

NOTE ON THIS DRAFT: Please note that this draft is substantially agreed between the parties but not all the drafting has been finalised. Square brackets have been used to indicate areas where there is likely to be further discussion and work on the drafting but there may be other changes to the drafting.

Schedule 10 – Collection Schedule

1. Definitions

1.1 The following definitions apply in this schedule.

“Accreditation”	has the meaning given to it in paragraph 2.2;
“Accreditation Scheme”	means the scheme operated and administered by Arts Council England, setting out the national agreed standard for the management of museums and defines good practice for museums in the UK;
“Accreditation Standard”	means the Accreditation Standard published by the Art Council England (as updated from time to time);
“Accession Registers”	means the registers of both Brighton and Hove dating from 1890 to 1988 kept by the Charity which detail the items which form the Collection;
“Acquisition”	means the addition of an item to the Collection by the Charity through: <ol style="list-style-type: none">1. Acceptance of a bequest;2. Acceptance of a donation; and/or3. Purchase of an item.
“Additional Equipment”	has the meaning given to it in paragraph 8.18;
“Arts Council England”	means The Arts Council of England, a royal charter company with company number RC000742 and charity number 1036733;
“Benchmarks in Collections Care for Museums, Archives and Libraries 2.1”	means Benchmarks in Collections Care for Museums, Archives and Libraries 2.1 published by the Collections Trust (as updated from time to time);
“Code of Ethics for Museums”	means Code of Ethics for Museums published by the Museums Association (as updated from time to time);
“Collection IPR”	means all Intellectual Property Rights either supplied by the Council to the Charity for the

purposes of this Agreement relating to the Collection or otherwise arising from the Collection [including the rights to images of any items in the Collection] but excluding, for the avoidance of doubt, the Foreground IPR and those rights associated with the Council Trade Marks or such Intellectual Property Rights owned by the Charity or that the Charity has the benefit of separately from this Agreement;

“Collecting Body”	means the Charity;
“Collection”	has the meaning given to it in paragraph 3.1 of this Schedule;
“Collections Trust”	means the Collections Trust, a company limited by guarantee with company number 01300565 and charity number 273984;
“Collection Management Database”	means the database dating from 1988 (currently Mimsy XG) which records activities relating to the management of the Collection, such as acquisition, cataloguing and loans;
“Disposal Funds”	means the funds received from the disposal of any item from the Collection;
“Disposal Toolkit”	means the Disposal Toolkit published by the Museums Association (as updated from time to time);
“Equipment”	means the storage units, display cases, boards, plinths, mounts and any other equipment for storing or displaying the Collection in the Premises;
“GIS”	means the Government Indemnity Scheme by Arts Council England;
“Guideline” or “Guidelines”	has the meaning given to it in paragraph 5.2.5;
“IPR Policy”	means the policy relating to intellectual property relating to the Collection as included at Appendix 3 or as may otherwise be updated in accordance with this Schedule from time to time;
“Loaned Items”	means items which are held by the Council under loan agreements between the Council as borrower and other trusts, organisations and individuals as lender, as set out in Appendix 1;

“Museums Association”	means the Museums Association, a company limited by guarantee with company number 00252131 and charity number 313024;
“Non-GIS Loan”	means any loan of the Collection to or from the Charity where GIS does not apply;
“Policy” or “Policies”	has the meaning given to it in paragraph 5.4.9;
“Spectrum Management Standards”	means Spectrum Management Standards published by the Collections Trust (as updated from time to time); and
“Surrogate”	means reproductions of items in the Collection, in both physical and/or digital form.

1.2 Any undefined term in this Schedule, shall have the meaning given to it in the Agreement.

1.3 In the event of any inconsistency between the terms of this Schedule and any of the Policies, the terms of this Schedule shall prevail.

2. **Background**

2.1 The Charity will be the custodian of the Collection. This is to ensure that standards relating to the stewardship of the Collection are maintained at the level required by Arts Council England which administers the Accreditation Scheme.

2.2 The Charity has been admitted under the Accreditation Scheme until 27 November 2020 (“**Accreditation**”) as the Collecting Body.

2.3 This Schedule sets out the responsibilities of both parties in order to protect, maintain and store the Collection for future generations to enjoy.

2.4 It is the aim of the parties that, by fulfilling their mutual obligations under this Schedule, the Charity will be able to increase access to and enjoyment of the Collection, support the future sustainability of cultural activities for residents and visitors, continue to make a positive impact on Brighton’s economy and offer new opportunities for learning and engagement with the Collection.

3. **The Collection**

3.1 The Collection will include the following:

3.1.1 Items which are held by the Council under:

- (a) Booth Museum Trust Collection;
- (b) Stanford Museum Trust Collection;

- (c) South East Arts Craft Collection;
- (d) National Toy Museum & Institute of Play Collection;
- 3.1.2 The Loaned Items as set out in Appendix 1 of this Schedule;
- 3.1.3 All items described in the Accession Registers;
- 3.1.4 All items described in the Collections Management Database;
- 3.1.5 Any information, archives, documents and other media (including those born digital) relating to the Collection including, but not limited to information in its Accession Registers, data in its Collection Management Database, photographs and other Surrogates of its Collection;
- 3.1.6 Any item acquired through an Acquisition pursuant to paragraph 10; and
- 3.1.7 Any other item as agreed by the Council and the Charity to form part of the Collection from time to time.
- 3.2 In the event of a dispute over whether an item falls within the Collection, the Charity acting reasonably has discretion as to whether the item will form part of the Collection and fall under the custody of the Charity.
- 4. **Ownership and use of Collection**
- 4.1 The Council will remain the owner of the Collection, except for the Loaned Items, which will remain the property of their respective lenders.
- 4.2 The items in the Collection shall be treated as a loan to the Charity for the Contract Term, unless extended by the Parties in accordance with clause [2.2], or until this Agreement is terminated in accordance with clause [23].
- 4.3 Subject to the terms of this Agreement, the Charity's rights to use the Collection will include, and not be limited to the right to:
 - 4.3.1 display and exhibit items;
 - 4.3.2 conserve items;
 - 4.3.3 acquire, dispose of and/or lend items;
 - 4.3.4 use the Collection to support the Charity's learning and engagement offer;
 - 4.3.5 assess risk versus opportunity in decisions to make objects directly accessible for handling sessions and other forms of direct engagement and where appropriate;
 - 4.3.6 use the Collection for marketing, publicity and income generation such as object handling sessions at programmed events;
 - 4.3.7 digitise items to support online engagement;
 - 4.3.8 support research on items in the Collection in order to improve documentation and knowledge.

4.4 In respect of items in the Collection which have been purchased by, bequeathed to, loaned to or donated to the Council with accompanying terms and conditions during the term of the Agreement, the Council shall as far as it is able, provide the Charity with copies of such terms and conditions and promptly inform the Charity of any amendments to such terms and conditions, and the Charity shall as far as it has received copies of such terms and conditions, and as far as reasonably practicable, comply with such terms and conditions.

4.5 The Council represents and warrants that, save as disclosed as part of the due diligence process when the Collection was loaned, the Council is entitled to loan the Collection to the Charity, and shall keep the Charity indemnified against any reasonable costs arising out of a breach of that warranty.

4.6 In the event of any dispute with a third party arising in relation to a Loaned Item, the Charity shall have conduct of claims and the Council shall be responsible for the Charity's reasonable costs in such conduct and incurred costs of the Council in assisting with such dispute or claim.

5. **Obligations of the Charity**

Purpose of the Collection

5.1 The Charity shall use the Collection for the purpose of delivering its charitable objects.

Guidelines and Policies

5.2 The Charity shall perform the obligations under this Schedule with reasonable skill and care, and in accordance with the following guidelines (as updated from time to time):

5.2.1 Accreditation Standard;

5.2.2 Disposal Toolkit;

5.2.3 Code of Ethics for Museums;

5.2.4 Spectrum Management Standards; and

5.2.5 Benchmarks in Collections Care for Museums, Archives and Libraries 2.1 (together with paragraphs 5.2.1 to 5.2.4 , the "**Guidelines**", each a "**Guideline**").

5.3 The Charity shall be responsible for the development, care, management, audit, storage, research, interpretation and use of the Collection, and any reasonable associated costs (including conservation costs) incurred by the Charity. The Charity shall not be liable for any associated costs incurred by the Council, without the prior written agreement of the costs between the Parties.

5.4 The Charity shall have and comply with the following written policies relating to the Collection:

5.4.1 RPM Collections Development Policy;

5.4.2 RPM Collection Care & Conservation Policy;

5.4.3 RPM Documentation & Information Policy;

- 5.4.4 RPM Loans Policy;
- 5.4.5 RPM Documentation Procedure Manual;
- 5.4.6 IPR Policy;
- 5.4.7 RPM Digital Preservation Policy;
- 5.4.8 RPM Human Remains Policy; and
- 5.4.9 RPM Access Statement (together with paragraphs 5.4.1 to 5.4.8, the “**Policies**”, each a “**Policy**”).
- 5.4.10 The Charity shall as far as reasonably practicable, update the Policies:
 - (a) According to the procedure set out in each Policy;
 - (b) Subject to paragraph 5.5, for any changes required in order to maintain Accreditation; and
 - (c) For any changes required for the Charity to comply with the Code of Ethics for Museums.
- 5.5 The Charity shall seek prior consent (such consent not to be unreasonably delayed or withheld) from the Council for amendments to the Policies relating to Accreditation. Consent under this paragraph 5.5 is deemed to have been given by the Council if the Council fails to provide such consent within 2 months of receiving a request for consent from the Charity.

Personnel

- 5.6 The Charity shall ensure that the Charity personnel responsible for performing the Charity’s obligations under this Schedule possess the appropriate experience and skills .

Collection information

- 5.7 The Charity will research, enhance and maintain accurate records about the Collection and Collection-related activities in accordance with the Accreditation Standard and the RPM Documentation & Information Policy.
- 5.8 The Charity will maintain accurate records on which items are loaned to the Collection.

6. Obligations of the Council

- 6.1 The Council shall ensure that they have the necessary approvals and consents required to lend the Loaned Items to the Charity. Any costs associated with obtaining the relevant approvals and consents shall be at the Council’s cost.

Personnel

- 6.2 The Council shall ensure that the Council personnel responsible for monitoring the Charity’s performance of its obligations in this Schedule has the appropriate level of skills and expertise for the relevant task.

7. Collecting Body

7.1 In order to retain the Accreditation the Charity will continue to act as the Collecting Body.

8. Care and Security of Collection

8.1 The Charity will (to the extent reasonably practicable) store and display the Collection in accordance with the RPM Collections Care & Conservation Policy and the Accreditation Standard. Any reasonable additional special protective measures required by the Council are to be provided at the expense of the Council, unless such additional measures are required as a result of the Charity's actions in which case the Charity shall be responsible for those costs, as notified to the Charity in writing by the Council and agreed between the Parties.

8.2 The Charity will ensure the Collection comes to no harm and the security of the Collection is maintained in line with the relevant Guidelines and Policies and in accordance with clause 8.5 for the duration of the Contract Term.

8.3 The Charity must ensure that the Collection is kept in areas protected against extremes of temperature, humidity, light and vibration and that naked flames are not being used in close proximity to the Collection.

8.4 The Council may request reasonable additional measures of care and security on the advice of its own staff or that of specialists including the National Security Advisor at Arts Council England, with any costs relating to such additional measures of care and security to be met by the Council unless such additional measures are required as a result of the Charity's actions in which case the Charity shall be responsible for those costs, as notified to the Charity in writing by the Council and agreed between the Parties.

8.5 The Charity shall ensure that the Collection is secured at a level no less than the level of security in place at the commencement date of the Agreement.

8.6 The Charity will be responsible for maintaining and monitoring alarm systems on the Premises, including the associated phone lines. The Charity shall ensure that appropriate action is taken in the event of an alarm activation both during open and closed hours, unless the call out is due to an act of the Charity and such action is therefore not required.

8.7 The Council will provide sets of keys to the Premises and all internally locked doors. Keys for the Collection cases will be held by the Charity.

8.8 Subject to paragraph 8.9, the Charity shall report to the Council annually if the Collection or any part of the Collection is in the reasonable opinion of the Charity lost, seriously damaged or there is a serious deterioration in the condition of the item.

8.9 The Charity shall report to the Council promptly if the loss, serious damage or serious deterioration of the Collection or any part of the Collection is urgent or would cause reputational damage to either Party or the Collection.

8.10 In the event of any emergency which is reasonably likely to result in serious damage (including without limitation a fire or flood) to the Collection or any part of it, the Charity and the Council shall work together in good faith to protect the Collection.

- 8.11 On identification of a serious loss or damage pursuant to paragraphs 8.8 and 8.9, the Charity shall notify the Council and agree with the Council any related public communications. The Council shall then, in its discretion, notify the insurers of such serious loss or damage.
- 8.12 The Charity shall assess and determine the conservation needs of the Collection in accordance with the RPM Collections Care & Conservation Policy. Where conservation action is required, the Charity will be responsible for carrying out the conservation work, including and not limited to the appointment of a third party to carry out the conservation work, at the Charity's cost.
- 8.13 The Charity shall report any major conservation activity to the Council annually using the Annual Report.
- 8.14 Prior to conducting any conservation work identified pursuant to paragraph 8.12, the Charity shall seek prior consent for such work from the owner of items in the Collection, if such owner is not the Council. The Charity shall not be liable for any serious damage or serious deterioration to an item, should such damage and deterioration result from the lack of or refusal of consent under this paragraph 8.14.
- 8.15 Access to view any item in the Collection out of its case or to handle any item in the Collection should be given to individuals only in agreement with and under supervision of the Charity. Access requests received by the Charity from the Council should be agreed between the Parties at least two weeks in advance.
- 8.16 All loan objects should be properly labelled, with acknowledgements to the lender except as otherwise agreed with the lender.
- 8.17 The Council loans to the Charity the Equipment from the Commencement Date for the Contract Term and warrants to the Charity that the materials used in the construction of such Equipment complies with recognised conservation standards.
- 8.18 In the event that any additional equipment for storing or displaying the Collection (the "**Additional Equipment**") needs to be purchased during the Contract Term, the Charity shall arrange for such Additional Equipment to be purchased at the Charity's expense, unless otherwise agreed between the parties in writing. All Additional Equipment shall be the property of the Charity but the Charity shall, on termination or expiry of this Agreement, at its sole discretion, either offer the Council the option of purchasing (for its current market value) such Additional Equipment prior to selling such equipment to a third party or transfer such Additional Equipment to the Council at nil value.
- 8.19 The parties shall ensure that all materials used in the construction of any Additional Equipment purchased in accordance with clause 8.18 comply with recognised conservation standards.
- 8.20 The Charity shall do no harm to the Equipment and any Additional Equipment. For the avoidance of doubt, the Equipment and the Additional Equipment shall be dealt with under this Agreement only, and is not considered as being included in the Lease.
9. **Third party dealings and loans**
- 9.1 The Charity must comply with the RPM Loans Policy when lending all or part of the Collection to any third party.

- 9.2 The Charity will not lend all or part of the Collection not owned by the Council to any third party, where such loan would lead to a breach of the of the terms and conditions of the loan[, donation, purchase] or bequest of that item to the Council, to the extent that the Council has informed the Charity of such terms and conditions pursuant to paragraph 4.4.
- 9.3 The Charity shall report to the Council on an annual basis using the Annual Report, the items of the Collection which have been loaned to or by a third party.
- 9.4 The Charity shall inform the Council (as soon as reasonably practicable) of any proposed loan of the Collection where such loan is:
- 9.4.1 over £2,000,000 in value;
- 9.4.2 loaned to a location outside of the UK; and/or
- 9.4.3 of a term greater than one year.
- 9.5 Prior to accepting an item on a loan with a term of at least 2 years, the Charity shall obtain the agreement of the lender that the Council will become the beneficiary of that loan in the event that the Agreement is terminated unless the Council has provided written consent which waives the Charity's obligation under this paragraph 9.5.
- 9.5.1 Subject to paragraph 9.5.210.2, consent under this paragraph 9.5 is deemed to have been given by the Council if the Council fails to provide such consent within [10 Business Days] of receiving a request for consent from the Charity.
- 9.5.2 In exceptional circumstances where Council consent is required at short notice and under 10 Business Days as specified in paragraph 9.5.1, the Charity shall inform the Council of such exceptional circumstances and the parties agree to work together in good faith to achieve the consent of the Council as soon as reasonably practicable.

Government Indemnity Scheme

- 9.6 For any Non-GIS Loans, the Charity shall ensure that it consults with the Council prior to entering into such loan, and:
- 9.6.1 The Charity may enter into any Non-GIS Loans if the Council has determined that the item(s) considered under the Non-GIS Loans can be adequately insured at no extra cost to the Council; or
- 9.6.2 Where the item(s) considered under the Non-GIS Loans cannot be adequately insured at no extra cost to the Council, the Charity shall not enter in such Non-GIS Loan without the consent of the Council (such consent not to be unreasonably delayed or withheld).
- 9.6.3 In the event of any dispute with a third party arising from a loan of any part of the Collection to a third party, the Charity shall have conduct of claims and shall be responsible for its own reasonable costs in such conduct[, except to the extent that the dispute arises from any breach of the Council's warrant set out in paragraph 4.5 (in which case the Charity may retain conduct of the claim but the Council agrees that it shall be responsible for the Charity's reasonable costs and, if necessary, its own costs)].

10. **Acquisitions**

- 10.1 Subject to paragraphs 10.3 and 10.5, the Charity shall develop the Collection in accordance with the Accreditation Standards and the RPM Collections Development Policy through Acquisition of items.
- 10.2 In exceptional circumstances where Council consent for an Acquisition is required at short notice and under 10 Business Days (such as an auction at short notice), any consent required under this paragraph 10 **Error! Reference source not found.** is deemed to have been given by the Council if the Council fails to provide such consent within [2Business Days] of receiving a request for consent from the Charity.
- 10.3 The Charity shall consult with the Council prior to making any Acquisition with a value of £[-] or above, and:
- 10.3.1 The Charity shall make the Acquisition where the Council has determined that the item(s) considered for Acquisition can be adequately insured at no extra cost to the Council; or
- 10.3.2 Where the item(s) considered for Acquisition cannot be adequately insured at no extra cost to the Council, the Charity shall not make such Acquisition without the consent of the Council (such consent not to be unreasonably delayed or withheld).
- 10.4 The Charity shall report to the Council on an annual basis using the Annual Report of any items obtained through an Acquisition.
- 10.5 The Charity shall complete an acquisition entry form (as set out in Appendix 2) for each Acquisition.
- 10.6 Any item acquired through an Acquisition shall be owned by the Council and be loaned to the Charity pursuant to paragraph 4.2, forming part of the Collection and be governed by the terms of this Agreement from the date of Acquisition. For the avoidance of doubt, the Parties agree that this Agreement shall be sufficient to both transfer ownership of any acquired item to the Council immediately upon purchase and to grant to the Charity a licence in accordance with paragraph 15.2.
- 11. Disposals of items from the Collection**
- 11.1 The Charity shall dispose of items from the Collection and use the Disposal Funds in accordance with the Accreditation Standards, the RPM Collections Development Policy, the Code of Ethics for Museums and Spectrum Management Standards.
- 11.2 Disposal Funds will be paid to the Charity into a ring-fenced account, and shall only be used for the Collection including Acquisitions, maintenance and conservation of the Collection. Any other use of the Disposal Funds shall be agreed between the Parties.
- 11.3 The Charity shall not charge or use all or part of the Collection as security against any loan or other borrowings.
- 11.4 The Charity shall report to the Council on an annual basis using the Annual Report of any disposals.
- 11.5 The Charity shall notify the Council of any disposals, and the Council shall instruct the insurer to update the asset register for the insurance.
- 12. Insurance**

- 12.1 Subject to paragraph 12.2, it is agreed between the parties that the Council shall maintain in force a full and comprehensive insurance policy of a level that is at least as comprehensive as the insurance policy in force prior to the Commencement Date and at a level compliant with industry standard, to insure the Collection, the Equipment and any Additional Equipment against all risks, for the duration of this Agreement.
- 12.2 Prior to taking out an insurance policy, the Council shall consult with the Charity on the conditions of the insurance policy. The Charity acting reasonably has the right to approve the conditions of the insurance policy to the extent that any conditions of the insurance policy increases the amount payable by the Charity, including but not limited to the excess payable in case of a claim, and the costs of procuring and caring for the Collection. On agreeing the conditions of the insurance policy, the Council shall take out the agreed insurance policy, and the Charity shall comply with all the conditions of the agreed insurance policy.
- 12.3 The Council shall be liable to pay the insurance premium.
- 12.4 The Council shall inform the insurer of any changes to the Collection through Acquisitions and disposals promptly upon receiving notification of such changes from the Charity.
- 12.5 The Council shall (on request) supply to the Charity a copy of such an insurance policy and evidence that the relevant premiums have been paid.
- 12.6 The Charity shall provide to the Council such information and other assistance as the Council shall reasonably request in the event that the Council needs to make a claim under the insurance policy maintained in accordance with this paragraph 12.
- 12.7 The Council will receive any payments made pursuant to the Council's insurance policy, and may in its discretion pass that payment to the Charity subject to paragraph 12.8.
- 12.8 Where the Council receives payments under paragraph 12.7 in relation to an insurance claim for damage, deterioration or loss of an item in the Collection, the Council shall within [10 Business Days] of receiving a payment under paragraph 12.7, transfer the payment to the Charity to hold in a ring-fenced fund and to use it for the purposes of repairing or replacing an item in the Collection to which such payment relates.
- 12.9 The Charity shall indemnify the Council in relation to any excess due where an insurance claim is a consequence of a breach by the Charity of the Agreement.
13. **Monitoring, Reporting and Communication**
- 13.1 The Charity and Council shall comply with a communications protocol (set out Schedule [x]).
- 13.2 The Parties shall notify each other of any events (promptly upon becoming aware of such event) which will have a potential impact on the reputation of the Collection or on the other Party.
- 13.3 The Charity will provide the Council annually, with such information and access to documents and personnel as the Council reasonably requires in order to monitor the performance of the Charity's obligations under this Schedule, and to comply with the requirements of the Council's auditors.

- 13.4 The Charity shall maintain records in accordance with the Guidelines.
- 13.5 When monitoring the Charity's performance, the Council must ensure that the monitoring is conducted by the appropriate personnel as required under paragraph 6.2.
- 13.6 In addition to access to the Collection under paragraph 13.3, the Council may request to have access to the Collection during the Contract Term provided they provide at least 10 Business Days' written notice to the Charity.
- 13.7 During monitoring of the Collection, the Council must comply with any reasonable instructions provided by the Charity for the protection of the Collection.
- 13.8 The Charity may take photographs or make other reproductions of any items in the Collection for the purpose of managing or promoting the Collection whilst it is on loan.
- 13.9 The Charity shall provide an Annual Report to the Council. The Council may request an additional report on giving the Charity at least three months' written notice.

14. Refusal and recall of loans

- 14.1 It is the intention of the Council and the Charity that the items comprising the Collection shall not be withdrawn during the Contract Term.
- 14.2 The Council shall give no less than six months' notice of its intention to withdraw any item of the Collection which it has loaned to the Charity.
- 14.3 In the event that the Council withdraws or recalls any item from the Collection in accordance with paragraph 14.2 above, the Council shall bear the reasonable costs of the return of any such item in the Collection to the Council and of redesigning and reinterpreting any display of the Collection including the reasonable costs of sourcing a suitable replacement item and redesigning and reinterpreting any relevant exhibition, save where the withdrawal or recall arises directly from the breach by the Charity of an obligation under this Agreement.

15. Intellectual Property

- 15.1 The Council shall retain ownership of all Collection IPR.
- 15.2 The Council grants to the Charity, or shall procure the direct grant to the Charity of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the Contract Term to use, copy and modify the Collection IPR for the purpose of delivering the Services in accordance with the Terms and authorises the Charity to grant a non-exclusive sub-licence to use such Collection IPR for the purpose of delivering the Services in accordance with the Terms, subject always to the compliance by the Charity with the IPR Policy.
- 15.3 The Charity may sub-license use of the Collection IPR to any Permitted Sub-Contractor, provided that:
 - 15.3.1 any sub-licence must be on the same terms as the licence at paragraph 15.2 of this Schedule; and

- 15.3.2 that any such sub-licence (except for those granted under a Creative Commons license) shall terminate:
- (a) at the expiry of the Contract Term or earlier termination of this Agreement in accordance with clause **Error! Reference source not found.** (Termination) of the Agreement;
 - (b) or in the event of the earlier expiry or termination of the Charity's agreement with the Permitted Sub-Contractor for the provision of the Services, on such expiry of termination.
- 15.4 The Charity shall keep the Council indemnified in full against all Direct Losses of the Council as a result of or in connection with breach by the Charity of the licences granted at paragraph 15.2 of this Schedule and as a result of or in connection with any breach by any sub- licensee of any sub-licence granted by the Charity.

Appendix 1 – The Loaned Items

	Parties to loan agreement	Item(s) on loan	Term of loan	Notes
1.	<i>[Parties to the loan]</i>	<i>[description of item]</i>	<i>[include start and end date of loan]</i>	<i>[include any additional details such as conditions or restrictions of the loan, costs of the loan etc]</i>
2.	The Council and [James Henry Green Charitable Trust]			
3.	The Council and [Royal Collection Trust]			
4.				
5.				
6.				

Appendix 2 – Object Entry Form

[Insert Object Entry Form]

Appendix 3 – IPR Policy

Royal Pavilion & Museums

IPR & Reproduction Policy 2018

Agreed:

To be reviewed:

Introduction

This document describes how the Royal Pavilion and Museums (RPM) manages the intellectual property rights (IPR) owned by Brighton & Hove City Council and licensed to the Royal Pavilion and Museums Trust (RPMT) who run the RPM, and the IPR it creates and uses, in the course of its business. It outlines how RPM manages third party rights in the collections and assets in its care, and how it allows others to re-use the IPR that it creates.

Although this policy covers a range of IPR, it is primarily focused on copyright and related moral rights, and database rights. It is guided by current laws and professional ethics including:

- Copyright, Design and Patents Act 1988 (as amended)
- Berne Convention for the Protection of Literary and Artistic Works 1886
- Museums Association, Code of Ethics, London: Museums Association, 2008, revised 2015
- SPECTRUM 5.0 The UK Museum Collections Management Standard, London: Collections Trust, 2017
- 'Is your oral history legal and ethical?' guidance, Oral History Society, 2012

The policy also relates to other policies and procedures including:

- RPM Access Policy Statement 2018
- RPM Collection Development Policy 2018
- RPM Collections Documentation and Information Policy 2018
- RPM Volunteer Policy 2017
- RPM Digital Policy 2018
- RPM Digital Preservation Policy 2018
- RPM Collections Management and Documentation Procedure Manual 2018

Rights Ownership in the Collections¹

RPM holds a variety of collections, and the copyright status of these is variable. Some objects, such as our archaeology collections, are too old to be protected by copyright; others are not usually eligible for copyright protection as the objects were

¹ The terms 'collections' and 'objects' in this policy refer to both physical material and intangible items such as oral histories and born-digital objects.

not created by humans.

Where collections are still protected by copyright or other IPR, this usually belongs to an external individual or organisation. In most cases this will be the creator or their estate. As with many heritage organisations, RPM holds a large number of ‘orphan works’: objects which are legally protected by copyright, but where the owner cannot be identified or traced.

Where copyright was transferred to the museum at the time of acquisition, this will usually belong to Brighton & Hove City Council. This copyright has been licensed to the RPMT.

As RPM’s collections are too numerous and complex to conduct a full IPR audit, rights ownership is usually established and recorded at the point of acquisition, retrospective documentation, digitisation, or recorded use of the object. The decision is usually made by the relevant curator, supported by advice from the Digital Manager where necessary; until the date that the RPM service was transferred, this has been by Brighton & Hove City Council, but, from the transfer, this is done by the RPMT as sub-licensee.

RPM recognises that items lent to it or to Brighton & Hove City Council are frequently protected by copyright, and will follow the advice of the lender in ascertaining ownership.

Rights Ownership in Collection Surrogates and other Information

The copyright status of photographs and other media that capture or reproduce our collections (usually known as ‘surrogates’) frequently differs from that of the original object.

Providing copyright in the original object does not belong to a third party, the copyright of surrogates RPM creates of 3D objects in its collections usually belongs to Brighton & Hove City Council as a result of its contractual agreements with the staff member, volunteer or freelancer who produced it. This copyright has been licensed to the RPMT.

In exceptional circumstances, RPM may permit researchers and other users of its collections to create surrogates and retain copyright, but explicit permission must be granted for this, and will usually only be granted on the condition that the surrogate is placed under an open licence and a copy is provided to RPM free of charge.

RPM does not require the transfer of copyright in photographs and other

reproductions made by members of the public of collections that are on display in our galleries or loaned for display elsewhere.

RPM follows current guidance from the Intellectual Property Office (IPO) and recognises that it cannot claim copyright in faithful 2D reproductions of 2D objects which are no longer protected by copyright. It considers these surrogates to be in the public domain.²

Where surrogates of copyright protected objects are created under 'fair dealing' or the specific exceptions that apply to museums, libraries and archives, RPM recognises that copyright remains with the original rights holder for the same term as the original object.³

Where possible, RPM claims IPR on behalf of Brighton & Hove City Council in all other information and assets it creates, including image, text, software and data.

Rights Use

RPM will protect and exploit its IPR (including IPR licensed to RPMT by Brighton & Hove City Council) for the purpose of delivering its mission. While its primary purpose is for education, RPM may also use such IPR for commercial purposes, such as marketing and the creation of new retail products.

Where possible, RPM publishes surrogates and catalogue data about its collections under open licences or as public domain assets (see Access section for more details). While these are often made available free of charge, RPM may charge licence fees for some types of use, or for the service of supplying these assets, irrespective of rights.

RPM also uses external agencies, such as Bridgeman Art Library, to commercially exploit its IPR or to manage services such as print on demand. All such agreements are non-exclusive.

IPR owned by lenders and other external bodies is always managed according to the terms of the contract or other written agreement. RPM will ensure that its use of IPR belonging to other bodies is correctly credited at the point of publication, use or

² *Copyright Notice: Digital Images, Photography and the Internet*, Intellectual Property Office, November 2015, p 3
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/481194/c-notice-201401.pdf

³ *Exception to Copyright: Libraries, Archives and Museums*, Intellectual Property Office, October 2014
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375956/Libraries_Archives_and_Museums.pdf

supply.

Aside from collection surrogates and catalogue data, RPM will generally reserve all rights in the IPR it creates. However, some items may be released under open licences or through bespoke agreements on a case by case basis.

Management & Systems

A large number of RPM staff and volunteers are involved in the creation and management of IPR. Internal training is periodically delivered in this, and advice is frequently given on specific rights issues.

Two ICT systems are used to help manage IPR:

1. RPM's collection management system, Mimsy XG, is used to record information about the copyright status of objects in its collections. In addition to information about the ownership of copyright, and its expiry date, RPM uses a hazard field to alert users to items that are clearly protected by copyright.
2. RPM's digital asset management system, Digital Media Bank, records information about the rights of digital assets, including collection surrogates, images from lenders, business records and publications. This records details about the rights holder, credit line and licence type, and also embeds this information into the file metadata at the point of download using the IPTC schema.

Access

RPM staff and volunteers can access copyrighted assets through the collection and digital asset management systems mentioned above, alongside its shared drive. All these systems require a log-in to view or download such assets, and access is only granted to staff once they have been trained in the use of these systems and understand the consequences of misuse of such material.

Surrogates of copyright protected objects in RPM's collection may only be made available to the public through supervised onsite sessions, or with the use of dedicated terminals in its museums or at the Keep. These terminals will be configured for offline use only, and users will not be permitted to download or remove copies of the works.

Where there is no significant risk in infringing the copyright of a third party, public access to RPM's collection data and surrogates is through its online catalogue and Digital Media Bank. The catalogue data and images up to 1200 pixels on the longest size are published as open data, and made available through an open API. This feeds

the collection search facility on RPM's website at brightonmuseums.org.uk and partner sites such as the Keep catalogue.

Surrogates in media other than still images, such as copies of oral histories, will be made available through streaming, rendering, and downloadable platforms as appropriate for the available technology and RPM's ability to permit re-use of these assets.

Where RPM owns the IPR in the surrogate (or where Brighton & Hove City Council owns such IPR and has licensed it to RPMT), the image and accompanying catalogue data are made available for re-use under a Creative Commons Attribution-Share Alike licence (CC BY-SA). Where the surrogate is not protected by copyright or any other form of IPR, it will be declared public domain. This open licensing framework is a key component of its data sharing arrangements with the Keep and other partners, and the commitments RPM makes to funders who insist on open outputs from the work they support.

Collection data, surrogates and other assets may also be made available under other agreements to aggregators and distributors, such as Art UK. In some cases, subsets of RPM's collection data may be released under a rights waiver as Creative Commons Zero / Public Domain (CC0).

Credit Lines

All use of RPM's IPR should be credited to the 'Royal Pavilion & Museums, Brighton & Hove'. Where assets are released as public domain, RPM also requests that the same credit line is applied so that researchers and other users can identify the source of the material.

For online use, a link back to the Digital Media Bank or online source of the asset may be requested.

RPM will always ensure that credit lines are clarified with lenders and other organisations as part of the agreement of use. It will ensure that these credit lines accompany use of these works in the form most appropriate for the medium and type of use.

Safeguarding Rights

Unless covered by an open licence or other agreement, written permission should be sought for the use of RPM's IPR. In most cases this will be confirmed in writing by

email, but in some cases a formal licence agreement may be required.

RPM will endeavour to only use the IPR of others where it believes it has permission to do so, or is covered by fair dealing exceptions. It will ensure that all such use is properly credited, as agreed with the rights holder.

In the case of orphan works RPM will take a managed risk approach in its use, assessing the likelihood and severity of complaint against the public benefit in using the work. Third parties wishing to use orphan works in RPM's collections will be required to obtain permission from the UK government's Orphan Works Licensing Scheme before the asset can be supplied.⁴

Third parties wishing to reproduce objects in RPM's collections where the copyright holder is known, will be advised to obtain permission before any assets can be supplied. RPM will not clear rights on behalf of third parties, and all costs must be borne by the third party.

Infringements & Take Down

If RPM becomes aware that its IPR is being used without permission, or beyond the reasonably understood terms of the agreement or open licence under which it was issued, it will request that the relevant asset be taken down in the first instance. If the use is one that RPM would usually charge for, it will request payment of the standard fee. In some cases, RPM may also take legal action.

Staff and volunteers are encouraged to seek advice if unclear about using others' IPR, and to inform the Digital Manager of any infringements made by RPM. In the case of an infringement that is likely to cause complaint, the asset will be taken down, or the action reversed.

Rights holders who believe RPM is infringing their IPR or moral rights are invited to contact RPM setting out a) the basis of their claim to ownership; b) the precise nature of their complaint; c) a suggested course of action to remedy the situation. RPM will enter into such discussions in good faith, but will only take down assets or discuss remedial action once it is clear that there is a robust legal basis to the complaint.

⁴ <https://www.gov.uk/guidance/copyright-orphan-works>