

THRINGS

SOLICITORS

DATED

2023

COLEFORD PARISH COUNCIL

and

(insert name of allotment holder/licencee)

LICENCE TO OCCUPY

relating to the Allotment *(insert plot number)* at the land forming part of Vobster Quarry, Upper Vobster, Radstock BA3 5SD

THIS LICENCE IS DATED _____ 2023

PARTIES

- (1) **COLEFORD PARISH COUNCIL** of Gallant Hill Farm, Foxcote, Radstock, BA3 5YB (the Licensor); and
- (2) _____ (*insert name*) of

(*insert address*) (the Licensee).

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this licence.

1.1 Definitions:

Allotment:

the Allotment space numbered _____ (*insert allotment space number*) on the Property.

Common Parts:

such roads and paths, and other means of access in or upon the Property the use of which is necessary for obtaining access to and egress from the Allotment as designated from time to time by the Licensor subject to any restrictions imposed on the Licensor under the Lease.

Competent Authority:

any statutory undertaker or any statutory public local or other authority or regulatory body or any court of law or government department or any of them or any of their duly authorised officers.

Lease:

the lease of the Property and made between (1) Raymond Benedict Bartholomew Michael Asquith Earl Of Oxford and Asquith And Mary Clare Asquith Countess of Oxford and Asquith as Trustees Of Viscount Asquith's 1999 Settlement Trust and (2) Coleford Parish Council.

Licence Fee:

the amount of £ _____ (*insert allotment fee*) per annum or such other amount as the Licensor in its absolute discretion may from time to time determine, on giving one months notice.

Licence Fee Commencement Date:

the date of this Licence.

Licence Period:

the period from and including the date of this Licence until the date on which this licence is determined in accordance with clause 6.

Necessary Consents:

all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required by any Competent Authority for the Permitted Use.

Permitted Use:

Use as an allotment for recreational purposes.

Property:

the land forming part of Vobster Quarry, Upper Vobster, Radstock BA3 5SD and shown edged red on the Plan attached to the Lease.

VAT:

value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

- 1.2 The Schedule forms part of this licence and shall have effect as if set out in full in the body of this licence. Any reference to this licence includes the Schedule.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.6 A reference to **writing** or **written** excludes fax and e-mail.
- 1.7 Any obligation on a party not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.8 References to clauses and Schedules are to the clauses and Schedules of this licence and references to paragraphs are to paragraphs of the relevant Schedule.

2. LICENCE TO OCCUPY

- 2.1 Subject to clause 3 and clause 6, the Licensor permits the Licensee to occupy the Allotment for the Permitted Use for the Licence Period in common with the Licensor and all others authorised by the Licensor (so far as is not inconsistent with the rights given to the Licensee to use the Allotment for the Permitted Use) together with the rights mentioned in the Schedule.
- 2.2 The Licensee acknowledges that:
 - (a) the Licensee shall occupy the Allotment as a licensee and that no relationship of landlord and tenant is created between the Licensor and the Licensee by this licence;
 - (b) the Licensor retains control, possession and management of the Allotment and the Licensee has no right to exclude the Licensor from the Allotment; and
 - (c) the licence to occupy granted by this agreement is personal to the Licensee and is not assignable and the rights given in clause 2 may only be exercised by the Licensee.

3. LICENSEE'S OBLIGATIONS

- 3.1 The Licensee agrees and undertakes:
 - (a) to pay:
 - (i) to the Licensor the Licence Fee payable without any deduction in advance on the Licence Fee Commencement Date together with such VAT as may be chargeable on the Licence Fee;

- (ii) to contribute to the payment of all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Allotment, within 14 days of receipt of a written notice from the Licensor;
- (b) to keep the Allotment clean, tidy and at all times, properly cultivated, free from weeds and noxious plants and in general good order;
- (c) not to use the Allotment other than for the Permitted Use;
- (d) not to use fertiliser other than organic fertiliser;
- (e) not to keep livestock or to allow livestock loose on the Allotment;
- (f) not to trade from the Allotment;
- (g) not to erect any building or structure on the Allotment (which includes sheds, greenhouses and polytunnels);
- (h) not to make any alteration or addition whatsoever to the Allotment;
- (i) not plant any trees other than dwarf fruiting trees and or fruiting bushes;
- (j) not to use any barbed or razor wire (or similar) for any fence on or around the Allotment;
- (k) not to allow any fires of any kind on or around the Allotment or anywhere else on the Property;
- (l) not to utilise carpets or underlay on the Allotment for weed control or any other purpose;
- (m) not to display any advertisement, signboards, nameplate, inscription, flag, banner, placard, poster, signs or notices at the Allotment without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed;
- (n) not to do or permit to be done on the Allotment anything which is illegal or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to the Licensor or to tenants or occupiers of the Property or any owner or occupier of neighbouring allotments;
- (o) not to cause or permit to be caused any damage to:
 - (i) the Allotment, the Property or any neighbouring allotments or property; or
 - (ii) any property of the owners or occupiers of the Property or any neighbouring property;
- (p) not to enter or allow any other person onto any other allotment plot at any time without the express permission of the relevant plot holder;
- (q) not to remove produce from any other plot without the express permission of the relevant plot holder;
- (r) not to apply for any planning permission in respect of the Allotment;
- (s) not to do anything that will or might constitute a breach of any Necessary Consents affecting the Allotment or which will or might vitiate in whole or in part any insurance effected by the Licensor in respect of the Allotment and Property from time to time;
- (t) to comply with all laws and with any recommendations of the relevant suppliers relating to the supply and removal of electricity, gas, water, sewage,

telecommunications and data and other services and utilities to or from the Allotment;

- (u) to observe any reasonable rules and regulations the Licensor makes and notifies to the Licensee from time to time governing the Licensee's use of the Allotment;
- (v) to ensure any incidence of vermin on the Allotment is reported to the Licensor and the Licensee shall take all reasonable measures to avoid a habitat that is conducive vermin activity;
- (w) to ensure only conventional and commercially available products from garden or horticultural suppliers shall be used on the Allotment and the use and storage of such products must be in compliance with all relevant legislation;
- (x) to ensure any toilet facilities provided by the Licensor (in common with all other Licensees) are kept clean and in good condition at all times;
- (y) to leave the Allotment in a clean and tidy condition and to remove the Licensee's furniture equipment and goods from the Allotment at the end of the Licence Period and if in the opinion of the Licensor the plot has not been left in a satisfactory condition, any work carried out by the Licensor to return the plot to a satisfactory condition shall be payable by the Licensee.
- (z) to indemnify the Licensor and keep the Licensor indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability in any way arising from:
 - (i) this licence;
 - (ii) any breach of the Licensee's undertakings contained in clause 3; and/or
 - (iii) the exercise of any rights given in clause 2;
- (aa) to pay to the Licensor interest on the Licence Fee or other payments at the rate of 4 per cent per annum above the base rate of the Bank of England from time to time calculated on a daily basis from the due date until payment if the Licensee shall fail to pay the Licence Fee or any other payments due under this licence within 14 days of the due date (whether formally demanded or not).

4. CAR PARKING

- 4.1 The Licensee shall be permitted to park one taxed and roadworthy vehicle in an area designated by the Licensor during the hours set out by the Licensor from time to time for the purpose only of carrying out the Permitted Use and for no other reason provided that the Licensee agrees and undertakes:
 - (a) not to not to park on any land belonging to any neighbouring property;
 - (b) not to park on any of the common parts or accessways;
 - (c) to only park in the permitted parking area designated by the Licensor and in no other area on the Property.
- 4.2 Failure to comply with the obligations in clause 4.1 will result in termination of this licence in accordance with clause 5.

5. SECURITY

- 5.1 The Licensee shall be issued with a key/code/card to access the Allotment. The Licensee shall not make any replicas and no codes shall be passed to any other person.

5.2 The Licensee shall ensure the main access gate to the Property shall be closed and locked after entering and leaving the Property.

5.3 The Licensor reserves the right to change the key/code/card and will give notice to the Licensee of this change.

6. TERMINATION

6.1 This licence shall end on the earliest of:

- (a) the expiry of any notice given by the Licensor to the Licensee at any time on breach of any of the Licensee's obligations contained in clause 3;
- (b) the expiry of not less than 12 month's notice terminating the Licence, given by the Licensor to the Licensee;
- (c) the expiry of 3 months' notice or by the Licensee to the Licensor;
- (d) automatically if the Licensee becomes bankrupt;
- (e) automatically on the death of the Licensee; or
- (f) the date which is 40 days from the Licence Fee Commencement Date, should the Licence Fee not have been paid to the Licensor in cleared funds.

6.2 Termination of this licence shall not affect the rights of either party in connection with any breach of any obligation under this licence which existed at or before the date of termination.

7. LEASE TERMS

7.1 The Licensee must observe and perform all conditions and covenants that apply to the Allotment and the Property contained in the Lease.

8. NOTICES

8.1 Any notice or other communication given under this licence shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the relevant party as follows:

- (a) to the Licensor at: Coleford Parish Council, Gallant Hill Farm, Foxcote, Radstock, BA3 5YB; and
- (b) to the Licensee at: As listed as party on page 1,
or as otherwise specified by the relevant party by notice in writing to each other party.

8.2 The Licensee must immediately inform the Licensor of any change of its address.

8.3 Any notice or other communication given in accordance with clause 8.1 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or other communication is left at the proper address; or

- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting.

9. NO WARRANTIES FOR USE OR CONDITION

- 9.1 The Licensor gives no warranty that the Allotment possesses the Necessary Consents for the Permitted Use.
- 9.2 The Licensor gives no warranty that the Allotment is physically fit for the purposes specified in clause 2.
- 9.3 The Licensee acknowledges that it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by or on behalf of the Licensor before the date of this licence as to any of the matters mentioned in clause 9.1 or clause 9.2.
- 9.4 Nothing in this clause shall limit or exclude any liability for fraud.

10. LIMITATION OF LICENSOR'S LIABILITY

- 10.1 Subject to clause 10.2, the Licensor is not liable for:
 - (a) the death of, or injury to the Licensee, its employees, customers or invitees to the Allotment; or
 - (b) damage to any property of the Licensee or that of the Licensee's employees, customers or other invitees to the Allotment; or
 - (c) any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Licensee or the Licensee's employees, customers or other invitees to the Allotment in the exercise or purported exercise of the rights granted by clause 2.
- 10.2 Nothing in clause 7.1 shall limit or exclude the Licensor's liability for:
 - (a) death or personal injury or damage to Allotment caused by negligence on the part of the Licensor or its employees or agents; or
 - (b) any matter in respect of which it would be unlawful for the Licensor to exclude or restrict liability.

11. THIRD PARTY RIGHTS

A person who is not a party to this licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this licence.

12. GOVERNING LAW

This licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this licence or its subject matter or formation (including non-contractual disputes or claims).

THIS AGREEMENT has been entered into on the date stated at the beginning of it.

SCHEDULE 1 - Rights granted to Licensee

1. The right for the Licensee to use:
 - 1.1 Such parts of the Common Parts for the purpose of access to and egress from the Allotment as shall from time to time be designated by the Licensor for such purpose.
 - 1.2 Any toilet facilities provided by the Licensor.
 - 1.3 The Service Media now serving the Allotment.

SAMPLE

Signed by two Councillors for
and on behalf of **COLEFORD**
PARISH COUNCIL

.....
signature

.....
Name

.....
signature

.....
Name

Signed by [*insert name of
Licensee*]

.....
signature of Licensee

.....
Name of signatory

SAMPLE