



Registration of a Charge

Company name: **THE HALL FOR CORNWALL TRUST**

Company number: **03101443**



XA0ZYD5E

Received for Electronic Filing: **25/03/2021**

Details of Charge

Date of creation: **23/03/2021**

Charge code: **0310 1443 0004**

Persons entitled: **THE ARTS COUNCIL OF ENGLAND**

Brief description: **LEASEHOLD PROPERTY BEING CITY HALL BACK QUAY TRURO (TITLE NUMBER CL107710) AND ALL OTHER ASSETS, PROPERTY, RIGHTS AND OTHER INTERESTS BOTH PRESENT AND FUTURE AS SET OUT IN THE INSTRUMENT.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

SAM BENFIELD



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3101443

Charge code: 0310 1443 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd March 2021 and created by THE HALL FOR CORNWALL TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th March 2021 .

Given at Companies House, Cardiff on 26th March 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

23 March 2021

PARTIES

1. **The Arts Council of England** of 21 Bloomsbury Street, London WC1B 3HF ('the Arts Council'); and
2. **The Hall for Cornwall Trust** a company limited by guarantee (registered company number 03101443) and a registered charity (charity number 1053028) whose registered office is at Hall For Cornwall Trust, Back Quay, Truro, Cornwall, TR1 2LL ('the Funded Organisation')

RECITALS

- A The Funded Organisation is the legal and beneficial owner of the Property, referred to in Schedule 2.
- B The Arts Council, at the request of the Funded Organisation, has agreed to grant monies to the Funded Organisation upon the terms and subject to the conditions contained in the Capital Funding Agreement.
- C It is a condition contained in the Capital Funding Agreement that the Funded Organisation provide fixed security over its assets forthwith on request by the Arts Council.
- D This Deed is security for the payment and discharge of the Liabilities.

OPERATIVE PROVISIONS

- 1 **Definitions and interpretations**
- 1.1 **Definitions**

Unless the contrary intention appears, terms defined shall mean as follows:

<i>2018 Charge</i>	The fixed charge dated 10 January 2018 and made between the Arts Council (1) and the Funded Organisation (2);
<i>Act</i>	Law of Property Act 1925;
<i>Administrator</i>	any one or more administrators appointed by the Arts Council pursuant to this Deed.
<i>Agreed Use</i>	a multi-purpose hall and/or theatre with rehearsal areas, workshops and meeting spaces together with bar, café, offices, resource centre and all other ancillary community uses in respect of the same and any current use by the tenants of any part or parts of the Property comprised in the Existing Subleases
<i>Arts Council</i>	the Arts Council England including its successors in title and assigns;
<i>Capital Funding Agreement</i>	all funding agreements with the Funded Organisation for the Capital Project, whether they presently exist or will be executed after the date of this agreement, including but not necessarily limited to the documents listed in Schedule 1, any deeds or documents varying, supplementing or novating any of them, any implied amendments arising from supplementary funds awarded for the Capital Project, and any other

	documents considered to be part of the Capital Funding Agreement by the parties to this Deed;
<i>Capital Project</i>	the building works for which the Arts Council is providing grant monies to the Funded Organisation pursuant to the Capital Funding Agreement;
<i>Charged Assets</i>	all the assets, Property, rights and other interests charged by this Deed both present and future;
<i>Environment</i>	all of the air, water and land including air within buildings and other natural or man-made structures above or below ground
<i>Environmental Legislation</i>	all applicable statutes, statutory instruments, common law, treaties, regulations, directives and binding statutory guidance notes, orders, notices, demands and other measures imposed by any relevant authority which relate to the pollution or protection of the Environment or the protection of the health of any living organism or the protection of human health;
<i>Existing Subleases</i>	The existing subleases defined as the "Existing Subleases" in the lease of the Property dated 1 January 1995 and made between (1) Carrick Council and (2) The Hall for Cornwall Trust as varied by the deed of variation dated 24 November 2017 and both made between

(1) The Cornwall Council and (2) the Hall for Cornwall Trust;

Funded Organisation

the party identified as the Funded Organisation above including the Funded Organisation's successors in title and assigns;

Insurances

all insurances from time to time taken out in respect of the interest in the Property held by the Funded Organisation and all buildings, structures, plant, machinery and equipment included in or on the Property and all monies from time to time payable in respect of them;

Liabilities

the aggregate of all the monies and liabilities covenanted to be paid and discharged under this Deed and outstanding from time to time;

Movables

any fittings, furnishings, decorations, materials, furniture, plant, machinery, equipment, apparatus and any other chattels or movable items now or in future on the Property;

Permitted Security Interest

- (a) the security constituted by this Deed;
- (b) liens arising by operation of law in the ordinary course of business;
- (c) any Security Interest in favour of the Arts Council;
- (d) any Security Interest created with the prior written consent of the Arts Council;
- (e) any Security Interest arising out of retention of title provisions in a

supplier's standard conditions of supply of goods;

(f) any Security Interest created in favour of a party to any action or in favour of a court as security for costs and expenses in connection with litigation;

(g) rights of set off arising under standard form contracts to which the Funded Organisation is a party arising in the ordinary course of trade;

(h) any rights of set off in favour of banks which are contained in their standard terms of business;

Planning Acts

"the Consolidating Acts" as defined in the Planning (Consequential Provisions) Act 1990 and any other legislation relating to town and country planning in force from time to time and all orders regulations and instruments under them or otherwise relating to the use and/or occupation of the Property;

Property

the land and premises referred to in Schedule 2 and any part or parts of them and all buildings or other structures now or from time to time erected on the land and also all easements and rights attaching to them;

Receiver

any one or more receivers appointed by the Arts Council pursuant to this deed (whether sole, joint and/or several including any substitute);

Recoveries subject to the rights of any prior or preferential Security Interests or creditors, the proceeds of enforcement of the any security created under this deed;

Security Interest any mortgage, charge, assignment, pledge, lien, right of set-off, hypothecation, encumbrance, priority or other security interest (whether fixed or floating) or any arrangement which has substantially the same commercial or substantive effect as the creation of security;

Trust Property (a) all rights and interests of the Arts Council under or in connection with this Deed and any other document specified by the parties to this Deed; and
(b) all Recoveries and any money or property which accrues or derives from any Recoveries; and,

VAT value added tax or any modification or replacement of it.

1.2 The clause and paragraph headings in this deed are for reference only and not to be taken into account in the construction or interpretation of any provision to which they refer.

1.3 Unless the contrary intention appears reference to numbered clauses are references to the relevant clause in this deed;

1.4 Words in this deed denoting the singular include the plural meaning and vice versa.

1.5 Words in this deed importing one gender include the other gender and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.

1.6 References in this deed to any statutes or statutory instruments include and refer to any statute or statutory instrument amending, consolidating or replacing them respectively from time to time and for the time being in force, and references to a statute include statutory instruments and regulations made pursuant to them.

1.7 When at any time the party of the second part to this deed are two or more persons, the expression the Funded Organisation includes the plural number and obligations in this deed expressed or implied to be made with the Funded Organisation or by the Funded Organisation shall be deemed to be made with or by such individuals jointly and severally.

1.8 Any obligation of the Funded Organisation to do something shall include an obligation to procure that it is done and any obligation not to permit, suffer or allow it to be done.

1.9 The terms "including" and "in particular" shall be construed as not limiting any general words and expressions in connection with which it is used.

1.10 **Law of Property (Miscellaneous Provisions) Act 1989**

The terms of any other agreement, document or side letter between the parties to this deed are incorporated to the extent required for the purported disposition of the Property contained in this deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.11 **Continuing security**

Without prejudice to the generality of the security hereby constituted it is hereby declared that the security hereby created shall not be

satisfied by any partial or intermediate payment but shall constitute a continuing security for the payment of all sums which shall on the execution hereof or at any time hereafter be or become owing by the Funded Organisation to the Arts Council in any manner.

2 Covenant for Payment

The Funded Organisation covenants with the Arts Council that the Funded Organisation will on demand in writing pay to the Arts Council and discharge all monies and Liabilities which shall for the time being and from time to time (and whether on or at any time after such demand or judgment) be due, owing or payable or expressed to be due, owing or payable by the Funded Organisation to the Arts Council under or pursuant to the Capital Funding Agreement, this Deed or any other agreement.

3 Security

3.1 As continuing security for the payment and discharge of the Liabilities the Funded Organisation with full title guarantee:

3.1.1 charges the Property to the Arts Council by way of a legal mortgage;

3.1.2 assigns and charges to the Arts Council by way of fixed equitable charge each and all of:

3.1.2.1 the Insurances;

3.1.2.2 agreements, contracts, deeds, licences, undertakings, guarantees, covenants, warranties, representations and other documents entered into by or given to the Funded Organisation in respect of the Property; and

3.1.2.3 all future easements and other rights at any time vested in or conferred on the Funded Organisation in connection with or otherwise for the benefit of the Property.

3.2 None of the provisions of this clause 3 shall be deemed to impose on the Arts Council or imply on its part any obligation or other liability in relation to the Charged Assets.

4 **Negative Pledge**

The Funded Organisation shall not (without the prior written consent in writing of the Arts Council) create, purport to create or allow to subsist, any Security Interest over the whole or any part of the Charged Assets except for any Permitted Security Interest and for the avoidance of doubt it is agreed and acknowledged between the parties that the security hereby constituted is a Permitted Security Interest pursuant to the 2018 Charge.

5 **Funded Organisation's covenants**

The Funded Organisation covenants with the Arts Council that until all the Liabilities shall have been fully repaid, satisfied and discharged the Funded Organisation will duly and promptly observe and perform all the obligations on its part under or pursuant to the Capital Funding Agreement and in addition will:

5.1 (in the event that the Capital Project includes construction works) as soon as reasonably practicable and in any event no later than the agreed commencement date procure the commencement and thereafter with all due expedition diligently the carrying out and completion of the Capital Project in a good and workmanlike manner, with good quality materials and substances of their respective kinds reasonably obtainable at the time, in accordance with the Capital Funding Agreement and also with all planning consents, building regulation approvals and other necessary approvals and consents

(under statute, any lease or contract or otherwise) and all other relevant statutory or regulatory requirements, and with due monitoring by it of progress, and following completion take all reasonable steps to procure the remedy as soon as reasonably practicable of all material defects in workmanship and materials which may then be found;

- 5.2 keep the Property in good and substantial repair and condition and when necessary rebuilt and renewed;
- 5.3 permit the Arts Council and any surveyor, valuer or other person authorised by the Arts Council to enter and view the Property at all reasonable times in the daytime, and if the Arts Council then serves any notice of defect or want of repair, without delay well and substantially make them good;
- 5.4 pay and discharge or procure the payment and discharge of all existing and future rates, taxes, charges, assessments, impositions and outgoings now or at any time payable, charged or assessed on or in respect of the Property or its owner or occupier;
- 5.5 use reasonable endeavours to enforce the obligations of the landlord under the lease by which the Funded Organisation holds the Property to:
 - 5.5.1 maintain insurance of or in connection with the Property (including all buildings, structures, plant machinery and equipment included in or on the Property) in accordance with the provisions in such lease and
 - 5.5.2 apply or cause the application of all monies becoming payable under any such insurance in making good the loss or damage in respect of which such monies are payable;

- 5.6 use the Property only for the Agreed Use;

- 5.7 observe, perform, and comply with and cause observance performance and compliance in all respects with, the provisions and requirements of all statutes for the time being in force and/or imposed by any competent authority relating to the Property and, in particular, the Planning Acts and Environmental Legislation and obtain or cause to be obtained any development or other consent and serve all notices which may be requisite by reason of any development or any other activity or works on, or use of, the Property;
- 5.8 give full particulars to the Arts Council of any notice, order or proposal for a notice or order made, given or issued under or by virtue of the Planning Acts or Environmental Legislation within seven days of receipt and if required by the Arts Council to produce it to the Arts Council or its agents and also without delay to take all reasonable and necessary steps to comply with it or (if required by the Arts Council) at the cost of the Funded Organisation make such representations or appeals as the Arts Council may reasonably require;
- 5.9 observe and perform all restrictive and other covenants and stipulations (if any) for the time being affecting the Property;
- 5.10 not without the prior written consent of the Arts Council to exercise the powers of leasing, agreeing to lease or accepting surrenders of leases conferred on a mortgagee or by statute or otherwise or vary any lease or tenancy and not to enter into or permit any parting with possession or sharing arrangement whatever in respect of the Property provided that the Funded Organisation may grant leases or licences for periods of up to 3 years without the consent of the Arts Council where the use of the relevant part or parts of the Property pursuant to any such lease or licence is in keeping with the Agreed Use;
- 5.11 save for the Capital Project works not do, permit or suffer to be done in or on the Property any waste, spoil or destruction, nor undertake any development on, or otherwise make or permit any alteration or

addition to, the Property without the prior written consent of the Arts Council such consent not to be unreasonably withheld or delayed and, if the Arts Council gives consent, to commence carry out and complete the relevant works without delay in accordance with any conditions of such consent and to the reasonable satisfaction of the Arts Council;

- 5.12 Except where permitted pursuant to clause 5.10 to procure that no conveyance, assignment, transfer, sale, grant of a lease, charge or other disposal or realisation of the whole of, or any interest in, the Charged Assets shall take place, nor any agreement to effect all or any of them, shall be entered into without the prior written consent of the Arts Council;
- 5.13 where any of the Charged Assets are held by the Funded Organisation under the terms of a lease, duly and promptly pay all rents and other sums from time to time payable by the Funded Organisation as lessee and to observe and perform all other covenants on its part as lessee and all conditions contained in that lease.
- 5.14 not do, cause or permit to be done anything which may in any way depreciate jeopardise or otherwise prejudice the value of the security created by this deed.
- 5.15 on demand give to the Arts Council or its agents such information as it or they reasonably require relating to the Charged Assets; and
- 5.16 indemnify and keep the Arts Council indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenants or other obligations of the Funded Organisation to the Arts Council and/or the removal, storage, sale or other dealing with the Movable pursuant to clause 8.1.14.

6 Representations and Warranties

The Funded Organisation represents and warrants to the Arts Council, by its execution of this deed, to the intent that they continue and are deemed to be repeated until the Liabilities have been fully repaid, satisfied and discharged as follows:

- 6.1 It has all necessary corporate power, has complied with all relevant legislation (including the Charities Act 2011), has formed all necessary resolutions and obtained all necessary authorities and consents and satisfied all conditions attaching to them, to enable it to enter into and give effect to its obligations and liabilities under or pursuant to or in connection with this deed and/or the Capital Funding Agreement;
- 6.2 no law, regulation, order or direction binding on it and no term of any other contract, mortgage, instrument or other undertaking will be violated or breached by it accepting and giving full effect to all the provisions of this deed and no other debt incurred or owed by it or security created by it will become enforceable by virtue of the provisions of this deed or the implementation of it, provided that the creation of a Permitted Security Interest shall not be a breach of this clause; and
- 6.3 no litigation, arbitration or administrative proceeding before or of any court, arbitration, tribunal or governmental authority is current or, to the best of its knowledge, threatened against it or any of its assets, which might prevent it from accepting and performing any of its obligations under or pursuant to this deed.

7 Rights of enforcement

- 7.1 The Liabilities shall be deemed to have become due within the meaning of section 101 of the Act immediately upon a demand being served by the Arts Council on the Funded Organisation under clause 2 and in addition to all other protection afforded by statute every

purchaser (as defined by section 205 of the Act) or other party dealing with the Arts Council or the Receiver or the Administrator shall be entitled to assume without enquiry that such a demand has been duly made and that the Liabilities are outstanding and have become due.

7.2 The restrictions imposed by section 103 of the Act shall not apply to this security.

7.3 The enforcement powers of the Arts Council (in addition to the powers from time to time conferred by the Act or any other statute or otherwise under the law in force from time to time) shall be immediately exercisable upon any demand being served and shall be as follows:

7.3.1 for the Arts Council itself, without becoming liable as mortgagee in possession, to exercise all or any of the powers and rights specified in this deed as the Arts Council in its sole and absolute discretion shall think fit; and

7.3.2 to appoint a Receiver or an Administrator of the whole or any part or parts of the Charged Assets (and to remove and substitute any such appointee as and when the Arts Council in its sole and absolute discretion shall think fit) with all the powers and rights specified in this deed as well as any additional powers and rights which he may exercise under statute or general law all of which powers and rights the Receiver may exercise either in his own name or in the name of the Funded Organisation and in his sole and absolute discretion as he shall think fit.

7.4 So far as the law allows the Receiver and/or the Administrator shall be the agent of the Funded Organisation, who shall be solely liable for his acts, defaults and remuneration but the Arts Council shall be entitled to agree the fees and expenses and the mode of payment to

the Receiver and/or the Administrator as the Arts Council in its sole and absolute discretion shall think fit.

- 7.5 The Funded Organisation irrevocably appoints the Arts Council and the Receiver and the Administrator jointly and/or severally as the Funded Organisation's attorney in the Funded Organisation's name and on the Funded Organisation's behalf to execute all deeds and documents and carry out all and any such acts or matters as are mentioned or referred to in this clause or otherwise as the Arts Council and/or the Receiver and/or the Administrator shall consider necessary to give effect to and perform any said deed document act or matter.

8 Arts Council's and Receiver's/Administrators powers and rights

- 8.1 The Arts Council and/or the Receiver and/or the Administrator shall have all statutory and other powers and rights and in addition to (and not substitution for) the following powers and rights and may exercise them in the name of the Funded Organisation and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate:

- 8.1.1 to enter upon and take possession of the Property and undertake any works of demolition, building, reconstruction, improvement, repair or decoration on it including the commencement, carrying out and completion of any development, utilising for any such purpose any Movable then on or in the Property or otherwise attributable to any such works or which the Funded Organisation is otherwise entitled to use and any plans drawings and specifications of the Funded Organisation or which the Funded Organisation is otherwise entitled to use and whether or not in accordance with any obligations imposed by the Capital Funding Agreement.

- 8.1.2 To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or the ownership, occupation or use.
- 8.1.3 To collect all and any rent or other income or due receipts in respect of or arising from the Property, negotiate and conclude reviews of rent and otherwise deal in relation to any leases and the tenants' and guarantors' respective obligations under or pursuant to them.
- 8.1.4 To sell, convert into money or otherwise realise and deal with and transfer title to the Charged Assets (including the Property) and realisation by surrender of a leasehold estate, upon such terms including the amount and nature of the consideration and whether or not in accordance with the obligations imposed on the Funded Organisation by the Capital Funding Agreement, and on terms which bind any subsequent mortgagee.
- 8.1.5 To grant or create any lease, tenancy or licence or enter into any other agreement or contract relating to the disposal of or other dealing with the Charged Assets (including the Property) at any or no rent, with or without reviews of rents and with or without any fine or premium and whether absolutely or for such term or period and generally on such other terms as it shall think fit and accept the surrender of any lease tenancy or other such agreement or contract upon such terms as it shall agree and whether or not in any such respect in a manner consistent with the obligations imposed on the Funded Organisation by the Capital Funding Agreement, and on terms which bind any subsequent mortgagee;
- 8.1.6 to compromise any claim or claims of, against, arising out of or otherwise relating to the Charged Assets;

- 8.1.7 to effect insurances and obtain and/or enter into bonds, covenants, commitments, engagements, guarantees and indemnities or other like matters in any way relating to the Charged Assets and from time to time make all requisite payments to effect, maintain or satisfy them;
- 8.1.8 to borrow, raise or advance money whether or not in priority to the Liabilities and whether or not on the security of the Charged Assets, in such manner and for such purposes within or relating to the powers and rights conferred by these enforcement provision;
- 8.1.9 to give receipts and releases for any sums received;
- 8.1.10 to obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences as may be necessary for any development or use of the Property as it shall think fit;
- 8.1.11 to cancel or otherwise determine any agreements or contracts in anyway relating to the Charged Assets;
- 8.1.12 to commence, carry out and complete such acts and matters commence and prosecute proceedings execute such contracts deeds or other documents and otherwise deal for the preservation, improvement, enforcement or realisation of all or any of the security created by this deed in all respects as if it was and remained at all times the sole and absolute beneficial owner of the Charged Assets;
- 8.1.13 to employ for any of the above purpose solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others and purchase or otherwise acquire any proper materials and other matters;

8.1.14 to remove, store, sell, dispose of, or otherwise deal (in the name of the Funded Organisation in any such manner and on any such terms as the Arts Council and/or the Receiver shall in its sole absolute discretion consider appropriate) any Movables which are on the Property and have not been removed by the Funded Organisation within fourteen (14) days of being requested by the Arts Council to do so and, without limiting the above, and only if the Funded Organisation is a natural person, the Arts Council and/or the Receiver shall not have a right under this deed to retain or set-off any proceeds of sale of the Movables against any part of the Liabilities (except for the costs incurred in relation to their removal, storage, sale or other disposal).

8.2 All monies received by any Receiver appointed under this Deed shall (subject to the rights and claims of any person have a security ranking in priority to the security constituted by or pursuant to this Deed) be applied in the following order:

8.2.1 in the payment of the costs, charges and expenses of an incidental to the Receiver's/Administrator's appointment and the payment of their remuneration;

8.2.2 in the payment and discharge of any costs, charges or liabilities incurred by the Receiver (whether or not acting as agent of the Funded Organisation in connection with the receivership);

8.2.3 in providing for the matters (other than the remuneration of the Receiver) specified in the first 3 paragraphs of Section 109(8) of the Act;

8.2.4 in or towards payment of any debts or claims which are by statute payable in preference to the Liabilities but only to

the extent to which such debts or claims have such preference;

8.2.5 in payment to the Arts Council towards the repayment of all Liabilities;

and any surplus shall be paid to any other person entitled thereto. The provisions of this clause shall take effect as and by way of variation and extension to the provisions of the said Section 109 which provisions as so varied and extended shall be deemed incorporated herein.

9 Release of Security

9.1 Subject to:-

9.1.1 No demand having been made pursuant to clause 2 and being unsatisfied; and

9.1.2 the Arts Council being satisfied in its absolute discretion that the purpose/s for which the grant monies (and any subsequent grant or other funding secured by this Deed) were awarded have been satisfied,

the Arts Council shall, on 9 January 2038 or promptly thereafter, at the request and cost of the Funded organisation release and discharge the security constituted by this deed and reassign or recover any property assigned or conveyed to the Arts Council pursuant to this Deed.

10 Payments

10.1 All payments to be made to the Arts Council must be made immediately available to such accounts in the United Kingdom as it shall from time to time select, free and clear of and without any withholding or deduction for, or on account of, any and all present or

future taxes, duties or other charges or otherwise save such (if any) as the Funded Organisation shall be obliged to make by law.

- 10.2 If any sum due under or pursuant to this deed is not paid promptly on the due date then, without limiting any other remedy, interest shall accrue on the sum in default until payment at the rate (as well before as after any demand or judgement) of 4% per annum above the base rate from time to time of Lloyds TSB plc, and that interest shall be payable on demand.

11 **Costs**

Without limiting and in addition to any other specific provision of this deed, the Funded Organisation shall reimburse the Arts Council on demand for all legal, valuation and other professional costs, fees and expenses reasonably incurred by the Arts Council in connection with the enforcement of the obligations of the Funded Organisation or any other person under or pursuant to this deed; the creation, maintenance, enforcement and realisation of the security pursuant to this deed; and any value added tax properly chargeable on these sums.

12 **Section 124 Charities Act 2011**

- 12.1 The Funded Organisation is a charity. The Property forms or will form part of the Funded Organisation's property and is or will be held on charitable trusts.
- 12.2 The Property is or will be held by the Funded Organisation, a non-exempt charity, and this mortgage is not one falling within section 124(9) of the Charities Act 2011, so that the restrictions imposed by section 124 of that Act apply.
- 12.3 The directors of the Funded Organisation, being the persons who have the general control and management of its administration, certify

that they have the power under the trusts of the Funded Organisation to grant this mortgage of the Property and that they have obtained and considered such advice as is mentioned in Section 124(2) of the said Act.

13 General provisions

- 13.1 By executing this deed the Funded Organisation applies for the following restriction to be entered in the Proprietorship Register of the title to the Property at the Land Registry

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated [23 March 2021] in favour of the Arts Council of England referred to in the Charges Register"

- 13.2 Neither the whole or any part of the Liabilities and/or the security created by this deed shall be modified, released, waived or otherwise affected in any way by any grant of time, indulgence, modification, release, variation or waiver granted or allowed to or agreed with the Funded Organisation or any other person or otherwise.
- 13.3 The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to this security.
- 13.4 Without limiting any power conferred by this deed, if the Funded Organisation shall default in the observance and performance of any obligation to the Arts Council the Arts Council or its agents may (but shall not be obliged to) enter the Property and carry out and perform any necessary works of repair, reinstatement or otherwise and/or pay all due but unpaid outgoings and/or effect insurance of the Property and otherwise as the Arts Council shall consider necessary to remedy such default.

- 13.5 Any written certificate given by the Arts Council under or pursuant to this deed shall be conclusive and binding as to the relevant items save in the case of manifest error.
- 13.6 The unenforceability for whatever reason of any provision of this deed shall in no way affect the enforceability of each and every other provision.
- 13.7 This security shall not be considered as satisfied or discharged by any intermediate payment, repayment, discharge of the whole or any part of the Liabilities but shall constitute and be a continuing security to the Arts Council notwithstanding any settlement of account, the contingent nature of the Liabilities or other matter or thing, and shall be in addition to and shall not operate so as in any way to limit or affect any other security which the Arts Council may now or at any time hold for or in respect of the Liabilities.
- 13.8 If any provision of this deed shall conflict with any term of the Capital Funding Agreement then the relevant term of the Capital Funding Agreement shall prevail as between the Funded Organisation and the Arts Council but without limiting the other provisions of this deed and in particular the protection for any purchaser or any other person described in clause 8.1.
- 13.9 All notices served shall be treated as properly served if they comply with the provisions of section 196 of the Act.
- 13.10 The Arts Council shall be entitled, at its sole and absolute discretion, to assign and/or novate the benefit and burden of its rights and obligations under or pursuant to this deed either as an individual transaction or as part of a transaction involving the assignment and/or novation of other debts owing or due to the Arts Council, in any such case without the consent of the Funded Organisation.
- 13.11 This deed shall be governed by English Law and the parties submit to the jurisdiction of the English Courts.

Project information

Cultural Capital Kickstart Fund

Applicant name: The Hall For Cornwall Trust

Project title: Cultural Capital Kickstart Fund

Project number: ACAP-00309621

Amount requested (£): £2,000,000

Amount awarded (£): £2,000,000

Offer letter

30 November 2020

Julien Boast
The Hall For Cornwall Trust
HALL FOR CORNWALL TRUST, Back Quay
TRURO
TR1 2LL

Dear Julien Boast

Offer Letter

Programme: Cultural Capital Kickstart Fund
Project: Cultural Capital Kickstart Fund
Organisation name: The Hall For Cornwall Trust
Reference: ACAP-00309621 (Restricted funds)

Congratulations on your successful application.

This is to confirm that we will provide you with a restricted grant of up to £2,000,000 to cover capital expenditure for the period from 1 April 2020 until 31/03/2022 ('the Funding Period') towards the costs of the Agreed Project.

If you have any questions about the outcome of your application, please email our Customer Services team at enquiries@artscouncil.org.uk.

Sharing this news with the public

As stated, a public announcement date for this fund has not been confirmed. Therefore, news of this investment is embargoed until a later date.

Until the public announcement date is confirmed, please do not share the outcome of your decision with any external parties.

If you have plans to utilise funds from this grant in December please proceed, however we ask that you do not communicate this publicly.

Updating you on the public announcement

We will write to you again, by at latest Friday 4 December, with more information about the public announcement and our plans to share the news. Until then please do keep this information confidential.

1. Our offer

1.1 This offer is subject to your acceptance of our Standard Terms and Conditions for the Cultural Capital Kickstart Fund (the Terms and Conditions).

1.2 The Terms and Conditions are attached to the screen called 'Attachments' and your Application is within the 'Submissions' area of your online account. These documents, along with this offer letter, form your Funding Agreement with us. These Terms and Conditions are standard for all grants made under this Programme and are non-negotiable. Terms defined in this offer letter have the meaning given to them in the Terms and Conditions.

1.3 This scheme is funded using money from Restricted funds. It is restricted funding for the sole purpose of delivering the Agreed Project. It should be shown as restricted funding in your accounts in accordance with clause 3.11 of the Terms and Conditions. We reserve the right to review and reduce funding in light of how well you are delivering the objectives of this Grant.

1.4 If you spend less than the whole Grant amount on the Agreed Project, you must return the unspent amount to us promptly. If the Grant part-funds the Agreed Project, you must return the appropriate share of the unspent amount to us.

1.5 As the Grant comes from public funds, you must account to us for any profit that you make from the Agreed Project and we reserve the right to require you to pay back all or part of the Grant in accordance with the Terms & Conditions, in particular clause 10.

1.6 This Grant comes from public funds and must not be used in a way that constitutes unlawful state aid. We make no representation or undertaking about state aid compliance. If you have any concerns about state aid, you must obtain your own independent legal advice.

2. Agreed Project

2.1 The Agreed Project is to deliver the activities as detailed in your application form and its attachments on which we based our decision and which can be found within the 'Submissions' area of your online account.

2.2 You must tell us immediately if the Agreed Project does not commence by the activity start date stated in your application or before 30/04/2021.

2.3 Success of the relationship relies on effective communication and the sharing of information. You must tell us in advance if you want to make any significant changes to the Agreed Project under this Funding Agreement. We will not unreasonably withhold our consent to any such changes but you must receive our prior written approval. Changes to the Agreed Project are covered in the Terms and Conditions.

3. Additional Conditions

The Grant is subject to the following Additional Conditions:

3.1. In the event that we have paid out to you any part of this Grant and it then becomes apparent that a part or the entire Grant has not been used to purchase qualifying capital expenditure, we reserve the right to recover any such sum from you.

3.2. You must demonstrate that all expenditure presented for payment will be capitalised on your balance sheet during the Funding Period.

4. Monitoring Schedule and Payment Conditions

4.1 We will monitor the activity in relation to the Agreed Project and how effectively the funding is being used. To enable this, you will send us any information as we may in our sole discretion reasonably request from time to time. We reserve the right to visit projects by appointment and will ensure prior notice is given. Our main monitoring will be through the assessment of payment conditions as detailed below.

4.2 Payments are conditional on us receiving and approving any additional monitoring information (or 'payment conditions') we have asked for. The payment conditions for the Grant are set out below. You must meet each condition to access each of your Grant payments. After you submit a payment request online, and if you meet all of the conditions for that payment, it will normally take 15 working days for us to process and release the funds.

4.3 We will pay the Grant in instalments against actual expenditure. Payment amounts will depend on the amount of expenditure you are able to evidence in the expenditure listing submitted with each payment request.

4.4 Payment requests will be initiated by us once you inform us that you are ready to claim a payment. Each payment request will include an expenditure listing for you to complete alongside any other conditions we have requested for that payment.

4.5 In order for us to release your first (and interim) payments, you must:
- Accept our offer online;
- Send us your bank details in hardcopy using the bank details form available for download;
- Let us know when you have incurred eligible capital costs and are ready to claim a payment. We will send you a Capital Payment Request to complete on Grantium. You will be able to view the Capital Payment Request in your 'Submissions' area; and
- Submit the Capital Payment Request on Grantium, including the expenditure listing and any payment conditions for that payment

4.6 In the event that you are unable to satisfy us that you have qualifying capital expenditure, we will be unable to pay out the total amount and will only pay any lesser sum you can justify.

4.7 To be eligible for draw down against this restricted Grant, capital expenditure must be incurred between 1 April 2020 and 30 April 2022. The first payment request must be submitted no later than 30/04/2021. The final payment request must be submitted no later than 30/04/2022.

4.8 To access your final payment, tell your Relationship Manager that you are ready to claim the full balance of your award and they will send you the final Capital Payment Request online. As part of the final payment claim you will need to complete an Activity Report Form. The report will be visible in your 'Submissions' area immediately after accepting the offer. It can only be completed and submitted with your final Capital Payment Request (including information to meet any other final payment conditions we have set), within one month of finishing your activity.

5. Payment schedule for this grant

5.1 First payment will be released on the condition that we have received:

- A completed Expenditure listing submitted on Grantium**
- A completed bank details form**
- Provision of a first ranking fixed legal charge over the leasehold interest of the Project Asset: Hall for Cornwall, Back Quay, Truro, Cornwall, TR1 2LL. This legal charge shall be supported by a Certificate of Title, Legal Opinion and Solicitor's undertaking in Arts Council's standard form to register the Legal charge at the Land Registry and Companies House. This legal charge will be for a period of 20 years which will run concurrent with the existing legal charge and for the Agreed Use set out in the Main Capital Funding Agreement (URN: 31532982)**

5.2 Interim payments will be released on the condition that we have received:

- A completed expenditure listing submitted on Grantium.

5.3 We may also request one or more of the following conditions at the time you request your payment:

- An updated timetable for the Agreed Project;
- A copy of your cash flow projection using the template provided;
- A budget for the Agreed Project;
- An updated risk register for the Agreed Project;
- Approach and timeline for raising remaining funds; and/or
- Partnership funding evidence.

5.4 We will keep 10% of the Grant until the conditions of the Final payment have been satisfied. The Final payment will be released on the condition that we have received:

- A completed expenditure listing submitted on Grantium;
- A completed Activity Report Form submitted on Grantium; and
- A statement of income and expenditure for the Agreed Project that has been certified by an independent qualified accountant, including confirmation that all Grant expenditure will be capitalised on your balance sheet.

6. Accepting our Offer

6.1 You must accept your Grant online by working through the 'Offer letter acknowledgement' workflow. At the bottom of this page you are asked to confirm that you have read the offer letter. On the following screens you will be able to view the Terms and Conditions and bank details form. Once you have read this offer letter and attached schedules, please complete the declaration stating whether you accept this offer of Grant. Once you press 'submit' on the final screen, your acceptance will be sent to us to review, and will be your formal acceptance of the Grant and the Terms and Conditions that apply to it. The date of your acceptance of the Grant on our Grantium system will be the date of your Funding Agreement.

6.2 If we do not receive your declaration accepting the Grant within one month of issue, the offer will lapse and will no longer be valid.

6.3 If you accept the Grant, you will complete your bank details form offline. For security reasons we cannot hold bank details on our online system, so you must print and complete the bank details form and send it back to us in hard copy. The submission of this form will also act as a written confirmation of your acceptance of the Grant and the Terms and Conditions that apply to it. The form itself contains full guidance on how to complete it.

7. Equality

As part of the Agreed Project you will advance equality of opportunities, including considering participants across the protected characteristics and, if necessary, adjust the Agreed Project to ensure you are not acting in a discriminatory manner.

8. Acknowledging our funding

You are required to download the Grant award logo and read the guidelines on how to acknowledge your funding before you start using the logo. Please visit <http://www.artscouncil.org.uk/grantawardlogo>. See also Term 6.2.3 of the Terms and Conditions.

9. Freedom of information

Any information we receive from you will be subject to the Freedom of Information Act 2000. By law, we may have to provide your information to a member of the public if they ask for it under the Freedom of Information Act. For further details, see the Freedom of information section of our website.

Please let us know if you consider that any of the information you have provided to us is commercially sensitive or confidential. We will take this into account when processing any requests for information, but any decision to release information is at our absolute discretion in accordance with the Freedom of Information Act legislation.

Please use the reference given at the top of this offer letter when you communicate with us. If you have any questions about accepting this offer, please email our Customer Services team at enquiries@artscouncil.org.uk. A Relationship Manager from your Area office will be in touch once you have accepted this offer.

Yours sincerely,

Beverley Dawson
Senior Manager, Capital Funding

For and on behalf of Arts Council England

I have read the offer letter: Yes

Offer letter acknowledgement	Page 8	15/12/2020
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Attachments

Document Type	Required?	Document description	Date attached
Bank details	Yes	Bank details	20/08/2020
Terms and conditions	Yes	Terms and Conditions	18/11/2020
Cashflow template	No	Cash flow template	20/08/2020

Attachment details

Document description: Bank details

Attachment details

Document description: Terms and Conditions

Attachment details

Document description: Cash flow template

Acknowledgement

On-line offer acceptance form

Programme: Cultural Capital Kickstart Fund
Applicant name: The Hall For Cornwall Trust
Reference: ACAP-00309621
Name of activity: Cultural Capital Kickstart Fund

Do you accept the grant offer in relation to the activity named above on the terms and conditions stated in the offer letter? Yes

If you are acting as a representative of an organisation, by accepting this grant offer you are confirming that:

- a) You (the person accepting this offer) are authorised to accept a grant from us on behalf of your organisation.
- b) You understand that if you make any seriously misleading statements (whether deliberate or accidental) at any stage during the application process and life of the grant, or knowingly withhold any information, this could make your grant agreement invalid and you could be liable to repay any funds to us.
- c) You understand that personal data will be collected and used in accordance with Arts Council England's Privacy Notice and will be subject to our obligations under the Data Protection Law and the Freedom of Information Act.
- d) You are able to comply with the Terms and Conditions, which are attached to this offer and are available on our website.
- e) None of the Terms and Conditions have been breached and that payment of this grant does not, and will not be used to, breach any of the Terms and Conditions.

Name: Zoe Prosser

Submission summary

Page	Last Updated
Project information	No Input Required
Offer letter	30/11/2020
Attachments	30/11/2020
Acknowledgement	01/12/2020



Standard Terms and Conditions: Cultural Capital Kickstart Fund

These standard terms and conditions for grants apply to grant offers made under the Cultural Capital Kickstart Fund. The aim of this fund is to support existing Arts Council capital project grant holders to reduce the impact of Covid-19 related funding shortfalls – due to increased capital costs, fundraising underperformance and/or extended completion dates – on delivery of the original intended project benefits and on the operator's financial resilience post-opening.

Existing capital grant holders must comply with the requirements and equivalent terms and conditions as set out in your Main Capital Grant Funding Agreement as well as these terms and conditions for grants made under the Cultural Capital Kickstart Fund.

This document is important. It sets out the standard legal conditions of our grant offer to you. This is a legal document and you should ensure that you fully understand your responsibilities before accepting a grant from us.

If you have any general questions about this document, please contact our Customer Services team at enquiries@artscouncil.org.uk. However, if you need legal advice, please contact your solicitor.

If you require this document in an alternative format you can ask us by emailing enquiries@artscouncil.org.uk

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1. Definitions

- 1.1. "we", "us" and "our" in this document means the Arts Council England and includes its employees and those acting for it.
- 1.2. "you" and "your" in this document means the organisation receiving the grant bound by these terms and conditions.
- 1.3. The "Agreed Project" means the activity or activities that have been agreed with us and for which we are giving you the Grant as set out in the offer letter and in accordance with this Funding Agreement.
- 1.4. The "Agreed Use" means how you will use the Project Assets that are purchased, renovated, created or improved using the Grant and as set out in the offer letter.
- 1.5. The "Funding Agreement", which you have accepted and signed, includes and incorporates these standard terms and conditions, the application and attachments, and the offer letter, together with any other conditions you have agreed to. For the avoidance of doubt, the reference 'the date of the Funding Agreement' shall mean the date on which you accepted the offer of grant on our Grantium system.
- 1.6. The "Funding Period" means the fixed term specified in the offer letter.
- 1.7. The "Grant" means the grant detailed in the offer letter.
- 1.8. The "Main Capital Grant Funding Agreement" means the funding agreement awarded to you under one of these capital funding programmes:
 - (a) Small Capital Grants (£100,000 to £499,999)
 - (b) Stage Two award from Large Capital Grants (£500,000 or over)
 - (c) Cultural Development Fund (Round One)
 - (d) Capital Grant in Aid
- 1.9. "Partnership Funding" means the funding from sources other than us that is needed in addition to the Grant to complete the Agreed Project.
- 1.10. The "Project Assets" means any property (whether real, moveable or intellectual) that is purchased, renovated, created, improved or equipped using the Grant in the course of the Agreed Project.
- 1.11. The "Start Date" means the date on which you will make a commitment, financial or otherwise, to undertake the Agreed Project as set out in your application.
- 1.12. The "Total Project Cost" means the total projected or actual cost of the Agreed Project.

2. The Agreed Project

- 2.1 You will deliver the activities as defined in the Agreed Project. You acknowledge that the Grant is paid on trust to you for the sole purpose of delivering the Agreed Project.
- 2.2 The Agreed Project will form the basis for the reporting, monitoring and assessment of performance under this Funding Agreement.
- 2.3 If you have not started the Agreed Project by the Start Date, then we may withdraw from this Funding Agreement without any further liability on our part under this Funding Agreement.
- 2.4 You will tell us immediately in writing of anything that might significantly delay, threaten or make unlikely the successful delivery of the Agreed Project or any key part of it.
- 2.5 In carrying out the Agreed Project, you must obtain all approvals, consent, planning consents, building regulation approvals, licences and any other necessary approvals and consents required by law to deliver the Agreed Project.
- 2.6 You will use the Project Assets or allow them to be used, only for the approved purposes set out in the Agreed Project.
- 2.7 You will maintain the Project Assets in good repair and condition and ensure that they are adequately insured.

3. Funding

- 3.1 Subject to satisfactory receipt of the information required to pay the Grant, we agree to pay to you the total Grant as shown in the offer letter.
- 3.2 We will not make any payments under this Funding Agreement until we have evidence that these Standard Terms and Conditions have been accepted by your board or equivalent, and the Funding Agreement is properly signed by a board member or equivalent.
- 3.3 You accept that these Standard Terms and Conditions are not negotiable and you shall have no right to amend or vary the provisions of this Funding Agreement which, for the avoidance of doubt, includes the Agreed Project and the Funding Period as specified in the offer letter.
- 3.4 You accept that this Grant is in response to the Covid-19 pandemic. We reserve the right to introduce new requirements and/or additional conditions based on any further guidance given and/or announcements made by the Government and any changing circumstances in relation to Covid-19.
- 3.5 You accept that we will not increase the Grant if you spend more than the total Grant shown in the offer letter.

- 3.6 We will be under no obligation to pay the Grant after expiry of the Funding Period.
- 3.7 You will ensure that you obtain sufficient Partnership Funding to meet any part of the Total Project Cost that we do not fund.
- 3.8 You will notify us in writing as soon as the Total Project Cost is expected or anticipated to increase explaining the reason for any overrun, and how it is intended that any overrun will be funded, together with an updated budget or any other information we request.
- 3.9 You will comply with all relevant laws regarding the submission of accounts, audit or examination of accounts, annual reports, and annual returns. You will maintain an appropriate depreciation policy and the Project Assets will be depreciated in line with this agreed policy.
- 3.10 You will acknowledge our Grant in the annual reports and accounts covering the Funding Period.
- 3.11 You will show the Grant and related expenditure as restricted funds under the description "Arts Council Kickstart Capital Grant" in your annual accounts. You will identify unspent funds and assets in respect of the Grant separately in accounting records. If you have more than one restricted capital grant from us, you will include a note to the accounts identifying each restricted capital grant separately and will identify unspent funds and assets in respect of each of those grants separately in your accounting records.

4. VAT

- 4.1 The Grant is not consideration for any taxable supply for VAT purposes. You acknowledge that our obligation does not extend to paying any amounts in respect of VAT in addition to the Grant.
- 4.2 If you are registered for VAT, or subsequently become liable to register for VAT, you must keep proper and up to date records and you must make those records available and give copies to us when requested.
- 4.3 If the Grant includes any or all of the VAT costs associated with the Agreed Project and you subsequently recover any VAT, you must pay back immediately any of the VAT that has been paid for with the Grant.

5. Monitoring

- 5.1 We will designate a relationship manager for you in relation to this Funding Agreement. The relationship manager is the main point of contact between us and you. The relationship manager will:

- 5.1.1 act as the main contact with you for all matters relating to the Grant and the Agreed Project;
 - 5.1.2 monitor your grant to ensure that you are complying with the terms of this Funding Agreement and other requirements in accordance with our monitoring requirements, identify issues and share these with relevant colleagues;
 - 5.1.3 attend your board meetings (or equivalent) as an observer on a regular or on an occasional basis; and
 - 5.1.4 act as a "critical friend" to you by engaging with you in respect of the Agreed Project, and questioning its self-monitoring, direction, operations and activities.
- 5.2 Further to clause 6.2.1 below, you acknowledge that we will be sharing information about the Agreed Project with an independent project monitor, if one is appointed, at our cost and discretion, to help with our monitoring of the Agreed Project. We will notify you if we are going to do this. You must provide progress reports to us or the independent project monitor in the form and on such dates as we request.
- 5.3 You must take appropriate steps to monitor your own success in achieving the Agreed Project. We may request that you undertake an evaluation to demonstrate that the outcomes for the Agreed Project have been met.
- 5.4 We may monitor the progress of the Agreed Project and may carry out checks after the final payment has been made to confirm you are delivering the expected project outcomes.

6. Your Obligations

- 6.1 We require you to meet any special or additional conditions which may have been agreed between us and you in writing from time to time and which will be deemed incorporated into this Funding Agreement.
- 6.2 In addition, we require you to meet the following requirements:
- 6.2.1 We will monitor and assess your delivery of the Agreed Project and how effectively the Grant is being used. To enable this, you will send us all such information as we may in our sole discretion reasonably request from time to time. This includes the information, without limitation, set out in the offer letter, and copies of all or any other relevant documentation about the financial and operational running of you, to include business plans, board papers or equivalent, reserves policies and any other information which we deem relevant to our understanding of how the Agreed Project is being delivered and the funding used.

- 6.2.2 You must tell us in advance if you want to make any significant changes to your legal status or to the Agreed Project under this Funding Agreement.
- 6.2.3 You will follow our branding and publicity guidelines at all times and will acknowledge the Grant in press, marketing and communications materials, verbally and in writing and on the Grant-funded Project Assets. You will use our grant award logo, and lottery grant award logo as may be required, appropriately on all published material including:
- 6.2.3.1 printed and online material;
 - 6.2.3.2 site boards and hoardings during construction; and
 - 6.2.3.3 after the building work has been completed on a permanent basis in a public area.
- Our requirements may change from time to time and you must adopt our changes as and when they occur.
- 6.2.4 You consent to any publicity about the Grant and the Agreed Project as we may from time to time require. We can carry out any form of publicity and marketing to promote the award of the Grant as we see fit and you will do whatever is reasonably required in order to assist with any form of publicity and marketing, including any press or media related activities.
- 6.2.5 You will take all reasonable steps to minimise the environmental impact of the Agreed Project.
- 6.2.6 You are fully responsible for every part of your business. This includes, without limitation:
- 6.2.6.1 You must ensure that all current and future members of your governing body receive a copy of this Funding Agreement while it remains in force and will ensure that the receipt of this Grant and the delivery of the Agreed Project are within the scope of your governing documents;
 - 6.2.6.2 You are responsible for getting your own management and business advice. This includes considering whether you need to get financial, accounting, tax, solvency, legal, insurance or other types of professional advice;
 - 6.2.6.3 You must tell us immediately of any changes in your organisation that may threaten its solvency and inform us if you are proposing to enter into any arrangement with any of your creditors;
 - 6.2.6.4 You must tell us in writing as soon as possible if any legal claims or any regulatory investigations are made or threatened against your organisation and/or which would adversely affect the Agreed Project during the period of the Grant (including any claims made against members of your governing body or staff).
- 6.2.7 In carrying out your business and the Agreed Project you must obtain all approvals, consents and licences required by law to deliver the Agreed Project, comply with any relevant laws or government requirements and comply with best practice in governance, reporting

and operation. This includes (but is not limited to) the following obligations:

- 6.2.7.1 taking all reasonable steps to ensure the safety of the children and vulnerable adults you will work with. You will follow best practice in having appropriate policies and procedures in place to ensure the protection of children, young people and vulnerable adults and in complying with those procedures. Such procedures will include procedures to check backgrounds and disclosures of all employees, volunteers, trustees, partners or contractors who will supervise, care for or otherwise have significant direct contact with children and adults at risk with the Disclosure and Barring Service (DBS);
- 6.2.7.2 following best practice in having appropriate and effective policies and procedures in place concerning equality and diversity, harassment and bullying and in complying with those policies and procedures;
- 6.2.7.3 having in place at all times and acting in accordance with, appropriate and effective disciplinary, grievance and whistle-blowing policies;
- 6.2.7.4 having an equal opportunities policy in place at all times and act at all times without distinction and in compliance with all relevant equality legislation;
- 6.2.7.5 at all times complying with Data Protection Legislation. Data Protection Legislation shall mean (i) unless and until the General Data Protection Regulation ((EU) 2016/679) ('GDPR') is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018;
- 6.2.7.6 adhering to all relevant legal obligations relating to offering internships;
- 6.2.7.7 ensuring that salaries, fees and subsistence arrangements are as good as or better than those agreed by any relevant trade unions and employers' associations;
- 6.2.7.8 maintaining all main financial records including profit and loss accounts, management statements, personnel and payroll records for staff funded under this Funding Agreement for seven years after the Grant has ended. You will complete all statutory returns for employees and make all relevant payments to cover their pensions and salary deductions, such as income tax and National Insurance contributions;
- 6.2.7.9 considering any possible risks involved in your Agreed Project and taking appropriate action to protect everyone involved and maintaining adequate and appropriate insurance at all times.
- 6.2.7.10 Subject to clause 6.2.8 and 6.2.9, when procuring goods, works or services that are funded in whole or in part by the Grant:
 - 6.2.7.10.1: for contracts within the scope of Regulation 13 of the Public Contracts Regulations 2015, procuring in a manner compliant with the Public Contracts

Regulations 2015 (or such other procurement laws as may apply from time to time); and

6.2.7.10.2: for all other contracts, procuring in a manner which ensures that suppliers are treated equally, without discrimination and that any procurement process is conducted in a transparent and proportionate manner.

6.2.8 For the purposes of clause 6.2.7.10.2 above, you must ensure that any requirement to procure goods, works or services that are funded in whole or in part by the Grant are advertised in such a way as to ensure that all interested suppliers in the market are aware of the opportunity and provided with an opportunity to tender for the contract as if you are a contracting authority for the purposes of the Public Contracts Regulations 2015.

6.2.9 The provisions at clause 6.2.7.10 and 6.2.8 shall only apply to contract requirements with a value of £10,000 (ex VAT) or more. You shall not sub-divide a requirement with the intention of excluding the application of clause 6.2.7.10 and 6.2.8.

6.2.10 We may request, and you must provide any information we require to satisfy itself that you have complied with your obligations under clause 6.2.7.10 and 6.2.9.

6.2.11 You acknowledge that we may incur financial liability if you breach your obligations under clause 6.2.7.10 and that you shall be liable to us for any losses, costs (including legal costs), damages and any other financial liability incurred as a direct result of such breach.

6.3 You accept that our staff, council members and advisers cannot give you professional advice and will not take part in carrying out your business. We cannot be held responsible for any action you take, or fail to take, or for your debts or liabilities. We will not be liable for any losses or charges if we do not make any grant payment on the agreed date. We will not be responsible to anyone else who may take, or threaten to take, proceedings against you.

6.4 Subject to clause 10 below, you will not sell, give away, licence or borrow against any Project Assets (including any intellectual property rights) without first receiving our prior written consent. As the Grant has come from public funds, you understand and accept that if we provide the consent we will require that the disposal is at full market value and/or subject to conditions requiring you to repay all or part of the Grant money received. You must maintain adequate insurance at all times for any Project Assets, which must include the full replacement value of any such assets.

6.5 If you want to use the Project Assets to raise further funding, you will first need to obtain our consent in writing, which may be subject to conditions and which you will have to meet. You undertake that:

6.5.1 any loan secured on the Project Assets will be used entirely for the benefit of the Agreed Project; and,

- 6.5.2 the maximum security for the loan will be no higher than the amount of money being put up by the new lender.
- 6.6 You must give us, the National Audit Office or any of their agents access to meetings, events and any/all financial records, other information and/or premises, as may be reasonably requested, relating to the Agreed Project, you, or to any other matter arising under this Funding Agreement and we may postpone payment of the Grant or an instalment of the Grant until we have received the material we have requested.
- 6.7 You must immediately tell us about any changes, or anticipated changes, to bank or building society details or any other changes to information provided to us.
- 6.8 We may share information about the Grant and/or the Agreed Project with third parties. We are also subject to the provisions of the Freedom of Information Act 2000 ('the Act'). This means that any information provided by you could be released to any person who asks for it under the Act. You may tell us if you think that any of the information should be confidential under any of the exemptions of the Act. However, we will make the final decision in accordance with the Act.
- 6.9 We may request to be consulted on the process of recruitment and invited to attend interviews when you are recruiting trustees and/or senior staff.
- 6.10 The Grant is made up of funds received from Parliament. You understand that we can only guarantee future instalments of the Grant as long as funds are available to us. Should funding be suspended or stopped from Parliament, you understand that we may have to reduce or stop Grant payments and we accept no liability arising pursuant to this action.
- 6.11 You acknowledge that the Grant comes from public funds and you will not use the Grant in a way that constitutes unlawful state aid. In the event that it is deemed to be unlawful state aid, then you will repay the entire Grant (and any interest thereon) immediately. If you are concerned about state aid, you will need to seek your own independent legal advice.
- 6.12 You will ensure that no other organisation or individual acquires any third-party rights under this Funding Agreement.

7. Building Work

- 7.1 If all or any part of your Agreed Project is to be used for building work, you must ensure that:
- 7.1.1 you employ a lead professional(s) with appropriate building experience to manage the design and tender process, the post contract works and to certify that the building works have been properly carried out;

- 7.1.2 you appoint design, cost, management and other specialist consultants and advisors as appropriate to and with appropriate experience for the project value, size and complexity;
- 7.1.3 if structural work is necessary, you must employ a structural engineer;
- 7.1.4 you will use building professionals that are fully qualified members of an approved professional body and have all necessary professional indemnity insurance cover.
- 7.1.5 if building works come under the Construction (Design and Management) Regulations 2015, you will confirm that you have appointed a principle designer;
- 7.1.6 you put in place all necessary contracts with contractors and professional advisors on standard terms and conditions that an employer with appropriate experience would enter into for projects of the same value, size and complexity;
- 7.1.7 building contracts must contain a clause which allows you to retain part of the contractors' fees on practical completion of the works; and
- 7.1.8 you must ensure that satisfactory arrangements are made for the retention of all relevant construction documents for a term of seven years from the last instalment of Grant payment. This is to include but not limited to:
 - 7.1.8.1 contract drawings and specifications;
 - 7.1.8.2 as built drawings;
 - 7.1.8.3 health and safety files;
 - 7.1.8.4 building contract with the main build contractor and key sub or specialist contractors;
 - 7.1.8.5 other building contracts as appropriate;
 - 7.1.8.6 planning and/or listed building consent including the confirmations of the discharge of the conditions of consents;
 - 7.1.8.7 discharge of reserved building control completion certificate;
 - 7.1.8.8 fire officer approval;
 - 7.1.8.9 contracts of engagement for professional teams; and
 - 7.1.8.10 any other documents we may request.
- 7.1.9 Prior to appointing contractors or professional advisors you will undertake checks on their capability and financial status to understand whether the contractors or professional advisors are exposed to any risks given the size of the proposed contract. Based on these checks, you agree to take all reasonable steps to minimise any identified risks. This includes the requirement for a performance bond or parent company guarantee in tender documents for building contracts if considered necessary.
- 7.1.10 Pursuant to clause 2.4, you agree to keep us informed of all risks in respect of any third-party insolvency and in the event of the occurrence

of insolvency, you undertake to appoint an alternative contractor or professional consultant at your own cost.

8. Security

- 8.1 It is a funding condition of this Funding Agreement that the security required under the Main Capital Grant Funding Agreement has been completed and registered accordingly prior to release of the first grant payment under this Funding Agreement and for the avoidance of doubt, the Main Capital Grant Funding Agreement. You confirm that this condition will be satisfied before your request for the first payment of the Grant is made.
- 8.2 You understand and accept that we may require security over the Project Assets funded by the Grant. Usually this will be by way of either a first ranking fixed and floating legal charge or a first ranking fixed legal charge in our standard form along with an undertaking from your solicitor to register the security at Land Registry and Companies House within 21 days of completion of the security, or if appropriate we may request a deed of covenant in standard form along with an undertaking from your solicitor to register a restriction at the Land Registry within 28 days of completion of the deed.
- 8.3 If security is required for the Grant, you will also need to provide confirmation (by way of a certificate of title and legal opinion, in our standard form) from your solicitors that you are the freehold owner or a lessee under a registered and assignable lease on terms acceptable to us, of the Project Assets to which the Grant relates and that the Project Assets may be used for the Agreed Project. If the property is unregistered, a deed of undertaking will be required to effect first registration and thereafter registration of the security.
- 8.4 We reserve the right to request any type of security or additional security (now or in the future) or consolidated security if it is considered necessary and desirable given the circumstances of the Agreed Project. We will also consider the terms of the Main Capital Grant Funding Agreement and past capital projects funded by us in reaching a decision as to our requirements. If we have asked for security either under the Main Capital Grant Funding Agreement and/or this Funding Agreement, you understand that no payments of the Grant will be made until we have received the requested documents completed to our satisfaction.
- 8.5 The type of security we initially require for the Agreed Project is set out in the offer letter.

9. Land and Legal Requirements

- 9.1 You will comply with the requirements and equivalent terms and conditions as set out in your Main Capital Grant Funding Agreement in respect of Land and Legal Requirements for the purposes of this Funding Agreement.

10. Dealings with Project Assets

- 10.1 You will comply with the requirements and equivalent terms and conditions as set out in your Main Capital Grant Funding Agreement in respect of dealings with Project Assets for the purposes of this Funding Agreement.
- 10.2 If consent is given for the selling or disposal of the Project Assets, you may have to repay all or part of the money received from us. The amount you must repay will be in direct proportion to the share of the project costs that came from us. If, with our consent, you sell the Project Assets wholly or partly bought with the Grant, it will be at full market value and we may impose conditions upon the transfer or disposition.

11. Termination of this Agreement

- 11.1 If you breach any of the terms and conditions of this Funding Agreement, then we in our absolute discretion may withhold and/or demand repayment of all or part of the Grant and/or terminate this Funding Agreement. You will repay any grant requested immediately upon demand.
- 11.2 We may suspend payment of the Grant if we wish to investigate any matters concerning the Grant (or any other grants given by us to you). You understand and accept that we will accept no liability for any consequences, whether direct or indirect, that may arise from a suspension even if the investigation finds no cause for concern.
- 11.3 We may also withhold and/or demand repayment of all or part of the Grant and/ or terminate this Funding Agreement if you:
 - 11.3.1 close down your business (unless, with our prior consent in our absolute discretion, you join with, or are replaced by, another organisation that can take over this Funding Agreement and carry out the purposes of the Grant to our satisfaction);
 - 11.3.2 make significant changes to the Agreed Project without the prior written approval of us;
 - 11.3.3 do not fulfil the purpose of the Grant with reasonable care, thoroughness, competence and to a standard that we expect from you with its level of experience in its practice, profession or line of work;
 - 11.3.4 provide any information to us that is wrong or misleading, either by mistake or because it is trying to mislead us during the application process or during the period of this Funding Agreement;
 - 11.3.5 become, or in our view are likely to become, insolvent, any order is made, or resolution is passed, for you to go into administration, be wound up or dissolved; an administrator or other receiver, manager, liquidator, trustee or similar officer is appointed over all or a considerable amount of your assets; or you enter into or propose any arrangement with your creditors;
 - 11.3.6 act illegally or negligently at any time;

- 11.3.7 act in such a way that we believe it has significantly affected the Agreed Project, or is likely to harm our or your reputation or it is in our discretion necessary to protect public money;
 - 11.3.8 sell or in some other way transfers any part of the Grant, the business or the activity funded under the Agreed Project to someone else without first getting our approval in writing; and/ or
 - 11.3.9 use the Grant or any part of it for any activity that is intended to influence or attempt to influence Parliament, Government or political parties, or attempt to influence the awarding or renewal of contracts and grants or attempt to influence legislative or regulatory action.
- 11.4 If you are in breach of any of the terms of this Funding Agreement and we do not enforce one or more of our rights straight away, this does not mean that we will not do so in the future. We will only waive our right to enforce a provision of this Funding Agreement if we tell you in writing, signed by a member of our senior management team.
- 11.5 If you have other major revenue or capital grants with us, then you are also under an obligation to keep to the terms and conditions of those funding agreements. If there is any conflict between the terms and conditions of this Funding Agreement and the terms and conditions of the Main Capital Grant Funding Agreement, then the terms and conditions of the Main Capital Grant Funding Agreement will take precedence.
- 11.6 If you breach any of the terms of this Funding Agreement, we can choose to treat that as you breaching the terms of any other grant agreements we have with you. This will allow us to take the same actions under those agreements that we may take under this Funding Agreement, including making you pay back the Grant and suspending any future payments.
- 11.7 This Funding Agreement and these terms and conditions will remain in force for whichever period is the longest time as set out in the equivalent terms and conditions of your Main Capital Grant Funding Agreement and in any event will remain in force where there has been a breach or there continues to be a breach of the terms and conditions of the Main Capital Grant Funding Agreement and/or this Funding Agreement (this includes any outstanding reporting on Grant expenditure or the delivery of the Agreed Project).

12. Prevention of Fraud and Corruption

- 12.1 You shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the Agreed Project or showing or refraining from showing favour or disfavour to any person in relation to the Agreed Project.

12.2 If you or your staff, suppliers or sub-contractors engages in conduct prohibited by clause 12.1 or commits fraud in relation to the Agreed Project or any other contract with the Crown (including us) we may:

12.2.1 Terminate the Funding Agreement and recover from you the amount of any loss suffered by us resulting from the termination; or

12.2.2 Recover in full from you any other loss sustained by us in consequence of any breach of this clause.

13. Additional terms and conditions

13.1 We have the right to impose additional terms and conditions on the Grant if:

13.1.1 You are in breach of this Funding Agreement and/or the terms and conditions of the Main Capital Grant Funding Agreement;

13.1.2 We withdraw or suspend any part of the funding for the Agreed Project;

13.1.3 We judge that members of your governing body, volunteers or staff or any person or organisation closely involved in carrying out the Agreed Project act in a way that may have a detrimental effect on the Agreed Project or on our reputation as a distributor of public money or as a Government sponsored body;

13.1.4 We have reasonable grounds to believe that it is necessary to protect public money; and/ or

13.1.5 We believe such conditions are necessary or desirable to make sure that the Agreed Project is delivered as agreed by the parties.

SCHEDULE 2

The Property

Leasehold property being part of City Hall Back Quay Truro as comprised in title number CL107710

Executed as a deed by affixing the seal of)
THE ARTS COUNCIL OF ENGLAND)
and authenticated by an authorised officer)

.....
Signature

.....
Name of authorised officer

.....
Title of authorised officer

Executed as a deed on behalf of)
)
THE HALL FOR CORNWALL TRUST acting by)
)
two directors/trustees


.....

Director/Trustee


.....

Director/Trustee