**Non-Disclosure Agreement**

**Tender Opportunity for Exhibition Fit Out Services for the UK tour of ‘Bees: A Story of Survival’ for National Museums Liverpool**

National Museums Liverpool is inviting tenders to appoint a Principal Contractor and contractor team to deliver exhibition fit out services for the UK tour of ‘Bees: A Story of Survival.’ As confidential information may be shared by NML, we ask all participating suppliers in this tender opportuity to complete the sections denoted by red text and the signatory field on the last page; and to return this Non-Disclosure Agreement.Following which, NML will complete the sections denoted by blue text, countersign and return a copy to the participating tenderer.

For the avoidance of doubt:

* No expense in responding to this NDA will be reimbursed by NML.

**THIS NON-DISCLOSURE AGREEMENT** (“the Agreement”) is made on the **insert date, month and year** and entered into by the following parties:

**National Museums and Galleries on Merseyside (operating as National Museums Liverpool),** World Museum, William Brown Street, Liverpool, L3 8EN, (hereafter referred to as **NML,** the **“Client”**)

**and**

**INSERT COMPANY NAME** whose registered office is at **INSERT REGISTERED ADDRESS** and whose company number is **INSERT COMPANY NUMBER** (the “**Potential Provider**”).

For the purposes of this Agreement,

1. references to the “Client” also means the “Disclosing Party”.
2. references to the “Potential Provider” also means the “Recipient” and includes representatives acting on behalf of the Potential Provider, to include Employees, Consultants, Advisors, Agent, Sub-Consultants and Sub-Potential Providers.

**BACKGROUND:**

1. The Potential Provider and the Client intend to enter into contract which will involve the exchange of Confidential Information in relation to the tender of the Client’s Exhibition Fit Out Services for the UK tour of ‘Bees: A story of Survival’ Project. In addition to this responsibility or position this Agreement also covers any position or responsibility now or later held with the Client.

The parties to this Agreement agree as follows:

 **Confidential Information**

1. All written and oral information and materials disclosed or provided by the Client to the Potential Provider under this Agreement constitute Confidential Information regardless of whether such information was provided before or after the date of this Agreement or how it was provided to the Potential Provider.
2. The Potential Provider acknowledges that the Potential Provider will, or may, be making use of, acquiring or adding to information about certain matters and things which are confidential to the Client and which information is the exclusive property of the Client.
3. ‘Confidential Information’ means all data and information relating to the business and management of the Client, including but not limited to, the following:
	1. ‘Business Operations’ which includes the personnel and financial information of the Client, supplier names and other supplier information (including supplier characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, external business contacts including those stored on social media accounts or other similar platforms or databases operated by the Client, and the manner and methods of conducting the Client’s business;
	2. ‘Customer Information’ which includes names of customers of the Client, their representatives, all customer contact information, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed or received by customers of the Client;
	3. ‘Intellectual Property’ which includes information relating to the Client’s proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets):
	4. ‘Service Information’ which includes all data and information relating to the services provided by the Client, including but not limited to plans, schedules, personnel resources, inspection and training information:
	5. ‘Product Information’ which includes all specifications for products of the Client as well as work product resulting from or related to work or projects performed or to be performed for the Client or for clients of the Client, of any type of form in any stage of actual or anticipated research and development;
	6. ‘Production Processes’ which includes processes used in the creation, production and manufacturing of the work product of the Client, including but not limited to, formulas, patterns, moulds, models, methods, techniques, specifications, processes, procedures, equipment, devices, programs, and designs;
	7. ‘Accounting Information’ which includes, without limitation, all financial statements, annual reports, balance sheets, company asset information, company liability information, revenue and expense reporting, profit and loss reporting, cash flow reporting, accounts receivable, accounts payable, inventory reporting, purchasing information and payroll information of the Client;
	8. ‘Marketing and Development Information’ which includes marketing and development plans of the Client, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plan and potential strategies of the Client which have been or are being discussed;
	9. ‘Computer Technology’ which includes all scientific and technical information or material of the Client, pertaining to any machine, appliance or process, including but not limited to, specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how;
	10. ‘Proprietary Computer Code’ which includes all sets of statements, instructions or programs of the Client, whether in human readable or machine readable form, that are expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer (‘Computer Programs’); any report format, design or drawing created or produced by such Computer Programs; and all documentation, design specifications and charts and operating procedures which support the Computer Programs; and
	11. Confidential Information will also include any information that has been disclosed by a third party to the Client and is protected by a non-disclosure agreement entered into between the third party and the Client.
4. Confidential Information will not include the following information:
	1. Information that is generally known in the industry of the Client;
	2. Information that is now or subsequently becomes generally available to the public through no wrongful act of the Potential Provider;
	3. Information rightly in the possession of the Potential Provider prior to the disclosure to the Potential Provider by the Client;
	4. Information that is independently created by the Potential Provider without direct or indirect use of the Confidential Information; or
	5. Information that the Potential Provider rightfully obtains from a third party who has the right to transfer or disclose it.

**Obligations of Non-Disclosure**

1. Except as otherwise provided in this Agreement, the Potential Provider must not disclose the Confidential Information and hold it in strictest confidence for the sole and exclusive benefit of the Potential Provider.
2. Except as otherwise provided in this Agreement, the Confidential Information will remain the exclusive property of the Client and will only be used by the Potential Provider for the Permitted Purpose. The Potential Provider will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Client or any associated affiliates or subsidiaries.
3. The obligations to ensure and prevent the disclosure of the Confidential Information imposed on the Potential Provider in this Agreement and any obligation to provide notice under this Agreement will survive the expiration of termination as the case may be, of this Agreement and those obligations will last indefinitely.
4. The Potential Provider will put in place effective governance controls to monitor compliance and respond to and report any security breach incidents immediately to the client.
5. The Potential Provider may disclose any of the Confidential Information:
	1. To such representatives acting on behalf of the Potential Provider, to include Employees, Consultants, Advisors, Agent, Sub-Consultants and Sub-Potential Providers that have a reasonable need to know for the Permitted Purpose provided that:
		1. The Potential Provider has informed such personnel of the confidential nature of the Confidential Information;
		2. Such personnel agree to be legally bound to the same obligations of non-disclosure and non-use as the Potential Provider,
		3. The Potential Provider agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and
		4. The Potential Provider agrees to be responsible to indemnify the Client for any breach of this Agreement by their personnel.
	2. To a third party where the Client has consented in writing to such disclosure; and
	3. To the extent required by law by the request of requirement of a court of law, a regulatory body, or an administrative tribunal.

**Avoiding Conflict of Opportunities**

1. It is understood and agreed that any business opportunity relating to or similar to the Client’s current or anticipated business opportunities coming to the attention of the Potential Provider is an opportunity belonging to the Client. Accordingly, the Potential Provider will advise the Client of the opportunity and cannot pursue the opportunity, directly or indirectly, without the written consent of the Client.
2. Without the written consent of the Client, the Potential Provider further agrees not to directly or indirectly, engage or participate in any other business activities which the Client, in its reasonable discretion, determines to be in conflict with the best interests of the Client.

**Ownership and Title**

1. The Potential Provider acknowledges and agrees that all rights, title and interest in any Confidential Information will remain the exclusive property of the Client. Accordingly, the Potential Provider specifically agrees and acknowledges that the Potential Provider will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trademark or trade names, notwithstanding the fact that the Potential Provider may have created or contributed to the creation of that Confidential Information.
2. The Potential Provider does hereby waive any moral rights that the Potential Provider may have with respect to the Confidential Information.
3. The Confidential Information will not include anything developed or produced by the Potential Provider during the term of this Agreement, including but not limited to intellectual property, process, design, development, creation, research, invention, know-how, trade name, trade mark or copyright that:
	1. Was developed without the use of any equipment, supplies, facility or Confidential Information of the Client;
	2. Was developed entirely on the Potential Provider’s own time;
	3. Does not relate to the actual business or reasonably anticipated business of the Client;
	4. Does not relate to the actual or demonstrably anticipated processes, research, or development of the Client; and
	5. Does not result from any work performed by the Potential Provider for the Client.
4. The Potential Provider agrees to immediately disclose to the Client all Confidential Information developed in whole or in part by the Potential Provider and to assign to the Client any right, title or interest the Potential Provider may have in the Confidential Information. The Potential Provider agrees to execute any instruments and to do all other things reasonably requested by the Client (both during and after engagement with the Client) in order to vest more fully in the Client all ownership rights in those items transferred by the Potential Provider to the Clients.

**Remedies**

1. The Potential Provider agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any disclosure of the Confidential Information to a third party in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Client. Accordingly, the Potential Provider agrees that the Client is entitled to, in addition to all other rights and remedies available to it at law or in equity, an injunction restraining the Potential Provider and any agents of the Potential Provider, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

**Return of Confidential Information**

1. The Potential Provider agrees that, upon request of the Client, or in the event that the Potential Provider ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, or the expiration of termination of the engagement with the Client, the Potential Provider will turn over to the Client all documents, disks or other computer media, or other material in the possession or control of the Potential Provider that:
	1. May contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
	2. Is connected with or derived from the Potential Provider’s services to the Client.
	3. The Potential Provider will erase all the client’s Confidential Information from computers, communications systems and devices used by it, or which is stored in electronic form.

**Notices**

1. In the event that the Potential Provider is required in a civil, criminal or regulatory proceeding to disclose any part of the Confidential Information, the Potential Provider will give to the Client prompt written notice of such request so the Client may seek an appropriate remedy or alternatively to waive the Potential Provider’s compliance with the provisions of this Agreement in regard to the request.
2. If the Potential Provider loses or makes unauthorised disclosure of any of the Confidential Information, the Potential Provider will immediately notify the Client and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.
3. Any notices or delivery required in this Agreement will be deemed completed when hand-delivered, delivered by agent, or seven days after being placed in the post, postage prepaid, to the parties at the address contained in this Agreement or as the parties may later designate in writing.
4. The addresses for any notice to be delivered to any of the parties to this Agreement are as follows:
	1. Name: **Ruth Haycock**

Designation: **Head of Museum Exhibitions**

Address: **World Museum, William Brown Street, Liverpool, L3 8EN**

* 1. Name: **insert name of Potential Provider representative**

Designation: **insert job title of Potential Provider representative**

Address: **Potential Provider representative to state full address and postcode**

**Representations**

1. In providing the Confidential Information, the Client makes no representations, either expressly or impliedly as to its adequacy, sufficiency, completeness, correctness or its lack of defect of any kind, including any patent or trademark infringement that may result from the use of such information.

**Termination**

1. The non-disclosure obligations of this Agreement shall survive the termination of this Agreement and the Potential Provider's duty to hold Confidential Information in confidence shall remain in effect until such time as it no longer applies to the Client., or until the client sends written notice to the Potential Provider releasing the Potential Provider from this Agreement, whichever occurs first.

**No Partnership or Agency**

1. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

**Assignment**

1. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party to this Agreement.

**Amendments**

1. This Agreement may only be amended or modified by a written instrument executed by both the Client and the Potential Provider.

**Governing Law**

1. This Agreement will be construed in accordance with and governed by the laws of England.

**General Provisions**

1. Time is of the essence in this Agreement.
2. This Agreement may be executed in counterpart.
3. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine and include the feminine and vice versa.
4. The clauses, paragraphs, and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement which shall be interpreted so as best to effect the intent of the parties.
5. The Potential Provider is liable for all costs, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Client in enforcing this Agreement as a result of any default of this Agreement by the Potential Provider.
6. The Client and the Potential Provider acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the intention of the Client and the Potential Provider that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the intention of the Potential Provider to give the Client the broadest possible protection against disclosure of the Confidential Information.
7. No failure or delay by the Client in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in this Agreement.
8. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Client and the Potential Provider.
9. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

**IN WITNESS** whereof this Agreement has been executed by or on behalf of the parties on the date set out above.

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| **Authorised Signatory:**  |  Click or tap here to enter text. | **Authorised Signatory:**  |   |
| **Print Name:**  |  Click or tap here to enter text. | **Print Name:**  |   |
| **Role:**  | Click or tap here to enter text. | **Role:**  |   |
| **Date:**  | Click or tap to enter a date. | **Date:**  |   |
| **For and on behalf of the “Potential Provider”** | **For and on behalf of “the Client”** |