

DATED

2022

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LICENCE

relating to  
Land on the south side of  
School Road, Fawley, Southampton.

between

SCOTT PETER CLEAL and JOANNE MARIE CLEAL

And

HAMPSHIRE COUNTY COUNCIL

Barbara Beardwell  
Head of Law Governance and Monitoring Officer  
Hampshire Legal Services  
The Castle  
Winchester  
SO23 8UJ

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THIS LICENCE is dated

2022

## PARTIES

(1) **SCOTT PETER CLEAL and JOANNE MARIE CLEAL** of 12

Admirals Close, Fawley, Southampton SO45 1FQ (**Licensor**).

(2) **HAMPSHIRE COUNTY COUNCIL** of The Castle Winchester SO23 8UJ (**Licensee**).

## AGREED TERMS

### 1. INTERPRETATION

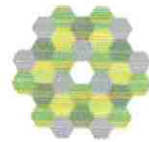
The following definitions and rules of interpretation apply in this licence.

#### 1.1 Definitions:

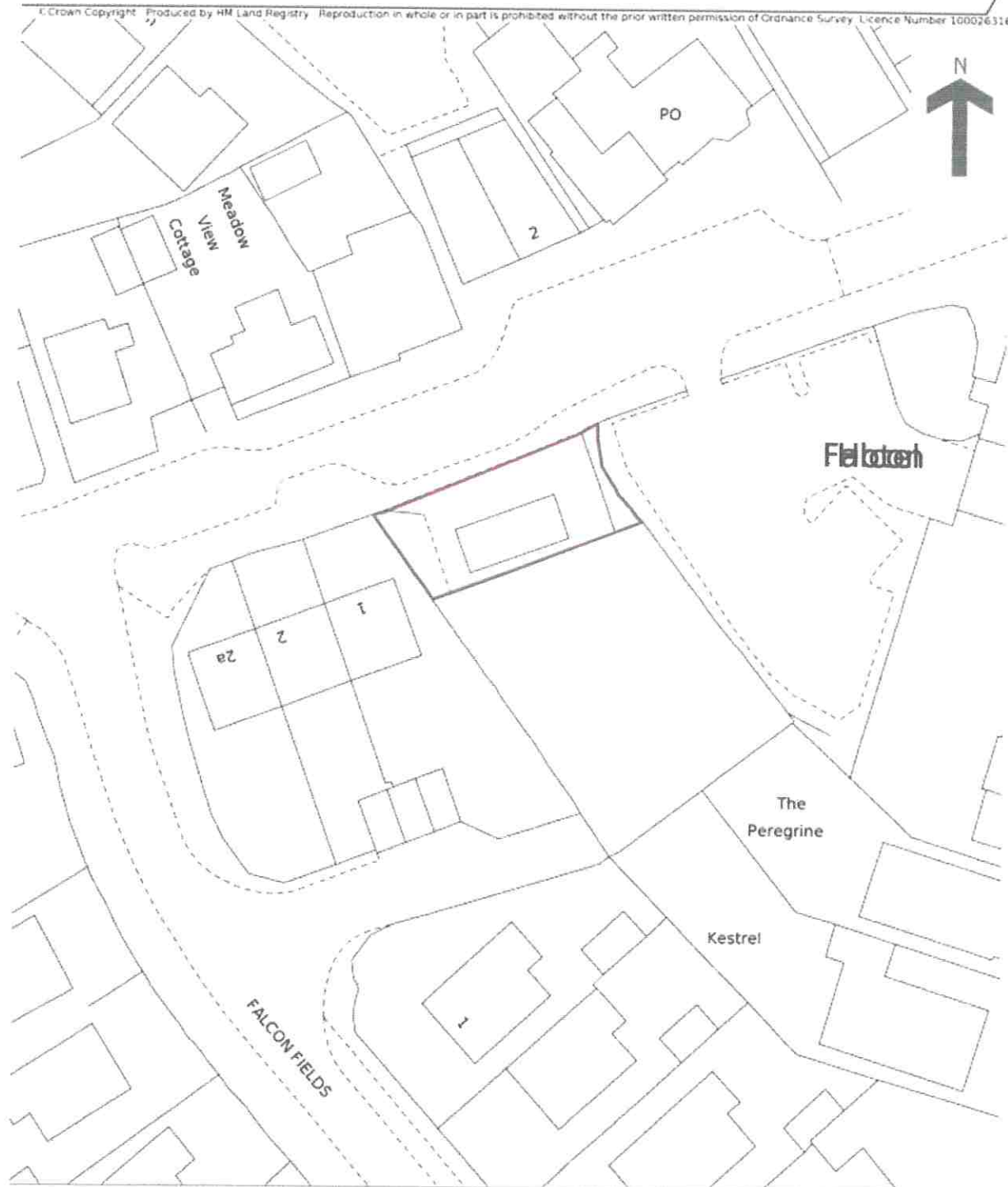
- 1.1.1 **The Land:** all that land known as land on the south side of School Road, Fawley, Southampton. Shown edged red on the Plan.
- 1.1.2 **Common Parts:** such roads, paths and other means of access in or upon the Land the use of which is necessary for obtaining access to and egress from the Licence Area as designated from time to time by the Licensor.
- 1.1.3 **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.
- 1.1.4 **The Shelter:** The bus shelter together with ancillary apparatus and signage installed by the Licensee for the Permitted Use
- 1.1.5 **Licence Period:** a period of 1 year from and including 1 June 2019 ("the Licence Period Start Date") and thereafter from year to year until terminated by either party.
- 1.1.6 **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.
- 1.1.7 **Permitted Use:** For the Installation and operation of a bus shelter details of which are set out in schedule 1 below
- 1.1.8 **Plan:** the plan attached to this licence
- 1.1.9 **Licence Fee:** one peppercorn per annum
- 1.1.10 **Licence Fee Commencement Date:** 1 June 2019

HM Land Registry  
Official copy of  
title plan

Title number **HP722314**  
Ordnance Survey map reference **SU4503SE**  
Scale **1:500 enlarged from 1:1250**  
Administrative area **Hampshire : New Forest**



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- 1.1.11 Licence Fee Payment Dates:** means the Licence Fee Commencement Date and thereafter on each anniversary of the Licence Fee Commencement Date
- 1.1.12 Licence Area:** those parts of the Land made available by the Licensor for the Permitted Use.
- 1.1.13 VAT:** value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.
- 1.2** Clause, Schedule and paragraph headings shall not affect the interpretation of this licence.
- 1.3** A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4** 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.
- 1.5** Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6** Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7** 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.
- 1.8** Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 1.9** A reference to **writing** or **written** excludes fax and e-mail.
- 1.10** 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.
- 1.11** 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.

- 1.12 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

## 2. LICENCE

- 2.1 By virtue of s.4 of the Local Government Miscellaneous Provisions Act 1953 and subject to clause 3 and clause 4, the Licensor shall make available for the Licensee's use for the Permitted Use, the Licence Area 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 Licence Area for the Permitted Use).
- 2.2 The Licensee acknowledges that:
- 2.2.1 the Licence Area shall be made available to the Licensee on a licence basis and that no relationship of Landlord and Tenant is created between the Licensor and the Licensee by this licence;
  - 2.2.2 the Licensor retains full control, possession and management of the Licence Area
  - 2.2.3 Neither the Licensee nor its personnel has any right to exclude the Licensor from the Licence Area;
  - 2.2.4 the licence to use the Licence Area 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 and its employees.
  - 2.2.5 without prejudice to its rights under clause 4, the Licensor shall be entitled at any time on giving not less than seven days' notice (save in the event of a genuine emergency in which case notice will be served as soon as reasonably possible but in any event within seven days of the relocation of the Licence Area) to relocate the Licence Area to another space within the Land and the Licensor shall include with such notice a plan demarcating the replacement Licence Area and on the expiry of that notice the Licensor shall be entitled to move the Shelter to the replacement Licence Area and the definition of Licence Area shall be construed so as to relate to that replacement Licence Area for the remainder of the Licence Period or until the service of any further notice to relocate the Licence Area pursuant to this clause (if earlier);

### **3. LICENSEE'S OBLIGATIONS**

#### **3.1 The Licensee agrees and undertakes**

- 3.1.1** to pay to the Licensor the Licence Fee on the Licence Fee Payment Dates.
- 3.1.2** not to obstruct the Common Parts, make them dirty or untidy or leave any rubbish on them;
- 3.1.3** not to do anything that will or might constitute a breach of any Necessary Consents affecting the Licence Area or which will or might vitiate in whole or in part any insurance effected by the Licensor in respect of the Licence Area and the Land from time to time
- 3.1.4** to observe any rules and regulations the Licensor makes and notifies to the Licensee from time to time governing the Licensee's use of the Common Parts including but not limited to all requirements and reasonable recommendations of the Licensor's insurers in respect of the Licensee's use of the Licence Area and access to the Land
- 3.1.5** to hold a minimum of £10million Employer's and Public liability Insurance and 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 any breach of the Licensee's undertakings contained in clause 3 or stipulations relating to the exercise of any rights given in clause 2
- 3.1.6** to pay any taxes, rates, fees and utility costs that arise from the Licensee's occupation and use of the Licence Area
- 3.1.7** to keep the Licence Area and Shelter in good and tenable repair
- 3.1.8** not to do or permit or suffer to be done anything on the Licence Area or common parts that constitute or may become a nuisance to the Licensor or cause damage to the Licensor or the Land
- 3.1.9** at the end of the Licence Agreement to remove the Shelter and reinstate the Licence Area to the reasonable satisfaction of the Licensor

### **4. INCLUDED SERVICES**

- 4.1** Subject to the Licensee complying with clause 3 above, the Licensor shall make available the Licence Area for use by the Licensee for the Permitted Use.

- 4.2 The Licensee its authorised agents and employees will have access and egress to and from the Licence Area upon the expiry of 5 working days' notice being given to the Licensor except in an emergency when no notice shall be required
- 4.3 In the event of damage to the Licence Area or the Land, the Licensor shall use reasonable endeavours to allocate an alternative Area and make this available to the Licensee for use for the Permitted Use. In the event that the Licensor considers it impossible or impractical (in its absolute discretion) to allocate an alternative area, either party shall be entitled to terminate this licence with immediate effect and clause 5.1 shall apply accordingly.
- 4.4 The Licensor shall use reasonable endeavours to provide the services under this clause 4 throughout the Licence Period in accordance with any agreements and/or service specifications as may be agreed between the parties from time to time and in respect of which the parties shall consult each other during the Licence Period together with any additional services as shall be agreed between the parties hereto from time to time.
- 4.5 The Licensee shall have the right to install and run, maintain repair and renew a mains electricity supply from the boundary of the Land to the Licence Area, at its own costs in a position to be determined by the Licensee subject to the Licensor's approval
- 4.6 In the event of damage by fire, explosion or any other normal insurable risk, the Licensor shall be responsible for repairing and/or rebuilding the Land. If, in the Licensor's opinion it is not viable to repair or replace the Land the licence will cease forthwith

## 5. TERMINATION

- 5.1 This licence shall end:
- 5.1.1 On the expiry of the Licence Period;
- 5.1.2 Upon the expiry of any notice to terminate given by the Licensor to the Licensee at any time on breach of any of the Licensee's obligations contained in clause 3; or
- 5.1.3 upon the expiry of 6 months' notice given by either party to the other.



## **6. NOTICES**

**6.1** Any notice 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:

to the Licensor at: 12 Admirals Close, Fawley, Southampton  
SO45 1FQ.

to the Licensee at: Hampshire County Council The Castle Winchester  
SO23 8UJ FAO Head of Legal Services

**6.2** Any notice given in accordance with clause 6.1 will be deemed to have been received:

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

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.

**6.3** A notice given under this licence shall not be validly given if sent by e-mail.

**6.4** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **7. NO WARRANTIES FOR USE OR CONDITION**

**7.1** The Licensor gives no warranty that the Licence Area possesses the Necessary Consents for the Permitted Use.

**7.2** The Licensor gives no warranty that the Land is physically fit for the purposes specified in clause 2.

**7.3** 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 8.1 or clause 8.2.

**7.4** Nothing in this clause shall limit or exclude any liability for fraud.

## **8. LIMITATION OF LICENSOR'S LIABILITY**

**8.1** Subject to clause 8.2, the Licensor is not liable for:

**8.1.1** the death of, or injury to the Licensee, its employees, customers or invitees on the Land; or

**8.1.2** damage to any property of the Licensee or that of the Licensee's employees, customers or other invitees to the Land; or

**8.1.3** 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 Land in the exercise or purported exercise of the rights granted by clause 2.

**8.2** Nothing in clause 8 shall limit or exclude the Licensor's liability for:

**8.2.1** death or personal injury or damage to property caused by negligence on the part of the Licensor or its employees or agents; or

**8.2.2** any matter in respect of which it would be unlawful for the Licensor to exclude or restrict liability.

**9. 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.

**10. 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.

**11. JURISDICTION COSTS**

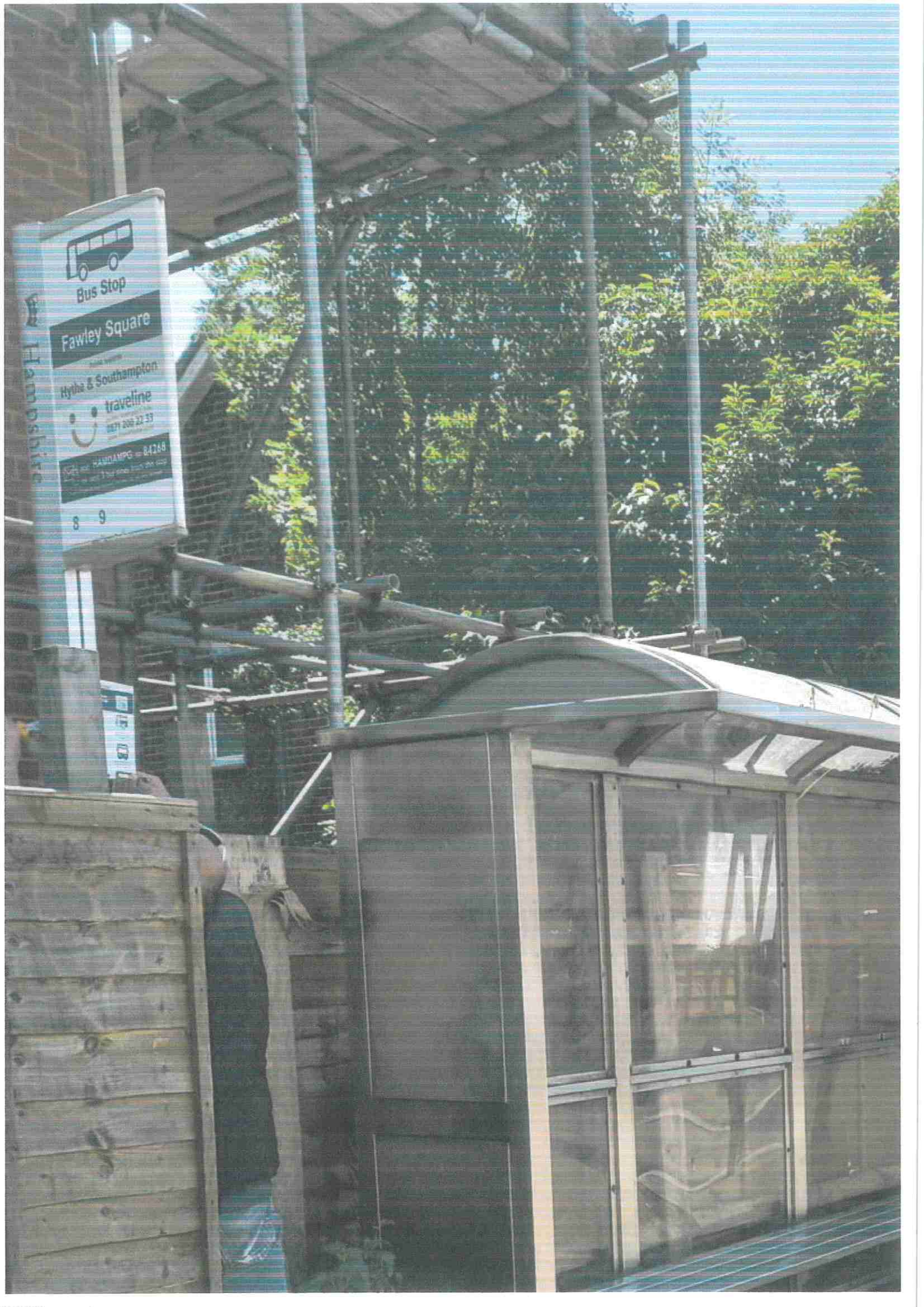
Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this licence or its subject matter or formation (including non-contractual disputes or claims).

This Licence has been entered into on the date stated at the beginning of it.

## **The Schedule**

### **1. The Shelter**

- 1.1** A 3 bay cantilever with half end panels shelter as shown on the attached photographs.



Bus Stop

Fawley Square

Hythe & Southampton



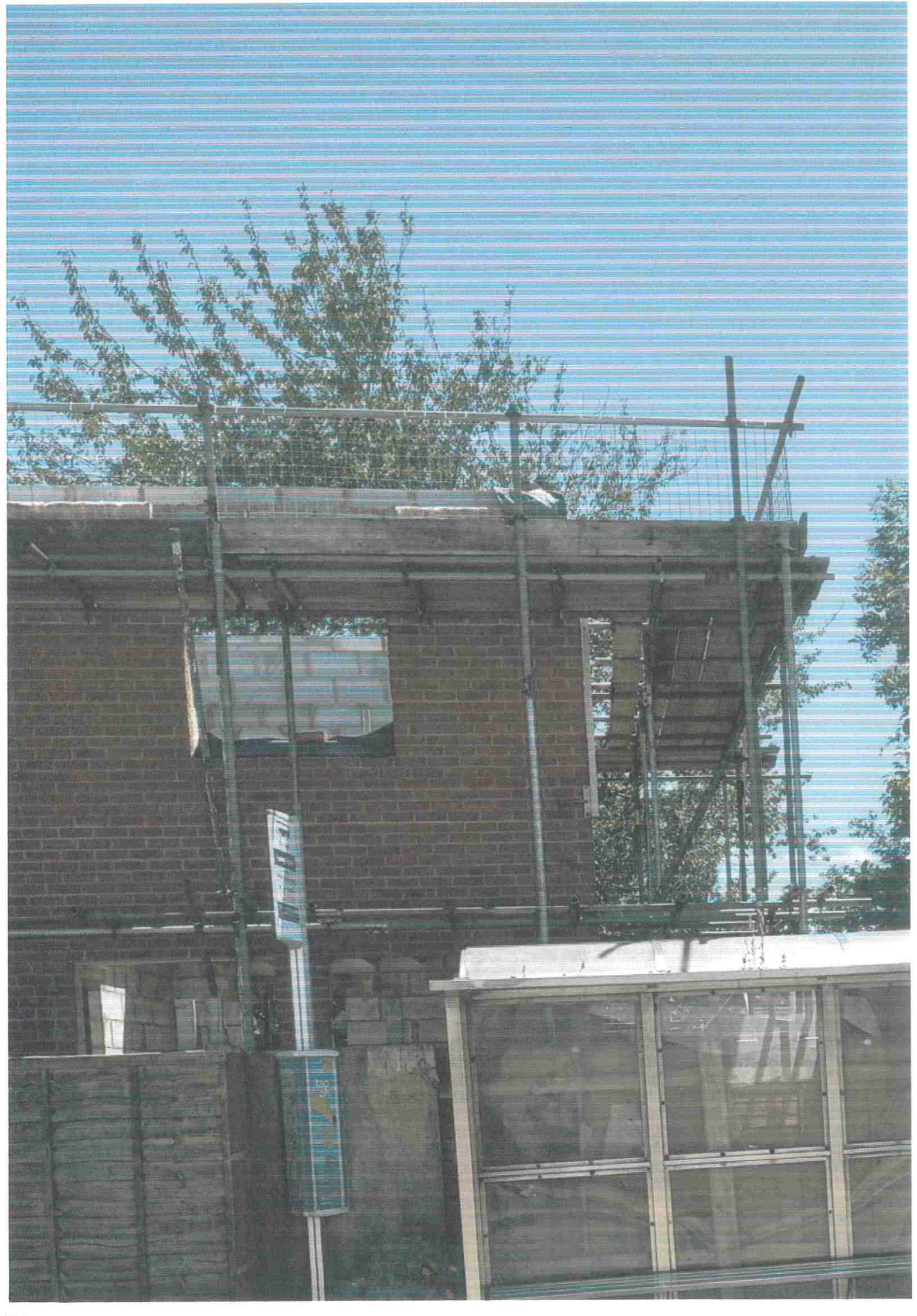
0871 206 22 33

0479 84266

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Hampshire







Signed for and on behalf of **SCOTT  
PETER CLEAL AND JOANNE MARIE  
CLEAL** both in the presence of:

.....

.....

.....

Witness signature

Witness Name:.....

Witness Address:.....

Witness Occupation:.....

Signed for and on behalf of **HAMPSHIRE  
COUNTY COUNCIL** by its Authorised Signatory

.....  
Authorised signatory