

THIS AGREEMENT BY DEED IS MADE ON THE DATE ON WHICH THE SEAL OF BRIGHTON & HOVE CITY
COUNCIL IS APPLIED

BRIGHTON & HOVE CITY COUNCIL

AND

COAST TO CAPITAL

ACCOUNTABLE BODY AGREEMENT

Parties

- (1) BRIGHTON & HOVE CITY COUNCIL of Hove Town Hall, Norton Road, Hove BN3 3BQ (**"Council"**) and (**"Accountable Body"**)
- (2) COAST TO CAPITAL incorporated and registered in England and Wales with company number 08166412 whose registered office is at Pacific House (Second Floor), Hazelwick Avenue, Three Bridges, Crawley, RH10 1EX (**"Coast to Capital"**)

BACKGROUND

- (A) Coast to Capital was founded in 2011 as the Local Enterprise Partnership (LEP) for West Sussex, Brighton and Hove, Lewes District, East Surrey and Croydon. Due to a reorganisation of LEP areas, Croydon ceased to be a part of the Coast to Capital area in 2021. Coast to Capital is responsible for the administration, allocation and distribution of the Government funded Local Growth Fund (LGF) and other publicly funded schemes and programmes.
- (B) Government requires Coast to Capital to appoint an Accountable Body, being a local authority, to hold, distribute, and ultimately be accountable for the expenditure and appropriate use any Government funded schemes or funds delivered by Coast to Capital. The Accountable Body is responsible for overseeing the governance and proper administration of financial affairs within Coast to Capital.
- (C) In January 2020 Coast to Capital selected Brighton & Hove City Council as its preferred choice to act as single Accountable Body.
- (D) Brighton & Hove City Council have agreed to act as the single Accountable Body to Coast to Capital on the terms set out in this Agreement and the Schedules hereto (**"the Services"**).
- (E) Brighton & Hove City 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 Brighton & Hove City Council has with Coast to Capital.

Agreed terms

1. Definition and Interpretation

- 1.1 The definitions and rules of interpretation in this clause shall apply in this Agreement and shall have the meanings ascribed to them below:

Accountable Body: Brighton & Hove City Council, which shall, on behalf of Coast to Capital, hold and distribute the funding to the delivery body in accordance with the terms of this Agreement and the National Assurance Framework.

Accountable Body Representative: the Section 151 officer of the Accountable Body or such other person as shall be nominated by the Accountable Body to liaise with Coast to Capital from time to time.

Additional Costs: any additional costs which may be agreed from time to time.

ADR Notice: Alternative Dispute Resolution Notice as defined in clause 35.

Agreement: this Agreement and the Schedules hereto.

Board: the board of the Coast to Capital Local Enterprise Partnership as constituted from time to time.

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 Day: a day other than a Saturday, Sunday or public holiday in England when banks are open for business.

CEDR: Centre for Effective Dispute Resolution as defined in clause 34.5.

Charges: the charges payable by a party to the other in relation to the project, as more particularly set out in Schedule 2.

Coast to Capital's Approval: evidence of approval of a funding award by way of a certified Board recommendation or other agreed method.

Coast to Capital's Representative: Coast to Capital's Head of Corporate Affairs or such other person as shall be nominated by Coast to Capital to liaise with the Accountable Body from time to time.

Commencement Date: has the meaning set out in clause 2.1.

Confidential Information: all information relating to this Agreement, the Local Enterprise Partnership, the Accountable Body or Coast to Capital 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.

Control: as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly OR the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.

Coast to Capital Accountable Body Deputy Monitoring Officer: the person nominated by the C2C Monitoring Officer to act as the C2C Deputy Monitoring Officer.

Coast to Capital Accountable Body Monitoring Officer: Alice Rowland, Head of Commercial Law, or any other person nominated by the Accountable Body to act in that capacity.

Data Controller: has the meaning given to that term in the Data Protection Legislation in force from time to time.

Data Processor: has the meaning given to that term in the Data Protection Legislation in force from time to time.

Data Protection Impact Assessment: an assessment carried out pursuant to Article 35 of the General Data Protection Regulation.

Data Protection Legislation: the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and the Data Protection Act 2018 (implementing the General Data Protection Regulation **(EU) 2016/679 ("GDPR")**) and any legislation implemented in connection with the GDPR and any replacement legislation coming into effect from time to time and all applicable laws and regulations relating to the processing of personal data and privacy, including as where applicable the guidance and codes of practice issued by the Supervisory Authority;

Data Security Breach/es: any breach of security or confidentiality leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data.

Data Subject: has the meaning given to that term in the Data Protection Legislation in force from time to time.

Delivery Body: a body awarded a grant by Coast to Capital for the delivery of a project or service.

Exit Redundancy Costs: shall mean statutory redundancy payments, contractual redundancy payments, contract or statutory notice pay (whichever is greater) and accrued holiday pay in respect of employees of the Accountable Body who are engaged in providing services pursuant to this Agreement and who are made redundant as a result of the termination of this Agreement.

Funding: any funding, schemes, projects and programmes from Government.

Funding Agreement: an agreement between Coast to Capital and a Delivery Body which sets out the terms and conditions on which Funding shall be made available to the Delivery Body to assist it in carrying out a project.

Funding Agreement Schedule: a schedule to a Funding Agreement.

Government: Her Majesty Government of the United Kingdom of Great Britain and Northern Ireland.

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Group Company: in relation to a company, any member of its Group.

Holding Company: has the meaning given in clause 1.6.

Information Laws: means the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Legislation and any codes of practice and guidance made pursuant to the same as amended or replaced from time to time;

Input: in relation to a party, the services, resources, manpower or other tangibles or intangibles that such party provides in accordance with this Agreement in relation to the Coast to Capital Accountable Body Role.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Local Growth Fund: the Growth Deal funding programmes (one, two and three).

National Assurance Framework: the document entitled National Local Growth Assurance Framework published by the Ministry of Housing, Communities and Government in January 2019, as may be amended by the Government from time to time.

Personal Data: has the meaning given to that term in the Data Protection Legislation in force from time to time.

Programme: Any Government programmes managed by Coast to Capital except European Funding.

Prohibited Act:

(a) **Prohibited Act:** is:

offering, giving or agreeing to give to any staff member of Coast to Capital, the Accountable Body or the Funder any gift or consideration of any kind as an inducement or reward for:

- a) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this deed or any other contract with Coast to Capital, the Accountable Body or the Funder; or
- b) showing or not showing favour or disfavour to any person in relation to this deed or any other contract with Coast to Capital, the Accountable Body or the Funder;

entering into this deed or any other contract with Coast to Capital, the Accountable Body or the Funder where a commission has been paid or has been agreed to be paid by the Delivery Body 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 Coast to Capital and the Accountable Body;

committing any offence:

- c) under the Bribery Act;
- d) under legislation creating offences in respect of fraudulent acts; or
- e) at common law in respect of fraudulent acts in relation to this deed or any other contract with Coast to Capital, the Accountable Body or the Funder; or

defrauding or attempting to defraud or conspiring to defraud the Accountable Body, Coast to Capital or the Funder.

Representative: means any employee, officer, worker, agent or service provider engaged by a party.

Section 151 Officer: the Section 151 officer of the Accountable Body and/ or their appointed Deputy S151 Officer.

Services: all the activities involved in providing the Accountable Body role as detailed in this Agreement and in Schedule 1.

Service Levels: means the service levels to which the Services shall be performed by the Accountable Body, as set out in Schedule 3.

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Subsidiary: has the meaning given in clause 1.6.

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

Working Hours: 09.00 to 17.00 on Working Days.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 The Schedules forms 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 and the delivery of the role of Accountable Body as agreed in the Schedules hereto and in accordance with clause 3.
- 1.4 References to Clauses and Schedules are to the Clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the Schedule.

- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.10 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.11 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.12 A reference to writing or written includes fax and e-mail.
- 1.13 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 References to a document are to that document in the form agreed by the parties and initialled by them or on their behalf for identification.
- 1.15 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.

- 1.16 A reference to this Agreement or to any other Agreement or document referred to in this Agreement is a reference to this Agreement or such other Agreement or document as varied or novated from time to time.
- 1.17 Where any statement is qualified by the expression so far as a party is aware or to a party's knowledge (or any similar expression), that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.18 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.19 Where there is a conflict between the terms and conditions of this agreement, and a Schedule, the terms and conditions shall prevail to the extent of the inconsistency.
- 1.20 Any reference to this Agreement terminating shall, where the context requires, include a reference to this Agreement terminating by expiry.

2. Commencement and duration

- 2.1 This Agreement shall commence on 1 April 2021 (**Commencement Date**) and unless terminated earlier in accordance with the terms of the Agreement will remain in force for three years.
- 2.2 This Agreement may be extended on the same terms by agreement (in writing) between the parties.
- 2.3 The Accountable Body shall provide the Services on the terms and conditions set out in this Agreement and the Schedules thereto.

3. Accountable Body's Obligations

- 3.1 The parties shall co-operate within the framework of the obligations set out in this Agreement and the Schedules thereto.
- 3.2 Subject to Coast to Capital complying with clause 4 and the obligations set out in the Schedules hereto, the Accountable Body shall provide the Services as set out in the service specification at Schedule 1 and as described within the latest CIPFA guidance, the National Assurance Framework and most recent Government guidance.
- 3.3 The Accountable Body shall provide services in accordance with the Service Levels set out at Schedule 3 and meet any other agreed dates for the performance of the Services.

- 3.4 Both parties will exchange in a timely manner all information provided to or received from Government relating to the Local Enterprise Partnership monies which will help in the discharge of their functions and obligations under this Agreement.
- 3.5 If the Accountable Body's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Coast to Capital, 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 Coast to Capital that arise directly or indirectly from such prevention or delay.

4. Coast to Capital's Obligations

- 4.1 Coast to Capital shall comply with the obligations set out in this Agreement and the Schedules hereto and shall use its reasonable endeavours to:
- 4.2.1 co-operate with the Accountable Body in all matters relating to the Services and Local Enterprise Partnership and the role of the Accountable Body.
 - 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 the Working Hours to Coast to Capital's premises, office accommodation, data and other facilities as reasonably required by the Accountable Body or any of them in relation to the Local Enterprise Partnership and the role of the Accountable Body.
 - 4.2.3 permit upon reasonable notice the Accountable Body's S151 Officer or Monitoring Officer, and/or any person nominated by them, to attend any Coast to Capital meeting whether a Coast to Capital Board meeting, executive committee, sub-committee or any other meeting where the Local Enterprise Partnership is discussed.
 - 4.2.4 ensure that those representatives of the Accountable Body referred to in clause 4.2.3 above are permitted access to all Coast to Capital meetings (whether a Coast to Capital Board meeting, Executive Committee, sub-committee or any other meeting) where the Local Enterprise Partnership is discussed or to anybody to which Coast to Capital has delegated or transferred any functions connected with the use of the of the Local Enterprise Partnership (including analysis of business cases and decision making)
 - 4.2.5 where permitted, provide to the Accountable Body in a timely manner, such relevant material as the Accountable Body, Government or any other interested party may reasonably require and ensure that the relevant material is complete, accurate and not misleading; and
 - 4.2.6 comply with relevant requirements and responsibilities applicable to LEPs set out in the National Assurance Framework.

5. Existing arrangements

- 5.1 Nothing in this Agreement shall restrict either party's right to continue to conduct its business activities or arrangements that existed on the Commencement Date or that otherwise come into being outside the scope of this Agreement.
- 5.2 However, as the parties will be working together in relation to the Coast to Capital Local Enterprise Partnership where each party may have access to information or Intellectual Property Rights of the other, each party acknowledges that the other party will protect such information and Intellectual Property Rights in accordance with clause 12 and clause 15.

6. Roles and Responsibility

- 6.1 Each party shall in relation to the obligations allocated to it agree in accordance with this clause to:
- (a) perform such obligations, including by providing the Inputs in accordance with timeframes or milestones (if any) specified;
 - (b) use reasonable care and skill in performing such obligations;
 - (c) comply with good industry practice;
 - (d) comply with all laws applicable to it;
 - (e) obtain and maintain consents, licences and permissions (statutory, regulatory, contractual or otherwise) that are necessary to enable it to comply with such obligations;
 - (f) ensure that the Inputs it provides conform with descriptions and specifications (if any) agreed; and
 - (g) if on the other party's premises, comply with that party's health and safety and site regulations made known to it.
- 6.2 Each party shall ensure that it uses employees or agents in performing its obligations who are suitably qualified and experienced.
- 6.3 Each party agrees that it has no right to bind the other party in contract or otherwise and it shall not represent that it has such right.
- 6.4 Nothing in this Agreement constitutes one party a partner, employer, employee or agent of the other party in relation to either party.
- 6.5 Neither party may provide to any third party any information, or make any representation, relating to the other party's products or services, unless that information or representation is approved in writing by that party for use in those circumstances.

7. Funding Agreements

7.1 Coast to Capital shall:

- (a) enter into Funding Agreements with Delivery Bodies on the terms set out in Schedule 5 and obtain the Accountable Body's written consent prior to amending those terms;
- (b) obtain the Accountable Body's written approval of the Funding Agreement Schedules prior to executing a Funding Agreement;
- (c) obtain the Accountable Body's written consent prior to varying any Funding Agreement (for the avoidance of doubt this requirement shall not apply to variations to Funding Agreement Schedules);
- (d) keep the Accountable Body updated if project milestones change; and
- (e) get the Accountable Body's written consent to any material changes to any Funding Agreement Schedule.

8. Information flow and Project management

8.1 To enable the parties to maximise the benefits of their collaboration, each party shall:

- (a) engage the other in discussions in relation to the role of Accountable Body from time to time;
- (b) keep the other party informed about its own progress in relation to relevant projects; and
- (c) facilitate regular discussions between appropriate members of its personnel and those of the other party in relation to each project, in the role of Accountable Body including in relation to:
 - (i) performance and issues of concern in relation to each project;
 - (ii) new developments and resource requirements;
 - (iii) compliance with deadlines; and
 - (iv) such other matters as may be agreed between the parties from time to time.

8.2 Each party shall:

- (a) supply to the other party information and assistance reasonably requested by it relating to a project as is necessary to enable that other party to perform its own obligations in relation to the project;
- (b) review documentation, including draft specifications or service descriptions or other technical documentation, for use when performing its obligations in relation to Accountable Body, as soon as reasonably practicable at the request of the other party,

and notify it of any errors or incorrect assumptions made in any such documents so far as it is aware; and

- (c) appoint a Representative named as such in Schedule 1 and 2.

9. Charges

- 9.1 In consideration of the provision of the Services by the Accountable Body, Coast to Capital shall pay the Charges as set out in Schedule 2.

10. Invoicing and payment

- 10.1 Coast to Capital will pay the Accountable Body the Charges in relation to the role as Accountable Body, and as such the Accountable Body shall issue quarterly statements and an annual invoice for such Charges. Where Coast to Capital has any queries or wishes to raise any issues with the proposed Charges following a quarterly statement being issued, Coast to Capital will raise these queries with the Accountable Body's Representative during the Term to discuss any adjustments that might need to be made to the Charges, prior to an invoice being raised.
- 10.2 Unless otherwise provided in a Schedule, the Charges specified are inclusive of VAT which shall be included in invoices and payable, if applicable, in addition to the Charges.
- 10.3 Coast to Capital shall pay an invoice issued to it by the Accountable Body in accordance with this Agreement within 30 days of the date of the invoice.
- 10.4 If Coast to Capital fails to make a payment due to the Accountable Body under this Agreement by the due date, then, without limiting the other party's remedies under clause 22 or clause 23, the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.
- 10.5 Interest under clause 10.4 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0% except when the invoice is in dispute as notified by Coast to Capital to the Accountable Body.

11. Set-off

All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

12. Confidentiality

- 12.1 Subject to clause 12.2, the parties shall keep confidential all matters relating to this Agreement and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.

- 12.2 Clause 12.1 shall not apply to any disclosure of information:
- 12.3 required by law, provided that clause 13 (Freedom of Information) shall apply to any disclosures required under the Information Laws;
- 12.4 that is reasonably required by persons engaged by a party in the performance of such party's obligations under the Agreement;
- 12.5 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 12.1;
- 12.6 of any document to which it is a party and which the parties to the Agreement have agreed contains no commercially sensitive information;
- 12.7 to enable a determination to be made under clause 35 (Dispute resolution);
- 12.8 which is already lawfully in the possession of the receiving party prior to disclosure by the disclosing party;
- 12.9 to any other department, office or agency of the Government; and
- 12.10 by the Accountable Body relating to the Agreement and in respect of which Coast to Capital has given its prior written consent to disclosure.
- 12.11 Coast to Capital acknowledges that the Accountable Body is subject to transparency obligations which require the Accountable Body to publish certain contract information and materials. Accordingly, and notwithstanding any other term of the Agreement, Coast to Capital hereby gives its consent for the Accountable Body to publish the Agreement and its schedules and appendices in its entirety, including from time to time agreed changes to the Agreement (save and except such matters as the Accountable Body is by Law able to exclude as being confidential, commercially sensitive, or otherwise not in the public interest to disclose), to the general public in whatever form the Accountable Body decides. The Accountable Body shall give Coast to Capital reasonable notice if it intends to publish the Agreement. Coast to Capital shall render such reasonable assistance and cooperate with the Accountable Body (at the Accountable Body's expense) to enable such publication, including, if the Accountable Body so requires, assisting the Accountable Body in the redaction of such contract documents prior to publication to eliminate material considered confidential, commercially sensitive, or otherwise not in the public interest to disclose.

13. Freedom of Information

- 13.1 Coast to Capital shall co-operate promptly with the Accountable Body's reasonable requests for assistance in complying with its disclosure obligations under the Information Laws, provided

that where the Accountable Body receives a request for information relating to the Agreement which the Accountable Body reasonably considers to be commercially sensitive and/or confidential, where reasonably practicable, the Accountable Body shall not disclose the same without first:

- (a) notifying Coast to Capital in writing; and
- (b) allowing Coast to Capital a reasonable opportunity (taking into account timescales set by the Information Laws) to make representations to the Accountable Body as to disclosure of such information.

13.2 Notwithstanding any other provision of this Agreement, the Accountable Body shall have absolute discretion as to whether to apply or not to apply any exemptions under the Information Laws.

14. Announcements

14.1 Subject to clause 14.2, no party shall make, or permit any person to make, any public announcement, communication or circular (**Announcement**) concerning the existence, subject matter or terms of this agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior consent of the other parties (such consent not to be unreasonably withheld or delayed). The parties shall consult together on the timing, contents and manner of release of any Announcement.

14.2 Where an Announcement is required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction, the party required to make the Announcement shall promptly notify the other party. The party concerned shall make all reasonable attempts to agree the contents of the Announcement before making it.

15. Data protection

15.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that Coast to Capital is the Data Controller and that the Accountable Body is the Data Processor. A description of the Personal Data processed by the Accountable Body and the processing activities undertaken by the Accountable Body is set out in Schedule 5 (Data Processing Activities).

15.2 In respect of Personal Data that the Accountable Body processes on behalf of the Coast to Capital in connection with this Agreement, the Accountable Body shall and shall procure that its Representatives shall:

- (a) solely process the Personal Data for the purposes of fulfilling its obligations under this Agreement and in compliance with the Coast to Capital's written instructions as set out

in this Agreement and as may be specified from time to time in writing by the Coast to Capital;

- (b) notify Coast to Capital immediately if any instructions of Coast to Capital relating to the processing of Personal Data are unlawful;
- (c) not transfer to or access any Personal Data from a country outside of the United Kingdom without the prior written consent of Coast to Capital;
- (d) comply with Coast to Capital's instructions in relation to transfers of Personal Data to a country outside of the United Kingdom unless the Accountable Body is required pursuant to applicable Laws to transfer Personal Data outside the United Kingdom, in which case the Accountable Body shall inform Coast to Capital in writing of the relevant legal requirement before any such transfer occurs unless the relevant Law prohibits such notification on important grounds of public interest;
- (e) take reasonable steps to ensure the reliability of any staff who have access to the Personal Data and ensure that all staff used by the Accountable Body to process Personal Data are subject to legally binding obligations of confidentiality in relation to the Personal Data;
- (f) ensure that none of the Accountable Body's staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by Coast to Capital;
- (g) not engage any sub-contractor to carry out any processing of Personal Data without the prior written consent of Coast to Capital provided that notwithstanding any such consent the Accountable Body shall remain liable for compliance with all the requirements of this Agreement including in relation to the processing of Personal Data;
- (h) ensure that obligations equivalent to the obligations set out in this clause 15 are included in all agreements between the Accountable Body and permitted sub-contractor who will be processing Personal Data and who have been approved in accordance with clause 25.3;
- (i) take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data taking into account the harm that might result from such unauthorised or unlawful processing, loss, destruction or damage and the nature of the Personal Data to be protected including without limitation, all such measures that may be required to ensure compliance with the Data Protection Legislation;
- (j) upon request provide a written description of the technical and organisational measures employed by the Accountable Body pursuant to clause 15(k) (within the timescales required by Coast to Capital) and if Coast to Capital does not consider that such measures are adequate to enable compliance with the Data Protection Legislation, implement such additional measures as may be specified by Coast to Capital (acting reasonably) to ensure compliance;

- (k) taking into account the nature of the data processing activities undertaken by the Accountable Body, provide, at no cost to Coast to Capital, all possible assistance and co-operation (including without limitation putting in place appropriate technical and organisational measures) to enable Coast to Capital to fulfil its obligations to respond to requests from individuals exercising their rights under the Data Protection Legislation, including (without limitation):
- (l) notifying Coast to Capital within two (2) Working Days, of receiving any request from a Data Subject exercising their rights under the Data Protection Legislation;
- (m) complying with Coast to Capital's instructions in relation to complying with the Data Subject's rights under the Data Protection Legislation, which may include (without limitation) providing notices to Data Subjects in a format specified by the Council, rectifying inaccurate Personal Data, ceasing or restricting processing of Personal Data, providing access to Personal Data, permanently deleting or securely destroying Personal Data and providing copies of Personal Data in a format specified by the Accountable Body;
- (n) maintain a record of the Accountable Body's processing activities in accordance with the requirements of the Data Protection Legislation;
- (o) assist Coast to Capital, at no cost to Coast to Capital, in ensuring compliance with the obligations set out in Articles 32 to 36 (inclusive) of the GDPR (or any equivalent legislation in the UK or any subsequent legislation) taking into account the nature of the data processing undertaken by the Accountable Body and the information available to the Accountable Body, including (without limitation):
- (p) providing information and assistance upon request to enable Coast to Capital to notify Data Security Breaches to the Information Commissioner's and/or to affected individuals and/or to any other regulators to whom Coast to Capital is required to notify any Data Security Breaches; and
- (q) providing input into and carrying out Data Protection Impact Assessments in relation to the Accountable Body's data processing activities;
- (r) ensure that it has in place appropriate technical and organisational measures to ensure that processing of Personal Data carried out by the Accountable Body in connection with this Agreement meets the requirements of the Data Protection Legislation and ensures protection of the rights of individuals under the Data Protection Legislation;
- (s) notify Coast to Capital immediately and in any event within twenty four (24) hours in writing if:
 - (i) the Accountable Body or any sub-contractor engaged by or on behalf of the Accountable Body suffers a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data; or

- (ii) the Accountable Body or any approved sub-contractor engaged by or on behalf of the Accountable Body receives any Data Security Breach notification, complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Legislation,

and in each case the Accountable Body shall provide full co-operation, information and assistance to Coast to Capital in relation to any such Data Security Breach, complaint, notice or communication at no cost to the Accountable Body;

- (t) upon termination of this Agreement, at the discretion of and at no cost to the Accountable Body, delete securely or return all Personal Data to Coast to Capital and delete all existing copies of the Personal Data unless and to the extent that the Accountable Body is required to retain copies of the Personal Data in accordance with applicable Laws in which case the Accountable Body shall notify Coast to Capital in writing of the applicable Laws which require the Personal Data to be retained. In the event the Personal Data is deleted or destroyed by the Accountable Body, the Accountable Body shall provide Coast to Capital with a certificate of destruction evidencing that the Personal Data has been destroyed or deleted;
- (u) make available to Coast to Capital at no cost to Coast to Capital all information necessary to demonstrate compliance with the obligations set out in this clause 15 and, upon request, allow the Accountable Body, the Information Commissioner's Office and its representatives access to the Accountable Body's Premises, records and Personnel for the purposes of assessing the Accountable Body's compliance with its obligations under this clause 15; and
- (v) indemnify Coast to Capital from and against all costs, expenses (including legal and other professional fees and expenses), losses, damages and other liabilities or whatever nature (whether contractual, tortious or otherwise) suffered or incurred by Coast to Capital and arising out of or in connection with any breach by the Accountable Body or any sub-contractors of this clause 15.

15.3 The provisions of this clause 15 shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

16. Intellectual property

16.1 This Agreement does not transfer any interest in Intellectual Property Rights. All Intellectual Property Rights developed in relation to this Agreement shall be owned by that party (**Created IPR**).

- 16.2 Each party grants to the other party a non-exclusive, personal, royalty-free licence for the duration of this Agreement to use its Created IPR to the extent necessary for the parties to carry out their obligations.
- 16.3 Upon the termination of this Agreement, a party licensed to use Created IPR under clause 16.2 shall cease to use that Created IPR and shall return any physical embodiment of the Created IPR (including any copies) in its possession or control to the other party.
- 16.4 Each party shall immediately give written notice to the other party of any actual, threatened or suspected infringement of any party's Intellectual Property Rights (including Created IPR) used in connection with the project of which it becomes aware.

17. Anti-bribery

- 17.1 Each party shall in relation to this Agreement:
- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
 - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - (c) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies, and will enforce them where appropriate;
 - (d) promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement.
- 17.2 Breach of this clause 17 shall be deemed a Material Breach under clause 22.2 and clause 23.2.

18. Warranties

- 18.1 Each party warrants that:
- (a) it has full power and authority to carry out the actions contemplated under this agreement;
 - (b) its entry into and performance under the terms of this Agreement will not infringe the Intellectual Property Rights of any third party or cause it to be in breach of any obligations to a third party; and

- (c) so far as it is aware, all information, data and materials provided by it under this Agreement will be accurate and complete in all material respects, and it is entitled to provide the same to the other without recourse to any third party.

18.2 Except as expressly provided in this agreement, there are no conditions, warranties or other terms binding on the parties with respect to the actions contemplated by this agreement. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated into this agreement, whether by statute, common law or otherwise, is, to the extent that it is lawful to do so, excluded by this agreement.

18.3 Coast to Capital warrants that there are no employees to who will transfer to the Accountable Body pursuant to the Transfer or Undertakings (Protection of Employment) Regulations 2006.

19. Indemnity

19.1 In this clause, a reference to an indemnified party shall include that party's subsidiaries, and the provisions of this clause shall be for the benefit of that party and each such subsidiary, and shall be enforceable by each such subsidiary, in addition to the party.

19.2 Each party (indemnifying party) shall indemnify the other party (indemnified party) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with:

- (a) any claim made against the indemnified party for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with:

- (i) the indemnified party's use in accordance with this Agreement of Intellectual Property Rights licensed to it by the indemnifying party under clause 16.2;
- (ii) the receipt or use by the indemnified party or by any person including the indemnified party of Inputs or other items or services provided by the indemnifying party in relation to this Agreement;

19.3 This indemnity shall apply whether or not the indemnified party has been negligent or at fault or not cover the indemnified party to the extent that a claim under it results from the indemnified party's negligence or wilful misconduct.

19.4 Liability under this indemnity is conditional on the indemnified party discharging the following obligations. If any third party makes a claim, or notifies an intention to make a claim, against the indemnified party which may reasonably be considered likely to give rise to a liability under this indemnity (Claim), the indemnified party shall:

- (a) as soon as reasonably practicable, give written notice of the Claim to the indemnifying party, specifying the nature of the Claim in reasonable detail;
- (b) not make any admission of liability, Agreement or compromise in relation to the Claim without the prior written consent of the indemnifying party (such consent not to be unreasonably conditioned, withheld or delayed), provided that the indemnified party may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the indemnifying party, but without obtaining the indemnifying party's consent) if the indemnified party reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;
- (c) give the indemnifying party and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the indemnified party, so as to enable the indemnifying party and its professional advisers to examine them and to take copies (at the indemnifying party's expense) for the purpose of assessing the Claim; and
- (d) subject to the indemnifying party providing security to the indemnified party to the indemnified party's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the indemnifying party may reasonably request to avoid, dispute, compromise or defend the Claim.

19.5 If a payment due from the indemnifying party under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the indemnified party shall be entitled to receive from the indemnifying party such amounts as shall ensure that the net receipt, after tax, to the indemnified party in respect of the payment is the same as it would have been were the payment not subject to tax.

19.6 Nothing in this clause shall restrict or limit the indemnified party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

20. Indemnity for redundancy

20.1 If upon the expiry or termination of this Agreement TUPE does not apply to transfer any relevant employees (as defined under TUPE), Coast to Capital shall reimburse the Accountable Body its reasonably incurred Exit Redundancy Costs.

21. Limitation and exclusion of liability

21.1 Nothing in this Agreement shall limit or exclude a party's liability:

- (a) for death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;

- (b) for fraud or fraudulent misrepresentation;
- (c) for breach of any obligation as to title or quiet possession implied by statute; or
- (d) for any other act, omission, or liability which may not be limited or excluded by law.

22. Termination of Agreement

22.1 Without affecting any other right or remedy available to it, either party may terminate with immediate effect if:

- (a) if the other party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) if the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1) or 123(2) of the Insolvency Act 1986 OR [(being a partnership) has any partner to whom any of the foregoing apply;
- (d) if the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (e) if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) if an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- (g) if the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) if a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

- (i) if the other party (being an individual) is the subject of a bankruptcy petition, application or order;
- (j) if a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) if any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 22.1(c) to clause 22.1(j) (inclusive);
- (l) if the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (m) if there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

22.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement on giving not less than six calendar months' written notice to the other party.

23. Consequences of termination

23.1 On termination of this agreement, the following clauses shall continue in force:

- (a) clause 1 (Interpretation);
- (b) clause 10 (Invoicing and payment);
- (c) clause 11 (Set-off);
- (d) clause 12 (Confidentiality);
- (e) clause 15 (Data protection);
- (f) clause 16 (Intellectual property);
- (g) clause 18.1(b) and clause 18.2 (Warranties);
- (h) clause 19 (Indemnity);
- (i) clause 21 (Limitation and exclusion of liability);
- (j) clause 22 (Termination);
- (k) clause 23 (Consequences of termination);
- (l) clause 35 (Dispute Resolution);
- (m) clause 36 (Governing law); and
- (n) clause 37 (Jurisdiction).

- 23.2 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 23.3 On termination of this agreement, unless such things are needed by it to perform its obligations under any other projects and only until the end of such time, each party shall immediately or as agreed in writing:
- (a) return or destroy (as directed in writing by the other party) any documents, handbooks, or other information or data provided to it by the other party for the purposes of this agreement. If reasonably required by the other party, it shall provide written evidence (in the form of a letter signed by it no later than 10 days after termination of this agreement) that these have been destroyed and that it has not retained any copies of them; and
 - (b) return all of the other party's equipment and materials, failing which, the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, that party shall be solely responsible for their safe-keeping.

24. Force majeure

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 result from events, circumstances or causes beyond its reasonable control. 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. 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) Working Days' written notice to the other party.

25. Assignment and other dealings

- 25.1 Subject to clause 25.3, neither party shall be entitled to assign, novate, transfer, charge, subcontract, or otherwise dispose of its rights and obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).
- 25.2 The Accountable Body shall be entitled by mutual agreement of the parties to this agreement, to novate this Agreement to any other body which substantially performs any of the functions that previously had been performed by the Accountable Body.
- 25.3 Either party may after having given prior written notice to the other party, assign or subcontract any or all of its rights and obligations under this Agreement to a member of its Group for so long as that company remains a member of the assignor's Group. The assignor shall procure that such assignee assigns any rights assigned to it in accordance with this clause 25.3 back to the

assignor or another member of the assignor's Group immediately before it ceases to be a member of the assignor's Group.

26. Variation

- 26.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised Representatives).

27. Notices

- 27.1 All notices and other communication in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally hand delivered, emailed, faxed, mailed (first class postage prepaid) or DX to the address of the relevant party, as referred to above or otherwise notified in writing.
- 27.2 If personally delivered or if emailed all such communications shall be deemed to have been given when received (except that if received on a non-Working Day or after 5.00pm 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.
- 27.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

28. Severance

- 28.1 If any court or competent authority finds that any provisions or part-provision of this Agreement is or becomes 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 this Agreement shall not be affected.
- 28.2 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 so that, as amended, it is valid, enforceable, and legal, and to the greatest extent possible, achieves the parties' original commercial intention.

29. No partnership or agency

- 29.1 Nothing in this Agreement is intended to, or shall be deemed to, or shall operate to, create or establish any partnership or joint venture between the parties, constitute any party the agent of another party, or to authorise either party to act as agent for the other or to make or enter into any commitments for or on behalf of any other party 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).

- 29.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

30. Rights and remedies

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

31. Inadequacy of damages

Without prejudice to any other rights or remedies that a party (**First Party**) may have, the other party (**Other Party**) acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the Other Party. Accordingly, the First Party shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

32. Waiver

- 32.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 32.2 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 prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

33. Counterparts

- 33.1 This Deed may be executed in one or more counterparts and any party may enter into this Deed by executing a counterpart. Any single counterpart or a set of counterparts executed in either case by all the parties shall constitute one and the same agreement and a full original of this Deed for all purposes.
- 33.2 This Deed shall be treated as having been executed and delivered on the date on which the Council's seal is applied.

34. Rights of Third Parties

- 34.1 This Agreement does not and is not intended to confer any contractual benefit or give rise to any contractual rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term

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

35. Entire agreement

- 35.1 This Agreement constitutes the entire Agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter of this Agreement.
- 35.2 Each party acknowledges that, in entering 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.
- 35.3 Nothing in this clause shall limit or exclude any liability for fraud.

36. Dispute Resolution

- 36.1 In the event of any differences or disputes arising between the parties to this Agreement with respect to any matter or thing arising out of or relating to this Agreement, such matter shall in the first instance be referred for resolution to the Representatives of the parties in dispute and shall within five (5) Working Days of a written request from one party to the other meet in good faith to attempt to resolve the dispute.
- 36.2 Should the complaint or dispute remain unresolved after that meeting, the party in dispute shall refer the matter, as appropriate to:
- 36.3 Chief Executive of Coast to Capital;
- 36.4 Chief Executive of the Accountable Body

With an instruction to attempt to resolve the dispute by Agreement within ten (10) Working Days, or such other period as may be mutually agreed by the parties in dispute.

- 36.5 In the absence of Agreement under clause 36.4 the parties will attempt to settle the dispute by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR Solve. To initiate the mediation a party must give notice in writing (**ADR Notice**) to the other party to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than ten (10) Working Days after the date of the ADR Notice. Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

- 36.6 No party may commence any court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

37. Governing law

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

38. Jurisdiction

Each party irrevocably agrees that, subject to clause 34, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

39. Funds Interest and Audit Costs

- 39.1 The Accountable Body shall manage the monies in accordance with the principles it applies to its own existing Treasury arrangements except where Coast to Capital notifies the Accountable Body of an alternative arrangements defined in a Treasury Management Policy approved by its board. Should the monies accrue interest while in the Accountable Body's bank accounts, the interest accrued will be held on trust for Coast to Capital until distributed as a grant as follows.
- 39.2 The Accountable Body will pay Coast to Capital a grant on credit balances at the interest rate earned. The balance to which interest will be applied will be calculated based on the average month end balance and paid annually in arrears. Interest will be due on balances held by the Accountable Body on behalf of Coast to Capital excluding any funding that is received in the form of a loan from a third party.
- 39.3 For the avoidance of doubt, Coast to Capital will meet any expenses or costs payable in respect of an independent auditor/accountant's report if one is required.
- 39.4 Coast to Capital will comply in every respect with any legal obligation it has to match funding provided by Government (**Match Funding**) (which will include marketing, staffing and overheads) and will ensure that the Match Funding is evidenced to the Accountable Body in accordance with the Core Government Grant.
- 39.5 The Accountable Body may vary or withhold any or all of the payments of the monies to Coast to Capital including any Match Funding paid to it by Coast to Capital) under this Agreement and/or require repayment by Coast to Capital any or all monies (including the Match Funding) already

paid, only to the extent that the Accountable Body is required to repay or recover the monies (including the Match Funding) in whole or in part.

40. Audit

- 40.1 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.
- 40.2 Without prejudice to the generality of clause 40.1, Coast to Capital shall allow the Accountable Body's internal or external auditors prompt access to all such documents, books and records as they may require.
- 40.3 Requests for access as in clause 40.1 and clause 40.2 above shall be with reasonable notice.

41. Assistance with Legal Proceedings

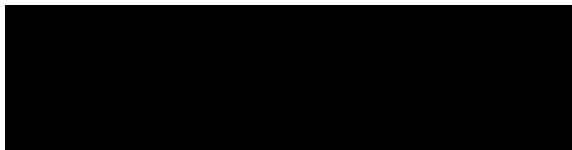
- 41.1 Where requested by the Accountable Body, Coast to Capital shall give all reasonable assistance and co-operation and provide the Accountable Body with all relevant information in connection with any legal inquiry, arbitration or court proceedings in which the Accountable Body may become involved or any relevant disciplinary hearing internal to the Accountable Body or any inquiry by the Local Government Ombudsman or any other Government department, arising out of the provision of the Services.
- 41.2 Where Coast to Capital becomes aware of any incident, accident or other matter which may lead to a complaint about the administration or handling of monies or any other 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 Accountable Body 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 Accountable Body to investigate the matter fully.
- 41.3 Such information provided or assistance rendered pursuant to the obligations in this clause in whatever form, shall be made available at no additional cost to the Accountable Body. The Accountable Body shall be responsible for its own costs and expenses (including those of its professional advisers) in connection with any legal enquiry, arbitration or court proceedings referred to in clause 41.1.

IN WITNESS of which the parties have caused this Deed to be executed and delivered as a deed the day and year first herein written

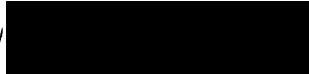
- 41.3 Such information provided or assistance rendered pursuant to the obligations in this clause in whatever form, shall be made available at no additional cost to the Accountable Body. The Accountable Body shall be responsible for its own costs and expenses (including those of its professional advisers) in connection with any legal enquiry, arbitration or court proceedings referred to in clause 41.1.

IN WITNESS of which the parties have caused this Deed to be executed and delivered as a deed the day and year first herein written

EXECUTED as a DEED
by the affixing of the **COMMON SEAL** of
BRIGHTON & HOVE CITY COUNCIL
in the presence of:



Authorised Signatory



Date: 31 March 2021

EXECUTED by Coast to Capital acting by

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)

, a director, and

)

, a director/its secretary.

)

) Director

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)


)


Director

Authorised Signatory

Date:

EXECUTED by **Coast to Capital** acting by

, a director, and 
, a director/~~its secretary~~

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) Director

Authorised Signatory

Date:

EXECUTED by Coast to Capital acting by



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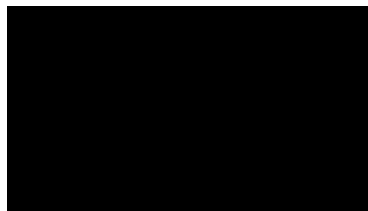
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Director

Schedule 1

Coast to Capital

Accountable Body Service Specification

Accountable Body Service Specification

Description of Services

The Accountable Body ensures that the usual Local Authority checks and balances apply to the awards of funding directed by the LEP Board. The Accountable Body, through its appointed representatives, is actively involved in all key Coast to Capital Committees including the Board, GPF Committee and Audit Committee. The Accountable Body also attends the Annual Review with Government. The Section 151 Officer is fully engaged with the work of Coast to Capital and the current service includes an embedded Head of Finance who is part of the Coast to Capital senior team.

The **Accountable Body** is responsible for:

- Providing a **finance function** which involves holding funds under managed investment paid by Government on behalf of the LEP, administrating and processing Government funds and delivering our operational finance requirements;
- An **oversight function** ensuring funds are handled with the relevant procedures and grant conditions and that funds are used with propriety, regularity and deliver value for money including:
 - Ensuring decisions and activities conform with all relevant law including subsidy control and public procurement and ensuring that adequate records are maintained so this
 - can be clearly evidenced.
 - Ensuring that the funds are used in accordance with the conditions placed on each grant.
 - Oversight of LEP governance and transparency arrangements and ensuring that our assurance framework is adhered to.
 - Ensuring compliance with the National Assurance Framework and agreement on scrutiny arrangements.
 - Ensuring that there are arrangements for local audit of funding allocated by the LEP equivalent to those of local authorities.
 - Monitoring and audit arrangements.

A **support function** providing technical advice on the relevant law and legal risks. With regards to the expenditure of public funds, the ultimate deployment of funds reside with the Section 151 Officer of

the Accountable Body, and only takes place with their approval, following decisions made by the relevant Coast to Capital Board or Committee.

The Accountable Body will be expected to have a robust Treasury Policy and as part of its response should set out how they will generate income on the money held on account for Coast to Capital.

The role of our **Section 151 Officer** in our Accountable Body is to oversee the system of proper governance and financial control of affairs within Coast to Capital. In addition to this over-riding responsibility the particular responsibilities of the Section 151 Officer are as follows:

- Attend Board meetings (5 a year);
- Attend GPF Committee meetings (4-6 a year subject to funding awards);
- Attend Investment Committee (6-8 a year);
- Attend Audit Committee meetings (2 a year);
- Provide an Assurance Statement as part of the Annual Performance Review;
- Submit a letter to the Ministry of Housing, Communities and Local Government's Accounting Officer by 28 February each year which:
 - Details the checks that the Section 151 officer has taken to assure themselves that the LEP has in place the processes that ensure proper administration of financial affairs in the LEP
 - A statement whether, having considered all the relevant information, the Section 151 Officer is of the opinion that the affairs of the LEP are being properly administered in line with the National Assurance Framework and our local Assurance Framework
 - If not, information about the main concerns and recommendations about the arrangements which need to be implemented in order to get the LEP to be properly administered

Coast to Capital will ensure that the Section 151 Officer is given sufficient access to information in order to carry out their role. All relevant documentation is provided to the Section 151 Officer, including agenda and papers of Board, Committee and Panel meetings where decisions are being made. The Section 151 Officer has the opportunity to comment on all such relevant documentation.

The Section 151 Officer should exercise their duties in line with CIPFA guidance and the National Assurance Framework.

The **Head of Finance** at Coast to Capital is accountable to the Accountable Body (appointed jointly by the Accountable Body and Coast to Capital) and delivers the finance function in accordance with recognised accounting standards and LEP requirements in partnership with the Section 151 Officer including:

- Strategic financial planning across the organisation, including annual budget planning, investment planning and pensions scheme oversight.

- Acting on behalf of the S151 Officer as directed but not in the statutory capacity of a S151 Chief Financial Officer.
- Providing advice to the Board and its Committees.
- Developing, implementing and operating financial management and control systems and processes and managing financial risks, in particular ensuring value for money and the correct implementation of our Procurement Policy.
- Ensuring that accounting standards and internal control procedures are compliant for both internal and external auditor requirements, working closely with external auditors.
- Ensuring accurate and timely preparation and reporting of monthly management, annual statutory accounts, income and expenditure and cash forecasts, budgets and projections for the executive and the Board.
- Managing cash flow and treasury management policies.
- Reviewing applications and claims from a range of programmes, ensuring payments are made in accordance with grant terms.
- Deliver company payroll and managing external bookkeeper support.
- Access accountancy software as an authorised user of that software solely for the purpose of delivering the Services.

The Head of Finance role is currently delivered through an arrangement agreed by Brighton & Hove City Council. Continuity in this role is important and should be a fundamental part of how the service is delivered and will be a key area for discussion.

As part of the support function **legal services** shall be provided by the Accountable Body and shall include but not be limited to the following:

- Reviewing stage 3 complaints in accordance with Coast to Capital's Complaints Policy.
- Governance advice and compliance advice in relation to the LEP Assurance Framework
- Legal advice on reports for the following meetings:-
 - Quarterly Coast to Capital Board meetings
 - Quarterly Investment Committee meetings
 - Quarterly Audit and Risk Committee Meetings
 - Quarterly Finance & Resources Committee
- C2C Monitoring Officer (or Deputy Monitoring Officer) attendance at the following meetings:-
 - Coast to Capital Board meetings
 - Investment Committee

- Audit and Risk Committee
- Subsidy Control and procurement law advice in relation to new projects;
- Instructing external solicitors as agreed with Coast 2 Capital LEP and oversight of externally sourced legal work on behalf of Coast 2 Capital LEP, including Funding Agreements

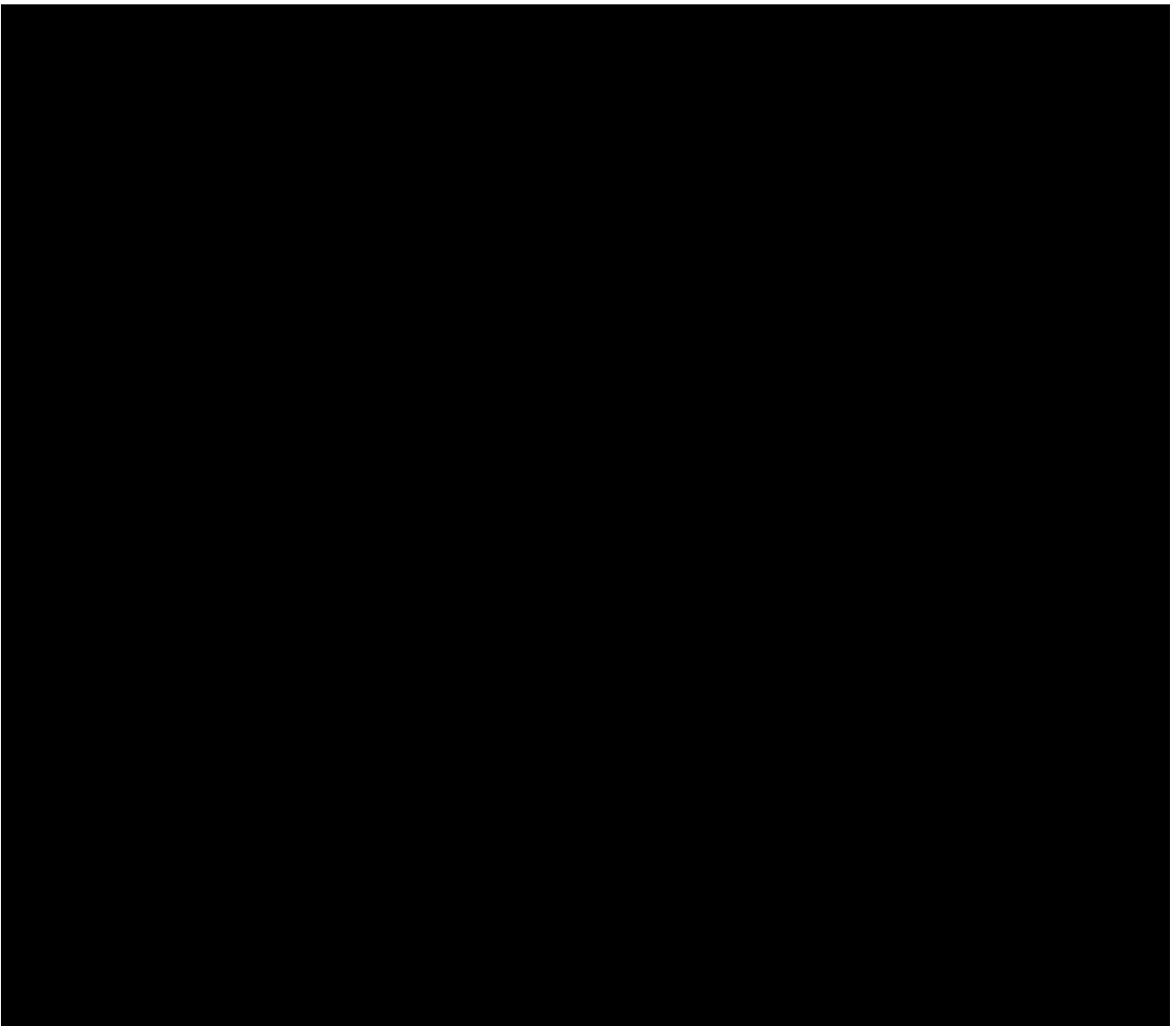
Other legal advice as discussed and agreed between the parties may be provided at an hourly rate as set out at Schedule 2.

Schedule 2

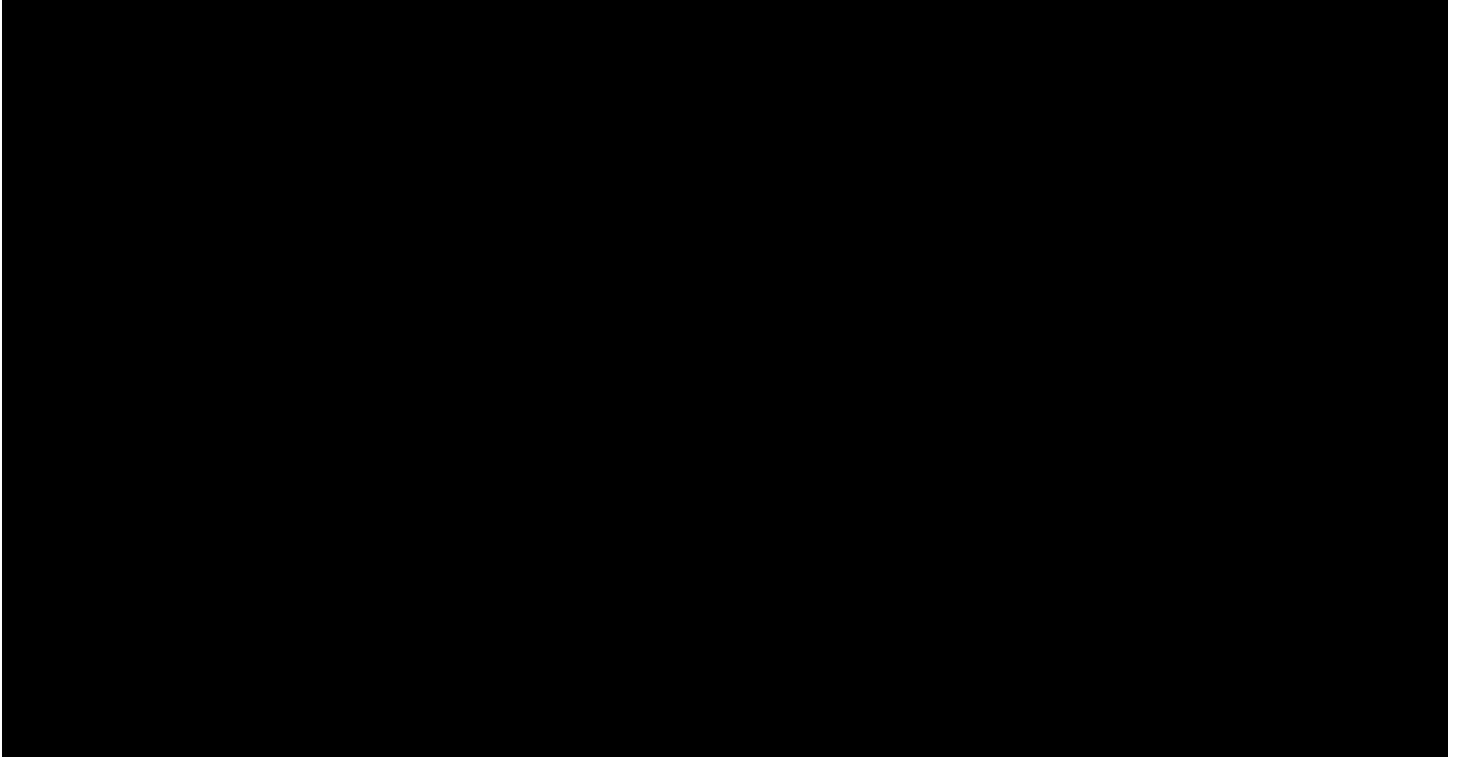
Charges

The presumption shall be that all fees and charges including the annual charges will increase by 2% each year but this shall be subject to discussion between the parties as to the affordability of such increases for Coast 2 Capital.

Finance



Legal



Schedule 3

Service Levels

Legal

1. Within 3 working days of receiving a request for legal advice or assistance, Legal Services will provide a response with a realistic estimate as to how long it will take to consider the request and respond substantively.
2. Legal Services will proactively manage conflicts of interest in accordance with Lexcel requirements and the Solicitor's Regulation Association guidance. Where possible, in cases where Brighton & Hove City Council is the delivery partner which is to receive funding from Coast to Capital, the Accountable Body shall appoint lawyers who are not routinely involved in providing services pursuant to this Agreement to act on behalf of Brighton & Hove City Council in its role as delivery partner.
3. If Coast to Capital has any concerns about the advice or service it has received from Legal Services, it shall contact the Head of Legal Services who will respond within 7 working days. If, having received a response from the Head of Legal Services, it remains concerned about the service provided it should follow the Dispute Resolution process outlined in clause 36.
4. Legal Services will record the amount of time spent on work undertaken pursuant to this Agreement. If the work undertaken in accordance with the Specification (Core Work) amounts to less than 64 hours in any calendar month, services provided outside of the Specification will not be charged for (provided they do not exceed 64 hours when taken with the Core Work).
5. The Head of Legal Services and Coast to Capital's Representative will meet quarterly to discuss the performance of this Agreement.

Finance

6. All finance staff operate according to the Nolan Principles of Public Life which are reflected in their Contracts of Employment and in the council's Employee Code of Conduct. All finance staff provide Related Party declarations on an annual basis and are fully aware of the need to declare any conflict of interest. In providing services and attending meetings, all finance staff will abide by Coast to Capital's procedure rules regarding providing advice or support for decisions where the Council may also be a beneficiary.

Schedule 4

Data Processing Activities

Categories of Data

Please tick all relevant boxes and add more detail if required:

Personal Data

This is a broad term and means any data which can be used to identify a living individual.

Name



Identification number



Location data



Online identifier (email/IP address)



Other (please insert details):

Special Categories of Personal Data

Certain specific 'special categories' of data are given additional protections. These are known as 'special category data' and the categories are listed below.

Only data which falls within the list below is considered 'special category data' whereas personal data is a much broader category

race



ethnic origin



political opinions



religion



trade union membership



Categories of Data Subjects	genetics	<input type="checkbox"/>
	biometrics (where used for ID purposes)	<input type="checkbox"/>
	health	<input type="checkbox"/>
	sex life	<input type="checkbox"/>
	sexual orientation	<input type="checkbox"/>
	Criminal Offence Data	
	This data also has particular protections:	
	allegations	<input type="checkbox"/>
	proceedings	<input type="checkbox"/>
	convictions	<input type="checkbox"/>
	Please tick all relevant boxes:	
	Complainants	<input type="checkbox"/>
		<input type="checkbox"/>
Employees	<input type="checkbox"/>	
	<input type="checkbox"/>	
Other (please insert details):		
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>		

Processing
Operations
References to
'data' in this
section refer to
Personal Data,
Special
Category Data
and/or Criminal
Offence Data.

Please tick all relevant boxes:

Using data provided by the Coast to Capital ☐

Collecting new data from Data Subjects ☐

Transforming data by adding new data collected from
service users/customers to data provided by the
Council ☐

Location
Processing
Operations

Please tick one box only:

UK ☒

EEA¹ (European Economic Area) ☐

Outside EEA (European Economic Area) ☐

If outside the EEA please provide details:

¹ The EEA consists of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Slovakia, Slovenia, Spain, Sweden, the UK, Lichtenstein, Iceland and Norway. See: www.gov.uk/eu-eea

Identity of sub-
contractors

None

Purposes

For the purpose of performing the Contract.

Duration

Until the expiry or termination date of the Contract.

Schedule 5
Funding Agreement Template