

DRAFT SUBJECT TO CONTRACT

OCCUPATIONAL LICENCE

DATE:

PARTIES:

- (1) Ardleigh Village Hall Charity Number 301234 acting by its charity trustees (hereinafter called "the Licensor")
- (2) [INSERT DETAILS]

BACKGROUND

- (A) The Licensor acknowledges that the Licensee is a charity whose purpose is provision of childcare, play and education, that this requires that the facilities provided for Pre-School use meet the statutory framework for the Early Years Foundation Stage to Ofsted requirements and that the Licensee can operate in a well-controlled, business-like fashion.
- (B) The Licensee acknowledges that the Licensor is a charity whose purpose is the provision of a multi-purpose village hall for the benefit of the local community and that this requires that the premises are available for other community uses when not in use by the Licensee.
- (C) Both the Licensor and the Licensee acknowledge that the two organisations are charities run by volunteers, operating within tight financial and staffing constraints, and that mutual co-operation will assist the sustainability of both charities

OPERATIVE PROVISIONS

1. Definitions and interpretation

- 1.1 In this Licence and in the Schedule the following terms shall, except so far as the context otherwise requires, have the following meanings:

"Access ways" means such ramps, paths, entrance hall and corridors, and other means of access in or upon the Property the use of which is necessary for obtaining access to and egress from the Property as the Licensor may from time to time reasonably specify on 7 days notice to the Licensee;

"Interest Rate" means the annual rate of 4% above the base rate from time to time of HSBC Bank plc or the bank nominated for the Licensor's business (or the bank which is the successor to the business) compounded with quarterly rests or if such base rate ceases to be published then at the rate of 2% per annum above the rate at which the Licensor could reasonably borrow from time to time;

"Licence Fee" means [INSERT DETAILS] per annum ([INSERT DETAILS] per calendar month) subject to annual review;

"Licence Period" means the period from [INSERT DETAILS] or the date on which this licence is determined in accordance with clause 6;

"Permitted Hours" means the hours described in the Schedule;

"Permitted Use"	means use of the Property for providing education to and to enhance the development of children between the ages of 2 to 5 years of age and for storage ancillary to such use;
"Plan"	means the plan annexed hereto;
"Garden area"	means those parts of the Village Hall at the rear of the building which are fenced and used as a garden;
"Property"	means the property shown edged red on the Plan;
"Term Times"	means school term times as decided by the local education authority;
"Village Hall"	means the land and building comprising Ardleigh Village Hall including the Property;

1.2 References herein to the Licensee shall include also its members, employees and persons authorised by it to enter the Property.

2. Licence and Licence Fee

2.1 The Lessor hereby grants to the Licensee a non-exclusive licence to use the Property, the Garden Area and a non-exclusive licence to use the facilities and services more particularly described in the Schedule for the Licence Period for the Licensee to use during the Permitted Hours for the Permitted Use.

2.2 The parties may add further Licence Periods to this Licence for such year(s) and at such Licence Fee as they may from time to time agree in writing. The parties shall consult on the granting of a new licence agreement and the amount of the Licence Fee in good time before the end of the last Term Time in the Licence Period.

2.3 The Licence Fee shall be payable on the first day of each month. The first payment shall be a proportion of the Licence Fee if this Licence does not commence on the first day of the month and shall be payable forthwith. If this Licence is determined by notice in accordance with Clause 6 and the notice does not expire on the last day of the month the payment for that month shall be a proportion of the Licence Fee.

3. Licensee's covenants

The Licensee agrees with the Lessor as follows:

3.1 To maintain the registration of [INSERT DETAILS] with Essex County Council and maintain in force its registrations with all appropriate local and other statutory authorities and to comply at all times with the terms and conditions of such registrations and legislation relating thereto.

3.2 To pay the Licence Fee including any VAT payable without any withholdings or deductions whether the same be demanded or not;

3.3 To pay interest at the Interest Rate upon any sums due to the Lessor under this Licence calculated from day to day, in the case of the Licence Fee from the first day of each month and, in the case of any other sums due, from the date when such unpaid sums have become due until the date of actual payment;

3.4 To reimburse the Lessor on demand a due proportion (as determined by the Lessor in its sole discretion) of:

3.4.1 a contribution towards the total cost of the lighting, electricity and heating and any other services supplied to the Property and paid for by the Licensor invoiced in arrears and based on meter readings provided.

3.4.2 such sums as the Licensor may from time to time pay in discharging the premiums payable in respect of insurance policies from time to time effected by the Licensor for insuring the Property against the insured risks detailed in the Schedule

3.5 To insure and keep insured with an insurance office of good repute against employer's liability and also against third party claims against the Licensor in respect of death of or injury to any person or persons and/or damage to property movable or unmovable arising from the Licensee's use thereof and to produce on request to the Licensor the receipt for the current year's premium or premiums;

3.6 The Licensee shall in respect of each session be responsible for:

- 3.6.1 unlocking and locking the Property and the Garden at the beginning and end of each session;
- 3.6.2 the turning on and off of heating and lighting to the Property- in manner agreed;
- 3.6.3 the security of the Property and the Garden area;
- 3.6.4 the protection of the fabric and contents and;
- 3.6.5 the behaviour of all persons using the Property whatever their capacity and for ensuring the persons leaving the Property during or following each session shall do so in an orderly manner and in such a way as not to cause nuisance or annoyance to owners or occupiers of nearby premises.

3.7 Not to make any alteration or addition to any part of the Property or to any fixtures and fittings without the prior written consent of the Licensor;

3.8 So to conduct its activities and to ensure that the rights hereunder are so exercised as not in any way to interfere with or adversely affect the enjoyment of the Village Hall by the Licensor or by others authorised by the Licensor;

3.9 Not to assign the benefit of this licence or sub-licence or share possession with anyone of any part of the Property;

3.10 To keep the Property, the Garden area, fire exits and Access ways unobstructed, clean and tidy and clear of rubbish;

3.11 To take reasonable care of the Property and all fixtures and fittings and not remove them or any part of them from the Property without the prior written consent of the Licensor;

3.12 To make good and pay for all damage (including accidental damage) caused to any part of the Property and the Accessways or to any of the fixtures and fittings by its clients, employees, servants, agents or similar persons;

3.13 Not to use or permit the Property to be used except for the Permitted Use;

3.14 Not knowingly to do or permit or suffer to be done anything which would or might constitute a breach of any statutory requirement, bye-law or regulation affecting the Property or which would or might vitiate in whole or in part any insurance effected on the Property by the Licensor from time to time or increase the rate of premium of such insurance;

3.15 Not to use or permit the Property to be used for any illegal purpose;

- 3.16 Not to store or bring onto the Property any articles of a specially combustible, inflammable or dangerous nature or of an illegal nature;
- 3.17 Not to impede in any way the officers, servants or agents of the Lessor in the exercise of the Lessor's rights of possession and control of the Property;
- 3.18 To keep the Lessor and all those authorised by it to use the Village Hall or any part thereof indemnified against all third party claims, demands, actions, or proceedings made or brought and all losses, damages, costs, expenses and liabilities incurred, suffered or arising directly or indirectly in respect of or otherwise connected with (a) the exercise of the licence by the Licensee or by any persons authorised by the Licensee including any persons invited by the Licensee or (b) the non observance of any of the terms of this Licence however expressed or implied.
- 3.19 Save as required by its insurer or Ofsted, not to exhibit any additional advertisement, signboard, nameplate, inscription, flag, banner, placard or poster on any part of the Property or the exterior of the Village all except with the prior written consent of the Lessor such consent not to be unreasonably withheld provided that any sign or poster at the date hereof shall be deemed to have the consent of the Lessor, to remove signs if requested to do so by the Lessor;
- 3.20 To observe any reasonable rules and regulations the Lessor makes and notifies to the Licensee from time to time, governing the Licensee's use of the Premises;
- 3.21 On the termination of this Licence to vacate immediately the Property and the Garden, to and to remove any structures belonging to the Licensee, and to leave the Property and the Garden in a clean and tidy condition.

4. Storage and removal of equipment

- 4.1 The Lessor accepts no responsibility for any stored equipment or other property brought on to or left at the Property, the Garden area or any part of the Village Hall, and all liability for loss or damage is hereby excluded save where loss or damage arises directly as a result of the Lessor's negligence or wilful act.

4.2 Outside of the Permitted Hours the Licensee agrees to store all equipment and other property in the store cupboard or other designated areas agreed from time to time with the Lessor. Any equipment and other property left at the Property outside of the Permitted Hours which is not properly stored in accordance with this clause 4.2 must be removed at the end of each session or additional fees may be charged at the Lessor's discretion. However, the Licensee may with the Lessor's prior consent leave equipment in designated areas where they will not interfere with the use of the Village Hall or Garden by others. The Licensee agrees to ensure storage complies with Village Hall fire regulations by storing items away from lights in the store cupboard. If this is not adhered to, the Lessor reserves the right to remove the store cupboard from the list of facilities covered by this Licence and the Lessor will be required to vacate the cupboard within 24 hours.

- 4.3 At the end of the Licence Period the Licensee will remove from the Property and the Garden area all goods belonging to or used by it. The Licensee irrevocably appoints the Lessor to be the Licensee's agent to store or dispose of any chattels or items it has fixed to the Property and the Garden and which have been left by the Licensee on the Property and the Garden for more than ten (10) working days after the end of the Licence Period. The Lessor will not be liable to the Licensee by reason of that storage or disposal. The Licensee will indemnify the Lessor in respect of any claim made by a third party in relation to that storage or disposal.

5. Lessor's covenants

The Lessor agrees with the Licensee as follows:

- 5.1 To pay all rates, taxes, assessments and outgoings in respect of the Property

- 5.2 To provide adequate heating water electricity and lighting in the Property to standards required by the Early Years Foundation Stage or subsequent regulations.
- 5.3 To provide reasonable facilities for the preparation of food and drink.
- 5.4 To repair maintain and decorate the Property to a reasonable standard of safety, security and cleanliness provided that the Lessor shall not be liable by virtue of this clause to maintain the Property in a better state of repair and condition than as at the date hereof provided further that where an Ofsted inspection calls for improvements to the levels of safety, security and cleanliness the parties shall consult on the work required to be done by each party to comply with such requirements and the Lessor shall make reasonable improvements as may be agreed or allow the Licensee to do so at its own expense.
- 5.5 To pay for all gas electricity water and sewerage rates and all other utilities used at the Property and all charges for meters and standing charges
- 5.6 To insure the Village Hall and keep insured in an insurance office of good repute against damage or destruction by fire and such other risks and perils as the Lessor may determine and also against third party claims against the Licensee in respect of death of or injury to any person or persons and/or damage to property movable or unmovable arising from the condition of the Property or the user thereof and to produce on request to the Licensee the receipt for the current year's premium or premiums;
- 5.7 To give at least 7 days prior written notice to the Licensee (except in the case of emergency) for the Lessor or its employees and workmen to enter the Property or the Garden during the Permitted Hours for the purpose of repairing renewing maintaining or cleansing the Property or the Garden or for the carrying out of any works or doing anything whatsoever during the Permitted Hours. In the event that the Licensee is unable to use the Property or the Garden area during the Permitted Hours to reimburse the Licensee a due proportion of the Licence Fee for the times and days the Property or the Garden area are not made available to the Licensee.
- 5.8 In the event of any foreseeable event occurring for which the Property or the Garden area are needed for community use (e.g. an election, special event such as a national or traditional celebration) which would prevent the Licensee from using the Property or the Garden during the Permitted Hours, to give at least 21 days prior written notice. In the event that the Licensee is unable to use the Property or the Garden during the Permitted Hours to reimburse the Licensee a due proportion of the Licence Fee for the days and times it is not available or, if the Licensee prefers, provide an extension of the Licence Period at the end of the Licence Period for a period equivalent to the duration when the Property or the Garden were unavailable.
- 5.9 Only in the circumstances described in clauses 5.7 and 5.8 and in the event that notice has not been given in accordance with those clauses to pay to the Licensee any loss in income incurred by the Licensee as a direct result of being unable to use the Property during the Permitted Hours.
- 5.10 In the event of an emergency (such as breakdown of heating, use of the Village Hall as an emergency centre, unforeseen disaster) to give as much notice to the Licensee as possible of the circumstances which may prevent the Licensee from using the Property during the Permitted Hours. In these circumstances to reimburse the Licensee a due proportion of the Licence Fee for the times and days the Licensee is unable to use the Property during the Permitted Hours or, if the Licensee prefers, provide an extension of the Licence Period at the end of Licence Period for a period equivalent to the duration when the property was unavailable.
- 5.11 To consult with the Licensee about any changes or alterations to the Property which might affect the Permitted Use or other changes which may adversely affect the smooth running of the Permitted Use, in order that the Licensee may comply with Early Years Foundation

Stage welfare requirements, or subsequent regulations, and to use all reasonable endeavours to accommodate any proposed changes or alterations resulting from such consultation.

- 5.12 To take reasonable steps in accordance with the Early Years Foundation Stage welfare requirements or subsequent regulations to ensure that visitors or other users of the Village Hall do not adversely impact on the quality or safety of the provision of service by the Licensee.
- 5.13 To take reasonable steps to ensure the co-operation of visitors, other Village Hall users, trustees, volunteers and staff of the Licensor in meeting the Early Years Foundation Stage welfare requirements or subsequent regulations including the establishment and operation of a signing procedure and obtaining Disclosure and Barring Service disclosure, registration or other checks as required.

6. Termination

This Licence may be terminated:-

- 6.1 by the Licensor by not less than seven days' notice to the Licensee;
 - 6.1.1 If at any time the Licence Fee or any other payment payable hereunder is unpaid for 21 days after becoming due (whether demanded or not);
 - 6.1.2 If the Licensee shall have failed for a period of 14 days to remedy any breach (capable of remedy) of any of the agreements, stipulations and conditions herein contained after being required to remedy the same by notice in writing from the Licensor specifying the breach and requiring the same to be remedied;
 - 6.1.3 On any breach by the Licensee of the agreements stipulations and conditions herein contained which is in the opinion of the Licensor incapable of being remedied and is stated to be so in the notice given by the Licensor; and
 - 6.1.4 If the Licensee ceases to trade at the Property or becomes bankrupt or if a receiver is appointed over the whole or part of its assets or if the Licensee makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things.
- 6.2 by either party giving to the other not less than 21 days notice in writing to that effect.

7. No warranty or liability

- 7.1 The Licensor gives no warranty that the Property is legally or physically fit for the Permitted Use.
- 7.2 The Licensor shall not be liable for the death or injury to any person or for damage to any property of or for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by the Licensee in the exercise or purported exercise of the rights granted by Clause 2 except where caused by the negligence and/or fault of the Licensor, its servants or agents.
- 7.3 In the event of the Property or any part thereof being rendered unfit for the purposes of this licence the Licensor shall not be liable to the Licensee for any resulting loss or damage whatsoever. In such circumstances the Licence Fee shall be suspended and cease to be payable until the Property or the damaged parts of the Village Hall are made fit for occupation and use

8. Non-exclusive occupation

- 8.1 It is hereby agreed between the parties that:

- 8.1.1 this Licence constitutes a licence and confers no tenancy or other interest in land upon the Licensee;
- 8.1.2 the Licence hereby granted shall be exercised by the Licensee in common with the Licenser and all other persons now or hereafter authorised by the Licenser to use any part of the Property and facilities and services affected by this Licence and the Licenser shall, subject to clause 8.2, at all times have full and free rights of possession and management and control of the Property; and
- 8.1.3 the Licensee shall not at any time or in any manner do any act which may impede the Licenser or any person authorised by the Licenser in the exercise of the Licenser's rights of possession and control of the Property.

8.2 Subject to clauses 5.7, 5.8, 5.9 and 5.11, during the Permitted Hours the Licensee shall have sole use of the Property and Garden area with shared use of the Foyer and Kitchen with other users.

9. Notices

Any notice to be given under this Licence shall either be delivered personally or sent by first class recorded delivery post or email. The address for service of each party shall be the address stated herein or any other address for service previously notified by one party to the other or (in the absence of any such notification) their last known address. A notice shall be deemed to have been served as follows:-

- 9.1 if personally delivered, at the time of delivery;
- 9.2 if posted, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities; and
- 9.3 if sent by email at the time of transmission;

In proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody office of the postal authority as a prepaid first class recorded delivery letter or that the email was electronically acknowledged as received as the case may be.

10. Dispute

- 10.1 The parties shall each designate one person to act as a primary contact for the resolution of any issue or dispute arising in the first instance from this licence agreement. If any issue or dispute remains unsolved the respective [Chairs] of each party shall meet to discuss the problem.
- 10.2 If any dispute between the parties remains unresolved within four (4) weeks of the date on which the dispute arose, then either of the parties may serve notice on the other to require the dispute to be referred to an independent [chartered surveyor] of good repute who shall be nominated without delay by agreement between the parties (such agreement not to be unreasonably withheld or delayed by either of the parties) and who shall act as an expert and not as an arbitrator, provided that in default of agreement as to such nomination the expert shall be nominated on the joint application of the parties (or if either of them neglects to concur in such application, then on the sole application of the other) by the president or other chief officer or acting chief officer for the time being of the Royal Institution of Chartered Surveyors.
- 10.3 The following provisions shall apply if an expert is appointed to resolve a dispute between the relevant parties pursuant to sub-clause 10.1:
 - 10.3.1 the expert shall set a strict (but nevertheless fair) timetable, not exceeding two months in its entirety, with which the parties must comply in order to secure a resolution of their dispute without undue delay or expense;

- 10.3.2 the expert shall invite each of the parties (or their respective agents) to submit written representations to him to explain their respective cases in relation to the dispute;
- 10.3.3 the costs of the reference to the expert shall be borne equally between the parties, unless the expert directs otherwise;
- 10.3.4 the expert shall not be fettered or bound by any representations (or comments on the same) made to him by or on behalf of either of the parties;
- 10.3.5 the decision of the expert shall be final and binding on the parties (in the absence of manifest error or unfairness) provided that the expert provides each of the parties with a detailed statement setting out their reasons for making the decision which they have arrived at;
- 10.3.6 the expert shall not have exclusive jurisdiction on questions of construction of law.

IN WITNESS this Licence has been executed and has been delivered upon its dating.

SIGNED by)
and)
for and on behalf of the Licenser)

SIGNED)
and)
for and on behalf of the Licensee)

THE SCHEDULE

1. **Property**

Ardleigh Village Hall, Station Road, Ardleigh

2. **Available facilities and services**

See Clause 8

The Licensor permits the use of:
Sole use during permitted hours

Main hall, internal toilets, allocated store cupboard, shared store cupboards, allocated sheds.
Garden area.

Shared use

Foyer Entrance Area: Shared with other users except between [INSERT DETAILS] when reasonable efforts will be made for the Licensee to have sole use.

Kitchen area shared at all times.

3. **Permitted hours**

During Term Times set by the Licensee each year between the hours of 8.45am- 4.30pm on Mondays to Fridays, exclusive of reasonable adjustment for setting up and clearing away, bank and other public holidays and elections excepted or such other hours as the Licensor and Licensee shall from time to time agree.

Up to 6 additional bookings per year for fundraising, events or meetings, subject to availability, at no charge.

Published term dates for [INSERT date] are listed below

Summer Term:

[INSERT DETAILS]

Autumn Term: [INSERT

DETAILS]

Spring Term:

[INSERT DETAILS]

4. **Insured Risks**

The insured risks referred to in Clause 3.4.3 are: none.

Key contacts

[INSERT DETAILS]

Occupation Licence - Division of Cost between Charity and Licensee

This chart is designed to assist charity trustees and committee members of the Lessor to clarify the on-going responsibilities and costs of Lessor's business and enabling a decision by the charity as to whether the costs should form part of the Licence Fee or should be re-charged separately to the Licensee. By agreeing a figure for the far right column each party can see the contribution that the Licensee will be required to make to the charity for each item. If the costs are wrapped up in the Licence Fee, it is important that the Licence Fee is reviewed regularly by reference to this chart to ensure that the charity is not out of pocket.

Any blank spaces will indicate that the cost for that item will be met independently by the Licensee

Item	Responsibility	Notes	To be paid to charity each month (£)
Licence Fee	Licensee	Paid to charity monthly in advance.	[INSERT DETAILS] over 12 months
Rates	Charity	Beware that the Licensee's activities may be rateable and no relief available	
Gas and electricity	Both	Recharges made for proportion of gas and electricity paid based on unit charges for use during permitted hours.	Variable to be invoiced
Water	Charity	Charity includes the item in the Licence Fee.	
Insurance: Building	Charity	Charity includes the item in the Licence Fee.	
Insurance cover	Both	Each has cover for its own risks (eg public liability, employer's liability, contents, theft, loss of income). Copies of public liability insurance to be provided on request.	
Administration	Charity	Charity includes the item in the Licence Fee.	
Caretaking	Charity	Charity includes the item in the Licence Fee.	
Cleaning	Depends	Licensee cleans at end of each session. Charity includes regular cleaning in the Licence Fee.	
Decoration	Charity	Charity includes the item in the Licence Fee.	
Repairs and maintenance	Depends	Usually charity will include reasonable wear and tear in the Licence Fee, otherwise the Licensee will be responsible.	
Equipment, e.g. tables and chairs	Depends	Equipment available to hirers is included in Licence Fee.	
Refurbishment	Charity	Charged to the Licensee by an increase in Licence Fee.	
PRS/PPL licences	Charity	Charity includes the item in the Licence Fee.	
Car parking	Charity	Licensee has no rights, reasonable use of Village Hall car park permitted during permitted hours within Licence Fee.	
Refuse	Licensee	Licensee makes arrangements for refuse collection with permission for Charity employees to make use of the bins for modest amounts of refuse. Any excess charges caused by the Charity use of the Licensees bins would be passed on to the Charity.	
Security	Depends	CCTV included in the Licence Fee. The Licensee may pay separately for special events.	
General and fire safety	Depends	Normally charity will include the item in the Licence Fee. The Licensee may be responsible for area(s) specified in the Occupational Licence.	
Audit	Both	Pay independently.	
WiFi/ AV equipment	Depends	Charity includes the item in the Licence Fee	