

Dated

2020

PARTY

and

ISLE OF WIGHT COUNCIL

**LOAN AGREEMENT FOR THE PROVISION OF ESSENTIAL
SUPPLIES IN RESPONSE TO COVID-19 CORONAVIRUS**

This agreement is made on the day of 2020

BETWEEN

- (1) **XXXX of XXXX** (the '**Borrower**'); and
- (2) **ISLE OF WIGHT COUNCIL** of County Hall, Newport, Isle of Wight, PO30 1UD (the '**Lender**');

BACKGROUND

- (A) The Council recognises the valuable contribution the Recipient makes to securing the mental and/or physical wellbeing of the inhabitants of the Isle of Wight.
- (B) This agreement is entered by the Lender during the Covid-19 Coronavirus pandemic in order to provide a loan facility with an option for the Lender to also provide a grant to ensure that the most vulnerable residents of the Isle of Wight have access to essential food and supplies (the '**Authorised Purpose**').
- (C) The Borrower enters into this agreement with the intention to utilise the Facility for the Authorised Purpose

AGREED TERMS

1. Interpretation

The following definitions and rules of interpretation apply in this Deed

1.1 Definitions:

In this agreement, unless otherwise provided:

Business Day : means a day, other than a Saturday, Sunday or public holiday, on which banks are open for business in London;

Data Protection Legislation : means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Facility : means the sum of £XXXX (XXXX POUNDS);

Loan : means the loan made under this agreement;

Party : means a party to this agreement;

- Repayment Demand** : a written demand by the Lender which demand shall be issued no earlier than notice by the World Health Organisation that Covid-19 Coronavirus post-pandemic period has begun and shall be issued no later than one year after such period has commenced; and,
- Unused Capital Sum** : means any part of the Facility which has not been spent or contracted to be spent on the Authorised Purpose on the Repayment date identified in Clause 6.

1.2 Interpretation

1.2.1 In this agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;
- (b) including means including without limitation;
- (c) where an act is required to be performed promptly, it shall be performed as soon as reasonably possible from the moment when the act could reasonably have been performed, having regard to all of the circumstances;
- (d) a time of day is a reference to London time;
- (e) a reference to any Party shall be construed as including, where relevant, successors in title to that Party, and that Party's permitted assigns and transferees (if any);
- (f) a reference to a person includes individuals, unincorporated bodies, government entities, companies and corporations;
- (g) a reference to this agreement or any other agreement is a reference to that document as amended, novated, supplemented, restated or replaced from time to time in accordance with its terms; and
- (h) references to legislation include any modification or re-enactment of such legislation.

1.3 Third party rights

- 1.3.1 Except as expressly provided for in this agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this agreement.
- 1.3.2 The Parties may terminate or rescind this agreement, or agree to any variation, waiver or settlement in connection with it, without the consent of any third party, whether or not it extinguishes or alters any entitlement they may have to enforce any of the provisions of this agreement.

2. The Loan

- 2.1 Subject to the terms of this agreement, the Lender makes the Facility available to the Borrower.
- 2.2 The Loan will be drawn down in full on the date of this agreement.
- 2.3 No interest is payable on the Loan.

3. Conditions

- 3.1 The Loan is provided on the following conditions: -
 - 3.1.1 The Facility is repaid in full by the Borrower in accordance with clause 6;
 - 3.1.2 The Borrower shall not cause or permit the Facility (or any part of it) to be used for any purpose other than for the provision and delivery of essential supplies in accordance with the Authorised Purpose, for the avoidance of doubt the Facility shall not be used in whole or in part toward paying salaries;
 - 3.1.3 The Borrower shall ensure that receipts incurred in securing the Authorised Purpose are kept for seven years from the date of this agreement and then securely destroyed;
 - 3.1.4 The Borrower shall ensure open book accounting of the Facility and shall provide such details as the Lender shall reasonably require in order to audit the use the Facility. Such details shall be provided within five working days of a request by the Lender;
 - 3.1.5 The Borrower shall ensure that they have in place adequate vehicle insurance provision in connection with the delivery of the Authorised Purpose;
 - 3.1.6 The Borrower shall not cause or permit more that £200 (TWO HUNDRED POUNDS) to be allocated per week to any individual household unless otherwise agreed in writing by the Lender;
 - 3.1.7 The Borrower may use the Facility to purchase goods for individual households provided that in providing such a service they must secure compliance with this agreement together with the following: -
 - (a) Persons MUST be informed prior to agreeing to complete shopping on their behalf that their contact and household details will be shared with the Borrower.
 - (b) Persons MUST agree that their contact details, shopping request and details of the delivery will be retained and used for the reclamation of monies spent on their shopping.
 - (c) Persons MUST be informed of the existence of this agreement and provision made by the Borrower to ensure that any part of the Facility that is loaned to a person by the Borrower is recoverable by the Council after the Repayment Demand
 - 3.1.8 The Borrower shall use best endeavours to recover the sums spent on the purchase of essential items from persons.

3.1.9 The Borrower shall use any sums recovered by them pursuant to clause 5.1.8 to re-circulate those funds for the Authorised Purpose

4. Repayment

4.1 The Loan shall be repaid by the Borrower as follows :-

4.1.1 A sum equal to the Unused Capital Sum within 28 days of receipt by the Borrower of the Repayment Demand.

4.2 If requested to do so by the Lender, the borrower shall also provide a schedule identifying the name, address and contact details of any person who, at the date of the Repayment Demand, the Borrower is yet to recover any part of the Facility from.

4.3 The amount to be recovered by the Lender shall not exceed the Facility.

4.4 On issue of the Repayment Demand the Borrower shall provide final accounts and receipts to the Lender and on the basis of the information contained therein the Lender may, at its absolute discretion, provide any part of the Facility as a grant to cover any reasonable costs associated with the delivery of essential supplies.

4.5 Without prejudice to the generality or discretion of clause 6.4, the amount to be given by way of grant may include the payment of fuel expenses incurred in the delivery of items but shall only do so where the Borrower has provided receipts for fuel incurred exclusively in securing the Authorised Purpose and such payment shall be provided at no more than the payment of mileage and fuel rates and allowances published by HM Revenue and Customs from time to time.

4.6 The Borrower shall have the option as to whether to accept any grant given under clause 4.3 but in doing so the Borrower warrants to the Lender that such sum is compatible with state aid regulations (including but not limited to de-minimis or block exemptions) then in force and indemnifies the Lender against any claims arising as a result.

5. Data Protection

5.1 Both parties will comply with all applicable requirements of the Data Protection Legislation including ensuring that appropriate technical and security measures are in place to store any personal information held in discharging the Authorised Purpose, and they acknowledge that this Clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

5.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Borrower is both the Controller and the Processor until such time as any personal information is passed to the Lender under Clause 6.2, at which point both Parties will be come controllers in their own right.

6. Assignment

6.1 The Lender is entitled at any time to assign its rights or otherwise transfer all or any part of its rights or obligations under this agreement with the prior consent of the Borrower, such consent not to be unreasonably withheld.

7. Notices

7.1 Any notice or other communication (including a demand) given by a Party under this agreement shall:

7.1.1 be in writing; and

7.1.2 be signed by or on behalf of the Party giving it.

7.2 Notices will be sent to the address for each Party set out on page 1.

7.3 A Party may change any of its details given in this clause by giving not less than five Business Days' notice to the other Party.

7.4 Notices may be given and will be deemed received:

7.4.1 by hand: on delivery

7.4.2 by pre-paid first class post: at 9.00 am on the second Business Day after posting.

8. Amendments

No amendment, waiver or variation of any of the terms of this agreement will be valid or effective unless made in writing and signed by or on behalf of the Parties.

9. Remedies and waivers

9.1 No failure, delay or omission by the Lender in exercising any right, power or remedy provided by law or under this agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

9.2 No single or partial exercise of any right, power or remedy provided by law or under this agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

9.3 The Lender's rights, powers and remedies under this agreement are cumulative and they do not exclude any rights, powers or remedies that arise by law.

10. Partial invalidity

If any provision of this agreement (or part of any provision of this agreement) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this agreement (or other part of that provision of this agreement) shall not be affected.

11. Counterparts

This agreement may be signed in any number of separate counterparts and this has the same effect as if the signatures on those counterparts were on a single copy of the agreement.

12. Governing law and jurisdiction

12.1 This agreement and any dispute or claim arising out of, or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, English law.

12.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this agreement, its subject matter or formation.

Agreed by the Parties on the date set out at the head of this agreement.

Signed by)
for and on behalf of)
.....
Director
Party)

Signed by)
for and on behalf of)
.....
Authorised signatory
Isle of Wight Council)