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THE HIGHLAND COUNCIL

HIGH LIFE HIGHLAND

and

HIGH LIFE HIGHLAND (TRADING) C.I.C.

COLLECTIONS AGREEMENT

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COLLECTIONS AGREEMENT

between

THE HIGHLAND COUNCIL established under the Local Government etc (Scotland) Act 1994 and having its principal offices at Glenurquhart Road, Inverness IV3 5NX (“**the Council**”);

HIGH LIFE HIGHLAND a company which is a charity (Scottish charity number SC[●]) incorporated under the Companies Act 2006 with registered number SC[●] and having its registered office at 13 Ardross Street, Inverness IV3 5NS (“**HLH**”); and

HIGH LIFE HIGHLAND (TRADING) C.I.C. incorporated under the Companies Acts with registered number SC[●] and having its registered office at 13 Ardross Street, Inverness IV3 5NS (“**HLH Subsidiary**”)

WHEREAS:-

- (A) The Council is transferring to HLH the assets and undertaking of its [*insert name of appropriate department*] Department, while retaining ownership of the land/buildings, the Collections (as defined below) and the intellectual property rights pertaining to the Collections;
- (B) The Council has resolved to entrust HLH with the provision of certain services of general economic interest in relation to the Collections (as defined below) including, without prejudice to that generality, the conservation and preservation of the Collections;
- (C) The Council wishes to grant HLH certain rights in relation to the Collections, subject to HLH carrying out activities and meeting its obligations in relation to the Collections, in accordance with the terms of this Agreement;
- (D) The Council wishes to grant HLH Subsidiary certain rights in relation to the IPR (as defined below) pertaining to the Collections, in accordance with the terms of this Agreement.

NOW IT IS HEREBY AGREED:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:-

“**Acquisition and Disposal Policy**” means the policy of the Council dated [●] relating to the acquisition and disposal of items forming part of the Collections, as the same may be altered, supplemented or replaced by the Council from time to time;

“Agreement” means this agreement and the schedule annexed to this agreement;

“Archival Deposits” means [●];

“Archival Deposit Agreement” means an agreement between a Third Party and the Council in relation to an Archival Deposit;

“Archives” means materials relating to or forming part of the archives held by the Council and managed by the [Community Learning and Leisure Section of the Education, Culture and Sport] department of the Council immediately prior to the Commencement Date, and any additions to such archives;

“Business Day” means a day other than a Saturday, a Sunday or a day which constitutes a holiday for the majority of Council staff;

“Change Control Procedures” means the change control procedures set out in Part 7 of the Schedule;

“Charge and Superintendence Agreement” means (subject to clause 7.3) means (a) any charge and superintendence agreement between the Keeper of the Records of Scotland and the Council (and/or among the Keeper, the Church of Scotland and the Council) in relation to the Archives (or any part of them); (b) the Charge and Superintendence Agreement Guidelines issued by the Keeper from time to time; and (c) any charge and superintendence agreement which may be entered into by the Council from time to time and notified by the Council to HLH;

“Charge and Superintendence Agreement Obligations” means the obligations of the Council under a Charge and Superintendence Agreement in relation to the Archives (or any part of them) including, without prejudice to that generality, the requirements set out in clause 6.1, as the same may be altered, supplemented or replaced by the Council and/or the Keeper from time to time;

“Code of Ethics” means the codes of ethics for museums, libraries and/or archives listed in Part 5 of the Schedule, as the same may be amended or supplemented from time to time, and any other code of ethics relating to the Collections (or any part of them): (a) as may be notified by the Council to HLH from time to time; and/or (b) which may become the *de facto* standard for code of ethics in the UK relating to the Collections (or any part of them);

“Collections” means the accessioned artefacts, special collections books, The Highland Local History Reference-Only Collection, Archives, printed heritage, art, fine art and objects, and items of printed heritage, documentation relating to accessioned artefacts, manuscripts, maps, special collections, photographs and ephemera (but excluding general lending collections) which are:

- (a) on display or stored in the HLH Premises as at the Commencement Date;
- (b) on loan by the Council to a Third Party as at the Commencement Date;
- (c) in transit to or from the HLH Premises or otherwise in a temporary location outside the HLH Premises as at the Commencement Date for any purpose (other than a purpose under paragraph (b) above) including, without prejudice to that generality, for the purpose of maintenance and repair, conservation or research;
- (d) acquired through the formal acquisitions process (referred to in clause 2.6) after the Commencement Date;
- (e) the subject of a Loan In Agreement.

“Collections Intellectual Property” means Intellectual Property Rights (as defined below) relating to the Collections:

- (a) owned by the Council; or
- (b) which the Council has the right to exploit,

as at the Commencement Date, but subject always to any restrictions and/or prohibitions imposed upon the Council, or to which the Council has agreed, in relation to such Intellectual Property Rights (and such that, for the avoidance of doubt, the Foreground IPR shall not form part of the Collections IPR);

“Collections Lending Policy” means the policy of the Council relating to the lending to Third Parties of items forming part of the Collections, as the same may be altered, supplemented or replaced by the Council from time to time; until such time as the policy is altered, supplemented or replaced by the Council, the policy shall be deemed to be amended insofar as necessary to reflect the transfer of the undertaking of the Council’s Leisure and Cultural Services Department to HLH in terms of the Transfer Agreement; for the avoidance of doubt, the Collections Lending Policy does not extend to Archives which can be withdrawn by the owner of the relevant Archives, but which cannot be given on loan to a Third Party; [*Drafting note: does the Council only have the “Highland Museums Loans Policy” or is there is any wider policy documentation covering the collections more generally?*]

“Commencement Date” means [●] 2011, notwithstanding the date of this Agreement;

“Confidential Information” means, in relation to any Party, information of a confidential or proprietary nature (whether in oral, written or electronic form) belonging or relating to that Party, its business affairs or activities which (a) any Party has marked as confidential or proprietary, (b) any Party, orally or in writing has advised any other Party is of a confidential nature, or

(c) due to its character or nature, a reasonable person in a like position and under like circumstances would treat as confidential;

“Contract Year” or **“Year”** means each period from 1 April to 31 March during the term of this Agreement provided that the last Contract Year shall run from the immediately preceding 1 April until (a) the date of expiry of this Agreement in accordance with the terms of clause 8; or (b) the date of termination of this Agreement in accordance with the terms of clause 17;

“Council Data” means all information, text, drawings, diagrams, images or sounds which are embodied in any electronic or tangible medium, and which: (a) are supplied by the Council to HLH under this Agreement; or (b) are held by the Council but accessed by HLH under this Agreement;

“Council Documentation” means the documentation supplied and/or made available by the Council to HLH pursuant to this Agreement (but excluding documentation which forms part of the Collections), including, without prejudice to that generality, records relating to donations, bequests, agreements, trust deeds and other documentation in so far as relating to the Collections;

“Council Representative” means the representative of the Council appointed pursuant to clause 22.2;

“Council Services Agreements” means [*insert description of relevant agreements*];

“Discrimination Legislation” means any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) including, without limitation, the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, Employment Equality (Sexual Orientation) Regulations 2003, Employment Equality (Religion or Belief) Regulations 2003 and Employment Equality (Age) Regulations 2006;

“Foreground IPR” has the meaning ascribed to it in clause 13.1;

“Indemnified Party” shall have the meaning ascribed to it in clause 15.3;

“Indemnifying Party” shall have the meaning ascribed to it in clause 15.3;

“Intellectual Property Rights” or **“IPR”** means all patents, trade marks, registered designs (and any applications for any of the foregoing), copyright (including rights in software - object code and source code), semi-conductor topography rights, database right, unregistered design right, rights in and to trade names, business names, domain names, product names and logos, databases, inventions, discoveries, know-how and any other intellectual or industrial property rights in each and every part of the world together with all applications, renewals, revisals and extensions;

“Keeper” means the Keeper of the Records of Scotland;

“Law” means any applicable statute or any delegated or subordinate legislation, any enforceable community right within the meaning of section 2(1) European Communities Act 1972, any applicable guidance, direction or determination with which any party is bound to comply and any applicable judgement of a relevant court of law which is a binding precedent in Scotland, in each case in force in Scotland;

“HLH Obligations” has the meaning ascribed to it in clause 9;

“HLH Premises” means the libraries holding part of the Collections, museums, archives and storage premises listed in Part 3 of the Schedule;

“HLH Representative” means the representative of HLH appointed pursuant to clause 22.2;

“Leases” has the meaning assigned to that expression in the Property Agreement;

“Libraries” means the libraries which form part of the HLH Premises;

“Loan In Agreement” means the terms and conditions of any agreement entered into by the Council with a Third Party relating to the lending by that Third Party to the Council for a defined period of any artefacts, special collections books, Archives, printed heritage, art, fine art and objects, items of printed heritage, documentation relating to artefacts, manuscripts, maps, special collections, photographs and ephemera;

“Museums” means the museums which form part of the HLH Premises;

“Parties” means the Council, HLH and HLH Subsidiary; and **“Party”** shall mean any of them;

“Policies” means the policies of the Council in relation to the Collections as may be notified by the Council to HLH from time to time and as the same may reasonably be amended, supplemented or replaced by the Council from time to time and any other reasonable policies relating to the Collections (or any part of them) as may be notified by the Council to HLH from time to time; the Policies, as at the Commencement Date, shall be those listed in Part 6 of the Schedule and until such time as each such policy is altered, supplemented or replaced by the Council, that policy shall be deemed to be amended insofar as necessary to reflect the transfer of the undertaking of the Council’s Leisure and Cultural Services Department to HLH in terms of the Transfer Agreement;

“Property Agreement” means the Property Agreement entered into between the Council and HLH on the date of this Agreement;

“Records” has the meaning ascribed to it in clause 28;

“Services Agreement” means the Services Agreement entered into between the Council and HLH on the date of this Agreement;

“Standards” means the standards listed in Part 5 of the Schedule, as the same may be amended or supplemented from time to time, and any other standards relating to the Collections (or any part of them) (a) as may be notified by the Council to HLH from time to time and/or (b) which may become a *de facto* UK standard;

“Subsidiary Transfer Agreement” means the Subsidiary Transfer Agreement entered into between the Council and HLH Subsidiary on the date of this Agreement;

“Term” has the meaning ascribed to it in clause 8.1;

“Third Party” means any person other than HLH, HLH Subsidiary or the Council;

“Transfer Agreement” means the agreement entered into on the date of this Agreement between the Council and HLH relating to the transfer of the undertaking and assets of the [Community Learning and Leisure Section of the Education, Culture and Sport Department of the Council] to HLH; and

“Treaties” means, bi-lateral, multi-lateral or pluri-lateral European and/or International treaties, to which the United Kingdom is a signatory, relating to the Collections (or any part of them), as the same may be amended or supplemented from time to time.

- 1.2 Any reference to a clause, paragraph or Schedule shall be to, respectively, a clause, paragraph or Schedule to this Agreement.
- 1.3 Clause headings are for ease of reference only and shall not affect the construction or interpretation of any clause.
- 1.4 Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.5 References to any statute, any statutory instrument, regulation, or order shall be construed as a reference to such statute, statutory instrument, regulation, or order as amended or re-enacted from time to time.
- 1.6 Except where otherwise provided, words and expressions used in this Agreement shall have the meanings ascribed to them by the Companies Act 2006.
- 1.7 In this Agreement, except where the context otherwise requires, any reference to:
 - 1.7.1 another agreement or any deed or other instrument or document shall be construed as a reference to that other agreement, deed or other

instrument or document as the same may have been, or may from time to time be, amended, varied, supplemented or novated;

- 1.7.2 a “day” means a period of 24 hours (or such other number of hours as may be relevant in the case of changes for daylight saving) ending at 12.00 midnight;
- 1.7.3 the words “include” or “including” are to be construed as meaning without limitation;
- 1.7.4 a “month” means a calendar month; and
- 1.7.5 a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having a separate legal personality.

2 GRANT OF LICENCE / RIGHT TO USE THE COLLECTIONS

- 2.1 Subject to clauses 2.2 to 2.10 and to HLH’s compliance with the provisions of this Agreement, the Council hereby grants to HLH a licence to use the Collections in the manner set out in Part 1 of the Schedule; for the avoidance of any doubt, no right of ownership in the Collections, or any part of them, shall transfer to HLH under this Agreement.
- 2.2 The licence granted under clause 2.1 is subject to the terms and conditions of any agreement, licence, bequest, trust deed, gift, donation or other instrument pertaining to any particular item or items forming part of the Collections; HLH shall comply with the requirements of any such terms and conditions in relation to the relevant item or items forming part of the Collections, as if it were directly bound by such terms and conditions (excluding from this any requirements which may only be exercised by the Council as owner of the item or items).
- 2.3 If, in relation to any item forming part of the Collections, the Council has insufficient rights to grant to HLH the licence referred to in clause 2.1, that item shall be excluded from the licence, but shall remain part of the Collections and HLH shall, to the extent permitted by the rights held by the Council, perform the HLH Obligations in relation to that item; the Council and HLH shall enter into discussions as regards the best means of HLH performing the HLH Obligations in relation to any such item.
- 2.4 If any item forming part of the Collections is unusable or unavailable for use in accordance with the terms of this Agreement (excluding items on loan to a Third Party), the Council and HLH shall enter into discussions as regards the best means of HLH performing the HLH Obligations in relation to any such item.
- 2.5 In relation to the Archives which are subject to a Charge and Superintendence Agreement [or an Archival Deposit Agreement], HLH shall comply with and implement the requirements of the terms and conditions of that Charge and Superintendence Agreement [or Archival Deposit

Agreement, as the case may be] in relation to the relevant Archives, as if it were directly bound by such terms and conditions.

- 2.6 HLH shall ensure (insofar as possible) that any agreement relating to the acquisition of an item into the Collections shall be entered into in the name of the Council and that the item shall become the property of the Council and not HLH with the exception of Archival Deposits which remain the property of a Third Party; in relation to any such item acquired through the formal acquisition process in accordance with the Acquisition and Disposal Policy:
- 2.6.1 it shall form part of the Collections;
- 2.6.2 HLH shall benefit from the right granted under clause 2.1 in relation to such item; and
- 2.6.3 HLH shall be subject to the HLH Obligations in relation to such item.
- 2.7 Where, in relation to the acquisition of an item into the Collections, HLH is unable to ensure that the item becomes the property of the Council and where the only alternative would be not to acquire the item into the Collections, HLH shall be entitled to take ownership of that item; HLH shall transfer to the Council all rights of ownership in any such item on expiry or termination of this Agreement.
- 2.8 For the avoidance of doubt, nothing in clause 2.6 shall oblige HLH to accession or otherwise acquire any item into the Collections; items shall be accessioned or acquired into the Collections in accordance with the Acquisitions and Disposal Policy in force from time to time.
- 2.9 Save as expressly set out in this Agreement, HLH is not permitted to assign, transfer, sell, lease, sub-license, charge, lend or otherwise deal in or encumber the Collections, or any part of them.
- 2.10 HLH shall not dispose of any item forming part of the Collections (otherwise than in accordance with the Acquisition and Disposal Policy or any Charge and Superintendence Agreement or Archival Deposit Agreement), without the prior written consent of the Council.

3 LENDING OF THE COLLECTIONS (OUTWARDS LENDING)

- 3.1 HLH shall not (subject to the provisions of clause 3.8) lend to a Third Party any item forming part of the Collections without the prior written consent, or deemed consent in accordance with clause 3.6, of the Council.
- 3.2 Without prejudice to the provisions of clause 3.1, HLH shall provide to the Council, on a quarterly basis, details (in accordance with clause 3.5) of all items forming part of the Collections which HLH is proposing to lend to a Third Party; the Council shall be given not less than 40 Business Days to review the proposed loan of each such item.
- 3.3 Following the review by the Council in terms of clause 3.2 above, the Council shall be entitled to make representations to HLH (such initial

representations to be made to HLH within the 40 Business Day period referred to in clause 3.2) as regards the proposed loan by HLH to a Third Party of any item forming part of the Collections; HLH shall respond to such representations within a further 15 Business Days.

- 3.4 If the Council is not satisfied with the response received from HLH, or if it otherwise requires amendments to the terms of a particular proposed loan, or if it does not want HLH to proceed with a particular loan of an item to a Third Party, it shall notify HLH accordingly, such notice to be issued by the Council not more than 20 Business Days after receipt of HLH's response to its initial representations under clause 3.3 above.
- 3.5 The details to be provided by HLH to the Council under clause 3.2 shall include details of the item which HLH is proposing to lend, confirmation that there are no restrictions on lending that item under the terms and conditions referred to in clause 2.2 (or that the proposed loan is in compliance with any such restrictions), the Third Party to which it is proposed to lend the item and the period of the loan and such other information as the Council may from time to time specify; the information to be provided by HLH shall be provided in such format as the Council may from time to time specify.
- 3.6 For the avoidance of doubt, HLH shall not (without the prior written consent of the Council) be entitled to lend, or agree to lend, to a Third Party any item forming part of the Collections:
 - 3.6.1 where to do so would be in breach of the terms and conditions of any agreement, licence, bequest, trust deed, gift, donation or other instrument pertaining to that particular item or items;
 - 3.6.2 where no representations are received from the Council within the 40 Business Days referred to in clauses 3.2 and 3.3, until the expiry of that period of 40 Business Days when the Council shall be deemed to have given its consent;
 - 3.6.3 where representations are received within the 40 Business Days referred to in clauses 3.2 and 3.3, but no notice is issued by the Council within the period of 20 Business Days referred to in clause 3.4, until the expiry of that period of 20 Business Days when the Council shall be deemed to have given its consent; or
 - 3.6.4 where a notice is issued by the Council under clause 3.4, otherwise than in accordance with the terms of that notice.
- 3.7 For the avoidance of doubt, the Council shall be entitled to issue to HLH a notice under clause 3.4 requiring that HLH does not proceed with a particular loan or loans; and, following receipt of such a notice, HLH shall not proceed with any such loan.
- 3.8 The Council hereby delegates authority to HLH to return individual items of the Collections, on temporary retransmission, to the owners of Archival Deposits in accordance with terms of the relevant Archival Deposit

Agreement or (as the case may be) the relevant Charge and Superintendence Agreement.

4 INWARDS LENDING

- 4.1 In relation to any items forming part of the Collections which, as at the Commencement Date, are on loan to the Council from a Third Party, the Council shall remain as the party to any Loan In Agreement with each such Third Party.
- 4.2 Any agreement relating to the lending by a Third Party after the Commencement Date of any artefacts, special collections books, Archives, printed heritage, art, fine art and objects, items of printed heritage, documentation relating to artefacts, manuscripts, maps, special collections, photographs and ephemera for the purposes of display, or any other purpose, in the HLH Premises (or any of them) shall be entered into between the Council and that Third Party.
- 4.3 Each of the items referred to in clauses 4.1 and 4.2 shall (subject to clause 4.4) form part of the Collections throughout the period when it remains on loan to the Council and shall (throughout that period) be subject to the HLH Obligations.
- 4.4 The rights granted and obligations referred to in clause 4.3 are, in respect of each of the relevant items, subject to the terms and conditions of any Loan In Agreement pertaining to that item; HLH shall comply with the requirements of any such terms and conditions in relation to the relevant item, as if it were directly bound by such terms and conditions (excluding from this any requirements which may only be exercised by the Council as the party to each such agreement).

5 LICENCE OF COLLECTIONS INTELLECTUAL PROPERTY

- 5.1 The Council hereby grants to HLH Subsidiary (in so far as it has the right to do so in respect of each item forming part of the Collections) a royalty-free, worldwide, non-exclusive licence (or, where appropriate, sub-licence) to use, copy, reproduce and exploit (including the right to grant sub-licences) the Collections Intellectual Property for educational purposes, for the purpose of promoting HLH, the HLH Premises and the Highland region and for the purposes of generating income for HLH Subsidiary.
- 5.2 The Council agrees that it shall not use the Collections Intellectual Property for commercial exploitation; for the avoidance of doubt, the granting of the licence in clause 5.1 and the restriction in the preceding part of this clause 5.2 will not preclude or restrict the Council (and/or any body associated with the Council) from utilising the Collections Intellectual Property for the purposes of promoting the Highland region and/or events within the Highland region, the Council and its services, and any other body associated with the Council.
- 5.3 HLH Subsidiary shall provide the Council with all such reasonable assistance and will follow all reasonable instructions and demands which the Council

- may require of HLH Subsidiary from time to time in order to protect the Collections Intellectual Property.
- 5.4 The Parties agree that all applications to protect the Collections Intellectual Property and all subsequent registrations will be in the name of the Council.
- 5.5 HLH Subsidiary undertakes throughout the term of this Agreement that:-
- 5.5.1 it will not dispute or challenge the validity of the Collections Intellectual Property, or the Council's rights in and to them;
- 5.5.2 subject to clauses 5.6, 5.7 and 5.8 it will not knowingly do or authorise to be done any act which would or might jeopardise or invalidate the Council's right or title to the Collections Intellectual Property or the Council's ability to register to protect these rights in the future; and
- 5.5.3 it will give the Council any information as to its use of the Collections Intellectual Property which the Council may reasonably require.
- 5.6 For the purposes of paragraph 5.5.2 (but without prejudice to the ordinary meaning of "knowingly"), HLH Subsidiary shall be deemed to have knowledge of a particular matter to the extent that:
- 5.6.1 it is referred to in records held by HLH or HLH Subsidiary, or to which HLH and/or HLH Subsidiary have access in terms of this Agreement;
- 5.6.2 it is referred to in records held by the Council to which HLH and/or HLH Subsidiary do not have access in terms of this Agreement, and the Council provides such records (or the relevant parts of them) to HLH and/or HLH Subsidiary.
- 5.7 Where HLH and/or HLH Subsidiary issues to the Council a request for records (to which HLH does not have access in terms of this Agreement) relating to the Collections Intellectual Property, the Council shall use best endeavours to provide HLH with all such relevant records, or copies of them.
- 5.8 HLH Subsidiary shall not be liable to the Council for any breach of the provisions of paragraph 5.5.2, to the extent that such breach arises as a result of the unreasonable delay or failure of the Council to meet its obligations under clause 5.7.
- 5.9 In the event that HLH, HLH Subsidiary or the Council becomes aware of:
- 5.9.1 any infringement or possible infringement by a Third Party of the Collections Intellectual Property; or
- 5.9.2 any Third Party alleging that the Collections Intellectual Property infringes any rights of a Third Party;

then it shall immediately notify each other Party of such infringement or alleged infringement.

- 5.10 Following notification from HLH or HLH Subsidiary in accordance with clause 5.9 or otherwise, the Council, as proprietor of the Collections Intellectual Property, may (at its own expense) take any action in any jurisdiction (including but not limited to raising legal proceedings) as it deems appropriate to enforce and/or protect the Collections Intellectual Property against any Third Party. HLH and/or HLH Subsidiary (as appropriate) each agree to co-operate fully with the Council and to give the Council all reasonable information and assistance as the Council may require (at the Council's expense) to assist the Council in enforcing and/or protecting the Collections Intellectual Property against any Third Party.
- 5.11 If the Council decides not to take any action of the nature referred to in clause 5.10 in relation to a particular infringement or alleged infringement, the Council may, at its discretion, allow HLH Subsidiary (subject to clause 5.13 and at HLH Subsidiary's expense), the conduct of any claim and/or negotiations in respect of that infringement or alleged infringement; the Council shall make such decision promptly and in a manner which is mindful to any court or other procedural deadlines.
- 5.12 Where the Council decides not to allow HLH Subsidiary the conduct of any claim and/or negotiations in respect of an infringement or alleged infringement in terms of clause 5.11, the Council and HLH Subsidiary shall enter into discussions as regards the best means of dealing with such infringement or alleged infringement.
- 5.13 Where HLH Subsidiary takes a course of action of the nature referred to in clause 5.11, it shall
- 5.13.1 indemnify the Council in respect of any liability (including reasonable legal expenses on a solicitor/client basis and any award of expenses) which the Council may thereby incur);
 - 5.13.2 keep the Council closely apprised of all developments relating to the relevant claim;
 - 5.13.3 not, without the prior written consent of the Council, make any compromise in respect of any infringement or alleged infringement of the Collections Intellectual Property.

6 CHARGE AND SUPERINTENDENCE OBLIGATIONS

- 6.1 Without prejudice to the provisions of clause 2.4, the Charge and Superintendence Agreement Obligations shall include the following requirements:
- 6.1.1 to have in place and maintain appropriate arrangements for the Archives, as referred by the Council to the Keeper, and approved by

the Keeper (including arrangements for both appropriate premises and professional archive supervision);

- 6.1.2 to refer to the Keeper, in accordance with the provisions of the Local Government etc (Scotland) Act 1994, any material change to the archival arrangements (as set out in the Charge and Superintendence Agreement Guidelines);
- 6.1.3 to comply with the storage requirements set out in the Charge and Superintendence Agreement Guidelines;
- 6.1.4 to comply with the handling requirements set out in the Charge and Superintendence Agreement Guidelines;
- 6.1.5 to ensure that the Archives shall be held under the oversight of HLH's professional archivist, whose qualifications will be subject to the approval of the Keeper;
- 6.1.6 not to remove the Archives from the approved accommodation;
- 6.1.7 not to alter the reference system applied to the Archives;
- 6.1.8 to allow the Keeper access to the Archives at all reasonable times;
- 6.1.9 to carry out conservation treatment only with the prior approval of the Keeper and to a standard approved by the Keeper;
- 6.1.10 to send to the Keeper a copy of HLH's search room regulations (as amended or supplemented from time to time);
- 6.1.11 to control the production of the Archives for research or other purposes (including copying) through the use of a production control system approved by the Keeper;
- 6.1.12 to provide to the Keeper, on an annual basis, itemised details of usage and copying of the Archives;
- 6.1.13 to refer all requests for permission to publish or reproduce items from the Archives to the Keeper;
- 6.1.14 to ensure that all copies of the Archives shall bear a rubric prohibiting reproduction or copying without permission; and
- 6.1.15 to refer all requests for large-scale copying to the Keeper for approval.

7 CHARGE AND SUPERINTENDENCE AGREEMENTS

- 7.1 HLH shall, in consultation with the Keeper, prepare a definitive list of all charge and superintendence agreements relating to the Archives and shall submit such list to the Council and the Keeper on or before the date falling 18 months after the Commencement Date.

- 7.2 HLH and the Council shall enter into discussions (in consultation with the Keeper) as regards the list of charge and superintendence agreements referred to in clause 7.1; both HLH and the Council shall act reasonably and use best endeavours to agree a definitive list of charge and superintendence agreements relating to the Archives on or before the second anniversary of the Commencement Date.
- 7.3 Following the agreement between the Council and HLH of the definitive list of charge and superintendence agreements referred to in clause 7.2, the definition of “Charge and Superintendence Agreement” in clause 1.1 shall be deemed to substituted with the following:
- 7.3.1 **“Charge and Superintendence Agreement”** means (a) the charge and superintendence agreements referred to in the list agreed between the Council and HLH in terms of clauses 7.1 and 7.2; (b) the Charge and Superintendence Agreement Guidelines issued by the Keeper and notified to HLH from time to time; and (c) any charge and superintendence agreement which may be entered into by the Council from time to time and notified by the Council to HLH;”.

8 THE TERM

- 8.1 This Agreement shall commence on the Commencement Date and, unless otherwise terminated, shall continue until the [●] of the Commencement Date (the **“Term”**).

9 OBLIGATIONS OF HLH

- 9.1 HLH will perform the HLH Obligations as set out in this clause 9 and Part 2 of the Schedule with effect from the Commencement Date in accordance with the terms and conditions of this Agreement.
- 9.2 HLH will perform the HLH Obligations:-
- 9.2.1 with all reasonable skill and care;
- 9.2.2 in a proper, diligent, expeditious and professional manner;
- 9.2.3 dutifully, timeously and in good faith;
- 9.2.4 to no less a standard than that achieved by the Council in the period of 12 months immediately prior to the Commencement Date; and
- 9.2.5 in accordance with any policies and guidance supplied by the Council to HLH that are directly related to the HLH Obligations or the Collections.
- 9.3 Subject to clauses 9.4 to 9.6, HLH shall:-
- 9.3.1 comply with the Charge and Superintendence Agreement Obligations in relation to the relevant Archives, as if it were directly bound by each Charge and Superintendence Agreement;

- 9.3.2 make proper arrangements, within the meaning of section 53 of the Local Government Etc (Scotland) Act 1994, for the preservation and management of the Archives which fall within the ambit of that section, or which subsequently do so;
- 9.3.3 consult with both the Council and the Keeper before making any material changes to the proper arrangements referred to in paragraph 9.3.1;
- 9.3.4 ensure that it complies with the Law, Policies, Treaties and the Code(s) of Ethics in relation to the Collections, including the HLH Obligations and/or any other action which it may take or refrain from taking, or any decision which it may make, in so far as relating to the Collections;
- 9.3.5 ensure that each of the Museums which is accredited under the Museums Libraries Archives Accreditation Scheme as at the Commencement Date retains that accreditation, as the same may be amended or supplemented from time to time, including any accreditation scheme which may replace the Museums Libraries Archives Accreditation Scheme; and use all reasonable endeavours to ensure that any Museum (including any new museum) not so accredited attains that accreditation;
- 9.3.6 use all reasonable endeavours to ensure that each of the Libraries is accredited under the Public Library Quality Improvement Matrix as soon as reasonably practicable following the launch of that accreditation scheme, as the same may be amended or supplemented from time to time, including any accreditation scheme which may replace the Public Library Quality Improvement Matrix;
- 9.3.7 ensure that each of the [*insert reference to relevant premises*] forming part of the HLH Premises is eligible for the Government indemnity scheme under the National Heritage Act 1980;
- 9.3.8 use all reasonable endeavours to meet the Standards in so far as they relate to the Collections (or any part or parts of them) and/or to the HLH Obligations;
- 9.3.9 where funding and resources permit, seek to achieve standards of best practice in relation to the HLH Obligations;
- 9.3.10 comply with the requirements of the Council's internal audit service.
- 9.3.11 during the Term, ensure that only personnel who possess the appropriate experience, skills and qualifications necessary for the performance of the HLH Obligations in accordance with this Agreement shall perform the HLH Obligations in relation to the Collections;
- 9.3.12 procure that its employees, sub-contractors and representatives:-

- 9.3.12.1 make themselves available, at reasonable times and on reasonable notice, to the Council for the purposes of consultation and advice relating to the performance of the HLH Obligations; and
 - 9.3.12.2 attend meetings with representatives of the Council and such other parties as may be necessary for the performance of the HLH Obligations;
 - 9.3.13 provide to the Council such information as the Council may reasonably request from time to time to enable the Council to monitor, verify and audit the performance of the HLH Obligations;
 - 9.3.14 ensure that it is not in breach of any other agreements or any Law in connection with the performance of the HLH Obligations;
 - 9.3.15 provide the Council with such information as the Council may reasonably require to enable the Council to ascertain that the terms and conditions of this Agreement are being observed;
 - 9.3.16 ensure that the HLH Obligations are carried out to the reasonable satisfaction of the Council; and
 - 9.3.17 provide the Council and any person duly authorised by it, with reasonable facilities to inspect and review all records, accounts, invoices and other materials retained in connection with the performance of the HLH Obligations upon the Council giving reasonable notice to HLH.
- 9.4 HLH shall not be required to perform the HLH Obligations in relation to any item forming part of the Collections which is in the custody of the Council and is located in premises of the Council which do not form part of the HLH Premises.
- 9.5 HLH shall not be liable for any failure to perform the HLH Obligations where any such failure arises as a direct result of:
- 9.5.1 the unreasonable delay or failure by the Council to perform or otherwise fulfil the Council's Responsibilities; or
 - 9.5.2 the failure by the Council to meet its obligations under the Services Agreement, the Council Services Agreements, the Transfer Agreement and/or the Property Agreement.
- 9.6 HLH shall not be in breach of paragraph 9.3.5 if, in relation to any Museum losing its accreditation under the accreditation scheme referred to in that paragraph,
- 9.6.1 the reason for losing its accreditation relates directly to the HLH Premises in which that Museum is located failing to meet the standards required by that accreditation scheme; and

- 9.6.2 the reason for the HLH Premises failing to meet the standards referred to in paragraph 9.6.1 is beyond the reasonable control of HLH.
- 9.7 HLH and the Council shall, to the fullest extent permitted by law, co-operate with each other and comply with the requirements of their own internal and external auditors and with any criminal investigation.
- 9.8 HLH and the Council will keep this Agreement and all related arrangements under review to ensure that this Agreement and those related arrangements comply with the requirements of the law, in particular in relation to European procurement rules and best value.

10 THE COUNCIL'S RESPONSIBILITIES

- 10.1 The Council shall:-
- 10.1.1 co-operate with HLH and provide it with such information and assistance as HLH shall reasonably require to enable it to perform the HLH Obligations;
- 10.1.2 ensure that key personnel are available to assist HLH when reasonable notice is given by HLH of this requirement;
- 10.1.3 ensure that the Council has in place all necessary and appropriate internal Council consents and approvals, in order to enable HLH to perform the HLH Obligations (but such that, for the avoidance of doubt, nothing in this Agreement shall oblige the Council to obtain any Third Party approvals in relation to the rights granted under this Agreement);
- 10.1.4 provide all reasonable assistance to HLH in connection with any accreditations which it is seeking (which could include in relation to archives);
- 10.1.5 consult with HLH (and have due regard to its representations) prior to altering, supplementing or replacing any of the Policies, Codes of Ethics or Standards which the Council has the right to alter,

(together “**the Council’s Responsibilities**”).

11 INSURANCE OF THE COLLECTIONS

- 11.1 The Council shall effect, maintain and renew the insurance policy or policies relating to the Collections in force immediately prior to the Commencement Date (or policies reasonably equivalent to such policies, including without prejudice to that generality, the level and scope of cover) in so far as such policy or policies continue to be available to the Council at reasonable cost (at the entire discretion of the Council (acting reasonably)).
- 11.2 HLH acknowledges that the insurance policy referred to in clause 11.1 is subject to an excess of £[●] in respect of each claim in relation to all items forming part of the Collections (with the exception of items on loan to the

Council from a Third Party which have no excess); the Council shall notify HLH of any alteration to the amount of excess.

- 11.3 For the avoidance of doubt, the Council shall be responsible for payment of any excess under any of the insurance policies referred to in clause 11.1.
- 11.4 The Council shall use reasonable endeavours to procure:-
- 11.4.1 that the insurances referred to in clause 11.1 are effected in joint names of the Council and HLH Subsidiary;
- 11.4.2 that the insurers providing the insurance policy or policies referred to in clause 11.1 (and any other insurer which may from time to time provide that insurance policy or policies) waive their rights of subrogation against HLH Subsidiary.
- 11.5 The Council undertakes:-
- 11.5.1 to provide to HLH on request copies of the policy documents relating to the insurances maintained by the Council in pursuance of clause 11.1, together with such evidence as HLH may reasonably request to demonstrate that such policies are in force; and
- 11.5.2 to advise HLH promptly in writing if any of the insurances maintained by the Council in pursuance of clause 11.1 is no longer to be maintained or if there is any significant change in the terms of the relevant insurance policies or the identity of the insurer.
- 11.6 The Council and its agents and advisers shall, on giving not less than 24 hours prior notice to HLH, be given reasonable access to the Collections for the purposes of inspecting the Collections and carrying out risk control surveys; following any such inspection or survey, the Council (or its agents or advisers) shall make recommendations to HLH on any issues identified by the inspection and/or survey, including without prejudice to that generality, recommended measures to control risk.
- 11.7 The Council and HLH shall each consider the recommendations referred to in clause 11.6 and shall enter into discussions (in accordance with clause 6.9 of the Services Agreement) in respect of the implementation of such recommendations and the timeframe for doing so; the Council and HLH each recognise that implementation of the recommendations referred to above may have significant financial implications and these shall be taken into account in such discussions.
- 11.8 HLH undertakes to implement such measures to control risk as the Council may reasonably prescribe in the light of the recommendations made in pursuance of clause 11.7 (having regard to issues of affordability), and within the timeframe reasonably prescribed by the Council.

12 ARRANGEMENTS FOR INSURANCE CLAIMS

- 12.1 In the event of loss, damage, theft or destruction of any item forming part of the Collections, or otherwise subject to the HLH Obligations, HLH shall:-
- 12.1.1 give immediate notice to the Council, giving details of the loss, damage, theft or destruction;
 - 12.1.2 take immediate steps to secure the affected area, taking all appropriate temporary measures to limit further damage and address issues of health and safety; and
 - 12.1.3 allow the Council (and any surveyor or other consultant engaged by the Council) all such assistance as the Council may reasonably request to facilitate investigation of the damage and/or the pursuit of any insurance claim.
- 12.2 In addition to notifying the Council under clause 12.1, HLH shall also notify the Council's insurance section immediately upon becoming aware of such loss, damage, theft or destruction of any item forming part of the Collections, or otherwise subject to the HLH Obligations, where:
- 12.2.1 that item is on loan to the Council from a Third Party; or
 - 12.2.2 that item has been lost, stolen or destroyed and has a value higher than the highest amount of the insurance policy excess referred to in clause 11.2; or
 - 12.2.3 that item has been damaged and
 - 12.2.3.1 the cost of repair, or
 - 12.2.3.2 the reduction in value of the item as a result of the damage, or
 - 12.2.3.3 the aggregate of the sums referred to in paragraphs 12.2.3.1 and 12.2.3.2,is higher than the amount of the highest amount of insurance policy excess referred to in clause 11.2.
- 12.3 Where the item which has been lost, damaged, stolen or destroyed is on loan to the Council, the Council shall be responsible for making and pursuing the claim with the insurers and will meet the costs of pursuing such claim; HLH shall ensure that its staff are available as required by the insurer and provide all information and documentation and any other assistance required by the insurer in relation to any such claim (the costs of HLH in doing so to be borne by HLH).
- 12.4 Where the item which has been lost, damaged, stolen or destroyed is the property of the Council, the Council shall, at its discretion, determine whether to make an insurance claim and, if it does so, shall be responsible for pursuing the claim with the insurers and will meet the costs of doing so; where the Council makes a claim against the insurance policy, HLH shall

ensure that its staff are available as required by the insurer and provide all information and documentation and any other assistance required by the insurer in relation to such claim (the costs of HLH in doing so to be borne by HLH).

- 12.5 If the claim against the insurance policy referred to in the preceding clause is successful, the Council shall decide whether to repair an item, or to purchase a replacement item; if the Council decides to purchase a replacement item, it shall consult with HLH as regards the item to be purchased.
- 12.6 Where an insurance claim is unsuccessful or is not pursued, the Council shall determine whether a damaged item should be repaired; if the Council decides that an item is to be repaired, it shall be repaired by HLH's conservators.

13 INTELLECTUAL PROPERTY

- 13.1 All right, title and interest in and to IPR arising or created by or on behalf of HLH Subsidiary as a result of the performance by it of the HLH Obligations ("**Foreground IPR**") shall be the property of and vest in either HLH or HLH Subsidiary (as appropriate), subject to the terms of the licence granted pursuant to clause 5.1.
- 13.2 Each of HLH and HLH Subsidiary hereby grants to the Council a royalty-free non-exclusive licence in and to such Foreground IPR, including (with effect from its creation) all future rights, for the purposes of promoting the Council and its services (and services funded by the Council) and for the purpose of promoting the Highland region and the HLH Premises. The Council shall be entitled to grant royalty-free sub-licences to Third Parties of the Foreground IPR, solely for the purposes specified in this clause.
- 13.3 Each of HLH and HLH Subsidiary shall provide the Council with details of Foreground IPR arising or created by or on behalf of HLH or HLH Subsidiary and shall provide the Council with information and reports on HLH and/or HLH Subsidiary's use of the Foreground IPR at such intervals and in such form as the Council may reasonably require from time to time.
- 13.4 Each of HLH and HLH Subsidiary acknowledges that it shall acquire no rights to any IPR owned by the Council other than that which it acquires as licensee pursuant to this Agreement.

14 WARRANTIES

- 14.1 HLH warrants, represents and undertakes to the Council that:-
- 14.1.1 HLH has full capacity and authority to enter into this Agreement;
- 14.1.2 the HLH Obligations will be performed in compliance with all applicable laws, enactments, orders, regulations, and other similar instruments;
- 14.1.3 the performance of the HLH Obligations shall not infringe any Intellectual Property Rights of any Third Party; and

- 14.1.4 as at the date of execution of this Agreement by HLH, there is no material outstanding litigation, arbitration or other disputed matters to which HLH is a party, which may have a material adverse effect upon the fulfilment of HLH's liabilities, responsibilities or obligations pursuant to this Agreement.
- 14.2 HLH Subsidiary warrants, represents and undertakes to the Council that:-
- 14.2.1 HLH Subsidiary has full capacity and authority to enter into this Agreement;
- 14.2.2 HLH Subsidiary will make use of the Collections Intellectual Property in compliance with all applicable Laws;
- 14.2.3 subject to clause 14.1.4, HLH Subsidiary's use of the Collections Intellectual Property shall not infringe any Intellectual Property Rights of any Third Party; and
- 14.2.4 as at the date of execution of this Agreement by HLH Subsidiary, there is no material outstanding litigation, arbitration or other disputed matters to which HLH Subsidiary is a party, which may have a material adverse effect upon the fulfilment of HLH Subsidiary's liabilities, responsibilities or obligations pursuant to this Agreement.
- 14.3 HLH Subsidiary shall be entitled to issue to the Council a request for records (which are not held by HLH or HLH Subsidiary and/or to which HLH and/or HLH Subsidiary do not have access in terms of this Agreement) relating to the Collections Intellectual Property; the Council shall use best endeavours to provide HLH Subsidiary with all such relevant records, or copies of them.
- 14.4 HLH Subsidiary shall not be liable to the Council for any breach of the warranty under paragraph 14.2.3, to the extent that such breach arises as a result of the failure of the Council to meet its obligations under clause 14.3.
- 14.5 The Council warrants, represents and undertakes to each of HLH and HLH Subsidiary that the Council has full capacity and authority to enter into this Agreement.

15 LIABILITY AND INDEMNITY

- 15.1 Each of HLH and HLH Subsidiary shall indemnify the Council against any liabilities, losses, charges, costs and expenses (including but not limited to all reasonably incurred legal expenses, the expenses associated with contesting any claim by a Third Party against the Council and any costs awarded against the Council in respect of such a claim) suffered or incurred by the Council arising from or in connection with:
- 15.1.1 a breach of any of the warranties given by HLH or HLH Subsidiary respectively in this Agreement;

15.1.2 the negligence, recklessness or wilful misconduct of each of HLH or HLH Subsidiary, respectively, or its employees, agents, contractors or otherwise in the course of performing the HLH Obligations;

15.1.3 any breach by each HLH or HLH Subsidiary, respectively, of any obligation or undertaking contained in the Agreement, or otherwise, in the case of HLH, arising in relation to the HLH Obligations,

provided always that the Council shall use all reasonable endeavours to minimise any such liabilities, losses, charges, costs or expenses and that the Council shall not take any steps which may increase any such liability.

15.2 The Council shall indemnify each of HLH and HLH Subsidiary against any liabilities, losses, charges, costs and expenses (including but not limited to all reasonably incurred legal expenses) suffered or incurred by HLH or HLH Subsidiary, respectively, arising from:

15.2.1 a breach of any of the warranties given by the Council in this Agreement;

15.2.2 the negligence, recklessness or wilful misconduct of the Council, its employees, agents, contractors or otherwise in the course of performing the Council Responsibilities,

provided always that each of HLH or HLH Subsidiary, respectively, shall use all reasonable endeavours to minimise any such liabilities, losses, charges, costs or expenses and that each of HLH or HLH Subsidiary, respectively, shall not take any steps which may increase any such liability.

15.3 Each Party (an “**Indemnified Party**”) which incurs a loss or liability, or receives a claim, of a nature which may fall within the indemnity contained in clause 15.1 or 15.2,

15.3.1 shall intimate the loss or liability, or the relevant claim, to the other relevant Party (the “**Indemnifying Party**”) as soon as reasonably practicable after the loss, liability or claim becomes known to the Indemnified Party, providing to the Indemnifying Party all such information and evidence in respect of the loss, liability or claim as is reasonably available to the Indemnified Party;

15.3.2 shall (in the case of a claim) take such steps to resist or defend the claim as the Indemnifying Party may reasonably request or (if the Indemnifying Party so elects) allow the Indemnifying Party the conduct of any defence and/or negotiations in respect of the claim (subject in either case to the Indemnifying Party indemnifying the Indemnified Party in respect of any liability (including reasonable legal expenses on a solicitor/client basis and any award of expenses) which the Indemnified Party may thereby incur);

15.3.3 shall keep the Indemnifying Party closely apprised of all developments relating to the relevant loss, liability or claim (including

any insurance claim that may be pursued in connection with the relevant occurrence);

- 15.3.4 shall not (in the case of a claim), compromise any such claim, or take any step which would prejudice the defence of such claim, without (in each such case) the prior written consent of the Indemnifying Party (such consent not to be unreasonably withheld);
- 15.3.5 take all reasonable steps available to it to mitigate such loss or liability.
- 15.4 No Party excludes or limits liability for death or personal injury arising as a result of its negligence.
- 15.5 Subject always to clause 15.4, no Party shall be liable to any other Party in respect of any of the following losses or damages (whether such losses or damages were foreseen, foreseeable, known or otherwise):
 - 15.5.1 any indirect, incidental, special or consequential loss or damage (whether or not such loss or damage is of the type specified in paragraphs 15.5.2 to 15.5.7 below);
 - 15.5.2 loss of actual or anticipated profits;
 - 15.5.3 loss of goodwill;
 - 15.5.4 loss of business;
 - 15.5.5 loss of revenue or of the use of money;
 - 15.5.6 loss of contracts; and
 - 15.5.7 loss of anticipated savings.
- 15.6 No Party shall be liable to any other Party in respect of any breach of any of its obligations under this Agreement in circumstances where it was prevented from fulfilling that obligation by an act or omission of the other Party, providing the Party having the relevant obligation used all reasonable endeavours to make alternative arrangements that would permit it to fulfil the obligation.

16 PERSONAL DATA, CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 16.1 Each Party shall comply with its respective obligations under the provisions of the Data Protection Act 1998.
- 16.2 Where HLH, as part of the HLH Obligations, or otherwise under this Agreement, processes personal data on behalf of the Council, then in relation to such personal data HLH shall:-
 - 16.2.1 act only on instructions from the Council;

- 16.2.2 comply with the Council's instructions in relation to the processing of such personal data as such instructions are given and varied from time to time by the Council; and
- 16.2.3 take all appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, such personal data.
- 16.3 Clause 16.2 shall apply in relation to any personal data processed by the Council on behalf of HLH under this Agreement as if each reference in that clause to HLH were a reference to the Council, and vice versa.
- 16.4 For the purposes of this clause 16, the terms "personal data" and "processing" shall have the meanings ascribed to them in the Data Protection Act 1998.
- 16.5 All information (including, without limitation, any Confidential Information) submitted to any Party by any other may be disclosed and/or published by any other Party; without prejudice to that generality, any Party may disclose information in compliance with
 - 16.5.1 the Freedom of Information (Scotland) Act 2002 (the decisions of any Party in the interpretation of that Act being final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms); or
 - 16.5.2 any other law, or as a consequence of any judicial order or any order by any court, tribunal or body with the authority to order disclosure (including the Scottish Information Commissioner).
- 16.6 If any Party receives a request under the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004, which relates to any Confidential Information,
 - 16.6.1 the Party in receipt of the request may seek the consent of each of the other Parties to release some or all of the Confidential Information in response to that request and shall do so if the Party in receipt of the request is minded to disclose such items, whether in terms of the public interest or otherwise;
 - 16.6.2 if any of the other Parties shall fail to respond to a request for consent of the nature referred to in paragraph 16.6.1 within 5 Business Days of the request being made, it shall be deemed to have consented to the release of information;
 - 16.6.3 in all cases, the Party in receipt of the request may, without the consent of any other Party, disclose any of the Confidential Information, if the Party in receipt of the request (acting reasonably) is satisfied that it is in the public interest for it to do so; and on the basis that in reaching that conclusion, the Party in receipt of the request shall take into account any representations made in connection with this by any of the other Parties but the decisions of the Party in

receipt of the request as to what constitutes public interest shall be final and conclusive in any dispute, difference or question arising in respect of disclosure of the relevant Confidential Information.

17 TERMINATION

- 17.1 The Council may at any time by notice in writing terminate this Agreement with immediate effect, if:-
- 17.1.1 either HLH or HLH Subsidiary fails to observe or perform any of its material obligations contained in this Agreement where such failure is not remediable;
 - 17.1.2 either HLH or HLH Subsidiary fails to observe or perform any of its material obligations contained in this Agreement where such failure was capable of being remedied but was not remedied within 15 Business Days of being requested to do so by the Council; or
 - 17.1.3 either HLH or HLH Subsidiary ceases to carry on its activities, becomes unable to pay its debts when they fall due, either party ceases to carry on its activities, becomes unable to pay its debts when they fall due, becomes insolvent or apparently insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or enters into liquidation whether compulsorily or voluntarily or shall suffer any analogous event under any jurisdiction which it is subject to;
 - 17.1.4 either HLH or HLH Subsidiary fails to comply with a remedial plan of the nature referred to in clause 17.2 within the period reasonably prescribed within that remedial plan.
- 17.2 In the event of either HLH or HLH Subsidiary committing any breach or series of breaches in respect of its obligations under this Agreement, the Council may (without prejudice to any right to terminate this Agreement under clause 17.1)
- 17.2.1 enter into discussions with either or both HLH and HLH Subsidiary with a view to determining how that breach or series of breaches might be remedied or the incidence of any breaches of that nature might be reduced or eliminated;
 - 17.2.2 prescribe (acting reasonably, and taking account of any discussions held in pursuance of paragraph 17.2.1) a remedial plan (including a reasonable period for implementation) which it shall issue in writing to HLH and/or HLH Subsidiary (as appropriate);

and each of HLH and/or HLH Subsidiary shall be under an obligation to comply with the remedial plan within the period stated in such remedial plan and HLH shall be under a further obligation to ensure that its wholly-owned subsidiary (as appropriate) complies with such plan within the relevant timescales.

- 17.3 This Agreement shall automatically terminate if the Council exercises any right to terminate the Services Agreement, the Property Agreement or a majority of the Leases.
- 17.4 Termination or expiry of this Agreement, howsoever arising, shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Council, including without prejudice to the generality of this clause, the right to recover any sums of money which are due to be paid hereunder.
- 17.5 Notwithstanding the provisions of clause 17.1, the provisions of clauses 1, 12.3, 13, 15, 16, 18, 20, 24, 25, 27 to 33 and 35 shall survive termination or expiry of this Agreement for any cause.

18 CONSEQUENCES OF TERMINATION

- 18.1 In the event of termination or expiry of this Agreement for any reason:-
 - 18.1.1 the licence granted by the Council to HLH under clause 2.1 shall terminate;
 - 18.1.2 the licence granted by the Council to HLH Subsidiary under clause 5.1 shall terminate;
 - 18.1.3 HLH hereby assigns to the Council its whole right, title and interest in and to all IPR owned by it, or to which it has rights, including, without prejudice to that generality, all Foreground IPR (including, with effect from its creation, all future rights);
 - 18.1.4 HLH shall procure that any of its wholly-owned subsidiaries shall assign to the Council its whole right, title and interest in and to all IPR owned by it, or to which it has rights, including, without prejudice to that generality, all Foreground IPR (including, with effect from its creation, all future rights);
 - 18.1.5 HLH shall transfer to the Council all rights of ownership in any item forming part of the Collections which it has acquired in accordance with clause 2.7;
 - 18.1.6 Each of HLH and HLH Subsidiary shall immediately pay to the Council all sums due to the Council under this Agreement and not already paid;
 - 18.1.7 Each of HLH and HLH Subsidiary shall cease to use the Council Data and the Council Documentation and shall return to the Council all Council Data and Council Documentation;

- 18.1.8 Each of HLH and HLH Subsidiary agrees to fully co-operate with the Council to ensure an orderly migration of the HLH Obligations to the Council or, at the Council's request, to a Third Party.
- 18.2 Where either HLH or HLH Subsidiary or any wholly-owned subsidiary of HLH has granted to a Third Party a licence or sub-licence of IPR, the Council shall, at its discretion, have the right to terminate each such sub-licence, or to enter into a direct licence with such Third Party.

19 DOCUMENTATION

- 19.1 The Council shall supply and/or make available for inspection at the Council's premises (at the discretion of the Council) the Council Documentation to HLH on or before the Commencement Date.
- 19.2 HLH shall be obliged to handle and (where it has custody of any such documentation) store the Council Documentation in accordance with best practice and appropriate policies and guidelines, having regard to the nature of the documentation, its age and condition.

20 AMENDMENTS TO THIS AGREEMENT

- 20.1 Save as otherwise provided, this Agreement shall not be altered or supplemented unless such alteration or supplement is recorded in a written document signed by a duly authorised representative of HLH on behalf of HLH, a duly authorised representative of HLH Subsidiary on behalf of HLH Subsidiary and by a duly authorised representative of the Council on behalf of the Council.
- 20.2 The Schedule to this Agreement may be amended in accordance with the Change Control Procedures.

21 NOTICES

- 21.1 All notices and notifications under this Agreement shall be given or issued by letter or by other written document, or by way of facsimile transmission or other visible electronic means.
- 21.2 A notice or notification under this Agreement shall (subject to clauses 21.3 and 21.4) be deemed to be duly given:-
- 21.2.1 in the case of a letter or other written document, when delivered;
- 21.2.2 in the case of facsimile transmission or other visible electronic means (provided that any relevant answerback has been received) when despatched;

to the Party to which it is given, addressed to that Party (mentioning the contact name last intimated in writing to the Party giving the notice) at the address last intimated in writing to the Party giving the notice or (as the case may be) at the facsimile number then current of the Party to which it is given.

- 21.3 A notice or notification which is delivered, or (in the case of facsimile transmission or other visible electronic means) despatched, outwith business hours shall be deemed to be duly given during business hours on the Business Day which next follows.
- 21.4 A notice sent by first class recorded delivery post (or equivalent postal service) shall be deemed to have been delivered during business hours on the Business Day following the date of posting; in proving that a notice was given, it shall be sufficient to prove that an envelope containing the notice was duly addressed and posted in accordance with clause 21.2.
- 21.5 For the purposes of clauses 21.3 and 21.4, “business hours” shall mean the period between 9.00 a.m. and 5.00 p.m. on a Business Day.
- 21.6 Unless and until some other address or facsimile number or contact name is supplied in pursuance of clause 21.2, the respective addresses, contact names, and facsimile numbers for the respective parties are as follows:

For the Council:

Fax number:

For the attention of:

For the Council’s Insurance section:

Fax number:

For the attention of:

For HLH:

Fax number:

For the attention of:

For HLH Subsidiary:

Fax number:

For the attention of:

22 MONITORING & REVIEW

- 22.1 The Council shall be entitled to have access to the Collections at any time (subject to (a) giving reasonable prior notice to HLH (except in case of emergency) and (b) complying with any reasonable requirements of HLH as regards security and/or health and safety) for the purpose of satisfying itself that HLH is complying with its obligations under this Agreement and/or for the purpose of monitoring the performance of HLH in carrying out the HLH Obligations.
- 22.2 The Council will appoint a Council Representative, and HLH will appoint a HLH Representative, to oversee the performance of this Agreement. No Party shall change such appointee without prior consultation with the other Party; the HLH Representative shall represent both HLH and the Subsidiary.
- 22.3 The Council Representative and the HLH Representative shall meet at least once every quarter, or as otherwise agreed, to review the performance by HLH of the HLH Obligations and to review the use by HLH Subsidiary of the Collections Intellectual Property.
- 22.4 The review meetings referred to in clause 22.3 shall, in addition to addressing any perceived shortcomings in the performance of the HLH Obligations, afford an opportunity for the Council and HLH to exchange views in relation to how performance of the HLH Obligations might be improved or rendered more efficient (whether in the light of new technology or otherwise); any such proposals may, if the Council sees fit, be reflected in the subsequent initiation by the Council of a change to the services specification in pursuance of clause 6.1 of the Services Agreement.
- 22.5 The review meetings referred to in clause 22.3 shall be convened on not less than 3 Business Days' notice, except in an emergency (in which case as much notice as is reasonably practicable shall be given); and shall (except in the case of an emergency) be accompanied by an agenda of items to be discussed at the meeting.
- 22.6 The HLH Representative shall be responsible for preparing minutes of all meetings.
- 22.7 A copy of the minutes prepared by the HLH Representative in pursuance of clause 22.6 shall be forwarded to the Council Representative by the HLH Representative within 5 Business Days of the date of the meeting.
- 22.8 The Council Representative shall advise the HLH Representative of any comments which he/she has in respect of the minutes prepared in pursuance of clause 22.6 within 5 Business Days of receipt of a copy of the minutes in accordance with clause 22.7; and the HLH Representative will make such revisions to the minutes as are agreed between the Council Representative and the HLH Representative.

23 REPORTS

- 23.1 HLH shall keep the Council informed of progress on the performance of the HLH Obligations and shall provide the Council with such reports at such

intervals and in such form as the Council may reasonably require from time to time.

23.2 The reports referred to in clause 23.1 shall, unless otherwise required by the Council, relate to matters falling under the following headings:

23.2.1 Loans to Third Parties

23.2.2 Loans from Third Parties

23.2.3 New acquisitions

23.2.4 Libraries

23.2.5 Archives

23.2.6 Disputes/returns

23.2.7 De-accessions and disposals

23.2.8 Research / analysis

23.2.9 Conservation

23.2.10 Stores

23.2.11 Inventory update

23.2.12 Security incident report forms

23.2.13 HLH's performance in respect of carrying out the HLH Obligations;

23.2.14 any failure in performance or observance of the obligations of the respective Parties under this Agreement of which it becomes aware.

24 DISPUTE RESOLUTION

24.1 All disputes between the Parties arising out of or relating to this Agreement shall, in the first instance, be dealt with by the Council Representative and the HLH Representative.

24.2 Where a dispute has not been resolved in accordance with clause 24.1 within a period of 14 Business Days, it may be escalated further by either Party to the board of directors of HLH and the Chief Executive of the Council for resolution.

24.3 Work and activity to be carried out under this Agreement shall not cease or be delayed by the dispute resolution procedure referred to in this clause 24.

25 PUBLICITY

25.1 No Party (including their respective agents, employees or representatives) will, without the prior written consent of each of the other Parties, disclose or

permit to be disclosed any part or parts of this Agreement except and to the extent that such disclosure may be necessary to:-

- 25.1.1 comply with the law or the requirements of auditors;
 - 25.1.2 provide information to HM Revenue & Customs and its professional advisers;
 - 25.1.3 provide information to a Party's professional advisers; or
 - 25.1.4 provide information to any party to which the HLH Obligations may be transferred.
- 25.2 No Party will unreasonably withhold or delay its consent to a request by any other Party to disclose the contents of the Agreement to a Third Party which has a *bona fide* interest therein.

26 DISCRIMINATION

- 26.1 Each Party undertakes that it shall not, throughout the period of this Agreement, unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (together "Discrimination Legislation") (whether in race, gender, religion, disability, sexual orientation or otherwise) including, without limitation, the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, Employment Equality (Sexual Orientation) Regulations 2003 and Employment Equality (Religion or Belief) Regulations 2003.
- 26.2 Each Party shall take all reasonable steps to ensure the observance of the provisions of clause 26.1 by all of its employees, agents and consultants.

27 FORCE MAJEURE

- 27.1 If any Party is prevented from or hindered or delayed in performing any obligations under this Agreement by reason of any circumstances beyond its reasonable control (including, without prejudice to that generality, strikes or lockout):
- 27.1.1 it shall be excused performance to the extent affected by the circumstances concerned, so long as it shall both have given notice to the other Party of those circumstances promptly after they first affected performance and uses all reasonable commercial endeavours to eliminate or mitigate their cause or effect;
 - 27.1.2 performance by that Party shall be excused for the period during which the inability of the Party to perform by reason of the circumstances concerned subsists (or, if a shorter period, the period for which it would have been unable to perform for that reason had it complied with its obligation under paragraph 27.1.1 to seek to

eliminate or mitigate their cause or effect) but for no longer period, and shall be remedied as soon as possible; and

- 27.1.3 any time period for performance by that Party shall be extended by a period equal in duration to any period for which performance is excused under paragraph 27.1.2.
- 27.2 If HLH or HLH Subsidiary is prevented or impeded from performing any or all of the HLH Obligations or any other obligation under this Agreement by reason of any of the circumstances falling within the provisions of clause 27.1, for a period in excess of three months, then the Council may terminate this Agreement, with immediate effect, by written notice to HLH or HLH Subsidiary (as appropriate), with such termination to take effect forthwith.

28 AUDIT

- 28.1 HLH shall keep or cause to be kept full and accurate records (the “**Records**”) of all work and activities carried out and HLH Obligations performed in connection with this Agreement.
- 28.2 On at least five Business Days’ notice from the Council, HLH shall grant to the Council, the Council’s internal auditors and any statutory auditors of the Council and their respective authorised agents, reasonable access during HLH’s normal working hours to the Records and/or any premises and/or materials used in the performance of the HLH Obligations or otherwise in connection with this Agreement.

29 ASSIGNATION AND SUB-CONTRACTING

- 29.1 HLH shall not be entitled to assign or otherwise dispose of its rights and obligations under this Agreement or any part thereof.
- 29.2 The Council shall be entitled (without any requirement for HLH’s consent) to assign or otherwise dispose of its rights and obligations under this Agreement or any part of them to any successor body to the Council.

30 SEVERABILITY

- 30.1 If any provision of the Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.
- 30.2 If
- 30.2.1 circumstances arise of the nature referred to in clause 30.1; or
- 30.2.2 any of the Parties (having regard to developments or anticipated developments in the law or other relevant factors) believes (acting reasonably) that a provision of the Agreement might be held invalid, illegal or unenforceable if challenged,

the Parties shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the provision which is found to be invalid, illegal or unenforceable or is considered to be vulnerable to challenge.

31 WAIVER

- 31.1 The failure of any Party to insist upon strict performance of any provision of this Agreement, or the failure of any Party to exercise any right or remedy to which it is entitled under this Agreement, shall not constitute a waiver of that provision, right or remedy; and shall not prejudice the ability of that Party to enforce that provision in accordance with its terms, or to exercise that right or remedy, on any future occasion.
- 31.2 No waiver of any of the provisions of this Agreement shall be effective unless it is expressly stated to be a waiver, identifies the specific provision(s) to which it relates, and is communicated to each other Party in writing, signed by a duly authorised representative of the Party which is waiving the relevant provision(s).

32 RIGHTS OF THIRD PARTIES

- 32.1 Save to the extent expressly set out in this Agreement, this Agreement is not intended to create nor shall it create, any rights, entitlement, claims or benefits enforceable by any person that is not a Party to it.

33 INDEPENDENT CONTRACTORS

- 33.1 The Parties are independent contractors and nothing in this Agreement and no action taken by the Parties pursuant to this Agreement, shall constitute, or be deemed to constitute, between the Parties a partnership, association, joint venture or other co-operative entity.

34 COSTS

- 34.1 Except as otherwise provided in this Agreement, each Party shall pay its own costs in connection with negotiation, preparation, execution and performance of this Agreement and all ancillary documents to it.

35 LAW AND JURISDICTION

35.1 This Agreement is governed by and shall be construed in accordance with Scots law and, subject to clause 24, the parties hereby submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF this Agreement comprising this page, the 31 preceding pages together with the Schedule in 6 parts annexed is executed by the Parties as follows:-

SEALED with the Common Seal of
the said THE HIGHLAND COUNCIL
and SUBSCRIBED for and on its
behalf

at

on

by

Print Full Name

Authorised Signatory

SUBSCRIBED for and on behalf of
the said HIGH LIFE HIGHLAND

at

on

By

Print Full Name

Director

before this witness

Print Full Name

Witness

Address

SUBSCRIBED for and on behalf of
the said HIGH LIFE HIGHLAND (TRADING) C.I.C.

at

on

By _____

Print Full Name

Director

before this witness

Print Full Name

Witness

Address

This is the Schedule referred to in the preceding Collections Agreement among The Highland Council, High Life Highland and High Life Highland (Trading) C.I.C.

SCHEDULE

PART 1 – RIGHTS GRANTED

The rights granted under clause 2.1 of the Agreement in relation to each item forming part of the Collections are subject to the terms and conditions of clauses 2.2 to 2.10 and clauses 3.1 to 3.7 of the Agreement. Subject to the preceding sentence, the rights granted in relation to each item forming part of the Collections are as follows:

- The right to
 - display and exhibit that item
 - conserve that item
 - index that item as part of an electronic database of the Collections
 - photograph and/or digitise that item
 - make reproductions, replicas and facsimiles of that item
 - use an image of that item for the purpose of marketing HLH and / or the Collections
 - lend that item to a Third Party
 - dispose of that item
 - use that item for the purposes of research

subject, in each case, to compliance with the Law and relevant Standards, Policies, Treaties and Codes of Ethics.

PART 2 – HLH OBLIGATIONS

- 1 With effect from the Commencement Date, HLH shall be responsible for the physical and intellectual integrity of the Collections, and for supporting the public programmes in the HLH Premises. It shall be the duty of HLH to maintain a balance between public access to the Collections in the present, and stewardship of this precious resource for the future.
- 2 The HLH Obligations shall include the following:
 - care and maintenance of the Collections
 - developing and/or implementing conservation policies and practice in relation to the Collections
 - repair in the event of damage of any item forming part of the Collections
 - making appropriate security arrangements for the Collections
 - developing special collections
 - developing and/or implementing appropriate collecting policies
 - collecting and making appropriate use of donations in relation to the Collections
 - purchasing new items to be accessioned or otherwise to become part of the Collections
 - developing and/or implementing the Collections lending policy
 - enabling appropriate use of the Collections for research
- 3 Without prejudice to the generality of paragraph 2 of this Part 2 of the Schedule, the HLH Obligations shall also include the following:
 - Manage, develop and administer the centralised collections information databases as a means to provide access to information (to staff and public) relating to the Collections.
 - Keep abreast of legal, insurance and other professional and museological or archival issues that affect and support HLH's processes and transactions
 - Develop and maintain management procedures in relation to the Collections
 - Plan and carry out inventories of the Collections to agreed standards and keep up to date through object movement procedures.
 - Carry out cyclical audits of the Collections

- Carry out the classification, cataloguing and tracking of the Libraries Collections
- Develop the HLH archive and research materials
- Maintain access to the Archives
- Establish and implement a retention scheduling scheme as it pertains to curatorial, conservation and Collections activities
- Ensure appropriate storage and long term care of Collections
- Ensure invigilation of researchers accessing the Collections
- Manage all inward loans to the Museums from national and international sources and negotiating term of loan as required. .
- Manage outward loans nationally and internationally, conduct appropriate risk assessments, enforcement of the Council’s interests through lending agreements.
- Compile Government Indemnity insurance applications and ensure requirements with regard to security and environments are communicated and met.
- With the Security Manager, facilitate access to the National Security Advisor and ensure recommendations are addressed where applicable
- Collate facilities reports for each venue borrowing objects which are used by external agencies risk assessing lending to/ or insuring the Museums.
- Maintain a central register for all inward loans and provide monthly declarations to the insurance section (where the value of the loans exceeds £[●]) regarding value of assets on loan to HLH
- Maintain a central register for all outward loans from HLH
- Arrange and schedule the transport of all inward loans and acquisitions, where these are not being delivered by the donor
- Market and promote HLH venues, the Collections, projects, exhibitions and events, and the education programme (including seeking sponsorship for materials where appropriate); ensure that all materials adhere to the industry standard of “honest, decent, legal and truthful”.
- Develop strategies and policies relating to the Collections
- Develop and implement an exhibitions programme for the Collections.
- Produce and monitor copyright and licensing guidelines and agreements.

- Conserve and care for the Collections whether on display, in store or in transit, and to make them safely accessible now, and for the future
- Ensure the security of the Collections to prevent theft, accidental or deliberate damage
- Comply with all Laws relating to the Collections including, without prejudice to that generality, compliance with all health and safety regulations and fire regulations
- Develop, initiate and maintain an appropriate disaster plan in relation to each of the HLH Premises
- Carry out research in relation to the Collections to assist in authenticating items and to better understand the item, its historical context and its method and materials of construction / development
- Ensure that all aspects of the use of the Collections are conducted and maintained with reference to the conservation policy
- Monitor the condition of the Collections
- Carry out practical measures to maintain the Collections safely
- Develop and implement survey strategies, and documentation, to inform conservation policy
- Develop and implement conservation strategies to provide safe access to Collections
- Develop and implement strategies for the long-term care of Collections
- Develop and implement strategies for safe storage
- Ensure compliance with specified handling techniques in relation to the Collections
- Develop object handling techniques for large, heavy and awkward objects
- Develop and implement a rolling schedule of public events / programmes including;
 - o Exhibitions
 - o Displays
 - o Events
 - o Education and access initiatives
- Carry out necessary conservation/restoration treatments in relation to the Collections

- Carry out all work in relation to new acquisitions, including all investigatory work
- Respond to public enquiries and provide advice to the public in relation to the Collections
- Work towards the goal of storing all of the Collections in an appropriate way
- Ensure that all projects are underpinned by sound research and that this knowledge is made publicly accessible through a range of publications, displays, online resources, seminars and lectures
- Develop and maintain professional curatorial standards in relation to the Collections

PART 3 - HLH PREMISES

Registers of records held

Highland Archive Centre, Inverness:

- Register of Accessions of Archives, 1990 – current
- Register of Council records transferred to the Records Management Service, 2002 – current
- Family History Centre: microform resources including census returns, Old Parish Registers and the International Genealogical Index, Reference Library
- Searchroom Library

Caithness Archive Centre, Wick:

- Register of Accessions of Archives, 1995 – current
- Register of Council records transferred to the Records Management Service, 2010 - current
- Searchroom Library

Lochaber Archive Centre, Fort William

- Register of Accessions of Archives, 2007 – current
- Register of Council records transferred to the Records Management Service, 2011 - current

Skye & Lochalsh Archive Centre, Portree

- Register of Accessions of Archives, 2009 – current
- Searchroom Library

Library Special Collections

Holdings

Fraser Mackintosh Collection	Inverness Reference Library
Scottish Drama Association Collection	Inverness Reference Library
Highland Geological Society Collection	Inverness Reference Library
Wine Appreciation Society Library	Inverness Reference Library
Gaelic Society Library	Inverness Reference Library
Kirk Session Library	Inverness Reference Library
Inverness Field Club Collection	Inverness Reference Library
North of Scotland Archaeological Society (NOSAS) Collection	Dingwall Library
Dornoch Collection	Dornoch Library
Mowat Collection	Wick Library
Robert MacDonald Collection	Portree Library
Scottish Poetry Library Collection	Portree Library

Exhibitions Unit, IMAG & LSU, Inverness

- SAC Bequest Collection with accompanying records

- Highland Council Art Collection with accompanying records
- small Craft Collection and Handling Collection (from residency projects)

Highland Folk Museum, Kingussie & Newtonmore

- Collections catalogues and lists on paper to 1975
- Accessions register 1975- current
- Reference library and Archive

Inverness Museum & Art Gallery, Inverness

- Accessions Register
- Reference library

Highland Photographic Archive, Church Street, Inverness

- Whyte collection
- Cook collection
- Thomson collection
- Miscellaneous collection

PART 4 – ACCREDITATIONS

- Museums, Libraries and Archives Council’s Accreditation Scheme
- Libraries Accreditation - The Public Library Quality Improvement Matrix

The Public Library Quality Improvement Matrix (PLQIM) is a specially developed quality assurance tool by the Scottish Library and Information Council (SLIC) for public libraries in Scotland and approved and adopted by the Scottish Executive March 2007.

It follows two sets of Public Library Standards, which were developed with COSLA and published in 1986 and 1995.

The main Standards are:-

1. Authorities must adopt and publish a vision and policy objectives for the public library service.
2. Public library services in a local authority area must be planned and provided in consultation with other services, consistent with the strategic priorities agreed as part of the Community Planning process.
3. Public library services must prepare, approve and publish a resource management and collection policy. This policy should be implemented and reviewed using evidence based stock management processes.
4. Public library services should ensure that stock is relevant and in good condition. This should be monitored and reported through the Public Library Quality Improvement Matrix.
5. Public library services should ensure their library management system is fully compliant with standards and the National Entitlement Card Scheme.
6. All library resources must be accessible via a web-enabled catalogue and local networks for use by individuals and communities. Catalogues should be standards compliant and be available for cross searching with those of other services.
7. Public library services must prepare and approve an Acceptable Use Policy for internet and PC use.
8. Libraries should purchase and promote Scottish Material in its widest sense.
9. Public library services should be encouraged to co-operate with other library and information services, working towards greater sharing of resources at local, regional and national level.

10. Libraries should undertake regular market research, review customer feedback and develop marketing strategies for their services using robust and quality mechanisms.
11. Local authorities should carry out a review of public library services, using the Public Library Quality Improvement Matrix to demonstrate Best Value and the delivery, in due course, of cultural entitlements.
12. Local authorities should make the report of the Public Library Quality Improvement Matrix process available to the public.

Entitlements for the public, standards are:-

1. Free access to books for lending and study and the internet through broadband networks
2. Access to the local authority's policy objectives and vision for the public library service.
3. Access to the public library service's policies on resource and collections management.
4. Access to stock which is in good condition.
5. Public library services offered through the National Entitlement Card, which is issued locally.
6. Access to the local authority's library resources and online request and renewal service via a web-enabled catalogue.
7. Access to the public library service's policies on Acceptable Use for internet and computers.
8. Access to a range of material by Scottish authors or published by Scottish publishers.
9. Opportunity to express views about the public library service through consultations.
10. Access to the resources of other library and information services via inter-lending agreements, resource sharing co-operatives or using the services of the National Library of Scotland and the British Library.

PART 5 – LAWS, STANDARDS, GUIDELINES AND CODES OF ETHICS

ARCHIVES

Standards for Archives

- The British Standard BS5454:2000 (Recommendations for the Storage and Exhibition of Archival Documents) specifies a set of recommended conditions and this is used as the benchmark when assessing the environment of archival documents
- The British Standard BS 4971:2002 Repair and Allied Processes for the Conservation of Documents
- BS 15489:2001 Information and Documentation-Records Management
- BS 10008:2008, The Evidential Weight and Legal Admissibility of Electronic Information
- International Standard on Records Management, ISO 15489
- Society of Archivists and Records Management Society Code of Practice for Archivists and Records Managers
- The National Archives - Standards for Record Repositories, 2004
- National Council on Archives: Standard for Access to Archives, 2008
- [Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities 2010]

Primary legislation for public records

- Public Records (Scotland) Act, 1937
- National Heritage (Scotland) Act 1985
- Public Registers and Records (Scotland) Act 1948
- Public Records Act 1958
- Public Records Act 1967
- Public Records (Scotland) Act 2011 (once this has come into force)
- Data Protection Act 1998
- [Human Rights Act 1998]
- Freedom of Information (Scotland) Act (2002) (FOISA) and the Scottish Information Commissioner's Code of Practice on Records Management, 2003

Local government records legislation

- Local Government (Scotland) Act 1973
- Local Government (Access to Information) Act 1985
- Local Government etc (Scotland) Act 1994

Standards for libraries

- 1995 – COSLA Public Library Standards
- 2006 – SLIC (Scottish Library and Information Council) Public Library Improvement Matrix

Standards and Guidelines for Museums, Libraries and Archives in the UK

Statutory Regulations

World Regulations

- UNESCO (1954) convention and protocol for the protection of cultural property in the event of armed conflict (Hague convention) and the second protocol (1999).
- UNESCO (1970) convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.
- UNESCO (1972) convention concerning the protection of the world cultural and natural heritage.
- UNESCO (1997) human rights commission principles and guidelines for the protection of the heritage of indigenous peoples.
- UNESCO (2003) Charter on the Preservation of the Digital Heritage
- UNIDROIT (1995) convention on stolen and illegally exported cultural objects.
- United Nations (1993) declaration on the rights of indigenous peoples (Maatataua declaration).
- United Nation Convention on Biological Diversity - Rio de Janeiro, 1992 and the Cartagena protocol – Montreal, (2000).
- World Archaeological Congress, (1989) the Vermilion accord on human remains.
- Inter-Allied Declaration Against Acts Of Dispossession Committed In Territories Under Enemy Occupation Of Control (1943)
- Washington Conference on Holocaust-Era Assets (1998)

EU Legislation

- European convention (1973) on the protection of the archaeological heritage.
- EC council directive no. 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a member state.
- EU regulations (EEC no 3911/92) on export of cultural goods out of the European community.
- Council regulation (EC) no. 338/97: protection of species of wild fauna and flora by regulating the trade in these species.
- European commission regulation 939/97 corrigendum to commission regulation (EC) no 939/97 26th may 1997 laying down detailed rules concerning the implementation of council regulation (EC) no 338/97 on the protection of species of wild fauna and flora by regulating trade there in.
- EC directive 2003/4/EC on public access to environmental information.

- Commission regulation (EC) no 349/2003 of 25 February 2003. Suspend the introduction into the community of specimens of certain species of wild fauna and flora.
- Commission regulation (EC) no 1497/2003 of 18 August 2003 on the protection of species of wild fauna and flora by regulating trade therein.

UK Legislation

- Endangered Species (Import and Export) Act (1976)
- Ancient Monuments and Archaeological Areas Act (1979)
- Wildlife and Countryside Act (1981) and subsequent amendments
- The Environmental Information Regulations 2004, Statutory Instrument 2004 No. 3391
- Return of Cultural Objects regulations (1994)
- Law relating to treasure trove
- Data Protection Act (1998).
- Freedom of Information (Scotland) Act (2002).
- Copyright and Related Rights regulations (2003).
- Dealing in Cultural Objects (Offences) Act (2003)
- Human Tissue Act (2004)
- The Return of Cultural Objects Regulations 1994
- The Return of Cultural Objects (Amendment) Regulations 1997
- Copyright, Designs and Patents Act 1988
- Disability Discrimination Act 2005
- Control of Substances Hazardous to Health (COSH)
- **National Archives**
 - Planning a New Record Repository
 - Standards for Record Repositories
 - A Code of Practice on **Archives** for Museums and Galleries in the UK (2002)
- **National Occupational Standards In Publishing**
<http://www.train4publishing.co.uk/ocstd/what>
- **RNIB: Good Design Standards and Clear Print Guidelines**
http://www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public_public_intdesign.hcsp
- **Scottish Government: How Good is our Culture and Sport?**

- **Guild of Taxidermy Accreditation Standards**

www.taxidermy.org.uk

- **Museums Libraries And Archives Council (MLA) (Previously RE: Source and Museums and Galleries Commission)**

- Accreditation Standards (2005)
- Benchmarks in Collections Care (2002)

- **Museum Accreditation Scheme (2004)**

This scheme sets nationally agreed standards for UK museums. To qualify, museums must meet clear basic requirements on how they care for and document their collections, how they are governed and managed, and on the information and services they offer to their users.

- **Responding To Cultural Diversity: Guidance For Museums And Galleries (2000)**

The paper focuses on ethnically based cultural diversity. The guidance ‘deals with areas that contribute towards creating an ‘accessible culture’ for ethnic minority communities’.

- **Government Indemnity Scheme: National Heritage Act 1980 Indemnity Arrangements For Local Museums, Galleries And Other Non-Governmental Bodies (2000)**

This note gives guidance on the indemnity arrangements for loans to museums, galleries or libraries maintained by local authorities, university or library authorities, the National Trust, and private bodies or individuals approved by the Secretary of State for Culture, Media and Sport under the National Heritage Act, 1980. It contains information on

- the statutory requirements which must be satisfied (public access and security)
- the procedure for application
- factors to be considered before an indemnity is granted
- conditions of indemnity cover.

- **Restitution and Repatriation: Guidelines For Good Practice (2000)**

These guidelines aim to encourage those museums holding material in their collections which might form the subject of a repatriation request to be proactive in considering how to respond. The guidelines cover:

- reasons for, sources and forms of requests
- context for responding to a request for return
- considering a request
- reaching a decision
- relevant case studies.

- **Guidelines For Good Practice Series: Insurance For Museums (2000)**

The guidance offers practical advice on why museums should take out insurance cover and describes the range of cover available. It offers background information on how the insurance industry is organized and operates, and how specialist brokers and underwriters can provide highly customized cover for museums and similar heritage bodies.

The guidelines have chapters on the following issues:

- the insurance market
- risk management
- insurance and risk management
- different ways of insuring
- understanding the cover
- areas of risk and risk solutions.

- **Environmental Management: Guidelines For Museums And Galleries (1995)**

This guide presents a strategic approach to environmental management, outlining the theory and practice of achieving an appropriate museum environment for both collections and people.

- **Museum Learning Online: Guidelines For Good Practice (2001)**

Museum Learning Online aims to provide guidance for projects that intend to use museum and gallery collections for educational projects via the web.

- **Standards in the Museum Care of Archaeological Collections (1992)**

This publication aims to identify and to promote best practice in caring for archaeological museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.

- **Standards in the Museum Care of Biological Collections (1992)**

This publication aims to identify and to promote best practice in caring for biological museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.

- **Standards in the Museum Care of Geological Collections (1992)**

This publication aims to identify and to promote best practice in caring for geological museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.

- **Standards in the Museum Care of Musical Instruments Collections (1992)**

This publication aims to identify and to promote best practice in caring for musical instrument museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.

- **Standards in the Museum Care of Textile Collections (1992)**
This publication aims to identify and to promote best practice in caring for textile museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.
- **Standards in the Museum Care of Larger And Working Objects Collections (1992)**
This publication aims to identify and to promote best practice in caring for larger, particularly industrial, museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.
- **Standards in the Museum Care of Photographic Collections (1992)**
This publication aims to identify and to promote best practice in caring for photographic museum collections. Guidance is broken into three main sections: managing collections, protecting collections and health and safety.
- **Standards and Guidelines for Museums, Libraries and Archives in the UK:**
 - Archive Standards and Guidelines
 - Cross-Domain Standards and Guidelines
 - Library Standards and Guidelines.
- **Spectrum: The UK Documentation Standard (1997)**
This standard represents a common understanding of good practice for museum documentation. It contains procedures for documenting objects and the processes they undergo, as well as identifying and describing the information which needs to be recorded to support the procedures’.
- **MDA Guidelines On Disposing Of Objects You May Not Own**
Guidelines developed to allow museums to undertake disposal of objects that they may not own to insure that legal, ethical and public relations management issues are fully covered; it defines the types of objects that are covered under this method of disposal and highlights how this type of disposals is different from disposal in general. It then lays down a series of basic principles to apply in each case and a set of procedures to deal with difficult situations.
- **MDA Procedures for Collections Management**
- **American Institute For The Conservation Of Historic And Artistic Works (AIC)**
Code of Ethics and Guidelines For Practice
<http://aic.stanford.edu/pubs/ethics.html>
- **Australian Natural Heritage**
Charter for the conservation of places of natural heritage significance (2002)

- **Angus Council Conservation Charter**
Development Control
- ***Corpus Vitrearum Medii Aevi (CVMA)***
Guidelines for the Conservation and Restoration of Stained Glass, Second Edition, Nuremburg 2004
- **ECCO (European Confederation Of Conservator-Restorers' Organisations AISBL / Confederation Européenne Des Organisations De Conservateurs-Restaurateurs AISBL)**
ECCO Professional Guidelines I, II and III and Statutes
http://www.ecco-eu.info/index.php?container_id=163&doc_id=170
http://www.ecco-eu.info/index.php?container_id=163
- **International Scientific Committee For Analysis And Restoration Of Architectural Heritage (ISCARSAH)**
Recommendations for the Analysis, Conservation and Structural Restoration of Architectural Heritage
- **Institute of Conservation**
Professional Accreditation of Conservator Restorers
http://www.pacr.org.uk/docs/pacr_ac_guide_2006.doc
<http://www.pacr.org.uk/>
- **The Institute of Paper Conservation**
Statutes
- **London Metropolitan Archives**
Preservation and Conservation Policy April 2001
- **Royal Armouries Museum, Conservation Department Policies And Procedures**
Interventive Conservation
<http://www.royalarmouries.org/extsite/view.jsp?sectionId=1652>
- **Society For The Preservation Of Natural History Collections (SPNHC)**
Guidelines for the Care of Natural History Collections
<http://palimpsest.stanford.edu/byorg/spnhc/spnhc1.html>
- **United Kingdom Institute For Conservation of Historic and Artistic Works (UKIC)**
Code of Ethics and Rules of Practice
<http://www.icon.org.uk/>

- **United Nations Educational, Scientific And Cultural Organization**

Charter on the Preservation of the Digital Heritage

http://portal.unesco.org/ci/en/files/13367/10700115911Charter_en.pdf/Charter_en.pdf

- **Scottish Museums Council**

- A National Collections Development Strategy for Scotland's Museums (2006)

Offers guidance on how to better manage museum collections and use them to greater effect.

- A National Workforce Development Strategy for Scotland's Museums (2006)

This strategy lays out clear priorities for the development of staff and volunteers in museums and galleries in Scotland.

- A National Learning and Access Strategy for Museums and Galleries in Scotland (2005)

Offers guidance on how to make learning and access integral to service delivery. Its recommendations help museums and galleries contribute to the development of a democratic, confident and creative Scotland by playing an invaluable role in advancing equality of access and cultural engagement opportunities for all.

- A National ICT Strategy for Scotland's Museums (2004)

Provides guidelines on the use of ICT in museums.

- Collections Care and Conservation Fact sheets - various

http://194.200.63.26/information_services/factsheets.asp

- **Museum Ethnographers Group**

- Guidance Notes On Ethical Approaches In Museum Ethnography (2003)

These guidance notes are intended to inform workers in museums who have responsibility for ethnographic collections and to create an awareness of areas of concern particular to ethnographic material. They will also be helpful to others with general or particular responsibility for such collections.

- Guidelines On The Management Of Human Remains (1994)

Professional guidelines concerning the storage, display, interpretation and return of human remains in ethnographical collections in the UK.

- **The Standing Conference on Archives and Museums (SCAM) (2002)**

Code of Practice on Archives for Museums and Galleries In the UK

The code is offered to museums to give them guidance in administering their archives in accordance with professional standards and to suggest sources of advice and help. The main body of the code is a Working Practice for Archives and archival material, covering:

- acquisition (including joint acquisition with a museum and a record office)
 - conservation, storage and archive management
 - public access to the archives under supervision
 - archives controlled by legislation
 - relationship with the Historic Monuments Commission (HMC) or the Scottish Record Office (SRO).
- **Museums Copyright Group**
 - A Guide To Copyright For Museums And Galleries (2000)
A guide to copyright for museums and galleries, covering:
 - definition of copyright
 - ownership of copyright
 - exploitation of copyright
 - merchandising and publishing
 - Internet and electronic licensing.
- **CILIP (Formerly The Library Association)**
 - Guidelines For Reference and Information Services In Public Libraries (2004)
The Guidelines are structured as a toolkit for managers responsible for providing reference and information services in public libraries.
- **National Preservation Office**
 - Good Handling Principles And Practice For Library And Archive Materials (2000)
The purpose of this leaflet is to emphasize the importance of good handling practices in libraries and archives; to encourage the application of these methods; and to offer guidance to all users on the handling and care of manuscripts, printed documents and books.
 - Guidance For Exhibiting Archive And Library Materials (2000)
The exhibition of archive and library materials has the potential to damage documents and can even lead to loss if security measures are inadequate. This publication is intended to give guidance in providing for the safe exhibition of library and archive materials. It is accompanied by a full bibliography.
 - Photocopying of library and archive materials (2000)
Offers advice on best practice for photocopying in terms of conservation and public services.
- **Historical Manuscripts Commission**
 - Historical Manuscripts Commission Standard For Record Repositories (2001)

The Standard's recommendations are addressed to archivists and governing bodies of record offices, libraries, museums and other institutions holding records which are available to the public for research. Its primary concern is with the well being of records. The Standard makes recommendations for the creation or maintenance of record repositories within five key areas:

- constitution and finance
- staff
- acquisition
- access
- storage and preservation.

- **BSI British Standards**

- BS 5454:2000 Recommendations On The Storage And Exhibition Of Archival Documents (2000)

This standard provides recommendations for the storage and exhibition of archival documents.

- BS ISO 15489-1:2001 Information and documentation. Records management.

Provides guidance on managing records of originating organizations, public or private, for internal and external clients.

- **Archaeological Archives Forum**

- Archaeological Archives: creation, preparation, transfer and curation (2006)

This document sets out recommended standards for the creation, preparation, transfer and curation of archaeological archives. It summarises existing best practice for archaeological archives, including written documents, drawings, photographs, digital material, and objects.

- **Arts Humanities Data Service AND– ADS/ HDS/VADS**

- Digital Archives From Excavation And Fieldwork: Guide To Good Practice (2002)

This is a guide to digital archiving of records produced in the course of assessment, excavation, and post-excavation phases of archaeological projects. It aims to provide information on the best way to create and document digital material produced in the course of excavation and fieldwork, and to deposit it safely in a digital archive facility for future use.

- Digitising history: a guide to creating electronic resources from historical documents

This guide is intended as a reference work for individuals and organisations involved with, or planning, the computerisation of historical source documents.

- Creating digital resources for the Visual Arts: standards and good practice

This Guide both highlights examples of current practice in the creation of digital information in the visual arts domain, and makes recommendations for

best practice in data creation, collection, description, delivery and preservation. It covers the use of domain specific resource description standards and the issues involved in the creation and use of resource discovery metadata for this domain. It also covers explicitly technical issues such as choice of data format and hardware and software platforms for a given resource. This has been written by the Visual Arts Data Service & Technical Advisory Service for Images.

- **Visit Scotland Visitor Attraction Quality Assurance Scheme**

http://www.scotexchange.net/businessdevelopment/qa_home/business_growth_-_va_-_va.htm

- **Website Accessibility Guidelines**

- RNIB

http://www.rnib.org.uk/xpedio/groups/public/documents/code/public_rnib008789.hcsp

- World Wide Web Consortium

www.w3.org

e-government

www.e-envoy.gov.uk and www.govtalk.gov.uk

- **Photography**

standards based on general good practice and experience – standards to be based on what is produced by high-end 39 mega pixel cameras.

- **Picture Library**

adhere to best practice and keep updated through membership of BAPLA (British Association of Picture Libraries and Agencies)

- **Marketing**

no external standards as such, other than ensuring all materials adhere to the industry standard of ‘honest, decent, legal and truthful’

World Standards & Guidelines and Codes of Ethics

- International Council of Museums (ICOM)

- **ICOM Code of Ethics for Museums, 2006**

The *Code of Ethics for Museums* sets minimum standards of conduct and performance to which museum professional staff throughout the world may reasonably aspire as well as a providing a statement of reasonable public expectation from the museum profession.

http://icom.museum/code2006_eng.pdf

<http://icom-cc.icom.museum/> and <http://icom-cc.icom.museum/Links/>

- **Ethics of Acquisition (revised 2004)**

Whatever the subject matter or discipline of the museum and wherever it may be situated in the world, certain principles of ethics and professional integrity in relation to acquisition can be presumed to be applicable. Briefly, this means there must be a full, clear and satisfactory documentation in relation to the origin of any object to be acquired. This is quite as important for an object generally classified in the category of art as for an object of archaeology, of ethnology, or of national and natural history

- **Ename Charter for the Interpretation of Cultural Heritage Sites** (for consideration Jan 2007)

The aim of this Charter is to define the basic objectives and principles of site interpretation in relation to authenticity, intellectual integrity, social responsibility, and respect for cultural significance and context. It recognises that the interpretation of cultural heritage sites can be contentious and should acknowledge conflicting perspectives. The Charter is now in a final review stages and is likely to be adopted by the ICOMOS committee for interpretation and presentation (ICIP) in January 2007.

Statutes

<http://icom.museum/statutes.html>

• **International Council of Museums Committee for Conservation (ICOM-CC)**

The Conservator-Restorer: a Definition of the Profession

<http://icom-cc.icom.museum/About/DefinitionOfProfession/>

International Council of Museums (ICOM) Statutes

• **International Council on Monuments and Sites (ICOMOS)**

- **The Venice Charter**

http://www.icomos.org/docs/venice_charter.html

- **The Athens Charter for the Restoration of Historic Monuments**, Adopted at the First International Congress of Architects and Technicians of Historic Monuments, Athens 1931

http://www.icomos.org/docs/athens_charter.html

- **Burra Charter**, The Australia ICOMOS charter for the conservation of places of cultural significance

<http://www.icomos.org/australia/burra.html>

- **Principles for the Preservation of Historic Timber Structures** (1999)

- **Ename Charter for the Interpretation of Cultural Heritage Sites (5 July 2005)**
 - **International Charter For The Conservation And Restoration Of Monuments And Sites (ICOMOS)**
 - **Principles for the Analysis, Conservation and Structural Restoration of Architectural Heritage** (2003)
http://www.international.icomos.org/charters/structures_e.htm
 - **Principles for the Preservation of Historic Timber Structures (1999)**
http://www.international.icomos.org/charters/wood_e.htm
- **International Council on Archives**
 - **ICA Code Of Ethics (1996)**
The ICA Code of Ethics for archivists aims to establish high standards of conduct for the archival profession by providing an ethical framework for the guidance of the profession. Employing institutions and archive services are encouraged to adopt policies and practices that facilitate the implementation of the code.
- **European Confederation of Conservator-Restorers' Organisation (ECCO)**
 - **Ecco Professional Guidelines: Code Of Ethics (2002-2003)**
The Code of Ethics embodies the principles, obligations and behaviour which every Conservator-Restorer belonging to a member Organization of ECCO should strive for in the practice of the profession. The code is divided into four sections:
 - General Principles for the Application of the Code
 - Obligations towards Cultural Property
 - Obligations to the Owner or Legal Custodian
 - Obligations to Colleagues and the Profession
 - Statutes.

http://www.ecco-eu.info/index.php?container_id=163&doc_id=170
http://www.ecco-eu.info/index.php?container_id=163
- **Society for the Preservation of Natural History Collections**
 - **Guidelines for the Care on Natural History Collections (2004)**
Outlines guidance and ethical approaches to the care of natural history collections, including, preservation, documentation, research and sampling.
- **International Federation of Library Associations and Institutions**
 - **Guidelines For Digitisation Projects For Collections And Holdings In The Public Domain (2002)**

These Guidelines were produced by a working group representing IFLA and the ICA and commissioned by UNESCO to establish guidelines for digitisation programmes for collections and holdings in the public domain. The contract specified that the guidelines should so far as possible be particularly applicable to institutions in the countries of the developing world. The aim was to produce a synthesis of available information, drawing upon both published sources and on the operations of specific projects, illuminated by the personal experience. It is a summary of the best existing knowledge and practice drawn from around the world. These guidelines therefore identify and discuss the key issues involved in the conceptualization, planning and implementation of a digitisation project, with recommendations for 'best practice' to be followed at each stage of the process. Coverage is concerned only with the paper-based documentary heritage, that is with manuscripts, printed books and photographs.

- **World Wide Web Consortium**

- **Web Content Accessibility Guidelines (1999)**

These guidelines explain how to make Web content accessible to people with disabilities. The guidelines are intended for all Web content developers (page authors and site designers) and for developers of authoring tools. While their primary goal is to promote accessibility, following them will also make Web content more available to *all* users, whatever user agent they are using (e.g., desktop browser, voice browser, mobile phone, automobile-based personal computer, etc.) or constraints they may be operating under (e.g., noisy surroundings, under- or over-illuminated rooms, in a hands-free environment, etc.).

- **World Federation Of Friends Of Museums**

- **Code of Ethics for Museum Friends and Volunteers (1996)**

This code outlines the principles and obligations in the working partnerships between museum institutions and friends and volunteers.

Non Statutory Ethical Standards & Guidelines

UK Standards & Guidelines

MUSEUMS ASSOCIATION

- Code Of Ethics For Museums: Ethical Principles For All Who Work Or Govern Museums In The UK, 2002

The code defines ten core museum values. Society can expect museums to:

- hold collections in trust on behalf of society
- focus on public service
- *encourage people to explore collections*
- consult and involve communities, users and supporters

- acquire items honestly and responsibly
 - safeguard the long-term public interest in the collections
 - recognize the interests of people who made, used, owned, collected or gave items in the collections
 - support the protection of natural and human environments
 - research, share and interpret information related to collections
 - review performance to innovate and improve.
- Ethical Guidelines 1: Acquisition (revised edition 2004)

The guidelines ‘aim to help museums and their staff apply ethical principles when acquiring items for the permanent collection’.

The guidelines set out ‘Basic Principles’:

- the need for a clear acquisition policy
 - the necessity of considering the cost of collections
 - the necessity of ensuring transfer of title.
- Ethical Guidelines 2: Disposal (1996)

The guidelines were drawn up by the Museums Association’s Ethics Committee to help museums make decisions about disposals and recommend procedures to follow. The basic principles are:

- there is a strong presumption against disposal
- every disposal must demonstrate long-term public benefit
- attempts must be made to keep public collections in the public domain
- disposal should never be undertaken principally for financial reasons
- decisions to dispose should be taken by the governing body

The guidelines offer advice on the steps to follow when disposing of items, and the methods of disposal.

- Ethical Guidelines 3: Trading And Commercial Activities (revised 2004)
- Guidelines prepared by the Museums Association’s Ethics Committee to help museums to take account of ethical principles in their commercial and training activities. The guidelines cover the following activities:
- pricing policy
 - retail
 - catering
 - location hire
 - copyright
 - sponsorship
 - auctions.
- Ethical Guidelines 4: Access (1999)

The guidelines offer four key questions for museums to consider when hoping to widen their access, with suggested areas of investigation:

- enhancing the visitor experience
- increasing the visitor numbers
- extending the use and appreciation of museum collections
- ensuring that the range of diversity of users is as wide as possible.

- **Buying In The Market: A Checklist For Museums (2000)**

The checklist is intended for any museums that are considering the purchase of any types of item for their collections from a dealer or at auction. The checklist highlights the most important points to consider, including:

- inspection
- legal title
- provenance
- condition
- price.

- **MA Statement: Museums, sales and valuation events (2004)**

This offers guidelines for the relationship between museums and auction houses, particularly in relation to events held in museums, but also more generally in terms of museum staff not offering valuations.

- **Guidelines On Pollution Control In Museum Buildings (2000)**

The guidelines are intended to help museums, archives and libraries make rational assessments of the risks of pollution damage to their collections, and adopt appropriate strategies.

- **Collections for the Future (2005)**

Provides guidelines and recommendations on the management of collections and how to engage the public with them in more meaningful ways.

Legislation

[Drafting note: insert reference to specific farming legislation which applies to the highland folk museum]

PART 6 – POLICIES

- Hub & Spokes Strategy document, 2006
- Highland Archives Collecting Policy, 2004
- Highland Archives Access Policy, 2005
- Highland Archives Preservation Policy, 2005
- Highland Archives ICT Strategy, 2006
- Highland Archives Training Plan, 2006

NB All of the above policy documents form part of The Highland Council's contract with the National Heritage Memorial Fund in respect of the HLF capital grant towards the construction of the Highland Archive Centre, 2007-2009.

- Highland Council Records Management Policy & Records Management Strategy, 2009
- Highland Council Records Retention Policy and Disposal Authority, 2010
- Highland Council Information Management Strategy, 2009
- Highland Council Information Management Policy, 2011.

PART 7 – CHANGE CONTROL PROCEDURES

1 Principles

- 1.1 Neither HLH nor the Council shall unreasonably withhold or delay its agreement to any change proposed in pursuance of the provisions of this Part 7 of the Schedule.
- 1.2 Until such time as a Change Control Note (“CCN”) has been signed by both HLH and the Council, HLH shall, unless otherwise expressly agreed in writing in accordance with the provisions of clause 20, continue to perform the HLH Obligations in accordance with this Agreement.
- 1.3 Any discussions, negotiations or other communications which may take place between HLH and the Council in connection with any proposed change to this Agreement, including but not limited to the submission of any written communications, prior to the signing by HLH and the Council of the relevant CCN, shall be without prejudice to the rights of either Party.

2 Procedure

- 2.1 If the Council wishes to amend this Agreement pursuant to the provisions of this Part 7 of the Schedule then the Council Representative shall submit a brief written paper (the “**Proposed Change Paper**”) to the HLH Representative addressing, as a minimum, the following points:-
 - 2.1.1 the title of the proposed change;
 - 2.1.2 the reason for the proposed change; and
 - 2.1.3 details of the proposed change.
- 2.2 Within 10 Business Days after the submission of a Proposed Change Paper (or such other period as may be agreed between HLH and the Council) the HLH Representative shall prepare and deliver to the Council Representative two copies of a written and signed response to the Proposed Change Paper (each a “CCN”) setting out in as much detail as possible:-
 - 2.2.1 the title of the proposed change;
 - 2.2.2 technical details of how to implement the change;
 - 2.2.3 a list of deliverables in relation to the change (together with any related acceptance criteria);
 - 2.2.4 a timetable for delivery of the change;

- 2.2.5 any tasks required to be completed by the Council in order to allow HLH to deliver the change; and
 - 2.2.6 associated revisions to be made to this Agreement.
- 2.3 If HLH wishes to amend this Agreement pursuant to the provisions of this Part 7 of the Schedule then the HLH Representative shall prepare and deliver to the Council Representative two copies of a CCN setting out in as much detail as possible:-
 - 2.3.1 the title of the proposed change;
 - 2.3.2 technical details of how to implement the change;
 - 2.3.3 a list of deliverables in relation to the change (together with any related acceptance criteria);
 - 2.3.4 a timetable for delivery of the change;
 - 2.3.5 any tasks required to be completed by HLH in order to allow the Council to deliver the change; and
 - 2.3.6 associated revisions to be made to this Agreement.
- 2.4 Each CCN shall be uniquely identified by a sequential number.
- 2.5 Following receipt of a CCN, HLH or the Council (as appropriate) may enter into discussions with the other Party in relation to the contents of the CCN with the view to HLH and the Council reaching an agreed position; HLH or the Council (as appropriate) must either accept or reject a CCN. To accept a CCN, HLH or the Council (as appropriate) must sign and return the CCN to the other Party no later than 10 Business Days following its receipt of the CCN (or such other period as may be agreed between the Council and HLH).
- 2.6 Following acceptance of a CCN, the Agreement shall be deemed to be revised as set out in the CCN.
- 2.7 A CCN may only be used to vary the terms of the Schedule to the Agreement, all other amendments being subject to the provisions of clause 20.