

DATED


(1) LANCASHIRE COUNTY COUNCIL

(2) [] BOROUGH COUNCIL

Collaborative Agreement relating to [] Programme

THIS AGREEMENT is made on the

BETWEEN:

- (1) **LANCASHIRE COUNTY COUNCIL** of PO Box 100 County Hall Preston PR1 0LD (the "County Council"); and
- (2)  **BOROUGH COUNCIL** of [] (the "Borough Council")

(individually a "Party" and together "the Parties")

BACKGROUND

- (a) The Parties enter into this arrangement on a collaborative basis for the pursuit of certain objectives in the public interest and with a view to securing the economic, social and environmental wellbeing of the area as envisaged by regulation 12(7) of the Public Contracts Regulations 2015.
- (b) The Parties wish to undertake the Project for the purposes and to achieve the objectives set out in the Specification.
- (c) The Parties agree that the Borough Council may procure such External Contractors as are necessary to deliver the Project.
- (d) The purpose of this Agreement is:
 - (i) To explain the roles and obligations of the Parties and to outline the terms of the relationships which they intend to create as between themselves individually or together and with third parties.
 - (ii) To agree the Financial Contributions and non-financial Contributions of the Parties;
 - (iii) To foster mutual trust and co-operation between the Parties;
 - (iv) To agree the review processes to ensure the Project Objectives are being met;
 - (v) To agree the process by which any dispute will be settled;
 - (vi) To make such other provision as is required for the efficacy and effectiveness of the collaborative arrangements.

NOW THE PARTIES AGREE AS FOLLOWS:

1. THE AGREEMENT & DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

- “Agreement” means this collaborative agreement as further defined in Clause 1.4
- "CEDR" means the Centre for Effective Dispute Resolution of The International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU
- “Commencement Date” means the []
- “Completion Date” means [] or such later date as may be agreed in writing between the Parties, being the date upon which the rights and obligations of the Parties in relation to delivering the Project under this Agreement shall be met
- “Confidential Information” has the meaning set out in Clause 8
- “Contributions” means the Parties’ respective contributions to the Project, other than the Financial Contributions
- "Data Protection Legislation" shall mean all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information

Commissioner or other relevant regulatory authority and applicable to a party.

"External Contractor" means any contractor procured by the Borough Council for the purpose of undertaking or assisting in the delivery of the Project.

"Financial Contribution" means the financial contributions to be made by the Parties as set out in Appendix B

"Force Majeure Event" any circumstance not within a party's reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
- f) collapse of buildings, fire, explosion or accident; and
- g) any labour or trade dispute, strikes, industrial action or lockouts (excluding any labour or trade dispute, strike, industrial action or lockout confined to the Supplier's workforce or the workforce of any Subcontractor of the Supplier).

"Intellectual Property Rights" ("IPR") means without limitation all intellectual property rights including patents, business service and trade marks and names, designs, registered designs and design rights whether or

not registered or capable of registration and the right to apply for and any applications for any of the foregoing, copyrights, database rights, domain names, together with the rights in inventions, methods, processes, drawings, documents, methodologies, utility models, semiconductor chip topography, software, databases, know-how, trade or business secrets and other industrial property, and in each case whether protectable or not and, if protectable, whether an application has been made for protection or not, and all similar industrial, commercial, monopoly or other similar right or asset capable of protection whether present or future, vested or contingent, and wherever protected

"Mediator"	means a neutral third party appointed pursuant to Clause 14.5 to assist in the resolution of disputes
"Personal Data"	as defined in the Data Protection Legislation.
"Programme of Work"	means the indicative project plan set out at Appendix A to this agreement, to be agreed and signed off by the Project Board
"Project"	means the project described in the Specification
"Project Board"	means the Project Board which shall be responsible for overseeing the management and supervision of the Project, in accordance with paragraph 2.3 of Appendix A

“Project Manager”	means the person who shall be responsible for the day to day management and supervision of the Project as set out in Clause 5.1 and Appendix A
"Project Monitoring"	means the monitoring and reporting of the outputs, outcomes and effects of the Project to be carried out by the Borough Council.
“Project Objectives”	means the Programme of Services and scope of Services described generally in Appendix A
“Project Period”	means the duration of the Project as set out in Clause 2.1
"Property"	means property including but not limited to IPR used in connection with this Agreement
“Specification”	means the specification for the Project set out in Appendix A
“Staff”	means employees, contractors, consultants, students and agents of a Party who are engaged or provided by the Party for the carrying out of its obligations in connection with this Agreement
"Subsidy Control"	means all subsidy control rules applying from time to time in the UK which shall particularly include (but without limit): a) the subsidy control rules as applies in the United Kingdom from the 1st January 2021 pursuant to, derived from , the UK-EU Withdrawal Agreement, the UK-EU Trade and Co-operation Agreement, the WTO Rules, UK FTA's and the Northern Ireland Protocol b) the Subsidy Control Act 2022.

"UK GDPR"	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
"UKSPF"	means the United Kingdom Shared Prosperity Fund.
"VAT"	means Value Added Tax

1.2 In this Agreement, unless otherwise expressly provided or unless the context otherwise requires:

- (a) reference to any statute, statutory provision or statutory instrument includes that statute, statutory provision or statutory instrument as from time to time amended, extended, consolidated or re-enacted and all statutory instruments or orders made under or pursuant to it;
- (b) words importing a gender include all genders, words importing the singular include the plural and vice versa;
- (c) the words "including" or "includes" or any similar phrases shall be construed without limitation to the generality of the preceding words;
- (d) reference to any person includes a legal entity; and
- (e) all undefined words and expressions are to be given their normal English meaning.

1.3 The headings in this Agreement are for ease of reference only, and shall not affect its construction and reference to any 'Clause', 'Schedule' or 'Appendix' shall be references to clauses, schedules or appendices of this Agreement unless expressly stated to the contrary.

AGREEMENT

1.4 This Agreement contains the whole agreement between the Parties in respect of its subject matter and supersedes all previous communications, representations and arrangements, whether written or oral. This Agreement consists of the following documents:

- (a) these terms and conditions;
- (b) any variations made by the Parties in accordance with Clause 20.
- (c) Appendix A;

- (d) Appendix B; and
- (e) any other documentation annexed hereto.

In the case of ambiguity or conflict between any of the documents set out above, the documents will take precedence in the order listed above.

RELATIONSHIP BETWEEN THE PARTIES

- 1.5 Nothing in this Agreement shall prejudice, conflict with or affect the exercise of the statutory functions, powers, rights, duties, responsibilities or obligations arising or imposed under or any legislative provision, enactment, by-law or regulation whatsoever, nor shall it fetter the exercise of any discretion any Party may have.
- 1.6 Nothing in this Agreement shall operate as a statutory licence, waiver, consent or approval from any Party.
- 1.7 The Parties shall be independent contractors for all purposes connected with this Agreement.
- 1.8 Nothing in this Agreement shall create a partnership or joint venture between the Parties, constitute one Party as the agent of any other nor deem the Staff of one Party to be those of another. Save as otherwise provided for in this Agreement, no Party shall have any authority to enter into any contract, warranty or representation on behalf of another nor shall any Party incur liabilities that bind or have the effect of binding another Party and in the absence of express agreement to the contrary no Party shall be bound by the acts or conduct of another.
- 1.9 No Party or its Staff shall represent themselves as having the authority to interpret the policies and procedures of any other Party.
- 1.10 The Parties shall seek to agree all decisions for the benefit of the Project and not for individual Party gain.

2. DURATION

- 2.1 This Agreement shall be deemed to have commenced on the Commencement Date and shall continue until the Completion Date, unless otherwise terminated in accordance with this Agreement or otherwise lawfully terminated or extended by agreement between the Parties.

3. THE PARTIES' OBLIGATIONS

- 3.1 The Parties agree:
- (a) the programmes for the administration, scope and delivery of the Project as set out in the Specification; and
 - (b) the Parties' respective Contributions and Financial Contributions and their responsibilities in relation to the Project as set out in the Specification, Appendix B and otherwise in this Agreement.
- 3.2 The Parties shall each:
- (a) provide their Contributions and Financial Contributions and fulfil their responsibilities and obligations as set out in the Specification and otherwise in this Agreement;
 - (b) co-operate and use all reasonable endeavours to ensure the success of the Project;
 - (c) act in good faith and in the spirit of co-operation in carrying out the Project;
 - (d) promptly raise and use reasonable endeavours to resolve any issues, difficulties or problems that arise; and
 - (e) provide all reasonably necessary information, accounts, documentation and assistance to the Parties that they may lawfully require from time to time in order to comply with the provisions of any external funding requirements.
- 3.3 The Parties shall inform the Project Board as appropriate promptly of any event that is likely to prejudice or delay the performance or completion of the Project, or of any situation or event that may hinder or prevent that Party from providing its Contribution or Financial Contribution. The provision of information under this Clause shall not release or excuse that Party from any of its obligations

under this Agreement, except and only insofar as Clause 17 (Force Majeure) may apply.

- 3.4 No Party shall do anything that may damage or prejudice the reputation of another Party or their business or other interests.
- 3.5 The Parties warrant and undertake to each other that they have the capacity and have obtained all necessary consents to enable them to enter into this Agreement and to execute and perform the obligations that are contained in this Agreement.

4. THE BOROUGH COUNCIL'S OBLIGATIONS

- 4.1 The Borough Council shall:
- (a) deliver the Project as set out in the Specification or as subsequently varied in writing by the Parties;
 - (b) provide adequate management and support staffing to administer the Project effectively;
 - (c) be responsible for financial management and administrative aspects of the Project;
 - (d) exercise all reasonable care, attention and diligence in carrying out the Project and complying with its obligations under this Agreement;
 - (e) only employ in the execution and superintendence of the Project and this Agreement, persons who are suitable, and appropriately skilled and experienced in the type of work which they are to perform, and with proper guidance and supervision as required to ensure the work is carried out with due care, skill and diligence;
 - (f) ensure Subsidy Control compliance for the Project;
 - (g) procure that each of its Staff involved in the Project:
 - (i) is sufficiently qualified, trained, skilled and experienced in the type of work which they are to perform;
 - (ii) exercises all due skill, care, attention and diligence in their work;

(iii) carries out the Project in accordance with the timescales in the Specification or otherwise or, where none have been agreed, within a reasonable time; and

(iv) promptly inform the County Council of any difficulties, problems or opportunities that arise in their work on the Project.

5. WORKING ARRANGEMENTS

5.1 Project Manager

The Borough Council shall appoint a Project Manager who shall have the responsibilities set out in the Specification.

5.2 Project Board

The Project Board, shall, in relation to the Project, have the responsibilities set out at Appendix A.

6. PAYMENT & FINANCIAL CONTRIBUTIONS

6.1 The Parties agree to make their respective Financial Contributions as set out in Appendix B.

6.2 The Financial Contributions are exclusive of all VAT and all other taxes and duties, which for the avoidance of doubt is not payable in the case of the Financial Contributions.

6.3 The Borough Council shall be responsible for holding the Financial Contributions and for the financial management of the Project, as agreed by the Project Board. The Borough Council shall put in place appropriate financial management and auditing procedures for the Project, in order to control expenditure and ensure that costs are properly incurred and can be clearly identified.

6.4. The mechanism for payment of the Financial Contributions is set out in Appendix B.

- 6.5 The Financial Contributions shall only be expended or committed by the Borough Council towards the Project and in accordance with this Agreement unless otherwise agreed in writing by the Parties.
- 6.6 The Parties shall work together with the aim of ensuring that there is no anticipated or actual Project overspend.
- 6.7 Notwithstanding clause 6.6, in the event of a projected Project overspend, the Project Board shall meet to discuss the Project costs over and above the agreed funding position and to seek to agree to mitigate the overspend as far as is practicable. Where a projected overspend to the Project Budget remains, the Parties shall work together in good faith to determine each Party's contribution to the overspend.
- 6.8 Any underspend shall be utilised for the Project or otherwise in such manner as reasonably agreed by the Project Board.

7. PUBLICATION & PUBLICITY

- 7.1 The Parties shall acknowledge each other's contribution in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate) shall include the Parties' names and logos (or any future name or logo adopted by the Parties) using the templates provided by the Parties from time to time.
- 7.2 In using the Parties' names and logos, the Parties shall comply with all reasonable branding guidelines issued by the Parties from time to time.

8. CONFIDENTIALITY AND DATA PROTECTION

- 8.1 The Parties acknowledge that they are each bound by freedom of information legislation and that they are each subject to statutory obligations for disclosure and publication of certain information, and as such are unable to give any undertaking not to release information about the Project or this Agreement that conflicts with such laws.
- 8.2 Subject to Clause 8.1, Confidential Information shall include all data and information whether or not owned or held by a Party that:
- (a) is identified by a Party as being confidential;
 - (b) ought reasonably to be regarded as confidential (however it is conveyed or on whatever media it is stored).
- 8.3 Confidential Information includes, but is not limited to:
- (a) information relating to the contracting and commercial or business activities, personnel, customers and suppliers of a Party or any third party;
 - (b) methods of information, techniques, know-how acquisition, software design, financial information and statistical methods;
 - (c) all Intellectual Property Rights, know-how, and information relating to the ownership, protection and exploitation of any Intellectual Property Rights developed in connection with the Project or this Agreement; and
 - (d) all personal data within the meaning of the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679.
- 8.4 Information shall not be or shall cease to be Confidential Information where or at the point when it is:
- (a) generally available to the public other than as a result of disclosure by a Party in breach of this Agreement;
 - (b) already known to the receiving Party free of obligations of confidentiality (as evidenced by written records) at the time of its disclosure;
 - (c) provided to the receiving Party by a third party having a right to disclose the information free of any restriction as to the use or disclosure, whether under this Agreement or otherwise;
 - (d) independently developed by the receiving Party (as evidenced by written records) other than pursuant to this Agreement;

- (e) required by operation of law or governance obligations to be disclosed (which shall include but is not limited to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or the order of any authority competent to make such an order provided that where practicable and where required for compliance with the relevant law, statute, regulation or order the Party intending to disclose the information gives to the Party who originally provided the information reasonable advance notice of the intended disclosure and a reasonable opportunity to make representations regarding such disclosure; or
- (f) subject to an express written waiver by the disclosing Party and the disclosing Party has the necessary authority to give such a waiver.

8.5 Each Party shall not, and shall procure that its Staff shall not:

- (a) use or disclose the Confidential Information except for the purposes of this Agreement;
- (b) use or disclose the Confidential Information so as to procure any commercial advantage over the disclosing Party;
- (c) disclose the Confidential Information to its Staff except to the extent necessary to perform that Party's obligations in connection with this Agreement and provided that its Staff to whom Confidential Information is disclosed are subject to substantially the same obligations of confidentiality as are contained in this Agreement; and
- (d) otherwise use or disclose to any third party any Confidential Information unless such use or disclosure is permitted by the disclosing Party.

8.6 The receiving Party shall inform the disclosing Party immediately if it comes to its notice that any Confidential Information has been or potentially may be improperly disclosed or misused.

8.7 Without affecting any other rights or remedies that the disclosing Party may have, the receiving Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of its obligations of confidentiality in connection with this Agreement and the disclosing Party shall be entitled to seek the remedies of injunction, specific performance and/or other equitable relief for any actual or threatened breach of this Agreement whether by the receiving Party or its Staff.

8.8 The obligations of confidentiality shall survive for 6 (six) years from the Completion Date, except where the Confidential Information is IPR in which case the obligations shall survive indefinitely.

8.9 The parties agree to ensure that they shall at all times comply with the provisions and obligations imposed by Data Protection Legislation in relation to the storing and processing of Personal Data and all Personal Data acquired by either party from the other shall be returned to the disclosing party on request. The parties agree to be liable to indemnify each other in respect of any unauthorised disclosure or processing of Personal Data or breach of Data Protection Legislation to the extent it applies to this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The Parties do not anticipate that any IPR issues will arise as part of the Project but agree that if any such issues do arise, they will be referred by the Parties to the Project Board for resolution and shall be dealt with as variations to this Agreement.

9.2 No Party shall itself or by a third party use or reproduce or otherwise deal with the logos distinctive marks or trademarks of another Party or cause or permit the same without the consent in writing of the Party to whom the logos, distinctive marks or trademarks belong.

10. DEFAULT

10.1 A Party shall be in default if it:

- (a) fails to perform its obligations hereunder with reasonable skill, care, diligence and timeliness; or
- (b) is otherwise in breach of any provision of this Agreement.

10.2 It shall be a material breach of contract if a Party:

- (a) fails to fully perform and comply with its obligations under this Agreement; or
- (b) fails to use reasonable skill, care, diligence and timeliness in performing and complying with its obligations under this Agreement;

- (c) fails to provide any Contribution or Financial Contribution at the times specified or agreed for delivery;
- (d) misuses another Party's Contribution;
- (e) breaches any third party's Intellectual Property Rights;
- (f) deals with any Party's Intellectual Property Rights in a manner that is inconsistent with the provisions in this Agreement;
- (g) is prevented from carrying out its obligations under this Agreement due to any infringement or alleged infringement by it of any Intellectual Property Rights;
- (h) knowingly or persistently breaches any of the requirements of Clause 16.1 (statutory obligations); or
- (i) commits a series of defaults under Clause 12.1 of this Agreement which when taken together constitute a material breach.

10.3 The short temporary non-availability of Staff for reasons outside a Party's reasonable control or the occurrence of a Force Majeure Event shall not constitute events that give rise to a material breach of contract.

10.4 Where, in the reasonable opinion of a Party, another Party is in material breach of contract, the non-defaulting Party shall where reasonably practical first consult the Project Board regarding the appropriate course of action, and thereafter shall be entitled to serve a written notice upon the defaulting Party notifying that defaulting Party:

- (a) of the material breach of contract;
- (b) whether the breach is capable of remedy or not and, if capable of remedy, requiring the defaulting Party to remedy the default; and
- (c) provided that the breach is not due to the fault of the Party serving the notice, that the non-defaulting Party may terminate this Agreement either totally or with regards to one or other of the Project (in which case this Agreement shall continue in full force and effect with regards to the other Project) if the defaulting Party does not take reasonable steps to remedy the specified breach within such reasonable period as the non-breaching Party may specify provided that the period is not less than 30 (thirty) calendar days.

11. TERMINATION

- 11.1 The Parties may terminate this Agreement upon giving [6] months' notice or such other period as may be agreed by the Parties.
- 11.2 Each of the Parties shall have the right to terminate its participation in this Agreement with immediate effect or if it so elects upon notice in the event that to continue all or part of this Agreement does or will conflict with its statutory functions, powers, duties or is otherwise inconsistent with its obligations as a public body.
- 11.3 A Party shall be entitled to terminate this Agreement with immediate effect, without prejudice to any other rights and remedies under this Agreement, where:
- (a) it has served upon another party a notice pursuant to Clause 10.4 specifying an irremediable breach; except where the breach is due to the default of the Party serving the notice;
 - (b) it has served upon another party a notice pursuant to Clause 10.4 specifying a remediable breach and the defaulting Party has failed to remedy that breach or failed to take steps to remedy that breach which are reasonably satisfactory to the terminating Party within the time stated in the notice, except where the breach is due to the default of the Party serving the notice; and
 - (c) assigns or transfers any part of its benefits under this Agreement to a third party, save for the purposes of reorganisation or transfer to a successor body, without the prior written consent of all Parties.
- 11.4 Upon termination of this Agreement (or upon termination of a Party's participation in it) then:-
- (a) the County Council shall pay over to the Borough Council such portions of their Financial Contributions that are unpaid at the date of termination (whether or not the date for final payment has been reached) as are necessary to cover the County Council's proportion of the reasonable costs and commitments reasonably and necessarily incurred in

connection with the Project and not paid at that date including any sum required to be paid by the Borough Council pursuant to Clause 6.7;

- (b) the Borough Council shall account to the County Council in respect of any part of the Financial Contribution it holds provided that such part is not required to discharge reasonable costs and commitments necessarily incurred in connection with the Project but not paid at that date; and
- (d) the Borough Council shall repay any amount it is due to pay pursuant to Clause 6.8.

11.5 Termination of this Agreement (or the participation in it of a Party) shall not prejudice any rights of any Party which have arisen on or before the date of termination.

11.6 Without prejudice to the generality of this Agreement, where the terms of Clause 15 apply, the occurrence of a Force Majeure Event, whilst not a material breach of contract, may give rise to termination of this Agreement or a Party's participation in it where the circumstances envisaged by Clauses 17.3 or 17.4 apply.

12. DISPUTE RESOLUTION

12.1 During the Project Period the Parties shall attempt to resolve all disputes informally. If they are unable to do so, such matters shall first be referred to the Project Board.

12.2 If the Project Board is unable to resolve the dispute or difference to the satisfaction of the Parties within two weeks, the Parties shall attempt to resolve the issue by negotiation between their nominated senior Officers.

12.3 If any dispute arises after the Project Period, the Parties shall attempt to resolve it via such persons as the Parties may reasonably designate for resolving disputes in such circumstances. If such persons are unable to resolve the dispute within a reasonable period, the matter shall be referred to their respective senior Officers for resolution.

- 12.4 If the matter referred to the Parties' senior Officers pursuant to Clause 12.2 or 12.3 cannot be resolved, the Parties shall consider referring the matter to mediation in accordance with Clause 12.5. If the Parties acting in good faith do not consider that mediation is an appropriate method of dispute resolution they shall consider such other methods of alternative dispute resolution as they reasonably consider appropriate in the circumstances and shall seek to resolve the matter using such methods as they may agree.
- 12.5 In the event that the Parties in dispute decide that mediation is an appropriate method of dispute resolution, they will use the following procedure:
- (a) The Mediator shall be chosen by agreement between the Parties, provided that any Party may within 14 calendar days from the date of the proposal to appoint a mediator, or within 14 calendar days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to CEDR to appoint a mediator;
 - (b) The Parties to the dispute shall within 14 calendar days of the appointment of the Mediator agree a timetable for the mediation. If appropriate, the relevant Parties may at any stage seek guidance from CEDR on a suitable procedure;
 - (c) Unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;
 - (d) Where the Parties agree that mediation is appropriate, the dispute resolution procedure in this Clause 12 shall be binding on the Parties but the Parties shall not be bound by the outcome of the mediation unless and until the Parties agree to be so bound and set out the agreed resolution in a written agreement;
 - (e) Failing agreement, any Party may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant Parties. The Party requesting the opinion shall bear the costs incurred in obtaining that opinion unless the Parties agree otherwise;
 - (f) For a period of 60 calendar days from the date of the appointment of the Mediator, or such other period as the Parties may agree, none of the Parties may commence any proceedings in relation to the matters referred to the Mediator save that the Parties shall be free to apply to the courts for interlocutory relief at any time.

12.6 For the avoidance of doubt, recourse to the means of alternative dispute resolution provided for in this Clause 12 shall not preclude the exercise of the rights under Clauses 10 (Default) and 11 (Termination) including the service of notices and termination provisions.

13. NOTICES

13.1 All notices given under this Agreement shall be in writing and will be sent to the address of the Party being served as set out in Appendix A or any other address a Party may from time to time designate by notice given in accordance with this Clause 13.

13.2 Notices may be delivered personally, by pre-paid post or by email.

13.3 Any notice served in accordance with Clauses 13.1 and 13.2 above will be deemed to have been served:

- (a) at the time of delivery when served in person; or
- (b) 3 working days from the date of posting when served by pre-paid post.
- (c) if sent by email, at the time of transmission, or if this time falls outside working hours in the place of receipt, when working hours resume. In this clause 13.3, working hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

13.4 In proving service it shall be sufficient to show that:

- (a) when delivery is in person the notice was delivered to the appropriate address; or
- (b) when service is by post the notice was submitted to an appropriate carrier for delivery, was properly addressed and all postage was fully paid.

14. STATUTORY OBLIGATIONS & PERMISSIONS

14.1 The Parties shall each at their own expense comply, and procure that their Staff comply, with all laws and regulations applicable to the Project and their involvement in the Project including all health and safety legislation, the Data Protection Act 2018 the General Data Protection Regulation (EU) 2016/679, the Freedom of Information Act 2000, the Bribery Act 2010 and the Equality Act 2010.

- 14.2 The Borough Council shall be responsible for securing and maintaining such permissions, licences, consents or approvals as it needs in connection with the Project.

15. FORCE MAJEURE

- 15.1 If the performance by any Party of any of its obligations under this Agreement is prevented or delayed by a Force Majeure Event then that Party shall be excused from performance of that obligation for the duration of the Force Majeure Event.

If a Party becomes aware of a Force Majeure Event that is or is likely to give rise to a failure or delay on its part, then that Party shall notify the Project Board members as soon as reasonably practicable giving a description of the Force Majeure Event and, where possible, an estimate of its likely duration.

- 15.2 If the Force Majeure Event in question continues or is likely to continue for a continuous period in excess of 30 calendar days the Parties shall enter into discussions with regard to alternative arrangements in respect of this Agreement which may include but are not limited to termination of it pursuant to Clause 11.
- 15.3 Where a Force Majeure Event has extended or is reasonably anticipated to extend for a period of more than 50 calendar days or for periods in aggregate of more than 50 calendar days in any 12 month period then this Agreement or the continued participation in it of the Party subject to the Force Majeure Event may be terminated by any other Party with immediate effect.

16. THIRD PARTIES

- 16.1 Save where this Agreement expressly provides to the contrary, for the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. This does not affect any right or remedy of any such party which exists or is available apart from that Act.

17. CONFLICT

- 17.1 The Parties shall not (whether directly or indirectly) and shall not allow, permit or instruct their Staff to undertake work which would cause a conflict with the

work that Party is undertaking under this Agreement where such conflict would have a direct and adverse impact on the Party's ability to comply with its obligations under this Agreement or would otherwise impede or interfere with the Party's proper performance of this Agreement.

- 17.2 A Party shall forthwith notify the Project Board of actual or potential conflict of which it becomes aware.

18. VARIATIONS

- 18.1 No change or variation to this Agreement will be effective unless and until it is agreed in writing, signed by the Parties and annexed to this Agreement.

19. WAIVER

- 19.1 No failure or delay or grant of indulgence by a Party to exercise or enforce any right, power or remedy available to it, will operate or be construed as a waiver of such right, power or remedy under this Agreement or otherwise, nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.

20. SEVERABILITY

- 20.1 If any court or other competent authority finds that any part or provision of this Agreement is void, unlawful or unenforceable then that part or provision will be deemed to have been severed from this Agreement and shall have no force and effect. The remaining provisions of this Agreement will continue to be valid and enforceable to the fullest extent permitted by law, and the Parties shall negotiate in good faith to agree the terms of a mutually acceptable and satisfactory alternative part or provision in that, as amended, it is valid and lawful and enforceable.

21. COUNTERPARTS

- 21.1 This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement.

22. GOVERNING LAW & JURISDICTION

22.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and subject to the agreed provisions in respect of alternative dispute resolution the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales regarding any claim or matter arising under this Agreement.

23. SURVIVAL

23.1 The provisions of Clauses 1 (Definitions), 6.4, (Payment & Financial Contributions), 7 (Publication & Publicity), 8 (Confidentiality), 9 (Intellectual Property Rights), 11.5, 11.6, 11.7 and 11.9 (Termination), 12 (Dispute Resolution), 16 (Third Parties), 19 (Waiver), 20 (Severability), 21 (Counterparts), 22 (Governing Law & Jurisdiction), and 23 (Survival) shall survive termination of this Agreement.

APPENDIX A - PROJECT SPECIFICATION

1. Project Background

[foreword]

2. Project Governance

 The Project structure is appended hereto at Appendix C]

2.1. Project Manager

The Project Manager shall:

- (3)** (a) manage the day to day operation of the Project in accordance with this Agreement;
- (b) act as the first point of contact at the Borough Council for all purposes in connection with the Project;
- (c) provide effective liaison between the Parties and any External Contractors in respect of the Project;
- (d) ensure that the Project is carried out and operated in a manner consistent with its objectives as described in the Specification;
- (e) Administer all contracts for the delivery of the Project;

- (f) liaise, as appropriate, the Project Board and other statutory bodies to ensure the required permissions and consents are in place to deliver the Project;
- (g) monitor Project spend and performance.

2.2. NOT USED

2.3. Project Board

- 2.3.1 The Project Board ("the Board"), comprising officers of the County Council and the Borough Council, shall provide the executive overview and guidance of the Project.
- 2.3.2 The Board will take overall responsibility for the successful delivery of the Project and will ensure that all the Project Objectives are achieved to the mutual satisfaction of the Parties.
- 2.3.3 The Board will be chaired by [] of the Borough Council and will meet [6 weekly] or as required at key points during the Project where its decision making is required. All members of the Board will be expected to meet their respective costs of their attendance at meetings rather than from the Financial Contributions and may be requested to host some meetings.
- 2.3.4 The Board shall be responsible for agreeing variations, monitoring performance and overseeing the overall project budget particularly in relation to projected or actual overspend.
- 2.3.5 The Borough Council reserves the right to make the final day to day decisions relating to its role as Project Manager. Notwithstanding this, over and above the regular reporting of performance to the Project Board, any significant exceptions which could impact on the cost, quality or programme for the Project shall be reported to the Project Board for consideration and the implementation of any corrective action.
- 2.3.6 The role of the Board will include but shall not be limited to:
 - Monitoring the overall progress of the Project set out in this collaborative agreement;

- Taking a strategic overview of the Project to ensure successful and timely implementation;
- Considering and agreeing decisions required above the delegated authority of the Project Manager;
- Providing a first point of arbitration for any disagreements between the Parties; and
- Beyond day to day operations the Board will be the key point of contact for parties external to the Parties.

2.3.7 Although it is intended that the Board will only meet [six weekly] it is expected that all members will make reasonable endeavours to be available as and when advice and guidance may be required by the Project Manager.

2.3.8 Decisions of the Board shall be made by unanimous vote. The Parties shall seek to agree all decisions for the benefit of the Project and not for individual Party gain. If a unanimous vote is not reached, the provisions of Clause 12.2 shall apply.

2.3.9 If a member of the Board is unable to attend they may nominate a substitute. Nominating a substitute to attend is the responsibility of the individual Board member to ensure their representative has suitable delegated authority to contribute to decisions to be taken by the Board.

2.3.10 In addition to its permanent members, the Board shall be entitled to invite any contractors or advisors or stakeholders to attend at its meetings but such persons shall not be entitled to vote on decisions of the Board.

3 PROGRAMME AND SCOPE OF SERVICES

3.1 Programme of Services

An indicative Programme of Services is set out at paragraph 3.3 below. Representatives of the Parties shall liaise with their respective relevant Cabinet/Executive Members in order to ensure that they have the authority to sign-off the Scheme during the initial Project Board meeting.

3.2 Scope of Services

The Project generally comprises []

3.3 Indicative Programme of Services –

Timelines

- Project start date []
- Mobilisation period []
- [Any other key dates]

- Deliverables

Outputs

No. of interventions per quarter	[]
----------------------------------	-----

Outcomes

Forecasted Outcomes	Number of units
[insert any intended outcomes from the service – presumably targets related to service performance such as the number of people successfully completing the course, weight lost etc. Likely to be similar to the performance metrics used on outgoing service contracts where relevant]	

Reporting periods

Quarterly reports to the Project Board updating on spend, outputs and outcomes to be submitted after the end of each quarter, starting [].

4 Administrative details

4.1 Partners' contact details

LCC Project Manager []
01772 5[]
[]@lancashire.gov.uk

[] **Borough Council**
Lead Contact []

4.2 Partners' addresses for service of notices

Lancashire County Council: PO Box 100
County Hall
Preston
Lancashire
PR1 0LD

[] **Borough Council:** []

APPENDIX B BUDGETARY PROFILE

1. Project cost breakdown

2. Budget

	Total
[] Borough Council IF APPLICABLE	£[]
LCC	£[]
Total	£[]

3. Payment procedures

[to provide terms for payment from LCC to the borough council and any financial contribution from the borough to be allocated to the budget held by the borough council]

All payments shall quote reference []

APPENDIX C

[Project Structure IF RELEVANT]

AS WITNESS the hands of authorised signatories for the Parties hereby agree

SIGNED for and on behalf of
LANCASHIRE COUNTY COUNCIL

Name:

Position:

SIGNED for and on behalf of
[] BOROUGH COUNCIL

Name:

Position: