

AGREEMENT

THIS AGREEMENT is made on

2017

BETWEEN

- (1) **NORTH YORKSHIRE COUNTY COUNCIL** of County Hall, Northallerton, North Yorkshire DL7 8AD ("the Council") and
- (2) **EASTFIELD TOWN COUNCIL**, Eastfield Community Centre, High Street, Eastfield, Scarborough YO11 3LJ ("ETC")

BACKGROUND

1. ETC has agreed with the Council to support the Community Library Eastfield, to be operated by More Than Books ("MTB"), which will form part of the network of public library services in North Yorkshire.
2. ETC has requested and the Council has agreed to make Employees available to support MTB in the Library.

IT IS AGREED as follows:-

1. Definitions

"Agreement"	means this agreement between the Council and ETC
"Employees"	means the employee (s) of the Council who will, as part of the Council's rota and as part of their employment with the Council, work at the Library
"Library"	means Eastfield Community Library ('More than Books'), High St, Eastfield, Scarborough YO11 3LL
"Services"	means the provision of Employees to perform the duties set out in Annex 1
"Term"	means 1 st April 2017 – 31 st March 2019 subject to earlier termination in accordance with Clause 7
"TUPE"	means the Transfer of Undertakings (Protection of Employees) Regulations 2006

2. Council's Obligations

- 2.1 Subject to the limitations contained in Clauses 2.3 to 2.6 below, the Council shall provide ETC with the Services by making the Employees available at the Library for 15 hours each week during the Term
- 2.2 The Employees will be line managed by the nominated Library Supervisor (LS). Any concerns ETC or MTB may have about the Employees' performance (including conduct and/or attendance and/or work performance) should be addressed to the LS. The Council is at all times responsible for any formal or informal action for misconduct or capability in relation to any Employees.
- 2.3 The Council shall not be required to provide the Services during periods when the Employees would not normally be expected to work, including (without limitation) Bank Holidays, Christmas, New Year, Easter, and other periods when the Council's libraries are usually closed.
- 2.4 The Council shall not be required to provide an alternative should the Employees be unavailable for work for any reason, including (without limitation) sickness, maternity, annual leave or flexi-leave and this shall not impact the opening hours of the Library.
- 2.5 In relation to periods of absence through annual leave, the Council will not provide alternative Employees
- 2.6 The Council shall remain solely responsible for payment of the Employees' salaries.
- 2.7 The Council shall retain all normal duties and other legal responsibilities of an employer to an employee in relation to the Employees.
- 2.8 The Council shall use all reasonable endeavours to ensure that the Employees' treat as confidential any information concerning ETC and MTB or their business which is obtained whilst working in accordance with this Agreement

3. ETC Obligations

- 3.1 ETC shall pay the Council the sum due and any VAT applicable following receipt of the Council's quarterly invoices amounting to £9,745 for the Services payable in quarterly payments of £ 2436.25.
- 3.2 ETC will pay undisputed invoices within 30 calendar days of receipt.
In the event that an invoice is disputed the parties will follow the procedure set out in Clause 6.
- 3.3 ETC shall not be entitled to deduct or withhold any of the sum referred to in Clause 3.1 above for any failure of the Council to provide the Services due to any failure of the Employees to perform the Services or attend the Library. To the extent that ETC/MTB may be hampered by a failure of the Council to provide the Services, ETC shall not be held to be liable for any loss associated with the failure to provide the Services.

- 3.4 ETC will comply with all relevant legislation relating to hosting the Employees including (without limitation) the Health and Safety at Work Act 1974 and the Equality Act 2010.

4. TUPE

- 4.1 The Council and ETC acknowledge and declare that it is not intended that the employment of any Employee should transfer to or be deemed (whether pursuant to TUPE or otherwise) to transfer to ETC in consequence of this Agreement.
- 4.2 The Employees provided pursuant to Clause 2.1 will remain employees of the Council throughout the Term.

5. Indemnities & Insurance

- 5.1 ETC agrees to indemnify the Council:
- (a) against all liabilities, costs and expenses arising in the course of the Employees' work at the Library and all documents signed, or actions taken by, the Employees at the request of ETC during the Term except in so far as it arises from wilful default, negligence or bad faith on the part of the Employee, the Council, its agent or employees
 - (b) in respect of any claim made by or on behalf of any and all of the Employees relating to personal injury (including death) or damage to or loss of personal property of the Employee during the Term caused by the negligent act or default of ETC, its employees or agents provided that in any such case the Council shall make no admission as to liability and shall delegate the conduct of the matter to ETC
 - (c) in respect of any claims made by any and all of the Employees against the Council relating to any incident during the Term that is attributable to acts of ETC, its employees or agents arising in the course of the Employees' work which are adjudged to constitute grounds for a claim for breach of contract, unfair dismissal (including constructive dismissal), redundancy, unlawful discrimination or any other breach of the Equality Act 2010, industrial injury and similar categories of claim.
- 5.2 ETC will take out and maintain appropriate insurance against its liabilities referred to in Clause 5.1 above.
- 5.3 The Council shall take out and maintain employer's liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences which complies with statutory requirements (which at the date of this Contract is £10 million).

6. Disputes

- 6.1 ETC and the Council shall immediately inform the other of any complaints, issues or disputes arising out of this Agreement.

- 6.2 The Council and ETC shall endeavour to resolve any disputes. If after 30 calendar days any dispute remains outstanding it shall be referred to the Chief Executive of ETC and the Assistant Director, Library and Community Services, of the Council
- 6.3 If following referral in accordance with Clause 6.2 the dispute is not resolved within a further 30 calendar days either party shall then have the option to immediately terminate this Agreement by serving written notice to this effect on the other.

7. Termination

- 7.1 Either party may terminate this Agreement:
- (a) in accordance with clause 6.3 above, or
 - (b) for any reason by giving 3 months written notice to the other.
- 7.2 This Agreement shall automatically terminate if the Service Level Agreement dated [] between the Council and MTB terminates for any reason.
- 7.3 Nothing in this Agreement shall create nor be deemed to create any relationship of employer and employee between ETC and any of the Employees who will remain under the terms and conditions of their contracts of employment with the Council.
- 7.4 The terms of this Agreement may only be varied by agreement in writing between the parties.
- 7.5 On termination the Council shall calculate an apportioned fee for any incomplete month and shall invoice ETC within 30 days.

8. General

- 8.1 This Agreement shall be governed by English law.
- 8.2 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Agreement.

Signed by an
authorised signatory of
North Yorkshire
County Council

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Library

Community Centre

HIGH STREET

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Telephone Exchange



North Yorkshire
County Council

Eastfield Library, lease plan

Scale: 1:500
Drawn: KA
Date: 16/06/2016
Dwg No: 6722
OS Grid: 504588 483731