

DATED **XX** APRIL 2021

**Cambridgeshire and Peterborough Combined  
Authority**

**-and-**

**YTKO Limited**

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**ERDF Growth Coaching/ROAR Grants  
PARTNER AGREEMENT**

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**THIS Agreement** is dated ~~XX~~ April 2021.

## **PARTIES**

1. **Cambridgeshire and Peterborough Combined Authority a statutory local authority** and having its registered office at 72 Market Street Ely, Cambridgeshire, CB7 4LS (**Grant Recipient**); and
2. **YTKO Limited** a private limited company number 01392147 (Delivery Partner) having its registered office at Nicholas House, River Front, Enfield, Middlesex, EN1 3FG.

## **BACKGROUND**

- A** The Grant Recipient submitted the Application ('Application') on behalf of the Delivery Partners named in the Application to the Secretary of State for Housing, Communities and Local Government (the Secretary of State) to undertake the Activities set out under Schedule 5 of this Agreement.
- B** The Application proposes to deliver ERDF funding announced for the ERDF Growth Coaching/ROAR Grants project in the LEP area of Greater Cambridgeshire, Greater Peterborough.
- C** The Parties agree to deliver the Targets and Activities as set out under in this Agreement.

## **IT IS AGREED THAT:**

### **1 DEFINITIONS**

In this Funding Agreement the following words and phrases shall have the following meanings:

**"Agreed Activity End Date"** means the date specified in the Project Specific Conditions and being the date that all the Project Activities shall be finished and complete.

**"Agreed Financial Completion Date"** means the date specified as such in the Project Specific Conditions and being the date that all the expenditure eligible for grant will have been defrayed.

**"Agreed Project Practical Completion Date"** means the date specified as such in the Project Specific Conditions and being the date by which the Targets shall be achieved.

**"Application"** means the application for Grant (and any annexures thereto) which is contained in Schedule 5 of this Agreement.

**"Audit"** means an audit/monitoring verification carried out pursuant to Articles 125 and 127 of Regulation 1303 by the Secretary of State in its role as 'managing authority' or the Government Internal Audit Agency in its role as 'audit authority', or any audit by the European Commission, European Court of Auditors or, where relevant, the National Audit Office.

**“Change”** means in relation to the Project as defined in the Application any of the following changes (in accordance with clause 9): -

- (a) a change in the Ownership, Control and Nature of Business of the Grant Recipient;
- (b) a change in the nature or purpose of the Project or in the delivery of the Project, as set out in the Application;
- (c) any change to the Eligible Expenditure;
- (d) any change to the Expenditure Profile;
- (e) any change to any of the Key Milestone Dates;
- (f) any change to any of the Targets.

**“Completion”** means completion of the Project Activities to the satisfaction of the Secretary of State.

**“Conditions”** means the terms and conditions upon which the Grant is payable as contained in clauses 1 to 27 of the main body of this Funding Agreement and the Project Specific Conditions at Schedule 1.

**Completed Project”** means a Project that has been physically completed or fully implemented and in respect of which all related payments have been made by the Grant Recipient and the corresponding public contribution has been paid to the Grant Recipient.

**“Confidential Information”** means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the owner of the Confidential Information, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

**“Contracting Authority”** means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2006 or Regulation 2 of the Public Contracts Regulations 2015 (as amended) other than the Secretary of State.

**“Correction”** means an amount to be repaid or withheld from the Grant payable as determined following the finding of an Irregularity and calculated, where relevant, by reference to the published guidelines on flat-rate corrections, for example as set out in the National European Structural and Investment Funds Procurement Requirements and the Guidelines for Determining Financial Corrections

**“Crown Body”** means any Secretary of State, office or agency of the Crown.

**“Data”** means:-

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Grant

Recipient by or on behalf of the Secretary of State; or (ii) which the Grant Recipient is required to generate, process, store or transmit pursuant to this Funding Agreement; or

- (b) any Personal Data for which the Secretary of State, the Grant Recipient or the Delivery Partner is the Data Controller.

**“Data Controller”** shall have the same meaning as set out in the Data Protection Legislation

**“Data Loss Event”** means any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**Data Protection Legislation”** means: (i) the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy including where applicable the guidance and codes of practice issued by the Information Commissioner as may be in force from time to time.

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

**“Data Subject”** shall have the same meaning as set out in the Data Protection Legislation

**“Data Subject Request”** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**“Delivery Partner”** means a third party that (in collaboration with the Grant Recipient) shall deliver the Project, itself defray expenditure to be claimed and carry out the Project Activities in accordance with clause 4 and which third party is not intended by either party to be providing services or works under a contract for services or works.

**“Disposal”** means the disposal, sale, transfer or the grant of any estate or interest in any Asset and includes any contract for a disposal and **“Dispose”** shall be construed accordingly.

**“Eligibility Rules”** means the rules governing eligibility of expenditure for payment of European Regional Development Fund contained in:

- (a) Regulation 1301;
- (b) Regulation 1303; and
- (c) The National European Regional Development Fund Eligibility Rules.

**“Eligible Capital Expenditure”** means the expenditure set out in the profile at Schedule 2.

**“Eligible Expenditure”** means expenditure in relation to this Project that complies in all respects with the Eligibility Rules.

**“Eligible Revenue Expenditure”** means the expenditure set out in the profile at Schedule 2.

**“Environmental Information Regulations”** means the Environmental Information Regulations 2004 (SI No 2004/3391) together with any guidance and/or codes of practice issued by the ‘Information Commissioner’ (as referred to therein) or relevant Government Department in relation to these regulations.

**“Event of Default”** means an event or circumstance as defined by clause 11.1.

**“Expenditure”** means either capital expenditure or revenue Expenditure (as appropriate in the context).

**“Expenditure Profile”** means the information provided by the Delivery Partner detailing the spend forecast for the carrying out of the Project Activities and defrayal of expenditure including the Start Date and the Agreed Financial Completion Date contained in Schedule 2 of this Agreement.

**“Financial Year”** means the calendar year.

**“Final Payment Date”** means the date of the final payment of Grant to the Grant Recipient.

**“Funding Agreement”** means the agreement including the Schedules with the Grant Recipient and the Secretary of State.

**“Grant”** means the grant of European Regional Development Fund payable pursuant to this Funding Agreement up to the Maximum Sum as set out in the Application.

**“Grant Claim”** means a claim for Grant using the Secretary of State’s System on line facility.

**“Delivery Partner Equipment”** means the hardware, computer and telecoms devices and equipment made available by the Delivery Partner or its sub-contractors (but not hired, leased or loaned from the Secretary of State) for the provision of the Project Activities.

**“Delivery Partner Personnel”** means all employees, agents, consultants and contractors of the Delivery Partner and/or of any sub-contractor.

**“Delivery Partner Software”** means software which is owned by or licensed to the Delivery Partner, including software which is or will be used by the Delivery Partner for the purposes of complying with its obligations pursuant to this Funding Agreement.

**“Delivery Partner System”** means the information and communications technology system used by the Delivery Partner in performing its obligations under this Funding Agreement including the Delivery Partner Software, Delivery Partner Equipment and related cabling (but excluding the Grant Recipient System).

**“Guidelines for Determining Financial Corrections”** means the Guidelines for determining financial corrections to be made to expenditure co financed by the Structural and Investment Funds from time to time in force and notified to the Delivery Partner by the Grant Recipient and which (those subsisting on the date of this Agreement) are:-

- Commission Decision C(2013) 9527 19.12.2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management for non-compliance with the rules on public procurement.

**“Information Communications and Technology Environment”** means the Grant Recipient System and Delivery Partner System.

**“Information”** has the meaning given in the Freedom of Information Act 2000.

**“Information Commissioner”** has the meaning given in the Freedom of Information Act 2000.

**“Instalment Period”** means the period referred to in the Project Specific Conditions.

**“Intellectual Property Right”** means all patents, know-how, registered trade marks, registered designs, utility models, applications and rights to apply for any of the foregoing unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention discovery or process in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions.

**“Interpretative Communication”** means the Commission Interpretative Communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives (2006/C 179/02)

**“Irregularity”** means any breach of European Union law, or of national law relating to its application resulting from an act or omission by the Parties (and/or its agents and subcontractors), which has, or would have, the effect of prejudicing the budget of the European Union by charging an unjustified item of expenditure to the budget of the European Union.

**“Key Milestone Dates”** means those milestones to achieve the Project which are contained in the Project Specific Conditions.

**“Law”** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.

**“Losses”** means all costs, charges, fees, expenses, fines and losses (including, loss of profit, loss of reputation) and all interest penalties and legal and other professional costs and expenses.

**“Malicious Software”** means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

**“Material Breach”** means a breach of this Funding Agreement (including an anticipatory breach) which is not minimal or trivial in its consequences as further set out in clause 12.

**“Maximum Sum”** means the maximum amount of Grant to be provided by the Secretary of State for the support of the Project and includes the Capital Maximum Sum and the Revenue Maximum Sum.

**“National European Regional Development Fund Document Retention Guidance”** means the guidance published from time to time by the Secretary of State and contained on the Website, the version subsisting at the date of this Funding Agreement being ESIF-GN-1-008 ERDF Document Retention Guidance v1 (published February 2016).

**“National European Regional Development Fund Eligibility Rules”** means the National Eligibility Rules published from time to time by the Secretary of State and contained on the Website, the version subsisting at the date of this Funding Agreement being ESIF-GN-1-012 National ERDF Eligibility Rules v1 (published 20 March 2015).

**“National European Regional Development Fund Publicity Guidance”** means the guidance on publicity and the branding guidelines for European Regional Development Fund published from time to time by the Secretary of State on the Website, the version subsisting at the date of this Funding Agreement being ESIF-GN-1-005 ESIF Branding and Publicity Requirements v8 (published 1 August 2019).

**“National European Regional Development Fund State Aid Law Guidance”** means the guidance published from time to time by the Secretary of State and contained on the Website, the version subsisting at the date of this Funding Agreement being ESIF- GN-1-006 ERDF State Aid Law Guidance v4 (published 20 October 2020).

**“National European Structural and Investment Fund Procurement Requirements”** means the requirements published from time to time by the Secretary of State and contained on the Website, the version subsisting at the date of this Funding Agreement being ESIF-GN-1-001 ESIF national Procurement Requirements v7 (published 15 September 2020).

**“National Rules”** means the national rules set out in [chapter 6] of the National European Structural Investment Funds Procurement Requirements as published from time to time.

**“Not Eligible”** means expenditure that is not Eligible Expenditure.

**“Operational Programme”** means the Operational Programme for England the Commission of the European Union (‘European Commission’) has adopted setting out its contribution to the Union strategy for smart, sustainable and inclusive growth and the achievement of economic, social and territorial cohesion with the Secretary of State as the managing authority for the Operational Programme pursuant to Article 123(1) of Regulation 1303; and Article 125(3)(c) of Regulation 1303, setting out the conditions for support for the operation concerned and the specific requirements concerning the products or services to be delivered under the operation, the financing plan and the time-limit for execution.

**“Ownership, Control and Nature of Business”** shall be construed in accordance with section 840 of the Income and Corporation Taxes Act 1988 and section 1162 of the Companies Act 2006 and for the avoidance of doubt shall include an evaluation of dominant influence and shadow directorships in the Grant Recipient from time to time.

**“Parties”** means the Grant Recipient and Delivery Partner.



**“Personal Data”** shall have the same meaning as set out in the Data Protection Legislation.

**“Process”** has the meaning given to it under the Data Protection Legislation.

**“Procurement Law”** includes, but is not restricted to EC Directives 2004/18/EC, 2004/17/EC and 2007/66/EC, the Public Contracts Regulations 2006 (SI No 5/2006), as amended, Directive 2014/24/EU the Public Contracts Regulations 2015 and the Utilities Contracts Regulations 2006 (SI No 6/2006), as amended, and includes the Interpretative Communication, the Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union’.

**“Project”** means the project fully described in the Application.

**“Project Activities”** means all the activities to be carried out and implemented in the Project and described in the Application and this Funding Agreement and anything incidental thereto.

**“Project Specific Conditions”** means those conditions which are specific to the Project and are contained in Schedule 1.

**“Project Specific Eligible Expenditure”** means Eligible Expenditure which is specific to this Project and is contained in Schedule 2.

**“Public Sector Financial Assistance”** includes all funding received or receivable by the Grant Recipient and the Delivery Partner from public sector bodies including for this purpose funding from the European Commission, government bodies (whether national or local) or bodies in receipt of lottery funds from the National Lottery Distribution Fund pursuant to the National Lotteries Acts 1993 and 1998.

**“Regulation 480”** means Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation 1303.

**“Regulation 821”** means Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 supplementing Regulation 1303.

**“Regulation 1301”** means Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013, on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal, as amended.

**“Regulation 1303”** means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 which sets out common provisions on the Structural and Investment Funds, as amended.

**“Regulatory Bodies”** means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Funding Agreement or any other affairs of the Secretary of State and "Regulatory Body" shall be construed accordingly.

**“Revenue Maximum Sum”** means the maximum amount of Grant payable in respect of Eligible Revenue Expenditure as is specified in the Project Specific Conditions.

**“Secretary of State System”** means the Secretary of State’s computing environment (consisting of hardware, software and/or telecommunications networks or

equipment) used by the Secretary of State, the Grant Recipient or the Delivery Partner in connection with this Agreement which is owned by or licensed to the Secretary of State by a third party and which interfaces with the Grant Recipient System and/or the Delivery Partner System or which is necessary for the Secretary of State to comply with the terms of the Funding Agreement with the Grant Recipient.

**"Small to Medium Sized Enterprise" or "SME"** means a small to medium sized enterprise as set out in the 'General Block Exemption Regulation' (Commission Regulation (EU) No 651/2014).

**"Start Date"** is the date specified as such in the Project Specific Conditions being the earliest date that the expenditure incurred by the Delivery Partner in relation to the Project can be Eligible Expenditure.

**"State Aid Law"** means the law embodied in Articles 107 -109 of Section 2, Title VII, of the Common Rules on Competition, Taxation and Approximation of Laws-Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union.

**"Structural and Investment Funds"** means together the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

**"Sub-processor"** means any third Party appointed to process Personal Data related to this Agreement on behalf of the Grant Recipient

**"Structural and Investment Funds Regulations"** means Regulation 1301, Regulation 1303 and any delegated acts or implementing acts adopted under those Regulations.

**"Targets"** means the outputs and results identified and detailed in the milestone table contained in the Project Specific Conditions and those specified in Schedule 3.

**"Third Party Software"** means software which is owned or licensed by any third party which is or will be used by the Delivery Partner for the purposes of this Agreement.

**"Transaction List"** means the transaction checklist relevant to a particular Grant Claim as determined by the Secretary of State.

**"Useful Economic Life"** means the period of years following the Final Payment Date that any Asset shall be used for the Approved Use as set out in Schedule 1.

**"Website"** means the national website for European Regional Development Fund Programme in England: <https://www.gov.uk/european-growth-funding>.

**"Working Day"** means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday in England.

## **2 INTERPRETATION**

In this Funding Agreement:

**2.1** reference to any statute or legislation shall include any statutory extension or modification, amendment or re-enactment of such statutes and include all instruments, orders, bye-laws and regulations for the time being made, issued or given thereunder or deriving validity therefrom, and all other legislation of the European Union that is directly applicable to the United Kingdom;

- 2.2** reference to any clause, sub-clause, paragraph, sub-paragraph or schedule without further designation shall be construed as a reference to the clause, sub-clause, paragraph, sub-paragraph or schedule to this Funding Agreement so numbered;
- 2.3** reference to 'this Funding Agreement' includes any variations made from time to time pursuant to these terms;
- 2.4** reference to "Published" by the Secretary of State shall include an electronic version contained on the Website;
- 2.5** reference to "including" shall be construed so as not to limit the generality of any words or expressions in connection with which it is used;
- 2.6** reference to "determined" or "determine" means, unless the contrary is indicated a determination made at the discretion of the person making it;
- 2.7** where the consent approval or agreement of the Secretary of State required pursuant to the terms of this Funding Agreement, it shall not be construed as having been given unless provided in writing;
- 2.8** words importing one gender shall include both genders and the singular shall include the plural and vice versa;
- 2.9** the Guidelines for Determining Financial Corrections and the National European Regional Development Fund Eligibility Rules shall have the same force and effect as if expressly set out in the body of this Funding Agreement;
- 2.10** the headings in this Funding Agreement shall not affect its interpretation;
- 2.11** In the event of a conflict between the following elements comprising this Funding Agreement the priority shall prevail in the following descending order;
- (a) The conditions set out at Schedule 1 ("Project Specific Conditions")
  - (b) The conditions set out in the main body of this Funding Agreement
  - (c) The Application

### **3 GRANT**

In consideration of the Parties' respective obligations contained in this Agreement the Grant will only be paid in respect of Eligible Expenditure.

- 3.1** Eligible Expenditure excludes: -
- (a) payments made by the Delivery Partner that are Not Eligible;
  - (b) payments that are the subject of an Irregularity or a suspected Irregularity.
- 3.2** Subject to entering into this Agreement Eligible Expenditure that has been defrayed on or after the Start Date may be claimed pursuant to this Agreement. For the avoidance of doubt, the reference to Grant and the provisions of this Agreement shall apply to all claims and Expenditure beginning on the Start Date. If the Agreement is not entered into for any reason, there shall be no expectation of Grant

and any expenditure incurred in that case shall be entirely for the account and at the risk of the Delivery Partner.

#### **4 THE APPLICATION AND ACCEPTANCE OF GRANT TERMS**

**4.1** The Delivery Partner agrees that:

- (a) no disclaimer of liability for the contents of the Application affects the Secretary of State's right to recover any sum under this Agreement; and
- (b) there is reserved to the Secretary of State (notwithstanding clause 26.2) any rights of action or remedies for any mistake, negligent misstatement, misrepresentation or error of judgment made in the Application upon which the Secretary of State has relied in agreeing to provide Grant to the Grant Recipient, submitted on the Delivery Partner's behalf.

**4.2** The Delivery Partner accepts and agrees to all the terms having made full and proper enquiry before giving the warranties contained in this Agreement.

The Delivery Partner acknowledges that the Grant has been offered to it to carry out the Project Activities specified within the Application and schedules to this agreement, and achieve the Targets within the time limits set out in this Agreement and the Key Milestone Dates set out in the table contained in the Project Specific Conditions.

#### **5 GRANT CLAIMS**

##### **5.1 Amount of Grant payable**

- (a) The total amount of Grant paid to the Grant Recipient shall not exceed the Maximum Sum.

##### **5.2 Conditions Precedent to the payment of Grant**

The Secretary of State will not make the first payment of Grant and/or any subsequent payment of Grant to the Grant Recipient unless all of the following preconditions have been complied with:-

- (a) the relevant Grant Claim is made on the Secretary of State System online facility;
- (b) the expenditure is Eligible Expenditure;
- (c) The Grant Recipient has satisfied the Secretary of State that the Grant Recipient has all funding needed to pay for expenditure in relation to the Project which is Not Eligible Expenditure;
- (d) that Eligible Expenditure has been defrayed (that is that Eligible Expenditure has been incurred and that payment has been made by the Grant Recipient or a Delivery Partner) in respect of any Eligible Expenditure to which a Grant Claim relates; and
- (e) the Conditions have been fully complied with provided that the Secretary of State may waive in whole or in part any Condition/s without prejudicing the Secretary of State's right to require subsequent fulfilment of such Condition/s;

provided, always that the payment of a Grant Claim shall not operate as a waiver of any of the obligations in this clause 5.3 or exclude the right for the Secretary of State to exercise any of its rights under this Funding Agreement.

### **5.3 Grant Claims Procedure**

- (a) The Grant Recipient shall make all Grant Claims in arrears, for each Instalment Period.
- (b) The Grant Recipient shall provide a forecast of the amount of Grant to be claimed for an Instalment Period in accordance with paragraph (c) by the 7th Working Day of the month following the end of the Instalment Period for which the Grant Claim will be made.
- (c) Except for the final Grant Claim, each Grant Claim is to be submitted by the 20<sup>th</sup> Working Day of the month following the end of the Instalment Period for which the Grant Claim is made.
- (d) The first Grant Claim made at the end of the first Instalment Period shall relate to all Eligible Expenditure incurred and paid by the Grant Recipient from the Start Date. Subsequent Grant Claims shall relate to all Eligible Expenditure incurred and paid by the Grant Recipient in an Instalment Period.
- (e) Each Grant Claim is to be submitted using the Secretary of States on line facility. Each Grant Claim shall include accounting documents of verifiable value (which shall include the Transaction List) in such format and detail as may be acceptable to the Secretary of State relating to the amount claimed in such Grant Claim.
- (f) The Secretary of State will normally pay a Grant Claim within 40 Working Days of receipt, but this is subject to:
  - (i) The Grant Recipient submitting a forecast in accordance with paragraph (b) above;
  - (ii) The Grant Claim being submitted by the deadline referred to in paragraph (c) above; and
  - (iii) The Grant Recipient satisfactorily meeting any request for further particulars about the Eligible Expenditure specified in the Grant Claim or any other details provided for in the Grant Claim.
- (g) The time for payment of the Grant Claim shall not be of the essence. The Grant Recipient shall have no liability to the Delivery Partner for any Losses caused by a delay in the payment of a Grant Claim howsoever arising.
- (h) The Delivery Partner must notify the Grant Recipient promptly if at any time it becomes aware that it is unable to provide defrayal evidence for the Grant Claim in accordance with the Expenditure Profile.
- (i) A progress report in respect of the Project must be submitted with each Grant Claim, and at such other times as the Grant Recipient may notify to the Delivery Partner.

- (j) By submitting defrayal evidence and evidence to support delivery of targets for the Grant Claim, the Delivery Partner warrants to the Grant Recipient that there is no Event of Default or Material Breach subsisting by reference to the facts and circumstances existing on each such date.

#### **5.4 Retention of Grant**

Without prejudice to any other provision of this Funding Agreement the Secretary of State will retain 10% of the Grant which shall not be released unless and until the following events have occurred: -

- (a) completion of the Project Activities;
- (b) the Secretary of State has received, and is satisfied with, the final monitoring report following the final monitoring visit;
- (c) all outstanding audit issues are resolved; and

that the release of the retention shall not operate as an acknowledgement or waiver and shall not preclude the Secretary of State from exercising any of its rights under this Agreement.

### **6 THE EXPENDITURE PROFILE**

**6.1** If in any Financial Year (the "relevant year") there is a shortfall in the amount of Eligible Expenditure by reference to the amount planned in the Expenditure Profile, the Secretary of State will be under no obligation to pay Grant for any additional Eligible Expenditure in the following year or any later Financial Year.

**6.2** If in any Financial Year (the "relevant year") there is an overspend in the amount of Eligible Expenditure by reference to the amount planned in the Expenditure Profile, the Secretary of State will be under no obligation to pay Grant in the following year or any later Financial Year which was overspent in any relevant year.

### **7 DECOMMITMENT OF EUROPEAN REGIONAL DEVELOPMENT FUND RESOURCES**

The Delivery Partner acknowledges that the financial consequences that flow from a departure from the Expenditure Profile in any Financial Year could include the loss of European Regional Development Fund resources allocated for the Operational Programme (if in that year there is under-spending for the Operational Programme as a whole).

**7.1** If during any Financial Year of the Operational Programme the Secretary of State is reasonably satisfied that there will be a shortfall in Eligible Expenditure and that the Grant Recipient will be unable to make up that shortfall then, the Secretary of State may reduce the Grant allocated for the Project and use the amount of the reduction for any other purpose of the Operational Programme. The amount to be re-allocated under these circumstances is determinable by the Secretary of State but may not exceed the amount of the anticipated shortfall in Eligible Expenditure.

**7.2** Where the right reserved in clause 7.1 arises under circumstances that also entitle the Secretary of State to exercise the rights reserved in clause 11, the right reserved

to the Secretary of State in clause 7.2 is exercisable in addition and without prejudice to the exercise of the rights reserved to the Secretary of State in clause 11.

## **8 CHANGES TO THE PROJECT**

**8.1** All Changes must be approved by the Secretary of State prior to the relevant Change being deemed to be effective. The Grant Recipient shall request the Change on a Project Change Request Form. The Secretary of State shall either agree to the change request or reject the change request within 60 days of the date of the Project Change Request Form.

**8.2** Until such time as a Change is made in accordance with this clause, the parties shall, unless otherwise agreed in writing, continue to perform this Funding Agreement in compliance with its terms before such Change.

## **9 LEGISLATION, ESIF PROCUREMENT REQUIREMENTS, AND STATE AID LAW**

### **9.1 General**

(a) The Delivery Partner must comply and secure compliance with the Structural and Investment Funds Regulations and the Delivery Partner hereby warrants that it shall not act or omit to act in any way that may cause the Grant Recipient or the Secretary of State to breach the Structural and Investment Funds Regulations.

(b) Further to clause 9.1(a) the Grant Recipient shall ensure that in accordance with Article 6 of Regulation 1303, the Project complies with applicable European Union law and the national law relating to its application.

### **9.2 State Aid Law**

(a) The Delivery Partner has undertaken its own independent assessment of the compatibility of the Project with State Aid Law and confirms to the Grant Recipient that the Project is structured so it is compliant with State Aid Law. Where the Grant Recipient has provided its views on any aspect of State Aid Law, the Delivery Partner confirms that it has considered this information alongside all other sources of State Aid Law available at the time of entering into this Agreement (including regulations and decisions published on the European Commission website) in undertaking its own assessment of the Project's compliance.

(b) The Delivery Partner shall procure and maintain the necessary expertise and resources to deliver the Project in accordance with the State Aid Law for the full term of the Project. The Delivery Partner agrees to maintain appropriate records of compliance with the State Aid Law and agrees to take all reasonable steps to assist the Grant Recipient to comply with State Aid Law requirements and respond to any investigation(s) instigated by the European Commission into the Project or by the European Court of Auditors.

(c) A finding of State Aid non-compliance in respect of the Project by the European Commission or a Court of competent jurisdiction may lead to Grant Recipient and the Delivery Partner being ordered to repay the Grant with interest in accordance with the European Commission's reference rates.

### **9.3 ESIF Procurement Requirements**

(a) The Delivery Partner warrants that it will provide full details of all contracts for goods, works or services which will form part of the Project and for which it will claim reimbursement to the Grant Recipient.

(b) Provided that where, having regard to the Interpretative Communication, the contract awards do not have a sufficient connection with the functioning of the Internal Market, the Delivery Partner warrants that it has complied with or shall comply with clause 9.4 below.

#### **9.4 National Rules**

Where:

- (a) the Delivery Partner is not a 'contracting authority' subject to Procurement Law in relation to the Project; or
- (b) it is a contracting authority and the contract award does not have a sufficient connection to the 'Internal Market'

the Delivery Partner warrants that:

- (i) In relation to any contracts listed at Annex 3(a) of the Application, it has ensured that its processes met with the National Rules published at the date of the Application; and
- (ii) In relation to any contracts listed at Annex 3(b) of the Application, it shall comply with the relevant version of the National Rules published at the date of commencement of the procurement process.

It is the Delivery Partner's sole responsibility to ensure compliance with the Regulations.

### **10 PUBLICITY**

**10.1** The Delivery Partner shall at all times comply with: -

- (a) Articles 115 and Annex XII of Regulation 1303; and
- (b) Chapter II and Annex II of Regulation 821.

**10.2** The Secretary of State has published the National European Regional Development Fund Publicity Guidance to assist the Delivery Partner to comply with the Regulations referred to in the paragraph above. This guidance is not compulsory and does not have to be followed as a condition of this Funding Agreement. It is the Grant Recipient's sole responsibility to ensure compliance with the Regulations.

**10.3** The obligations in this clause shall continue after this Agreement is terminated.

**10.4** The Delivery Partner hereby gives consent to the Secretary of State to publicise in the press or any other medium the Grant and the details of the Project using any information gathered from the Application or the monitoring of the Project Activities.

### **11 EVENTS OF DEFAULT, MATERIAL BREACH AND RIGHTS RESERVED FOR BREACH OF THE FUNDING AGREEMENT**

#### **11.1 Events of Default**



An Event of Default is the occurrence of any of the following: -

- (a) the Delivery Partner fails to comply with the Conditions;
- (b) the Project Activities are not commenced by the date which is 3 months after the Start Date;
- (c) the expenditure is not claimed in line with the Expenditure Profile;
- (d) Completion of the Project Activities has not been achieved by the Agreed Activity End Date;
- (e) a Change is made to the Project without the prior written approval of the Secretary of State, as required by clause 8;
- (f) the European Commission or a European Court requires any Grant paid to be recovered by reason of a breach of State Aid Law;
- (g) the Delivery Partner fails to comply with the provisions of the exemption or scheme (referred to in the Project Specific Conditions) under State Aid Law that applies to the Project and the Grant;
- (h) any report or certificate made by the Delivery Partner's auditor or reporting accountant is unsatisfactory (where, for example, the report or certificate refers to a fundamental uncertainty or disagreement, or contains a material qualification, or states that the auditor or accountant is unable to form an opinion about any item, or reports that any amount is not correctly stated in the accounts or records examined);
- (i) the Delivery Partner owes any sum to the Grant Recipient under an agreement for the financial support of any other Project or activities;
- (j) if the Delivery Partner is a Small to Medium Sized Enterprise, but it ceases to be a Small to Medium Sized Enterprise, and it is a requirement arising out of State Aid Law that the Delivery Partner remains as a Small to Medium Sized Enterprise;
- (k) an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the undertaking assets rights or revenues of the Delivery Partner or a distress or other process is levied or enforced upon any of the assets rights or revenues of the Delivery Partner and any such action is not lifted or discharged within 10 Working Days;
- (l) a petition is presented (other than a petition which, in the opinion of the Grant Recipient, is frivolous or vexatious and which is withdrawn or stayed within 10 Working Days) to, or any order is made by, any competent court for the appointment of an administrator in relation to the Delivery Partner;
- (m) the Grant Recipient is, or is adjudicated or found to be, insolvent or stops or suspends payment of its debts or is (or is deemed to be) unable to or admits inability to pay its debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Grant Recipient under any law regulation or procedure relating to reconstruction or adjustment of debts;

- (n) any petition is presented by any person (other than a petition which, in the opinion of the Grant Recipient, is frivolous or vexatious and which is withdrawn or stayed within 10 Working Days) or any order is made by any competent court or any resolution is passed by the Delivery Partner for its winding-up or dissolution or for the appointment of a liquidator of the Delivery Partner.
- (o) any Irregularity on the part of the Delivery Partner has been identified in connection with the Project, or the European Commission or any other Regulatory Body otherwise requires the Grant Recipient to recover any amount paid under this Agreement.

## **11.2 Material Breach**

A Material Breach is a breach of this Funding Agreement as defined in clause 11.1 above including but not limited to the occurrence of any of the following: -

- (a) any information given or representation made in the Application or in any correspondence, report or other document submitted to the Secretary of State relating to this Project or under this Agreement is found to be incorrect or incomplete to an extent which the Secretary of State considers to be material;
- (b) any fraud has been committed by the Delivery Partner and/or its employees in connection with the Project;
- (c) a breach of the warranties by the Delivery Partner contained in and given pursuant to this Agreement;
- (d) the Delivery Partner fails to materially comply with the Conditions;
- (e) the activities carried out by the Delivery Partner are distinct or different from the description set out in the Application having regard also to the intended function of the Project Activities and the end beneficiaries of the Project.

## **11.3 Rights reserved for the Secretary of State in relation to an Event of Default**

Where, the Secretary of State determines that an Event of Default or a Material Breach has or may have occurred the Grant Recipient shall take any one or more of the following actions:

- (a) suspend the payment of Grant for such period as the Secretary of State shall determine; and/or
- (b) reduce the Maximum Sum in which case the payment of Grant shall thereafter be made in accordance with the reduction; and/or
- (c) cease to make payments of Grant to the Delivery Partner under this Agreement and (in addition) require the Delivery Partner to repay to the Grant Recipient the whole or any part of the amount of Grant previously paid to the Delivery Partner; and/or
- (d) terminate this Agreement.

## **11.4 Opportunity for the Delivery Partner to remedy an Event of Default**

- (a) If the Grant Recipient gives written notice to the Delivery Partner pursuant to clause 11.3(a) to suspend payment of Grant, such notice shall specify the relevant Event of Default and give the Delivery Partner an opportunity to rectify the relevant Event of Default within such period as the Secretary of State shall determine to be reasonable and as shall be set out in such written notice (or such extended period as the Secretary of State shall thereafter determine).
- (b) The written notice referred to in clause 11.4(a) above may include a requirement for the Delivery Partner to provide specified information to Grant Recipient to assist the Secretary of State to determine whether the default has been rectified to his satisfaction.
- (c) Where the rectification of the default requires a Change the procedure under clause 8 shall be followed.
- (d) The Secretary of State shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Secretary of State, capable of remedy, exercise its rights under either clause 11.3(c) or clause 11.3(d) unless the Delivery Partner has failed to rectify the default pursuant to clause 11.4(a) within such period referred to in clause 11.4(a) to the satisfaction of the Grant Recipient.

#### **11.5 Continued rights of actions or remedies of the Grant Recipient**

The exercise by the Grant Recipient of its rights under this Agreement shall be without prejudice to any other right of action or remedy of the Secretary of State in respect of any breach by the Delivery Partner.

#### **11.6 Cessation of entitlement to Grant**

If the Secretary of State exercises their right under clause 11.3(c) the Secretary of State shall give written notice to the Grant Recipient that the Secretary of State is ceasing to make payment of Grant and from the date of such notice the Secretary of State shall cease to be under any obligation to pay any amount of Grant to the Grant Recipient under the Funding Agreement. The Grant Recipient shall immediately notify the Delivery Partner of the cessation of the payment of the Grant.

#### **11.7 Liability to meet demand for repayment of Grant and Covenant to Pay**

- (a) Where the Grant Recipient requires the Delivery Partner to repay any amount of Grant, the Delivery Partners shall repay the amount concerned within 20 Working Days of receiving the demand for repayment. The liability to meet such a demand shall be enforceable as a contractual debt.
- (b) Where the Grant Recipient makes a determination to recover any amount of Grant, it may recover the amount concerned by withholding or deducting the amount from any sum due from the Grant Recipient to the Delivery Partner under this Agreement or under any agreement for the support of any other agreement with the Grant Recipient.
- (c) The Grant Recipient may require interest to be paid on any amount repayable by the Delivery Partner in accordance with the rates published in the Official Journal of the European Union from time to time.

#### **11.8 Reduction in grant for underperformance**

- (a) This clause applies where the Grant Recipient determines that the Delivery Partner has underperformed against the Targets to such a degree that a reduction in Grant may be made in accordance with the underperformance weightings and methodology set out in Schedule 4.
- (b) Where this clause applies, the Grant Recipient shall give written notice to the Delivery Partner specifying the Targets it has underperformed against and giving the Delivery Partner an opportunity to rectify that underperformance within such period as the Grant Recipient shall determine to be reasonable and as shall be set out in such written notice (or such extended period as the Grant Recipient shall thereafter determine).
- (c) The written notice referred to in the paragraph above may include a requirement for the Delivery Partner to provide specified information to the Grant Recipient to assist the Grant Recipient to determine whether that underperformance has been rectified to its satisfaction.
- (d) Where the rectification of the underperformance requires a Change, the procedure under clause 8 shall be followed.
- (e) Where the Delivery Partner fails to rectify the underperformance to the Grant Recipient's satisfaction within the specified time period, the Grant Recipient may by written notice to the Delivery Partner, reduce the amount of Grant allocated to the Project by an amount calculated in accordance with the underperformance weightings and methodology set out in Schedule 4.
- (f) Where the amount of Grant is reduced under this clause, the Grant Recipient shall either require the Delivery Partner to repay to the Grant Recipient the whole or any part of the amount of Grant previously paid to the Delivery Partner and/or shall offset it from a future Grant Claim, as appropriate.

### **11.9 Corrections**

- (a) Notwithstanding any other provision in this Agreement the Grant Recipient may impose a Correction. If a Correction is imposed a notice will be sent to the Delivery Partner setting out the Irregularity that the Grant Recipient considers has occurred together with the level of Correction imposed having regard to any applicable guidelines and/or the value of the Grant Claim to the extent that the Irregularity applies to it.
- (b) If a Correction is imposed the Delivery Partner shall either pay the amount or agree to the Correction being offset from a future Grant Claim as the case may be. The Grant Recipient shall be at liberty to offset an amount of Grant in anticipation of a Correction pending the final outcome of any discussions or representations made by the Grant Recipient and/ or the Delivery Partner in respect of the Correction.
- (c) The Delivery Partner shall be at liberty to make representations in writing to the Grant Recipient setting out the reasons it considers that the Correction should be adjusted together with evidence in sufficient detail to enable the Grant Recipient to reconsider the requirement for the Correction provided always that the Secretary of State's decision shall be final and binding.

### **11.10 Exclusion of liability**

- (a) Neither party shall be liable to the other party (so far as permitted by law) for indirect special or consequential loss or damage in connection with this Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
- (b) Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
- (c) With respect to other claims so far as permitted by law the Grant Recipient shall under no circumstances whatever be liable to the Delivery Partner whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any Losses arising under or in connection with this Agreement that would exceed the amount of the Maximum Sum less any amount of Grant Paid.
- (d) Any clause limiting the Delivery Partner's liability does not apply in relation to a Correction that is applied in accordance with the terms of this Agreement.

## **12 ASSIGNMENT OR CHARGING OF THE FUNDING AGREEMENT**

- 12.1** The Delivery Partner acknowledges that the Grant Recipient may not, without the prior written consent of the Secretary of State, assign its rights under the Funding Agreement or charge the benefit of the Funding Agreement or novate the rights and liabilities of the Funding Agreement to a third party.

## **13 MONITORING PROGRESS, REPORTING AND NOTIFICATIONS**

### **13.1 Submission of progress reports**

- (a) The Delivery Partner must send to the Grant Recipient, at such intervals as the Grant Recipient shall notify in writing to the Delivery Partner, a report on progress made towards the achievement of the Targets. Without prejudice to any provision of any of this Agreement conferring a remedy for failure to achieve any of the Targets, this obligation shall subsist until the Targets have been achieved.
- (b) The Delivery Partner must provide such additional information in such format as the Grant Recipient may at any time require. This includes information about the progress of the Project Activities, the achievement of the Targets and any other information required to enable the Grant Recipient to meet its reporting obligations and other obligations under State Aid Law and the Structural and Investment Funds Regulations.
- (c) The Grant Recipient warrants the accuracy of the reports and information it gives pursuant to this clause 13 and further warrants that it has diligently made full and proper enquiry of the subject matter pertaining to the reports and information given.

### **13.2 Notification by the Delivery Partner to the Grant Recipient**

The Delivery Partner shall notify the Grant Recipient in writing: -

- (a) as soon as practicable thereafter firstly in the event of any Change in the information on costs (whether actual or estimated) of carrying out the Project Activities contained in the Application and secondly of any event which materially affects the continued accuracy of such information;
- (b) as soon as practicable thereafter, in the event of the receipt of any other Public Sector Financial Assistance or guarantees of other Public Sector Financial Assistance or other funding obtained by the Grant Recipient in relation to the Project, or an offer of the same, in respect of any aspect of the Project or the Project Activities (or any part of it or them);
- (c) as soon as practicable thereafter, of any event which might adversely affect the carrying out and/or Completion of the Project Activities or any part of them;
- (d) as soon as practicable thereafter, of any event which might adversely affect the delivery of the Project by the Agreed Activity End Date; and
- (e) forthwith, on the occurrence of an Event of Default.

### **13.3 Records**

- (a) The Delivery Partner shall provide Grant Recipient with such information and documentation as the Grant Recipient may require in connection with the Project from the date of the Application to the date on which the Delivery Partner has fulfilled all of its obligations under this Agreement.
- (a) The Delivery Partner shall comply with and assist the Grant Recipient and the Secretary of State to comply with the requirements for an audit trail under the Structural and Investment Funds Regulations including (but not limited to) the detailed minimum requirements under Article 25 of Regulation 480.
- (b) The Delivery Partner must keep a record of all Eligible Expenditure, all quotes, tenders and procurement practices, all financial contributions made towards the Project and all income generated by the Project.
- (c) The Delivery Partner will provide to the Grant Recipient such information as is available as to the number of persons employed in connection with the Project and such other information as may be requested by the Secretary of State as to the benefits derived from the provision of funding for the Project.
- (d) The Delivery Partner must comply with the requirements of the Secretary of State regarding the keeping of records available on the Secretary of State Website.

### **13.4 Retention of documents**

- (a) Without prejudice to any other provision of this Agreement and the Grant Recipient's and Delivery Partner's obligations pursuant to State Aid Law, the Delivery Partner will ensure that all documents relating to the Project and its implementation and financing are retained for a two year period from 31 December following the submission of the accounts to the European Commission in which the final expenditure for the Completed Project is included, in order that these may be made available to the European Commission and European Court of Auditors upon request in accordance with Article 140 of Regulation 1303.

- (b) The Grant Recipient shall notify the Delivery Partner of the start date of the two-year period referred to in the paragraph above.

In addition to the obligation under paragraph (a) above, the Delivery Partner shall ensure that all documents relating to the Project and its implementation and financing are retained as necessary in order to demonstrate compliance with any applicable State Aid law, the Structural and Investment Funds Regulations and the obligations under this Funding Agreement. The Secretary of State has published the National European Development Fund Document Retention Guidance in order to assist the Grant Recipient and Delivery Partner to determine how long documents should be retained for in order to demonstrate compliance.

- (c) The Delivery Partner will make available to the Grant Recipient the documents relating to the Project and its implementation and financing if and when required to do so by the Secretary of State, the European Court of Auditors, the European Commission auditors, the National Audit Office (and also their respective auditors).
- (d) The documents referred to in this clause shall be kept and made available either in the form of the originals or certified true copies of the originals or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only. The National European Development Fund Document Retention Guidance provides guidance on commonly accepted data carriers and the procedure for certifying conformity with original documents.
- (e) Where documents exist in electronic form only, the computer systems used shall meet accepted security standards which ensure that the documents held meet with national legal requirements and can be relied upon for audit purposes. The equipment and software used to store the documents shall be retained and kept functional for a two-year period from 31 December following the submission of the accounts in which the final expenditure for the Completed Project is included.

### **13.5 Conflicts of interest and financial irregularities**

- (a) The Partner and all officers, employees and other persons engaged or consulted by the Delivery Partner in connection with the Project shall not be in a position where there is a conflict of interest. The Delivery Partner is required to have formal procedures obliging all such persons to declare any actual or potential personal or financial interest in any matter concerning the Project, and to be excluded from any discussion or decision-making relating to the matter concerned. Any such conflicts must be reported to the Grant Recipient in writing.
- (b) If the Delivery Partner has any grounds for suspecting any financial impropriety in the use of any amount paid under this Agreement, it must notify the Grant Recipient immediately, explain what steps are being taken to investigate the suspicion, and keep the Grant Recipient informed about the progress of the investigation. For these purposes "financial impropriety" includes fraud or other impropriety; mismanagement; use of Grant for improper purposes; and failure to comply with requirements in the Structural and Investment Funds Regulations relating to the control and propriety of Project expenditure.

- (c) The Grant Recipient and/or the Secretary of State shall be entitled to interview employees of the Delivery Partner if fraud or other financial irregularity is suspected by the Grant Recipient on the part of the Delivery Partner, its employees or agents in connection with the Project.

## **14 ACCOUNTING RECORDS, SUPPORTING EVIDENCE AND AUDIT**

- 14.1** The Delivery Partner shall maintain full and accurate accounts and documentary evidence for the Project on an open book basis and the Grant Recipient will and shall Procure that a Delivery Partner will permit the Secretary of State and persons authorised by the Secretary of State to inspect audit and take copies of all reports books accounting records and vouchers which the Secretary of State properly considers relevant to the Project.
- 14.2** The Delivery Partner shall maintain either a separate accounting system or an adequate accounting code for all transactions relating to the operation without prejudice to national accounting rules.
- 14.3** The Delivery Partner shall comply with the Secretary of State's audit monitoring and reporting requirements for grant recipients.
- 14.4** The Delivery Partner shall provide the Secretary of State with such other information as the Secretary of State may require in connection with the Project and the Project Activities.
- 14.5** The Delivery Partner shall cooperate fully and promptly with an Audit.
- 14.6** Where the Project has been selected for Audit and the Secretary of State requires information from the Delivery Partner in order to respond to findings made in the draft Audit report, the Secretary of State shall write to the Grant Recipient with a list of requested information which the Grant Recipient shall provide to the Delivery Partner.
- 14.7** The Delivery Partner shall provide the Grant Recipient with the requested information within 10 days of receiving the request unless permission for an extension of time is granted in writing by the Secretary of State.
- 14.8** The Delivery Partner acknowledges that failure to provide the requested information within the timeframe specified in clause 14.7 above may result in an Irregularity being found in relation to the Project which requires reimbursement to the budget of the European Union.
- 14.9** Without prejudice to any other provision of this Agreement, where the Grant Recipient has been notified that the Project has been selected for Audit and
  - (a) the Delivery Partner has previously failed to comply fully and promptly with an Audit; or
  - (b) an Irregularity has previously been found in relation to the Project,the Grant Recipient may, at his discretion, withhold payment to the Delivery Partner until a subsequent Audit has been completed to the Secretary of State's satisfaction.

## **15 CONFIDENTIALITY**



**15.1** Except to the extent set out in this clause 16 or where disclosure is expressly permitted elsewhere in this Agreement, each party shall: -

- (a) treat the other party's Confidential Information as confidential and safeguard it accordingly; and
- (b) not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

**15.2** Clause 15.1 shall not apply to the extent that:

- (a) such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000, 'Code of Practice on Access to Government Information' or the Environmental Information Regulations;
- (b) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
- (e) it is independently developed without access to the other party's Confidential Information.

**15.3** The Delivery Partner may only disclose the Grant Recipient's Confidential Information to the Delivery Partner Personnel who are directly involved in the Project and who need to know the information, and shall ensure that such Delivery Partner Personnel are aware of and shall comply with these obligations as to confidentiality.

**15.4** The Delivery Partner shall not and shall procure that the Grant Recipient Personnel do not, use any of the Grant Recipient's Confidential Information received otherwise than for the purposes of this Agreement.

**15.5** Nothing in this Funding Agreement shall prevent the Grant Recipient and the Secretary of State from disclosing the Delivery Partner's Confidential Information:

- (a) to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
- (b) to any consultant, contractor or other person engaged by the Secretary of State;
- (c) (where such Confidential Information is contained in the Application, any Grant Claim or any progress report submitted in respect of the Project), to any member of a Local Enterprise Partnership European Structural and Investment Fund Sub Committee for the purpose of monitoring and evaluating the Project, subject to clause 16.7;

- (d) to a person receiving technical assistance in accordance with Regulation 1303 for the purpose of monitoring and evaluating the Project;
- (e) to enable the Secretary of State to meet its reporting obligations and other obligations under State Aid Law and the Structural and Investment Funds Regulations for the purpose of clause 14.1(b) of this Funding Agreement;
- (f) for the purpose of any Audit pursuant to clause 14 of this Agreement;
- (g) for the purpose of the examination and certification of the Secretary of State's accounts; or
- (h) for any examination pursuant to Section 6(1) or Section 7ZA of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Secretary of State has used its resources.

**15.6** The Secretary of State shall use all reasonable endeavours to ensure that any Crown Body, government department, Contracting Authority, external auditor, employee, third party or Sub-contractor to whom the Delivery Partner's Confidential Information is disclosed pursuant to clause 15.5 is made aware of the Secretary of State's obligations of confidentiality.

**15.7** The Secretary of State may agree not to disclose specified Confidential Information contained in the Application any Grant Claim or progress report to a member of the Local Enterprise Partnership European and Structural Investment Sub Committee where the Grant Recipient has requested in writing that such information be withheld, including where it is considered to be commercially sensitive.

**15.8** Notwithstanding the foregoing the Delivery Partner hereby consents to the Grant Recipient and the Secretary of State using and disclosing (including to the press) any techniques, ideas or know-how gained during the performance of the Project Activities and/or Agreement. The Delivery Partner warrants to the Secretary of State that neither the Intellectual Property Rights nor any publication by the Secretary of State of the project related know-how will infringe, in whole or in part, any Intellectual Property Right of any other person and agrees to indemnify and hold the Secretary of State harmless against any and all claims, demands and proceedings arising directly or indirectly out of the Secretary of State's publication or use of the Project Related Know-how where this gives rise to or is alleged to give rise to an infringement of third party Intellectual Property Rights.

## **16 THE SECRETARY OF STATE DATA**

**16.1** The Delivery Partner shall not delete or remove any proprietary notices contained within or relating to the Secretary of State Data.

**16.2** The Delivery Partner shall not store, copy, disclose, or use the Secretary of State Data except as necessary for the performance by the Grant Recipient of its obligations under this Funding Agreement or as otherwise expressly authorised in writing by the Secretary of State.

**16.3** The Delivery Partner shall take responsibility for preserving the integrity of the Secretary of State Data and preventing the corruption or loss of the Secretary of State Data.

**16.4** If at any time the Delivery Partner suspects or has reason to believe that the Secretary of State Data has or may become corrupted, lost or sufficiently degraded

in any way for any reason, then the Grant Recipient shall notify the Grant Recipient immediately.

## **17 DATA PROTECTION**

**17.1** With respect to the parties' rights and obligations under this Agreement, the parties agree that both the Grant Recipient and Delivery Partner are Data Controllers with independently determined purposes and means of processing Personal Data. The parties shall use the Personal Data for the following independent purposes:

- (a) The Secretary of State and Grant Recipient shall use the Personal Data for the purpose of assessing the Grant Recipient's compliance with its obligations under the Funding Agreement; and
- (b) The Grant Recipient and the Delivery Partner shall use the Personal Data for purpose of complying with its obligations under this Agreement.

**17.2** The Grant Recipient and the Delivery Partner shall comply at all times with the Data Protection Legislation.

**17.3** The Delivery Partner shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Funding Agreement in such a way as to cause the Grant Recipient and the Secretary of State to breach any of its applicable obligations under the Data Protection Legislation.

## **18 SECURITY REQUIREMENTS**

**18.1** The Delivery Partner shall, as an enduring obligation throughout the term of this Funding Agreement, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the Information Communications and Technology Environment.

**18.2** Notwithstanding clause 18.1, if Malicious Software is found, the parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Grant Recipient Data and Secretary of State Data, assist each other to mitigate any losses and to restore the Project Activities to their desired operating efficiency.

**18.3** Any cost arising out of the actions of the parties taken in compliance with the provisions of clause 18.2 shall be borne by the parties as follows:

- (a) by the Delivery Partner where the Malicious Software originates from the Delivery Partner Software, the Third Party Software or the Grant Recipient Data and Secretary of State Data (whilst the Grant Recipient Data and Secretary of State Data was under the control of the Delivery Partner); and
- (b) by the Grant Recipient if the Malicious Software originates from the Grant Recipient Software or the Grant Recipient Data (whilst the Grant Recipient Data was under the control of the Grant Recipient).
- (c) by the Secretary of State if the Malicious Software originates from the Secretary of State Software or the Secretary of State Data (whilst the Secretary of State Data was under the control of the Secretary of State).

## **19 DELIVERY PARTNER WARRANTIES**

The Delivery Partner warrants, represents and undertakes for the duration of the term of this Agreement that: -

- (a) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Delivery Partner's obligations under this Agreement;
- (b) it has and will continue to have all necessary rights in and to the Delivery Partner Software or any Third Party Software and/or the Intellectual Property Rights, or any other materials made available by the Delivery Partner and/or the sub- contractors to the Grant Recipient necessary to perform the Delivery Partner t's obligations under this Agreement;
- (c) in performing its obligations under this Agreement, all Software used by or on behalf of the Delivery Partner will:
  - (i) be currently supported versions of that Software; and
  - (ii) perform in all material respects in accordance with its specification,
- (d) as at the Start Date all statements and representations provided by the Delivery Partner in the Grant Recipient's Application are to the best of the Delivery Partner's knowledge, information and belief, true and accurate and that it will advise the Grant Recipient of any fact, matter or circumstance of which it may become aware which would render any such statement, representation to be false or misleading; and
- (e) it shall at all times comply with Law in carrying out its obligations under this Agreement;
- (f) it has the power and authority to execute, deliver and perform its obligations under this Agreement and no limit on its powers will be exceeded as a result of the acceptance of the Grant or any of the terms pursuant to this Agreement;
- (g) there has been no adverse change in the Delivery Partner's business, assets or financial condition since the submission of the Application to the Secretary of State and that the Application is true in all respects on the date of this Agreement;
- (h) no regulatory investigation by any United Kingdom or European Union authorities has been commenced or is pending in respect of the Project or the Delivery Partner, or if there has been a regulatory investigation, it has been concluded to the satisfaction of the Secretary of State.

## **20 NOTICES**

**20.1** Any notice demand or communication to be given or served under this Agreement shall be in writing.

**20.2** Notices may be given, and are deemed received:

20.2.1 by hand: on receipt of a signature at the time of delivery;

20.2.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting;

20.2.3 by Royal Mail International Tracked & Signed or Royal Mail International Signed post: at 9.00 am on the fourth Business Day after posting; and

20.2.4 by fax: on receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission; and

20.2.5 by email on receipt of a delivery or read receipt email from the correct address.

**20.3** Notices shall be sent to:

**ERDF APPLICANT:** Cambridgeshire and Peterborough Combined Authority a statutory local authority and having its registered office at 72 Market Street Ely, Cambridgeshire, CB7 4LS (Grant Recipient)

**DELIVERY PARTNER:** YTKO Limited a private limited company number 01392147 (Delivery Partner) having its registered office at Nicholas House, River Front, Enfield, Middlesex, EN1 3FG.

**VALUE ADDED TAX**

**20.4** The payment of the Grant by the Secretary of State under the Funding Agreement is believed to be outside the scope of Value Added Tax but if any Value Added Tax shall become chargeable all payments shall be deemed to be inclusive of all Value Added Tax and the Secretary of State shall not be obliged to pay any additional amount by way of Value Added Tax.

**20.5** All sums or other consideration payable to or provided by the Grant Recipient and the Delivery Partner to the Secretary of State at any time shall be deemed to be exclusive of all Value Added Tax payable and where any such sums become payable or due or other consideration is provided the Grant Recipient and the Delivery Partner shall at the same time or as the case may be on demand by the Secretary of State in addition to such sums or other consideration pay to the Secretary of State all the Value Added Tax so payable upon the receipt of a valid Value Added Tax invoice.

**21 GOOD FAITH AND COOPERATION**

The Delivery Partner covenants with the Grant Recipient that: -

- (a) it shall at all times act with the utmost good faith towards the Grant Recipient and the Secretary of State and will at all times co-operate fully with the Grant Recipient and the Secretary of State;
- (b) it will comply with all the Secretary of State's reasonable requirements in relation to the Project from time to time; and
- (c) it will not do anything which will put the Secretary of State in breach of any of its obligations in relation to the Operational Programme.

## **22 INSURANCE**

The Delivery Partner covenants with the Grant Recipient that it will ensure that it maintains at all times adequate insurance cover with an insurer of good repute to cover all claims and liabilities under this Agreement or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with the Project.

## **23 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not party to this Funding Agreement shall not have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **24 JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and each party submits to the exclusive jurisdiction of the English Courts.

## **25 MISCELLANEOUS**

- 25.1** Nothing in this Agreement shall constitute a partnership or joint venture between the parties to this Agreement or constitute the Delivery Partner as the agent of the Grant Recipient or the Secretary of State for any purpose whatsoever.
- 25.2** The Delivery Partner acknowledges that a certificate by the Secretary of State as to any sum payable under the Funding Agreement to the Grant Recipient shall be (save in the case of manifest error) conclusive evidence of the matter to which it relates and shall contain reasonable details of the basis of determination.
- 25.3** If at any time any of the provisions of this Agreement become illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality validity nor enforceability of the remaining provisions of this Agreement shall be in any way affected or impaired as a result.
- 25.4** No failure or delay on the part of the Grant Recipient in exercising any right or power and no course of dealing between the parties to this Agreement shall operate as a waiver nor shall any single or partial exercise of any right power or remedy of the Grant Recipient prevent any other or further or other exercise of it or the exercise of any other right power or remedy of the Grant Recipient. The rights and remedies available to the Grant Recipient under this Agreement are cumulative and are in addition to and not in substitution for any other rights or remedies which the Grant Recipient would otherwise have, however arising.
- 25.5** Nothing contained in or done under this Agreement and no consents given by the Grant Recipient shall prejudice the Grant Recipient's rights, powers or duties and/or obligations in the exercise of its functions or under any statutes, bye-laws, instruments orders or regulations.
- 25.6** Nothing in this Agreement nor any other document shall impose any obligation or liability on the Grant Recipient with respect to any actions of or obligations or liabilities assumed or incurred by the Delivery Partner or its agents, contractors or employees whether under contract, statute or otherwise.

- 25.7** Any approval by the Grant Recipient or any person on behalf of the Grant Recipient pursuant to this Agreement of any matter submitted by the Delivery Partner for approval shall not be deemed to be an acknowledgment by the Grant Recipient of the correctness or suitability of the contents of the subject of the approval or consent.
- 25.8** The fact that the Grant Recipient or the Grant Recipient representatives have supplied or received any documents or information or attended any meeting shall not in itself imply approval of any matters raised in any such document, information or meeting or relieve the Delivery Partner of any obligation or liability in respect of the Project Activities or otherwise.
- 25.9** Nothing in this Agreement shall affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication to come into force or continue in force upon termination or expiry of this Agreement.
- 25.10** This Agreement contains all the terms which the Grant Recipient has agreed in relation to the subject matter of this Agreement and supersedes any prior written or oral agreements representations or understandings between the Grant Recipient and the Delivery Partner.
- 25.11** No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement.
- 25.12** Notwithstanding any other provisions of this Agreement, the Grant Recipient and the Secretary of State shall not be entitled to be reimbursed or to recover any monies that it has paid under this Agreement to the extent that it has already been compensated or reimbursed in respect of that same amount pursuant to this Agreement.

**IN WITNESS** whereof this Agreement has been signed on the day and year first before written.

**FOR AND ON BEHALF OF THE GRANT RECIPIENT**

Authorised Signatory:

Print Name:

**FOR AND ON BEHALF OF THE DELIVERY PARTNER**

Authorised Signatory:

Print Name:



## SCHEDULE 1

### THE PROJECT SPECIFIC CONDITIONS AND DELIVERY PARTNER TARGETS AND ACTIVITIES

#### 1 Contact

ERDF Senior Programme Manager.

#### 2. Instalment Periods

The Instalment Period will be quarterly. The first Instalment Period will start following the date on which the correctly executed Funding Agreement is received by the Contact named above.

#### Milestone Table

	<b>Milestone</b>	<b>Date</b>
a)	Start Date	1 <sup>st</sup> January 2021
b)	Agreed Financial Completion Date	30 <sup>th</sup> September 2023
c)	Agreed Activity End Date	30 <sup>th</sup> June 2023
d)	Agreed Project Practical Completion Date	30 <sup>th</sup> September 2023
e)	The date of the submission of the first Grant Claim	20 <sup>th</sup> April 2021
f)	The date of the submission of the final Grant Claim	27 <sup>th</sup> October 2023

#### 3. Delivery Partners

3.1 The Grant Recipient is acting as the lead beneficiary for a consortium where the Grant Recipient and Delivery Partners named in the Application will be making use of the Grant.

#### 4. Methodology for determining Eligible Expenditure

4.1 For the avoidance of doubt, the methodology for determining the Eligible Expenditure of the Project is set out in the Eligibility Rules and Grant Claims shall be submitted in line with this methodology.

4.2 The Delivery Partner eligible expenditure for the purposes of this project will be eligible grant payments made to end-beneficiaries backed up by a compliant audit trail.

#### 5. State Aid

5.1 The Delivery Partner has undertaken its own assessment of the compliance of the Project, as structured, and warrants to the Grant Recipient that it is State Aid Law

compliant because they will not receive any advantage from the Grant as this will flow through to the Project Beneficiaries.

- 5.2 In delivering the Project Activities the Delivery Partner confirms that it will not receive any economic advantage and will operate the Project on a not for profit basis. At the end of delivering the Project, the Delivery Partner will be required to account for any residual advantage they have obtained through the Grant.
- 5.3 The Delivery Partner agrees that it shall collect appropriate information to demonstrate that it has no economic advantage (which shall be supplied to the Grant Recipient upon request). To ensure the transparency, the Delivery Partner shall:
  - 5.3.1 ring-fence the Project's income and costs on a separate not-for-profit coding on its accounts from their other commercial activities in order to prevent cross-subsidy to any of their economic activities;
  - 5.3.2 benchmark their salary costs against market prices and demonstrate the staff they employ, and the number of staff are appropriate for the Project;
  - 5.3.3 ensure that it does not over-compensate the businesses that they are supporting and ensure that costs claimed are not above that incurred by an efficient operator providing the service.
- 5.4 The Delivery Partner warrants that any economic advantage will be provided to the Project beneficiaries within the framework of the 'De Minimis Regulations' (EC Reg 1407/2013 OJ L 352 of 24.12.2013) and agrees that it will meet the conditions set out below.
- 5.5 The Delivery Partner confirms that all staff who deliver such aid shall first read the De Minimis Regulations 1407/2013 to ensure that they understand the administrative requirements. Compliance with the De Minimis Regulations shall include:
  - 5.5.1 valuing the 'gross grant equivalent' of the aid provided to each SME;
  - 5.5.2 establishing how much aid the SME has received in the current and two previous financial years to ensure that the award of the aid shall not exceed the €200,000 threshold for the SME in that period;
  - 5.5.3 obtaining a prior declaration from the SME (signed by a person authorised to bind them) that the aid received shall not result in the SME exceeding its allowable €200,000 threshold as above; and
  - 5.5.4 providing a follow-up letter to each SME recording the gross grant equivalent value of aid provided under the De Minimis Regulations.
- 5.6 The Delivery Partner agrees not to provide aid to any person or sector excluded under the De Minimis Regulations and to retain all declarations until 2033 in order to establish that all the conditions laid down in Regulation 1407/2013 have been complied with.

## 6. ADDITIONAL PROVISIONS RELATING TO THE GRANT

6.1 The Grant Recipient will disperse grant payment to Delivery Partners once the Grant Recipient has received the Grant Payment from the Secretary of State.

6.2 The Delivery Partner shall assess whether a business is eligible for support within the project, with respect to the 4 key areas below:

- SME status
- State aid
- Sector Exclusions
- Fit with the strategic aims of the project

In addition to looking at the 4 key areas mentioned above (headcount, turnover and balance sheet), it is also necessary to look at whether the business has access to additional finance and resource through 'linked or partner' enterprises will be looked at as part of SME eligibility.

Further information on the impact on SME status of Partner or Linked Enterprises can be found in the EU SME definition guide: [The revised User Guide to the SME definition](#).

The Delivery Partners will carry out the following activities:

- Prepare for agreement by the Grant recipient a set of ERDF branded forms and related documents to provide the necessary audit trail for inclusion of eligible grant expenditure in quarterly ERDF claims;
- Receive, check and assess applications for grant from eligible businesses. Checks to cover the 4 key areas above;
- Issue Grant Offer letters and grant application rejection letters to applicant businesses as appropriate;
- Receive and check evidence of eligible expenditure by approved applicant businesses and deal with related queries;
- When satisfactory evidence has been received to make payment of ERDF grant to successful applicant businesses;
- To follow up and provide evidence of the achievement of ERDF Output targets using the agreed forms and process.
- To record all payments of grant and provide evidence of defrayal of ERDF grant to the Grant Recipient for inclusion in ERDF quarterly claims.

6.3 The Delivery Partner will carry out defrayal checks to ensure that complete defrayal is present before the claim is paid out. The Grant Recipient will also complete Financial Transaction Lists; however, progress reports may need to be completed by the Delivery Partner prior to Claim Submission deadline.



**SCHEDULE 2  
EXPENDITURE PROFILES**

COSTS PROFILE

Revenue

Category	2021					2022					2023					Total
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	
Other Revenue	£234	£234	£240,234	£600,234	£840,936	£780,234	£780,234	£900,234	£960,234	£3,420,936	£1,020,234	£720,234	£234		£1,740,702	£6,002,574
Salaries	£7,504	£7,654	£7,654	£7,654	£30,466	£7,654	£7,807	£7,807	£7,807	£31,075	£7,807	£7,807	£7,807		£23,421	£84,962
Flat Rate Indirect Costs	£1,126	£1,148	£1,148	£1,148	£4,570	£1,148	£1,171	£1,171	£1,171	£4,661	£1,171	£1,171	£1,171		£3,513	£12,744
Consultancy	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£35,000	£0		£35,000	£35,000
<b>Total</b>	<b>£8,864</b>	<b>£9,036</b>	<b>£249,036</b>	<b>£609,036</b>	<b>£875,972</b>	<b>£789,036</b>	<b>£789,212</b>	<b>£909,212</b>	<b>£969,212</b>	<b>£3,456,672</b>	<b>£1,029,212</b>	<b>£764,212</b>	<b>£9,212</b>	<b>£0</b>	<b>£1,802,636</b>	<b>£6,135,280</b>

  

<b>Overall Total</b>	<b>£8,864</b>	<b>£9,036</b>	<b>£249,036</b>	<b>£609,036</b>	<b>£875,972</b>	<b>£789,036</b>	<b>£789,212</b>	<b>£909,212</b>	<b>£969,212</b>	<b>£3,456,672</b>	<b>£1,029,212</b>	<b>£764,212</b>	<b>£9,212</b>	<b>£0</b>	<b>£1,802,636</b>	<b>£6,135,280</b>
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## FUNDING PROFILE

Category of Region	% Split
More Developed	100%

LEPs	% Split
Greater Cambridge & Greater Peterborough	100%

Priority(s)	% Split
03 - Enhancing the Competitiveness of SMEs (ERDF)	100%

Investment Priorities	% Split
3c - Supporting the creation and the extension of advanced capacities for product and service development	50%
3d - Supporting the capacity of SMEs to grow in regional, national and international markets, and to engage	50%

### Revenue

Enter Pounds (£) only - do not include pence

	Total	ERDF	Public		Private		Planned Income	Other	Intervention Rate
			Actual	In-Kind	Actual	In-Kind			
Q1	£8,864	£4,432.00	£4,432.00		£0.00				50.00%
Q2	£9,036	£4,518	£4,518		£0				50.00%
Q3	£249,036	£124,518	£4,518		£120,000				50.00%
Q4	£609,036	£304,518	£4,518		£300,000				50.00%
2021	£875,972	£437,986	£17,986	£0	£420,000	£0	£0	£0	50.00%
Q1	£789,036	£394,518	£4,518		£390,000				50.00%
Q2	£789,212	£394,606	£4,606		£390,000				50.00%
Q3	£909,212	£454,606	£4,606		£450,000				50.00%
Q4	£969,212	£484,606	£4,606		£480,000				50.00%
2022	£3,456,672	£1,728,336	£18,336	£0	£1,710,000	£0	£0	£0	50.00%
Q1	£1,029,212	£514,606	£4,606		£510,000				50.00%
Q2	£764,212	£382,106	£22,106		£360,000				50.00%
Q3	£9,212	£4,606	£4,606		£0				50.00%
2023	£1,802,636	£901,318	£31,318	£0	£870,000	£0	£0	£0	50.00%
<b>Total</b>	<b>£6,135,280</b>	<b>£3,067,640</b>	<b>£67,640</b>	<b>£0</b>	<b>£3,000,000</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>50.00%</b>

### Total

Total	ERDF	Public		Private		Planned Income	Other	Intervention Rate
		Actual	In-Kind	Actual	In-Kind			
£8,864	£4,432	£4,432	£0	£0	£0	£0	£0	50.00%
£9,036	£4,518	£4,518	£0	£0	£0	£0	£0	50.00%
£249,036	£124,518	£4,518	£0	£120,000	£0	£0	£0	50.00%
£609,036	£304,518	£4,518	£0	£300,000	£0	£0	£0	50.00%
£875,972	£437,986	£17,986	£0	£420,000	£0	£0	£0	50.00%
£789,036	£394,518	£4,518	£0	£390,000	£0	£0	£0	50.00%
£789,212	£394,606	£4,606	£0	£390,000	£0	£0	£0	50.00%
£909,212	£454,606	£4,606	£0	£450,000	£0	£0	£0	50.00%
£969,212	£484,606	£4,606	£0	£480,000	£0	£0	£0	50.00%
£3,456,672	£1,728,336	£18,336	£0	£1,710,000	£0	£0	£0	50.00%
£1,029,212	£514,606	£4,606	£0	£510,000	£0	£0	£0	50.00%
£764,212	£382,106	£22,106	£0	£360,000	£0	£0	£0	50.00%
£9,212	£4,606	£4,606	£0	£0	£0	£0	£0	50.00%
£1,802,636	£901,318	£31,318	£0	£870,000	£0	£0	£0	50.00%
<b>£6,135,280</b>	<b>£3,067,640</b>	<b>£67,640</b>	<b>£0</b>	<b>£3,000,000</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>50.00%</b>

<b>Overall</b>	<b>£6,135,280</b>	<b>£3,067,640</b>	<b>£67,640</b>	<b>£0</b>	<b>£3,000,000</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>50.00%</b>
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<b>£6,135,280</b>	<b>£3,067,640</b>	<b>£67,640</b>	<b>£0</b>	<b>£3,000,000</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>50.00%</b>
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FUNDING SOURCES

**Revenue**

Organisation	Funding Type	Private/Public/Other	2021	2022	2023	Total
ERDF	ERDF	Public	£437,986	£1,728,336	£901,318	<b>£3,067,640</b>
CPCA	Local Authority	Public	£17,986	£18,336	£31,318	<b>£67,640</b>
SME Grant recipients	Private Sector	Private	£420,000	£1,710,000	£870,000	<b>£3,000,000</b>
<b>Total</b>			<b>£875,972</b>	<b>£3,456,672</b>	<b>£1,802,636</b>	<b>£6,135,280</b>

<b>Overall Total</b>			<b>£875,972</b>	<b>£3,456,672</b>	<b>£1,802,636</b>	<b>£6,135,280</b>
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### SCHEDULE 3 TARGETS

Category of Region	% Split
More Developed	100%

LEPs	% Split
Greater Cambridge & Greater Peterborough	100%

Investment Priorities	% Split
3d - Supporting the capacity of SMEs to grow in regional, national	75%
3c - Supporting the creation and the extension of advanced	25%

Outputs	ER/C/O/01 Number of enterprises receiving support,				
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	63			18	45
2022	256	58	59	67	72
2023	131	77	54		
<b>Total</b>	<b>450</b>	<b>135</b>	<b>113</b>	<b>85</b>	<b>117</b>

Outputs	ER/C/O/02 Number of enterprises receiving grants,				
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	63			18	45
2022	256	58	59	67	72
2023	131	77	54		
<b>Total</b>	<b>450</b>	<b>135</b>	<b>113</b>	<b>85</b>	<b>117</b>

Outputs	ER/C/O/06 Private investment matching public support to enterprises (grants),				
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	420,000			120,000	300,000
2022	1,710,000	390,000	390,000	450,000	480,000
2023	870,000	510,000	360,000		
<b>Total</b>	<b>3,000,000</b>	<b>900,000</b>	<b>750,000</b>	<b>570,000</b>	<b>780,000</b>

Outputs	ER/C/O/08 Employment increase in supported enterprises				
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	0				
2022	203	30	43	55	75
2023	197	75	70	52	
<b>Total</b>	<b>400</b>	<b>105</b>	<b>113</b>	<b>107</b>	<b>75</b>

Outputs	ER/C/O/29 Number of enterprises supported to introduce new to the firm products				
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	0				
2022	22	5	5	6	6
2023	8	4	4		
<b>Total</b>	<b>30</b>	<b>9</b>	<b>9</b>	<b>6</b>	<b>6</b>

Outputs					
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	Total	Qtr 1	Qtr 2	Qtr 3	Qtr 4
2021	0				
2022	0				
2023	0				
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



## SCHEDULE 4 UNDERPERFORMANCE METHODOLOGY

Methodology for calculating penalty for operation underperformance						
Methodology						
	OUTPUTS TO BE INCLUDED IN THE CALCULATION (Up to 4 outputs to be selected according to Priority Axis and those contracted for this operation)		OUTPUT 1	OUTPUT 2	OUTPUT 3	OUTPUT 4
			Output reference / ID Output description / Indicator	Output reference / ID Output description / Indicator	Output reference / ID Output description / Indicator	Output reference / ID Output description / Indicator
			NB: will be Performance Framework output where contracted			
Basic Facts	Total Project Value ( a )	£ value as per schedule 1 of FAL / details as per latest variation				
	Contracted Target ( b )		Number contracted as per schedule 3 of FAL	Number contracted as per schedule 3 of FAL	Number contracted as per schedule 3 of FAL	Number contracted as per schedule 3 of FAL
	Evidenced / actual achievement ( c )		Number actually achieved at time of calculation	Number actually achieved at time of calculation	Number actually achieved at time of calculation	Number actually achieved at time of calculation
Calculated Variance	Variance (number) ( d )		( b ) - ( c )	( b ) - ( c )	( b ) - ( c )	( b ) - ( c )
	Variance (%) ( e )		( d ) / ( b ) x 100	( d ) / ( b ) x 100	( d ) / ( b ) x 100	( d ) / ( b ) x 100
Weighting	Up to 15% below target = normally deal with via project change process 16% and 25% below a weighting of 5% would normally be applied 26% and 50% below a weighting of 10% would normally be applied Over 50% below would normally result in a weighting of at least 15% ( f )	( f )	identify weighting as appropriate ( see e). B: Where a project has overachieved the variance ( e ) will appear as a negative figure. The corresponding % as a negative ( using the criteria here ) should be added as the weighting against the indicator. This allows for the overachievement to be taken into account in the calculation of the penalty.	identify weighting as appropriate ( see e). B: Where a project has overachieved the variance ( e ) will appear as a negative figure. The corresponding % as a negative ( using the criteria here ) should be added as the weighting against the indicator. This allows for the overachievement to be taken into account in the calculation of the penalty.	identify weighting as appropriate ( see e). B: Where a project has overachieved the variance ( e ) will appear as a negative figure. The corresponding % as a negative ( using the criteria here ) should be added as the weighting against the indicator. This allows for the overachievement to be taken into account in the calculation of the penalty.	identify weighting as appropriate ( see e). B: Where a project has overachieved the variance ( e ) will appear as a negative figure. The corresponding % as a negative ( using the criteria here ) should be added as the weighting against the indicator. This allows for the overachievement to be taken into account in the calculation of the penalty.
	Indicator Value (£) ( g )		( a ) * 0.55	( a ) * 0.15	( a ) * 0.15	( a ) * 0.15
Penal /	Establish the value of the variance for each indicator as a proportion of the value of the operation.					
	Underperformance value (£) ( h )		( g ) x ( f )	( g ) x ( f )	( g ) x ( f )	( g ) x ( f )
	Potential Reduction Value (£) ( i )	sum all ( h )s				

**SCHEDULE 5  
APPLICATION**



APPLICATION  
Growth Coaching C