

Dated this.....day of .....2017

**WEST SUSSEX COUNTY COUNCIL**

and

**COAST TO CAPITAL**

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**ACCOUNTABLE BODY AGREEMENT**

COAST TO CAPITAL LOCAL ENTERPRISE PARTNERSHIP  
IN RESPECT OF THE LOCAL GROWTH FUND

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Legal Services  
West Sussex County Council  
County Hall, Chichester,  
West Sussex  
PO19 1RQ  
(Legal Ref: LEP/01)

DATED.....day of.....2017.

**PARTIES**

- 1 **WEST SUSSEX COUNTY COUNCIL** of County Hall, Chichester, West Sussex PO19 1RQ (the “**Accountable Body**”); and
- 2 **COAST TO CAPITAL** a company limited by guarantee, incorporated and registered in England and Wales with company number 08166412 whose registered office is at 1 Bell Lane, Lewes, East Sussex, BN7 1JU (“**C2C**”).

**BACKGROUND**

- C2C is responsible for the administration and allocation of the Local Growth Fund.
- Government requires C2C to appoint an Accountable Body, being a local authority, to hold, distribute, and ultimately be accountable for expenditure and appropriate use of the Local Growth Fund.
- West Sussex County Council has agreed to act as Accountable Body in respect of the Local Growth Fund on the terms set out in clauses 3 and Schedule 2 of this Agreement.(“the Service”)
- West Sussex County Council’s role and responsibilities as Accountable Body on the terms set out in this Agreement will be entirely separate from any other role, responsibilities or relationship that West Sussex County Council has with C2C connected to the Local Growth Fund or otherwise.

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement, unless the context otherwise requires, the terms set out in Schedule 1 shall have the meanings ascribed to them in Schedule 1.
- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 References to clauses and schedules are to the clauses and schedules to this Agreement.

- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 Words in the singular shall include the plural and vice versa..
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking into account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 A reference to writing or written includes e-mail.
- 1.8 Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that being done.

## **2. COMMENCEMENT AND DURATION**

- 2.1 The Accountable Body shall provide the Services on the terms set out in this Agreement.
- 2.2 The Accountable Body shall provide the Services from 1<sup>st</sup> April 2014.
- 2.3 The Accountable Body will continue to provide the Services until the earlier of the following:
  - 2.3.1 this Agreement is terminated under Clause 9; or
  - 2.3.2 all the Local Growth Fund is spent, defrayed or otherwise used in accordance with its intended purpose and C2C no longer requires that West Sussex County Council acts as Accountable Body in respect of the Local Growth Fund.

## **3. ACCOUNTABLE BODY'S OBLIGATIONS**

- 3.1 The Accountable Body shall provide the Service to C2C.
- 3.2 The Accountable Body shall use its reasonable endeavours to:
  - 3.2.1 co-operate with Coast to Capital in all matters relating to the the Local Growth Fund;

- 3.2.2 permit upon reasonable notice the Coast to Capital Project Manager , and/or any person nominated by them, to attend relevant Accountable Body meetings where the Local Growth Fund is discussed;
- 3.2.3 provide to Coast to Capital in a timely manner, such Relevant Material as Coast to Capital, Government or any other interested party may require and that ensure that the Relevant Material is complete, accurate and not misleading.
- 3.2.4 Respond to Coast to Capital requests in a timely manner
- 3.3 The Accountable Body shall use its reasonable endeavours to meet any dates for performance agreed between the parties.
- 3.3 The Accountable Body shall be liable to pay to C2C, on demand, all reasonable costs, charges or losses sustained or incurred by C2C (including any direct loss or damage to property, those arising from injury to or death of any person and those arising out of or in connection with any claim made against C2C by a third party) that arise directly from the Accountable Body's fraud, negligence or failure to perform any of its obligations under this Agreement. The Accountable Body shall not be responsible for any loss or damage, injury or death, cost, charge or expense to C2C if and to the extent that it is caused by the negligence or wilful misconduct of C2C or by breach of C2C of its obligations under this Agreement.
- 3.4 Both parties will exchange in a timely manner all information provided to or received from Government about the Local Growth Fund which will help in the discharge of their functions and obligations under this Agreement. Neither party will withhold such information.
- 3.5 If the Accountable Body's performance of its obligations under this Agreement is prevented or delayed by any act or omission of C2C, its agents, sub-contractors, consultants or employees, the Accountable Body shall not be liable for any costs, charges, expenses or losses sustained or incurred by C2C that arise directly or indirectly from such prevention or delay.
- 3.6 Both parties will exchange in a timely manner all information provided to or received from Government about the Local Growth Fund which will help in the discharge of their functions and obligations under this Agreement. Neither party will withhold such information.

#### **4. C2C'S OBLIGATIONS**

- 4.1 C2C shall comply with the obligations set out in Schedule 3.
- 4.2 C2C shall use its reasonable endeavours to:
  - 4.2.1 co-operate with the Accountable Body in all matters relating to the Services and the Local Growth Fund;
  - 4.2.2 provide for the Accountable Body, its agents, sub-contractors, consultants and employees, in a timely manner and at no charge, access during Working Hours to C2C's premises, office accommodation, data and other facilities as reasonably required by the Accountable Body or any of them in relation to the Local Growth Fund;
  - 4.2.3 permit upon reasonable notice the Accountable Body's S151 Officer and/or Monitoring Officer, and/or any person nominated by them, to attend any C2C meeting (whether a C2C Board meeting, executive committee, sub-committee or any other meeting) where the Local Growth Fund is discussed;
  - 4.2.4 ensure that those representatives of the Accountable Body referred to in Clause 4.2.3 above are permitted un-fettered and un-restricted access to all C2C meetings (whether a C2C Board meeting, executive committee, sub-committee or any other meeting) where the Local Growth Fund is discussed or to any body to which C2C has delegated or transferred any functions connected with the use of the Local Growth Fund (including analysis of business cases and decision making). For the avoidance of doubt and without limitation, this provision shall apply to a Local Transport Body; and
  - 4.2.5 provide to the Accountable Body in a timely manner, such Relevant Material as the Accountable Body, Government or any other interested party may require and that ensure that the Relevant Material is complete, accurate and not misleading.
- 4.3 If the Accountable Body's performance of its obligations under this Agreement is prevented or delayed by any act or omission of C2C, its agents, sub-contractors, consultants or employees, the Accountable Body shall not be liable for any costs, charges, expenses or losses sustained or incurred by C2C that arise directly or indirectly from such prevention or delay.

- 4.4 C2C shall be liable to pay the Accountable Body, on demand, all reasonable costs, charges, expenses or losses sustained or incurred by the Accountable Body (including any direct loss or damage to property, those arising from injury or death of any person and those arising out of or in connection with any claim made against the Accountable Body by a third party) that arise directly from C2C's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement. C2C shall not be responsible for any loss or damage, injury or death, cost, charge or expense to the Accountable Body if and to the extent that it is caused by the negligence or wilful misconduct of the Accountable Body or by breach of the Accountable Body of its obligations under this Agreement.
- 4.5 Both parties will exchange in a timely manner all information provided to or received from Government about the Local Growth Fund which will help in the discharge of their functions and obligations under this Agreement. Neither party will withhold such information.

## **5. CHARGES AND INTEREST**

- 5.1 Subject to Clause 9, the Accountable Body shall charge C2C as set out in this Clause 5 for acting as Accountable body in respect of the Local Growth Fund and providing the Services.
- 5.2 Within one month of each anniversary of the date of this Agreement (or the anniversary of the date set out in Clause 2.2 if earlier) (the "Annual Payment Date") C2C shall pay the Accountable Body the Total Agreed Cost (as set out in Schedule 6) (at April 2016 prices) plus VAT provided that the Accountable Body has given to C2C a breakdown in form and substance satisfactory to C2C of its annual costs for acting as accountable body in respect of the Local Growth Fund and providing the Services in relation to the period up to the Annual Payment Date together with an estimate of the credit interest accruing in respect of the Local Growth Fund for each annual period.
- 5.3 If the Accountable Body believes that its costs in acting as accountable body in respect of the Local Growth Fund and providing the Services shall exceed the Agreed Costs in any annual period up to an Annual Payment Date the Accountable Body shall submit such additional costs to C2C for approval in form and substance satisfactory to C2C and in advance of incurring them (the "Additional Costs") at the agreed daily rates as set out in schedule 6 to this agreement. If C2C agrees to pay the Additional Costs they will be payable by

C2C to the Accountable Body on the relevant Annual Payment Date together with the Agreed Costs.

5.4 Should the Local Growth Fund accrue interest while in the Accountable Body's bank account(s) the interest accrued will be held on trust for the Government until distributed as follows:

5.4.1 The Accountable Body will pay C2C interest on credit balances at an interest rate equivalent to the Average 7 Day London Interbank Bid (LIBID) rate. The balance to which interest will be applied will be calculated based on the average month end balance and paid annually in arrears on the Annual Payment Date. Interest will be due on balances held by the Accountable Body on behalf of C2C excluding any funding that is received in the form of a loan from a third party.

5.4.2 If the C2C has a temporary negative balance then interest will be due to the Accountable Body on the same terms as for credit balances.

## **6. DATA PROTECTION AND FREEDOM OF INFORMATION**

6.1 Each party acknowledges that the other is subject to Data Protection Legislation and each party shall comply with its obligations under the same.

6.2 Neither party shall, by act or omission, put the other in breach of its obligations under the Data Protection Legislation.

6.3 The Accountable Body is, and C2C may be, subject to the Information Laws. Where a request under the Information Laws is received by either party it shall:

6.3.1 notify the other party of the request as soon as practicably possible and in any event within two (2) Working Days of receiving the request for information; and

6.3.2 provide the other party with a copy of all information in its possession or power in the form that the other requires within five (5) Working Days (or such other reasonable period as requested by either party); and

6.3.3 provide all necessary assistance as reasonably requested by the other party to enable a full response to be prepared to the request for information which is compliant with the Information Laws and within the time for compliance set out in Section 10 of the Freedom of Information

Act 2000 and Regulation 5 of the Environmental Information Regulations 2004.

- 6.4 In the event of a request for information being received by C2C, C2C shall consult with the Accountable Body before C2C determines at its absolute discretion whether the information:
- 6.4.1 is exempt from disclosure in accordance with the provisions of the Information Laws; or
  - 6.4.2 is to be disclosed.
- 6.5 Neither party shall, by act or omission, put the other in breach of its obligations under the Information Laws.

## **7. CONFIDENTIALITY**

- 7.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of five (5) years after termination of this Agreement, disclose to any person any Confidential Information except as permitted by Clause 7.2.
- 7.2 Each party may disclose such information:
- 7.2.1 to its employees, officers, representatives, advisors, agents or sub-contractors who need to know such information for the purposes of carrying out its obligations under this Agreement; and/or
  - 7.2.2 as may be required by law, court order or any governmental or regulatory authority from time to time.
- 7.3 Each party shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this Clause 7.
- 7.4 Neither party shall use any such information for any purpose other than to perform its obligations under this Agreement.
- 7.5 All materials and data supplied by one party to the other party to this Agreement shall at all times be and remain the exclusive property of the supplying party, but shall be held by the receiving party in safe custody at its own risk and maintained and kept in good condition by the receiving party until returned to the supplying party, and shall not be disposed of or used other



than in accordance with the supplying party's written instructions or authorisation.

## **8. LIMITATION OF LIABILITY**

8.1 Clauses 8.1 and 8.2 set out the extent of the liability of either party (including any liability for the acts or omissions of its employees, agents, consultants and sub-contractors) to the other party as the case may be in respect of:

8.1.1 any breach of this Agreement howsoever arising;

8.1.2 the provision of and/or use made by C2C of the Services or any part of them; and/or

8.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

8.2 The Accountable Body's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement shall in all circumstances be limited to fifty per cent (50%) of the total aggregate amount paid to the Clause 5 (Charges and Interest) during the financial year in which the liability which is the subject of such claim arose.

8.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

8.4 Nothing in this Agreement limits or excludes the liability of the Accountable Body or C2C for death or personal injury resulting from negligence or fraud or fraudulent misrepresentation.

8.5 Subject to Clauses 8.2 and 8.3, neither party shall under any circumstances whatsoever be liable to the other for:

8.5.1 loss of profits; or

8.5.2 loss of business; or

8.5.3 depletion of goodwill and/or similar losses; or

8.5.4 loss of anticipated savings; or

8.5.5 loss of goods; or

8.5.6 loss of contract; or

8.5.7 loss of use; or

8.5.8 loss or corruption of data or information; or

8.5.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

## **9. TERMINATION**

9.1 This Agreement shall continue in full force unless and until terminated:

9.1.1 by either party giving to the other not less than three (3) months' prior written notice;

9.1.2 on the date on which the Accountable Body ceases to be the Accountable Body on behalf of C2C for the Local Growth Fund because the parties jointly agree that there is no further requirement for the provision of the Services;

9.1.3 by a determination is made by a court of law, or Government which results in the cessation of the Accountable Body's role as an accountable body;

9.1.4 the termination provisions of Clause 11 have come into effect and either party has exercised their right to termination thereunder; or

9.1.5 a notice is served under Clause 21.6 in respect of a Prohibited Act.

9.2 Upon termination of this Agreement:

9.2.1 the Total Agreed Costs and Additional Costs (if any) payable by C2C to the Accountable Body on the next Annual Payment Date pursuant to Clause 5 shall be reduced and become due and payable on the date of termination of this Agreement. Such Total Agreed Costs and Additional Costs (if any) shall be reduced pro rata on the basis that the period the Accountable Body's costs had been calculated (and approved by C2C in relation to any Additional Costs) is reduced from the period ending on the next Annual Payment Date to the period ending on the date of termination of this Agreement; and

9.2.2 the Local Growth Fund shall be immediately repaid by the Accountable Body to the Government and all obligations of one party to the other party shall cease except those set out in Clauses 3.3, 4.4 and 8.

## **10. AUDIT**

- 10.1 Both parties shall keep and maintain until six (6) years after expiry or termination of this Agreement (or such other period as may be agreed between the parties) full and accurate records of this Agreement and the Services provided under it. Both parties shall on request afford the other party or its representatives such access to those records as may be required in connection with this Agreement.
- 10.2 Without prejudice to the generality of Clause 10.1, C2C shall allow the Accountable Body's internal or external auditors prompt access to all such documents, books and records as they may require.

## **11. FORCE MAJEURE**

- 11.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, and in such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed, provided that if the period of delay or non-performance continues for three (3) months, the party not affected may terminate this Agreement by giving fourteen (14) days' written notice to the other party.

## **12. VARIATION**

- 12.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

## **13. ASSISTANCE WITH LEGAL PROCEEDINGS**

- 13.1 Where requested by a party (for the purposes of this Clause 13, the "first party"), the other party shall give all reasonable assistance and co-operation and provide to the first party all relevant information in connection with any legal inquiry, arbitration or court proceedings in which the first party may become involved or any relevant disciplinary hearing internal to the first party or

any inquiry by the Local Government ombudsman or any other Government Department, arising out of the provision of the Services.

- 13.2 Where a party becomes aware of any incident, accident or other matter which may lead to a complaint about the administration or handling of the Local Growth Fund or any part of the Services or a claim or legal proceedings in respect of the provision or failure to provide the Services, it shall notify the other party by telephone and in writing as soon as practicable and in any event within 48 hours of becoming aware of the same. Such written notification shall include all relevant information necessary to enable the first party to investigate the matter fully.
- 13.3 Each party shall be responsible for its own costs and expenses (including those of its professional advisers) in connection with any legal inquiry, arbitration or court proceedings referred to in this Clause 13.

#### **14. WAIVER**

- 14.1 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.
- 14.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

#### **15. SEVERENCE**

- 15.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 15.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

#### **16. ENTIRE AGREEMENT**

- 16.1 This Agreement and the Funding Agreement together constitute the entire agreement between the parties and supersede and extinguish all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this Agreement and the Funding Agreement.
- 16.2 Each party acknowledges that, in entering into this Agreement, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that its only liability in respect of those representations and warranties that are set out in this Agreement (whether made innocently or negligently) shall be for breach of contract.
- 16.3 Nothing in this Clause shall limit or exclude any liability for fraud.

## **17. ASSIGNMENT**

- 17.1 Subject to Clause 17.2, 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.
- 17.2 The Accountable Body shall be entitled to novate this Agreement to any other body which substantially performs any of the functions that previously had been performed by the Accountable Body.

## **18. NO PARTNERSHIP OR AGENCY**

- 18.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **19. RIGHTS OF THIRD PARTIES**

- 19.1 A person who is not a party to this Agreement shall not have any rights under or in connection with it.

## **20. NOTICES**

- 20.1 Any demand, notice, or other communication required to be given under the Contract shall, unless expressly stated otherwise, be in writing and shall be treated as validly served if sent to either party at the address set out in this Agreement and:
- 20.1.1 served personally on the addressee; or
- 20.1.2 sent by pre-paid first-class post.

20.1.3 by e-mail to the Accountable Body's Representative or Coast to  
Capital's Representative

- 20.2 Any notice that complies with clause 20.1 shall be deemed to have been received by the addressee when delivered:
- 20.2.1 personally, on the date of delivery; or
  - 20.2.2 in the case of delivery by post, on the third Working Day after the date of posting.

## **21. PREVENTION OF BRIBERY**

- 21.1 Each party acknowledges that the other is subject to the Bribery Act and both parties will comply with their obligations under the same.
- 21.2 Neither party shall, by act or omission, put the other in breach of the Bribery Act.
- 21.3 Each party shall not, and shall procure that its personnel shall not, in connection with this Agreement commit a Prohibited Act.
- 21.4 Each party warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by it, or of any agreement having been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing before execution of this Agreement.
- 21.5 If any breach of this Clause 21 is suspected or known, the relevant party must notify the other immediately.
- 21.6 Either party may terminate this Agreement by written notice with immediate effect if a breach of this Clause 21 has occurred.
- 21.7 Any notice of termination under Clause 21.6 must specify:
- 21.7.1 the nature of the Prohibited Act;
  - 21.7.2 the identity of the party whom the relevant party issuing the notice believes has committed the Prohibited Act; and
  - 21.7.3 the date on which the Agreement will terminate.
- 21.8 Any termination under Clause 21.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrued to the party terminating the Agreement.

## **22. DISPUTE RESOLUTION**

- 22.1 In the event of any differences or disputes between the parties to this Agreement with respect to any matter or thing arising out of or relating to the Agreement, such matter shall, in the first instance be discussed at officer level. If agreement cannot be reached within fourteen (14) days, the matter shall be escalated to a senior level of both parties (representative or director level or above) and the parties shall work in good faith to resolve the matter.

**23. GOVERNING LAW AND JURISDICTION**

23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

23.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

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

**EXECUTED as a DEED**  
by **WEST SUSSEX COUNTY COUNCIL**  
by affixing its common seal  
in the presence of:

.....  
Authorised Officer

EXECUTED as a DEED  
by COAST TO CAPITAL  
acting by and under the signatures of

Name of Director  
.....

Signature of Director

Name of Director  
.....

Signature of Director





## SCHEDULE 1 – DEFINITIONS

In accordance with clause 1.1, in this Agreement the following words shall have the meanings set out below:

Accountable Body's Representative	the Council's S151 Officer from time to time. Currently Katharine Eberhart – Director of Finance E: <a href="mailto:Katharine.Eberhart@westsussex.gov.uk">Katharine.Eberhart@westsussex.gov.uk</a> T: 03302 222087
"Additional Costs"	As defined in Schedule 6
"Annual Payment Date"	As defined in Clause 5.3
"Assurance Framework"	the document set out in or appended to Schedule 4
"Board"	the board of Coast to Capital as constituted from time to time
"Bribery Act"	means 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.
Coast to Capital's Representative	Jonathan Sharrock, Chief Executive E: <a href="mailto:jonathan.sharrock@coast2capital.org.uk">jonathan.sharrock@coast2capital.org.uk</a> T: 01403 833841
Coast to Capital Approval	Evidence of approval of a funding award by way of a certified Board recommendation or other, agreed, method
"Confidential Information"	all information relating to this Agreement, the Local Growth Fund, the Accountable Body or C2C in whatever form and includes information given orally and any document, electronic file or any other way of recording information which contains or is derived from such information
"Data Protection Legislation"	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner

“Delivery Body”	a body awarded a grant by C2C and delivering a project (or carrying out work or services) for the benefit for the C2C area
“Funding”	as defined in the Funding Agreement
“Funding Agreement”	the document set out in or appended to Schedule 5
“Government”	Her Majesty’s Government of the United Kingdom of Great Britain and Northern Ireland
“Information Laws”	the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Act 1998 and any codes of practice and guidance made pursuant to the same
“Local Growth Fund”	a Government grant fund administered by the Department for Business, Energy & Industrial Strategy to be used for projects that benefit the local area and economy
“Monitoring Officer”	the Monitoring Officer of the Accountable Body, currently the Director of Law, Assurance & Strategy
“ Prohibited Act”	<p>means:</p> <ul style="list-style-type: none"> <li>• directly or indirectly offering, promising or giving any person working for or engaged by the Accountable Body a financial or other advantage to: induce that person improperly a relevant function or activity; or reward that person for improper performance of a relevant function or activity;</li> <li>• directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;</li> <li>• committing any offence:-</li> <li>• under the Bribery Act;</li> <li>• under legislation creating offences concerning fraudulent acts;</li> <li>• at common law concerning fraudulent acts relating to his Agreement or any other contract with the Accountable Body; or</li> <li>• defrauding, attempting to defraud or conspiring to defraud the Accountable Body; or</li> </ul> <p>committing an offence under Sub-section (2) of Section 117 of the Local Government Act 1972</p>

“Relevant Material”	all documents, information and relating to the Services
“S151 Officer”	the Section 151 officer of the Accountable Body, currently the Director of Finance
“Services”	all activities involved in performing the role of being accountable for the administration of the Funding as requested by Government pursuant to the terms set out in this Agreement and the Assurance Framework
“Total Agreed Costs”	As set out in Schedule 6
“Working Days”	Monday to Friday, excluding any public holidays in England and Wales
“ Working Hours”	09:00 to 17:00 on Working Days

## **SCHEDULE 2 – ACCOUNTABLE BODY’S OBLIGATIONS**

In providing the Services the Accountable Body will have due consideration of all Government issued guidance and recommendations for best practice. Particular attention has been given to the Department for Business Energy & Industrial Strategy publication “Local Enterprise Partnership – National Assurance Framework; November 2016” in preparing this Agreement and approving the Assurance Framework.

The Services provided by the Accountable Body cover a broad range of areas including financial administration, monitoring responsibilities and legal assistance.

The Accountable Body shall:

### **Financial Administration of the Local Growth Fund;**

1. Receive the Local Growth Fund monies via a Section 31 Grant from Government and hold the monies in its own accounts and in accordance with all applicable laws, regulations and accounting standards;
2. Manage the Local Growth Fund monies in accordance with the principles it applies to its own existing treasury arrangements;
3. Provide quarterly updates to C2C setting out and accounting for all monies held, all grants awarded and any variance;
4. On receipt of a satisfactory C2c Approval the Accountable Body will use all reasonable endeavours to enter into a tripartite Funding Agreement with C2C and the relevant Delivery Body;
5. Take the appropriate action necessary to recover money from a Delivery Body by way of ‘claw-back’ provisions within the Funding Agreement or separate legal proceedings where required.

### **Monitoring obligations of the Accountable Body;**

1. Advise the C2C Monitoring Officer of all actions of C2C in its administration of the Local Growth Fund allocation;
2. Allocate sufficient resources to ensure sufficient monitoring of C2C including but not limited to attendance at meetings, review of publications and strategies as well as ensuring C2C have adequate governance and financial working practices in place to ensure appropriate use of the Local Growth Fund;

3. As Accountable Body the Accountable Body have a duty to scrutinise and challenge any action of C2C where the Accountable Body does not believe that action is in the best interest of the Local Growth Fund, not in compliance with Government expectations, or non-compliant with the Assurance Framework;
4. Attend an annual meeting arranged by C2C;

**General Obligations of the Accountable Body;**

1. Carry out regular reviews and checks to ensure C2C's compliance with the terms of this Agreement;
2. Carry out regular reviews and checks to ensure C2C's compliance with the Assurance Framework;
3. Carry out regular reviews and checks to ensure C2C's compliance with any Funding Agreement.
4. Act in good faith at all times

### **SCHEDULE 3 – C2C’S OBLIGATIONS**

C2C shall:

1. Comply with the Assurance Framework at all times.
2. Comply with all obligations under the Funding Agreement.
3. Comply with all obligations under this Agreement.
4. Arrange an annual review meeting with the Accountable Body to discuss the working arrangements and review the performance of both parties under this Agreement, the Assurance Framework and under any applicable Funding Agreement.
5. Act in good faith at all times and co-operate with the Accountable Body in carrying out the Service;
6. To provide the Accountable Body with a copy of all records produced or received in connection with the Local Growth Fund, including but not limited to records relating to, virements (considerations, justifications and decisions) and business cases to be considered by appraisal bodies delegated by the C2C Board.
7. Ensure that advance papers in connection with meetings are sent to the Accountable Body in a timely manner to allow the Accountable Body time to review and offer comment prior to general dispatch or public release.
8. Work to involve the Accountable Body at all stages of consideration in connection with the Local Growth Fund to identify issues early and ensure smooth passage of an application from initial receipt by C2C to the final funding decision.

## **SCHEDULE 4 – ASSURANCE FRAMEWORK**

## **SCHEDULE 5 – TEMPLATE FUNDING AGREEMENT**



**SCHEDULE 6 – ACCOUNTABLE BODY COSTS**  
**Accountable Body costs for providing the Services**

**Agreed Costs**

		<b>Annual Cost</b> *
<b>Finance</b>		
Finance Manager		
Finance Business Partner		
Director of Finance		
<b>Legal Staff</b>		
Solicitor		
<b>Total Agreed Cost</b>		

\* @ April 2016 prices

**Additional Costs**

	<b>Daily Rate *</b>
<b>Finance Staff</b>	
Finance Officer	
Finance Manager	
Finance Business Partner	
<b>Legal Staff</b>	
Solicitor	
Senior Solicitor	
<b>Agency Staff</b>	

\* @ April 2016 prices

These costs will be reviewed on an annual basis (on or before the beginning of the financial year) with provision to amend subject to agreement between C2C and the Accountable Body

## **SCHEDULE 7**

### **Capitalisation of C2C staff costs**

C2C has full autonomy to determine the level of internal staff it requires at any time to form the Growth Deal team to properly manage the high volume of projects and to enhance the governance arrangements that C2C has in place with regards to appraising and monitoring projects at various stages of their cycle.

#### **AGREEMENT OF FUNDING VALUE**

On or before the start of a each financial year the C2C Representative and Accountable Body Representative shall agree an amount representing the sum Local Growth Fund to be allocated towards the staff and training costs of the C2C staff members that can be directly attributed towards the management and operation of the Growth Deal.

An additional £15,000 per annum has also been agreed for training and development of C2C staff.

#### **PURPOSE OF FUNDING & GRANT**

C2C shall use the funding only for the enhancement of the governance arrangements it has in place with regards to appraising and monitoring the Local Growth Fund projects and in accordance with the provisions of this schedule. The funding shall not be used for any other purpose without the prior written agreement of the Accountable Body.

C2C acknowledges that the funding is for, and shall only be used to fund the capitalisation of agreed staff costs directly related to management of the Local Growth Fund. .

#### **PAYMENT OF FUNDING**

All funding shall be claimed in arrears unless by prior written agreement with the Accountable Body Representative.

Within 15 Calendar Days of the end of each Quarter Coast to Capital shall submit to the Accountable Body a properly completed funding claim.

The Accountable Body shall review all documents submitted by Coast to Capital within 15 Working Days of receipt and, if satisfied that all information is present and correct and knowing of no other reason why payment to Coast to Capital should not

be made, shall issue instructions to its bank to release payment of the funding to Coast to Capital on the terms of this schedule.

Coast to Capital agrees and accepts that payments of the funding can only be made to the extent that the Accountable Body, as appropriate, has funds available within the Local Growth Fund account and following receipt of complete and accurate information and documents.

No funding shall be paid to Coast to Capital until the Accountable Body Representative is satisfied that such payment has been used for proper expenditure in the delivery of the Project.

Coast to Capital shall promptly repay to the Accountable Body any money incorrectly paid to it whether as a result of an administrative error or otherwise.

## **ACCOUNTS AND RECORDS**

The funding shall be shown in the Coast to Capital's accounts as a restricted fund and shall not be included under general funds.

Coast to Capital shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the funding.

Coast to Capital shall keep and maintain all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the funding for a period of at least ten (10) years following receipt of any funding monies to which they relate.

Coast to Capital shall provide quarterly (or, if requested, such other frequency including monthly) statements to the Accountable Body of total project expenditure and financing for the project.

The Accountable Body shall have the right to review, at its reasonable request, Coast to Capital's accounts and records that relate to the expenditure of the funding and shall have the right to take copies of such accounts and records including evidence of defrayal of expenditure as may be required from time to time.

Coast to Capital will allow the Accountable Body access to internal and external audit statements relating to the project and will provide signed audit statements or equivalent stating that its expenditure of the funding is in accordance with the terms and conditions of this schedule.

## **MONITORING AND REPORTING**

Coast to Capital shall, every quarter (in other frequency as set out in Para 4 of 'Accounts and Records' above) during the term of this agreement, provide the Accountable Body with a funding claim and a monitoring report in a formal template, submitted by the deadline dates listed in this schedule.

Coast to Capital shall on request provide the Accountable Body with such further information, explanations and documents as the Accountable Body may reasonably require in order for it to establish that the Funding has been used properly in accordance with this schedule.

Coast to Capital shall permit any person authorised by the Accountable Body reasonable access, at least once every quarter, to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating Coast to Capital's fulfilment of the project and its obligations under this schedule. Where, in their reasonable opinion, the Accountable Body 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.

Coast to Capital acknowledges that the Accountable Body is under an obligation to provide regular evaluation reports to the Funder in respect of the project and Coast to Capital agrees to assist the Accountable Body in so far as possible with the delivery of its evaluation reports.

#### **CLAW BACK PROVISIONS**

Coast to Capital agrees to be bound by the 'Withholding, Suspension and Repayment of Funding' provisions as set out in Clause 15 of the template funding agreement in Schedule 5 in respect of receipt of the funding under this Schedule 7.