

Memorandum of Understanding Checklist for equipment sharing

Introduction

Purpose of the NHSF Kit-Catalogue

The National Heritage Science Forum (NHSF) is the platform that supports the implementation of the recommendations of the House of Lords Science and Technology Select Committee Inquiry on Science and Heritage and the objectives of the resulting National Heritage Science Strategy (NHSF). Strategic Aim 2 of the NHSF is to *'Improve partnership within the sector and with others by increasing collaboration to help practice make better use of research, knowledge and innovation and to enhance resources, funding and skills'* and within this aim specifically to *'Use resources better' by ensuring 'that better value is achieved from existing funding, scientific equipment and facilities through partnerships and collaboration'*. The NHSF Kit-Catalogue signposts the range of facilities and equipment employed in heritage science research, providing an environment where access can be negotiated, and promoting the projects and outcomes that result.

The NHSF as part of facilitating equipment and resource sharing requires due acknowledgment for its role in project outputs; for example the inclusion of a sentence in a published article stating 'Equipment sharing for this investigation was facilitated by the National Heritage Science Forum (NHSF) via the NHSF Kit-Catalogue'. In addition the NHSF asks that a short note/ article on the project/ investigation for inclusion in Kit-Catalogue entry for the piece of equipment or facility used is provided <http://www.heritagescienceforum.org.uk/resource-sharing.php>

Purpose of this document

It is not the purpose of this document to cover the full range of scenarios and agreements that may be entered into as part of collaborative working but rather to outline the issues that need to be considered. Sharing of equipment and/or facilities either between members of the NHSF and/or the wider heritage science community could range in scale from the one off use of a piece of equipment to identify a material or capture visual record to the use of part of an organisation's science infrastructure as part of a major project. Various business models will also apply including free access to equipment and staff resource in exchange for acknowledgement in any project outputs to joint copyright of the results from the project or free access to the results of the work for future research, publicity or public engagement by the organisation providing access to the material cultural heritage being investigated. In other cases an organisation may charge for use of the equipment and expert operator, or the user may be required pay for training in use of the equipment or to cover running costs. Where charging models are in place members of the NHSF should receive a discounted rate at the owner's discretion (suggest discount of 5 to 20%) in comparison to non-members.

The content checklist that follows provides suggested headings for an MoU between organisations collaborating to use equipment listed on the NHSF Kit-Catalogue, with an explanation of the purpose of each section and some illustrative wording. **This is intended to be a guide to assist you prepare an MoU for your particular collaboration, rather than an exhaustive list of all issues that you may**

wish to cover in your MoU. The wording of the MoU should be tailored to reflect the circumstances of the particular collaboration. You may not need or want to include all the sections covered by the checklist, and in some cases a normal purchase order may suffice.

You may use the content of this document provided that you accept that NHSF excludes any and all liability whatsoever and howsoever arising resulting from any use of the content of this document to the fullest extent permissible by law.

The checklist headings cover:

- A Parties to the agreement (who are the owner and user of the equipment/services)
- B Key objectives (of the working partnership, including the principles under which it will operate).
- C Organisation roles and responsibilities (sets out the roles, responsibilities and provides detail on the actions of each party)
- D Duration (the period of time the agreement will cover)
- E Communication (how you will communicate with each other about the collaboration, e.g. via meetings, a steering committee)
- F Intellectual Property Rights (to allow the use of each other's IPR for the purposes of the project, without inhibiting IPR in reports or in the use of knowledge that underlies the owner's provision of the equipment/services in its business)
- G Rights to publish etc (how to share progress reports, data and results; how to credit NHSF)
- H Confidentiality and Freedom of Information (covers confidentiality of information during the collaboration and, where an organisation is subject to the Freedom of Information Act, how the obligations for confidentiality and Freedom of Information work together)
- I Use of equipment (responsibilities of the two organisations when using the equipment)
- J Insurance (information about insurance for equipment and personnel when equipment is transferred to the borrowing organisation's site/possession for use)
- K Payment (how and when payment should be made)
- L Termination (the circumstances in which the MoU can be brought to an early end)
- M Legal status (of the MoU and the laws under which it is governed)
- N Signature
- O Appendices

Memorandum of Understanding Checklist for equipment sharing

A Parties

Purpose of this section:

It is anticipated that some, if not all, of the terms of the MoU will need to be legally binding. For example, owners of equipment that they are permitting others to use typically want legally binding clauses covering:

- (a) what happens if the equipment is damaged;
- (b) obligations on the user to use the equipment in an appropriate manner;
- (c) transportation of the equipment if it is being allowed to leave the owner's site; and
- (d) termination rights.

In order to impose a duty on an organisation, or bind an organisation to give up any right, that organisation must be a party (signatory) to the MoU. Consequently, you should ensure that all organisations actively involved in the project are parties to the MoU.

Example wording:

THIS MEMORANDUM OF UNDERSTANDING is made on the [number] day of [month] [year]

BETWEEN:

- (1) [Organisation A] [insert details of the organisation's legal status and registered/principal address]; and
- (2) [Organisation B] [insert details of the organisation's legal status and registered/principal address].

Summary

Purpose of this section:

This section should include a brief description of the purpose and scope of the MoU to help readers understand the context of MoU.

Example wording:

BACKGROUND:

- (A) [Organisation A] is [insert details about what the organisation does].
- (B) [Organisation B] is [insert details about what the organisation does].
- (C) The parties wish to collaborate on a project to [insert details] (the "**Project**") on the following terms.

B **Key Objectives**

Purpose of this section:

Use this section to explain the shared aims and key objectives for the working partnership.

Example wording:

1 **Key Objectives for the Project**

1.1 The parties shall undertake the Project to achieve the following key objectives:

1.1.1 [insert key objective]

1.1.2 [insert key objective]

etc

(the “**Key Objectives**”).

1.2 When carrying out the Project, each party shall:

1.2.1 collaborate and co-operate with the other party;

1.2.2 communicate openly about any major concerns, issues or opportunities relating to the Project of which it becomes aware;

1.2.3 share information, experience, materials and skills with the other party and develop effective working practices, and work collaboratively with the other party to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;

1.2.4 adhere to statutory requirements and best practice and comply with applicable laws and standards;

1.2.5 act in a timely manner and respond to reasonable requests from the other party within a reasonable period;

1.2.6 manage stakeholders effectively;

1.2.7 ensure sufficient and appropriately qualified resources are available and authorised to fulfil its responsibilities set out in this MoU; and

1.2.8 act in good faith to support achievement of the Key Objectives,

(together, these are the “**Principles**”).

C Organisation Roles and Responsibilities

Purpose of this section:

Use this section to set out the roles and responsibilities of each party. It is advisable to be as detailed as possible about the particular actions that each party is expected to take.

Example wording:

2 Roles and Responsibilities

2.1 The parties shall undertake the roles and responsibilities set out in Table A below to deliver the Project.

Table A

Activity	[Organisation A]	[Organisation B]
[insert details]	[Lead] / [Assure]	[Assure] / [Lead]
[insert details]	[Lead] / [Assure]	[Assure] / [Lead]
[insert details]	[Lead] / [Assure]	[Assure] / [Lead]
[insert details]	[Lead] / [Assure]	[Assure] / [Lead]

For the purpose of the table above:

Lead means the party that has principal responsibility for undertaking the particular task, and that will be authorised to determine how to undertake the task. The Lead must act in compliance with the Key Objectives and Principles at all times, and consult with the other party in advance if they are identified as having a role to Assure the relevant activity;

Assure means the party that will defer to the Lead on a particular task, but will have the opportunity to review and provide input to the Lead before they take a final decision on any activity. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the Lead and/or concerns regarding compliance with the Key Objectives and Principles.

D Duration

Purpose of this section:

This section sets out the duration of the MoU e.g. 5 years.

Example wording:

3 Duration

- 3.1 This MoU shall commence on [insert start date] and continue (unless terminated in accordance with its terms) in full force and effect until the end of [insert end date].

E Communication

Purpose of this section:

This section should include when project meetings will take place, who will attend (i.e. who is on the project panel) and how often they will happen.

Example wording:

4 Communication

- 4.1 Each party shall appoint [one] appropriate representative within 10 days after the date of this MoU who, together with the named representative[s] of the other party (all of which shall be the “**Steering Committee**”), shall:
- 4.1.1 take overall responsibility for formulating policies that will govern the implementation of the Project;
 - 4.1.2 ensure the objectives of the Project are met through regular performance review calls or meetings; and
 - 4.1.3 agree on all communications strategies and content related to the Project, including any communications to external media, government and/or local community stakeholders.
- 4.2 The Steering Committee shall meet on a monthly basis (or as otherwise agreed), and minutes and actions will be recorded for each Steering Committee meeting. Any additional reporting requirements shall be at the discretion of the Steering Committee.
- 4.3 Subject to clause 4.1.3 above, neither party may refer to this MoU or the other party, or use the other party’s logo, in any publicity or advertising material without first obtaining the other party’s written consent.

F Intellectual Property Rights

Purpose of this section:

It is important to understand the distinction between the ownership of a physical product and the ownership of intellectual property rights (such as copyright) in that product. For example, Organisation A may be required to deliver a report to Organisation B as part of the Project. However, delivery of the report to Organisation B does not, of itself, transfer the intellectual property rights in that report to Organisation B. If Organisation B did not own, or have a licence of, these intellectual property rights, it would not be able to create photocopies of the report, upload the report onto its intranet or use extracts from the report in other documents.

Example wording:

5 Intellectual property rights

- 5.1 Nothing in this MoU shall have the effect of transferring ownership of any intellectual property rights (“IPR”).
- 5.2 Each party warrants to the other party that its IPR used in Project materials do not, so far as it is aware, infringe the rights of any third party and none of its IPR are the subject of any actual or, so far as it is aware, threatened challenge, opposition or revocation proceedings.
- 5.3 [Organisation A] hereby grants to [Organisation B] an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use [Organisation A]’s IPR in, and to the extent necessary for, the performance of the Project, and for any purpose relating to the Project.
- 5.4 [Organisation B] hereby grants to [Organisation A] an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use [Organisation B]’s IPR in, and to the extent necessary for, the performance of the Project, and for any purpose relating to the Project.
- 5.5 Each party is responsible for obtaining any licences, permissions or consents in connection with any third party IPR which that party introduces into the Project so that [Organisation A] and [Organisation B] can make use of the Project materials (such licences, permissions or consents to be in writing, copies of which the relevant party shall provide to the other party on request).
- 5.6 Nothing in this MoU shall prevent either party from using any techniques, ideas or know-how gained during the performance of this MoU in the course of its normal business, to the extent that it does not result in a disclosure of the other party’s confidential information or an infringement of IPR.
- 5.7 Each party shall promptly give written notice to the other party of any actual, threatened or suspected infringement of the other party’s IPR of which it becomes aware.

G Rights to publish etc

Purpose of this section:

This section should include details of how the parties will share data and results. The need to credit the NHSF in project outputs and to provide a short piece on the project for inclusion in Kit-Catalogue can be detailed here.

Example wording:

6 Reports

6.1 [Organisation B] shall produce and present to [Organisation A] progress reports [including details of: [insert content to be included in progress reports]] on the following dates:

Progress report number 1:	[insert date]
Progress report number 2:	[insert date]
Progress report number 3:	[insert date]

6.2 On or before [insert date] [Organisation B] shall produce and present to [Organisation A] a final report on the results of the Project including:

6.2.1 [insert content to be included in the final report]; and

6.2.2 all of the parameters presented and analysed as part of the Project.

6.3 [Organisation B] shall ensure that each report provided to [Organisation A] as part of Project shall be clear, concise and written to a high standard of English and set out clear, unambiguous and reasoned conclusions.

6.4 [Organisation B] shall use its best endeavours to verify the accuracy of all data provided to [Organisation A] in the reports referred to in this clause (and any other data provided in connection with the Project) prior to submitting such data to [Organisation A].

7 Presentations

7.1 [Not applicable]

OR

7.1 [Organisation B] shall present the results of the Project, including the final report referred to in clause 6 above:

7.1.1 [insert locations where the results will be presented and who to, *eg. In London to [Organisation A], and/or through a series of open webinars about the results obtained from the generic report.*]

AND / OR

- 7.2 [The parties shall collaborate and co-operate to agree and deliver joint presentations on the findings of the Project, including the final report referred to in clause 6.2 above, at appropriate conferences (including [insert name of conference]).]

8 Publications and Acknowledgements

- 8.1 Whenever either party refers to the Project in any report, presentation or publication made available to a third party, that party shall acknowledge the role of the National Heritage Science Forum with a statement materially in the following form:

“Equipment sharing for this investigation was facilitated by the National Heritage Science Forum (NHSF) via the NHSF Kit-Catalogue.”

AND EITHER

- 8.2 [[Organisation A] shall be entitled to (but gives no guarantee that it shall) publish the results of the Project (including the final report referred to in clause 6.2 above) in its own name and to refer to and promote the Project at conferences.]
- 8.3 [[Organisation B] shall not publish the results of the Project, or the final report referred to in clause 6.2 above, in its own name or refer to and promote the Project at conferences, without the prior written consent of [Organisation A].]

OR

- 8.2 [[After [Organisation A] has published the results of the Project,][Organisation B] shall be entitled to publish the results of the Project, and to refer to and promote the Project at conferences, provided that it has first consulted with [Organisation A] and complied with all reasonable instructions given by [Organisation A] regarding the branding and design of the written materials prepared by [Organisation B] for such publication or promotion.]

H Confidentiality and Freedom of Information

Purpose of this section:

Whilst it is important that each party should not disclose the other party’s confidential information (subject to the rights to publish etc described above), NHSF members may be subject to the information disclosure requirements under the Freedom of Information Act 2000. The purpose of this section is to clarify how Freedom of Information Act obligations interact with confidentiality obligations under the MoU.

Example wording:

9 Confidentiality and Freedom of Information

- 9.1 For the purposes of this clause:

- 9.1.1 the “**Disclosing Party**” is the party which discloses information of a confidential nature (“**Confidential Information**”) to, or in respect of which Confidential Information comes to the knowledge of, the other party; and
- 9.1.2 the “**Receiving Party**” is the party which receives Confidential Information relating to the other party.
- 9.2 The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this MoU:
 - 9.2.1 is given only to such of its staff and professional advisors or consultants engaged to advise it in connection with this MoU as is strictly necessary for the performance of this MoU and only to the extent necessary for the performance of this MoU; and
 - 9.2.2 is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff or its professional advisors or consultants otherwise than for the purposes of this MoU.
- 9.3 Each party shall ensure that all individuals to whom Confidential Information is disclosed as permitted by clause 9.2.1 are aware of the relevant party’s confidentiality obligations under this MoU.
- 9.4 The provisions of clauses 9.2 and 9.3 shall not apply to any Confidential Information which:
 - 9.4.1 is or becomes public knowledge (otherwise than by breach of this clause 9);
 - 9.4.2 was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;
 - 9.4.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
 - 9.4.4 is independently developed without access to the Confidential Information.
- 9.5 The provisions under this clause 9 shall not prevent any disclosure required pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.
- 9.6 [Organisation A] acknowledges that [Organisation B] is subject to the information disclosure requirements under the Freedom of Information Act 2000 (“**FOIA**”) and shall assist and co-operate with [Organisation B] to enable [Organisation B] to comply with those requirements.
- 9.7 Where [Organisation B] receives a request for information under FOIA in relation to information that [Organisation A] is holding on behalf of [Organisation B] and which [Organisation B] does not hold itself, [Organisation B] shall, as soon as reasonably practicable after receipt, forward that request for information to [Organisation A] and [Organisation A] shall:
 - 9.7.1 provide [Organisation B] with a copy of all such information in the form that [Organisation B] requires as soon as practicable and in any event within 10 calendar days (or such other period as [Organisation B] acting reasonably may specify) of [Organisation B]’s request; and

- 9.7.2 provide all necessary assistance as reasonably requested by [Organisation B] to enable [Organisation B] to respond to the request for information within the time for compliance set out in section 10 of FOIA.
- 9.8 [Organisation A] acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that [Organisation B] may nevertheless be obliged to disclose the [Organisation A]’s Confidential Information in accordance with the information disclosure requirements under FOIA:
- 9.8.1 in certain circumstances without consulting [Organisation A]; or
- 9.8.2 following consultation with [Organisation A] and having taken its views into account,
- provided always that where clause 9.8.1 above applies, [Organisation B] shall take reasonable steps to draw this to the attention of [Organisation A] after any such disclosure.
- 9.9 The provisions of this clause 9 shall survive the expiry or termination of this MoU however arising.

I Use of equipment

Purpose of this section:

This section should cover issues such as:

- (a) what happens if kit catalogue equipment is damaged;
- (b) obligations on the user to use the equipment in an appropriate manner;
- (c) transportation of the equipment if it is being allowed to leave the owner’s site; and
- (d) any warranty that the equipment will work for its intended purpose.

Example wording:

Example set of clauses where [Organisation A]’s equipment will be delivered to [Organisation B]

10 Use of equipment

- 10.1 Delivery of [Organisation A]’s equipment described in the Appendices to this MoU (the “**Equipment**”) shall be made by [Organisation A]. [Organisation A] shall use all reasonable endeavours to effect delivery by the date and time agreed between the parties.
- 10.2 [Organisation B] shall procure that a duly authorised representative of [Organisation B] is present at the delivery of the Equipment. Acceptance of delivery by such representative shall constitute conclusive evidence that [Organisation B] has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by [Organisation A], [Organisation B]’s duly authorised representative shall sign a receipt confirming such acceptance.

- 10.3 Following receipt of the Equipment, [Organisation B] shall throughout the duration of this MoU:
- 10.3.1 ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions provided by [Organisation A];
 - 10.3.2 take such steps (including compliance with all safety and usage instructions provided by [Organisation A]) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
 - 10.3.3 unless otherwise agreed in writing by the parties, keep the Equipment in as good an operating condition as it was on the date of its delivery to [Organisation B] (fair wear and tear only excepted);
 - 10.3.4 make no alteration to the Equipment and not remove any existing component(s) from the Equipment without the prior written consent of [Organisation A];
 - 10.3.5 keep [Organisation A] fully informed of all material matters relating to the Equipment;
 - 10.3.6 at all times keep the Equipment in the possession or control of [Organisation B] and keep [Organisation A] informed of its location;
 - 10.3.7 permit [Organisation A] or its duly authorised representative to enter any premises at which the Equipment may be located to inspect the Equipment at all reasonable times;
 - 10.3.8 not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of [Organisation A] in the Equipment;
 - 10.3.9 deliver up the Equipment at the end of the Project or on earlier termination of this MoU at such address as [Organisation A] requires, or if necessary allow [Organisation A] or its representatives access to any premises where the Equipment is located for the purpose of removing the Equipment; and
 - 10.3.10 not do or permit to be done anything which could invalidate the insurances referred to in clause 11.
- 10.4 [Organisation B] acknowledges that [Organisation A] shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by [Organisation B] or its officers, employees, agents and contractors, and [Organisation B] undertakes to indemnify [Organisation A] on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by [Organisation B] to comply with the terms of this MoU.

- 10.5 [Organisation A] warrants that the Equipment shall substantially conform to its specification (as made available by [Organisation A]), be of satisfactory quality and fit for any purpose held out by [Organisation A]. [Organisation A] shall use its reasonable endeavours to remedy, free of charge, any material defect in the Equipment which manifests itself after delivery to [Organisation B], provided that:
- 10.5.1 [Organisation B] notifies [Organisation A] of any defect in writing within seven (7) days of the defect occurring or of becoming aware of the defect;
- 10.5.2 [Organisation A] is permitted to make a full examination of the alleged defect;
- 10.5.3 the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than [Organisation A]'s authorised personnel;
- 10.5.4 the defect did not arise out of any information, design or any other assistance supplied or furnished by [Organisation B] or on its behalf; and
- 10.5.5 the defect is directly attributable to defective material, workmanship or design.

Example set of clauses where [Organisation B] will use [Organisation A]'s equipment at [Organisation A]'s premises

10 Use of equipment

- 10.1 [Organisation B] shall throughout the duration of this MoU:
- 10.1.1 ensure that where the Equipment is used on behalf [Organisation B] it is only used for the purposes for which it is designed and operated in a proper manner by trained competent staff in accordance with any operating instructions provided by [Organisation A];
- 10.1.2 make no alteration to the Equipment and not remove any existing component(s) from the Equipment without the prior written consent of [Organisation A];
- 10.1.3 not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of [Organisation A] in the Equipment;
- 10.1.4 not do or permit to be done anything which could invalidate the insurances referred to in clause 11.
- 10.2 [Organisation B] acknowledges that [Organisation A] shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by [Organisation B] or its officers, employees, agents and contractors, and [Organisation B] undertakes to indemnify [Organisation A] on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by [Organisation B] to comply with the terms of this MoU.

- 10.3 [Organisation A] shall keep the Equipment in a good operating condition throughout the duration of this MoU.
- 10.4 [Organisation A] warrants that the Equipment shall substantially conform to its specification (as made available by [Organisation A]), be of satisfactory quality and fit for any purpose held out by [Organisation A]. Organisation B must notify Organisation A of any defect(s) of which Organisation B becomes aware and Organisation A shall investigate and use its reasonable endeavours to remedy any such defect(s) at no extra cost to [Organisation B].

J Insurance

Purpose of this section:

This section should contain information regarding insurance for equipment and personnel (e.g. it is up to the parent institution to organise correct insurance for a student's use of equipment).

Example wording:

Example set of clauses where [Organisation A]'s equipment will be delivered to [Organisation B]

11 Insurance

- 11.1 The risk of loss, theft, damage or destruction of the Equipment shall pass to [Organisation B] on delivery. The Equipment shall remain at the sole risk of [Organisation B] throughout the Project and any further term during which the Equipment is in the possession, custody or control of [Organisation B] ("**Risk Period**") until such time as the Equipment is redelivered to [Organisation A]. During the Risk Period, [Organisation B] shall, at its own expense, obtain and maintain the following insurances:
- 11.1.1 insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as [Organisation A] may from time to time nominate in writing;
- 11.1.2 insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as [Organisation A] may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
- 11.1.3 insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as [Organisation A] may from time to time consider reasonably necessary and advise to [Organisation B].

- 11.2 [Organisation B] shall give immediate written notice to [Organisation A] in the event of any loss, accident or damage to the Equipment or arising out of or in connection with [Organisation B]’s possession or use of the Equipment.
- 11.3 If [Organisation B] fails to effect or maintain any of the insurances required under this MoU, [Organisation A] shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same from [Organisation B].

Example set of clauses where [Organisation B] will use [Organisation A]’s equipment at [Organisation A]’s premises

11 Insurance

11.1 For at least the duration of this MoU:

11.1.1 [Organisation A] shall maintain with a reputable insurance company and on terms no less favourable than those generally available to a prudent organisation in respect of risks insured in the international insurance market from time to time:

11.1.1.1 insurance, for such amounts as a prudent owner or operator of the Equipment would insure for, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and

11.1.1.2 insurance against such other or further risks relating to the Equipment as may be required by law.

11.1.2 [Organisation B] shall maintain with a reputable insurance company employees insurance and on terms no less favourable than those generally available to a prudent organisation in respect of risks insured in the international insurance market from time to time:

11.1.2.1 employer’s liability insurance with a minimum indemnity limit of £5,000,000 per claim; and

11.1.2.2 public liability insurance with a minimum indemnity limit of ***[insert required minimum limit e.g.: £5,000,000 per claim]***.

K Payment

Purpose of this section:

This section should specify when any payments should be made. Remember that where charging models are in place members of the NHSF should receive a discounted rate of up to 20% in comparison to non-members.

Example wording:

12 Payment

12.1 [Organisation A] shall be entitled to issue invoices for the following sums payable by [Organisation B] (the “Charges”) in the following amounts and on the following dates:

Sum due (ex VAT)	Sum due (inc VAT)	Date due
£[insert amount]	£[insert amount]	[insert date or relevant milestone]
£[insert amount]	£[insert amount]	[insert date or relevant milestone]

12.2 The Charges set out above are an all-inclusive fee except for those additional expenses specifically approved by [Organisation B] in writing before they are incurred, and covers all travel and expenses and all preparation, report writing and all other work which is carried out under this MoU. It is expected that [Organisation A] will meet all costs and expenses necessary to deliver the Project, including, but not restricted to: the costs of salaries, bonuses, superannuation medical and travel insurance, insurance for personal possessions or of any fees payable to personnel employed, or engaged by [Organisation B].

L Termination

Purpose of this section:

Use this section to describe in what circumstances the MoU could be brought to an early end.

Example wording:

13 Termination

13.1 Either party may terminate this MoU without liability to the other party immediately on giving notice to the other party if:

13.1.1 the other party commits any material breach of any of the terms of this MoU and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the MoU with immediate effect);

13.1.2 the other party is in persistent breach of any of its obligations under this MoU, whether or not such breach is capable of remedy;

13.1.3 an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other party’s assets or undertaking or

circumstances arise which entitle the court or a creditor to appoint a receiver and/or manage or administrative receiver or which entitle the court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or

13.1.4 the other party ceases, or threatens to cease, to carry on business.

M Status of the MoU

Purpose of this section:

Under this heading there will need to be a statement about how this is a legally binding contract, specifying legal requirements (reflecting the laws in relevant countries devolved states, e.g. Scotland and Wales).

Example wording:

14 Status of this MoU

- 14.1 This MoU is intended to be legally binding, and this MoU and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.
- 14.2 Subject to the remainder of this clause 14, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this MoU or its subject matter.
- 14.3 In the event that any claim or dispute arises out of or in connection with this MoU, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 calendar days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 14.3, either party may commence proceedings in accordance with clause 14.2.
- 14.4 Nothing in this clause 14 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this MoU or infringement, or threatened infringement, of the applicant's intellectual property rights.

N Signatures

Example wording:

IN WITNESS whereof the parties or their duly authorised representatives have entered into this MoU on the date of signature below (or if different, the later of the dates of signature below).

Signed by the duly authorised representative of [Organisation A]

Name:	.....	Signature:	.....
Position:	.....	Date:	.....

Signed by the duly authorised representative of [Organisation B]

Name:	.....	Signature:	.....
Position:	.....	Date:	.....

O Appendices

Purpose of the Appendices:

Use the Appendices to list:

- (a) the different apparatus and projects that are covered by the MoU; and
- (b) the organisations involved including those with a minor role (e.g. providing access to an object)