

DATED _____ 2006

YORKSHIRE FORWARD

(YORKSHIRE & HUMBER REGIONAL DEVELOPMENT AGENCY) (1)

and

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL (2)

YORKSHIRE FORWARD FUNDING AGREEMENT

relating to

the Acquisition of *Keighley College*

WALKER MORRIS

Kings Court
12 King Street
LEEDS
LS1 2HL
Tel: 0113 2832500
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Ref: ROH/SJN/YOR.631-31

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PARTICULARS

Terms

Definitions

ACQUISITION DATE

31 August 2006

THE COUNCIL

City of Bradford Metropolitan District Council
whose head office is at City Hall, Centenary
Square, Bradford BD1 1HY

COUNCIL REPRESENTATIVE

Simon Woodhurst, Regeneration Development
Manager, City of Bradford Metropolitan District
Council, Department of Regeneration, Olicana
House, 35 Chapel Street, Bradford BD1 5RE, or
such other person or persons from time to time
appointed in replacement by The Council.

COUNCIL'S BANK ACCOUNT

Account Name: City of Bradford Metropolitan
District Council Account No. 100072 with
NatWest Bank Plc of City Centre Branch,
Hustlergate, Bradford, BD1 1RE Sort Code 56-00-
36

EFFECTIVE DATE

the date of execution of this Agreement or 31
August 2006, whichever is the earlier

MAXIMUM AMOUNT

The maximum amount available to be claimed by
the Council under this Agreement being (subject
to Clauses 11.3 and 11.4 and any other provisions
of this Agreement) set out in the Payment
Schedule.

PROPERTY

The freehold property known as Land and
Buildings at Cavendish Street, Keighley BD21
3DF registered under title number WYK796855,
the freehold property known as North Street,
Keighley registered under title number
WYK789499 and the freehold property known as
the Harold Town Building, Chesham Street,

Keighley BD21 4LG registered under title number WYK125244.

TERM

The period from the Effective Date until the earlier of:

- (a) disposal of the Property by the Council in accordance with this Agreement and payment of capital receipt to Yorkshire Forward pursuant to Clause 16; and
- (b) early termination in accordance with Clause 15 of this Agreement and satisfaction by the Council of all Grant re-payment conditions.

YORKSHIRE FORWARD

Yorkshire Forward (Yorkshire & Humber Regional Development Agency) of Victoria House, 2 Victoria Place, Leeds LS11 5AE

YORKSHIRE FORWARD'S BANK ACCOUNT

Account Name: Yorkshire Forward (Yorkshire and Humber Regional Development Agency)
Account No. 50423165 with Barclays Bank Plc of 77, Albion Street, Leeds LS1 5LD Sort Code 20-48-46

YORKSHIRE FORWARD'S REPRESENTATIVE

Dennis MacInnes of Yorkshire Forward, Mercury House, 4 Manchester Road, Bradford BD5 0QL, or such other person or persons from time to time appointed in replacement by Yorkshire Forward.

BETWEEN:

- (1) **YORKSHIRE FORWARD (YORKSHIRE & HUMBER REGIONAL DEVELOPMENT AGENCY)** whose head office is at Victoria House, 2 Victoria Place, Leeds, LS11 5AE ("**Yorkshire Forward**"); and
- (2) **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**(as described in the Particulars) ("**the Council**")

RECITALS:

- (A) Sections 4 and 5 of the Regional Development Agencies Act 1998 give power to Yorkshire Forward to do anything that facilitates the objectives set out below:
 - (i) To further the economic development and regeneration of Yorkshire and the Humber;
 - (ii) To promote business efficiency, investment and competitiveness in the area;
 - (iii) To promote employment in the area;
 - (iv) To enhance the development application of skills relevant to employment in the area;
and
 - (v) To contribute to the achievement of sustainable development in the United Kingdom.
- (B) Yorkshire Forward has prepared and published the Regional Economic Strategy which sets out an agenda and priorities for achieving the objectives set out above.
- (C) The Council has requested grant funding from Yorkshire Forward for the Acquisition which will be used and/or developed as part of the Airedale Masterplan and other projects falling within one or more of the objectives referred to above.
- (D) Yorkshire Forward has agreed to provide the Grant for the Acquisition subject to and on the basis of the terms and conditions set out below.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise requires:

- 1.1.1 the words and expressions set out in Schedule 1 (Definitions) and the Particulars shall have the meanings ascribed therein;
- 1.1.2 references to Clauses, sub-clauses and Schedules are to clauses, sub-clauses and schedules in this Agreement unless otherwise stated;
- 1.1.3 headings are for convenience only and shall not affect the interpretation of this Agreement;
- 1.1.4 references to the masculine include the feminine and the neuter, and the singular shall include the plural, and vice versa as the context admits or requires;
- 1.1.5 references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced;
- 1.1.6 wherever in this Agreement there is a right of inspection for Yorkshire Forward in relation to the Acquisition including (without limitation) a right to review, inspect and copy any documentation and right of entry on to any premises to review the Acquisition or to inspect any documentation such rights shall extend to any agents, employees or licensees nominated from time to time by Yorkshire Forward;
- 1.1.7 all the schedules shall be part of this Agreement and all the obligations of the parties contained therein are legal and binding obligations in this Agreement;

2 DURATION

- 2.1 This Agreement shall commence on the Effective Date and shall continue for the duration of the Term.

3 COUNCIL'S WARRANTIES AND REPRESENTATIONS

- 3.1 The Council represents and warrants to Yorkshire Forward that:
 - 3.1.1 the execution on behalf of the Council of this Agreement has been validly authorised and the obligations expressed as being assumed by the Council under this Agreement constitute valid legal and binding obligations of the Council enforceable against the Council in accordance with their terms;

- 3.1.2 neither the execution of this Agreement by the Council nor the performance or observation of any of its obligations under it will:
- (a) conflict with or result in any breach of any law or enactment or any deed, agreement or other instrument, obligation or duty to which the Council is bound; or
 - (b) cause any limitation on any of the powers whatsoever of the Council to be exceeded;
- 3.1.3 the Council is not in default under any law or enactment or under any deed, agreement or other instrument or obligation by which it is bound so as to affect adversely its ability to perform its obligations under this Agreement;
- 3.1.4 all Consents required in connection with the execution, delivery, issue, validity or enforceability of this Agreement have been obtained and have not been withdrawn;
- 3.1.5 all information, estimates, documents and accounts of the Council submitted to Yorkshire Forward for its appraisal of the Acquisition for the purposes of this Agreement are true and accurate and no change has occurred since the date on which such information was supplied which renders the same untrue or misleading in any respect;
- 3.1.6 the Council has disclosed to Yorkshire Forward all information which would or might reasonably be thought to influence Yorkshire Forward in awarding the Grant to the Council or the amount thereof;
- 3.1.7 the Council is not aware, after due enquiry, of anything which materially threatens the delivery and completion of the Acquisition in accordance with this Agreement;
- 3.1.8 no Event of Default has occurred and is continuing; and
- 3.1.9 the representations in Clauses 3.1.1–3.1.8 above will be deemed to be repeated by the Council when each claim for an instalment of Grant is submitted pursuant to Clause 11 as if made with reference to the facts and circumstances existing at such date,

and the Council acknowledges that Yorkshire Forward has relied on and will rely on this information in agreeing to pay the Grant.

4 TERMS & CONDITIONS OF FUNDING

4.1 Yorkshire Forward has agreed to make the Grant available to the Council for the Acquisition, subject to the Council:

4.1.1 completing the Acquisition by the Acquisition Date;

4.1.2 within twenty four (24) months of the Effective Date (or such other date as Yorkshire Forward may agree):

(a) submitting to Yorkshire Forward detailed proposals relating to the use and development of the Property, such proposals falling within one or more of the objectives referred to in Recitals (A) and (C); and

(b) obtaining Yorkshire Forward's prior written approval to such detailed proposals, such approval to be subject to:

(i) such revisions and amendments to the proposals; and/or

(ii) such variations to this Agreement or the entering into of any other agreement with Yorkshire Forward (which may include but is not limited to a single programme agreement),

as may be required by Yorkshire Forward in its absolute discretion;

4.1.3 complying with all the terms, conditions and obligations to be observed by it or otherwise complied with under this Agreement.

5 REGISTRATION OF TITLE TO THE PROPERTY

5.1 Upon completion of the Acquisition the Council shall or shall procure:

5.1.1 that it pays all SDLT payable in relation to the Acquisition and submits to the Inland Revenue a valid Land Transaction payment together with full payment of the SDLT payable within the requisite period for submission of such application; and

5.1.2 that it submits within the requisite priority period a valid registration application to the Land Registry with the appropriate fee together with an application for a restriction in a form required by or acceptable to the Land Registry on the registers of Title for the Property to the effect that no disposition, dealing with or charge of such title is to be registered without the prior written consent of Yorkshire Forward unless the Chief Land Registrar orders otherwise.

5.2 The Council shall respond diligently (and Yorkshire Forward will assist the Council) to any requisition raised by the Land Registry and use best endeavours to procure registration of the Property at the Land Registry with freehold or leasehold (as applicable) title absolute.

6 PROHIBITIONS ON DISPOSAL AND USE

6.1 Subject to Clauses 6.2 and 9 below, during the Term the Council shall:

6.1.1 not convey, transfer, assign, mortgage, charge or grant or create any lease tenancy or right of occupation or other option or agreement or otherwise dispose of or encumber the Property or permit to suffer the Property to be affected by any right, exception, reservation, covenant, condition, easement, restriction, stipulation, provision, agreement, declaration or other matter without the prior written consent of Yorkshire Forward in its absolute discretion and on terms acceptable to Yorkshire Forward in its absolute discretion;

6.1.2 comply with all restrictions, covenants, stipulations and other matters of any nature affecting the Property;

6.1.3 not change the use of the Property or implement any planning permission or carry out or permit or suffer to be carried out any mining, quarrying, tipping, demolition, building or civil engineering or other work or alterations in, under, on or to the Property or otherwise carry out or permit or suffer to be carried out any change in the nature and quality of the Property, without the prior written consent of Yorkshire Forward in its absolute discretion; and

6.1.4 not enter into any agreement with any third party in relation to any of the matters contained within this Clause 6, including for the avoidance of doubt any development agreement.

- 6.2 Yorkshire Forward hereby consents to the leaseback of the Property to Keighley College on the terms contained within the lease set out in Schedule 4, such consent for the avoidance of doubt being subject to the lease being validly excluded from the security of tenure provisions of Part II of the Landlord and Tenant Act 1954.

7 PROJECT MANAGEMENT

- 7.1 The Council shall:

- 7.1.1 not without the prior written consent of Yorkshire Forward make any material alteration to the terms of the Acquisition which shall include but is not limited to any alteration having an impact on the costs or the value of the Acquisition;
- 7.1.2 immediately notify Yorkshire Forward in writing of any circumstances that may result in a possible breach by the Council of any of its obligations under this Agreement, including without limitation any concerns relating to the management or progress of the Acquisition, the progress of the use and/or development proposals, funding of the Acquisition or the use and development proposals and probity issues;
- 7.1.3 regularly update Yorkshire Forward on the progress of the Acquisition and the detailed use and development proposals to be submitted in accordance with Clause 4.1.2 above;
- 7.1.4 meet with Yorkshire Forward at least quarterly to discuss progress pursuant to Clause 7.1.3 and any issues arising.

- 7.2 The Council and Yorkshire Forward recognise that the success of the Acquisition and the proposals relating to the long term use and development of the Property require co-operation between them and representatives of each party shall co-operate and discuss and deal with the Acquisition and the use and development proposals in good faith and shall use their respective reasonable endeavours to resolve any disagreement arising between them relating to this Agreement.

8 APPOINTMENTS

- 8.1 The Council may appoint suitably qualified legal, professional and financial consultants in relation to the Acquisition and obtain Yorkshire Forward's prior written consent to such appointments which in the case of an appointment of advisers listed on Yorkshire Forward's professional panels shall not be unreasonably withheld or delayed.

9 ONGOING MANAGEMENT RESPONSIBILITIES

- 9.1 For the avoidance of doubt it is hereby agreed that the Council and not Yorkshire Forward are to be the legal and beneficial owner of the Property and the Council shall therefore be fully responsible for all losses, liabilities, costs, expenses and demands arising from the Property and for complying with all obligations imposed by law in relation to the Property.
- 9.2 Without prejudice to Clause 9.1, the Council shall save to the extent provided for in the Payment Schedule, at its own cost from the Completion Date until the expiry or termination of this Agreement, continue to manage the Property in accordance with:
- 9.2.1 the Occupation Documents; and
 - 9.2.2 the principles of good estate management.
- 9.3 In managing the Property pursuant to Clause 9.2 above, the Council shall not without Yorkshire Forward's prior written consent:
- 9.3.1 surrender or forfeit or vary (or permit such) or agree to surrender or forfeit or vary any of the Occupation Documents (or to permit such);
 - 9.3.2 agree or permit the agreement of any revised rent under any outstanding rent review;
 - 9.3.3 take or permit the taking of any steps under the Landlord and Tenant Act 1954;
 - 9.3.4 give or permit the giving of any licence or consent;
 - 9.3.5 terminate any of the leases to Keighley College of the Property;
 - 9.3.6 exercise the option in favour of the Council contained in any of the leases to Keighley College of the Property;
 - 9.3.7 enforce the obligations of Keighley College under any of the leases to Keighley College of the Property.

- 9.4 Subject to Clause 9.5, the Council shall at the end of each Quarterly Period in which revenue receipts are received provide Yorkshire Forward with full details of all revenue receipts (including rental income) received or receivable by the Council in respect of the Property at any time during the preceding month and, subject to Clause 9.5, the Council shall make payment of this revenue directly into Yorkshire Forward's Bank Account monthly within ten (10) Working Days of the end of the month in which such revenue receipts are received by the Council (or at such other time or in respect of such other period as Yorkshire Forward may agree).
- 9.5 The Council shall at its own cost supply Yorkshire Forward with such information concerning the current management of the Property that Yorkshire Forward reasonably requests to demonstrate its compliance with this Clause 9 and shall without prejudice to the generality of the foregoing:
- 9.5.1 provide Yorkshire Forward with management and maintenance reports relating to the Property together with an estimate of projected expenditure and associated holding costs to be incurred in connection with the management and maintenance of the Property for the following twelve (12) months (or at such other time or in respect of such other period as Yorkshire Forward may agree);
- 9.5.2 within one (1) month of the Effective Date and annually thereafter on the 1 January provide Yorkshire Forward with an annual forecast of all revenue receipts projected to arise from and in connection with the Property for remainder of the financial year and the forthcoming financial year ("**the Annual Forecast**");
- 9.5.3 inform Yorkshire Forward of any material change to the Annual Forecast and provide Yorkshire Forward with full details of such change within ten (10) days of the Council becoming aware of such change;
- 9.5.4 meet with Yorkshire Forward at least quarterly (or at such other time as Yorkshire Forward may agree) to discuss management and maintenance of the Property, projected revenue and expenditure and any issues arising.

Signage

9.6 Subject to any express term to the contrary in the Occupation Documents, the Council shall not install or display on any part of the outside of the Property or to or through any window in the Property any placard, poster, notice, advertisement, name, sign or other writing without Yorkshire Forward's prior written consent, such consent not to be unreasonably withheld or delayed (which shall not be required for any signs required to be displayed at law).

9.7 Subject to any express term to the contrary in the Occupation Documents, the Council:

9.7.1 shall at the request of Yorkshire Forward display; and

9.7.2 hereby grants a licence to Yorkshire Forward to enter onto the Property at any reasonable time to erect and display,

any placard, poster, notice, advertisement, name or sign reasonably required by Yorkshire Forward at the Property in the location required by Yorkshire Forward.

Property Condition

9.8 The Council shall not, and shall ensure that any Council Related Parties shall not, by any act or omission damage or worsen the state of condition of the Property and any buildings, plant, machinery, chattels, fixtures and fittings on the Property.

Outgoings

9.9 The Council shall at its own cost, save to the extent provided for in the Payment Schedule or the Occupation Documents:

9.9.1 pay all rates, taxes, assessments, duties, charges, impositions and other outgoings of any type charged, assessed or imposed on or in respect of the Property or their owner or occupier at any time (including any of a capital or non-recurring nature); and

9.9.2 pay for all utilities used at or available to the Property including standing charges, and comply with their suppliers' regulations and requirements.

10 INSURANCE

10.1 The Council shall at its own cost, save to the extent provided for in the Payment Schedule or the Occupation Documents, take out and maintain in force or procure the taking out and maintenance in force of :

10.1.1 full and proper insurance policies in respect of all buildings at or on the Property for in every case the full reinstatement value from time to time; and

10.1.2 any insurances as may be required by legislation,

with a reputable insurer on terms approved by Yorkshire Forward, such approval not to be unreasonably withheld or delayed (provided that its cover requires to be effective in each case not later than the date on which it is required and from the date on which the relevant risk commences).

10.2 The Council shall:

10.2.1 upon request by Yorkshire Forward at any time produce to Yorkshire Forward a copy or copies of the policies of insurance referred to in this clause together with the receipt for or evidence of the payment of the last premium in respect of each such policy or other documentary evidence to the satisfaction of Yorkshire Forward that the policy or policies are properly maintained;

10.2.2 comply with all legislation including (without limitation) the Employer's Liability (Compulsory Insurance) Regulations 1998 with regard to the disclosure and/or display of the insurance policies;

10.2.3 at all times comply, and ensure that all Council Related Parties comply, with all requirements of the insurers of the Property;

10.2.4 not do anything and ensure that the Council Related Parties or anyone at the Property with the express or implied authority of any of them do not do anything which prejudices or invalidates any of the insurances or which may do so or which leads or may lead to any increased or additional premium payable for any of them; and

10.2.5 immediately notify Yorkshire Forward if the Property is destroyed or damaged, stating the cause if known;

- 10.3 Subject to any express term to the contrary in the Occupation Documents, if any buildings or structures on or at the Property are damaged by any of the risks insured against under the terms of the insurances policies referred to in this clause then the Council will at Yorkshire Forward's request use all reasonable endeavours to obtain all necessary planning permissions and Consents for the reinstatement of the same and subject to all necessary planning permissions and Consents being obtained will apply the insurance proceeds in reinstating and rebuilding the Property in substantially the same form as before the damage. Alternatively, if Yorkshire Forward does not request reinstatement, the insurance proceeds will be regarded as a revenue receipt and subject to the provisions of Clause 9.4 above.

11 PAYMENT OF GRANT

Payment of Grant

- 11.1 The Council shall not claim or use any part of the Grant other than in accordance with the terms of this Agreement.
- 11.2 Subject to the provisions of this Agreement, Yorkshire Forward shall make payments of the Grant into the Council's Bank Account within twenty (20) Working Days of receipt by Yorkshire Forward of the Approved Claim Form and all necessary documentation in accordance with the terms of this Agreement, provided that the total amount of all payments made by Yorkshire Forward under this Agreement shall not in any event exceed the Maximum Amount, as may be varied from time to time in accordance with this Agreement.
- 11.3 The Council shall promptly notify Yorkshire Forward in writing as soon as it becomes aware that it does not intend to claim the Maximum Amount.

Variation of Grant

- 11.4 Yorkshire Forward reserves the right to vary the Maximum Amount, if :
- 11.4.1 the Council is in receipt of any other Public Sector Financial Assistance or guarantees of it or the acceptance of an offer of it by the Council for the Acquisition;
- 11.4.2 the Actual Qualifying Expenditure is less than the Maximum Amount.

Withholding or Suspension of Grant

11.5 Unless Yorkshire Forward otherwise agrees, Yorkshire Forward shall not be liable to provide (or as the case may be, continue to provide) the Grant (or any instalment thereof):

11.5.1 unless the claim for the Grant (or any instalment thereof) by the Council:

- (a) has been submitted to Yorkshire Forward in the Approved Claim Form;
- (b) relates to Actual Qualifying Expenditure in relation to which the Council has not submitted any other claim;
- (c) includes to the satisfaction of Yorkshire Forward evidence that the expenditure to which the claim relates has been incurred in relation to the relevant activity heading in the Payment Schedule and that payment has been made by the Council;
- (d) is submitted within the relevant Claim Submission Period;

11.5.2 if an Event of Default has occurred and is continuing;

11.5.3 if any or all of the representations and warranties made in Clause 3 are not, or do not remain, true and correct in all material respects;

11.5.4 unless the Council has complied with Clause 4 to the extent applicable at the date the claim for the Grant is made;

11.5.5 it has at any time paid more than it is liable to pay under any provision of this Agreement.

Clawback of Grant

11.6 If Yorkshire Forward shall reasonably determine that:

11.6.1 any payment of the Grant (or any instalment thereof) has not been used or applied in accordance with this Agreement;

11.6.2 it has at any time paid more than it is liable to pay under any provision of this Agreement;

11.6.3 an Event of Default has occurred;

11.6.4 Yorkshire Forward has to repay funding from which the Grant was allocated;

11.6.5 Yorkshire Forward is required to do so as a result of a decision by the EU or as a result of any obligation arising under State Aid Laws; or

11.6.6 the Agreement is terminated in accordance with Clause 15;

it reserves the right to give notice in writing to the Council requiring the Council to immediately (or within such time specified in the notice) repay part or all of the funding provided under this Agreement together with interest at the Prescribed Rate from the due date specified in the notice given to the Council in accordance with this Clause 11.6 until the date of re-payment to Yorkshire Forward or require the Property to be transferred in accordance with the provisions of Clause 15.6 below.

12 VAT

12.1 The Grant does not represent consideration for a taxable supply to the Council and is therefore not subject to VAT. In the event that HM Customs and Excise rule that VAT is payable, then the amount of the Grant shall be deemed to be inclusive of VAT. The Council acknowledges that Yorkshire Forward shall not be obliged to make any further payment in addition to the Grant in respect of any VAT which may be payable on Grant-funded activities.

13 RECORDS

Financial Records

13.1 The Council shall retain full, proper and auditable records and documentary evidence of:

13.1.1 all capital and revenue expenditure relating to the Property to support any amounts claimed by the Council from Yorkshire Forward; and

13.1.2 all capital and revenue receipts relating to the Property to support the payment of such to Yorkshire Forward in accordance with Clause 9.4 above or otherwise in accordance with this Agreement.

- 13.2 At the end of each Financial Year a 'Statement of Grant Expenditure' and a 'Statement of Revenue Receipts' must be completed. The Statements shall be certified by the Chief Finance Officer for the Council. The Statements should also be certified by the Council's external auditor in accordance with the Audit Certification Instruction CI A1. The audited final accounts, certificate and auditor's report must reach Yorkshire Forward as soon as possible, and at the latest by the end of September of each year of funding. The first year's accounts can be for a maximum of fifteen (15) months. If the audited Statement of Grant Expenditure and Statement of Revenue Receipts are not received by the end of September date, the Grant may be suspended until receipt of the forms. Such accounts shall be retained for at least six (6) years after the end of the Financial Year in which the last Grant payment is made under this Agreement. Different sources and amounts of funding shall be identified and input and output VAT shall be included as separate items in such accounts.
- 13.3 The Council shall allow access to its business premises on five (5) days written notice during 9.00 a.m. – 5.00 p.m. to Yorkshire Forward's internal auditors or its other duly authorised staff or agents, Government Office, European Commission or the National Audit Office to inspect such documents as Yorkshire Forward considers necessary in connection with this Agreement. Yorkshire Forward shall be entitled to interview employees of the Council in order to obtain oral and/or written explanations of documents and the Council shall provide access to the relevant employees at such times as may be reasonably required to enable Yorkshire Forward to do so. Yorkshire Forward reserves the right to have such staff or agents carry out examinations into the probity, economy, efficiency and effectiveness with which the Council has used Yorkshire Forward's resources in the performance of this Agreement.

14 GENERAL INDEMNITY

- 14.1 The Council shall indemnify Yorkshire Forward in full from and against all costs, claims, damages, liabilities, expenses and proceedings including any costs, claims, damages, liabilities, expenses and proceedings arising under statute or at common law incurred by Yorkshire Forward in respect of the Property or the Council's ownership of the Property which for the avoidance of doubt and without prejudice to the generality of the foregoing shall include:
- 14.1.1 all damage caused to the Property, any neighbouring or adjoining property or goods or any personal injury to or death of any person which is caused directly or indirectly by the condition, occupation or use of the Property;

- 14.1.2 any tax or other fiscal liability arising out of the ownership of any work carried out at, any act done on or any change of use of the Property; and
- 14.1.3 any costs, claims, damages, liabilities, expenses and proceedings arising from or in connection with any breach or non performance of the terms of this Agreement or otherwise arising through the act or default of the Council to the extent that the same is not authorised by this Agreement.
- 14.2 Where Yorkshire Forward wishes to make a claim under any clause in this Agreement under which it is entitled to be indemnified by the Council, and where any such claim has not arisen due to the negligence of Yorkshire Forward, Yorkshire Forward shall give notice to the Council of the relevant claim as soon as reasonably practicable setting out full particulars of the claim.
- 14.3 The Council may at its own expense and with the reasonable assistance and co-operation of Yorkshire Forward have the conduct of the claim including its settlement and Yorkshire Forward shall not, unless the Council has failed to resolve the claim within a reasonable period, take any action to settle or prosecute the claim.
- 14.4 Yorkshire Forward shall at all times take all reasonable steps to minimise and mitigate any loss for which it is entitled to bring a claim against the Council pursuant to this Agreement.

15 TERMINATION

- 15.1 Without prejudice to any other rights to which it may be entitled Yorkshire Forward may give notice in writing to the Council terminating this Agreement if an Event of Default has occurred.
- 15.2 Such notice to terminate served under Clause 15.1 (a "**Termination Notice**") must:
 - 15.2.1 specify the type and nature of the breach that has occurred, giving reasonable details; and
 - 15.2.2 state that the Agreement will terminate on the day falling thirty (30) days after the date the defaulting party receives the Termination Notice unless the defaulting party remedies the breach in accordance with Clause 15.4;
- 15.3 For the purposes of Clause 15.1, Yorkshire Forward may serve a Termination Notice if the Council:

- 15.3.1 assigns or purports to assign its rights or obligations under this Agreement;
 - 15.3.2 fails to comply with any of its obligations under this Agreement in a material respect;
 - 15.3.3 fails to comply with the provisions of Clause 4 (Terms and Conditions of Funding), Clause 6 (Prohibitions on Disposal and Use) and/or Clause 9 (Ongoing Management Responsibilities); or
 - 15.3.4 fails to disclose any serious misrepresentation in supplying information required by Yorkshire Forward in or pursuant to this Agreement.
- 15.4 Where the breach giving rise to the service of a Termination Notice is capable of rectification and the Council:
- 15.4.1 remedies the breach within thirty (30) days after the date the Council receives the Termination Notice; or
 - 15.4.2 puts forward an acceptable rectification programme within thirty (30) days after the date the Council receives the Termination Notice (and implements such programme in accordance with its terms and rectifies the breach in accordance with the programme),
- the Termination Notice will be deemed to be revoked and this Agreement shall continue.
- 15.5 If this Agreement is terminated in accordance with this Clause 15 prior to the Acquisition by the Council, Yorkshire Forward may vary, suspend or withhold the Grant or require all or part of the Grant to be repaid pursuant to Clause 11.
- 15.6 If this Agreement is terminated in accordance with this Clause 15 following the Acquisition by the Council, the Council shall at Yorkshire Forward's request as an alternative to re-payment of the Grant pursuant to Clause 11.6:

- 15.6.1 sell and transfer the Property to Yorkshire Forward for the sum of £1 on terms which shall so far as appropriate be on the same terms as the Acquisition. If the parties cannot agree the terms of such sale within twenty (20) Working Days, the dispute shall be referred to a third party approved by the parties or where the parties cannot agree within five (5) Working Days, approved by the President of the Law Society on the application of either party. Such third party shall be a commercial property solicitor with at least ten (10) years' experience who shall determine the dispute within fifteen (15) Working Days of the referral; or
- 15.6.2 sell the Property on the open market at a value representing best value in accordance with section 123 of the Local Government Act 1972 and shall upon receipt of the proceeds of sale of the Property pay to Yorkshire Forward such proceeds of sale, having first deducted from the gross sale proceeds the agreed reasonable costs of sale; and
- 15.6.3 promptly enter into any agreement, deed or other documentation required to give effect to the sale and transfer of the Property pursuant to this Clause 15.6;
- 15.7 In the event that the transfer of the Property to Yorkshire Forward under Clause 15.6.1 gives rise to any SDLT liability, the Council shall be responsible for and shall indemnify Yorkshire Forward on demand in relation to such SDLT which becomes payable.
- 15.8 Termination of this Agreement however caused shall be without prejudice to any rights or liabilities accrued at the date of termination, but for the avoidance of doubt Yorkshire Forward shall not be obliged to make any further payments of Grant to the Council after such termination.
- 15.9 Nothing in this Clause 15 shall affect the coming into, or continuance in force of any provision of this Agreement that is expressly or by implication intended to come into force or continue in force upon termination of this Agreement.

16 EXPIRY

- 16.1 In the event of a Permitted Disposal, the Council shall pay to Yorkshire Forward the capital receipt received in relation to the Permitted Disposal on the terms and conditions that the parties shall agree pursuant to Clause 6.1 above.

17 FREEDOM OF INFORMATION ACT 2000

- 17.1 Each party acknowledges that the other is subject to the requirements of the FOIA and the Environmental Information Regulations and each party shall assist and cooperate with the other (at its own expense) to enable the other party to comply with its Information disclosure requirements.
- 17.2 Nothing in this Agreement shall prevent either party from disclosing any Information it holds whether relating to the Acquisition or this Agreement or otherwise which either party in its absolute discretion considers it is required to disclose in order to comply with FOIA and/or the Environmental Information Regulations and any other statutory requirements whether or not existing at the date of this Agreement. However, in the case of Information relating to the Acquisition or this Agreement the party receiving the Request for Information (the "Receiving Party") shall consult the other party (the "Consulting Party") as soon as practicable after receipt of the request before disclosing any Information.
- 17.3 The Consulting Party shall respond to the Receiving Party pursuant to Clause 17.2 as soon as reasonably practicable and in any event within five (5) Working Days by either:
- 17.3.1 consenting in writing to the disclosure; or
- 17.3.2 providing the Receiving Party with written representations as to why it believes the Information is covered by an exemption or exception under the FOIA and/or Environmental Information Regulations.
- 17.4 The Receiving Party shall take the Consulting Party's views into account when considering whether it has a duty to disclose the Information under the FOIA and/or Environmental Information Regulations and shall notify the Consulting Party of its decision prior to disclosure.
- 17.5 If a Receiving Party shall at any time notify the other (the "Notified Party") that it has received a Request for Information in respect of which the Receiving Party requires the assistance of the Notified Party then:
- 17.5.1 the Notified Party shall at its own cost provide and procure that any of its sub-contracts (if any) provide all necessary assistance required by the Receiving Party in order to allow that party to comply with the Request for Information within the period or periods when it is obliged to respond to the Request for Information;

17.5.2 without limitation to the foregoing the Notified Party shall at its own cost within five (5) Working Days of request supply and procure that any of its agents, servants, employees or sub-contractors (if any) supply to the party such Information and documents as it holds on behalf of the Requesting Party as requested by that party in such form as reasonably prescribed by that party; and

17.5.3 the Notified Party shall ensure that all Information produced by the Notified Party or any of its agents, servants, employees or sub-contractors in relation to this Acquisition or in the course of performing any of its obligations under this Agreement is retained for disclosure and shall permit the party to inspect such records as required from time to time.

17.6 In the event that a Receiving Party shall at any time receive any Request for Information relating to the Acquisition, this Agreement or any activities or business of the other Party which the Receiving Party does not hold then the Receiving Party shall transfer the Request for Information to the other party as soon as reasonably practicable and in any event within two (2) Working Days of receipt.

18 YORKSHIRE FORWARD PUBLICITY REQUIREMENTS

18.1 The Council shall comply with all the obligations and requirements set out in Schedule 3.

19 COMPLIANCE WITH LEGISLATION

19.1 In carrying out its obligations under this Agreement the Council shall and shall ensure that any Council Related Parties shall comply in all respects with all relevant legislation and in particular:

19.1.1 the Race Relations Act 1976 and the Race Relations Amendment Act 2000, the Sex Discrimination Act 1975, the Human Rights Act 2000, the Disability Discrimination Act 2000 and any subsequent amendments;

19.1.2 the Data Protection Act 1998 and any subsequent amendments;

19.1.3 all relevant requirements contained in or having effect under legislation relating to health, safety and welfare at work;

19.1.4 all Environmental Legislation.

19.2 The Council shall inform Yorkshire Forward of any environmental incident or infringement during the Term at the earliest opportunity and will take or procure the taking of all reasonable steps to minimise (and if required, remedy) the adverse environmental impacts of such an occurrence.

19.3 All procurement of works, equipment, goods and services in relation to the Acquisition, any demolition and site clearance works and ongoing management responsibilities relating to the Property shall be based on value for money and in accordance with all relevant law including EU Procurement Directives if applicable.

19.4 For all purchases in relation to the Acquisition, any demolition and site clearance works and/or the ongoing management responsibilities relating to the Property, the Council shall comply with the following requirements of this Clause 19.4 unless it has the prior written consent of Yorkshire Forward (which in the case of any procurement in accordance with the Council's contract procedure rules will not be unreasonably withheld or delayed):

19.4.1 all purchases by the Council with a contract value of over £10,000 shall be subject to competitive tendering in accordance with UK and EU public sector procurement rules including, where appropriate, through the Official Journal of the EU. At least three (3) (and wherever feasible a minimum of five (5)) written tenders should be obtained. In determining how this requirement should be met, the Council must take account of public sector accountability and probity, and shall document the decision making process;

19.4.2 the Council will not split purchases to fall below the thresholds set out in Clause 19.4.1 nor extend existing contracts so that the total value of the contract for its duration exceeds these thresholds.

19.4.3 for all purchases the Council shall select a supplier from the potential suppliers on the basis of:

- (a) overall value for money;
- (b) suitable skills and experience;
- (c) its equal opportunities obligations; and

in making the selection of the supplier use a fair and documented decision making process and take account of public sector accountability and probity.

- 19.5 Yorkshire Forward reserves the right after reasonable notice to the Council to vary from time to time the requirements relating to procurement processes in line with Yorkshire Forward's own procurement guidelines and procedures.

20 ASSIGNMENT AND SUB-CONTRACTING

- 20.1 The Council's rights and obligations pursuant to this Agreement are exclusive to the Council and are not assignable or transferable.
- 20.2 The Council shall not sub contract any of its obligations under this Agreement without the prior written consent of Yorkshire Forward and such consent (if given) may be made subject to any conditions which Yorkshire Forward considers necessary and Yorkshire Forward may withdraw its consent to any sub contractor where it has reasonable grounds to no longer approve of the sub contractor or the sub contracting arrangement and such grounds will be notified in writing to the Council.
- 20.3 Any use by the Council of any sub contractor approved by Yorkshire Forward shall not absolve or release the Council from its liabilities and obligations under this Agreement to comply with all the obligations contained herein.

21 SEVERABILITY

- 21.1 If any part of this Agreement becomes invalid, illegal or unenforceable the parties shall in such an event negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the invalid, illegal or unenforceable provision which as nearly as possible validly gives effect to their intentions as expressed in this Agreement. Failure to agree on such a provision within six (6) months of commencement of those negotiations shall result in automatic termination of this Agreement. The obligations of the parties under any invalid, illegal or unenforceable provision of this Agreement shall be suspended during such a negotiation.

22 AMENDMENTS

- 22.1 Save as expressly provided in this Agreement, no amendment or variation of this Agreement shall be effective unless in writing and signed by a duly authorised representative of each of the parties to it.

23 WAIVER

- 23.1 No delay or omission by either party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not bar the exercise or enforcement of it at any time or times thereafter.

24 NOTICES

- 24.1 Any notice or communication required or given by either party to the other party in connection with this Agreement shall be in writing and delivered by hand or by first class or registered post to the relevant address or addresses prescribed in this Clause 24 of the party to whom the notice is to be given (or such other address as the recipient may have notified to the sending party in writing) and any notice so sent shall be deemed, if delivered by hand, to have been served at the time of delivery and if posted by first class or registered post to have been served on the second business day following the date of posting.
- 24.2 All notices or communications to Yorkshire Forward shall (unless Yorkshire Forward shall give notice to the Council otherwise) be delivered to Yorkshire Forward at the address stated in the Particulars and marked for the attention of Yorkshire Forward's Representative.
- 24.3 All notices or communications to the Council shall (unless the Council shall give notice to Yorkshire Forward otherwise) be delivered to the Council at the address stated in the Particulars and marked for the attention of the Council Representative.

25 REPUTATION OF YORKSHIRE FORWARD

- 25.1 The Council shall not, and shall use all reasonable endeavours to ensure that any Council Related Parties shall not, knowingly do or omit to do, anything in relation to this Agreement or in the course of their other activities, that may bring the standing of Yorkshire Forward into disrepute or attract adverse publicity for Yorkshire Forward.

26 NO PARTNERSHIP OR AGENCY

- 26.1 This Agreement does not create a relationship of partnership or agency between the parties and the Council must not represent itself to others as an agent of Yorkshire Forward.

27 GOVERNING LAW AND JURISDICTION

27.1 This Agreement shall be governed by and construed in accordance with English law and each party hereby submits to the exclusive jurisdiction of the English courts.

28 ENTIRE AGREEMENT

28.1 This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, negotiations and discussions between the parties relating to it.

29 INTEREST ON LATE PAYMENTS

29.1 If the Council fails to pay to Yorkshire Forward any sums due under this Agreement within ten (10) Working Days of demand, interest shall accrue at the Base Interest Rate on the amount due to be paid from the due date until payment is made.

30 THIRD PARTY RIGHTS

30.1 Save as expressly provided in this Agreement, no term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party (being any person other than the parties and their permitted successors and assignees).

31 COUNTERPARTS

31.1 This Agreement may be executed in two counterparts, each of which when executed will be regarded as an original, but both of which together will constitute one agreement binding on both parties, notwithstanding that both parties are not signatories to the original or the same counterpart.

SCHEDULE 1 – DEFINITIONS

Actual Qualifying Expenditure	means those items of Qualifying Expenditure that the Council has actually incurred in accordance with the terms of this Agreement;
Acquisition	means the acquisition of the Property;
Approved Claim Form	means the standard claim form which the Council must submit to claim funding from Yorkshire Forward such document to be in the form from time to time specified by Yorkshire Forward;
Base Interest Rate	means the base rate of Barclays Bank Plc (or the base rate of such other bank as Yorkshire Forward may from time to time stipulate) or if such base rate shall not be readily available at any time or times such other rate as Yorkshire Forward shall determine;
Claim Submission Period	means the claim submission periods identified in the Payment Schedule for the relevant items of Qualifying Expenditure;
Completion Date	means the date the Council acquires the relevant interest in the Property;
Consents	means any approval, consent, exemption, licence, permission or registration by or from any governmental or other authority or any other person or authority in relation to the Acquisition or any part of it or otherwise required to enable the same to be lawfully carried out and maintained;
Council Related Parties	means any officer, agent, servant, employee, invitee, licensee, tenant or sub-contractor of the Council;
Environmental Information Regulations	means the Environmental Information Regulations

	2004;
Event of Default	means any of the events or circumstances described in Clause 15.3;
Financial Year	means Yorkshire Forward's financial year that runs from 1 April to 31 March or any other period which from time to time constitutes Yorkshire Forward's Financial Year;
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made thereunder from time to time together with any guidance and/or codes of practice issued pursuant to or in relation to such legislation;
Grant	means the amount to be provided by Yorkshire Forward to the Council in accordance with the Payment Schedule up to the Maximum Amount and subject to the terms of this Agreement;
Her Majesty's Government	means the duly elected Government for the time being during the reign of Her Majesty (and her successors) and/or any department, committee, office, agency, servant or officer of such Government;
Information	has the meaning given under section 84 of the FOIA and shall include all environmental information within the meaning given to it in Regulation 2 of the Environmental Information Regulations;
Occupation Documents	means any leases, licences or other occupational arrangements from time to time affecting the Property;
Particulars	means the Particulars pages at the front of this

	Agreement;
Payment Schedule	means the schedule for the payment of the Grant contained at Schedule 2 of this Agreement;
Permitted Disposal	means any disposal of the Property with Yorkshire Forward's prior written consent pursuant to Clause 6;
Prescribed Rate	means two percent (2%) above the Base Interest Rate
Public Sector Bodies	means all bodies, whether public, private or mixed, in respect to the tasks they undertake that are paid by public funds including (without limitation) the European Commission, any government department or authority, any non departmental body and any local and public authority
Public Sector Financial Assistance	means any funding, in cash or otherwise, that the Council receives from any Public Sector Bodies, other than Yorkshire Forward, in relation to the Acquisition;
Qualifying Expenditure	means the items of expenditure relating to the Property for which Yorkshire Forward agree to provide Grant funding as identified in the Payment Schedule;
Quarterly Period	means three-month periods, the first such period being 1 September 2006 to 30 November 2006 and continuing thereafter;
Regional Brand Logo	means the 'Yorkshire Alive with Opportunity!' logo as specified in Schedule 3;
Regional Economic Strategy	means the Regional Economic Strategy for Yorkshire and Humberside approved by Her

	Majesty's Government in January 2003 and as may from time to time be varied and/or replaced by Yorkshire Forward;
Requests for Information	shall have the meaning set out in FOIA and shall in addition include all requests for environmental information made in accordance with the Environmental Information Regulations and/or pursuant to any other statutory requirements;
SDLT	means Stamp Duty Land Tax
Secretary of State	means the Secretary of State for the Environment or other Minister or authority from time to time having or entitled to exercise the powers now conferred on the Secretary of State for the Environment by Sections 77 and 79 of the Act;
Statement of Grant Expenditure	means a full summary of expenditure incurred by the Council within the terms and conditions of this Agreement and funded by Yorkshire Forward through the payment of Grant in the preceding Financial Year;
Statement of Revenue Receipts	means a full summary of revenue receipts received by the Council in relation to the Property in the preceding Financial Year;
VAT	means value added tax payable by virtue of the Value Added Tax Act 1994 and any similar tax from time to time in addition to it, replacing it or performing a similar fiscal function;
Working Day	means a day on which clearing banks in the City of London are (or would be but for a strike, lock-out or other stoppage affecting a particular bank or banks generally) open during banking hours and "Working Days" shall be construed accordingly;

Yorkshire Forward Logo	means the 'Yorkshire Forward' logo as specified in Schedule 3;
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SCHEDULE 2 - GRANT PAYMENT SCHEDULE

Qualifying Expenditure	Grant £s	Claim Submission Period	Maximum Amount of Grant £'s
Purchase Price	Three Million Eight Hundred and Fifty Thousand (£3,850,000)	Within 14 days of completion	Three Million Eight Hundred and Fifty Thousand (£3,850,000)
Stamp Duty	One Hundred and Fifty Four Thousand (£154,000)	Within 14 days of completion	One Hundred and Fifty Four Thousand (£154,000)
Ongoing Management Costs agreed in writing by Yorkshire Forward to be funded by the Grant which are wholly and necessarily incurred by the Council in managing the Property in accordance with this Agreement.	One Hundred and Ten Thousand (£110,000)	Within 14 days of expenditure being incurred	One Hundred and Ten Thousand (£110,000)

SCHEDULE 3 -PUBLICITY REQUIREMENTS

A Guide for Councils delivering Yorkshire Forward funded Activities

Much of Yorkshire Forward's work is delivered by a wide variety of Councils on our behalf. Through these initiatives Yorkshire Forward is joining up projects and making the best use of the region's resources to bring about real economic growth.

Your responsibility

As a recipient of funds from Yorkshire Forward you are contractually required to adhere to the requirements as stated in this guide. Any breach of these guidelines may result in you having to pay back some of the funding.

The Yorkshire Forward Logo is the primary visual representation of Yorkshire Forward and it is vital that it is used and applied consistently and correctly in all applications. It is also important that Yorkshire Forward's involvement and support for your project is recognised through correct and prominent use of the mark and its prefixes.

Where the Yorkshire Forward Logo appears on a third party project or initiative it must always be prefixed with the descriptor: **'Supported by'** to clarify Yorkshire Forward's role. **It is not acceptable to use alternative descriptors.**

Master artwork, which includes this descriptor, which should always be used, is contained on the CD which has prior to the date of this Agreement been delivered by Yorkshire Forward to the Council, the receipt of which the Council acknowledges.

In addition, the Regional Brand Logo should be used on all material which supports Yorkshire Forward funded projects. The guidelines are explained on the CD which has prior to the date of this Agreement been supplied by Yorkshire Forward to the Council. The CD also explains how the Yorkshire Forward Logo and the Regional Brand Logo should be positioned and prioritised when they appear together.

Examples of how to apply both the Yorkshire Forward Logo and the Regional Brand Logo and descriptor are also shown on the CD which has prior to the date of this Agreement been supplied by Yorkshire Forward to the Council.

Yorkshire Forward Recognition: Press, PR, Events

Yorkshire Forward requires full recognition for its involvement in a project or initiative, whether this recognition appears in a press release, or as branding at an event.

Press and PR

All press releases related to projects funded or partly funded by Yorkshire Forward must be approved by Yorkshire Forward's press office. They must include:

- a paragraph describing Yorkshire Forward's involvement
- and a quote from a Yorkshire Forward spokesperson.

The press office must also be informed of any press briefings or interviews scheduled to promote projects. Press releases, which contain quotes by Yorkshire Forward, must be signed off by a Yorkshire Forward Press Officer prior to release. Contact our press office on 0113 394 9710.

Marketing and PR Portfolio

You will be expected to provide Yorkshire Forward's Communications Team with copies of all marketing and PR materials which are produced as part of the project. This information should also be made available during monitoring and evaluation exercises. Incorrect use of the Yorkshire Forward Logo branding or the Regional Brand Logo, may result in your material being withdrawn and/or reprinted at your cost.

Please contact the Communications Team on 0113 394 9904.

Events

Where an event is being organised that Yorkshire Forward has funded, or part funded, it is your responsibility to ensure that:

- the Yorkshire Forward Events team is notified in advance,
- the Yorkshire Forward Logo and Regional Brand Logo must appear on pre-event promotional material, on the day materials, and event holding slides,
- a relevant Yorkshire Forward spokesperson must be invited to speak,
- if there is not a Yorkshire Forward speaker present, then verbal acknowledgement of the Agency's support must be clearly referenced at the event,
- Councils should consult the Events Team to avoid clashes with other key regional events wherever possible.

Please contact the Events Team on 0113 394 9712.

Internet sites

Where Yorkshire Forward funded projects have specific websites or web content on existing websites they should carry the Yorkshire Forward Logo or descriptor on the home page and a link to the Yorkshire Forward website.

Logo application example

The Yorkshire Forward Logo should be applied in a position that ensures it is immediately visible on a 15 inch monitor, set at a resolution of 800 x 600 pixels. Web pages should use web enabled versions of the Yorkshire Forward Logo and Regional Brand Logo.

These should include links to the Yorkshire Forward websites. It is important for websites to observe minimum size.

A full guide describing how Yorkshire Forward should be recognised for all projects and activities it funds or sponsors is included on the CD which has prior to the date of this Agreement been supplied by Yorkshire Forward to the Council. This includes the Yorkshire Forward Logo and the Regional Brand Logo and gives guidance to Councils delivering these projects. The guidelines provide a broad outline of Yorkshire Forward's requirements with specific examples of how these should be implemented.

IN WITNESS WHEREOF this Agreement has been executed as a deed and is intended to be and is hereby delivered on the date first above written.

SIGNED BY)

Duly authorised for and on behalf of:)

YORKSHIRE FORWARD)

(YORKSHIRE & HUMBER)

REGIONAL DEVELOPMENT AGENCY))

Name:

Position:

Address: Yorkshire Forward
Victoria House
2 Victoria Place
Leeds
LS11 5AE

THE COMMON SEAL of)

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL was affixed to this Deed:)

In the presence of the duly authorised officer:)

Name:

Position:

Address: