

## TERMS AND CONDITIONS OF LETTING

### 1. DEFINITIONS AND INTERPRETATIONS

In this document:

- 1.1 **'Site'** means the land to be let (including any buildings upon) described in the Booking Form & more particularly delineated on the attached plan edged in red (this position is to be strictly adhered to & any deviation from this position may result in the dismissal of the Licensee from the site at the discretion of the Nominated Officer & the site shall only be occupied by the Licensee for the Term stipulated in the Booking Form.
- 1.2 **'Licensee'** means the person or organisation stated on the Booking Form and includes the Licensers' successors in the title and where the Licensee comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.
- 1.3 **'Term'** means the period or periods for which the Site is let specified in the Booking Form.
- 1.4 **'Rents'** means the respective rents specified in the Booking Form.
- 1.5 **'Special Conditions'** means that extra conditions specified in the Booking Form.
- 1.6 **'Specified Documents'** means the documents specified in Schedule 1.
- 1.7 **'Additional Information'** means the information specified in Schedule 3.
- 1.8 **'Event'** means the fair or circus or other outdoor event for which the site is being let stated on the Booking Form.
- 1.9 **'Operators Requirements'** means the requirements set out in Schedule 4.
- 1.10 **'Site Manager'** means the Licensee or a person appointed by the Licensee and notified to the Council as the person responsible for managing the site throughout the Terms and responsible for ensuring compliance with this Agreement.
- 1.11 **'Operator'** means a person responsible for the safe operation of equipment, apparatus or attraction on the Site throughout the period of hire.
- 1.12 **'Nominated Officers'** means officers of the Council or other agency nominated by the Council to undertake a role on behalf of the Council in relation to the Site and the Event, i.e. representative of the Council Safety Team or the Emergency Services.

- 1.13 **'Engineer'** means a professional person qualified in the relevant discipline and competent to carry out appropriate checks and calculations to provide certification of the satisfactory condition and usage of structures, equipment etc.
- 1.14 **'Electrical Requirements'** means the requirements for the safe operation of rides and devices and all electrical equipment brought onto the Site, which are detailed in Schedule 3.
- 1.15 **'Safety Certificates'** means those documents certifying the safety of electrical equipment and apparatus detailed in Schedule 2.
- 1.16 **'Emergency Requirements'** means the requirements needed to deal with emergencies on the Site during the Event, detailed in Schedule 6.
- 1.17 **'General Requirements'** means the general requirements in relation to the Site and the Event detailed in Schedule 7.
- 1.18 **'Licensing Requirements'** means the requirements needed to comply with the Licensing Act 2003 detailed in Schedule 2.
- 1.19 **'Agreement'** means the terms & conditions herein, special conditions, booking form, schedules & plans.

Where reference is made herein to a statutory provision or regulation this includes all prior & subsequent enactment, consolidation, amendment or replacement .

## **2. TENANCY**

The Council lets and the Licensee takes the Site for the Term at the Rents payable on the respective dates set out in the Booking Form.

## **3. CONDITIONS PRECEDENT**

- 3.1 At least 28 days prior to the commencement of the Term the Licensee shall submit to the Council the Specified Documents and Additional Information.
- 3.2 Prior to the public admission to the Event the Licensee shall submit to the Council the certificates.
- 3.3 If the Licensee fails to adhere to the above, then on the expiry of 7 days (or a notice taking immediate effect where the Safety Certificates have not been produced) after notice has been served upon the Licensee specifying the breach, the Council may cancel this Agreement without liability for any losses sustained by the Licensee as a consequence.

## **4. LICENSEE'S OBLIGATIONS**

The Licensee agrees with the Council:

#### 4.1 **Rents**

To pay the Rents on the dates specified in the Booking Form without any deduction and to pay interest on any Rents that may be unpaid on the due date at the rate of 6% per year above the base lending rate of HSBCC from the due date until the date of payment.

#### 4.2 **Outgoings**

To pay and to indemnify the Council against all rates taxes assessments duties charges impositions and outgoing (of an annual or other periodically recurring nature) which are now due or, during the Terms, may be charged assessed or imposed upon the Site or upon the owner or occupier of it.

#### 4.3 **Prohibitions**

The Licensee shall not:

- 4.3.1 Use the Site for any other purpose than for the Event.
- 4.3.2 Open the Event earlier than 10.00 am or close later than 11.00 pm daily
- 4.3.3 Carry out performances of regulated entertainment without grant of a Premises Licence, Temporary Event Notice or consent from the Local Authority holding the Premises Licence. See Schedule 2 for definitions of regulated entertainment.
- 4.3.4 Play any music of any description after 11.00 pm on any day and shall keep all music to an acceptable volume adhering to any direction by the Council's Environmental Health Department.
- 4.3.5 Make any greater charge to the public or use for entrance to or use of any entertainment stall or sideshows or roundabouts other than may be approved from time to time by the Showmen's Guild.
- 4.3.6 Carry on at the Site any unlawful game or illegal betting.
- 4.3.7 Permit any drunkenness or disorderly conduct on the Site.
- 4.3.8 Encroach on any other land of the Council or on any highway with any stalls stands equipment vehicles or other things of any description.
- 4.3.9 Commit any nuisance or any act or thing which may be or become a source of danger inconvenience or annoyance to the Council or the owners of occupiers of any neighbouring property.

#### 4.4 User

- 4.4.1 To keep and maintain the Site in a clean and tidy condition and to remove from it at least daily all rubbish but not to burn any rubbish on or near the Site.
- 4.4.2 To keep the Site properly and sufficiently lighted for the purpose of the Event.
- 4.4.3 To conduct the Event in an orderly safe and proper manner.
- 4.4.4 To provide all necessary or usual stalls stand machines wagons and other equipment.
- 4.4.5 To provide proper adequate and hygienic sanitary conveniences on the Site for the Licensee's staff and the public which shall accommodate both sexes and people with disabilities to the entire satisfaction of the Council.
- 4.4.6 To observe all statutory and other provisions bylaws and regulations for the time being in force and applicable to the Site and any activities done by the Licensee upon it.
- 4.4.7 To observe all reasonable instructions by the Council in relation to the operation of the event and any particular ride machine or apparatus and in particular to adhere to an instruction to cease the use of any rider machinery or apparatus if it is deemed dangerous or unsatisfactory.
- 4.4.8 To appoint a Site Manager and inform the Council of his or her identity.
- 4.4.9 To comply at all times with the Operators Requirements.
- 4.4.10 To comply at all times with the Electrical Requirements.
- 4.4.11 To comply at all times with the Emergency Requirements.
- 4.4.12 To comply at all times with the General Requirements.
- 4.4.13 To comply at all times with the Special Conditions stated on the Booking form.
- 4.4.14 Where applicable to comply with all recommendations made by the Barnsley Event Safety Advisory Group.
- 4.4.15 No vehicles to be allowed on the grassed areas, except with the prior written consent of the Parks Services Manager.
- 4.4.16 The use shall be restricted for the purpose for which approval is sought.

- 4.4.17 The Licensee shall be responsible for any damage to land or accommodation provided by the Council & shall repay to the Council, on demand, the cost of reinstatement or replacement for damage resulting from the period of their letting.
- 4.4.18 Any charges made to the public are subject to prior agreements with the Park Services Manager.
- 4.4.19 The Council reserves the right to cancel the Event due to adverse weather conditions or unforeseen circumstances after reasonable consultation with the potential Licensee.

#### **4.5 Assignment**

Not to assign underlet or part with the benefit of this Agreement PROVIDED that this sub-clause shall not prevent the letting of stalls or standings in the Site.

#### **4.6 Indemnity and Insurance**

4.6.1 To keep the Council fully indemnified against all costs claims expenses demands charges or liability of any description arising out of or in connection with this Agreement and holding of the Event on the Site.

4.6.2 To effect and maintain a policy of insurance with insurer's approved by the Council for such amount as the Council may from time to time require in respect of the liability of the Licensee under clause 4.6.1.

#### **4.7 Permit Entry by the Council**

To allow the Council and all persons authorised by the Council including emergency services and health and safety organizations to enter the Site at any reasonable time prior to and during the Event for the purposes of ascertaining whether the terms & conditions of this Agreement have been complied with or for any other lawful purpose. Failure to do so may lead to postponement or cancellation of any event.

#### **4.8 Yield Up**

Upon the expiration of each of the respective terms & conditions to deliver up the Site to the Council and in a clean and tidy condition to the satisfaction of the Council's surveyor or other authorized officer and to repair any damage which may occur to the land including footpaths and carriageways crossing or bordering the Site.

### **5. THE COUNCIL'S OBLIGATIONS**

The Council agrees with the Licensee to permit the Licensee peaceably and quietly to hold and enjoy the Site for the Term without any interruption or

disturbance from or by the Council or any person claiming under or in trust for the Council.

## 6. PROVISOS

### 6.1 Re-entry

If and whenever during the period of this Agreement:

- 6.1.1 The Rents (or any of them or any part of them) under this Agreement are outstanding for 14 days after becoming due whether formally demanded or not;
- 6.1.2 There is a breach by the Licensee of any undertaking or other term of this Agreement ;
- 6.1.3 An individual Licensee becomes bankrupt;
- 6.1.4 A company Licensee:
  - 6.1.4.1 Enters into liquidation whether compulsory or voluntary (but not if the liquidation is for amalgamation or reconstruction of a solvent company);or
  - 6.1.4.2 Has a receiver or administrative receiver appointed;
- 6.1.5 The Licensee enters into an arrangement for the benefit of his creditors.
- 6.1.6 The Licensee has any distress or execution levied on its goods.

The Council may serve on the Licensee notice immediately terminating this Agreement or re-enter the Site or any part of the Site in the name of the whole at any time (and even if a previous right of re-entry has been waived) and then the Terms will absolutely cease but without prejudice to any rights or remedies which may have occurred to the Council against the Licensee in respect of any breach of undertaking or other term of this Agreement.

### 6.2 Cancellation

In the Event of the Site or any part of it being required by the Council for any other purpose (of which requirements a statement under the hand of the Parks Service Manager for the time being of the Council shall be final and binding) the Council may cancel and revoke this Agreement as regards any or all of the Terms by serving notice on the Licensee not later than 4 weeks before the commencement of the Event.

### 6.3 Carrying Out of Works in Default

If the Licensee shall fail to carry out any of its obligations under this Agreement the Council may at its discretion but without being under any obligation to do so carry out any such works or acts and the cost of doing so (as certified by the appropriate Council Officer) shall be a debt due from the Licensee to the Council who shall be entitled to recover the same as rent in arrear or contra from the bond.

#### 6.4 Notices

##### 6.4.1 In this document:

6.4.1.1 "The Council's Address" means the address of the Council shown on the Booking Form of this Agreement or such other address as the Council may from time to time notify to the Licensee as being its address for service for the purposes of this Agreement.

6.4.1.2 "The Licensee's Address" means the address of the Licensee shown on the Booking Form of this Agreement or such other address as the Licensee may from time to time notify the Council as being the address for service on the Licensee for the purposes of this Agreement.

6.4.2 Any notice or other communication given or made in accordance with this document shall be in writing and may be in writing and may be posted or faxed to each party's address or may be handed to the Site Manager or, in respect of the Council, the Council's authorized representative.

# SCHEDULE 1

## Specified Documents

**(To be submitted to the Council at least 28 days prior to the commencement of the Term)**

- Certification of insurance cover – Public Liability Insurance in accordance with clause 4.6 and not less than £5,000,000 (five million pounds).
- Written confirmation of membership of Showmen’s Guild or equivalent organisation.
- Risk Assessments.
- Emergency Evacuation and Contingency Plans.
- Plan attached and referred to as Annex 1.



## SCHEDULE 2

### Certificates

**(To be provided to the Council prior to public admission)**

- Certificate of Electrical Safety – signed by an Electrical Engineer (prior to public admission).
- Certificate of Safety Inspection and Fitness – signed by an Engineer – for Fairground apparatus (by arrangement prior to public admission).
- Premises Licence or Temporary Event Notice – for performances of regulated entertainment and/or the sale and supply of alcohol. (See notes on Licenses below.)

The following kinds of entertainment are subject to regulation and will need either a Premises Licence or a Temporary Event Notice in accordance with the Licensing Act 2003.

1. Plays;
2. Film exhibitions;
3. Indoor sporting events;
4. Boxing or wrestling exhibitions;
5. Live music (including Karaoke);
6. Recorded music;
7. Dancing by the public or performers;
8. Any entertainment similar to that described in 5, 6 or 7 above.

Application for a Premises Licence must be served on the Licensing Authority at least 2 months before the Event takes place. If the premises where the Event is to be held already has a Premises Licence then no additional Licence would then need to be obtained by anyone else carrying out licensable activities, although the consent of the Local Authority holding the Licence would be required and permission given to use the land.

Exemptions from the requirement of a Premises Licence

- Films which are solely or mainly to demonstrate a product, advertise goods or services, or provide information, education or instruction;
- Films as part of an exhibition in a museum or gallery;
- TV and radio broadcasts, providing they are shown “live” and not recorded;
- Religious meetings or services;
- Entertainment in places of public religious worship;
- Garden fetes (unless held for private gain);
- Entertainment provided in a moving vehicle;
- Morris dancing;
- Incidental entertainment.

### What does “incidental entertainment” mean?

Consent for regulated entertainment is not needed when the entertainment is provided for background entertainment. This is sometimes a difficult area and further advice on this issue can be obtained from the Licensing Team. Examples of “incidental” entertainment include:

- a supermarket playing background music (people go there to shop – the music is not an influencing factor);
- music during keep fit classes (people are there to exercise);
- **incidental music** – the performance of live music or the playing of recorded music if it is incidental to some other activity which is not itself regulated entertainment. This would include a brass band playing at a gala day because the brass band is not the main focus of the entertainment;
- dance classes (people are there to learn to dance);
- a pub juke box playing in the background (people are there to drink, the music is not an influencing factor).

### **Temporary Event Notice**

For one off events and Special Occasions a Temporary Event Notice can be served on the Licensing Authority and Police for licensable activities that fall into the following categories;

- Less than 500 people attending;
- Lasting for not more than 96 hours, with a break of at least 24 hours thereafter.

A Temporary Event Notice (TEN) can be submitted to the Council and South Yorkshire Police. **Notice must be served at least 10 clear working days before the actual day of the Event.**

This notice allows the licensable activity to take place at a premise that is not currently licensed, or to hold activities that an existing licence does not permit, this would include for example:

- Selling alcohol at a school fete;
- Providing regulated entertainment where the current licence does not permit this;
- Staying open to sell hot food into the night on a special occasion (eg New Year’s Eve);

- Selling alcohol after the hours the normal licence permits, eg for a special occasion;
- An amateur dramatics group putting on a play in unlicensed premises.

## **SCHEDULE 3**

### **Additional Information**

**(To be submitted to the Council at least 28 days prior to the commencement of the Term)**

#### Information Required Prior to Occupation of Site

The Licensee shall supply to the Parks Services an Event layout plan, to a suitable scale, showing:

- The location of stalls, rides, apparatus, arena, displays.
- Any areas to be kept clear of access for safety reasons.
- First aid posts and any Ambulance Parking Site.
- Toilet accommodation including provision for disabled persons.
- Water supplies.
- Storage provision for fuel (gas/petroleum).
- Generators and other power supplies.
- Seating/standing areas, marquees and tents etc.
- Fire fighting equipment.
- Headquarters – an area or structure for which the Event will be controlled by the Site Manager.

## **SCHEDULE 4**

### **Operator's Requirements**

- Operators of adult rides and devices must be 18 years of age or older.
- Operators of slow-moving devices and stalls must be 16 years of age or over and must receive appropriate training before taking control of the ride or stall.
- All Operators must receive appropriate training prior to operating any ride or stall.
- Every Operator must have full knowledge of the function of all normal and emergency operation controls and of the proper, safe use of the device.
- Every Operator shall be fully aware of the Emergency Evacuation Procedure relevant to each Site.
- All Operators shall comply with "Fairgrounds and Amusement Parks - Guidance on Safe Practice" published by the Health and Safety Executive (HSE 175). A copy of this document must be available, on site, at all times for inspection.

# SCHEDULE 5

## Electrical Requirements

All electrical installations and equipment will comply with the general requirements of the Electricity at Work Regulations 1989.

All portable generators or power supplies must be suitably guarded and the installation checked, approved and certified by a suitable Electrical Engineer before operation.

### Installation

All electrical equipment will be installed, so far as is reasonably practicable, so that interference by the public or unauthorized employees cannot gain access. All equipment exposed to weather will be suitably protected. All electrical installations will be fitted with Earth Leakage Circuit Breakers and Earth Spikes.

### Generators

All portable generators for electrical power supplies will be appropriately located and guarded from unauthorized persons. All generators will be fuelled by Diesel, fitted with Earth Leakage Circuit Breakers and Earth Spikes.

### Cabling

Wherever possible, cables will be routed or buried so that they will not cause a tripping hazard or be crushed by vehicular traffic. Armoured cabling will be installed for hazardous voltages eg those which could cause electric shock if damaged, protecting against contact with sharp edges or crushing by heavy loads.

Suspended overhead cables must have a minimum, vertical clearance of 17 feet from the ground and a minimum horizontal clearance of 3 feet on either side of the normal passage space for vehicles.

Additional advice is contained in HSE Guidance Document GS50 - (Second Edition) - "Electrical Safety at Places of Entertainment". Further guidance notes are also available from the Council and can be supplied on request.

### Lighting

Appropriate lighting is provided, if necessary, in areas to which the public have access.

All access/egress points shall be made so that they are easily identified.

Emergency lighting is provided in all enclosed structures and apparatus and about the Event site when the Event is held in the hours of darkness.

## **SCHEDULE 6**

### **Emergency Procedures**

The requisite number of trained stewards shall be provided, one per 200 people and shall be identified as such with high visibility waistcoats or armbands, where appropriate two-way radio communication shall also be provided. Where the size of an event makes it necessary for public safety and effective crowd control a public address system will be required. The size and type will at the Safety Team's request. A public address or loudhailer system is available to instruct the public at the Event.

An emergency evacuation and contingency plan should be provided to the Council at least 28 days prior to the commencement of the Term in accordance with Schedule 1 (Specified Documents).

Access and egress routes (at least 3.7 metres wide and 3.1 metres minimum gate width) for the Emergency vehicles are kept clear at all times and confirmed to the Emergency Services on inspection prior to public admission.

A First-aider possessing a suitably recognized current qualification, equipped with a First-Aid box containing the appropriate contents is readily available in the event of treatment needing to be administered.

An equipped First-Aid Point may be required at some Events and arrangements may be needed to have a Doctor on call.

Advice can be sought on medical provision by contacting South Yorkshire Metropolitan Ambulance Service on telephone

The Council must receive details of any reportable accidents as notified to the Health and Safety Executive.

### **STRUCTURES**

Structural calculations and details are required of any temporary structures, tents, stages, temporary seating or grandstands that are proposed for the use at the Event. This information must be provided at least 28 days prior to the Event.

Tent fabrics together with materials and drapes or linings used in conjunction with any temporary structures must be flame retardant (to BS 5438 and 7157).

# SCHEDULE 7

## General Requirements

All stakes/pegs used for securing marquees/tents are adequately protected in areas that are accessible to the public.

No rope, shackles or any form of hitching will be attached to any trees on the Site.

Vehicular access requiring the pruning of trees must be agreed beforehand with a nominated officer of the Council.

Any vehicles driven in the Event Site must adhere to a maximum speed of 5 mph.

All dogs accompanying Funfairs and Circuses are securely tethered behind suitable fencing, immediately adjacent to living quarters and at an appropriate distance from the main Event. The Dogs (Fouling of Land) Act 1996 shall be adhered to where applicable.

No fly-post advertising of the Event takes place on highways, streets and other areas under the Council's control - illicit fly-posting will lead to the booking being cancelled.

The use of Liquid Petroleum Gas appliances can cause a significant risk to health and safety. Your attention is drawn to the advice contained within Technical Memorandum No 56 LPG 'Temporary LPG Installations for Catering at Outdoor Functions by the LP Gas Association, telephone number 01737 224700.

Consideration should be given to the effect that inclement weather will have upon your Event and should weather conditions deteriorate to a point where significant damage will be caused by vehicle equipment withdrawal, an exit strategy must be agreed between the Site Manager and a nominated officer from the Parks Service prior to vehicles exiting the Site. Failure to comply will lead to re-instatement costs being passed to the site Manager.

Vendors supplying food for sale must be indicated in the initial application and inspected on site to ensure compliance with Environmental Health Regulations 1990, Environmental Protection Act 1990 and any conditions requested by the Fire Authority.

The Council's Parks Service must be notified in the initial application should there be any intention to provide a funfair with the Event. Failure to comply will lead to exclusion of the funfair from the Event.

Should the sale or supply of alcohol be part of the Event this must be requested in the initial hire application. Either a Premises Licence or Temporary Event Notice will be necessary for the sale or supply of alcohol (see Schedule 2) and the organizers or the nominated manager will be advised of the feasibility of provision. Permission will also be dependent on the existence of any restrictive covenants and the nature of the Event.



Inspection of structures, staffing or seating before members of the public are admitted may be required by officers of the Council and Emergency Services.

Any requests for events or rallies of a political nature must be accompanied by a full description of the Event and the name of the group responsible for it.

The nominated officer must be informed of all extra equipment devices, special effects, advertising material or other appliances to be used in connection with the Event and the nominated Site Manager shall comply with the requests of the Safety Team with regard to their use.

The Site Manager shall request the appropriate number of temporary parking discs and these must be displayed at all times, users shall also ensure that whilst accessing and egressing the Site, vehicular speeds must be kept to a minimum and no greater than 5 mph and that the parking of vehicles must not interfere with Paragraph 5. Vehicles without the appropriate parking disc will not be allowed on site.

**The Council reserves the right at all times to delay, postpone or cancel any event for which it considers public health and safety has not been given adequate provision.**