



THIS LICENCE is made on the \_\_\_\_\_ day of \_\_\_\_\_

**BETWEEN**

- (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 Kings Park in the Borough of Bournemouth [as shown on the plan annexed at Appendix 2 ("Site") from [ \_\_\_\_\_ ] to [ \_\_\_\_\_ ] inclusive, a maximum of [ \_\_\_\_\_ ] day(s), for the purposes of holding a Family Funfair ("Event");
  - 1.1.2 the right to have access to the Site from [ \_\_\_\_\_ ] in order to make the necessary preparations for the Event and until [ \_\_\_\_\_ ] 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 the following amount no later than [ \_\_\_\_\_ ] days prior to the Event:-
  - 2.1 a licence fee of [ \_\_\_\_\_ ] (£ \_\_\_\_\_ );
  - 2.2 a deposit of **One Thousand Pounds** (£1000.00) 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 [ \_\_\_\_\_ ] day(s) and that the Event 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 additional charges will apply for any power connected through the Council's supply;
  - 3.4.2 that all generators shall be switched off within 15 minutes of the closure of the Fun Fair on each evening
  - 3.4.3 that personal/domestic generators shall be sited between the Licensees' caravans
  - 3.4.4 that generators which are not fully sound proofed shall be boxed to reduce noise levels
  - 3.4.5 that the use of any public address microphones shall be used sparingly and mainly for safety instructions;
  - 3.4.6 that suitable arrangements are made to the satisfaction of the Council for the collection and disposal of refuse generated by the Licensee;
  - 3.4.7 that background noise levels will be set by the Council's Head of public Protection prior to operating the Fun Fair 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 Funfair is on the site;
  - 3.4.8 that it will arrange for local residents to be notified of the Event at least seven days prior to the Event by letter containing a contact number for the Licensee or its nominated representative in the event of noise complaints, and that the Licensee or his nominated representative shall be available on the Site at all times whilst the Event is open to deal with any such complaints;
  - 3.4.9 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;
  - 3.4.10 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;
  - 3.4.11 that no music of any kind whatsoever shall be allowed before 1400hrs 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

- 3.4.12 that all generators and other equipment that may cause noise nuisance are situated as far away as possible from local residents' property;
- 3.4.13 that there will be no movement of vehicles on or off the site between the hours of midnight and 0700hrs.

#### 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 that no foul water shall be discharged into the surface water drains at any site or any adjacent land.
- 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 one week 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, .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 Event, 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 Executive 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 be responsible for crowd and traffic management and provide to the Council a detailed plan of the Site at least one month before the Event;
- 3.23 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;
- 3.24 that they will at their own expense provide and maintain adequate safe and secure lighting during the times the Event is open to the public;
- 3.25 that no touting of any kind shall be permitted;
- 3.26 that no car parking shall be permitted on the Site;

- 3.27 that no release or mass release of balloons shall be permitted on Council land;
- 3.28 that they will erect advertising signage at the sites detailed in the attached signage schedule (subject to the payment of £500.00 per year), and that this signage:
  - 3.28.1 shall be erected no more that 14 days before the first operating day of the funfair
  - 3.21.2 removed within 7 days of the last operating day of the funfair
  - 3.21.3 less than 0.6sq m in size.
- 3.29 that no posters or other advertisements in connection with the Fun Fair 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
- 3.30 that they will produce to the Director of Tourism & Corporate Communications for inspection no later that the Wednesday immediately proceeding the first day of operation certificates of fitness relating to every ride to be used by the Licensees on the site

Premise and other Licences

- 3.28 that the Licensee will comply with the conditions of the Premise Licence in relation to the supply of alcohol and provision of licensable entertainment activities as well as any policies implemented by the Council thereunder, at the expense of the Licensee; a copy of Premise Licence conditions is annexed at Appendix 1;
- 3.29 that all food outlets within the Site must conform to all relevant Health and Safety, licensing, good hygiene and other statutory requirements including the Council's Trading Standards and that the Licensee will comply with these at their own expense;
- 3.30 that no alcohol will be sold on site;
- 3.30 that they will not sell or permit the sale of refreshments and ice cream except within the site
- 3.31 that detailed Event management procedures shall be submitted to the Council at least one month prior to the Event including lost child procedures;
- 3.32 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;
- 3.33 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;

- 3.35 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);
- 3.36 that for any Charity collections a valid Street Collection Licence is held and shown to the Council on request;
- 3.37 that no leafleting will be undertaken in the Borough to promote the Fun Fair 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 A review will take place after the operation of the 2010 Fun Fair where either party can terminate the licence. If both parties agree to continue with the licence agreement then this will continue until 2012.
- 6.2 If the Licensee:-
- 6.2.1 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;
- 6.2.2 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 Communication.
- 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

### PREMISE LICENCE

#### Kings Park Licence Requirements

Activity	Allowed between	
Plays	10am	11pm
Films	10am	11pm
Live Music	10am	11pm
Boxing or Wrestling Entertainment	12pm	11pm
Recorded Music	10am	11pm
Performances of Dance	10am	11pm
Circus Entertainment	10am	11pm
Making Music (workshops etc)	10am	11pm
Dance (workshops etc)	10am	11pm
Circus/Street performing workshops (max 15 days per year)	10am	11pm

#### Number of attendees

The maximum number of attendees for any event has been set at **9000** for Kings Park.

#### Mandatory Conditions

1. Admission of children (under the age of 18) to any exhibition of films must be restricted in accordance with the film classification body.
2. Where the film classification is not specified the admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.

#### General Objectives

1. Contracts will be agreed with organisers limiting activities and timings to those agreed by the Council.
2. SAG Meetings will be held on a regular basis involving Police, Ambulance and other appropriate bodies.
3. All activities and events will have to comply with Council regulated event criteria to include Risk assessment and suitable Insurance cover.
4. The organisation of events will be limited to designated areas detailed on the map, and include
  - Open space adjacent to Kings Park Primary school
  - Between the Athletics Centre and boundary to the Cemetery
  - Kings Park Athletics Centre.

5. All events will comply with Bournemouth Borough Council byelaws to include the Five Parks Act.

#### **Prevention of Crime and Disorder**

1. Full risk assessment will be carried out for events to determine any need for security or marshalling, and the emergency services will be consulted a minimum of 28 days in advance.
2. An up to date record of incidents will be kept at the premises and this will be available for inspection by an authorised Officer on request.
3. The premises will operate an effective dispersal policy.

#### **Public Safety**

1. All event organisers will be asked to provide confirmation of Public Liability Insurance and Risk assessments for every aspect of their event. All health and safety requirements will be agreed with organisers and contractors prior to the event and contracts drawn up confirming these requirements.
2. HSE guidance will be followed where applicable to include 'The Event safety Guide' and other appropriate publications.
3. Access for emergency vehicles will be kept clear in respect of those areas under the control of the operators of the premises.
4. All temporary staging and large marquees will be checked by a qualified person for safety purposes.

#### **Prevention of public nuisance**

1. An appropriate marshalling plan will be agreed for each event.
2. Regular contact will be maintained with Emergency services and police provision agreed as necessary.
3. The premises will operate an effective disposal policy.

#### **Protection of children from harm**

1. A lost child procedure will be implemented for all events, and modified as necessary.
2. Where there are supervised activities with or without parental/guardian supervision, the organisers of those activities will be Criminal Records Bureau (CRB) checked.
3. Where children under the age of 8 are left at a supervised activity without parent or guardian, the organiser will need to comply with the requirements of the Children's Act 2004.

**Trading Standards additions:**

4. Organisers employing staff for events will have detailed written management procedures in place covering the protection of children from harm.

APPENDIX 2  
PLAN OF THE SITE

