DATED THE DAY OF 2018

### NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

**AND**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**GRANT AGREEMENT**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**THIS AGREEMENT** is made the day of 2018

**BETWEEN**

1. **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL** of Civic Centre Port Talbot (hereinafter called "the Council ") of the one part; and
2. (hereinafter called "the Recipient") of the other part

**BACKGROUND**

(A) The Council has agreed to pay the Grant to the Recipient to assist it in carrying out the Activity.

(B) This Grant Agreement is made pursuant to Section 2 of the Local Government Act 2000 and all other powers enabling and enactments which may be relevant for the purpose of giving validity.

(C) This Grant Agreement sets out the terms on which the Grant is made by the Council to the Recipient.

(D) This Grant Agreement and clauses are intended to ensure that the Grant is used for the purpose for which it is awarded.

**NOW IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS**

* 1. In this Agreement:

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| --- | --- |
| Activity | means the scheme that is to be funded by the Council and described in the Application Form and Award Letter; |
| Application Form | means the form submitted by the Recipient as part of its request for funding containing details of the Activity a copy of which is found at Schedule 2; |
| Award Letter | means the letter from the Council confirming the award of the Grant and found at Schedule 1; |
| Commencement Date | means the 1st April 2018; |
| Expiry Date | means the 31st March 2019; |
| Financial Year | means the period from the 1st April to the following 31st March of each year of this Grant Agreement |
| Grant | means the sum identified in the Award Letter; |
| Grant Agreement | means this grant agreement entered into between the Council and the Recipient which comprises these Clauses and the Schedules; |
| Grant Period | means the period commencing on the Commencement Date and expiring on the Expiry Date; |
| Insurances | means:   * 1. public liability insurance of an amount determined appropriate by the Recipient   2. employers liability insurance where appropriate at the statutory minimum   3. where the activity involves the purchase or construction of property or the purchase or hire of any assets an insurance policy to cover the reinstatement of such property or assets for their full value |
| Intellectual Property Rights | means all copyright, patents or patent rights, registered and unregistered design rights, trademarks, service marks and all other intellectual or industrial property rights wherever in the world enforceable |
| Material Change | means for the purposes of the Grant Agreement:   1. the future of the Activity is in jeopardy; 2. in the sole discretion of the Council, the Recipient has delivered the Activity in a negligent, irregular or improper manner; 3. the Recipient undertakes a substantial change in the nature, scale, costs or timing of the Activity; 4. the conviction of a director, partner or a member of the Recipient for relevant criminal offences; 5. if the Recipient undertakes a course of action which might have a material adverse effect on the Council’s reputation as a custodian and distributor of public funds 6. the Recipient receives duplicate funding from any other source for the same or any part of the Activity to which the Council has not received prior notification; 7. the Recipient undertakes a significant change of purpose or ownership during Grant Period which the Council in its sole discretion considers to materially affect the Recipient and/or its ability to undertake the Activity |
| Policy | means the Neath Port Talbot County Borough Council Third Sector Grant Funding Scheme as maybe amended from time; |
| Working Days | means any day other than a Saturday, Sunday or public or bank holiday in Wales when the Civic Centre Port Talbot is open for public business; |

1. **INTERPRETATION**
   1. The interpretation and construction of this Grant Agreement shall be subject to the following provisions:
      1. a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
      2. the headings of this Grant Agreement are for ease of reference only and shall not affect the interpretation or construction of this Grant Agreement;
      3. references to Clauses are references to Clauses in the section of the Grant Agreement to which they appear, unless otherwise stated;
      4. where the context allows, reference to the male gender include the female gender and the neuter, and the singular includes the plural and vice versa;
      5. references to writing shall include any mode of reproducing words in a legible and non-transitory form;
      6. time shall considered to be of the essence.
2. **THE GRANT**
   1. The Council agrees to pay the Grant to the Recipient to assist the Recipient in the implementation and/or running of the Activity.
3. **TERM OF THE GRANT**
   1. Save for the clauses identified in Clause 4.2 this Grant Agreement shall commence on the Commencement Date and expire on the Expiry Date, unless terminated, suspended or withheld in accordance with Clause 10 or reviewed in accordance with Clause 6.
   2. Clauses 8.11, 10, 11, 12,14,17,18 and 20 shall apply for a period of 6 years following the Expiry Date or the date upon which this Grant Agreement is terminated, suspended or withheld in accordance with Clause 10 or reviewed in accordance with Clause 6
4. **PAYMENT OF THE GRANT**

5.1 The Council shall pay the Grant in one installment, payment being made within 14 days of the 1st April to a bank account so nominated to the Council by the Recipient

1. **REVIEW OF THE GRANT**

6.1 The Recipient shall produce to the Council by no later than the 31st January 2019 a completed Monitoring Form in the form annexed to this Grant Agreement at Appendix 4;

6.2 The Recipient shall assist the Council at all times with any monitoring arrangements that the Council wishes to undertake to review the Recipient’s compliance with this Grant Agreement.

6.3 The Council may require the Recipient to meet with officers of the Council, elected members of the Council and such other representatives as the Council requires at a time and place to be specified by the Council.

6.4 The Recipient shall provide the Council with any additional documentation so reasonably required in relation to the Grant or the operations of the Recipient following a written request for the same.

1. **THE ACTIVITY**
   1. The Recipient acknowledges that they shall utilise the Grant only for the delivery of the Activity and in accordance with this Grant Agreement.
   2. The Recipient acknowledges that the Grant is paid on trust to the Recipient for the sole purpose of delivering the Activity and the Recipient shall hold any unused part of the Grant on trust for the Council at all times and will repay any unused Grant to the Council immediately upon demand.
   3. Where applicable the Recipient shall comply with any timescales detailed in the Application Form or where no timescales are indicated the Recipient shall commence the Activity immediately or by no later than three calendar months of the date of this Grant Agreement.
   4. Where the commencement is delayed, the Recipient must provide written notification to the Council along with the reasons for such delay. In the event of a delay to the commencement the Council shall consider termination suspension or withholding of the Grant in accordance with Clause 10.
   5. The Recipient shall not use the Grant to pay for any spending commitments that have been made before the date of this Grant Agreement without the consent in writing of the Council.
   6. The Recipient shall notify the Council of any offer or funding for the Activity that is obtained from any other organisation during the duration of this Grant Agreement.
2. **RECEIPIENTS OBLIGATIONS**
   1. The Recipient shall at all times comply with:
      1. this Grant Agreement;
      2. the Application Form and any key outcomes or outputs identified;
      3. the Award Letter;
      4. the Policy.
   2. The Recipient shall make all reasonable attempts to source funding for its activities from alternative sources and provide notification of such attempts to the Council upon written request from the Council.
   3. The Recipient agrees to notify the Council in respect to any Material Change or change to the Activity which might adversely affect the Grant.
   4. In the event of any event listed in Clause 8.3 occurring, the Council shall at its sole discretion make a determination as to whether the Grant Payment shall be decreased only to reflect the nature of such changes. In the event of the Recipient disputing this revised Grant Payment then any dispute shall be determined in accordance with Clause 18.
   5. The Recipient must notify the Council without delay of any event or circumstance that may affect the Recipient being able to perform or comply with any of the obligations of this Grant Agreement or anything that might delay or threaten the implementation or running of the Activity.
   6. The Recipient shall put in place and maintain Insurances to cover against the risks which may arise in connection with the implementation of the Activity.
   7. The Recipient shall purchase any goods, services or works that may be required in connection with the Activity in a sustainable way so as to demonstrate that the Recipient has achieved best value in the use of public funds.
   8. The Recipient shall not undertake any activity which, in the reasonable opinion of the Council, brings or is likely to bring the reputation of the Council into disrepute.
   9. The Recipient must comply with the European Commission’s State Aid Rules, which shall include but not be limited to Articles 107 to 109 of the Treaty on the Functioning of the European Union (or in those Articles that may succeed Articles 108 to 109), secondary legislation such as frameworks, guidelines and block exemptions produced by the European Commission derived from Articles 107 to 109, case law of the European Courts and decisions of the European Commission regarding the application of Articles 107 to 109.
   10. The Recipient shall complete the Monitoring Form annexed at Schedule 3 and any other monitoring forms deemed necessary when forwarded by the Council to the Recipient during the Grant Period.
   11. The Recipient must:
       1. provide the Council with such documents, information and reports which the Council may reasonably require from time to time in order for the Council to monitor the Recipient’s compliance with this Grant Agreement;
       2. maintain clear accounting records identifying all income and expenditure relating to the Activity and ensure that the Grant is reflected in any annual accounts and reports;
       3. without charge, permit any officer of the Council or a nominated representative of the Council (which for the avoidance of doubt include external auditors) access at any reasonable time and on reasonable notice being provided to inspect any of the Recipient’s activities and/or to examine and take copies of the Recipient’s books of account and such other documents or records as in the Council’s reasonable view may relate in any way to the Activity; and
       4. retain this Grant Agreement and all original documents relating to the Activity for the period of 6 years from the Expiry Date.
   12. The Recipient hereby declares:
       1. that they have the power to enter into and perform the obligations set out in this Grant Agreement and they have taken all necessary action to authorise the entry into and performance of this Grant Agreement;
       2. that as of the date of this Grant Agreement no litigation or arbitration is current or pending or, so far as they are aware, threatened, which has or could have an adverse effect on the ability to perform and comply with this Grant Agreement;
       3. they have disclosed to the Council all material facts or circumstances which need to be disclosed to enable the Council to obtain a true and correct view of the Recipient’s business and affairs (both current and prospective).

8.13 If so requested by the Council the Recipient shall be responsible for populating and maintaining the system established by the Council to discharge the information, advice and assistance requirements contained within the Social Services and Well-Being (Wales) Act 2014.

1. **COUNCIL OBLIGATIONS**
   1. The Council shall provide the Recipient with no less than 3 calendar months written notification of any decisions concerning future funding prior to the Expiry Date.
   2. The Council will at all times comply with the obligations identified within the Policy and this Grant Agreement that are the obligations of the Council.

1. **WITHOLDING, SUSPENSION AND REPAYMENT OF GRANT**
   1. Where the Grant Period is of a period of more than one Financial Year, the Council may (at its sole discretion), on the completion of any review carried out in accordance with Clause 6, terminate this Grant Agreement by providing the Recipient with three calendar months’ notice in writing of such termination. For the avoidance of doubt no further payments of the Grant shall be made from the Council to the Recipient.
   2. The Council may withhold or suspend payment of the Grant or terminate this Grant Agreement and/or demand repayment of all of part of the Grant at the Council’s absolute discretion in any of the following circumstances:
      1. in the event of a Material Change taking place regardless of whether notification has been received by the Council and which is not approved by the Council acting in its sole discretion;
      2. the Recipient fails to meet any of the requirements of this Grant Agreement;
      3. the Recipient has failed to make satisfactory progress with the implementation or delivery of the Activity;
      4. the Recipient has failed to meet any key outcomes or outputs referred to in the Application Form;
      5. in the sole discretion of the Council, the Recipient has delivered the Activity in a negligent, irregular or improper manner;
      6. the Recipient fails to commence the Activity in accordance with Clause 7.3 within the Council’s sole discretion or notification of any delay has not been provided in accordance with Clause 7.4;
      7. the Recipient or any other person or organisation representing the Recipient provides the Council with any misleading or inaccurate information, whether dishonestly or negligently, prior to the date of this Grant Agreement, or during the Grant Period
      8. if the Recipient enters into (whether an individual or a body corporate) any arrangement, contract or composition with and for the benefit of its creditors (including a voluntary arrangement under the provisions of the Insolvency Act 1986);
      9. if the Recipient consists of a body corporate, the Recipient or its parent company having a winding-up order made or (except for the purpose of amalgamation or reconstruction) a resolution passed for voluntary winding-up; or having an application made for the appointment of an administrator, administrative receiver or receiver, or an administrator, administrative receiver or receiver having been appointed over the whole or any part of its business and/or assets;
      10. the Recipient having a provisional liquidator, receiver or manager of the whole or any part of its business appointed; or having possession taken of any of its property comprised in a floating charge by or on behalf of the holders of any debentures secured by the floating charge;
      11. the Recipient fails to provide any information that would affect the Council’s decision whether to award, continue or withdraw all or part of the Grant
   3. For the avoidance of doubt the Recipient must notify the Council immediately in the event of any of the events of clause 10.2 occurring.

10.4 In the event of a withholding or suspension of any of the Grant being made in accordance with Clause 10.2 then the Council shall not be required to make any further payments until it is satisfied that the activities of the Recipient are no longer in breach of this Grant Agreement. For the avoidance of doubt the Council shall not be required to make any back payments of the Grant that should have been due had it not been for the withdrawal or suspension.

10.5 In the event of the Council requiring repayment of the Grant a notice requiring a specified amount to be repaid shall be served on the Recipient and the Recipient must pay that amount to the Council no more than ten (10) Working Days after receiving the notice or such later time as agreed between the parties. In the event of part or all of the Grant paid requires repayment, the Council shall be under no further obligation to make any such payments to the Recipient until the outstanding sums are repaid in full.

1. **PUBLICITY**
   1. Any use of the Council’s logo shall be approved in writing by the Council.
   2. Where the Recipient makes or consents to make or publish any statement or announcement, or engage in any promotional or marketing activity, concerning this Grant Agreement or the Activity, reference should be made to the fact that the Council is funding part or all of the Activity.
   3. The Recipient hereby consents to the Council undertaking any publicity about the Grant and the Activity as the Council may from time to time require.
   4. The Recipient shall comply with all reasonable requests to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Council in any promotional activities relating to the Activity.
   5. Where the Council have provided the Recipient with any Council Intellectual Property Rights for use in connection with the Activity (including but not limited to the Council’s name and logo), the Recipient will, on termination of this Grant Agreement, cease to use such Intellectual Property Rights immediately and will either return or destroy such documents governed by these Intellectual Property Rights as requested by the Council.
2. **SECURITY AND GOODS AND ASSETS**
   1. If the Council determines it appropriate, the Council shall take security on the freehold or leasehold interest of property or other asset or assets belonging to the Recipient, or ask for some other appropriate form of security for the Recipient’s responsibilities under the requirements of this Grant Agreement. The Council may demand that the Recipient provides the Council with all documents affecting the title to the property (including but not limited to all mortgages, conveyances, charges and leases that affect the legal rights of the property).
   2. Where the Recipient is a subsidiary of another organisation, the Council may require the Recipient to obtain a guarantee of performance from any parent company or company holding shares in the Recipient
   3. The Council reserves the right to request any type of security or additional security (both as of the date of this Grant Agreement and for the Grant Period) or consolidated security if determined necessary.
   4. In the event of additional security in the form of those requested under Clauses 12.1 to 12.3 above are required then no payment of the Grant will be made until such documents have been received to the Council’s satisfaction.
   5. The Recipient shall keep any or all assets funded by the Grant safely and in good repair and shall at all times comply with the obligations of Clause 8.7. Any loss resulting from payments made for assets before delivery will be the Recipient’s responsibility. If the asset is damaged, destroyed or stolen, the Recipient shall notify the Council in writing and ensure its satisfactory repair or replacement forthwith.
   6. In the event of the Council contributing towards the buying, restoring, conserving or improving of land, buildings or any other asset then the Recipient must not agree to the placing of any charge over that asset or use it as security without the prior written approval of the Council
3. **COMPLIANCE** 
   1. The Recipient shall: -
      1. comply with the requirements of Equality Act 2010 or any re-enactment or amendment in respect of the Protected Characteristics (as described in the Equality Act 2010)
      2. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption (“**Relevant Requirements**”), including the Bribery Act 2010 and not do, or omit to do, any act that may cause or lead the Council to be in breach of any of the Relevant Requirements;
      3. comply with all applicable laws or regulations of official directions whether derived from domestic, EU or international law
      4. comply with any and all policies relevant to the Grant as notified to the Recipient by the Council in writing
4. **FREEDOM OF INFORMATION AND DATA PROTECTION**
   1. The Recipient acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and will assist and cooperate with the Council (at the Recipient’s own expense) to enable the Council to comply with these information disclosure requirements.
   2. The Recipient accepts that the Council may share information about the Grant or the Activity with any parties of the Council’s choice as well as members of the public who make a request under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004
   3. The Recipient will not respond directly to any request for information unless expressly authorised to do so by the Council
   4. The Recipient will ensure that all information produced in the course of this Grant Agreement or relating to this Grant Agreement is retained for disclosure and will permit the Council to inspect such records as requested from time to time.
   5. The Recipient (and any staff involved in connection with the activities under this Grant Agreement) will comply with any notification requirements under the Data Protection Act 1998 and both parties will observe all their obligations under the Data Protection Act 1998 which arise in connection with this Grant Agreement
5. **LIABILITY** 
   1. The Council accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Activity, the use of the Grant or from withdrawal of the Grant.
   2. The Council will make every effort to pay the Grant Payment promptly but accepts no liability in respect of loss attributable to delay in the payment or to any suspension, reduction or cancellation of the Grant
   3. The Recipient will indemnify the Council, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages an all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Activity, the non-fulfillment of obligations of the Recipient under this Grant Agreement or its obligation to third parties.
   4. Subject to paragraph 15.1 and 15.2 above the Council’s liability under this Grant Agreement is limited to the amount of the Grant
6. **VARIATIONS**
   1. The Council reserves the rights to vary, remove or impose additional requirements of the Grant(which shall for the avoidance of doubt include an increase or decrease in the amount of the Grant) and without prejudice to Clause 6, if:
      1. the Recipient is in breach of this Agreement which is of no fault of the Recipient and which may be remedied by a variation to this Grant Agreement;
      2. the Council withdraws any part of the funding of the Grant;
      3. the Council determines that the Recipient (or its volunteers, staff or any organisation closely involved in fulfilling the obligations of this Grant Agreement) act in a way that it may have a detrimental effect on the Activity or on the Council’s reputation as a distributor of public money;
      4. if the Council has reasonable grounds to believe that it is necessary to protect public money;
      5. the Council believes that such variations are necessary or desirable to make sure that the Activity is delivered as set out in the Recipient’s Application or following any agreed changes;
      6. as a result of a change in Council policy aspects of this Grant Agreement require amendment; and/or
      7. following receipt of the financial settlement from the Welsh Government for each financial year of the Grant Agreement.
   2. Save for the amendments required in respect of Clause 16.1, no amendment or variation to this Grant Agreement or its Schedules will be effective unless agreed in writing by the Council and the Recipient.

16.3 In the event of the Council wishing to implement the provisions identified in Clause 16.1 then it shall provide the Recipient with twelve (12) weeks notification of such changes and the Recipient may provide such written representations with regards to such amendments and the Recipient shall at all times cooperate with the Council to achieve and implement such amendments.

1. **ASSIGNMENT**
   1. The Recipient may not, without the Council’s prior written consent assign novate or dispose the whole or any part of this Grant Agreement to any third party or successor body.
   2. The Council may transfer, assign novate or dispose the whole or any part of this Grant Agreement to another authority constituted or authorised to discharge the functions and/or responsibilities of the Council under this Agreement.
2. **DISPUTE RESOLUTION**
   1. Both the Council and the Recipient shall make every reasonable effort to resolve by agreement any dispute about any issue relating to this Grant Agreement
   2. If a mutually satisfactory agreement cannot be reached within fourteen (14) calendar days of a dispute being notified in writing by one party to the other, the parties hereby agree to comply with the following procedure:
      1. the issue shall be discussed at a meeting between the Council and the Recipient nominated representatives within ten (10) further Working Days from the date set out in Clause 18.2;
      2. if the dispute is not resolved within twenty (20) working days after the meeting, the issue shall be referred to the Council’s Chief Officer or his nominated deputy and a nominated representative of the Recipient;
   3. In the event that the dispute is still not resolved after the meeting referred to in Clause 18.2.2 has taken place then the matter shall be referred to the Council’s Executive Branch for determination whose decision shall be final and binding for both the Council and the Recipient.
   4. Use of this dispute resolution procedure shall neither delay nor take precedent over any use of the default or termination procedures
3. **NOTICES**
   1. All notices and other communications in relation to this Grant Agreement must be in writing and in order to be effective they must be personally delivered, emailed, or mailed (first class postage prepaid) to the address of the recipient party, as referred to in this Grant Agreement or otherwise noted in writing.

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| --- | --- |
| **Method of Delivery** | **Time the communication or notice will be regarded as having been received by the other party** |
| If personally delivered or emailed | At the time it is received by the recipient (except where it is received on a non-Working Day or after 4:00pm on any Working Day then it will be regarded as being received on the next Working Day |
| If mailed (first class postage prepaid) | The second Working Day following the date of mailing |

1. **GENERAL**
   1. No delay by any party in exercising, or failure by any party to exercise, any right, power or remedy provided by law or under this Grant Agreement or any document referred to in it shall:
      1. operate as a waiver of that or any other right, power or remedy; or
      2. affect the other clauses of this Grant Agreement.
   2. The single or partial exercise of any right, power or remedy provided by law or under this Grant Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
   3. This Grant Agreement and the documents referred to in it constitute the entire agreement between the parties relating to the provision of the Grant and supersede all previous agreements between the parties relating to the Grant.
   4. Nothing in this Grant Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise any party to act as agent for the other parties, and no party shall have authority to act in the name of or on behalf of or otherwise to bind the other parties in any way.
   5. This Grant Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Right of Third Parties) Act 1999
   6. Each party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Grant Agreement.
   7. For the avoidance of doubt nothing in this Grant Agreement shall prejudice or affect the Council’s rights powers duties and obligations in the exercise of its functions as a Local Authority and the right powers duties and obligations of the Council under all public and private statutes byelaws orders and regulations.
   8. This Grant Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation) shall be governed by and construed in accordance with the laws of England and Wales.

**IN WITNESS** whereof the Council and Recipient have executed this Agreement on the date stated at the beginning of it.

**EXECUTED** for and on behalf )

of the **COUNCIL** )

...............……………………….

**Mr Hywel Jenkins – Director of Finance and Corporate Services**

**EXECUTED** for and on behalf )

of the **RECIPIENT** )

...............……………………….

Signature

……………………………………

Name

**SCHEDULE 1**

Award Letter

**SCHEDULE 2**

Application Form

**SCHEDULE 3**

Monitoring Form