



South Downs
National Park Authority

Agenda Item 11
Report NPA21/22-15

Report to	South Downs National Park Authority
Date	16 December 2021
By	Head of Governance & Support Services
Title of Report Decision	Operating Agreement between SDNPA and South Downs Commercial Operations Limited

Recommendation: The Authority is recommended to:

- 1. Note progress with the development of the Operating Agreement between SDNPA and South Downs Commercial Operations Limited (“the Company”);**
- 2. Approve the Operating Agreement set out in Appendix 1, and delegate authority to the Chief Executive in consultation with the Chair of the Authority to make any changes that he considers appropriate either to address any comments made by the Authority or to reflect any final negotiations with the Company prior to executing the agreement;**
- 3. Delegate to the Chief Executive, in consultation with the Chair of the Authority and the Company, the power to review and make amendments to the list of Permitted Activities set out in paragraph 6 of Appendix 1 of the executed Operating Agreement where he considers it appropriate.**
- 4. Delegate authority to the Chief Executive, in consultation with the Company, the power to review and make amendments to the list of values, codes of conduct, policies and procedures set out in Appendix 4 of the executed Operating Agreement and to authorise the variation of a value, code of conduct, policy or procedure in its application to the Company.**

1. Introduction

- 1.1 As part of the business plan for acquiring Seven Sisters Country Park, which was considered by the NPA at its meeting on 16 May 2019, the NPA were advised of the need to establish a commercial vehicle for the purpose of undertaking activities for a commercial purpose.
- 1.2 At the May 2020 NPA meeting it was agreed that the trading company be called “South Downs Commercial Operations Ltd” (“SDCO”) and that it should be established as a company limited by shares. This Company has now been established in preparation to take over management of the site from April 2022, subject to the execution of the Operating Agreement and subsequent business plan which will subject to approval by the NPA.
- 1.3 Ownership of the Seven Sisters Country Park site will sit with SDNPA who, through the Operating Agreement, will contract with the Company to deliver activities for a commercial purpose through the asset in line with Company’s Business plan.
- 1.4 SDNPA will carefully monitor the activities of the Company through the application of the reserved matters set out in the Company’s Articles (previously agreed by the NPA), and through the Policy & Resources Committee and reports to the NPA to ensure that during

the term of the Operating Agreement, the Company adheres to the business plan and the Operating Agreement.

1.5 The Company is a “Teckal” Company which only has the same powers as the Authority establishing it – therefore the activities of the Company are limited to those that the Authority could undertake and the NPA will need to satisfy itself as to the legality of any activities that the Company undertakes. This is provided for within the Operating Agreement. This places obligations on the Company to restrict how much activity it can undertake for third parties (i.e. anyone other than the SDNPA) and confirms that the SDNPA exercises authority over the Company similar to that which it exercises over its own departments. To maintain Teckal status no more than 19% of the Company’s activities can be for a third party and the SDNPA must retain control of the Company. This is enshrined in the Company’s objects.

1.6 The NPA is asked to approve the operating agreement. Following its approval the operating agreement will be submitted to the Directors of the Company for their approval prior to the annual business plan being presented to the Authority in March 2022.

2. Policy Context

2.1 The operation of Seven Sisters Country Park has potential contributions to the Partnership Management Plan for Outcomes 1, 2, 3, 4, 5, 6, 7 and 10.

3. Issues for Consideration

3.1 Members are asked to note progress with the development of the Operating Agreement and approve the agreement. Key issues contained within the Operating Agreement include:

	Heading	Purpose / Rationale
1	Agreement Documents	Standard terms to ensure clarity.
2	Duration	Sets the start and end date, and states that the Agreement can be extended. The term of the Agreement is currently proposed to be 3 years subject to extension agreed by the parties.
3	Basis of Award	Provides clarity with regard to the Teckal nature of the Company.
4	The Services	Sets out the key activities to be undertaken at the Seven Sisters Site and confirms that the SDNPA shall grant a licence to the Company for the delivery of services at the site. The key services within the Operating Agreement are: <ul style="list-style-type: none"> • maintaining the landscape, biodiversity and cultural assets at the Site in accordance with the agreed Landscape Management Plan; • providing a visitor centre and a visitor experience including refreshments and products that enhance the visitor experience in pursuit of SDNPA’s purposes and duty; • operating the car parks at the Site; • managing the designated built assets; and • ensuring that appropriate insurance cover is maintained. This section also sets out the key requirements with regard to delivery against NPA purposes and duty and other legislative

		requirements and obliges the company to follow SDNPA policies and codes of conduct etc.
5	Standard Terms and Conditions of Business	Confirms that the Company will operate using SDNPA standard terms and conditions.
6	Annual Business Plan and Accounts	Sets out the requirements pertaining to the production of the annual business plan and timescale for doing so.
7	Review of Agreement	This requires that a review of the agreement be undertaken within the first 3 years.
8	Performance against KPIs	This sets out the requirement for the Company to meet Key Performance Indicators which are set out in appendix I and which Policy & Resources Committee will monitor performance against and obliges the Company to provide information to support this activity. Also sets out obligations with regard to the annual business plan and financial reporting.
9	Permitted Activities	Together with appendix I this sets out a number of activities the company is permitted to undertake at the site and sets out the process for identification and agreement of additional permitted activities. Confirms that the SDNPA will not unreasonably withhold its consent for additional activities (this provision does not bind SDNPA in its role as Shareholder of the Company when it considers the annual business plan).
10	Leases, Licences and Contracts with Third Parties	Provides for the Company to negotiate future leases and licences in relation to the site (excluding a small number of properties identified in the maps in appendix 5) and to benefit from the income from such arrangements, but clarifies that, as freeholder, the NPA will make the final decision about entering into leases and licenses. Also includes provision in relation to the negotiation, novation and observance of contracts and matters relating to third party contracts.
11	Reasonable Charges	Requires that, for operations within a country park, only reasonable charges may be made for services provided in accordance with s43(2) of the Countryside Act 1968.
12	SDNPA Undertakings	Confirms that SDNPA will promptly consider requests for enforcement activity from the Company e.g. in relation to leases and car parking
13	Staffing	Sets out arrangements for secondment of SDNPA staff and payment for these by the Company.
14	Insurance	Sets out arrangements for insurance and which body should take out which insurances.

15	Indemnity	Confirms that the indemnity provided by SDNPA to the SDNPA appointed Company Directors is the same one that SDNPA provides to all Members and Officers.
16	Income and Annual Payment	Sets out that the Company is entitled to retain the income that it receives directly from third parties and details the annual payment to be made by the Company to the Authority (in addition to any payment for staffing).
17	Data Sharing Agreement	Requires the Company to enter into a data sharing agreement in the form to be agreed by the parties to govern the sharing of personal data.
18	Termination	Confirms that SDNPA and the Company retain the right to terminate the agreement on 6 months' notice. SDNPA also has some additional rights of termination in relation to specified breaches by the Company.
19	Notices and Communications	Standard term for clarity
20	Entire Agreement	Standard term for clarity.
	Appendices	Includes: <ul style="list-style-type: none"> • KPIs and service specification for the operation of Seven Sisters Country Park as well as provision for use of SDNPA assets at the Site • Permitted activities at Seven Sisters Country Park • Activity not connected to Seven Sisters Country Park that the Company may request be added to the list of permitted activities • Licence details • Relevant SDNPA policies that the Company is obliged to follow • SSCP Site plans

- 3.2 An indicative annual timetable, setting out the requirements of the Operating Agreement has also been included as **Appendix 2** to this report, so that Members can consider the implications this may have on other areas of the Authority's activities and governance.
- 3.3 Key performance indicators have been included within the Operating Agreement and the targets will be agreed annually as part of the annual business plan setting process which will also define the Company's activities for the coming year. Other key issues such as contracts to be entered into will also be included in the annual business plan.
- 3.4 The annual business plan and landscape management plan will be presented to the Authority for approval prior to the commencement of the Operating Agreement.
- 3.5 It is proposed, if the Authority approves the Operating Agreement set out in Appendix I, that authority be delegated to the Chief Executive, in consultation with the Chair of the Authority to make any changes to the agreement that he considers appropriate either to address any comments made by the Authority or to reflect any final negotiations with the Company prior to executing the agreement. In addition, to support the effective operation of the Agreement and support the efficient delivery of activities by the Company, it is

proposed to seek delegation from the NPA to the Chief Executive, in consultation with the Chair of the Authority, specifically to:

- to review and make amendments to the list of Permitted Activities set out in paragraph 6 of Appendix 1 of the executed Operating Agreement where he considers it appropriate; and
- review and make amendments to the list of values, codes of conduct, policies and procedures set out in Appendix 4 of the executed Operating Agreement and to authorise the variation of a value, code of conduct, policy or procedure in its application to the Company.

4. Ongoing Governance matters related to the Operating Agreement and the Authority's relationship with the Company

- 4.1 As set out in Appendix 2 to this report, there are a number of interfaces between the Authority and the company.
- 4.2 The Authority has two distinct roles, as the Shareholder of the Company and as the commissioner of the services within the Operating Agreement. As the commissioner, the Authority will review the Company's performance against the Key Performance Indicators (KPIs) at least annually. Oversight and monitoring will be performed by the Policy and Resources Committee whose terms of reference include reviewing the performance of the Company against both the Operating Agreement and its annual business plan as well as reviewing the Operating Agreement itself. In gathering relevant performance data, the Company will undertake an annual survey of visitors as well as surveys of local businesses at least every three years and the Authority and the Company will agree the methods to be used in the collection of the necessary performance information. The Authority will establish baselines for performance in areas of the services informing annual targets in relation to the KPIs which will be agreed as part of the Company's preparation of its annual business plan.
- 4.3 The Authority, in its role as Shareholder, will be asked to agree the Company's annual business plan at its meeting in March each year. Once agreed by the NPA, the Chief Executive, as shareholder representative, will attend a general meeting of the company, where the annual business plan will be approved.
- 4.4 The NPA has previously agreed a range of delegations to the Chief Executive in relation to a number of the matters reserved to the Authority as Shareholder and these are contained with the general scheme of delegation set out at appendix 7 of the Authority's Standing Orders.
- 4.5 For clarity, it is not proposed to seek specific delegated authority for Officers to undertake discussions and negotiations with the Company each year prior to making recommendations to the Performance & Resources Committee regarding the performance of the Company and for any amendments to the agreement as it is considered that this falls within the Chief Executive's general delegation of authority to undertake the day to day management and control of the Authority, its officers, resources, premises and services (as set out in appendix 7, paragraph 3.1 of the Standing Orders).

5. Consideration by Policy and Resources Committee of the Draft Operating Agreement

- 5.1 At its meeting in November, the Policy and Resources Committee considered the then current version of the draft Operating Agreement and endorsed the draft agreement (whilst noting that work was ongoing to finalise it) subject to a comment made concerning the indemnity clause. Consequently, the indemnity clause of the agreement has been amended to reflect that Members and Officers, when operating as Directors of the Company will receive the same indemnity as Members and Officers undertaking any function on behalf of the Authority. This indemnity would not apply to any directors appointed by the Company and the Company would have to confirm its own indemnity for such appointees.

- 5.2 The Authority is advised that the indemnity provided to all Members and Officers is currently under review and a revised indemnity will be presented to the NPA for consideration in due course.
- 5.3 Additionally, the following substantive changes have been made to the draft Agreement since it was considered by the Policy and Resources Committee:
- Inclusion of a review clause at clause 7;
 - Inclusion of maps identifying the assets the Company will be permitted to make use of;
 - Inclusion of a clause relating to a data sharing agreement; and
 - Provision for the annual payment by the Company to the NPA to be reduced by the sum that SDNPA receives in connection with any leases and licences granted at the site prior to the date of the Operating Agreement. This reduces the need for additional transactions.

6. Options & Cost Implications

- 6.1 Failure to agree the Operating Agreement would require significant reconsideration of the Authority's operating model in relation to the Seven Sisters Country Park Site.
- 6.2 The costs associated with this work have now been committed and have been met from within the Seven Sisters Country Park project budget or other existing budget areas.

7. Next steps

- 7.1 If agreed, the Operating Agreement subject to any final amendment as provided for in recommendation 2 will be submitted to the Company for their agreement.
- 7.2 The annual business plan will be presented to the NPA in March 2022 for agreement.
- 7.3 Once these two documents have been agreed, the Company will be able to take over delivering operations at the Sevens Sisters Country Park site and undertake other activities for a commercial purpose that are contained within the business plan and permitted activities list contained within the Operating Agreement.

8. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No, not in relation to the Operating Agreement.
Does the proposal raise any Resource implications?	The resources required in relation to the delivery of the Seven Sisters Country Park have been previously agreed by the NPA and allocated to the Seven Sisters' project.
How does the proposal represent Value for Money?	The annual payment by the company to the Authority will cover the Authority's costs in relation to ownership of the Seven Sisters Country Park Site. The employment costs of staff seconded to the Company will also be met by the Company.
Are there any Social Value implications arising from the proposal?	No.
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the	Yes, the business case for SDNPA managing the Country Park was based partly on increasing access to the Country Park and improving the visitor experience for people of different ethnic origins and those of different physical capabilities and mental

Equality Act 2010?	health. The Company will support the delivery of these improvements and the operating agreement expressly requires adherence with the Authority's enhanced Public Sector Equality Duty .
Are there any Human Rights implications arising from the proposal?	None.
Are there any Crime & Disorder implications arising from the proposal?	No.

9. Risks Associated with the Proposed Decision

- 9.1 This paper specifically supports the mitigations set out against risk 02 (finance) and Risk 22 income generation etc. set out in the Corporate Risk Register
- 9.2 A failure to agree the proposed Operating Agreement would impact upon the delivery of the aspirations of the NPA as income could not be generated to offset the initial investment in improvements required.

ROBIN PARR

**Head of Governance & Support Services
South Downs National Park Authority**

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 Appendices 1. Draft Operating agreement
 2. Indicative annual timeline

SDNPA Consultees Chief Executive; Monitoring Officer.
 External Consultees None
 Background Documents None

DATE

2021

SOUTH DOWNS NATIONAL PARK AUTHORITY

and

SOUTH DOWNS COMMERCIAL OPERATIONS LIMITED

Operating Agreement

South Downs National Park Authority
South Downs Centre
North Street
Midhurst
West Sussex
GU29 9DH

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DRAFT

PARTIES:

- (1) South Downs National Park Authority of South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH ("**SDNPA**"),
- (2) South Downs Commercial Operations Limited (company number 13527164) of South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH ("**the Company**");

each "**a party**" and, together, "**the parties**".

AGREEMENT TERMS

1. Agreement Documents

- 1.1. This Operating Agreement ("the Agreement") comprises the following:
 - 1.1.1. the terms of this Agreement including the Schedules (together the "**Special Terms**");
 - 1.1.2. SDNPA contract terms and conditions, as amended from time to time and as notified to the Company ("**Contract Terms and Conditions**").
- 1.2. In the case of any inconsistency between the documents then the terms of individual documents should take precedence in the order set out above, with those higher in the list taking greater priority.
- 1.3. The Agreement comprises the "Service Order" for the purposes of the Contract Terms and Conditions.

2. Duration

- 2.1. The Agreement shall commence on 1 April 2022 ("**the Commencement Date**") and subject to earlier termination and extension in accordance with its terms shall expire on 31 March 2025 ("**the Expiry Date**") ("**the Contract Period**").
- 2.2. The Agreement may be extended pursuant to clause 3.2 of the Contract Terms and Conditions. Appropriate adjustment of the contract charges will be determined by SDNPA, acting reasonably and both the extension and any adjustment of the contract charges will be documented in writing and authorised by the appropriate signatory on behalf of each of the parties.

3. Basis of Award

- 3.1. The parties acknowledge and agree that this Agreement is awarded to the Company by utilising the "Teckal" exemption contained in regulation 12 (1) of the Public Contract Regulation 2015 ("the PCR")

which allows SDNPA, as a “contracting authority” under the PCR, to award a public contract to a legal person outside the scope of the PCR if all of the following conditions are fulfilled;

- (a) *the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;*
- (b) *more than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority; and*
- (c) *there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the [Retained] Treaties, which do not exert a decisive influence on the controlled legal person*

3.2. In addition the following is acknowledged and agreed by the parties:

- 3.2.1. The Company’s activities shall be limited to the territory of its shareholder (SDNPA) and are carried out essentially for its shareholder’s benefit and the constitution provides for governance by representatives of the shareholder.
 - 3.2.2. The Company must remain wholly owned by SDNPA (i.e. even a minority private shareholding may exclude the possibility that the contracting authority can exercise control over the Company to the same extent as it does over its internal departments).
 - 3.2.3. If SDNPA intends to divest itself of all or part of its ownership of the Company then that will likely trigger the requirement for the contract to be competitively tendered.
 - 3.2.4. The Company may not undertake any activity which threatens or may threaten the Company’s status as a Teckal entity and in particular the Company must ensure that more than 80% of the activities of the Company are carried out in the performance of tasks entrusted to it by SDNPA or by other legal persons controlled by SDNPA.
- 3.3. The Company shall ensure that any contract let by the Company is let in compliance with the requirements of the PCR and any other relevant legal requirements, including without limitation equality legislation and the Public Services (Social Value) Act 2012.
- 3.4. Neither party shall by any act or omission cause the basis of award of the Agreement pursuant to this clause 3 to be undermined and if either party becomes aware of any circumstances which might undermine

the basis of the award it shall notify the other party as soon as reasonably practicable.

4. The Services

4.1. SDNPA hereby appoints the Company to manage the Seven Sisters Country Park ("**the Site**") and the Company shall deliver the management services described at Appendix 1 ("**the Services**") in accordance with the terms of this Agreement. The Company shall also provide any other services as may be agreed from time to time by the parties.

4.2. Licence

4.2.1. SDNPA holds the freehold title to the Site and hereby grants the Company and its staff, agents, sub-contractors and their staff and other representatives of the Company a non-exclusive licence ("**the Licence**") to occupy the Site for the purposes only of delivery of the Services and the proper performance of the Company's obligations under this Agreement ("**the Agreed Purposes**") in accordance with the terms contained in Appendix 3.

4.2.2. The Licence shall commence on the Commencement Date and shall expire on the earlier of the date of termination of this Agreement in accordance with its terms and the expiry date.

4.3. Key Services

The Services to be delivered by the Company in relation to the Site, as more particularly described in the specification in Appendix 1 ("**the Specification**"), shall include, without limitation:

- 4.3.1. maintaining the landscape, biodiversity and cultural assets at the Site in accordance with the agreed Landscape Management Plan;
- 4.3.2. providing a visitor centre and a visitor experience including refreshments and products that enhance the visitor experience in pursuit of SDNPA's purposes and duty;
- 4.3.3. operating the car parks at the Site;
- 4.3.4. managing the designated built assets; and
- 4.3.5. ensuring that appropriate insurance cover is maintained.

4.4. SDNPA Functions

At all times the Company shall deliver the Services in accordance with the Specification and all applicable legislation. In particular, the Company shall undertake its activities and deliver the Services in a

way which is consistent with the statutory purposes and functions (including the public law requirements) of SDNPA for the operation, management and stewardship of the national park land and facilities for which it is responsible as a National Park Authority ("**NPA**"), as amended from time to time (the "**SDNPA Functions**").

4.5. The parties acknowledge and agree that SDNPA Functions may change over time as the applicable legislation is updated, amended, superseded and replaced. The SDNPA shall draw any relevant changes to SDNPA Functions to the Company's attention as soon as reasonably practicable after becoming aware of the same and the parties shall discuss and agree any consequential changes required to this Agreement.

4.6. At the date of this Agreement, the SDNPA Functions include but are not limited to the following:

4.6.1. Section 5(1) National Parks and Access to the Countryside Act 1949, as amended by section 61(1) Environment Act 1995, enacts two purposes of NPAs:

"the purpose—

(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and

(b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public".

4.6.2. Section 11A (1) National Parks and Access to the Countryside Act 1949 provides, in relation to those purposes:

"A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park."

4.6.3. In the context of functions regarding land, section 11A (2) National Parks and Access to the Countryside Act 1949 provides:

"In exercising or performing any functions in relation to, or so as to affect, land in any National Park, a relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park."

4.6.4. Section 65(2) Environment Act 1995 provides:

"Sections 37 and 38 of the Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) shall apply to National Park authorities as they apply to local authorities."

4.6.5. Sections 37 and 38 Countryside Act 1968 confer duties on NPAs to:

"have due regard to" the "needs of agriculture and forestry and to the economic and social interests of rural areas", and to the "protection against pollution of any water, whether on the surface or underground, which belongs to the Environment Agency, the NRBW or a water undertaker or which the Agency, the NRBW or a water undertaker is for the time being authorised to take".

4.6.6. The Company must not publish any material which SDNPA would be prohibited from publishing by [section 2](#) of the Local Government Act 1986.

4.6.7. Further, by section 149 (public sector equality duty) and Part I of Schedule 19 Equality Act 2010, an NPA in England must when exercising any of its functions have due regard to the needs there set out.

4.7. The Company shall ensure that in taking decisions or undertaking its activities, including without limitation in the performance of its obligations under this Agreement it shall not do anything or omit to do anything which is likely to damage the reputation of SDNPA.

4.8. In performing its obligations under the Agreement, the Company shall have due regard to those values, codes of conduct, policies and procedures for the time being adopted by SDNPA, as updated from time to time and as notified to the Company. Where the Company considers that a value, code of conduct, policy or practice requires variation in its application to the Company, the Company shall seek authorisation for such variation from SDNPA's Chief Executive and such authorisation shall not be unreasonably withheld. A list of such values, codes of conduct, policies and procedures as at the date of this Agreement are identified for this purpose in Appendix 4 and copies of these documents have been provided by the SDNPA. SDNPA, acting reasonably and after consultation with the Company may amend the list of values, codes of conduct, policies and procedures in Appendix 4.

5. Standard Terms and Conditions

The Company undertakes to adopt the Contract Terms and Conditions, as amended from time to time and notified to the Company by SDNPA as its standard terms and conditions of business in connection with the delivery of the Services.

6. Annual Business Plan and Accounts

- 6.1. The Company shall prepare an annual business plan no later than 1 March in each year or part of a year ending on 31 March ("**a Financial Year**"), setting out the activities to be carried out by the Company in the following Financial Year ("**the Annual Business Plan**") including without limitation the activities to be undertaken pursuant to this Agreement.
- 6.2. The Company shall provide SDNPA with a copy of the Annual Business Plan no later than 1st March prior to the start of the next Financial Year to which the Annual Business Plan relates or by such later date as may be agreed by the parties.
- 6.3. The Company shall prepare accounts to 31 March in each year and shall provide a copy of the same to SDNPA, in draft and final form, for the purposes of review pursuant to clause 7 and clause 8.

6.4.

7. Review of Agreement

- 7.1. No later than 3 years after the commencement date the parties shall review this agreement.
- 7.2. The parties, acting reasonably, shall seek to identify any potential changes to the terms of this Agreement that are necessary or desirable in terms of enabling the Company to better perform its obligations or that would impact positively upon the Company's performance. The parties shall discuss in good faith and seek to agree those changes, including, where appropriate, any reasonable adjustment to the Annual Payment to take account of any change in cost or change in income accruing to either party as a result of the proposed changes.
- 7.3. SDNPA shall take the lead in terms of the documentation of any changes agreed by the parties pursuant to clause 7.2 and shall present the Company with a draft variation agreement for discussion. The parties shall seek to agree the proposed variation agreement within a reasonable timescale (taking into account the decision making arrangements of SDNPA) and in the event of dispute, either party may refer to the dispute resolution procedure described in clause 42 of the Contract Terms and Conditions.
- 7.4. The parties shall bear their own costs in undertaking all activities pursuant to this clause 7.

8. Performance against KPIs

- 8.1. The Company shall meet the Key Performance Indicators (KPIs) set out in Appendix 1 which reflect the values of SDNPA.

- 8.2. Should the Company fail to meet any of the Key Performance Indicators then SDNPA, acting reasonably, shall be entitled to regard that failure as a Default comprising a fundamental breach of the Agreement incapable of remedy and SDNPA shall be entitled to terminate the Agreement pursuant to clause 24.4 of the Contract Terms and Conditions or to make appropriate revisions to the Agreement.
- 8.3. The Company shall provide such information as reasonably required by SDNPA in order to enable SDNPA to monitor and review the Company's performance, including the financial performance of the Company, in the context of its delivery against the Key Performance Indicators, the terms of the Agreement and the Company's Annual Business Plan.
- 8.4. One or more of the Directors of the Company shall attend such meetings of SDNPA as SDNPA may reasonably require in order to respond to questions concerning the Company's activities.

9. Permitted Activities

- 9.1. Subject to the Annual Business Plan the Company shall be entitled to carry out a number of authorised activities identified in the Specification at Appendix 1 ("**the Permitted Activities**") provided that these activities are carried out in compliance with the terms of this Agreement and in relation to any land do not interfere with public enjoyment and use of the land and the legitimate rights enjoyed by any existing occupiers.
- 9.2. The Company shall be entitled to apply in writing to SDNPA to add to the list of Permitted Activities. The Company's application shall provide written information sufficient enough to enable the SDNPA to be satisfied that:
 - 9.2.1. the activity concerned is one that SDNPA is legally entitled to undertake, including without limitation, charging and trading pursuant to powers under sections 93 and 95 of the Local Government Act 2003;
 - 9.2.2. the activity is compliant with SDNPA Functions as defined at clause 4.4 and clause 4.5;
 - 9.2.3. the activity shall not and shall not be likely to have an adverse impact upon the reputation of SDNPA;
 - 9.2.4. the activity shall be undertaken in compliance with the terms of this Agreement;
 - 9.2.5. where the activity relates to land the activity shall not interfere with public enjoyment and use of the land and the legitimate rights enjoyed by any existing occupiers; and

- 9.2.6. the financial impact of the activity, in terms of anticipated income and expenditure associated with the activity, can be accommodated by the Company's Annual Business Plan.
- 9.3. SDNPA shall respond to the Company in writing within 20 working days of receipt of the Company's application, together with such supporting evidence as SDNPA shall reasonably require. SDNPA shall be entitled to withhold consent to the addition of any particular activity to the list of Permitted Activities but such consent shall not be unreasonably withheld. For the avoidance of doubt, this provision does not bind SDNPA in its role as Shareholder of the Company.
- 9.4. SDNPA, acting reasonably and after consultation with the Company may amend the list of Permitted Activities in Appendix 1 to add to or remove authorised activities.
- 9.5. Examples of activities which may be added to the list of Permitted Activities are found in Appendix 2.

10. Leases, Licences and Contracts with Third Parties

- 10.1. Subject to this clause 10, the Company shall be permitted to negotiate the terms of any proposed future leases and licences with third parties in relation to those parts of the Site that the Company may make use of pursuant to paragraph 5 of Appendix 1, , subject to approval of the final form of such leases and licences being granted by SDNPA as freeholder of the Site. SDNPA shall be entitled to withhold consent to such agreements, renewals and extensions in its absolute discretion.
- 10.2. If such approval is granted, SDNPA will enter into any approved legal agreements with all associated legal costs being met by the Company.
- 10.3. SDNPA shall consult with the Company in respect of any negotiations undertaken by SDNPA in relation to any leases and licences granted prior to the Commencement Date.
- 10.4. The Company will receive the income from any facilities or services provided by the Company at the Site and any income received in connection with any leases or licences negotiated by it and agreed by SDNPA pursuant to this clause 10.
- 10.5. The Company shall indemnify SDNPA for any liabilities, costs or losses that SDNPA incurs in connection with such leases and licences.
- 10.6. The Company may not purport to change the terms of any of the leases or licences granted in respect of the Site pursuant to this clause, or any leases or licences granted prior to the Commencement Date of this agreement including without limitation in respect of any buildings on the Site or any activities carried out at the Site.

Existing Third Party Contracts

10.7. Prior to the Commencement Date, SDNPA shall provide to the Company a copy of any existing contract between SDNPA and a third party or parties in relation to the Site or in connection with the Services, in respect of which SDNPA proposes that:

10.7.1. the Company shall enjoy any rights of SDNPA and/or undertake any obligations of SDNPA under the relevant contract; or

10.7.2. the contract shall be novated to the Company; or

10.7.3. the Company shall identify the rights and obligations of SDNPA under the relevant contract and shall not, by any act or omission, cause SDNPA to be in breach of the relevant contract,

(in each case a "**Third Party Contract**").

10.8. In the case of a proposed novation of a Third Party Contract pursuant to clause 10.6.2:

10.8.1. the Company shall co-operate with SDNPA and shall carry out all necessary acts and execute all relevant documentation in a timely manner to achieve the novation of the relevant contract to the Company; and

10.8.2. the novation of the relevant contract shall be in a form proposed by SDNPA, acting reasonably, and the Annual Payment shall be adjusted to take account of the rights and obligations of the Company under the relevant contract from the date of implementation of the novation.

10.9. In the case a Third Party Contract identified to the Company pursuant to clause 10.6.1 and clause 10.6.3, the parties shall discuss and agree in writing any rights and obligations of SDNPA under the relevant Third Party Contract that remain with the SDNPA or which SDNPA shall be required to observe and the Annual Payment shall be adjusted to take account of those arrangements.

11. Reasonable Charges in relation to Permitted Activities at a Country Park

11.1. In accordance with s43(2) of the Countryside Act 1968 ("**the Act**") SDNPA has the power to arrange for any facilities or services in relation to a Country Park which it may itself provide under the Act to be provided by some other person and, in addition, it may authorise that person to make reasonable charges within the meaning of that provision.

- 11.2. SDNPA confirms that, in accordance with the terms of the Agreement and pursuant to clause 11.1, it authorises the Company to make reasonable charges for any facilities or services provided by the Company at the Site for the enjoyment or convenience of the public.
- 11.3. It is SDNPA's view that there is no requirement that reasonable charges be strictly no more than the cost of provision and so charges that are modestly more than a strictly computed cost of provision may be justified.
- 11.4. Acting in accordance with SDNPA's view set out in clause 11.3, the Company shall determine the reasonable charges that will be made and, in so doing, shall maintain appropriate records of its calculations. SDNPA reserves the right to review such records. Following a written request by SDNPA to the Company, the Company shall provide access to the records within no more than 5 working days.

12. **SDNPA Undertakings**

SDNPA shall consider promptly any requests and associated representations by the Company for SDNPA to undertake enforcement activity in connection with the Company's delivery of the Services, in particular regarding car parking and leases and shall provide reasons for its decisions.

13. **Staffing**

- 13.1. The Company must only engage staff members through SDNPA on a secondment basis.
- 13.2. SDNPA's Head of Paid Service will approve any staff secondments to the Company.
- 13.3. The Company undertakes to implement the policies of SDNPA set out at Appendix 4 in relation to any staff members seconded by SDNPA.
- 13.4. SDNPA and the Company agree that no staff are intended to transfer to the Company under TUPE. In the event that TUPE applies, the provisions of clauses 27 and 28 of the Contract Terms and Conditions shall apply upon termination of this Agreement. The Company shall also indemnify SDNPA in respect of any costs or liabilities that it incurs during the term of this Agreement in connection with any claim relating to the application of TUPE.
- 13.5. SDNPA retains responsibility and complete discretion in matters related to performance management consequences, disciplinary and/or redundancies of any staff seconded to the Company in accordance with SDNPA policies.
- 13.6. SDNPA remains responsible for the payment of salaries, pensions and other staffing costs. SDNPA shall invoice the Company pursuant to clause 16.5 and the Company shall reimburse SDNPA on a quarterly

basis for all costs related to the employment of staff who are seconded by SDNPA to the Company.

- 13.7. The Company undertakes to engage with SDNPA to resolve any grievances raised by members of staff seconded to the Company.

14. Insurance

- 14.1. For the duration of this Agreement SDNPA shall take out the following insurances on behalf of the Company and in respect of SDNPA staff seconded to the Company:

- 14.1.1. Public Liability Insurance to the value of £10 million per claim;
- 14.1.2. Professional Indemnity Insurance to the value of £5 million per claim;
- 14.1.3. Director's Indemnity Insurance to the value of £1 million per claim; and
- 14.1.4. Employer Liability Insurance to the value of £5 million per claim.

- 14.2. For the duration of this Agreement the Company shall take out the following insurances to which the provisions of clause 28 of the Contract Terms and Conditions shall apply:

- 14.2.1. Buildings Contents Insurance at an adequate level to cover the value of the building contents, cash and other assets of the Company or under the Company's control at the Site; and
- 14.2.2. such other insurances as SDNPA shall from time to time require.

- 14.3. Any insurances taken out by the Company must include a waiver of the right of subrogation.

- 14.4. Additional insurance may be required by SDNPA in relation to specific sites, assets and activities identified in Appendix 1 and / or in the Company's Annual Business Plan. Any such additional insurance requirements will be notified to the Company by SDNPA from time to time and the relevant Annual Payment may be revised accordingly.

15. Indemnity

SDNPA will provide an indemnity to those directors of the Company who are members or officers of SDNPA and have been appointed by SDNPA as Directors of the Company in the terms of SDNPA's approved indemnity for members and officers.

16. Income and Annual Payment

- 16.1. The Company shall be entitled to retain the income that it receives directly from third parties, arising from the undertaking of the

Permitted Activities at the Site and elsewhere in accordance with the terms of this Agreement.

- 16.2. In consideration for the appointment of the Company to operate the Site and the granting of the Licence to the Company, the Company shall make an annual payment ("**the Annual Payment**") to SDNPA, the amount of which shall be calculated by SDNPA on an open book basis to include:
 - 16.2.1. SDNPA's costs in providing the Site for the use by the Company;
 - 16.2.2. the general ancillary costs incurred by SDNPA in providing support to the Company (not including salary and associated costs of staff who are seconded to the Company); and
 - 16.2.3. an internal rate of return of 1.5% on any SDNPA capital funds invested.
- 16.3. The amount of the Annual Payment calculated in accordance with clause 16.2 shall be reduced by the sum that SDNPA receives in connection with any leases and licences granted at the Site prior to the Commencement Date.
- 16.4. Subject to clauses 16.4 and 16.5, the Annual Payment shall be invoiced by SDNPA in four equal instalments, quarterly, in arrears ("**the Quarterly Payments**").
- 16.5. SDNPA shall invoice the Company in respect of each Quarterly Payment no later than 7 working days following 25 March, 24 June, 29 September and 25 December in each calendar year ("**the Quarter Days**") and no earlier than the relevant Quarter Day. The Company shall transfer the monies due to SDNPA's bank account no later than 30 days from the date of the relevant invoice.
- 16.6. The parties agree that the initial Annual Payment will be £90,000 (ninety thousand pounds) to be reduced in accordance with clause 16.3 with a pro-rata amount being payable for any part of a Financial Year covered by the Agreement and the Quarterly Payments being adjusted appropriately so that the pro-rated Annual Payment is invoiced in full in the relevant Financial Year.
- 16.7. At the same time that SDNPA invoices the Company in respect of the Annual Payment, it shall be entitled to invoice the Company, on a quarterly basis in arrears, in respect of the cost of staff seconded by SDNPA to the Company pursuant to clause 13 (including without limitation the cost of salary of such staff and any associated costs ("**Staff Costs**"). The Staff Costs shall be included in the same invoice as the Quarterly Payment.

- 16.8. The quarterly invoice issued by SDNPA shall identify as separate figures the Quarterly Payment and the Staff Costs and shall provide such analysis of these costs as the Company shall reasonably require.

17. Data Sharing Agreement

Pursuant to the Contract Terms and Conditions clause 17.4, at the request of SDNPA, the Company shall enter into a data sharing agreement at any time following the execution of this Agreement in a form to be agreed by the parties of agreement found at Appendix 6.

18. Termination

- 18.1. Either party shall be entitled to terminate this Agreement for any reason on six months' written notice.
- 18.2. SDNPA shall be entitled, acting reasonably, to terminate this Agreement pursuant to clause 24.4 of the Contract Terms and Conditions on the basis of a fundamental breach being incapable of remedy where the Company fails to meet any of the Key Performance Indicators.
- 18.3. SDNPA shall be entitled to terminate this Agreement pursuant to clause 24.3 (e) of the Contract Terms and Conditions on the basis of a serious breach of this Agreement where the Company breaches the terms of the Licence granted pursuant to clause 4.2, including without limitation by carrying out activities outside the Agreed Purposes.

19. Notices and Communications

Notices to be given pursuant to clause 48.1 and clause 48.2 of the Contract Terms and Conditions may be issued, subject to clause 48.3, by email or by fax and shall be deemed to have been served at the date and time of transmission, appropriately evidenced, where no subsequent transmission failure is received by the sender.

20. Entire Agreement

This Agreement constitutes the entire agreement and understanding of the parties in connection with its subject matter and supersedes all prior representations, discussions, correspondence and documentation in relation to the subject matter.

Signed for and on behalf of
SDNPA by

Authorised Signatory:.....

Print Name:.....

Signed for and on behalf of
the Company by:

Director:.....

Print Name:.....

Director/Secretary:.....

Print Name:.....

Director/Secretary

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APPENDIX 1

SERVICE SPECIFICATION AND KPIS

PART A – SERVICE SPECIFICATION

The Site:

1. The Services to be delivered by the Company at the Site, as more particularly described in this Appendix 1 include, without limitation:
 - a. maintaining the landscape, biodiversity and cultural assets at the Site in accordance with the agreed Landscape Management Plan;
 - b. providing a visitor centre and a visitor experience including refreshments and products that enhance the visitor experience in pursuit of SDNPA's purposes and duty;
 - c. operating the car parks at the Site;
 - d. managing the designated built assets; and
 - e. ensuring that appropriate insurance cover is maintained.

Landscape Management Plan

2. Landscape biodiversity and cultural assets within the Site will be maintained and enhanced at the Company's expense. A landscape management plan for the Site ("**the Landscape Management Plan**") will be produced separately by the SDNPA and agreed by the parties and will be annexed to this Appendix. The Landscape Management Plan shall be reviewed by the parties every three years and amended by agreement of the parties.
3. In the event that SDNPA and the Company fail to agree the Landscape Management Plan SDNPA shall be entitled to terminate the Agreement or to make appropriate revisions to the Agreement, acting reasonably.
4. Before the start of each Financial Year SDNPA and the Company will jointly agree a set of actions for the year that will be carried out in pursuit of the objectives set out in the Landscape Management Plan. In the event that SDNPA and the Company fail to agree a set of actions for the year, SDNPA shall be entitled to terminate or make appropriate revisions to the Agreement, acting reasonably.

Permitted Activities at the Site

5. Subject to the Annual Business Plan, SDNPA will permit the Company to make use of:
 - Those designated built assets shown shaded in green on the maps in Appendix 5 excluding those designated built assets shown shaded in red on the maps in Appendix 5;

- The car parks outlined in red on the map entitled "SSCP Car Parks" in Appendix 5;
 - all other land comprising the Site, in order to carry out the Permitted Activities specified below ("**the Permitted Activities**"), provided that these activities are carried out in compliance with the terms of this Agreement and in relation to the Site do not interfere with public enjoyment and use of the Site and the legitimate rights enjoyed by any existing occupiers.
6. Subject to amendment pursuant to clauses 9.2, 9.3 and 9.4 and subject to the requirement that each individual activity be reasonably calculated to accomplish the purposes specified in section 5(1) of the National Parks and Access to the Countryside Act 1949, the Permitted Activities include at the date of this Agreement:
- a) Developing a high-quality visitor experience, including retail trade within a visitor centre or other designated areas of the site, car parking, provision of refreshments and products that enhance the visitor experience in pursuit of SDNPA's purposes and duty, cycle or other similar vehicle hire;
 - b) Providing holiday accommodation including campsite, bunk house and holiday lets;
 - c) Providing exhibitions, events, talks and lectures and experiences and experience packages and facilities for third parties to deliver exhibitions, events, talks and lectures and experiences and experience packages;
 - d) Negotiating the terms of proposed leases and licences in respect of the Site with third parties pursuant to clause 10;
 - e) Entering into sponsorship agreements in relation to the Site to the extent only that these are compatible with SDNPA's values, codes of conduct, practices and procedures as identified in Appendix 4 and have no adverse impact or likely to have a potentially adverse impact on SDNPA's reputation;
 - f) Farming the Site in a way consistent with the Landscape Management Plan;
 - g) Providing services connected to filming on the Site;
 - h) Providing electric vehicle charging within the car parks on the Site;
 - i) Where permissible, in conjunction with SDNPA, claiming RPA and other similar payments for the land management subject to the Company applying with any conditions applicable to such payments
 - j) Where permissible, in conjunction with SDNPA, applying for grants to make improvements to the Site in line with the Landscape

Management Plan subject to the Company applying with any conditions applicable to such grants

- k) producing electricity from renewable sources and sale of excess electricity produced from renewable sources.*

Visitor Centre

7. The Company undertakes to provide a staffed visitor centre, supplying information to visitors to the Site, within the designated assets at Exceat as shown shaded in green on the map at Appendix 5.
8. The visitor centre will be staffed and open to the public 364 days a year, the exception being Christmas Day.
9. Minimum operating hours will be 10 am – 4pm during the summer season (1 April – 31 October) and during the hours of daylight in the winter season (1 November – 31 March).

Operation of Car Parking Facilities

10. The Company is permitted to charge for vehicle parking in Exceat Car Park and Riverside Car Park ("**the Car Parks**") as shown outlined in red on the map entitled "SSCP Car Parks" in Appendix 5.
11. Until a date to be agreed by the parties, acting reasonably, such charges shall not exceed the charging rates in force at the Car Parks at the Commencement Date ("**the Existing Car Park Charging Rates**").
12. After the date agreed pursuant to paragraph 11, the Company shall be entitled to adjust the charges for the Car Parks in accordance with Clause 11 of this agreement.

Maintenance, development and alterations of the built assets at the Site

13. SDNPA will maintain a list of approved contractors. Subject to a maximum value of £1,000 in relation to non-routine maintenance and minor alterations, where urgent works, non-routine maintenance or minor alterations are required that do not impact the structural fabric of any of the built assets, the Company may choose an approved contractor from SDNPA's list and commission such work, with the costs being met by SDNPA.
14. Planned or regular maintenance of the buildings on the Site will be undertaken by SDNPA in consultation with the Company.
15. The Company may not undertake alterations, development or works that impact upon the fabric of the built assets without the consent of SDNPA.

Assets

16. Prior to the Commencement Date, SDNPA shall provide to the Company a list of assets and materials at the Site which shall be made available for use by the Company in the delivery of the Services ("**SDNPA Assets**").
17. The Company shall be responsible at its own cost for maintaining in a safe condition, repairing and replacing all SDNPA Assets so that they are fit for the purpose of delivering the Services and as a minimum comply with any manufacturer's servicing and maintenance requirements. The Company shall return all SDNPA Assets to SDNPA upon the termination or expiry of this Agreement.
18. The Company shall keep, operate, prepare and use all SDNPA Assets:
 - a. with due regard for fuel economy and energy saving;
 - b. in a safe manner and under proper control, which shall include clearly and accurately labelling containers to indicate their contents; and
 - c. ensure that its staff and representatives are properly instructed in such matters.
19. The Company shall be responsible for the security of all SDNPA Assets, equipment and materials used by the Company in connection with the provision of the Services and SDNPA shall not (as far as permitted by law) be liable for loss, damage or injury in respect of the same.
20. The Company shall only use in the provision of the Services SDNPA Assets or equipment owned by the Company or hired under a hire agreement containing a provision permitting SDNPA (upon request in writing by SDNPA undertaking to pay all hire charges in respect thereof from such date) to hire such equipment on the same terms as the equipment was hired to the Company, with the provision that SDNPA can permit any replacement contractor employed for the purpose of providing the Services to use the same. From the date of termination or expiry of this Agreement, the Company shall do all things necessary to enable SDNPA to hire such equipment and will pay all outstanding monies due to the owner of the equipment up to the date on which it is hired to SDNPA.

Insurance

The Company shall obtain such additional insurance cover as SDNPA shall from time to time require pursuant to clause 14.4.

PART B - Key Performance Indicators (KPIs)

21. The Company shall undertake its activities in light of the following KPIs and shall measure and report to SDNPA its performance on an annual basis against these KPIs.

22. The Company shall undertake an annual survey of visitors and surveys of local businesses on a regular basis and no less frequently than every three years in order to gather the information necessary to identify the Company's performance against the relevant KPIs.
23. The parties shall agree, acting reasonably, the methods to be used in the collection of the necessary performance information and the Company shall present any surveys to be issued pursuant to paragraph 22 in advance to SDNPA for comment and approval, such approval not to be unreasonably withheld.
24. The information gathered by the Company containing details of the Company's performance against the KPIs shall be presented to SDNPA no later than 1 February in each Financial Year.
25. Following the issue to SDNPA of the performance information, at SDNPA's request the parties shall meet to discuss the Company's performance in relation to the KPIs and to agree any changes required to the Company's activities in order to improve its performance.
26. The Company shall implement the measures proposed by SDNPA, acting reasonably, and the parties shall agree any appropriate adjustment of the Annual Payment.
27. SDNPA will establish baselines for performance in areas of the Services where it considers this to be necessary and will share this information with the Company. These baselines will inform annual targets in relation to the KPIs which shall be agreed by the parties, acting reasonably, as part of the Company's preparation of its Annual Business Plan.
28. The targets for the first Financial Year of the Agreement shall be agreed by the parties as part of the Company's Annual Business Plan for that year.

Type of Key Performance Indicator	Standard / Target to be achieved
--	---

People Indicators

Visitor Experience Survey

The survey will request ratings for the following items as well as collecting background information to allow segmentation; origin of journey, time spent in area, age of visitor (band) and interests.

- Rating of Visitor Centre Experience (staff knowledgeable and welcoming, interesting interpretation and retail, etc.) []
- Rating of cleanliness, including toilets []

- Rating of catering offers on site []
- Rating of wider park, landscape and things to do. []

Educational Indicators

- Number of events run (each would have individual satisfaction ratings on feedback forms) []
- Number of people engaged; children, adults, etc. []

Local Economy Indicators

- Percentage of goods, services sold by Company originating from local suppliers. []
- Number of local businesses involved (trading, supplying) []
- Survey of local businesses on ease of engagement, barriers and benefits (this would be infrequent, maybe every 3 years) []
- Overall contribution to local economy from visitors – derived from visitor survey questions on length of stay in area []

Landscape Indicators

- Progress against key activities in annual action plan agreed in pursuit of landscape management plan []
- Number of individual initiatives taken to improve habitats []
- Actions taken in mitigation of habitat stresses elsewhere on South Coast. []
- That the features of the SSSI are in good condition and improving; []

APPENDIX 2

OTHER ACTIVITIES

The Company may apply to SDNPA pursuant to clauses 9.2 and 9.3 of this Agreement for permission to undertake other activities for SDNPA, in addition to the Permitted Activities and subject to the same requirement that each individual activity be reasonably calculated to accomplish the purposes specified in section 5(1) of the National Parks and Access to the Countryside Act 1949, and such activities may include without limitation:

- a) Within the South Downs National Park, development of consultancy services, provision of information, advice and guidance and provision of business networks where the SDNPA is not required to provide such services free of charge.
- b) Provision of landscape management and visitor site management services within the South Downs National Park where the SDNPA is not required to provide such services free of charge.
- c) Where permissible, assessment and delivery of mitigation projects/payments eg where this relates to net gain.

APPENDIX 3

TERMS OF LICENCE

1. *The Site shall be made available to the Company for the duration of the Agreement under the Licence granted pursuant to clause 4.2.*
2. *The Company shall not use the Site for any purpose other than the Agreed Purposes.*
3. *The Company shall comply with any reasonable directions of the SDNPA, its staff and representatives regarding security arrangements, vehicular access arrangements, parking instructions and/or procedures at the Site.*
4. *The Company shall only make use of the available utilities at the Site to a reasonable extent, such level to be agreed by the parties acting reasonably. Any unreasonable or excessive use of utilities shall give rise to a right for SDNPA to estimate the costs incurred through the usage and charge the Company accordingly.*
5. *SDNPA shall be responsible for any environmental liability arising from or in relation to the Site except to the extent that such liability arises from any act, omission, default or negligence of the Company.*
6. *SDNPA or its representatives shall be entitled to refuse entry or evict from the Site any vehicle or persons where it reasonably considers that such vehicles and/or persons are unsafe or are likely to cause damage or injury to or constitute a breach of Law or the SDNPA's health & safety policy.*
7. *The Company shall ensure that:*
 - a. *where using the Site and SDNPA Assets they are kept properly secure and will comply and cooperate with SDNPA's reasonable directions regarding the security of the same;*
 - b. *only its staff and representatives duly authorised to enter upon the Site for the purposes of providing the Services, do so;*
 - c. *any materials, plant or equipment owned or held by SDNPA (including those of its representatives, excluding the Company) and used by the Company are maintained (or restored at the expiry or earlier termination of this Agreement) in the same or similar condition as at the Commencement Date (fair wear and tear excepted) and are not removed from the Site unless expressly permitted by SDNPA.*
 - d. *the Company shall maintain and repair SDNPA Assets at its own cost.*
8. *The Company shall immediately inform SDNPA of any significant defects, loss or damage appearing in or occurring to any SDNPA Assets as a result of the provision of the Services.*

Keys

9. *Where the Company is provided with keys or security cards to access the Site and buildings on the Site ("**Keys**"), the Company shall be responsible for the safe custody of the Keys and ensure that they are returned to SDNPA upon the expiry or earlier termination of this Agreement or as reasonably requested.*
10. *A designated person must retain the Keys and the Company shall provide that person's contact details in writing to SDNPA to ensure that SDNPA may contact such person 24 hours a day.*
11. *The Company shall immediately report the loss or misplacement of any Keys to SDNPA.*
12. *Where the Company loses or damages any Keys, the Company shall replace such Keys and arrange for the replacement of locks, forcing and subsequent replacement of doors/gates (as appropriate). The Company shall bear the cost of dealing with the same and where SDNPA arranges for the replacement of any Keys, its costs in so doing shall be recoverable from the Company as a debt.*

APPENDIX 4

SDNPA VALUES, CODES OF CONDUCT, POLICIES AND PROCEDURES

- [Authority Purposes and Duty](#)
- [SDNPA Corporate values](#)
- [National Park Circular 2010 and any subsequent updates](#)
- [Anti-Fraud and Corruption Policy](#)
- [Appeals Procedure](#)
- [Bullying and Harassment Policy](#)
- [Complaints Guidance Policy](#)
- [Corporate Clothing Policy](#)
- [Cyber Security Policy](#)
- [Disciplinary Policy](#)
- [Dogs at Work](#)
- [Driving at Work](#)
- [Equality and Diversity Policy](#)
- [Eyesight Test Procedure](#)
- [Family Support Policy](#)
- [File Naming and Versioning Policy](#)
- [Flexible Working Policy](#)
- [GDPR Compliance Policy](#)
- [Grievance Policy and Procedure](#)
- [Health and Safety Policy](#)
- [Hospitality and Refreshments Guidance](#)
- [IT User Policy](#)
- [IT Portable Storage Device Policy](#)
- [Job Evaluation Appeals Procedure](#)
- [Learning and Development Policy](#)
- [Leave Policy](#)
- [Local Protocol for Member and Officer Relations](#)
- [Officer Code of Conduct](#)
- [Partnership in practice guidance](#)
- [Performance and Development Review Scheme](#)
- [Politically Restricted Posts Guidance](#)
- [Procedure for Reporting Absence](#)
- [Recruitment Procedure](#)
- [Restructure – Policy & Process](#)
- [Retention Schedule](#)
- [Revised Performance Award Process](#)
- [Risk Strategy & Guidance](#)
- [Safeguarding Policy](#)
- [Sickness Absence Policy](#)
- [Social Media Policy](#)
- [Teams Chat Policy](#)
- [Transportation and Storage of Petroleum Guidance](#)
- [Travel and Subsistence Policy](#)
- [Whistleblowing Policy](#)
- [Work Space Policy](#)
- [SDNPA Contract Standing Orders](#)

APPENDIX 5
SITE MAPS WITH BUILDING DESIGNATION

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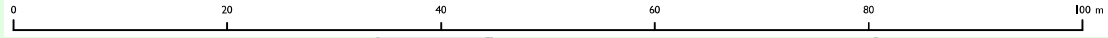


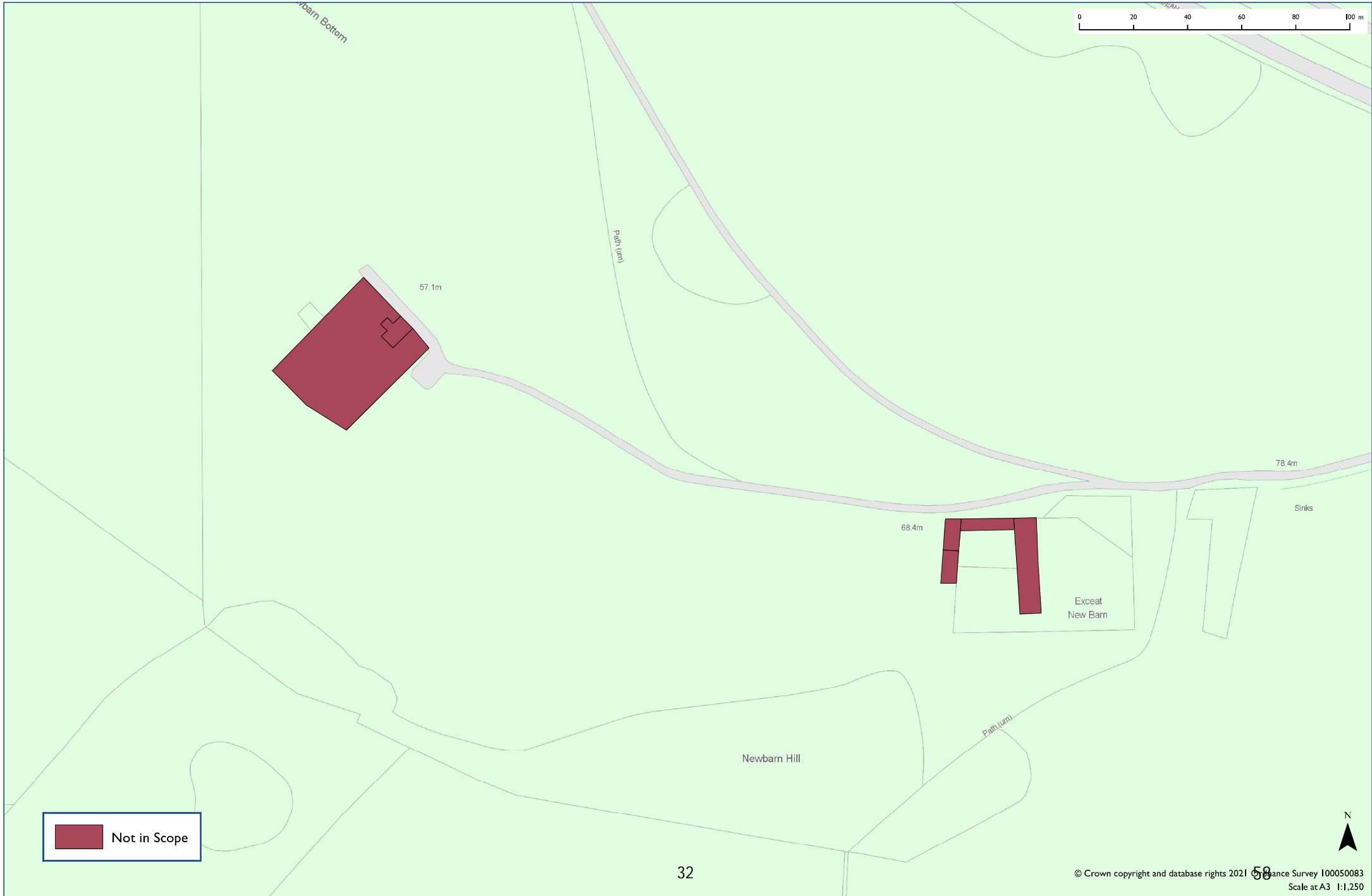
SSCP Car Parks

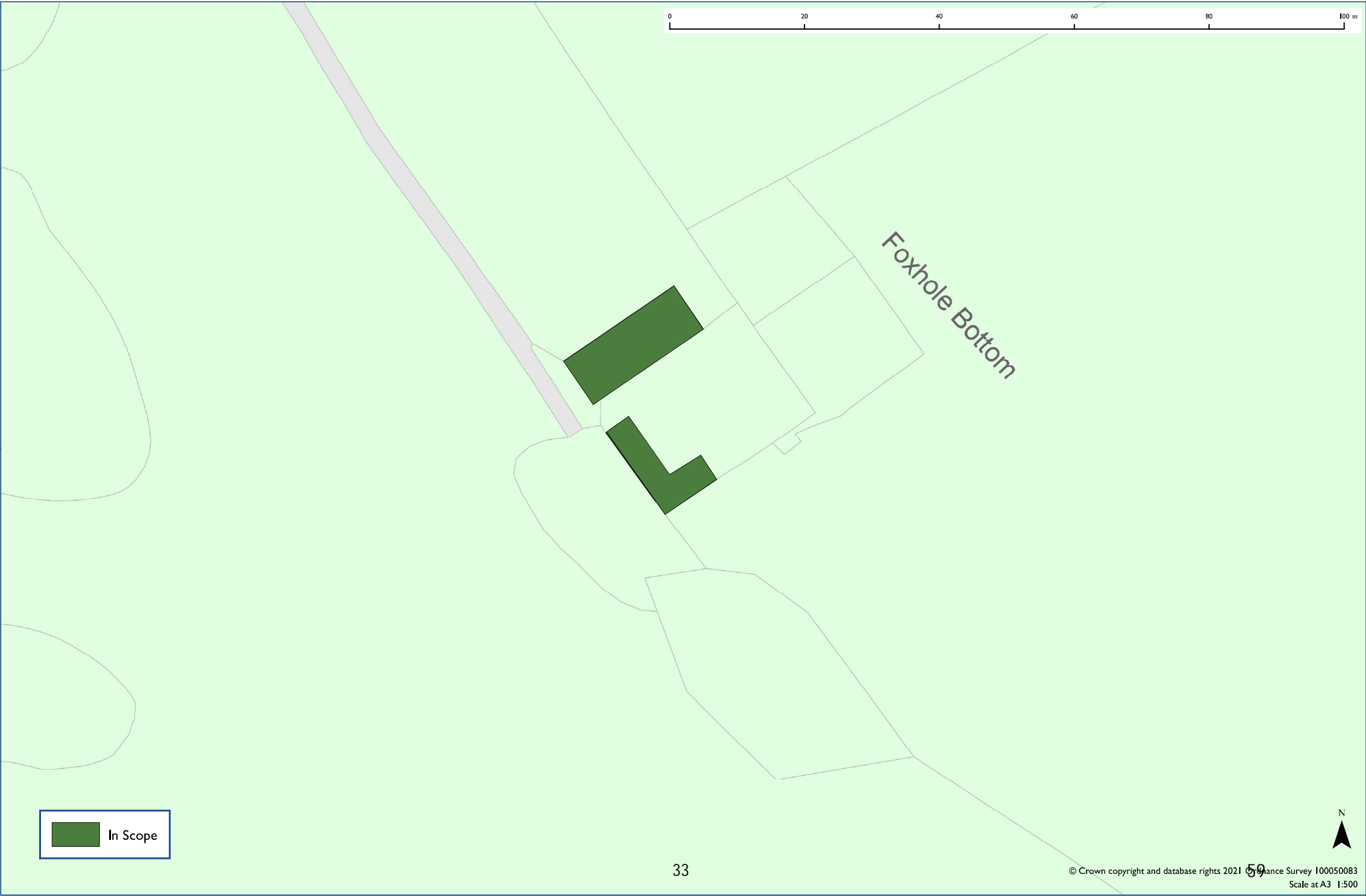
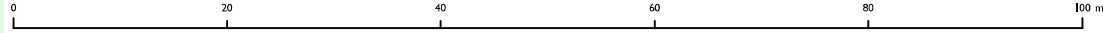


 Car Park  Seven Sisters Boundary

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Scale at A4 1:1,500







Operating agreement requirements indicative annual timetable

Jan	<ul style="list-style-type: none"> • Annual business plan development begins
Feb	<ul style="list-style-type: none"> • 1 February – deadline for submission of performance data • Annual business plan development underway – concludes by end of month • Director meeting – approve annual business plan for submission, accounts etc • Prior to 28th Feb SDNPA will invoice for payment of the annual payment • P&R committee considers performance data at scheduled committee meeting and considers recommendation to NPA prior to consideration of annual business plan
Mar	<ul style="list-style-type: none"> • 1st March annual business plan presented to SDNPA for following year • SDNPA considers business plan and P&R recommendations at March NPA meeting • Annual General meeting of the company and Shareholder to approve business plan, accounts etc. • 31 March Company will pay invoice for annual payment • 31 March submission of final accounts • Quarterly payment
Apr	<ul style="list-style-type: none"> • Summer opening hours commence
May	<ul style="list-style-type: none"> • Directors meeting (approve survey)
Jun	<ul style="list-style-type: none"> • Approval of annual visitor survey by company & SDNPA • 2nd quarterly payment
Jul	<ul style="list-style-type: none"> • Annual visitor survey commences
Aug	
Sep	<ul style="list-style-type: none"> • Directors meeting • Quarterly payment
Oct	<ul style="list-style-type: none"> • Annual visitor survey concludes
Nov	<ul style="list-style-type: none"> • Winter opening hours commence • Analysis of visitor survey findings undertaken and preparation of data for submission to NPA begins • Directors meeting – review annual visitor survey findings
Dec	<ul style="list-style-type: none"> • Quarterly payment

Other key dates / timeframes:

- January 2025 (3 months prior to end of contract) can be reviewed and extended in line with standard T&C's
- 31 March 2025 – Expiry
- Amendments to permitted activities can be submitted at any point – SDNPA will respond within 20 Working days. This means that any requests for additional permitted activity have to be permitted in advance of submission on the 1 March deadline inclusion in the next years Business Plan
- SDNPA will invoice quarterly for staffing costs
- Either party can terminate with 6 months notice
- 2025 - 3 yearly business survey undertaken

