

DATED

25th March 2022



BETWEEN

THE CORNWALL COUNCIL

and

SALTASH TOWN COUNCIL [The Accountable Body](#).

TERMS AND CONDITIONS
RELATING TO THE ALLOCATION OF THE
TOWN VITALITY FUND

Legal Services

The Cornwall Council

New County Hall

Truro, TR1 3AY

Ref: KT/063387

Members to fully understand and note the requirements of Saltash Town Council (STC) as the accountable body throughout this entire agreement. On acceptance of CC offer, Saltash Town Council will be bound by the terms and conditions of this agreement. Saltash Town Council will be accepting legal obligations and should consider taking independent professional legal advice before such acceptance.

THIS AGREEMENT is dated the 25th day of March 2022

Between

1. **THE CORNWALL COUNCIL** of New County Hall, Treyew Road, Truro, Cornwall, TR1 3AY (“the **CC**”)

and

2. **SALTASH TOWN COUNCIL** The Guildhall 12 Lower Fore Street Saltash Cornwall PL12 6JX (“the **Recipient**”)

each individually a “**Party**” and together the “**Parties**”.

Recitals

- A. In consideration of the Parties’ respective obligations contained in the Grant Funding Agreement Letter, CC agrees to make the Town Vitality Funding Grant available to the Recipient on the terms and conditions of this Agreement.
- B. Town Vitality grants are intended to fund revenue activities only and made available to support the development of investment proposals and to enable applicants take forward specific development work to advance plans/proposals that will improve the economic, social and environmental revitalisation of their Town Centres.
- C. CC has agreed to pay the Town Vitality Grant Funding to the Recipient to assist it in carrying out the Project.
- D. This Agreement sets out the terms and conditions on which the Town Vitality Funding Grant is made by CC to the Recipient.
- E. These terms and conditions are intended to ensure that the Town Vitality Funding Grant is used for the purpose for which it is awarded.

NOW IT IS AGREED between CC and the Recipient as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 The following words and expressions shall have the following meanings unless inconsistent with the context:

“Agreement” means the Grant Offer Letter and all of the terms and conditions detailed herein together with all Schedules and attachments;

“Approved Application” means the approval application at Enclosure 1 of the grant offer letter;

“Bank Account”	means the bank account as specified by the Recipient and detailed in the Grant Offer Letter;
“Bribery Act”:	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 the legislation.
“CC”	means The Cornwall Council;
“Clawback”	means CC’s right to recover the whole or any part of the Funding including any interest that may be payable;
“Commencement Date”	means the date of the Grant Offer Letter;
“Completion Date”	within twelve (12) months of the date of acceptance of the Grant Offer Letter;
“Confidential Information”	<p>means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all Personal Data and Special Categories of Data within the meaning of the Data Protection Legislation. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"> (i) was public knowledge at the time of disclosure (otherwise than by breach of clause 9 (Confidentiality; Data Protection and Freedom of Information)); (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or (iv) is independently developed without access to the Confidential Information;
“Consent Notice”	means the consent of an individual to the sharing of their Personal Data for the provision of the Project;
“Council”	means the Town Council;
“Data Controller”	has the meaning given to it in the Data Protection Legislation;
“Data Guidance”	means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or

Grant Offer letter to be dated 14th April 2022 as agreed with CC.

	requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation (whether specifically mentioned in this Agreement or not) to the extent published and publicly available or their existence or contents have been notified to the Recipient by CC and/or any relevant Regulatory Body;
“Data Processor”	has the meaning given to it in the Data Protection Legislation;
“Data Protection Legislation”	the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) until it is no longer directly applicable in the UK, the Data Protection Act 2018 and any other applicable national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK.
“Data Subject”	has the meaning given to it in Data Protection Legislation;
“Date of Approval”	means the date of this agreement;
“Deliverables”	means the proposal(s) and project(s) itemised and detailed in the Grant Offer Letter;
“EIR”	means the Environmental Information Regulations 2004;
“Eligible Expenditure”	means that which is detailed in your approval application at enclosure 1 and will commence from the date of approval of the project;
“EU Procurement Requirements”	includes, but is not restricted to EC Directives 2004/18/EC, 2004/17/EC and 2007/66/EC as implemented by the Public Contracts Regulations 2006 (SI No 5/2006), as amended, and the Utilities Contracts Regulations 2006 (SI No 6/2006), as amended, and includes the EU Commission Interpretative Communication (2006/C 179/02) and the principles of transparency, non discrimination, equality of treatment, proportionality and mutual recognition in the TFEU.
“European Economic Area”	means a group of countries in Europe formed in 1994 that includes all members of the European Union and the European Free Trade Association. These countries have an agreement allowing the free movement of goods, people, services and money between them;
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Authority or relevant government

	department in relation to such legislation and the Environmental Information Regulations 2004;
“Funding”	means the Town Vitality Funding Grant;
“Grant Offer Letter”	means the grant offer letter together with these terms and conditions, schedules and attachments;
“Indirect Losses”	means loss of profits (other than profits directly and solely attributable to the provision of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;
“Information Commissioner”	means the UK’s regulatory body charged with enforcing Data Protection Legislation;
“Information Governance Lead”	means the individual responsible for information governance and for providing the Recipient with regular reports on information governance matters, including details of all incidents of data loss and breach of confidence;
“Intellectual Property Rights”	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
“Joint Data Controller”	shall have the meaning given to it in the Data Protection Legislation;
“Know how”	information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.
“Laws”	means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a

relevant court of law, or directives or requirements of any Regulatory Body or Relevant Authority with which CC and the Recipient is bound to comply;

“Living Wage”

means the living wage as determined and amended from time to time by the Living Wage Foundation;

“Losses”

means all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law but, excluding Indirect Losses;

“Maximum Grant Payable”

means the maximum amount payable to the Recipient from the Town Vitality Funding Grant as per clause 2.1;

“Personal Data”

has the meaning given it in the Data Protection Legislation;

“Personal Data Breach”

has the meaning given it in the Data Protection Legislation;

“Privacy Notice”

means the information that must be provided to a Data Subject under the Data Protection Legislation;

“Prohibited Act”

means:

- (a) offering, giving or agreeing to give 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 any other contract with the CC; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the CC;
- (b) entering into this Agreement or any other contract with the CC where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the CC;
- (c) 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 any other contract with the CC; or
- (d) defrauding or attempting to defraud or conspiring to defraud the CC;

“Project”	means the investment proposals identified by each town team/place partnership to take forward specific development work to advance plans/proposals that will improve the economic, social and environmental revitalisation of their Town Centres for which the Town Vitality Funding Grant has been awarded to the Recipient as more particularly detailed in Enclosure 1;
“Regulatory Body”	means a public organization or government agency that is set up to exercise a regulatory function. This involves imposing requirements, conditions or restrictions, setting the standard for activities, and enforcing in these areas or obtaining compliance;
“Relevant Authorities”	means any Government departments, Government agencies, public bodies, regulatory bodies and any bodies, boards, committees or panels formed under or pursuant to any Laws or other instrument having the force of law from time to time and “Relevant Authority” shall mean any one of them.
“Right of Access, Rectification or Erasure Request”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access, rectify or erase their Personal Data;
“Special Categories of Data”	has the meaning given it in the Data Protection Legislation;
“Town Vitality Funding Grant”	means the sum referred to in the Grant Offer Letter) awarded by the CC to the Recipient and made in accordance with Clause 3;
“Town Vitality Funding Grant Application Form”	means the approved application form at enclosure 1 of the grant offer letter;
“UK Subsidy Control Regime”	means the regime that is governed by the Trade and Co-operation Agreement by way of S29 of the European Union (Future Relationship) Act 2020 and replaces the EU’s state aid regime which was removed by Statutory Instrument 2020/1470.

1.2 The singular includes the plural and neuter and vice versa and any gender includes any other gender.

- 1.3 Clause, Schedule and Paragraph headings do not affect the interpretation of this Agreement.
 - 1.4 Reference to any statute, enactment, regulation, code, official guidance or other similar instruments shall be 'construed as reference to the statute, enactment, regulation, code, official guidance or other instrument as amended or replaced from time to time by any subsequent enactment, modification, order, regulation, code, official guidance or instrument.
 - 1.5 This Agreement includes any variations hereto made from time to time and any agreement expressed to be supplemental hereto.
 - 1.6 Unless otherwise specified a reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
 - 1.7 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
 - 1.8 A "person" includes a corporate or unincorporated body.
- 2. Payment of the Funding** [Members to be aware of the payment of funding requirements of STC as the accountable body under section 2 of this agreement.](#)
- 2.1 The Town Vitality Funding Grant referred to in the Grant Offer Letter will only be paid in respect of the Eligible Expenditure as detailed in your approved application at Enclosure 1 to this Agreement.
 - 2.2 The Commencement Date of the Town Vitality Funding Grant, being the earliest date that Eligible Expenditure may be drawn down, is as per the date of the Grant Offer Letter.
 - 2.3 The spend should be completed within twelve (12) months of the date of acceptance of this Grant Offer Letter.
 - 2.4 Eligible Expenditure will commence from the Date of Approval of your Project. Expenditure dated prior to this will be classed as ineligible. This includes formal commitments undertaken towards the expenditure outlined in your Approved Application at Enclosure 1, prior to the Date of Approval. This will be deemed to be a premature start to the Project and may place your entire Town Vitality Funding Grant at risk.
 - 2.5 In consideration of the payment of the Town Vitality Funding Grant the Recipient agrees to:
 - 2.5.1 Deliver the Project in accordance with the details submitted in your Approved Application, any supporting information and any subsequent clarifications and the terms and conditions of this Agreement;
 - 2.5.2 Ensure that all legal and regulatory requirements are complied with in the delivery of the Project;

- 2.5.3 Comply with all statutory registration requirements and exercise proper skill and diligence in the setting up and delivery of the Project;
 - 2.5.4 Use the Town Vitality Funding Grant only in accordance with the terms of this Agreement and for no other purpose;
 - 2.5.5 Ensure that any surplus of Town Vitality Funding Grant arising upon the cessation of the Project or of this Agreement is promptly returned to CC.
- 2.6 The Application** By the Town Council agreeing/signing this offer as the accountable body, the Town Council are accepting and agreeing to adhere to sections 2.6 to 2.9 of this agreement.
- 2.7 In appraising the Project and determining the merits for Town Vitality Funding Grant support, CC has relied on the Town Vitality Funding Application, supporting information and any subsequent clarifications that were submitted by the Recipient and subsequently approved.
- 2.8 In accepting this offer the Recipient are confirming to CC that:
- 2.8.1 all information provided in relation to the Project, is as far as the Recipient are aware, true, valid and correct;
 - 2.8.2 to your knowledge the Recipient are not in breach of any law or regulation which may affect your ability to commit to this Agreement;
 - 2.8.3 The Recipient has the legislative enabling powers to carry out the work prescribed in your Town Vitality Funding Grant Application Form and that the Recipient is not acting ultra vires;
 - 2.8.4 The Recipient is not under any statutory or legal obligation to carry out the Project or any part of it; and
 - 2.8.5 The Recipient will ensure that all the necessary consents are in place, maintained and complied with for the duration of the Project.
- 2.9 The Recipient acknowledge that the Town Vitality Funding Grant has been offered to the Recipient to deliver the Project in accordance with the Approved Application and achieve the Deliverables set out in this Agreement.
- 3. Changes** Please note; Cornwall Council must be informed of changes, section 3.
- 3.1 The Recipient must advise CC immediately if they think that the Recipient needs to make any changes, or any changes are required to your Project, including but not limited to the following;
- a) a change in nature or purpose of the Project;
 - b) a change to the Deliverables;
 - c) Commencement Date/, and/or Completion Date;
 - d) Project costs and funding (including any new additional European, regional or national funding that is secured);
 - e) a change in type of costs forming part of the Approved Application;

3.2 Any such changes must be agreed, in writing, by CC before being put into effect and will ONLY be agreed in exceptional circumstances.

4. **Claims and Monitoring** *STC Finance Department to monitor expenditure in line with STC Financial Regs and Terms and Conditions of this agreement, liaising with the Acting Town Clerk. On a regular basis an expenditure report is to be issued to the Town Team together with any advisory notes.*

4.1 Amount of Town Vitality Funding Grant Payable

4.1.1 The total Town Vitality Funding Grant paid to the Recipient shall not exceed the Maximum Grant Payable as per 2.1.

4.1.2 The Town Vitality Funding Grant will be paid in full upon receipt of a signed copy of this Grant Offer Letter and upon receipt of the Recipient's financial regulations, procurement policy and procurement plan/pathway. *Signed letter to be returned to CC on 14th April 2022. STC FR/procurement issued to CC.*

4.1.3 If costs have changed in any way between the Grant Offer Letter being sent and the Town Vitality Funding Grant being received then the Recipient must inform CC immediately. In any event the amount of Town Vitality Funding Grant cannot exceed that detailed in 2.1 above.

4.1.4 Payments to suppliers should be made by BACS or by Debit Card from the Council's business bank account. Bank statements showing these payments will need to be provided as evidence of defrayal. No other form of payment will normally be allowable including credit card payments, cash and cheques, unless cleared with CC prior to incurring expenditure. Any issues relating to payment must be informed to CC immediately. *STC Finance Dept aware of the process/requirements.*

4.1.5 The Town Vitality Funding Grant payable will be made direct to the Recipient's bank account (usually via BACS), subject to the general Clawback and other provisions set out in this Agreement. CC will endeavour to pay the Town Vitality Funding Grant within thirty (30) working days of a successful grant award decision by CC.

4.1.6 The time for payment of the Town Vitality Funding Grant shall not be of the essence and CC shall have no liability to the Recipient for any losses caused by a delay in payment howsoever arising;

4.1.7 If there is an overspend in the amount of Eligible Expenditure on the Project, the Town Vitality Funding Grant will not be increased beyond the Maximum Grant Payable detailed in 2.1.

4.1.8 If there is a shortfall in the amount of Eligible Expenditure that was set out in the Approved Application, the Recipient will receive proportionately less Town Vitality Funding Grant.

4.2 Monitoring requirements

4.2.1 The Deliverables dates are stated in the Grant Offer Letter and if not specified must be delivered within twelve (12) months of the date of the Grant Offer Letter: *Project must be delivered by 14th April 2023.*

4.2.3 Failure to achieve the Deliverables and or to evidence them correctly could result *Deliverables and procedures must be followed to avoid clawback of any Town Vitality paid grant.*

in Clawback of any Town Vitality Funding Grant paid.

- 5. Legislation and Jurisdiction** Whilst all sections of this agreement are of high importance, section 5 is particularly important in that it talks about the governance of the project. STC must comply with the governance to avoid clawback of any funding and failure to deliver the project.
- 5.1 This Agreement shall be governed by and construed in accordance with the Law of England and all persons must submit to the exclusive jurisdiction of the English Courts.
- 5.2 In delivering the Project the Recipient must:
- a) Comply with the Recipient's Financial Regulations and the Public Contracts Regulations 2015 and provide relevant documents of the procurement practices undertaken to CC to verify this compliance as per Clause 8;
 - b) Take all necessary steps to secure the health, safety and welfare of all persons involved in the Project;
 - c) Comply with all current equal opportunities' legislation with particular regard to the Equality Act 2010;
 - d) Comply with all current and relevant UK and EU Environment Laws and in doing so, where possible, deliver good and best practice above the legal baseline;
 - e) ensure that all matters relating to the UK Subsidy Control Regime have been met;
- 5.3 If the European Commission (or a Domestic Successor) or the Court of Justice of the European Union (or Domestic Successor) requires any Grant paid to be recovered by reason of a breach of the UK Subsidy Control Regime, CC and the Recipient shall work together to address and mitigate the allegations made and if required establish such alternative means of funding as is lawful.
- 5.4 If the EU or any court or person with requisite standing requires all or any part of the Funding provided by CC under this Grant to be recovered by reason of a breach of the UK Subsidy Control Regime, and no lawful alternative means of funding can be established, then CC may claw back any payment already made to the Recipient to the extent that such payment is unlawful and required at law to be repaid.
- 5.5 As at the commencement date, the Recipient confirms that all information statements and representations contained in this agreement are true, accurate and not misleading and the Recipient will promptly advise CC of any fact, matter or circumstance of which it may become aware during the duration of the Agreement that would render any such information, statement or representation to be false or misleading.
- 5.6 EU Procurement Requirements
- (a) The Recipient warrants that it has complied with EU Procurement Requirements to date in relation to the Project to the extent required by Law.
 - (b) The Recipient shall comply with current EU Procurement Requirements at all times in relation to the Project to the extent required by Law.
- 5.7 The Grant will be paid in a single stage payment and will only be paid after receipt by CC of the documentation as stated in Clause 8 of this Agreement.
- 6. Publicity** Acting Town Clerk to ensure the terms and conditions of this agreement are followed when publicising the project.

- 6.1 The Recipient is to liaise with CC's Economic Growth Service when preparing press or media announcements relating to the Project.
- 6.2 The Recipient should acknowledge CC as a funder in all its communication materials relating to this project. The CC logo and acknowledgement of CC support should be included in all printed and online material relating to this project. The CC to supply logo in appropriate format and with instructions of how branding is to be used.
- 6.3 The CC is to be:
- a) given the opportunity to add a quote to any press release regarding this agreement. Press releases should be sent to mediarelations@cornwall.gov.uk at least five (5) working days before intended date of issue; and
 - b) kept informed of any media requests for interviews/statements and to be given the opportunity to participate/comment

7. Events of Default and Rights Reserved [STC to be aware of section 7.](#)

7.1 Events of Default

- 7.1.1 The Recipient will be deemed to have defaulted on the Agreement if any of the following events occur:
- a) The Recipient fails to sign and return a copy of this Agreement within thirty (30) days of its issue;
 - b) The Project activities are not started within three (3) months of the Date of Approval;
 - c) The Project is not completed by the Completion Date;
 - d) A material change is made to the Project without prior written approval of CC, including changes to approved costs;
 - e) The Recipient no longer have the financial resource to carry out and complete the Project;
 - f) The Recipient fails to deliver against any Deliverable which is determined by CC to be underperformance;
 - g) The Recipient obtain other funding or financial assistance which satisfies CC that the Town Vitality Funding Grant is no longer required;
 - h) It becomes apparent that a breach of the UK Subsidy Control Regime has occurred;
 - i) Any financial irregularities, negligence or fraud is suspected or identified in connection with the Project;
 - j) Any information given, or representation made in the Approved Application or in any correspondence, report or other document submitted to CC relating to this Project or this Agreement is found to be incorrect or incomplete to an extent that CC considers to be material;
 - k) Any report or certificate made by your auditor or reporting accountant is unsatisfactory;
 - l) The Recipient becomes insolvent;
 - m) The Recipient fails to remedy any breach of this Agreement which is capable of remedy within fourteen (14) days of CC requesting the Recipient to do so;

- n) The Recipient commit a breach of this Agreement which is incapable of remedy;
- o) An offence is committed by the Recipient, or anybody contracted by the Recipient, in delivering the Project, under the Bribery Act 2010 or any related subsequent legislation;
- p) The Recipient are found to have done something improper to influence CC, or any person or body acting on its behalf to grant the Town Vitality Funding Grant; or
- q) The Recipient are in breach of this Agreement other than as contained in (a) - (p) above.

7.2 Rights reserved for CC

7.2.1 Where CC decides that an Event of Default has occurred as set out in clause 7.1 above, CC may by written notice to the Recipient take any one or more of the following actions:

- a) suspend the payment of the Town Vitality Funding Grant for such a period as CC shall determine; and/or
- b) vary the Maximum Grant Payable in which case the payment of the Town Vitality Funding Grant will thereafter be made in accordance with the variation notified to the Recipient; and/or
- c) cease to make payments of Town Vitality Funding Grant to the Recipient and to require the Recipient to repay to CC the whole or any part of the amount previously paid to the Recipient; and/or
- d) reduce the grant to mirror any underperformance regarding the Deliverables;
- e) terminate this Agreement.

7.2.2 CC reserves the right to Clawback the Town Vitality Funding Grant or the relevant part of the Town Vitality Funding Grant in the event that:

- (i) those sums have been paid to the Recipient in error;
- (ii) the European Commission (or a Domestic Successor) or the Court of Justice of the European Union (or Domestic Successor) requires any Grant paid to be recovered by reason of a breach of the UK Subsidy Control Regime.

7.2.3 The exercise by CC of its rights under this paragraph 7.2 shall be without prejudice to any other right of action or remedy of CC in respect of any breach by the Recipient of this Agreement.

8. Audit Requirements - Evaluation/Monitoring

8.1 The Recipient shall comply with the CC's audit monitoring and reporting requirements. The requirement for the 2021/22 year's grant are: [Copy of STC Financial Regs including procurement issued to CC.](#)

8.1.1 Provision of a copy of the Council's financial regulations and procurement policy;

8.1.2 Retention of procurement documentation for audit purposes, current year plus six (6); to include but not limited to; purchase orders, invoices, delivery notes and tender documents, council/committee reports authorising expenditure for town development work and/or any activity carried out under schemes of delegation, to include any procurement notices via Contracts Finder. This documentation may be requested at any point by CC to assist with its own internal audit requirements;

[Extremely important the entire procurement process is managed by STC Acting Town Clerk and that the Acting Town Clerk works closely with the Town Team. STC as the accountable body must meet the requirements, section 8.](#)

- 8.1.3 Evidence of defrayal of costs – a comprehensive project statement/breakdown of costs detailing all expenditure items, to include any income received, applicable to the Project and on request provision of any items listed in 8.1.2 above in support of the defrayal costs statement;
- 8.1.4 A copy of the minuted resolution from the Recipient where it corporately agreed/resolved to act as the accountable body for the Town Vitality Funding Grant including the proposal(s) that the Town Vitality Funding Grant would be used to fund/support (this should align with your Town Vitality Funding Application Form);
- 8.1.5 Acknowledgement of CC's financial support in any Annual Report, relevant press releases and in the footer of the website homepage/project update page;
- 8.1.6 The Recipient will provide CC with such information and documentation as CC may require in connection with the Project from the date of this Agreement to the date on which the Recipient fulfil all of its obligations under this Agreement;
- 8.1.7 The Recipient must keep a record of all Eligible Expenditure, all quotes, tenders and procurement practices, all financial contributions made towards the Project and evidence for all Deliverables claimed by the Project;
- 8.1.8 The Recipient will provide to CC information on the Deliverables achieved as a result of the Project and other information as may be requested by CC as to the benefits derived from the Project;
- 8.1.9 The Recipient will make available, if requested, within seven (7) days the original documents or verified true copies of the documents relating to the Recipient's Approved Application for the Project and the documents relating to the Town Vitality Funding Grant, Deliverables if and when required to do so by CC, and/or the National Audit Office (and also their respective auditors).

9. Confidentiality

- 9.1 Except where otherwise provided for in this Agreement, Confidential Information is owned by the Party that discloses it (the "Disclosing Party") and the Party that receives it (the "Receiving Party") has no right to use it.
- 9.2 Subject to clauses 9.3 and 9.4, the Receiving Party agrees:
 - (a) to use the Disclosing Party's Confidential Information only in connection with the Receiving Party's performance under this Agreement;
 - (b) not to disclose the Disclosing Party's Confidential Information to any third party or to use it to the detriment of the Disclosing Party; and
 - (c) to maintain the confidentiality of the Disclosing Party's Confidential Information and to return it immediately on receipt of written demand from the Disclosing Party.
- 9.3 The Receiving Party may disclose the Disclosing Party's Confidential Information:
 - (a) in connection with any dispute resolution under clause 11 (Dispute Resolution);
 - (b) in connection with any litigation between the Parties;
 - (c) to comply with the law;

- (d) to its staff, consultants and sub-contractors, who shall in respect of such Confidential Information be under a duty no less onerous than the Receiving Party's duty set out in clause 9.2; and/or
- (e) to comply with a regulatory bodies request.

9.4 The obligations in clause 9.1 and clause 9.2 will not apply to any Confidential Information which:

- (a) is in or comes into the public domain other than by breach of this Agreement;
- (b) the Receiving Party can show by its records was in its possession before it received it from the Disclosing Party; or
- (c) the Receiving Party can prove that it obtained or was able to obtain from a source other than the Disclosing Party without breaching any obligation of confidence.

9.5 The obligations in clause 9.1 and clause 9.2 shall not apply where the Confidential Information is related to an item of business at a board meeting of the CC or of any committee, sub-committee or joint committee of the CC or is related to an executive decision of the CC and it is not reasonably practicable for that item of business to be transacted or that executive decision to be made without reference to the Confidential Information, provided that the Confidential Information is exempt information within the meaning of Section 101 of the Local Government Act 1972 (as amended), the CC shall consider properly whether or not to exercise its powers under Part V of that Act or (in the case of executive decisions) under the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended to prevent the disclosure of that Confidential Information and in doing so shall give due weight to the interests of the Recipient and where reasonably practicable shall consider any representations made by the Recipient.

10. Information Governance, Data Protection, Freedom of Information and Transparency

- 10.1 The Parties must comply with Data Protection Legislation, Data Guidance, the FOIA and the EIR, and must assist each other as necessary to enable each other to comply with these obligations.
- 10.2 The Recipient must comply with and must demonstrate satisfactory compliance with clause 10.1 above.
- 10.3 The Recipient must:
 - (a) nominate an Information Governance Lead;
 - (b) ensure that the CC is kept informed at all times of the identities and contact details of the Information Governance Lead;
- 10.4 If the Recipient is required under Data Protection Legislation to notify the Information Commissioner or a Data Subject of a Personal Data Breach then within forty eight (48) hours of the breach occurring the Recipient must inform the CC of the Personal Data Breach, and if the Recipient will report the breach to the Information Commissioner within seventy two (72) hours as is required within the Data Protection Legislation.
- 10.5 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- 10.6 Whether or not a Party or Sub-Contractor is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and any further Data Guidance.

The Parties acknowledge that a Party or Sub-Contractor may act as both a Data Controller and a Data Processor, or a Joint Data Controller.

- 10.7 Without prejudice to the generality of clause 10, the CC will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Recipient for the duration and purposes of this Agreement.
- 10.8 Where required under Data Protection legislation, the Recipient shall ensure that it has a Privacy Notice or Consent Notice in place.
- 10.9 Any failure by the Recipient to inform individuals as required by Data Protection Legislation or Data Guidance about the uses of Personal Data that may take place under this Agreement cannot be relied on by the Recipient as evidence that such use is unlawful and therefore not contractually required.
- 10.10 Without prejudice to the generality of clause 10, the Recipient must ensure that all Personal Data processed by or on behalf of the Recipient in the course of delivering the Services is processed in accordance with the relevant Parties' obligations under Data Protection Legislation and Data Guidance. The Recipient shall:
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the CC, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the CC has been obtained and the following conditions are fulfilled:
 - (i) the CC or the Recipient has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective remedies;
 - (iii) the Recipient complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Recipient complies with the reasonable instructions notified to it in advance by the CC with respect to the processing of the Personal Data;
 - (d) notify the CC as soon as reasonably practicable if it receives:
 - (i) a request from a Data Subject to have access to that individual's Personal Data;
 - (ii) a Right of Access, Rectification or Erasure Request;
 - (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
 - (e) at the Recipient's expense, assist the CC in responding to any request from a Data Subject and in ensuring compliance with the CC's obligations under the Data

- Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) at the written direction of the CC, delete or return Personal Data and copies thereof to the individual on termination or expiry of this Agreement unless required by the Applicable Laws to store the Personal Data;
 - (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 1.2 and allow for audits by the CC or the CC's designated auditor pursuant to clause 8 (Audit).
- 10.11 Where the CC requires information for the purposes of quality management, the Recipient must consider whether the CC's request can be met by providing anonymised or aggregated data which does not contain Personal Data. Where Personal Data must be shared in order to meet the requirements of the CC, the Recipient must:
- (a) provide such information in pseudonymised form where possible; and in any event
 - (b) ensure that there is a legal basis for the sharing of Personal Data.
- 10.12 Subject always to clause 20 (Assignment and Sub-Contracting), if the Recipient is to engage any Sub-Contractor to deliver any part of the Services (other than as a Data Processor) and the Sub-Contractor is to access personal or confidential information or interact with individuals, the Recipient must impose on its Sub-Contractor obligations that are no less onerous than the obligations imposed on the Recipient by this clause 10.
- 10.13 The Recipient shall indemnify the CC against any Losses incurred by the CC arising from, or in connection with, any breach of the Recipient's obligations under this clause 10.
- 10.14 Notwithstanding any other provision of this Agreement, where the Recipient commits a Personal Data Breach which under Data Protection Legislation must be notified to the Information Commissioner and/or to an individual the CC may terminate this Agreement with immediate effect.
- 10.15 The Parties acknowledge their respective duties under the FOIA and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.
- 10.16 If the Recipient is not a public authority, the Recipient acknowledges that the CC is subject to the requirements of the FOIA and will assist and co-operate with the CC to enable the CC to comply with its disclosure obligations under the FOIA. Accordingly, the Recipient agrees:
- (a) that this Agreement and any other recorded information held by the Recipient on the CC's behalf for the purposes of this Agreement are subject to the obligations and commitments of the CC under the FOIA;
 - (b) that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA is a decision solely for the CC;
 - (c) that if the Recipient receives a request for information under the FOIA, it will not respond to such request (unless directed to do so by the CC) and will promptly (and in any event within two (2) working days) transfer the request to the CC;
 - (d) that the CC, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Recipient and this Agreement either without consulting with the Recipient, or following consultation with the Recipient and having taken its views into account; and

- (e) to assist the CC in responding to a request for information, by processing information or environmental information (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by an authority within five (5) working days of such request and without charge.
- 10.17 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement is not Confidential Information.
- 10.18 Notwithstanding any other provision of this Agreement, the Recipient hereby consents to the publication of this Agreement in its entirety including from time to time agreed changes to this Agreement subject to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA.
- 10.19 In preparing a copy of this Agreement for publication pursuant to clause 9.4 the CC may consult with the Recipient to inform its decision making regarding any redactions but the final decision in relation to the redaction of information shall be at the CC's absolute discretion.
- 10.20 The Recipient shall assist and co-operate with the CC to enable the CC to publish this Agreement.
- 10.21 In order to comply with the Government's policy on transparency in the areas of Agreements and procurement the CC will be disclosing information on its website in relation to expenditure over five hundred pounds (£500) in relation to this Agreement. The information will include the Recipient's name and the Charges paid. The Parties acknowledge that this information is not Confidential Information or commercially sensitive information.
- 10.22 The Recipient shall comply with any requirements (including compliance with any appropriate information assurance scheme and the Computer Misuse Act 1990) detailed in its Specification in relation to its security policies, procedures and control of Confidential Information, Personal Data and Special Categories of Data.
- 10.23 The Recipient shall be responsible for any costs associated with its compliance with the provisions of clauses 9 and 10.
- 10.24 The Recipient shall indemnify the CC and shall keep the CC indemnified against Losses and Indirect Losses suffered or incurred by the CC as a result of any breach of clauses 9 and 10.
- 10.25 The Parties acknowledge that damages may not be an adequate remedy for any breach of clauses 9 and 10, and in addition to any right to damages the CC shall be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of clauses 9 and 10.
- 10.26 Clause 9 and 10 shall not limit the Public Interest Disclosure Act 1998 in any way whatsoever.

11. Good Faith, Cooperation and Dispute Resolution

- 11.1 The Recipient agree with CC that:
 - 11.1.1 The Recipient will, at all times, act with the utmost good faith and will, at all times, co-operate fully;
 - 11.1.2 The Recipient will comply with all CC's reasonable requirements in relation to the Project from time to time; and

- 11.2 Any disputes or differences arising between the parties in respect of the construction or effect of this Agreement, or the rights, duties and liabilities of the parties herein under, or any matter or event connected with or arising out of the Town Vitality Funding Grant shall be resolved by the parties negotiating in good faith;
- 11.3 In the absence of agreement under clause 11.2, the Parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.
- 11.4 The submission of either party to paragraph 11.2 or 11.3 above shall not limit their right to commence any proceedings in any court of competent jurisdiction in England and Wales.

12. Amendments to the Agreement

- 12.1 CC may amend or vary the terms of the Agreement where either;
- 12.1.1 mandatory changes are required by the UK or EU Laws or regulations; or
- 12.1.2 by mutual written consent between the Recipient and CC.

13. Miscellaneous

- 13.1 Nothing in this Agreement shall constitute a partnership or joint venture between the Parties or constitute the Recipient as the agent of CC for any purpose whatsoever;
- 13.2 No failure or delay on the part of CC in exercising any right or power and no course of dealing between the Parties shall operate as a waiver of any right, power or remedy;
- 13.3 Nothing in this Agreement or any other document shall impose any obligation or liability on CC with respect to any actions of or obligations or liabilities assumed or incurred by the Recipient or your contractors or employees whether under contract, statute or otherwise.
- 13.4 Any staff employed by the Services Provider or its Sub-Contractors in connection with the performance of its obligations under this Agreement will be paid no less than the Living Wage.

14 Period of Agreement

- 14.1 This Agreement is effective from the date of the approval detailed on page 1 of this Grant Offer Letter and remains valid for a period of thirty (30) days unless agreed, in writing, by CC.
- 14.2 If the Recipient wish to accept the offer, one copy of the Grant Offer Letter is required to be signed and returned to CC.;

15. Intellectual Property Rights

15.1 CC and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the CC or the Recipient before the Commencement Date or developed by either party during the grant period, shall remain the property of that party.

15.2 Where CC has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by CC.

16. Anti-discrimination

16.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.

16.2 The Recipient shall take all reasonable steps to secure the observance of clause 16 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

17. Human rights

17.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).

17.2 The Recipient shall undertake, or refrain from undertaking, such acts as the CC requests so as to enable the CC to comply with its obligations under the Human Rights Act 1998.

18. Insurance [STC public and employers liability cover falls in line with CC requirement.](#)

18.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the Required Insurances).

18.2 The Required Insurances referred to above include (but are not limited to):

- (a) public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from the Project; and

- (b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Project.

18.3 The Recipient shall (on request) supply to CC a copy of such insurance policies and evidence that the relevant premiums have been paid.

19. Termination [STC must be aware CC may terminate this agreement in line with section 19.](#)

CC may terminate this Agreement and any Town Vitality Funding Grant payments on giving the Recipient three (3) months written notice should it be required to do so by financial restraints or for any other reason.

20. Assignment

The Recipient may not, without the prior written consent of the CC, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Town Vitality Funding Grant.

21. Liability

21.1 CC shall not be liable for any breach of the Agreement if and to the extent that such breach is itself caused by a breach by the Recipient of its obligations under the Agreement or the Grant Offer Letter, or the negligence or wilful misconduct of the Recipient.

21.2 No Party shall be liable to the another Party for indirect, special or consequential loss or damage in connection with the Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

21.3 CC shall not be liable to the Recipient whether in contract, tort (including negligence) breach of statutory duty, or otherwise for any losses arising under or in connection with the Agreement that would exceed the maximum amount to be paid to the Recipient under the Agreement.

22. Notices

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, 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 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.

23. Entire agreement

This Agreement (together with all documents attached to or referred to within it) constitutes the entire agreement and understanding between the parties in relation to the Town Vitality Funding Grant and supersedes any previous agreement or understanding between them in relation to such subject matter.

24. Electronic Signatures

Each Party agrees to sign this Agreement by electronic signature (whatever form the electronic signature takes) and that this method of signature is as conclusive of our intention to be bound by this Agreement as if signed by each Party's manuscript signature.