Agreement for Consultancy Services (CA1 – Form 4)

**DATE:**

**PARTIES:**

(1) "the Council" means The Mayor and Burgesses of the London Borough of Sutton of Civic Offices St Nicholas Way Sutton Surrey SM1 1EA

(2) "the Consultant" means

**1. Particulars:**

1.1 Instructing Officer (to whom the Consultant will be accountable): Jane Allen, Heritage Manager

1.2 Period of Engagement: From:   23rd October 2017 to 4th January 2018

1.3 Services (to be provided): Development of a Cultural Strategy for Sutton as set out in the specification

1.4 Minimum Professional Indemnity Insurance Cover £2m

**1.5 Special Conditions:**

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**1.6 The Remuneration:** [

                                                                                                                                              ]

[And which shall not exceed [£                       ] in total for this Agreement]

**1.7 Value Added Tax (whether registered):**

**2. Engagement**

The Council engages the Consultant and in consideration of the payment of the Remuneration the Consultant agrees to render to the Council Services or such varied services as may from time to time be agreed between the Consultant and the Instructing Officer in accordance with the provisions set out in this Agreement for the Period of Engagement

**3. Consultant's Obligations** It is a condition of this Contract that the Consultant:-

3.1 Shall render the Services to the best of their skill and ability and in a professional and workmanlike manner in co-operation with the Instructing Officer

3.2 Shall not without the prior written consent of the Instructing Officer incur any expenditure or costs on behalf of the Council;

3.3 Shall not in connection with their activities under this Agreement do or suggest the doing of any act which may be unlawful or infringe the rights of any third party or which might prejudice or damage the reputation of the Council;

3.4 Has the appropriate professional qualifications and the skill and experience to provide the Services in compliance with the rules of any relevant professional body and that the Consultant will provide evidence of such qualifications (and compliance) to the Instructing Officer on request

3.5 Shall take reasonable care to avoid the possibility of any conflict of interest arising in connection with the provision of the Services and shall promptly notify the Instructing Officer if it becomes apparent to the Consultant that a conflict of interest has arisen (or could foreseeably arise)

3.6 Whilst on Council premises the Consultant shall comply with the Council's health and safety requirements including "no smoking" policies and observance of fire drills;

3.7 (Save as required by law) shall not disclose reveal or make public any information whatever concerning the business or activities of the Council its customers partners or contractors or this Agreement all of which shall be strictly confidential; and shall not either during the currency of this Agreement or thereafter disclose to any person other than an officer or employee or other person engaged by the Council, who in each case is a person to whom such disclosure is necessary or desirable in the interests of the Council or of the Consultant’s due performance of his/her obligations under this Agreement:

3.7.1 any information of a confidential or secret nature concerning the Council or its affairs;

3.7.2 any information as to the identity of or the Council’s dealing with any of its clients;

3.7.3 any information the disclosure of which could prejudice the Council’s intellectual property rights whether actual or potential in any matter;

3.7.4 any other information concerning the Council or its affairs the disclosure of which might be detrimental to the interests of the Council and which the Consultant has acquired by reason of, or in the course of the performance of his/her obligations under this Agreement or any previous Consultancy Agreement with the Council;

3.7.5 any other information the disclosure of which would put either the Council or the Consultant at risk of breach of the Data Protection Act 1998.

3.8 Will comply with the Council's stated equal opportunities and environmental policies attached hereto (if applicable) and will in any event when providing the Services comply with the Council's stated environmental and equal opportunities policies; and shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 (or any amendment or re-enactment of the same) or any other anti-discrimination legislation AND TO PERMIT the Council at its discretion and at any time to take all reasonable steps including and without limitation, conduct site visits to the Consultant’s premises and the requirement by the Consultant to provide statements of compliance and supporting documentation to the Council to ensure that this ongoing requirement is being complied with.

3.9 The Consultant shall be responsible for payment of their own tax and National Insurance contributions and keep the Council indemnified in respect thereof

3.10 Agrees to indemnify and keep fully indemnified the Council from and against any losses actions proceedings costs awards claims and damages however incurred or arising against the Council in respect or arising out of the Consultant’s negligence or other breach or non-performance by the Consultant of any or all of their obligations warranties and undertakings AND FOR THAT PURPOSE the Consultant shall also maintain professional indemnity insurance against such risks in an insurance office of repute and providing minimum cover specified in Clause 1.4 above for any single claim or series of claims and to provide evidence of such continuing insurance cover to the Instructing Officer on demand.

3.11 Shall provide documentary evidence of the Consultant's self-employed status on demand. In this respect the Consultant warrants that the information provided in the Council’s Employment Status Questionnaire was accurate and complete at the time the information was provided and that the Consultant will promptly notify the Council in writing of any subsequent changes to that information.

3.12 To the extent that any Intellectual Property in the work the Consultant does for the Council is capable of prospective assignment, the Consultant now (with full title guarantee and without cost) assigns that Intellectual Property to the Council; and to the extent that any Intellectual Property in that work cannot prospectively be assigned, the Consultant will (with full title guarantee and without cost) assign that Intellectual Property to the Council as and when it is created, at the Instructing Officer’s request. For this purpose the expression ‘Intellectual Property’ means patents, trademarks, service marks, registered designs, copyrights, database rights, design rights, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with the rights of action in relation to the infringement of any of the above.

3.13 So far as applicable to the nature of the Services the Consultant will ensure that he/she uses working methods, equipment, materials and consumables which minimise environmental damage. In particular the Consultant shall ensure that he/she fully complies with the environmental obligations laid down in the Council’s Environmental Policy and Environmental Purchasing Policy and that he/she is familiar with the Council’s Environmental Policy supplied to the Consultant and that he/she will support and assist the Council in meeting the aims laid down in it.

3.14 If required, and so far as applicable to the Services, the Consultant will supply details of their registered environmental management system such as ISA14001 or alternatively the Consultant will implement an environmental improvement programme which is to be agreed by the Council and will be monitored annually by the Council.

3.15 The Consultant shall not sub-contract or assign this Agreement or any part of it without the prior written consent of the Council.

3.16 The Consultant shall not, whether personally, or by any partner or director engaged in the provision of the Service, or by any person employed by him/her to provide the Service, solicit or accept any gratuity, or any other form of money taking or reward, collection or charge for any part of the Service other than charges properly approved by the Council in accordance with the provisions of this Agreement.

3.17 The Consultant shall not engage in work for other parties whilst on the Council’s premises, or using any property or facilities of the Council, without the prior written agreement of the Council.

**4. Remuneration**

Subject to the full and complete performance of the Services and observance by the Consultant of their obligations and warranties under this Agreement (and provision by the Consultant of appropriate invoices) the Council undertakes to pay the Consultant:

4.1 The Remuneration (payment to be made within thirty days of receipt of the Consultant’s proper invoice);

4.2 (Save where the same is included within the Remuneration either expressly or by implication) reimbursement (within thirty days of receipt of a correct and itemised invoice) of all expenditure necessarily incurred by the Consultant in the performance of their obligations under this Agreement with the prior approval of the Instructing Officer subject to the production of receipts or vouchers and provided that such expenditure shall not exceed such amount reasonably specified by the Instructing Officer in respect of any period;

4.3 Subject to the Consultant's prior written disclosure of their registration for Value Added Tax purposes and subject to the delivery to the Instructing Officer of a full accurate and proper Value Added Tax invoice all relevant Value Added Tax payable in respect of the sums referred to in paragraphs 4.1 and 4.2

**5. Miscellaneous**

5.1 Nothing contained in this Agreement shall constitute a partnership or contract of employment between the parties

5.2 This Agreement shall be governed by and construed in accordance with the laws of England and Wales whose courts shall be courts of competent jurisdiction

5.3 (Subject to Clause 5.4 below) this Agreement shall subsist for the Period of Engagement and any extension thereof as may be authorised by the Instructing Officer and accepted by the Consultant

5.4 The Instructing Officer shall be entitled to terminate this Agreement at any time on giving one week's notice to the Consultant (or sooner if necessary to protect the interests of the Council or any other party) and on paying to the Consultant what is due to the Consultant (apportioned if appropriate) for the period up to the date of such termination

5.5 The Council may at any time terminate this Agreement without notice and without further liability in any of the following circumstances:

5.5.1 if the Consultant commits a serious breach of any of the terms of this Agreement;

5.5.2 or if the Consultant becomes bankrupt or (being a company is the subject of any winding up or striking off from the Companies Register) or if the Consultant is convicted of a criminal offence involving violence or dishonesty or otherwise which (in the Council’s reasonable opinion) makes it inappropriate for the Consultant to continue to provide the Services.

5.6 It is agreed that property in all documents created by the Council or the Consultant for any of the purposes of this Agreement and in all resources supplied shall immediately and without further instrument vest in the Council upon completion of the Services.

5.7 On the termination of this Agreement for whatever reason the Consultant will deliver up to the Council all property of the Council in his/her possession or control.

5.8 The Council shall be the beneficial owner of any intellectual property rights derived from or otherwise arising in consequence of the Consultant Services under this Agreement, including but not limited to copyrights in software and documentation, patentable inventions and other rights in respect of information or systems which the Council would be entitled in law to protect against unauthorised use or appropriation by third parties.

5.9 The Council shall be entitled to cancel this Agreement and recover from the Consultant the amount of any loss or damage resulting from such cancellation if:

5.9.1 the Consultant shall have offered, or given, or agreed to give to any person any gift, consideration, inducement or reward of any time, for doing or not doing any action in relation to the Agreement or any other contract with the purchaser; or

5.9.2 the like acts shall have been done by any person employed by the Consultant or acting on his/her behalf (whether with or without the knowledge of the Consultant);

5.9.3 if in relation to any contract with the Council, the Consultant or person employed by him/her or acting on their behalf shall:

5.9.3.1 have committed any offence under the Bribery Act 2010;

5.9.3.2 have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

5.10 Nothing in this Agreement is intended to prevent the Consultant from providing services to third parties including competitors of the Council, either during or after the termination of this Agreement provided that the Consultant is not thereby prevented from complying fully with the terms of this Agreement and subject to there being no conflict of interest.

IN WITNESS where the parties have set their hands the day and year first above written

.………………………… ……………….. **[Name of Consultant]**

…………………………………………….**[Name of Authorised Signatory on behalf of the Council]**

Note: This agreement must be prepared, signed and dated in duplicate. Following completion of the agreement, an original signed and dated copy must be delivered to your Group HR Business Partnering Team for registration and safe keeping in accordance with the Council’s audit requirements.