used and pay in advance a deposit of £2,000.00. This will be

- invoiced to the Contractor on Tuesday 1st June 2010. The deposit will be repaid to the Contractor on completion of the event subject to any deductions.
12. The Contractor will be responsible for providing an overall manager who will be the main point of contact for the organisers. The manager will be responsible for actioning any requests made by the organiser.
 13. The Contractor can provide a mixture of attractions as part of the tender.
 14. The attraction must be orientated towards a family / community market.
 15. One day is permitted for setting up which will be Wednesday 18th August 2010. The site must be ready for inspection by the organiser at 1700hrs on this day. Breakdown will be from 1800hrs on Sunday 22nd August and all equipment must be cleared by 2300hrs on Sunday 22nd August 2010.
 16. The Contractor is responsible for the siting and removal of the attraction subject to the direction of the event staff. A site plan to include the dimensions and location of the attraction must be submitted to the organisers two months before the start of the event.
 17. The decoration of the attraction must be of a good standard and the Council reserves the right to remove an attraction if it is not up to standard or does not resemble the pictures provided as part of the tender submission.
 18. No gambling machines are to be installed on site.
 19. There will be no roving advertising or fly posting allowed. Any advertising will be in conjunction with the overall advertising of the Air Festival.
 20. Roaming overnight security will be on site 24 hours a day however all attractions and equipment are left at the owner's risk. Extra security can be organised at an additional cost to the Contractor through the official event security company.
 21. Camping / overnight stays are not permitted on site.
 22. No balloons are to be sold, given away or used to decorate attractions.
 23. There will be no movement of vehicles on or off of the site between operating hours.
 24. The organisers of the event shall not be held liable or responsible for any injury to the Contractor or their employees, agents, guests or visitors while within the confines of the space allocated to the Contractor. Nor shall the organiser be liable for any loss or damage to any goods from any cause whatsoever while the same are in transit to or from the event or while they are in the allocated attraction area of Bath Road south car park.

25. The Contractor will provide confirmation of third party public liability and employer's liability insurance to a value of £10 million, ADIPS certification, appropriate procedure manuals, risk assessments and other health and safety documentation as appropriate, to Bournemouth Borough Council.
26. Noise disruption will be kept to a minimum and levels to the satisfaction of the Environmental Health Officers.
27. The use of public address microphones is prohibited.
28. The attraction must be adequately lit and conform to all UK health & safety, licensing, fire and other statutory requirements to the satisfaction of relevant Bournemouth Borough Council Officers.
29. The Contractor is responsible for the removal and disposal of any grey water which must not be discharged into the surface water drains.
30. The Contractor is responsible for all equipment brought onto site and for ensuring all insurances are obtained and contractual obligations are met.
31. The Contractor will provide all energy supplies for their attraction which should be a super silent diesel generator. Any generator that is not fully sound-proofed shall be boxed to reduce noise levels. All generators must be switched off within 15 minutes of the attraction closure time.
32. The Contractor is responsible for the safe removal and disposal of all flammable substances such as diesel from the site.
33. All cables must be suitably ramped or safely attached at height.
34. The Contractor must arrange for refuse / litter disposal to the satisfaction of Bournemouth Borough Council. All costs incurred for this will be met in full by the Contractor.
35. Environmental Health, Licensing and Trading Standards Officers will be on site before and during the event and will inspect the area regularly.
36. The Contractor is responsible for all staff conduct, public handling of exhibits, consequential and injury loss.
37. An offsite car park is available for exhibitor vehicles and a shuttle bus provided to and from the site. No vehicles may remain onsite during the event times.
38. Vehicle passes will be provided for all vehicles entering the event site and exhibitor passes for all exhibitors working on site. These must be visible at all times.

39. If any of the conditions included in this specification are breached during the event the organiser or their representative will have the authority to either deduct money from the reinstatement deposit and/or close down the attraction for the remainder of the event.

SECTION 5

COLLUSIVE TENDER CERTIFICATE



COLLUSIVE TENDERING CERTIFICATE

In recognition of the principle that the essence of selective tendering is that the Council shall receive bona fide competitive tenders from all those tendering I/WE CERTIFY THAT:-

1. The tenders submitted herewith are bona fide tenders intended to be competitive.
2. I/We have not fixed or adjusted the amount of the tenders under or in accordance with any agreement or arrangement with any other person.
3. I/We have not done and I/We undertake that I/We will not do at any time before the hour specified for the return of the tenders any of the following acts
 - (a) communicating to a person other than the person calling for these tenders the amount or approximate amount of the proposed tenders (except where the disclosure, in confidence, of the approximate amount of the tenders was essential to obtain insurance premium quotation and a financial reference required for the preparation of the tenders);
 - (b) Entering into any agreement with any other person that he shall refrain from tendering or as to the amount of any tenders to be submitted.
 - (c) offering or paying or giving or agreeing to give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tenders or proposed tenders any act or thing of the sort described above.

In this certificate:-

1. "Person" includes any person and any body or association corporate or incorporate.
2. "any agreement or arrangement" includes any transaction of the sort described above, formal or informal and whether legally binding or not.

Signature (1): Signature (2):

Date (1): Date (2):

in the capacity ofin the capacity of

duly authorised to sign Tenders for and on behalf of:-

Name of the Tenderer or Firm or Company:

SECTION 6

FORM OF LICENCE

- (1) THE COUNCIL OF THE BOROUGH OF BOURNEMOUTH of the Town Hall Bournemouth Dorset BH2 6DY ("Council") and
- (2) [] (company registration number) [] whose registered office is at [] ("Licensee")

WHEREBY IT IS MUTUALLY AGREED by and between the parties as follows:-

- 1.1 In consideration of payment to be made by the Licensee and of the Licensee's agreement to the obligations and conditions in this Licence, the Council grants the following rights to the Licensee:
- 1.1.1 the right to use land at Bath Road south car park in the Borough of Bournemouth [as shown on the plan annexed at Appendix 1 ("Site") from Thursday 19th August 2010 to Sunday 22nd August 2010 inclusive, a maximum of four days, for the purposes of holding an Entertainment Attraction ("Event");
- 1.1.2 the right to have access to the Site from 0800 on Wednesday 18th August 2010 in order to make the necessary preparations for the Event and until 2300 on Sunday 22nd August 2010 for the purpose of clearance and reinstatement of the Site.
- 1.2 The term "Licensee" shall include the Licensee's employees, agents and sub-contractors including organisers of Events.

2. PAYMENT

2. The Licensee shall pay to the Council in respect of the rights granted by this Licence 50% of the licence fee on the signing of the contract the remainder of the following amount no later than Tuesday 1st June 2010:-
- 2.1 a licence fee of [] (£);
- 2.2 a deposit of **Two Thousand Pounds** (£2,000.00) which will be refunded in full to the Licensee, provided the Licensee carries out in a satisfactory manner its obligations under clause 3.5. If the Licensee does not fulfil its obligations the deposit shall be used by the Council in accordance with clause 3.6.

3. THE LICENSEE'S OBLIGATIONS

3. The Licensee hereby agrees with the Council as follows:-
- 3.1 to pay the Licence fee and the deposit in accordance with the above provisions;
- 3.2 that the Event will operate for a maximum of four days and that the Attraction will run from [] to [] each day. Any changes in operating hours must be agreed in writing by the Council and will be subject to the Council having the right to request the Licensee to operate the Event for the maximum or minimum operating hours at the Council's discretion;

Noise and Nuisance

- 3.3 that it will not do or permit or suffer anything to be done on the Site which shall be or may become a nuisance, damage, annoyance or inconvenience to persons using the Site or to occupiers of adjoining land or neighbouring premises and in particular shall ensure:
- 3.4.1 that all generators shall be switched off within 15 minutes of the closure of the attraction on each evening;
 - 3.4.2 that generators which are not fully sound proofed shall be boxed to reduce noise levels;
 - 3.4.3 that the licensee will provide all energy supplies for their attraction which will be in the form of super silent diesel generators;
 - 3.4.4 that there will be no use of any public address microphones;
 - 3.4.5 that suitable arrangements are made to the satisfaction of the Council for the collection and disposal of refuse generated by the Licensee;
 - 3.4.6 that background noise levels will be set by the Council's Head of Public Protection prior to operating the attraction and that these noise levels will be monitored the day before opening with the full co-operation of the Licensee and that these noise levels must be adhered to from then on at all times that the attraction is on the site;
 - 3.4.7 that it will liaise with the Council at all times regarding the Event Site and noise and close down immediately any equipment that in the opinion of the Head of Public Protection constitutes a noise nuisance;
 - 3.4.8 that no loudspeaker shall be used by or on behalf of the Licensee for the purpose of advertising the Event in any street or public place within the Borough of Bournemouth or from any aircraft, boat or other craft;
 - 3.4.9 that no music of any kind whatsoever shall be allowed before 1000hrs or after 2200hrs on any day PROVIDED ALSO that no music shall be played so loudly as to be unnecessarily audible beyond the confines of the site on any day;
 - 3.4.10 that all generators and other equipment that may cause noise nuisance are situated as far away as possible from local residents' property;
 - 3.4.11 that there will be no movement of vehicles on or off the site between operating hours.

Leaving the Site after the Event

- 3.5 that it will, at the expiration or sooner termination of the operating hours, leave the Site and the vicinity thereof as far as practicable in a clean and tidy condition free from all litter and refuse arising from the holding of the Event, make all necessary arrangements to remove all litter and refuse, and make good any damage caused to the property of the Council, to the reasonable satisfaction of the Director of Tourism & Corporate Communications;
- 3.6. that in the event of the Licensee failing to comply with the terms of clause 3.5 the Council shall carry out the necessary works and that the deposit specified in clause 2.2 shall be used to cover the costs incurred by the Council, provided that where the Council's costs exceed the deposit the Licensee shall be liable for the difference and where the Council's costs are less than the deposit the balance shall be refunded to the Licensee;

General Obligations

- 3.7. that no gambling machines or similar devices will be permitted on any part of the Site;
- 3.8. that the Licensee will at its own expense make all necessary arrangements:
 - 3.8.1 with the Bournemouth and District Water Company for the supply of water to be provided on the Site to the satisfaction of the Council;
 - 3.8.2 for the disposal of sewage on the Site to the satisfaction of the Council's Head of Public Protection and that no foul water shall be discharged into the surface water drains at the Site or any adjacent land;
 - 3.8.3 for payment of any charges that may apply to traders for parking in local car parks;
 - 3.8.4 for the safe removal and disposal of all flammable substances such as diesel from the site.
- 3.9 that the Council may in its absolute discretion prohibit the use on the Site of any device, apparatus or exhibit and may stop any activities being undertaken on the Site within reason and the Licensee shall forthwith at its own expense remove any such thing to which objection may be so taken;
- 3.10 that it will comply with all statutory authorities and Health & Safety regulations as the Council and Fire Authority may require, including all guidelines as set out in the HSE Event Safety 'Purple Guide';
- 3.12 that a full safety plan and evacuation procedure will be provided to the Council at least four weeks prior to the event;

- 3.14 that if it is deemed necessary by the Council, a Safety Advisory Group (SAG) meeting will be held involving the Licensee, Police, Ambulance and other appropriate bodies;
- 3.15 that all electrical installations and equipment shall comply with the requirements of the Electricity at Work Regulations (1989) and the Licensee will provide the Council with an electrical certificate supplied by an independent authorised contractor following installation;
- 3.16 that a completion certificate will be provided to the Council for all temporary structures prior to the Event and this certificate must be issued by an appropriately qualified and competent person;
- 3.17 that any cables installed where vehicular access is required should be installed at a minimum height of 5.8m;
- 3.18 that cables installed at ground level should have cable protection, and where accessible by members of the public, e.g. walk through, should have the appropriate cable ramps installed;
- 3.19 that distribution panels should be appropriately positioned and protected so that they are unable to be accessed by unauthorised persons but still allowing emergency isolation in the event of an emergency by authorised persons;
- 3.20 that a suitably qualified person will test the total electrical installation of the attraction, and the required test certificates issued to show compliance;
- 3.21 that they will permit the Chief Constable of the Dorset and Bournemouth Constabulary, the Chief Fire Officer of the Dorset Fire Service and the Council's Head of Public Protection and Director of Tourism and Corporate Communications, or such persons as are duly authorised by them, to enter upon the Site at all times during the Event;
- 3.22 that they will liaise with the Fire Authority and the Police Authority on all aspects of crowd and traffic management and comply with such conditions relating to public health and safety fire prevention providing adequate means of escape in case of fire and first aid as the Council, the Fire Authority and the Police Authority may require;
- 3.23 that they will at their own expense provide and maintain adequate safe and secure lighting during the times the attraction is open to the public;
- 3.24 that no touting of any kind shall be permitted;
- 3.25 that no car parking shall be permitted on the Site;
- 3.26 that no balloons are to be sold, given away or used to decorate attractions on the Site;

- 3.27 that no posters or other advertisements in connection with the attraction shall be affixed in any part of the said Borough except upon authorised bill boards or hoardings and subject to the consent of the owners thereof;
- 3.28 that there will be no roving advertising or fly posting allowed. Any advertising will be in conjunction with the overall advertising of the Air Festival;
- 3.29 that they will produce to the Director of Tourism & Corporate Communications for inspection no later than one month prior to the first day of operation certificates of fitness relating to every attraction to be used by the Licensees on the site;
- 3.30 that the decoration of the attraction must be of a good standard and the Council reserves the right to remove an attraction if it is not up to standard or does not resemble the pictures provided as part of the tender submission;
- 3.31 that the Licensee is responsible for the siteing and removal of the attraction subject to the direction of the event staff;
- 3.32 that a site plan to include the dimensions and location of the attraction must be submitted to the Council two months before the start of the Event;
- 3.33 that a funfair will not be accepted as the attraction under this contract;
- 3.34 that the Council does not recognise Showman's Rights;
- 3.35 that the Licensee will be responsible for providing an overall manager who will be the main point of contact for the organiser. The manager will be responsible for actioning any requests made by the organiser;
- 3.36 that the attraction must be orientated towards a family / community market;
- 3.37 that camping / overnight stays are not permitted on site;
- 3.38 that roaming overnight security will be onsite 24 hours a day however all attractions and equipment is left at the owners risk;
- 3.39 that the Licensee can organise at a cost to them additional security through the official event security company;
- 3.40 that the entertainment attraction, pedestrians and emergency vehicle access must fit into the area known as the Site as shown in appendix 1;
- 3.41 that no catering outlets are allowed as part of the attraction or on the contracted Site. The Licensee is prohibited from selling any food, sweets, ice cream or drinks;
- 3.42 that no alcohol will be sold on site;
- 3.43 that the attraction must be adequately lit by the Licensee and conform to all UK health & safety, licensing, fire and other statutory requirements to the satisfaction of relevant Bournemouth Borough Council officers;

- 3.44 that the Licensee is responsible for all staff conduct, public handling or exhibits, consequential and injury loss;
- 3.45 that the Licensee is responsible for all equipment brought onto site and for ensuring all insurances are obtained and contractual obligations are met;
- 3.46 that an offsite car park is available for exhibitor vehicles and a shuttle bus provided to and from the site;
- 3.47 that vehicle passes will be provided for all vehicles entering the event site and exhibitor passes for all exhibitors working on site. These must be visible at all times;
- 3.48 that if any of the conditions included in this contract are breached during the event the Director of Tourism and Corporate Communications, or such persons as are duly authorised by them will have the authority to either deduct money from the reinstatement deposit and / or close down the attraction for the remainder of the event;

Premise and other Licences

- 3.49 that the Licensee will comply with the conditions relating to licensing in relation to the provision of licensable entertainment activities as well as any policies implemented by the Council thereunder, at the expense of the Licensee;
- 3.50 that the Licensee will provide a detailed plan of the how they will deal with crowd management and health & safety issues two months prior to the event start. This will work in conjunction with the overall event plan compiled by the organiser;
- 3.51 that where there are supervised activities for children with or without parental/guardian supervision the providers of these activities are Criminal Record Bureau (CRB) checked and confirmation of checks are provided to the Council at least 48 hours prior to the Event start;
- 3.52 that where children under the age of 8 are left at a supervised activity without parent or guardian, the organiser will comply with the requirements of the Children's Act 2004;
- 3.53 that if lifting equipment is used on site, the Licensee must provide the Council with appropriate written physical evidence as specified under The Lifting Operations and Lifting Equipment regulations (LOLER) (1998);
- 3.54 that for any Charity collections a valid Street Collection Licence is held and shown to the Council on request;

3.55 that no leafleting will be undertaken in the Borough to promote the attraction except for in the Town Centre and only if a permit has been obtained from the Council's Town Centre Manager.

4. INDEMNITY AND INSURANCE

- 4.1 The Licensee shall indemnify the Council in full from and against all actions proceedings claims and demands for or in respect of any damage or injury to any person or persons and to the property of any such person or persons, or any other actions proceedings claims and demands arising directly or indirectly through the carrying on of the business of the Licensees or howsoever otherwise arising out of by reason of or on account of the grant of this Licence by the Council or the exercise (whether negligent or not) of the rights granted to the Licensees by this Licence.
- 4.2 Notwithstanding Clauses 3.5 and 3.6 hereof the Licensee shall be responsible for and keep the Council indemnified against all damage of any description which may occur to the Site or any part thereof or to other property of the Council arising directly or indirectly out of or on account of the grant of this Licence by the Council or the exercise (whether negligent or not) of the rights granted to the Licensee or any person employed by the Licensee.
- 4.3 Without prejudice to the Licensees' liability under Clauses 4.1 and 4.2 hereof the Licensee shall effect and maintain an insurance policy against all risks including Public Liability in an amount not less than **Ten Million Pounds (£10,000,000)** in respect of any one event or series of events arising from any one event, unlimited during the periods of the Event and in terms to be approved by the Council with an Insurer of repute AND effect and maintain an adequate policy of Employers Liability Insurance and that such policies of insurance to be submitted to and approved by the Council at least one month before the commencement date of the Event.

5. PERFORMANCE LICENCES AND COPYRIGHT

- 5.2 The Licensee is responsible for obtaining a Licence from the Performance Right Society Limited to cover the performance of all musical work in the repertoire of that Society.
- 5.3 The Licensee is responsible for ensuring that it does not infringe a copyright or any other intellectual property right effective during the Event. The Council shall not have any liability for any such infringement by the Licensee.
- 5.4 The Licensee shall at all times whether during or after termination or expiry of this Licence indemnify and keep indemnified the Council against all losses, damages, costs, expenses and liabilities (including legal fees) incurred by or awarded against the Council or their officers, agents, employees, members and successors in interest in

connection with any proceedings, claim or action against the Council as a result of any failure by the Licensee to comply with its obligations under this clause.

- 5.5 The Licensee shall at all times whether during or after termination or expiry of this Licence indemnify and keep indemnified the Council against any material adverse reputational damage as a result of any failure by the Licensee to comply with its obligations under this clause.
- 5.6 If the Event includes child performers of statutory school age a letter of exemption must be produced from the child's home local authority stating a child performance licence is not required; otherwise each child must have a copy of their performance licence. Chaperones looking after the children should also produce a copy of their registration; they must not look after more than 12 children each or have any other duties. All documentation must be obtained by the Licensee and produced to the Council at least 14 days before the Event commences.

6. TERMINATION

6.1 If the Licensee:-

- 6.1.1 shall fail to observe or perform any of its obligations under this Licence the Council shall be at liberty to terminate this Licence immediately by giving notice in writing to the Licensee in which event the apparatus devices property and vehicles belonging to the Licensee shall forthwith be removed from the Site but without prejudice to any claim which the Council may have against the Licensee in respect of any antecedent breach of any of the conditions of this Licence;
- 6.1.2 has offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this licence or any other Licence or Licence with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the licence or any other licence or Licence with the Council, or if in relation to any licence or Licence with the Council the Licensee or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward the receipt of which is an offence under Sub-Section (2) of Section 117 of the Local Government Act 1972, the Council shall be at liberty to terminate this Licence immediately by giving notice in writing to the Licensee.

7. FREEDOM OF INFORMATION AND OTHER LEGISLATION

- 7.1 The Licensee shall note the Council's current and future obligations under the Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995, Human Rights Act 1998, Data Protection Act 1998, Freedom of Information Act 2000, Employment Equality (Sexual Orientation) Regulations 2003, Employment Equality (Religion or Belief) Regulations 2003, Employment Equality (Age) Regulations 2006 (all as amended from time to time) and any codes of practice and best practice guidance issued by the Government and the appropriate enforcement agencies.
- 7.2 The Licensee shall comply with the above legislation in so far as it places obligations upon the Licensee in the performance of its obligations under this Licence and in carrying out the Event.
- 7.3 The Licensee shall facilitate the Council's compliance with the Council's obligations under these provisions and comply with any reasonable request from the Council for that purpose.
- 7.4 The Licensee shall note particularly that the Council may be required to provide information relating to this Licence or the Licensee to a person in order to comply with its obligations under these provisions.

8. DISPUTE RESOLUTION

- 8.1 A dispute relating to the provisions of this Licence which cannot be resolved in the first instance between the Licensee's representative and the Council's representative within a month shall be referred to the Council's Director of Tourism and Corporate Communications.
- 8.2 Nothing in this clause shall prejudice the right of either party to apply to the court for interim relief to prevent the violation by the other party of any proprietary interest or any breach of that party's obligations.
- 8.3 If any dispute cannot be resolved between the Licensee and the Council within a month of referral as set out in clause 8.1 then at the instance of the Licensee or the Council it will be referred to mediation in accordance with the Centre for Effective Dispute Resolution's ("CEDR") Model Mediation Procedure.
- 8.4 To initiate the mediation, either party may give notice in writing to the other requesting mediation in accordance with this clause. The initiating party shall send a copy of such request to CEDR.
- 8.5 If there is any issue on the conduct of the mediation (including as to the nomination of the mediator) upon which the parties cannot agree within a reasonable time, CEDR will, at the request of either party, decide the issue.

8.6 If the dispute is not resolved within 90 days of the initiation of the mediation, or if either party will not participate in the mediation either party may commence proceedings.

9. ASSIGNMENT AND SUB-CONTRACTING

9.1 The Licensee shall not assign the benefit or advantage of the Licence in whole or in part.

9.2 The Licensee shall not use the services of self-employed individuals without the Council's prior written agreement.

10. ENTIRE AGREEMENT

10.1 This Licence constitutes the Entire Agreement between the parties relating to the subject matter of the Licence. The Licence supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

11. FORCE MAJEURE

11.1 Neither party shall be liable for breach of its obligations under the Licence to the extent that any such breach is caused by any act of God, natural flood, fire (save where such fire is due to the negligence or fault of the party), lightning strike, earthquake, pandemic outbreak of infectious virus, war, military operations, act of terrorism or riot, but nonetheless each party shall use all reasonable endeavours to perform its obligations under the Contract.

12. NOTICES

12.1 Except as otherwise expressly provided within the Agreement, no notice or other communication from one Party to the other shall have any validity under the Agreement unless made in writing by or on behalf of the Party concerned.

12.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (delivered by hand, post, registered post or by the recorded delivery service), by facsimile transmission or electronic mail (confirmed in either case by letter).

12.3 Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or four hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

13. SEVERANCE

13.1 If any provision of the Licence is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Licence shall continue in full force and effect.

14. THIRD PARTIES

14.1 Pursuant to the Contracts (Rights of Third Parties) Act 1999 the parties agree that a person who is not a party to this Licence may not enforce any of its terms.

15. VARIATION

15.1 The terms of the Licence may be varied by written agreement between the parties.

15.2 In the event of a Variation the price may also be varied. Such Variation in the price shall be calculated and agreed in writing between the parties and shall be such amount as properly and fairly reflects the nature and extent of the Variation in all the circumstances. Failing agreement the matter shall be determined in accordance with the provisions of clause 8.

16. WAIVER

16.1 The failure of either Party to insist upon strict performance of any provision of the Agreement or the failure of either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Agreement.

16.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of clause 12.

16.3 A waiver of any right or remedy arising from a breach of the Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Agreement.

17. PREVENTION OF CORRUPTION

17.1 The Council may terminate this Licence and recover all its loss if the Licensee should do any of the following things:

17.1.1 offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Licensee does not know what has been done); or

17.1.2 commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972; or

17.1.3 commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council Members, contractors, suppliers, or

employees. Any clause limiting the Licensee's liability shall not apply to this clause.

18. GOVERNING LAW

18.1 The Agreement shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the courts of England.

19. INTERPRETATION

In this Licence except where the context otherwise requires:

- 19.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 19.2 words importing the masculine include the feminine and the neuter;
- 19.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 19.4 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- 19.5 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;
- 19.6 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 19.7 headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement.

IN WITNESS WHEREOF the parties have executed this Licence on the day and date first before written

Signed on behalf of the Council of the Borough of Bournemouth by

Authorised Signatory

Name

Position

Signed on behalf of by

Authorised Signatory

Name

Position

APPENDIX 1 - PLANS OF THE SITE



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Bournemouth Air Festival

Bath Road car park measurements

Scale 1/519

Centre = 409036 E 90838 N

Date 9/12/2009



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Bournemouth Air Festival 2010

Bath Road South Location Map

Scale 1/9248

Centre = 410011 E 90979 N

Date 18/1/2010



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