

GRANT AGREEMENT

between

LONDON BOROUGH OF HACKNEY
(ON BEHALF OF THE HOST BOROUGHES)

and

CREATE LONDON

for the

PRODUCTION AND DELIVERY OF THE

CREATE FESTIVAL

Corporate Director For Legal, HR And Regulatory Services
Hackney Town Hall
Mare Street
London E8 1EA

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THIS DEED is dated

PARTIES

- (1) **The Mayor and Burgesses of the London Borough of Hackney**, whose address is at Hackney Town Hall, Mare Street, London, E8 1EA (**"the Funder"**); and
- (2) **CREATE London** (company registration number 7586759 and charity registration number _____) whose principal address is at 24 Ashwin Street, London, E8 3DL (**"the Recipient"**).

BACKGROUND

- (A) The Funder wishes to collaborate on and co-ordinate a range of art and cultural activities as a result of the Olympic and Paralympic Games to be held in London 2012 that would remain as the cultural legacy for the Host Boroughs (**"the Project"**).
- (B) The Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project.
- (C) This Agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient.
- (D) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.

AGREED TERMS

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings:

Commencement Date: 1 April 2012

Governing Body: the governing body of the Recipient including its directors or trustees.

Grant: the sum of [£150,000] to be paid to the Recipient in accordance with this Agreement.

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending on 31 March 2013.

Host Boroughs: the London Boroughs of Hackney, Greenwich, Newham, Waltham Forest, Tower Hamlets and Barking and Dagenham. (The Recipient acknowledges that Hackney has been appointed to act as the lead borough to represent the other boroughs comprising the Host Boroughs);

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Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Memorandum and Articles: the Memorandum and Articles of the Recipient registered at Companies House setting out, inter alia, the Recipient's objectives and corporate governance procedures attached as Schedule 6.

Prohibited Act: means:

- (a) offering, giving or agreeing to give to any servant of the Funder or Host Borough any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Funder; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Funder;
- (b) entering into this Agreement or any other contract with the Funder or Host Borough where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Funder; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

Project: the collaboration on and co-ordination of a range of art and cultural activities as a result of the Olympic and Paralympic Games to be held in London 2012 to remain as the Host Boroughs' cultural legacy as more fully described in Schedule 1.

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Project Manager: the individual who has been nominated to represent the Funder for the purposes of this Agreement.

Third Party Funding: grant funding received from parties other than the Funder or Host Boroughs.

2. PURPOSE OF GRANT

- 2.1 The Recipient shall use the Grant and any Third Party Funding only for the delivery of the Project and to further the company objectives set out in the Memorandum and Articles and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 2.2 The Recipient shall not make any significant change to the Project without the Funder's prior written agreement.
- 2.3 The Parties record that, in addition to Grant Funding, the Recipient intends to apply for Third Party Funding and undertakes to notify the Funder, where such funding is obtained and the amount thereof. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Funder is funding in full under this Agreement.

3. PAYMENT OF GRANT

- 3.1 Subject to clause 12, the Funder shall pay the Grant to the Recipient in a single transaction on 1 April 2012 by way of BACS transfer subject to the necessary funds being available when payment falls due. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder has available funds.
- 3.2 No Grant shall be paid unless and until the Funder is satisfied that such payment will be used for proper expenditure in the delivery of the Project and the furtherance of the company objectives set out in the Memorandum and Articles.
- 3.3 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.4 The Grant shall be paid into a separate bank account in the name of the Recipient which must be an ordinary business bank account. All cheques from the bank account must be signed by at least two individual representatives of the Recipient and all electronic payments from the

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Recipient's bank account(s) must be entered on line by an employee of the recipient and subsequently authorised for payment on line by a director/trustee of the recipient.

- 3.5 The Recipient shall not transfer any part of the Grant to bank accounts which are not ordinary business accounts within the clearing bank system, without the prior written consent of the Funder.
- 3.6 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.
- 3.7 The Recipient acknowledges that the Funder has received Third Party Funding from third parties on behalf of the Recipient, which the Funder undertakes to place in the possession of the Recipient. The conditions set out in this agreement shall apply *mutatis mutandis* to the Third Party Funding received by the Recipient.

4. USE OF GRANT

- 4.1 The Grant shall be used by the Recipient only for the furtherance of the Recipient's objectives set out in the Memorandum and Articles generally and the delivery of the Project specifically.
- 4.2 Where the Recipient has obtained Third Party Funding in relation to its delivery of the Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in Schedule 3 (Third Party Funding) together with a clear description of what that that funding shall be used for.
- 4.3 The Recipient shall not use the Grant to:
 - (a) make any payment to members of its Governing Body (save for reimbursing reasonable expenses);
 - (b) purchase buildings or land; or
 - (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date,

unless this has been approved in writing by the Funder.

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4.4 Should any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies is returned to the Funder or, if agreed in writing by the Funder, shall be entitled to retain the unspent monies to deliver the Project the following Grant Period.

4.5 Any liabilities arising at the end of the Project including any redundancy or pensions liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient using the Grant or other resources of the Recipient. There will be no additional funding available from the Funder for this purpose.

5. ACCOUNTS AND RECORDS

5.1 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of all monies received by it.

5.2 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of all monies for a period of at least six years following receipt of any Grant monies or Third Party Funding to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and Third Party Funding and shall have the right to take copies of such accounts and records.

5.3 The Recipient shall provide the Funder with a copy of its Annual Report and Accounts within six months (or such lesser period as the Funder may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.

5.4 The Recipient shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

5.5 In addition to the accounting and record keeping obligations mentioned in this clause 5, the Recipient shall ensure that it complies with the financial requirements set out at Schedule 4. The Recipient shall also ensure that any subsidiary companies of the Recipient comply with the same obligations.

6. MONITORING AND REPORTING

6.1 The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to.

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- 6.2 The Recipient shall provide the Funder with a financial report and an operational report on its use of the Grant and delivery of the Project every quarter and in such formats as the Funder may reasonably require. The Recipient shall provide the Funder with each report within five (5) weeks of the last day of the quarter to which it relates.
- 6.3 Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 6.4 Along with its first quarterly financial report, the Recipient shall provide the Funder with a risk register and insurance review in the format provided by the Funder. The Recipient shall address the health and safety of its staff in the risk register.
- 6.5 The Recipient shall on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 6.6 The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 6.7 The Recipient shall permit any person authorised by the Funder for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable opinion, the Funder considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.
- 6.8 The Recipient shall provide the Funder with a final report within ten (10) weeks of the completion of the Grant Period, which shall confirm whether the Project has been successfully and properly completed.
- 6.9 In addition to the reporting obligations set in this clause 6, the Recipient shall, annually in November of each year, submit to the Funder as well as the Secretary of the Host Boroughs Joint Committee, a Business Plan and Budget for the following year. The business plan will form the basis of the Recipient's application for funding for the following year from the Host Boroughs and shall contain, as a minimum, the information set out in Schedule 5. For the avoidance of doubt, nothing in this Agreement shall

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oblige or commit the Funder to continue to provide funding for any subsequent periods following termination of this Agreement.

7. ACKNOWLEDGMENT AND PUBLICITY

- 7.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant.
- 7.2 The Recipient shall acknowledge the support of the Funder in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by the Funder) shall include the Funder's name and logo (or any future name or logo adopted by the Funder) using the templates provided by the Funder from time to time.
- 7.3 In using the Funder's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by the Funder from time to time.
- 7.4 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by the Funder.
- 7.5 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.
- 7.6 The Recipient shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Funder in its promotional and fundraising activities relating to the Project.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Funder and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Funder or the Recipient before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.
- 8.2 Where the Funder has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and

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shall either return or destroy such Intellectual Property Rights as requested by the Funder.

9. CONFIDENTIALITY

9.1 Subject to clause 10 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.

9.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:

- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
- (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
- (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

10. FREEDOM OF INFORMATION

10.1 The Recipient acknowledges that the Funder is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and shall assist and co-operate with the Funder (at the Recipient's expense) to enable the Funder to comply with these information disclosure requirements.

10.2 The Recipient shall:

- (a) transfer the request for information to the Funder as soon as practicable after receipt and in any event within [two] Working Days of receiving a request for information;
- (b) provide the Funder with a copy of all information in its possession or power in the form that the Funder requires within [five] working days

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(or such other period as the Funder may specify) of the Funder requesting that information; and

- (c) provide all necessary assistance as reasonably requested by the Funder to enable the Funder to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.

10.3 The Funder shall be responsible for determining at its absolute discretion whether the information:

- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
- (b) is to be disclosed in response to a request for information, and in no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Funder.

10.4 In no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Funder.

10.5 The Recipient acknowledges that the Funder may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:

- (a) without consulting with the Recipient; or
- (b) following consultation with the Recipient and having taken its views into account,

provided always that where clause 10.5(b) applies the Funder shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Recipient advanced notice, or failing that, to draw the disclosure to the Recipient's attention after any such disclosure.

10.6 The Recipient shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Funder to inspect such records as requested from time to time.

11. DATA PROTECTION

The Recipient shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with any notification requirements under the Data Protection Act 1998 (**DPA**) and both Parties will duly observe all their obligations under the DPA, which arise in connection with the Agreement.

12. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

12.1 The Funder's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

- (a) the Recipient uses the Grant or Third Party Funding for purposes other than those for which they have been awarded;
- (b) the Funder considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (c) the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent manner;
- (d) the Recipient obtains duplicate funding from a third party for the Project;
- (e) the Recipient obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Project or the Funder into disrepute, which for the avoidance of doubt includes but is not limited to the manufacture of and/or promotion of the consumption of alcohol or tobacco products;
- (f) the Recipient provides the Funder with any materially misleading or inaccurate information;
- (g) the Recipient commits or committed a Prohibited Act;
- (h) any member of the governing body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (i) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (j) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
- (k) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

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- 12.2 Wherever under the Agreement any sum of money is recoverable from or payable by the Recipient (including any sum that the Recipient is liable to pay to the Funder in respect of any breach of the Agreement), the Funder may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Recipient under the Agreement or under any other agreement or contract with the Funder.
- 12.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 12.4 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.

13. ANTI-DISCRIMINATION

- 13.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 13.2 The Recipient shall take all reasonable steps to secure the observance of clause 13.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

14. HUMAN RIGHTS

- 14.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).
- 14.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

15. LIMITATION OF LIABILITY

- 15.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from the withdrawal of the Grant. The Recipient shall indemnify and hold harmless the Funder, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under this Agreement or its obligations to third parties.
- 15.2 Subject to clause 15.1, the Funder's liability under this Agreement is limited to the payment of the Grant.

16. WARRANTIES

The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant);
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;

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- (i) it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this Agreement; and
- (j) since the date of its last accounts there has been no material change in its financial position or prospects.

17. INSURANCE

17.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).

17.2 The Required Insurances referred to above include (but are not limited to):

- (a) public liability insurance with a limit of indemnity of not less than two million pounds (£2,000,000) in relation to any one claim or series of claims arising from the Service; and
- (b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Service.

The Recipient shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

17.3 In addition to the Required Insurances, the Recipient shall maintain acceptable director's and trustees liability insurance.

18. DURATION

18.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until the anniversary of expiry of the Grant Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.

18.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

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19. TERMINATION

The Funder may terminate this Agreement and any Grant payments on giving the Recipient [three months'] written notice should it be required to do so by financial restraints or for any other reason.

20. ASSIGNMENT

The Recipient may not, without the prior written consent of the Funder, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant.

21. WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

22. NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

23. DISPUTE RESOLUTION

23.1 In the event of any complaint or dispute (which does not relate to the Funder's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Project Manager or any other individual nominated by the Funder from time to time.

23.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Project Manager or other nominated individual, as the case may be, either party may refer the matter to the Chief Executive of the Funder and the Chair of the Recipient with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Funder and the Recipient.

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23.3 In the absence of agreement under clause 23.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

24. NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between the Funder and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

25. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

26. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a DEED
by the affixing of the COMMON SEAL of
**The Mayor and Burgesses of the
London Borough of Hackney**
in the presence of:

.....
Authorised Signatory

EXECUTED as a DEED
by **CREATE London**
acting by and under the signatures of:
[NAME OF DIRECTOR]

.....
[SIGNATURE OF DIRECTOR]
Director

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[NAME OF DIRECTOR OR COMPANY
SECRETARY]

[SIGNATURE OF DIRECTOR OR
COMPANY SECRETARY]
[Director **OR** Company Secretary]

SCHEDULE 1

The Project

CREATE London is a festival rooted in the London boroughs of Hackney, Tower Hamlets, Newham, Greenwich, Waltham Forest and Barking and Dagenham. It is an annual celebration of the creativity and diversity of East and South East London as well as a catalyst for cultural development across the region. The intention is for CREATE London to deliver an annual festival and to remain as a secure and sustainable legacy for the sub-region.

CREATE London previously run as CREATE for two years and in that time is already developing a significant reputation as an exciting and groundbreaking event. CREATE09 attracted audiences of over 822,000 with opportunities for 220,000 to actively participate in events with a further 7,600 individuals engaging through volunteering, mentoring and training for young people, workshops, curating and competitions. CREATE09 represents an arts programme valued at just over £2m. In 2009, and again in 2010 over £500k was secured by the host boroughs unit culture team to present new work, alongside supporting participation programmes and an enhanced press and marketing campaign.

CREATE London is about getting more local people to take part in culture. Designed to build towards, and capitalise on, the extraordinary Olympic moment, the programme aims to turn the enthusiasm generated by the Games into sustained cultural engagement for local people. Over the next five years CREATE London will use the springboard of the Olympics to inspire local residents to get involved in arts and culture through the production and delivery of an annual festival. Cultural participation rates in the six boroughs are significantly lower in comparison with the rest of London despite the density of professional artists and creative businesses in the area.

Alongside the focus on community participation, CREATE London will spearhead a campaign to put east and southeast London on the cultural tourism map through working in partnership with the local creative and artistic community. CREATE London is unique in being able to develop a programme of exceptional quality which is drawn almost entirely from the local creative population. The six host boroughs are home to Europe's largest cultural quarter with over 12,000 of artists and some of the UK's leading arts producers. Turner Prize winners and MOBO awardees live and work here, alongside a growing number of leading creative industry companies, designers, journalists and writers – a growing number of which are already CREATE London partners.

It is planned that in 2013 CREATE London will include the Olympic Park as a focus for new cultural activity. CREATE London will have been working in the five boroughs for the preceding four years, brokering partnerships with all the key cultural

Appendix B

organisations in London and working with all the major promoters, artists and producers. CREATE London will be ideally positioned to connect the Park with the cultural life of the region, establishing the park as a place where culture happens and helping establish the crucial sense of local ownership which will make the new part of the city work.

CREATE London has brought together a partnership of the six host boroughs, all the major arts and cultural organisations in the sub region, and regional and national agencies. This partnership is a now critical strategic grouping for culture in the sub-region and the benefits of the partnership are extending beyond the delivery of the festival. CREATE London is a central part of the London 2012 cultural programme and has now been identified as a key part of its legacy.

CREATE London core business activity over the next three years

- To advance the education of the arts and promote and encourage the arts, especially (but not limited to) opera, plays, dramas, dance, music, literature, the visual arts and the study of the arts and, for these purposes, to organise, promote, manage and conduct festivals of music, dramas and other entertainments in East London or elsewhere annually or at such other intervals as the Charity may determine.
- To continue to work with arts organisations, the Host Boroughs and creative agencies alongside local and national cultural bodies to encourage them to deliver work as part of the CREATE London festival (paid for by, or in partnership with, those organisations.)
- To mount specific commissions for which CREATE London fundraises, including London 2012 projects
- To deliver co-commissions and joint approaches to generating further activity
- To act as a facilitator and broker between east and south east London's cultural sector and key public stakeholders
- To ensure the cultural sector of east and south east London is embedded into the long term legacy planning for the region.

CREATE London is a [registered charity] and delivery of the Project will be in accordance with CREATE London's charitable objectives only. Nothing in this agreement shall require CREATE London to operate outside its charitable objectives.

SCHEDULE 2

Payment Schedule

Amount of Grant Payable	Date of Payment

SCHEDULE 3

Third Party Funding

Third Party	Amount	Application / Use

SCHEDULE 4

Financial Requirements

Financial Requirements to be met by Recipient

1. The Recipient must establish the following financial arrangements and systems, and provide details thereon to the Funder by the commencement date:
 - a. open a bank account with a UK clearing bank, including as a minimum a current account (with two signatories on cheques, and separate payment entry and payment authorisation for electronic payments), and an associated interest accruing account;
 - b. acquire a suitable proprietary accounting system, use it to record all company financial transactions, and maintain comprehensive files of payment and receipt documentation (invoices, receipts, vouchers, contracts, tenancies, etc);
 - c. establish appropriate payroll arrangements, which may include a proprietary payroll system;
 - d. register with HMRC for VAT, and PAYE (if necessary), and complete a HMRC New Company Details form.
2. Advise the Funder of the names of the director and member of staff with primary responsibility for company finances.
3. Maintain Budgets and Cashflow Estimates in at least the same level of detail as the Initial Budget supplied by the Funder, and supply copies to the Funder.
4. Provide quarterly Budget and Cashflow monitoring reports to the Funder in at least the same level of detail as the Initial Budget supplied by the Funder, with a breakdown of payments to each member of staff (employees, agency staff, consultants and contractors).
5. Provide copies of signed company and charity annual reports and accounts.
6. Produce and comply with a written set of company financial rules agreed with the Funder.
7. On request from the Funder, provide access to the company accounting system, payment and receipt documentation, payroll system/data, and VAT and PAYE documentation. In this context, access includes provision of full electronic data files in respect of accounting and payroll system transactions.

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8. Supply the Funder with copies of all Grant and Sponsorship Agreements entered into by the company, and details of any donations in excess of £1,000.
9. On request from the Funder, supply copies of all Companies House, Charity Commission, VAT, PAYE and Corporation Tax notifications and returns, and copies of all insurance policies.
10. Appoint an external auditor and inform the Funder.

SCHEDULE 5

Business Plan and Financial Forecasts

The approach concluded between the Host Boroughs and CREATE requires that in November prior to every financial year for which CREATE is seeking a financial contribution to its work from the Host Boroughs, CREATE will submit to the Secretary of the Host Boroughs Joint Committee a draft Business Plan and Financial Forecasts which will form the basis of CREATE's application for funding for the following year from the Host Boroughs.

The Business Plan will incorporate a draft programme for the following year's CREATE Festival and any other related activities which, prior to its submission, will have been the subject of initial consultation with relevant officers in each of the Host Boroughs.

The Business Plan will address the following:

- The outcomes of the previous festival in terms of participation, coverage, income, events and levels of participation and approval.
- How the CREATE Festival and other activity addresses the relevant issues of Convergence and in particular indicators related to access to and participation in cultural events and Skills and Employment
- How CREATE will ensure that the Festival and other activities are distributed across the 6 Host Boroughs
- How CREATE will work up its festival programme and other activities in partnership with the several Host Boroughs in order to ensure that links between CREATE and Host Boroughs activities are made and supported so that opportunities are maximised
- The scale and focus of other sponsorship and the scale and purpose of other grant funding
- The specific use proposed for any Host Borough funding

Subject to discussion and agreement the CREATE business plan will form the basis of any agreement by the Host Borough Joint Committee to fund CREATE in the following year which will be confirmed when the Host Boroughs Budget is finalised in February prior to the start of the following financial year.

SCHEDULE 6

Memorandum and Articles