

**DATED**

**2007**

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**THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF HARROW**

**AND**

**THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF BRENT**

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**AGREEMENT**

**For the occupation and management of a cemetery at Oxhey Lane,  
Carpenders Park, Watford, Herts**

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Director of Legal & Governance Services  
Harrow Council  
PO Box 2  
Civic Centre  
Station Road  
Harrow  
HA1 2UH

Ref: SD/CO-001855/Oxhey



“Agreement”	Means this agreement
“Annual Account”	Means the annual account of income and expenditure to be provided by Brent Council to Harrow Council as described in clause 7.3
“Annual Review”	Means the Councils’ annual joint review of the Services to be provided under this Agreement at which the Councils may agree variations to the Services and/or Burial or Maintenance Fees and/or other changes to this Agreement
“Assets Jointly Owned”	Means any assets purchased by the Councils pursuant to this Agreement for use in the operation of the New Cemetery including but not limited to vehicles, plant, machinery, equipment, stores, and office equipment
“Burial Fees”	Means the fees to be charged by Brent Council to Harrow Council Service Users as advised to Brent Council in writing by Harrow Council from time to time
“Capital Costs”	Means those expenses described at clause 7.2.2
“Cemetery Standards Guide”	Means the 2005 version of Brent Council’s Cemetery Standards Guide
“Charter Mark”	Means the Government’s national standard for excellence in customer service
“Chief Officers”	Means Brent Council’s Manager of Cemetery and Mortuary Service and Harrow Council’s Public Realm Services Manager
“Commencement Date”	Means the date of this Agreement
“Complaint”	Means any expression of dissatisfaction, however made, by any Service User about the standard of service received or not received or

	about any action or inaction by Brent Council or the New Cemetery Staff relating to the Services to be provided by Brent Council under this Agreement
“Contract Standard”	Means in every respect in conformity with and to the standards set out in the Cemetery Standards Guide and in accordance with the terms of this Agreement including but not limited to the Key Performance Targets and the Charter Mark
“Expiry Date”	Means the date that this Agreement expires as stated in clause 2
“Financial Year”	Means each successive period commencing on 1 April in each year and ending on the 31 March in the following year
“Infrastructure”	Means the roadway shown coloured green on the plan attached to the Lease, and the drains, water supply into the New Cemetery, the boundary fences and foot-paths
“Internal Audit”	Means the independent appraisal within the Councils for the investigation and review of systems of control and the quality of performance of a service incorporating the examination, evaluation and reporting on the adequacy of internal controls as a contribution to the proper, economic, efficient and effective use of Council resources
“Key Performance Targets”	Means the key performance targets to be achieved by Brent Council in the provision of the Services under this Agreement as set out in the Service Specification attached at Appendix 1
“Land”	Means land at Oxhey Lane, Carpenders Park, Watford, Herts of which Harrow Council is registered with freehold title absolute at HM Land Registry under title number

HD13409

“Lease”		Means the lease of the New Cemetery land between Harrow Council (1) and Brent Council (2) attached at Appendix 2
“Maintenance Fee”		Means the annual fee to be paid by Harrow Council to Brent Council in the manner set out in clause 6 for maintaining the New Cemetery in accordance with the Contract Standard
“New Cemetery”		Means the new cemetery developed by Harrow Council on the Land adjacent to the existing Carpenders Park Cemetery on the Land as shown outlined in red on the plan attached to the Lease
“New Cemetery Staff”		Means those persons employed by Brent Council in the provision of the Services at the New Cemetery under the terms of this Agreement;
“Revenue Costs”		Means those costs described at clause 7.2.1
“Service Default”	Performance	Means any material failure by the Brent Council properly to perform all the terms and conditions of this Agreement including but not limited to any material failure to perform the Services or any of them to the Contract Standard;
“Service Specification”		Means the detailed specification of the Services to be provided by Brent Council to Harrow Council under this Agreement attached at Appendix 1
“Services”		Means the New Cemetery management and maintenance services to be provided by Brent Council to Harrow Council to the Contract Standard as more particularly set out in the Services Specification

“Service User” Means any person who asks for or receives any of the Services under this Agreement

“Shared Infrastructure” Means the existing Carpenders Park carriageway, car park, facilities [Complete Definition]

- 1.2 Words in the singular include the plural and vice versa.
- 1.3 Words importing masculine shall be deemed also to include the feminine and vice versa.
- 1.4 Headings are included for ease of reference only and shall not affect the construction of the Agreement.
- 1.5 Any references to clauses and schedules are references to clauses and schedules of this Agreement.
- 1.6 A reference to any Act of Parliament, or to any Order, Regulation, Statutory Instrument or the like shall be deemed to include a reference to any subsequent amendments or re-enactments.
- 1.7 Any reference to a person includes a reference to bodies corporate or incorporate and any regulatory authorities and other bodies

## **2. DURATION OF THE AGREEMENT**

- 2.1 This Agreement shall commence on the Commencement Date.
- 2.2 This Agreement shall continue from year to year only during the subsistence of the Lease and shall end immediately on the date that the Lease determines for any reason whatsoever in accordance with the terms of the Lease (“the Expiry Date”) unless terminated earlier in accordance with clause 12.
- 2.3 The expiry of this Agreement shall not prejudice any accrued rights or liabilities arising under this Agreement that either Council may have against the other at the Expiry Date.
- 2.4 Clause 12.3 shall apply on the termination of this Agreement

## **3. THE SERVICES**

- 3.1 From the Commencement Date and for the duration of this Agreement Brent Council shall provide the Services at the New Cemetery to the Contract Standard

- 3.2 The Chief Officers shall from time to time provide such advice and information to the Councils on the operation and management of the Services as may be necessary and shall attend meetings of the Councils, or any other relevant meetings, as and when required.
- 3.4 Each Council shall consider any suggestion and/or proposal by the other concerning the efficiency, the operation, the management or staffing of, and the Services provided at the New Cemetery. The Councils shall only implement any such suggestion or proposal by mutual agreement.

#### **4. NEW CEMETERY STAFF**

- 4.1 Brent Council shall employ the New Cemetery Staff on Brent Council's employment terms and conditions and shall be solely responsible for paying the New Cemetery Staff 's remuneration
- 4.2 Brent Council shall determine the number, categories and scales of remuneration of the New Cemetery Staff.
- 4.3 Brent Council shall be solely liable for any disputes, grievances or claims resulting in any liability, loss or damage arising from the employment of the New Cemetery Staff at any time throughout the duration of the Agreement, save where Harrow Council has directly contributed to any such liability, loss or damage in which case it shall also be liable to the extent that it has directly contributed to the liability, loss or damage.

#### **5. VEHICLES, MACHINERY, PLANT AND EQUIPMENT**

- 5.1 Brent Council shall provide, maintain and replace as required such vehicles, machinery, plant and equipment as may be required for the provision of the Services at the New Cemetery
- 5.2 Subject to clause 9.1 below, Brent Council shall also provide, maintain and pay the related office costs including but not limited to office furnishing, fittings, heating, lighting, cleaning, water, telephone and facsimile, refuse collection, insurance, computer systems and equipment, and security of the New Cemetery.
- 5.3 Brent Council in consultation with Harrow Council shall be responsible for the daily operation and management of the New Cemetery and for making any arrangements with relevant persons concerning the operation and use of the New Cemetery by the Councils.
- 5.4 The Councils may agree to purchase jointly any capital assets for use in the provision of the Services under this Agreement and upon termination of this Agreement for any reason whatsoever such Assets Jointly Owned shall be dealt with in accordance with clause 12.3 below

## **6. MAINTENANCE AND BURIAL FEES**

- 6.1 Provided that Brent Council continues to provide the Services to the Contract Standard Harrow Council shall pay to Brent Council the fixed annual Maintenance Fee quarterly in arrears within 30 days of receipt of an invoice correct in all material particulars
- 6.2.1 The annual Maintenance Fee shall comprise of the cost elements of the Services as set out in the Cemetery Standards Guide
- 6.3 Brent Council shall collect all of the charges payable (including the Burial Fees) from Harrow Council Service Users and perform all of the related administrative, record-keeping, legal, customer care and operational matters set out in the Services Specification
- 6.4 Brent Council will deduct the Burial Fees from the total charges collected from Harrow Council Service Users and shall pay to Harrow Council quarterly in arrears the balance of the total charges remaining
- 6.5 Brent Council shall only charge Harrow Council Service Users the Burial Fees agreed in writing between the Councils from time to time.

## **7. FINANCIAL REPORTING**

- 7.1 In respect of financing the management and operation of the New Cemetery, Brent Council shall:
  - 7.1.1 Keep a separate record of the income and expenditure it incurs for the purpose of this Agreement and provide a copy of such record to the Chief Officer of Harrow Council in the form of a monitoring report on a quarterly basis within 30 days of the end of the relevant quarter including the final quarter in the form of an end of year outturn.
  - 7.1.2 Calculate the net estimated expenditure it incurs for the purposes of this Agreement in accordance with the current recommendations of the Chartered Institute of Public Finance and Accountancy (“CIPFA”); and
  - 7.1.3 Ensure that its Director of Finance submits an estimate of the net expenditure to be incurred in the subsequent financial year for the purposes of this Agreement to the Chief Officer of Harrow Council by the 30<sup>th</sup> September in each year which includes a detailed estimate of all revenue and capital costs including programmed forward maintenance, and shall send a copy of that estimate to the Director of Finance of Harrow Council, and shall provide such details and explanations as may reasonably be requested.



7.2 The net expenditure Brent Council incurs for the purposes of this Agreement shall include Revenue Costs and Capital Costs.

7.2.1 Revenue Costs are the general administrative running costs of the New Cemetery and shall include but not be limited to staff costs, cleaning, refuse collection, heating, lighting, water, telephone and facsimile charges, printing and stationery, telephones, facsimile machines, computer equipment, and other office expenses, stores, fittings, rates, and insurance

7.2.2 Capital Costs shall include but not be limited to vehicles, plant, machinery, and heavy equipment

7.3 Brent Council shall prepare an audited annual account of income and expenditure at the end of each Financial Year ("Annual Account") for submission to Harrow Council as soon as possible and no later than 30 November following the end of each Financial Year for Harrow Council's approval and internal and external audit. Such approval shall be confirmed, or refuted, no later than four calendar weeks after submission.

7.4 If the Annual Account shows that the sum payable by Harrow Council under clause 6 above exceeds the net expenditure attributable to Harrow Council then Brent Council shall promptly repay Harrow Council such overpayment.

[7.5 Deleted]

## **8. ANNUAL REVIEW**

8.1 There will be an Annual Review meeting scheduled between the Councils to review and discuss the Services quality standards, Key Performance Targets, Burial and Maintenance Fees, other financial arrangements and any other matter relevant to the operation and management of the New Cemetery that the Councils may wish to discuss. The Annual Review meeting shall take place at the beginning of January each year.

8.2 The Chief Officers shall attend the Annual Review meeting.

8.3 The Annual Review meeting shall be held at an agreed location and shall be run in accordance with a meeting process to be agreed between the Councils.

8.4 At any review meeting held under this clause 8 or at any other time during the period of this Agreement Harrow Council can raise any Service Performance Default issues. The Service Performance Default may be recorded and the actions the Councils shall take and the time within which those actions shall be taken to remedy the Service

Performance Default shall also be recorded and progress or the lack of progress to remedy the Service Performance Default shall be reported back to the next review meeting or earlier as agreed. The actions the Councils may take to address any Service Performance Default may include agreed variations to any fees or charges payable under the terms of this Agreement.

- 8.5 During the first 2 years of this Agreement the Councils may agree to meet more frequently than annually to review operational, financial and any other matters relating to this Agreement

## **9. INFRASTRUCTURE AND SHARED INFRASTRUCTURE MAINTENANCE AND REPAIR**

- 9.1 Harrow Council shall maintain and repair and keep in a good state of maintenance and repair entirely at its own cost the Infrastructure [and Shared Infrastructure?] at the New Cemetery

- 9.2 Brent Council shall notify Harrow Council if it becomes aware of any lack of maintenance or repair of the Infrastructure or Shared Infrastructure

## **10. COMPLAINTS**

- 10.1 Upon receipt of any Complaint relating to the Services by any Harrow Council Service User(s) Brent Council shall initially record the Complaint and as soon as reasonably practicable refer the Complaint to Harrow Council to deal with under Harrow Council's Complaint procedures

- 10.3 The Councils shall co-operate and work together to try to resolve any Complaints satisfactorily and as quickly as possible and to this end shall provide each other with all assistance including but not limited to the provision of relevant records and reports as may reasonably be requested by either Council

## **11. LIABILITIES AND INSURANCE**

- 11.1 Brent Council shall be solely liable for all proceedings, claims, damages, demands, fines, penalties, expenses, compensation, court or tribunal orders (including any order for reinstatement or re-engagement), awards, costs and all other liabilities whatsoever payable or incurred which arise out of or are connected with this Agreement ("the liabilities") save where Harrow Council has directly contributed to the liabilities in which case it shall also be liable for the liabilities to the extent that it has directly contributed to the liabilities

- 11.2 Brent Council shall be responsible for maintaining Insurance policies to cover the liabilities including but not limited to employer's liability

insurance and public liability insurance and relevant insurance policies required by the provisions of the Lease.

- 11.3 Harrow Council shall be liable for any and all claims, proceedings and the like arising directly from any failure to maintain and repair and keep in a good state of maintenance and repair the Infrastructure at the New Cemetery (“the Infrastructure liabilities”) save where Brent Council has directly contributed to the Infrastructure liabilities in which case it shall also be liable for the Infrastructure liabilities to the extent that it has directly contributed to the Infrastructure liabilities
- 11.4 Harrow Council shall be responsible for maintaining adequate insurance policies to cover the potential Infrastructure liabilities and any relevant insurance policies required by the provisions of the Lease

## **12. TERMINATION**

- 12.1 The Councils may terminate this Agreement by mutual agreement at any time throughout the duration of the Agreement.
- 12.2 In addition to clause 12.1, either Council may terminate this Agreement before the Expiry Date subject to giving the other Council at least 12 months’ prior written notice that they wish to terminate the Agreement.
- 12.3 Upon the termination of this Agreement pursuant to clause 12.1 or clause 12.2 above, or on the Expiry Date:
- 12.3.1 The Councils shall fully cooperate to ensure that there is an orderly wind down of their joint activities as set out in this Agreement and/or to ensure that there is an orderly transition to the arrangements that will supersede this Agreement;
- 12.3.2 In respect of any Assets Jointly Owned, the Councils agree that ownership of such assets shall be determined by calculating the percentage of the net expenditure attributed to and borne by each Council in the purchase of the Jointly Owned Asset and applying such percentages to the total market value of the Jointly Owned Assets as at the date of termination or the Expiry Date; and
- 12.3.3 If the effective termination date or Expiry Date of the Agreement is part way through a Financial Year, the Councils shall as appropriate promptly repay to the other Council any over or under payment proportionate to its financial contribution under this Agreement.

## **13. DISPUTE RESOLUTION**

- 13.1 If any dispute arises in respect of the interpretation of any of this Agreement’s provisions, the Annual Account, any suggestion or

proposal raised by one of the Councils, or any matter relating to the Agreement, such dispute shall be referred in the first instance to the Chief Officers who shall use all reasonable efforts to resolve it by agreement within 28 days.

- 13.2 If the Chief Officers cannot reach a unanimous agreement on the resolution of any matter referred to it in accordance with clause 13.1, then the dispute shall be referred to the Director of Environment & Culture (Brent Council) and the Corporate Director Community & Environment (Harrow Council) or any replacement officers who shall endeavour to resolve the dispute within a further 28 days.
- 13.3 If the dispute cannot be resolved pursuant to clause 13.2 above, then the Councils may agree to refer the dispute to mediation or expert determination on terms to be agreed
- 13.4 If the Councils cannot resolve the dispute by any of the routes above then either Council can terminate the Agreement by written notice to the other but without prejudice to any right of action one Council may have against the other arising out of any matter related to the dispute prior to such termination

#### **14. VARIATION**

This Agreement shall only be varied in writing and by signature of the duly authorised representatives of each Council. Any such variation shall be annexed to this Agreement.

#### **15. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed and interpreted in accordance with English law and the parties submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS WHEREOF** this Agreement has been executed as a deed on the date set out above.

**THE COMMON SEAL OF the MAYOR )**  
**AND BURGESSES OF THE )**  
**LONDON BOROUGH OF HARROW )**  
was hereunto affixed to this Deed in )  
the presence of: )

.....  
Authorised Signatory

**THE COMMON SEAL OF the MAYOR )**  
**AND BURGESSES OF THE )**  
**LONDON BOROUGH OF BRENT )**  
was hereunto affixed to this Deed in )  
the presence of: )

.....  
Authorised Signatory

**APPENDIX 1**

**SERVICE SPECIFICATION**

**[BL to provide Brent Service Standards, including funeral bookings]**

**APPENDIX 2**  
**THE LEASE**

**DATED**

**2007**

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**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF  
HARROW**

**AND**

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT**

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**AGREEMENT**

**For the occupation and management of a cemetery at Oxhey Lane,  
Carpenders Park, Watford, Herts**

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