

AN AGREEMENT made this day of 2009

PARTIES:

- (1) a company registered in England [REDACTED] and
- (2) **BRISTOL CITY COUNCIL** of College Green, Bristol, BS1 5TR ("the Museum" as further defined below)

BACKGROUND

- A. The Museum wishes to host the Exhibition (as defined below) on the terms of this Agreement.
- B. [REDACTED] acts as the Artist's management and has agreed to procure the services of the Artist in connection with the Exhibition.
- C. The Museum and the [REDACTED] have entered a separate agreement regarding the confidentiality of, amongst other things, the Exhibition and Artist ("Confidentiality Agreement").

IT IS AGREED as follows:

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

[REDACTED] Project Manager: [REDACTED] manager for the Exhibition, who shall be [REDACTED] or such other person as [REDACTED] shall nominate in accordance with clause 2.3.

Artist: the artist known as ARTISTS NAME

Budget: the Museum's budget for the Exhibition as set out at Annex 5 to this Agreement.

Close: the point at which the Exhibition is closed finally to the public.

Confidentiality Agreement: has the meaning given to it in background clause (C).

Dispute: has the meaning given to it in clause 20.1.

Eligible Costs: has the meaning given to it in clause 5.2.

Exhibits: all materials developed by [REDACTED] or the Artist for display in the Exhibition in any media, including, without limitation paintings and sculptures and art installations using combinations of media and technologies.

Exhibition: the exhibition of works by the Artist provisionally entitled "X" as described in the Project Plan.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, database rights, moral rights, rights in confidential information (including know-how and trade secrets)

and any other intellectual property rights, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

~~XXXXXX~~ means ~~XXXXXX~~ appointed public relations agency.

Legal Requirements: means the requirements of:

- (a) any statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- (c) any guidance, direction or determination with which the parties are bound to; and
- (d) any judgment of a relevant court of law which is a binding precedent in England;

Merchandise: means any merchandise that relates to the Exhibition.

Museum: shall mean Bristol City Council, which for the avoidance of doubt includes Bristol's City Museum & Art Gallery. Any reference to the Museum's premises or the venue in which the exhibition will take place shall be Bristol's City Museum and Art Gallery, Queens Road, West End, Bristol BS8 1RL. The Bristol's City Museum and Art Gallery and its staff are representatives of Bristol City Council and as such act on behalf of Bristol City Council and in accordance with its procedures.

Museum's Project Manager: the Museum's manager for the Exhibition appointed in accordance with ~~condition clause 3.1(a)(a)(a)(a)~~.

Opening: the opening to the public of the Exhibition.

Press Call: a viewing of the Exhibition by accredited and invited members of the media, with a briefing by ~~XXXXXX~~ between 6am and 2pm on DATE (or such other date as may be agreed in writing between the parties).

Private View: a viewing of the Exhibition by invited guests prior to the Opening, which shall comprise of three sessions on DATE (or such other date as may be agreed in writing between the parties) as follows: (i) First session 4pm to 4.30pm; (ii) Second session 4.30pm to 6.30pm; (iii) Third session 7.30pm to 10.30pm.

Project Milestone: a date by which the Exhibition is estimated to be installed, open and dismantle (as the case may be), as set out in the Project Plan.

Project Plan: the detailed plan describing the Exhibition and setting out the estimated timetable (including Project Milestones) for the Exhibition.

Services: the services to be provided by ~~XXXXXX~~ (or the Artist) under this Agreement.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Headings do not affect the interpretation of this Agreement.

1.3 References to any statute or statutory provision shall be deemed to refer to those provisions as replaced, amended, extended, or re-enacted from time to time whether by statute or by directive or regulation (which is, in the case of directive or regulation, intended to have direct application within the United Kingdom and has been adopted by

the Council of the European Communities) and all statutory instruments or orders made pursuant to it.

2. **██████ OBLIGATIONS**

2.1 ██████ shall use reasonable endeavours to manage the installation of the Exhibition and to procure the delivery of the Exhibits to and from the Museum, in accordance in all material respects with the Project Plan.

2.2 ██████ shall meet the performance dates specified in the Project Plan for installation and dismantling of the Exhibition, as time shall be of the essence of this Agreement.

2.3 ██████ Project Manager who shall have authority to contractually bind ██████ on all matters relating to the Exhibition. ██████ shall use reasonable endeavours to ensure that the same person acts as ██████ Project Manager throughout the project, but may replace her from time to time where reasonably necessary in the interests of ██████ business.

2.4 ██████ shall be responsible for:

2.4.1 the transportation of the Exhibits and associated materials and installation equipment to and from the Museum;

2.4.2 the insurance of the Exhibits whilst:

2.4.2.1 in transit to and from the Museum; and

2.4.2.2 in the Museum until immediately before the Opening and from immediately after the Close, (for the avoidance of doubt including the Private View);

2.4.3 the storage of the Exhibits prior to delivery to the Museum.

2.4.4 the provision of all the plinths, frames and other fixing materials as required by each of the Exhibits

2.5 ██████ shall provide the Museum details of each and every Exhibit including the dimensions, materials, insurance value and full replacement value of each item in order for the Museum to ensure that adequate insurance cover can be provided whilst the objects are on display in the museum. Such information shall be provided to the Museum, by 1 June 2009 or 10 days prior to the exhibition opening date Opening, whichever is sooner.

2.6 ██████ shall indicate to the Museum whether there needs to be any preparatory works by the Museum prior to installation of the Exhibits.

2.7 Whilst working at the Museum, ██████ shall comply with the Museum's Health and Safety policies as are notified to ██████ in writing in advance.

2.8 ██████ shall pay for (and shall provide evidence to the Museum on request) of:

2.8.1 its own professional indemnity insurance and that of its subcontractors;

2.8.2 employers' liability insurance; and

2.8.3 public liability insurance;

to the extent as is necessary to cover its potential liabilities under this Agreement.

2.9 [REDACTED] shall organise the Private View at the Museum in discussion with and in agreement with the Museum (such agreement not to be unreasonably withheld or delayed by the Museum) and shall be responsible for the guest list and sending out invitations electronically, subject to clause 3.1(i) below. Each session of the Private View shall include no more than 600 (six hundred) guests who shall be selected as follows:

2.9.1 The guests at the first session of the Private View shall be selected by the Museum exclusively. The Museum shall additionally be able to select up to 100 (one hundred) guests to the second session of the Private View. The guests at the third session of the Private View shall be selected by PCO exclusively.

2.10 The [REDACTED] shall be organise the Press Call in discussion with and in agreement with the Museum (such agreement not to be unreasonably withheld or delayed by the Museum).

2.102.11 [REDACTED] shall arrange basic training for relevant staff of the Museum in maintaining the Exhibits and operating animatronic Exhibits.

2.112.12 [REDACTED] shall agree to provide technical support and maintenance of the Exhibits for the duration of the exhibition and within a reasonable response time (of 24 hours to make an assessment and make arrangements for repair if required) provided that basic maintenance of the Exhibits is undertaken by the Museum following training by [REDACTED] pursuant to clause 2.40-11 above.

2.122.13 [REDACTED] shall provide all images and text for media relations and press release. The Museum must see and approve in advance all quotes attributed to the Museum in any statement released to the media by [REDACTED]

2.132.14 The Museum shall allow [REDACTED] to photograph and film the Exhibits in situ at the Museum and for the avoidance of doubt copyright in all such images shall be vested in [REDACTED]

2.142.15 The Museum reserves the right to document the Exhibition (but not the installation process nor anything containing any image or personal details of the Artist) as it sees fit, through photography, video or electronic media etc, for the purposes of preserving a record and archive of the event and for the avoidance of doubt copyright in all such images shall be vested in the Museum. Notwithstanding the Museum's copyright ownership, the Museum hereby irrevocably agrees not to use any such material other than for archive purposes. The commercialisation of any such material or use in a way which in the reasonable opinion of [REDACTED] would undermine the commercial activities of [REDACTED] or the Artist is expressly prohibited.

2.152.16 [REDACTED]
[REDACTED]
[REDACTED]

3. THE MUSEUM'S OBLIGATIONS

3.1 The Museum shall use reasonable endeavours to:

- (a) Co-operate with █████ in all matters relating to the Exhibition (including the creation by the Artist of a book about the Exhibition)
- (b) appoint a Museum's Project Manager, who shall, subject to the Council's constitution and other internal rules, have the authority to contractually bind the Museum and Bristol City Council on matters relating to the Exhibition;
- (c) provide in a timely manner (*in accordance with the project plan*) such access to the Museum's premises, staff and such facilities, as are reasonably requested by █████ in accordance with an agreed schedule for the purposes of preparation, installation, maintenance and de-rig of the Exhibition and Private View.
- (d) provide in a timely manner such information as █████ may reasonably request, and ensure that such information is accurate in all material respects;
- (e) provide storage facilities (which for the avoidance of doubt must be secure but do not have to be environmentally controlled) for the cases, crates and other packing materials relating to the Exhibits as agreed within the project plan.
- (f) be responsible (at its own cost) for preparing the Museum's premises for the supply of the Services agreed within the project plan. Without limitation to the generality of the foregoing, Museum shall pay for basic materials in the preparation of the Exhibition spaces, including paint, fixings and fittings and security screws etc. in the preparation of the spaces, as used by the Museum's staff for the purposes of hanging and displaying Exhibits.
- (g) close the Museum's premises to the public on DATE 1 and DATE 2 (or such other two day period as may be agreed between the parties in writing) for the purposes of the installation of the eExhibition, pPress Call launch and pPrivate vViews.
- (h) be responsible for obtaining all necessary licences for the Private View (including a licence to serve alcohol and to play music up till 11pm).
- (i) be responsible for providing Front of House and Security staffing for the Press Call and Private View and shall provide escorted access on the day of the Press Call and Private View to █████ and █████
- (j) provide █████ with a list of guests to be invited to the Private View on behalf of the Museum service at least 21 days prior to the date of the Private View.

3.2 The Museum will allow █████ and their contractors (including without limitation the Artist and █████ escorted access to all relevant areas of the Museum times when the Museum is closed to the general public for the purposes of installation, maintenance, photographing and dismantling of the Exhibits and the Exhibition generally in accordance with the Project Plan. The Museum shall provide technicians and such other of its personnel as reasonably requested by █████ to assist █████ in such work. The Museum acknowledges that this will require working outside of normal public opening hours and will provide access for █████ outside normal working hours for the purposes of installation, maintenance and de-rig.

3.3 The Museum shall ensure that the privacy and anonymity of the Artist and those working with him is preserved during such time as █████ or their contractors are in attendance at the Museum. The Museum acknowledges and agrees that such

obligation includes (without limitation to the generality of the foregoing) an agreement not to store, distribute or in anyway seek to make profit from the sale or release of CCTV footage to any third party, nor to distribute over electronic or other media such recorded images of personnel on CCTV. The Museum agrees to destroy all CCTV recorded images after a period of 30 days. Nothing in this clause 3.3 shall prevent the Museum from storing, using or disclosing CCTV footage for or in connection with reasons of security or for or in connection with compliance with its Legal Requirements (including but not limited to its obligations under the Freedom of Information Act 2000). If the Museum makes any such disclosure of the CCTV footage, it shall obscure the faces of all PCO personnel (including without limitation the Artist) other than for reasons of security or as is necessary to comply with its Legal Requirements. The provisions of this clause 3.3 are subject to the provisions of clause 19. ~~The Museum further agrees to resist any subject access or freedom of information request for copies of such CCTV footage and only release such footage if so ordered by a Court. Further, if disclosure is ordered by a Court, the Museum shall obscure the faces of all PCO personnel (including without limitation the Artist) unless the same is explicitly prevented by the terms of the Court Order.~~

3.4 The Museum shall provide an appropriate level of security which will meet the terms of insurance and Government Indemnity Standards in order to safeguard the Exhibits during the term of the Exhibition (including during its installation and dismantling).

3.5 The Museum shall be solely responsible for:

- (a) overseeing the installation of the Exhibits (but the Museum shall take account of [REDACTED] advice at all times);
- (b) assessing the risk to the Museum's permanent collections and other property including without limitation the Museum's premises;
- (c) assessing, inspecting and approving the Exhibits and the Exhibition generally for health and safety purposes prior to the Opening and taking mitigating action if required in consultation with [REDACTED] (provided that no changes shall be made to the Exhibits without the express written consent of [REDACTED] or the Artist, which shall not be unreasonably withheld or delayed);
- (d) insuring the Exhibits whilst they are on the Museum's premises for their full replacement value (as agreed with [REDACTED] with [REDACTED] to be named as a beneficiary under the policy;
- (e) providing an adequate level of public liability and general liability insurance to cover all relevant risks during the Exhibition.

3.6 The Museum shall provide copies of all certificates of insurance to [REDACTED] relating to the Museum's insurance obligations under clause 3.5 prior to the Opening.

3.7

[REDACTED]

3.8 If the Museum (acting reasonably) has any concerns regarding an Exhibit (including but not limited to concerns regarding health and safety) it reserves the right to remove the Exhibit from display.

4.

- ## 4.1

5.

- ## 5.1

5.2

5.3

5.4

[REDACTED]

5.4.1

[REDACTED]

5.4.2

[REDACTED]

5.4.3

[REDACTED]

5.4.4

[REDACTED]

5.45.5

[REDACTED]

6. INTELLECTUAL PROPERTY RIGHTS

6.1 All Intellectual Property Rights and all other rights in the Exhibits and any materials arising from the Exhibition (including the Artist's book about the Exhibition and all designs, drawings, and specifications and images relating to the Exhibition) shall be owned by the Artist.

6.2 If and only to the extent that [REDACTED] and the Museum agree in writing that one or more of the Exhibits should be merchandised by the Museum by way of a poster, postcard or otherwise on commercial terms to be agreed, then [REDACTED] shall licence the copyright in and to such Exhibits to the Museum on a non-exclusive basis to such extent as is necessary to enable the Museum to make the agreed use of the Exhibits. No other merchandise relating to the Exhibition shall be produced by the Museum. If [REDACTED] terminates this Agreement under clause 9.1, this licence will automatically terminate.

6.3 The Museum shall not be entitled to produce a catalogue for the Exhibition. However, [REDACTED] agrees that for the duration of the Exhibition, the Museum shall have the right to be the exclusive outlet for any book about the Exhibition which the Artist produces. If the Artist

~~produces such a book then the Museum may purchase copies from [REDACTED] for sale at the Museum's premises only at [REDACTED] wholesale price. If [REDACTED] or the artist choose to produce a publication relating to the Exhibition or use images of the Museum with the installed Exhibits, then [REDACTED] agrees not to misrepresent the Museum or publish material that could cause damage to its reputation. [REDACTED] will not proceed with publication without the permission of the Museum (which will not be unreasonably withheld).~~

7. CONFIDENTIALITY AND [REDACTED] PROPERTY

- 7.1 ~~The Museum shall comply with its obligations under the Confidentiality Agreement. keep in strict confidence all information (including without limitation information about the Artist, [REDACTED], the Exhibition and the terms and existence of this Agreement) disclosed to the Museum by [REDACTED] or its agents, and any other confidential information concerning the Artist or [REDACTED] which the Museum may obtain. The Museum shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Museum's obligations to [REDACTED], and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Museum.~~
- 7.2 Notwithstanding the generality of clause 7.1 above, the Museum specifically agrees that it will not undertake any marketing or promotion of the Exhibition prior to the Opening. The Museum shall obtain [REDACTED] written approval over all publicity, media, print and website information relating to the Exhibition. All media relations relating to the Exhibition are to be undertaken through [REDACTED] PR Agent (or other agent as notified to the Exhibition by [REDACTED]).
- 7.3 Subject to [REDACTED], all materials, equipment and tools, drawings, specifications and data supplied by [REDACTED] to the Museum shall at all times be and remain the exclusive property of [REDACTED] but shall be held by the Museum in safe custody at its own risk and maintained and kept in good condition by the Museum until returned to [REDACTED] and shall not be disposed of or used other than in accordance with [REDACTED] written instructions or authorisation. An agreed Inventory of such materials and equipment should be provided prior to the opening.
- 7.4 This clause 7 shall survive termination of this Agreement, however arising.

8. LIMITATION OF LIABILITY

- 8.1 ~~The following provisions. This clause 8 sets out the entire financial liability of [REDACTED] each party (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Museum other party in respect of:~~
- (a) any breach of this Agreement;
 - (b) any use made by the Museum of the Services, the Exhibits or any part of them; and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

- 8.3 Nothing in this Agreement excludes the liability of a party [REDACTED]
- (a) for death or personal injury caused by [REDACTED] negligence; or
 - (b) for fraud or fraudulent misrepresentation.

8.4 Subject to ~~condition clause 8.2~~ and ~~condition clause 8.3~~:

- (a) [REDACTED] a party shall not be liable to the other party, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of use; or
 - (viii) loss or corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

(b) [REDACTED]

9. TERMINATION

9.1 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Agreement without liability to the other if the other party commits a material breach of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or the other party ceases, or threatens to cease, to trade (or in the case of the Museum, to function as a public museum).

9.2 Termination of this Agreement, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

10. FORCE MAJEURE

10.1 Neither party shall have any liability to the other under this Agreement if it is prevented from, or delayed in, performing its obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether

involving the workforce of [REDACTED] the Museum or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm ("**Force Majeure Event**") provided that the affected party must promptly on the occurrence of such Force Majeure Event:

10.1.1 inform the other party in writing of such Force Majeure Event, its commencement, nature, extent, likely duration and the obligation or duty it has delayed or prevented from being performed;

10.1.2 take all reasonable steps within its power to mitigate the effects of the Force Majeure Event on the performance of its obligations and to comply with the terms of the Agreement as fully and promptly as reasonably practicable.

10.2 Unless the affected party takes such steps as are set out in clause 10.1, clause 10.1 shall not have the effect of absolving it from its obligations under this Agreement.

11. **VARIATION**

11.1 Any variation of this Agreement shall be in writing and signed by or on behalf of the parties.

12. **WAIVER**

12.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

12.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

13. **SEVERANCE**

13.1 If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

13.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

14. **STATUS OF PRE-CONTRACTUAL STATEMENTS**

14.1 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement other than as expressly set out in this Agreement.

15. ASSIGNMENT

~~15.1 The Museum shall not~~Neither party shall, without the prior written consent of ~~the~~ the other party, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

~~15.2 may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.~~

16. NO PARTNERSHIP OR AGENCY

16.3 Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

17. THIRD PARTY RIGHTS

17.1 A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this aAgreement.

18. NOTICES

~~18.1~~ 18.1—All written notices and other written communications to be served on or given to either party shall be sent or delivered to its registered office for the time being. Written notices and other written communications shall be treated as having been given upon actual receipt.

19. FREEDOM OF INFORMATION

19.1 The ~~the~~ shall use its reasonable endeavours to assist the Museum to comply with such obligations as are imposed on the Museum by the Freedom of Information Act 2000 including providing the Museum with reasonable assistance in complying with any request for information in connection with this Agreement served on the Museum under the Freedom of Information Act 2000.

19.2 Where the Museum receives a request to disclose information to a third party under the Freedom of Information Act 2000 which relates to this Agreement, the Museum shall wherever practically possible to do so:

19.2.1 inform the ~~the~~ as soon as reasonably practicable about the request for information and the nature of the information being sought;

19.2.2 consult with the ~~the~~ prior to the disclosure of any such information provided that the ~~the~~ responds to any consultation within the timescales requested in order that the Museum can comply with the time limits specified in the Freedom of Information Act 2000; and

19.2.3 consider and apply all lawful exemptions provided under the Freedom of Information Act 2000 to withhold information sought in terms of the request for information consistent with the exercise of their discretion and duties under the Freedom of Information Act 2000.

19.3 For the avoidance of doubt, the Museum shall have sole discretion regarding any decision regarding the its obligations under the Freedom of Information Act 2000, including any decision to disclose information.

20 **DISPUTE RESOLUTION**

20.1 Any dispute relating to the subject matter of this Agreement and the rights, duties or liabilities of the parties under this Agreement ("**Dispute**") shall first be discussed informally between the parties at a meeting following the Dispute.

20.2 Where the parties are unable to resolve the Dispute informally they shall attempt in good faith to resolve the Dispute through mediation.

20.3 Where the parties are unable to resolve the Dispute through mediation within one month of initiation of the mediation, the dispute shall be referred to a single arbitrator. The identity of the arbitrator shall be agreed between the parties (or in the absence of such agreement, the arbitrator shall be nominated by the President for the time being of the Chartered Institute of Arbitrators). Unless otherwise agreed in writing between the parties, the arbitration shall be governed by the provisions of the Arbitration Act 1996.

20.4 Any costs payable to a mediator and/or an arbitrator shall be apportioned between the parties as the mediator and/or arbitrator (as appropriate) shall determine or, in the absence of such determination, such costs shall be shared equally between the parties.

20.5 Nothing in this clause 20 shall prevent a party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.

21 **LEGAL REQUIREMENTS**

21.1 Each party shall ascertain, observe, perform, and comply with all Legal Requirements, and shall do and execute or cause to be done or executed all acts required to be done under or by virtue of any Legal Requirements.

22 ~~19.~~ **GOVERNING LAW AND JURISDICTION**

22.1 ~~19.1~~—This Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.

22.2 ~~19.2~~—The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

AS WITNESS the hands of the duly authorised representatives of the parties the day month and year first above written

SIGNED by)
for and on behalf of)
BRISTOL CITY COUNCIL and thereby BRISTOL'S MUSEUM & ART GALLERY)

(signature)

SIGNED by)
for and on behalf of)

~~_____~~

(signature)

Annexes

1. ~~Exhibition Proposal~~ Project Plan
2. ~~List of artworks~~ Budget
3. ~~Project Plan~~
4. ~~Inventory of Exhibition Equipment for storage~~
5. ~~Budget~~

ANNEX 1: PROJECT PLAN

ANNEX 2: BUDGET

|

From: [REDACTED]
To: [REDACTED]
Date: 15/05/2009 11:19:39
Subject: Agreement

[REDACTED]
Many thanks for the work so far on the contract and agreement.

Look forward to getting hold of a conf agreement if possible by end of Monday.

Kind regards
[REDACTED]

From: [REDACTED]
To: [REDACTED]
Date: 19/05/2009 10:19:09
Subject: Re: Amends

Thanks [REDACTED]
This is very helpful
[REDACTED]

>> [REDACTED] 18/05/2009 15:22 >>>
[REDACTED]

Please find attached the Confidentiality Statement for individuals to sign. This should be signed by all individuals, whether Council employees or otherwise.

Incidentally, if you intend to disclose confidential information to a company, firm or organisation etc, you would also need a separate contract with the company etc (as this statement is only suitable for individuals). Please let me know if you anticipate any such arrangements and I can prepare a suitable document.

I'll have look at amendments to the Exhibition Contract and speak to you tomorrow or Wednesday.

Kind regards
[REDACTED]

>>> [REDACTED] 5/05/2009 18:21 >>>
for another chat next week
[REDACTED]

From: [REDACTED]
To: [REDACTED]
Date: 02/06/2009 09:49:58
Subject: Agreement for Deed

Dear [REDACTED]

*Please find the agreement to be made into a Deed attached as discussed.

We would like to get this completed today - so if at all possible we would really like to have this in order to be taken to London for signing this afternoon.

Please can you confirm if this is possible for us to have by eg. 12.30pm?

Thanks

[REDACTED]

DATED 1st June 2009



- and -

(2) BRISTOL CITY COUNCIL

CONFIDENTIALITY AGREEMENT

PARTIES:

(1)

[REDACTED]

(2)

BRISTOL CITY COUNCIL of College Green, Bristol ("the Museum" as further defined below).

BACKGROUND:

(A) The Company and the Museum are discussing the possibility of working together in relation to the curation of an exhibition ("the Exhibition") by an artist represented by the Company ("the Artist").

(B) the Museum may be in receipt of certain confidential information in connection with the development and staging of the Exhibition. The Museum acknowledges and recognises that such information has considerable value and is of significant importance to the Company.

(C) The Museums and the Company have entered a separate agreement regarding the Arrangements ("**Exhibition Agreement**").

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

In this Agreement (which expression shall be deemed to include the Schedules hereto):-

1.1 unless the context otherwise requires:

"Arrangement" means the arrangement which the Company and the Museum are pursuing which is referred to in the Background;

"Associated Company" means in relation to any company a company which is the holding company of that company or a subsidiary of that company or of its holding

company (and for these purposes "subsidiary" and "holding company" have the meanings given to them by Section 1159 of the Companies Act 2006 as amended from time to time);

"Authorised Person" means any of the following persons:

- (i) any responsible employees of the Museum;
- (ii) any named firm, individual or company directly engaged in the provision of professional advice to the Museum in connection with the Arrangement who has been approved by the Company;

"Exhibition Agreement" has the meaning given to it in background clause (C).

"Information" means such information as the Company may from time to time provide to the Museum, whether orally or in a written, physical or visual form, regarding the Exhibition, the Company or the employees of clients of the Company including without limitation the Artist including plans, specifications, designs, inventions, techniques, know-how, trade secrets, technical or personal information whether in existence at the date hereof or hereafter to come into existence including without limitation any copies, photographs, reproductions, duplicates or notes in any form whatsoever or other materials;

"Museum" means Bristol City Council, which for the avoidance of doubt includes Bristol's City Museum & Art Gallery;

- 1.2 unless otherwise specified, words importing the singular number shall include the plural and vice versa, words importing any gender shall include all other genders, words importing persons shall include bodies corporate, unincorporated associations and partnerships and vice versa and references to the whole shall include the part and vice versa;
- 1.3 the headings are inserted for ease of reference only and shall not affect interpretation;
- 1.4 obligations and liabilities assumed by more than one person are assumed jointly and severally unless otherwise specified.

2. PROVISION OF INFORMATION

- 2.1 The Company may from time to time and in its absolute discretion provide Information to the Museum.
- 2.2 the Museum acknowledges that the supply of the Information to it will not constitute an offer by the Company, nor the basis of any contract, nor a representation which may be relied upon by the Museum, and that the Company makes no representation with respect to the accuracy or completeness of the Information except to the extent agreed by the Company in writing. The Company will be under no obligation to accept any offer or proposal which may be made by or on behalf of the Museum and the Company may be in negotiations with other persons on similar arrangements.
- 2.3 the Museum acknowledges that it will be required in the execution of any agreement completing or evidencing the Arrangement to acknowledge that it has not relied on nor been induced to enter into such agreement by any representation or warranty other than expressly set out in such agreement subject to such limitation and reservation as may be specified therein.

- 2.4 the Museum and the individuals executing this Deed warrant that the persons signing have the power and authority to bind the Museum.

3. USE OF INFORMATION

- 3.1 The Company agrees that the Museum may, subject to the provisions of Clause 4 and only to the extent reasonably necessary in connection with the Arrangements (including but not limited to the performance of its obligations under the Exhibition Agreement) :

- 3.1.1 analyse the Information;
- 3.1.2 incorporate the Information into reports and analyses;
- 3.1.3 disclose the Information in whole or in part to Authorised Persons on a need to know basis in accordance with Clause 4.

- 3.2 the Museum agrees to keep the Information in complete confidence and, save as expressly permitted under this Agreement, not to disclose, use, copy in whole or in part or modify or adapt the Information in any way without the Company's prior written consent which may be given or withheld in its absolute discretion. Without prejudice to the generality of the foregoing, the Museum agrees that it will not use any of the Information so as to procure any commercial advantage over the Company.

- 3.3 Subject to Clauses 5 and 6, the obligation to keep the Information confidential shall survive and subsist notwithstanding the completion of the Arrangement or the service by the Company of a notice under Clause 8.1, to the extent that the Information relates to the Company or its business or the Artist.

- 3.4 the Museum shall use reasonable endeavours to ensure that proper and secure storage is provided for all Information (other than such as has been provided orally) and shall keep a record of such Information provided to it and, so far as is reasonably possible, of the location of the same and of any persons holding such information.

- 3.5 the Museum agrees not to copy, reproduce or distribute any of the Information without the prior written consent of the Company.

4. DISCLOSURE TO AUTHORISED PERSONS

- 4.1 the Museum may disclose some or all of the Information or the existence of the negotiations relating to the Arrangement to any Authorised Person who needs to be in receipt of the Information in order to carry out their duties to the Museum provided that such Authorised Person has executed and delivered to the Museum a written undertaking to comply with the terms of this Agreement so far as they relate to information provided to such Authorised Person.

- 4.2 the Museum will procure that all Authorised Persons to whom it discloses the Information or the existence of negotiations in connection with the Arrangement comply with Clauses 3, 4, 7, and 8 as if they were parties thereto.

5. INFORMATION AVAILABLE FROM OTHER SOURCES

the Museum obligations under Clause 3 do not apply to, and the term "Information" shall be deemed to exclude any information which the Museum can prove:

- 5.1 was known to the Museum prior to any such disclosure to the Museum by the Company;

- 5.2 was independently derived by or for or disclosed to the Museum PROVIDED THAT the person deriving or disclosing the same had not at the time of such derivation or disclosure, had disclosed to him any Information.


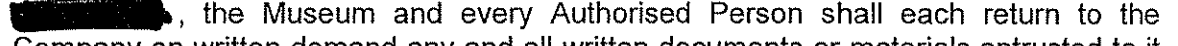
6. DISCLOSURE REQUIRED BY LAW

If the Museum becomes aware that it may be required by law, regulation or order of a court of competent jurisdiction to disclose any of the Information it will immediately notify the Company in writing of that fact and of all relevant surrounding circumstances. If the Museum is unable so to notify the Company before such disclosure is required it will notify the Company immediately after the disclosure has been made. The Museum will use its reasonable endeavours to resist disclosure and to maintain the confidentiality of any Information disclosed.

7. CONFIDENTIALITY OF NEGOTIATIONS

- 7.1 The Parties each agree to keep the existence of the evaluations, discussions and negotiations in relation to the Arrangement confidential and, subject to Clauses 5, 6 and 7.2, not to make any disclosure of interest in, public announcement in relation to, or public comment on, the Arrangement without the other's consent.
- 7.2 Notwithstanding Clause 7.1 either party may make an announcement without the consent of the other, if such announcement is required by law or regulation.
- 7.3 The Company shall be entitled to reveal the existence of the discussions and negotiations in relation to the Arrangement on a confidential basis to such of its employees, advisers and bankers to whom such disclosure is reasonably required in order for the Arrangement to proceed.
- 7.4 Without the prior written consent of the Company during negotiations and, failing completion of the Arrangement, for five years after the date hereof, neither the Museum nor any Authorised Person will directly or indirectly initiate or accept or engage in any contacts of any kind with any employee, customer, supplier, agent or broker of the Company nor with any other party having any actual or prospective connection with the Company. The provisions of this Clause 7.4 shall not apply in relation to matters which do not breach confidentiality and arise in the ordinary course of business.

8. RETURN OF INFORMATION

- 8.1  , the Museum and every Authorised Person shall each return to the Company on written demand any and all written documents or materials entrusted to it in the course of or prior to negotiations in relation to the Arrangement together with all copies thereof which shall have been made by or on its behalf.
- 8.2 If the Company should so require when notifying or following notification to the Museum under Clause 8.1 the Museum shall, when returning documents or materials under Clause 8.1, provide to the Company a statutory declaration duly executed by an officer of the Museum confirming that, to the best of the declarant's knowledge, information and belief, the Museum has complied with all of its obligations under Clause 8.1.

9. RIGHTS

- 9.1 The entire copyright and all other rights of a like nature in and to any works or subject matters disclosed or copies or embodiments whereof are provided to the Museum or to an Authorised Person and the property in all such copies or embodiments are hereby excepted and reserved to the Company and the Museum shall derive no title thereto.
- 9.2 All rights of whatsoever nature (whether of the nature of rights of property and/or intellectual property or otherwise) in and to all and any works, subject matters, information and inventions (and every reproduction and embodiment thereof) hereafter made or learned by the Museum in connection with the Information shall belong to the Company and is hereby assigned to the Company, such assignment being, to the extent necessary by way of present assignment of existing and future copyright.

10. BREACH

- 10.1 the Museum agrees that it shall be responsible for any breach of any of the terms of this Agreement by it (including its directors, officers, employees or contractors) or by any Authorised Person and the Museum will indemnify the Company and any Associated Company of the Company from and against all loss or damage (including but not limited to legal costs) which may arise from a breach of the Agreement by the Museum, its employees, or by an Authorised Person.
- 10.2 the Museum hereby acknowledges that the rights which are sought to be protected by this Agreement are unique and that any breach by it or by an Authorised Person of the terms hereof would cause the Company and its clients irreparable and unquantifiable damage and that the Company shall be entitled to apply for and obtain (but without limitation to any such right as the Company may have to obtain damages in any such respect) interim and/or final injunctive relief or relief by way of interdict against any actual or threatened breach hereof by the Museum.

11. CONTINUING EFFECT

All the terms and conditions set out in this Agreement shall continue in perpetuity unless terminated by mutual agreement.

12. GENERAL

- 12.1 This Agreement may not be assigned in whole or in part but is binding upon and shall enure for the benefit of the personal representatives and successors in title of the parties hereto.
- 12.2 This Agreement shall be governed by and construed in accordance with the laws of England and the parties hereby irrevocably submit to the exclusive jurisdiction of the English Courts.
- 12.3 Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect.
- 12.4 The failure by either party at any time to require performance by the other party or to claim a breach of any term of this Agreement shall not be deemed to be a waiver of any right under this Agreement.
- 12.5 The rights and remedies provided for in this Agreement are cumulative with and not exclusive of any rights or remedies otherwise provided by law or in equity.

- 12.6 This Agreement may be executed in any number of counterparts all of which when taken together shall constitute a single instrument.
- 12.7 No variation or amendment to this Agreement shall be effective unless in writing signed by authorised representatives of the parties.
- 12.8 All written notices and other written communications to be served on or given to either party shall be sent or delivered to its registered office for the time being. Written notices and other written communications shall be treated as having been given upon actual receipt.
- 12.9 Each party shall pay its own costs and expenses (including those of its agents and advisers) in pursuing this matter.
- 12.10 Nothing in this Agreement is intended to or shall be deemed to create any relationship of partnership, joint venture or agency between the Company and the Museum.
- 12.11 This Agreement is intended to confer a benefit on the Artist. No other third party (whether referred to herein by name, class, description or otherwise) shall have any right to enforce a term contained in this Agreement under the Contracts (Rights of Third Parties Act) 1999.

EXECUTED as a deed in two originals the day and year first before written.

EXECUTED as a deed by)
[REDACTED])
and signed by two duly)
authorised officers on its behalf)

The Common Seal of **Bristol City Council** was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of **Bristol City Council**

.....Authorised Signatory

From: [REDACTED]
To: [REDACTED]
Date: 10/07/2009 13:55:56
Subject: H&S notes relating to exhibition

[REDACTED]
attached notes from H&S meeting
[REDACTED]

DRAFT

Items from H & S Working Group regarding Banksy Exhibition

1. Risk Assessment on public access and safety management for duration of exhibition has been circulated.
2. Risk Assessment for hot weather working in upper and lower picture galleries circulated. Will be reviewed at weekly meetings.
3. Regular weekly review meetings being held.
4. [REDACTED] now has role of managing the exhibition in terms of visitor experience.
5. Incident Report needed – museum assistant affected by the heat. Cool room now available on ground floor with humidifier.
6. All incidents to be reported to [REDACTED]
7. Outside barriers – [REDACTED] to check barrier width for push chair access.
8. If any changes are being made to exhibition – need to cross check against Risk Assessments. Also method statements and access rules to be adhered to when any changes are made.
9. Fire Regs and Evacuation Procedures. Regarding concerns over building capacity, Fire Office could not give any figures. It is up to the building user to agree a safe number. Capacity in Risk Assessment is 650. Using buildings regulations, part b, and the information given to [REDACTED] by the Fire Officer, [REDACTED] has calculated this figure is about right. [REDACTED] will confirm. Therefore we will be operating at 650 capacity at any one time – no change to be made to this without the agreement of the H & S Working Group.
10. Queues - System now working well. Will need to consider different routes for duration of the graduation ceremonies at the University commencing 10 July. All signage, including updated signage on the barriers will be in place next week, with clear routes in and out. We are in communication with local traders, university, etc.
11. Fish sticks – Concentrated chemical required to keep water clear in fish tank has been risk assessed. [REDACTED] has COSHH paperwork and is preparing a method statement. Chemical now locked in plant room – large contained to be taken away as only small amount will be required by [REDACTED]. [REDACTED] will check.
12. Box of commercially available scents to go do Conservation. It was not possible to use these due to maintenance, health and safety issues, etc.
13. Lighting rear hall stairs has been improved. Light switches are in pairs and not possible to alter.
14. Rear hall ramp access – tape coming loose, to be monitored.

15. Trip hazards around ice cream van – AC did look at and was satisfied but is being monitored.