

NOTE ON THIS DRAFT: Please note that this draft is substantially agreed between the parties but not all the drafting has been finalised. Square brackets have been used to indicate areas where there is likely to be further discussion and work on the drafting but there may be other changes to the drafting.

DATED [insert date]

SERVICES AGREEMENT

BRIGHTON AND HOVE CITY COUNCIL

and

THE ROYAL PAVILION AND MUSEUMS TRUST



10 Queen Street Place, London EC4R 1BE
bateswells.co.uk

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This agreement (the “Agreement”) is dated: _____

BETWEEN:

- (1) **BRIGHTON AND HOVE CITY COUNCIL** of Hove Town Hall, Norton road, Hove, BN3 3BQ (“**the Council**”); and
 - (2) **THE ROYAL PAVILION AND MUSEUMS TRUST** of 4-5 Pavilion Buildings, Brighton, BN1 1EE (registered in England and Wales as a company with registered number 11774969, and as a charity with registered number [____]) (“**the Charity**”),
- each a “**Party**” and together the “**Parties**”.

BACKGROUND:

- (A) The Council has agreed to transfer the Undertaking to the Charity for the duration of the Contract Term, as detailed in the Transfer Agreement entered into between the Parties.
- (B) The Parties have agreed that the Charity is best placed to deliver the Services and the Charity has agreed that, it will recognise the GMB Union and Unison for the duration of the Contract Term.
- (C) The Council has agreed to pay the Fee to the Charity in consideration for the delivery of the Services by the Charity throughout the Contract Term and this Agreement sets out the Terms upon which the Services will be provided by the Charity.

1. Definitions

The provisions of Schedule 1 shall apply.

2. Duration

2.1 This Agreement will commence on the Commencement Date and continue in full force and effect for twenty five (25) years from the Commencement Date (the “**Initial Contract Term**”) unless terminated in accordance with clause 26 (Termination).

2.2 The Initial Contract Term may be extended by written agreement of the Parties, for a period of up to five (5) years at the end of the Initial Contract Term (such period, the “**Extended Contract Term**”) provided that the Party wishing to extend shall use its reasonable endeavours to give written notice to the other of a request to extend no later than twelve (12) months before the end of the Initial Contract Term.

3. Principles

The Parties agree to adopt the following principles when carrying out this Agreement:

3.1 collaborate and co-operate in the delivery of the Services to ensure that the commissioning objectives of the Council and the objectives of the Charity are met, with regard to appropriate professional standards relevant to the sector;

3.2 be accountable to the other Party for performance of their respective roles and responsibilities set out in this Agreement;

- 3.3 communicate openly about major concerns, issues or opportunities relating to the Agreement;
- 3.4 seek to achieve the full potential of the Parties to deliver the Services successfully by sharing information, experience, materials and skills in order to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- 3.5 adopt a positive outlook and behave in a positive, proactive manner;
- 3.6 act in a timely manner, recognising the time-critical nature of the delivery of the Services and respond accordingly to requests for support from the other Party;
- 3.7 manage stakeholders effectively;
- 3.8 act in good faith to support achievement of the Key Performance Indicators and compliance with the principles set out in this clause 3 (Principles); and
- 3.9 provide coherent, timely and efficient decision-making.

4. **Fee**

- 4.1 In consideration of the provision of the Services by the Charity, the Council shall pay the Fee.
- 4.2 The Fee payable from the Council to the Charity in each Contract Year will be calculated as set out in Schedule 3 and may only be varied using the mechanism set out in Schedule 3Part 4.
- 4.3 Subject to any Change made in accordance with Schedule 3Part 4 and clause 29, the Council shall pay the Fee to the Charity in accordance with the Payment Schedule for each Contract Year set out in Schedule 3. All amounts payable by the Council to the Charity under this Agreement, including the Fee, exclude amounts in respect of value added tax (VAT), which the Council shall additionally be liable to pay to the Charity at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
- 4.4 The amount of the Fee shall not be increased in the event of any overspend by the Charity in its delivery of the Services without the Council's prior written agreement.
- 4.5 Any expenses incurred by the Charity in its delivery of the Services shall be payable by the Charity, unless agreed with the Council in writing.
- 4.6 The Fee shall be paid into a bank account in the name of the Charity specified at Schedule 3, or such other ordinary business bank account as is specified by the Charity to the Council in writing.
- 4.7 The Charity shall not transfer any part of the Fee to bank accounts which are not ordinary business accounts within the clearing bank system, without the prior written consent of the Council.

4.8 The Charity shall promptly repay to the Council any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where an incorrect sum of money has been paid.

4.9 In the event that the Fee, or any part of it, is not paid in accordance with this Agreement by the Council, the Charity shall not be obligated to deliver either any part of the Services to which the unpaid Fee relates or, insofar as the unpaid part of the Fee does not relate to a particular part of the Services, such part of the Services proportionate to the amount of the Fee which remains unpaid as the Charity may determine provided that, in the event that the Council disputes the payment of the Fee (or any part of it), the Charity shall enter discussions with the Council with a view to maintaining the delivery of the Services insofar as is reasonably possible in light of the Charity's finances, and each Party shall enter such discussions in good faith.

4.10 If the Council fails to make a payment due to the Charity under this Agreement by the due date, then, without limiting the Charity's remedies under clause 26 (Termination), the Council shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 4.10 will accrue each day at 1% a year above the Bank of England's base rate from time to time, but at 1% a year for any period when that base rate is below 0%.

5. Funding for Repairs

5.1 The Council shall retain a budget (at its complete discretion) for planned repairs and maintenance, which it shall carry out in accordance with its annual planned maintenance schedule and 5 year maintenance plan, [in accordance with the provisions of the relevant Lease(s).]

6. Council's Obligations

6.1 During the Contract Term the Council shall:

6.1.1 co-operate closely with the Charity in all matters relating to the Services and seek to ensure that the reputation of the Charity is not materially damaged by the Council;

6.1.2 when acting in its capacity as a company law member of the Charity (for such time as it has such role), to comply with any legal obligations it has to act in a way which would be most likely to further the purposes of the Charity;

6.1.3 pay to the Charity all sums payable pursuant to the provisions of this Agreement; and

6.1.4 comply with the terms of this Agreement.

7. Charity's Obligations

7.1 The Charity shall not be obliged to perform its obligations under this clause 7 unless:

7.2 Subject to clause 7.1, during the Contract Term the Charity shall:

7.2.1 deliver the Services in accordance with the Specification set out in Schedule 2Part 1 and any Annual Service Plan agreed between the Council and the Charity in accordance with clause 12;

- 7.2.2 perform the Services using all reasonable care and skill (as may reasonably be expected of an appropriately qualified competent provider of museum services experienced in carrying out services of the relevant, scope and complexity as described in Schedule 2) and shall act in such a way as to ensure that the Key Performance Indicators are achieved;
- 7.2.3 co-operate closely with the Council in all matters relating to the Services and seek to ensure that the reputation of the Council is not materially damaged by the Charity; and
- 7.2.4 only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number as is reasonably necessary for proper performance of the Services; and
- 7.2.5 maintain the Assets in a reasonable condition and replace them when reasonably necessary to enable the Charity to deliver the Services in accordance with this Agreement.
- 7.3 The Charity shall only make Changes to the Services in accordance with clause 29 (Change Procedure).
- 7.4 Any liabilities arising at the end of the Contract Term must be managed and paid for by the Charity and the Parties acknowledge that the Council will not be obligated to make any additional funding available for this purpose, unless in each case agreed by the Parties (including without limitation as agreed in the Exit Plan).
- 7.5 Should the Charity be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Services or compliance with this Agreement it will notify the Council as soon as possible so that, if possible, and without creating any legal obligation, the Council will have an opportunity to provide assistance in resolving the problem or to take action to protect the Council.
- 8. **Compliance with laws and policies**
- 8.1 The Charity shall deliver the Services in accordance with all relevant ethical and legal requirements, including:
 - 8.1.1 all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 in force (from time to time) in the United Kingdom respectively or in any other jurisdiction relating to this Agreement);
 - 8.1.2 all relevant health and safety legislation, rules and regulations;
 - 8.1.3 all relevant equalities rules and regulations, including the Equality Act 2010;
 - 8.1.4 the Data Protection Legislation, in accordance with clause 20 of this Agreement;
 - 8.1.5 the Freedom of Information Act 2000 in accordance with clause 21 of this Agreement;
 - 8.1.6 all appropriate child protection and safeguarding standards;
 - 8.1.7 good employment practice; and
 - 8.1.8 Good Industry Practice in relation to the Services.

8.2 The Charity shall have and comply with the following written policies relating to the Services:

8.2.1 Safeguarding Policy covering as a minimum the protection of children, young people and vulnerable adults;

8.2.2 Equal Opportunities Policy;

8.2.3 Fraud and Whistleblowing Policy;

8.2.4 Insurance Policy; and

8.2.5 any additional policies agreed between the Parties in writing; and

the Charity must ensure that all such policies are kept up to date and comply with Good Industry Practice and must provide copies of such policies to the Council on request at the Charity's cost.

8.3 The Charity must inform the Council promptly if it becomes aware of any material breach of this clause 8.

8.4 The Charity will use reasonable endeavours to meet such other compliance requirements as shall be reasonably requested by the Council in writing from time to time, but any additional cost to the Charity of meeting such compliance requirements shall be payable by the Council to the Charity as an additional expense and shall be deemed to be agreed by the Council in writing in accordance with clause 4.5 of this Agreement.

8.5 The Charity shall put in place a business continuity plan which shall be regularly updated and provided to the Council.

9. **Warranties**

The Charity warrants, undertakes and agrees that:

9.1 it shall, with effect from the Commencement Date, amend its Articles of Association in accordance with the Memorandum of Understanding dated 9 July;

9.2 it has all necessary resources and expertise to deliver the Services (assuming payment of the Fee);

9.3 it has and shall keep in place adequate procedures for dealing with any conflicts of interest;

9.4 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction; and

9.5 it is not subject to any contractual or other restriction imposed by its own or any other rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations under this Agreement.

10. **Staff Terms and Conditions**

10.1 The Council shall notify the Charity of any changes to the NJC Terms and Conditions.

- 10.2 The Charity shall:
- 10.2.1 not make any amendment, without the consent of the relevant Employee, to the terms and conditions of any Employee who transfers on the Commencement Date which would result in those terms and conditions being less favourable than they are at the point of transfer; and
- 10.2.2 employ any employee (regardless of whether they were employed by the Charity at the Commencement Date) who is solely engaged in the delivery of the Services on NJC Terms and Conditions [unless agreed otherwise with the employee].
- 10.3 During the course of any given Fee Term, the Charity may, on becoming aware that it is likely to incur any additional costs due to any amendment or revision to the Current NJC Terms and Conditions, submit to the Council a Change Request and the provisions of Schedule 4 (Change Request) shall apply, save that:
- 10.3.1 the Change Request Impact Assessment shall in addition to those matters set out in Schedule 4 include as a minimum:
- (a) an explanation of the reasons that the revision/ amendment will increase Charity's costs;
 - (b) the likely number of staff impacted by the revision/ amendment; and
 - (c) the steps (if any are available) that the Charity will take to mitigate the increase in its costs.
- 10.3.2 The burden of proving the increase in costs will sit with the Charity but where it is able to demonstrate that its costs will increase the Council shall agree to increase the Fee for the remainder of that Fee Term accordingly.
- 10.4 Any dispute between the Parties as to the cost of the amendment/ revision shall be referred to an independent expert agreed by the Parties and the provisions of clause 33 (Dispute Resolution) shall not apply.

11. **Staffing and Pensions**

The Parties shall comply with the obligations of Schedule 6 (Staffing and Pensions).

12. **ACE Business Plan and Annual Service Plan**

- 12.1 For each Contract Year, the Charity shall prepare a draft annual service plan ("the **Annual Service Plan**") in substantially the form of the Annual Service Plan for the Contract Year commencing 1 April 2020 which is attached at Schedule 8, which shall set out:
- 12.1.1 a detailed account of how the Services were performed in the previous Contract Year compared to the Key Performance Indicators and the objectives outlined in the previous Annual Service Plan and any extant ACE Business Plan;
- 12.1.2 a detailed account of how the Services will be performed in the next Contract Year in order to deliver the Specification at Schedule 2Part 1 of this Agreement and achieve the Key

- Performance Indicators at Schedule 2 Part 2 of this Agreement, including identifying any proposed changes to the Specification or Key Performance Indicators;
- 12.1.3 any Changes that could be made to maximise the scope and standard of Services that could be delivered by the Charity in the next Contract Year;
- 12.1.4 any Changes necessary to reflect changes to the legal, financial or operational environment of the Services in the next Contract Year;
- 12.1.5 [the proposed fees and charges;] and
- 12.1.6 the ambitions and aims for the Charity's delivery of the Services for the following three Contract Years (where applicable).
- 12.2 The draft Annual Service Plan for the next Contract Year shall be submitted to the Council, no later than 1 December each Contract Year and shall be discussed by the Parties at the Annual Review Meeting.
- 12.3 [The Council's Agreement Manager shall be able to make suggestions to the Charity on the draft Annual Service Plan. The Council and the Charity shall together consider the impact of their respective financial plans, the Fee for the next Contract Year, the significant other institutional funding available to the Charity, the requirements of such institutional funders, and the Services being provided by the Charity, together with such other matters as may impact on the cost and funding of the Services in accordance with the Agreement, in order to ensure that the Charity can prepare a detailed budget for the next Contract Year (in the context of the agreed Fee for the relevant Fee Term).
- 12.4 The Parties shall work together in good faith to agree the draft Annual Service Plan, [the Specification and the Key Performance Indicators] for the next Contract Year following the Annual Review Meeting, which shall be no later than 20 December of the Contract Year preceding the Contract Year in which that Annual Service Plan shall be followed, or by such other date as may be agreed by the Parties in writing.
- 12.5 An Annual Service Plan shall only be effective once it has been approved by the relevant Council committee, subject to clause 12.7.3. The Council shall seek this approval prior to 28 February of the Contract Year in which that Annual Service Plan shall be followed. If the requisite approval is not obtained, the Parties shall use best endeavours to amend the draft Annual Service Plan and in the meantime the Annual Service Plan applicable to that Contract Year shall roll-over to the next Contract Year insofar as it is applicable. Following amendments to the draft Annual Service Plan the Council shall again seek the approval of the relevant committee and this process shall be repeated until the requisite approval is obtained (subject to clauses [25.4.2] (Major Defaults) and [26.4.1(a)(ix)] (Termination by Council)).
- 12.6 To assist the Charity in preparing the Annual Service Plan the Council shall use its reasonable endeavours to meet regularly with the Charity to discuss the draft Annual Service Plan at such times as the Charity may propose.
- 12.7 Where the Annual Service Plan relates to the first year of a Fee Term:
- 12.7.1 it shall reflect the Indicative Fee provided to the Charity;

- 12.7.2 if the Indicative Fee is not sufficient to reflect any Additional NJC Terms & Conditions Costs the Parties must nevertheless work together in good faith to agree the Annual Service Plan but the Charity shall in its complete discretion finalise the Annual Service Plan subject to the following conditions:
- (a) the Annual Service Plan must comply with the Specification (which shall for the avoidance of doubt include the requirement to keep the museums open as specified in the Specification);
 - (b) any reduction or alteration to the delivery of the Services shall be reasonable and, in the case of any reduction, shall be as minimal as is reasonably possible;
 - (c) the Charity shall seek alternative income sources insofar as is reasonably possible;
 - (d) the Charity shall provide written notice to the Council as soon as is reasonably possible that the Fee is insufficient to cover the Additional NJC Terms and Conditions Costs; and
 - (e) the Charity shall pay due regard to comments made by the relevant committee of the Council in relation to the Annual Service Plan and shall make any changes recommended by that committee where it is reasonable and practicable to do so; and
- 12.7.3 if the Fee for any Contract Year in the relevant Fee Term is, once confirmed following the annual budget meeting of full council, more than 1% lower than the relevant Indicative Fee, the Charity may make such amendments to the Annual Service Plan it considers reasonably necessary to reflect the reduced Fee provided they comply with the following principles:
- (a) any reduction or alteration to the delivery of the Services shall be reasonable and, in the case of any reduction, shall be as minimal as is reasonably possible;
 - (b) the Charity shall seek alternative income sources insofar as is reasonably possible.]
- 12.8 In the event that any Material Change needs to be made to the Annual Service Plan throughout the year, the Change Procedure set out at clause 29 of this Agreement shall be used.
- 12.9 The Charity shall provide the Arts Council England with a business plan ("**ACE Business Plan**") in accordance with such timetable as may be provided to it by Arts Council England (if any) and shall prior to the submission of an ACE Business Plan to the Arts Council England obtain in good time the Council's approval to that ACE Business Plan (such approval not to be unreasonably withheld). In the absence of the Council's approval to that ACE Business Plan in good time before the Arts Council England submission deadline, the Charity shall be entitled to submit the ACE Business Plan to Arts Council England if the trustees of the Charity consider that failure to do so would endanger the Charity's Arts Council England Museum Accreditation, provided that in such scenario, the Charity shall enter discussions with the Council in good faith with a view to attaining the Council's approval to the ACE Business Plan.

13. Complaints

- 13.1 The Charity shall establish and maintain records of Service User feedback including any material positive feedback and material complaints (as defined in clause 13.5).
- 13.2 The Charity shall put in place a comprehensive complaints management procedure which shall be shared with and approved by the Council prior to the Commencement Date, and which shall be updated at any time if reasonably required by the Council.
- 13.3 Without prejudice to the above, the Charity shall proactively deal with any complaints received (whether orally or in writing and whether from Service Users or the general public and whether directly relating to the Services or otherwise) in a courteous and efficient manner and shall take all necessary steps to address complaints in relation to the Services.
- 13.4 The Charity shall monitor and record the actions to address and resolve material complaints and provide a report on such complaints if reasonably requested by the Council.
- 13.5 For the avoidance of doubt, a material complaint shall be any serious complaint or repeated complaints received by the Charity relating to the Services. Any complaint regarding safeguarding will constitute a material complaint.
- 13.6 The Charity shall notify the Council promptly of any and all incidents in which any Service Users are seriously harmed in the course of the Charity's provision of the Services and shall provide such details as the Council shall require regarding any such incidents, subject to compliance with the Data Protection Legislation.
- 13.7 The Charity shall fully cooperate with the Council in relation any investigations the Council wishes to undertake in respect of the Charity's management of any material complaints.
- 13.8 Where a complaint is subject to investigation by the Local Government Ombudsman the Charity shall fully cooperate with the Local Government Ombudsman and if necessary the Council in respect of any investigations relating to such complaints. The Charity shall comply with any decisions made by the Local Government Ombudsman insofar as they are relevant to the operation or delivery of the Services.
- 13.9 Where the Council receives any material positive feedback or complaints in relation to the Services (whether orally or in writing and whether from Service Users or the general public) it shall provide such feedback to the Charity's Agreement Manager as soon as reasonably practicable, and the Charity shall deal with any complaint in accordance with this clause 13.]

14. Performance Management and Reporting

- 14.1 Each Party shall nominate a named Agreement Manager specifying the information set out in 0, which may be changed from time to time and notified in writing to the other Party, to act as contact point for the management of this Agreement. Subject to clause 29 (Change Procedure), the Agreement Manager for each Party will have full authority to represent that Party in all matters pertaining to this Agreement.
- 14.2 The Charity and the Council shall closely monitor the delivery and success of the Services throughout the Contract Term in accordance with the Key Performance Indicators set out in Schedule 2Part 2 to ensure that this Agreement is being adhered to and that the Services are being successfully delivered.

- 14.3 The Agreement Managers shall meet throughout the Contract Term in order to monitor the delivery and success of the Services and such meetings shall take place quarterly (or otherwise at such more frequent intervals as the Council's Agreement Manager shall reasonably determine is necessary).
- 14.4 The Charity shall report to the Council as promptly as reasonably practicable, and in each case within 5 Business Days of the Charity becoming aware of the occurrence of, any of the following:
- 14.4.1 by reference to the Annual Service Plan any material:
- (a) financial underperformance against forecast income or funding; or
 - (b) increase in expenditure;
- in each case, where "material" shall be taken to mean a divergence of 10% or more by reference to the Charity's overall budgeted income, funding or expenditure (as the case may be);
- 14.4.2 any matter which is likely, in the opinion of the Charity (acting reasonably) have a material impact on the ability of the Charity to:
- (a) deliver the Services;
 - (b) maintain its Arts Council England Museum Accreditation (or if relevant its equivalent accreditation from a successor accreditation scheme run by Arts Council England or its successor or replacement body);
 - (c) maintain the status of the Collection under the Arts Council England's Designation Scheme (if relevant such successor designation scheme run by Arts Council England or its successor or replacement body); or
 - (d) maintain its charitable status.
- 14.4.3 if the Charity is in Financial Distress; or
- 14.4.4 any event has occurred which has increased the likelihood that the Charity will be in Financial Distress.
- 14.5 The Agreement Managers shall meet no less than once in each Contract Year at an Annual Review Meeting to review the Charity's performance of the terms under this Agreement, discuss the draft Annual Service Plan for the next Contract Year to be provided by the Charity in accordance with clause 12.2, ensure the smooth running of the Agreement, and identify concerns in the provision of the Services early enough to prevent disputes arising. Either Party may also submit additional matters for discussion at the Annual Review Meeting.
- 14.6 The Annual Review Meeting shall take place no later than 20 December in each Contract Year, or by such other date as may be agreed by the Parties in writing, in order to allow the Parties time to agree the final Annual Service Plan, for the next Contract Year.

- 14.7 A written record of the Annual Review Meeting shall be agreed and circulated to the Agreement Managers of both Parties as soon as reasonably practicable following the Annual Review Meeting.
- 14.8 The Charity shall also provide additional written Progress Reports to the Council quarterly, or at such other frequency as may be set for the review meetings referred to in clause 12.3, in each case at least 5 Business Days prior to such review meetings. Progress Reports shall be prepared by the Charity in the format set out in Schedule 9 and shall be submitted to the Council's Agreement Manager.
- 14.9 The Council will assess each Progress Report against the Specification and Key Performance Indicators set out in Schedule 2 and the Annual Service Plan for that Contract Year.
- 14.10 When producing the Progress Reports, the Charity shall include any such additional information as the Council reasonably requests on reasonable notice of such requests, subject to compliance with the Data Protection Legislation.
- 14.11 The Charity shall take reasonable steps to manage risk in delivering the Services, (for example by means of a risk register) and these shall, on the Council's reasonable notice, be reported to the Council in a Progress Report.
- 14.12 During the Exit Period the Charity shall report more regularly to the Council in accordance with the Council's reasonable requests.
- 14.13 The Charity shall provide the Council with a final report upon the expiry of the Contract Term or earlier termination of this Agreement in accordance with clause 26, or on such other date agreed between the Parties in writing. This final report shall confirm whether the Services have been successfully and properly delivered.
15. **Accounts and Records**
- 15.1 The Charity shall comply with all applicable statutory requirements as regards accounts, audit or examination of accounts, annual reports, confirmation statements and annual returns.
- 15.2 The Charity shall provide the Council with a draft copy of its annual accounts within six months of the end of the relevant financial year in respect of each Contract Year, and with a copy of its audited accounts within 10 months and one week of the end of the relevant financial year in respect of each Contract Year. The Council may require that the Charity shall have its annual accounts audited, at the Council's cost. For the avoidance of doubt the Council shall not pay the costs of any audits not requested by it.
- 15.3 Where the Charity has obtained material funding from a third party for its delivery of part of the Services, the Charity shall include the amount of such funding in its annual report together with details of what that funding has been used for.
- 15.4 The Charity shall keep and retain appropriate financial records relating to the Services for at least [six (6) years], including a record of the admission charges collected by the Charity.
- 15.5 The Charity shall on request provide the Council with such further information, explanations and documents as the Council may reasonably require in order for it to ensure the Charity's

compliance this Agreement (provided that the Council acknowledges and agrees to treat such information, including any information held by the Charity in relation to admission charges collected by the Charity or otherwise held under clause 15.4, as commercially sensitive where relevant). The Council shall have the right to audit the Charity's compliance with this Agreement and the Charity shall permit any person authorised by the Council reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Charity's fulfilment of the Terms and shall, if so required, provide appropriate oral or written explanations from them. Such access shall be arranged for a time mutually convenient to the Parties and any cost to the Charity of facilitating an audit in accordance with this clause shall be met by the Council.

16. Cooperation and Disrepute

16.1 The Council warrants that:

16.1.1 it shall, to the extent compatible with its statutory responsibilities, use reasonable endeavours to support and provide all necessary assistance, co-operation, and access to information and materials to the Charity throughout the Term of the Services Contract as are reasonably requested by the Charity to help to ensure the success of the Charity after the Transfer Date; and

16.1.2 it shall promptly forward any enquiries received by the Council about the Undertaking, save for such enquiries as relate to the Council's role as a party to the Services Contract, to the Charity.

16.2 Each Party warrants that it shall do nothing to, nor act in a manner that will, or is reasonably likely to, bring the other Party into disrepute.

17. Acknowledgment and Publicity

17.1 The Charity shall acknowledge the Fee in its annual report and accounts, which may include an acknowledgement of the Council as payer of the Fee.

17.2 Subject to clause 17.5, the Charity may acknowledge the support of the Council in any materials that refer to the Services and in any written or spoken public presentations about the Services. Such acknowledgements may include the Council Trade Marks, to be used in accordance with the licence at clause 18.3.

17.3 In using the Council Trade Marks, the Charity shall comply with all reasonable branding guidelines issued by the Council to the Charity from time to time.

17.4 The Parties shall avoid making any comments publically (whether in the press or on social media) which would cause significant embarrassment or harm to the reputation of the other Party.

17.5 Neither Party may publish press statements or significant public announcements referring to the Services or to the other Party without first requesting the written consent of the other Party's Agreement Manager or communications team (not to be unreasonably withheld or delayed). The reviewing Party's Agreement Manager or communications team shall respond to the publishing Party confirming whether such consent has been granted or refused, and where consent is refused detailing its reasons for such refusal, within 2 (two) Business Days of receiving a written request from the publishing Party for such consent or within such other

period as the Parties may agree in writing, failing which the publishing Party shall be entitled to assume that the reviewing Party has no objection to the proposed publication.

18. Intellectual Property

- 18.1 The Council and its licensors shall retain ownership of all Council Background IPR, the Council Service IPR and the Council Trade Marks. The Charity and its licensors shall retain ownership of all Charity Background IPR and the Charity Trade Marks and the Charity shall own all Foreground IPR.
- 18.2 The Council grants to the Charity, or shall procure the direct grant to the Charity of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the Contract Term to use, copy and modify the Council Background IPR and the Council Service IPR for the purpose of delivering the Services in accordance with the Terms and authorises the Charity to grant a non-exclusive sub-licence to use such Council Background IPR for the purpose of delivering the Services in accordance with the Terms.
- 18.3 The Council grants to the Charity a fully paid-up, worldwide, non-exclusive, royalty-free licence during the Contract Term to use the Council Trade Marks for the purposes of promoting the Services and the Council's funding of the Services. Except in accordance with clause [17.4] below, the Charity must not sub-license its right to use the Council Trade Marks without the Council's prior written consent.
- 18.4 The Charity may sub-license use of the Council Trade Marks to any Permitted Sub-Contractor, provided that:
- 18.4.1 any sub-licence must be on the same terms as the licence at clause 18.2 of this Agreement; and that:
- 18.4.2 at the expiry of the Contract Term or earlier termination of this Agreement in accordance with clause 26 (Termination) the sub-licence shall be novated to the Council;
- 18.4.3 or in the event of the earlier expiry or termination of the Charity's agreement with the Permitted Sub-Contractor for the provision of the Services, the sub-licence shall terminate on such expiry or termination of the sub-contract.
- 18.5 All goodwill generated by the Charity through the delivery of the Services during the Contract Term will accrue to the Charity and shall:
- 18.5.1 to the extent that such goodwill is distinct from the Services, remain the property of the Charity on the expiry of the Contract Term or earlier termination of this Agreement; and
- 18.5.2 to the extent that such goodwill relates directly to the Services, be transferred to the Council on the expiry of the Contract Term or earlier termination of this Agreement.
- 18.5.3 The Council warrants that it has used best endeavours to ensure that the Charity's use of the Council Background IPR does not infringe the rights, including any Intellectual Property Rights, of any third party.
- 18.6 The Council shall keep the Charity indemnified in full against all Direct Losses of the Charity as a result of or in connection with any claim brought against the Charity for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in

connection with, its use of the Council Background IPR or its use of the Council Trade Marks to deliver or promote the Services.

18.7 The Charity shall keep the Council indemnified in full against all Direct Losses of the Council as a result of or in connection with breach by the Charity of the licences granted at paragraphs 18.2 or 18.3 and as a result of or in connection with any breach by any sub-licensee of any sub-licence granted by the Charity.

19. **Confidential Information**

19.1 Each Party shall during the Contract Term and thereafter keep secret and confidential all Confidential Information disclosed to it as a result of this Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other Party.

19.2 Each Party may disclose the other Party's Confidential Information:

19.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information comply with this clause 19;

19.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; or

19.2.3 in accordance with clause 21.4 of this Agreement (Freedom of Information).

19.3 Neither Party shall use the other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

19.4 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Confidential Information which:

19.4.1 at the time of its disclosure by the disclosing Party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving Party;

19.4.2 is already known to the receiving Party as evidenced by written records at the time of its disclosure by the disclosing Party and was not otherwise acquired by the receiving Party from the disclosing Party under any obligations of confidence; or

19.4.3 is at any time after the date of this Agreement acquired by the receiving Party from a third party having the right to disclose the same to the receiving Party without breach of the obligations owed by that Party to the disclosing Party.

20. **[Data Protection]**

20.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation, to the extent that they Process Personal Data in connection with this Agreement.

- 20.2 Neither Party will perform its obligations under this Agreement in such a way as to cause the other Party to breach any of its obligations under the Data Protection Legislation. The Parties agree to co-operate with each other to ensure that that each Party is able to perform its obligations under the Data Protection Legislation.
- 20.3 The Charity shall (and the Council acknowledges and understands that the Charity shall) use reasonable endeavours to ensure that all data relating to individuals (including in particular Service Users) which it provides to the Council in accordance with this Agreement (and in particular its reporting obligations in clauses 13 and 14) is appropriately anonymised so as not to constitute Personal Data (unless the Council specifically instructs that it not be anonymised). Should it come to the attention of either Party that any such data is not appropriately anonymised, that Party shall inform the other Party as soon as reasonably practicable and the Parties shall work together in good faith to mitigate any negative impact and ensure that future data sharing shall be appropriately anonymised.
- 20.4 The Parties acknowledge and agree that the relationship between them pursuant to this Agreement is not intended to constitute that between a controller and a processor (as those terms are defined in the Data Protection Legislation), and that each Party shall be an independent controller with respect to the Personal Data it Processes in connection with this Agreement.
- 20.5 The Parties further acknowledge and agree that, in the event that they enter into additional agreements the effect of which is that the relationship between them constitutes that between a controller and a processor (as those terms are defined in the Data Protection Legislation), that the Parties shall in good faith negotiate and enter into an agreement as required under the Data Protection Legislation to govern such relationship.]

21. **Freedom of Information**

- 21.1 The Charity shall assist and fully and promptly cooperate with the Council as required (including but not exclusively assistance in retrieving information held) to enable the Council to comply with its duties under the Freedom of Information Act 2000 ("FoIA").
- 21.2 The Council shall not be in breach of clause 19 (Confidential Information) of this Agreement if it makes disclosures of information in accordance with the requirements of FoIA.
- 21.3 If the Charity receives a request for information which relates to the Council or to this Agreement to which FoIA applies or might apply and it shall:
- 21.3.1 transfer to the Council the request for information as soon as practicable and in any event within 2 (two) Business Days of receiving it;
- 21.3.2 provide the Council with a copy of all information in its possession or power in the form that the Council requires within 5 (five) working days (or such other period as the Council may reasonably specify) at the Council's request; and
- 21.3.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the request for information within the time for compliance set out in the FoIA.
- 21.4 The Charity shall not (under any circumstances) respond directly to a request for information unless expressly authorised to do so by the Council.

21.5 Notwithstanding any other provision of this Agreement, the Charity hereby gives consent for the Council to publish this Agreement in its entirety (subject to the redaction of any information which is exempt from disclosure in accordance with the provisions of FoIA), including from time to time any agreed changes to the Agreement, to the general public in compliance with its statutory duty under the Transparency Requirements provided that no information that is commercially sensitive to the Charity shall be published and that in publishing the information the Council shall comply with the Data Protection Legislation.

22. **Indemnities**

22.1 Subject to clause [1.8] of the Transfer Agreement, nothing in this Agreement shall pass or be deemed to pass to the Charity, or shall be construed as acceptance by the Charity of, any liability, debt or other obligation of the Council (whether accrued, absolute, contingent, known or unknown) for anything done or omitted to be done before close of business on the Commencement Date in the course of or in connection with the Services (or those activities similar to the Services performed by the Council prior to the Commencement Date) and the Council shall indemnify and hold the Charity harmless against any Direct Losses arising therefrom.

22.2 The Council shall indemnify and hold harmless the Charity in respect of:

22.2.1 all Direct Losses arising out of or in relation to any non-payment of the Fee by the Council on any due date; and

22.2.2 any other Direct Losses arising out of any material breach of the Council's obligations under this Agreement;

22.2.3 [any reasonably incurred costs of the Charity arising from the contributions payable by the Charity to the Fund to the extent these relate to employees of the Charity employed after the Commencement Date who are admitted to the Fund pursuant to an open Admission Agreement].

22.3 Subject to clause 22.4, the Charity shall indemnify and hold harmless the Council, in respect of any Direct Losses arising out of or in relation to any delivery of the Services by the Charity.

22.4 If the Charity's performance of the Terms is prevented or delayed by any act or omission of the Council, its agents, subcontractors, consultants or employees including in relation to the Council's performance of its obligations under the Back Office Services Agreement, the Charity shall not be liable for any costs, charges or losses sustained or incurred by the Council that arise directly or indirectly from such prevention or delay.

22.5 The Parties shall at all times take all reasonable steps to minimise and mitigate any loss for which the other Party is entitled to bring a claim against them pursuant to this Agreement including pursuant to the indemnities.

23. **Limitation of Liability**

23.1 Nothing in this Agreement shall limit or exclude either Party's liability for:

23.1.1 death or personal injury caused by its negligence, or the negligence of its personnel, agents, subcontractors or Permitted Sub-Contractors;

- 23.1.2 fraud or fraudulent misrepresentation; or
- 23.1.3 any other liability which cannot be limited or excluded by applicable law.
- 23.2 Subject to clause 23.1:
 - 23.2.1 neither Party shall have any liability to the other Party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect or consequential loss arising under or in connection with this Agreement;
 - 23.2.2 [save for any liabilities arising under the indemnity set out at clause 22.2.3], the liability of the Council under this Agreement shall be limited, in relation to liabilities arising in any given Contract Year, to the total of the Fee paid or due in that Contract Year (including any increase in the amount of the Fee agreed in accordance with clauses 4.1 and 4.5); and
 - 23.2.3 the liability of the Charity under this Agreement shall be limited, in relation to liabilities arising in any given Contract Year, to the level of insurance taken out by the Charity in relation to the Services under clause 24 of this Agreement or the total of the Fee paid or due in that Contract Year (including any increase in the amount of the Fee agreed in accordance with clauses 4.1 and 4.5), whichever is lower.

24. **Insurance**

- 24.1 During the Contract Term the Charity shall maintain in force a full and comprehensive insurance policy of an appropriate level in respect of its activities in delivering the Services, but excluding the Council Insured Matters.
- 24.2 The Charity shall ensure that such an insurance policy is taken out with reputable insurers acceptable to the Council and that the level of cover and other terms of insurance are acceptable to and agreed by the Council.
- 24.3 The Charity shall (on request) supply to the Council a copy of such an insurance policy and evidence that the relevant premiums have been paid.

25. **Default Rectification Procedure**

- 25.1 Without prejudice to any other rights under the Agreement, if the Council finds, in its reasonable opinion, the Charity has:
 - 25.1.1 failed to comply with any of the Terms;
 - 25.1.2 failed to deliver all or any part of the Services in accordance with clause 7.2 of this Agreement;
 - 25.1.3 failed to comply with its current Annual Service Plan;
 - 25.1.4 failed to deliver its Key Performance Indicators by a margin of 10% or more; or
 - 25.1.5 failed to comply with any reasonable instruction or notice issued by the Council;
- the Council may take the steps set out below.

Service of Default Notice

25.2 The Council shall serve notice on the Agreement Manager for the Charity in the event of any default detailed above in accordance with this clause 25. The procedure set out in this clause shall be without prejudice to any other rights or remedies available to the Council.

25.3 Any notice may be given verbally where immediate action is required but shall be confirmed in writing by the Council within 72 hours. Failure to do so shall mean such notice has not been served for the purposes of this clause.

25.4 All notices served by the Council shall state:

25.4.1 the date of issue;

25.4.2 whether the notice is in respect of a Minor Default or a Major Default, as determined by the Council, acting reasonably and taking into account the circumstances of the default. For the avoidance of doubt, the Parties agree that each of the following shall amount to a Major Default unless otherwise indicated by the Council:

(a) the Charity fails to keep all of the museums open to the public during the Opening Hours except:

(i) with written consent from the Council; or

(ii) in the case of an unforeseen emergency provided that it is remedied as soon as is reasonably practicable;

(b) the Charity is in the reasonable view of the Council at a material risk of entering into a state of Financial Distress within the following six months;

(c) by three months into any given Contract Year, the Parties have been unable to secure the consent of the relevant Council committee to the draft Annual Service Plan and it appears to the Council that there is no prospect that such consent will be obtained;

25.4.3 the nature of the default;

25.4.4 the remedy required; and

25.4.5 any reasonable time limit imposed for:

(a) compliance by the Charity with the notice; or

(b) in respect of a Major Default, submission by the Charity of an Action Plan as set out in clause 25.9.

25.5 The Charity may notify the Council in writing within four Business Days of receipt of a Default Notice that the Default Notice is unjustified including grounds for its opinion. If the Council, acting reasonably, is satisfied the Charity's grounds are reasonable, it may cancel or amend the Default Notice. The Council shall inform the Charity's Agreement Manager of its decision as to whether the Default Notice is justified within four (4) Business Days of receipt of the Charity's notice. Where the Council considers the Default Notice is justified,

the time period for the Charity to remedy the default shall run from the date on which the Council notifies the Charity that it considers the Default Notice to be justified notwithstanding the Charity's representations.

25.6 In the event that there is a dispute as to the Council's decision under clause 25.5, such dispute shall be determined in accordance with the procedure in clause 33 (Dispute Resolution) below.

25.6.1 Where remedial action is required the Charity must return a copy of the Default Notice to the Council certifying that the default or breach has been remedied within any specified time period.

Major Default Notices

25.7 In addition to the Council's right to serve a Default Notice for a Major Default on the Charity, in the event the Charity commits a Major Default in relation to any of matters listed at clause 25.1 above, the Council may also decide to serve the Charity with a Default Notice for a Major Default in the event that:

25.7.1 the Charity has failed to comply with any Default Notice(s) for a Minor Default; and/or

25.7.2 the number of Default Notices for Minor Defaults served in any single Contract Year constitutes evidence of persistent breaches of the Agreement by the Charity, such that the Charity's continued failure to meet terms of this Agreement constitutes a Major Default .

25.8 The Charity will be required to remedy the default in accordance with the Council's instructions in the Default Notice at its own expense.

25.9 Where a Default Notice for a Major Default is served the Council may require the Charity to submit for the Council's approval an action plan detailing the steps to be taken by the Charity to ensure the Services will be delivered in accordance with clause 7.2 of this Agreement (an "**Action Plan**"), such Action Plan to be followed within 20 Business Days from agreement of the Action Plan or such other time period(s) as may be agreed with the Council in writing. The Council, acting reasonably and in consultation with the Charity, may require the Charity to make changes to the Action Plan if it is not satisfied that the plan will ensure that the Services are delivered in accordance with clause 7.2 above.

25.10 Where a Default Notice for a Major Default has been served and not remedied within the agreed timeframe, the Council:

25.10.1 shall not be required to pay for such part of the Services as are not provided in accordance with clause 7.2 of this Agreement by way of the relevant Major Default; and/or

25.10.2 may terminate the Agreement in accordance with clause 26.4.1(a)(xi).

25.11 The Council may appoint an Alternative Provider for all or part of the Services identified in a Default Notice for a Major Default ("**Alternative Provider**") until the breach has been rectified and the Charity shall provide all reasonable cooperation to the Council and to the Alternative Provider to enable the Services identified in the Default Notice for the Major Default to be successfully delivered by the Alternative Provider until the Charity's breach has been rectified.

25.12 The Charity may be liable for any other costs reasonably incurred by the Council as a result of the Charity's failure to deliver all or any part of the Services identified in a Default Notice for a Major Default, pursuant to clause 22.3 of this Agreement or subject to clauses 22 and 23 of this Agreement including for the avoidance of doubt the reasonably incurred costs of the Council in appointing an Alternative Provider (provided that the Council shall seek to minimise these costs to those reasonably necessary to provide such part of the Services identified in the relevant Default Notice for the Major Default).

25.12.1 Where any amount due under this clause exceeds any sum due to the Charity the difference shall be payable by Charity within 30 days of the Council giving notice in writing of the amount due.

26. Termination

26.1 This Agreement shall terminate automatically at the end of the Contract Term unless it is terminated earlier in accordance with the provisions of this clause 26.

26.2 Termination without Breach by Either Party

26.2.1 Without limiting its other rights or remedies, either Party may terminate the Agreement with effect from the tenth (10th) or twentieth (20th) anniversary of the Commencement Date by giving no less than one (1) year's written notice to the other Party.

26.3 Termination for Breach by Either Party

26.3.1 Without limiting its other rights or remedies, either Party may terminate the Agreement with immediate effect by giving written notice to the other Party if:

- (a) the other Party suspends or ceases to operate all, or a substantial part, of its business;
- (b) the other Party makes an assignment of this Agreement in breach of clause 30 (Assignment and Sub-contracting);
- (c) the right for either Party to terminate this Agreement as a result of a Force Majeure Event arises pursuant to clause 28 (Force Majeure) of this Agreement; and/or
- (d) any of the Leases are terminated.

26.4 Termination by Council

26.4.1 In addition to the grounds for termination by either Party set out at clause 26.2 above, the Council may terminate this Agreement:

- (a) with immediate effect by giving written notice to the Charity if:
 - (i) the Charity becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due and any required repayment of funds would be in accordance with and pursuant to any dissolution or liquidation proceeding;

- (ii) the Charity is in Financial Distress, provided that, in the event that the Council was or should reasonably have been aware of there having been a material risk of the Charity entering Financial Distress, the Council has first followed the process set out in clause 25 (Default Rectification Procedure) pursuant to clause 25.4.2(b);
- (iii) the Charity deliberately provides the Council with any materially misleading or inaccurate information;
- (iv) the Charity makes any Material Changes to the Services without the prior approval of the Council;
- (v) the Charity acts illegally or negligently;
- (vi) the Charity loses its Arts Council England Museum Accreditation or equivalent accreditation from a successor accreditation scheme run by Arts Council England or its successor or replacement body);
- (vii) the Collection is, in the opinion of the Council (acting reasonably), at material risk, due to the actions or inactions of the Charity, of losing their status under the Arts Council England's Designation Scheme (or such successor designation scheme run by Arts Council England or its successor or replacement body);
- (viii) the Charity loses its charitable status;
- (ix) the Charity commits a material breach of clause 8 of this Agreement (Compliance with Laws and Policies);
- (x) by 9 months into the relevant Contract Year the Parties have been unable to secure the consent of the relevant Council committee to the draft Annual Service Plan on at least two occasions and it appears to the Council that there is no prospect that such consent will be obtained; and/ or
- (xi) the Charity fails to remedy a Major Default following the application of the Default Notice procedure as set out in clause 25.7 (Default Rectification Procedure).

26.5 Termination by Charity

26.5.1 In addition to the grounds for termination by either Party set out at clause 26.2 above, the Charity may terminate this Agreement:

- (a) with immediate effect by giving written notice to the Council if:
 - (i) the Council fails to pay any sums due to the Charity in accordance with clause 4 of this Agreement and by the due dates set out in the Payment Schedule; or
 - (ii) the Council imposes, under any provision of this Agreement or any other legally enforceable agreement between the Parties, a political or editorial stance or position on the Charity which the Charity's trustees, acting

reasonably and in good faith, consider they are unable to comply with (with a view to charity law and regulation); or

- (iii) the Council issues a s114 notice or equivalent; or
- (iv) with effect from the end of the final Contract Year in any given Fee Term if, [on receipt of the Council's indication of the Indicative Fee for the following Fee Term, the Charity's trustees, acting reasonably and in good faith, consider that] the Indicative Fee for the following Fee Term does not represent a viable financial settlement for the Charity, including without limitation if the Indicative Fee would place the Charity in Financial Distress;

- (b) with effect from the end of the initial Contract Year in any given Fee Term if, on receipt of the Council's confirmation of the Fee for the following Fee Term following the annual budget meeting of full council, the Fee is lower than the Indicative Fee and as a result of the difference between the Fee and the Indicative Fee[, the Charity's trustees, acting reasonably and in good faith,] consider that the Fee for the following Fee Term does not represent a viable financial settlement for the Charity, including without limitation if the Fee would place the Charity in Financial Distress.

27. Consequences of Expiry or Termination

27.1 Prior to the expiry of the Contract Term, the Parties shall give consideration to the future delivery of the Services and to the suitability of the Exit Plan at Schedule 5 (Exit Plan). The Council shall, with the support of the Charity, consider the options for the future delivery of the Services (including but not limited to transfer of the Services back to the Council or to a Future Provider upon the expiry of the Contract Term, or the agreement by the Council and Charity for the Charity to continue to provide the Services on terms to be agreed). In deciding how the Services should be delivered beyond the expiry of the Contract Term, the Council shall consider which Party or third party will be best placed to deliver the Services successfully and in the best interests of the Service Users, and shall inform the Charity of the outcome of such consideration (in accordance with either clause 27.2, clause 27.3, or otherwise) as soon as is reasonably practicable and no later than twelve months in advance of the expiry of the Contract Term.

27.2 If, after following the process described at clause 27.1, the Council determines that the Services shall continue to be delivered by the Charity following the expiry of the Contract Term (subject to compliance with procurement law and regulation), then, provided the Charity agrees to continue to deliver the Services, the provisions in clause 27.3 and Schedule 5 (Exit Plan) shall not apply and the Parties shall negotiate in good faith to put in place appropriate arrangements to govern the delivery of the Services following the expiry of the Contract Term.

27.3 If, after following the process described at clause 27.1, the Council determines that the Services shall be delivered by the Council or a Future Provider following the expiry of the Contract Term or the Agreement is terminated pursuant to clause 26, then, at the end of the Contract Term or upon the earlier termination of this Agreement:

27.3.1 the Charity shall cease to deliver the Services;

- 27.3.2 the provisions of the Exit Plan shall come into effect and the provisions of Schedule 6 shall apply and the Parties shall co-operate fully to ensure an orderly transfer of the Services to the Council or to any Future Provider;
- 27.3.3 the licences relating to Intellectual Property Rights at clause 15 of this Agreement shall terminate and those set out in Schedule 5 (Exit Plan) shall be granted (unless otherwise agreed in writing between the Parties);
- 27.3.4 either Party may elect to serve notice on the other Party to terminate any Lease granted from the Council to the Charity in respect of the Premises, subject to the provisions of such Lease;
- 27.3.5 subject to the requirements of clause 27.3.6, the Council shall be under no obligation to make any further payment of the Fee to the Charity; and
- 27.3.6 the Parties shall apportion the Fee payable from the Council to the Charity for the current Contract Year up to and including the date of termination (“the **Apportioned Fee**”) and:
- (a) where the actual sum that has been paid to the Charity by the Council at the date of termination is less than the Apportioned Fee owed to the Charity, the Council shall pay any outstanding portion of the Fee to the Charity; or
 - (b) where the actual sum that has been paid to the Charity by the Council at the date of termination exceeds the Apportioned Fee owed to the Charity, the Charity shall repay any overpayment of the Fee to the Council; and

any payments required by this clause shall be made within thirty (30) Business Days of the date that this Agreement is terminated, or within any other period agreed by the Parties in writing, provided that the Council may withhold any payment due under clause 27.3.6(a) until such time as the Charity has, in the opinion of the Council (acting reasonably), co-operated fully to ensure an orderly transfer of the Services to the Council or to any Future Provider.

- 27.4 The provisions of clause 1 (Definitions), clause 10 (Staffing and Pensions), clause 15 (Accounts and Records), clause 15 (Intellectual Property), clause 19 (Confidential Information), clause 20 (Data Protection) clause 22 (Indemnities), clause 23 (Limitation of Liability), clause 26 (Consequences of Termination), clause 39 (Governing Law) and Schedule 5 (Exit Plan) shall survive expiry or earlier termination of the Agreement.

28. **Force Majeure**

- 28.1 Neither Party (provided that it has complied with this clause 28) shall be deemed to be in breach of this Agreement, or otherwise liable to the other by reason of any delay in performance or non-performance of any of its obligations hereunder to the extent that such delay or non-performance is due to a Force Majeure Event (“**the Affected Party**”).
- 28.2 The Affected Party shall:
- 28.2.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than 5 Business Days from its start, notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Agreement; and

28.2.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

28.3 The obligations of both Parties under this Agreement shall be suspended for the duration of the Force Majeure Event.

28.4 If the Force Majeure Event prevents, hinders or delays the Parties' performance of their obligations for a continuous period of more than 5 days, then either Party may terminate this Agreement immediately by giving written notice to the Affected Party.

29. **Change Procedure**

Any Change (including any amendments to the Services) shall be agreed in accordance with the Change Procedure set out in Schedule 4 (Change Procedure).

30. **Assignment and Sub-Contracting**

30.1 Subject to clause **Error! Reference source not found.** and 30.2, neither Party may assign, or otherwise deal in any manner with its obligations under this Agreement, or transfer or pay to any other person any part of the Fee, without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

30.2 The Charity may not, without the prior written consent of the Council, sub-contract to any third party the delivery of the Services (such consent not to be unreasonably withheld or delayed), unless:

30.2.1 the sub-contractor is a trading subsidiary of the Charity and the sub-contracting reflect best practice in accordance with relevant charity law and guidance;

30.2.2 the part of the Services that are to be sub-contracted requires expertise which the Charity does not hold in-house (including for example delivery of capital projects or other discrete projects); or

30.2.3 the value of part of the Services that are to be sub-contracted equate to no more than fifteen (15) percent of the value of the Charity's turnover in the relevant Contract Year.

30.3 In the event that the Charity undergoes a Change of Control it shall be entitled to assign the benefit and/or the burden of this Agreement to the body to which Control of the Charity is transferred with the prior written consent of the Council, not to be unreasonably withheld or delayed. For the avoidance of doubt, a Change of Control of the Charity during the Contract Term shall not give rise to termination by either Party in accordance with clause 26 of this Agreement.

31. **Waiver**

No failure or delay by either Party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

32. **Notices**

32.1 A notice given under this Agreement will be sent for the attention of the person, and to the address given in this clause (or such other address as the relevant Party may have notified to the other Party in accordance with this clause) and will be:

32.1.1 delivered personally; or

32.1.2 delivered by commercial courier; or

32.1.3 sent by pre-paid first-class post, registered post or recorded delivery; or

32.1.4 by email.

32.2 The addresses for service of notice are:

32.2.1 **Council**

Address: [Insert address]

Email address: [Insert email address]

For the attention of: [Insert name and/or position]

32.2.2 **Charity**

Address: [Insert address]

Email address: [Insert email address]

For the attention of: [Insert name and/or position]

32.3 A notice is deemed to have been received:

32.3.1 if delivered personally, at the time of delivery; or

32.3.2 if delivered by commercial courier, at the time of signature of the courier's receipt; or

32.3.3 if sent by pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting; or

32.3.4 if sent by email, at the time of transmission;

32.3.5 if deemed receipt under the previous paragraphs of this clause is not within business hours (meaning any time other than 9.00 am to 5.30 pm Monday to Friday on a Business Day), when business next starts in the place of receipt.

32.4 It is sufficient, to prove service by post, that the envelope containing the notice was properly addressed and posted.

32.5 A notice under this Agreement will not be valid if sent by e-mail.

33. Dispute Resolution

33.1 In the event of any complaint or dispute (which does not relate to the Council's right to withhold funds or terminate) arising between the Parties in relation to this Agreement the matter should first be referred for resolution to the Council's Agreement Manager or any other individual nominated by the Council from time to time.

33.2 Should the complaint or dispute remain unresolved within fourteen (14) days of the matter first being referred to the Agreement Managers for the Parties or other nominated individual, as the case may be, either Party may refer the matter to the Chief Executive of the Council and the Chief Executive of the Charity with an instruction to attempt to resolve the dispute by agreement within twenty eight (28) days, or such other period as may be mutually agreed by the Council and the Charity.

33.3 In the absence of agreement under clause 33.2, the Parties shall seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both Parties). Unless otherwise agreed the Parties shall bear the costs and expenses of the mediation equally, excluding the cost and expenses of their respective legal and professional advice.

34. Entire Agreement

This Agreement constitutes the entire agreement between the Parties in relation to the delivery of the Services, as described in this Agreement.

35. Severance

35.1 If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

35.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the Parties where this is possible.

35.3 Without prejudice to clause 32.1, if, in the reasonable opinion of either of the Parties, the effect of such a deletion is to undermine the purpose of this Agreement or materially prejudice the position of either Party, the Parties shall negotiate in good faith in order to agree suitable alternative provisions to replace the deleted provisions or a suitable amendment to this Agreement.

36. No Partnership or Agency

This Agreement shall not create any partnership or joint venture between the Council and the Charity, nor any relationship of principal and agent, nor authorise any Party to make or enter into any commitments for or on behalf of the other Party.

37. Counterparts

This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each Party had signed the same document.

38. **Contracts (Rights of Third Parties) Act 1999**

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

39. **Governing Law**

This Agreement shall be governed by and construed in accordance with the law of England and Wales and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

Signed by [*insert name in bold and upper case*])

for and on behalf of the Council:)

Signed by [*insert name in bold and upper case*])

for and on behalf of [the Charity]:)

Schedule 1 – Definitions and Interpretation

1. In this Agreement, save where the context requires otherwise, the following words, terms and expressions shall have the meanings given to them below:

“2019 NJC Terms and Conditions”	means the national agreement on pay and conditions of service for local government services as of 13 March 2019;
“ACE Business Plan”	has the meaning given in clause 12.9;
“Admission Agreement”	have the meaning given to it in the Transfer Agreement;
[“Additional NJC Terms and Conditions Costs”]	[any reasonable costs of the Charity arising from employment by the Charity of employees who are engaged to deliver the Services on the terms set out in the NJC Terms and Conditions (where applicable) pursuant to clause 10.2, to the extent that such costs are in excess of those which would arise from the employment by the Charity of employees who are engaged to deliver the Services on those on those NJC Terms and Conditions which applied or would have applied at the commencement of the Fee Term preceding the Fee Term for which the Fee is to be determined;]
“Agreement”	means this agreement including its Schedules;
“Agreement Manager”	means the named individuals for each Party appointed in accordance with clause 14.1 or such other person as is notified to the other in writing;
“Alternative Provider”	means an alternative provider appointed by the Council in accordance with clause 25 (Default Rectification Procedure);
“Annual Review Meeting”	means the annual meeting between the Parties to assess the Charity’s delivery of the Services in accordance with this Agreement, and to agree the Annual Service Plan for the following Contract Year, in accordance with clause 14;
“Annual Service Plan”	means the Charity’s business plan, as agreed in accordance with clause 12, setting out the plan for delivery of the Services for the next Contract Year in return for the Fee, as amended during the Contract Year in accordance with the Change

	Procedure in Schedule 4;
“Assets”	has the meaning given to it in the Transfer Agreement;
“Back Office Services Agreement”	has the meaning given to it in the Transfer Agreement;
“Business Day”	means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
“Change” or “Changes”	means any change or changes to the Agreement which is/are either a Material Change/Material Changes or an Operational Change/Operational Changes;
“Change Procedure”	means the procedure for dealing with any Change as set out in clause 29;
“Change Request”	means a request for a Material Change made in accordance with Part 2 of Schedule 4 (Change Procedure);
“Change Request Impact Assessment”	means the assessment made in accordance with the procedure at with Part 2 of Schedule 4 (Change Procedure);
“Charity Background IPR”	means all Intellectual Property Rights that are owned by or licensed to the Charity and which are or have been developed independently of this Agreement that are necessary to deliver the Services excluding, for the avoidance of doubt, these rights associated with the Charity Trade Marks;
“Charity Trade Marks”	means all names and any logos of the Charity, including any names and logos owned by the Charity prior to the Commencement Date or developed during the Contract Term, whether or not these have been developed in connection with its delivery of the Services;
“Collection”	means the collection subject to the Collection Loan Schedule;
“Collection Loan Schedule”	means the collection loan schedule between the Council and the Charity set out in Schedule 10, which shall for the avoidance of doubt form part of

	this Agreement;
“Commencement Date”	[1 April 2020];
“Confidential Information”	means any information which ought reasonably to be considered confidential however conveyed or presented: <ul style="list-style-type: none">- that relates to the Fee or to the business, affairs, operations, customers, beneficiaries, processes, budgets, pricing, policies, product information, strategies, developments, trade secrets, Know-How, personnel and suppliers of the disclosing Party, including the disclosing Party’s Intellectual Property Rights; and- all information derived by the receiving Party from any such information, and any other information clearly designated by the providing Party as being confidential to it (whether or not it is marked “confidential”);
“Contract Term”	means the Initial Contract Term, plus any Extended Contract Term under clause 2.2, in each case unless and until such time as the Agreement is terminated in accordance with clause 26 (Termination);
“Contract Year”	means (each period of twelve months starting with [1 April 2020] or any anniversary of [1 April 2020] during the Contract Term;
“Control”	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression “Change of Control” shall be construed accordingly;
“Council Background IPR”	means all Intellectual Property Rights supplied by the Council to the Charity for the purposes of this Agreement excluding, for the avoidance of doubt, the Pre-existing Collection IPR and those rights associated with the Council Trade Marks, the Council Service IPR or such Intellectual Property Rights owned by the Charity or that the Charity has the benefit of separately from this Agreement;
“Council Insured Matters”	means such elements of the Services which are insured by the Council pursuant to its obligations under the Collection Loan Schedule and the

Leases;

“Council Trade Marks”	means the name and logo of the Council and including any name or names and logo or logos used for the Services (excluding those already owned by the Charity or licensed to the Charity separately from this Agreement);
“Council Service IPR”	all proprietary rights and Intellectual Property Rights including copyright, database rights, design rights, working names and domain names owned by the Council and used exclusively by the Undertaking and in each case whether registered or unregistered and including all applications and rights to apply for and be granted, excluding the Council Background IPR, the Council Trade Marks and the Collection IPR including as set out in Schedule 1717930090;
“Current NJC Terms and Conditions”	means the national agreement on pay and conditions of service for local government services as of the date on which any Indicative Fee is set by the Council for any given Fee Term;
[“Data Protection Legislation”]	[means, as applicable, (a) the General Data Protection Regulation (EU) 2016/679v; (b) the Data Protection Act 2018; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (d) all other applicable laws and regulations relating to the processing of Personal Data and privacy, including statutory instruments (and in each case any re-enactment or amendment);]
“Default Notice”	means any notice served on the Charity by the Council notifying the Charity of either a Minor Default or Major Default, in accordance with clause 22 of this Agreement;
“Direct Losses”	means all losses, liabilities, claims, demands, actions, costs, expenses and damages, proceedings, demands and charges whether arising under statute, contracts or at common law;
“Eligible Employees”	as defined in the Transfer Agreement;
“Employees”	as defined in the Transfer Agreement;

- “Exit Group”** means the group established in accordance with paragraph 1 of Schedule 6 Part 1 (Staffing and Pensions);
- “Exit Period”** means any period of notice to terminate this Agreement which has been given under clause 26 or , where such notice has not been given before twelve (12) months prior to the expiry of the Contract Term (or, if applicable, the Extended Contract Term), the twelve (12) month period prior to the expiry of the Contract Term or Extended Contract Term (as applicable);
- “Exit Plan”** means the plan to be prepared for the purposes of clause 27 and a template of which is set out in Schedule 5 (Exit Plan);
- “Extended Contract Term”** has the meaning given to it in clause 2.2;
- “Fee”** means the sum for the Services to be paid by the Council to the Charity in accordance with this Agreement as detailed in Schedule 3 of this Agreement (subject to the Terms of this Agreement), which is exclusive of any applicable VAT payable;
- “Financial Distress”** means that:
- a) the state of the Charity’s finances will have a material and adverse effect on the Charity’s ability to deliver the Charity’s current Annual Service Plan;
 - b) the Charity has overspent by more than [25]% compared to the Charity’s projected expenditure at that point in the financial year without the written agreement of the Council; and/ or
 - c) the Charity’s unrestricted funds are less than [10]% of the Charity’s projected annual expenditure without the written agreement of the Council.

“Force Majeure Event”

means and includes war, natural flood, exceptionally adverse weather, strike or lockout (other than strike or lockout which is limited to the Charity’s staff or any staff of any Permitted Sub-contractor), civil disorder, act of God, power cuts or delays or other event or occurrence which is outside the reasonable control of the Party concerned (and which is not attributable to any act or omission by the Party concerned including failure to take preventative action). For the Charity only, any failure of the Council to perform its obligations under the Back Office Services Agreement will also be a Force Majeure Event where such failure prevents the Charity from performing its obligations under this Agreement;

“Foreground IPR”

means all Intellectual Property Rights created by the Charity in its delivery of the Services, or otherwise in its performance of this Agreement, including any Charity Trade Marks developed by the Charity exclusively in the performance of the Services but excluding all other Charity Trade Marks and the Charity Background IPR and any goodwill developed by the Charity in its delivery of the Services which is distinct from the Services;

“Fund”

have the meaning given to it in the Transfer Agreement;

“Future Provider”

means any future provider appointed by the Council to deliver the Services or any part of them following the expiry of the Contract Term or the earlier termination of this Agreement in accordance with clause 26;

“Good Industry Practice”

means using standards, practices, methods and procedures conforming to the law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from the Charity with its level of experience in the Services;

“Initial Contract Term”

has the meaning given to it in clause 2.1;

“Intellectual Property Rights”	means all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions;
“Key Performance Indicators”	means the key indicators and outcomes set out in Schedule 2Part 2 to this Agreement;
“Know-How”	means information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale;
“Lease” and “Leases”	have the meaning given to it in the Transfer Agreement;
“Major Default”	means a failure by the Charity in accordance with clause 25 that is of a serious nature and which has, or is likely to have a significant impact on the delivery of the Services to the Service Users;
“Material Change”	means a change to the Agreement which may result in variation to the amount of the Fee equal to or greater than the threshold amount at Schedule 3Part 4 and is therefore subject to the Change Procedure set out in Schedule 4 (Change Procedure);
“Minor Default”	means a failure by the Charity in accordance with clause 25 that is of a relatively minor nature with minimum disruption in the delivery of the Services to the Service Users and/ or a breach of the Charity’s obligation in clause 10;
“NJC Terms and Conditions”	means the national agreement on pay and conditions of service for local government services or any replacement scheme) operable at the relevant date;
“Opening Hours”	means the opening hours agreed in the Annual Service Plan each year;

“Operational Change”	means a minor change to the Agreement relating to the manner in which the Services are delivered and which is below any threshold agreed pursuant to Schedule 4 and is therefore not subject to the Change Procedure;
“Payment Schedule”	means, for the Initial Fee Term, the schedule for payment of the Fee at Schedule 3Part 2 Schedule 3 and, for each subsequent Fee Term, the schedule for payment of the Fee as is agreed by the Parties in writing in accordance with Schedule 3Part 3;
“Permitted Sub-Contractor”	means a sub-contractor that the Charity is permitted to sub-contract delivery of any part of the Services to, in accordance with clause Error! Reference source not found. (which shall include any sub-contractor that the Council has consented to in writing);
“Personal Data”	shall have the meaning given to it in the relevant Data Protection Legislation;
“Potential Returning Employees”	means the employees engaged by the Charity as detailed at paragraph 3 of Schedule 6Part 1 (Staffing and Pensions);
“Premises”	means any premises to which any lease, license or other right to occupy is to be granted by the Council to the Charity, as set out in the Transfer Agreement;
“Process/Processing”	has the meaning given to it in the relevant Data Protection Legislation;
“Progress Reports”	means such additional reports as are provided by the Charity to the Council during the Contract Term regarding the delivery of the Services at the Council's request in accordance with clause 14.8;
“Regulations”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or re-enacted from time to time);

“Returning Employees”	means those employees wholly or mainly engaged in the provision of the Services (or the relevant part of the Services) as the case may be immediately before the end of the Contract Term or any earlier date on which this Agreement is terminated who are to transfer back to the Council or to a Future Provider, as detailed in Schedule 6 (Staffing and Pensions);
“Service User”	means any person to whom any of the Services are provided under this Agreement;
“Services”	means the activities described in Schedule 2;
“Specification”	means the Specification set out in Schedule 2Part 1 to this Agreement as amended during the Contract Term in accordance with the Change Procedure in Schedule 4;
“Terms”	means the terms and conditions of this Agreement;
“Transfer Agreement”	means the transfer agreement entered into by the Parties on or before the date of this Agreement to transfer the Undertaking from the Council to the Charity;
“Transparency Requirements”	means the Local Government (Transparency Requirements) (England) Regulation 2015 as detailed in section 2 of The Local Government Transparency Code 2015, as amended from time to time;
“Undertaking”	means the business activities transferring/transferred to the Charity from the Council under the Transfer Agreement.

2. In this Agreement, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made thereunder and any Terms attaching thereto.
3. In this Agreement, words importing any particular gender include all other genders, and the term "person" includes any individual, partnership, firm, body corporate, government, governmental body, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns.
4. In this Agreement, words importing the singular only shall include the plural and vice versa.

5. In this Agreement, and word importing a particular gender shall be interpreted to include a reference to all genders.
6. Except where an express provision of this Agreement states the contrary, each and every obligation of a Party under this Agreement is to be performed at that Party's cost.
7. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

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Schedule 2 – The Services

Part 1 Specification

The Charity will manage and operate the Royal Pavilion and Royal Pavilion Gardens, Brighton Museum & Art Gallery, Preston Manor, Hove Museum, and Booth Museum (the “**Royal Pavilion and Museums**”) in accordance with the Charity’s purposes and with a view to using the unique Collection, buildings and knowledge of the Royal Pavilion and Museums to connect people to the past and help them understand the present in order to positively influence their future, in accordance with the terms of this Agreement, the Collection Loan Schedule and the Leases. In particular the Charity shall:

- a) perform the Services substantially in accordance with the terms of this Agreement and as more particularly described in the Annual Service Plan as in place from time to time;
- b) deliver such strategic aims and objectives for the Royal Pavilion and Museums as may be agreed from time to time;
- c) develop the range of Services with a view to encouraging all sections of the community to participate and engage in arts and cultural activities;
- d) keep all of the museums open to the public and display the Collection in accordance with the Opening Hours unless there is an emergency which requires closure or the Council has consented to the closure in writing;
- e) develop marketing strategies to promote the Royal Pavilion and Museums and encourage the maximum participation in the Royal Pavilion and Museums and its associated events and programmes and online services;
- f) continually develop the programming at the Royal Pavilion and Museums to retain existing visitors and to encourage new visitors; and
- g) develop activities and programmes accessible to all sections of the local community underpinned by an objective approach to equality and diversity.

For the avoidance of doubt, the Council acknowledges and agrees that the Trustees of the Charity, in their absolute discretion, may elect that the Charity’s may via a wholly owned subsidiary undertake non-charitable, non-primary purpose and/or high risk activities in the course of or ancillary to the Services provided that these activities do not jeopardise the delivery of the Services in accordance with the Terms.

Part 2 Key Performance Indicators

1. Key Performance Indicators

	Key Performance Indicator	Target Key Performance Indicator
No	Visitors to the Royal Pavilion and Museums	468,000
%	Satisfaction levels of visitors to	86

	Royal Pavilion and Museums	
No	Children & Young People participating in formal learning activity on site	23,416
No	Website sessions for the Royal Pavilion and Museums	680,000
£	Earned income	5.109 m (to be increased annually in accordance with the Retail Prices Index)]
No	Residents visiting Royal Pavilion and Museums	65,000

The Key Performance Indicator Earned income shall increase in accordance with the retail prices index and the updated figure shall be included in the Annual Service Plan.

2. **Key Performance Indicators reporting**

2.1 The Charity will be expected to report on the Key Performance Indicators set out above on a quarterly basis and have regular review meetings (also quarterly) to monitor performance and maximise outcomes for the Council.

Schedule 3 - The Fee

Part 1 - Fee Structure

1. The Council shall make payments of the Fee annually in advance, as set out in this [Schedule 3].
2. The Council shall make commitments as to the amount of the Fee in terms of five Contract Years (each a “**Fee Term**”).
3. All Fee payments shall be paid in quarterly instalments as set out in paragraph 4 of this Part 1 into the following bank account of the Charity, unless the Charity provides alternative bank details in accordance with clause 4.6 of this Agreement:

Account name:	
Account number:	
Sort code:	
Bank name and address:	
Reference for payment:	

4. The quarterly instalments referred to in paragraph 3 of this Part 1 shall be paid in accordance with the following (unless agreed otherwise in writing):

Date in current year	Quarterly Instalment (expressed as a percentage of the Fee for that Contract Year)
1 st April	[XX]%
1 st July	[XX]%
1 st October	[XX]%
1 st January	[XX]%

Part 2 - Initial Fee Term

1. The Fee for the Fee Term commencing on the Commencement Date (the “**Initial Fee Term**”) shall be as set out in, and shall be paid by the Council to the Charity in accordance with, the following Payment Schedule:

<u>Contract Year</u>	<u>Date of Payment</u>	<u>Amount of Fee Due</u>
1	[]	[]
2	[]	[]
3	[]	[]
4	[]	[]
5	[]	[]

2. The Fee amounts at paragraph 1 above shall be increased by the amount of any additional funding agreed in accordance with the Change Procedure, including the payment of any expenses of the Charity payable by the Council in accordance with clause 4.5, and where necessary the Payment Schedule above will be varied as set out in Part 4 to this Schedule 3. The Council agrees that it shall not otherwise review or reduce the Fee for the Initial Fee Term.

Part 3 - Subsequent Fee Terms

1. In the fourth Contract Year of each Fee Term:
- 1.1 The Council shall by 1 October of that Contract Year, provide the Charity with an indication of the Fee which it expects to be payable for the each Contract Year in the subsequent Fee Term (the “**Indicative Fee**”), taking into account in its complete discretion:
- 1.1.1 The cost of any Changes to the Specification of the Services as a result of the Annual Review Meeting as set out in clause 14 (Performance Management and Reporting) of the Agreement;
- 1.1.2 Any other additional cost or reduction in cost agreed between the Parties to reflect the funding requirements of the Charity to provide the Services;
- 1.1.3 The Charity’s funding requirements including without limitation the costs of membership of the Local Government Pension Scheme pursuant to an open admission agreement [and any Additional NJC Terms and Conditions Costs]; and
- 1.1.4 the resources available to the Council to meet those funding requirements.
- 1.2 If there is any dispute in relation to the Indicative Fee which the Parties are unable to resolve, the Parties shall promptly apply the provisions of clause 33 (Dispute Resolution) save that the matter shall be referred directly to the Chief Executive of the Council and the Chief Executive of the Charity and the period agreed by the Parties by which they must resolve the dispute will reflect the obligation on the Charity to submit a draft Annual Service Plan based on the Indicative Fee by 1 December.

- 1.3 The Council shall inform the Charity in writing, at the time at which the Council's officers make a recommendation to the annual budget meeting of full council as to the Fee for the following Fee Term, whether such recommendation is in line with the Indicative Fee payable in each Contract Year of that Fee Term provided in accordance with paragraph 1.1 of Part 3 to Schedule 3; and
- 1.4 The Council shall inform the Charity in writing what the Fee for the following Fee Term will be, in the following form, by no later than 5 Business Days following the Council's annual budget meeting of full council in the final Contract Year of each Fee Term. The format for the agreement of the Fees shall be:

<u>Contract Year</u>	<u>Date of Payment</u>	<u>Amount of Fee Due</u>
[6]	[]	[]
[7]	[]	[]
[8]	[]	[]
[9]	[]	[]
[10]	[]	[]

Part 4 – Variations to the Fee using the Change Procedure

1. Within each Contract Year a variation to the Fee (being a Material Change to the Agreement) will only be agreed in accordance with the Change Procedure. The threshold for a variation to the Fee being a Material Change shall be 1% of the Fee agreed for that Contract Year, or such other sum as the Parties shall agree in writing.
2. Where a Material Change is approved which includes either an increase or decrease in the cost to the Charity of providing the Services, the Fee for that Contract Year will be changed to reflect the increase or decrease from the date specified in the Change approval.
3. Following the approval of a Change, the Fee shall be paid in accordance with the agreed payment schedule set out above in paragraph 4 of Part 1 or otherwise as agreed by the Parties.
4. The Annual Review Meeting process will consider all Change approvals made in the relevant Contract Year and determine which will require an amendment to the Specification for the following Contract Year.

Schedule 4 – Change Procedure

1. Introduction

- 1.1 Where the Council or the Charity identifies a need to vary the Agreement, the Council may at any time request, and the Charity may at any time recommend, such Change only in accordance with the Change Procedure.
- 1.2 Until such time as a Change is made in accordance with the Change Procedure, the Council and the Charity shall, unless otherwise agreed in writing, continue to perform the Agreement in compliance with its terms prior to such Change.
- 1.3 Any discussions which may take place between the Council and the Charity in connection with a request or recommendation before the authorisation of a Change shall be without prejudice to the rights of the Parties.
- 1.4 Any work undertaken by the Charity and its staff which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule, shall be undertaken entirely at the expense and liability of the Charity.
- 1.5 The Change Procedure applies only to Changes, which require a variation to this Agreement and which are Material Changes.
- 1.6 Operational Changes which may require a variation to the way in which the Services are delivered, but which do not require a variation to the Agreement are intended to be undertaken through the normal operation of the Services by the Charity. The Charity will be expected to provide a schedule of Operational Changes as part of the performance management process set out in clause 14 of this Agreement.
- 1.7 Where a Change is a Material Change, the Council and the Charity will meet to discuss and agree to implement these Changes as part of the Change Procedure.
- 1.8 Neither the Council nor the Charity shall unreasonably withhold or delay its agreement to any Change.

2. Requesting a Change

- 2.1 At any time during the Contract Term, the Agreement Managers may request a Change by formally logging a Change Request to the Council's Chief Executive and Charity's Board. Any such Change Request will be submitted in the form substantially as set out in this Schedule and shall provide full details of the requested Change.
- 2.2 A copy of the Change Request shall be submitted by the requesting Party to the other Party no less than twenty (20) Business Days (or such other period as may be agreed between the Parties) prior to the requested date for the start of implementation of the Material Change.
- 2.3 The Change Request should contain (where applicable):
- 2.3.1 the title of the Change;
- 2.3.2 the originator and date of the request or recommendation for the Change;

- 2.3.3 the reason for the Change;
- 2.3.4 full details of the Change, including any specifications or Changes to the Specification;
- 2.3.5 the cost, if any, of the Change;
- 2.3.6 a timetable for implementation, together with any proposals for acceptance of the Change;
- 2.3.7 schedule of payments if appropriate;
- 2.3.8 details of the likely impact, if any, of the Change on other aspects of the Agreement including:
 - (a) the timetable for the provision of the Change;
 - (b) the personnel to be provided;
 - (c) the date of expiry of validity of the Change Request; and
 - (d) provision for signature by the Council and the Charity.

2.4 For each Change Request submitted the Councils shall, within the period of the validity of the Change Request:

2.4.1 allocate a sequential number to the Change Request; and

2.4.2 evaluate the Change Request and, as appropriate.

2.5 From time to time, urgent Material Changes may need to be requested and the Council or the Charity may agree to request a Change through an extra-ordinary meeting or via other means of communication.

3. Change Request Impact Assessments

3.1 Following the services of a Change Request by either Party, the Parties shall cooperate to investigate the likely impact of the requested Change on this Agreement (if any) and the scope, content or manner of provision of the Services.

3.2 The Parties shall complete the Change Request Impact Assessment, taking account of the business priority of the Change Request and the type of service to which it relates within ten (10) Business Days.

3.3 Where the Parties do not reasonably believe that they will be able to provide the Change Request Impact Assessment within ten (10) Business Days, they may agree such other timeframe within which the Change Request Impact Assessment shall be completed.

4. Change approval

4.1 For all Material Changes subject to this Schedule the Chief Executive of the Council and the Charity should review the Change and recommend authorisation to the Agreement Managers of the Council and the Charity as appropriate. Where the Chief Executives are unable to agree that the Change be recommended as required by this paragraph 4.1, such a Change may be dealt with in accordance with clause 33 (Dispute Resolution). Approval

and sign off for any Change shall include authorisation by the Council of any costs or expenses associated with the implementation of the Change to be paid by the Council to the Charity on completion of the Change or in accordance with the updated Payment Schedule included within the Change Request.

- 4.2 Material Changes shall only be valid and enforceable if they are signed by the Agreement Managers or such other authorised individuals as either Party shall authorise for the purpose and notify to the other Party from time to time.

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Schedule 5 - Exit Plan

1. General obligations

- 1.1 If, after following the process described at clause 27.1, the Council determines that the Services shall be delivered by the Council or a Future Provider following the expiry of the Contract Term or on the termination of this Agreement for any reason, the Charity will provide all reasonable assistance to the Council to facilitate the orderly transfer of the Services back to the Council or to enable any Future Provider to take over the provision of all or part of the Services. Such assistance shall be provided by the Charity as part of the Services in accordance with the Exit Plan.
- 1.2 This Schedule is a template Exit Plan and sets out the principles of the exit and Service transfer arrangements which are intended to achieve these principles, and upon which the final Exit Plan shall be based. The Agreement Managers shall manage the Parties' respective obligations under the Exit Plan unless either Party notifies the other that it will appoint an exit manager to undertake this task on its behalf.
- 1.3 The Charity shall regularly review this template Exit Plan no less than once every two years, and amend this template Exit Plan, if appropriate to reflect changes in the Services. Following each update, Charity shall submit the revised Exit Plan to the Council for review. The Parties shall meet and use all reasonable endeavours to agree the contents of the revised Exit Plan, based on the changes that have occurred in the Services since the Exit Plan was last agreed. If the Parties are unable to agree the contents of the revised Exit Plan within 15 (fifteen) Business Days, the previous version shall continue to apply and either Party may refer the dispute for resolution in accordance with the procedure in clause 33 of the Agreement (Dispute Resolution). Agreed amendments to this template Exit Plan shall be recorded in writing. If the Charity does not review and amend this template Exit Plan in accordance with this clause the Council (acting reasonably) shall be entitled to provide an updated Exit Plan to the Charity prior to the termination or expiry of the Agreement which the Charity shall comply with.
- 1.4 The Charity shall provide lists of the assets, equipment, contracts and grants, Intellectual Property Rights and equipment which shall be transferred or licensed to the Council or a Future Provider on the termination or expiry of this Agreement at least 3 months prior to the termination or expiry of this Agreement.

2. Duty to document the Services

The Charity shall promptly and fully answer all reasonable questions about the Services which may be asked by the Council for the purpose of adequately understanding the manner in which the Services have been provided or for the purpose of allowing any Future Provider (or potential Future Provider) to conduct 'due diligence'. For the avoidance of doubt the Charity shall be required to provide such information fully, honestly and in good time.

3. Assets

- 3.1 On termination or expiry of this Agreement the Charity shall return to the Council, as soon as reasonably practicable on or after the expiry or earlier termination of the Contract Term:

a) any assets transferred to the Charity under the Transfer Agreement, and

b) any replacement assets that have been purchased with the Fee during the Contract Term.

3.2 On termination or expiry of this Agreement the Charity shall offer the Council the option of purchasing (for their current market value) any other assets used primarily to deliver the Services in which the Charity holds the legal and beneficial interest prior to selling such equipment to a third party.

3.3 If the Charity leases any assets which are used primarily to deliver the Services, the Charity shall on termination or expiry of this Agreement use reasonable endeavours to assist the Council in novating those leasing contracts to the Council.

4. **Funds relating to the Collection**

On termination or expiry of this Agreement the Council shall be entitled to the return of any Disposal Funds as defined in the Collection Loan Schedule (subject to any restrictions on such funds) and/or any funds provided to the Charity by the Council pursuant to clause [12.7] of Schedule 10.

5. **Intellectual Property**

5.1 On the expiry of the Contract Term or earlier termination of this Agreement in accordance with clause 26, the Charity grants to the Council a fully paid-up, worldwide, non-exclusive, royalty-free licence to use, copy and modify the Foreground IPR and the Charity Collection IPR for the purpose of delivering the Services. The Charity grants the Council, or shall procure the direct grant to the Council of, a fully paid-up, worldwide, non-exclusive, royalty-free licence to use such of the Charity Background IPR as the Council needs to make use of the licence of the Foreground IPR for the purpose of delivering the Services.

5.2 The Council must not sub-license its right to use the Foreground IPR, Charity Collection IPR or the Charity Background IPR licensed under paragraph 5.1 of this Schedule 5 without the prior written consent of the Charity which shall not be unreasonably withheld.

5.3 Where the Council requests the Charity's consent pursuant to paragraph 5.2 of this Schedule 5 to grant such a sublicense to a Future Provider, the Charity shall not unreasonably delay or withhold its consent provided that any such sub-licence must be on the same terms as the licences at paragraph 5.1 of this Schedule 5 and that any such sub-licence shall terminate at the expiry or earlier termination of the Council's Agreement with the Future Provider to provide the Services.

5.4 The Charity warrants that it has used best endeavours to ensure that use by the Council of the Charity Background IPR, the Charity Collection IPR and the Foreground IPR does not infringe the rights, including any Intellectual Property Rights, of any third party.

5.5 The Charity shall keep the Council indemnified in full against all Direct Losses of the Council as a result of or in connection with any claim brought against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, its use of the Foreground IPR, the Charity Collection IPR or the Charity Background IPR to deliver the Services.

5.6 The Council shall keep the Charity indemnified in full against all Direct Losses of the Charity as a result of or in connection with breach by the Council of the licences granted at

paragraphs 5.1 of this Schedule 5 and as a result of or in connection with any breach by any sub-licensee of any sub-licence granted by the Council in accordance with paragraph 4.3 of this Schedule 5.

6. **[Data**

Subject to the Parties working together to ensure compliance with Data Protection Legislation in respect of any Personal Data, on the expiry of the Contract Term or earlier termination of this Agreement in accordance with clause 26, the Charity shall transfer all data held by the Charity in relation to the Services, including all Service User data and any database within which such data is held.]

7. **Contracts, IT equipment, software, and Know-How**

7.1 Where contracts have been entered into by the Charity for the sole purpose of delivering the Services, the Council may require the Charity to use all reasonable endeavours to procure that those contracts are assigned to the Council or a Future Provider.

7.2 The Charity shall offer the Council the option of purchasing (for its current market value) any IT equipment used in delivering the Services which the Charity will not require after the Agreement has expired or terminated prior to selling such equipment to a third party.

7.3 The Charity shall, to the extent that it is not done prior to termination, fully comply with the provisions of this Agreement as to the licensing of Intellectual Property Rights and the delivery of source code and any relevant documentation.

8. **Premises**

8.1 All rights of access and occupation granted by the Council to the Charity in respect of Premises owned or occupied by the Councils will cease when the delivery of the Services ceases in accordance with this Agreement.

8.2 The requirement to deliver the Services set out in this Agreement will cease if the rights of access and occupation granted by the Council to the Charity in respect of Premises owned or occupied by the Councils cease.

9. **Employees**

The provisions of clause 10 and Schedule 6 shall apply in relation to employees.

10. **Costs**

The Exit Plan shall specify any additional costs which the Charity reasonably believe that it will incur as a result of the transfer back of the Services and which will be agreed by the Council as part of the process for agreeing the Exit Plan as set out in paragraph 1.3 of this Schedule 5.

11. **Charity's Responsibilities**

11.1 The Charity shall use its best endeavours to ensure that any third party funding received by it (or due to be received by it) which is provided with a view to funding the Charity in the

period after the expiry or termination of this Agreement is transferred to the Council with the permission of the third party funder.

12. **Council's Responsibilities**

In relation to the transfer of the Services back to the respective Council or to a Future Provider, the Council shall:

- 12.1 act responsibly and promptly at all times; and
- 12.2 in relation to any amendments to the Exit Plan, not unreasonably withhold or delay approval.

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Schedule 6 – Staffing and Pensions

Part 1 Staffing

1. The Parties will during the Exit Period jointly establish an exit group comprising staff of both Parties to manage transition of the Services, and to implement the provisions of the Exit Plan (the “**Exit Group**”). Each Party will make available sufficient resources to meet the requirements of the Exit Group. The Exit Group will manage all the activities needed for the transfer of the Services from the Charity to the Council or any Future Provider so that the transition is carried out as seamlessly as possible.
2. On expiry or earlier termination of this Agreement the Parties agree that it is their intention that the Regulations shall apply in respect of the provision thereafter of any service equivalent to the Services by the Council or any Future Provider but the position shall be determined in accordance with the Regulations during the Exit Period and this paragraph is without prejudice to such determination.
3. The Parties agree that during the Exit Period, the Exit Group shall work to identify those staff engaged by the Charity who would:
 - 3.1 if they remained employed by the Charity at the end of the Exit Period, be the subject of a relevant transfer (as defined by the Regulations) (a “**Relevant Transfer**”) to the Council or any Future Provider in respect of the Services for which the Council or any Future Provider shall become responsible at the end of the Exit Period, or
 - 3.2 be offered employment pursuant to the provisions of paragraph 8 below,
(together the “**Potential Returning Employees**”).
4. During the Exit Period, to the extent that any Potential Returning Employees resign or their employment is terminated by the Charity, the Exit Group will agree that in the event that this creates any vacancies within the workforce delivering the Services during the Exit Period, such vacancy shall to the extent possible in light of service delivery requirements in relation to the Services and the Charity’s obligation to its other staff either:
 - 4.1 not be filled by the Charity during the Exit Period; or
 - 4.2 be filled by the engagement by the Charity of agency staff or employees engaged on fixed term contracts of employment; or
 - 4.3 the Council shall instead recruit a suitable individual in relation to that vacancy and then second such individual to the Charity for the remainder of the Exit Period to deliver the Services with such secondment to end at the end of the Exit Period; or
 - 4.4 where the Charity recruits any suitable individuals in relation to that vacancy, such recruitment shall be on the basis that the individual will only be engaged in the delivery of the Services and it shall be made clear as part of such recruitment that the individual will be subject to a Relevant Transfer to the Council or any Future Provider at the end of the Exit Period.
5. At the start of the Exit Period, to the extent possible under the Regulations and/or any other applicable law applicable at the relevant time, the Exit Group shall use all reasonable

- endeavours to consult the Potential Returning Employees and/or their appointed employee representatives or trade unions, to confirm who will be the subject of a Relevant Transfer to the Council or any Future Provider at the end of the Exit Period.
6. The Exit Group shall use all reasonable endeavours to agree and implement any other steps, measures, processes and/or procedures in order to minimise the potential for any Potential Returning Employees not being the subject of a Relevant Transfer to the Councils or any Future Provider at the end of the Exit Period.
 7. Where, despite the requirements of paragraphs 4 – 6 having been complied with, there remain any Potential Returning Employees who may not be the subject of a Relevant Transfer, the provisions of paragraphs 8 to 11 below shall apply.
 8. If the Regulations do not apply on the expiry or termination of this Agreement to any Potential Returning Employees, insofar as it is reasonable to do so the Council shall or shall procure that the Future Provider or the Council shall as far as possible offer employment to the Potential Returning Employees employed by the Charity [mainly] in the provision of the Services immediately before the end of the Exit Period.
 9. If an offer of employment is made in accordance with paragraph 8, the employment shall be on the same terms and conditions as applied immediately before the expiry or earlier termination of this Agreement including full continuity of employment.
 10. Where the Council or any Future Provider does not make any such offer or any such offer as referred to in paragraph 8 is not accepted and the Regulations do not apply to any Potential Returning Employee, the provisions below shall apply regarding any redundancy costs incurred by the Charity:
 - 10.1 The Charity shall only be entitled to dismiss any or all of the Potential Returning Employees by reason of redundancy or for some other substantial reason provided that it has used reasonable endeavours to redeploy those Potential Returning Employees to its activities other than the provision of the Services (if applicable) and the Charity shall carry out in the required manner any obligation to consult with the Potential Returning Employees or any of them, or their respective representatives, and shall use reasonable endeavours to mitigate the amount of any costs payable in respect of the Potential Returning Employees or their dismissal; and
 11. [The Council shall indemnify the Charity against (1) 50% of any Direct Losses incurred in effecting lawful redundancies in accordance with paragraph 10.1 above which are reasonably incurred by the Charity, and (2) all other Direct Losses relating to the dismissals referred to in paragraph 10.1 above reasonably incurred by the Charity (including any additional costs incurred in relation to the Local Government Pension Scheme).]
 12. Subject to ensuring compliance with the Data Protection Legislation, and insofar as the law allows, during the twelve (12) months preceding the expiry of the Contract Term or the period following service of notice to terminate this Agreement by either Party in accordance with clause 26 of this Agreement, or at any other time as directed by the Council in writing, and within fifteen (15) Business Days of the Charity receiving a written request from the Council to do so, the Charity shall fully and accurately disclose to the Council any and all information in relation to all personnel engaged in providing the Services including, if the Services are to transfer to the Council or to a Future Provider, all Returning Employees who

are to transfer as a consequence. The Council may request, in particular but not necessarily restricted to any of the following:

- 12.1 a list of employees employed by the Charity in delivering the Services;
- 12.2 a list of agency workers, agents and independent contractors engaged by the Charity in delivering the Services;
- 12.3 the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel in paragraphs 12.1 and 12.2 of this Part 1 to Schedule 6;
- 12.4 the terms and conditions of employment of the Returning Employees, their age, salary, date continuous employment commenced and (if different) the Commencement Date, enhancement rates, any other factors affecting their redundancy entitlement;
- 12.5 details of any disciplinary procedure taken against any of the Returning Employees and any grievance procedure taken by any Returning Employee within the previous two years in circumstances where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 which relates exclusively or primarily to the resolution of disputes applies;
- 12.6 details of any court or tribunal case, claim or action brought by any Returning Employee against the Charity within the previous two years and any court or tribunal case, claim or action that the Charity has reasonable grounds to believe that a Returning Employee may bring against the Council or any Future Provider arising out of that employee's employment with the Charity; and
- 12.7 details of any collective agreement which will have effect after the transfer, in its application in relation to any Returning Employees, pursuant to Regulation 5 (a).

paragraphs 12.1 to 12.7 of this Part 1 to Schedule 6 do not apply to unpaid volunteers.

13. The Charity shall notify the Council as soon as reasonably practicable of any variation in the information provided under paragraph 12 of this Part 1 to Schedule 6 and shall provide the Council with the revised and accurate information. The Charity shall warrant the accuracy and completeness of all the information provided to the Council pursuant to paragraph 12 of this Part 1 to Schedule 6, and shall indemnify the Council for all or any Direct Losses resulting from the provision of inadequate, incomplete or inaccurate information. Furthermore the Charity authorises the Council to use any and all of such information as it may consider necessary for the purposes of its business or for informing any tenderer for any services which are substantially the same as the Services (or any part thereof).
14. Insofar as the law allows, during the twelve (12) months preceding the expiry of this Agreement or where notice to terminate this Agreement for whatever reason has been given, the Charity shall allow the Council or such other persons as may be authorised by the Council to communicate with and meet the Returning Employees and their trade union or employee representatives as the Council may reasonably request, providing always that the Council agrees to indemnify the Charity, subject to clauses 22 and 23, in respect of any and all claims and liabilities arising out of any act or omission of the Council in doing this or such other persons as may be authorised by the Council in doing this.
15. Insofar as the law allows, during the twelve months preceding the expiry of this Agreement or where notice to terminate this Agreement for whatever reason has been given, the Charity shall not without the prior written consent of the Council save where it is as a result of a decision by the Exit Group or where it is bona fide in the ordinary course of business:
 - 15.1 vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;
 - 15.2 materially increase or decrease the number of employees employed in connection with the Services; or
 - 15.3 assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services or assign or re-deploy any employee employed to carry out duties unconnected with the Services to duties connected with the Services.

Part 2 Pensions

1. The Charity shall:
 - 1.1 maintain such documents and information as will be reasonably required to manage the pension rights of and aspects of any onward transfer of any person engaged or employed by the Charity in the provision of the Services on the expiry or termination of this Agreement (including without limitation identification of the Eligible Employees);
 - 1.2 promptly provide to the Council such documents and information mentioned in paragraph 1.1 which the Council may reasonably request in advance of the expiry or termination of this Agreement; and
 - 1.3 fully cooperate with the reasonable requests of the Council relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any person engaged or employed by the Charity in the provision of the Services on expiry or termination of this Agreement.

Schedule 7 Council Service IPR

Working names: 'Royal Pavilion & Museums, Brighton & Hove'
'RPM'

Logos:



Domain Names:	<ol style="list-style-type: none">1. brighton-hove-museums.org.uk2. brighton-hove-pavilion.org.uk3. brighton-hove-rpml.org.uk4. brightonculture.org.uk5. brightonmuseums-collections.org.uk6. brightonmuseums-images.org.uk7. brightonmuseums-paviliontour.org.uk8. brightonmuseums-shop.org.uk9. brightonmuseums.org10. brightonmuseums.org.uk11. dams-brightonmuseums.org.uk12. heritagelearningbrighton.org.uk13. mapthemuseum.co.uk14. mapthemuseum.org.uk15. murderinthemanor.org.uk16. pavilionfoundation-development.org.uk17. pavilionfoundation.org18. paviliontour.uk19. pavilliontour.uk20. rpm-gallery.org.uk21. semdp-data.org.uk22. stoneagequest.org.uk23. storydrop.org.uk24. swmdp-data.org.uk25. talesofthepavilionhospital.org.uk
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	<p>26. footballmatters.brightonmuseums.org. 27. queerlooks.brightonmuseums.org 28. fashioningafrica.brightonmuseums.org 29. pavisions.rpm-gallery.org.uk 30. floating.brightonmuseums.org 31. upclose.brightonmuseums.org 32. go.brightonmuseums.org.</p>
Social Media Accounts:	<p>1. Facebook: https://www.facebook.com/royalpavilionandbrightonmuseums/ 2. Twitter: @brightonmuseums 3. Instagram: brighton_museums 4. YouTube: BrightonMuseums 5. Flickr: rpm-brighton-hove</p>
Publications	See Annex A.
Databases	<p>1. Mimsy: relational collection management database recording cataloguing, acquisition, conservation and loan information about the collections. 2. Asset Bank: digital asset management system containing metadata. Open to staff with more limited access to the public. Cataloguing data inherited from Mimsy. 3. Tor: ticketing system containing customers' details 4. Mailchimp: contact emails for public newsletter subscribers and press 5. Artifax: room booking systems shared with Brighton Dome & Brighton Festival, containing some details of those who have booked rooms 6. Deputy: staff rota system used for Visitor Service Officers 7. Rota Cloud: staff rota systems used for Learning Assistants 8. Hanwell: environmental data logging 9. Articheck: condition checking software</p>

Schedule 7 - Agreement Manager's Details

The Council's Agreement Manager

Name	
Address	
Telephone number	
Email address	

The Charity's Agreement Manager

Name	
Address	
Telephone number	
Email address	

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Schedule 8 – Form of Annual Service Plan

[TO BE INSERTED]

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Schedule 9 – Form of Financial and Operational Report

[TO BE INSERTED]

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Schedule 10 – Collections Loan Schedule

[TO BE INSERTED]

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