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**[FULL LEGAL NAME OF BORROWER]  
AS THE BORROWER**

**AND**

**[FULL LEGAL NAME OF LENDING ENTITY]  
AS THE LENDER**

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**LOAN AGREEMENT**

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**THIS AGREEMENT** is dated *[insert date]*

**BETWEEN:**

- (1) <sup>1</sup>**[Borrower name]**, *[company limited by shares / insert description of legal form]* incorporated under the laws of England and Wales (company number [•] [and registered charity number [•]]) whose registered office is at [•] (the “**Borrower**”); and
- (2) **[Lender name]**, a *[company limited by shares / community interest company limited by shares / insert description of legal form]* incorporated under the laws of England and Wales (company number [•] [and registered charity number [•]]) whose registered office is at [•] (the “**Lender**”).

**BACKGROUND:**

- (A) The Lender has agreed to provide the Borrower with an unsecured term loan facility of £*[insert amount]*.
- (B) This Agreement sets out the terms and conditions that apply to the Facility.

**IT IS AGREED as follows:**

**1. Definitions and interpretation**

**1.1 Definitions**

**1.1.1** In this Agreement:

“**Agreed Purpose**” means the purpose given in Clause 3;

“**Arrangement Fee**” means the arrangement fee set out in Clause 14;]

“**Availability Period**” means the period from the date of this Agreement until *[insert final date that the Facility can be drawn]*;

“**Beneficiary**” means any beneficiaries of the Project or the beneficiaries of any other activities of the Borrower, including but not limited to children, young people under the age of 18 and vulnerable adults.]<sup>2</sup>

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open in London for business (other than purely business of an automated nature);

“**Change of Control**” means any person or group of persons acting in concert gains direct or indirect control of the Borrower. For the purposes of this definition:

- (a) “**control**” means the power (whether by way of ownership of shares, contract or otherwise) to: (i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the Borrower; (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Borrower; or (iii) give directions with respect to the operating and financial policies of the Borrower with which the directors or other equivalent officers of the Borrower are obliged to comply; and
- (b) “**acting in concert**” means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the

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<sup>1</sup> Note: if the Borrower is an unincorporated association, the Facility may potentially fall within the scope of being a “regulated credit agreement” and Consumer Credit Act requirements may apply. A Lender may wish to consider seeking legal advice if this applies.

<sup>2</sup> Note: this concept is used if the specific safeguarding provisions are to be inserted – see Clause 19 for further details.

acquisition directly or indirectly of shares in the Borrower by any of them, either directly or indirectly, to obtain or consolidate control of the Borrower;

**"Data Protection Legislation"** means the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; and all other applicable laws and regulations relating to the processing of personal data and/or governing individuals' rights to privacy, in each case as amended or updated from time to time;

**"Event of Default"** means any event or circumstance specified as such in Clause 13;

**"Facility"** means the unsecured Sterling term loan facility as detailed in Clause 2 and made available under this Agreement;

**"Finance Documents"** means this Agreement, any drawdown request in relation to a Loan and any other document designated from time to time as a Finance Document by the Lender;

<sup>3</sup>**"Funded Assets"** means any items whose purchase, construction or improvement are wholly or partly funded by the Facility, that cost or are valued at (whichever is higher) £[•] or more, and have a useful economic life of three years or more (based on normal accounting practice);]

<sup>4</sup>**"Funded IP"** means Intellectual Property Rights whose purchase, development or use is funded wholly or partly by the Facility;]

<sup>5</sup>**"Grant Agreement"** means the grant agreement dated on or around the date of this Agreement between the Borrower as recipient and [the Lender] / [•] as funder[s].]

**"Intellectual Property Rights"** means all trademarks, business names, domain names, 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;

**"Key Personnel"** means [•];

**"Know-How"** means information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale;

**"Loan"** means a loan or loans made or to be made under the Facility or the principal amount outstanding for the time being of that loan or loans;

**"Material Adverse Effect"** means a material adverse effect on: (a) in relation to the Borrower, its business, assets or condition or on its ability to perform and comply with its obligations under the Finance Documents; (b) the validity or enforceability of the Finance Documents; or (c) the rights and remedies of the Lender under the Finance Documents.

**"Potential Event of Default"** means any event or circumstance specified in Clause 13 which would (with the ending of any grace period, the giving of notice, the making of any determination under any Finance Document or any combination of any of the foregoing) be an Event of Default;

**"Project"** means the Agreed Purpose for the Facility as set out in Clause 3; and

**"Termination Date"** has the meaning given to that term in Clause 6.1.

## 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, and words denoting a gender include all genders;
- (b) "including" means including without limitation;

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<sup>3</sup> Note: this definition is only likely to be relevant if the Facility has been provided from public (taxpayer-funded) sources – see Clause 9. Delete if not applicable.

<sup>4</sup> Note: this definition is only likely to be relevant if the Facility has been provided from public sources – see Clause 9. Delete if not applicable.

<sup>5</sup> Note: this definition is only relevant if the Borrower is receiving both the Loan and a grant (from the Lender or another party) in relation to the same Project, and is used in Clause 13.5. Delete and/or adapt as applicable.

- (c) a time of day is a reference to London time;
- (d) 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);
- (e) an Event of Default or Potential Event of Default is "continuing" if it has not been remedied or waived;
- (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;
- (h) a reference to legislation includes any modification or re-enactment of such legislation from time to time;
- (i) a reference to this Agreement includes its Clauses and Schedules, which form part of this Agreement; and
- (j) all clause, schedule and paragraph headings are for convenience only and shall not be taken into account in the interpretation of this Agreement.

## 2. **The Facility**

Subject to the terms of this Agreement, the Lender hereby agrees to make available to the Borrower an unsecured Sterling term loan facility of a total principal amount of £*[insert amount in words and figures]*.

## 3. **Purpose of Facility**

- 3.1 The Borrower shall use all money borrowed under the Facility exclusively for *[insert agreed purpose]* and shall not use the Facility for any other purpose without the prior written consent of the Lender.
- 3.2 The Borrower shall not use any amount borrowed under the Facility to pay for any expenditure commitments of the Borrower entered into before the date of this Agreement.
- 3.3 The Lender is not obliged to monitor or verify how any amount advanced under this Agreement is used.

## 4. **Drawing the Facility**

- 4.1 The Borrower may utilise the Facility [in one single drawdown] / *[describe Lender requirements if multiple drawdowns are agreed e.g. minimum drawdown amounts, insertion of a drawdown schedule etc.]* on any Business Day during the Availability Period.
- 4.2 To do this, the Borrower shall give the Lender at least [**•**] Business Days' prior notice [(no later than *[insert time]* on the date of giving such notice)] of the date on which the Borrower wishes to draw down the Loan. This notice should specify:
  - 4.2.1 the amount of the proposed Loan to be drawn down [and the amount of the grant[s] to be drawn down under the Grant Agreement]<sup>6</sup>;
  - 4.2.2 the proposed date for drawdown of the Loan (which must be a Business Day within the Availability Period); and
  - 4.2.3 the bank account to which payment is to be made.
- 4.3 Any notice given under Clause 4.2 shall be irrevocable.
- 4.4 The total amount of all Loans drawn down must not exceed the amount of the Facility.
- 4.5 Any part of the Facility which has not been drawn down by the Borrower by the end of the Availability Period shall be immediately cancelled at the end of the Availability Period.

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<sup>6</sup> Note: to be included if a grant will also be provided under the terms of the Grant Agreement in relation to the same Project.

4.6 For the avoidance of doubt, the Borrower acknowledges that Loans will only be available for drawing up to the total of the Facility available during the Availability Period, and the amount of the Facility will not be increased in the event of any overspend by the Borrower in its delivery of the Project.

**5. Conditions for drawdown**

5.1 The Borrower may not draw down any or all of the Facility unless the Lender has received all of the documents and evidence listed in Schedule 1 (*Conditions Precedent*) in a form and substance satisfactory to the Lender.

5.2 The Lender's obligations to advance any Loan are also subject to the further conditions that:  
5.2.1 each of the representations and warranties in Clause 8 are true and accurate in all material respects;

5.2.2 no Potential Event of Default or Event of Default is continuing or would result from the proposed drawdown; and

5.2.3 the Lender reserves the right to impose such additional conditions in respect of the Loan as is necessary in the reasonable opinion of the Lender to protect them and/or to ensure that the Loan is used only for the Project.

**6. Repayment and Prepayment**

6.1 The Borrower shall repay all outstanding Loans in full [in one single instalment on [•] (the "**Termination Date**")]

**OR**

[by repaying each Repayment Instalment set out below on the applicable Repayment Date as set out below [(and the last Repayment Instalment will be repaid on [•] (the "**Termination Date**") and will equal the balance of the outstanding Loans)]]:

**Repayment Date**

[Date]

**Repayment Instalment**

£[•]

**OR**

[*Insert agreed repayment schedule – ensure that final repayment date is specified as the "Termination Date"*]

6.2 <sup>7</sup>[The Borrower may prepay part or all of any Loan in addition to any instalment which is payable in accordance with Clause 6.1 in such amount as it chooses, provided that each instalment is no less than £[•] and a minimum of [•] Business Days' prior notice is given.

6.3 Such prepayment [will not incur any prepayment fee or other charge] **OR** [will incur a prepayment fee of [*insert details of any agreed prepayment fee*]].]

6.4 On the date the Loans (or any of them) are repaid or prepaid, the Borrower shall also pay to the Lender all outstanding interest on the repaid or prepaid amount together with any other amount that is due and payable to the Lender.

6.5 If:

6.5.1 it becomes unlawful or contrary to any applicable regulation in any jurisdiction for the Lender to perform any of its obligations as contemplated by the Finance Documents or to fund or maintain any Loan; or

6.5.2 there is a Change of Control in relation to the Borrower,  
the Lender will not be obliged to provide any Loan under this Agreement and the Borrower will on demand by the Lender repay all outstanding Loans together with accrued interest and

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<sup>7</sup> Note: Lender to consider if voluntary prepayments will be permitted, and if any prepayment fee will be payable.

- all other amounts accrued or outstanding under the Finance Documents on the date specified by the Lender in its demand, and the Facility will be immediately cancelled.
- 6.6 The Borrower may not re-borrow any amount of the Facility which has been repaid or prepaid.
- 6.7 Any amount which remains outstanding under the Facility on the Termination Date shall be repaid in full on the Termination Date.
7. **Interest**
- 7.1 Commencing on [●], the Loans shall bear interest at *[insert agreed interest formulation]*.
- 7.2 Interest will accrue on a daily, non-compounding basis and shall be paid by the Borrower *[insert agreed interest payment timetable]* (each a “**Payment Date**”) unless such date is not a Business Day, in which case the interest will be paid on the next Business Day.
- 7.3 [If the Borrower fails to pay any amount due under the Finance Documents on the due date for payment, interest on the unpaid amount will accrue daily, from the date of non-payment up to the date of actual payment (both before and after judgement) at a [flat rate of [●]%] / [at a rate of [●]% above the rate specified in Clause 7.1 above]. The Lender may agree, in its absolute discretion, to waive the additional interest prescribed by this Clause 7.3.]
8. **Representations and Warranties**
- 8.1 The Borrower makes the representations and warranties set out in this Clause 8.1 and acknowledges that the Lender has entered into the Agreement in reliance on those representations and warranties.
- 8.1.1 **Status:** it is a duly [incorporated limited liability company] / *[other legal structure pre-agreed by the Lender]* validly existing under the laws of England and Wales;
- 8.1.2 **Powers and authority:** it has:
- (a) the power to enter into the Finance Documents and to exercise its rights and perform its obligations under the Finance Documents;
  - (b) taken all necessary corporate and other action to authorise its entry into the Finance Documents and the exercise of its rights and performance of its obligations under the Finance Documents;
  - (c) obtained all authorisations, consents and licences necessary to enable it to enter into and perform its obligations under the Finance Documents and to enable it to conduct its business in its current form;
  - (d) the power to own its assets and to carry on its business as it is being conducted; and
  - (e) the capacity to sue and be sued in its own name;
- 8.1.3 **Legal validity:** its obligations under the Finance Documents are valid, legal, binding and enforceable obligations;
- 8.1.4 **No conflict:** Its entry into and performance of its obligations under, and the transactions contemplated by, the Finance Documents do not:
- (a) breach or exceed any borrowing or other power or restriction granted or imposed by its constitutional documents, rules of association or trust deed (as applicable);
  - (b) conflict with or result in a breach of any document or agreement which is binding upon it or any of its assets; or
  - (c) conflict with any law or regulation applicable to it;
- 8.1.5 **No default:** no Event of Default or Potential Event of Default has occurred or is continuing, or is reasonably likely to result from the making of any Loan or the entry into, or the performance of, any transaction contemplated by the Finance Documents;
- 8.1.6 **No material proceedings:** to the best of its knowledge and belief, it is not the subject of any actual, pending or threatened litigation, arbitration or other action or administrative proceedings which, if successful, might reasonably be expected to have a Material Adverse Effect;

- 8.1.7 **Information:** all information supplied by the Borrower to the Lender in connection with the Finance Documents is true, accurate and complete in all material respects and it is not aware of any facts or circumstances which have not been disclosed to the Lender which might, if disclosed, adversely affect the decision of a person considering whether or not to lend to the Borrower; and
- 8.1.8 **Financial Information:** the financial statements supplied by the Borrower to the Lender give a true and fair view of the financial position of the Borrower as at the date and for the period they were prepared. The budgets and projections supplied by the Borrower to the Lender were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of reasonable assumptions.
- 8.2 The representations made in Clause 8 shall be made on the date of this Agreement and shall be deemed to be repeated daily by the Borrower on a continuing basis by reference to the facts and circumstances then existing.
9. **<sup>8</sup>[Funded Assets and IP]**
- 9.1 As the Facility is provided (in whole or in part) from public sources, the Borrower agrees:
- 9.1.1 to take reasonable steps to obtain value for money when buying goods and services in connection with the Project by obtaining quotations or applying competitive tendering. The Borrower will comply with all applicable laws, statutes and regulations relating to bribery and corruption, including (but not limited to) the Bribery Act 2010;
- 9.1.2 that if the Facility is used directly or indirectly to purchase or develop any intellectual property rights (the Funded IP), then the Borrower will take all necessary steps to protect such rights and agrees that it will not exploit such rights without obtaining the Lender's prior written consent. Exploitation includes use for any commercial purpose or any licence, sale, disposal, assignment, materials transfer or other transfer rights of the whole or any part of the Funded IP;
- 9.1.3 to ensure that all Funded Assets and Funded IP are maintained safely and in good repair and will make sure there is adequate insurance cover for all of them, at all times. If any Funded Asset is damaged, destroyed or stolen, the Borrower must promptly tell the Lender in writing;
- 9.1.4 to ensure that the Funded Assets and the Funded IP are only used in connection with the Project; and
- 9.1.5 to maintain a register of Funded Assets and Funded IP and promptly provide a copy of this to the Lender upon its request.]
10. **Covenants by the Borrower**
- The Borrower undertakes to the Lender that, as from the date of this Agreement until all its liabilities under the Finance Documents have been irrevocably discharged, it will:
- 10.1.1 carry on and conduct its business and activities in a proper and efficient manner, ensure that it is adequately insured at all times, and will not make any change to the general nature or scope of its business as carried on at the date of this Agreement;
- 10.1.2 comply with all conditions required for the effective management of state aid of its entire undertaking, and provide records for the Lender upon request;
- 10.1.3 <sup>9</sup>[return any part of a Loan that constitutes unlawful state aid, promptly upon becoming aware of the same;]

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<sup>8</sup> Note: If the Facility has been provided in whole or in part from public sources, the Lender may be required by its relevant funding provider to include additional protections in relation to assets and intellectual property that have been acquired and/or developed using such public monies. We have included some optional language for this scenario in Clause 9, but this should be considered and discussed by the relevant parties on a case-by-case basis.

<sup>9</sup> Note: this clause will also only apply where the Facility is provided from public sources. State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU). If the



- 10.1.4 act in compliance with any relevant employment legislation, health and safety legislation, and child and vulnerable adult protection legislation (including putting in place appropriate protection or other policies), and ensure that its employment policies and procedures reflects the requirement of equal opportunities in the recruitment and selection process;
- 10.1.5 comply in all material respects with all other applicable laws regulating the Borrower's activities and operations, including without limitation, prevention of fraud, bribery and facilitation of tax evasion, and ensure that internal systems are in place to prevent fraud, bribery and facilitation of tax evasion and to manage conflicts of interest;
- 10.1.6 procure that any of its unsecured and unsubordinated obligations and liabilities under the Finance Documents rank, and will rank, at least *pari passu* in right and priority of payments with all its other unsecured and unsubordinated obligations and liabilities, present or future, actual or contingent, except for those obligations and liabilities mandatorily preferred by law;
- 10.1.7 procure that its financial statements are prepared in accordance with generally accepted accounting principles in the UK consistently applied, give a true and fair view of its financial condition and results of operations and that there are no undisclosed liabilities;
- 10.2 The Borrower shall not, without the prior written agreement of the Lender:
- 10.2.1 borrow or permit to subsist any borrowing of monies other than those borrowings outstanding as at the date of this Agreement (and agreed with the Lender);
- 10.2.2 grant or permit to subsist any form of mortgage, pledge, lien, or other security over its assets to any third party to secure any borrowings made by the Borrower, except as arising by operation of law;
- 10.2.3 sell or otherwise dispose of the whole or any substantial part of its undertaking or of its assets;
- 10.2.4 make any change to the organisation or group or legal structure of the Borrower or the nature or delivery of the Project;
- 10.2.5 enter into any amalgamation, demerger, merger or corporate reconstruction or acquire any company or shares or securities in any business or undertaking;
- 10.2.6 issue any shares;
- 10.2.7 make any material amendment to its constitutional documents;
- 10.2.8 employ individuals or contribute funds to organisations or individuals that the Borrower knows or suspects to support or otherwise be involved in terrorism or that are found on any terrorist-related list promulgated by the UK Home Office, the U.S. Government, the United Nations, or the European Union; or
- 10.2.9 do anything to damage the reputation of the Lender or *[include details of any other relevant organisations or programmes which may be affected]*.
- 11. **Information Covenants – Accounts and Records**
- 11.1 The Borrower will deliver to the Lender:
- 11.1.1 within [●] days of the end of each of its financial years, its annual statutory accounts or equivalent;
- 11.1.2 [within [●] days of the end of each of its financial quarters, its quarterly management accounts (in such form as the Lender may reasonably require);]
- 11.1.3 promptly on request, such financial or other information reasonably requested by the Lender, from time to time, in relation to the Borrower and/or the Project (including, for the avoidance of doubt, all documentation and other evidence required by the Lender to carry out and be satisfied with all necessary 'know your customer', anti-money laundering or other similar checks under all applicable laws and regulations from time to time).

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Grant is from a taxpayer-funded resource, state aid will be relevant as it may assist the Borrower in a way that gives advantages over others. Delete if not applicable.

- 11.2 The Borrower shall notify the Lender of any Event of Default or Potential Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- 11.2.1 The Borrower shall notify the Lender immediately if it becomes aware of any legal claim(s) and/or investigation made or threatened against the Borrower and/or any of its employees, volunteers or other personnel, which if successful (a) could reasonably be likely to lead to liability for the Borrower exceeding £[•], or (b) could reasonably be expected to damage the reputation of the Lender or *[include details of any other relevant organisations or programmes which may be affected]*.
- 11.3 The Borrower shall notify the Lender immediately if there is a change in Key Personnel.
- 11.4 The Borrower shall notify the Lender immediately if a Material Adverse Effect occurs or is reasonably likely to occur.
- 11.5 The Borrower shall comply with all reasonable requests from the Lender (or any independent evaluator or fund administrator for the Project) for site visits (including visits to individual project sites), compliance visits, information requests, surveys and/or meetings with Borrower's officers or agents, in each case at reasonable times and upon the giving of reasonable notice. If any event or circumstances set out in Clause 13 occurs and is continuing, the Lender's request shall be deemed to be reasonable.
- 12. Information Covenants – Monitoring and Reporting**
- 12.1 The Borrower shall provide the Lender with an [annual] social impact report (to be provided within [1 month] of the end of each of the Borrower's financial years) including as a minimum the following information:
- 12.1.1 *[details of Lender's minimum requirements for social impact reports to be included]*.
- 13. Events of Default**
- Notwithstanding anything contained in this Agreement, the Lender may give notice to the Borrower that the Loans (together with all accrued interest and all other amounts outstanding or accrued under the Finance Documents) have become (i) immediately due and payable, or (ii) payable on demand, and the Lender shall be entitled to (A) terminate this Agreement and cancel the Facility by notice in writing to the Borrower and shall be under no obligation to make any further Loans and/ or (B) exercise any or all of its rights, remedies and powers under the Finance Documents, if at any time:
- 13.1 the Borrower fails to pay any money due under the Finance Documents, unless the failure to pay is caused solely by an administrative error or technical problem and payment is made within [5] Business Days of its due date;
- 13.2 the Borrower fails to comply with Clause 3 (*Purpose*);
- 13.3 the Borrower fails to comply with any other term of the Finance Documents (other than set out in 13.1 and 13.2 above) and (if the Lender considers, acting reasonably, that the breach is capable of remedy), such default is not remedied within [20] Business Days of the earlier of (a) the Lender notifying the Borrower of the default and the remedy required; and (b) the Borrower becoming aware of the default;
- 13.4 any representation, warranty or statement made or deemed to be made by the Borrower under or in connection with the Finance Documents is or proves to have been incorrect or misleading when made or deemed to be made, or the Borrower acts dishonestly or provides false or misleading information;
- 13.5 <sup>10</sup>[a "Withholding Suspending and Repayment of Grant" event is triggered under the terms of the Grant Agreement or the Grant Agreement is terminated;]
- 13.6 any outstanding borrowings of the Borrower are not paid when due after taking into account any applicable grace period, or any such borrowings become due and payable (or capable of

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<sup>10</sup> Note: this is only relevant if the Borrower is receiving both the Loan and a grant (from the Lender or another party) in relation to the same Project. Delete and/or adapt as applicable.

- being declared due and payable) prior to its stated maturity by reason of an event of default (however this is described);
- 13.7 the Borrower ceases or threatens to cease to carry on its business or substantially the whole of its business;
- 13.8 any distress, execution, sequestration or other process is levied or enforced upon or against the property of the Borrower and is not discharged within [21] days;
- 13.9 a receiver, administrative receiver, receiver and manager, interim receiver, custodian, administrator or similar officer is appointed in respect of the Borrower or over a substantial part of the Borrower's assets or any third party takes steps to appoint such an officer in respect of the Borrower or an encumbrancer takes steps to enforce or enforces its security;
- 13.10 the Borrower stops or suspends payment of any of its debts, or is likely to be unable to pay, or admits its inability to pay its debts as they fall due;
- 13.11 the Borrower commences negotiations or other arrangements with one or more of its creditors with a view to rescheduling any of its debts (because of actual or anticipated financial difficulties);
- 13.12 the Borrower repudiates or evidences an intention to repudiate any Finance Document;
- 13.13 it is or becomes unlawful for any party to perform or exercise any of its rights or obligations under the Finance Documents, or any Finance Document becomes invalid or unenforceable or ceases to be in full force and effect for any other reason;
- 13.14 the assets of the Borrower or any part of them are compulsorily acquired by or by order of any local or other authority and in consequence the business of the Borrower in the opinion of the Lender is seriously affected;
- 13.15 the Borrower is under investigation by a regulatory body or the police, any match-funding for the Project is withdrawn <sup>11</sup>[or the Lender considers for any reason that public funds are at risk];
- 13.16 in the Lender's reasonable opinion, the Borrower is unlikely to fulfil the Agreed Purpose;
- 13.17 there is a change in Key Personnel (other than with the prior consent of the Lender);
- 13.18 any event or series of events occurs which, in the Lender's opinion, has or is reasonably likely to have a Material Adverse Effect.

14. **[Fee**

[The Borrower shall pay to the Lender an Arrangement Fee of [•]% of the Facility (£[•]) [upon the signing of this Agreement] / [on or before the date of first drawdown of the Facility [(and the Lender shall be entitled to deduct the Arrangement Fee from the amount drawn down by the Borrower)]]].]

**OR**

*[Insert other timing and/or other agreements in relation to any fees payable to the Lender]*

15. **Costs and expenses**

- 15.1 [The Borrower shall pay, promptly on demand, all costs and expenses that the Lender incurs in connection with the Finance Documents.]

**OR**

[Each party shall pay its own costs and expenses in connection with the negotiation, execution, amendment or waiver of the Facility and/or the Finance Documents. The Borrower shall, on demand, pay to the Lender all costs and expenses incurred by the Lender in connection with enforcement or preservation of any rights, under any Finance Document.]

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<sup>11</sup> Note: this wording will only apply if the Facility has been provided from public sources.

**16. Payments**

- 16.1 All payments to be made by the Borrower to the Lender under the Finance Documents shall be calculated and be made without (and free and clear of any deductions for) set-off or counterclaim, and to such account as the Lender may specify to the Borrower from time to time.
- 16.2 All payments shall be made in Sterling.

**17. Taxes**

- 17.1 The Borrower agrees to pay on demand any stamp, documentary and other similar taxes to which the Finance Documents may be subject, and shall indemnify the Lender on demand against any tax liability that the Lender determines (in its absolute discretion) will be or has been suffered by the Lender in respect of any Finance Document, except for where the tax liability is on the net income of the Lender imposed by the law of England and Wales.
- 17.2 The Borrower must pay to the Lender any value added tax or similar tax on any amount payable under the Finance Documents.

**18. Indemnity and Liability**

- 18.1 The Borrower must promptly on demand indemnify the Lender against any cost, loss or liability reasonably incurred by the Lender 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 Borrower in relation to the Project, the non-fulfilment of obligations of the Borrower under the Finance Documents (including, without limitation, as a result of an Event of Default, or investigating any event which the Lender reasonably believes to be a Potential Event of Default) or its obligations to third parties.
- 18.2 The Borrower acknowledges that neither the Lender nor [*include details of any other relevant organisations*] has any liability for any consequences that may arise directly or indirectly in connection with the Borrower or the Project, to the Borrower or to third parties save to the extent required by law.

**19. [Safeguarding]<sup>12</sup>**

- 19.1 The Borrower shall ensure that it takes all reasonable steps to ensure the safety of the Beneficiaries that it works with, including compliance with all applicable laws in this respect.
- 19.2 The Borrower shall ensure that it has and complies with an appropriate written policy and set of procedures in place to safeguard Beneficiaries which must as a minimum comply with the standards required by all applicable laws, and which must include safe recruitment procedures which will check the backgrounds of all employees, volunteers, directors or contractors who will supervise, care for or otherwise have significant direct control with Beneficiaries. All new staff must be adequately trained in these policy and procedures.
- 19.3 The Borrower will notify the Lender immediately (and in any event within [3] Business Days) of any and all incidents in which any Beneficiaries are harmed or placed at risk of harm and shall provide such details as the Lender shall request. The Borrower shall comply with all applicable legal, regulatory and internal safeguarding reporting requirements in addition to notifying the Lender.
- 19.4 The Lender reserves the right to review and require amendments to the Borrower's safeguarding policies to ensure they meet the required standards.

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<sup>12</sup> Note: if the Lender or the Borrower is a charity – in particular focusing on children, young people and/or vulnerable adults – the parties may wish to include specific safeguarding provisions (in addition to the more general provisions in clause 10.1.4) given the increased focus and recent developments on this topic. We have suggested some light-touch provisions as a starting point, which the parties may wish to adapt depending on the level of relevance and risk that safeguarding poses in relation to the Project, and the Lender's and/or the Borrower's activities and internal policies.

19.5 If the Borrower contracts with a third party to carry out any of the Agreed Purposes, the Borrower must ensure that such third party [adheres to a minimum to the standards set out in its written policy and procedures] / [adheres to its own adequate safeguarding policies and procedures.]]

## 20. **Data Protection<sup>13</sup>**

20.1 Each party agrees to comply with its obligations under the Data Protection Legislation, and not to perform its obligations under this Agreement in such a way as to cause the other party to breach any of its obligations under the Data Protection Legislation, when processing any personal data received from the other party in connection with the Project.

20.2 [Personal data provided to the Lender by the Borrower will be anonymised wherever possible (unless the Lender requests otherwise).]<sup>14</sup>

20.3 [Where such personal data is not to be anonymised,]<sup>15</sup> the Borrower shall ensure that it can provide such personal data to the Lender in compliance with the Data Protection Legislation, including where relevant procuring necessary consents (or satisfying other legal bases) from data subjects for the use of their personal data in connection with the Project, including its transfer to the Lender, and shall co-operate with the Lender to ensure that the Lender is able to comply with its obligations under the Data Protection Legislation with respect to such personal data.

20.4 In this clause, “data subjects”, “personal data” and “processing” shall have the meanings given to them in the relevant Data Protection Legislation.

## 21. **Confidentiality**

21.1 None of the Parties to this Agreement shall, unless the relevant party has the advance written consent of the other party, disclose to any person any confidential information (including but not limited to all Intellectual Property Rights, Know-How or other business, technical or commercial information) disclosed to it as a result of the Finance Documents except:

21.1.1 as may be required by the Finance Documents, by law, regulation, any governmental or other regulatory authority or by a court or other authority of competent jurisdiction;

21.1.2 to the extent such confidential information was already in the public domain, already known to the receiving party or received from a third party, in each case without breach of any applicable confidentiality obligations;

21.1.3 the Borrower agrees that the Lender and [*include details of any other relevant organisations*] can publicise and share information about the Facility and the Project; and

21.1.4 the Borrower further agrees to the Lender providing the Borrower’s details and other information relating to the Facility from time to time other funders, any entities providing collection management services in relation to the Facility, <sup>16</sup>[Government departments, the National Audit Office, members of the public who request information under Freedom of Information Act] and [*include details of any other relevant organisations*].

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<sup>13</sup> Note: This is a light-touch approach to data protection on the basis that the main purpose of the Agreement is the provision of funding, and any processing of personal data will be incidental. If the processing of personal data will be more important / central to the arrangements, more detailed provisions may be required depending on the specific circumstances. And if one party will be a data processor for the other, then certain additional provisions will be mandatory in order to comply with the requirements of Article 28 of the GDPR.

<sup>14</sup> Note: This clause assumes that the Lender does not require personal data from the Borrower – i.e. anonymised data will suffice, for example for monitoring impact/outcome. If personal data is required then this will not be appropriate.

<sup>15</sup> Note: See footnote above.

<sup>16</sup> Note: this may be applicable if the Facility has been provided from public sources, but the scope should be reviewed on a case-by-case basis.

22. **Publicity and branding**

The Borrower shall ensure that, in relation to any communications or publicity in relation to the Project (including print, online, events and social media), it adheres to the [Lender's] branding and communications guidelines, [which can be found at [•]] / [as issued by the Lender to the Borrower from time to time].

23. **Set-Off**

The Lender may set-off any obligation due from the Borrower under any Finance Document against any obligations owed by the Lender to the Borrower.

24. **Transfers**

24.1 The Borrower is not permitted to assign or transfer any or its rights and obligations under the Agreement without the Lender's prior written consent.

24.2 The Lender may at any time assign or transfer any of its rights and obligations under the Loan Agreement to any other person.

25. **Variation and waivers**

25.1 No variation (including any waiver) of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives) to this Agreement.

25.2 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

26. **Partial invalidity**

26.1 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired. For the avoidance of any doubt, any affected clause is modified to the extent necessary for it to be legal valid and enforceable or replaced such that the remainder of the Agreement is legal, valid and binding.

27. **Third party rights**

27.1 A person who is not a party to the Agreement has no right under the contract (Rights of Third Parties) Act 1999 to enjoy or enforce any benefit under it.

27.2 The consent of any person who is not a party to the Agreement is not required to amend the Agreement.

28. **Notices**

Any notice given pursuant to this Agreement shall be in writing to the contact details set out in the signature pages in this Agreement, and shall be sufficiently given and deemed to be received: if by hand, on delivery; if by pre-paid first-class post, on the Business Day after posting; if by fax, on receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission; and if by email, the time the email is sent if sent to the correct email address and no notice of delivery failure is received.

29. **Counterparts**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

30. **Governing Law**

This Agreement and all non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

31. **Jurisdiction**

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity).

## **SCHEDULE 1**

### **CONDITIONS PRECEDENT**

#### **1. CONSTITUTIONAL DOCUMENTS**

##### **1.1 True and complete copies of:**

- (a) The latest constitutional documents of the Borrower; and
- (b) The resolutions of the board of directors of the Borrower approving the entry into, the terms of, and the transactions contemplated by, the Finance Documents, and authorising a specified person or persons to execute the Finance Documents; and
- (c) A sample signature of each person authorised under paragraph 1.1(b) above.

##### **1.2 A certificate signed by a director of the Borrower:**

- (a) Confirming that borrowing the Loan would not mean any borrowing (or any similar limit binding on the Borrower) would be exceeded; and
- (b) Certifying that each copy document relating to it that it has provided under this Schedule 1 is correct, complete and in full force and effect at a date no earlier than the date of this Agreement.

#### **2. OTHER DOCUMENTS AND EVIDENCE**

##### **2.1 This Agreement executed by the Borrower.**

##### **2.2 A copy of the [latest audited annual accounts [*and – include details of any other required financial information*]] of the Borrower.**

##### **2.3 All information requested by the Lender for compliance with all “know your customer”, anti-money laundering or similar procedures under all applicable laws and regulations.**

##### **2.4 Evidence that a Borrower bank account satisfactory to the Lender is open and available to service the Loans.**

##### **2.5 [Evidence that all fees and expenses due and payable under the Finance Documents have been or will be paid [on the date of this Agreement] / [on or before date of first drawdown of the Facility].]**

##### **2.6 [*Include any other specific conditions precedent that are required by the Lender.*]**

##### **2.7 A copy of any other document or evidence which the Lender considers necessary or desirable in connection with the Finance Documents or the transactions contemplated by the Finance Documents.**



## **SIGNATURES TO THE LOAN AGREEMENT**

### **THE BORROWER**

**[INSERT FULL LEGAL NAME OF BORROWER ENTITY]**

By: [Insert signature]

Address: [•]

Phone number: [•]

Email address: [•]

Fax number: [•]

Attention: [•]

### **THE LENDER**

**[INSERT FULL LEGAL NAME OF LENDING ENTITY]**

By: [Insert signature]

Address: [•]

Phone number: [•]

Email address: [•]

Fax number: [•]

Attention: [•]