

108020/23

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006.

# MR01

## Particulars of a charge

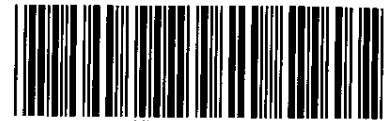


Companies House



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A fee is be payable with  
Please see 'How to pay' on



\*R6XPKW0H\*

RCS 15/01/2018 #27

COMPANIES HOUSE

\*A6XHSPNS\*

A09 12/01/2018 #230

COMPANIES HOUSE

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument.

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where the  
instrument. Use form MR01

This form must be delivered to the Registrar for registration within  
**21 days** beginning with the day after the date of creation of the charge. If  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery.

☒ You must enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record. **Do not send the original.**

### 1 Company details

Company number 0 3 1 0 1 4 4 3

Company name in full HALL FOR CORNWALL TRUST

For official use

#### → Filling in this form

Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date d 1 d 0 m 0 m 1 y 2 y 0 y 1 y 8

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge.

Name THE ARTS COUNCIL OF ENGLAND

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below.

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge.

MR01

## Particulars of a charge

<b>4</b>	<b>Brief description</b>	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".
Brief description	X ALL THE ASSETS, PROPERTY, RIGHTS AND OTHER INTERESTS CHARGED BY THIS DEED BOTH PRESENT AND FUTURE	Please limit the description to the available space.	
<b>5</b>	<b>Other charge or fixed security</b>	Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.	
	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		
<b>6</b>	<b>Floating charge</b>	Is the instrument expressed to contain a floating charge? Please tick the appropriate box.	
	<input type="checkbox"/> <b>Yes</b> Continue <input checked="" type="checkbox"/> <b>No</b> Go to <b>Section 7</b>	Is the floating charge expressed to cover all the property and undertaking of the company?	
	<input type="checkbox"/> <b>Yes</b>		
<b>7</b>	<b>Negative Pledge</b>	Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.	
	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		
<b>8</b>	<b>Trustee statement <sup>①</sup></b>	You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.	<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06).
	<input type="checkbox"/>		
<b>9</b>	<b>Signature</b>	Please sign the form here.	
Signature	X STONE KING LLP X	This form must be signed by a person with an interest in the charge.	

# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name

Company name

Address

Post town

County/Region

Postcode

Country

DX

Telephone



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



### Important information

**Please note that all information on this form will appear on the public record.**



### How to pay

**A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House.'



### Where to send

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:**

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**

## PROFORMA

Company Number    **3101443**  
Company Name       **THE HALL FOR CORNWALL TRUST**  
Contact Name/ Organisation   **Caroline Leviss**  
Address            **Stone King LLP, 13 Queen Square, Bath BA1 2HJ**

**The following details will need to be added to, amended or deleted from the Form MR01/LLMR01/MR08/LLMR08**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- x    Company/LLP name
- ☐ Date of creation of charge
- ☐ Persons entitled to the charge
- ☐ Description of property
- ☐ Fixed charge tick box (applies only to MR01/LLMR01)
- ☐ Floating charge tick box (applies only to MR01/LLMR01)
- ☐ Negative pledge tick box (applies only to MR01/LLMR01)
- ☐ Nature of the charge  
(applies only to MR08/LL MR08)
- ☐ Obligations secured by the charge  
(applies only to MR08/LL MR08)

- **The following details will need to be added to, amended or deleted from the Form MR02/LLMR02/MR09/LLMR09**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- ☐ Company/LLP name
- ☐ Date of creation of charge
- ☐ Date that property or undertaking was acquired

- ☐ Persons entitled to the charge
- ☐ Description of property.
- ☐ Fixed charge tick box (applies only to MR02/LLMR02)
- ☐ Floating charge tick box (applies only to MR02/LLMR02)
- ☐ Negative pledge tick box (applies only to MR02/LLMR02)
- ☐ Nature of the charge  
(applies only to MR09/LL MR09)
- ☐ Obligations secured by the charge  
(applies only to MR09/LL MR09)

- **The following details will need to be added to, amended or deleted from the Form MR03/MR10/LLMR03/LLMR10**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- ☐ Company/LLP name
- ☐ Date of creation of charge
- ☐ Date of resolution or determination
- ☐ Date of covering instrument
- ☐ Names of trustees for debenture holders
- ☐ Description of property.
- ☐ Fixed charge tick box (applies only to MR03/LLMR03)
- ☐ Floating charge tick box (applies only to MR03/LLMR03)
- ☐ Negative pledge tick box (applies only to MR03/LLMR03)
- ☐ Nature of the charge  
(applies only to MR10/LL MR10)
- ☐ Obligations secured by the charge  
(applies only to MR10/LL MR10)

**Please give the instructions in the box below)**

**The name previously provided for the company is incorrect and should be detailed as the following:**

**'THE HALL FOR CORNWALL TRUST'**

**Previously, 'The' was erroneously omitted.**



FILE COPY

DX

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3101443

Charge code: 0310 1443 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th January 2018 and created by THE HALL FOR CORNWALL TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th January 2018.

Given at Companies House, Cardiff on 16th January 2018



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 10<sup>th</sup> January 2018

I certify this to be a complete, exact and true copy of the original document

Date: 11/01/2018

PRINT NAME: STEPHANIE HOWARTH

Signed: 

Stone King LLP  
Registered Office at: BA1 2HJ

## 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 incorporated in England and Wales (company number 03101443) and a registered charity (charity number 1053028) whose registered office is at Hall for Cornwall Property Trust, Back Quay, Truro, Cornwall, TR1 ('the Funded Organisation')

## RECITALS

- A The Funded Organisation is the legal and beneficial owner of the Property, referred to in Schedule 2, and otherwise free from encumbrances.
- 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>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>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>Funded Organisation</i>	the party identified as the Funded Organisation above including the Funded Organisation's successors in title and assigns;
<i>Insurances</i>	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;
<i>Liabilities</i>	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  
Interest*

*Security*

- (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;

(b) all Recoveries and any money or property which accrues or derives from any Recoveries; and,

- 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 first legal mortgage;

3.1.2      assigns and charges to the Arts Council by way of first 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.

## **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 at all times maintain insurance of or in connection with the Property (including all buildings, structures, plant machinery and equipment included in or on the Property) against such risks and losses in such respective amounts with such insurers and generally on such terms as the Arts Council shall from time to time require;
- 5.6 apply or cause the application of all monies becoming payable under any Insurances in making good the loss or damage in respect of which such monies are payable or at the request of the Arts Council towards the discharge of the Liabilities;
- 5.7 use the Property as 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 the areas comprised in Existing Sub Leases
- 5.8 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;
- 5.9 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;

- 5.10 observe and perform all restrictive and other covenants and stipulations (if any) for the time being affecting the Property;
- 5.11 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 up to 3 years without the consent of the Arts Council where the use of the land demised by such lease or licence is in keeping with the Agreed Use
- 5.12 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 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 satisfaction of the Arts Council;
- 5.13 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;
- 5.14 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.

- 5.15 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.
- 5.16 on demand give to the Arts Council or its agents such information as it or they reasonably require relating to the Charged Assets; and
- 5.17 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 Movable 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 Movable 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, 20 years after the date of this Deed, 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 10 JANUARY 2018

in favour of the Arts Council of England referred to in the Charges Register”

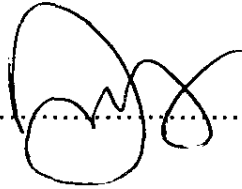
- 13.2 Neither the whole or any part of the Liabilities and/or the security created by this deed shall be modified, released, waived or otherwise affected in any way by any grant of time, indulgence, modification, release, variation or waiver granted or allowed to or agreed with the Funded Organisation 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

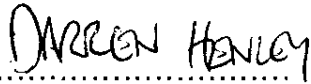
affect any other security which the Arts Council may now or at any time hold for or in respect of the Liabilities.

- 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.

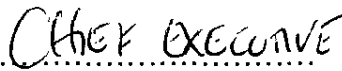
Executed as a deed by affixing the seal of )  
**THE ARTS COUNCIL OF ENGLAND** )  
and authenticated by an authorised officer )

Signature





Name of authorised officer



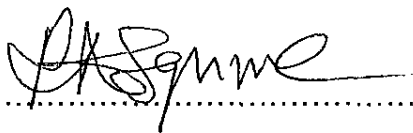
Title of authorised officer

Executed as a deed on behalf of **THE HALL FOR** )  
**CORNWALL TRUST** )

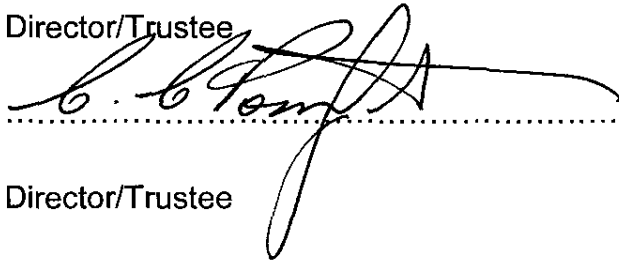
acting by [ ROSEMARY SQUIRE ] )

and [ CHRISTOPHER POMFRET ]

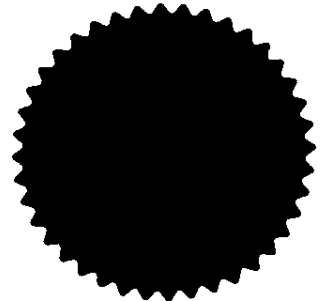
~~2~~ directors /trustees



Director/Trustee



Director/Trustee





## **Grant offer letter**

19 May 2016

Julien Boast  
Director - Hall for Cornwall  
Back Quay  
Truro  
Cornwall  
TR1 2LL

Dear Julien

### **Offer of Stage Two Funding – Large Capital Grants**

**Programme:** Capital Investment 2012 - 2015 - Large capital grants (Round Three)  
**Applicant name:** Hall for Cornwall Property Trust  
**Reference:** 31532982

Congratulations on your successful Stage Two Application.

I am writing to confirm that Arts Council England will provide **The Hall for Cornwall Property Trust** with a Grant of up to **£4,655,005** towards the costs of the Agreed Capital Project Plan as attached to this letter. The Grant comes from the proceeds of the National Lottery.

Lynsey Rowe will be your contact for this grant. She will be in touch with you soon to discuss your Grant in more detail. In the meantime, should you wish to discuss any matters further, please contact Lynsey by email at [lynsey.rowe@artscouncil.org.uk](mailto:lynsey.rowe@artscouncil.org.uk) or by phone on 020 7268 9632.

#### **1. Our Offer**

This offer is subject to our Standard Capital Terms and Conditions for Large Capital Grants ("Terms & Conditions") and any additional conditions set out in this letter. A copy of *the Terms & Conditions* is attached to this letter, and you can also download it from our website ([www.artscouncil.org.uk](http://www.artscouncil.org.uk)). These Terms and Conditions form part of the Funding Agreement and are standard for all Grants made under this Programme; therefore they are non-negotiable and must remain attached to this letter.

#### **2. Purpose of funding**

The capital funding is provided to assist you in undertaking the work required to deliver your Capital Project set out in your Stage Two application. What we expect from you is set out in the Agreed Capital Project Plan and you will be monitored

against this Plan. We will not pay for any expenditure that is beyond the delivery of the Agreed Capital Project Plan.

**3. Agreed Capital Project Plan**

The Agreed Capital Project Plan is set out in Schedule 2 attached to this letter. Changes to the Agreed Capital Project Plan are covered in the Terms & Conditions at Clause 2.4.

**4. Expectations of the Capital Programme**

Over the period 2012-2015, our capital investment will prioritise the consolidation and improvement of existing assets rather than investing in significant expansion or new infrastructure. We will support organisations to develop resilience by having the right buildings and equipment to deliver their work and become more sustainable and innovative businesses. This includes increasing the environmental performance of assets to support the reduction in carbon emissions in the arts sector.

The outcomes we expect to see from our investment are:

- achieve the mission of great art for everyone, particularly goal 3 '*The arts, museums and libraries are resilient and environmentally sustainable*';
- the conditions are created where great art is made, experienced and appreciated by everyone;
- organisations are resilient and are more sustainable and innovative businesses by improving their existing buildings and equipment;
- environmental performance of buildings and equipment are increased which supports the reduction in carbon emissions in the arts sector;
- greater impact from our shared investment in the arts by securing funding from other partners; and,
- existing arts facilities are sustainable without the need for unplanned revenue funding from us.

**5. Monitoring and Payment Plan**

The Monitoring and Payment Plan for the Grant is set out in Schedule 3 attached to this letter.

**6. Accepting our Offer**

If you accept this offer and agree to meet the terms and conditions, please return a signed copy of this letter and attachments by **31 July 2016**. If we do not receive a signed letter and accompanying documents by this date, the offer will lapse.

Please note that this letter, attached schedules and our standard terms and conditions as referred to above will form the Funding Agreement. No changes can be made to these documents unless agreed by the Arts Council England in writing.

The date of your signing will be the date of the Funding Agreement.

Yp




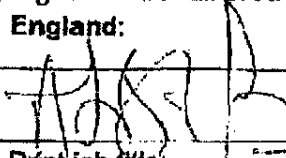
**7. Additional Conditions**

7.1 The Organisation will undertake an evaluation of the Capital Project to demonstrate the outcomes outlined in the Application have been achieved. This evaluation should provide relevant quantitative and qualitative evidence, including financial, beneficiary, photographic and other operational information to capture baseline, interim outcomes and final outcome data about the Capital Project and its impact as required. This evaluation should specifically demonstrate that the Organisation's resilience has been improved as a result of the Capital Project. The Organisation will provide the final evaluation to the Arts Council. We acknowledge that this evaluation may not be available until after the final payment of the grant has been made.

7.2 The Organisation accepts that payment requests for closure costs must be based on actual incurred losses supported by detailed evidence (e.g. management accounts).

**8. Signatures**

I accept the Grant offer on the terms and conditions stated.

Signed on behalf of The Hall for Cornwall Property Trust:	Signed on behalf of Arts Council England:
	
Print job title: <i>Director</i>	Print job title: DEPUTY CHIEF EXECUTIVE
Date: <i>25 July 2016</i>	Date: <i>19-5-16</i>

Please use the reference given at the top of this letter when you communicate with us. If you have any questions, please contact Lynsey Rowe.

Yours sincerely

  
Althea Efunshile  
Deputy Chief Executive



## Schedule 1 – The Application

	Document name	Document date
1	Stage two application form	8 January 2016
2	Access audit report	January 2016
3	Business plan 2016-26	January 2016
4	Cashflow forecast	7 January 2016
5	Cost plan No.2 final – update for Stage 3 design, by Sweett	7 January 2016
6	Design Information – Interim RIBA stage 3 report	January 2016
7	Fundraising strategy	January 2016
8	Management structure – capital project organogram	January 2016
9	Partnership funding evidence: <ul style="list-style-type: none"> <li>Letter from Cornwall Council</li> <li>Cornwall Council Cabinet decision</li> <li>Letter from DCLG/ERDF</li> </ul>	7 October 2015 4 November 2015 8 August 2016
10	Professional CVs – various	January 2016
11	Risk register	8 January 2016
12	Stage 2 Income & Expenditure budget	8 January 2016
13	Timetable	8 January 2016
	FURTHER INFORMATION:	
14	Final draft procurement report for Hall for Cornwall's main contract works	March 2016
15	Stage 2 Income & Expenditure budget updated to include £2m from HM Treasury	4 April 2016
16	Department reports to the Board of Trustees papers	28 February 2016
17	Email: J.Boast to L.Rowe re ERDF letter	8 April 2016
18	Email: J.Boast to L.Rowe re clarifications following assessment meeting	11 April 2016
19	Email: S. Dauncey to L.Rowe re closure costs	11 April 2016
20	Extract from the 10 year business financial model	10 April 2016

16

## Schedule 2 – Agreed Capital Project Plan

This Agreed Capital Project Plan sets out the capital project outlined in your Stage Two application for funding.

1	Agreed Use	<p>The Project Asset is to be used for the following purposes:</p> <ol style="list-style-type: none"> <li>1) Presentation of a diverse combined arts programme including national and international touring theatre, music, dance and comedy</li> <li>2) Delivery of a learning and participation programme</li> <li>3) Delivery of QuayWorks: a hub for up to 40 creative SMEs comprising commercial lettable office/meeting/breakout spaces and café/bar</li> <li>4) Administrative offices and back of house facilities including dressing rooms and storage space</li> <li>5) Front of house: foyer, ticketing and café/bar facilities</li> <li>6) Function and event spaces for corporate entertainment, community use and commercial hire</li> <li>7) Heritage Interpretation</li> <li>8) Reception and entrance for Truro City Council offices (the offices themselves are not part of the Agreed Capital Project Plan) and Tourist Information Centre</li> </ol>
2	Capital Project	<p>The Capital Project will:</p> <ul style="list-style-type: none"> <li>• increase capacity and enhance performance flexibility to enable more people to experience a more diverse range of arts activity</li> <li>• improve the venue's visibility, circulation and access to ensure a more welcoming experience for visitors</li> <li>• upgrade front-of-house and back-of-house artist facilities</li> <li>• redevelop spaces for earned income opportunities</li> <li>• increase support for talent development and the Creative Industries</li> <li>• reduce energy output and improve environmental efficiency</li> </ul> <p>The works comprise:</p> <ol style="list-style-type: none"> <li>1) Replacement of existing auditorium with new, tiered auditorium to provide: increased capacity of 306 seats to 1,262 (+83 standing); a variable proscenium; improved technical infrastructure ie. sound, lighting, stage equipment</li> <li>2) New stage-level dressing room facilities and refurbishment</li> </ol>

		<p>and reconfiguration of existing dressing room provision</p> <p>3) Relocation of main entrance/foyer from Back Quay to Boscawen Street to allow: relocation of existing kitchen; creation of a new café/bar (50 covers) as the primary catering officer; integration of Improved Truro City Council reception and Tourist Information Centre</p> <p>4) Expansion of 1<sup>st</sup> floor office - including creation of a mezzanine space - to provide c30 permanent desk spaces</p> <p>5) Creation of an internal alleyway ('ops-way') at the rear of the auditorium between the two separate frontage buildings (Boscawen Street and Back Quay)</p> <p>6) Access improvements including: creation of new wheelchair spaces in main auditorium; installation of new lifts; improved circulation and signage.</p> <p>7) Heritage restoration and interpretation</p> <p>8) Restoration and reconfiguration of the Back Quay façade to create QuayWorks (1,156 m<sup>2</sup> of: offices and meeting spaces; hotdesks; breakout spaces; technical infrastructure; café/bar)</p>
3	Duration (of this Agreement)	20 years
4	Start Date	1 January 2018
5	Expected Completion Date	25 September 2019
6	Grant	£4,855,005
7	Partnership Funding	£13,300,000. <i>This includes £190,000 (a non-ACE development grant) development expenditure incurred in the eighteen months prior to us reaching a decision on your Application.</i>
8	Partnership Funding % Secured to Date	55% (£7.28 million)
9	Total Project Cost	£18,300,000. <i>This includes £534,995 (£190,000 match funding and £344,995 ACE Development Grant) expenditure incurred in the eighteen months prior to us reaching a decision on your Application.</i>
10	Grant Percentage	26%. <i>The Grant Percentage has been adjusted to reflect the £534,995 expenditure already incurred and reflects the remaining projects costs of £17,765,005.</i>
11	Payment Expiry Date	Twelve months after the Expected Completion Date

42

12	Project Asset	Hall for Cornwall, Back Quay, Truro, Cornwall, TR1 2LL
13	Security	A 20-year fixed legal charge with Restriction on Title over the Asset leasehold interest



## **Schedule 3 (Part 1) – Monitoring and Payment Plan**

### **1. Definitions**

- 1.1 The "Key Stage(s)" means each stage of the Monitoring and Payment Plan set out in Part 2 of this Schedule.
- 1.2 The "Key Stage Deliverables" means the conditions set out for each Key Stage as set out in Part 2 of this Schedule or agreed in writing between you and us.
- 1.3 The "Key Stage End Date" means the end date of each Key Stage.
- 1.4 The "Key Stage Review" means the review that takes place at the Key Stage End Date.
- 1.5 The "Maximum Amount" means the maximum of grant available for each Key Stage as set out in Part 2 of this Schedule.
- 1.6 The "Progress and Payment Request Form" means the form annexed hereto as Annexure 1.
- 1.7 The "Key Stage Report" means the form annexed hereto as Annexure 2.
- 1.8 The "Completion Report" means the form annexed hereto as Annexure 3.

### **2. The Monitoring and Payment Plan**

- 2.1 This Schedule sets out the minimum information you need to provide for us to monitor your performance under this Funding Agreement. At times we may ask you to provide additional information.
- 2.2 The Monitoring and Payment Plan is divided into Key Stages as detailed in this Schedule. Each Key Stage has a number of Key Stage Deliverables. The Organisation must provide documentation to the Arts Council to demonstrate that these Key Stage Deliverables have been satisfied by the Key Stage End Date.
- 2.3 In addition to the Key Stage Deliverables, the Organisation must provide written reports to demonstrate progress towards meeting the Agreed Capital Project Plan and the requirements of the Funding Agreement.
- 2.4 The Organisation will provide a Progress and Payment Request Form on a quarterly basis unless otherwise requested and more frequently if you need to bring any matter to our attention as required by the terms of the Funding Agreement. The

16

Organisation will provide the first Progress and Payment Request Form within 20 working days of accepting this Funding Agreement.

2.5 A Maximum Amount is attached to each Key Stage. The Organisation accepts that:

- The first payment of the Grant will not be made until the Key Stage Deliverables for the first Key Stage have been satisfied.
- The release of the Maximum Amount for each Key Stage is subject to the preceding Key Stage Review (except the first) being satisfied and compliance at all times with all other terms of this Agreement and any Security.
- The Arts Council will specify the Maximum Amount for each of the subsequent Key Stages after consulting with you as part of the preceding Key Stage Review.
- The final payment of the Grant will not be made until the Key Stage Deliverables for the final Key Stage have been satisfied.

2.6 In good time and two weeks before the Key Stage End Date, the Organisation will provide us with the following:

- Completed Progress and Payment Request Form
- Completed Key Stage Report which includes the following documents appended to this report:
  - Documentation to demonstrate the Key Stage Deliverables set out in this Schedule for the relevant Key Stage have been satisfied. In the event that information to meet the Key Stage Deliverables is prepared by a third party, the Organisation is deemed responsible for the contents and accuracy of such information.
- Updated project execution plan detailing the activities, management and control procedures for the Capital Project.
- Updated risk register covering all the risks you have identified with your Capital Project. It should include:
  - i. the risk and the likelihood of the risk occurring
  - ii. the impact on your project if it does happen
  - iii. how much each risk may cost
  - iv. how you can prevent the risk or mitigate it if it does happen
  - v. the person responsible for dealing with the risk



- An up to date timetable which sets out the major milestones for the Capital Project. It should separately identify the design, procurement, construction and commissioning activities.

2.7 The Arts Council will then undertake a Key Stage Review to:

- Monitor your progress towards meeting the Agreed Capital Project Plan and ensure the requirements of the Funding Agreement continue to be satisfied.
- Review the documentation provided to determine whether the relevant Key Stage Deliverables have been satisfied.

2.8 Following the Key Stage Review, if we are satisfied that the Key Stage Deliverables have been met and all other requirements of this Agreement have been complied with, we will provide our written agreement confirming the Maximum Amount, Key Stage Deliverables and Key Stage End Date for the next Key Stage.

2.9 If we are not satisfied that the Key Stage Deliverables have been met, we would treat this as a breach in accordance with Clause 12.

2.10 The Organisation accepts the Arts Council reserves the right to amend or vary after consultation with you and in writing to you, the Key Stage End Date, Key Stage Deliverables, the Expected Completion Date, Payment Expiry Date, the Maximum Amount for each Key Stage, the Total Partnership Funding or the Total Project Cost, whether by way of written request by you, because you have notified us in accordance with Clause 2.4, or because we deem it appropriate or necessary in the circumstances.

### 3. Requesting Payments

3.1 The Maximum Amount for each Key Stage will be released in stages during the period of each Key Stage. The Organisation shall request payments by providing a Progress and Payment Request Form.

3.2 The Organisation accepts the Arts Council will pay the Grant Percentage of the expenditure incurred. The Organisation must source the expenditure not covered by the Grant Percentage from Partnership Funding.

3.3 Payment will be based on eligible expenditure incurred during the period of the payment claim as set out and detailed by you in the Progress and Payment Request Form, limited to the agreed Maximum Amount for the Key Stage.



- 3.4 The Arts Council reserves the right to request further information in relation to your payment request and will not release funds to pay debts, liabilities and expenditure we deem, at our discretion, unreasonable.
- 3.5 Without limitation on our discretion as outlined in Clause 3.4, debts, liability and expenditure will be deemed unreasonable if:
- The Organisation has not followed the requirements for goods, services and contracts as stated in Clause 8.11 of the Standard Terms and Conditions in incurring the expenditure.
  - The Organisation incurs more expenditure within the Key Stage than the Maximum Amount.
  - The expenditure has not been incurred to deliver the Agreed Capital Project Plan and is not included in the agreed budget.
- 3.6 In the event we vary the Partnership Funding and/or Total Project Cost in accordance with Clause 2.4 the Grant Percentage will be deemed varied to take account of that variation.



### Schedule 3 (Part 2) - Key Stages

Number	Maximum Amount	Key Stage Deliverables	Key Stage End Date
Key Stage 0	£0	<ol style="list-style-type: none"> <li>1. Submission of the information set out in clause 2.6 of Schedule 3 (Part 1) – Monitoring and Payment Plan.</li> <li>2. Confirmation that the inflation allocation reflects the current industry index and submission of a revised cost plan and budget, where appropriate</li> <li>3. Confirmation in writing to our satisfaction of the approach to managing cost assumptions and exclusions, including how any related cost increases will be covered</li> <li>4. Confirmation in writing of the timetable for the proposed governance changes and the implications of these changes, including how these affect our security requirements as specified in Schedule 2 section 13.</li> <li>5. Submission of a baseline data report for the evaluation of the Capital Project which should capture: <ul style="list-style-type: none"> <li>• each proposed outcome of the Capital Project</li> <li>• the measures of success/indicators</li> <li>• the evidence to be collected</li> <li>• timescale for collecting this evidence</li> </ul> </li> </ol>	31 August 2016
Key Stage 1	£0	1. Submission of the information set out in clause 2.6 of Schedule 3 (Part 1) – Monitoring and Payment Plan.	31 December 2017

<p>(prior to the first payment and start of the construction works)</p>	<ol style="list-style-type: none"> <li>2. Completion and registration of Security as detailed in Section 13, Schedule 2.</li> <li>3. Confirmation of the agreed contract sum.</li> <li>4. Confirmation that 90% of the Total Partnership Funding has been confirmed in writing to our satisfaction to include:               <ol style="list-style-type: none"> <li>a) £3,190,000 Cornwall Council</li> <li>b) £2,090,865 ERDF</li> <li>c) £2,000,000 HM Treasury (Grant-in-aid 2017/18)</li> <li>d) £2,100,000 LEP/Growth Fund</li> <li>e) £2,319,135 Heritage Lottery Fund (Stage 2)</li> </ol> </li> <li>5. Submission of a fundraising update which identifies the strategy for raising the remaining identified gap between the amounts confirmed or pledged and the amount required to complete the Capital Project.</li> <li>6. An updated cost plan confirming the Total Project Cost as stated in the Progress and Payment Request Form required under item 1 above.</li> <li>7. Confirming in writing of the finalised plans for the artistic programme during the closure period and how these plans will be funded.</li> <li>8. Agree Key Stage Deliverables for Key Stage 2.</li> </ol>
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Key Stage 2 (Six months prior to the completion of the construction phase)	£2,875,700	<ol style="list-style-type: none"> <li>1. Submission of the information set out in clause 2.6 of Schedule 3 (Part 1) – Monitoring and Payment Plan.</li> <li>2. An up-to-date cost plan demonstrating that the project can still be delivered within budget and to an acceptable specification.</li> <li>3. Agree Key Stage Deliverables with us for Key Stage 3.</li> </ol>	31 January 2019
Key Stage 3 (Six months after practical completion)	£1,979,305 (this includes a 5% retention payment of £232,750 to be made upon the satisfactory receipt of all deliverables)	<ol style="list-style-type: none"> <li>1. Confirmation of the income and expenditure for the Capital Project identifying the sources of Partnership Funding and the final Total Project Cost.</li> <li>2. Submission of the Completion Report.</li> <li>3. Agree a date for receiving the final evaluation report as required by Clause 7 of the Offer Letter.</li> </ol>	31 March 2020
<b>Total</b>	<b>£4,655,005</b>		

## **Schedule 4 – Bank Details Form**

### **Instructions for completing the bank details form**

1. You must sign and date this form yourself. We cannot accept this information unless the form is signed by you or a recognised nominee. For grants to organisations, we require two signatures from people who are authorised to sign in the organisation's name.
  2. The original, signed, completed form must be either:
    - o returned to us with an original pre-printed paying-in slip for the account details, or
    - o sent to your bank for confirmation of the account details. You should instruct the bank to fill in the 'Bank confirmation of account details' portion and return the original form to your regional office, or:
- Capital team, Arts Council England  
21 Bloomsbury Street  
London  
WC1B 3HF
3. We can only make BACS payments into a building society account if it is linked to the BACS payment system. If your building society account has a six-digit sort code and eight-digit account number we will be able to process a BACS payment. If not, we will have to make payments to the building society account by cheque to the cheque payee.
  4. We can only accept information on the original form and with an original signature. Photocopies are not acceptable.
  5. Please include a phone number in case we need to contact you about this form.

You must complete the bank details form or we cannot pay your grant.



**Bank details form**

**Applicant name:** The Hall for Cornwall Property Trust

**Applicant address:** Hall for Cornwall, Back Quay, Truro, Cornwall, TR1 2LL

**Grant reference:** 31532982

**Account name (if different from applicant name)**

HALL FOR CORNWALL TRUST GENERAL A/C

**Name and address of bank or cheque payee**

[Remember we cannot pay BACS into some building society accounts - please see the instructions for completing the bank details section for more information]

BARCLAYS BANK PLC

20, NEWTON STREET, TRURO, TR1 2NB

**Details marked with \* below should be completed by bank account holders only.**

\* Sort code 20187194 \* Account number 113187926

If you have not enclosed an original paying-in slip you must sign above and send this bank details form to your bank to complete the following section. The bank should return the signed, completed bank details form to Arts Council England at the address below:

**Bank confirmation of account details**

We confirm that the above account name, sort code and account number are correct.

Stamped .....

Date .....

**Authorised signature(s)**

I/we confirm that the above details are correct and agree to inform you in writing of any changes to the above details. [Remember that we cannot accept this information unless the form is signed by you or a recognised nominee.]

Signed [Signature]

Name JULIAN BOST

Position DIRECTOR

Date 25 - July 2016

[Signature]

Contact phone number (in case we need to contact you) .....  
If the grant we are paying is to an organisation, you must include a second signature below.

Signed .....

Name .....

Position .....

Date .....

**For Arts Council England use only**

Date of receipt .....

Details recorded by .....





## **Standard terms and conditions**

### **Large capital grants – capital investment 2012-15**

#### **1. Definitions**

- 1.1 The "Arts Council", "we", "us" and "our" in this document means the Arts Council England and includes its employees and those acting for it.
- 1.2 The "Organisation", "You", "you" and "Your" in this document means the organisation receiving the grant bound by these terms and conditions.
- 1.3 The "Agreed Capital Project Plan" means the purposes for which you applied for a grant, how you intend to carry out those purposes and the requirements you will have to satisfy in doing so as set out in Schedule 2 and in accordance with this Funding Agreement, but taking account of any changes the Arts Council and you agree in writing.
- 1.4 The "Agreed Use" means how you will use the Project Assets that are purchased, renovated, created or improved using the Grant fund as set out in Schedule 2.
- 1.5 The "Application" means any documents or information that you send us to support your request for a grant, a list of which is set out in Schedule 1.
- 1.6 The "Capital Project" means the project for which the Grant has been awarded as detailed in Schedule 2.
- 1.7 The "Expected Completion Date" means the date by which you must complete the Capital Project.
- 1.8 The "Funding Agreement", means the Agreement which the Organisation has accepted and signed and which includes and incorporates the grant offer letter, these standard capital terms and conditions and attached Schedules together with any other conditions the Arts Council has agreed with the Organisation in writing now or in the future. The date of acceptance by the Organisation of this Funding Agreement is deemed to be the date of the Funding Agreement.
- 1.8 The "Grant" means the grant funding awarded to the Organisation for the Capital Project, and any changes or other uses we approve in writing.
- 1.10 The "Grant Percentage" means the Grant divided by the Total Project Cost and multiplied by 100.

A handwritten signature or mark, possibly initials, located at the bottom right of the page.



- 1.11 The "Monitoring and Payment Plan" means the details of how we will monitor and pay your Grant as set out in Schedule 3.
- 1.12 "Partnership Funding" means the funding from other sources in addition to our Grant to complete the Agreed Capital Project Plan.
- 1.13 The "Payment Expiry Date" means the date by which all payment claims must be made.
- 1.14 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 Capital Project Plan.
- 1.15 The "Property Address" means the address where the Agreed Capital Project Plan will take place as set out in Schedule 2.
- 1.16 The "Start Date" means the date on which you start the construction works or the purchase of goods commence.
- 1.17 "Total Project Cost" means the total projected or actual cost of the Capital Project being the amount set out in Schedule 2.

## **2. Capital Project**

- 2.1 The Organisation will deliver the Capital Project and use the Grant exclusively in accordance with the Agreed Capital Project Plan. The Organisation acknowledges that the Grant is paid on trust to the Organisation for the sole purpose of delivering the Agreed Capital Project Plan and the Organisation will hold any unused part of the Grant on trust for the Arts Council at all times and will repay any Grant (including any unused Grant) to the Arts Council immediately upon demand.
- 2.2 The Organisation accepts that these standard terms and conditions are not negotiable and the Organisation shall have no right to amend or vary the provisions of this Funding Agreement.
- 2.3 The Agreed Capital Project Plan and the Monitoring and Payment Plan will form part of the basis for the reporting, monitoring and assessment of your performance under this Funding Agreement.
- 2.4 The Organisation will get the Arts Council's written agreement before making any changes to the information contained in the Application, the Agreed Capital Project Plan or to its name, aims, structure, delivery, outcomes, duration, design or ownership.



- 2.5 The Organisation agrees to make satisfactory progress with the Agreed Capital Project Plan and complete it on time or within a reasonable period if the Arts Council has not set a time limit.
- 2.6 The Organisation will not use the Grant to pay for any spending commitments made before the date that the Funding Agreement is accepted.
- 2.7 If the Agreed Capital Project contains a Start Date and you have not started the Capital Project by that date, then the Arts Council may withdraw from this Funding Agreement without any further liability on the part of the Arts Council under this Funding Agreement.
- 2.8 Where required, the Organisation must allow us (or anyone we authorise) to have access to:
- 2.8.1 inspect the Project Assets and any work to them;
  - 2.8.2 monitor the progress of the Agreed Capital Project, including meetings with your officers or agents at any time up to the Expected Completion Date for the duration of the monitoring period; and/or,
  - 2.8.3 monitor the Agreed Use.
- 2.9 In carrying out the Agreed Capital Project Plan, the Organisation 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 Capital Project.
- 2.10 The Organisation will use the Project Assets or allow them to be used, only for the approved purposes set out in the Agreed Capital Project Plan.
- 2.11 The Organisation will maintain the Project Assets in good repair and condition.
- 2.12 The Organisation must maintain adequate insurance at all times including any additional cover required as a consequence of construction works and ensure that the interests of the Arts Council are noted on such policy as appropriate.

### **3. Monitoring**

- 3.1 The Arts Council will designate a member of staff who will be the main point of contact between the Arts Council England and the Organisation during the term of this Capital Funding Agreement and will:
- 3.1.1 act as the main contact with the Organisation for all matters relating to the Grant and the Agreed Capital Project Plan;
  - 3.1.2 monitor the Organisation ensuring it complies with the terms of this Funding Agreement and other requirements in accordance with the Arts Council's



monitoring requirements, identify issues and share these with relevant colleagues; and,

- 3.1.3 attend the Organisation's board meetings (or equivalent) as an observer on a regular or an occasional basis if necessary.
- 3.2 The Arts Council will review your project at suitable stages to see how it is progressing towards meeting the Agreed Capital Project Plan and the requirements of the Funding Agreement. The Arts Council will decide when to make these reviews based on the nature and/or type of your project and these will be set out in the Monitoring and Payment Plan.
- 3.3 The Organisation must provide all documents that we ask for to assist the Arts Council in undertaking such reviews.
- 3.4 The Arts Council may appoint an independent project monitor, at its cost and discretion, to help with its monitoring of the Agreed Capital Project Plan as it may from time to time require. The Arts Council will notify you if it is going to do this.
- 3.5 The Organisation must provide progress reports to the Arts Council or the independent project monitor if appointed at intervals agreed in the Monitoring and Payment Plan or in a form and on such dates that the Arts Council request.
- 3.6 The Organisation must take appropriate steps to monitor their own success in achieving the Agreed Capital Project Plan and outcomes outlined in your Application. The Arts Council may request you to undertake an evaluation to demonstrate that the agreed project outcomes outlined on your Application have been met. We may do so at any time from the date of the Expected Completion Date for the duration of the Funding Agreement as specified in Clause 13 and you will be required to provide such information to us on request and shall continue to be accountable to the Arts Council for this.
- 3.7 The Arts Council may monitor the progress of your Capital Project and will carry out checks after the final payment has been made to confirm it is delivering the expected project outcomes.
- 3.8 The Organisation will ensure that it obtains sufficient Partnership Funding to meet any part of the Total Project Cost that we do not fund.
- 3.9 The Organisation acknowledges that the Grant is the total amount of funds we will provide and will not be increased.
- 3.10 The Organisation will notify us in writing as soon as Total Project Cost is expected or anticipated to increase explaining the reason for any overrun, and how it is intended that

8

any overrun will be funded, together with an updated budget or any other information we request.

#### **4. Payments**

- 4.1 The Monitoring and Payment Plan sets out how the Arts Council will pay you your Grant.
- 4.2 The Arts Council will not make any payments of your Grant under this Funding Agreement until it has evidence that the terms and conditions have been accepted by the Organisation's board or equivalent, and the Funding Agreement is properly signed by a board member or equivalent.
- 4.3 The Arts Council will normally pay the Grant in instalments as you spend money on the Capital Project. The Organisation will send us requests for payments supported with evidence as requested in the Monitoring and Payment Plan.
- 4.4 If the Agreed Capital Project Plan includes a Grant Percentage, the Arts Council will pay this percentage of the costs you have incurred. The Organisation accepts that it needs to use Partnership Funding to meet costs incurred which are not covered by our payments.
- 4.5 The Organisation accepts that the Arts Council will not release more than 95% of the Grant until the Capital Project has been completed to the Arts Council's satisfaction.
- 4.6 Without prejudice to our other rights under this Funding Agreement, all payments of the Grant are conditional upon the following matters:
  - 4.6.1 the Organisation completes the Agreed Capital Project Plan in accordance with the Funding Agreement;
  - 4.6.2 payment claims are requested no later than the Payment Expiry Date. The Organisation accepts that if a valid payment request is not made by this date, we may reduce or stop your Grant whether we have paid you the full amount or not;
  - 4.6.3 you apply the Grant exclusively to the Agreed Capital Project Plan; and,
  - 4.6.4 we are satisfied that Partnership Funding is sufficient to finance the balance of the Total Project Cost not funded by the Grant (including, for the avoidance of doubt, any cost overruns).
- 4.7 If any part of the Grant comes from Lottery funding, the Organisation understands that the Arts Council can only guarantee future payments of the Grant as long as funds from the National Lottery are available. Should funding be suspended or stopped from the National Lottery, the Organisation understands that Arts Council may have to reduce or stop Grant payments and Arts Council accepts no liability pursuant to this action.



## **5. Building projects**

**5.1** If your Grant is to be used for any building works, the Organisation must ensure:

- 5.1.1** that 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; and,
- 5.1.2** that you use building professionals that have all necessary professional indemnity insurance cover.

**5.2** You must ensure that satisfactory arrangements are made for the retention of all key construction documents for a term of seven years from the last instalment of Grant payment. This is to include but not limited to:

- 5.2.1** Contract drawings;
- 5.2.2** As built drawings;
- 5.2.3** Health and safety files;
- 5.2.4** Building contract with the main build contractor and key sub or specialist contractors;
- 5.2.5** Planning and/or listed building consent;
- 5.2.6** Discharge of reserved building control completion certificate;
- 5.2.7** Fire officer approval;
- 5.2.8** Contracts of engagement for professional teams; and,
- 5.2.9** Any other documents we may request.


**5.3** You must ensure that the tender documents for building contractors and nominated or named subcontractors include the requirement for the completion of a performance bond. The performance bond must be entered into by all relevant parties prior to works commencing on site. The Performance Bond must:

- 5.3.1** be backed by a reputable Guarantor;
- 5.3.2** be of an amount equivalent to 10% of the contract sum;
- 5.3.3** be executed as a Deed;
- 5.3.4** be a tripartite agreement between Employer, Guarantor and Contractor;
- 5.3.5** expire no earlier than 90 days after the issue of certificates or certificate of practical completion for the whole of the works; and,
- 5.3.6** be able to be assigned by the employer without the consent of the guarantor.

## **6. Your Obligations and undertakings**

**6.1** The Organisation will apply the Grant only for the purposes of the Capital Project as defined in the Agreed Capital Project Plan.



- 6.2 If the Organisation has been or is awarded any other major grant from the Arts Council during the period of this Funding Agreement then the Organisation undertakes to act in accordance with the terms and conditions of both that funding agreement and this Funding Agreement and in the event of any conflict between the two then this Funding Agreement will take precedence in respect of the Agreed Capital Project Plan but in all other matters the major grant funding agreement will take precedence.
- 6.3 The Organisation will follow the Arts Council's 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 land and buildings.
- 6.4 The Organisation consents to any publicity about the grant and the Agreed Capital Project as the Arts Council may from time to time require. The Arts Council can carry out any forms of publicity and marketing to promote the award of the Grant as it sees fit and the Organisation will do whatever is reasonably required in order to assist with any form of publicity and marketing, including any press or media related activities.
- 6.5 If any part of the Grant comes from Lottery funding, then the Organisation must display the Lottery grant award logo both during construction and after the 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.
- 6.6 If the Organisation is a charity, the Organisation will register with the Charity Commission if its income goes over the minimum exemption figure.
- 6.7 The Organisation will have and keep in place systems to prevent fraud.
- 6.8 The Organisation will obtain the necessary Partnership Funding if required by the Arts Council.
- 6.9 The Organisation is fully responsible for every part of its business. This includes, without limitation:
- 6.9.1 ensuring that all current and future members of its governing body receive a copy of this Funding Agreement while it remains in force and ensuring that the receipt of this Grant and the delivery of the Agreed Capital Project Plan are within the scope of the governing documents;
  - 6.9.2 being responsible for getting your own management, business and artistic advice. This includes considering whether you need to get financial, accounting, tax, solvency, legal, insurance or other types of professional advice;
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- 6.9.3 Informing the Arts Council immediately of any changes in the Organisation that may threaten solvency and inform the Arts Council if you enter into or propose any arrangement with any creditors; and,
  - 6.9.4 Informing the Arts Council in writing as soon as possible if any legal claim or any regulatory investigations are made or threatened against you and/or which would adversely affect the Agreed Capital Project Plan during the period of the grant (including any claims made against members of your governing body or staff).
- 6.10 The Organisation will 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:
- 6.10.1 following best practice in having appropriate policies and procedures in place to ensure the protection of children, young people and vulnerable adults; and,
  - 6.10.2 having an equal opportunities policy in place at all times; managing all personal information in accordance with the Data Protection Act 1998.
- 6.11 The Organisation will take all reasonable steps to obtain value for money when buying assets, goods and services in connection with the Agreed Capital Project Plan by obtaining quotations or applying competitive tendering. You must demonstrate that any assets, works or services will be acquired in an equitable and economic manner with open competition and probity and that the proposed consideration and any related costs and expenses are an accurate reflection of their open market value (including inviting such competitive tenders as we may specify). You must provide to us any information which we request in order to satisfy ourselves that you have done so.
- 6.12 The Organisation understands that in receiving public funds it must meet the relevant UK and European legislation on procurement together with the provisions of the World Trade Organisation General Procurement Agreement. You must provide to us any information which we request in order to satisfy ourselves that you have done so.
- 6.13 The Organisation will consider any possible risks involved in the Agreed Capital Project Plan by taking appropriate action to protect everyone involved including maintaining adequate and appropriate insurance at all times.
- 6.14 The Organisation will act at all times without distinction and in compliance with all relevant legislation as to race, religion, age, gender or disability.



6.16 The Organisation accepts that the Arts Council's staff, council members and advisers cannot give any professional advice and will not take part in carrying out the Organisation's business. The Arts Council will not be held responsible for any action the Organisation takes, or fails to take, or for the Organisation's debts or liabilities. The Arts Council will not be liable for any losses or charges if it does not make any grant payment on the agreed date. The Arts Council will not be responsible to anyone else who may take, or threaten to take, proceedings against the Organisation.

6.16 The Organisation will not sell, give away, lease, licence or borrow against any Project Assets without first receiving the Arts Council's prior written consent. As the grant has come from public funds, the Organisation understands and accepts that if the Arts Council provides consent to a disposal it may require that the disposal of the Project Asset is at full market value and/or subject to conditions requiring the Organisation to repay all or part of the Grant.

6.17 If the Organisation wants to use the Project Assets to raise further funding, the Organisation will first need to obtain the Arts Council's consent in writing, which may be subject to conditions and which the Organisation will have to meet. The Organisation undertakes that:

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

6.17.2 the maximum security for the loan will be no higher than the amount of money being put up by the new lender.

6.18 The Organisation must give the Arts Council, the National Audit Office or any of their agents access to any/all financial records, other information and/or premises, as maybe reasonably requested, relating to the Agreed Capital Project Plan, the Organisation or to any other matter arising under this Funding Agreement and the Arts Council may postpone payment of the Grant or an instalment of the Grant until the Arts Council has received the material it has requested.

6.19 The Organisation must immediately tell the Arts Council about any changes to bank or building society details or any other changes to information previously provided to the Arts Council.

6.20 The Arts Council may share information about the Grant and/or the Agreed Capital Project Plan with third parties. The Arts Council is also subject to the provisions of the Freedom of Information Act 2000 ('the Act'). This means that any information provided by the Organisation could be released to any person who asks for it under the Act. The Organisation may tell the Arts Council if it thinks that any of the information should be confidential under any of the exemptions of the Act. However the Arts Council will make the final decision in accordance with the Act.





- 6.21 The Organisation acknowledges that the Grant comes from public funds and will not use the Grant in a way that constitutes unapprovable State Aid. In the event that the Grant is deemed to be unapprovable State Aid, then the Organisation will repay the entire grant immediately.
- 6.22 The Organisation will seek the Arts Council's prior written consent before entering into any agreement with any third party whereby any part of the Grant is transferred to that third party and will ensure that no other organisation or individual acquires any third party rights under this Funding Agreement.
- 6.23 The Arts Council may impose additional terms and conditions on the Grant either in the offer letter and/or if the Organisation is at any time in breach of this Funding Agreement and/or if the Arts Council believes it is necessary to make sure that the Agreed Capital Project Plan is delivered as agreed between the Organisation and the Arts Council and/or the Arts Council has reasonable grounds to believe it is necessary to protect public money.
- 6.24 The Organisation will get the Arts Council's written agreement before:
- 6.24.1 changing your governing document, concerning: your aims, payments to members and members of your governing body, the sharing out of your assets (whether your organisation is dissolved or not), or the admission of any new members; and/ or
  - 6.25.1 transferring the whole or a substantial part of the Organisation assets to, or merging or amalgamating with, any other body, including a company set up by you.
- 6.25 The Organisation will tell the Arts Council in writing as soon as possible of any investigation concerning the Organisation, trustees, directors, employees or volunteers carried out by the Police, Charity Commission, HM Revenue and Customs or any other regulatory body.
- 6.26 The Organisation will take all reasonable steps to minimise the environmental impact of the Agreed Capital Project.
- 6.27 The Organisation must give us the right to use the photographs, transparencies or digital images you send us. You must get any permission you need for you and us to use the photographs, transparencies or digital images before you send them to us or before you use them.
- 6.28 The Arts Council will monitor and assess the Organisation's activity and how effectively the Grant is being used. To enable this, the Organisation will send the Arts Council all such information as the Arts Council may in its sole discretion reasonably request from time to time. This includes, but is not limited to the information set out in the Monitoring and



Payment Plan, and copies of all or any other relevant documentation about the financial and operational running of the Organisation, to include business plans, board papers or equivalent, reserves policies and any other information which the Arts Council deems relevant to its understanding of how the Agreed Capital Project Plan is being delivered and the Grant used.

## **7. Security**

- 7.1 The Organisation understands and accepts that the Arts Council requires security over the Project Assets funded by the Grant. Usually this will be by way of a fixed and floating legal charge in the Arts Council's standard form along with an undertaking from your solicitor to register the legal charge at Land Registry and Companies House within 21 days of completion of the Charge, or if appropriate the Arts Council 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.
- 7.2 The Arts Council reserves 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 Capital Project Plan. We will also consider past capital projects funded by us in reaching a decision as to our requirements. If the Arts Council has asked for security, the Organisation understands that no payments of the Grant will be made until the Arts Council has received the requested documents completed to the Arts Council's satisfaction.
- 7.3 The type of security the Arts Council initially requires from you is set out in Schedule 2.

## **8. Land and Legal Requirements**

- 8.1 Pursuant to Clause 7 above and prior to the release of the Grant, the Arts Council will require the following conditions to be met:
- 8.1.1 confirmation (by way of a Certificate of Title, in the Arts Council's Standard form) from your solicitors that you are the freehold owner or a lessee under a registered and assignable lease on terms acceptable to the Arts Council, of the Project Assets to which the Grant relates and that the Project Assets may be used for the Capital Project;
  - 8.1.2 a signed fixed and floating legal charge and solicitors undertaking to register it at the Land Registry and at Companies House upon completion; or
  - 8.1.3 a deed of covenant and solicitors undertaking to lodge the restriction at the Land Registry upon completion of the land transfer; or,
  - 8.1.4 if the property is unregistered, a deed of undertaking to effect first registration of the restriction thereafter; and,
  - 8.1.5 if the grant is for £500,000 or over and the Organisation is not a statutory body, confirmation (by way of a legal opinion in the Arts Council's standard

43

form) from your solicitors that you have the legal powers necessary to sign all the documents related to the Grant and security.

8.2 If any part of the Grant is to buy land (whether freehold land or leasehold land), the Organisation is to send the Arts Council when asked the following documents:

- 8.2.1 a surveyor's report on the condition of the property, its value for the purpose of the Capital Project and whether it is suitable for the Capital Project;
- 8.2.2 confirmation by the Organisation's solicitors that all necessary consents for the use of the property for the purposes of the grant have been obtained;
- 8.2.3 for the purchase of leasehold land, a copy of the future lease and agreement for lease;
- 8.2.4 an undertaking to satisfy all other requirements as set out in Clause 7 and 8.1 upon completion of the purchase of the freehold or leasehold interest; and,
- 8.2.5 any other documents or requirements that the Arts Council may request in order to meet the Legal Requirements.

8.3 If any part of the Grant is to buy or involves leasehold land, then the Organisation must send the Arts Council a copy of the lease and ensure that the lease meets Arts Council standard lease requirements and ensure that the lease is for the minimum term of:

- a) For capital grants used for refurbishment works of up to and including £500,000: a lease of at least 5 years, without a break clause.
- b) For capital grants used for an asset purchase of up to and including £500,000: a registered and assignable lease of at least 10 years, without a break clause.
- c) For capital grants of more than £500,000 but less than £1,000,000: a registered and assignable lease of at least 10 years, without a break clause.
- d) For capital grants of £1,000,000 or more but less than £5 million: a registered and assignable lease of at least 20 years, without a break clause.
- e) For capital grants of £5 million and above: a registered and assignable lease of at least 30 years, without a break clause.

## **9. VAT**

9.1 The Organisation acknowledges that for the purposes of VAT the Grant is not consideration for any taxable supply by the Organisation to the Arts Council. The Organisation understands that the Arts Council's obligation does not extend to paying the Organisation any amounts in respect of VAT in addition to the Grant and that the Grant made by the Arts Council shall be deemed inclusive of any VAT.

9.2 The Organisation agrees to repay the Arts Council immediately any VAT recovered whether by set-off, credit or repayment to the extent that any such VAT cost is included in the Grant.



- 9.3 The Organisation will notify the Arts Council immediately if any irrecoverable VAT claimed under the Grant becomes recoverable.
- 9.4 The Organisation will keep proper and up to date records relating to VAT, and will make such records available to the Arts Council to look at and give the Arts Council copies when requested.
- 9.5 If the Arts Council has funded all of the VAT costs for the Capital Project, the Organisation agrees to refund immediately all of the VAT recovered to the Arts Council.
- 9.6 If the Arts Council has funded a proportion of the VAT costs for the Agreed Capital Project, the Organisation agrees to refund immediately the same proportion of the VAT recovered to the Arts Council.

#### **10. Dealings with Project Assets**

- 10.1 Without prejudice to the terms of any security over the Project Assets that you give the Arts Council pursuant to Clauses 7 and 8, you must seek the Arts Council's prior written consent if you wish to sell, let, sub-let or otherwise deal with or dispose of any Project Assets within:
- a) Five (5) years after the date of the Funding Agreement for a grant up to and including £500,000 for building works; or,
  - b) Ten (10) years from the date of the Funding Agreement for a grant up to and including £500,000 for a land transfer; or,
  - c) Ten (10) years of the date of the Funding Agreement for a grant of over £500,000 but below £1,000,000; or,
  - d) Twenty (20) years of the date of the Funding Agreement for a grant of £1,000,000 or over but below £5,000,000; or,
  - e) Thirty (30) years of the date of the Funding Agreement for a grant of £5,000,000 or above.

- 10.2 If consent is given and you sell or dispose of the Project Assets, you may have to repay the Arts Council all or part of the money received from the Arts Council. The amount you must repay will be in direct proportion to the share of the project costs that came from the Arts Council. If, with the Arts Council's consent, you sell the Project Assets wholly or partly bought with the Grant, it will be at full market value and the Arts Council may impose conditions upon the transfer or disposition.

#### **11. Annual reports and Accounts**

- 11.1 The Organisation will comply with all relevant laws regarding the submission of accounts, audit or examination of accounts, annual reports, and annual returns.



- 11.2 The Organisation will acknowledge the Arts Council's Grant in the annual reports and accounts covering the period of the project.
- 11.3 The Organisation will show the Arts Council Grant and related expenditure as restricted funds under the description "Arts Council Capital Grant" in the Organisation's annual accounts. The Organisation will identify unspent funds and assets in respect of the grant separately in accounting records.
- 11.4 The Organisation will send the Arts Council a copy of the annual accounts as soon as they have been approved in accordance with the Organisation governing document and in any event within ten months of the end of the financial year for each year in which grant payments are made. The accounts will need to be signed by a member of your management committee and externally audited or independently evaluated as appropriate for the Organisation.
- 11.5 The Organisation will report regularly and fully to all members of the Organisation governing body on the financial position of the Organisation and will put in place procedures to avoid any conflict of interest arising in the provision of goods or services required to deliver the Agreed Capital Project.
- 11.6 The Organisation will keep proper and up to date accounts and records for at least seven years after the termination of your grant, including summary profit and loss accounts and management accounts, personnel and payroll records and invoices, which show how the grant has been used. The Organisation will make these financial records available to the Arts Council to look at and give copies when requested.

## **12. Termination of the Agreement**

- 12.1 If the Organisation breaches any of the terms and conditions of this Funding Agreement, then the Arts Council in its absolute discretion may withhold or demand repayment of all or part of the Grant. The Organisation will repay any Grant requested immediately upon demand.
- 12.2 The Arts Council may suspend payment of the Grant if it wishes to investigate any matters concerning the Grant (or any other grants given by the Arts Council to the Organisation). The Organisation understands and accepts that the Arts Council 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.
- 12.3 The Arts Council may also withhold or demand repayment of all or part of the Grant or any other grants given by the Arts Council if the Organisation:
- 12.3.1 closes down its business (unless, with the Arts Council's prior written consent, it joins with, or is replaced by, another Organisation that can take



over this Funding Agreement and carry out the purposes of the Grant to the Arts Council's satisfaction);

- 12.3.2 makes significant changes to the Agreed Capital Project Plan without the prior written approval of the Arts Council;
- 12.3.3 does not fulfil the purpose of the Grant with reasonable care, thoroughness, competence and to a standard that the Arts Council expects from the Organisation;
- 12.3.4 provides any information to the Arts Council that is wrong or misleading, either by mistake or because it is trying to mislead the Arts Council during the application process or during the period of this Funding Agreement;
- 12.3.5 becomes insolvent, any order is made, or resolution is passed, for it 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 the Organisation's assets or the Organisation enters into or proposes any arrangement with its creditors;
- 12.3.6 acts illegally or negligently at any time;
- 12.3.7 acts in such a way that the Arts Council believes it has significantly affected the Agreed Capital Project Plan, or is likely to harm the Arts Council's or the Organisation's reputation or it is in the Arts Council's discretion necessary to protect public money;
- 12.3.8 sells or in some other way transfers any part of the Grant, the business or the activity funded under the Agreed Capital Project Plan to someone else without first getting the Arts Council's approval in writing;
- 12.3.9 no longer has the necessary resources or funding to complete the Agreed Capital Project Plan; and/ or,
- 12.3.10 if the Organisation does not meet the requirements of the Monitoring and Payment Plan as set out in the Funding Agreement.

12.4 If the Organisation is in breach of any of the terms of this Funding Agreement and the Arts Council does not enforce one or more of its rights straight away, this does not mean that it will not do so in the future. The Arts Council will give up its right to enforce this Funding Agreement only if it tells the Organisation in writing.

12.5 If the Organisation breaches any of the terms of this Funding Agreement, the Arts Council can choose to treat that as the Organisation breaching the terms of any other funding agreement the Arts Council has with the Organisation. This will allow the Arts Council to take the same actions under those agreements that the Arts Council may take under this Funding Agreement, including making the Organisation pay back the grant(s) and stopping any future payments.

### **13. Duration of Agreement**

13.1 This Funding Agreement will remain in force for whichever of these is the longer time:

- 13.1.1 for capital grants of up to and including £500,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 5 years from the date of this Funding Agreement; or,
- 13.1.2 for capital grants over £500,000 or above but less than £1,000,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 10 years from the date of this Funding Agreement; or,
- 13.1.3 for capital grants of £1,000,000 or above but less than £5,000,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 20 years from the date of this Funding Agreement; or,
- 13.1.4 for capital grants of £5,000,000 and above used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 30 years from the date of this Funding Agreement; and/or,
- 13.1.5 for as long as the Organisation does not carry out any of the terms and conditions of the Funding Agreement or any breach of them continues (this includes any outstanding reporting on Grant expenditure or Capital Project delivery).



## **SCHEDULE 2**

### **The Property**

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