

DATED

[ ]

and

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**AGREEMENT**

**REGARDING UK SHARED PROSPERITY GRANT FUND**

**THIS AGREEMENT** is made the [ ]

**BETWEEN**

- (1) [ ](Project Deliverer”) and
- (2) **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL** of The Pavilions, Cambrian Park, Clydach Vale CF40 2XX (“Lead Authority”) and together referred to in this Agreement as the “parties”.

**BACKGROUND**

- 1.1 The SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES has allocated the UK Shared Prosperity Fund in respect of projects to be undertaken within the geographical area of the Partner Authorities.
- 1.2 The UK Government will provide funds to the Partner Authorities to build pride in place and increasing life chances by three investment priorities (1) community and place (2) supporting local business and (3) people and skills.
- 1.3 The Lead Authority will enter into funding agreements with the Partner Authorities and administer the distribution of funds and thereafter monitor to ensure the funds are used to deliver and meet local needs.
- 1.4 The Lead Authority is required to accept the terms and conditions of the Grant and will be liable to the Secretary of State, if the conditions of the Grant are not complied with or breached.
- 1.5 In order to ensure that the Partner Authorities comply with the conditions of the Grant, and to indemnify the Lead Authority in respect of non compliance and/or breaches which are not attributable to the Lead

Authority, the Project Deliverer, as one of the Partner Authorities entitled to the Grant, has entered into this Agreement.

1.6 The Project Deliverer enters into this Agreement for the purposes of obtaining funding for, and for managing and delivering the various elements of the Project which are within its administrative area.

1.7 It will be the Project Deliverer's responsibility to determine their route to market based upon the most appropriate, cost effective and compliant delivery route taking into account subsidy control regulations and public procurement rules.

## **OPERATIVE PROVISIONS**

### **2. INTERPRETATION**

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

"Agreement" means this Agreement including all Schedules;

"Application Form" means the UK Shared Prosperity Fund Investment Plan Questions submitted by the Lead Authority on behalf of the Partner Authorities and attached at Schedule 4

"Business Day" means a day (other than a Saturday or Sunday or public holiday in Wales) on which banks are open for domestic business in the City of London;

"CCR Programme

Board" means the Chief Executives of the 10 South East Wales local authorities that form the Cardiff Capital Region.

"Change" means any change to the terms of this Agreement;

“Change Note” the written record of Change agreed by the parties pursuant to the Change Procedure;

“Change Procedure” the procedure for changing this Agreement as set out in Schedule 8

“Claim” means a claim for Funding submitted by the Project Deliverer to the Lead Authority in accordance with the Claim Process and Reporting Requirements.

“Claim Process” means the forms and spreadsheets attached at Schedule 5.

“Conditions” means the terms, conditions and obligations set out in the Memorandum of Understanding dated 5<sup>th</sup> December 2022 attached at Schedule 1, the UKSPF Prospectus, the UKSPF Additional Guidance, the General Conditions attached at Schedule 2, the Financial Conditions attached at Schedule 3 and Data Protection Legislation;

“Default Notice” means a notice served by the Lead Authority or the CCR Programme Board in accordance with Clause 5;

“Data Protection

Legislation” means all legislation and regulatory requirements in force from time to time relating to the use of Personal Data, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any

successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK) and any formal guidance or Codes of Conduct issued by the Information Commissioner (or other competent data protection authority) in each case as amended, superseded or replaced from time to time

“Delivery Profile” means the financial and participant profile agreed or any later version submitted by the Project and approved by the Secretary of State. A summary of the Delivery Profile for each Partner Authority is included as Schedule 7.

“Financial Conditions” means the financial conditions in respect of payment of Funding from the Grant by the Lead Authority to the Project Deliverer set out in the Schedule 3;

“Funding” means any payment of funding from the Grant by the Lead Authority to the Project Deliverer;

“General Conditions” means the general conditions set out in Schedule 2;

“Grant” means the total sum from the UKSPF (including funding for Multiply) payable by the Secretary of

State through the Lead Authority in respect of the Project issued in accordance with the Memorandum of Understanding and UKSPF Additional Conditions and detailed in the Grant Determination Letters for the relevant year;

“Grant Determination

Letters”

means the letters issued by the Secretary of State confirming the annual payment for each year until 2025.

“Grant Termination

Date”

means 31<sup>st</sup> March 2025 unless or until any later date is agreed by the Secretary of State and accepted by the Lead Authority.

“Information

Commissioner”

has the meaning set out in section 114 of the Data Protection Act 2018 and for the avoidance of doubt is the UK’s independent body set up to uphold and enforce information rights

“Intellectual Property”

means copyright and neighbouring and related rights, trade marks 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 design, 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.

“Lead Authority” means Rhondda Cynon Taf County Borough Council and should be read to mean the team responsible for the monitoring, reporting and administering the claim process for all UKSPF Projects approved for delivery within the administrative areas of the Partner Authorities by the Secretary of State;

“Legislation” means any statutory or case-law obligation (whether under criminal or civil law) from time to time which relates to the Grant or the payment of Funding in so far as applicable in England and Wales, or in Wales alone

“Local Partnership Group” means a group that meets the requirements of the UKSPF Prospectus.

“Match Funding” means an agreement to match, or partially match the funding pledged.

“Memorandum of Understanding” means the Memorandum of Understanding dated 5<sup>th</sup> December 2022 between The Secretary of State for Levelling Up, Housing and Communities and Rhondda Cynon Taf County Borough Council

setting out the terms that will apply regarding the administration and delivery of the UKSPF attached at Schedule 1;

“Multiply” means the program to help transform the lives of adults by improving their functional numeracy skills through free personal tutoring, digital training and flexible courses.

“Non-Compliance” means failing to comply with the terms of this Agreement or the Conditions;

“Operative Date” means the date of this Agreement;

“Partner Authorities” means Blaenau Gwent County Borough Council, Bridgend County Borough Council, Caerphilly County Borough Council, Cardiff Council, Cardiff Capital Region, Merthyr Tydfil County Borough Council, Monmouthshire County Council, Newport City Council, Rhondda Cynon Taff County Borough Council, Torfaen County Borough and The Vale of Glamorgan Council and any successor Councils or Authorities that may result from any Local Government reorganisation or any other reason;

“Personal Data” has the meaning ascribed to it in the Data Protection Legislation.

“Process” has the meaning ascribed to it in the Data Protection Legislation and **Processing** shall be construed accordingly



“Project” means building pride in place and increasing life chances by three investment priorities (1) community and place (2) supporting local business and (3) people and skills. which is the subject of the Grant;

“Reporting Requirements” means the reporting and monitoring requirements for the consideration of and subsequent award of Funding from the Grant as summarised in Schedule 6

“Regional Directors Group” means the group set up and administered in accordance with Schedule 8.

“Secretary of State” means The Secretary of State for Levelling up, Housing and Communities of 2 Marsham Street, London SW1P 4DF;

“Subsidy” means any direct or indirect financial assistance which arises from the resources of the United Kingdom Government, devolved government, other public authority in the United Kingdom or an emanation of any of these including:

- a. A direct or contingent transfer of funds such as direct grants, loans or loan guarantees;
- b. The forgoing of revenue that is otherwise due;

c. The provision of goods or services, or the purchase of goods or services; or

d. a measure analogous to these

which is subject to any Subsidy Control Rules.

“Subsidy Control Rules” means:

a. the Subsidy Control Act 2022 and any regulations made under or pursuant to it;

and

b. any Legislation which is in force and/or in effect and/or applies (in Wales) which regulates the granting of subsidies;

including the Statutory Guidance for the Subsidy Control Act 2022 produced by the Department for Business, Energy and Industrial Strategy, in each case as amended from time to time.

“Termination Date” means the date of the final payment of Funding from the Lead Authority to the Project Deliverer. ;

“UK Government” means the central government of the United Kingdom of Great Britain and Northern Island.

“UK Shared Prosperity

Fund” (UKSPF) means a sum of money made available by the UK Government which is to be used to build pride in place and increasing life chances by three investment priorities (1) community and place (2) supporting local business and (3) people and skills;

“UKSPF Additional

Guidance” means the guidance published by the Secretary of State or UK Government on the delivery of the UKSPF as may be updated and published from time to time;

“UKSPF Prospectus” means the UK Shared Prosperity Prospectus published on the UK Government website by the Secretary of State as updated from time to time.

“Unlawful Subsidy” means any Subsidy which has from time to time been found to contravene the Subsidy Control Rules.

- 2.2 Any reference to the Secretary of State will also include reference to the Department for Levelling Up, Housing and Communities, an Administrative Division of the UK Government serving the Secretary of State;
- 2.3 Clause headings in this Agreement are for convenience only and shall have no contractual effect.
- 2.4 Any reference to a clause is a reference to a clause of this Agreement.
- 2.5 Words importing one gender shall include the other genders and words importing the singular include the plural and vice-versa.
- 2.6 Reference to “individual” or “person” shall include bodies corporate unincorporated associations and partnerships.
- 2.7 Any reference to any enactment or statutory instrument shall be deemed to include reference to such enactment or statutory instrument as re-enacted amended or extended.

2.8 An obligation not to do, or omit to do, something shall be deemed to include an obligation not to permit or (so far as is reasonably practicable) suffer that thing to be done, or omitted to be done.

2.9 An obligation to do something shall include an obligation to seek to procure that it is done.

### **3. WORKING ARRANGEMENTS**

3.1 This Agreement is entered into by the Lead Authority and Project Deliverer on a basis of co-operation and good faith.

3.2 Signature of this Agreement by the parties includes agreement to:

3.2.1 Work jointly, including across the Partner Authorities, where possible or appropriate, to ensure the best outcomes for the Project's participants and to ensure the mutual success of the Project;

3.2.2 Share such project information between Partner Authorities as is necessary for the smooth and cooperative running of the Project, including, but not limited to:

3.2.2.1 cross-project risks or issues;

3.2.2.2 problem or dispute resolution;

3.2.2.3 identified best practice;

3.2.2.4 financial or Grant information; and

3.2.2.5 any other information deemed to be relevant by the Regional Directors Group or CCR Programme Board.

3.2.3 Develop and utilise a communication plan for:

3.2.3.1 the dissemination of the information described in 3.2.2; and

3.2.7.2 such information as may be beneficial to participants, potential participants, the Lead Authority, the Secretary of State and any other group / organisation as may be determined from time to time..

3.2.4 Discuss with each other, as soon as possible, any problems or disputes which arise, attempting to resolve any difficulties through negotiation at an early stage and ensuring appropriate officers are available upon reasonable notice to discuss any issues under dispute.

#### **4. AGREEMENT**

4.1 The Project Deliverer agrees that the Lead Authority will accept the offer of Grant on behalf of the Project Deliverer.

4.2 The Project Deliverer acknowledges that the payment of Funding by the Lead Authority to the Project Deliverer will not take place until the Project Deliverer has satisfied the requirements of the Claim Process and Reporting Requirements.

4.3 The Project Deliverer undertakes that they will adhere to the terms of this Agreement and comply in all material respects with the Conditions including acting in accordance with any Legislation or guidance linked to UKSPF or wider Levelling Up Funding (or any re-enactment or amendment thereof) and provisions in respect of eligibility, monitoring, audit, record retention, match funding and clawback. The Project

Deliverer further agrees that it will accept sole responsibility for any compliance failure and / or breach of Conditions caused by the Project Deliverer or any third party that they have procured to deliver the Project and shall fully indemnify the Lead Authority for any losses whatsoever resulting from that compliance failure and / or breach, suffered by the Lead Authority.

- 4.4 The Project Deliverer shall ensure that any Funding paid contributes to the social, economic and environmental well-being of the wider community and where appropriate sustainability and green measures align to UK Governments net zero strategy, social value goals and guidance issued by the UK Government.
- 4.5 The Project Deliverer shall be responsible for ensuring that Funding is spent in accordance with all applicable Legislation. This includes the subsidy control rules and public procurement rules.
- 4.6 The Project Deliverer warrants to the Lead Authority that it will observe and perform the Conditions. The Project Deliverer also agrees that, upon receipt of reasonable notice, it will permit rights of access to the Lead Authority (and the other bodies specified in the Conditions) for audit, compliance and any other purposes set out therein, undertaking to provide in a timely manner information requested by the Lead Authority to enable all relevant deadlines to be met.
- 4.7 The Project Deliverer shall set up a Local Partnership Group to oversee the delivery of any Funding received. A copy of the terms of reference of the Local Partnership Group has been supplied to the Lead Authority.

The Local Partnership Group shall remain in place until the Termination Date.

- 4.8 The Lead Authority shall monitor compliance by the Project Deliverer against the minimum standards and legal obligations set out in the Agreement and should non-compliance be identified mechanisms to recover Funding will be instigated.
- 4.9 Without prejudice to the generality of Clause 4.1 to 4.6 if the Project Deliverer receives notification of any financial clawback, financial imposition, or deduction of Funding as a result of any non-compliant procurement process by the Project Deliverer, they will be solely responsible for reporting the notification to the Lead Authority as soon as possible and indemnify the Lead Authority in respect thereof.
- 4.10 The Project Deliverer undertakes to provide in a timely manner information required by the Lead Authority to enable any claim deadline to be met.
- 4.11 The Project Deliverer is encouraged to provide Match Funding per award of Funding however for the avoidance of doubt the provision of Match Funding is not a requirement for UKSPF.
- 4.12 Notwithstanding the termination of the Agreement the parties shall remain liable for any Conditions they have not complied with and in respect of any liability arising from Non-Compliance or breach of a Condition.
- 4.13 The parties agree that the Regional Directors Group will provide a strategic consultative and advisory role to ensure the successful delivery of the UKSPF at both a regional and local level.

4.14 The parties agree that where necessary decision making will be escalated to the CCR Programme Board.

## **5. DEFAULT**

5.1 Without prejudice to any other right or remedy, upon the discovery of evidence which on the balance of probabilities indicates Non-Compliance, a party to this Agreement may serve a Default Notice upon the defaulting party. Any such Default Notice shall set out the nature of the alleged default and require the defaulting party to remedy the default within such reasonable time as may be specified in the Default Notice.

5.2 Any dispute as to Default Notices, and / or the service thereof, under this clause, shall be referred to the CCR Programme Board to make a decision at the earliest opportunity.

5.3 If any Default Notice served under this clause 5 is not complied with within the timescale set out in the Default Notice, then the Lead Authority may, in respect of default by the Project Deliverer, or the CCR Chief Programme Board may, in respect of default by the Lead Authority:

5.3.1 Terminate this agreement in accordance with clause 10.2;  
and / or

5.3.2 Deduct, or request the Lead Authority to deduct, from any amount then due, or to become due to the defaulting party such amount as is reasonable;

5.4 Any disputes over the deduction of any sums under this clause shall be referred to the CCR Programme Board.

5.5 A Default Notice must be communicated in writing and subject to Clause 16.



## **6. SUBSIDY CONTROL**

6.1 The Project Deliverer shall ensure that the spend of any Funding shall be in accordance with the Subsidy Control Rules.

6.2 If and to the extent that any Funding is found to constitute or include an Unlawful Subsidy (or is under investigation or subject to judicial proceedings in relation to compliance with the Subsidy Control Rules) then the Project Deliverer:

6.2.1 acting in good faith will seek to restructure the arrangements surrounding the Funding to the extent necessary to ensure compliance with the Subsidy Control Rules; and/or

6.2.2 promptly cooperate in good faith to provide evidence that the Funding payment (or the restructured Funding payment) is or will be compliant with the Subsidy Control Rules.

6.3 If and to the extent that any Funding is found to constitute or include an Unlawful Subsidy and/or the arrangements are not capable of being restructured so as to be compliant then the Project Deliverer must repay any Unlawful Subsidy plus such interest as is prescribed by Subsidy Control Rules within fifteen (15) Business Days of the Lead Authority raising a written demand for payment.

## **7. PROCUREMENT**

7.1 The Project Deliverer must ensure that any goods, services or works procured in respect of the Grant shall be in accordance with the Public Contracts Regulations 2015 (as amended) and the principles of non-discrimination, transparency and fairness.

7.2 Where the procurement falls outside of the Public Contracts Regulations 2015 the Project Deliverer must follow its own contract procedure rules and demonstrate value for money.

## **8. ADMINISTRATION FEE**

8.1 An administration fee of up to 4% of the Grant can be utilised by the Partner Authorities for the administration of the Project.

8.2 Having considered the accountability and responsibilities of administering the Grant, the parties agree that the 4% administration fee is to be split with 60% being retained by the Partner Authorities for local administration costs and the remaining 40% being retained by the Lead Authority for their key role and responsibility in administering the Grant and acting as the Lead Authority.

## **9. DISPUTE RESOLUTION**

9.1 If there is a dispute between the parties concerning the interpretation or operation of this Agreement then either party may notify the other in writing that it wishes the dispute to be referred to a meeting of the CCR Programme Board to resolve, all parties negotiating on the basis of good faith.

9.2 If, after 28 days from the date of notice referred to above (or such longer period as the parties may agree), the dispute has not been resolved the parties will agree to enter into mediation in good faith to settle such dispute and will do so in accordance with the Centre for Effective dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by the CEDR.

9.3 If the mediation does not resolve the dispute, the CCR Programme Board may refer the matter to Arbitration on the following basis:

9.3.1 Referral shall be to a single Arbitrator selected by the CCR Programme Board or, in the absence of agreement, to be nominated by the President of the Chartered Institute of Arbitration

9.3.2 Such arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1996 and the Arbitrator appointed shall have the power to:

9.3.2.1 Obtain the assistance of such experts as he or she shall think fit and to adopt any statement or report that is obtained;

9.3.2.2 Order and direct what he or she shall think to be done by any of the parties respectively in relation to the matters in dispute; and

9.3.2.3 Apportion the costs of arbitration to be split between the parties in a manner that he or she sees fit;

9.3.3 The decision of the Arbitrator shall be final and binding.

## **10. TERMINATION**

10.1 Either party may give no less than 3 months notice in writing to terminate this agreement.

10.2 If a Default Notice is served under clause 5 and not complied with within the timescales set out in the Default Notice the Lead Authority or the CCR Programme Board as appropriate may give no less than one months notice in writing to terminate this Agreement.

10.3 In the event of this Agreement being terminated:-

10.3.1 the Project Deliverer shall immediately pay to the Lead Authority the balance of any payments made to the Project Deliverer less any legitimate, eligible and claimable expenditure incurred by the Project Deliverer at that time.

10.3.2 either the Lead Authority or Project Deliverer shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of this Agreement and the termination of this Agreement shall not affect or prejudice such rights and remedies. Each party shall, and shall remain liable to, perform all of their outstanding liabilities and indemnities under this Agreement, notwithstanding that the other may have exercised one or more of the rights and remedies against it; and

10.3.3 Any right or remedy to which either the Lead Authority or Project Deliverer is or may become entitled under this Agreement or in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by this Agreement or now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative

## **11. COMMENCEMENT AND DURATION**

11.1 This Agreement shall extend from the Operative Date until the Termination Date but shall not prejudice or affect any right of action or

remedy which shall have accrued, or which may thereafter accrue, to anybody under the Conditions.

## **12. DATA PROTECTION**

12.1 The parties will co-operate with one another in order to enable each party to fulfil its statutory obligations under the Data Protection Legislation.

12.2 Without prejudice to the generality of Clause 1.1, the parties warrant and represent that it they have obtained all and any necessary registrations, notifications and consents required by the Data Protection Legislation to Process Personal Data for the purposes of performing their obligations under this Agreement. The parties undertake at all times during the term of this Agreement to comply with the Data Protection Legislation (and the data protection principles contained therein) in Processing all Personal Data in connection with this Agreement and shall not perform its obligations under this Agreement in such a way as to cause the party to breach any of its applicable obligations under the Data Protection Legislation

## **13. INTELLECTUAL PROPERTY**

13.1 Any Intellectual Property created through the establishment and running of this Agreement shall vest in the Lead Authority. The Intellectual Property shall be held by the Lead Authority. This shall include but is not limited to processes, procedures, methodology and manuals.

13.2 The Lead Authority shall grant to the Project Deliverer an irrevocable licence to use that Intellectual Property for the purpose of this Agreement.

13.3 Where a party develops Intellectual Property in relation to the delivery of the Project that Intellectual Property shall belong to that party alone.

13.4 Nothing in this clause 13 shall operate to prevent or make difficult the sharing of good practice between the parties.

#### **14. FREEDOM OF INFORMATION**

14.1 The parties agree that they will co-operate with one another to enable any party receiving a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 to respond to that request promptly and within statutory timescales. This co-operation shall include, but not be limited to, finding, retrieving and supplying information held and directing requests to other parties as appropriate and responding to any requests by a party receiving a request for comments or other assistance.

#### **15. WAIVER**

15.1 Failure by a party, or any other body so entitled, at any time to:

15.1.1 enforce any of the provisions of this Agreement; or

15.1.2 to require the performance of any of the provisions of this Agreement,

shall not be construed as a waiver of any such provision and shall not affect the validity of the Agreement or any part thereof, or of the right of the Lead Authority, or any other body, to enforce any provision in accordance with its terms.

#### **16. NOTICES**

16.1 Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post or e-

mail addressed to the recipient as set out in Schedule 10 or any other address notified to the other party in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- (a) if delivered by hand during business hours, at the time of delivery;
- (b) if delivered by post, 48 hours after being posted (excluding Saturdays, Sundays and a non Business Day);

If delivered by e-mail or other electronic form of communication during business hours, at the time of transmission provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.

16.2 Where notice is served by hand or e-mail outside business hours, it will be deemed to have been served on the next Business Day.

## **17. CHANGE**

17.1 Any requirement for a Change to this Agreement shall be subject to the Change Procedure.

## **18. THIRD PARTY RIGHTS**

18.1 The parties to this Agreement confirm and agree that they do not intend any provision of it to be enforceable by any other person pursuant to the Contract (Rights of Third Parties) Act 1999 save as set out in this Agreement.

## **19. NO PARTNERSHIP**

19.1 The Project Deliverer and Lead Authority are independent from each other and save as set out in this Agreement nothing contained in this

Agreement shall be construed as implying that there is any relationship between the Project Deliverer and Lead Authority of partnership or of principal / agent or of employer / employee.

## **20 COUNTERPART**

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

## **21. JURISDICTION**

21.1 This Agreement shall be governed and constituted in accordance with English and Welsh law as applied in Wales and the parties shall submit to the jurisdiction of the English and Welsh courts.



**SCHEDULE 1**

**MEMORANDUM OF UNDERSTANDING**

DRAFT

## SCHEDULE 2

### GENERAL CONDITIONS

#### 1 **APPRAISAL AND MONITORING**

- 1.1 The parties acknowledges that it is fundamentally important to them and to the Secretary of State that the Project shall be properly monitored to ensure value for money and a satisfactory standard of delivery and the Project Deliverer will assist the Lead Authority to demonstrate these objectives have been achieved.
- 1.2 Delivery of the Project must be consistent with the details specified in the Application Form, Memorandum of Understanding and Delivery Profile. The Lead Authority will monitor progress and performance of the Project against those outputs detailed within the Delivery Profile and any Conditions and regular review meetings will be held with the Lead Authority and Project Deliverer to assess progress against participant delivery and financial targets.
- 1.3 The Project Deliverer will use their reasonable endeavours to work to a management system which enables the Project to satisfy 1.4 and 1.5 below and for delivery and finances to be effectively monitored and controlled. The Lead Authority will work with the Project Deliverer to ensure systems are adequate and capable of providing relevant information.
  - 1.3.1 The Project Deliverer will provide the Lead Authority with quarterly and six monthly monitoring reports (in a format prescribed by the Lead Authority) showing progress against targets. Where necessary, the

Project Deliverer will provide explanations of any deviation from the agreed Delivery Profile, targets or outcomes.

1.4 The Project Deliverer shall maintain full and proper accounts and records concerning all aspects of its involvement in the Project that enable it to demonstrate:

1.4.1 Amounts received by the Project Deliverer from the Lead Authority.

1.4.2 What these amounts have been spent on.

1.4.3 Full disclosure of asset purchases and sales.

1.4.4 Whether the original targets have been met and reasons for any variances.

1.4.5 That amounts spent and received by all partners of the Project Deliverer have been used wholly and exclusively for the purpose of the Project.

1.5 All accounts and records shall be maintained in a manner which clearly identifies it as accounts for the Project and no other purpose and all accounts and records kept by the Project Deliverer shall be retained for the period, as specified by the Funding Agreement, for a minimum of 7 years after the end of the Funding Agreement.

1.6 The Project Deliverer must contact the Lead Authority as soon as reasonably practicable if it becomes aware that, for whatever reason, the approved targets as stated in the Delivery Profile and Conditions are not going to be materially met.

1.6.1 If in its reasonable opinion the Lead Authority considers the standards of any one or more of the periodic monitoring reports is inadequate the Lead Authority may require the Project Deliverer:

1.6.1.1 to supply reports to the Lead Authority more frequently until such time as the standard of reports improves:

1.6.1.2 to take such reasonable remedial action at the Project Deliverer's cost as the Lead Authority may reasonably require to improve the standard of the reports.

## **2 RIGHT OF ACCESS**

2.1 The Project Deliverer will allow authorised employees of the Lead Authority, upon receipt of reasonable written notice, access to all financial and monitoring records relating to the Project.

2.2 Such access shall include the right to audit, review and take copies of all such documentation and where necessary in the reasonable opinion of the Lead Authority, take custody of the original accounts and records, but in the case of the Lead Authority taking custody of any original accounts or records, the Lead Authority will immediately provide to the Project Deliverer certified copies and fully indemnify the Project Deliverer if such accounts or records are lost or destroyed.

2.3 The right of access shall endure whilst the project accounts are maintained as set out in 1.5

2.4 The persons having by virtue of this Agreement a right of access to such accounts and records are:

2.4.1 Lead Authority

2.4.2 the Secretary of State

2.4.3 Department for Business, Energy and Industrial Strategy (BEIS) and the Ministry for Housing, Communities, and Local Government (MHCLG)

- 2.4.4 National Audit Office
- 2.4.5 Audit Wales
- 2.4.6 Any Government Agency who has a right to review expenditure by the Council or Government Ministers
- 2.4.7 Any other auditor whose functions include the audit of expenditure by the Project Deliverers.

### **3 ASSISTANCE TO THE LEAD AUTHORITY**

- 3.1 If at any time the Lead Authority is required by its own auditors, or any other body, to provide any information to such bodies concerning the Project the Project Deliverer shall use all best endeavours to assist the Lead Authority to comply with any such requirement and such assistance shall include, but is not limited to, the provision of copies of all documentation held by the Project Deliverer that is relevant to the Project.

### **4 RETENTION OF DOCUMENTATION**

- 4.1 The Project Deliverer shall retain all financial and participant related records, accounts and original documentation including invoices relating to the Project until the Secretary of State informs the Lead Authority in writing, who will accordingly communicate with the Project Deliverer, that the documents may be disposed of.
- 4.2 The Lead Authority will reclaim any grant funding from the Project Deliverer where, after receipt of reasonable written notice, the Project Deliverer is unable to provide original supporting documentation.

## **5 RIGHT TO WITHHOLD PAYMENT**

- 5.1 The Lead Authority shall be entitled to withhold or suspend payment of all or part of the Funding to the Project Deliverer if:
- 5.1.1 The Project Deliverer fails to materially comply with any requirement which any of the Conditions states must be met before the Lead Authority is obliged to make a payment, or
- 5.1.2 In the Lead Authority's reasonable opinion, which must be based on evidence, it considers that because of any act or omission on the part of the Project Deliverer, part of the Funding has been applied other than wholly and exclusively for the purpose of the Project, or
- 5.1.3 The Lead Authority or Project Deliverer becomes entitled to terminate this Agreement.
- 5.1.4 The Lead Authority has lawfully served upon the Project Deliverer either a Notice of Default or Termination under Clauses 5 or 8 of the Agreement and the Project Deliverer has not materially complied with such notice.

## **6 RIGHT TO RECOVER PAYMENT**

- 6.1 The Lead Authority may require that a Project Deliverer repay to the Lead Authority in full or part the Funding paid by the Lead Authority to the Project Deliverer if, in its reasonable opinion:
- 6.1.1 All or part of the Funding paid to the Project Deliverer is applied otherwise than wholly and exclusively for the purposes of the Project;
- 6.1.2 There has been an overpayment of the Funding to the Project Deliverer by reason of an error made by either party; or
- 6.1.3 Any part of the Funding to be paid to the Project Deliverer is held by the Secretary of State due to breach of any of the Conditions.

- 6.2 If the Project Deliverer becomes aware of any circumstances which, in its reasonable opinion, entitles the Lead Authority to exercise any of its rights under paragraph 6.1 above, it shall inform the Lead Authority immediately in writing detailing the circumstances and the evidence on which the Project Deliverer's reasonable opinion is based.
- 6.3 The Project Deliverer, upon receipt of a reasonable written demand from the Lead Authority, shall repay any sum that becomes repayable by virtue of paragraph 6 to the Lead Authority.
- 6.4 Wherever under this Agreement any sum of money is recoverable from or payable by the Project Deliverer to the Lead Authority, the Lead Authority may deduct from any further sum due to the Project Deliverer under this Agreement such amount as is due to the Lead Authority.

## **7 INSUFFICIENT TAKE UP OF GRANT**

- 7.1 Should there be insufficient take up of the Grant by the Project Deliverer, the Project Deliverer shall indemnify the Lead Authority against any reasonable fees, costs or expenses not recoverable from the Secretary of State directly incurred due to such insufficient take up.

## SCHEDULE 3

### FINANCIAL CONDITIONS

#### **1 Payment of Grant to the Project Deliverer**

- 1.1 Subject to the performance by the Project Deliverer of its obligations under this Agreement and achievement of the indicators set out in the Delivery Profile, the Lead Authority shall reimburse the Project Deliverer as set out in the Funding Agreement and Delivery Profile, unless the Lead Authority agrees changes within the limits of the overall approval level.
- 1.2 The Project Deliverer shall submit any Claims for Funding to the Lead Authority in accordance with the Claim Process and Reporting Requirements and must ensure all information is submitted by the relevant claim date.
- 1.3 Claims submitted by the Project Deliverers shall be submitted to the Lead Authority for payment.
- 1.4 The final Claim will become payable following approval of the Claim by the Lead Authority in the month following the Grant Termination Date.
- 1.5 The parties assume no VAT is payable by the Lead Authority in respect of the Grant. If that assumption is incorrect the amounts of the reimbursement of Grant shall be deemed to be inclusive of VAT.
- 1.6 The Project Deliverer is responsible for their own VAT accounting and all Claims should be exclusive of recoverable VAT. If the Project Deliverer includes non-recoverable VAT elements the Project Deliverer will be required to provide appropriate additional evidence to justify this decision at audit.



- 1.7 Payments arising from Claims shall become due and be payable by the Lead Authority upon each and every one of the following conditions being met:
  - 1.7.1 The Project Deliverer has complied in all material respects with its obligations under this Agreement.
  - 1.7.2 The Project Deliverer has submitted their Claim, to the Lead Authority, which complies in all material respects with the requirements of this Schedule.
  - 1.7.3 The Claim shall be in the format agreed and provided by the Lead Authority and shall clearly identify eligible amounts claimed in relation to the Project. The Claim shall be accompanied by such supporting evidence as required by the Secretary of State or other relevant guidance documents in order to satisfy the Secretary of State that the amount claimed has actually and properly been incurred by the Project Deliverer in respect of delivering the Project.
  - 1.7.4 The Lead Authority has reviewed the Claim and agreed that expenditure is eligible for the purpose of the Project.
- 1.8 The late submission of a Claim by the Project Deliverer outside of the timeframe required for submission to the Lead Authority will result in a delay in payment. A late claim will be omitted from the respective claim round and be included in the next claim cycle (if any). The late submission of the final Claim may result in non-payment and loss of Funding..
- 1.9 The Lead Authority will reimburse the Project Deliverer within 15 Business Days of approval of the Claim by the Lead Authority.

1.10 In the event that there are any changes to the Claim Process or Reporting Requirements as a result of further guidance, the Lead Authority will notify the Project Deliverer of the change as soon as is practicable and will, where required, provide detailed instruction to Project Deliverer within 28 days of the change imposed.

## **2 Audit**

2.1 The Funding Agreement outlines the rights of Auditors and Government bodies and the Lead Authority in regard to audit requirements.

2.2 The Project Deliverer must maintain an accounting system, which will uniquely identify Project expenditure from all other activities of the partners' e.g. unique cost centres. The system should be capable of identifying eligible and ineligible costs and any Match Funding provided.

2.3 The Project Deliverer must provide all reasonable assistance to the Lead Authority in providing the necessary evidence to demonstrate compliance for the purpose of monitoring, review and audit.

**SCHEDULE 4**  
**APPLICATION FORM**

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## SCHEDULE 5

### CLAIM PROCESS

Subject to the performance by the Project Deliverer of their obligations under this Funding Agreement and their successful delivery of the Project Interventions, Rhondda Cynon Taf CBC will reimburse each Project Deliverer in line with the requirements set out in this schedule.

Project Deliverers can claim quarterly in arrears from Rhondda Cynon Taf CBC. Subject to Rhondda Cynon Taf being in receipt of, and holding, sufficient funds from DLUHC, payments will be made to Project Deliverers within 15 working days of Rhondda Cynon Taf receiving a correctly completed claim form accompanied with evidence of expenditure and quarterly reporting information set out in Schedule 6 of this Funding Agreement. This arrangement may be varied by Rhondda Cynon Taf CBC.

<b>Partner Authority Shared Prosperity Fund Claim Periods</b>	<b>Financial Year</b>	<b>Deadline for Submission to RCT CBC SPF Lead Team</b>	<b>Deadline for Submission to DLUHC</b>
April - December 2022	2022/23	13/01/2023	01/02/2023
Quarter 4	2022/23	14/04/2023	01/05/2023
Quarter 1	2023/24	14/07/2023	01/08/2023
Quarter 2	2023/24	13/10/2023	01/11/2023
Quarter 3	2023/24	12/01/2024	01/02/2024
Quarter 4	2023/24	12/04/2024	01/05/2024
Quarter 1	2024/25	12/07/2024	01/08/2024
Quarter 2	2024/25	11/10/2024	01/11/2024
Quarter 3	2024/25	10/01/2025	01/02/2025
Quarter 4	2024/25	11/04/2025	01/05/2025

Rhondda Cynon Taf CBC will not accept interim claims outside of the claim periods noted above. Late claims will be omitted from the respective claim round and included in the next claim cycle.

*\*Further claim guidance and templates will be provided.*

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## **SCHEDULE 6 REPORTING REQUIREMENTS**

As per the UK Shared Prosperity Fund Prospectus, DLUHC will require lead authorities to report on a quarterly and a six monthly basis. This is further detailed within the reporting and performance management section on the GOV.UK Shared Prosperity Fund website - [UK Shared Prosperity Fund: reporting and performance management \(3\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/uk-shared-prosperity-fund-reporting-and-performance-management-3)

To enable Rhondda Cynon Taff CBC to comply with DLUHC reporting requirements, Project Deliverers will be required to submit reporting information to Rhondda Cynon Taff CBC on a quarterly basis. Submission dates are in line with the claim periods set out in Schedule 5 of this Funding Agreement. Further reporting guidance and templates will be provided.

Please note that DLUHC will require separate reporting and monitoring for the Multiply allocation and further guidance will be provided.

Rhondda Cynon Taff CBC will be required to provide the following information to DLUHC –

### **Qualitative Updates**

- Spend to date and forecast against each of the three UKSPF investment priorities.
- Progress summary of the programme including an overall Red, Amber, Green (RAG) rating.
- Details of forecast underspend and how/when this will be addressed.
- Information on any upcoming projects, events, case studies and opportunities for Ministerial visits.

### **Project level**

- The UKSPF intervention the project has been set up to support
- Start date
- The Project's projected spend
- The Project's actual spend to date
- Value of match funding against the project
- Postcode(s) where funded activity is being delivered?
- Parliamentary Constituency / Constituencies benefiting from project
- Has UKSPF been used to complement an existing project?
- Is the project live, finished, or abandoned?
- Projected end date (when it will cease to be supported by UKSPF) if live, or confirmed end date if finished / abandoned.

## **Pipeline Projects**

- Upcoming Project(s) planned in the next 6 months
- The UKSPF intervention(s) the upcoming project has been set up to support
- Projected spend

## **Investment Priority Level**

- Headline expenditure in year on management and administration.
- Details of slippage / delay in delivering projects against the investment priority and how/when this will be resolved.

## **Outputs and Outcomes Reporting**

- Intervention number
- Output name
- Output target to be achieved
- Output delivered to date
- % of output delivered
- Forecast output in next 6 months
- Forecast to meet output target (Y / N)
- Outcome name
- Outcome target
- Outcome delivered to date
- % of outcome delivered
- Forecast outcome in next 6 months
- Forecast to meet outcome target (Y / N)

Project Deliverers are required to collect and store evidence that will substantiate Outputs and Outcomes, prior to reporting to Rhondda Cynon Taf CBC. Evidence will be subject to routine compliance checks by Rhondda Cynon Taf CBC.

Project Deliverers should also collect baseline data (i.e. a recording of the output or outcome before the intervention has taken place). Rhondda Cynon Taf CBC will not provide baseline data. Project Deliverers will be expected to source and identify such data themselves. For many Outputs it will not be possible to provide a baseline recording. However, for Outcomes it is important to record a baseline where possible, as these metrics are aiming to measure change caused through the programme.

Further information is detailed within the Output and Outcomes section on the GOV.UK Shared Prosperity Fund website - [UK Shared Prosperity Fund: outputs and outcomes definitions \(2\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-shared-prosperity-fund-outputs-and-outcomes-definitions-2). The updated list of Outputs and Outcomes within this section provide the indicator definition and unit of measurement that corresponds to each output and outcome title. These definitions will continue to be refined and improved as the programme continues. Any amendments to the definitions will be managed, with the input of lead local authorities, to minimise their impact on delivery.

Further information on how Outputs and Outcomes correspond to SPF Interventions and Objectives is detailed on the GOV.UK Shared Prosperity Fund website - [Interventions, Objectives, Outcomes and Outputs – Wales \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guidance/interventions-objectives-outcomes-and-outputs-wales)

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**SCHEDULE 7**

**DELIVERY PROFILE**

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## SCHEDULE 8

### REGIONAL DIRECTORS GROUP

#### SPF TERMS OF REFERENCE

##### **1. Purpose**

- 1.1 The successful delivery of the South East Wales Regional Investment Plan requires robust governance arrangements and the continued commitment and active involvement of all partner authorities and key stakeholders.
- 1.2 The Regional Directors Group will provide a strategic consultative and advisory role to ensure the successful delivery of the UK Shared Prosperity Fund at a local and regional level.
- 1.3 Working with Rhondda Cynon Taf Council as lead authority, the Group will ensure effective lines of accountability and responsibility are established and maintained and that appropriate delivery mechanisms, performance monitoring and effective stakeholder management arrangements are established.

##### **2. Status of this Document**

- 2.1 This document is not a binding legal arrangement but is designed to complement the UKSPF Agreement between Rhondda Cynon Taf Council as lead authority and each partner authority.
- 2.2 This document relates solely to the implementation of the UK SPF and not the wider remit of the Regional Directors Group.

##### **3. Membership**

- 3.1 Membership will consist of the South East Wales Region Local Authority Directors with supporting officers, representatives from the Lead Authority SPF Team, Cardiff Capital Region Team and from the Welsh Local Government Association.

##### **4. Lead Authority and Implementation**

- 4.1 As lead authority and grant recipient, Rhondda Cynon Taf Council will provide high level leadership and direction and will manage the UKSPF in collaboration with partner authorities and key stakeholders.
- 4.2 Rhondda Cynon Taf Council will be supported by partner authorities in its lead authority role in ensuring that:
  - i. There are effective lines of accountability and responsibility.
  - ii. Adequate resources are committed to delivering the programme successfully.
  - iii. Individual components of the regional investment plan are delivered on time and to budget.
  - iv. Performance is monitored against headline outcomes, outputs and financial progress.

- v. Key stakeholders are kept informed and consulted with as appropriate.

## **5. Meetings**

- 5.1 Rhondda Cynon Taf Council will act as secretariat and meetings are proposed to initially be held monthly, with the frequency subject to regular review.

## **6. Decision Making**

- 6.1 Rhondda Cynon Taf Council will undertake its role as lead authority and exercise its decision making powers in accordance with the UK Government funding agreement and in conjunction with the Senior Responsible Officer and the Chief Finance officer for the Council.

- 6.2 Where decisions are required relating to SPF funded delivery and are within the remit of the agreement between the lead authority and UK Government, Rhondda Cynon Taf Council will work bilaterally with partner authorities to reach a consensus agreement.

- 6.3 UK Government approval will need to be sought when “material changes” are made to the Regional Investment Plan. Such changes will be discussed in advance with the Regional Directors Group and escalated to the South East Wales Chief Executives Group where necessary.

For the purposes of the UKSPF a ‘material change’ will constitute any of the following:

- i. **Material Change 1:**

A post investment plan approval request for administration costs to exceed the percentage agreed in the lead local authority’s investment plan.

- ii. **Material Change 2:**

Moving funding between investment priorities if the change involves moving 30% of the total funding allocation over the three years or £5m whichever is lower. Any funding moved from an existing intervention to fund a bespoke intervention would also require approval.

- iii. **Material Change 3:**

If the indicative outputs are expected to drop from what had been set out in the original investment plan submitted, within the following parameters:

- If the total outputs set out in the investment plan were forecast to drop by 20% or more against an investment intervention.
- If the outputs forecasted have dropped by more than 40% against an investment intervention since the original investment plan was submitted.

- 6.4 Any decisions that cannot be made by the lead authority will be discussed with the Regional Directors Group in advance of being escalated to the South East Wales Chief Executives Group and/or UK Government as

appropriate. Issues requiring an urgent decision may be circulated via written procedure.

## **7. Risk Management**

- 7.1 Rhondda Cynon Taf Council as lead authority will develop a risk management plan for the management and delivery of the programme and report any emerging issues or high level risks to the Regional Directors Group.
- 7.2 Any risks that cannot be resolved between Rhondda Cynon Taf Council as lead authority and the partner authorities will be escalated to the South East Wales Chief Executives Group.

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**SCHEDULE 9**  
**CHANGE PROCEDURE**

**1. General Principles**

- 1.1 Where the Lead Authority and the Project Deliverer see a need to change this Agreement, such Change shall be made only in accordance with the Change Procedure set out in paragraph 2 of this Schedule 7.
- 1.2 Until such time as a Change is made in accordance with the Change Procedure, the Lead Authority and the Project Deliverer shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms before such Change.

**2. Procedure**

- 2.1 Where a Change is agreed between the parties the Lead Authority shall prepare a Change Note.
- 2.2 A Change Note shall contain:-
- 2.2.1 the title of the Change;
  - 2.2.2 the reason for the Change;
  - 2.2.3 full details of the Change; and
  - 2.2.4 provision for signature by the Lead Authority and the Project Deliverer.
- 2.3 A Change Note signed by the Lead Authority and the Project Deliverer shall constitute an amendment to this Agreement.

**SCHEDULE 10**

**CONTACT DETAILS**

<b>Party</b>	<b>Address</b>	<b>Contact Details</b>
Rhondda Cynon Taf County Borough Council		

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**IN WITNESS WHEREOF** the parties have executed this Agreement as a Deed  
the day and year first above written:-

*Attestation as applicable to relevant Project Deliverer*

*EXECUTED as a Deed*

*by affixing the Common Seal of*

**TORFAEN COUNTY BOROUGH COUNCIL**

*in the presence of:*

**DRAFT**

.....

Authorised Officer

**THE COMMON SEAL of** )

**BLAENAU GWENT COUNTY BOROUGH COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

DRAFT



**THE COMMON SEAL** of )

**BRIDGEND COUNTY BOROUGH COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

**THE COMMON SEAL** of )

**CAERPHILLY COUNTY BOROUGH COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

**THE COMMON SEAL** of )

**CARDIFF COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

DRAFT

**THE COMMON SEAL** of )

**MERTHYR TYDFIL COUNTY BOROUGH COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

**THE COMMON SEAL** of )

**MONMOUTHSHIRE COUNTY COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

**THE COMMON SEAL** of )

**NEWPORT CITY COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

DRAFT

**THE COMMON SEAL** of )

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....

**THE COMMON SEAL** of )

**THE VALE OF GLAMORGAN COUNCIL** )

was hereto affixed in the presence of: )

Name: .....

Position: .....