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DATED

**THE CORNWALL COUNCIL**

and

**DELIVERY PARTNER AGREEMENT**

**Cornwall and the Isles of Scilly People Hub**

Legal Services

New County Hall

Treyew Road

Truro

Cornwall

TR1 3AY

Ref: 070791

This Agreement is dated the

Parties

1. The Cornwall Council of New County Hall, Treyew Road, Truro, Cornwall TR1 3AY (the Council); and
2. (Company Number: [ ]) whose registered office is at [ ] (the Delivery Partner)

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

BACKGROUND

1. Cornwall Council’s Economy and Skills Service entered into a service level agreement (the “Funding Agreement”, as defined in clause 1.1) with the Cornwall Council’s Good Growth Fund under the Shared Prosperity Fund under which the Council’s Economy and Skills Service agreed to deliver the “Co-ordinated People and Skills Support” project; a project designed to support residents of Cornwall and the Isles of Scilly, aged 16 years or over with employment and/or skills support. The project shall be known as the “Cornwall and Isles of Scilly People Hub”. The project shall be delivered by the Council’s Economy and Skills Service in conjunction with a consortium of delivery partners (as set out in Schedule 2).
2. The Council entered into the Funding Agreement on the basis that the Delivery Partner will provide Project Activities.
3. The Council enters into this Agreement with the Delivery Partner to deliver Project Activities on the terms set out below.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

* 1. **Definitions:**

1. Agreement: means this delivery partner agreement including all schedules attached hereto;

Agreed Activity End Date: means the date specified as such in Schedule 2 and being the date that all of the Project Activities shall be finished and complete;

Agreed Financial Completion Date: means the date specified as such in the Schedule 2 and being the date that all of the expenditure eligible for the Grant will have been defrayed;

Back to Back: means the incorporation of the terms of the Funding Agreement and the rights of obligations of the Council thereunder, into this Agreement except as expressly excluded or varied herein;

Change: means in relation to the Project any of the following changes:

* + 1. A change in the ownership, control and nature of business of the Delivery Partner (construed in accordance with section 840 of the Income and Corporation Taxes Act 1988 and section 1162 of the Companies Act 2006 and for the avoidance of doubt shall include an evaluation of dominant influence and shadow directorships in the Delivery Partner from time to time;
    2. A change in the nature of the purpose of the Project;
    3. Any change to the Eligible Expenditure;
    4. Any change to the Expenditure Profile;
    5. Any change to the Key Output Milestones or Key Output Milestone Dates; or
    6. Any change to any of the Targets

Client Management System or CMS: means the online secure system for registering new Eligible Participants, evidencing progress and recording Outputs and Outcomes;

Commencement Date: means 01 November 2023;

Conditions: means the terms and conditions upon which the Grant is payable as contained in this Agreement including Schedule 2, the Project Specific Conditions, and clauses 1 to 17 of the main body of the Funding Agreement contained in Schedule 1 (the Funding Agreement);

Confidential Information: means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the owner of the Confidential Information, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably to be considered confidential;

Contract Management Team: means the team appointed by the Council to manage and oversee the performance and compliance of the Cornwall and the Isles of Scilly People Hub;

Correction: means an amount to be repaid or withheld from the Grant payable as determined following the finding of an Irregularity and calculated, where relevant, by reference to the published guidelines on flat-rate corrections, for example as set out in the Good Growth Procurement Guidance (<https://ciosgoodgrowth.com/wp-content/uploads/2024/01/SPF-Procurement-Guidance-v7-.pdf>) and any updates to the same document, for Determining Financial Corrections;

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

Data Protection Legislation: means (i) the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable law about the processing of personal data and privacy including where applicable the guidance and codes of practice issues by the Information Commissioner as may be in force from time to time;

Data Subject: shall have the same meaning as set out in the Data Protection Legislation;

Data Subject Request: means a request made by, or on behalf of, a Data Subject in accordance with the rights granted pursuant to the Data Protection Legislation to access their Personal Data;

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

Duplicate Funding means funding provided by a Third Party to the Delivery Partner, which is for the same purpose for which the Funding was made, but has not been declared to the Council;

Effective Date: means from 1 January 2024;

Eligible Expenditure: means expenditure in relation to this Project that complies in all respect with the Eligibility Rules, as updated from time to time;

**Eligible Participants**: means, a resident(s) of Cornwall and/or the Isles of Scilly, aged 16 years or over with a requirement for employment and/or skills support who is eligible for support under the Project as per the Good Growth guidance (<https://ciosgoodgrowth.com/our-good-growth-application-support/> as updated from time to time)

Eligibility Rules: means the rules governing eligibility of expenditure for payment of the Good Growth Fund contained in the Good Growth policies and guidance - <https://ciosgoodgrowth.com/our-good-growth-application-support>

Evaluation: means external independent evaluation of the Project carried out by a third party, to be confirmed by an open procurement process in the first year;

Expenditure Profile: means the information provided by the Delivery Partner detailing the granular budget and spend forecast for the carrying out of the Project Activities and defrayal of expenditure including the Start Date and the Agreed Financial Completion Date and which is contained in Schedule 4;

Funding Agreement: means the Funding Agreement between the Good Growth Fund (“GGF”) and the Council’s Economy and Skills Service for the Co-Ordinated People and Skills Support Project as set out in Schedule 1;

Good Growth Fund (GGF): means the Cornwall Council’s Good Growth Fund;

Grant: means the portion of the grant of the Good Growth Fund payable to the Delivery Partner pursuant to this Agreement, Schedule 4 and the Funding Agreement, which is distributed through the Cornwall and Isles of Scilly Good Growth Programme (https://ciosgoodgrowth.com/);

Grant Claim: means a claim for a Grant which is made directly to the Council;

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending on 31 March 2025;

Group: in relation to a company, that company, each and any subsidiary or holding company from time to time and each and any subsidiary from time to time of a holding company of that company. For the purposes of this definition a reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006;

Guidelines for Determining Financial Corrections: means the Guidelines for determining financial corrections to be made to expenditure from time to time in force and notified to the Delivery Partner and which are based upon:

1. changes in financial guidelines issued by the Council or the GGF or the DHLUC in respect of expenditure eligibility or availability of GGF or SPF; or
2. underperformance set out in the Underperformance Methodology set out in Schedule 7.

Indirect Losses: means loss of profits, 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;

Intellectual Property Rights: means all patents, know-how, registered trade marks, registered designs, utility models, applications and rights to apply for any of the foregoing unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention discovery or process in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

Irregularity: means any breach of Union law, or of national law relating to its application (including but not limited to, the Shared Prosperity Funds Regulations, UK Subsidy Control laws and European Union Procurement Law) resulting from an act or omission by the Delivery Partner (and/or its agents and subcontractors), which has, or would have, the effect of prejudicing the budget of the GGF by charging an unjustified item of expenditure to the budget of the Project or GGF;

Key Milestone Output Dates: means those milestones or outputs and outcomes to achieve the Project which are set out in Schedules 2 and 6;

Losses: means all Direct and Indirect Losses;

Mandatory Policies: means the mandatory policies and procedures listed in Schedule 3;

Material Breach:means a breach (including an anticipatory breach) of this Agreement or any act or omission of the Delivery Partner which causes the Council to breach its obligations or where the Council could reasonably evidence it would cause the Council to breach its obligations (including an anticipatory breach) under the Funding Agreement, or anything incidental thereto, which is not minimal or trivial in its consequences;

Output or Outputs and Outcome or Outcomes: means the contracted Good Growth Intervention targets and Good Growth Principles which the Project needs to achieve in order for the Council to meet its obligations to the GGF under the Funding Agreement. The Outputs and Outcomes are those defined by the GGF and set out in the Funding Agreement and in the Output and Outcome Profile Schedule 6;

Output and Outcome Profile: means the Output and Outcome Profile in Schedule 6;

Participant Data:means the data related to Eligible Participants that is required to deliver effective support and provide sufficient information to meet the targets set out by the GGF in the Funding Agreement;

Participant Fund:means the agreed allocation of support funds which can be accessed by Delivery Partners to deliver specialist interventions and financial assistance for Eligible Participants;

Payment Allocations:the allocation of payments based on the agreed budget set out in Schedule 4 and the Financial Claims timetable set out in Schedule 5;

Personal Data:shall have the same meaning as set out in the Data Protection Legislation;

Project:means the project known as Cornwall and Isles of Scilly People Hub project which is the subject matter of the Funding Agreement (set out in Schedule 1);

Project Activities:means the activities to be carried out by the Delivery Partner and implemented in the Project, including as described in this Agreement, Schedule 1 of the Funding Agreement and anything incidental thereto;

Project Specific Conditions:means those conditions which are specific to the Project in Schedule 2 and are contained in Schedule 1 of the Funding Agreement;

Prohibited Act: means

* + - 1. offering, giving or agreeing to give the Council, another delivery partner, or the GGF any gift or consideration of any kind as an inducement or reward for:
      2. doing or not doing (or for having done or not done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Council or the GGF
      3. showing or not showing favour or disfavour to any person in relation to this agreement or any other contract with the Council or the GGF

1. entering into this Agreement, or any other contract with the Council or the GGF where a commission has been paid or has been agreed to be paid by the Delivery Partner on its behalf, or to its knowledge, which constitutes:
   * + - 1. an offence under the Bribery Act 2010;
         2. an offence under legislation creating offences in respect of fraudulent acts;
         3. an offence at common law in respect of fraudulent acts in relation to this Agreement or any other agreement with the Council or the GGF; or
         4. defrauding or attempting to defraud or conspiring to defraud the Council or the GGF.

SPF: means the Shared Prosperity Fund;

Start Date: the date specified as such in the Project Specific Conditions being the earliest date that expenditure is incurred by the Delivery Partner (being 1st November 2023) in relation to the Project and can be Eligible Expenditure;

Steering Group: means a group with agreed terms of reference made up of representatives from each of the Delivery Partners, which will meet regularly to receive updates on performance, to exchange good practice and agree solutions for resolving common barriers to achieving Outputs and Outcomes;

Sub-processor: means any third party appointed to process Personal Data related to this agreement on behalf of the Council;

Targets: means the Outputs and Outcomes identified and detailed in the Delivery Partner Output and Outcomes Profile in Schedule 6;

Transaction List: means the transaction checklist relevant to a particular Grant Claim as determined by the Council or the GGF;

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

* 1. Except as provided expressly in this clause 1 of this Agreement, terms as defined in the Funding Agreement shall have the same meaning when used in this Agreement.
  2. Except as provided expressly in this Agreement, the rules of interpretation in the Funding Agreement shall apply to this Agreement.
  3. For the purposes of this Agreement, and unless the context otherwise requires, references in the Funding Agreement to "this agreement" shall be to the Funding Agreement (including any variations made from time to time) as incorporated into this Agreement, with the alterations made for the purposes of this Agreement.
  4. In this Agreement:
     1. any reference to a "clause" or "Schedule" is, unless the context otherwise requires, a reference to a clause or Schedule in this agreement, excluding a clause or schedule in the Funding Agreement; and
     2. any reference to a "Funding Agreement clause" or "Funding Agreement Schedule" is, unless the context otherwise requires, a reference to a clause or schedule in the Funding Agreement.
  5. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
  6. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
  7. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
  8. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
  9. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
  10. A reference to any party shall include that party's personal representatives, successors and permitted assigns.
  11. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
  12. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
  13. The Guidelines contained in the Good Growth Application Support (and updated from time to time) - <https://ciosgoodgrowth.com/our-good-growth-application-support/>, shall inform decisions pertaining to any Financial Corrections and shall have the same force and effect as if expressly set out in the body of this Agreement.
  14. A reference to **writing** or **written** includes email but not fax.
  15. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
  16. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1. Commencement
   1. This Agreement shall commence on 01 November 2023.
   2. The Delivery Partner shall provide the Project Activities to the Eligible Participants from the Effective Date, being 01 January 2024.
   3. The Council shall promptly notify the Delivery Partner as soon as the Funding Agreement becomes legally effective.
2. Back-to-back agreement
   1. As soon as this clause becomes effective under clause 2 above, the Delivery Partner shall perform its obligations under this Agreement on a Back to Back basis with the Council (except as further provided in this Agreement). The Back to Back nature of this arrangement is for the purpose of the Council obtaining the Grant and reimbursing the Delivery Partner in accordance with the terms of this Agreement. Except as expressly stated otherwise in this Agreement, the Funding Agreement shall be used to determine the respective rights and duties of the Council and the Delivery Partner under this Agreement except that:
      1. wherever in the Funding Agreement there is a reference to the GGF or a term referring to the GGF , for the purposes of this Agreement a reference to the Council or a term referring to the Council shall be substituted; and
      2. wherever in the Funding Agreement there is a reference to the Council or a term referring to the Council, for the purposes of this Agreement a reference to the Delivery Partner or a term referring to the Delivery Partner shall be substituted.
3. Responsibilities of the Council
   1. The Council shall:
      1. take receipt of payments from the GGF and manage the Grant in accordance with the Funding Agreement;
      2. pay the Grant to the Delivery Partner in accordance with the terms and conditions of this Agreement and the Funding Agreement, subject always to receipt of the Grant from the GGF;
      3. set up and implement effective financial management and project management systems to monitor progress against the Project objectives and profiled expenditure as set out in the Funding Agreement;
      4. employ the Contract Management Team, which shall manage the Project and be the principal point of contact for Delivery Partners in relation to delivery and financial matters;
      5. oversee and enforce the compliant management of the Project in line with the terms set out in the Funding Agreement and in accordance with the GGF and SPF requirements;
      6. establish the governance of the Project by operating and chairing a regular Steering Group made up of the delivery partners and relevant stakeholders to ensure coordination of activity in delivery of the Project, including the Outputs and Outcomes;
      7. provide secretariat support to the Steering Group in order to record agendas and minutes of discussions;
      8. implement appropriate systems to ensure that only Eligible Participants will benefit from the Project;
      9. ensure SPF branding requirements are implemented in the management and delivery of the Project;
      10. coordinate the activities of the delivery partners as part of partnership working, ensuring effective communication;
      11. use reasonable endeavours to ensure timely commencement of the Project and implementation of the Project within the time schedule set out in the Funding Agreement;
      12. notify the GGF of any risks that may adversely affect implementation or delivery of the Project activities and/or financial plan;
      13. oversee the use of the Participant Fund, thus providing flexible interventions to meet the holistic needs of Eligible Participants;
      14. keep records of expenditure and be able to provide evidence of spending to the GGF when required;
      15. prepare and submit progress reports to the GGF on Outputs and Outcomes progress towards meeting contractual targets;
      16. work closely with the external evaluators appointed by the Council, for the purposes of completing the Evaluation as part of the Project obligations;
      17. coordinate and manage the procurement of the Project Activities in line with the agreed Funding Agreement, GGF and SPF guidelines;
      18. ensure that effective engagement strategies are in place across the partnership so that the contractual engagement targets are met;
      19. ensure that the Project is additional to and does not duplicate current offerings across the Cornwall and Isles of Scilly area;
      20. ensure that the Project does not replicate statutory requirements; and
      21. represent the Project at strategic meetings and advocate the programme to a wide range of stakeholders.
4. Responsibilities of the Delivery Partner
   1. The Delivery Partner shall:
      1. deliver the Project with the standard of skill, care and diligence which a competent and suitably qualified person performing similar Project Activities could reasonably be expected to provide in accordance with the terms of this Agreement, the Funding Agreement and the requirements of the GGF and Shared Prosperity Fund;
      2. provide the Project throughout Cornwall and the Isles of Scilly; ensuring that where an Eligible Participant resides is not a disadvantage to accessing support under the Project;
      3. comply with the terms of this Agreement and the Funding Agreement;
      4. meet the Outputs and Outcomes set out in Schedule 6;
      5. act in good faith and co-operate fully with the Council and/or the other delivery partners where reasonably required;
      6. comply with the Council’s reasonable requirements in relation to the Project from time to time;
      7. not do anything or omit to do anything which causes the Council to or could cause the Council to breach of any of its obligations under the Funding Agreement;
      8. submit Grant Claims by completing the GGF claim template for Grant reimbursement in accordance with the timescales set out in this Agreement and Schedule 5;
      9. appropriately, accurately and compliantly use the Client Management System to input Participant Data, ensuring that individual records are properly updated;
      10. achieve the Targets within the time limits set out in this Agreement and the Key Output Milestone Dates set out in Schedule 2;
      11. attend and provide evidence, upon the Council’s request, of any training required by the Council;
      12. comply with any guidance documents issued by the Council from time to time;
      13. provide all information required by the Council in order for it to:
          1. monitor the Delivery Partners’ implementation and delivery of the Project;
          2. verify the expenditure incurred by the Delivery Partner; and
          3. undertake reporting, monitoring and audit of the Delivery Partner’s performance of the Project Activities,

including, but not limited to, a statement confirming the expenditure claimed is to be covered by the Grant only and that there is no Duplicate Funding;

* + 1. promptly notify the Council if it is aware, or becomes aware, of any matter that may materially impact its delivery of the Project;
    2. ensure “public facing” and any marketing or promotional documents are approved by the Council in writing before publication or use, including but not limited to promotional leaflets, job advertisements which are part of the Project and relevant Delivery Partner webpages and that in all cases any such material is in line with the Good Growth Branding and Publicity Policy as set out on the Good Growth Application Support webpage; [www.ciosgoodgrowth.com/our-good-growth-application-support](http://www.ciosgoodgrowth.com/our-good-growth-application-support).
    3. deliver the Project in order to meet the Good Growth Principles, as set out in the Good Growth Policy on the Good Growth Application Support webpage; [www.ciosgoodgrowth.com/our-good-growth-application-support](http://www.ciosgoodgrowth.com/our-good-growth-application-support).
    4. comply with the Mandatory Policies listed in Schedule 3 at all times when delivering the Project;
    5. throughout the term of this Agreement, use the latest version of anti-virus definitions and firewalls available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the Information Communications and Technology Environment.

1. DUPLICATION OF SERVICES
   1. The Delivery Partner shall ensure that the Project Activities delivered under this Agreement do not duplicate any existing services offered to the Eligible Participants by the Council or the Delivery Partner.
   2. The Delivery Partner shall not:
2. replicate existing services or activity offered to Eligible Participants through its Project Activity;
3. use the Grant to supplement or fund activities which it already delivers to the Council or any third party.
4. Making a claim
   1. The Council will not make any payments of the Grant unless all of the following conditions have been complied with:
      1. The relevant Grant Claim is made by completing the GGF claim template within the prescribed timescales set out in this clause and Schedule 5;
      2. The expenditure is Eligible Expenditure;
      3. The Delivery Partner has satisfied the Council that it has all the funding needed to pay for expenditure in relation to the Project which is not Eligible Expenditure;
      4. The expenditure has been committed in accordance with the agreed Eligible Expenditure Profile;
      5. That Eligible Expenditure has been defrayed (that is that Eligible Expenditure has been incurred and that payment has been made by the Delivery Partner) in respect of any Eligible Expenditure to which a Grant Claim relates;
      6. The Conditions have been fully complied with;

provided always that the payment of a Grant Claim shall not operate as a waiver of any of the obligations contained in this clause 7 or exclude the right for the Council to exercise any of its obligations under this Agreement.

* 1. The Delivery Partner shall make all Grant Claims in arrears, on a monthly basis by the deadlines set out in clause 7.3 and Schedule 5.
  2. Except for the final Grant Claim, each Grant Claim is to be submitted by the 5th Working Day following the end of each month for which the Grant Claim is made.
  3. The first Grant Claim made at the end of the first Instalment Period shall relate to all Eligible Expenditure incurred and paid by the Delivery Partner from the Start Date. Subsequent Grant Claims shall relate to all Eligible Expenditure incurred in the previous month and shall be submitted to the Council on a monthly basis. For the avoidance of doubt, the Council shall reimburse the Grant (subject to the terms and conditions of this Agreement and the Funding Agreement) on a monthly basis.
  4. Each Grant Claim should be submitted to the Council by completing the GGF claim template. Each Grant Claim shall include accounting documents of verifiable value (which shall include the Transaction List) in such format and detail as may be acceptable to the Council relating to the amount claimed in such Grant Claim.
  5. The Council will normally meet a Grant Claim within 5 Working Days:
     1. The Grant Claim being submitted by the deadlines referred to in clause 7.3 and Schedule 5; and
     2. The Delivery Partner satisfactorily meeting any request for further particulars about the Eligible Expenditure specified in the Grant Claim or any other details provided for in the Grant Claim.

The Council shall use reasonable endeavours to initiate the payment process of the Grant Claim to the Delivery Partner within 5 Working Days of a validated Grant Claim.

* 1. If the GGF does not reimburse expenditure which the Council believes is Eligible Expenditure, then the Council will investigate the reasons as to why and provide an explanation to the Delivery Partner as soon as practicable. For the avoidance of doubt if any expenditure is deemed ineligible the Delivery Partner will reimburse the Council.
  2. For the avoidance of doubt, the Council will not be liable to make any payment to a Delivery Partner where payment is withheld by GGF.
  3. The time for payment of the Grant Claim shall not be of the essence. The Council shall have no liability to the Delivery Partner for any Losses caused by a delay in the payment of a Grant Claim howsoever arising.
  4. The Delivery Partner must notify the Council immediately if at any time it becomes aware that it is unable to make a Grant Claim in accordance with the Expenditure Profile.
  5. If the Delivery Partner intends to submit a Grant Claim which is not in accordance with the Expenditure Profile, it must promptly notify the Council of the changes it wishes to make to the Expenditure Profile.
  6. For the avoidance of doubt, no changes shall be made to the Expenditure Profile unless approved by the Council and the GGF (in accordance with clause 16 of this Agreement and clause 13 of the Funding Agreement) and the Council shall be under no obligation to pay a Grant Claim for expenditure which is not in line with the agreed Expenditure Profile.
  7. A progress report in respect of the Project must be submitted on a quarterly basis, to be received by the Council at the end of each Instalment Period. This is in addition to, and not a substitute for separate monthly contract performance reviews.
  8. By submitting a Grant Claim the Delivery Partner warrants to the Council and the GGF that there is no Event of Default or Material Breach subsisting by reference to the facts and circumstances existing on such date.
  9. The Council reserves the right to verify that any expenditure (including Eligible Expenditure) submitted by the Delivery Partner for reimbursement has been incurred and corresponds to the portion of the Project Activities being delivered by the Delivery Partner. The Delivery Partner shall provide reasonable assistance to the Council in order to verify such expenditure under this clause. If it is found that any Grant payment (or portion thereof) has been unduly paid, then the Delivery Partner shall repay the Grant (or that portion thereof) (including interest) within 15 Working Days of receiving the demand for payment. Alternatively, where further Grant payment(s) are due, the Council may deduct the sum due from that payment(s). The liability to meet such a demand shall be enforceable as a contractual debt.

1. Value Added Tax
   1. The payment of the Grant is believed to be outside the scope of VAT but if any VAT becomes chargeable all payments shall be deemed to be inclusive of all VAT and the Council shall not obliged to pay any additional amount by way of VAT.
   2. All sums or other consideration payable to or provided by a Delivery Partner to the Council at any time shall be deemed to be exclusive of all VAT payable and where any such sums becomes payable or due or other consideration is provided the Delivery Partner shall at the same time or as the case may be on demand by the Council in addition to such sums or other consideration pay to the Council all the VAT so payable upon the receipt of a valid VAT invoice.
2. Compliance with laws and policies
   1. Each party shall at its own expense comply with all laws and regulations relating to its activities under this Agreement, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.
   2. The Delivery Partner shall comply with the Mandatory Policies listed in Schedule 3.
3. Limitation of liability and Indemnity
   1. Nothing in this Agreement shall limit or exclude the liability of either party for:
      1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
      2. fraud or fraudulent misrepresentation or wilful default; and
      3. any matter for which it would be unlawful to exclude or restrict liability.
   2. Neither party shall be liable to the other party for any Indirect Losses.
   3. Each party shall, at all times, take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
   4. The total liability of the Council to the Delivery Partner in respect of all other loss or damage arising under or in connection with this Agreement, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, or otherwise, shall in no circumstances exceed the maximum amount of Grant to be paid to the Delivery Partner by the Council less any amount of Grant paid.
   5. The Delivery Partner shall be liable for and indemnify the Council, its employees, agents, officers and sub-contractors and the GGF in respect of all Direct Losses arising from any Irregularity in the expenditure declared by the Delivery Partner under this Agreement.
   6. The Delivery Partner acknowledges that, by agreeing to this Agreement, that the GGF may have overcommitted funds. The Delivery Partner agrees that, in the case that the GGF has insufficient funds to meet the full commitment under the Funding Agreement, the GGF may terminate the Funding Agreement. In the event that the GGF exercise this right then this Agreement shall terminate forthwith. The Council will use its best endeavours to ensure that the GGF has sufficient funds to cover its commitments. The Council will notify the Delivery Partner as soon as any risk becomes apparent that non-payment due to lack of funds is likely.
   7. Any clause limiting the Delivery Partner’s liability does not apply in relation to a Correction that is applied in accordance with the terms of this Agreement or the Funding Agreement.
   8. The Council accepts no liability for any consequences, whether direct or indirect, that may arise from the Delivery’s Partner’s use of the Grant or any repayment, reduction or suspension of the Grant in accordance with the terms of this Agreement or the Funding Agreement.
   9. For the avoidance of doubt, the Delivery Partner shall not have any liability in respect of any Losses suffered by the Council arising solely from any breach committed by the Council or the other delivery partners in relation to the Project.
4. Events of Default
   1. An “Event of Default” is the occurrence of any of the following:
      1. the Delivery Partner fails to comply with the Conditions;
      2. the Project Activities are not commenced by the date which is 3 months after the Start Date;
      3. the expenditure is not claimed in line with the Expenditure Profile and any changes agreed as per clause 7.12;
      4. Completion of the Project Activities has not been achieved by the Agreed Activity End Date;
      5. a Change is made to the Project without the prior written approval of the Council;
      6. any competent court requires any Grant paid to be recovered by reason of a breach of UK Subsidy Control laws;
      7. the Delivery Partner fails to comply with the provisions of the exemption or scheme (referred to in the Project Specific Conditions) under UK Subsidy Control laws that applies to the Project and the Grant;
      8. any report or certificate made by the Delivery Partner’s auditor or reporting accountant is unsatisfactory (where, for example, the report or certificate refers to a fundamental uncertainty or disagreement, or contains a material qualification, or states that the auditor or accountant is unable to form an opinion about any item, or reports that any amount is not correctly stated in the accounts or records examined);
      9. the Delivery Partner owes any undisputed sum to the Council or GGF under an agreement for the financial support of any other project or activities;
      10. an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the undertaking assets rights or revenues of the Delivery Partner or a distress or other process is levied or enforced upon any of the assets rights or revenues of the Delivery Partner and any such action is not lifted or discharged within 10 Working Days;
      11. a petition is presented (other than a petition which, in the opinion of the Council, is frivolous or vexatious and which is withdrawn or stayed within 10 Working Days) to, or any order is made by, any competent court for the appointment of an administrator in relation to the Delivery Partner;
      12. the Delivery Partner 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 Delivery Partner under any law regulation or procedure relating to reconstruction or adjustment of debts;
      13. any petition is presented by any person (other than a petition which, in the opinion of the Council, is frivolous or vexatious and which is withdrawn or stayed within 10 Working Days) or any order is made by any competent court or any resolution is passed by the Delivery Partner for its winding-up or dissolution or for the appointment of a liquidator of the Delivery Partner.
   2. If the Council gives notice to the Delivery Partner that it intends to suspend payment of a Grant, such notice shall specify the relevant Event of Default and give the Delivery Partner an opportunity to rectify the relevant Event of Default within such period as the Council shall determine to be reasonable and shall be set out in the written notice (or such extended period as the Council shall thereafter determine).
   3. The written notice referred in clause 11.2 may include a requirement for the Delivery Partner to provide specified information to the Council to assist it in determining whether the default has been rectified to its satisfaction.
   4. Where the rectification of a default requires a Change the procedure under clause 16 shall be followed.
   5. Where Events of Default are subject to a Change in the Funding Agreement, and such Change impacts upon the Delivery Partner’s delivery of the Project Activities, the Council shall enact a corresponding Change to this Agreement pursuant to clause 16.
5. Withholding, suspending and repayment of the grant
   1. Without prejudice to the Council’s other rights and remedies, the Council may, at its discretion, withhold, reduce or suspend payment of the Grant and/or require repayment of all or part of the Grant if:
      1. the Delivery Partner breaches any of the obligations under this Agreement or causes the Council to breach any of its obligations under the Funding Agreement;
      2. the Delivery Partner uses the Grant for the purposes other than those for which it has been agreed;
      3. the Delivery Partner declares or has declared an irregularity in its expenditure when claiming under clause 7;
      4. the Delivery Partner fails to deliver its portion of the Project and has failed to provide the Council with a reasonable explanation for the delay;
      5. the Delivery Partner is, in the reasonable opinion of the Council, delivering its portion of the Project in a negligent manner;
      6. the Delivery Partner commits an Event of Default or Material Breach under the Funding Agreement;
      7. a Correction is imposed by the GGF or DLUHC;
      8. the Delivery Partner has provided or provides the Council with any materially misleading or inaccurate information;
      9. the Delivery Partner commits or committed a Prohibited Act;
      10. any member of the governing body, employee or volunteer of the Delivery Partner has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) has taken any actions which, in the reasonable opinion of the Council, bring or are likely to bring the Council’s, the GGF or DLUHC’s name or reputation into disrepute;
      11. the Delivery Partner ceases to operate for any reason, or passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purposes of a bona fide and solvent reconstruction or amalgamation);
      12. the Delivery Partner becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
      13. the Delivery Partner fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within such time period imposed by the Council;
      14. the Council determines that any amount of the Grant has been unduly paid;
      15. the Grant or any portion thereof is either not paid or is claw-backed by the GGF or DHLUC in the event that the GGF or DLUHC determines that the Project is deemed or is likely to constitute unlawful state aid;
      16. the Delivery Partner uses the Grant to pay for any activity which is already being funded through existing grant funding agreements, service level agreements or service contracts with the Council or any third party, except where additional numbers of Eligible Participants can be supported as a result of the Grant;
      17. the Delivery Partner fails to respond to reasonable requests made by the Council to seeking for the Delivery Partner to engage with it or third parties in order to establish added value within the Project Activities delivered.
   2. Where the Council requires the Delivery Partner to repay any amount of the Grant under this Agreement (including, without limitation, under clause 7.15), the Delivery Partner shall repay the amount concerned within 10 Working Days of receiving the demand for repayment. If the Delivery Partner fails to meet such a demand, then the Council shall be entitled to enforce such demand as a contractual debt.
   3. the Council may recover the amount of Grant concerned by withholding or deducting the amount from any sum due from the Council to the Delivery Partner under this Agreement (including, without limitation, under clause 7.15 or any other agreement for the support of any other project or activities by the GGF, or any other agreement with the Council.
   4. The Grant may be reduced where the GGF or DLUHC decides there is a decommitment of SPF Resources.
   5. The Council may require interest to be paid on any amount repayable by the Delivery Partner.
   6. If the Council exercises its rights under clause 12 to cease making Grant payments then it shall give written notice, to the Delivery Partner that it is ceasing to make payment of the Grant and from the date of such notice the Council shall cease to be under any obligation to pay the amount of Grant to the Delivery Partner under this Agreement. For the avoidance of doubt, the Council shall pay all Eligible Expenditure incurred by the Delivery Partner prior to the date of such notice, which is included in a claim and which meets the requirements of clause 7.
   7. Should the Delivery Partner be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement or the Funding Agreement it will notify the Council as soon as possible so that, if possible, and without creating any legal obligation, the Council will have an opportunity to provide assistance in resolving the problem or to take action to protect the Council and the Grant monies.
6. Reduction in Grant for underperformance
   1. Where the Council, or the GGF, determines that the Delivery Partner has underperformed against the Targets to such a degree that a reduction in the Grant may be made in accordance with the underperformance weightings and methodology set out in Schedule 7 of this Agreement.
   2. In the event that the Council or the GGF determines that the Delivery Partner has underperformed it shall give the Delivery Partner written notice specifying the Targets it has underperformed against and shall provide the Delivery Partner with an opportunity to rectify that underperformance within such time period that the Council shall determine is reasonable and shall be set out in the written notice (or such extended period that the Council shall thereafter determine).
   3. The written notice referred to in clause 13.2 may include a requirement for the Delivery Partner to provide specified information to the Council to assist them in determining whether the underperformance has been rectified to its satisfaction.
   4. Where the rectification of the underperformance requires a Change in the project, the procedure under clause 16 shall be followed.
   5. Where the Delivery Partner fails to rectify the underperformance to the Council’s or the GGF’s satisfaction within the specified time period, the Council may, by written notice to the Delivery Partner, reduce the amount of Grant allocated to the Project by an amount calculated in accordance with the underperformance weightings and methodology set out in Schedule 7 of the Funding Agreement.
   6. Where the amount of the Grant is reduced under this clause, the Council shall either require the Delivery Partner to repay to the Council or the GGF the whole or any part of the amount of Grant previously paid to the Delivery Partner and/or shall offset it from a future Grant Claim, as appropriate.
7. Commencement and duration

14.1 This Agreement shall commence on the Commencement Date. The Agreement shall continue in force until the parties have discharged all their obligations under it unless:

* + 1. the Funding Agreement is terminated for any reason, in which case this Agreement shall terminate on the termination date of the Funding Agreement, without further action being necessary by the parties, and subject to all the rights of the parties accrued up to the date of termination; or
    2. this Agreement is terminated by one of the parties under clause 19.

1. Accounting Records, Supporting Evidence and Audit
   1. In addition to the obligations set out in the Funding Agreement the Delivery Partner shall provide regular reports including:
      1. Evidence that all staff employed, or any subcontractors or other third parties engaged to work on the Project have received the appropriate checks including (without limitation) ID and DBS checks and the right to work in the United Kingdom;
      2. That the minimum level of training for all staff employed, or any subcontractors or other third parties engaged to work on the Project has been completed and evidenced, including (without limitation) training covering:
         1. Safeguarding;
         2. Equality and diversity;
         3. Data protection;
         4. Information Governance;
         5. Health and Safety (including lone working);
         6. Sustainability.
      3. Any other matter which is reasonably requested by the Council in relation to the Project.
2. Changes to the Project
   1. Any Change must be approved by the Council and the GGF prior to the relevant Change being deemed to be effective. The Delivery Partner shall request the Change in writing. The Council will, acting reasonably, endeavour to agree to the change request or reject the change request within 30 days of the date of the Change request.
   2. Until such time as a Change is made in accordance with this clause, the parties shall, unless otherwise agreed in writing, continue to perform this Agreement and the Funding Agreement in compliance with its terms before such Change.
3. Withdrawal / Consequences of termination
   1. The Delivery Partner agrees that it shall not withdraw from the Project or make any attempts to terminate this Agreement, without first raising the matter through the Dispute Resolution Procedure in clause 18.
   2. If the issue cannot be resolved through the Dispute Resolution Procedure, then the Delivery Partner may serve notice to withdraw from the Project and terminate the Agreement. Termination shall not take effect for a period of three months from the date of the Delivery Partner’s notice, unless the parties agree to shorter notice.
   3. The Delivery Partner agrees that it shall co-operate fully and provide any assistance necessary to the Council and the other delivery partners (including providing support to a new delivery partner) to ensure that the ability of the Council to meet its obligations under the Funding Agreement is not jeopardised.
   4. Following the termination of this Agreement, the parties will co-operate with each other in regard to the Council’s audit and compliance obligations.
4. Dispute Resolution
   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 Agreement in relation to this Agreement the matter should first be referred for resolution to the Council’s Head of Skills Development or any other individual nominated by the Council from time to time.
   2. Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Project Manager or other nominated individual, as the case may be, either party may refer the matter to the Head of Corporate Services of the Council and the Chief Executive of the Delivery Partner with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Council and the Delivery Partner.
   3. In the absence of agreement under clause 18.2 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.
5. Termination
   1. Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, the Council may terminate this agreement, at any time, on the provision of three months’ written notice. The Delivery Partner may terminate this Agreement on the provision of three months’ notice to the Council. In such circumstances, the Council shall only be liable to reimburse the Delivery Partner for all Eligible Expenditure incurred up to the point of termination and will not be liable for any other losses which may have incurred as a result of termination.
   2. The Council may terminate this Agreement with immediate effect by giving written notice to the Delivery Partner party if:
      1. the Delivery Partner commits a breach of any material term of this Agreement or Material Breach of the Funding Agreement ;
      2. The Delivery Partner commits an Event of Default;
      3. the Delivery Partner suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
      4. the Delivery Partner commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
      5. the Delivery Partner applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986; or
      6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Delivery Partner (being a company);
      7. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Delivery Partner (being a company);
      8. the holder of a qualifying floating charge over the assets of the Delivery Partner (being a company) has become entitled to appoint or has appointed an administrative receiver;
      9. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
      10. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
      11. any event occurs, or proceeding is taken, with respect of the Delivery Partner in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 19.2(c) 19.2(c) to clause 19.2(j) (inclusive);
      12. the Delivery Partner suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
      13. the Delivery Partner’s financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy; or
      14. there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010);
      15. any warranty given in this Agreement is found to be untrue or misleading; or
      16. in the event that that the GGF or DLUHC has overcommitted funds and therefore has insufficient funds to meet the full commitments under the Funding Agreement.
6. Representations and Warranties
   1. In addition to the representations and warranties set out in the Funding Agreement (including without limitation clause 19), the Delivery Partner represents, warrants and agrees that:
      1. it has all the necessary resources, approvals, powers and expertise to deliver the Project as set out in this Agreement;
      2. all financial and other information disclosed to the Council, or any other Delivery Partner or the GGF, is true and accurate in all respects and it shall immediately inform the Council if it becomes aware that any of the information supplied by it has become untrue or misleading in any material respects. The Delivery Partner acknowledges that the Council has based its decision to engage the Delivery Partner in the Project upon the representations the Delivery Partner has made in its Expression of Interest and Application and in all documents and information provided as part of the appraisal process;
      3. the Grant received under this Agreement shall be used only in accordance with this Agreement and for the purposes determined by the GGF;
      4. it shall not make any significant change to the Project without the Council’s prior written consent;
      5. it shall not use the Grant to displace, supplement or duplicate services or activity, which the Delivery Partner is already being funded to deliver through other means, including as a result of contracts, service level agreements or grant funding provided by the Council or other publicly funded body;
      6. it shall endeavour to ensure that all Eligible Participants receive equal opportunities to access the Project Activities and no Eligible Participant is disadvantaged or excluded due to location within the Project area;
      7. not to spend any part of the Grant on the delivery of the Project after the Grant Period;
      8. it has not committed, nor shall it commit, any Prohibited Act;
      9. it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Council immediately of any significant departure from such legislation, codes or recommendations;
      10. it has and shall keep in place adequate systems to deal with any conflicts of interest;
      11. it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
      12. it is not subject to any contractual or other restriction imposed by its own or any other organisation’s rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations under this Agreement;
      13. it is not aware of anything in its own affairs, which it has not disclosed to the Council, which might reasonably have influenced the decision of the Council to pay the Grant on the terms contained in this Agreement;
      14. neither the Intellectual Property Rights nor any publication by the Council or the GGF of the Project related know-how will infringe, in whole or in part, any Intellectual Property Right of any other person and agrees to indemnify and hold the Council the GGF and the other delivery partners harmless against any and all claims, demands and proceedings arising directly or indirectly out of the Council’s or the GGF’s public or use of the Project related know-how, where this gives rise to or is alleged to give rise to an infringement of third party Intellectual Property Rights; and
      15. it shall, where applicable, comply with any applicable Procurement Laws (including the [Good Growth Procurement Policy](https://ciosgoodgrowth.com/our-good-growth-application-support/)) or UK Subsidy Control laws in relation to any subcontracting of its obligations under this Agreement.
7. Legislation, Procurement, Tendering and Subsidy Control Law
   1. The Delivery Partner shall comply with the legislation, procurement, tendering and UK Subsidy Control law requirements set out in clause 4 of the Funding Agreement which are relevant to its delivery of the Project Activities.
   2. The Delivery Partner must advise the Council at the point they make a decision to use a procured contact. The Delivery Partner shall comply with the Good Growth Procurement Policy (<https://ciosgoodgrowth.com/our-good-growth-application-support/>) when awarding each contract, and provide the Council and the GGF with assurances that the Delivery Partner is compliant with the Good Growth Procurement Policy. This includes confirmation as to whether the Delivery Partner is a Contracting or Non Contracting Authority. The Delivery Partner understands that costs included in a Project Claim will not be paid, unless all procurement documentation has been provided, and an assessment carried out by the GGF
   3. The Council has undertaken an evaluation of the Project, based on the information provided by all delivery partners and has concluded that the Grant for the Project Activities will not constitute a Subsidy (within the meaning set out in UK Subsidy Control laws). Should the portion of the Project delivered by the Delivery Partner be found to constitute an unlawful Subsidy, then the Council shall be permitted to reclaim that portion of the Grant awarded to the Delivery Partner in accordance with clause 21.4.
   4. A finding of Subsidy Control non-compliance in respect of the Project by a Court of competent jurisdiction may lead to the Council being ordered to repay the Grant with interest. To the extent that the Council are required to repay the Grant then it shall be entitled to reclaim such portion of the Grant paid to the Delivery Partner with interest. The Delivery Partner shall make any such repayment without undue delay.
   5. For the avoidance of doubt, the Delivery Partner shall not have any liability or be subject to any claw-back in respect of any breaches of this clause 21 of the other delivery partners.
8. Record Retention
   1. The Delivery Partner shall at all times during the term of this Agreement and for a minimum period of seven years thereafter:

keep secure and give to the Council or make available for inspection at any reasonable hour by the GGF, the internal auditors of the Cornwall Council, the Commissioner for Local Administration (Ombudsman), the Council’s External Auditor, or any of their representatives:

all original and copy records, documents, information, statements and papers which may be acquired or produced by the Recipient or by any sub-contractor in the performance of the Project;

such information and documentation as the Council may reasonably require in connection with the Project;

* + 1. ensure the maintenance of a clear and unambiguous audit trail at all times in accordance with good practice and the Good Growth Audit and Compliance Policy;
    2. meet any request by the Council for particulars about the Eligible Expenditure.
  1. Within 12 months of the commencement of this Agreement, the Council will notify the Delivery Partner of the exact documentation which it requires the Delivery Partner to provide to it, including any data which is retained on the CMS system, and details of how this documentation will be transferred to the Council. Following notification, the Delivery Partner shall, within the timescales agreed between the parties, provide such relevant documents (or where this is not possible, copies of such documents) to the Council.

1. Data Protection
   1. Both Parties will comply with all applicable requirements of and all of their obligations under the Data Protection Legislation which arise in connection with this Agreement and the Funding Agreement. This clauseis in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
   2. Without prejudice to the generality of clause 23.1, theDelivery Partner shall, in relation to any Personal Data processed in connection with the performance by the Delivery Partner of its obligations under this Agreement:
      1. process that Personal Data only on the documented written instructions of the Council, unless the Delivery Partner is required by Applicable Laws to otherwise process that Personal Data. Where the Delivery Partner is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, it shall promptly notify the Council of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Delivery Partner from notifying the Council;
      2. process the Personal Data to the extent, and in such manner, as is necessary for the provision of the Project Activities or as is required by any law or regulatory body;
      3. ensure that it has in place appropriate technical and organisational measures (as defined in the Data Protection Legislation), reviewed and approved by the Council, 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);
      4. enter into a Data Processing Agreement with the Council and the other delivery Partners, as set out in Schedule 8, in respect of the Participant Data (including Personal Data) to be entered into the Client Management System;
      5. enter into an Information Sharing Agreement with the other Delivery Partners as data processors, as set out in Schedule 9, in respect of the Participant Data (including Personal Data) to be entered into the Client Management System;
      6. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
         1. the Council or the Delivery Partner has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED 37) as determined by the Council;
         2. the Data Subject has enforceable rights and effective remedies;
         3. the Delivery Partner complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
         4. the Delivery Partner complies with the reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data.
      7. The Delivery Partner shall take reasonable steps to ensure the reliability and integrity of any of its personnel who have access to the Personal Data and ensure that they:
         1. are aware of and comply with the Delivery Partner’s duties under this clause;
         2. are subject to appropriate confidentiality undertakings with Delivery Partner or any sub-processor;
         3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to a third party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
         4. Have undergone adequate training un the use, care, protection and handling of Personal Data.
      8. The Delivery Partner shall notify the Council immediately if it receives:
         1. a request from a Data Subject to have access to that person’s Personal Data;
         2. a request to rectify, block or erase any personal Data; or
         3. It 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).
      9. The Delivery Partner shall assist the Council in responding to any request from a Data Subject and in ensuring compliance with the Council’s obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
      10. The Delivery Partner shall notify the Council without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Agreement; and
      11. The Delivery Partner shall maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Council or the Council’s designated auditor and immediately inform the Council if, in the opinion of the Delivery Partner, an instruction infringes the Data Protection Legislation.
   3. The Delivery Partner shall, before allowing any Sub-processor to process any Personal Data:
      1. notify the Council in writing of the intended processing by the Sub-processor;
      2. obtain prior written consent from the Council prior to the processing;
      3. enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause 19 such that they apply to that Sub-processor; and
      4. provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
   4. The Delivery Partner shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to the commencing any processing. Such assistance may, at the discretion of the Council, include:
      1. a systematic description of the envisaged processing operations and the purpose of the processing;
      2. an assessment of the necessity and proportionality of the processing operations in relation to the Project Activities; and
      3. an assessment of the risks to the rights and freedoms of the Data Subjects.
   5. The Delivery Partner shall provide the Council with full assistance in relation to either party’s obligations under the Data Protection Legislation and any complaint, communication or request made under this clause (and insofar as possible within the timescales reasonably required by the Council) including by promptly:
      1. providing the Council with full details and copies of the complaint, communication or request;
      2. providing such assistance as is reasonably required by the Council to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
      3. providing the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
      4. providing assistance as requested by the Council following a Data Loss Event;
      5. providing assistance as requested by the Council with respect to any request from the Information Commissioner’s Office, or any consultation by the Council with the Information Commissioner’s Office;
      6. providing the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of the Personal Data;
      7. providing a written description of the technical and organisational methods employed by the Delivery Partner for processing Personal Data (within the timescales required by the Council);
      8. providing, at the written request of the Council, delete or return Personal Data (and all copies of it) to the Council on the termination of this agreement unless the Delivery Partner is required by law to retain the Personal Data; and
      9. permitting the Council, or a representative of the Council, to inspect and audit (subject to reasonable and appropriate confidentiality undertakings), the Delivery Partner’s Data Processing activities (and/or those of its agents, subsidiaries and contractors) and comply with all reasonable requests or direction by the Council to enable the Council to verify and/or procure that the Delivery Partner is in full compliance with its obligations under this Agreement.
   6. The Delivery Partner shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way that would cause the Council to breach any of its obligations under the Data Protection Legislation.
   7. The Delivery Partner shall indemnify the Council against any Losses, damages, cost or expense it incurs arising from, or in connection with, any breach of the Delivery Partner’s obligations under this clause 23.
2. Intellectual Property
   1. The Delivery Partner shall indemnify the Council its employees, agents, officers or sub-contractors, the other delivery partners and their employees, agents, officers or sub-contractors (each an “Indemnified Party”) in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by an Indemnified Party arising out of or in connection with any claim brought against an Indemnified Party for actual or alleged infringement of a third party's Intellectual Property Rights.. arising out of, or in connection with, any materials produced by the Delivery Partner in the delivery of the Project.
   2. The Council and the Delivery Partners 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 Council or the Delivery Partner before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.
   3. Where the Council has provided the Delivery Partner with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Delivery Partner 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 the Council.
3. Confidential Information and Freedom of Information
   1. Subject to clause 25.2, each party shall during the term of this Agreement, and for a period of seven years thereafter, keep secret and confidential all Confidential Information or other business, technical or commercial information disclosed to it as a result of the 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 Agreement, or save as expressly authorised in writing by the other party.
   2. The obligation of confidentiality contained in this clause shall not apply or cease to apply to any Confidential Information or other business, technical or commercial information which:
      1. at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
      2. is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
      3. is at any time after the date of this 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.
   3. The Delivery Partner shall not, and shall procure that its personnel do not, use any of the Council’s or the GGF’s Confidential Information received otherwise than for the purpose of this Agreement and the Funding Agreement.
   4. The Delivery Partner consents to the Council or the GGF using and disclosing (including to the press) any techniques, ideas or know-how gained during the performance of the Project, this Agreement and/or the Funding Agreement. Where techniques, ideas or know-how relate to Delivery Partner IPR , the Council or GGF will consult the Delivery Partner for approval prior to any use or disclosure.
   5. The Delivery Partner acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs).
   6. The Delivery Partner shall:
      1. provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;
      2. transfer to the Council all requests for information relating to this agreement that it receives as soon as practicable and in any event within 5 Working Days of receipt;
      3. provide the Council with a copy of all information belonging to the Council requested in the request for information which is in its possession or control in the form that the Council requires within 10 Working Days (or such other period as the Council may reasonably specify) of the Council’s request for such information; and
      4. not respond directly to a request for information unless authorised in writing to do so by the Council.
   7. The Delivery Partner acknowledges that the Council may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the Delivery Partner. the Council shall take reasonable steps to notify the Delivery Partner of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practicable for it to do so but (notwithstanding any other provision in this Agreement) the Council shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs.
   8. Where the Delivery Partner is subject to the requirements of the FOIA and EIR then clauses 25.5 to 25.7 shall apply mutatis mutandis to the Council.
4. Insurance
   1. The Delivery Partner shall effect and maintain for the duration of the Funding Agreement, and for a period of 12 years thereafter, with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Delivery Partner, arising out of the Delivery Partner’s performance of the Agreement, or any other claims or demands which may be brought or made against it by any person suffering any injury, damage or loss in connection with the Project, including death or personal injury, loss of or damage to property or any other loss (the Required Insurances).
   2. The Required Insurances referred to above include (but are not limited to):
      1. 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
      2. 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.
   3. The Delivery Partner shall (on request) supply to the Council a copy of such insurance policies and evidence that the relevant premiums have been paid.
5. Human Rights and Modern Slavery

Human Rights

* 1. The Delivery Partner 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 Delivery Partner were a public body (as defined in the Human Rights Act 1998).
  2. The Delivery Partner shall undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998.

Modern Slavery

* 1. In performing its obligations under this Agreement, the Delivery Partner shall:
     1. 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;
     2. not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;
     3. include in contracts with its direct subcontractors and suppliers’ provisions which are at least as onerous as those set out in this clause;
     4. notify the Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement; and
     5. maintain adequate records to demonstrate its compliance under this clause.
  2. The Delivery Partner represents and warrants that it has not been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.
  3. The Council may terminate the agreement with immediate effect by giving written notice to the Delivery Partner if the Delivery Partner commits a breach of this clause.

1. Publicity
   1. The Delivery Partner and the Council shall comply with the Branding and Publicity Guidance set out at Schedule 3 to the Funding Agreement
   2. The Delivery Partner shall comply all applicable Good Growth guidance including <https://ciosgoodgrowth.com/our-good-growth-application-support/> and any accompanying notes in place from time to time.
   3. The Delivery Partner will send all proposed public facing documentation to the Council for approval before releasing to the wider public in order to ensure material is compliant with Good Growth publicity guidance and consistent with the messages being issued in the name of the Project. This includes but is not limited to press releases, promotional material, job adverts for posts funded through the Project.
   4. The Delivery Partner will refer to “Cornwall and the Isles of Scilly People Hub” in the branding of publicly facing documentation and not abbreviate the Project in such documentation.
   5. The Council will hold and manage the Project budget for marketing and promotional activity. The Delivery Partner shall not instruct or initiate promotional or marketing activity for the Project, where such activity requires Project funding, without prior written agreement from the Council.
2. Assignment

29.1 The Delivery Partner shall not, without the prior written consent of the Council, assign its rights under this agreement or charge the benefit of this agreement or novate the rights and liabilities of this Agreement to a third party.

29.2 The Council may assign any or all of its rights under this Agreement or charge the benefit of this agreement or novate the rights and liabilities of this agreement to a Group company upon the provision of written notice of the assignment to the Delivery Partner.

1. Counterparts
   1. This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.
   2. No counterpart shall be effective until each party has delivered to the other at least one executed counterpart.
2. Third party rights

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

1. No partnership or agency
   1. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
   2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
2. Conflict
   1. If there is any conflict between Schedule 1 and the other clauses and Schedules of this Agreement, the other clauses and schedules of this Agreement shall take precedence.
3. Survival
   1. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after the termination or expiry of this Agreement shall remain in full force and effect.
   2. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.
4. Governing law

This 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 and Wales.

1. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into on the date stated at the beginning of it.

|  |  |
| --- | --- |
| Signed for and on behalf of  The Cornwall Council | ....................  Authorised signatory  Print Name: |
|  |
| Signed for and on behalf of | ....................  Director |
| Print Name: |
| ……………..  Witness |
|  | Print Name: |

1. - The Funding Agreement

Attached separately.

1. - Project Specific Conditions

**Project Description**

A total of £6m has been identified by Cornwall Council in its Good Growth Investment Plan for “Coordinated People and Skills Support”. The project forms part of the Good Growth Programme’s People and Skills element, which provides support to individual residents of Cornwall and the Isles of Scilly.

The project will be known as the Cornwall and Isles of Scilly People Hub.

The project will provide a single “front door”, employment and skills support service for any resident in Cornwall and the Isles of Scilly who is aged 16 years old or over. Examples will include supporting new employment, progressing new skills and training as well as facilitating volunteering and/or work placements.

The project will be managed by Cornwall Council through its People Hub team, which is part of Economy and Skills Service.

CC will be delivering part of the overall project through Delivery Partners that will form a partnership of expertise and IAG support where an individual calls the People Hub and the triage identifies that one of the nominated Client Groups is relevant.

More specifically delivery partners will:

* + Help an individual define their needs and co-produce Action Plans in order to help achieve GGF Intervention Outputs and Outcomes;
  + Arrange support where identified to help with specific barriers;
  + Utilise support funds as part of the project to eliminate or reduce barriers to outcomes;
  + Continually review and support a participant’s progress towards a positive outcome.

Geographical coverage

All Delivery Partners must offer its service to eligible residents throughout Cornwall and the Isles of Scilly.

Milestones

|  |  |
| --- | --- |
| **Event** | **Date** |
| Commencement Date | 01/11/2023 |
| Project delivery commences | 01/01/2024 |
| Project Practical Completion Date | 28/02/2025 |
| Project Financial Completion Date | 31/03/2025 |

**Delivery Partners**

|  |  |
| --- | --- |
| **Client Group** | **Specialist Provider** |
| Mental Health | Pentreath |
| Learning Disabilities | Pluss CIC |
| Physical Disability | Cornwall Marine Network |
| Neurodiversity | Stay At Home Ltd |
| All health categories | Cornwall Partnership NHS Foundation Trust |
| Parent Carers | Cornwall Neighbourhoods for Change |
| Homelessness | St Petrocs |
| Refugees | Education Development Trust |
| Ex Offenders | Konnect Communities CIC |
| Veterans | Active Plus |
| All categories | Smart Working Revolution |

Additionality

The Delivery Partner needs to ensure that the project activities delivered under this Agreement do not duplicate any existing services already offered to eligible participants by the Council or other third party.

In addition, the Delivery Partner cannot use the GGF to supplement or fund activities which it already delivers. The GGF is for activity which adds value to mainstream funded provision, Council services and other employment and skills programmes.

The Delivery Partner will work with the Council’s Contract Management team to actively establish and strengthen links to other services and activities, in order to ensure added value and provide the best result for residents of Cornwall and the Isles of Scilly.

**Schedule 3 – Mandatory Policies**

The Delivery Partner is required to maintain and shall comply with the following policies:

* Anti-bribery and Anti-corruption Policy
* Modern Slavery and Human Trafficking Policy
* Health and Safety Policy
* Equality and Diversity Policy
* Safeguarding Children, Young People and Vulnerable Adults policy or policies
* Environmental and Sustainability Policy
* Data and Privacy Policy
* Corporate and Social Responsibility Policy
* Procurement Policy (which as a minimum must be compliant with SPF requirements)
* Ethics Policy
* Customer Care Policy (or equivalent which details customer complaints procedures)
* Publicity Guidance – <https://ciosgoodgrowth.com/our-good-growth-application-support/>

Where the Delivery Partner does not have its own policy covering a certain Mandatory Policy then it shall comply with the relevant policy of the Council, as amended from time to time.

The Delivery Partner may be required to show evidence of one or more policies to ensure compliance throughout the Project.

Schedule 4– Budget

Attached separately.

Schedule 5 – Financial Report / Claims deadlines

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
|  |  | No later than 5th working day following month end | Last working day following quarter end |
| Monthly Claim | Period End Date | Delivery Partner Claim Submission | Lead Partner Submission to Good Growth |
| Nov-23 | 30/11/2023 | As per Jan 2024 | As per Jan 2024 |
| Dec-23 | 31/12/2023 | As per Jan 2024 | As per Jan 2024 |
| Jan-24 | 31/01/2024 | 07/02/2024 | 29/02/2024 |
| Feb-24 | 29/02/2024 | 08/03/2024 | 31/03/2024 |
| Mar-24 | 31/03/2024 | 08/04/2024 | 30/04/2024 |
| Apr-24 | 30/04/2024 | 08/05/2024 | 31/05/2024 |
| May-24 | 31/05/2024 | 07/06/2024 | 30/06/2024 |
| Jun-24 | 30/06/2024 | 05/07/2024 | 31/07/2024 |
| Jul-24 | 31/07/2024 | 07/08/2024 | 31/08/2024 |
| Aug-24 | 31/08/2024 | 06/09/2024 | 30/09/2024 |
| Sep-24 | 30/09/2024 | 07/10/2024 | 31/10/2024 |
| Oct-24 | 31/10/2024 | 07/11/2024 | 30/11/2024 |
| Nov-24 | 30/11/2024 | 06/12/2024 | 31/12/2024 |
| Dec-24 | 31/12/2024 | 09/01/2025 | 31/01/2025 |
| Jan-25 | 31/01/2025 | 07/02/2025 | 28/02/2025 |
| Feb-25 | 28/02/2025 | 08/03/2024 | 31/03/2025 |
| Mar-25 | 31/03/2025 | 07/04/2025 | 30/04/2025 |

Schedule 6 – Output/Outcome Profile

Attached separately.

Schedule 7 – Underperformance methodology

Attached separately.

Schedule 8 – Data Processing Agreement

Attached separately.

Schedule 9 – Information Sharing Agreement

Attached separately.