



Peterborough City Council (the "Council")  
and Peterborough Cultural and Leisure Trust (the "Trust")

## Business Transfer Agreement

### Summary

The Transfer Agreement will transfer the "assets" of the service currently provided by the Council at the facilities.

The assets to be transferred will include stock, contracts and, most importantly, the employees. The buildings, fixtures and fittings will be dealt with in the lease documents. Any loose equipment will be specifically excluded from the transfer.

The proposed key provisions of the Transfer Agreement are set out below:

<b>1.</b>	<b>Transfer of the Activity</b>
	<p>The Agreement will provide for the transfer of (1) the services and (2) the related assets (which will include work in progress, assumed contracts, goodwill (if appropriate) and the employees to the new trust.</p> <p>The Council will retain all intellectual property rights and grant a non-exclusive, non-transferable royalty free licence to use the intellectual property rights owned by the Council for the purposes of carrying out and developing the services. Royalties received by the Council in respect of filming at the facilities during the term of the FMA will be shared between the Council and the Trust.</p>
<b>2.</b>	<b>Allocation of Debts and Liabilities</b>
	<p>Any debts and liabilities arising before completion date will be the responsibility of the Council. After completion date, they will be the responsibility of the Trust.</p>
<b>3.</b>	<b>Assignment of Contracts</b>

	<p>All contracts (eg supply contracts) associated with the service and capable of assignment will be assigned to the Trust. Details of the assigned contracts will be detailed in a schedule to the Transfer Agreement. Where any contract is not capable of assignment, the parties will use their endeavours to novate the contract in favour of the Trust.</p> <p>The Agreement will also detail the retained contracts. The Council will remain contracting party to these contracts but will apportion some of the costs of the contract to the Trust proportionate to the benefit enjoyed by the Trust in relation to the contract. Details of these contracts will be set out in the Transfer Agreement.</p>
<b>4.</b>	<b>Employees</b>
	<p>The Agreement will provide that the staff (identified in the Transfer Agreement) will transfer to the Trust on the completion date and that the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply to the transfer. The Agreement will contain a provision whereby the Council will indemnify the Trust against any liability in respect of any claim made against it arising from an act or omission of the Council prior to completion date or an act of one of the employees prior to that date. Similarly, the Trust will indemnify the Council against any act or liability incurred by the Council arising from an act or omission of the Trust or one of its employees after completion date. The Agreement will also confirm that the transferring employees join the local government pension scheme operated by the Trust.</p> <p>The Council shall indemnify the Trust in relation to any losses that it suffers as a result of the termination of the DC Leisure contract and the DC Leisure employees transferring to the Trust upon termination of the contract.</p>
<b>5.</b>	<b>Pensions</b>
	<p>The Trust will become a community admission body credited with a notional fund within the LGPS and shall enter into an Admissions Agreement with Cambridgeshire County Council.</p> <p>The Council will retain responsibility for any deficit up until the completion date within the pension fund in respect of those employees transferring to the Trust.</p> <p>The Trust will offer a good quality pension scheme to new employees with death benefits and an employer's contribution of 6%. The Trust will meet the</p>

	requirements under the Code of Practice on Workforce Matters in Local Authority Service Contracts.
<b>6.</b>	<b>VAT</b>
	<p>The transfer of the services shall be treated as a transfer of a going concern for VAT purposes.</p> <p>The Trust shall be registered for VAT purposes.</p>
<b>7.</b>	<b>Support Services</b>
	The Council has agreed to provide certain services to the Trust in accordance with the support services specifications set out in the support services agreement which is a separate agreement from the Transfer Agreement.
<b>8.</b>	<b>Indemnity</b>
	The Agreement will contain general provisions whereby the Council will indemnify the Trust from any liability arising from any act prior to the transfer date. Similarly, the Trust will indemnify the Council from any debts or liabilities arising from the performance or failure to perform any act by the Trust after the transfer date.