

DATED

2021

(1) CITY OF LINCOLN COUNCIL

and

(2) [REDACTED]

GRANT AGREEMENT

for the development [REDACTED]
project as part of the Lincoln Towns Fund Deal

Ref: xx

PARTIES

- (1) [] [(company number if applicable)] of []
(referred to as “the **Applicant**”)
- (2) **CITY OF LINOLN COUNCIL** of xx (referred to as “the **Council**”)

together “the parties” and each individually “the party”

BACKGROUND

- (A) This Grant Agreement relates to the delivery of the Project [insert project description paragraph].
- (B) The Council has agreed to provide the Grant for the Project to enable the Applicant to deliver the Outputs as included at Section 7.
- (C) The Ministry of Housing, Communities and Local Government as the managing authority has offered the Towns Fund Programme Grant as set out in its offer letter dated xxx to the Council who has agreed to accept the Towns Fund Programme Grant on the terms as appended to this Agreement as Appendix 3.
- (D) The Grant is to be applied by the Applicant towards the completion of the Project as set out in Appendix 4 and against the eligible expenditure set out at Appendix 5.
- (E) This Grant Agreement sets out the terms and conditions on which the Grant is made by the Council to the Applicant and which are intended to ensure that the Grant is used for the purposes for which it is awarded.

AGREED TERMS

1. Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Grant Agreement.

Assets: all be capital assets purchased, acquired, built, improved or otherwise funded in whole or in part by the Grant including land and buildings (including any interest in land but excepting the Property) and individual items of equipment and other moveable and immovable assets costing £5,000 or more, which on the date of purchase had a useful life of more than one year. Delete if not relevant to project.

Authorised Officer: means the officer or officers of the Council designated and notified to the Applicant from time to time to carry out the tasks identified in the Grant Agreement.

Basic Project Information: means the Project title, the Project scope, information about the budgeted and actual project spend, the Project duration, the name of the Managing Authority, the name of the Applicant and the amount of funding that is being provided under this Grant Agreement;

Building Contractor: means a reputable building contractor and any subsequent building contractor appointed by the Applicant to carry out the Works or any part thereof.

Claim and Monitoring Form: means the form attached at Appendix 1.

Commencement Date: [enter date]

Confidential Information: means the Council's and/ or the Applicant's data and all information which has either been reasonably designated as confidential by either party in writing or which ought to be considered as confidential (however it is conveyed or on whichever medium it is stored) including information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either party, all Personal Data and sensitive Personal Data within the meaning of the Data Protection Legislation. Confidential Information does not include Basic Property Information.

Consent: means any approval, consent, exemption, licence, permission or registration by of or from any governmental or other authority or any other person including but not limited to consents required from the freeholder any adjoining owner or any mortgagee of the Property or from the local planning authority in relation to the Activities or any part thereof or otherwise required to enable the same to be lawfully carried out and maintained.

Data Controller, Personal Data and Personal Data Breach: take the meaning given in the Data Protection Legislation.

Data Loss Event means any event that results, or may result, in unauthorised access to Personal Data held under this Grant Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Grant Agreement, including any Personal Data Breach

Data Protection Legislation means all applicable data protection legislation and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (EU) 2016/679; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); any other directly applicable European Union regulation relating to privacy; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data and the privacy of electronic communications.

Disposal: means the transfer of or the grant of any interest or estate in the Property or part thereof and any buildings thereon including the grant of a lease and (save where reference is made herein to the completion of a Disposal or Disposals) includes any contract therefore and “dispose of”, “disposed of” and disponent” shall be construed accordingly.

Eligible Expenditure: capital or revenue expenditure to the delivery of the project and as set out at appendix 5.

The following items are **not** classed as eligible expenditure. Please note that this list is not exhaustive:

- overheads allocated or apportioned at rates materially in excess of those used for any similar work carried out by the Parties;
- notional expenditure;
- payments for activity of a political nature;
- depreciation, amortisation and impairment of assets purchased with the help of the Grant;
- provisions;
- contingent liabilities;
- contingencies;
- profit made by the Recipient;
- dividends;
- interest charges unless under an approved State Aid scheme;
- service charges arising on finance leases, hire purchase and credit arrangements;
- costs resulting from the deferral of payments to creditors;
- costs involved in winding up a company;
- payments for unfair dismissal;
- payments into private pension schemes;
- payments for un-funded pensions;
- compensation for loss of office;
- bad debts arising from loans to employees, proprietors, partners, directors, guarantors, shareholders or a person connected with any of these;
- payments for gifts and donations;
- entertainments;
- reclaimable VAT;
- statutory fines and penalties;
- criminal fines and damages;
- legal expenses in respect of litigation;
- expenditure on activities of a political or exclusively religious nature;
- expenditure supported from other government sources, local authority Grants, charges paid by leaseholders, or EC structural funds, to the extent that the combined Grants and other support total more than 100% of the Project or scheme costs;
- expenditure on works or activities which any person has a statutory duty to undertake, except where there is strong justification in terms of the regeneration outputs or impacts

that will result, e.g. in the case of beneficial activity brought forward, or carried out in a way which best promotes sustainable regeneration as a result of Grant support;

- any liability arising out of negligence; or
- payments made in advance of need.

Expiry Date: means. (Appropriate for anticipated completion)

Financial Year: means a period from 1st April in one year to 31st March in the subsequent year.

Force Majeure Event: means an event beyond the reasonable control of the Applicant or the Contractor, including without limitation:

- (a) war, civil war, armed conflict or terrorist attack;
- (b) nuclear, chemical or biological contamination of the Works and arising from war, civil war, armed conflict or terrorist attack;
- (c) acts of God, flood, drought, earthquake or other natural disaster;
- (d) existence of adverse ground conditions;
- (e) change of law;
- (f) industrial action (other than by the party seeking to rely on this clause);
- (g) the absence of any required Consents for the Works or Services or by the terms upon which they are granted or an inability to obtain access to the Site;
- (h) a network system emergency that causes the Contractor (or its affiliates) to re-direct its resources and thereby prevents it from carrying out or completing the Works or Services;
- (i) any matter which would entitle the Contractor to an extension of time or to require a variation under the Works or Service Contract (other than any matter arising from the default of the Applicant);
- (j) any unforeseen technical issues in respect of the Works or Services, but excluding events arising due to the negligence of that party or due to a lack of funds.

Fund: means the Town's Fund Programme Deals Fund administered by City of Lincoln Council

Grant: a portion of the Town's Fund Programme Grant for the sum of £#,###,### (insert amount in words) to be paid to the Applicant in accordance with this Grant Agreement .

Grant Agreement: means these terms and conditions, including all schedules and appendices attached hereto.

Instalment: means a part payment of the Grant made in accordance with the terms of this Grant Agreement.

Intellectual Property Rights: means all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence however arising for their full term and any renewals or extensions.

Law: means all or any law applicable within the United Kingdom (whether civil, criminal or administrative), common law, statute, statutory instrument, treaty, regulation, directive, bylaw, circular, code, guidance note, order, notice, demand, decree, injunction, resolution, judgment or requirement of any government, quasi-government, supranational, federal, state or local government, statutory or regulatory body, statutory undertaker, court, or any other person or body in any jurisdiction (including, without limitation, the European Community or European Union), any enforceable community right within the meaning of section 2 of the European Communities Act 1972 and any exercise of the Royal Prerogative.

Legal Charge: the form of legal charge attached at Appendix 3.

Managing Authority: means The Ministry of Housing, Communities and Local Government

Outputs: means the outputs set out in clause 7.1.

Permitted Use: means use of the project assets as **Insert purpose of facility** following completion of the Activities.

Planning Permission: means the planning permission for the Works and any further planning permission(s) and/or any amendments and/or variation(s) of the same (and including all approvals of any reserved matters).

Project: means the **Insert brief description of what the project entails**, as more fully described at appendix 4.

Prohibited Act: means

1. offering, giving or agreeing to give to any servant of the Council any gift or consideration of any kind as an inducement or reward for:
 - a. doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Grant Agreement or any other contract with the Council; or

- b. showing or not showing favour or disfavour to any person in relation to this Grant Agreement or any other contract with the Council;
2. entering into this Grant Agreement or any other contract with the Council where a commission has been paid or has been agreed to be paid by the Applicant 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 Council;
3. committing any offence under the Bribery Act; under legislation creating offences in respect of fraudulent acts; or at common law in respect of fraudulent acts in relation to this Grant Agreement or any other contract with the Council;
4. defrauding or attempting to defraud or conspiring to defraud the Council or the Managing Authority.

Property: means the property as shown edged red on the plan attached at Appendix 2.

Protective Measures: means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of 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 such measures adopted by it.

Subsidy Control: any advantage granted through state resources on a selective basis to any organisation involved in commercial activities that could potentially distort competition and trade in breach of applicable UK international subsidy obligations

Third Party Funding: means any funding (and non-financial support) for the Project other than from the Council as described in Clause 6

Total Project Cost: forecast to be £ xxx This is made up of the Grant from the Lincoln Towns Fund allocation, £xx from the applicant, £ from third party A and £ from third party B.

Towns Fund Programme Grant: the grant offered to the Council by Ministry of Housing, Communities and Local Government as set out in the offer letter attached at Appendix 3

Activities: the activities involving Insert brief description of suitable works/activities, as more fully described in the Town Deal Business Case dated ## MMMMMM YYYY. Delete if not applicable

Contract(s): means the contract(s) entered into or to be entered into between the Applicant and any contractor(s) to deliver services or works.

Activity Longstop Date: means ## MMMMMM YYYY. (Appropriate for anticipated completion)

This Grant Agreement shall commence on the Commencement Date. In this Grant Agreement:

- 1.2 Clause headings do not affect the interpretation of this Grant Agreement.
- 1.3 A reference to this Grant Agreement (or any provision of it) or any other document shall be construed as a reference to this Grant Agreement, that provision or that document as it is in force for the time being and as amended, varied or supplemented from time to time in accordance with its terms, or with the agreement of the relevant parties.
- 1.4 A reference to a person shall include a reference to an individual, firm, company, corporation, unincorporated body of persons, or any state (or any agency of that person) and a reference to the singular shall include the plural and vice versa (unless this is inconsistent with the context).
- 1.5 A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or extension, or re-enactment and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Unless otherwise agreed between the Parties, a reference to writing or written does not include fax or e-mail.
- 1.7 An Appendix to this Grant Agreement shall be treated as if part of the main body of the Grant Agreement.
- 1.8 Where the words include(s), including or in particular are used in these terms and conditions, they are deemed to have the words without limitation following them and where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them
- 1.9 A reference to any clause, sub-clause, paragraph, sub-paragraph, appendix or schedule without further designation shall be construed as a reference to the clause, sub-clause, paragraph, sub-paragraph, appendix or schedule to this Grant Agreement so named and numbered.
- 1.10 Where the consent approval or agreement of the Council is required pursuant to the terms of this Grant Agreement it shall not be construed as having been given unless provided in writing.

1.11 The Schedules form part of this Grant Agreement and shall have effect as if set out in full in the body of this Grant Agreement. Any reference to this Grant Agreement includes the Schedules.

2. Purpose of the Grant

2.1 The Applicant shall use the Grant only for the purpose of defraying Eligible Expenditure on the activity in connection with the delivery of Project.

2.2 The Applicant accepts responsibility for the proper use and administration of all funding provided under this Grant Agreement

2.3 The Applicant shall not make any material change to the Project or the activity without the Council's prior written approval.

3. Warranties, representations and grant pre-conditions

3.1 The Applicant represents and warrants to the Council that:

3.1.1 the execution of this Grant Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the Applicant under this Grant Agreement constitute valid legal and binding obligations of the Applicant which are enforceable against the Applicant in accordance with their terms;

3.1.2 neither the execution of this Grant Agreement by the Applicant nor the performance or observation of any of its obligations under it will:

(a) conflict with or result in any breach of any law or enactment or any deed, agreement or other instrument, obligation or duty to which the Applicant is bound; or

(b) cause any limitation on any of the powers whatsoever of the Applicant or, on the right or ability of the Applicant's authorised officers to exercise such powers to be exceeded;

3.1.3 the Applicant is not in default under any law or enactment or under any deed, agreement or other instrument or obligation by which it is bound so as to affect adversely its ability to perform its obligations under this Grant Agreement;

3.1.4 all Consents that the Applicant is required to obtain in connection with the execution, delivery, issue, validity or enforceability of this Grant Agreement have been obtained and have not been withdrawn;

3.1.5 no litigation or administrative or arbitration proceeding before any court, tribunal, Government authority or arbitrator is presently taking place, pending or (to the knowledge, information and belief of the Applicant) threatened against, or against any of the assets, of the Applicant which might have a material adverse effect on its standing or its business or assets or operations or might affect adversely its ability to perform its obligations under this Grant Agreement;

- 3.1.6 the grant application and all other information and documents prepared on behalf of the Applicant and submitted for the appraisal of the Project for the purposes of this Grant Agreement were true and accurate when submitted and either:
- 3.1.6.1 no change has occurred since which renders the same untrue or misleading in any respect; or
 - 3.1.6.2 where change has occurred, it has been explained to the Council's satisfaction;
- 3.1.7 the Applicant has disclosed to the Council all information which would or might reasonably be thought to influence the Council in awarding the funding to the Applicant or the amount thereof;
- 3.1.8 no person having any charge or other form of security over the Property or any assets of the Applicant has enforced or given notice of its intention to enforce such security;
- 3.1.9 the Applicant is not aware, after due enquiry, of anything which materially threatens the success or successful completion of the the Project or any part thereof;
- 3.1.10 none of the circumstances or events described at clause 6.1 and 6.2 has occurred.
- 3.2 the representations and warranties at clause 3.1 above shall be deemed to be repeated by the Applicant when each claim for an Instalment of the Grant is submitted pursuant to clause 4 as if made with reference to the facts and circumstances existing at such date.
- 3.3 The Council shall not be required to pay any Instalment of the Grant to the Applicant unless it is satisfied (at the point of proposed payment of the relevant Instalment of the Grant) that the following conditions have been, and where relevant continue to be or shall be, met:
- 3.3.1 that the Applicant has confirmed to and the Council is satisfied (in its absolute discretion) that the Applicant has (and continues to have) sufficient funding to complete the Project by the proposed Activity Longstop Date;
 - 3.3.2 that the Applicant has confirmed to and the Council is satisfied (in its absolute discretion) that the Applicant has the necessary resources, expertise and its' employees, suppliers, sub grantees, contractors (and their employees) are competent to undertake the activity and deliver the Project.
 - 3.3.3 that copies have been submitted to the Council (if requested) of the following:
 - (i) the tender evaluation report and the successful tender(s) for all activities / works paid for by the Fund;

- (ii) Works or Services Contract(s) and any other relevant contractual documentation with the contractor(s);

and the Council is satisfied in its absolute discretion with the terms of these documents;

3.3.4 The Council has received evidence which is acceptable that the Grant will be used only to pay for Eligible Expenditure incurred in respect of the activities; and

3.3.5 The Council has received evidence provided by the Applicant that the payment of the Grant shall not result in a breach of Subsidy Control rules.

4. Payment Arrangements

4.1 Subject to the terms of this Grant Agreement, the Council shall pay Instalments of the Grant in arrears, based on relevant Eligible Expenditure incurred on the activities and subject to receiving evidence of all invoices paid or costs incurred by the applicant.

4.2 The Applicant shall submit claims at least **TBC Frequency (quarterly or every six months as required by MHCLG)** using the Claim and Monitoring Form at Appendix 1, until practical completion of the activity and all Eligible Expenditure is completed and evidenced.

4.3 No Grant shall be paid unless and until the Council is satisfied that such payment will be used for Eligible Expenditure incurred on the activity and has received a valid Claim Form with supporting evidence to the satisfaction of the Council.

4.4 The Council will not authorise payment unless the Applicant has provided appropriate bank details including a method for identifying the Council's funding either in a separate bank account or by using project codes

4.5 The Applicant agrees and accepts that payments of the Grant can only be made to the extent that the funds are available to the Council under the grant agreement between the Council and the Managing Authority. The Council can accept no liability in respect of the loss attributable to any delay in the payment of claims or to any suspension, reduction or cancellation of the Grant.

4.6 The amount of the Grant shall not be increased in the event of any overspend by the Applicant in the delivery of the Project.

4.7 The Applicant must have submitted all its claims for the Grant no later than **amend as appropriate**. If not, the Council shall be under no further obligation to advance any remaining Grant.

- 4.8 The Applicant shall promptly repay to the Council 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 Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Applicant.
- 4.9 The parties understand and agree that the Grant by the Council under this Grant Agreement is not consideration for any supply for Value Added Tax ("VAT") purposes whether by the Applicant or otherwise.
- 4.10 If, notwithstanding the agreement and understanding of the parties as set out in Clause 4.8 above, it is determined that the Grant is consideration for a supply for VAT purposes, the Grant shall be treated as inclusive of any VAT.
- 4.11 The estimated dates for claiming Instalments and estimated amounts for each Instalment are set out at Table 1 below.

Table 1 - Claims for Instalments of the Grant

Claim Period	Expected amount of Aggregated Instalments
Xxx	xxx
xxx	xxx

5. The Applicant's Obligations in relation to the Works

5.1 Consents

The Applicant shall:

- 5.1.1 procure that all necessary Consents for the activity (including the Planning Permission where applicable) are obtained and shall, if requested by the Council, produce to it such documents or copies of such documents as may reasonably require to demonstrate satisfaction of this obligation; reasonably require to demonstrate satisfaction of this obligation;

- 5.1.2 procure that at all times throughout the Project all Consents are complied with.

5.2 Works

Where the project involves the refurbishment of existing property or new build, the Applicant shall:

- 5.2.1 use all its best endeavours to procure that the Works are commenced promptly and shall procure that they are carried out and completed:

- 5.2.1.1 with due diligence and expedition;

- 5.2.1.2 in a good and workmanlike manner;
- 5.2.1.3 using good quality materials of their several kinds;
- 5.2.1.4 to adoptable standards (where the subject matter of the Works are capable of public adoption and are intended to be so adopted);
- 5.2.1.5 in accordance with:
 - (a) the Planning Permission and all conditions attaching thereto; and
 - (b) all statutory agreements and Consents; and
 - (c) all Law and any enforceable codes of practice of the local authority which shall affect the execution and completion of the same; and
 - (d) the requirements of any water gas or electricity authority; and
 - (e) the Works Contract(s); and
 - (f) the other terms of this Grant Agreement;
- 5.2.1.6 by the Works Longstop Date (subject to any extension of time agreed in writing by the Council);
- 5.2.2 provide to the Council (if requested) a complete and certified copy of the Works Contract(s) and all professional appointments, the final certificate and the certificate of completion of making good defects (or equivalent certificate) under the Works Contract(s) in each case within 10 Working Days of the relevant contract appointment or certificate;
- 5.2.3 procure completion of such statutory agreements as may be required in relation to the Works;
- 5.2.4 procure that the Council shall (entirely at its own risk) be at liberty at reasonable times (and where not prohibited by the Works Contract(s)) on giving not less than two Working Days' prior written notice to enter upon the relevant parts of the Property for the purpose of viewing the state and progress of the Works and to inspect and view the materials and workmanship thereof but the following conditions shall be observed by the Council in respect of every such entry:
 - 5.2.4.1 on the occasion of any such visit the visitors shall jointly report their presence to the Building Contractor immediately on entering;
 - 5.2.4.2 the visitors shall comply with all requirements or recommendations issued by insurers of the Works which have been notified from time to time to the Council and communicated to the visitors on the occasion of the Property visit;
 - 5.2.4.3 the visitors shall comply with all proper health and safety requirements given by the Building Contractor;

5.2.4.4 the visitors shall be accompanied by a representative of the Applicant and shall not interfere with or interrupt the progress of the Works nor give or attempt to give instructions to the Building Contractor or others relating to the Works but shall make all communications and any representations through the Applicant;

5.2.5 comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons undertaking the Works.

5.3 Monitoring

5.3.1 The Applicant shall closely monitor the delivery and success of the Project to ensure the aims and objectives of the Project are being met and that the terms of this Grant Agreement are being met. Regular monitoring will be undertaken and you must comply with all requests from the Council for information regarding the progress of the Project. This will include a project monitoring form to provide the information required for six monthly and annual returns to the Managing Authority. Failure to return the forms by the deadlines may result in loss of and/or delays to the Grant funding. The monitoring form will record information on expenditure and the progress being made towards delivery of the outputs as well as risk managements and communication/ publicity. In addition, you may be required to comply with an end of programme evaluation.

5.3.2 The Council shall be entitled to monitor or verify how any amount advanced under this Grant Agreement is used and how the Applicant meets the Outputs and the Applicant agrees to provide such monitoring information as the Council shall request in writing from time to time, including, but not limited to, evidence that the Grant has been used on Eligible Expenditure.

5.3.3 The Applicant shall maintain full and accurate accounts and documentary evidence for the Project on an open book basis and the Applicant shall permit the Council, and persons authorised by the Council, to inspect, audit and take copies of all reports, books, accounting records and vouchers which the Council reasonably considers relevant to the Project.

5.3.4 The Applicant shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least 6 (six) years following receipt of any Grant monies to which they relate.

5.3.5 Notwithstanding clauses 5.4.3 and 5.4.4 of this Grant Agreement, the Applicant shall follow and maintain an appropriate audit process for the Project.

5.3.6 The Applicant shall comply with and facilitate the Council's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Council.

- 5.3.7 The Applicant shall comply (or procure compliance (where applicable)) with all applicable public procurement and Subsidy Control Law in force in England and Wales, any measures implementing the same and any other legislation in connection with the procurement of the Project and/or Works or Services and any ancillary or preliminary matters or any services in respect of which funding is to be provided by the Council (which for the avoidance of doubt shall include services which pre-date this Grant Agreement) and shall promptly provide any information which the Council may request in order to satisfy itself that the Applicant has done so and to further demonstrate value for money.
- 5.3.8 The Grant shall be shown in the Applicant's accounts as a restricted fund and shall not be included under general funds.
- 5.3.9 The Applicant shall on request provide the Council with a copy of its annual accounts within six months (or such lesser period as the Council may reasonably require) of the end of the relevant Financial Year in respect of each year in which the Grant is paid.
- 5.3.10 The Applicant shall provide the Council within 21 days of a request to do so with a financial report and an operational report on its use of the Grant and delivery of the Project and in such formats as the Council may reasonably require.
- 5.3.11 Where the Applicant has obtained funding from a third party for its delivery of part of the Project, the Applicant shall include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 5.3.12 The Applicant shall on request provide the Council with such further information, explanations and documents as the Council may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Grant Agreement.
- 5.3.13 The Applicant shall permit any person authorised by the Council such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Applicant's fulfilment of the conditions of this Grant Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 5.3.14 The Applicant shall if required provide the Council with a final report on completion of the Project which shall confirm whether the Project has been successfully and properly completed. The requirements of this final report will be provided to the applicant before project completion

5.3.15 If the Applicant has good reason to suspect Prohibited Actor any other misuse of any grant funding paid under this Grant Agreement, it must notify the Council immediately, explain the steps that are being taken to investigate the suspicion and keep the Council informed of the progress and outcome of the investigation.

5.4 Risk Register and Progress Reporting

The Applicant shall procure that:

- 5.4.1 a risk register is used by the Applicant as an integral reporting tool to keep the Council properly and fully apprised of the progress of the activity and the Project and advised of any programming or budgeting or delivery issues;
- 5.4.2 the Council is provided with copies of all progress reports regarding the activity from the date of this Grant Agreement to the date the last defects certificate is issued under the Works Contract(s), if applicable and addressing whether the activities remain:
 - 5.4.2.1 on time as against the latest milestone programme;
 - 5.4.2.2 within budget;
 - 5.4.2.3 without any variation to the risk analysis of the Risk Register (and supplying at each progress meeting an update of the Risk Register and providing any necessary explanation of any changes made to the Council's reasonable satisfaction);
 - 5.4.2.4 meeting professional client side quality standards;
 - 5.4.2.5 in accordance with the Contract(s) as applicable;

6. Repayment / Termination

- 6.1 The Council may vary or withhold the Grant (or any part thereof) and / or require repayment of the Grant (or any part therefor) and any Subsidy Control, (plus interest calculated in accordance with clause 6.3), if:
 - 6.1.1 repayment or recovery is required under Subsidy Control law; and/or
 - 6.1.2 the Council is otherwise required to repay or recover such Grant payments/Subsidy Control in whole or in part by the UK Government; and/or
 - 6.1.3 the Council has reasonably requested information and or documentation from the Applicant and this has not been provided to the Council within the timescales reasonably required.
- 6.2 The Council may terminate this Grant Agreement and/or cease further payments of the Grant and/or demand repayment of the Grant in full or in part where:

- 6.2.1 the Applicant fails to perform and/ or observe any provision of this Grant Agreement including, but not limited to:
- (a) the activity not being carried out;
 - (b) the activity not being carried out in accordance with the Contract(s).
- 6.2.2 the Applicant commits a Prohibited Act, or a Prohibited Act is committed by any of the Applicant's employees, agents or advisers;
- 6.2.3 the Grant (or any part of it) is used for any purpose other than Eligible Expenditure on the Activities;
- 6.2.4 the Applicant fails to achieve any Output;
- 6.2.5 an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the Applicant's interest in any or all of the Property or any part of the undertaking assets or revenues of the Applicant or a distress or other process is levied or enforced upon any of the whole or any part of the Applicant's interest in the any or all of the Property or any of the assets rights or revenues of the Applicant and any such action is not lifted or discharged within 14 days; or
- 6.2.6 a petition is presented (other than a petition which, in the opinion of the Council, is frivolous or vexatious or which is withdrawn or stayed within 14 days) to, or any order is made by, any competent court for the appointment of an administrator in relation to the Applicant; or
- 6.2.7 the Applicant is, or is adjudicated or found to be, insolvent or stops or suspends payment of its debts or is (or is deemed to be) unable to or admits inability to pay its debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Applicant under any law regulation or procedure relating to reconstruction or adjustment of debts; or
- 6.2.8 the Applicant ceases or threatens to cease to carry on the whole or a substantial part of its business;
- 6.2.9 any secured funder takes any steps to enforce their security or notifies the Applicant that it intends to do so;
- 6.2.10 the Applicant has used any part of the Grant for anything other than Eligible Expenditure or where the project involves a property, has used the Property or part of the Property for anything other than the Permitted Use or has

disposed of the Property or part of the Property, in each case prior to the Expiry Date, except where the Council has consented in writing in advance to such Disposal or change of Permitted Use;

- 6.2.11 the Applicant provides or has provided the Council with any materially misleading or inaccurate information;
- 6.2.12 the Applicant has breached or breaches any law or regulation in connection with anti-competitive practices.
- 6.2.13 the Applicant is, in the reasonable opinion of the Council, delivering the Project in a negligent manner; in this context negligence includes but is not limited to failing to prevent or report fraud or corruption;
- 6.2.14 the Applicant obtains duplicate funding from a third party for the Project other than as agreed by the Council pursuant to clause 10.1.
- 6.2.15 the Applicant obtains funding from a third party which, in the reasonable opinion of the Council, undertakes activities that are likely to bring the reputation of the Project or the Council into disrepute;
- 6.2.16 the Council determines (acting reasonably) that any employee of the Applicant has:
 - (i) acted dishonestly or negligently at any time during the term of this Grant Agreement; or
 - (j) taken actions which unfairly bring or are likely unfairly to bring the Council's name or reputation into disrepute. Actions include omissions in this context.
- 6.3 On termination of this of this Grant Agreement the Applicant will provide financial and narrative reports (including invoices and receipts) within thirty (30) days of receiving written notification of termination up to the date of such termination.
- 6.4 In the event of a change of UK government or in policy direction, this Grant Agreement may be terminated by the Council with immediate effect by notice in writing (such notice period as the Council determines will be reasonable by reference to all the circumstances of the case).
- 6.5 Any Grant payments required to be repaid in accordance with clause 6.1 of this Grant Agreement shall bear interest as required under Subsidy Control law.
- 6.6 All Grant repayments shall be paid in sterling in cleared funds into the Council's bank account as the Council may notify to the Applicant from time to time.

7. The Applicant's Obligations

- 7.1 The Applicant must make all reasonable endeavours to meet the following Outputs (see Table 2 below) in accordance with the agreed timescales and shall provide such evidence to the Council as they shall require of the Applicant's actions, using the Claim and Monitoring Form:

Table 2 – Project Outputs -Amend as appropriate

Output	Number	To be Achieved by

- 7.2 The Applicant shall provide details on the actual Outputs that are reported to the Council, as set out in the Claim and Monitoring Form.

- 7.3 The Applicant shall also This shall include: **Delete where not applicable**

7.3.1 working in partnership with.

7.3.2 acting in good faith to support.

7.3.3 providing facilities and/or resources for.

- 7.4 The Applicant shall complete the activity by the Longstop Date and shall notify the Council in writing as soon as it becomes aware of any possible delay or defect or other issue with the Project or Outputs which means they will or may not be delivered as envisaged by this Grant Agreement.

- 7.5 Where applicable, as soon as reasonably practicable after the date of this Grant Agreement the Applicant shall make the necessary application to HM Land Registry to register the following restriction against the Applicant's title to the Property:

'No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Council.

Or

- 7.5 On the date of this Grant Agreement the Applicant shall grant a legal charge (in the form attached at Appendix 3) of the Property to the Council.

7.6 Prior to the Expiry Date:

7.6.1 the Applicant shall not Dispose of its interest in the Property (in whole or in part) or change the Permitted Use of the Property without the prior written agreement of the Council (not to be unreasonably withheld or delayed).

7.6.2 it shall be a condition of any agreement granted under clause 7.5.1 that any disponee shall contemporaneously with such Disposal enter into a deed of covenant with the Council to observe and perform the Applicant's obligations under this Grant Agreement (mutatis mutandis) until the Expiry Date in such form as the Council may reasonably require and the Applicant must ensure that upon any Disposal of the Property or any part of the Property any disponee enters into such deed of covenant.

8. Indemnities

8.1 The Applicant shall indemnify the Council and the Council in full against any expense, liability, loss or proceedings arising:

8.1.1 under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Council or otherwise as a result of the Activities; and/ or

8.1.2 any claim by any third party arising out of or in the course of or caused or contributed to by the Project and/or this Grant Agreement or otherwise through the default or negligence of the Applicant or any breach by the Applicant of the terms of this Grant Agreement

9. Publicity

9.1 The Applicant shall:

9.1.1 acknowledge the Towns Fund grant in its annual report and accounts or other equivalent reports, including an acknowledgement of the Council as the source of the Grant

9.1.2 acknowledge support from the Council in all publicity and marketing material including press releases, social media, public presentations, signage and hoardings regarding the Project as approved by the Council in accordance with the Council and Towns Fund Branding and Communications Guidelines for Capital Projects and using the templates provided by the Council (to be provided separately);

- 9.1.3 incorporate the following wording – ‘This Project has been supported by City of Lincoln Council through the Towns Fund’, and use the Council logo and HM Government logo wherever possible (to be provided separately);
- 9.1.4 as far as may be reasonable, acknowledge the receipt of the Grant from the Council in such manner as the Council may from time to time reasonably require, to enable the Council to publicise their involvement in the Project;
- 9.1.5 notify the Council in advance, at least 2 weeks if possible, of landmark events and key milestones so they may contact government to invite ministers, where appropriate, and prepare potential quotes from the Ministry of Housing, Communities and Local Government.

10 Third Party Funding

- 10.1 Where the Applicant intends to apply to a third-party for other funding for the Project, it will notify the Council in advance of its intention to do so and, where such funding is obtained, it will provide the Council with details of the amount and purpose of that funding.
- 10.2 The Applicant agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Council is funding in full under this Grant Agreement.
- 10.3 Where the Grant with the additional funding for the Project is such that total funding available for the Project exceeds the total cost of the Project, the Council and any third-party will share in the benefit of this proportionately according to the size of the grant and the additional funding committed to the Project.
- 10.4 The Applicant agrees to prioritise the use of any Third-Party Funding prior to spending the Grant in accordance with this Grant Agreement.

11 Intellectual Property Rights

- 11.1 The Council and the Applicant agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology and any other Intellectual Property Rights whatsoever owned by either the Council or the Applicant before the Commencement Date or developed by either party during the period this Grant Agreement is in force, shall remain the property of that party.
- 11.2 Where the Council has provided the Applicant with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Applicant, shall on termination of the Grant Agreement, cease to use such Intellectual Property Rights immediately and either return or destroy such Intellectual Property Rights as requested by the Council.

12 Dispute Resolution

12.1 In the event of any complaint or dispute (which does not relate to the Council's right to withhold funds or terminate) arising between the parties to this Grant Agreement in relation to this Grant Agreement the matter should first be referred for resolution to the Authorised Officer or any other individual nominated by the Council from time to time.

12.2 to the extent that the parties are unable or unwilling to resolve the said dispute or disagreement the parties shall attempt in good faith to resolve the dispute or disagreement through an alternative dispute resolution procedure as agreed by them using one of the following options:

12.2.1 an expert adviser if the dispute relates to professional issues;

12.2.2 a mediation service if the dispute relates to the terms and conditions of this Grant Agreement

13 Confidentiality

13.1 Subject to clause 14 (Freedom of Information), each party shall during the term of this Grant Agreement and thereafter keep secret and confidential all Confidential Information disclosed to it as a result of the Grant Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Grant Agreement or save as expressly authorised in writing by the other party.

13.2 The Applicant may disclose the Council's Confidential Information to its employees who are directly involved in the implementation of the Project and who need to know the information. Where it makes such a disclosure the Applicant will ensure that such employees are:

13.2.1 aware of and comply with the confidentiality obligations under this Grant Agreement; and

13.2.2 do not use any of the Council's Confidential Information that is received for purposes other than the implementation of the Project and in line with this Grant Agreement.

13.3 Clause 13 does not apply to information which:

13.3.1 is or becomes generally available to the public other than as a result of a disclosure by a party in breach of this Grant Agreement;

- 13.3.2 is already known to the receiving party (as evidenced by written records) at the time of its disclosure and was not otherwise acquired by the receiving party under any responsibilities of confidentiality;
- 13.3.3 is at any time after the date of this Grant Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party;
- 13.3.4 is a requirement of law placed upon the party making the disclosure by an order of a court of competent jurisdiction or in order to comply with requirements including but not limited to the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR);
- 13.4 Nothing in this Grant Agreement will prevent the Council from disclosing the Applicants confidential information:
- 13.4.1 to the Managing Authority or any other UK central government department;
- 13.4.2 to any person engaged by the Council or any person authorised to scrutinise the Council's activities by conducting an assurance or other review of the Project.
- 13.4.3 for the purpose of the examination and certification of the Applicant's accounts;
- 13.4.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council has used its resources.
- 13.5 In accordance with the UK Government's transparency agenda the Council and the Applicant hereby agree that nothing in this Grant Agreement shall prevent the Council from publishing any payments made by the Council to the Applicant under the terms of this Grant Agreement.

14 Freedom of Information

- 14.1 The Applicant acknowledges that the Council is subject to the requirements of the FOIA and the EIR and agrees to assist and co-operate with the Council (at their own expense) to enable the Council to comply with its information disclosure obligations.
- 14.2 The Applicant shall and shall procure that its sub-contractors:
- 14.2.1 transfer any request for information to the Council as soon as practicable after receipt and in any event within two working days of receiving a request for information.

- 14.2.2 provide the Council with a copy of all information in its possession or power in the form that the Council requires within five working days (or such period as the Council may specify) of the Council requesting that information; and
- 14.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 14.3 The Council shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure under the FOIA and/or EIR or is to be disclosed in response to a request for information.
- 14.4 In no event shall the Applicant respond directly to a request for information unless expressly authorised to do so by the Council.
- 14.5 The Applicant acknowledges that the Council may be obliged under the FOIA and/or EIR to disclose information:
- 14.5.1 without consulting the Applicant where it has not been practicable to achieve such consultation; or
- 14.5.2 following consultation with the Applicant and having taken its views into account

15 Data Protection

- 15.1 The Council and the Applicant are each Data Controllers for the purposes of any processing arising from their respective obligations under this Grant Agreement, including ensuring such Protective Measures are in place.
- 15.2 The parties shall comply with their respective obligations under the Data Protection Legislation, including in relation to data retention.
- 15.3 The Applicant shall also inform the Council where it suffers a Data Loss Event and keep it informed as to the mitigations and measures in place to deal with the matter, including any direction issued by any supervisory body.

16 Insurance

- 16.1 The Applicant will ensure that it has such insurance in place as is necessary for the normal conduct of its activities. Where it is necessary for the Applicant to purchase additional insurance cover in order to perform its obligations under this Grant Agreement, the Applicant will ensure that it has all relevant insurance in place prior to the start of the grant funding period.

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

17 Anti-Discrimination

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

17.2 The Applicant shall take all reasonable steps to secure the observance of clause 17.1 by all servants, employees or agents of the Applicant and all suppliers and sub-contractors engaged on the Project.

18 Modern Slavery

18.1 The Applicant shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations, and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

18.2 The Applicant shall take all reasonable steps to secure the observance of clause 18.1 by all servants, employees or agents of the Applicant and all suppliers and sub-contractors engaged on the Project.

19 Miscellaneous

19.1 Nothing in this Grant Agreement shall constitute a partnership or joint venture between the Council or the Applicant or constitute the Applicant as the agent for the Council for any purpose whatsoever.

19.2 The Applicant shall not say or do anything which may pledge the credit of or otherwise bind the Council or that may lead any other person to believe that the Applicant is acting as the Council.

19.3 If the Applicant establishes a management group to run the Project, the Applicant shall ensure that the Council has the right to have a representative attend any board meetings or steering group meetings of the parties involved in the Project for the life of the Grant.

19.4 If the Council issues any certificate, determination or notification of a rate or any amount payable under this Grant Agreement, it shall be conclusive (in the absence of manifest error) evidence of the matter to which it relates and shall contain reasonable details of the basis of determination.

- 19.5 Any amendment to this Grant Agreement shall be in writing and signed by, or on behalf of, each party.
- 19.6 Any waiver of any right or consent given under this Grant Agreement is only effective if it is in writing and signed by the waiving or consenting party. It shall apply only in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 19.7 No delay or failure to exercise any right under this Grant Agreement shall operate as a waiver of that right.
- 19.8 Rights and remedies under this Grant Agreement are cumulative and do not exclude any other rights or remedies provided by law or otherwise.
- 19.9 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Grant Agreement under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions.
- 19.10 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification as is necessary to give effect to the commercial intention of the parties.
- 19.11 This Grant Agreement may be executed and delivered in any number of counterparts, each of which is an original and which, together, have the same effect as if each party had signed the same document.
- 19.12 A person who is not a party to this Grant Agreement cannot enforce, or enjoy the benefit of, any term of this Grant Agreement under the Contracts (Rights of Third Parties) Act 1999 save that the Council may enforce any provision of this Grant Agreement. The rights of the parties to rescind or vary this Grant Agreement are not subject to the consent of any other person.
- 19.13 This Grant Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England.
- 19.14 The parties to this Grant Agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Grant Agreement or its subject matter or formation (including non-contractual disputes or claims).
- 19.15 The Council accepts no liability for any consequences, whether direct or indirect, that may arise from the Applicant running the Project, the use of the Grant or withdrawal of the Grant.

- 19.16 The Applicant shall at all times comply with all relevant law, legislation and regulatory guidance in relation to the Grant, the Project and the Activities and cooperate with the Council to the fullest extent permissible to enable the Council's compliance with its obligations under all relevant law, legislation and regulatory guidance which applies to the provision of grant funding under this Grant Agreement
- 19.17 The Applicant shall at all times comply all obligations imposed on it as an employer by the Employment Rights Act 1996, the Trade Union and Labour Relations (Consolidation) Act 1992, the Employment Relations Act 1999, the Equality Act 2010 and the Working Time Regulations 1998.
- 19.18 The Applicant may not assign, transfer, sub-contract or in any other way make over to any third party the benefit and / or burden of this Grant Agreement.

20. Duration

20.1 Except where otherwise specified, the terms of this Grant Agreement shall apply from the date of this Grant Agreement for so long as any Grant monies remain unspent by the Applicant or until the Expiry Date, whichever is longer.

20.2 The Applicant shall be entitled to remove the restriction referred to at clause 7.5 above after the Expiry Date.

Or

20.2 The ability of the Council to enforce a Legal Charge shall fall away on the Expiry Date and the Council shall remove any reference to the Legal Charge registered against the property at the Land Registry within 1 month of the Expiry Date.

This Grant Agreement has been entered into as a deed on the date stated at the beginning of it.

21. Maintaining an Asset Register (delete where security for grant will be achieved through a restriction or charge on the property)

- 21.1 The Applicant must maintain a register of Assets whether owned by the Applicant or by third parties (the "Register").
- 21.2 The Applicant must submit the Register to the Council as soon as reasonably practicable after the date of this Grant Agreement. The Applicant shall notify the Council of any changes to the Register and ensure that it is kept up to date. The Register shall be reviewed (and re-submitted to the Council) at least annually.
- 21.3 Where an Asset is removed from the Register by reason of a sale (or other disposal for value) the Applicant shall notify the Council of the value of the sale proceeds net of VAT.

- 21.4 Where an Asset because of write-down no longer has a book value above or equal to £5,000 or it is no longer of use to the Applicant it may be removed from the Register.
- 21.5 Where an Asset is disposed of, the Council will be entitled to a reimbursement of a proportion of the Grant, equivalent to a pro-rata percentage of the value of the Asset or the purchase price paid for the property. The percentages are set out in the following table:

Date of sale, disposal or transfer following most recent grant payment	Amount of proceeds to which the Council is entitled
Within 12 months	100%
Within 24 months	80%
Within 36 months	60%
Within 48 months	40%
Within 60 months	20%

- 21.6 The Council may waive its right to repayment as set out above in its absolute discretion.

This Grant Agreement has been entered into as a deed on the date stated at the beginning of it.

Executed as a Deed by affixing)
 The Common Seal of)
Applicant Title/Name)
 In the presence of:)

.....
 Authorised Officer:

The **Common Seal** of)
City of Lincoln Council was)
 affixed to this deed)
 in the presence of:)

.....
 Authorised Officer:

Appendix 1
Claim and Monitoring Form

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Appendix 2
Property Plan

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Appendix 3
Head of Terms offer for Lincoln Town Deal and annex 'Projects within scope of the
Town Deal'

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Appendix 4 – Project Detail

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Appendix 5 – Agreed Eligible Project Expenditure

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