

PERPETUAL LICENCE

Relating to

THE CONSERVATORS OF ASHDOWN FOREST

AND

COUNTERPART

LICENCE NO:

DATE

PARTIES

- (1) The Conservators of Ashdown Forest as defined by the Ashdown Forest Act 1974 (Conservators).
- (2) (Licensee)

1 DEFINITIONS

In this licence the following words and expressions have the meaning set opposite them:

- 1.1 Act Ashdown Forest Act 1974.
- 1.2 Ashdown Forest The freehold of Ashdown Forest registered at HM Land Registry under title number ESX156106 of which the land coloured green on the Plan forms part which is vested in the Lord of the Manor and the administration of which is vested in the Conservators by virtue of the Act.
- 1.3 Direction Board The direction board shown with an orange spot on the Plan.
- 1.4 Licence Period The period of this licence.
- 1.5 Annual Payment Fifty five pounds (£55.00) per year (subject to variation under the First Schedule).
- 1.6 Licensee's Property The property in the freehold ownership of the Licensee (and their successors in title) known as *** registered at H M Land Registry under title number ESX*** which is shown coloured brown on the Plan.
- 1.7 Lord of the Manor The Lord of the Manor of Duddleswell otherwise the East Sussex County Council.
- 1.8 Independent Expert A person appointed to act under clause 6.
- 1.9 Payment Day 1 April in each year.
- 1.10 Plan The Plan attached to this deed.
- 1.12 Rights The rights for the Licensee and the owners and occupiers for the time being of the Licensee's Property which are set out in the second schedule.
- 1.13 Roadway The roadway up to a maximum width of three metres on Ashdown Forest and shown with a red line on the Plan.
- 1.14 Service Pipe The conducting media and ancillary pipes and equipment for the provision of drainage, gas or other services shown with a purple line on the Plan where in existence. (The Conservators have an independent wayleave agreement with the telephone and electricity companies).
- 1.15 Water Pipe The water pipe shown with a blue line on the Plan.
- 1.16 Working Day Any day other than a Saturday Sunday or public holiday recognised in England.

2 **ACKNOWLEDGEMENT**

The Conservators acknowledge that the Licensee's Property has an access over the Roadway.

3 **INTERPRETATION**

The terms 'Conservators' and 'Licensee' include their respective successors in title.

Where a party is more than one person their rights and obligations are joint and individual.

The clause and schedule headings do not affect the interpretation of this deed.

Reference to any statute or statutory instrument includes and refers to that statute or statutory instrument as amended or re-enacted and as implemented or amended by any subordinate legislation from time to time throughout the Licence Period.

3.5 A restriction imposed on the Licensee not to do a thing is deemed to include an obligation not to allow that thing to be done.

4 **LICENCE**

In consideration of £666.95 (which includes the Preparation Fee of £133 plus VAT) and the Annual Payment the Conservators with the consent of the Lord of the Manor have agreed so far as the Conservators are legally able to grant to the Licensee a licence to exercise the Rights.

The Rights are granted subject to the provisions of all current and future statutes regulations and byelaws and any requirement of any competent authority relating to Ashdown Forest.

This licence does not confer and is not deemed to include any right in favour of the Licensee other than the Rights.

The Rights are only exercisable if they and their subject matter come into existence within a period of 80 years from the date of this Licence which period is the perpetuity period applicable to this deed.

5 **INDEMNITY**

The Licensee agrees to keep the Conservators indemnified from and against any act loss damage or liability suffered by the Conservators as a result of the exercise of the Rights.

6 **INDEPENDENT EXPERT**

6.1 An Independent Expert (who is to be a chartered surveyor of not less than 10 years' standing and experienced in property in the locality of the Licensee's Property) is to be appointed jointly by the parties or (if either of them fails to concur in an appointment for 10 Working Days after being asked by the other) he is to be nominated at the request of either of the parties by the President.

6.2 An Independent Expert is to:

6.2.1 Act as an expert and not as an arbitrator;

6.2.2 Consider written representations from the parties received by him within 10 Working Days of his appointment; and

6.2.3 Have the costs of his appointment and determination borne as he directs or (failing a direction) by the parties in equal shares.

6.3 The decision of an Independent Expert is to be final and binding on the parties.

6.4 An Independent Expert may be discharged and another appointed in his place by the President if:

6.4.1 He dies or becomes unwilling to act or incapable of acting;

6.4.2 He fails to make or publish his determination within 2 months of his appointment (or a longer period agreed in writing by the parties);

6.4.3 For any reason the President thinks fit.

7 COVENANTS

The Licensee covenants with the Conservators as follows:-

- 7.1 To pay the Annual Payment in advance on each Payment Day during the Licence Period the first such payment being a proportionate sum in respect of the period from and including the date of this licence to the next Payment Day to be paid on the date of this licence;
- 7.2 Not to carry out any works other than maintenance or repair in connection with the Rights until a specification of materials and plan have been approved in writing by the Conservators;
- 7.3 On determination of this Licence if required by the Conservators to reinstate the Roadway to the satisfaction of the Conservators;
- 7.4 **To procure that within 15 days of any transfer or disposition of the Licensee's Property the new owners inform the Conservators of the change in ownership and covenant directly with the Conservators in such terms as are reasonably required by the Conservators to observe and perform the terms of this licence;**
- 7.5 To construct all proper drains and culverts to the Roadway;
- 7.6 Not to use herbicides on or near or in the maintenance of the Roadway;
- 7.7 Not to obstruct the commoners of Ashdown Forest in the lawful pursuit of their common rights and to take all necessary precautions to ensure that no commoner or his animals and no member of the public lawfully using Ashdown Forest suffers any loss or damage by reason of the exercise of the Rights referred to in the second schedule;
- 7.8 Before laying or repairing the Water Pipe or Service Pipe to remove the surface and top soil and re-lay it when the work is complete;
- 7.9 Where the Water Pipe or Service Pipe runs under virgin forest to ensure that any tracks or ditches created are made good to the level of the adjoining ground;
- 7.10 Where the Water Pipe or Service Pipe runs under recognised tracks in Ashdown Forest to ensure that these are disturbed for as short a time as possible and that the ground is rolled hard to allow traffic to pass and repass over the track as soon as the work is complete;
- 7.11 To install the Water Pipe or Service Pipe in such a way that no part of the Pipe projects above the surface level of Ashdown Forest and to take reasonable care:-
 - 7.11.1 to prevent it leaking and
 - 7.11.2 to lay it sufficiently deep to protect it from frost;
- 7.12 To ensure that the direction board does not exceed 60 cm x 45 cm and 15cm in height above the ground and is erected in a position approved by the Conservators.

8 TERMINATION

- 8.1 This licence is determinable by the Licensee on expiry of one month's notice in writing to the Conservators at Ashdown forest Centre Wych Cross Forest Row East Sussex RH18 5JP or such other address as may be notified from time to time by the Conservators in writing.

This Licence can be determinable by the Conservators by written notice to the Licensee in the event of:-

- 8.1.1 Failure by the Licensees to pay the Annual Payment within twenty eight days of written demand expiring on or after the due date; or
 - 8.1.2 Failure by the Licensees on receipt of written notice to remedy any breach of this licence within a time scale specified by the Conservators (acting reasonably).
- 8.2 **PROVIDED ALWAYS** that:
 - 8.2.1 Any notice of determination served upon the Conservators by the Licensee under the provisions of clause 8.1 hereof shall not be valid unless it is accompanied by an authority in writing given by all/any mortgagee(s) whose charge is registered at HM Land Registry over the Licensee's property.

- 8.2.2 Prior to serving any notice of determination under the provisions of 8.1 the Conservators will advise any mortgagees of whose interest the Conservators have received notice in writing of the failure by the Licensee and allow such mortgagee a period of three months in which to arrange payment of any arrears or rectification of any breach specified by the Conservators.

9 COSTS

The Licensee will at the date of this licence pay to the Conservators their surveyors' and solicitors' costs and any VAT charged on those costs in connection with this perpetual licence.

10 NOTICES

- 10.1 A notice given under this licence must be in writing and may be served:
- 10.1.1 Personally; or
 - 10.1.2 By first class post; or
 - 10.1.3 By facsimile transmission; or
 - 10.1.4 By leaving it for the Licensee at the Licensee's Property.
- 10.2 A party's address for service will be his address in this licence or as last notified in writing to the other.
- 10.3 A party's facsimile transmission number is the number at the date of this licence or as last notified to the other.
- 10.4 A notice is deemed to be served:
- 10.4.1 At the time of service if it is served personally or left at the Licensee's Property;
 - 10.4.2 48 hours (excluding the hours of any day which is not a Working Day) after it is posted to an address in the United Kingdom or seven Working Days after it is posted to an address outside the United Kingdom if it is served by post;
 - 10.4.3 At the time of transmission if it is served by facsimile transmission between 9 am and 5 pm on a Working Day and otherwise at 9 am on the next Working Day.
- 10.5 A party must notify the other in writing within five Working Days of a change of address or facsimile transmission number.

11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Except as expressly provided in clause 3.1 none of the provisions of this licence are intended to or will operate to confer any benefit under the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this licence.

THE FIRST SCHEDULE (Annual Payment)

1 Definitions

In this schedule the following words and expressions have the meanings set opposite them:

- 1.1 Base Figure The Index Figure for April 2009 being the month prior to the start of the current financial year i.e. 211.3.
- 1.2 Index The Index of Retail Prices or any other relevant index as agreed by the Independent Expert published by the Office for National Statistics or any successor ministry or department.
- 1.3 Index Figure The 'all items' index figure of the Index.
- 1.4 Payment Period Every period starting on a Review Date and ending immediately before the following Review Date.
- 1.5 Review Date 1 April following the date of this Licence and thereafter, every 1 April.
- 1.6 RPI Annual Payment A yearly sum calculated as at the relevant Review Date by multiplying the Annual Payment payable at the start of this licence by the Index Figure for the month immediately preceding the relevant Review Date and dividing the result by the Base Figure.

2 Payment of Annual Payment and revised Annual Payment

- 2.1 From the date of this licence until the first Review Date the Annual Payment will be £55.00 (Fifty five pounds) per annum.
- 2.2 For each successive Payment Period the Annual Payment will be the greater of:
 - 2.2.1 the Annual Payment payable immediately before the relevant Review Date; and
 - 2.2.2 the RPI Annual Payment.
- 2.3 If statute restricts any revision of or increase in the Annual Payment then when the restriction is removed or modified the Conservators may require an interim revision of the Annual Payment under the provisions of this schedule (with the necessary changes).
- 2.4 If the revised Annual Payment is not ascertained by the relevant Review Date the Licensee will continue to pay the Annual Payment payable immediately before the relevant Review Date until the next Payment Date after the Annual Payment is revised. On that Payment Date the Licensee will pay:
 - 2.4.1 The revised Annual Payment due; and
 - 2.4.2 For the period from the relevant Review Date to that Annual Payment Date the amount by which the revised Annual Payment exceeds the Annual Payment payable immediately before the relevant Review Date.

3 Ascertainment of revised Annual Payment

The Conservators will notify the Licensee of the Index Figure for the month immediately preceding the relevant Review Date and its calculation of the RPI Annual Payment and the amount of the revised Annual Payment payable for the next Payment Period.

4 Alteration to or cessation of the Index

If the basis or method used to compile the Index is altered or if the Index ceases to exist after the date of this licence a change is to be made in the method for calculating the RPI Annual Payment which (in the opinion of an Independent Expert) is the most appropriate to give as nearly as possible the same result as if the basis or method used to compile the Index had not altered or if the Index had not ceased to exist.

5 Time not of the essence

Time is not of the essence in this schedule.

THE SECOND SCHEDULE

**(Rights)
General**

- 1 The Rights are held by the Licensee jointly with
 - 1.1 The Lord of the Manor;
 - 1.2 The Conservators;
 - 1.3 All others lawfully entitled to exercise them.
- 2 The Rights are granted subject to the Licensee:
 - 2.1 Complying with the conditions in this licence;
 - 2.2 Causing as little damage and inconvenience as possible to Ashdown Forest and immediately repairing all damage to the satisfaction of the Conservators.
 - 2.3 Keeping the Roadway and Water Pipe or Service Pipe in good repair and condition to the satisfaction of the Conservators.

The Rights

- 3 The right to make up repair maintain and use the Roadway at all times.
- 4 The right to lay and maintain the Water Pipe or Service Pipe for the supply of water and other services to the Licensee's Property.
- 5 The right to erect a direction board and posts on Ashdown Forest near the entrance to the Licensee's Property.

SIGNED by **THE CLERK TO THE
CONSERVATORS**
H.D.V. PRENDERGAST in the presence of:

Sign here

Signature of witness _____
Name ROSALIND MARRIOTT, Office Manager
Address The Ashdown Forest Centre, Wych Cross, Forest Row, East Sussex RH18 5JP

SIGNED by

Sign here

• in the presence of:

Signature of witness _____

Name (in CAPITAL LETTERS) _____

Address _____
