

**DATED**

**23<sup>rd</sup> November 2023**

**(1) WEST NORTHAMPTONSHIRE COUNCIL**

**(2) NGAGE SOLUTIONS LIMITED**

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**UK SHARED PROSPERITY FUND AND RURAL ENGLAND  
PROSPERITY FUND**

**BACK-TO-BACK AGREEMENT**

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**Business Support (Non-Financial) Services**

This project is funded by the UK government through the UK Shared Prosperity Fund

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**BETWEEN:-**

- (1) **WEST NORTHAMPTONSHIRE COUNCIL** of One Angel Square, Angel Street, Northampton NN1 1ED ("**the Accountable Body**");
- (2) **NGAGE SOLUTIONS LTD** of Claydon House, 1 Edison Road, Rabans Lane Industrial Area, Aylesbury, HP19 8TE. Registration No. 04025356 ("**Delivery Partner**");
- together the "**Parties**" and each a "**Party**".

**RECITALS:**

- A. The Accountable Body submitted an investment plan to the Department for Levelling Up, Housing and Communities ("DLUHC") for funding from the UK Shared Prosperity Fund (UKSPF). The Rural England Prosperity Fund (the Rural Fund) is a top-up fund to the UK Shared Prosperity Fund for eligible rural areas to support activities that specifically address the challenges rural areas face.
- B. The Accountable Body has entered into a Memorandum of Understanding (the "**MOU**") with DLUHC (as set out in Schedule 2 (*MOU*)) in relation to the provision of UKSPF and REPF which has been awarded to the Accountable Body in response to the investment plan submitted.
- C. The overall programme to be funded by UKSPF is made up of Services which are to be provided by the Delivery Partner following its appointment.
- D. As well as delivering the Services, funded from UKSPF, Delivery Partner shall be responsible for administering Rural Grants funded from REPF and making awards of the same to Grant Recipients on behalf of the Accountable Body.
- E. The Parties wish to enter into this Agreement to set out the basis upon which the respective obligations and liabilities of the Parties in respect of the different workstreams under the MOU are to be managed and allocated between the Parties.

**IT IS HEREBY AGREED** as follows:-**1. DEFINITIONS AND GENERAL**

- 1.1 The expressions in this Agreement shall have the meanings more particularly identified in the MOU save where contained in Schedule 1 (*Definitions and Interpretation*).
- 1.2 The Delivery Partner confirms that the terms of the MOU have been read and understood fully.

**2. BACK-TO-BACK OBLIGATIONS**

- 2.1 In consideration of the Accountable Body entering into the MOU and having any liability as established by UKSPF Documents and in consideration for the Accountable Body making the Delivery Partner Funding available to the Delivery Partner under the terms of this Agreement, the Delivery Partner agrees to use all reasonable endeavours to procure that the Accountable Body can comply with all provisions and obligations relating to or impacting on the Services under UKSPF and the Rural Prosperity Fund Documents (including providing all necessary information and assistance in the format and within the timescales as are required by the Accountable Body and DLUHC).
- 2.2 Without prejudice the generality of Clause 2.1, in relation to the Services, the Delivery Partner shall:
- 2.2.1 use or procure the use of the Delivery Partner Funding for the purposes outlined in the investment plan and the MOU, to the extent that those purposes relate to the Services;
- 2.2.2 Deliver the Project Outputs and Outcomes set out in the investment Plan to the extent that these relate to the Services;

- 2.2.3 use or procure the use of the Delivery Partner Funding for revenue expenditure only;
  - 2.2.4 without prejudice to the generality of Clause 2.7, promptly provide any information necessarily required by the Accountable Body for the preparation and submission of each Monitoring Return and Statement of Grant Usage in the form required by DLUHC quarterly or as otherwise requested;
  - 2.2.5 provide any information required by the Accountable Body for the preparation of project, financial and risk reports to DLUHC, in the format requested by DLUHC and in good time to enable the Accountable Body to submit it to DLUHC within DLUHC's required timescales;
  - 2.2.6 notify the Accountable Body as soon as the Delivery Partner becomes aware that a change to the annual spending profile is or may be required in order to enable the Accountable Body to submit a change request;
  - 2.2.7 provide any information required by the Accountable Body for the submission of any change request;
  - 2.2.8 adhere to any guidance on publicity, branding and communication requirements associated with UK Shared Prosperity Fund projects as provided by DLUHC and as updated by DLUHC from time to time;
  - 2.2.9 seek to ensure from the beneficiary businesses that the Services the beneficiary businesses receive are compliant with the UK subsidy control regime, and where required by the Accountable Body and/or DLUHC provide evidence that the delivery of the Services continues to comply with the UK subsidy control regime as amended or updated from time to time.
- 2.3 Except as further provided in this agreement, the MOU shall be used to determine the respective rights and duties of the Accountable Body and the Delivery Partner under this agreement except that:
- 2.3.1 wherever in the MOU there is a reference to the DLUHC or a term referring to the DLUHC (e.g., "Secretary of State"), for the purposes of this agreement a reference to the Accountable Body or a term referring to the Accountable Body shall be substituted; and
  - 2.3.2 wherever in the MOU there is a reference to the Accountable Body or a term referring to the Accountable Body (e.g., "Lead Authority"), for the purposes of this agreement a reference to the Delivery Partner or a term referring to the Delivery Partner shall be substituted.
- 2.4 The Delivery Partner shall indemnify the Accountable Body against all losses, claims, demands, costs and expenses incurred or suffered by the Accountable Body including all claims for liquidated damages by the DLUHC against the Accountable Body as a result of entering into this agreement and the MOU.
- 2.5 The Accountable Body shall give to the Delivery Partner notice in writing as soon as possible after it becomes aware of any dispute between the Accountable Body and the DLUHC arising out of the MOU.
- 2.6 The Accountable Body shall not be under any obligation to provide the Delivery Partner Funding after the expiry of the Availability Period.
- 2.7 The Parties acknowledge that the Accountable Body is expected to provide to DLUHC information (including but not limited to data on inputs, outputs and outcomes, quarterly and six-monthly monitoring reports and a project level local evaluation as described in the investment plan) relating to the Services in accordance with clause 8 of the MOU (the "UKSPF Reporting, Monitoring and Performance Management requirements"). The Delivery Partner will provide all necessary information and assistance in the format and within the timescales as reasonably requested by the Accountable Body to enable the Accountable Body to comply with the UKSPF Reporting, Monitoring and Performance Management requirements and will collaborate with the Accountable Body and

DLUHC as required to comply with the UKSPF Reporting, Monitoring and Performance Management requirements.

- 2.8 Delivery Partner agrees to full transparency open book working with the Accountable Body and DLUHC in relation to the Services.
- 2.9 The Parties acknowledge that DLUHC may publish relevant data about the Services and may use it to inform public statements.
- 2.10 The Delivery Partner will support with the UKSPF: Assurances and Risk and the Local Authority Assurance Framework and will collaborate with the Accountable Body and DLUHC on assurance requirements relating to the Services. Where the Accountable Body is expected under clause 9 of the MOU to provide any written assurance to DLUHC, the Delivery Partner will provide information and assurances including where necessary assurance from the Delivery Partner's Chief Finance Officer or Finance Director in relation to the Services as required to enable the Accountable Body to give the required assurances to DLUHC.
- 2.11 The Delivery Partner will collaborate with the Accountable Body and DLUHC in respect of any DLUHC assurance requirements relating to the Services where required by DLUHC.
- 2.12 The Delivery Partner will comply with all its legal and statutory obligations and adhere to any relevant consents relating to the Services.
- 2.13 The Delivery Partner will comply with all obligations set out in the UKSPF Fraud Risk Assessment Guidance and will ensure that appropriate measures are put in place to mitigate against the risk of both fraud and payment error.
- 2.14 Each Party undertakes to cooperate in good faith with the other regarding all matters relating to the Services and the MOU.

### **3. PAYMENTS**

- 3.1 The amount of the Delivery Partner Funding is fixed, and the Council shall not be obliged to increase the Delivery Partner Funding in the event of any overspend by the Delivery Partner in its delivery of the Service
- 3.2 The Accountable Body's obligation to make any payment of the Delivery Partner Funding is conditional on:
  - 3.2.1 receipt of a valid claim form from the Delivery Partner in the form agreed by the parties from time to time and with accompanying evidence as reasonably required by the Accountable Body; and the Accountable Body receiving the equivalent amount of each instalment of Delivery Partner Funding from DLUHC.
- 3.3 Subject to the conditions set out in Clause 3.2, the Accountable Body will pay the Delivery Partner Funding in quarterly instalments.
- 3.4 The amount of each instalment of the Delivery Partner Funding paid to the Delivery Partner will be up to a maximum amount equal to the amount received by the Accountable Body from DLUHC in relation to the Services for the relevant quarterly period.
- 3.5 The Delivery Partner shall invoice the Accountable Body for payment of the Delivery Partner Funding at the time the Delivery Partner Funding are expressed to be payable in accordance with clause 3.3 above. All invoices shall be directed to the Head of Economic Growth and Inward Investment
- 3.6 The Accountable Body shall pay the Delivery Partner Funding which have become payable (in accordance with the Payment Plan) within thirty (30) days of receipt of an undisputed invoice from the Delivery Partner.

- 3.7 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 6. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of twenty-eight (28) days from the date that the dispute was brought to the attention of the Accountable Body or the date of the resolution of the dispute between the parties.
- 3.8 Subject to clause 3.6 interest shall be payable on the late payment of any undisputed Delivery Partner Funding properly invoiced under this agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Delivery Partner shall not suspend the supply of the Services if any payment is overdue.
- 3.9 The Delivery Partner Funding are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Accountable Body following delivery of a valid VAT invoice. The Delivery Partner shall indemnify the Accountable Body against any liability (including any interest, penalties or costs incurred) which is levied, demanded, or assessed on the Accountable Body at any time in respect of the Delivery Partner's failure to account for, or to pay, any VAT relating to payments made to the Delivery Partner under this agreement.
- 3.10 The Delivery Partner shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Accountable Body pursuant to this agreement. Such records shall be retained for inspection by the Accountable Body for six years from the end of the contract year to which the records relate. Records may be held electronically.
- 3.11 The Accountable Body may retain or set off any sums owed to it by the Delivery Partner which have fallen due and payable against any sums due to the Delivery Partner under this agreement, or any other agreement pursuant to which the Delivery Partner or any associated company of the Delivery Partner provides goods or services to the Accountable Body.
- 3.12 If the Accountable Body wishes to set off any amount owed by the Delivery Partner to the Accountable Body against any amount due to the Delivery Partner pursuant to clause 3.10 it shall give notice to the Delivery Partner within thirty (30) days of receipt of the relevant invoice, setting out the Accountable Body's reasons for withholding or retaining the relevant Delivery Partner Funding.
- 3.13 The Delivery Partner shall make any payments due to the Accountable Body without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Delivery Partner has a valid court order requiring an amount equal to such deduction to be paid by the Accountable Body to the Delivery Partner

#### **4. ADMINISTRATION OF RURAL GRANTS**

- 4.1 The Delivery Partner shall administer the Rural Grants on behalf of the Accountable Body:
- 4.1.1 with the highest level of care, skill and diligence in accordance with the best practice prevailing in the sector to which the services relate from time to time;
  - 4.1.2 in all respects in accordance with the Accountable Body's policies and UKSPF Documents;
  - 4.1.3 in compliance with all reasonable instructions provided by the Accountable Body; and
  - 4.1.4 in accordance with all applicable Laws from time to time in force.
- 4.2 The Delivery Partner shall provide copies of all MFA Declarations made by Grant Recipients to the Accountable Body.
- 4.3 The Delivery Partner shall ensure that only those Grant Recipients that meet the eligibility criteria are awarded Rural Grants.
- 4.4 The Delivery Partner shall ensure that a fair, transparent and non-discriminatory process shall be used for the award of the Rural Grants.

- 4.5 The Delivery Partner shall not provide the Rural Grant to the Grant Recipient unless the Grant Recipient and the Delivery Partner enters into a Grant Agreement
- 4.6 The Delivery Partner shall provide a quarterly report to the Accountable Body setting out the following details:
- 4.6.1 Number of eligible businesses/organisations participating and accessing services
  - 4.6.2 Rural Grants awarded (including details of who the Grant Recipients the nature of their business and how the Grant will be used)
- 4.7 Where the Delivery Partner exercises its right to clawback any Rural Grants under the respective Grant Agreement the Delivery Partner shall ensure that, if recovered, all clawback sums without any deduction are returned to the Accountable Body.
5. **VARIATION**
- 5.1 Any proposed variation to this Agreement which would require a change to the terms of the MOU or the Services details will be subject to approval by DLUHC under the change request process described in the MOU.
- 5.2 No variation of this Agreement shall be effective unless made in writing and signed by or on behalf of each of the Parties.
6. **DISPUTES**
- 6.1 All disputes and differences arising out of or in connection with this Agreement (a "**Dispute**") shall be resolved in accordance with Clauses 6.2 to 6.4 below, and the Parties shall use their reasonable endeavours to resolve such Dispute amicably and in good faith.
- 6.2 Any Dispute shall, (within ten (10) Business Days of the dispute occurring or such other period as the Parties may both agree) be escalated to each Party's authorised representative/contract manager for resolution.
- 6.3 If such dispute is not resolved within ten (10) Business Days of being referred to the Delivery Board – to be confirmed, see above], such dispute shall be referred to senior officers of the Parties (the "**Senior Officers**") for resolution as follows:
- 6.3.1 in the case of the Accountable Body, the relevant Service Director from time to time;
  - 6.3.2 in the case of Delivery Partner, the CEO from time to time; or
- in each case, to such other appropriate individuals as each Party shall respectively appoint in its sole discretion.
- 6.4 If the Dispute is not resolved by the Senior Officers within ten (10) Business Days of being referred, the Parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure.
7. **FREEDOM OF INFORMATION**
- 7.1 The Delivery Partner acknowledges that the Accountable Body is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 (**EIRs**).
- 7.2 The Delivery Partner shall:
- 7.2.1 provide all necessary assistance and cooperation as reasonably requested by the Accountable Body to enable the Accountable Body to comply with its obligations under the FOIA and EIRs;

- 7.2.2 transfer to the Accountable Body all requests for information relating to this agreement that it receives as soon as practicable and in any event within 2 working days of receipt;
  - 7.2.3 provide the Accountable Body with a copy of all information belonging to the Accountable Body requested in the request for information which is in its possession or control in the form that the Accountable Body requires within 5 working days (or such other period as the Accountable Body may reasonably specify) of the Accountable Body's request for such information; and
  - 7.2.4 not respond directly to a request for information unless authorised in writing to do so by the Accountable Body.
- 7.3 The Delivery Partner acknowledges that the Accountable Body may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the Delivery Partner. The Accountable Body 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 practical for it to do so but (notwithstanding any other provision in this agreement) the Accountable Body 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. **CONFIDENTIALITY**
- 8.1 Each Party recognises that under this Agreement it may receive Confidential Information belonging to the other.
  - 8.2 Each Party agrees to treat all Confidential Information belonging to the other as confidential and not to disclose such Confidential Information or any other confidential information relating to the Services arising or coming to its attention during the currency of this Agreement to any third party without the prior written consent of the other Party and agrees not to use such Confidential Information for any purpose other than that for which it is supplied.
  - 8.3 The obligations of confidence referred to in this Clause 8 will not apply to any Confidential Information which:
    - 8.3.1 is in, or which comes into, the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information; or
    - 8.3.2 is obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; or
    - 8.3.3 is lawfully in the possession of the other Party before the date of this Agreement and in respect of which that Party is not under an existing obligation of confidentiality; or
    - 8.3.4 is independently developed without access to the Confidential Information of the other Party.
  - 8.4 Each Party will be permitted to disclose Confidential Information to the extent that it is required to do so:
    - 8.4.1 to enable the disclosing party to perform its obligations under this Agreement or the wider funding arrangements with DLUHC in relation to other workstreams; or
    - 8.4.2 by any applicable law or by a court, arbitral or administrative tribunal in the course of proceedings before it including without limitation any requirement for disclosure under the FOIA and the EIR; or



8.4.3 by any regulatory body (including any investment exchange) acting in the course of proceedings before it or acting in the course of its duties; or

8.4.4 in order to give proper instructions to any professional adviser of that Party who also has an obligation to keep any such Confidential Information confidential.

8.5 Delivery Partner will ensure (subject to confirmation by its Data Protection Officer that any such material can be lawfully shared whether as Controller or Processor) that data can be shared for the prevention and detection of fraud and will include the following wording in substantive form in all agreements with companies or external entities in relation to the Services:

8.6 Data may be shared with other enforcement agencies for the prevention and detection of crime.

## 9. **ASSIGNMENT AND SUB-CONTRACTING**

9.1 Subject to clause 9.2 neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this agreement without the prior written consent of the other party, neither may the Delivery Partner sub-contract the whole or any part of its obligations under this Agreement without the Accountable Body's prior written consent.

9.2 The Accountable Body shall be entitled to novate the agreement to any other body which substantially performs any of the functions that previously had been performed by the Accountable Body or to any other body which the Accountable Body nominates.

## 10. **BREACH OF THE FUNDING ARRANGEMENTS BETWEEN THE ACCOUNTABLE BODY AND DLUHC**

10.1 The Parties acknowledge that any claim arising as a result of a breach of this Agreement may amount to a breach of the funding arrangements between the Accountable Body and DLUHC and any losses, liability or claims flowing from a breach of those funding arrangements are reasonably foreseeable losses within the contemplation of the Parties in entering into this Agreement.

10.2 Where:

10.2.1 there is a breach or default in the funding arrangements between the Accountable Body and DLUHC in relation to the Services ("**UKSPF Breach**"); or

10.2.2 there is a reduction in the UKSPF Grant under the MOU ("**UKSPF Reduction**"); or

10.2.3 the UKSPF Grant is not fully spent and recovered or recoverable (or is likely to be not fully spent or recoverable) in accordance with the MOU by the end of the Availability Period ("**UKSPF Underspend**");

the Parties shall work together in good faith to find a resolution to the issues which have caused the UKSPF Breach, UKSPF Reduction and/or UKSPF Underspend (as applicable) and to reduce or mitigate any adverse impacts arising from the UKSPF Breach, UKSPF Reduction and/or UKSPF Underspend.

10.3 Where the funding in respect of a Services is found by DLUHC or another body with competent legal jurisdiction to constitute Unlawful Subsidy and is not capable of being restructured so as to be compliant (and subject to the outcome of any legal challenge to the repayment requirement) then the Delivery Partner must repay any sum of Unlawful Subsidy to the extent that any repayment is required by DLUHC or such other competent body with powers to order repayment.

10.4 Nothing contained in this Agreement will restrict either Party's liability for death or personal injury resulting from any act, omission or negligence of that Party or its officers, agents, employees or sub-contractors.

10.5 Nothing contained in this Clause 10 will limit either Party's liability for fraud or fraudulent misrepresentation.

11. **DURATION AND TERMINATION**

- 11.1 This Agreement shall commence on the Commencement Date and unless terminated earlier, shall expire on the Expiry Date.

12. **SUBSIDY CONTROL**

- 12.1 The parties confirm that they have each independently reviewed the position regarding the subsidy control regime and believe that payment of the Delivery Partner Funding provided is lawful within the terms of the Subsidy Control Act 2022. If there is a successful legal challenge, governmental or other body with jurisdictional powers rules that the subsidy provided is unlawful, the Recipient undertakes that it may be liable to repay all or some of the Delivery Partner Funding on request.
- 12.2 The Delivery Partner acknowledges that will ensure that the Rural Grants and use of those grants do not breach any applicable subsidy control regime.
- 12.3 To minimise the risk that a court of competent jurisdiction requires grant funding to be repaid, the Delivery Partner will:
- 12.3.1 Comply with any applicable subsidy control regime in its provision of the Rural Grants.
  - 12.3.2 Obtain and retain all declarations and information as may be required to enable the Delivery Partner, Grant Recipient and the Accountable Body to comply with any applicable subsidy control regime, and to provide copies of such declarations and information to the Accountable Body when required to do so.

13. **INSURANCES**

- 13.1 The Delivery Partner shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:
- 13.1.1 public liability insurance with a limit of indemnity of not less than £5,000,000.00 in respect of any one incident and the number of incidents covered shall be unlimited and should be adequate to cover all risks in the performance of the Services;
  - 13.1.2 employer's liability insurance with a limit of indemnity of not less than £5,000,000.00 in respect of one incident and the number of incidents covered shall be unlimited;
  - 13.1.3 professional indemnity insurance with a limit of indemnity of not less than £2,000,000.00 in respect of any one incident and the number of incidents covered shall be unlimited. The Delivery Partner shall ensure that all professional consultants or sub-contractors involved in the provision of the Services hold and maintain appropriate cover;

(the **Required Insurances**). The cover shall be in respect of all risks which may be incurred by the Delivery Partner, arising out of the Delivery Partner performance of the agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Delivery Partner.

- 13.2 The Delivery Partner shall give the Accountable Body, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

- 13.3 If, for whatever reason, the Delivery Partner fails to give effect to and maintain the Required Insurances, the Accountable Body may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Delivery Partner.
- 13.4 The terms of any insurance or the amount of cover shall not relieve the Delivery Partner of any liabilities under the agreement.
- 13.5 The Delivery Partner shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the agreement.

14. **DATA PROTECTION**

- 14.1 Both Parties will comply with all applicable requirements of and all their obligations under the Data Protection Legislation which arise in connection with the Agreement and where applicable comply with the requirements of Schedule 4.

15. **NO PARTNERSHIP/AGENCY**

- 15.1 Nothing in this Agreement is intended to create a partnership between the Parties, or to authorise either Party to act as agent for the other. Except where expressly so stated in this Agreement neither Party will have authority to act in the name or on behalf of or otherwise to bind the other.

16. **NOTICES**

- 16.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally or sent by pre-paid first-class post or recorded delivery or commercial courier to the Party required to receive the notice as set out below:

the Accountable Body: One Angel Square, Angel Street, Northampton NN1 1ED

Attention: Vicky Hlomuka

Delivery Partner: Ngage Solutions Ltd of Claydon House, 1 Edison Road, Rabans Lane Industrial Area, Aylesbury, HP19 8TE. Registration No. 04025356

Attention: Philippa Batting

or as otherwise specified by the relevant Party by notice in writing to the other Party.

- 16.2 Any notice shall be deemed to have been duly received: -
- 16.2.1 if delivered personally, when left at the address and for the contact referred to in this Clause; or
- 16.2.2 if sent by pre-paid first-class post or recorded delivery, three (3) days after posting exclusive of the day of posting; or
- 16.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 16.3 The provisions of this Clause 16 shall not apply to the service of any proceedings or other documents in any legal action.

17. **PREVENTION OF BRIBERY**

17.1 For the purposes of this Clause 17 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and guidance published under it.

17.2 The Parties shall each ensure that it and each person referred to in Clauses 17.3.1 to 17.3.3 (inclusive) does not, by any act or omission, place the other Party in breach of any Bribery Laws.

17.3 Each Party shall comply with all applicable Bribery Laws, ensure that it has in place adequate procedures to prevent any breach of this Clause 17 and ensure that:

17.3.1 all of its personnel and all direct and indirect subcontractors of that Party;

17.3.2 all others associated with that Party; and

17.3.3 each person employed by or acting for or on behalf of any of those persons referred to in Clauses 17.3.1 and/or 17.3.2,

involved with this Agreement so comply.

17.4 Without limitation to Clause 17.3, each Party shall not in connection with this Agreement make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage, or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere, and will implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.

17.5 Each Party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this Clause 17.

18. **WAIVER**

18.1 Failure of any Party to enforce or exercise, at any time or for any period, any term of this Agreement, does not constitute, and shall not be construed as, a waiver of such term and shall not affect any future right to enforce such term or any other term in this Agreement.

19. **GOVERNING LAW AND JURISDICTION**

19.1 This Agreement, and the relationship between the Parties, shall be governed by the laws of England, and each Party agrees that all disputes arising out of or in connection with this Agreement, and/or with its negotiation, validity or enforceability, and/or the relationship between the Parties, (in each case whether or not regarded as contractual claims) shall be exclusively governed by and determined in accordance with English law.

19.2 Each Party expressly submits to the exclusive jurisdiction of the English Courts.

20. **SEVERANCE**

20.1 If any provision of this Agreement is held to be unenforceable or illegal, in whole or in part, such provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall remain unaffected.

21. **ENTIRE AGREEMENT**

21.1 This Agreement constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes any previous agreement between the Parties relating to such matters.

21.2 Each of the Parties represents and agrees that in entering this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether

negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Each of the Parties gives up any rights against the other regarding any warranty or representation except in respect of any warranty or representation expressly made in this Agreement. No Party shall be entitled to rescind (except for fraudulent misrepresentation).

- 21.3 Except for those expressly set out in this Agreement, all warranties, conditions, representations and undertakings (including without limitation any and all warranties, conditions, representations and undertakings implied by statute, common law or otherwise) are excluded to the fullest extent permitted by law.

22. **SURVIVAL**

- 22.1 Provisions of this Agreement which are either expressed to survive its termination or, from their nature or context, are apparently intended to survive such termination shall remain in full force and effect notwithstanding termination.

23. **FURTHER ASSURANCE**

- 23.1 Each Party will at the request of the other Party at its own cost do (or use its reasonable endeavours to ensure that others do) everything necessary to give the other the full benefit of this Agreement.

24. **RIGHTS OF THIRD PARTIES**

- 24.1 No term of this Agreement is intended to confer a benefit on, or be enforceable by, any person who is not a party to the Agreement (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise).

25. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts each of which when executed and delivered shall be deemed to be an original, but all the counterparts together shall constitute one and the same agreement.

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

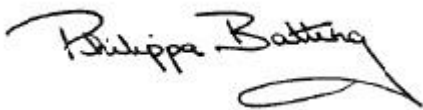
EXECUTED as a DEED by affixing  
THE COMMON SEAL of  
WEST NORTHAMTONSHIRE COUNCIL  
in the presence of and attested  
by:

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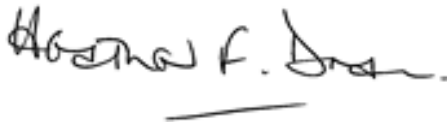


Authorised Officer

**EXECUTED as a DEED by**  
**Ngage Solutions Ltd**  
acting by two Directors or a Director and its  
Secretary:



Director



Director/Secretary

## SCHEDULE 1

### DEFINITIONS AND INTERPRETATION

0. In this Agreement the following words and expressions have the following meanings unless the context otherwise requires:-

<b>"Accountable Body's Representative"</b>	means the Head of Economic Growth and Inward Investment or such other replacement as notified to the Delivery Partner
<b>"Availability Period"</b>	means the period commencing from the Commencement Date until the Expiry Date
<b>"Bribery Laws"</b>	means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to bribery or corruption
<b>"Business Days"</b>	means any day other than a Saturday or Sunday or a bank or public holiday in England
<b>"CEDR Model Mediation Procedure"</b>	means the model mediation procedure of the Centre for Effective Dispute Resolution as amended, updated or replaced from time to time
<b>"CFO Assurance Letter"</b>	means the letter to be submitted by the Accountable Body to DLUHC as part of the funding arrangements between the Accountable Body and DLUHC
<b>"Commencement Date"</b>	[ 23 November 2023 ]
<b>"Confidential Information"</b>	means all information relating to the existence or terms of this Agreement in respect of which a Party becomes aware in its capacity as a party to this Agreement or which is received by that party in relation to this Agreement (including all financial information provided by another Party) from another Party or any of its advisors or from any third party if the information was obtained by that third party directly (including any viability information provided as part of a planning application where there is consent from the third party to share that information) or indirectly from another Party or any of its advisors in whatever form (including information given orally and any document electronic file or other means of recording or representing information which includes derives or is copied from such information;
<b>"Dispute"</b>	has the meaning given in Clause 6.1
<b>"DLUHC Assurance Requirements"</b>	means the activity and requirements described in clause 9.2 of the MOU

<b>“Delivery Funding”</b>	<b>Partner</b>	means such element of the UKSPF Grant which relates to the Services up to a maximum aggregate amount of £ 99,000
<b>"EIR"</b>		means the Environmental Information Regulations 2004
<b>“Expiry Date”</b>		31 March 2025
<b>“Fraud Risk Assessment Guidance”</b>		means the fraud risk assessment guidance provided by DLUHC as updated or amended from time to time
<b>"FOIA"</b>		means the Freedom of Information Act 2000
<b>“Grant Agreement”</b>		means an agreement (the form of which shall be agreed between the Parties) to be entered into between the Delivery Partner and Grant Recipients in relation to the Rural Grants
<b>“Grant Recipients”</b>		Means the organisations that will be awarded the Rural Prosperity Grant by the Delivery Partner on behalf of the Accountable Body
<b>Investment Plan</b>		means the application submitted by the Accountable Body in relation to the UKSPF Grant and approved by DLUHC
<b>“Law”</b>		means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body.
<b>“UKSPF Breach”</b>		has the meaning given to it in Clause 10.2.1
<b>“UKSPF Delivery Board”</b>		means the board established to oversee the delivery of the projects funded by the UKSPF Grant
<b>“UKSPF Grant”</b>		means the funding awarded to the Accountable Body by DLUHC under the terms of the MOU
<b>“UKSPF Documents”</b>		means the MOU and any other documentation entered into with or issued by the Accountable Body to DLUHC in relation to the UKSPF Grant including but not limited to the S151 Declaration and each Statement of Grant Usage Form
<b>“MFA Declaration”</b>		means confirmation made by Grant Recipients to the Delivery Partners that in accordance with section 37 (2) (c) of the Subsidy Control Act the Rural Grants comply with the ‘Minimum Financial Assistance’ criteria.



<b>“MOU”</b>	means the memorandum of understanding entered into between the Accountable Body and DLUHC in relation to the UKSPF Grant as amended or updated or replaced or extended in accordance with its terms
<b>“Rural Grants”</b>	means the funding awarded to the Grant Recipients by the Delivery Partner under the terms of the Grant Agreement from the Rural Grant Fund, such individual awards shall be no more than a maximum amount of £100,000 to each Grant Recipient
<b>“Rural Grant Fund”</b>	means the total sum of £820,722 that has been allocated for the delivery of part of the Investment Plan by the Grant Recipients
<b>UKSPF Reporting, Monitoring and Performance Management requirements</b>	has the meaning given to it in Clause 2.8
<b>“Monitoring Return”</b>	means the monitoring form which the Accountable Body must submit to DLUHC under the terms of the MOU
<b>“Recipient Party”</b>	means a Party in receipt of or coming into possession of Confidential Information
<b>“Services”</b>	means the business support (non-financial services) services and activities as specified under Schedule 3
<b>“S151 Declaration”</b>	means the declaration signed by the Accountable Body's Section 151 Officer and submitted with the Bid
<b>“Statement of Grant Usage Form”</b>	means the form submitted by the Accountable Body in order to claim an instalment of UKSPF Grant under the terms of the MOU
<b>“Unlawful Subsidy”</b>	means any subsidy which does not comply with the requirements of the Subsidy Control Act 2022
<b>“UK GDPR”</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018

1. Any defined terms in this Agreement which do not have an associated definition in paragraph one of this schedule shall be construed as having the same meaning as the equivalent defined term in the MOU.
2. The masculine includes the feminine and vice versa.

3. The singular includes the plural and vice versa.
4. Any reference in this Agreement to any condition, sub-condition, paragraph, Schedule, Annexure or section heading is, except where it is expressly stated to the contrary, a reference to such condition, sub-condition, paragraph, Schedule, Annexure or section heading of this Agreement.
5. Any reference to this Agreement or to any other document shall include (except where expressly stated otherwise) any variation, amendment or supplement to such document to the extent that such variation, amendment or supplement is not prohibited under the terms of this Agreement.
6. Any reference to any enactment, order, regulation, determination or similar instrument shall (except where expressly stated otherwise) be construed as a reference to the enactment, order, regulation, determination or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted.
7. A reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees.
8. Headings are for convenience of reference only.
9. A time of day shall be a reference to London time.
10. A party means a party to this Agreement.
11. The words includes or including are to be construed without limitation.
12. A document in the agreed form is to be the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties) or in the form set out in a Schedule to this Agreement.
13. A paragraph in a Schedule shall be construed as references to a paragraph in that particular Schedule.
14. A deliberate act or omission of any person shall exclude acts or omissions which were within the contemplation of the parties or which were otherwise provided for in this Agreement.
15. An obligation to do anything includes an obligation to procure its being done.
16. Any restriction includes an obligation not to permit infringement of the restriction.
17. If there is any ambiguity or conflict between the implied terms and the express terms of this Agreement then the express terms shall prevail.

## **SCHEDULE 2**

### **MOU**

#### **MEMORANDUM OF UNDERSTANDING**

**Between**

**The Secretary of State for Levelling Up, Housing and Communities**

**-and-**

**West Northamptonshire Council**

#### **1. Purpose**

1.1. This Memorandum of Understanding (MOU) sets out the terms that will apply to the relationship between the Secretary of State for Levelling Up, Housing and Communities (the Secretary of State) and West Northamptonshire Council (the Lead Local Authority) regarding the administration and delivery of the UK Shared Prosperity Fund (UKSPF).

1.2. This MOU will be for the period April 2023 to March 2025. Changes will be made only where signatories deem it necessary.

1.3. The MOU sets out the universal fund wide conditions and expectations for appropriate spend of the UKSPF allocations, including the core allocations in England Scotland and Wales, Multiply allocations in Scotland and Wales, and REPF allocations in England.

1.4. This MOU is not intended to create legal or binding obligations. It describes the understanding between both parties for the use of funding specified in section 3 of this agreement.

#### **2. Background**

2.1. The UKSPF was launched on the 13 April 2022. The Secretary of State has signed-off the Lead Local Authority's investment plan. The Secretary of State for the Environment, Food and Rural Affairs has signed-off eligible Local Authorities' Rural England Prosperity Fund (REPF) addenda. References to the investment plan within this MOU mean the UKSPF investment plan, together with the Defra approved REPF addendum.

2.2. This MOU covers the funding commitments from the Secretary of State and the delivery, financial expenditure, agreed milestones, reporting and evaluation, communications and branding expectations between the Parties and the steps the Secretary of State could take in the event of underperformance if required.

2.3. The Secretary of State has published guidance on the delivery of the UKSPF, referred to in this document as the UKSPF Additional Information. References to the UKSPF Additional Information includes any updates that may be published from time to time. The Secretary of State will notify the Lead Local Authority of any changes to the Additional Information and, if necessary, provide guidance on how changes are to be managed.

#### **3. Purpose of the Funding**

3.1. The core UKSPF allocation remains as set out in the published UKSPF allocations and is being provided to deliver the Fund's priorities, outputs and outcomes as set out in the investment plan and accompanying expenditure and deliverables spreadsheets agreed by the Secretary of State or subsequently agreed by the Secretary of State as per section 9.

3.2. The REPF allocation remains as set out in the published REPF allocations and is being provided to deliver the Fund's priorities, outputs and outcomes as set out in the investment plan addendum agreed by the Secretary of State for the Environment, Food and Rural Affairs.

3.3. Funding should be used to meet the costs of implementing your investment plan. The Lead Local Authority can make changes to the investment plan agreed by the Secretary of State. The scale, type and process for making changes is set out in published guidance.

3.4. Details of the annual funding allocation for both UKSPF and REPF, broken down into capital and revenue funding, will be confirmed in the annual grant determinations.

#### **4. Reporting**

4.1 As part of the delegated delivery model, the Lead Local Authority will provide 'light touch' reporting on UKSPF and REPF funding, as set out in the UKSPF Additional Information.

4.2 To comply with World Trade Organization (WTO) reporting obligations, local authorities must follow guidance on WTO rules and reporting requirements in respect of support for agricultural producers.

#### **5. Financial Arrangements**

5.1. The agreed funds will be issued to the Lead Local Authority as grant payments under Section 50 of the United Kingdom Internal Markets Act 2020 ('UKIM').

5.2. Payment of the funding for 2023-2024 will be made after investment plans have been agreed and this MoU is signed.

5.3. Grant Determination Letters (GDL) will be provided following confirmation of the annual payment for each year until 2025.

5.4. The Lead Local Authority will provide regular reporting using the process established by the Secretary of State and set out in the UKSPF Additional Information demonstrating expenditure and that outputs and outcomes are being met in line with the original investment plan, or investment plan amended under section 9. Or failing that, there is a realistic plan to address underperformance.

5.5. Funding for the years 2023-2024 and 2024-2025 will be paid annually provided that the information provided under paragraph 5.4 demonstrates delivery of forecast outputs, outcomes and spend for the previous financial year have been met, or failing that, there is a realistic plan to address underperformance.

5.6. UKSPF and REPF capital grant funding, as set out in grant determinations, may be used only for capital expenditure.

5.7. UKSPF revenue grant funding may be used for revenue or capital expenditure, in line with the Lead Local Authority's accounting practices

5.8. Release of payments for the financial year 2023-24 and 2024-2025 is dependent on the submission of a Statement of Grant Usage for 2022-23 and 2023-2024 spend and corresponding reporting and monitoring returns, signed by a S151 Officer (appointed under the Local Government Act 1972) or S95 Officer (appointed under the Local Government (Scotland) Act 1973)

5.9. This information will be taken into consideration by the Secretary of State before subsequent payments to the Lead Local Authority are finalised and paid. The Secretary of State reserves the right to reduce payments or withhold payments where there are concerns over delivery.

5.10. The Secretary of State retains the right to withhold annual instalments until receipt of credible plans demonstrating revised delivery to achieve expected targets. This might include requirements that set out how the Lead Local Authority will utilise underspends in the next year and/or appropriate milestones and spend have been achieved for the previous year.

5.11. Further to this, if the Secretary of State has concerns around future spending plans based on the experience of local delivery to date, or wider financial issues or governance affecting delivery then the Secretary of State may pay in instalments or withhold future funding.

5.12. In the circumstance that the Lead Local Authority is a Combined Authority or is managing the distribution of UKSPF and REPF funding to a group of other local authorities, where a member of the Combined Authority or the local authority group becomes subject to a S114 Notice of the Local Government Finance Act 1988 or Statutory Commissioner Intervention of the Local Government Act 1999, the Lead Local Authority will be responsible for decisions on how funds aligned to such a member Authority are controlled and utilised.

5.13. No funding will be provided for activity after 31 March 2025. The Lead Local Authority must have spent all grant funding i.e. be able to include funding within the 2024-2025 accounts by the end of the funding period, 31 March 2025. Underspends in the final year of the programme will need to be repaid to the Secretary of State.

5.14. In accordance with the declaration signed by the Lead Local Authority's Section 151 (appointed under the Local Government Act 1972) or S95 Officer (appointed under the Local Government (Scotland) Act 1973) as part of the investment plan, the Lead Local Authority accepts responsibility for meeting any costs over and above the Secretary of State's contribution, agreed in the annual grant determination. This includes potential cost overruns and the underwriting of any funding contributions expected from third parties.

## **6. Additional conditions and expectations for Rural England Prosperity Fund (REPF) allocations**

6.1 The REPF is a rural top-up to UKSPF allocations in eligible Local Authorities in England, for the period April 2023 to March 2025. REPF funds are to be treated in the same way as other UKSPF funding under this MOU, with the following additional conditions and expectations.

6.2 The REPF allocation will be included as capital funding in the Lead Local Authority's annual Grant Determination. As set out in paragraph 5.6 capital funding must be used only for capital expenditure. REPF funding cannot be spent on administration of the REPF. UKSPF revenue funding can be used to meet administration costs associated with REPF. The lead local authority will ensure that recipients of REPF funding utilise it for capital expenditure.

6.3 As set out in the REPF prospectus, the REPF allocation may be used only to fund projects in rural areas. To facilitate a consistent approach, Defra has provided information on boundaries via the MAGIC maps application. Lead Local Authorities should refer to MAGIC maps to determine which places are deemed a rural area for REPF purposes.

6.4 The Lead Local Authority is expected to maintain ongoing engagement with rural business and community stakeholders throughout the lifetime of the REPF to ensure the delivery of the Fund responds to local rural needs and opportunities.

6.5 UKSPF (including REPF) funding in rural areas must not duplicate funding from Defra schemes including, but not limited to:

The Farming in Protected Landscapes Programme (FIPL)

The Farming Investment Fund (FIF)

The Platinum Jubilee Village Hall Improvement Grant Fund

## **7. Branding and Communication**

7.1. The Secretary of State has provided the Lead Local Authority with guidance on the Branding and Communication associated with UKSPF projects in the UKSPF Additional Information.

7.2. The Parties agree to adhere to the guidance and any updates subsequently released by the Secretary of State or HMG on communications linked to UKSPF or wider levelling up funding.

7.3. The Lead Local Authority should publish information regarding the delivery of the UKSPF in its area e.g. by publishing a summary of the investment plan, including the investment proposed in the REPF addendum, and activities being funded in the area.

## **8. Evaluation**

8.1. Monitoring and Evaluation will be carried out as set out in UKSPF Additional Information.

8.2. The Lead Local Authority will support evaluation through capturing and providing relevant data and engaging with place and intervention level evaluations as stated within the UKSPF Additional Information.

This will include but is not exclusive to the following main evaluation requirements:

8.2.1 Continuous monitoring and evaluation of progress aligned to the deliverables stated within the UKSPF Investment Plan submitted by the Lead Local Authority and approved by the Secretary of State;

8.2.2 Engaging with our evaluation partners to collect and provide additional quantitative data as required to support, where relevant, intervention and place-specific evaluations

8.3 As set out in the UKSPF Additional Information the Lead Local Authority is encouraged to undertake its own place-based evaluations of how the UKSPF has worked in their area, particularly process evaluation on individual projects, alongside any place-based case studies commissioned by DLUHC. For those Lead Local Authorities with large allocations, DLUHC requires a robust evaluation to support the centrally coordinated evaluation.

8.4 The Lead Local Authority agrees to undertake these activities using the administration costs for the Fund.

## **9. Assurance**

9.1. The Secretary of State has set out the approach to assurance for the UKSPF in the UKSPF Additional Information.

9.2. The Lead Local Authority is expected to have the necessary governance and assurance arrangements in place and that all legal and other statutory obligations and consents will be adhered to. The Lead Local Authority will provide the Secretary of State with the following via UKSPF reporting:

9.2.1. Details of the checks that the Chief Finance Officer has taken to assure themselves that the Lead Local Authority has in place the processes that ensure proper administration of financial affairs relating to their UKSPF allocation.

9.2.2. Confirmation that the Lead Local Authority has applied management controls that:

mitigate the risk of fraud;

ensure funding has been used in accordance with UK subsidy control legislation;

ensure funding has been used in accordance with World Trade Organization rules in respect of support for agricultural producers

ensure that any procurement undertaken by a Contracting Authority using UKSPF and REPF funds has complied with public procurement rules;

ensure compliance with its statutory obligations under the Public Sector Equality Duty; and

ensure that any personal data obtained in connection with UKSPF activities is handled in compliance with the Data Protection Act 2018.

9.3 As part of the first monitoring return (provided in May 2023) the Lead Local Authority will provide a summary statement of how it is:

mitigating the risk of fraud;

ensuring funding has been used in accordance with UK subsidy control legislation; and

ensuring that any procurement undertaken by a Contracting Authority using UKSPF funds has complied with public procurement rules.

The Lead Local Authority will respond directly to questions addressing the local delivery of UKSPF and REPF and cooperate with the Secretary of State in any inquiries regarding the delivery of the UKSPF.

9.4 On an annual basis the Lead Local Authority will complete and return the templated Statement of Grant Usage letter.

## **10 Changes to agreed Investment Plan**

10.1. The Lead Local Authority will notify the Secretary of State of any proposed non-material changes to the investment plan through the regular monitoring returns.

10.2. The Lead Local Authority will submit a change request if a change constitutes “A Material Change” as set out in the UKSPF Additional Information.

10.3. Requests for material changes can be made to the Secretary of State as and when required. A template will be provided for the Lead Local Authority to use.

10.4. The Secretary of State recognises that not all change will meet the materiality threshold for a change request. However, the Lead Local Authority should report any change affecting the delivery of the funding as part of the usual reporting cycle. If the Lead Local Authority is not sure whether a change meets the materiality threshold they should consult with the Secretary of State for guidance.

10.5. All change requests must be signed off by the Lead Local Authority’s Section 151 (appointed under the Local Government Act 1972) or S95 Officer (appointed under the Local Government (Scotland) Act 1973) to testify that they are necessary and deliverable.

## **11. Compliance with the MOU**

11.1 The Parties to this MOU are responsible for ensuring that they have the necessary systems and appropriate resources in place within their respective organisations to comply fully with the requirements of this MOU.

## **12. Changes to the MOU**

12.1 The arrangements under this MOU will be kept under review. Amendments to this MOU may only be made upon written agreement between the Parties.

## **13. Resolution of Disputes**

13.1 Any dispute that may arise as to the interpretation or application of this MOU will be settled by consultation between the parties

**Signed on Behalf of the Lead Local Authority (by Chief Executive / Section 151 Officer):**

**Name: Martin Henry**

**Job Title: Executive Director of Finance (S151)**

**Date: 31st May 2023**

**Signed on Behalf of Secretary of State:**

**Name: Jessica Blakely/Carmen Suarez Garcia**

**Job Title: Directors: Levelling Up: Major Programmes**

**Date: 23 May 2023**



### **SCHEDULE 3**

#### **THE SERVICES**

1. To work with the Accountable Body to develop a set of eligibility criteria, application guidance, grant agreement, forms and process for delivering the REPF business grants scheme (Rural Grants) including the size of grants to be offered.
2. Deliver a series of workshops and provide 1:1 support where required to applicants of the fund – exploring the possibility of working with others in the rural sector to support this delivery
3. Working with the Accountable Body, promote and launch the scheme – including handling inbound enquiries, applications received and helping to market and promote the scheme.
4. Manage the application process on behalf of the Accountable Body – from initial enquiry / EOI to application received, right the way through to grant award, making payment, output collection (cradle to grave).
5. To provide all the business/output data to the Accountable Body when required – e.g., for quarterly monitoring and ensuring all the data is received by the council at the end of the programme.
6. Engage wider stakeholders with the grant scheme and help the Accountable Body create a grant panel to make decisions on the fund – including arranging the meetings / providing secretariat for the panels.
7. Provide a short evaluation report at the end of the programme on outputs, deliverables and programme success / lessons learnt.
8. Ensure compliance with UKSPF branding and publicity requirements, and ensure that grant recipients are also compliant see <https://www.gov.uk/government/publications/uk-shared-prosperity-fund-prospectus/uk-shared-prosperity-fund-prospectus#branding-and-publicity>

### Schedule 3

#### Delivery and Payment Plan

##### 1. Service Delivery and Administration (UKSPF)

<b>Activity</b> <i>In this column list the activities relating to delivery of services, indicating by quarter, the projected amount to be claimed</i>	<b>Nov – Dec 2023 (Q3)</b>	<b>Jan – Mar 2024 (Q4)</b>	<b>Apr – Jun 2024 (Q1)</b>	<b>Jul- Sep 2024 Q2)</b>	<b>Oct – Dec 2024 (Q3)</b>	<b>Jan – Mar 2025 (Q4)</b>	<b>TOTAL</b>
	£	£	£	£	£	£	
-	0	105,000	305,361	305,361	105,000	0	<b>820,722</b>
-	0	0	0	0	0	0	<b>0</b>
<b>Admin costs (including grant administration)</b>	12,675	16,725	17,400	17,400	17,400	17,400	<b>99,000</b>
<b>PROJECTED TOTAL CLAIM BY QUARTER</b>	<b>12,675</b>	<b>121,725</b>	<b>322,761</b>	<b>322,761</b>	<b>122,400</b>	<b>17,400</b>	<b>919,722</b>

#### Grant Management (REPF) (Assuming the average grant is £35,000)

<b>Activity</b> <i>In this column provide an initial projection of the <b>number of grants</b> to be awarded, and when.</i>	<b>Nov – Dec 2023 (Q3)</b>	<b>Jan – Mar 2024 (Q4)</b>	<b>Apr – Jun 2024 (Q1)</b>	<b>Jul- Sep 2024 Q2)</b>	<b>Oct – Dec 2024 (Q3)</b>	<b>Jan – Mar 2025 (Q4)</b>	<b>TOTAL</b>
1. Number of grants awarded	0	3	9	9	3	0	<b>24</b>

##### 1. Outputs

<b><u>Outputs</u></b> <i>In this column provide an initial projection of the outputs listed below.</i>	<b>Nov – Dec 2023 (Q3)</b>	<b>Jan – Mar 2024 (Q4)</b>	<b>Apr – Jun 2024 (Q1)</b>	<b>Jul- Sep 2024 Q2)</b>	<b>Oct – Dec 2024 (Q3)</b>	<b>Jan – Mar 2025 (Q4)</b>	<b>TOTAL</b>
Number of businesses receiving financial support other than grants	-	-	-	-	-	-	-
Number of businesses receiving non-financial support	0	3	9	9	3	0	<b>24</b>
Jobs Created (projected at the time of grant award)	0	5	12	12	4	0	<b>33</b>
Jobs Safeguarded (projected at the time of grant award)	0	5	16	16	5	0	<b>42</b>

## **SCHEDULE 4**

### **Data Processing**

#### **1. Data Processing**

##### **1.1 The following definitions apply in this Agreement:**

1.1.1 Appropriate Safeguards, Appropriate Technical and Organisational Measures, Accountable Body, Data Portability, Data Subject, Personal Data Breach, Restriction of Processing and Supervisory Authority all have the meanings given to them in the Data Protection Legislation.

1.1.2 Data Protection Legislation means the Data Protection Act 2018 as amended, updated and re-enacted from time to time, the EC Directive on the protection of individuals with regard to the Processing of personal data and on the free movement of such data (95/46/EC), the UK General Data Protection Regulation (Regulation) and all local laws or regulations giving effect to the Directive and Regulation (as any such legislation, directive or regulation may be amended, extended or re- enacted).

1.1.3 Personal Data means personal data, as defined in the Data Protection Legislation, which is being processed under this Agreement.

1.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 1.2 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

1.3 The parties acknowledge that the Accountable Body and Delivery Partner are Joint Data Controllers. Appendix 1 sets out the scope, nature, and purpose of processing by the Delivery Partner.

1.4 The Delivery Partner will only process Personal Data in accordance with the written instructions of the Accountable Body unless required to do so by law.

1.5 Without prejudice to clause 1.2, the Accountable Body will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Personal Data to the Delivery Partner for the duration and purposes of this Agreement.

1.6 The Accountable Body warrants and represents that all Data Subjects have given their consent to the transfer of their Personal Data and Sensitive Personal Data by the Accountable Body to the Delivery Partner in order for the Delivery Partner to provide the services, which shall include the transfer of Personal Data and Sensitive Personal Data to third party providers of services.

1.7 The Delivery Partner's aggregate liability to the Accountable Body under this Agreement for all losses, damages, costs, claims and expenses howsoever arising shall not exceed the limit of the amount due by the Accountable Body to the Delivery Partner (paid or payable) for the Services provided under this Agreement.

- 1.8 The Delivery Partner will not use a Sub-Processor without prior specific or general written authorisation from the Accountable Body.
- 1.9 If the Accountable Body gives prior specific or general written authorisation for the Delivery Partner to use a Sub-Processor, the following will apply:
  - 1.9.1 the Delivery Partner must notify the Accountable Body of any changes to Sub-Processors made under prior general written authorisation and must allow the Accountable Body a reasonable time to object to those changes;
  - 1.9.2 the Delivery Partner must impose such contract terms on the Sub-Processor as are required by the Data Protection Legislation, especially but not exclusively, those contract terms required under Article 28.3 of the GDPR; and
  - 1.9.3 the Delivery Partner will remain liable to the Accountable Body for any acts or omissions of the sub-Processor.
- 1.10 The Delivery Partner will not transfer the Personal Data outside of the European Economic Area (**EEA**) unless the Delivery Partner has obtained the prior written consent of the Accountable Body and:
  - 1.10.1 the Accountable Body has provided Appropriate Safeguards (as defined in Article 46(2) of the GDPR) in relation to the transfer;
  - 1.10.2 the Data Subjects whose Personal Data will be transferred have enforceable rights and effective legal remedies; and
  - 1.10.3 the Delivery Partner can provide an adequate level of protection to any Personal Data that is transferred.
- 1.11 The Delivery Partner will put in place Appropriate Technical and Organisational Measures to:
  - 1.11.1 protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, the Personal Data; and
  - 1.11.2 allow the Accountable Body to meet its obligations to Data Subjects, including but not limited to:
    - 1.11.2.1 rectification or erasure of Personal Data;
    - 1.11.2.2 Restriction Of Processing of Personal Data;
    - 1.11.2.3 Data Portability; and
    - 1.11.2.4 prompt response to Subject Access Requests.
- 1.12 The Delivery Partner will obtain a commitment of confidentiality from anyone it allows to process the Personal Data, including but not limited to:

- 1.12.1 the Delivery Partner's employees, agents, officers and affiliates;
  - 1.12.2 Agency or temporary workers; or
  - 1.12.3 Sub-contractors or Sub-Processors.
- 1.13 The Delivery Partner must assist the Accountable Body, so far as possible and taking into account the nature of the processing under this Agreement and the information available to the Delivery Partner, in meeting the Accountable Body's obligations under the Data Protection Legislation, including but not limited to:
- 1.13.1 the obligation to keep Personal Data secure;
  - 1.13.2 the obligation to notify Personal Data Breaches to the Supervisory Authority;
  - 1.13.3 the obligation to advise Data Subjects where there has been a Personal Data Breach;
  - 1.13.4 the obligation to carry out data protection impact assessments; and
  - 1.13.5 the obligation to consult with the Supervisory Authority where a data protection impact assessments indicates an unmitigated high risk to the processing activities under this Agreement.
- 1.14 The Delivery Partner will:
- 1.14.1 retain all information required to demonstrate that the Delivery Partner and the Accountable Body have met their obligations under the Data Protection Legislation;
  - 1.14.2 submit and contribute to audits and inspections carried out by the Accountable Body or a third-party appointed by the Accountable Body to carry out such audits or inspections. The Accountable Body will provide reasonable written notice of the date of inspections or audits;
  - 1.14.3 inform the Accountable Body immediately if the Delivery Partner believes or suspects that it has been given an instruction that does not comply with the Data Protection Legislation; and
  - 1.14.4 notify the Accountable Body immediately if the Delivery Partner becomes aware of or reasonably suspects a Personal Data Breach.
- 1.15 On termination or expiry of this Agreement the Delivery Partner shall, at the choice of the Accountable Body, delete or return all Personal Data and copies thereof it has within its power, ownership or control (except where otherwise required by law to retain such copies).
- 1.15.1 the Delivery Partner shall ensure that any return is carried out securely and in accordance with current best practice.
  - 1.15.2 the Delivery Partner shall ensure that any deletion is carried out securely and in

accordance with current best practice.

## Appendix 1 – Data Processing Schedule

### Part 1 – Processing by the Delivery Partner

1. The **Scope** of the processing will encompass receiving the Personal Data from the Accountable Body or otherwise being provided with access to the Personal Data by the Accountable Body, storing temporarily, organising or otherwise filing the Personal Data, comparing the Personal Data to data obtained from other sources, collating the Personal Data in an organised and transportable form.
2. The **Nature** of the processing will be, collection, recording, structuring, storage, organised filing, access, retrieval, consultation, use, disclosure by transmission, alignment and combination of the Personal Data.
3. The Personal Data was collected and will be processed for the following **Purpose**:
  - 3.1 Delivering the Project.
4. The **Duration** of the Processing under this Agreement will be from the commencement of this Agreement, until its termination.

### Part 2 – Types of Personal Data

1. The **Types** of Personal Data processed under this Agreement will be business and contact name, email, address, VAT number or UTR, telephone number, bank details business incorporation date, number of employees, turnover.

### Part 3 – Categories of Data Subject

1. The **Categories** of Data Subject whose Personal Data will be processed under this Agreement will be client businesses.



