

**2024/25**

**Land Hire Agreement Terms and Conditions for the Hire of Public Open Space.**

**The Hire**

The Council hereby agrees to hire the Site to the Hirer for the duration of the contract on the Conditions detailed below and the Hirer accepts these Conditions and agrees to be bound by them.

**Definitions**

In these conditions of hire:-

- 1.1 The 'Council' means Emersons Green Town Council.
- 1.2 The 'Hirer' means the person signing the Application (the 'Contract'). Where an organisation is named in the Contract, that organisation shall also be considered the Hirer and shall be jointly and severally liable with the person who agreed and signed the Contract.
- 1.3 The 'Contract' means this Application and also any other relevant correspondence passing between the parties and their agents.
- 1.4 The 'Site' means those parts of the Parks and/or Green Spaces owned by Emersons Green Town Council used for the purpose of the Event and referred to in the Contract and other correspondence. The Site also includes those areas that might reasonably be used by the Hirer or their guests during the Event including entranceways, toilets, and stairways.
- 1.5 The 'Structure' means the entire interior and exterior of the specific property within the Site as described above in 1.4 and as particularly detailed in the booking form.
- 1.6 The 'Period of Hire' means the dates and times for hire referred to in the Land Hire Agreement and other correspondence. This may also be referred to as the 'Hire' or the 'Event'.
- 1.7 The 'Hire Fee' means the payment made to the Council by the Hirer for the temporary Hire of the Site.
- 1.8 The 'Authorised Officer' means the Chair of the Town Council or any person or persons nominated by them. This will include, but shall not be limited to, other delegated Town Councillors, the Town Clerk and Assistant Clerks.
- 1.9 The 'Deposit Bond' is an amount, to be determined depending on the scale of the Event, to be paid prior to the Event for the reparation of council land and assets. The Bond will be returned in full to the Hirer no later than 28 days commencing with the end of the Period of Hire subject to a satisfactory Site inspection by the Council's Parks Manager.

- 1.10 The 'Event' means the activity to take place during the Period of Hire as stated in the Specific Terms of this agreement.
- 1.11 'Apparatus' means any equipment being used by the Hirer for their Event to include but not exclusively marquees, lighting, toilets, staging.
- 1.12 The 'Site Plan' means the attached plan detailing specifics of the Site.
- 1.13 The 'Activities' means any pre-organised or ad-hoc Event.
- 1.14 The 'Event Management Plan' means a plan which covers all the safety and organisational aspects of the event. It should be produced in conjunction with your risk assessment - the risks you identify should inform your decisions about the way the event will be managed.
- 1.15 The masculine shall include the feminine and the singular shall include the plural.

## **2. Applications to Hire**

- 2.1 All Hires are subject to the approval of the Authorised Officer to ensure that they conform to the policies and practices of the Council. Applications which will not be approved include those that, in the reasonable opinion of the Council, are likely to promote or incite racial or religious hatred, civil unrest or cause offence.
- 2.2 No application should be considered as approved until written confirmation has been received and a Licence for Land Hire has been issued from the Authorised Officer. Email is deemed to be an acceptable form of communication.
- 2.3 Hires are made to the individual making the application ("the Hirer") and are non-transferable. Applications will not be accepted from persons acting on behalf of a third party unless this is declared at the time of the application. Where an application is made by an agent on behalf of a client, the identity of that client and the nature of the Event must be revealed before the application is considered.
- 2.4 The purpose of the Hire and also the subject matter must be clearly stated at the time of making the application. The Hirer must honestly declare and fully represent the purpose for hiring the Site. Any actual or apparent misrepresentation, material omission or misstatement may result in immediate written termination of the Event by the Council. An additional fee, at the sole discretion of the Council, may be levied to cover the reasonable costs incurred by the Council resulting from such termination.

## **3. Payments and Cancellation**

- 3.1 Application and land hire fees are set annually by the Council and include a discretionary discount for charitable Events.
- 3.2 Full payment of the land hire fee is due at 4 weeks in advance of the Event date, or if less than 4 weeks, full payment is due at the time of booking. A Contract will not be issued until payment has been received and the Event approved by Town Council representatives.
- 3.3 Cancellation by the Hirer must be received in writing. Should the Site be re-let at full cost for the cancelled Hire, the Council will refund the Hirer the full Land Hire Fee minus a reasonable administration fee, as determined by the Council, and any reasonable costs incurred by the Council involved in arranging the re-let.

- 3.4 Any cancellation by the Hirer is deemed to be effective once notice is received in writing by the Council's Town Clerk or the Authorised Officer. An email is deemed to be an acceptable form of communication, email all correspondence to [clerk@emersonsgreen-tc.gov.uk](mailto:clerk@emersonsgreen-tc.gov.uk).
- 3.5 The Hirer shall be responsible for the payment of all fees such as Performing Rights Society (PRS) where such costs are attributable to the Period of Hire. The Hirer will also indemnify the Council for any claims arising out of non-payment of such fees.

Additional charges will still apply for use of utilities and other Council services.

- 3.6 The Deposit Bond shall be subject to forfeit to the Council in the circumstances set out in this clause. The Deposit Bond (if returnable in whole or in part) shall be held by the Council for 28 days commencing with the end of the Period of Hire.

3.6.1 The Deposit Bond shall be forfeited to the Council if the Hirer breaches any of the Conditions:- • Clause 5.2 (Limit on use of the Site); • Clause 12 (Nuisance).

3.6.2 The Deposit Bond shall be forfeited if the Council makes good any damage to the Site as provided for in Clause 8 (Damage);

3.6.3 Where the Deposit Bond is subject to forfeiture under Clause 8 (Damage) the Council reserves the right to forfeit all or part of the Deposit Bond. The Council will recover costs to the value of those incurred in rectifying issues as defined in Clause 8.

#### 4. **Submission of Documentation:**

- 4.1 Details of the planned Event must be provided at time of booking. The Council reserves the right to request 8 weeks in advance of the booking.
- 4.2 Following consideration of your Event booking, where applicable, you may be required to submit further information. Where such a request is made, this information must be provided within 7 calendar days of the request. Failure to do so on time will result in the cancellation of your booking.
- 4.3 Upon cancellation under point 4.2 above, NO REFUND of your payment will be made.

#### 5. **General Conditions**

- 5.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions.
- 5.2 The Hirer shall not use the Site or the Structure, or permit the Site or the Structure to be used, for any purpose other than for the purpose or purposes specified in the application.
- 5.3 The Hirer must not use the Site or the Structure, or any part of thereof, for any illegal purpose or in any manner that may, in the Council's reasonable opinion, cause loss, damage, injury or legal nuisance to the Council or any other owner/ occupier of any neighbouring property or which may cause prejudice to the Council.
- 5.4 The Hirer must not use the Site and/or the Structure for purposes whose nature or content could bring the name and reputation of the Council or its venues into disrepute.

- 5.5 The Hirer and his servants, agents, contractors and others allowed on the Site and/or Structure by reason of its Hire shall leave the Site and/or Structure at the end of the Period of Hire.
- 5.6 The Council are unable to provide access for normal lighting and electrical supply to the Site or Structure and shall not be responsible for any failure, defect, damage or loss resulting from any failure unless due solely to negligence by the Council or their servants/ agents.
- 5.7 No alternations, additions to fixings, nail or fixing of any kind shall be driven into, or applied to, any wall, floor, partition, pillar, ceiling, fitting or furniture of any kind, or the removal of street furniture without prior written permission of the Authorised Officer. Such consent may provide pre-conditions and instructions.
- 5.8 No adhesive tape or material may be used to secure loose cables to the floor. Cable matting must be used in all cases.
- 5.9 The Hirer is responsible for the conduct of his staff, agents, colleagues, contractors, sub-contractors and guests throughout the Period of Hire.
- 5.10 The Hirer, their agents, guests or contractors who arrive under the influence of alcohol or drugs will be refused access to the Site or Structure. The Authorised Officer, other officers of the Council or their authorised contractors on duty during the Period of Hire can refuse the right of entry at any time for this reason.
- 5.11 The Hirer shall not be entitled to grant sound, television broadcasting or filming rights without the prior written consent of the Authorised Officer. The Hirer shall undertake to contact the Council's Film Office for advice.
- 5.12 The release of sky lanterns from the Site or Structure, or from Council managed public spaces around the Site, is not permitted and should not be initiated by the Hirer or their guests in association with Events held within the Site or the Structure.
- 5.13 The Hirer, his servants, guests, contractors and employees shall comply with all reasonable requests of the Authorised Officer during the Period of Hire and during such other times as any of them shall be in the Site.
- 5.14 No one event has exclusive use of a specific area within Emersons Green Town Council, at any one time. The Council reserves the right to accept or decline applications based on the impact on the infrastructure of that area, whether this relates to traffic and/or commercial/charity interests.
- 5.15 Your Event is taking place in a public park and it is POSSIBLE that other Activities will be taking place at the same time and in close proximity to your event, whether booked through the Council or a spontaneous gathering in an open public space. The Council reserves the right to permit other Activities to take place in the Park during your booking but not within the designated Site or Structure. Should this happen then please show due consideration to the organisers and guests at the neighbouring event, in particular to noise created by your event. The Council cannot accept responsibility for any detrimental impact to your event by the close proximity of another event to yours. On the day of your event there may be Parks officers in the location and they may be of assistance to you in addressing any concerns you have regarding the operation of the neighbouring event.

## **6. Breach and Termination**

- 6.1 The Contract may be terminated by the Council in the following circumstances:
- 6.2 In the event of any breach of the Contract by the Hirer the Council may serve a notice on the Hirer requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the Council may terminate the Contract with immediate effect by notice in writing.
- 6.3 In the event of a material breach of the Contract by the Hirer, the Council may terminate the Contract with immediate effect by notice in writing to the Hirer.

## **7. Liability, Indemnity and Insurance**

- 7.1 The Hirer shall be liable for, and will indemnify the Council against all damages, charges, costs, expenses payable by the Council in respect of legal actions and legal claims, including court proceedings, brought or made against the Council in respect of any loss, damage or personal injury arising in respect of any third party as a consequence of the negligence of the Hirer, its servants or guests.
- 7.2 The Hirer must arrange for Public Liability insurance to be obtained to cover the liabilities detailed in clause 6.1 above to a minimum value of £5 million (£5,000,000) for the duration of the Period of Hire. This must also include cover for 3rd party property damage caused through the actions of the Hirer, his servants or guests during the Period of Hire. Written proof of this insurance shall be produced to the Council by the Hirer 4 weeks prior to the commencement of the Hire. Failure to do so may, at the sole discretion of the Council, result in the termination of the Hire by written notice to the Hirer. In such circumstances the Hirer will remain fully liable for the fees payable in respect of the Hire. The Council will not be responsible for any costs or losses which are incurred by the Hirer as a result of such termination.
- 7.3 The Council shall not be liable for any loss due to industrial action, breakdown of machinery, failure of supply of electricity, flood water, fire, Government restrictions or any other circumstances beyond its reasonable control, which may cause any part of the Site to be inaccessible or the Period of Hire to be interrupted or cancelled.
- 7.4 Unless due to the negligence of the Council, the Council shall not be responsible for any loss or damage howsoever caused, to the Hirer's property or the property of any of the Hirer's guests, audience members, participants or contractors stored on Site.

## **8. Damage**

- 8.1 The Hirer shall take good care of and, shall not cause any damage or permit any damage to be done to the Site or any part of the Structure.
- 8.2 The Hirer shall take good care of and, shall not cause or permit any damage to be done, to any fixtures, fittings, furniture and equipment in any part of the Site or Structure during the Period of Hire.
- 8.3 Any damage that is caused or permitted by the Hirer, his servants, agents, contractors or any other person resorting to the Site or Structure by reason of the Hire shall be made good by the Council and will be charged to the Hirer. The cost of any damage shall be certified by the Authorised Officer whose decision shall be final.

- 8.4 Any unreasonable or unforeseen cleansing required post event, will be recharged to the Hirer. The cost of any such cleaning shall be certified by the Authorised Officer whose decision shall be final.
- 8.5 The Hirer shall not cause or permit any fly bill posting or littering in connection with the Event, unless for purposes of publicity agreed in advance with the Town Council. Without prejudice to the right of the Council to forfeit all or part of the Deposit Bond following any breach of this condition the Hirer shall in the event of any breach of this condition reimburse the Council for any expense incurred by the Council in removing such waste.

The condition of the Site must achieve Grade A standard in accordance with the Code of Practice on litter and refuse (including dog faeces) issued under Part IV of the Environmental Protection Act, 1990 ("the Code"). The Code is based on the concept of four standards of cleanliness:

Grade A – No litter or refuse

Grade B – Predominantly free of litter and refuse apart from a few minor accumulations

Grade C – Widespread distribution of litter and refuse with minor accumulations

Grade D – Heavily littered with significant accumulations

If the Site's condition only satisfies Grade B-D following the Hire it must be restored by you to Grade A standard within 48 hours. The decision of the Authorised Officer, as to whether the necessary Grade A standard has been achieved will be final and binding on the Hirer. If it is decided that Grade A has not been achieved then the contract may be terminated forthwith and the Council may arrange for the necessary cleaning work to be undertaken and charge any resulting costs to the Hirer.

- 8.6 The Hirer shall be responsible for the disposal of recyclable materials;

## **9. Health and Safety**

- 9.1 The Hirer shall comply immediately with all requirements of the Council as local authority or of the Chief Fire Officer or the Chief Constable.
- 9.2 The Hirer shall obtain all necessary licences, consents or authorities required by any applicable health and safety legislation for any activity carried out on the Site and comply with all such regulations and the Hirer shall ensure that adequate measures are employed on the Site to ensure the Health, Safety and Welfare of persons at work and any visitors to the Site.
- 9.3 The Hirer shall be responsible for all security and labour relating to the Event and for the conduct of all staff, agents, colleagues, contractors, sub-contractors and guests throughout the period of hire and acknowledge that the Council is merely permitting the use of the Site without the use of its manpower, equipment or resources.
- 9.4 Any electrical appliance or lighting brought onto the Site for use during the Period of Hire period must have a visible current Portable Appliance Test (PAT) certificate. Any electrical equipment used must be suitable for safe connection with an outdoor socket.
- 9.5 No alterations to the electrical distribution or other infrastructure in the Structure will be permitted.
- 9.6 The Authorised Officer shall be permitted to immediately terminate the Hire if he determines that the safety of the Site or people within it are at risk due to the Hirer failing to

comply with any of the terms above relating to Health and Safety. The Council will not be liable for any damages arising from the termination or suspension unless arising directly from the Council's negligence.

- 9.7 Before the Period of Hire, the Hirer must provide in writing contact details of any contractors and any relevant risk assessments, method statements and/or safe systems of work as required by the Authorised Officer for any activities or procedures to be undertaken by the Hirer or his contractors to enable the Event.
- 9.8 All access onto the Site must be via the agreed route. The Site will be made accessible to the Council to enable any maintenance works to take place if necessary. A car park for the visiting public should be signed with the appropriate signage; this shall not cause any obstruction nor infringe any laws pertaining to highways and /or street furniture.
- 9.9 The Hirer shall be responsible for the safety of all Apparatus placed on the Site by or on behalf of the Hirer and all such Apparatus shall be made available at all times for safety inspections by the Council. The Hirer must install marquees only within the defined area on the Site Plan at the agreed location; Adequate checks for underground services/cables must be made prior to driving stakes/pegs/pins into the ground.
10. **Compliance**
- 10.1 The Hirer must ensure that the Hire does not contravene UK or EU legislation.
- 10.2 The Hirer must ensure that the Hire complies with all statutory requirements in respect of Environmental Health and Health and Safety legislation.
- 10.3 The Hirer shall observe and comply with the terms, conditions, restrictions and requirements of any relevant Act of Parliament, statutory instrument, licence or regulations under which the Site may be used.
- 10.4 The Hirer shall not allow any activity that may cause any such statute, regulation or licence to be infringed, suspended, forfeited or jeopardise future renewal or transfer.
- 10.5 The Hirer shall comply with the Council's Equalities Policy, and ensure nothing is done at or in respect of the Site or Structure during the Period of Hire which would give serious offence to other people/ organisations by discriminating, denigrating or caricaturing them on the grounds of gender, race, disability, religion, sexual orientation or other such ground.
11. **Licensing**
- 11.1 The Hirer shall ensure that the Licensing Team is consulted regarding the activities planned for their Event. The Hirer shall be responsible for payment of all fees arising out of the licensable activity and shall make all arrangements for activities which may occur at their Event.
- 11.2 The Hirer shall make available evidence of any licence required on request of the Authorised Officer.

## **12. Nuisance**

12.1 The Hirer shall not cause or permit any nuisance on or from the Site.

12.2 Without prejudice to the generality of clause 11.1, the Hirer shall observe the laws and legal requirements pertaining to noise nuisance. Any infringement of these legal duties may result in the Event being closed down by the Council and complaints investigated. If the Event is closed down, the Hirer shall not be entitled to any refund of the Hire Fee or the Deposit Bond.

The Hirer shall keep a log of any complaints made during the period of hire and produce the log for inspection by any officer of the Council or any police officer.

## **13. Personal Data**

13.1 The Council will only use the personal information provided to it by the Hirer to provide the Services, or to inform the Hirer about similar services which the Council provides, unless the Hirer informs the Council in writing that the Hirer does not want to receive this information.

13.2 The Hirer acknowledges and agrees that the Council may pass the Hirer's details to credit reference agencies.

## **14. Variation**

14.1 The parties may agree between themselves, in writing, to vary the terms of the Contract in whole or in part throughout the duration of the agreement.

## **15. Third Party Rights**

15.1 The Contract is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract (including any rights enforceable under the Contracts (Rights of Third Parties) Act 1999).

## **16. Governing Law and Jurisdiction**

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

16.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## **17. Fees**

17.1 Payment of £450 for the use of the common.

17.2 A deposit cheque for £500. To be destroyed "upon the Council's satisfactory inspection of the site following the Circus departure."

17.3 25 family tickets, each admitting four people, to be given to the local Primary Schools to pass on to underprivileged families.