

*[On University Hospital Southampton NHS FT headed paper]*

**Southampton City Council**

Strategic Transport  
Southampton City Council  
1st Floor, One Guildhall Square  
Southampton, SO50 7LY

**FAO: Geoff Hobbs**

[Date]

Dear Geoff

**Licence Heads of Terms with University Hospital Southampton NHS Foundation Trust relating to weekend use of the Multi-Storey Car Park, Adanac Drive, Adanac Park, Southampton**

**1. Background**

- 1.1. University Hospital Southampton NHS Foundation Trust (the **Trust**) has an option to purchase the freehold of land at Adanac Park, Nursling, Southampton (**Adanac Park**). Upon the acquisition, the Trust intends to enter into a development agreement with CEDP Project Co Limited (the **Developer**) to construct a new multi-storey car park with associated access, servicing, and landscaping on that land (the **Development**).
- 1.2. The Trust will grant a lease of Adanac Park to the Developer or its funder and, on completion of the Development, the Developer or funder (**Landlord**) will enter into an underlease with the Trust for the use of the Development by the Trust (**Underlease**).
- 1.3. [Pursuant to the terms of the Underlease, the Trust may grant a licence to a third party to occupy the Premises (as defined in paragraph 5 below).] The Trust intends to grant Southampton City Council (**SCC**) a licence to use the Premises (the **Licence**) on the terms set out in this letter (the **Heads of Terms**). These Heads of Terms are not intended to create any legally binding obligations (except where specifically stated). They are subject to contract, and completion of formally executed legal documentation.
- 1.4. These Heads of Terms are confidential to the intended parties to the proposed Licence and to their professional advisors.
- 1.5. The proposed Licence may contain further terms as the Trust may require, including additional terms on matters that are covered in these Heads of Terms.

**Agreed Terms**

**2. Duration and effect of these Heads of Terms**

- 2.1. Our mutual obligations under these Heads of Terms start on the date of this letter and last until the earlier of: (i) the execution and completion of the Licence, or (ii) the termination of these Heads of Terms by mutual written agreement of the parties,

which the parties agree will terminate in the event that the Development does not proceed for whatever reason.

- 2.2. On the execution and completion of the Licence, our mutual rights and obligations in respect of all matters with which these Heads of Terms are concerned shall be subsumed into and be subject to the Licence.
3. **Licensor:** University Hospital Southampton NHS Foundation Trust of Ground Floor, Trust Management Offices, Mailpoint 18, Southampton General Hospital, Tremona Road, Southampton SO16 6YD.
4. **Licensee:** Southampton City Council (Strategic Transport) of 1st Floor, One Guildhall Square, Southampton SO50 7LY.
5. **Premises:** the building briefly described as the Multi-Storey Car Park, Adanac Drive, Adanac Park, Southampton.
6. **Commencement Date:** on and from the date the Premises are open and available for use, such date to be agreed in writing between the parties.
7. **Licence Fee:** a one-off payment calculated on the basis of 2/7<sup>th</sup> of the initial annual repayment cost to the Trust of funding the total capital costs of the Premises and associated infrastructure and facilities (minus any SCC Design Costs already paid by SCC pursuant to paragraph 11.2 below) multiplied by five (5) and to be agreed on an open book basis, payable on the Commencement Date of the Licence for the occupation of the Premises during the Licence Period.
8. **SCC Design Costs:** the total design and capital costs associated with any additional works requested by SCC which are included in the Development, being the design of, and works in relation to, infrastructure (including, but not limited to, payment points) which are solely required at the Premises by SCC to enable it to exercise the Permitted Use.
9. **Licence Period:** from and including the Commencement Date for an initial term of five (5) years. For the avoidance of doubt, SCC acknowledges and agrees that in the event that the Underlease is terminated for any reason, the Licence shall also terminate immediately and automatically, and such termination shall be subject to all the rights of the parties accrued up to the date of termination. This paragraph 9 is legally binding.
10. **Licence**
  - 10.1. In consideration of payment by SCC of the Licence Fee and the SCC Design Costs, SCC will have the right, during the Licence Period, to use the Premises with associated access and infrastructure for a park and ride service on weekends (Saturdays and Sundays) between the hours of 6am and 10pm. SCC will make the park and ride available to the public, with a bus link to the city centre (**Permitted Use**).
  - 10.2. SCC must only use the Premises for the Permitted Use.

- 10.3. The rights given to SCC in the Licence will be personal to SCC and, accordingly, SCC will not be entitled to assign or otherwise deal with the rights.
- 10.4. It is not the intention of the parties to the Licence to create a tenancy.
- 10.5. The parties may agree to extend the Licence following the expiry of the Licence Period.

## 11. Fees

- 11.1. SCC will pay the Trust the Licence Fee on the Commencement Date of the Licence into a bank account nominated by the Trust.
- 11.2. SCC has also agreed to pay the Trust the SCC Design Costs in relation to the Premises. The parties will agree the SCC Design Costs on an open book basis and SCC will be required to pay such costs to the Trust (into a bank account nominated by the Trust) within 30 days of the parties agreeing such SCC Design Costs. For the avoidance of doubt, the parties agree that:
  - 11.2.1. SCC must pay the Trust the SCC Design Costs prior to the Commencement Date of the Licence; and
  - 11.2.2. the SCC Design Costs will be deducted from the Licence Fee due and payable by SCC pursuant to paragraph 7 above.
- 11.3. In the event that:
  - 11.3.1. the Development does not proceed, for whatever reason;
  - 11.3.2. the Licence is not entered into; and/or
  - 11.3.3. these Heads of Terms are terminated pursuant to paragraph 2.1 above,SCC shall indemnify the Trust for any SCC Design Costs for which the Trust becomes liable. This paragraph 11.3 is legally binding.
- 11.4. The Licence Fee and the SCC Design Costs are exclusive of VAT, rates, service charges, insurance premiums and all other outgoings.
- 11.5. SCC will pay a service charge to the Trust on a quarterly basis in arrears from the Commencement Date]. The amount will be calculated on the basis of 2/7<sup>th</sup> of the annual service charge costs set out in the Underlease multiplied by five (5) and to be agreed on an open book basis.
- 11.6. The parties will also agree whether the following services will be provided by the Trust or SCC: security, helpline and CCTV services. If the parties agree that such services will be provided by the Trust, the parties will agree the scope and costing arrangements for such services and these will be covered in the Licence.

12. **Conditions**

12.1. The parties to these Heads of Terms acknowledge that the grant of the Licence will be subject to the following:

12.1.1. the completion of the purchase of Adanac Park by the Trust and the construction of the Premises;

12.1.2. the grant of any planning permission, planning conditions and any other necessary consents, licences and authorisations required for the Permitted Use;

12.1.3. the Trust entering into the Underlease with the Landlord; and

12.1.4. the Trust complying with its obligations in the Underlease in relation to the grant of the Licence.

13. **Costs**

Each party is responsible for its own legal costs in connection with this transaction, whether or not it proceeds. This paragraph 13 is legally binding.

For and on behalf of **UNIVERSITY HOSPITAL SOUTHAMPTON NHS FOUNDATION TRUST**

Signed by .....

For and on behalf of **SOUTHAMPTON CITY COUNCIL**

Signed by .....