

**MANAGEMENT AGREEMENT IN RESPECT OF**  
**LYTHAM HALL COUNTRY PARK**

**BETWEEN**

**(1) HERITAGE TRUST FOR THE NORTH WEST LIMITED**

**AND**

**(2) LANCASHIRE COUNTY COUNCIL**

I M Fisher Esq  
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P O Box 78  
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PRESTON  
PR1 8XJ

**THIS AGREEMENT** is made the                      day of                      2011

**BETWEEN:**

- (1) **HERITAGE TRUST FOR THE NORTH WEST LIMITED** registered office Pendle Heritage Centre, Parkhill, Barrowford, Nelson, BB9 6JQ being a company registered in England with No. 1397038 and being a charity with registration No. 508300 (“the Heritage Trust”);
- (2) **LANCASHIRE COUNTY COUNCIL**, PO Box 78, County Hall, Preston, PR1 8XJ (“The County Council”).

**BACKGROUND:-**

- A. This Agreement relates to the property situate and known as Lytham Hall, Lytham St Annes, registered at H.M. Land Registry with Title No. LA797906 (“The Property”).
- B. By virtue of a Lease dated the 16 March 2002 made between Lytham Town Trust Limited (“the Town Trust”), registered office at Bank House, 9 Dicconson Terrace, Lytham, Lancashire, FY8 5JY and the Heritage Trust (“The Lease”) the Property was leased to the Heritage Trust for a term of 99 years from the 1 January 1998 the Lease containing options to determine upon the terms therein mentioned. The Heritage Trust’s Lease is registered at H.M. Land Registry with Title No. LA865926.
- C. Lancashire County Council is the County Council for the area in which the Property is situated.
- D. The Parties are desirous of entering into an Agreement for the establishment and subsequent operation of a Country Park at the Property.

**IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS**

- 1.1 “**The Services**” means those services listed in Schedule A to this Agreement
- 1.2 “**The Property**” means the property situate and known as Lytham Hall, Lytham St Annes registered with HM Land Registry with Title Number LA797906, more particularly delineated and outlined in red on the plan at Schedule B to this Agreement.
- 1.3 “**The Country Park**” means the area of the Property more particularly delineated and outlined in blue on the plan at Schedule B to this Agreement.
- 1.4 “**The Records**” means those records listed in Schedule C to this Agreement.

1.5 **"Branding Logo"** means the designing and marketing that clearly identifies the parties' involvement in the Country Park.

1.6 **"Special Events"** mean any organised events to take place at the Country Park from time to time as arranged by either of the parties, including but by no means limited to Snowdrop Walks and Car Rallies.

## 2. **WHEREAS:**

2.1 The Heritage Trust requires the County Council to provide the Services.

2.2 In consideration for the provision of the Services, the Heritage Trust agree to allow the Country Park to be used as set out in this Agreement.

## 3. **COMMENCEMENT AND DURATION**

This Agreement shall commence on the            day of            2011, and shall continue in full force and effect until the 31 day of March 2013 unless terminated by either party giving notice of termination in accordance with the provisions of Clauses 17 and 18 herein.

## 4. **TRANSITIONAL PHASE**

The parties hereto acknowledge and accept that from the date hereof, until a date to be agreed between the parties, operation of the Country Park shall be conducted during a Transitional Phase, during which the terms of this agreement, and in particular the provisions of clause 5, shall be under constant review by the parties. During the Transitional Phase, both parties agree to work together to ensure smooth operation of the Country Park. Upon expiry of the Transitional Period, if earlier than the termination date referred to in clause 3 above, the parties shall endeavour to formalise the operation and management arrangements between the parties at the Country Park and document the same as soon as practicably possible.

## 5. **OBLIGATIONS OF THE COUNTY COUNCIL**

The County Council agrees to carry out The Services using its best endeavours and devoting such time and funding as is necessary to enable The Services to be performed to a satisfactory level. .

## 6. **FUNDAMENTAL CONDITIONS**

In consideration of The Services to be performed by the County Council the Heritage Trust hereby agrees to the following:-

### 6.1

(i) To open up the Country Park to the public for a minimum of 200 days per annum.

- (ii) With the exception of Special Events, public access to the Country Park will be free of charge save that an Honesty Box will be provided by the County Council and located within the car park of the Country Park. It is therefore acknowledged by the parties that, with the exception of Special Events, levy of charges is dependant solely on the honesty of visitors to the Country Park and neither party shall be responsible for enforcement of such charges.
- (iii) Public access to Special Events will be at a charge to be agreed between the parties from time to time, subject to appropriate advertising of said charges
- (iv) Any revenue from such charges from Special Events organised by the Heritage Trust will be retained by the Heritage Trust and used solely for the upkeep, maintenance, and renovation of the Property.
- (v) Notwithstanding the provisions of clause 6.1(iv) above, the parties agree that the County Council shall be entitled to retain any revenue from any Special Events that the Heritage Trust has agreed that the County Council may arrange, such agreement from the Heritage Trust not to be unreasonably withheld.
- (vi) Where Special Events are organised jointly by the parties, any revenue from the charges shall be shared between the parties on a pro rata basis with respect to the time, effort and expense of organising the Special Events, to be agreed in accordance with clause 6.1(iii) above.
- (vii) Car parking will be granted to the public during designated opening hours in a location within the Property outlined in green on the Plan at Schedule B.
- (viii) In consultation with the County Council to create additional pedestrian trails and picnic areas in the areas as shall be agreed by the Committee, along with other facilities for informal recreation to be agreed from time to time between the parties and approved by the Committee.
- (ix) To permit dogs within the Country Park subject to the provisions in relation to the same provided for as part of the Services at Schedule A.

## 6.2

- (i) To provide public toilets for the use of visitors to the Country Park to be open at all times whilst the Country Park is open to the public, including one toilet suitable for and accessible to the disabled.
- (ii) The Heritage Trust will arrange for the toilets referred to herein to be cleaned as part of an existing arrangement for the cleaning of the

Property, for which the County Council will reimburse the Heritage Trust at a rate of £15.00 per day for a minimum of 3 days per week. Such charges shall only be payable when the Country Park is open to the public.

- (iii) The Heritage Trust will make available for use by both the Heritage Trust and the County Council a room within one of the buildings within the Property (to be agreed between the Parties) for use as a classroom. It is anticipated that the County Council will inform the Heritage Trust in advance of their intention to use the classroom and the Heritage Trust will not obstruct use of the classroom facility unreasonably. The County Council will reimburse the Heritage Trust in respect of use of the classroom and the costs of any services utilised by the County Council at a rate of £70.00 per day's use of the classroom facility.
- (iv) The costs payable by the County Council shall be subject to annual review with any alterations to the same to be agreed in writing between the Parties.

### 6.3

- (i) A Committee, to be known as the Lytham Hall Country Park Committee ("the Committee") will convene to discuss and review day to day running of the Country Park and all aspects of the management of the Country Park not otherwise provided for under the terms of this Agreement
- (ii) The Committee will comprise two trustees of the Heritage Trust, nominated by the Heritage Trust, and two representatives of the County Council.
- (iii) The Committee will meet twice per year at six monthly intervals.
- (iv) The Committee's decisions will only be implemented if they are arrived at unanimously by all members of the Committee.
- (v) The agenda for any Committee meetings will be prepared and circulated by the County Council as soon as possible beforehand.
- (vi) Nothing in this Agreement shall be construed so as to override the Heritage Trust's rights and responsibilities as Leaseholder of the Property as granted to the Heritage Trust by the Lease.

### 6.4

No alterations shall be made to the Country Park, in particular the Scheduled Grade II Parkland, without the express consent of the Heritage Trust, the Heritage Trust not to withhold or delay such consent unreasonably, along with any other necessary consents including but not limited to any consents required in accordance with the provisions of current Town and Country

Planning Acts relating to Listed Buildings and Listed Parklands and otherwise to execute all such works conforming at all times and in all respects with the provisions of and any regulations under any general or local Acts of Parliament which may be applicable to the Property and/or the Country Park. The responsibility for obtaining such consent(s) shall rest with the County Council.

## 6.5

- (i) The Heritage Trust shall provide for use by the County Council for the provision of the Services office and workshop facilities close to the classroom facilities described above at 6.2 (iii).
- (ii) The office shall have a minimum floor space of 3m x 3m be furnished with 3 electric wall sockets, 1 telephone point, electric lighting, controllable heating facility, an opening window and small sink with hot water.
- (iii) The workshop facility should have a floor space of 5m x 5m as a minimum and will include an area for the storage of bicycles and shall be accessible by the disabled and shall have parking immediately to the exterior of the workshop. Access to the workshop should be through a door with a minimum width of 1.9m. The workshop shall have electric lighting, ventilation, controllable heating facility, 4 electric power points on 2 walls located approximately 1.5m above ground with a solid (not asphalt) floor.
- (iv) The County Council shall pay an annual fee of £450.00 to the Heritage Trust for use of this workshop/office.
- (v) The County Council shall reimburse the Heritage Trust for the cost of services to these workshop and office facilities, following reconciliation of actual bills received by the Heritage Trust from the relevant utility providers. These costs payable by the County Council shall be subject to annual review, and any variation to the same should be agreed in writing between the Parties.

## 7. UNDERTAKINGS

The parties undertake between themselves as follows:-

- 7.1 that they will not do or suffer or permit to be done any work in the Country Park which will substantially reduce the area to which the public are able to have access by virtue of this Agreement.

- 7.2 that they will not destroy, remove or alter or stop up any means of access to the Country Park or do or suffer or permit to be done anything which may result in the use of any such means of access by the public being impeded.
- 7.3 that they will not provide or maintain or suffer or permit in the Country Park any misleading notice or do or suffer or permit to be done any other thing which is likely to deter the public from exercising its rights of access granted by virtue of this Agreement.

## **8. DELIVERY UP OF DOCUMENTS**

The Heritage Trust shall upon termination of this Agreement immediately deliver up to the County Council all correspondence documents specifications papers and property belonging to the County Council which may be in the possession or control of The Heritage Trust, its employees, agents or subcontractors, unless prior agreement to not do so is made.

## **9. FORCE MAJEURE**

- 9.1 The parties agree that neither of them shall be liable for delays, costs, losses or expenses of any kind or nature that would have been an event of default hereunder caused by Force Majeure including (but not limited to) fire, labour disputes, Acts of God or any other cause or causes that are beyond the reasonable control of the party concerned.
- 9.2 Notwithstanding the provisions of Clause 8.1 the County Council will use its best endeavours to continue to perform or resume performing its obligations under this Agreement.
- 9.3 If and when the period of Force Majeure exceeds 3 months then either party shall have the right to terminate the Agreement forthwith on written notice to the other.

## **10. ASSIGNMENT**

Neither of the parties may assign, transfer or novate or dispose of any right, interest, benefit or obligation under this Agreement without the written consent of the other.

## **11. SUBCONTRACTING**

The County Council may not subcontract any part of its obligations under this Agreement without the written consent given in advance by the Heritage Trust. In the event that such consent is sought and given, the County Council shall at all times remain liable to the Heritage Trust in full for the performance of all obligations hereunder.

## **12. VARIATION**

12.1 No variation to this Agreement shall be effected unless it is recorded in writing and is signed by all the parties.

12.2 If any provision of this Agreement is or becomes invalid or contravenes any applicable law the remaining provisions shall remain in full force and effect.

### **13. DISPUTES**

13.1 If one party is dissatisfied with this Agreement or The Services or the payments which are the subject matter of this Agreement and that party is not able to resolve its dissatisfaction in informal discussion with the other parties then it may at its option give notice to the other party in writing of its intention to invoke the dispute procedure set out under this Clause 12.

13.2 Within ten days of receipt of the said notice or any other period agreed between the parties the Assistant Director of Environmental Projects of the County Council and the Project Manager of the Heritage Trust shall meet together to attempt to resolve the said dispute.

13.3 In the event that the officers referred to in Clause 12.2 fail to resolve the dispute the Director for Environmental Services and Public Protection of the County Council and the Chief Executive Officer of the Heritage Trust shall meet within ten days of the meeting referred to in Clause 12.2 above (or such other period agreed between the parties) in a further attempt to resolve the dispute unless they agree that Clause 12.4 below shall apply without further discussion.

13.4 In the event that the officers referred to in 12.3 above fail to resolve the said dispute either party may terminate this Agreement upon not less than one month's written notice.

### **14. WAIVER**

14.1 No failure on the part of either party to exercise and no delay on its part in exercising any right or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any or further exercise thereof or the exercise of any right or remedy. The rights and remedies provided in this Agreement are in addition to and not exclusive of any rights and remedies provided by law.

14.2 Any express waiver by any party of any breach of any of the obligations of one or both of the other parties under this Agreement shall not be a waiver of any continuing breach or of any other breach of any of these obligations.

### **15. NOTICES**

15.1 Any notice or other document to be given under this Agreement shall be in writing and shall be deemed duly given if left or sent by first class post or express or other fast postal service or registered post or recorded delivery service to the following:-



- (i) In the case of the County Council to, Assistant Director of Environmental Projects Lancashire County Council, County Hall, PO Box 78, Preston, PR1 8XJ.
- (ii) In the case of the Heritage Trust to Chief Executive Officer, Park Hill, Barrowford, Nelson, Lancashire, BB9 6JQ.

15.2 In proving the notice was properly served it shall be sufficient to prove that the notice was left or that the envelope containing such notice was properly addressed and posted (as the case may be). Parties shall notify each other in writing in the event of a change of address and such notice shall be provided within 14 days of any such change.

## **16. WARRANTIES**

16.1 The County Council warrants, represents and undertakes that during the contract term as stated in Clause 3 that:

- (i) The Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel with all reasonable skill, care and diligence in a timely and professional manner and in accordance with the schedules hereto.
- (ii) That its obligations hereunder shall be performed in accordance with all applicable laws, enactments, orders, regulations and other similar instruments in force from time to time.
- (iii) That it is of good financial standing, able to pay its debts as they fall due and perform its obligations hereunder and that it is not in breach of any of its covenants to its creditors.

16.2 All the parties warrant and represent that they have full capacity to enter into this Agreement.

## **17. INDEMNITY**

17.1 Each of the parties shall be responsible for the health and safety of their own Staff and sub-contractors in the delivery of this Agreement and shall ensure that they receive appropriate instruction in safety procedures and are provided with all safety equipment required by law or which is generally accepted best practice from time to time.

17.2 The County Council shall be responsible for the safety, proper functioning, fitness for purpose and compliance with all legal requirements of all tools and equipment provided by it for the purposes of delivering the Services and for the avoidance of doubt this responsibility shall extend to ensuring the safety, proper functioning and fitness for purpose of the tools and equipment in the hands of the employees or sub-contractors of any other party or any other

parties, including without limitation, any person who may make proper use of them or may be exposed to them.

- 17.3 The Heritage Trust shall be responsible for the stability, safety and fitness of the Property including, for the avoidance of doubt, the Country Park.
- 17.4 Without prejudice to any rights and remedies of the Heritage Trust, the County Council shall indemnify and keep indemnified the Heritage Trust and hold it harmless from and against all liability, costs (including legal costs both of the Heritage Trust and of any applicant or claimant) claims actions losses damages and expenses whatsoever which the Heritage Trust incurs or suffers as a consequence of a direct or indirect breach of negligent performance or failure in performance by the County Council of the terms of this Agreement.
- 17.5 The County Council shall effect and maintain in force with a reputable insurance company a policy or policies of insurance which is or are adequate to enable it to meet its liabilities under the Agreement including but not limited to public liability and employer's liability with minimum cover levels of public liability employer's liability and product liability with minimum cover levels of:
- 17.5.1 **FIVE MILLION POUNDS** in respect of public liability; and
- 17.5.2 **TEN MILLION POUNDS** in respect of employer's liability;
- for any one incident and unlimited in total claims for each and every claim the number of claims unlimited.
- 17.6 For the avoidance of doubt the terms of any insurance or the amount of any cover shall not relieve the County Council of any liabilities under the Contract.
- 17.7 Save that the County Council does not limit its liability for any matter which it would be illegal for the County Council to exclude (or to attempt to exclude) including fraud fraudulent misrepresentation or death or personal injury caused by its negligence, the County Council shall not be liable in contract tort (including without limitation negligence) or misrepresentation for any loss of revenue business contracts or profits or any indirect or inconsequential loss howsoever arising.
- 17.8 In the event of:
- (i) a successful claim being brought against any party howsoever arising whether in respect of negligence, nuisance, breach of statutory duty, or any other tort or in respect of any other legal right or remedy, howsoever arising out of the Agreement, or
  - (ii) a successful prosecution against any party or its employees in respect of any failure to comply with any legal requirement to be complied with as a result of this Agreement

then as between the Parties all liabilities, costs, claims, demands, expenses, fines and other penalties (including legal fees, disbursements and expenses) arising there from or in any way relating thereto shall be borne by the responsible party to the extent of its responsibility and determined in accordance with clause 16.1 and the provisions of this Agreement generally, and the parties shall indemnify and keep indemnified and account to the each of the other parties accordingly.

17.9 The provisions of clauses 16.1 - 16.6 shall survive the termination of this Agreement.

## **18. TERMINATION**

18.1 Each party shall be entitled to terminate this Agreement with immediate effect by giving written notice to the other party forthwith in the event that the other party commits a material breach of any provision of this Agreement which is incapable of remedy or which, being capable of remedy, is not remedied within 30 days after receipt of notice from the other party specifying the nature of the breach.

18.2 This Agreement may be terminated by either party with immediate effect by giving written notice to the other party in the event that the other party enters into any composition or arrangement with its creditors or enters into liquidation whether compulsory or voluntary other than for the purposes of a reconstruction or amalgamation (or has a Receiver or Administrator appointed over all or any part of its assets) or undertaking or an administration order is made in relation to it.

18.3 Either party may terminate this Agreement by giving at least six months' clear written notice of its intention to do so to the other party.

## **19. ARRANGEMENTS ON TERMINATION**

Upon notice of termination of this Agreement pursuant to Clause 19 above or for whatever reason:-

- (i) The parties agree that they shall give such assistance and information as is reasonable and necessary to ensure as far as is reasonably possible the ongoing provisions of The Services.
- (ii) Each party undertakes to return to the other any equipment, documentation, information or other materials belonging to the other party in respect of which it has no legal right to retain.
- (iii) Subject to any other rights or remedies available to it under this Agreement, the County Council shall pay to the Heritage Trust any sums due.

## **20. PUBLICITY**

- 20.1 Either party in any publicity material, shall (as and when appropriate), acknowledge the involvement of the other party and also Lytham Town Trust or other such body as directed by the Committee in the form of a Branding Logo or other logo as prescribed by the Committee.
- 20.2 The parties must use all endeavours to procure that its suppliers and contractors shall not, knowingly, do or omit to do anything in relation to this Agreement or the Country Park or in the course of their other activities that may bring the standing of any of the parties or the Country Park into disrepute or attract adverse publicity for the parties or the Country Park.

## **21. LAW AND JURISDICTION**

The provisions of this Agreement shall be governed and construed in accordance with English Law.

**IN WITNESS WHEREOF** this Agreement has been executed by the duly authorised representatives of the parties on the date shown at the beginning of this Agreement

**THE COMMON SEAL OF**

**LANCASHIRE COUNTY COUNCIL** )

Was hereunto affixed in the presence of )

**SIGNED** on behalf of

**HERITAGE NORTH WEST LIMITED** )

Director )

*Print name*

Director)

*Print Name.*

**SCHEDULE A**  
The Services

1. The County Council will provide a ranger service to perform 'Management Duties' in relation to the Country Park and to provide information and guided walks to visitors.
2. The ranger service will be provided by the County Council for a minimum of 3 days per week.
3. 'Management Duties' referred to at paragraph 1 (above) includes (but is not limited to) managing and maintaining pedestrian trails and the picnic areas created by the Heritage Trust in accordance with clause 6.1 vi).
4. Dogs will be permitted within the Country Park under close control. The Country Park ranger will exercise discretion to ensure that this policy is strictly enforced which may mean the introduction of specific restrictions as the ranger considers appropriate from time to time, for example, dogs to be on leads, during the ground nesting bird breeding season.
5. The County Council will provide dog waste bins and appropriate signage requesting that owners clean up as part of the Country Park management.
6. The County Council will assist with professional advice on woodland and landscape management.

**SCHEDULE B**  
The Property

