



Department
for Work &
Pensions



Department
of Health &
Social Care

DATED: **[INSERT DATE]**

WORK AND HEALTH UNIT CHALLENGE FUND GRANT AGREEMENT

between

**THE SECRETARY OF STATE FOR WORK AND PENSIONS AND THE SECRETARY OF
STATE FOR HEALTH AND SOCIAL CARE**

and

[NAME OF GRANT RECIPIENT]

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AGREEMENT- TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1. The following standard terms and conditions apply to organisations receiving financial assistance (a “**Grant Recipient**”) from the Department for Work and Pensions (DWP) and the Department of Health and Social Care (DHSC) acting through the Work and Health Unit (WHU) (“**the Authority**”). These conditions should be read in conjunction with the Grant Offer Letter issued by the Authority (the “**Offer Letter**”) and annexed hereto. The terms and conditions set out in this document, together with the Offer Letter, and accompanying Annexes together comprise (the “**Agreement**”) pursuant to which financial assistance (in the form of the Grant) is given by the Authority to the Grant Recipient.
- 1.2. The Grant Recipient should note that:
- (i) the Authority has the discretion inter alia under section 2 of the Employment and Training Act 1973; and section 31 of the Local Government Act 2003. **[The agreement will need to be tailored to each set of circumstances with the correct statutory powers referenced].**
 - (ii) the Authority is not permitted to pay Grants in advance of need, but Grants may be paid post expenditure, provided the Funded Activities have been delivered during the Funding Period;
 - (iii) no VAT is payable on Grants however HMRC will require VAT to be charged where the Department receives a benefit from it;
 - (iv) all references to "the Financial Year" refer, unless expressly indicated otherwise, to the Cabinet Office’s own financial year, which runs from 1 April to 31 March; and
 - (v) failure to comply with the conditions of the Agreement may result in the Grant payments being suspended, reduced, reclaimed or withheld, and/or the Grant being withdrawn, without prejudice to any other civil or criminal sanctions which may be appropriate.

2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Agreement the following terms will have the following meanings:

“**Annex/es**” means the annexes attached to this Agreement;

“**Asset**” means any assets that are to be purchased or developed using Grant monies, including equipment or any other assets which may be a Fixed Asset as appropriate in the relevant context, and Assets will be construed accordingly;

“**Authority**” means the “**Work and Health Unit**” or “**WHU**” the unit established by the Department for Work and Pensions (DWP) and the Department of Health and Social Care (DHSC) for the purposes of working jointly on developing and implementing policies on health and employment matters;

“Authority’s Delivery Partner” means Rocket Science UK Limited who has been appointed by the WHU to manage the administration of the Grant Agreement

“Authority Personal Data” means any Personal Data supplied for the purposes of or in connection with this Agreement by the Authority to the Grant Recipient;

“Breach” means a failure to comply (by act or omission) with any Law and/or the Terms and Conditions;

“Bribery Act” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

“Commencement Date” means the date the Grant Recipient has signed the Grant Agreement **[Insert commencement date]**.

“Confidential information” means any information (however conveyed, recorded or preserved) disclosed by a Party or its personnel to another Party (and/or that Party’s personnel) whether before or after the date of this Agreement, including but not limited to:

- (a) any information that ought reasonably to be considered to be confidential (whether or not it is so marked) relating to:
 - (i) the business, affairs, customers, clients, suppliers or plans of the disclosing Party; and
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party; and
- (b) any information developed by the Parties in the course of delivering the Funded Activities;
- (c) the Authority’s Personal Data;
- (d) any information derived from any of the above.

Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of Clause 15 (Confidentiality));
- (b) was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“Contracting Authority” means any contracting authority (other than the Authority) as defined in regulation 3 of the Public Contracts Regulations 2015.

“Disposal” means the disposal, sale, transfer of the grant or any interest in any Asset and includes any contract for disposal;

“DPA” means the Data Protection Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“EA” means the Equality Act 2010 and any subordinate legislation made under the Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

“EIR” means the Environmental Information Regulations 2014 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“Eligible Expenditure” means expenditure in relation to the Funded Activities that complies in all respects with the eligibility rules set out in Annex 4 of this Agreement;

“Exit Plan” means the plan required allowing for the cessation or transfer of the grant Funded Activities as set out at Clause 22 of this Agreement;

“Fixed Assets” means any Asset which consists of land, buildings, plant and equipment acquired, developed, enhanced, constructed or owned by the Grant Recipient in connection with the Funded Activities;

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“Funded Activities” means the activities set out in Annex 2 of this Agreement and the Offer Letter;

“Funding Period” means the period for which the Grant is awarded starting on the Commencement Date and ending on **[please insert]**;

“General Data Protection Regulations” and **“GDPR”** means Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“Grant” means the sum or sums of money to be provided to the Grant Recipient in accordance with this Agreement;

“Grant Manager” means the individual who has been nominated by the Authority to be the single point of contact for the Grant Recipient in relation to the Grant;

“HRA” means the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“Ineligible Expenditure” means expenditure which is not Eligible Expenditure as set out in Annex 4 of this Agreement;

"Information Acts" means the Data Protection Act 1998, General Data Protection Regulation 2016/679, Freedom of Information Act 2000 and the Environmental Information Regulations 2004, as amended from time to time;

"Intellectual Property Rights" or **"IPRs"** means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade and service marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in Confidential Information which includes guidance, specifications, instructions, toolkits, plans, data, drawings, patterns, software, models and designs, technical specifications, user manuals, operating manuals, process definitions and procedures and any modifications, amendments, updates and new releases of the same;

"Instalment Period" means the period referred to in Annex 3;

"KPIs" means the Key Performance Indicators set out in Annex 5 of this Agreement;

"Law" mean any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, rule of common law, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of Court or directives or requirements of any Regulatory Body, delegated or subordinate legislation;

"Losses" means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" will be interpreted accordingly;

"Material Breach" means a breach of the Agreement (including an anticipatory breach) which is not minimal or trivial in its consequences;

"Maximum Sum" means the maximum amount of the Grant to be provided by the Authority to the Grant Recipient for the Funded Activities;

"Minimum Requirements of the Scheme" means the agreed KPIs and Outcomes in addition to the requirements set out in the Annexes, which tailor the Agreement to the particular Funded Activities.

"The Open Government Licence or OGL" means the set of terms and conditions under which information providers in the public sector can license the use and re-use of their information.

"Party" means the Authority or Grant Recipient, and "Parties" shall be interpreted accordingly;

"Personal Data" has the meaning given to it in the Data Protection Act 1998 as amended from time to time;

“Pre-existing IPR” means all Intellectual Property Rights vested in or licensed to the Parties prior to this Grant award;

“Procurement Regulations” means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Utilities and Contracts Regulations 2016 and Defence Security Public Contracts Regulations 2011;

“Prohibited Act” means:

- (a) directly or indirectly offering, giving or agreeing to give to any servant of the Authority or the Crown any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement;
- (b) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement; or
- (c) defrauding or attempting to defraud or conspiring to defraud the Authority or the Crown;

“Public Accounts Committee” the select committee of the British House of Commons which is responsible for overseeing government expenditures;

“Representatives” means any of the Parties’ duly authorised directors, employees, officers, agents, professional advisors and consultants;

“Remedial Action Plan” means the agreed remedial plan of action developed by the Grant Recipient and agreed by the Authority to remedy a KPI failure, as set out in Clause 29.2 (b);

“State Aid” will have the meaning given in Article 107(1) Treaty for the Functioning of the European Union;

“Terms and Conditions” means the terms and conditions set out in this Agreement and upon which the Authority will pay the Grant;

“Unspent Monies” means any monies paid to the Grant Recipient in advance of expenditure which remains:

- (a) unspent and uncommitted at the end of an Instalment Period; or
- (b) unspent and uncommitted at the end of the Financial Year in which the Instalment Period occurs;

“Working Day” means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday in England.

2.2. In this Agreement, unless the context otherwise requires:

- 2.2.1. the singular includes the plural and vice versa;
- 2.2.2. reference to a gender includes the other gender and the neuter;
- 2.2.3. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- 2.2.4. a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- 2.2.5. the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation";
- 2.2.6. references to “writing” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing will be construed accordingly;
- 2.2.7. references to “representations” will be construed as references to present facts, to “warranties” as references to present and future facts and to “undertakings” as references to obligations under this Agreement;
- 2.2.8. references to “Clauses” and “Annexes” are, unless otherwise provided, references to the clauses and annexes and references in any Annex to parts, paragraphs and tables are, unless otherwise provided, references to the parts, paragraphs and tables of the Annex in which these references appear; and
- 2.2.9. the headings in this Agreement are for ease of reference only and will not affect the interpretation or construction of this Agreement.

3. PURPOSE AND DURATION OF THE GRANT

- 3.1. The Parties acknowledge and agree that nothing in this Agreement or the provision of Grant monies gives or is intended to give rise to contractual relations.
- 3.2. The Grant Recipient shall use the Grant solely for the delivery of the Funded Activities set out in Annex 2 of this Agreement (The Funded Activities) and must not, without the prior written consent of the Authority, make any material changes to the Funded Activities.
- 3.3. The Authority may at its entire discretion vary the Grant amount as a result of changes to the Funded Activities or for any other reason. Any variation made under this Clause 3.3 will not take effect unless agreed and notified by the Authority to the Grant Recipient in writing.

- 3.4. Where the Grant Recipient intends to apply to a third party for additional funding for the Funded Activities, the Grant Recipient will notify the Authority's Delivery Partner in advance of its intention to do so and, where such match funding is permitted and obtained, it will provide the Authority's Delivery Partner with information regarding the match funding and purpose of that funding.
- 3.5. Where, before or during the Funding Period, the Grant Recipient receives any funding from any other source or person towards the Funded Activities that is not match funding or was not already committed to the Grant Recipient and disclosed to the Authority, the Authority may, where that funding duplicates the funding of the Grant, require repayment of the Grant (up to the amount of duplicate funding received) in accordance with Clause 11 of this Agreement.
- 3.6. The Grant Recipient agrees and accepts that it will not apply for duplicate funding (in respect of any part of the Funded Activities or any related administration costs that the Authority has provided under this Agreement) and that it may be prosecuted for fraud should it dishonestly and intentionally make such an application to the Authority.
- 3.7. Except where otherwise specified, the terms of this Agreement shall apply from the Commencement Date until the end of the Funding Period or for as long as any Grant remains unspent by the Grant Recipient, whichever is longer.

4. PAYMENT OF GRANT

- 4.1. Subject to Clause 29 of this Agreement, the Authority shall pay the Grant to the Grant Recipient in accordance with Annex 3 (Payment Schedule) to this Agreement.
- 4.2. The Grant will be paid only in respect of Eligible Expenditure incurred by the Grant Recipient to deliver the Funded Activities and represents the Maximum Sum the Authority will pay to the Grant Recipient under this Agreement.
- 4.3. The amount of the Grant shall not be increased in the event of any overspend by the Grant Recipient in its delivery of the Funded Activities.
- 4.4. The Grant Recipient shall submit a valid Grant claim by the **[please insert]** Working Day of the month following the end of the Instalment Period for which the Grant claim is made. The Grant claim shall be submitted together with a copy of Annex 4 of this Agreement (Eligible Expenditure) and any other documentation as prescribed by the Authority.
- 4.5. The Authority will not pay the Grant to the Grant Recipient until the Authority is satisfied that the Grant Recipient has paid for the Funded Activities in full and the Funded Activities have been delivered during the Funding Period. The Grant Recipient will provide evidence to the satisfaction of the Authority's Delivery Partner at intervals to be determined by the Authority that the above conditions have been met. On request, the Grant Recipient must also supply such evidence to the Authority.
- 4.6. Unless otherwise stated in this Agreement, payment will be made within 30 days of the Authority approving the Grant Recipient's invoice. The Authority and/or the Authority's Delivery Partner will have no liability to the Grant Recipient for any Losses caused by a delay in the payment of a Grant claim howsoever arising.

- 4.7. The Authority reserves the right not to pay any Grant claims which are not submitted within the period set out in Clause 4.4 of this Agreement. Incomplete and/or incorrect Grant claims, which include Grant claims without the full supporting documentation, will not be paid.
- 4.8. The Grant Recipient shall notify the Authority's Delivery Partner promptly if at any time it becomes aware that it is unable to make a Grant claim in accordance with Clause 4.4 of this Agreement.
- 4.9. The Grant Recipient shall promptly notify and repay to the Authority any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where the Grant has been paid in error before the Grant Recipient has complied with all conditions attaching to the Grant.
- 4.10. Where the Grant Recipient enters into a contract with a third party in connection with the Funded Activities the Grant Recipient will remain responsible for settling payment in respect of those invoices. Third party invoices must not be submitted to the Authority for payment.
- 4.11. Onward payment of the Grant and the use of sub-contractors, (subject to the Authority's prior written approval in accordance with the provisions of Clause 24.4) shall not relieve the Grant Recipient of any of its obligations under this Agreement, including the obligation to repay the Grant.

5. ELIGIBLE AND INELIGIBLE EXPENDITURE

- 5.1. All Eligible Expenditure must be claimed net of VAT and is recoverable from HM Revenue and Customs.
- 5.2. The following costs/payments will be classified as Eligible Expenditure if incurred for the purposes of the Funded Activities:
 - (i) fees charged or to be charged to the Grant Recipient by the external auditors/accountants for reporting/certifying that the Grant paid was applied for its intended purposes;
 - (ii) giving evidence to Select Committees;
 - (iii) attending meetings with Ministers or officials to discuss the progress of a taxpayer funded grant scheme;
 - (iv) responding to public consultations, where the topic is relevant to the objectives of the grant scheme. This does not include spending government grant funds on lobbying other people to respond to the consultation;
 - (v) providing independent, evidence based policy recommendations to local government, departments or Ministers, where that is the objective of a taxpayer funded grant scheme, for example, 'What Works Centres'; and

- (vi) providing independent evidence based advice to local or national government as part of the general policy debate, where that is in line with the objectives of the grant scheme.

5.3. A payment is defined as taking place at the moment when money passes out of Grant Recipient control. This may take place when:

- (i) legal tender is passed to a supplier (or, for wages, to an employee);
- (ii) a letter is posted to a supplier or employee containing a cheque; or
- (iii) an electronic instruction is sent to a bank/building society to make a payment to a supplier or employee by direct credit or bank transfer.

5.4. The Grant Recipient must not deliberately incur liabilities for Eligible Expenditure in advance of need; nor pay for Eligible Expenditure sooner than the due date for payment.

5.5. The following costs must be excluded from Eligible Expenditure. The list below does not override activities which are deemed Eligible Expenditure in this agreement:

- (i) paid for lobbying, which means using grant funds to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, Government or political activity; or attempting to influence legislative or regulatory action;
- (ii) using grant funds to directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the grant;
- (iii) using the Grant to petition for additional funding;
- (iv) input VAT reclaimable by the Grant Recipient from HMRC;
- (v) payments for activities of a political or exclusively religious nature;
- (vi) goods or services that the Grant Recipient has a statutory duty to provide;
- (vii) payments reimbursed or to be reimbursed by other public or private sector grants;
- (viii) contributions in kind (i.e. a contribution in goods or services, as opposed to money);
- (ix) depreciation, amortisation or impairment of fixed assets owned by the Grant Recipient;
- (x) the acquisition or improvement of Fixed Assets by the Grant Recipient (unless the grant is explicitly for capital use – this will be stipulated in the Grant Offer Letter);
- (xi) interest payments (including service charge payments for finance leases);
- (xii) gifts;

- (xiii) entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- (xiv) statutory fines, criminal fines or penalties; or
- (xv) liabilities incurred before the issue of this funding agreement unless agreed in writing by the Funder.

6. ANNUAL GRANT REVIEW

- 6.1. The Authority's Delivery Partner will review the Grant annually and will take into account the Grant Recipient's delivery (during the Funding Period) of the Funded Activities against the KPIs and/or agreed outputs set out in Annex 5 of this Agreement. As part of the annual review the Authority will have regard to the reports produced by the Grant Recipient in accordance with Clause 7.2.
- 6.2. Each annual review may result in the Authority making recommendations which may include:
- (i) that the Funded Activities and Agreement continue in line with existing plans;
 - (ii) there should be an increase or decrease in the Grant for the subsequent financial year;
 - (iii) that the KPIs should be re-defined and agreed;
 - (iv) that the Authority should recover any unspent Grant Monies
 - (v) that the Agreement should be terminated.
- 6.3. The Grant Recipient may make representations to the Authority regarding any recommendations made in accordance with Clause 6.2. The Authority is not however obliged to take such representations into account when making its recommendation and any recommendation will be final and at the Authority's absolute discretion.

7. MONITORING AND REPORTING

- 7.1. The Grant Recipient shall closely monitor the delivery and success of the Funded Activities throughout the Funding Period to ensure that the aims and objectives of the Funded Activities are met and that the Terms and Conditions are being adhered to.
- 7.2. The Grant Recipient must provide the Authority and/or the Authority's Delivery Partner with all reasonable assistance and co-operation in relation to such ad-hoc information, explanations and documents as the Authority may require in order for it to establish that the Grant has been used properly in accordance with this Agreement. Without prejudice to these obligations, the Grant Recipient must also provide an annual report on:

- (i) the progress made towards achieving the agreed KPIs/outputs and the defined longer term outcomes set out in Annex 5 of this Agreement and where possible will quantify what has been achieved by reference to the Funded Activities' targets; and
 - (ii) details of any Assets either acquired or improved using the Grant.
- 7.3. Where the Grant Recipient has obtained funding from a third party for its delivery of part of the Funded Activities, the Grant Recipient will include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 7.4. The Grant Recipient will permit any person authorised by the Authority reasonable access, permitted by law, with or without notice, to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Grant Recipient's fulfilment of the conditions of this Agreement and will, if so required, provide appropriate oral or written explanations from them as required during the Funding Period or for so long as any Grant remains unspent by the Grant Recipient, whichever is the longer.
- 7.5. The Grant Recipient will notify the Authority's Delivery Partner as soon as reasonably practicable of:
- (i) any financial, administrative, managerial difficulties that may hinder or prevent the Grant Recipient from fulfilling its obligations under the Agreement;
 - (ii) any actual or potential material failure to meet any of the Terms and Conditions;
 - (iii) actual or potential material variations to the Eligible Expenditure agreed in accordance with the Offer Letter or Annex 4 of this Agreement; and
 - (iv) any change in the information on costs (whether actual or estimated) of carrying out the Funded Activities or any event which materially affects the continued accuracy of such information.
- 7.6. The Grant Recipient will represent and undertake (and repeat such representations on delivery) that the reports and information it gives pursuant to this Clause 7 are accurate and that it has diligently made full and proper enquiry of the matter pertaining to the reports and information given.

8. ACCOUNTS AND RECORDS

- 8.1. The Grant Recipient agrees that the Authority and/or the Authority's Delivery Partner shall be entitled to audit the delivery and performance of the Funded Activities and/or request access to, or a report from, the Grant Recipient's auditors on its audited accounts. Any such reports must be capable of being relied upon by the Authority, either by having the Authority as an express addressee, or by express statements of the fact therein. The Authority shall also be entitled to full access to the Grant Recipient's records on an open-book basis during the Funding Period or such other period as the Authority may require.

- 8.2. The Grant Recipient will comply with (and facilitate the Authority's compliance with) all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Authority.
- 8.3. The Grant Recipient will permit (and comply with) any surveys of management controls and systems, including internal audit reviews, as may be required by the Authority.
- 8.4. The Grant Recipient must present the Payment Schedule (Annex 3) and the Eligible Expenditure form (Annex 4) to their external auditors/accountants for certification. The external auditors/accountants' report must state whether, in their opinion, the Grant paid to the Grant Recipient, was applied in accordance with the Agreement.
- 8.5. The Grant Recipient's Chief Executive (or equivalent) must ensure that the Grant Recipient puts in place systems to govern the Grant for the Funding Period and that such systems are subject to independent review.
- 8.6. The systems in place to govern the Grant must be appropriate to the size of the Grant Recipient's organisation, the amount of the Grant, the length of the Funding Period, the level of risk to the public funds provided and the cost of the review. These arrangements may be reviewed by the Authority in line with HM Treasury's Public Sector Internal Audit Standards.
- 8.7. The Grant Recipient (and any person acting on behalf of the Grant Recipient) will at the request of the Authority permit (a) the Comptroller and Auditor General or appointed representatives; and (b) the Authority or its Representatives access at all reasonable times to all documents (including computerised documents and data) and other information as are connected to the Grant for the purpose of the Funded Activities.
- 8.8. The documents, data and information referred to in Clause 8.7 are such which any internal auditors, external auditors, the Authority, the Comptroller and Auditor General any department or other public body may reasonably require for the purposes of audit or for carrying out examinations into the economy, efficiency and effectiveness with which the Grant Recipient has used the Grant. In particular, the Grant Recipient will retain such information as would be necessary to provide assurance that the Grant Recipient delivered the minimum requirements of the Funded Activities.
- 8.9. Clauses 8.7 and 8.8 do not constitute a requirement for the examination, certification or inspection of the accounts of the Grant Recipient or its partners by the Comptroller and Auditor General under section 6(3) of the National Audit Act 1983. The Comptroller and Auditor General will seek access in a measured manner to minimise any burden on the Grant Recipient and will avoid duplication of effort by seeking and sharing information with the Audit Commission, Wales Audit Office or Audit Scotland as appropriate.
- 8.10. Where this Agreement is for a term longer than one Financial Year, the Grant Recipient must provide the following details to the Authority's Delivery Partner before the end of each Financial Year:

- (a) a schedule of the Funded Activities and estimates of income and expenditure for the next Financial Year, together with forecasted outcomes for the current year;
 - (b) a statement setting out the total Grant agreed for the year;
 - (c) details of any additional funding for delivery of the Funded Activities, other than the Grant, with full details of how it is to be spent;
 - (d) the level of balances held by the Grant Recipient at the end of the Financial Year.
- 8.11. The Grant Recipient will promptly provide revised forecasts of income and expenditure to the Authority's Delivery Partner:
- (i) when these forecasts increase or decrease by more than 15% of the original expenditure forecasts; and/or
 - (ii) at the request of the Authority's Delivery Partner.
- 8.12. The Grant Recipient will keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of Grant monies received from the Authority and any income generated from the Funded Activities.
- 8.13. The Grant Recipient will show the Grant in a separate account as a restricted fund and will not include or mix the Grant with its general funds or other monies.
- 8.14. The Grant Recipient will, and will ensure that all its sub-contractors, keep all original accounting records relating to the Funded Activities, including invoices, receipts, VAT records, accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six years following receipt of any Grant monies to which they relate.
- 8.15. Where the Grant allows for capital spend, the Grant Recipient must keep a register of Fixed Assets, including all land and building acquired or improved with the Grant.
- 8.16. The Grant Recipient will within five (5) Working Days of a request by the Authority or the Authority's Delivery Partner, provide the Authority or the Authority's Delivery Partner, free of charge, with such further information, explanations and documents as the Authority may reasonably require, in order for the Authority to establish that the Grant has been used properly in accordance with this Agreement.
- 8.17. Where the Grant Recipient is a company registered at Companies House, the Grant Recipient must file their annual return and accounts by the dates specified by Companies House.
- 8.18. Where the Grant Recipient is a registered charity, the Grant Recipient must file their charity annual return by the date specified by the Charity Commissioner.
- 8.19. The Grant Recipient must provide the Authority's Delivery Partner with copies of their annual return, accounts and charity annual return (as applicable) within five days of filing them at Companies House and/or the Charity Commissioner. If a Grant Recipient fails to comply with Clauses 8.17 and 8.18 the Authority may terminate this Agreement or suspend payment of the Grant at the Authority's entire

discretion.

9. FINANCIAL MANAGEMENT

- 9.1. The Grant Recipient must at all times comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act.
- 9.2. The Grant Recipient must have a sound administration and audit process, including internal financial controls to safeguard against fraud, theft, or any other impropriety, or mismanagement in connection with the administration of the Grant and will require that the internal/external auditors report on the adequacy or otherwise of that system.
- 9.3. The Grant Recipient must inform the Authority's Delivery Partner immediately if there are any grounds for suspecting financial irregularity in the use of the Grant, explain to the Authority's Delivery Partner what steps are being taken to investigate the irregularity and keep the Authority's Delivery Partner informed about the progress of such investigation. The Authority will have the right, at its absolute discretion, to insist that additional steps be taken by the Grant Recipient to address any actual or suspected fraud, theft or other irregularity and/or to suspend Grant payments.
- 9.4. The Grant Recipient acknowledges and accepts that statements and evidence may need to be provided to the Authority, the Authority's Delivery Partner or the appropriate organisation (e.g. Regulator, Police Authority) as part of pursuing sanctions, criminal or civil proceedings. Any grounds for suspecting financial irregularity includes what the Grant Recipient, acting with due care, should have suspected as well as what it actually suspected.
- 9.5. For the purposes of Clause 9.3 and 9.4 "financial irregularity" includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of grant for any purpose other than those stipulated in this Agreement.

10. CONFLICTS OF INTEREST AND FINANCIAL OR OTHER IRREGULARITIES

- 10.1. The Grant Recipient must have and will keep in place adequate procedures to ensure that there is no actual or perceived bias or conflict. Such procedures will require the Grant Recipient and its Representatives to declare any personal or financial interest in any matter concerning the Funded Activities before the delivery of each Funded Activities.
- 10.2. If a conflict of interest is identified the Grant Recipient must inform the Authority's Delivery Partner immediately. The Authority will decide (in its absolute discretion) whether such person/persons or entity are to be excluded from any discussion or decision-making relating to the matter concerned, or whether the Grant will instead be terminated.

1. WITHHOLDING, SUSPENDING OR REPAYMENT OF GRANT

- 1.1. Without prejudice to the Authority's other rights and remedies, the Authority may at its discretion reduce, withhold or suspend payment of any Grant due to the Grant Recipient and/or require the Grant Recipient to repay all or part of the Grant or any Unspent Monies if:
 - 1.1.1. if the Grant Recipient uses the Grant for a purpose other than the Funded Activities or fails to comply with any of the other Terms and Conditions;
 - 1.1.2. the delivery of the Funded Activities does not start within one (1) month of the Commencement Date and the Grant Recipient has failed to provide the Authority's Delivery Partner with a satisfactory explanation for the delay, or failed to agree a new Commencement Date with the Authority;
 - 1.1.3. the Authority or the Authority's Delivery Partner considers that the Grant Recipient has not made satisfactory progress with the delivery of the Funded Activities;
 - 1.1.4. the Grant Recipient receives duplicate funding for the Funded Activities as referred to in Clause 3 (in which case, the Authority's recovery will be limited to a part of the Grant equivalent to the amount of duplicate funding);
 - 1.1.5. the Authority has incorrectly paid money to the Grant Recipient as a result of an administrative error or other reasons; or
 - 1.1.6. any of the events set out in Clause 29.2 (b) to (n) arise.
- 1.2. The Grant Recipient agrees and accepts that it may become ineligible for grant support and be required to repay any Grant if it engages in tax evasion or aggressive tax avoidance, in the opinion of HMRC.
- 1.3. The Grant Recipient may not retain any portion of the Grant that has not been used by the end of the Financial Year in the Funding Period without the Authority's written permission.
- 1.4. Where all or a proportion of the Grant remains unspent at the end of the Financial Year or as a result of termination or breach of this Agreement all or a proportion of the Unspent Monies, as calculated by the Authority, must be repaid by the Grant Recipient to the Authority within 30 Working Days of a request for repayment and must not be carried forward for use in the following Financial Year.
- 1.5. If any amount repayable in accordance with Clause 1.4 is not repaid within 30 Working Days of a request for repayment, the Authority reserves the right to unilaterally deduct that amount from any other sum which is due or which may later become due under this or any other Agreement.
- 1.6. Wherever under this Agreement any sum of money is recoverable from or payable by the Grant Recipient (including any sum that the Grant Recipient is liable to pay to the Authority in respect of a Breach of this Agreement), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Grant Recipient under this Agreement or under any other agreement or contract with the Authority.

2. LOSSES, GIFTS AND SPECIAL PAYMENTS

- 2.1. In connection with this Agreement, the Grant Recipient must obtain prior written consent from the Authority before:
- (i) writing off any debts or liabilities;
 - (ii) offering to make any special payments; and
 - (iii) giving any gifts.
- 2.2. The Grant Recipient will keep a record of all gifts, both given and received, in connection with the Grant or any Funded Activities.

3. BORROWING

- 3.1. The Grant Recipient must obtain prior written consent from the Authority before:
- (i) borrowing or lending money from any source;
 - (ii) charging or agreeing any security over any Asset; and/or
 - (iii) giving any guarantee, indemnities or letters of comfort that relate to any of the conditions of the Agreement, or have any impact on the Grant Recipient's ability to deliver the Funded Activities set out in the Agreement.

4. CHANGES TO THE AUTHORITY'S REQUIREMENTS

- 4.1. The Authority's Delivery Partner will notify the Grant Recipient of any changes to their activities which are supported by the Grant.
- 4.2. The Grant Recipient will endeavour to accommodate any changes to the Authority's needs and requirements under this Agreement.

5. CONFIDENTIALITY

- 5.1. Except to the extent set out in this Clause or where disclosure or publication is expressly permitted elsewhere in this Agreement, the Grant Recipient shall treat all Confidential Information belonging to the Authority as confidential and shall not disclose any Confidential Information belonging to the Authority to any other person without the prior written consent of the Authority, except to such persons and to such extent as may be necessary for the performance of the Grant Recipient's obligations under the Agreement.
- 5.2. The Grant Recipient hereby gives its consent for the Authority to publish this Agreement in its entirety (but with any information which is Confidential Information belonging to the Authority redacted), including from time to time agreed changes to the Agreement, to the general public.
- 5.3. The Grant Recipient may only disclose the Authority's Confidential Information to its personnel who are directly involved in the provision of the Funded Activities and

who need to know the information, and shall ensure that such personnel are aware of and shall comply with the Grant Recipient's obligations as to confidentiality.

- 5.4. The Grant Recipient shall not, and shall procure that its staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Agreement.
- 5.5. At the written request of the Authority, the Grant Recipient shall procure that those members of the Grant Recipient's personnel identified by the Authority sign a confidentiality undertaking prior to commencing any work in accordance with this Agreement.
- 5.6. Clause 5.1 shall not apply to the extent that:
 - 5.6.1. such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the DPA, FOIA or the EIR;
 - 5.6.2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 5.6.3. such information was obtained from a third party without obligation of confidentiality;
 - 5.6.4. such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
 - 5.6.5. such information is independently developed without access to the other party's Confidential Information.
- 5.7. Nothing in Clauses 5.1 shall prevent the Authority disclosing any Confidential Information obtained from the Grant Recipient:
 - 5.7.1. for the purpose of the examination and certification of the Authority's accounts; or
 - 5.7.2. for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - 5.7.3. to any government department or any other Contracting Authority and the Grant Recipient hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or
 - 5.7.4. to any consultant, contractor or other person engaged by the Authority, provided that in disclosing information under Clauses 5.7.3 and 5.6.4 above the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in

confidence and that a confidentiality undertaking is given where appropriate.

- 5.8. Nothing in Clauses 5.1 to 5.4 shall prevent either party from using any techniques, ideas or know-how gained during the performance of its obligations under this Agreement in the course of its normal business, to the extent that this does not result in a disclosure of the other party's Confidential Information or an infringement of the other party's Intellectual Property Rights.
- 5.9. In the event that the Grant Recipient fails to comply with Clauses 5.1 to 5.4, the Authority reserves the right to terminate the Agreement with immediate effect by.
- 5.10. In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the delivery of the Funded Activities under the Agreement, the Grant Recipient undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- 5.11. The Grant Recipient will immediately notify the Authority's Delivery Partner of any breach of security in relation to Confidential Information and all data obtained in the delivery of the Funded Activities under the Agreement and will keep a record of such breaches. The Grant Recipient will use its best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Grant Recipient's obligations under Clauses 5.1 to 5.5. The Grant Recipient will co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

6. TRANSPARENCY

- 6.1. The Authority and the Grant Recipient acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Information Acts, the content of the Agreement is not confidential information.
- 6.2. The Authority will be responsible for determining whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Grant Recipient agrees that the Authority may make any redactions of this Agreement the Authority considers appropriate.

7. FREEDOM OF INFORMATION, DATA PROTECTION AND HUMAN RIGHTS

- 7.1. The Grant Recipient must comply fully with its duties under FOIA, DPA, GDPR, EIR, HRA and the common law duty of confidentiality; and with all applicable laws, regulations, best practice and codes of practice issued and revised from time to time thereunder; and shall notify the Authority immediately of any material departure from them.
- 7.2. The Grant Recipient acknowledges that the Authority is subject to duties under the Information Acts. Whenever the Authority reasonably asks, the Grant Recipient will assist and cooperate with the Authority towards the Authority's compliance.

- 7.3. Whenever the Authority reasonably asks, the Grant Recipient will provide the Authority with all pertinent information and documents about the Grant Recipient's data protection policies and procedures.
- 7.4. The Grant Recipient acknowledges that the Authority, acting in accordance with the Information Acts and/or best practice and codes of practice, may disclose information about the Grant Recipient and this Agreement without consulting with the Grant Recipient. The Authority will determine in its absolute discretion whether or not any information is exempt from disclosure. Without prejudice to the above, the Authority will reasonably endeavour to notify the Grant Recipient of a request for information to the extent that it is lawful and reasonably practical for the Authority to do so.
- 7.5. The Grant Recipient accepts that it is the data controller of any personal data processed by it pursuant to the Funded Activities, as those terms are defined in the Information Acts in force at the time.
- 7.6. The Grant Recipient accepts that the Authority, its employees, agents and contractors may use personal data from the Grant Recipient about the Grant Recipient's staff, officers, volunteers, partners and/or participants in the Funded Activities to administer, monitor and evaluate the Grants project, and to exercise the Authority's rights under this Agreement.
- 7.7. The Grant Recipient accepts that the Authority may share information about the Grant, the Grant Recipient and any personal data from the Grant Recipient within the United Kingdom Government; that such information may be uploaded to the Government grants database where other funders may search the information.
- 7.8. The Grant Recipient will notify the Authority of any variation to its constitution, legal form, structure or ownership; and of any complaint or investigation by any regulator or the police into the conduct of the Grant Recipient, its staff, officers, volunteers, partners and/or participants in the Funded Activities.

8. PREVENTION OF BRIBERY

- 8.1. The Grant Recipient:
 - 8.1.1. shall not, and shall procure that its staff, agents, consultants and sub-contractors shall not, in connection with this Agreement, commit a Prohibited Act;
 - 8.1.2. shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct has been carried out in the UK;
 - 8.1.3. shall comply with the Authority's anti-bribery policies, as updated from time to time and notified to the Grant Recipient;
 - 8.1.4. shall have and shall maintain throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with Clauses 8.1.1, 8.1.2 and 8.1.3;

- 8.1.5. shall promptly report to the Authority's Delivery Partner any request or demand for any undue financial or other advantage of any kind received by the Grant Recipient in connection with the Funded Activities;
 - 8.1.6. shall immediately notify the Authority's Delivery Partner in writing if a foreign public official becomes an officer or employee of the Grant Recipient or acquires a direct or indirect interest in the Grant Recipient, and the Grant Recipient warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement;
 - 8.1.7. shall, if requested, provide the Authority or the Authority's Delivery Partner with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - 8.1.8. within one (1) month of the Commencement Date, and annually thereafter, certify to the Authority's Delivery Partner in writing (such certification to be signed by an officer of the Grant Recipient) compliance with this Clause 8 by the Grant Recipient and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Grant Recipient shall provide such supporting evidence of compliance as the Authority and/or the Authority's Delivery Partner may reasonably request.
- 8.2. For the purpose of this Clause 8, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this Clause 8, a person associated with the Grant Recipient includes any agent, delegate or subcontractor of the agent.

9. PUBLIC PROCUREMENT AND STATE AID

- 9.1. The Grant Recipient will procure that any of its Representatives involved in the Funded Activities will, adopt such policies and procedures that are required in order to ensure that value for money has been obtained in any procurement of goods or services funded by the Grant.
- 9.2. Where the Grant Recipient is a Contracting Authority within the meaning of the Procurement Regulations the Grant Recipient warrants that it will comply, as necessary, with the applicable procurement laws when procuring goods and services.
- 9.3. Where the Grant Recipient reasonably considers that there is an objective justification for not complying with procurement rules and seeks to rely on such a justification, it will contact the Authority's Delivery Partner to seek prior written consent to its non-compliance from the Authority setting out the reasons for non-compliance in a structured business case.
- 9.4. The Grant Recipient will take all reasonable steps to ensure that where any awards are made from the Funded Activities those awards are compatible with State Aid

law including requesting such documentation from the award recipients as is necessary to ensure compliance with State Aid law.

- 9.5. Where the Authority determines that a Grant would constitute State Aid, the Authority and the Grant Recipient acknowledge that any such Grant will only be payable if:
- (i) it is paid under the 'de minimis' exemption; and
 - (ii) the Grant Recipient has not received funding from a public body in the three years prior to the date of the Grant that would aggregate with the Grant to exceed the permitted threshold.
- 9.6. The Grant Recipient shall inform the Authority's Delivery Partner immediately if it receives or intends to receive any public funding within three years from the date of the final payment of this Grant which will or may constitute further State Aid. If necessary, notwithstanding the other provisions in this Agreement, the Grant Recipient shall immediately repay any funding which, in the Authority's absolute discretion, may constitute unlawful State Aid.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Save as expressly granted elsewhere in this Agreement the Recipient will retain:
- 10.1.1 its Pre-existing IPR; and
 - 10.1.2 IPR created by it during the period of the Grant relating to or resulting from the Funded Activities, except where such IPR is vested in the Authority pursuant to clause 10.2.2.
- 10.2 The Authority will retain:
- 10.2.1 its Pre-existing IPR; and
 - 10.2.2 IPR in all reports, materials and other documents produced by the Authority or the Recipient to monitor the Grant and the delivery of the Funded Activities.
- 10.3 Other than as expressly set out in this Agreement, neither Party will have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- 10.4 The Recipient shall at all times make all IPR referred to in clause 10.1.2 above publically available without restriction using an appropriate licence agreed with the Authority (which may be, without limitation, the Open Government Licence or an appropriate Creative Commons Licence).
- 10.5 The Recipient grants to the Authority a non-exclusive, royalty-free, sub-licensable, worldwide, perpetual and irrevocable license to use the IPR referred to in clause 10.1.2 for the purposes of supporting other projects.
- 10.6 Ownership of third party software or other IPR necessary to deliver Funded Activities will remain with the relevant third party.

- 10.7 The Recipient must ensure that they have obtained the relevant agreement from the third party proprietor before any additions or variations are made to the standard 'off-the-shelf' versions of any third party software and other IPR. The Recipient will obtain and maintain all appropriate licences to use the third party software.

11. INSURANCE AND INDEMNITY

- 11.1. The Grant Recipient will, during the term of the Agreement and for six years after termination or expiry of this Agreement, ensure that it has and maintains at all times adequate insurance (including but not limited to public liability insurance) with an insurer of good repute to cover claims under this Agreement or any other claims or demands which may be brought or made against it by any person suffering any injury, damage or loss in connection with this Agreement. The Grant Recipient will on request furnish to the Authority its policy or policies of insurance or, where it cannot do so, a certificate of insurance issued by the Grant Recipient's insurance brokers evidencing that such insurances are in full force and effect and that the premiums have been paid.
- 11.2. Where the Recipient is a public body and has in place appropriate self-insurance, the Recipient may ask, and the Authority acting reasonably may agree, that the sub-paragraph above shall be waived.
- 11.3. The Authority accepts no liability to the Recipient or to any third party for any consequences, costs, claims, damage or losses, however they are incurred, direct or indirect, that may arise from the Grant Recipient conducting the Funded Activities, the use or from withdrawal of the Grant; except to the extent that they arise from personal injury or death which is caused by the Authority's negligence..
- 11.4. The Grant Recipient shall indemnify and hold harmless the Authority, its employees, agents, officers or sub-contractors with respect to all costs, claims, damages, losses, demands, actions, expenses and all other liabilities that may arise from or be incurred as a result of the actions and/or omissions of the Grant Recipient in relation to the Funded Activities, the negligence of the Grant Recipient, or the non-fulfilment of the Grant Recipient's obligations under any terms of this Agreement or to third parties.
- 11.5. Subject to the preceding sub-paragraph, the Authority's liability under this Agreement is limited to the amount of the Grant.

12. PUBLICITY

- 12.1. The Grant Recipient will acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Authority as the source of the Grant and will show the Grant Recipient's related expenditure as a restricted fund under the Funded Activities in the Grant Recipient's annual accounts.
- 12.2. The Grant Recipient will not publish any material referring to the Funded Activities or the Authority without the prior written agreement of the Authority. The Grant Recipient will acknowledge the support of the Authority in any materials that refer to the Funded Activities and in any written or spoken public presentations about the Funded Activities. Such acknowledgements (where appropriate or as requested by

the Authority) will include the Authority's name and logo (or any future name or logo adopted by the Authority) using the templates provided by the Authority from time to time.

- 12.3. Any publicity material for the Funded Activities must refer to the programme under which the Grant was awarded and must feature the Authority's logo. If a third party wishes to use the Authority's logo, the Grant Recipient must first contact the Authority's Delivery Partner to obtain the Authority's prior written consent to such use.
- 12.4. In using the Authority's name and logo, the Grant Recipient will comply with all reasonable branding guidelines issued by the Authority from time to time.
- 12.5. The Grant Recipient will comply with all reasonable requests from the Authority and/or the Authority's Delivery Partner to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Authority in its promotional and fundraising activities relating to the Funded Activities.
- 12.6. The Authority consents to the Grant Recipient carrying out any reasonable publicity about the Grant and the Funded Activities as required, from time to time.

13. ENVIRONMENTAL REQUIREMENTS

- 13.1. The Grant Recipient shall perform the Funded Activities in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 13.2. The Grant Recipient shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the Funded Activities or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.
- 13.3. The Grant Recipient shall take all possible precautions to ensure that any equipment and materials used in the provision of the Funded Activities do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Authority's Delivery Partner shall be notified in advance of their use. The Grant Recipient shall endeavour to reduce fuel emissions wherever possible.

14. DISPOSAL OF ASSETS, CHANGE OF USE AND ASSIGNMENT

- 14.1. The Grant Recipient must not sell any Assets that have been totally or partly bought, restored, conserved (maintained or protected from damage) or improved with Grant monies unless:
 - (i) the Asset can be sold for its full current market value; and
 - (ii) the Grant Recipient has contacted the Authority's Delivery Partner to obtain the prior written consent of the Authority to such sale.

- 14.2. The Grant Recipient must not sell any Asset below market value without contacting the Authority's Delivery Partner to request the Authority's prior written consent to such sale.
- 14.3. Any monies made from disposal of any Asset will be surrendered to the Authority in full, unless otherwise agreed by the Authority in writing.
- 14.4. The Grant Recipient will not transfer, assign, novate or otherwise dispose of the whole or any part of the Grant or this Agreement or any rights under it, to another organisation or individual, without the Authority's prior written consent. Any consent given by the Authority will be subject to a condition that the Grant Recipient has first entered into an agreement, authorised by the Authority, requiring the Grant Recipient to work with another organisation in delivering the Funded Activities.

15. SPENDING CONTROLS – MARKETING, ADVERTISING, COMMUNICATIONS AND CONSULTANCY

- 15.1. As part of the government's efficiency and reform programme, public funding for marketing, advertising, communications and consultancy is closely controlled. The Grant Recipient must contact the Authority's Delivery Partner to obtain the Authority's prior written consent to any proposed expenditure in these areas, either in connection with, or using funding provided, under this Agreement. A complete list of the controlled activities can be found at <https://www.gov.uk/government/publications/cabinet-office-controls>.
- 15.2. The Grant Recipient must provide evidence to the Authority that any marketing, advertising, communications and consultancy expenditure carried out in connection with, or using funding provided under this Agreement will deliver measurable outcomes that meet government objective to secure value for money.

16. NO PARTNERSHIP OR AGENCY

- 16.1. This Agreement shall not create any partnership or joint venture between the Authority and the Grant Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

17. JOINT AND SEVERAL LIABILITY

- 17.1. Where the Grant Recipient is neither a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Grant Recipient shall be jointly and severally liable for the Grant Recipient's obligations and liabilities arising under this Agreement.

18. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 18.1. This Agreement does not and is not intended to confer any contractual benefit on any person not Party to it pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of any person which

exists or is available otherwise than pursuant to that Act.

19. TERMINATION [elements of this section to be populated for each individual Grant]

- 19.1. Either Party may terminate this Agreement at any time by giving at least one (1) month's written notice to the other Party.
- 19.2. The Authority may by written notice to the Grant Recipient terminate this Agreement with immediate effect if any of the following events occur:
- (a) The Grant Recipient intends to use, has used in the past, or uses the Grant for purposes other than those for which they have been awarded;
 - (b) the Grant Recipient fails to comply with the KPI targets set out in annex 5 of this Agreement [for more than three (3) consecutive months, or three (3) consecutive months, in any six (6) month rolling period; and
 - (i) following the implementation of a Remedial Action Plan the Authority considers that the KPI failure persists;
 - (ii) that the KPI failure has not been remedied to the satisfaction of the Authority; or
 - (iii) the KPI failure reoccurs within a subsequent 6 month period from the date of approval of the Remedial Action Plan [Amend/delete as appropriate].
 - (c) the Grant Recipient is, in the reasonable opinion of the Authority, delivering the Funded Activities in a negligent manner (in this context negligence includes but is not limited to failing to prevent or report actual or anticipated fraud or corruption);
 - (d) the Grant Recipient obtains duplicate funding from a third party for the Funded Activities;
 - (e) the Grant Recipient obtains funding from a third party which, in the reasonable opinion of the Authority, undertakes activities that are likely to bring the reputation of the Funded Activities or the Authority into disrepute;
 - (f) the Grant Recipient provides the Authority or the Authority's Delivery Partner with any materially misleading or inaccurate information;
 - (g) the Grant Recipient commits or committed a Prohibited Act or fails to report a Prohibited Act to the Authority, whether committed by the Grant Recipient or a third party, as soon as they become aware of it;
 - (h) the Authority determines (acting reasonably) that any director or employee of the Grant Recipient has:
 - (i) acted dishonestly or negligently at any time during the term of this Agreement and to the detriment of the Authority; or

- (ii) taken any actions which unfairly bring or are likely to unfairly bring the Authority's name or reputation and/or the Authority into disrepute. Actions include omissions in this context;
- (i) the Grant Recipient transfers, assigns or novates to any third party, or encumbers in any way, the Grant without the Authority's consent;
- (j) the Grant Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (k) the Grant Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
- (l) the Grant Recipient incurs expenditure on activities that breach European state aid or procurement rules, or the Grant is found to be unlawful State Aid;
- (m) the Grant Recipient commits a Material Breach of the Agreement;
- (n) the Grant Recipient fails to comply with any of the Terms and fails to rectify such Breach within ten (10) Working Days of receiving written notice from the Authority or the Authority's Delivery Partner detailing the failure.

19.3. In the event of a Breach of this Agreement, the Authority may serve a notice on the Grant Recipient requiring remedial action to be taken within a specified period, or allow a Remedial Action Plan to be agreed in writing between the Parties. If the Breach cannot be remedied in accordance with the Remedial Action Plan, the failure to remedy the Breach will amount to a Material Breach. Where a Grant Recipient is found to have committed a Material Breach the Agreement will be terminated with immediate effect on receipt of notice in writing from the Authority.

19.4. In the event of a change of government or policy direction which adversely effects the Authority's ability to provide ongoing funding to the Grant Recipient, for the remaining Funding Period, the Authority may terminate this Agreement at any time by giving at least one (1) month's written notice to the Grant Recipient.

20. AMENDMENT OR VARIATION OF THE AGREEMENT

20.1. No amendment or variation to this Agreement will be effective unless it is in writing, agreed and signed by the Representatives on behalf of each of the Parties.

21. CONSEQUENCES OF TERMINATION AND SUPPORT FOR TRANSFER OF RESPONSIBILITY

21.1. Nothing in this Agreement will affect any provision of this Grant which is expressly or by implication intended to apply or continue to apply following termination of this Agreement, for any reason.

- 21.2. If the Authority terminates this Agreement in accordance with Clause 19.1 the Authority may pay the Grant Recipient's reasonable costs in respect of the delivery of the Funded Activities performed up to the termination date. Reasonable costs will be identified by the Grant Recipient and will be subject to the Grant Recipient demonstrating that they have taken adequate steps to mitigate their costs. For the avoidance of doubt, the amount of reasonable costs payable will be determined solely by the Authority.
- 21.3. The Authority will not be liable to pay any of the Grant Recipient's costs or those of any contractor/supplier of the Grant Recipient related to any transfer or termination of the employment of any employees engaged in the provision of the Funded Activities prior to the date of termination.
- 21.4. Upon receiving notice of termination from the Authority, the Grant Recipient will review, amend and implement the agreed exit plan or equivalent with the Authority's Delivery Partner.
- 21.5. The Grant Recipient will repay any outstanding Grant Monies to the Authority within ten (10) Working Days of receiving written notice from the Authority detailing the failure.
- 21.6. Save as otherwise expressly provided in the Agreement, termination or expiry of the Agreement shall be without prejudice to any rights, remedies or obligations accrued under the Agreement prior to termination or expiration and nothing in the Agreement shall prejudice the right of either party to recover any amount outstanding at such termination or expiry.

22. EXIT PLAN

- 22.1. The Grant Recipient will prepare an Exit Plan within the first one (1) months of the signing of the Offer Letter or within a timescale proportionate to the Funding Period, whichever is shorter, to allow the cessation or seamless transfer of the Funded Activities.
- 22.2. As part of the Exit Plan, the Authority's Delivery Partner will jointly agree a plan for communicating with all partners and employees during the exit period, in a way that avoids any detrimental impact on the respective parties' businesses resulting from the closure or transfer of the Grant, and shares responsibilities between the respective parties.

23. GRANT RECIPIENT PERSONNEL

- 23.1. The Grant Recipient will the Authority's prior written consent before appointing new staff or replacing staff in posts where they are responsible for delivery of the Funded Activities. The Grant Recipient will appoint replacement staff with appropriate qualifications and experience.

24. RESEARCH SURVEYS, QUESTIONNAIRES

- 24.1. The Authority may occasionally conduct research exercises, including by way of surveys, or questionnaires, or requests for feedback, into the Grant Recipient's

experience of the Grant, and on the Grant Recipients business needs, and other related matters. Participation in any such exercise would be confidential and voluntary, and the results will be handled in such a way that they do not identify individual respondents, unless consent is obtained or, for instance, the Grant Recipient agrees to be contacted as a case study.

- 24.2. For the purposes of analysing the outcome of any research, the Grant Recipient's input may be combined with other information which the Authority has, but the Authority will do so in a way that does not affect the anonymity of the individual participants. The Authority has the right to use the reports and findings of any such exercise on an anonymised basis as it deems suitable.

25. DISPUTE RESOLUTION

- 25.1. The Parties will use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of the Agreement.
- 25.2. All disputes and complaints (except for those which relate to the Authority's right to withhold funds or terminate this Agreement) shall be referred in the first instance to the Parties' Representatives.
- 25.3. If the dispute cannot be resolved between the authorised points of contact within a maximum of one (1) month, then the matter will be escalated to a formal meeting between the Grant Manager of the Authority and the Grant Recipient's Chief Executive (or equivalent).
- 25.4. Without prejudice to any other rights or remedies that the Authority may have, the Authority reserves the right to seek injunctive or other appropriate relief for sufficiently serious, time-critical, actual or anticipated Breach.

26. NOTICES

- 26.1. All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant Party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

37. GOVERNING LAW

- 37.1. This Agreement will be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

SIGNED by:

.....

Signature

**[insert authorised
signatory's
name]**

.....

Title

for and on behalf of the
Department for Work and
Pensions

.....

Date

SIGNED by

.....

Signature

**[insert authorised
signatory's
name]**

.....

Title

for and on behalf of
**[insert name of Grant
Recipient]**

.....

Date

ANNEX 1 – Grant Offer Letter

[Please append the Grant Offer Letter]

ANNEX 2 -The Funded Activities

[Set out the scope of the Funded Activities. You should make sure the description is sufficiently precise to ensure that the Grant is only applied for the purposes intended while allowing the Grant Recipient an appropriate measure of operational flexibility and degree of freedom in its decision making (within the parameters of the Funded Activities)Please note the Grant Recipient is required to gain the Authority's permission to amend the Funded Activities or to use the Grant for other purposes]

1. Background/purpose of the Grant

1.1. Background

1.2. Aims and objectives of the Funded Activities

(i)

(ii)

(iii)

2. Funded Activities

ANNEX 3 - Payment Schedule

[Set out the amount of the Grant here. This may be expressed as a single block sum, or otherwise, depending on the nature of the Grant, the payment scheme and the duration of the Funding Period]

[Some payment options are set out in the Agreement, but where a different payment timescale is required, set that out here (for example, payments are linked to achievement of specific project milestones)]

[Where specific amounts of the grant are allocated to specific use by the Grant Recipient set out those details here]

INSTALLMENTS	GRANT SUM PAYABLE (On completion of agreed milestones where applicable)	PAYMENT DATE
Year 1		
1st		
2nd		
3rd		
4th		
Year 2		
1st		
2nd		
3rd		
4th		

ANNEX 5 - Agreed Outputs/Long Term Outcomes and Key Performance Indicators

The Grant Recipient is required to comply with the Government Grants Minimum Standards 8, which reads: “all government grants will have outputs agreed and longer-term outcomes defined, wherever possible, to enable active performance management, including regular reviews and adjustments where deemed necessary”.

The Grant Recipient shall achieve the following milestones and key performance indicators:

Agreed Outputs

- 1.
- 2.
- 3.
- 4.

Key Performance indicators/milestones

KPIs measured quarterly	Year 1	Year 2

KPIs measured annually