



DATED 19 July 2019

LICENCE TO OCCUPY ON SHORT TERM BASIS

relating to land on the North East side of Love Lane,  
South Norwood, London SE25 between



and

TRAMTRACK CROYDON LIMITED

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THIS LICENCE is dated 19 July .....2019

**PARTIES**

- (1) [REDACTED] and [REDACTED] care of 12 Turpington Lane, Bromley BR2 8JX (**Licensor**).
- (2) TRAMTRACK CROYDON LIMITED (Company Number 03092613) whose registered office is at 55 Broadway, London, United Kingdom, SW1H 0BD (**Licensee**).

**WHEREAS**

- (1) The Licensee has been allowed to occupy the premises on a temporary basis to provide the Licensee access to undertake repairs to the adjacent railway line.
- (2) This agreement is not intended to confer exclusive possession on the Licensee or to create the relationship of landlord and tenant between the parties.

**AGREED TERMS**

**1. INTERPRETATION**

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

**1.1 Definitions:**

**Additional Licence Fee:** [REDACTED] per month

**Common Parts:** such roads, paths and other means of access in or upon the Licensor's Property the use of which is necessary for obtaining access to and egress from the Premises as designated from time to time by the Licensor.

**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.

**Designated Hours:** 24 hours per day, seven days a week including weekends and Bank Holidays

**Expert Determination;** means a reference to an independent chartered surveyor who shall have been a Fellow of the Royal Institution of Chartered Surveyors for at least 10 years and with at least 5 years' experience in valuation and surveying issues relating to similar agreements (or if the parties consider more appropriate, to Counsel), such surveyor to be appointed in default of agreement by the President for the time being of the Royal Institution of Chartered Surveyors, and Counsel to be appointed in default of agreement by the President for the time being of the Law Society, and such appointee

shall act as an expert and not an arbitrator but who shall afford both parties an opportunity to make representations and who shall give reasons in writing for his decision, and his decision shall in the absence of manifest error or negligence be binding upon the parties, and his costs and the costs of his appointment shall be in his award

**Licence Fee:** [REDACTED]

**Licence Period:** the period of 12 months from and including the Occupation Date subject to extension in accordance with clause 2.3 or the date on which this licence is determined in accordance with clause 4.

**Licensor's Property:** the property known as land on the north east side of Love Lane, South Norwood, London SE25 registered under Title Number SGL23314.

**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.

**Occupation Date:** means the date upon which the Licensee gives written notice to the Licensor in accordance with clause 2.2 that it intends to occupy the relevant part of the Premises for the purposes of this Licence which is estimated to be 19<sup>th</sup> July 2019

**Permitted Use:** Storage and handling of materials and equipment required in association of the repair of the adjacent rail way line including operating machinery and vehicular deliveries and collections, and for temporary siting of welfare containers to provide toilet and basic kitchen and seating facilities

**Plan:** the plan attached to this licence.

**Premises:** the part of the Licensor's Property shown coloured blue on the Plan

**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.

## Land at Love Lane

### Legend

 Property boundary



0 40 80 m  
Scale at A4 1:2000  
Coordinate Reference System: British National Grid

Date 14/06/2018

Initials AA

Drg. No. GR-LOVELANE

Rev 0

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- 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 provisions 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 Unless expressly provided otherwise, the obligations and liabilities of Licensee under this licence are joint and several.
- 1.14 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

## **2. LICENCE TO OCCUPY**

- 2.1 Subject to clause 3 and clause 4, the Licensor in consideration of payment of the Licence Fee which the Licensor acknowledges that it has received permits the Licensee to occupy the Premises for the Permitted Use from the Occupation Date 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 Premises for the Permitted Use) together with the rights mentioned in the Schedule 1.

- 2.2 The Licensee shall give to the Licensor not less than 14 days prior written notice of the date that it intends to occupy the Premises for the purposes set out in this Licence if it shall be different to the Occupation Date for the purposes of this Licence.
- 2.3 Subject to payment of the Additional Licence Fee the Licensee may extend the Licence Period for an additional 2 months by serving written notice on the Licensor prior to the end of the Licence Period if the Premises is still required for operational construction or engineering reasons, including but not limited to delays caused by severe weather.
- 2.4 The Licensee acknowledges that:
- (a) the Licensee shall occupy the Premises 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 Premises and the Licensee has no right to exclude the Licensor from the Premises;
  - (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 and its employees and contractors; and
  - (d) without prejudice to its rights under clause 4, the Licensor shall be entitled at any time on giving not less than 4 weeks' notice to require the Licensee to transfer to alternative premises and the Licensee shall comply with such requirement.
- 2.5 The Licence Fee and any other sums payable under this Licence are exclusive of VAT. Where, under the terms of this Licence, a supply is made that is subject to VAT, the person receiving the supply is to pay the VAT to the person making the supply and a valid VAT invoice is to be issued by the person making the supply.
- 2.6 If the Licence Fee or any other moneys payable under this Licence are not paid within seven days of the due date for payment, the Licensee is to pay interest on those moneys at 3% per annum above the base rate from time to time of National Westminster Bank plc calculated from the due date of payment to the actual date of payment, both dates inclusive.
- 3. LICENSEE'S OBLIGATIONS**
- 3.1 The Licensee agrees and undertakes:
- (a) to keep the Premises clean, tidy and clear of rubbish and in good order and condition;
  - (b) not to use the Premises other than for the Permitted Use;

- (c) not to make any alteration or addition whatsoever to the Premises save as authorised by the Permitted Use;
- (d) not to display any advertisement, signboards, nameplate, inscription, flag, banner, placard, poster, signs or notices at the Premises without the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed save for any health & safety notices which may be required to comply with any statute or regulation which may be installed without consent;
- (e) not to do or permit to be done on the Premises 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 occupiers of the Premises or any owner or occupier of neighbouring property PROVIDED that the use of the Premises for the Permitted Use and any associated works shall not be a breach of this clause;
- (f) not to cause or permit to be caused any damage to:
  - (i) the Premises or any neighbouring property; or
  - (ii) any property of the owners or occupiers of the Premises, or any neighbouring property;
- (g) not to obstruct the Common Parts, make them dirty or untidy or leave any rubbish on them;
- (h) not to apply for any planning permission in respect of the Premises;
- (i) not to do anything that will or might constitute a breach of any Necessary Consents affecting the Premises or which will or might vitiate in whole or in part any insurance effected by the Licensor in respect of the Premises from time to time;
- (j) to comply with all laws and with any recommendations of the relevant suppliers relating to the supply of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Premises (if applicable);
- (k) to comply with all statutory regulations and good practice guidance in relation to health and safety in connection with the Premises and the Permitted Use and to obtain public liability and third party insurance for the Premises and in relation to the Permitted Use to be maintained for the Licence Period;
- (l) 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 Premises and the Common Parts;
- (m) to leave the Premises in a clean and tidy condition and in no worse state and condition as evidenced by the Schedule of Condition agreed in accordance with clause 3.1(p) and to remove the Licensee's equipment and goods from the Premises at the end of the Licence Period.

(n) 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 damage caused to the Licensor's Property to the reasonable satisfaction of the Licensor;
- (iii) any breach of the Licensee's undertakings contained in clause 3; and
- (iv) the exercise of any rights given in clause 2

and if reasonably required by the Licensor in writing, to supply evidence of any employers, public and third party liability insurance maintained by the Licensor or their contractors pursuant to this Licence

PROVIDED ALWAYS that the Licensor shall use reasonable endeavours to mitigate against any such losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability that do occur.

- (o) to secure the Premises at all times when not in use so as to prevent any unauthorised persons from accessing the Premises and to be responsible for any trespass that occurs on the Licensor's Property as a consequence of the Licensee failing to comply with the obligations in this clause 3(q).
- (p) upon the Licensee taking occupation of the Premises the Licensee shall be permitted to clear all overgrown vegetation and weeds from the Premises and following such clearance shall prepare at its own cost a photographic schedule of condition ("the Schedule of Condition") and to provide a copy to the Licensor for the Licensor's approval such approval not to be unreasonably withheld or delayed. Once approved the Schedule of Condition shall be appended as an Addendum to this Licence. Such Schedule of Condition will form the basis of the Licensee's obligations in sub-clause (m) above.
- (q) to supply a name and mobile telephone number of the site foreman and when that site foreman is unavailable a substitute contact.

#### **4. TERMINATION**

4.1 This licence shall end on the earliest of:

- a. the expiry of the initial Licence Period or such extended period notified by the Licensee to the Licensor in accordance with clause 2.3; and
- b. 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.

4.2 The Licensee may terminate this Licence by giving to the Licensor not less than 4 weeks' written notice.

4.3 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.

## **5. NOTICES**

5.1 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 the address referred to in this Licence and marked for the attention of the Licensor; and
- (b) to the Licensee at: the registered office address and marked for the attention of the Licensee,  
or as otherwise specified by the relevant party by notice in writing to each other party.

5.2 Any notice or other communication given in accordance with clause 5.1 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 property 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.

5.3 A notice or other communication given under this licence shall not be validly given if sent by e-mail.

5.4 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.

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

6.1 The Licensor gives no warranty that the Premises possess the Necessary Consents for the Permitted Use.

6.2 The Licensor gives no warranty that the Premises is physically fit for the purposes specified in clause 2.

6.3 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 6.1 or clause 6.2.

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

**7. LIMITATION OF LICENSOR'S LIABILITY**

7.1 Subject to clause 7.2, the Licensor is not liable for:

- (a) the death of, or injury to the Licensee, its employees, customers or invitees to the Premises; or
- (b) damage to any property of the Licensee or that of the Licensee's employees, customers or other invitees to the Premises; 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 Premises
- (d) in the exercise or purported exercise of the rights granted by clause 2.

7.2 Nothing in clause 7.1 shall limit or exclude the Licensor's liability for:

- (a) death or personal injury or damage to property 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.

**8. EXPERT DETERMINATION**

Any dispute or difference arising out of this agreement shall be referred to Expert Determination

**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**

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.

**Schedule 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 Premises as shall from time to time be designated by the Licensor for such purpose.

for and on behalf of  
Signed by [redacted]

Jury O'Shea LLP

for and on behalf of  
Signed by [redacted]

Jury O'Shea LLP

Signed by and for and on behalf of  
TRAMTRACK CROYDON LIMITED

.....  
Authorised Signatory

