

THIS DEED is dated.....2012

PARTIES

- (1) **SURREY COUNTY COUNCIL** of County Hall, Penrhyn Road, Kingston-Upon-Thames, Surrey, KT1 2DN (the “**Licensor**”).
- (2) **SURREY HILLS ENTERPRISES C.I.C.** incorporated and registered in England and Wales with company number 8114796 whose registered office is at Birtley House, Bramley, Guildford, Surrey, GU5 0LB (the “**Licensee**”).

each a “**Party**” and together the “**Parties**”.

BACKGROUND

- (A) The Licensee is a Community Interest Company whose objects include the development of an image, and an identity, for the Surrey Hills Area of Outstanding Natural Beauty, and to develop and support initiatives to encourage economic activity, and improve social or environmental well-being, within the Surrey Hills community and its neighbouring counties.
- (B) Pending the incorporation and full establishment of the Licensee, the Licensor applied for and is the owner of the Mark (as defined below) on behalf of the Licensee.
- (C) It is the Parties’ intention that upon the full establishment of the Licensee the Licensor will assign the Mark to the Licensee.
- (D) Pending such full establishment the Licensee wishes to use the Mark in the Territory (as defined below) for the Purpose (as defined below) and the Licensor is willing to grant to the Licensee a licence to use the Mark on the terms and conditions set out in this deed.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this deed.

Effective Date: the date of this deed.

Purpose: any activity consistent with the objects of the Licensee.

Mark: the trade mark set out in Schedule 1.

Territory: the world.

2. GRANT

2.1 The Licensor hereby grants to the Licensee an exclusive licence to use the Mark for the Purpose in the Territory.

2.2 The Licensor undertakes not to use the Mark in the Territory or to grant others the right to do so.

- 2.3 The Licensee shall have the right to grant to any person a sub-licence of any of its rights under this deed.

3. TITLE, GOODWILL AND REGISTRATION

- 3.1 The Licensee acknowledges that the Licensor is the owner of the Mark.
- 3.2 Any goodwill derived from the use by the Licensee of the Mark shall accrue to the Licensor. The Licensor may, at any time, call for a confirmatory assignment of that goodwill and the Licensee shall immediately execute it.
- 3.3 Neither Party shall do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the Mark or the reputation or goodwill associated with the Mark, or that may invalidate or jeopardise any registration of the Mark.
- 3.4 The Licensor shall at its own expense take all reasonable steps to maintain any existing registrations of the Mark and the Licensee shall provide, at the request of the Licensor, all necessary assistance in such maintenance. The Licensor shall provide to the Licensee on request copies of receipts of renewal fees.

4. RECORDAL OF LICENCE

- 4.1 The Licensee shall, at its own cost and as soon as reasonably practicable, record the licence granted to it in clause 2 in the relevant registries in the Territory against the Mark.
- 4.2 The Licensor shall provide reasonable assistance to enable the Licensee to comply with clause 4.1.

5. PROTECTION OF THE MARK

- 5.1 The Parties shall immediately notify each other in writing giving full particulars if any of the following matters come to their attention:
- (a) any actual, suspected or threatened infringement of the Mark;
 - (b) any actual or threatened claim that the Mark is invalid;
 - (c) any actual or threatened opposition to the Mark;
 - (d) any claim made or threatened that use of the Mark infringes the rights of any third party;
 - (e) any person applies for, or is granted, a registered trade mark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to the Licensee under this deed; or
 - (f) any other form of attack, charge or claim to which the Mark may be subject.

5.2 If any third party infringement of the Mark in the Territory interferes materially in the Licensee's business, subject to receiving advice from experienced trade mark counsel that infringement proceedings stand a reasonable chance of success, the Licensee may commence proceedings and may require the Licensor to lend its name to such proceedings and provide reasonable assistance, subject to the Licensee giving the Licensor an indemnity in respect of all costs, damages and expenses that it may incur, including an award of costs against it, directly resulting from the Licensor's involvement in such proceedings.

6. LIABILITY

6.1 To the fullest extent permitted by law, the Licensor shall not be liable to the Licensee for any costs, expenses, loss or damage (whether direct, indirect or consequential, and whether economic or other) arising from the Licensee's exercise of the rights granted to it under this deed.

7. ADDITIONAL LICENSEE OBLIGATIONS

7.1 The Licensee shall:

- (a) ensure that the any products to which the Mark is applied are safe for the use for which they were intended;
- (b) obtain at its own expense all licences, permits and consents necessary for the provision of such products in the Territory;

7.2 The Licensee acknowledges and agrees that the exercise of the licence granted to the Licensee under this deed is subject to all applicable laws, enactments, regulations and other similar instruments in the Territory, and the Licensee understands and agrees that it shall at all times be solely liable and responsible for such due observance and performance.

8. ASSIGNMENT AND OTHER DEALINGS

8.1 Neither party shall without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, assign, transfer, mortgage, charge, declare a trust of or deal in any other manner with any of its rights or obligations under this deed.

9. DURATION AND TERMINATION

9.1 This Deed shall come into force on the Effective Date and shall remain in force unless terminated in accordance with clause 9.2 or clause 9.3.

9.2 This Deed will terminate automatically upon the assignment of the Mark to the Licensee by the Licensor.

9.3 Without prejudice to any rights that have accrued under this deed or any of its rights or remedies, the Licensor may terminate this deed immediately by giving written notice to the Licensee if:

- (a) the Licensee suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (b) the Licensee commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into, any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Licensee with one or more other companies or the solvent reconstruction of the Licensee;
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Licensee other than for the sole purpose of a scheme for a solvent amalgamation of the Licensee with one or more other companies or the solvent reconstruction of the Licensee;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given, or if an administrator is appointed over the Licensee;
- (e) a floating charge holder over the assets of the Licensee has become entitled to appoint, or has appointed, an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Licensee or a receiver is appointed over the assets of the Licensee;
- (g) a creditor or encumbrancer of the Licensee attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 28 days;
- (h) any event occurs, or proceeding is taken, with respect to the Licensee in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.3(a) to clause 9.3(g) (inclusive); or
- (i) the Licensee suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

10. EFFECT OF TERMINATION

10.1 On termination of this deed for any reason (other than pursuant to clause 9.2) and subject to any express provisions set out elsewhere in this deed:

- (a) all rights and licences granted pursuant to this deed shall cease;
- (b) the Licensee shall cease all use of the Mark save as set out in this clause;
and

- (c) the Licensee shall co-operate with the Licensor in the cancellation of any licences registered pursuant to this deed and shall execute such documents and do all acts and things as may be necessary to effect such cancellation.

10.2 The termination of this deed, for any reason, shall not affect any provision of this deed which is expressed to survive or operate in the event of termination and shall be without prejudice to the provisions of this clause 10 and to any rights of either party which may have accrued by, at or up to the date of such termination.

11. FURTHER ASSURANCE

Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this deed.

12. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

13. ENTIRE AGREEMENT

13.1 This deed and the documents referred to in it constitute the whole agreement between the parties, and supersede all previous agreements between the parties relating to its subject matter.

13.2 Each of the parties acknowledges and agrees that, in entering into this deed, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether negligently or innocently made) other than as expressly set out in this deed.

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

14. VARIATION

No variation of this deed shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15. SEVERANCE

15.1 If any court or competent authority finds that any provision of this deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this deed shall not be affected.

- 15.2 If any invalid, unenforceable or illegal provision of this deed would be valid, enforceable and legal if some part of it were deleted, [the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable **OR** the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention].

16. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this deed, but all the counterparts shall together constitute the same agreement.

17. THIRD PARTY RIGHTS

No person other than a party to this deed shall have any rights to enforce any term of this deed.

18. NO PARTNERSHIP OR AGENCY

Nothing in this deed is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of another party, nor authorise either party to make or enter into any commitments for or on behalf of the other party

19. FORCE MAJEURE

Neither party shall be in breach of this deed nor liable for delay in performing, or failure to perform, any of its obligations under this deed if such delay or failure results from events, circumstances or causes beyond its reasonable control, and in such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 12 months, the party not affected may terminate this deed by giving 28 days' written notice to the other party.

20. NOTICES

- 20.1 Any notice required to be given under this deed shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each party required to receive the notice at its address as set out below.

- (a) Licensor: [NAME OF CONTACT] at [ADDRESS]; and
- (b) Licensee: [NAME OF CONTACT] at [ADDRESS],

or as otherwise specified by the relevant party by notice in writing to each other party.



- 20.2 Any notice shall be deemed to have been duly received:
- (a) if delivered personally, when left at the address and for the contact referred to in this clause;
 - (b) if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or
 - (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 20.3 A notice required to be given under this deed shall not be validly given if sent by e-mail.
- 20.4 The provisions of this clause 20 shall not apply to the service of any proceedings or other documents in any legal action.

21. GOVERNING LAW AND JURISDICTION

- 21.1 This deed 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.
- 21.2 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 deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 The Mark

Mark	Number	Territory	Filing Date	Classes
 Surrey Hills  Surrey Hills	2282096	UK	1/10/2001	03, 16, 18, 29, 30, 31, 32, 33, 39, 40, 41, 42, 43, 44

EXECUTED as a DEED by [**SURREY**)
COUNTY COUNCIL acting by a)
[director] in the presence of:)
)

W Signature
I Name
T Address
N
E
S
S Occupation

EXECUTED as a DEED by **SURREY**)
HILLS ENTERPRISES C.I.C.)
LIMITED acting by a director in the)
presence of:)

W Signature
I Name
T Address
N
E
S
S Occupation