



INSERT DATE

DRAFT (editable sections marked in yellow)

Agreement for the provision of Historic England Enhanced Advisory
Services relating to the **Project**

Historic England ⁽¹⁾ and ⁽²⁾

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SCHEDULE 1 - PERFORMANCE STANDARDS **ERROR! BOOKMARK NOT DEFINED.**

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SCHEDULE 4 - FORM OF INSTRUCTION **ERROR! BOOKMARK NOT DEFINED.**

SCHEDULE 5 - HISTORIC ENGLAND EXAMPLE INVOICE TEMPLATE

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INSERT DATE

PARTIES

- (1) The Historic Buildings and Monuments Commission for England, a non-departmental public body whose principal place of business is at 4th Floor, Cannon Bridge House, 25 Dowgate Hill, London, EC4R 2YA ("**Historic England**").
- (2) [INSERT DETAILS] incorporated and registered in England and Wales with company number [INSERT DETAILS], whose registered office is [INSERT DETAILS] ("**the Company**")

Each a "**Party**" and together known as the "**Parties**".

BACKGROUND

- (A) Historic England has agreed to provide the Company with a range of Enhanced Advisory Services pursuant to the terms of this Agreement in connection with **INSERT DESCRIPTION OF PROJECT**.
- (B) In consideration for the Enhanced Advisory Services provided under this Agreement, the Company has agreed to pay Historic England the Charges set out in Clause 11.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this Agreement and the Background (unless the context requires otherwise).

1990 Act/1992 Act/2008 Act

Means the Town and Country Planning Act 1990 (as amended)/ Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended); the Transport and Works Act 1992; Planning Act 2008 (as amended) **AMEND TO REFLECT RELEVANT ACT(S)**;

Additional Services

Means services requested by the Company pursuant to Clause 4.4 which are not included within the Agreement in Schedule 2 and/or which extend the number of hours allowed for in Schedules 2 and 3 by more than 20%;

Agreement

Consists of this agreement and any relevant Order Form agreed by both Parties under the Agreement;

Application

Means an application for planning permission under the Town and Country Planning Act 1990 (as amended)/ Means an application for Listed Building Consent under the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended); **AMEND/DELETE IF NOT RELEVANT**

Bribery Laws

Means the Bribery Act 2010 and all other applicable UK legislation, regulations and codes in relation to bribery or corruption;

Business Day

Monday to Friday, excluding public holidays in England and Wales;

Case Officer

The Historic England case officer responsible for providing the Enhanced Advisory Services;

Charges	Means the charges payable for the Services pursuant to this Agreement;
Commencement Date	INSERT;
Data Protection Law	Means any data protection legislation from time to time in force in the UK including without limitation the UK GDPR (which has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018); the Data Protection Act 2018 (DPA 2018); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and the guidance and codes of practice issued by the Information Commissioner's Office and which are applicable to a Party;
Default	Means any breach of the obligations of either Party under this Agreement (including but not limited to fundamental or persistent breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Agreement and as a result of which such Party is liable to the other;
DCO	Means a Development Consent Order as defined in the 2008 Act; DELETE IF NOT RELEVANT
DCO Application	Means an application for a DCO in relation to the Project under the 2008 Act; DELETE IF NOT RELEVANT
Enhanced Advisory Services	The Enhanced Advisory Services described at https://www.historicengland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/ ;
Hourly Rate	Means the hourly rate on which the Charges are based;
Intellectual Property Rights	Patents, copyright and related rights, moral rights, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
Performance Standards	The standards for performance set out in Schedule 1 to this Agreement;
Programme	The detailed scope of work and associated timescales required for Historic England to deliver the Enhanced Advisory Services as may be amended and updated from time to time in accordance with Clause 4;
Project	INSERT DESCRIPTION OF PROJECT;
A Quarter	Q1 January to March;

Q2 April to June;
Q3 July to September; or
Q4 October to December;

Services	The services to be performed by Historic England for the Company (including Enhanced Advisory Services) as agreed between the Parties as more particularly set out in Schedule 2;
Service Estimate	A non-binding, indicative forecast of the Charges as set out in Schedule 3;
Service Manager	Has the meaning given in Clause 6;
Service Meetings	Means meetings convened in accordance with Clause 10;
Termination Date	The date of termination of this Agreement, howsoever arising;
Third Party	Means a person or other legal entity that is not a party to this Agreement;
TWA Order	Means an Order under the Transport and Works Act 1992; DELETE IF NOT RELEVANT
TWA Order Application	Means an application for an order in relation to the Project under the Transport and Works Act 1992; DELETE IF NOT RELEVANT
TWA Rules	Means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. DELETE IF NOT RELEVANT

2. INTERPRETATION

- 2.1 The headings in this Agreement are inserted for convenience only and shall not affect its construction.
- 2.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 2.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.4 A reference to any Party shall include that Party's personal representatives, successors or permitted assigns.
- 2.5 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.6 Unless the context otherwise requires, a reference to one gender shall include a reference to other genders.
- 2.7 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

- 2.8 References to clauses are to the clauses of this Agreement.
- 2.9 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 2.10 Any phrase introduced by the terms including, in particular, or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

3. THE AGREEMENT (DELETE/AMEND CLAUSES BELOW AS APPROPRIATE)

- 3.1 The Agreement shall commence on the Commencement Date and shall continue in force until INSERT DATE, unless agreement is reached by both Parties prior to expiry of the Agreement to extend the Services in accordance with Clause 5.5. If necessary, the Agreement can otherwise be terminated in writing in accordance with Clause 17.
- 3.2 The Agreement shall commence on the Commencement Date and shall continue in force until the date of acceptance of the DCO Application by the National Infrastructure Directorate as a valid application (anticipated to be in INSERT DATE), further to section 55 of the Planning Act 2008, unless otherwise extended in accordance with Clause 5.5 or terminated in accordance with Clause 17.
- 3.3 The Agreement shall commence on the Commencement Date and shall continue in force until a letter of acknowledgement for the TWA Order Application for this Project has been received from TWA Orders Unit at the Department for Transport confirming that it may progress (anticipated to be in INSERT DATE), further to the 1992 Act and the TWA Rules 2006, unless otherwise extended in accordance with Clause 5.5 or terminated in accordance with Clause 17.

4. PROGRAMME

- 4.1 The Parties have agreed a Programme for the performance of the Services which is set out in Schedule 2 to this Agreement.
- 4.2 Historic England and the Company shall regularly throughout the period of this Agreement discuss any anticipated changes to the Programme and requirements for the Services, so as to assist Historic England with the planning of the deployment of resources that Historic England reasonably considers may be required to provide the Services. Where the Parties agree that it is appropriate to amend the Programme in light of such discussions, or for any other reason, the Parties shall do so in writing and shall circulate a copy of same to the Service Manager and Case Officer or team of Case Officers and primary contacts of the Company.
- 4.3 The Company shall provide any applicable information reasonably required by Historic England in order to deliver the Services in accordance with the Programme (subject to any changes to the Programme agreed in writing between the Parties, in accordance with Clause 4.2 above).
- 4.4 In the event that the Company wishes to instruct Historic England to either undertake Additional Services that are not set out in Schedule 2, or extend the number of estimated hours set out in Schedule 3 by more than 20%, the following procedure shall be followed:
- 4.4.1 the Company shall inform the Service Manager in writing (which shall include email) of the Additional Services required in the format set out in Schedule 4 to this Agreement;
 - 4.4.2 the Service Manager shall provide to the Company a written response (which shall include email) within 10 days identifying the Additional Services that Historic England shall undertake and a breakdown of the Charges required to deliver the same, calculated in accordance with Clause 11 and Schedule 3;
 - 4.4.3 the Company shall confirm in writing (which shall include email) whether the Charges are agreed and whether Historic England may proceed to undertake the Additional Services requested; and

- 4.4.4 the Programme in Schedule 2 and Service Estimate in Schedule 3 shall be updated to take account of the Additional Services requested pursuant to this Clause;
- 4.4.5 any amount due for Additional Services shall be payable by the Company to Historic England in accordance with Clause 11.

5. SERVICES

- 5.1 In consideration of the Company paying the Charges pursuant to Clause 11, Historic England shall provide the Services to the Company:
 - 5.1.1 in accordance with all applicable laws and regulations;
 - 5.1.2 with all reasonable care, skill and diligence as would be expected of a government agency experienced in performing services similar to the Services in relation to projects of a similar nature, scale and complexity to the Project;
 - 5.1.3 in accordance with the Programme; and
 - 5.1.4 whilst meeting or exceeding the Performance Standards, as set out in Schedule 1 to this Agreement.
- 5.2 Historic England shall in its sole discretion determine the Case Officer or team of Case Officers allocated to provide the Services but must ensure that they each have the experience and capability, capacity and resources necessary to deliver the Services in accordance with this Agreement.
- 5.3 To the extent that it is compatible with Historic England's statutory role, Historic England shall participate with the Company, along with other stakeholders and interested Parties, in meetings when requested to do so by the Company in order to enable the Project to be progressed; the progress of the Project to be monitored and considerations and potential issues of relevance to the Project to be identified, discussed and resolved wherever practicable. Historic England reserves the right not to attend such meetings if they are likely to give rise to a conflict of interest or undermine Historic England's statutory role.
- 5.4 Where an emergency or time critical issue arises in relation to the Project, the Company may request urgent advice from the Service Manager and Case Officer(s) and in such circumstances they shall use all reasonable endeavours to provide such advice as soon as practicable to help address the issue or mitigate the issue.
- 5.5 This Agreement shall be reviewed 6/12 (AMEND AS NECESSARY) months after the Commencement Date and every 6/12 (AMEND AS NECESSARY) months thereafter (the "Review"), with a view to establishing whether there is a continuing need for the provision of the Services in relation to the Project and agreeing any required extension to the period referred to in Clause 3.1, adjustment to the Programme as set out in Schedule 2 or adjustment to the Charges as set out in Schedule 3 as a result of that Review or in accordance with Clause 11.5.

6. SERVICE MANAGER

- 6.1 Historic England will appoint a named individual to manage the provision of the Services to the Company (the "Service Manager") and as soon as reasonably practicable following the Commencement Date, Historic England shall confirm the identity of the Service Manager to the Company.
- 6.2 The Service Manager shall:
 - 6.2.1 be the Company's primary point of contact within Historic England in relation to the Services;

- 6.2.2 coordinate and manage the provision of the Services to the Company in accordance with the Programme; and
- 6.2.3 arrange for a representative of Historic England to attend the Service Meetings referred to in Clause 10 and the Review meetings referred to in Clause 5.5.
- 6.3 Historic England must ensure that the Service Manager has the experience capability, resources and the capacity necessary to deliver the Services in accordance with this Agreement.
- 6.4 Historic England must inform the Company of any change to the Service Manager at least one month prior to any change taking effect (where reasonably practicable) and ensure that the replacement Service Manager is of a suitable level of qualification, experience and seniority to perform the Service Manager role.

7. STATUS OF ADVICE

- 7.1 The provision of the Services shall not restrict Historic England in the discharge of its statutory obligations.
- 7.2 In providing the Services, any advice given by a Case Officer or the Service Manager pursuant to this Agreement shall not bind Historic England in respect of any future representations it may make. Historic England will endeavour to be consistent in the advice provided, which will be based on information available to Historic England at the time of providing that advice.
- 7.3 Any advice provided pursuant to this Agreement may be superseded by changes in available information as well as changes in international, national, regional or local law, policy and guidance. Historic England shall take any such changes into account in the event that they affect any ongoing work undertaken under this Agreement.

8. HISTORIC ENGLAND WARRANTIES

- 8.1 Save as provided in Clause 5.1, Historic England hereby excludes all other warranties and representations whether implied by law or otherwise in so far as the law permits in relation to the Services.

9. THE COMPANY'S OBLIGATIONS

- 9.1 The Company will appoint primary and secondary contacts tasked with liaising with the Service Manager (the '**Company Contacts**'). The Company shall notify Historic England of the identities of such contacts within 5 Business Days of the Commencement Date (or such longer period as the Parties may agree in writing).
- 9.2 Historic England may require the Company to provide applicable information to enable Historic England to provide the Services, for example information of a type referred to or listed within the Enhanced Advisory Services for the corresponding Services.
- 9.3 The Company understands and agrees that for Historic England to be able to provide the Services, the Company shall:
 - 9.3.1 co-operate with Historic England as may be reasonably required; and
 - 9.3.2 provide any additional information as Historic England may reasonably require.
- 9.4 Historic England shall not be liable for any delay or non-performance of the Services where the Company fails to provide or delays in providing any information which may be requested under Clause 9.2.

10. SERVICE MEETINGS

10.1 The Parties shall meet at least once every **year/quarter/month (AMEND AS NECESSARY)** and where necessary in between, to discuss and resolve any issues in relation to the Programme, the delivery of the Services or in relation to the Charges payable under Clause 11 and any other items that a Party deems appropriate for discussion in this forum. Notwithstanding this commitment, the Parties shall communicate between meetings to try to resolve matters as and when they arise.

10.2 Service Meetings must as a minimum be attended by:

10.2.1 the Service Manager or a Case Officer with the appropriate knowledge of Enhanced Advisory Services and the Project; and

10.2.2 the Company Contacts or other named contact of the Company.

11. RESOURCING AND CHARGES

11.1 Historic England shall provide a non-binding indicative forecast of the Charges in the Service Estimate (Schedule 3), which it expects to apply in relation to the Services as set out in Schedule 2. Historic England does not guarantee that the Charges will not exceed this Service Estimate but shall take all reasonable steps available to procure that the Charges remain in accordance with this indicative forecast and shall notify the Company without delay if it becomes aware of a potential divergence between its most recent forecast and actual costs of providing the Services.

11.2 The Company acknowledges that there may be times when Historic England will need longer than the periods set out in the Performance Standards to respond to requests for Services made under this Agreement. If this situation arises Historic England will give the Company as much advance notice as is reasonably possible of any necessary amendment to the Programme.

11.3 The Service Estimate shall be calculated by multiplying the time wholly, reasonably and necessarily incurred by Historic England in the performance of the Services in accordance with the Programme by the applicable Hourly Rate, provided that in calculating the Charges no account shall be taken of any time expended by Historic England in the performance of the Services as a consequence of any negligence, omission or default by Historic England or any person for whom it is responsible.

11.4 No disbursements or other expenses shall be charged by Historic England or payable by the Company unless expressly stated in Schedules 2 and/or 3, or as agreed under Clauses 4.1 to 4.5.

11.5 The Company shall remain on the Hourly Rate specified in Schedule 3 of this Agreement from the Commencement Date until the following 31 March. Historic England reserves the right to increase the Hourly Rate from 1 April each year and shall provide the Company with at least 30 days prior written notice of such an increase.

11.6 Historic England provides Enhanced Advisory Services on a cost recovery basis.

11.7 Historic England shall submit invoices to the Company for the Charges incurred in relation to the Services provided in arrears and at intervals of not more than three months. An example of Historic England's invoice is attached in Schedule 5.

11.8 Each invoice issued to the Company for payment shall:

11.8.1 specify the Company's name;

11.8.2 be addressed to the central Accounts Payable Team email address as shown below:

to:

All invoices to the Company should include the Company's postal address.

Invoices/credit notes are to be submitted in PDF file format only.

The Company will require Historic England's bank account details as it makes payment by electronic transfer not cheque.

- 11.8.3 state the Company's VAT number as **[INSERT DETAILS]**;
 - 11.8.4 set out and itemise the Charges that have accrued;
 - 11.8.5 specify the relevant approved purchase order number (which is to be provided by the Company before any work commences), and shown on the relevant purchase order; and
 - 11.8.6 be supported by timesheets and narratives that identify the applicable time codes and summarise the Services to which they relate.
- 11.9 Invoices will include VAT or any other relevant tax payable at the Applicable Rate to the Services provided. The Company agrees to pay any such VAT or other tax in addition to the Charges upon receipt of an invoice from Historic England.
- 11.10 VAT numbers must be provided by the Company wherever possible.
- 11.11 Invoices will be raised in Sterling GBP and should be paid in Sterling GBP.
- 11.12 For the avoidance of doubt, any failure of the Company to specify a purchase order number within the Order Form shall not affect the validity of this Agreement. Any failure by Historic England to specify the Company's purchase order number on an invoice shall not affect the Company's obligation to pay the Charges in accordance with Clause 11.13.
- 11.13 All invoices issued by Historic England are payable by the Company within 30 days of the date of issue.

12. CONFIDENTIAL INFORMATION

- 12.1 Subject to the exceptions described in Clauses 12.3, 12.4, 12.5 and 19, Historic England will keep confidential, and shall not disclose to any Third Party, the information provided by the Company in connection with the Services.
- 12.2 Historic England shall apply the same security measures and degree of care to the information provided by the Company in connection with the Services as Historic England applies to its own confidential information, which Historic England warrants as providing adequate protection from unauthorised disclosure, copying or use.
- 12.3 Historic England shall limit access to information provided by the Company in connection with the Services to those of its employees, colleagues, and advisers and any counterparties who necessarily require the same for the purpose of progressing the Project in accordance with the Programme or the performance of the Services (as appropriate) and shall inform each person to whom any such information is disclosed of the restrictions contained in this Agreement as to the use and disclosure of such information.
- 12.4 Historic England is under no obligation to keep confidential information provided by the Company that is already or becomes publicly known through no act or omission of Historic England.
- 12.5 Historic England may, if required by law, any governmental or regulatory authority or by a court of competent jurisdiction disclose confidential information provided by the Company to Historic England.

12.6 Historic England may disclose confidential information to the relevant local planning authority on whose behalf it is acting in this regard as part of the Service provided by the Greater London Archaeological Advisory Service. (DELETE IF NOT RELEVANT)

12.7 At the point at which a formal submission is made to a relevant planning authority in connection with the Project, any reports, documentation or advice produced by Historic England, pertaining only to the submitted project, are a matter of public record and will not be subject to a duty of confidentiality.

13. DATA PROTECTION

13.1 Personal information submitted to Historic England will be held in accordance with Data Protection Law and will be used to:

13.1.1 provide Services to the Company;

13.1.2 process payment for the Services; and

13.1.3 inform the Company about other Enhanced Advisory Services that Historic England may provide.

13.2 Further information on the manner in which Historic England processes personal information is set out in Historic England's Privacy Policy (<https://historicengland.org.uk/terms/privacy/>).

13.3 Each Party to this Agreement shall, at its own expense, ensure that it complies with and assists the other Party to comply with the requirements of all Data Protection Law and regulatory requirements in force from time to time relating to the use of personal data

14. INTELLECTUAL PROPERTY

14.1 Intellectual Property Rights for all material generated by Historic England in the provision of the Services which feature in reports, documents and advice (including material in electronic form) shall remain the property of Historic England. Historic England shall grant the Company an irrevocable, royalty-free, non-exclusive licence to copy, use and reproduce such material for any purpose related to the Project or any part thereof. Any pre-existing material used within material generated in the provision of the Services by Historic England will be subject to copyright as vested in that pre-existing material.

15. LIABILITY

15.1 Subject to Clauses 15.3 and 15.4, if Historic England fails to comply with the Agreement, Historic England shall be responsible for the loss and/or damage the Company suffers that is a foreseeable result of a breach of the Agreement or negligence by Historic England. Historic England is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of a breach of the Agreement by Historic England or if the losses were contemplated by the Company or Historic England at the time Historic England and the Company entered into this Agreement.

15.2 Neither Party excludes or limits liability to the other for:

15.2.1 death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors;

15.2.2 fraud or fraudulent misrepresentation; or

15.2.3 any further liability which cannot be lawfully excluded.

15.3 Historic England has no liability to the Company for any loss of profit, loss of business, loss of data, business interruption, or loss of business opportunity.

- 15.4 Historic England has no liability to any Third Party relying on any advice provided under the Agreement even if Historic England was aware of the existence of such Third Party.
- 15.5 Subject to Clause 15.2 the total liability of Historic England to the Company in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Charges paid by the Company for the Services or the costs incurred by Historic England in providing the Services to the Company, if greater.

16. FORCE MAJEURE

- 16.1 Neither Historic England nor the Company shall have any liability under or be in breach of the Agreement for any delays or failure to perform obligations which results from events beyond the reasonable control of Historic England or the Company as defined in Clause 16.2 of the Agreement.
- 16.2 An event beyond the reasonable control of Historic England or the Company means any act or event beyond the reasonable control of Historic England or the Company, including without limitation, strikes, lock-outs or other industrial action by Third Parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic, pandemic or other natural disaster, or failure of public or private telecommunications networks.

17. TERMINATION

- 17.1 Without prejudice to any other rights or remedies which Historic England may have, Historic England may terminate this Agreement:
- 17.1.1 immediately on notice in writing where, in Historic England's reasonable opinion, the provision or continued provision of the Services will or is likely to conflict with Historic England's statutory obligations. For the avoidance of doubt (but without limitation) this includes its duties to secure the preservation of ancient monuments and historic buildings and its right to prosecute offences arising in connection with this, and to provide advice in relation to the same to the Secretary of State as derived from the National Heritage Act 1983 and its roles as a statutory consultee in the planning system; or
 - 17.1.2 immediately on notice in writing, if the information provided by the Company is insufficient, in Historic England's reasonable opinion, to enable Historic England to provide the Services.
- 17.2 Historic England may terminate the Agreement by notice in writing with immediate effect where the Company:
- 17.2.1 undergoes a change of control, within the meaning of section 450 of the Corporation Tax Act 2010, which impacts adversely and materially on the performance of the Agreement; or
 - 17.2.2 becomes insolvent; bankrupt; enters into liquidation; enters into a voluntary arrangement; appoints a receiver or such similar event in any jurisdiction save for the purposes of a solvent reconstruction or amalgamation or suffers or allows any execution; whether legal or equitable; to be levied on its property or obtained against it; or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Company ceases to trade.
- 17.3 Historic England may terminate the Agreement, or terminate any part of the Agreement by written notice to the Company with immediate effect, if the Company commits a Default and if:

- 17.3.1 the Default is not remedied within 30 days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or
- 17.3.2 the Default is not capable of remedy; or
- 17.3.3 the Default is a fundamental breach of the Agreement.
- 17.4 In the event that Historic England has the right to terminate this Agreement pursuant to Clauses 17.1, 17.2 or 17.3, Historic England may choose to suspend delivery of the Services rather than exercising the right to terminate.
- 17.5 Any suspension pursuant to Clause 17.4 shall not have the effect of suspending any obligations on the Company to pay amounts due and payable pursuant to Clause 11.
- 17.6 The Company may terminate the Agreement, or terminate any part of the Agreement; by written notice to Historic England with immediate effect if Historic England commits a Default and if:
 - 17.6.1 the Default is not remedied within 30 days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or
 - 17.6.2 the Default is not capable of remedy; or
 - 17.6.3 the Default is a fundamental breach of the Agreement.
- 17.7 Either Party may terminate this Agreement at any time giving one months' written notice to the other Party of its intention to terminate this Agreement.

18. CONSEQUENCES OF TERMINATION

- 18.1 On termination of the Agreement for whatsoever reason the Charges paid to Historic England by the Company under Clause 11 are non-refundable.
- 18.2 On termination of the Agreement for whatsoever reason Historic England must invoice any outstanding Charges incurred in providing the Services and the Company must pay any such Charges owed in accordance with this Agreement within 30 days, in accordance with Clause 11.13.
- 18.3 On termination of the Agreement and receipt of any outstanding Charges, Historic England will deliver to the Company all completed work and associated materials.

19. FREEDOM OF INFORMATION

- 19.1 The Company and Historic England acknowledge that they are both subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR"). Performance of the Services will not be subject to any publicity but either Party may be obliged to release documents if they receive a FOIA or EIR request.
- 19.2 In respect of any FOIA or EIR request, the Party to whom it is addressed shall be responsible for determining whether any information, whether commercially sensitive information or otherwise, is exempt or excepted from disclosure in accordance with the provisions of the FOIA or EIR or is to be disclosed in response to that request.
- 19.3 The Party receiving the request for information undertakes to notify the other Party promptly (taking into account the timescales for responding to same) and to allow the other Party to make representations prior to substantively responding to any such request (taking into account the timescale for responding to FOIA and EIR requests) as to the confidential nature of any

information requested or any other grounds on which the information should be withheld under the FOIA or EIR (or both).

20. ANTI-BRIBERY AND ANTI-CORRUPTION

20.1 Each Party shall:

20.1.1 comply with all applicable laws, regulations, codes and guidance relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 ("**Anti-Corruption Requirements**");

20.1.2 have and shall maintain in place throughout the term of this Agreement, and enforce where appropriate, its own policies and procedures to comply with the Anti-Corruption Requirements, including but not limited to adequate procedures under the Bribery Act 2010; and

20.1.3 to the extent permitted by applicable law, promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement.

20.2 In the event of a breach or suspected breach of this Clause 20 by a Party, the other Party shall be entitled to treat this as a Default under Clause 17.3 of this Agreement.

20.3 Each Party shall be liable to the other for all losses, liabilities, damages, judgements, penalties, fines, costs, charges and expenses (including but not limited to, legal expenses) incurred by reason of any breach of this Clause 20 by that Party or any employees, agents or subcontractors of the Party. This Clause 20 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Party and/or any person/Business for the Party and/or any Third Party retained by the Party.

20.4 For the purpose of this Clause 20, the meaning of adequate procedures shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act) of that Act.

21. PREVENTION OF MODERN SLAVERY

21.1 Historic England and the Company each represent and warrant to the other that:

21.1.1 It has not been and is not engaged in any practices involving the use of child labour, forced labour, the exploitation of vulnerable people, or human trafficking ("**Slavery and Human Trafficking**");

21.1.2 Its employees are paid in compliance with all applicable employment laws and minimum wage requirements; and

21.1.3 It will take reasonable steps to prevent Slavery and Human Trafficking in connection with its business.

22. HISTORIC ENGLAND ADVICE

22.1 The Company shall not delete or remove any proprietary notices of disclaimers or any other notice contained within or relating to any written advice produced in connection with the Services.

23. DISPUTE RESOLUTION

23.1 Any disputes arising in connection with this Agreement shall normally be resolved amicably between the Company and the Service Manager.

- 23.2 In the event of failure to reach consensus between the Parties then before any formal action or proceedings are taken by either Party, the dispute shall be referred to **Historic England's Business Development Manager at Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London, EC4R 2YA** and to the Company's nominated equivalent officer for resolution at a meeting to be arranged as soon as practicable after such referral, but in any event within ten Business Days.

24. STATUS OF AGREEMENT

- 24.1 Nothing in the Agreement and no action taken by Historic England or the Company under the Agreement shall create, or be deemed to create a partnership, joint venture or establish a relationship of principal and agent.

25. NOTICES

- 25.1 Any notice given to a Party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Business day delivery service at its registered office (if a company) or by email to the email address of the Service Manager or the Company's Primary Contact for this Agreement.
- 25.2 Any notice shall be deemed to have been received:
- 25.2.1 if delivered by hand, on signature of a delivery receipt; and
 - 25.2.2 if sent by pre-paid first-class post or other next Business day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - 25.2.3 A notice sent by email is deemed effected on the Business Day after the date of the delivery of the email.
- 25.3 This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26. ENTIRE AGREEMENT

- 26.1 The Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 26.2 Each Party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 26.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 26.4 Nothing in this Clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

27. SURVIVAL

- 27.1 Clauses 12, 13, 14, 19 and 20 shall continue in full force after the Agreement has expired or terminated.

28. VARIATION

- 28.1 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

29. WAIVER

- 29.1 No whole or partial waiver of any breach of this Agreement shall be held to be a waiver of any other or any subsequent breach. The whole or partial failure of either Party to enforce at any time the provisions within this Agreement shall in no way be construed to be a waiver of such provisions nor in any way affect the validity of this Agreement or any part of it, or the right of either Party to enforce subsequently each and every provision.

30. SEVERANCE

- 30.1 If any part of this Agreement is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part will be severed from the remainder of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Agreement, the Parties shall promptly commence good faith negotiations to remedy such invalidity.

31. COUNTERPARTS

- 31.1 This Agreement may be executed in any number of counterparts, each of which, when executed, shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.

32. THIRD PARTY RIGHTS

- 32.1 A person who is not a Party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 32.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

33. GOVERNING LAW

- 33.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

34. JURISDICTION

- 34.1 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

35. SIGNATURES

SIGNED BY

.....

(Print name)

.....

(Authorised signature)

ON BEHALF OF HISTORIC ENGLAND

.....

(Date)

SIGNED BY

.....

(Print name)

.....

(Authorised signature)

ON BEHALF OF

.....

(Date)

SCHEDULE 1 - PERFORMANCE STANDARDS

1. Communications from the Company to Historic England, whether via email or hard copy correspondence, shall be acknowledged within 5 Business Days of receipt (or such other period as the Parties may agree in writing) with a suitable response.
2. In the event that Historic England considers that it will not be possible to provide a suitable response to a communication referred to in paragraph 1 above within 5 Business Days of receipt, Historic England shall notify the Company as soon as reasonably practicable and in any event within 5 Business Days of receipt of the relevant communication, setting out when we would be able to respond.
3. Telephone messages from the Company to Historic England shall be returned within 5 Business Days of receipt.
4. In the event that one Party wishes the other Party to participate in any meeting or workshop concerning the Project that Party shall notify the other Party as soon as reasonably practicable and shall endeavour to agree with it a time and date for such meeting or workshop.
5. Each Party shall aim to circulate relevant information to the other Party no later than 3 Business Days prior to a meeting.
6. The Company shall aim to circulate a meeting agenda no later than 3 Business Days prior to any meeting which Historic England is requested to attend.
7. Unless otherwise agreed, the Parties shall aim to agree actions arising from meetings no later than 5 Business Days after the relevant meeting.
8. If requested by the Company and agreed by Historic England, Historic England shall provide written feedback on the Company's minutes of meetings, within 5 Business Days of receipt of those minutes.
9. Historic England's responses to requests by the Company for information, documentation, data, advice, review, consideration, comments or other similar Services forming part of the Services shall be provided in writing (which includes by email) unless otherwise agreed in writing (which includes by email) or forming informal verbal feedback on information presented at a meeting referred to in point 8 above.
10. Both Parties agree to facilitate remote meetings, where there is mutual agreement that this will achieve the meeting objectives.

SCHEDULE 2 - INDICATIVE PROGRAMME

DETAILED INDICATIVE PROGRAMME

TASK NO.	TASKS	SUB-TASKS (IF NECESSARY FOR CLARIFICATION)	HISTORIC ENGLAND STAFF	ESTIMATED HOURS	ESTIMATED DELIVERY TIMEFRAME
1	<i>Please insert summary of Services to be provided</i>	<i>Please give full details of Services to be provided</i>	<i>Please insert job titles of Historic England staff involved in delivering the Services</i>	<i>Please insert estimated hours for the Services</i>	<i>Please insert estimated timeframe for the delivery for the Services</i>
2					

SCHEDULE 3 - SERVICE ESTIMATE

HISTORIC ENGLAND HOURLY RATES FOR FINANCIAL YEAR 2025-26. NOTE: THESE WILL BE SUBJECT TO ANNUAL REVIEW IN ACCORDANCE WITH CLAUSE 11.5 AND ARE BASED ON COST RECOVERY ONLY.

	Hourly Rate (£) excluding VAT	Estimated Total Hours (see Schedule 2)	Service Estimate (£)
All Historic England staff	110	TBC	TBC
Service Estimate (20% Range)			TBC

SCHEDULE 4 - FORM OF INSTRUCTION

Format for instruction of Additional Services: to be emailed to the Service Manager

Instruction pursuant to Clause 4.4 of the Contract Agreement between the Company and Historic England (**INSERT COMMENCEMENT DATE**) for the undertaking of Additional Services by Historic England beyond that which is set out in Schedule 2, or to extend the number of estimated hours set out in the Service Estimate in Schedules 2 and 3 by more than 20%. Please complete the table below:

Task Numbers	Tasks	Sub-tasks (if necessary, for clarification)	Timescale for Delivery
1	<i>Please insert summary of Additional Services to be provided</i>	<i>Please give full details of Additional Services to be provided</i>	<i>Please give details of key meeting dates and expected deadlines for response</i>
2	<i>Please add additional rows, as necessary</i>		

Please also provide the following details:

Contact Name:	
Address:	
Email:	
Telephone:	
Date:	

Please note that if the Additional Services within this Instruction equates to more than 20 hours of Historic England staff time, the Service Manager will need to review resourcing and may seek to negotiate timescales for delivery.

SCHEDULE 5 - HISTORIC ENGLAND EXAMPLE INVOICE TEMPLATE



Page 1 of 1

Invoice

Customer Name and Address	<div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 20px;"></div>
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Line No.	Description	Quantity	Unit Price (£)	Net Amount (£)	VAT Code
001					6
	Customer VAT Reg No:				

VAT Code	Net Amount (£)	VAT Amount (£)
6		

TOTAL	£
Net	
VAT	
Amount Payable	

PAYMENT IS STRICTLY 30 DAYS FROM INVOICE DATE

1. Payment by BACS or internet banking is preferred and should be made to Sort Code: 60-70-80, Account Number: 10026827, Account Name: HISTORIC BLDGS&MONU COMM, Bank Name: NatWest, GOV BNKG SERV BR, IBAN: GB23NWBK60708010026827, Swift: NWBKGB2L. Please ensure that your invoice number is quoted as reference. Please email confirmation of your payment to Remittance-HE@historicengland.org.uk

2. Please make cheques payable to HISTORIC ENGLAND and issue in GBP

3. Please quote invoice "REFERENCE" and customer number "CUSTOMER CODE" in all correspondence

4. VAT Codes: 0 = zero rated, 1 = exempt, 4 = reduced rate (5%), 6 = standard rate (20%) and 9 = outside the scope.

Contact Us

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 The Engine House
 Fire Fly Avenue
 Swindon
 SN2 2EH Tel: 01793 532222
 Remittance-HE@historicengland.org.uk