

Dated 8th September 2009

Counterpart

LICENCE

relating to

MARINE LAKE GROUNDS PORTISHEAD

between

NORTH SOMERSET DISTRICT COUNCIL

and

PORTISHEAD TABLE TENNIS CLUB

Nicholas Brain
Solicitor to the Council
Town Hall
Weston-super-Mare
BS23 1UJ
PMR/10020967

THIS LICENCE made the 8th day of September Two thousand and nine **between North Somerset District Council** (hereinafter called "the Council) of the one part **AND PORTISHEAD TABLE TENNIS CLUB** (hereinafter called "the Club" which expression shall where the context so admits include its successors in title) acting by **JOHN WILLIAM HAWKING OF 118 Slade Road Portishead Somerset** and **BRIAN PEARSON of 19 St. Peters Road Portishead BS20 6QT** the authorised officers of the Club in that behalf of the other part

WITNESSETH as follows

1. IN consideration of the payments hereinafter covenanted to be made by the Club and the covenants and conditions hereinafter contained and on the part of the Club to be observed and performed the Council hereby grants unto the Club the following rights (hereinafter called "the rights"):-
 - 1.1 The right for the Club to use the land and buildings described in the First Schedule hereto for the purposes specified in the Second Schedule hereto (hereinafter called ("the permitted use") (all of which land and buildings and means of access are hereinafter collectively called "the Premises")
2. THE rights shall be exercised by the Club in common with the Council and all other persons now or hereafter authorised by the Council to use any of the facilities or premises affected by this Licence.
3.
 - 3.1 IT is the intention of the parties hereto that the Club and its members and any other person exercising the rights at the invitation of the Club shall do so at the risk of the Club and accordingly the Club agrees to indemnify the Council against all claims for which the Club is legally liable (as hereinafter defined) by any lawful visitor or invitee of the Club to the Premises who shall have entered thereon for the purpose (in whole or in part) of lawfully visiting the Club or who shall have entered thereon with the permission of the Club
 - 3.2 BY "claims" in the preceding sub-clauses is meant a claim in respect of the condition of the Premises or for breach of the statutory common duty of care or for the negligence of the Club or of those whose negligence the Council could or might otherwise be responsible

4. WITHOUT prejudice to the generality of Clause 2 or Clause 9 hereof and of the other terms of this Licence the Council or those authorised by them shall be at liberty to do anything on the Premises which may be required including allowing the use by other bodies or organisation more particularly the Lawn Tennis Club after prior consultation with the Club
5. THIS Licence shall be for a period of twelve years from the First day of November Two thousand and eight ("the Licence Period")
6. THE Licence Fee shall be at the rate of Seven hundred and fifty pounds (£750.00) per annum exclusive for the period of this Licence payable quarterly in advance on the usual quarter days the first payment to be made on the signing hereof in respect of the period from the 1 November 2008 until 28 September 2009 subject to review every five years as provided in the Third Schedule
7. THE Club hereby covenants with Council as follows:
 - 7.1 To make the said payments in accordance with the foregoing provisions whether the same be demanded or not
 - 7.2 The Club shall not use the pavilion for any other purpose than as a table tennis pavilion and any damage thereto as a result of such use shall be made good at the cost of the Club
 - 7.3 To exercise the rights hereby granted and to secure that the same shall be exercised by all members of the Club in such manner as to do as little damage as possible and to make adequate compensation for any damage nevertheless caused
 - 7.4 So to conduct their activities and to ensure that the rights hereby granted are so exercised as not in any way to interfere with or adversely affect the enjoyment of the Premises by the Council or by others authorised by them
 - 7.5 To use their best endeavours to expel any persons trespassing on the Premises
 - 7.6 To keep the premises both inside and outside clean and tidy and clear of litter
 - 7.7 To ensure that the rights are exercised by those authorised to exercise them in a reasonable and sportsmanlike manner
 - 7.8 Not to allow the rights to be exercised by any persons other than by members of the Club (subject however to the provision in this respect hereinafter

contained) PROVIDED ALWAYS that nothing in this sub-clause shall prevent the Club from inviting others Clubs to take part in their activities so long as the premises are not overcrowded and the general provisions of this Licence are observed

- 7.9 Not to sub-licence or part with the rights hereby granted over the premises or any part thereof
- 7.10 Not to assign the benefit of this Licence
- 7.11 At all times to insure and produce to the Council upon demand a copy of the policy and latest premium receipt in respect of all liability as occupier of the Premises and Third Party Risks and Public Liability Insurance in a reasonable sum being not less than five million pounds
- 7.12 Not to cause a nuisance or annoyance to the owners of occupiers of any adjoining land or buildings
- 7.13 To surrender and yield up to the Council the Premises in good substantial repair and condition in accordance with the foregoing covenants
- 8. THIS Licence may be determined
 - 8.1 Forthwith by notice given by the Council
 - 8.1.1 if at any time payment due hereunder is unpaid for twenty-eight days after becoming due (whether demanded or not)
 - 8.1.2 if the Club shall have failed for a period of twenty-eight days to remedy any breach (capable of remedy) of any of the stipulations and conditions herein contained after being required to remedy the same by notice in writing from the Council specifying the breach and requiring the same to be remedied
 - 8.1.3 on any breach by the Club of the stipulations and conditions herein contained which is in the opinion of the Council incapable of being remedied and is stated so to be in the notice given by the Council
 - 8.1.4 if any effective resolution be passed for the winding up of the Club or if the Club shall be wound up
 - 8.2 By the Club giving not less than six months notice in writing to the Council
 - 8.3 Forthwith by notice given by the Club or the Council if the Premises are damaged or destroyed so as to make the Premises unfit for use as a Table Tennis Pavilion

9. IT IS HEREBY AGREED between the parties that this Agreement constitutes a licence and confers no tenancy upon the Club and that possession of the premises is retained by the Council subject however to the rights created by this Licence and any other Licence
10. THE provisions with regard to notices contained in Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Services Act 1962 shall apply to this Licence as if incorporated herein and as if the Council were lessors and the licensees were lessees
11. IF at any time hereafter any dispute doubt or question shall arise between the Council and the Club touching the construction meaning or effect of this Licence or any clause or thing herein contained or their respective rights or liabilities under these presents or otherwise in relation to the Premises then every such dispute doubt or question shall be referred to the arbitration or decision of two independent persons one to be appointed by each party and this clause shall be deemed to be a submission to arbitration within the Arbitration Act 1996 or any statutory modification of it

IN WITNESS whereof the Council has hereunto affixed its Common Seal and the authorised Officers on behalf of the Club have signed this instrument in the presence of the persons mentioned below as their Deed the day and year first before written

THE FIRST SCHEDULE

ALL THAT piece or parcel of land forming part of the Marine Lake Grounds Portishead with the pavilion erected thereon which land is shown for the purposes of identification only coloured pink on the plan annexed hereto

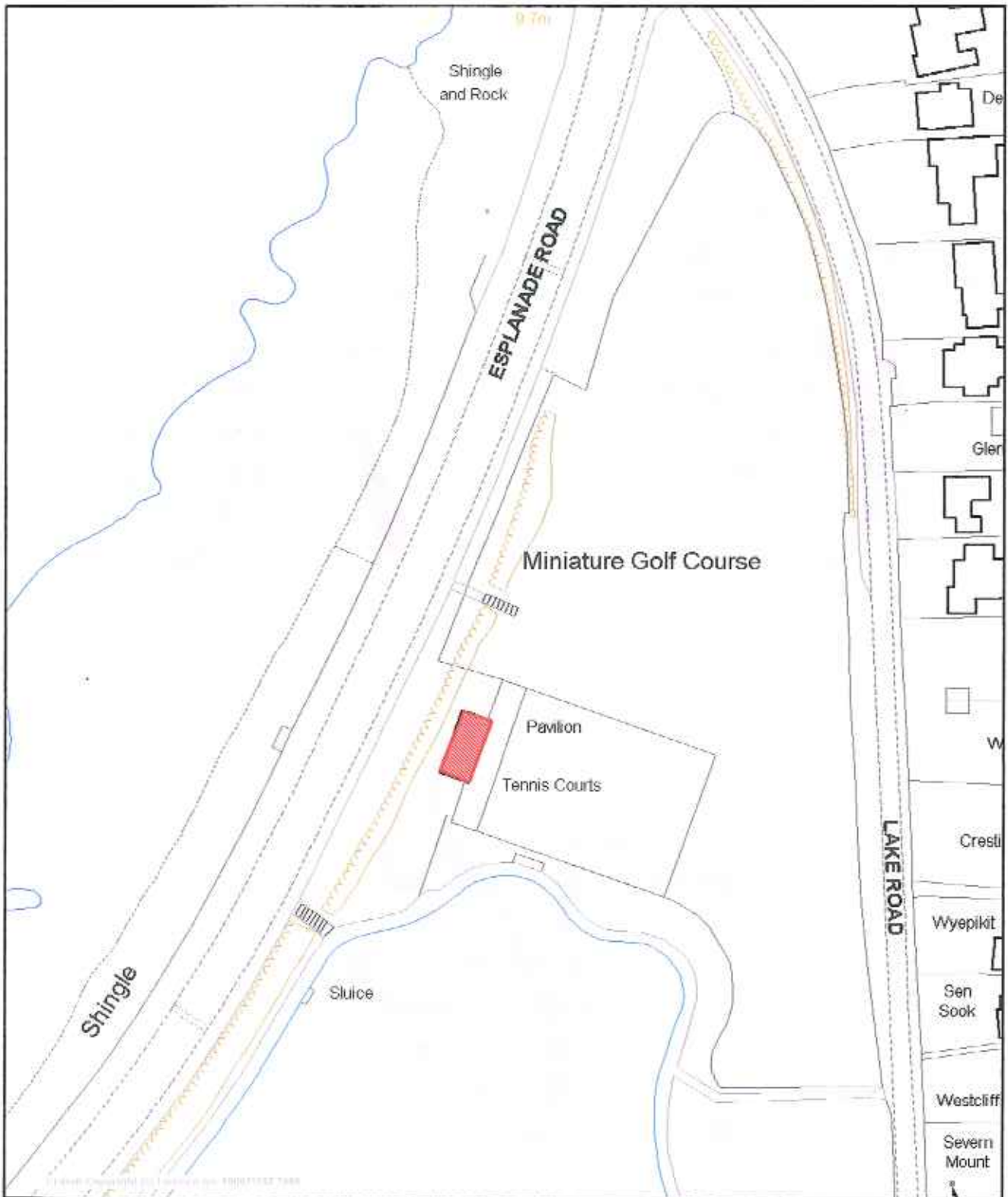
THE SECOND SCHEDULE

The premises are to be used as a Table Tennis Pavilion by the Portishead Table Tennis Club such use is to be shared with other users of the Premises

THE THIRD SCHEDULE

Review of Licence Fee

1. In this Licence
"review date" means 1 November in the year 2013 and in the year 2018 and



Project

Tennis Pavilion

Scale 1/1250

Location

Portishead Lake Grounds

Drawn by

Client

Drawing No.

OS Licence No.
100023397 / 2009

Centre = 346463 E 177304 N
Date 31/3/2009

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Scale is approximate to be used as a guide only

SourceMap is for general guidance only and cannot be relied on for the existence or details of any PROW. The Council accepts no responsibility for any omission or error therein

A formal reply will be provided by the Council in reply to relevant enquiry in a Local Search

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"review period" means the period starting with any review date up to the next review date or starting with the last review date down to the end of the Licence Period

2. The yearly Licence Fee shall be
 - 2.1 until the first review date the Licence Fee of £750 per annum and
 - 2.2 during each successive review period an amount equal to the Licence Fee previously payable hereunder or such revised Licence Fee as may be ascertained as herein provided whichever be the greater
3. Such revised Licence Fee for any review period may be agreed at any time between the Council and the Club or (in the absence of agreement) determined not earlier than the relevant review date by an arbitrator such arbitrator to be nominated in the absence of agreement by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Council or the Club made not earlier than six months before the relevant review date so that in the case of such arbitration the revised Licence Fee to be awarded by the arbitrator shall be such as he shall decide is the yearly Licence Fee at which the Premises might reasonably be expected to be let at the relevant review date
 - (A) On the following assumptions at that date:
 - 3.1 That the Premises:
 - 3.1.1 are available to be licensed on the open market without a fine or premium with vacant possession by a willing Council to a willing Club for a licence period of 12 years
 - 3.1.2 are to be licensed as a whole subject to the terms of this Licence (other than the amount of Licence Fee hereby reserved but including the provisions for review of that Licence Fee)
 - 3.1.3 are fit and available for immediate occupation
 - 3.1.4 may be used for any of the purposes permitted by this Licence as varied or extended by any Licence granted pursuant thereto
 - 3.2 That the covenants herein contained on the part of the Council and the Club have been fully performed and observed
 - 3.3 That no work has been carried out to the Premises which has diminished the value and that in case the Premises have been destroyed or damaged they have been fully restored

(B)

- 3.4 But disregarding:
- 3.4.1 any effect on the Licence Fee of the fact that the Club or its sub-tenants or predecessors in title have been in occupation of the Premises
 - 3.4.2 any goodwill attached to the Premises by reason of the carrying on thereof of the business of the Club
 - 3.4.3 any increase in rental value of the Premises attributable to the existence at the relevant review date of any improvement to the Premises or any part thereof carried out with consent where required otherwise than in pursuance of an obligation to the Council or its predecessors in title except obligations requiring compliance with statutes or directions of local authorities or other bodies exercising powers under statute or Royal Charter either (a) by the Club during the Licence Period or during any period of occupation prior thereto arising out of an agreement to grant such licence or (b) by the Club before commencement of the Licence Period hereby granted so long as the Council has not since the improvement was carried out had vacant possession of the relevant part of the Premises
4. It is hereby further provided in relation to the ascertainment and payment of revised Licence Fee as follows:
- 4.1 The arbitration shall be conducted in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force with the further provision that if the arbitrator nominated pursuant to Clause 3 hereof shall die or decline to act the President for the time being of the Royal Institution of Chartered Surveyors or the person acting on his behalf may on the application of either the Council or the Club by writing discharge the arbitrator and appoint another in his place
 - 4.2 When the amount of any Licence Fee to be ascertained as hereinbefore provided shall have been so ascertained memoranda thereof shall thereupon be signed by or on behalf of the Council and the Club and be annexed to this Licence and the counterpart thereof and the Council and the Club shall bear their own costs in respect thereof
 - 4.3

- 4.3.1 If the revised Licence Fee payable on and from any review date has not been agreed by that review date the Licence Fee shall continue to be payable at the rate previously payable and forthwith upon the revised Licence Fee being ascertained the Club shall pay to the Council any shortfall between the Licence Fee and the revised Licence Fee payable up to and on the preceding quarter day together with interest on any shortfall at the seven day deposit rate of National Westminster Bank plc such interest to be calculated on a day to day basis from the relevant review date on which it would have been payable if the revised Licence Fee had then been ascertained to the date of actual payment of any shortfall and the interest so payable shall be recoverable in the same manner as the Licence Fee in arrear or as the case may be as a debt
- 4.3.2 for the purposes of this proviso the revised Licence Fee shall be deemed to have been ascertained on the date when the same has been agreed between the Council and the Club or as the case may be the date of the award of the arbitrator
5. If either the Council or the Club shall fail to pay any costs awarded against it in an arbitration under the provisions hereof within 21 days of the same being demanded by the arbitrator the other shall be entitled to pay the same and the amount so paid shall be repaid by the party chargeable on demand

SIGNED by the said JOHN WILLIAM)

HAWKING as this his Deed in the presence of:)

John Hawking
M Pearson

Witness

Name MRS MARIAN PEARSON
Address 19 ST PETERS RD.
PORTISHEAD

Occupation RETIRED

SIGNED by the said BRIAN PEARSON
as this his Deed in the presence of:

) ^{B. Pearson}
Brian Pearson - X
) M Pearson

Witness

Name MRS MARIAN PEARSON

Address 19 ST. PETERS RD.
PORTISHEAD

Occupation RETIRED