

DATED

DEED OF GRANT AGREEMENT

between

LEICESTER CITY COUNCIL

on behalf of Leicester and Leicestershire Enterprise Partnership and

[NAME OF RECIPIENT]

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DRAFT

THIS DEED is dated [DATE]

PARTIES

- (1) [LEICESTER CITY COUNCIL of City Hall, 115 Charles Street, Leicester, LE1 1FZ as accountable body for and on behalf of the LEICESTER & LEICESTERSHIRE ENTERPRISE PARTNERSHIP LIMITED] (**Funder**).
- (2) [NAME OF RECIPIENT], [RELEVANT DETAILS OF LEGAL STRUCTURE] whose principal address is at [ADDRESS] (**Recipient**).

BACKGROUND

- (A) The Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project as identified in Schedule 1
- (B) This Agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient.
- (C) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.
- (D) Both Parties acknowledge that this Agreement relates solely to the Grant and any funding over and above the Grant is outside the scope of this Agreement.
- (E) [The Recipient will be responsible for all downstream partner and contracting relationships as pertains to the Project including ensuring that all Delivery Partners adhere to and act at all times in accordance with this Agreement where required.

AGREED TERMS

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings:

Agreement: this contract;

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Business Case: means the basis on which project funding is approved and as set out in Schedule 1

Commencement Date: means the date of this Agreement.

Contractor Personnel: means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement

Controller, Processor, Data Subject, Personal Data, Personal Data Breach Data Protection Officer take the meaning given in the GDPR.

Data Protection Legislation: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 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;

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Contractor 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 Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: Data Protection Act 2018

[Delivery Partners: means the organisations work with the [Recipient] on the Project, including those identified in [Schedule 1]

GDPR: the General Data Protection Regulation (*Regulation (EU) 2016/679*)

[Governing Body: the governing body of the Recipient including its [directors and /or trustees] OR [Officers]

Grant: the sum of £ [AMOUNT] to be paid to the Recipient in accordance with this Agreement.

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending on [DATE BY WHICH THE GRANT MUST BE SPENT].

Grant Panel: means the LLEP body that reviews applications for grant funding and manages ongoing funding programmes/projects

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

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply;

LED: Law Enforcement Directive (*Directive (EU) 2016/680*)

LLEP Board: means is the body that will oversee the implementation of the LLEP programme

Match Funding: means the contribution made by the Recipient to the Project details of which are provided in Schedule [X]

Milestones: are the milestones as set out in Schedule [X]

Other Funding: includes funds received by the Recipient which are provided for the purpose (whether in part or in full) of funding the Project, such funding may include contributions towards the Project secured by a planning agreement made pursuant to s106 of the Town and Country Planning Act 1990 and/or project development funding, received for the advancement of existing projects through the completion of necessary development work.

Party: a Party to this Agreement

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Prohibited Act: means:

- (a) offering, giving or agreeing to give to any servant of the Funder any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Funder; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Funder;
- (b) entering into this Agreement or any other contract with the Funder where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;
- (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Funder ; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

Project: the project described in Schedule 1

Project Manager: the individuals respectively who have been nominated to represent the Funder and Recipient for the purposes of this Agreement, the first such person being

Repurposed Growing Places Funding: capital pot of funding from which the LLEP has repurposed up to £1.685 m to support recovery of the local economy agreed as part of the Economic Recovery plan.

State Aid Rules: means those rules embodied in Article 107-109 of Section 2, Title VII of the Common Rules on Competition, Taxation and Approximation of Laws Consolidated version of the Treaty on European Union and TFEU (2008/C 115/01) and any subordinate legislation made from time to time under the Treaty on Functioning of the European Union and any guidance issued from time to time by the Commission of the European Union under the Treaty

Sub-processor: any third Party appointed to process Personal Data on behalf of the Recipient related to this Agreement

Term: means the later of either period from the date of this Agreement to a date which is 10 (ten) years from the date of the last payment of the Grant to the Recipient under this Agreement or a period of 10 (ten) years from the date on which the Recipient fully expends the Grant.

Total Funding: means the Grant and Match Funding.

Working Day: means any day which is a Monday to Friday excluding public bank holidays in England.

2. PURPOSE OF GRANT

- 2.1 The Recipient shall use the Grant only for the delivery of the Project in line with the Business Case, Milestones and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 2.2 The Recipient shall not make any significant change to the Project without the Funder's prior written agreement, such agreement being subject to any required approval from the project manager.
- 2.3 Not use the Grant to pay for any expenditure commitments of the Recipient entered into before the Commencement Date nor for any liabilities arising at the end of the Project including any redundancy liabilities.
- 2.4 Secure best value for money in all purchases of goods and service made for the purposes of the Project.

2.5 Where the Recipient intends to apply to a third party for other funding for the Project, it will notify the Funder in advance of its intention to do so and, where such funding is obtained, it will provide the Funder with details of the amount and purpose of that funding. [The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of which the Grant is paid]

2.6 [The Grant may only be applied to [capital / revenue] expenditure, as in regulations under Section 11 of the Local Government Act 2003

2.7 The Grant may be used or applied for staffing costs and associated administration which directly relate to the Project. In the event there is a conflict as to the application of the Grant under this clause 2.7 the Funder shall determine such application at its absolute discretion.

3. PAYMENT OF GRANT

3.1 Subject to clause 13, the Funder shall pay the Grant to the Recipient [in quarterly instalments in arrears] in accordance with Schedule 2 and subject to the satisfactory achievement the Milestones against the Milestone Dates, subject to the necessary funds being available when payment falls due. All claims must be submitted using the grant claim form in Schedule [X], or other format as required by the LLEP

3.2 The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder has available funds. The Recipient acknowledges that funding for the period from [] to [] is dependent on:

- a) such funding being made available to the Funder at the date payment would be due; and
- b) the Recipient evidencing to the satisfaction of the Funder progress towards the delivery and completion of the Project; and

3.3 The payment of the Funding is conditional upon the Match Funding being committed towards the Project by the Recipient as detailed in Schedule X.

3.4 Should the Recipient fail or delay to provide an invoice within the stipulated time under clause 3.2 then the Funder may:

- (a) withhold payment; or
- (b) withhold payment if the payment of the invoice will go beyond the [Grant Period].

3.5 No Grant shall be paid unless and until the Funder is satisfied that such payment has been/will be used for proper expenditure in the delivery of the Project [and on achievement of the Milestones.]

Modifications

3.6(a) The Recipient may request modifications to the Grant payment pertaining to the Grant Period pertaining to the Grant Period which shall be subject to:

- (a) the Recipient submitting a supplementary business case to the Funder;
- (b) where modification has been requested: the Grant must be capable of modification/re-profiling within the Grant Period as shall be determined by the Funder;
- (c) where additional sums have been requested: surplus funds must be available in the Grant Period as shall be determined by the Funder;
- (d) the Funder approving the supplementary business case in clause 3.6 (a) through the approval process ; and
- (e) the parties entering into a further agreement or document as issued by the Funder.

3.6 The Grant Panel determine in its absolute discretion whether any request under clauses 3.6a can be met.

3.7 The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder is in receipt of funds.

3.8 The payment of the Grant is conditional upon the Match Funding being committed by the Recipient as detailed in Schedule 2

3.9 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.

4. CERTIFICATION BY THE [RECIPIENT'S] [SECTION 151 OFFICER/CHIEF FINANCIAL OFFICER / COMPANY SECRETARY]

4.1 [The Recipient's Section 151 Officer in the case of a local authority OR otherwise the Recipient's [chief financial officer / company secretary] is required to annually certify the following:

- (a) That the Grant allocated by the Funder has been applied for [capital / revenue purposes, as set out at Schedule [X.]
- (b) The value of Grant funds applied to the Project funded by the Funder.
- (c) The value of Match Funding spent by the Recipient

5. USE OF GRANT

- 5.1 The Grant shall be used by the Recipient for the delivery of the Project [with its Delivery Partners] in accordance with the Project description as set out in [Schedule 1], the Milestones as set out in [Schedule 2] and the agreed budget set out in [Schedule X]
- 5.2 Where the Recipient has obtained funding from a third party in relation to its delivery of the Project, the amount of such funding shall be included in the budget in [Schedule X] together with a clear description of what that funding shall be used for.
- 5.3 The Recipient shall not use the Grant to:
- (a) make any payment to members of its Governing Body;
 - (b) purchase buildings or land; or
 - (c) [pay for any expenditure commitments of the Recipient entered or incurred prior to the Commencement Date.as detailed in Schedule [X]]
- unless this has been approved in advance by the Funder in writing.
- 5.4 The Recipient shall not spend any part of the Grant on the delivery of the Project after the Grant Period unless the Grant has been defrayed or committed for expenditure in advance prior to the expiration of the Grant Period provided always such advanced committed expenditure has had prior approval of the Funder.
- 5.5 Any and all liabilities arising at the end of the Project including any redundancy liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient. There will be no additional funding available from the Funder for this purpose.

Anti-Lobbying

- 5.6 The Grant may not be used for payments that support activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action.
- 5.7 If the Recipient is uncertain whether an activity may contravene clause 5.7 above the Recipient shall seek advice from the Funder.
- 5.8 The Funder reserves the right to remove or amend or qualify clause 5.7 above.

6. ACCOUNTS AND RECORDS

- 6.1 The Grant shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds (where such a distinction is applicable to the Recipient's statutory accounting framework).

- 6.2 In accounting for the Grant, the Recipient can make use of their existing financial management systems, provided that the expenditure on the Project is separately identifiable and traceable.
- 6.3 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six years following receipt of any Grant monies to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 6.4 The Recipient shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

7. MONITORING AND REPORTING

- 7.1 The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to.
- 7.2 The Recipient shall [and shall ensure that its Delivery Partners shall] in comply with the monitoring and reporting requirement contained in Schedule [4].
- 7.3 The Recipient shall [and ensure that its Delivery Partners shall] promptly provide the Funder with all data, information and reports in such form and at such times as the Funder requests and the Recipient shall at all times allow the Funder access to premises and records for the purpose of reporting and or if required by any funding reporting requirement.
- 7.4 The Recipient shall [and its shall ensure that its Delivery Partners shall] on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 7.5 The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 7.6 The Recipient shall [and shall ensure that its Delivery Partners] permit any person authorised by the Funder for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable opinion, the Funder

considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.

7.7 The Recipient shall provide the Funder with a final report on completion of the Grant Period which shall confirm whether the Project has been successfully and properly completed.

7.8 In addition to this the Recipient shall provide measurable agreed outputs and outcomes as indicated in Schedule X beyond the Grant Period, failure to comply with this clause the Funder may require repayment of all or part of the Grant.]

7.9 The Recipient agrees to participate in any reasonable evaluation that the LLEP reasonably requires to assess the funding stream Fund including project achievement of outcomes as per Schedule [XX]

8. ACKNOWLEDGMENT AND PUBLICITY

8.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant.

8.2 The Recipient shall not publish any material referring to the Project or the Funder without the prior written agreement of the Funder. The Recipient shall acknowledge the support of the Funder in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by the Funder) shall include the Funder's name and logo (or any future name or logo adopted by the Funder) using the templates provided by the Funder from time to time.

8.3 In using the Funder's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by the Funder from time to time.

8.4 The Recipient agrees to participate in and co-operate with promotional activities (including case studies) relating to the Project that may be instigated and/or organised by the Funder.

8.5 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.

8.6 The Recipient shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Funder in its promotional and fundraising activities relating to the Project.

8.7 The Recipient shall comply with the Funder's communications protocol which can be found <https://www.llep.org.uk/about-us/about-the-llep/llep-communications/>

9. INTELLECTUAL PROPERTY RIGHTS

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

10. CONFIDENTIALITY

- 10.1 Subject to clause 11 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How 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.
- 10.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:
- (a) 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;
 - (b) 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
 - (c) 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.

11. FREEDOM OF INFORMATION

- 11.1 The Recipient acknowledge that the Funder is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and shall assist and co-operate with the Funder (at the Recipient's expense) to enable the Funder to comply with these information disclosure requirements.

- 11.2 Where a request for information held by the Recipient is submitted directly to the Funder the Recipient shall (at the Recipient's expense):
- (a) transfer the request for information to the [Funder as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - (b) provide the Funder with a copy of all information in its possession or power in the form that the Funder requires within five Working Days (or such other period as the Funder may specify) of the Funder requesting that information; and
 - (c) provide all necessary assistance as reasonably requested by the Funder to enable the Funder to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.
- 11.3 Where a request is the sole responsibility of either the Funder the party subject to the request shall be responsible for determining at its absolute discretion whether the information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
 - (b) is to be disclosed in response to a request for information, and in no event shall the other party respond directly to a request for information unless expressly authorised to do so by the party to whom the request relates.
- 11.4 In no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Funder
- 11.5 The Recipient acknowledges that the Funder may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:
- (a) without consulting with the Recipient; or
 - (b) following consultation with the Recipient and having taken its views into account,

provided always that where clause 11.5 (b) applies the Funder shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Recipient advanced notice, or failing that, to draw the disclosure to the Recipient's attention after any such disclosure.

- 11.6 The Recipient shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Funder OR

other party to inspect such records as requested from time to time upon reasonable notice being given.

12. DATA PROTECTION

12.1 The parties acknowledge that for the purposes of the Data Protection Legislation, the Funder is the Controller and the Recipient is the Processor. The only processing that the Recipient is authorised to do is listed in Schedule 9 by the Funder and may not be determined by the Recipient.

12.2 The Recipient shall notify the Funder immediately if it considers that any of the Funder's instructions infringe the Data Protection Legislation.

12.3 The Recipient shall provide all reasonable assistance to the Funder in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Funder, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

12.4 The Recipient shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with Schedule 9, unless the Recipient is required to do otherwise by Law. If it is so required the Recipient shall promptly notify the Funder before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Recipient Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 9);

- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Recipient Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Recipient's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Recipient or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Funder or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Funder has been obtained and the following conditions are fulfilled:
 - (i) the Funder or the Recipient has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Funder;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Recipient complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Funder in meeting its obligations); and
 - (iv) the Recipient complies with any reasonable instructions notified to it in advance by the Funder with respect to the processing of the Personal Data;
- (e) at the written direction of the Funder, delete or return Personal Data (and any copies of it) to the Funder on termination of the Agreement unless the Recipient is required by Law to retain the Personal Data.

12.5 Subject to clause 12.6, the Recipient shall notify the Funder immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
- 12.6 The Recipient's obligation to notify under clause 12.5 shall include the provision of further information to the Funder in phases, as details become available.
- 12.7 Taking into account the nature of the processing, the Recipient shall provide the Funder with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 12.5 (and insofar as possible within the timescales reasonably required by the Funder) including by promptly providing:
- (a) the Funder with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Funder to enable the Funder to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Funder, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Funder following any Data Loss Event;
 - (e) assistance as requested by the Funder with respect to any request from the Information Commissioner's Office, or any consultation by the Funder with the Information Commissioner's Office.
- 12.8 The Recipient shall maintain complete, up-to-date and accurate records at all times and information to demonstrate its compliance with this clause. This requirement does not apply where the Recipient employs fewer than 250 staff, unless:
- (a) the Funder determines that the processing is not occasional;
 - (b) the Funder determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Funder determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 12.9 The Recipient shall allow for audits of its Data Processing activity by the Funder or the Funder's designated auditor. The Funder is entitled, on giving at least three Working

Days' notice to the Recipient, to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Personal Data under this Agreement by the Recipient. The requirement to give notification in advance will not apply if the Funder believes that the Recipient is in breach of any of its obligations under this Agreement. The Recipient shall designate a data protection officer if required by the Data Protection Legislation.

- 12.10 The Recipient shall designate a data protection officer if required by the data protection legislation
- 12.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Recipient must:
- (a) notify the Funder in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Funder;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 12 such that they apply to the Sub-processor; and
 - (d) provide the Funder with such information regarding the Sub-processor as the Funder may reasonably require.
- 12.12 The Recipient shall remain fully liable for all acts or omissions of any Sub-processor.
- 12.13 The Funder may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 12.14 The parties agree to take account of any guidance issued by the Information Commissioner's Office. The Funder may on not less than 30 Working Days' notice to the Recipient amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 12.15 The Recipient shall undertake all of the above processing activities at its own expense and at no extra cost to the Funder.
- 12.16 The Funder retention and disposal schedule as provided will be followed by the Recipient where appropriate and relevant; no decisions on retention or disposal are to be made by the Recipient unless it is part of detailed Processing under this Agreement.
- 12.17 The Recipient shall without undue delay inform the Funder if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Recipient will make

regular backups of the Personal Data and will restore such Personal Data at its own expense.

13. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

13.1 The Funder's intention is that the Grant will be paid to the Recipient in full in accordance with the Schedule 2. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment or clawback of all or part of the Grant (whether paid in advance, arrears or otherwise) if:

- (a) the Recipient uses the Grant for purposes other than those for which they have been awarded;
- (b) the delivery of the Project does not start within [6 months] of the Commencement Date and the Recipient has failed to provide the Funder with a reasonable explanation for the delay
- (c) the Funder [reasonably] considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (d) the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent manner;
- (e) the Recipient obtains duplicate funding from a third party for the Project;
- (f) the Recipient obtains Other Funding for the Project
- (g) the Recipient obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Project or the Funder into disrepute;
- (h) the Recipient provides the Funder with any materially misleading or inaccurate information;
- (i) the Recipient commits or committed a Prohibited Act;
- (j) any member of the governing body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (k) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (l) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or

- (m) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.
- (n) The Recipient deliberately withholds information relating to the Project regarding financial liquidity, cashflow management, partnership management or any other such significant affecting factors.

13.2 Wherever under the Agreement any sum of money is recoverable from or payable by the Recipient (including any sum that the Recipient is liable to pay to the Funder in respect of any breach of the Agreement), the Funder may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Recipient under the Agreement or under any other agreement or contract with the Funder.

13.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

13.4 Should the Recipient 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 it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.

14. CLAWBACK

14.1 The Funder may require clawback of all or part of the Grant if the [Funder's] section 151 officer reasonably certifies:

- (a) that the Recipient has, or has allowed, the wilful or negligent misuse of the Grant; or
- (b) that the Recipient has failed to deliver the Project outputs or outcomes.

Subject to the Recipient's compliance with the terms of this Agreement and the Milestones contained in Schedule [4] the Recipient will not be required to repay the Grant.

If the Funder pursuant to clause 14 requires repayment of the Grant, it shall serve on the Recipient a written notice, certified by the Funder's [section 151 officer, Chief Finance Officer /Company Secretary], setting out the sums repayable. The Recipient shall repay the Funder within 28 days of receipt of the aforementioned notice, the sum stated in the notice.

14.2 If the bodies/organisations who funds the Grant to the Funder decides to clawback from the Funder all or part of the Grant awarded to the Funder the Recipient shall in turn pay to the Funder an amount limited to the maximum amount received by the Recipient under this Agreement.

15. STATE AID

- 15.1 The Recipient acknowledges the requirements in relation to State Aid Rules within the meaning of the treaty on the functioning of the European Union ("The Treaty") and hereby agree that it has taken its own independent legal advice in respect thereof.
- 15.2 The Recipient, however, undertakes to keep proper records in relation to the Project such that should the European Commission require it to do so, it will be able to produce relevant records. In addition, the Recipient hereby undertakes to provide at its cost all reasonable assistance to the Funder in respect of an investigation or enquiry made by the European Commission.
- 15.3 The Recipient acknowledges that it will accept the Grant at its own risk and that it may be required under the Treaty to repay the Grant together with interest to the European Commission and hereby agrees to do so in those circumstances and indemnifies the Funder under this clause 15 against any such claims or demands made against the Funder.
- 15.4 Where requested to do so by the Funder and upon the, the Recipient shall:
- (a) fully indemnify and keep indemnified the Funder against all sums, losses, expenses, costs and liabilities that the Funder may incur as a result of being ordered to repay any sums paid under this Agreement, to the European Commission, in the event that payments made under this Agreement are considered by the European Commission (or any replacement body) as amounting to unlawful state aid;
 - (b) Repay the grant or any such part of the Grant which has been found to be state aid by the European Commission (of any replacement body) to the Council within 10 Working Days of such decision.

16. PROCUREMENT BY THE RECIPIENT

- 16.1 In so far as the Recipient procures any goods, services or works from any third party in order to achieve the Project then it shall do so in accordance with:
- a) The Funder's reasonable instructions;
 - b) Its own procurement processes and financial regulations.

Prior to any Grant payment being made all procurement undertaken in the defrayal period must have satisfied the necessary rules and regulations governing competitive processes and procurement legislation.

17. ANTI-DISCRIMINATION

- 17.1 The Recipient shall not ([and shall ensure that its Delivery Partners shall not]) unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation

relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.

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

18. HUMAN RIGHTS

- 18.1 The Recipient shall [and ensure that its staff [and its Delivery Partners] shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).
- 18.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

19. LIMITATION OF LIABILITY

- 19.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant. Subject to the clause 19.2 the Recipient shall indemnify and hold harmless the Funder, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under this Agreement or its obligations to third parties.
- 19.2 The Recipient's liability under this Agreement shall be limited to 10 x the Grant amount.
- 19.3 Subject to clause 19.1 and 19.4, the Funder's liability under this Agreement is limited to the payment of the Grant.
- 19.4 Nothing in this agreement shall exclude or limits the Funders liability for death, or personal injury caused by the Funders negligence, fraud or fraudulent misrepresentation.

20. WARRANTIES

The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant);
- (b) it shall start the Project within 6 months of the Commencement Date.

- (c) it has not committed, nor shall it or any of its staff, officers, agents (or the staff, officers or agents of its Delivery Partners) commit, any Prohibited Act;
- (d) 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 Funder immediately of any significant departure from such legislation, codes or recommendations;
- (e) it shall comply with the requirements of the employment legislation and any other acts, orders, regulations and codes of practice relating to employment, which may apply to employees and other persons working on the Project;
- (f) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (g) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (h) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (i) all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (j) 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 in connection with the Grant;
- (k) it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this Agreement; and
- (l) since the date of its last accounts there has been no material change in its financial position or prospects.
- (m) it can reasonably meet the requirements as set out in this Agreement.

21. INSURANCE

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

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

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

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

22. DURATION

- 22.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until the anniversary of expiry of the Grant Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.
- 22.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

23. TERMINATION

The Funder may terminate this Agreement and the obligation to make any further payment of the Grant to the Recipient on giving the Recipient three months' written notice should it be required to do so by financial restraints or for any other reason, provided such reasons are stated within the notice of termination.

24. ASSIGNMENT

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

25. WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

26. NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, [e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered [or if e-mailed] all such

communications shall be deemed to have been given when received (except that if received on a day which is not a Working Day or after 5.00 pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

27. DISPUTE RESOLUTION

- 27.1 In the event of any complaint or dispute (which does not relate to the Funder'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 Project Manager or any other individual nominated by the Funder from time to time.
- 27.2 Should the complaint or dispute remain unresolved within 14 Working 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 Chief Operating Officer of the Funder and the Chair of the Recipient with an instruction to attempt to resolve the dispute by agreement within 28 Working Days, or such other period as may be mutually agreed by the Funder and the Recipient.
- 27.3 In the absence of any agreement under clause 27.2 either Party may seek to resolve the matter in dispute through mediation under the CEDR Model Mediation Procedure (or such other appropriate mediation model as agreed between the Parties in writing) and unless otherwise agreed the parties shall bear the costs and expenses of such mediation equally.

28. NO PARTNERSHIP OR AGENCY

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

29. JOINT AND SEVERAL LIABILITY

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

30. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

31. GOVERNING LAW

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

32. VARIATION

32.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties. [For the avoidance of doubt no variation shall be effected by email and reference to writing in this clause does not include email.]

33. FORCE MAJEURE

33.1 Neither party shall have any liability under or be deemed to be in breach of this Agreement for any acts, events, omissions, non-events, delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of each party, such circumstances including acts of God, riots, acts of terrorism, national war, emergency, regulation, fire, flood, storm, earthquake, widespread disease or pandemic; and excluding industrial action.

33.2 Each party shall promptly notify the other party in writing when such circumstances outlined in clause 33.1 cause a delay or failure in the performance of that party, and when they will cease to do so. If such circumstances continue for a continuous period of more than 3 months, either party may terminate this Agreement by giving written notice to the other party.

Schedule 1 Business Case

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Schedule 2 Milestones

To be amended on a project by project basis

- i. The Funder will pay the Grant to the Recipient on condition that the Recipient completes the Milestones set out below to the Funder's satisfaction and by the Milestone Date specified below in accordance with this Agreement. Grant payments shall only be made by the Funder on production by the Recipient of such evidence of completion of Milestones as the Funder may reasonably request. If the Recipient fails to achieve any Milestone by the Milestone Date or as otherwise agreed by the Funder, no payments or further payments of the Grant shall be made by the Funder.

DEFINITIONS

- a. **Milestone Date:** the milestone dates set out in the table below.
 - b. **Milestone Payment:** the milestone payments set out in the table below.
 - c. **Milestones:** the milestones described in paragraph in the table below.
 - d. **Milestone Evidence:** the evidence to be provided as described in paragraph 1.2 of this Schedule.
- ii.

Milestone number	Milestone description	Milestone Date	Milestone Payment (£)
1	[DESCRIPTION]	[DATE]	
2	[DESCRIPTION]	[DATE]	
3	[DESCRIPTION]	[DATE]	
4	[DESCRIPTION]	[DATE]	
5	[DESCRIPTION]	[DATE]	

Evidence to be provided

In addition to achieving the Milestones, release of Milestone Payment shall be subject to satisfactory submission of Verto reports.

Schedule 3 Finance

- i. The Recipient shall provide the Funder with a financial report detailing the use of the Grant and delivery of the Project through Verto, every quarter and in such formats as the Funder may reasonably require.
- ii. Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in its quarterly financial reports together with details of what that funding has been used for
- iii. The Recipient shall provide the Funder with each report within three weeks of the last Working Day of the quarter to which it relates
- iv. The Total amount of Grant funding requested by the Recipient is £x.
- v. The Recipient is entitled to claim payment of a Grant in arrears, subject to evidencing to the Funder's satisfaction, that the spend is contributing towards the attainment of the Milestones.
- vi. Prior to any Grant payment being made, all procurement undertaken in the defrayal period must have satisfied the necessary rules and regulations governing competitive processes and procurement legislation.
- vii. A Grant claim must be submitted via Verto with any associated evidence demonstrating the defrayal to action the first payment of £xx the Funder will need to see and be satisfied in respect of the following:
 - Copies of all relevant invoices
 - Copies of bank statements showing payment of invoices
- viii. Repeat for subsequent payments as necessary

(a) **Sources of funding**

Sources of Funding	Confirmed at the time of contract	Amount £
LLEP Grant		
Total Project Costs		

(b) **Profile of Grant claims**

Year	Quarter	Description	Amount	Grant Claimed
Total Costs				

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Schedule 4 Monitoring and Reporting

- i. The Recipient shall provide the Funder with an operational report on its use of the Grant and delivery of the Project through Verto, every quarter and in such formats as the Funder may reasonably require. The Recipient shall provide the Funder with each report within three weeks of the last Working Day of the quarter to which it relates.
- ii. Along with each quarterly monitoring report, the Recipient shall provide the Funder with an up to date risk register, project plan and project budget in the format provided by the Funder. The Recipient shall address the health and safety of its staff in the risk register.
- iii. Any issues arising that may adversely impact on the projects budget, timescales or delivery of outputs and outcomes must be notified to the funder within 5 Working Days.
- iv. The Recipient shall on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- v. The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- vi. The Recipient shall provide the Funder with a final report on completion of the Grant Period which shall confirm whether the Project has been successfully and properly completed.
- vii. Beyond the Grant Period, the recipient shall provide the funder with a quarterly or annual report as agreed on the agreed outputs and outcomes detailed in the Approved Business Case until XXXX or until the agreed output targets are achieved, whichever is the sooner.

Output	How will this be measured	Baseline	Number of outputs achievable through funding	Reporting End Date

Outcome	How will this be measured	Baseline	Number of outcomes achievable through funding

Impact	Target	Target Achievable by

The Recipient agrees to participate in any evaluation that the Funder requires to assess the Repurposed Growing Places Fund.

Schedule 5 Logic Chain

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Schedule 7 Evaluation Form

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Schedule 8

Processing, Personal Data and Data Subjects

1. The Recipient shall comply with any further written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<p><i>By virtue of these clauses, the following entity XXXXXX is entitled to act as a data processor, in order to process on behalf of Leicester City Council the data controller</i></p> <p><i>This applies to processing of personal data either by automatic means or by other means that form part of a relevant filing system,</i></p>
Duration of the processing	<p><i>The terms will take effect from the date of this agreement and for the duration of 5 years.</i></p>
Nature and purposes of the processing	<p><i>The specific processing operations to be carried out are:</i></p> <ul style="list-style-type: none"> • <i>Collection</i> • <i>Recording</i> • <i>Structuring</i> • <i>Alteration</i> • <i>Storage</i> • <i>Retrieval</i> • <i>Consultation</i> • <i>Disclosure by transmission</i> • <i>Dissemination</i> • <i>Combination</i> • <i>Erasure</i> • <i>Destruction</i> • <i>Communication</i> • <i>Others:.....</i> <p><i>The data is processed for the following purpose: To enable the payment and monitoring of a grant for contractual reasons. .</i></p>
Type of Personal Data	<p><i>The specific personal data collected is:</i></p> <ul style="list-style-type: none"> • <i>Name</i> • <i>Email Address</i> • <i>Work address</i> • <i>Job Title</i> • <i>Bank Details</i> • <i>Pay roll number</i> • <i>National Insurance Number</i>

Categories of Data Subject	<i>'personal data' meaning any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>Once this contract has terminated, the processor shall delete the personal data and delete any existing copy in its power in line with Leicester City Council Data Retention policy.</i>

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This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED AS A DEED

By LEICESTER CITY COUNCIL in its capacity as the accountable body for the Leicester and Leicestershire Enterprise Partnership by affixing of the COMMON SEAL
And on the year first before written:

EXECUTED as a DEED

by
acting by and under the signatures of:

NAME OF DIRECTOR

.....
SIGNATURE OF DIRECTOR
Director

NAME OF DIRECTOR

.....
SIGNATURE OF DIRECTOR
Director

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