

GRANT AGREEMENT

between

ABERDEENSHIRE COUNCIL, a local Council constituted under the Local Government etc (Scotland) Act 1994 and having a principal place of business at Woodhill House, Westburn Road, Aberdeen AB16 5GB (the “**Council**”);

and

[REDACTED] (company/ individual details) (the “**Grantee**”)

referred to collectively as the “**Parties**” and each individually as a “**Party**”, on the following terms.

IT IS AGREED AS FOLLOWS:

1. Introduction and Definitions

1.1 In this Grant Agreement the following terms have the meanings set out below:

‘**Commencement Date**’ means the date specified in the Schedule Part 1 notwithstanding the date of signing of this Grant Agreement.

‘**Data Subject**’ shall have the meaning given to it in the Data Protection Act 1998.

‘**Eligible Costs**’ means actual proper and reasonable costs and expenses in respect of the activities referred to in Part 1 of the Schedule but excluding any reclaimable Value Added Tax.

‘**Equipment**’ means the plant, equipment, assets and other items which have been acquired by the Grantee with the Grant in accordance with the terms of this Grant Agreement;

‘**Equipment Policy**’ means the Grantee’s policy for the transfer of the Equipment upon the occurrence of an Insolvency Event or Material Event and which policy shall be subject to the Council’s prior approval (clause 5.3). The Equipment Policy shall ensure that any transfer of the Equipment protects the Project outcomes and objectives.

‘**Grant**’ means the payment of grant funding by the Council to the Grantee in accordance with the terms of this Grant Agreement.

‘**Grant Agreement**’ means the terms and conditions of this agreement and the Schedule Parts 1 and 2 annexed.

‘**Grant Period**’ means the period referred to as such in Part 1 of the Schedule.

‘**Grant Record**’ shall have the meaning given in clause 8.1.

‘**Insolvency Event**’ means the Grantee ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation) or becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due.

'Material Event' shall have the meaning given in clause 7.4.

'Personal Data' shall have the meaning given to it in the Data Protection Act 1998.

'Project' means the activity in support of [insert project title] for which the Council has sought proposals and awarded grant funding to the Grantee under this Grant Agreement;

'Project Implementation' means all steps which the Grantee undertakes in order to deliver the Project which is being supported by funding provided under this Grant Agreement.

'Schedule' means the schedule consisting of two parts annexed to this Grant Agreement.

1.2 Any reference to UK primary legislation (Acts) or secondary legislation (Statutory Instruments) in this Grant Agreement includes reference to any changes to or replacement of those Acts or Statutory Instruments.

2. Grant Offer

2.1 The Council offers to pay the Grantee the grant funding set out in this Grant Agreement on condition that the Grantee complies fully with the terms of this Grant Agreement.

2.2 The Grantee acknowledges that the Council agrees to provide funding only for the amount, period and purposes set out in this Grant Agreement.

3. Purpose of the Grant

3.1 The Council is providing grant funding for the implementation of the Project entitled. The Project objectives and outcomes are set out in the Schedule, Part 1.

3.2 The Grantee accepts responsibility for the proper use and administration of all Grant provided under this Grant Agreement and undertakes that this will be used only for the purpose of carrying out the Project in accordance with the Schedule Part 1.

4. Grant Funding Period

4.1 The terms of this Grant Agreement shall apply from the Commencement Date and shall continue in full force and effect for the Grant Period.

4.2 Any obligations under this Grant Agreement that remain unfulfilled following the expiry or termination of this agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled. Without prejudice to the foregoing generality, the following clauses shall remain in full force and effect notwithstanding termination of this agreement: clause 1, 7, 9, 12, 16 and 19.

5 Award and Payment of Grant Payments

5.1 The [organisation/ individual] undertakes to implement the Project and to comply with the terms of this Grant Agreement.

5.2 The Grant shall be paid in accordance with Part 1 of the Schedule and the amount and frequency of Grant payment shall be as provided for therein.

5.3 No payment of Grant will be paid to the Grantee unless and until:

- (a) The Council is satisfied that such payment will be used for payment of Eligible Costs;
- (b) The Grantee has signed and returned a copy of this Grant Agreement to the Council;
- (c) The Grantee has complied with the terms of this Grant Agreement.

5.4 The Council reserves the right to withhold all or any payments of the grant funding if it has reasonably requested information and/or documentation from the Grantee and this has not been provided to the Council within the timescales reasonably required.

5.5 The amount of Grant will not be increased in the event of any overspend by the Grantee in its delivery of the Project or where the Grantee incurs any additional liabilities.

6. Managing the Grant

6.1 Within weeks/ months of the Grantee receiving any instalment of Grant, it shall report to the Council on the form provided in Part 2 of the Schedule with evidence demonstrating to the Council's satisfaction, the completion of the Project activities and evidence in the form of receipts and invoices of defrayed expenditure for the purposes set out in this Grant Agreement.

6.2 If, following the Council's receipt and review of the information provided by the Grantee under clause 6.1, it determines, acting reasonably, that the Grantee has failed to use the Grant funding in accordance with and as provided for in this Grant Agreement it may, at its discretion:

- (a) suspend any further payments of the Grant due to the Grantee; and/or
- (b) demand immediate repayment of Grant already paid to the Grantee; and /or
- (c) decline all future applications for Grant from the Grantee whether under the present scheme or any other Council grant scheme available.

6.3 The Grant must be spent in the payment period/ financial year for which it was approved. Funds may not be carried over except in exceptional circumstances with the prior written agreement of the Council's authorised representative.

6.4 The Council reserves the right to make the Grant subject to such arrangements as it considers reasonable, appropriate and proportionate to manage the relationship with the Grantee. This reservation may be exercised because of the budget, scope or complexity of a Project.

6.5 If the Council makes an overpayment to the Grantee, it will seek recovery of all sums overpaid. The Grantee shall repay any overpayment to the Council within thirty (30) calendar days of receiving a written request from the Council to make a repayment. If there is a dispute between the parties about the overpayment, repayment will not be made until the dispute has been resolved.

6.6 The Council retains the right to recover any funds given to the Grantee under this Grant Agreement which have not been used for the purposes of implementing the Project or cannot be accounted for.

6.7 If the Grantee has good reason to suspect fraud or any other misuse of any grant funding paid under this Grant Agreement, it must notify the Council immediately, explain the steps that are being taken to investigate the suspicion and keep the Council informed of the progress and outcome of the investigation.

7. Purchase and Maintenance of Equipment

- 7.1 If the Grantee buys Equipment to implement the Project it shall maintain a record and notify the Council of purchases of equipment to be made with the Grant funding. Entries in the record must include the following information:
- (a) description of the item(s)
 - (b) specific identification (e.g. serial number)
 - (c) date of purchase
 - (d) where the item was purchased
 - (e) original value (including VAT, if paid)
 - (f) person responsible for the purchase
- 7.2 The Grantee shall be solely responsible for any Equipment purchased with the Grant Funding and shall ensure the Equipment:
- (i) is maintained and repaired now and on an ongoing basis, to ensure it remains in safe working condition and complies with all statutory requirements for the maintenance and repair of such Equipment for as long as it remains in use; and
 - (ii) is stored appropriately and where such storage is at a venue or site not under the control of the Grantee, the Grantee shall ensure it is an appropriate venue/ site for storage of the Equipment and that it has permission to use the venue or site for such storage.
- 7.3 The Council recommends that the Grantee insure the Equipment and keep it insured against loss or damage and such other risks connected with its storage and use related in connection with the Project activities.
- 7.4 The Grantee may allow the Equipment to be used by third parties but does so entirely at its own risk and shall ensure that any third party user of the Equipment is provided with appropriate terms and conditions concerning its use. The Council shall have no liability in relation to loss or damage to the Equipment or for any loss, injury or damage suffered by either the Grantee or any other user of the Equipment.
- 7.5 The Grantee shall ensure that it complies with the Equipment Policy where it requires to transfer the Equipment due to an Insolvency Event or any other material event that prevents the Grantee delivering the Project ("**Material Event**"). The Grantee shall not be permitted to transfer the Equipment other than upon the occurrence of an Insolvency Event or a Material Event without the prior written consent of the Council.

8. Records and Council Access

- 8.1 The Grantee shall keep all invoices, receipts and accounts and any other relevant documents relating to the expenditure of the Grant ("**Grant Records**") for the duration of this agreement. The Council shall have the right to review, take copies of and audit the Grant Records and the Grantee shall grant the Council such access to its premises and the Grant Records for this purpose as reasonably required by the Council.

9. Lawful conduct

- 9.1 The Grantee acknowledges that the Council is subject to the Freedom of Information (Scotland) Act 2002, the Data Protection Act 1998 and the Equality Act 2010.
- 9.2 The Grantee shall at all times conduct its activities in connection with the Project in a manner which prevents the disclosure of Personal Data. If Personal Data requires to be disclosed in connection with the Project, the Grantee shall:
- (i) restrict and limit the circumstances in which such disclosure is required to the minimum necessary to perform the Project activities;
 - (ii) it shall obtain the express consent of Data Subjects prior to use of any Personal Data (including images), in connection with any publication of the Project, whether on social media, internet or other publicity materials; and
 - (iii) it will keep all Personal Data created in connection with the Project secure in accordance with the Data Protection Act 1998.
- 9.3 The Grantee shall ensure that it complies with any applicable law or organisational directives and regulations which are binding on it.
- 9.3 The Grantee shall cooperate with the Council (to the fullest extent permissible) to enable the Council's compliance with its obligations under the legislation referred to in clause 9.1 or other applicable legislation which applies to the provision of grant funding under this Grant Agreement.
- 9.4 The Grantee acknowledges that, where the Council is required to disclose information in line with its obligations under the Freedom of Information (Scotland) Act 2002, it shall be solely responsible for determining whether any information relating to this Grant Agreement is exempt from disclosure. If the Grantee provides information to the Council which is designated as commercially sensitive or confidential these markings shall not determine conclusively whether or not disclosure by the Council is necessary in order to comply with its legal obligations.

10. Publicity – Acknowledgement of Funding

- 10.1 The Grantee shall ensure that it undertakes all necessary publicity arrangements in accordance with the Grant Instructions and shall acknowledge the financial contribution of the Council to the Project.
- 10.2 The Council shall provide the Grantee with a copy of its corporate logo for use in connection with the publicising of the Project and the Grantee shall consult with the Council to prior to its use.

11. Conflict of Interest

- 11.1 The Grantee shall ensure that it has adequate procedures in place to enable early identification and effective management of any conflicts of interest which it or its Staff may have in relation to this Grant Agreement. Where the Grantee identifies a conflict of interest it shall notify the Council of this and provide information about how this is being managed.

12. Amendment of Grant Agreement

12.1 This Grant Agreement may be amended only by written agreement of the Parties.

13. Suspension and Termination

Suspension

13.1 Without prejudice to the Council's other rights and remedies, the Council may at its discretion suspend payment of the Grant or demand immediate repayment of the Grant already paid to the Grantee if:

- (a) the Grantee commits or committed a Prohibited Act;
- (b) any member of the Grantee organisation has (i) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project; or (ii) taken any actions which, in the reasonable opinion of the Council, bring or are likely to bring the Council's name or reputation into disrepute;
- (c) the Grantee commits an Insolvency Event; or
- (d) the Grantee fails to comply with any of the terms and conditions set out in this Grant Agreement and fails to rectify any such failure within ten (10) days of receiving written notice detailing the failure.

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

13.3 If in the Council's opinion, the Grant or any part of it is state aid and it considers that it is required to recover such sum in order to ensure compliance with its obligations under EU law, the Council may require immediate repayment of the Grant or any part of it together with interest at such rate and on such basis as may be determined from time to time by the Commission of the European Union.

Termination

13.4 This agreement can be cancelled through the written communication of either party. The period of notice required for the Council to terminate this agreement shall be three months. The Grantee may terminate this agreement with immediate effect by written notice to the Council.

13.5 In the event of this agreement being duly terminated, the Council will be under no further obligation to make payment of Grant to the Grantee.

13.6 Any failure, omission or delay by the Council in exercising any right or remedy to which it is entitled by virtue of this clause 13 shall not be construed as a waiver of such right or remedy.

14. Limitation of Liability

14.1 The Council accepts no liability for any consequences, whether direct or indirect, that may come about from the Grantee engaging in the Project, the use of the Grant or from withdrawal of the

Grant. The Grantee shall indemnify and hold harmless the Council, its staff and sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Grantee in relation to the Project.

15. Insurance

15.1 The Grantee shall ensure that it has such insurance in place as is necessary for the normal conduct of its activities. Where it is necessary for the Grantee to purchase additional insurance cover in order to perform its obligations under this Grant Agreement, the Grantee shall ensure that it has all relevant insurance in place prior to the start of the grant funding period and shall provide evidence of payment of premiums on request by the Council.

16. Intellectual Property Rights

16.1 The Council and the Grantee agree that all rights, title and interest in or to any intellectual property rights (namely all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and know-how however arising for their full term and any renewals and extensions) whatsoever owned by either the Council or the Grantee before the Commencement Date or developed by either party during the term of this agreement, shall remain the property of that party.

17. Dispute Resolution

17.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Grant Agreement.

17.2 Any dispute that cannot be resolved between the Grantee and the Council within 28 days of the dispute arising may be referred to and finally resolved by arbitration under the Scottish rules of the Chartered Institute of Arbitrators (arbiters).

18. Entire Agreement

18.1 This Grant Agreement constitutes the entire agreement between the Parties and supersedes all negotiations, representations or agreements either written or oral preceding it, without prejudice to the Council's rights and remedies at law or otherwise.

19. Governing Law

19.1 This Grant Agreement will be governed by and construed in accordance with Scots law and the Grantee hereby irrevocably submits to the non-exclusive jurisdiction of the Scottish courts IN WITNESS WHEREOF these presents consisting of the foregoing agreement and the Schedule are executed as follows:

SIGNED:

subscribed on behalf of the Council by:

(print full name of above) a duly authorised signatory
and Proper Officer of the Council

SIGNED:

Director

(print full name of above)

DATED THIS: _____ day of _____
2017

PLACE OF SIGNATURE: _____

WITNESS (Signature): _____

WITNESS (Full Name): _____

WITNESS (Address): _____

DATED THIS: _____ day of _____
2017

PLACE OF SIGNATURE: _____

WITNESS (Signature): _____

WITNESS (Full Name): _____

WITNESS (Address) _____

This is the Schedule referred to in the foregoing Grant Agreement between the Council and [REDACTED]

PART 1 – THE PROJECT

(A) THE PROJECT SPECIFICATION

The main objectives/ outcomes of the Project are:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

(B) TOTAL GRANT AWARDED

[£ REDACTED]

COMMENCEMENT DATE: [REDACTED]

GRANT PERIOD: [REDACTED]

(C) PAYMENT OF GRANT

- i. The Grant shall be payable by the Council to the Grantee in accordance with the payment schedule below subject to the Grantee following the Grant claims procedure set out in Part 2 of the Schedule and compliance with the terms and conditions of this Grant Agreement.
- ii. The total Grant shall be payable as follows:

[Excel Fund/ Connecting Communities/ Creative Economy]

Payment Date	Amount

PART 2 - GRANT CLAIMS PROCEDURE

[Council Officer Details]
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

[Grantee name and address]

[TO BE SENT TO THE COUNCIL NO LATER THAN [X] WEEKS FOLLOWING PAYMENT OF GRANT]

Dear [],

Grantee:

Project:

Total agreed grant for [*financial year*]:

In respect of the payment of Grant received from the Council on [insert date], we hereby submit evidence of completed Project activities and defrayed expenditure for the Project in accordance with the terms and conditions of the Grant Agreement between us and Aberdeenshire Council dated [].

Yours faithfully

For and on behalf of [the Grantee]

Completed by:

Position:

Contact Details:

Completion of Project Activities

Project Activity/ Objective	Progress Made/ Result Achieved

Items of Expenditure

Please list in the table below all items of expenditure relevant to the above period and the type of documentary evidence that is submitted with this claim to substantiate each amount.

Item	Amount (£)	Paid Invoice – Evidence enclosed (Y/N)