

DATED

**THE COUNCIL OF THE BOROUGH AND COUNTY OF
THE TOWN OF POOLE**

and

[]

Specimen/

LICENCE

to use part of Baiter Park Recreation Ground, Poole,
Dorset as a site for an amusement fairground.

**T M Martin LL.B Solicitor,
Head of Legal and Democratic Services,
Borough of Poole.**

THIS LICENCE is made the
 day of Two thousand and [] **BETWEEN THE**
COUNCIL OF THE BOROUGH AND COUNTY OF THE TOWN OF
POOLE of Civic Centre Poole Dorset BH15 2RU ("the Council") of the one part and []
 of
 ("Licensee")

NOW IT IS AGREED as follows;

1 Definitions and interpretation

In this Licence:

1.1 **"Council"** means the Council and any duly authorised officer of the Council

1.2 **"Site"** means such part of the Council's land at Baiter Park Recreation Ground Poole Dorset as the Council may allocate to the Licensee for the purpose of the Permitted Use

1.3 **"Permitted Use"** means the use of the Site by the Licensee as an Amusement Fairground together with the right during the Licence Period:

1.3.1 to erect and bring onto the Site such stalls mechanical rides and any ancillary structures vehicles and equipment reasonably necessary for the proper enjoyment of the Permitted Use and

1.3.2 immediately following the end of the Operating Period to dismantle and remove any such stalls mechanical rides and ancillary structures vehicles and equipment from the Site

1.4 **"Licence Period"** means the period commencing 0800 hours on [] day] the [] day of [] 200[] and ending at 1500 hours on [] day] the [] day of [] 200[]

1.5 **"Operating Period"** means the period commencing on [] day] the [] day of [] 200[] and ending on [] day] the [] day of [] 200[]

1.6 **"Licence Fee"** means the sum of [] **POUNDS**
 (£0,000.00) payable in two equal instalments as follows:

1.6.1 the first equal instalment being payable to the Council before entering the Site and

1.6.2 the balance to be paid to the Council no later than Wednesday the 17th day of August 2005

- 1.7 words importing one gender shall be construed as importing any other gender
- 1.8 words importing the singular shall be construed as importing the plural and vice versa
- 1.9 references to persons shall include bodies corporate
- 1.10 all payments required by virtue of this Licence shall where applicable be subject to payment of Value Added Tax
- 1.11 the clause headings do not form part of this Licence and shall not be taken into account in its construction or interpretation
- 1.12 any undertaking by the Licensee not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person

2 Licence

In consideration of the Licence Fee and of the Licensee's Undertakings the Council grants to the Licensee during the Licence Period the right for the Licensee to enter upon and use the Site for the Permitted Use and during the Operating Period to permit members of the public and all other persons duly authorised by the Licensee to enter upon and use the Site for all purposes in connection with the Permitted Use

3 Licensee's Undertakings

The Licensee undertakes with the Council;

3.1 Entry onto the Site

not to enter the Site before the commencement of the Licence Period and to vacate the Site no later than the end of the Licence Period

3.2 The Operating Period

not to permit members of the public to enter the Site except during the Operating Period

3.3 Observe conditions

to observe and perform the conditions set out in the Schedule to this Licence

3.4 Comply with instructions

to comply with all reasonable instructions given by the Council in relation to the operation of the Amusement Fairground in accordance with the conditions contained in this Licence

3.5 Nuisance etc

not to 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 or occupiers of any neighbouring property **BUT** so that this clause shall not prevent or restrict the reasonable use of the Site for the Permitted Use by the Licensee during the Licence Period.

3.6 Advertisements

not at any time to attach affix to or display at any place within the Borough of Poole:

3.6.1 upon any tree hoarding wall fence building or other structure or

3.6.2 beside or near to any road or pathway or

3.6.3 upon any motor vehicle parked or left in any public place

any poster handbill or advertisement of any nature or kind **PROVIDED THAT** nothing contained in this Licence shall prohibit the Licensee from exhibiting notices both of a type and style and in locations within the Borough of Poole previously approved in writing by the Council

3.7 Statutory requirements

3.7.1 to observe all statutory and other provisions byelaws and regulations for the time being in force and applicable to the Site and in particular not to use the Site for the Permitted Use until the Licensee has produced to the Council for inspection safety certificates normally issued to members of the Showmen's Guild of Great Britain for each mechanical ride to be used on the Site a Performing Rights Society Licence and all other licences necessary to enable the Permitted Use to take place.

3.7.2 to follow and observe the guidance in the Council's published *Community Events Management Policy* which shall be read and construed as forming part of this Licence insofar as it does not conflict with the provisions contained in this Licence in which case the provisions in this Licence shall prevail.

3.8 Indemnity and insurance

3.8.1 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 Licence and the holding of the Amusement Fair on the Site to the intent that neither the Council nor any of its officers employees servants or agents shall be subject to any liability to which it or they would have been subject had this licence not been granted

3.8.2 to effect a policy of insurance against loss damage or injury to persons or property of any person arising out of or in connection with this Licence in the sum of not less than Ten million pounds (£10,000,000.00) (which may by notice in writing to the Licensee be increased at the discretion of the Council) in respect of any one incident unlimited in total which policy shall:

3.8.2.1 identify the Council as owner of the Site and be in some insurance office or with underwriters to be approved in writing by the Council

3.8.2.2 incorporate and "Indemnity to Principals" clause and

3.8.2.3 be in a form to be approved by the Council

3.8.2.4 not later than fifteen working days before the commencement of the Licence Period be produced by the Licensee to the Council together with the receipt for the premium

3.8.3 to cause all monies received by virtue of such insurance (where the insurance money is paid in respect of any damage to property belonging to the Council) to be paid direct to the Council by the Licensee's insurer (or within seven days of receipt by the Licensee in the event of any such insurance monies having been paid direct to the Licensee)

3.9 Deposit

The Licensee shall before being granted access to the Site pay to the Council:

3.9.1 a deposit of [] **POUNDS (£0,000.00)** as security against all expenses incurred by the Council as a result of any failure by the Licensee to observe and perform any of the Licensee's Undertakings such sum to be returned to the Licensee upon the Council being satisfied that the Licensee has substantially observed and performed the Licensee's Undertakings but subject to deduction of an appropriate amount to re-imburse the Council for any expense so incurred and so that this clause shall operate without prejudice to the right of the Council to recover any additional amount in excess of the amount deposited pursuant to this clause

3.9.2 the sum of [] **POUNDS (£000.00)** being the Council's legal fee for the preparation and issue of this Licence

3.9.3 a booking fee of [] **POUNDS (£00.00)**

3.10 Permit entry by the Council

to allow the Council and all persons authorised by the Council to enter the Site at any reasonable time for the purposes of ascertaining whether the terms of this Licence have been complied with or for any other lawful purpose

3.11 Yield up

Upon the expiration of the Licence Period to deliver up the Site to the Council in a clean and tidy condition to the reasonable satisfaction of the Council's surveyor and to repair any damage which may occur to the Site or to any roads footpaths or other land adjoining the Site

4 Assignment

The rights granted to the Licensee by this Licence are personal to the Licensee and the Licensee shall not assign underlet or part with the benefit of this Licence

5 The Council's Undertakings

The Council agrees with the Licensee to permit the Licensee peaceably and quietly to hold and enjoy the Site for the Permitted Use during the Licence Period 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 Licence Period;

6.1.1 there is a breach by the Licensee of any of the Licensee's Undertakings or other term of this Licence or

6.1.2 the Licensee (being an individual) becomes bankrupt or

6.1.3 the Licensee (being a limited company) 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 has a receiver or administrative receiver appointed or

6.1.5 the Licensee enters into an arrangement for the benefit of its creditors or

6.1.6 the Licensee has any distress or execution levied on its goods

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

6.2 Notices

6.2.1 In this clause:

6.2.1.1 **“the Council's Address”** means the address of the Council shown on the first page of this Licence 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 his Licence

6.2.1.2 **“the Licensee's Address”** means the address of the Licensee shown on the first page of this Licence or such other address as the Licensee may from time to time notify to the Council as being its address for service for the purposes of this Licence

6.2.2 Any notice permission or other communication given or made in accordance with this Licence shall be in writing and:

6.2.2.1 may (in addition to any other effective mode of service) be sent by registered or recorded delivery post

6.2.2.2 shall in the case of a notice or other communication to the Council be served on the Council at the Council's Address

6.2.2.3 shall in the case of a notice permission or other communication to the Licensee be served on the Licensee at the Licensee's Address or at the Site

6.2.2.4 shall if sent by registered or recorded delivery post be deemed unless the contrary shall be proved to be served on the second day after the same was posted unless that shall be a Sunday or Bank Holiday

7 Council's possession of the Site

Possession of the Site remains vested in the Council subject only to the rights granted by this Licence and this Licence shall not confer on the Licensee any rights which may in law amount to a tenancy or agreement for a tenancy nor confer any other interest or right of the Licensee to possession of the Site or any part of it

8 Exclusion of the Contracts (Rights of Third Parties) Act 1999

Save as may be expressly provided herein none of the provisions in this Licence are intended to or will operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on a person who is not named as a party to this Licence

IN WITNESS of which the Council has caused its Common Seal to be affixed to this deed and the Licensee has set his hand the day and year first before written

THE SCHEDULE

Conditions to be observed and performed by the Licensee

- 1 To ensure by arrangement with the Council an adequate supply of water on the Site suitable for drinking and all other usual purposes
- 2 At all times to keep securely locked all gateways leading onto the Site
- 3 Not to station or maintain any caravan motorhome traction engine lorry generator or other machinery otherwise than in positions first approved by the Council
- 4 To ensure that drip trays are placed under all vehicles machinery and other equipment on the Site likely to cause damage to the Site by leakage of oil or other materials
- 5 At the sole expense of the Licensee to reinstate any turf on the Site destroyed or damaged by fire or leakage or oil or other materials and at the end of the Licence Period to leave the Site in a clean and tidy condition free from all rubbish and refuse to the entire satisfaction of the Council
- 6 On demand to pay to the Council the cost of any necessary cleaning restoration and reinstatement of the Site resulting from the occupation of the Site by the Licensee and in this respect the decision of the Council shall be final
- 7 To keep and maintain the Site in a clean and tidy condition. At least twice a day during the Licence Period to arrange for the collection from the Site by the Council of all rubbish and refuse and to pay the Council's reasonable charges for such collection
- 8 To ensure that all mechanical rides apparatus engines machinery and stalls are maintained in a safe structural and mechanical condition complying in all respects with all statutory requirements
- 9 At all times to ensure that all mains electrical equipment used on the Site is protected by an earth leakage circuit breaker

- 10 Not to permit to operate on the Site any ride not clearly displaying a fixed identity plate showing the name and telephone number of the Proprietor and an address for proper service on the proprietor of notices and correspondence
- 11 To keep the Site adequately lighted so as to ensure the safety of all persons entering upon and using the Site
- 12 To keep to the minimum necessary all vehicular movements on the Site and not to permit members of the public to park vehicles on the Site
- 13 To conduct the Amusement Fairground in an orderly and proper manner
- 14 Not to operate the Amusement Fairground later than 22:00 hours on any day during the Licence Period
- 15 To ensure that all rides are on the Site in operating condition ready for inspection by the Council no later than 1430 on the first day of the Operating Period
- 16 On demand to produce to the Council a current Safety Certificate for each ride on the Site intended to be used by members of the public
- 17 On demand to pay the Council's fixed charge (currently £50.00) toward the cost of each additional visit to the Site for the purpose of carrying out any necessary re-inspection of the Site or of any equipment on the site where such additional visit is deemed by the Council to be necessary as a result of any initial inspection producing an unsatisfactory result
- 18 Not to permit dogs to roam free on or near the Site and to ensure that dogs belonging to the Licensee or persons operating on the Site are kept tethered at all times
- 19 To position all electricity generators and all public address systems to be used on the Site facing away from neighbouring residential properties and in such positions as to reduce to the minimum any noise or other disturbance to residents of adjoining or neighbouring properties and to observe the directions of any officer of the Council in relation to the same
- 20 Not to permit any operator to use any equipment ride or other attraction on the Site unless he shall have entered into a contract with the Licensee incorporating the conditions set out in this Schedule (with the exception of this condition number 20)

THE COMMON SEAL of **THE COUNCIL OF THE BOROUGH AND COUNTY OF THE TOWN OF POOLE** was hereunto affixed in the presence of:-

Head of Legal and Democratic Services

SIGNED as a **DEED** by the said []
] (for and on behalf of []
in the presence of: