

DATED

do not date

2017

**MID SUSSEX DISTRICT COUNCIL (1)**

and

**BURGESS HILL TOWN COUNCIL (2)**

**LICENCE AGREEMENT**

Relating to land known as Hammonds Ridge Meadow,  
off Jane Murray Way, Burgess Hill, West Sussex

Tom Clark  
Solicitor to the Council  
Mid Sussex District Council,  
"Oaklands" Oaklands Road,  
Haywards Heath,  
West Sussex  
RH16 1SS

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THIS LICENCE is dated

day of

2017

**BETWEEN**

- (1) **MID SUSSEX DISTRICT COUNCIL** of Oaklands, Oaklands Road, Haywards Heath, West Sussex RH16 1SS (**the Council**)
- (2) **BURGESS HILL TOWN COUNCIL** of 96 Church Walk, Burgess Hill, West Sussex RH19 9AS (**the Licensee**)

**BACKGROUND**

- (A) The Council has agreed to grant to the Licensee licence to use the Land during the Licence Period for the Permitted Use.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 The following definitions and rules of interpretation shall apply to this licence:

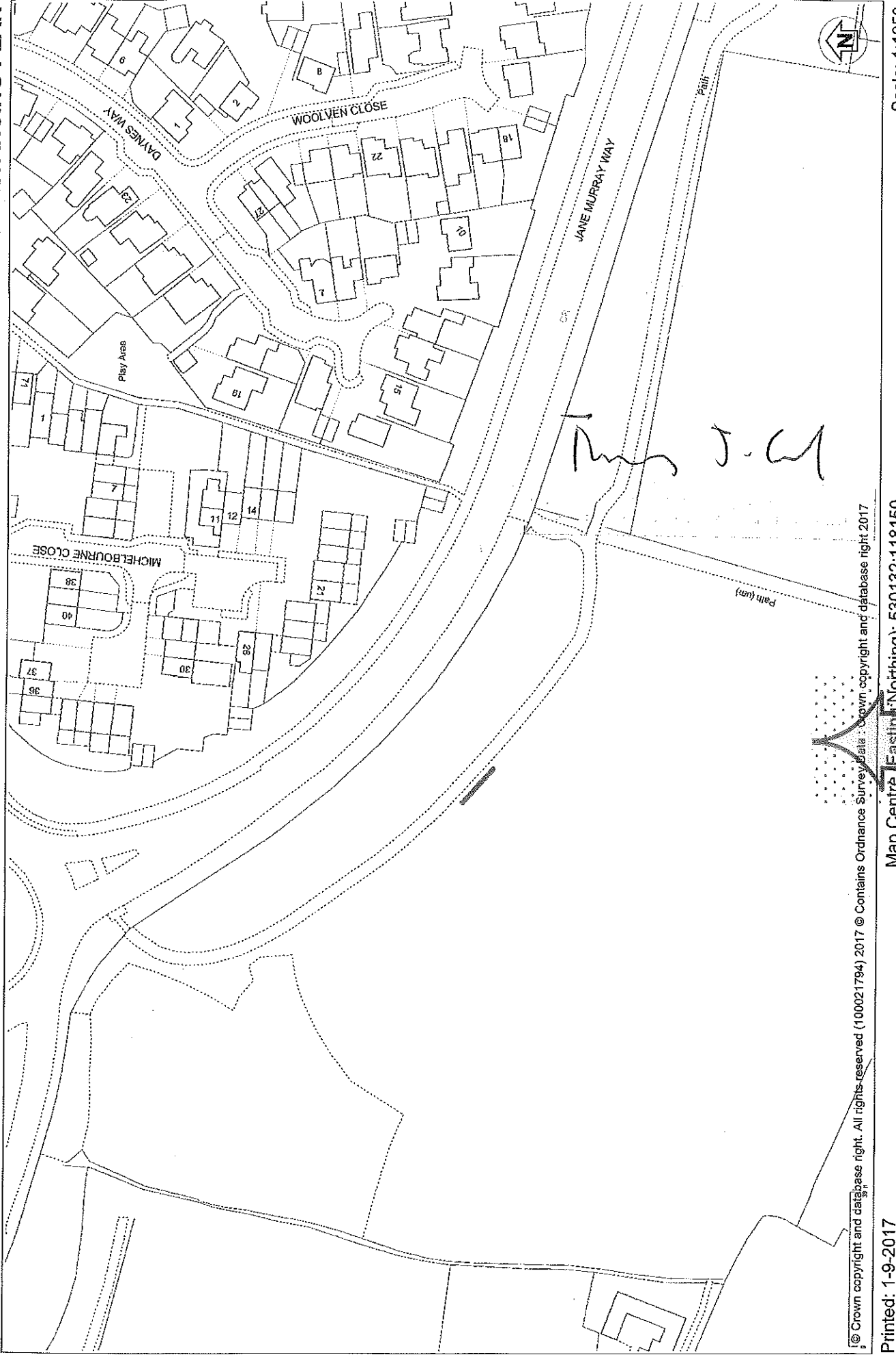
<b>Artwork</b>	Three mosaic clad steel panels each measuring 4000mm x 600mm (overall size 12000mm x 600mm x 600mm) in the form of the illustrative drawing as shown in the Specification and to be constructed on the Site in accordance with the Specification
<b>CDM Regulations</b>	the Construction (Design and Management) Regulations 2015
<b>Competent Authority</b>	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
<b>Installation Works</b>	the provision, installation and maintenance of Artwork on the Site in accordance with the terms of this licence and the Specification
<b>Land</b>	means the land known as Hammonds Ridge Meadow, off Jane Murray Way, Burgess Hill, West Sussex registered at the Land Registry under title number WSX191707 of which the Council is the registered proprietor.

<b>Licence Period</b>	means the period from and including the date of this licence until such date that this licence is determined in accordance with clause 4
<b>Necessary Consents</b>	all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of public or private nature which shall be required by any Competent Authority for the Permitted Use
<b>Permitted Use</b>	means the installation, maintenance and display of the Artwork on the Site in accordance with the terms of this licence.
<b>Plans</b>	means the plans marked "A1" and "A2" attached to this licence
<b>Site</b>	means that part of the Land shown for identification purposes only edged red on the Plans.
<b>Specification</b>	means the detailed description of the Artwork outlined at Schedule 1

- 1.2 Clause 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 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders
- 1.6 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
- 1.7 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 provision and all orders, notices codes of practice and guidance made under it

**Title: Site C - Hammonds Ridge Meadow**  
Comment:

**MID SUSSEX DISTRICT COUNCIL  
CONVEYANCING PLAN**



- 1.8 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 reasonable endeavours to prevent that thing being done by another person
- 1.9 References to clauses are to the clauses of this licence
- 1.10 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

## **2. LICENCE TO USE**

- 2.1 Subject to clause 3 and clause 4 the Council permits the Licensee to enter the Site to erect and thereafter maintain the Artwork on the Site and to use the Site for the Permitted Use for the Licence Period under the terms of this Licence in common with the Council.
- 2.2 The Licensee acknowledges that:
- 2.2.1 the Licensee shall use the Site as licensee and not as of right;
  - 2.2.2 no relationship of landlord and tenant is created between the Council and the Licensee by this licence;
  - 2.2.3 the Council retains control, possession and management of the Land and the Licensee has no right to exclude the Council from the Site;
- 2.3 The licence may be exercised by the Licensee, its employees, contractors, consultants and agents with or without workmen, plant, machinery or other materials for the purposes of carrying out the Installation Works and any remedial works required to comply with any statutes and/or to comply with any obligations or provisions contained in this licence
- 2.4 This licence is personal to the Council and the Licensee and neither of them may assign or otherwise transfer the benefit of it.

## **3. LICENCEE'S OBLIGATIONS**

The Licensee agrees and undertakes:

- 3.1 to give the Council not less than 7 days prior written notice before the Licensee shall enter the Site to carry out the Installation Works and/or reinstatement works required under clause 3.24.
- 3.2 to carry out the Installation Works:
- 3.2.1 using good quality materials which are fit for the purpose for which they will be used;

- 3.2.2 in a good and workmanlike manner and in accordance with good building and other relevant practices, codes and guidance; and
- 3.2.3 to the Specification; and
- 3.2.4 to the reasonable satisfaction of the Council.
- 3.3 at all times during the Licence Period to comply with all Acts of Parliament, Statutory Instruments, Regulations, Bye-Laws, Statutory Directions, Orders and notices and all lawful requirements of all and any Competent Authority affecting the Land, the Site and the Installation Works.
- 3.4 to the extent that the CDM regulations apply to the Installation Works authorised by this agreement, to:
- 3.4.1 agree in writing with the Council that the Licensee is to be treated as the only client in respect of the Installation Works for the purposes of the CDM Regulations and the parties agree that this clause is such an agreement;
- 3.4.2 comply with its obligations as a client for the purposes of the CDM Regulations;
- 3.4.3 ensure that the principal designer and the principal contractor that it appoints in relation to the Installation Works comply with their respective obligations under the CDM Regulations;
- 3.4.4 ensure that all relevant documents relating to the Installation Works are placed in the health and safety file for the Site by the principal designer or principal contractor in accordance with the CDM Regulations, maintain the health and safety file for the Site in accordance with the CDM regulations, give the health and safety file to the Landlord at the end of the Licence Period, allow the Council and its agents or other appointees to inspect the health and safety file for the Site and at the Licensee's cost supply the Council with copies of it or any of the documents in it; and
- 3.5 without prejudice to the generality of clause 3.4.4 at the Licensee's cost to supply to the Council within ten (10) working days of practical completion of the Installation Works a copy (in both hard copy and electronic form) of the health and safety file maintained during the Installation Works in accordance with the CDM Regulations.
- 3.6 to cause as little disturbance and inconvenience as reasonably possible to the Council and the owners and occupiers of any neighbouring land and not to infringe any of their rights nor the rights of any other person in relation to the Land and the Site.
- 3.7 as soon as reasonably practicable make good, to the reasonable satisfaction of the Council, any damage to the land which is caused by carrying out the Installation Works.

- 3.8 to give to the Council not less than 24 hours prior written notice before completion of the Installation Works and to notify the Council as soon as the Installation Works have been completed.
- 3.9 without prejudice to the generality of the foregoing to cordon off the Site with appropriate security/safety fencing prior to the commencement of the Installation Works and to remove such security/safety fencing and to reinstate the Land to the reasonable satisfaction of the Council on completion of such works.
- 3.10 to provide details of a person available during normal office hours with personal knowledge of the Installation Works and of sufficient status to be able to respond promptly and effectively to reasonable concerns of the Council regarding the carrying out of the works prior to commencement of the Installation Works.
- 3.11 to display notices adjacent to the Site and at such other locations as the Council so directs giving details of the persons or company carrying out the relevant works and the name and contact telephone number of someone with personal knowledge of the works and of sufficient status to be able to respond promptly and effectively to reasonable concerns of residents and members of the public regarding the carrying out of the Installation Works.
- 3.12 without prejudice to the generality of clauses 3.3 and 3.4 to carry out all necessary risk assessments that are required by any competent authority and on request to provide copies to the Council.
- 3.13 without prejudice to the generality of clauses 3.3 and 3.4 to cooperate with the Council its officers agents servants contractors and employees in the discharge of the Council's statutory duties and obligations under any Acts of Parliament, Statutory Instruments, Regulations, Bye-Laws, Statutory Directions, Orders and notices and all lawful requirements of all authorities affecting the Works Areas.
- 3.14 to cooperate with the Council its officers agents servants and employees in the exercise of control and management of the Land and the Site.
- 3.15 not to enter or use the Site or the Land for any purpose other than the Permitted Use.
- 3.16 not to carry out works, use or permit to be done anything on the Site or the Land which may be or become an annoyance, inconvenience, disturbance or nuisance (whether

actionable or not) to the Council or to any neighbouring or adjoining property and not to use the Site or the Land for any illegal or immoral purpose.

- 3.17 to remove any contaminated topsoil from the Site caused by or which is required to be removed at the direction of the Environment Agency as a result of the Licensee or its contractors or consultants undertaking the works pursuant to this licence prior to restoration and reinstatement to its condition as at the date of this Agreement.
- 3.18 to carry out restoration and reinstatement of all grassed areas of the Land with screened topsoil having no particles greater than 5-mm diameter and using general amenity grass seed and to regrade such areas to original levels and to rotivate such area prior to re-seeding.
- 3.19 to maintain the Site and the Artwork throughout the Licence Period in good and substantial repair and condition and to the reasonable satisfaction of the Council and so far as is practicable to maintain the present natural features and aspect of the Land.
- 3.20 to ensure that the Artwork is to be set back at a minimum of <sup>0.7</sup>~~1.5~~ metres from the public path
- 3.21 not to do anything that will or might constitute a breach of any Necessary Consents affecting the Land or which will or might vitiate in whole or in part any insurance effected by the Council in respect of the Land.
- 3.22 to indemnify the Council from and against all losses, claims, demands, actions, proceedings, damage, costs, expenses or other liability in any way
- 3.23 to maintain throughout the Licence Period public liability and third party insurance in respect thereof in the sum of Ten Million Pounds (£10,000,000.00) and to produce a copy of such policy and evidence of the insurance premium to the Council on commencement of this licence and thereafter whenever requested by the Council.
- 3.24 to repair any damage caused in connection with the removal of the Installation Works and reinstate the Land to the satisfaction of the Council at the end of Licence Period.
- 3.25 For the avoidance of doubt any requirement that applies to the carry out of the Installation Works shall apply to the requirement to maintain the Artwork during the Licence Period and



to the removal the Installation Works and to the reinstatement of the Land required under clause 3.24 of this licence.

#### **4. TERMINATION**

4.1 This licence shall be determined:

4.1.1 by either party giving to the other not less than one month's notice in writing to expire at any time

4.1.2 forthwith in the event of any breach of the Licensee's obligations contained in clause 3

#### **5. NOTICES**

5.1 Any notice 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 part as follows:-

5.1.1 to the Council at Oaklands Road, Haywards Heath, West Sussex RH16 1SS or at such other address as the Council shall notify the Licensee from time to time

5.1.2 to the Licensee at 96 Church Walk, Burgess Hill, West Sussex RH19 9AS

5.2 Any notice given in accordance with clause 5.1 will be deemed to have been received:

5.2.1 *if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or*

5.2.2 *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 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. COSTS**

The Licensee shall pay to the Council the Council's reasonable legal costs and surveyors costs in preparing and completing this licence on or before completion of this licence

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

7.1 The Council gives no warranty that the Land possesses the Necessary Consents for the Permitted Use.

7.2 The Council gives no warranty that the Land is physically fit for the purposes specified in Clause 2.

7.3 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 Council before the date of this licence as to any of the matters mentioned in Clause 7.1 or Clause 7.2.

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

## **8. LIMITATION OF COUNCIL'S LIABILITY**

8.1 Subject to clause 8.2 the Council is not liable for:

8.1.1 the death of, or injury to, the Licensee or its employees, contractors, and agents or any other person in exercising rights under this licence;

8.1.2 any damage to property of the Licensee or its employees, contractors, agents, or any other person exercising the rights under this licence;

8.1.3 any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by the Licensee or its employees, contractors, and agents or any other person in exercising rights under this licence;

8.1.4 any loss or damage suffered by the Licensee or its employees, contractors, and agents or any other person exercising rights under this licence as a result of any cause beyond the Council's control that prevents the Licensee from using the Land

8.2 Nothing in clause 8.1 shall limit or exclude the Council's liability for:

8.2.1 death or personal injury or damage to property caused by negligence on the part of the Council or its employees, contractors or agents; or

8.2.2 any matter in respect of which it would be unlawful for the Council to exclude or restrict liability

## **9. THIRD PARTY RIGHTS**

A person who is not a party to this licence shall not have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this licence.

## **10. COUNCIL'S POSITION AS A LOCAL AUTHORITY**

Nothing herein contained shall prejudice or affect any of the rights, powers and duties for the time being vested in the Council as local authority, a local planning authority or any other statutory authority or competent authority and all such rights, powers and duties shall be as fully and effectually exercised in relation to the Land and the Site as if the Council were not the owner of the Land and the Site and the Licence had not been entered into.

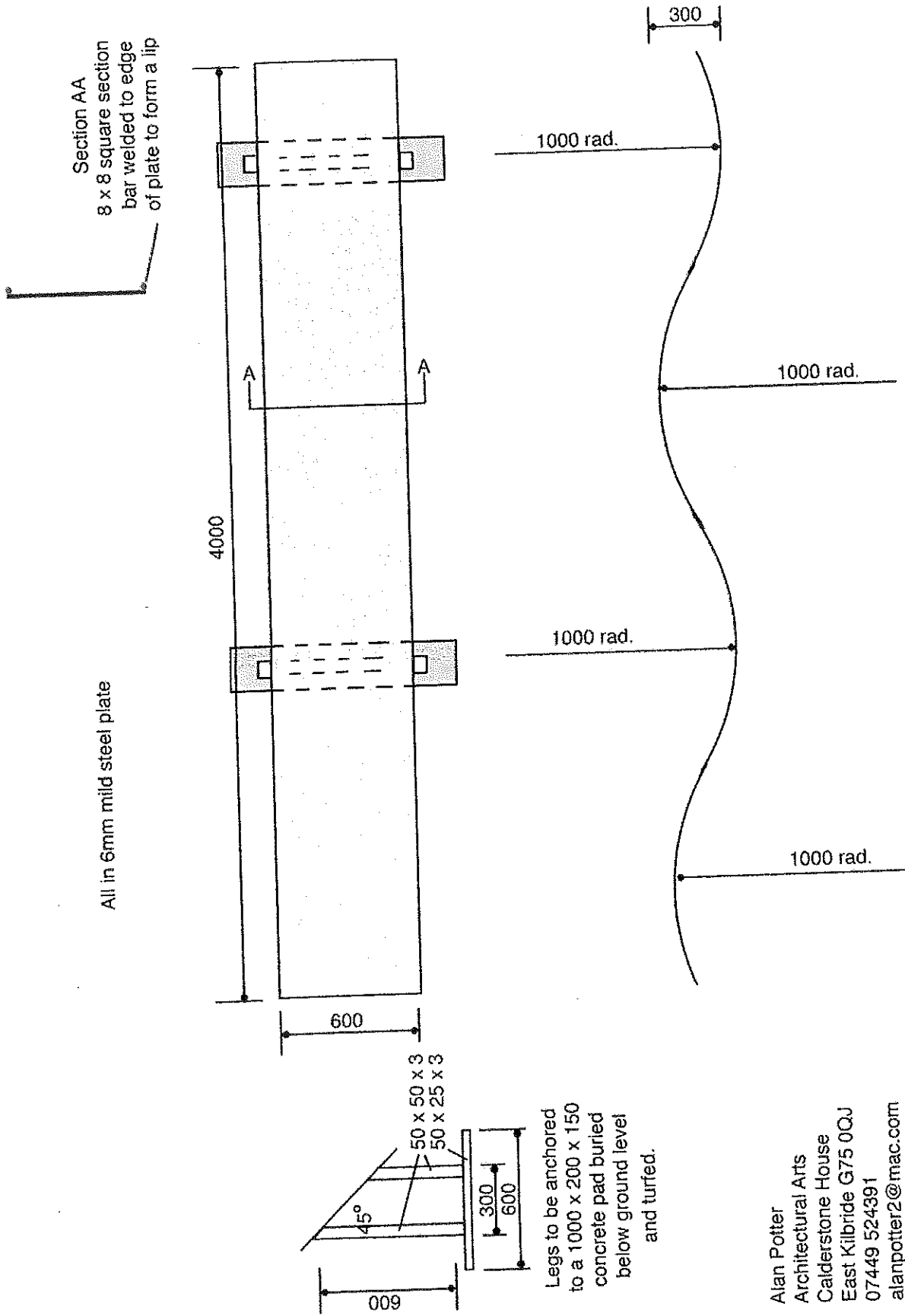
**11. GOVERNING LAW**

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 non-exclusive jurisdiction of the courts of England and Wales

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



Alan Potter  
 Architectural Arts  
 Calderstone House  
 East Kilbride G75 0QJ  
 07449 524391  
 alanpotter2@mac.com

Three mosaic clad steel panels each measuring 4000mm x 600mm. Overall size of work: 12000mm x 600mm x 600mm