



Dated

29th October 2018

WEST YORKSHIRE COMBINED AUTHORITY

LEEDS CITY COUNCIL

**GRANT AGREEMENT
development and delivery of
OLEV ULEV Taxi
Infrastructure Competition
Grant Award under Section
31 of the Local Government
Act 2003**

Contents

	Clause	Page
1	Definitions and interpretation.....	1
2	Purpose of grant.....	6
3	Payment of grant.....	6
4	Grant claims.....	7
5	Use of grant.....	8
6	Development, delivery and maintenance of the project.....	9
7	Accounts And Records.....	10
8	Monitoring and reporting.....	10
9	Acknowledgment and publicity.....	11
10	Intellectual Property Rights.....	11
11	Confidentiality.....	12
12	Freedom of information.....	12
13	Data Protection.....	13
14	Withholding, suspending and repayment of grant.....	13
15	Limitation of liability.....	14
16	Warranties.....	14
17	Insurance.....	15
18	Duration.....	15
19	Termination.....	16
20	Assignment.....	16
21	Waiver.....	16
22	Notices.....	16
23	Dispute resolution.....	16
24	No partnership or agency.....	17
25	Joint and several liability.....	17
26	Contracts (rights of third parties) act 1999.....	17
27	Governing law.....	17
Schedule 1		
	The Project.....	19
Schedule 2		
	Part 1 - Eligible Expenditure.....	20
	Part 2 - Instructions for Claiming Grant.....	21
Schedule 3		
	Maximum Available OLEV and LTP Funding.....	22

Parties

- (1) **West Yorkshire Combined Authority** whose principal address is at Wellington House, 40-50 Wellington Street, Leeds, LS1 2DE (**Funder**); and
- (2) **LEEDS CITY COUNCIL** whose principal address is at Civic Hall, Leeds, LS1 1UR (**Recipient**).

each a party and together the **parties**

Background

- (A) The Funder has entered into an agreement to receive the grant funding from the Secretary of State for Transport for the delivery of the ULEV Taxi Infrastructure Scheme Proposal as set out in the Grant Letter and any further funding provided by the Funder's Local Transport Plan. The Taxi Infrastructure Scheme Proposal sets out a provision for two-bay charging points at each of an indicative number of eighty eight (88) sites across the WYCA Region from the date of this Agreement up to 31st March 2020. Within each site there will be one bay for a taxi and one bay for public use.
- (B) The Funder is the delivery lead and the financial accountable body responsible for complying with the obligations set out in the Grant Letter and is accountable for any grant monies spent in accordance with this letter. The Recipient is in accordance with the terms and conditions of this Agreement to identify suitable sites and enter into a Call Off Agreement with the Supplier for delivery of the Project. The Supplier is responsible under the Framework Agreement with the Funder and the Call Off Agreement with the Recipient to deliver the chosen sites.
- (C) The Funder agrees to make the Grant available to the Recipient on condition it is used for undertaking an indicative and non-binding number of 30 Sites within the Recipient's area in accordance with this Agreement. This Agreement sets out the terms and conditions on which the Grant is made available by the Funder to the Recipient and is intended to ensure that the Grant is used for the purpose for which it is awarded.
- (D) The Funder and the Recipient enter into this Agreement in good faith.

It is agreed

1 Definitions and interpretation

1.1 In this Agreement the following terms shall have the following meanings:

Agreement means this agreement between the Funder and the Recipient

Audit Declaration means a signed declaration by the Recipient verifying the spend on the Project in the following terms:

"To the best of our knowledge and belief, and having carried out appropriate investigations and checks, in our opinion, in all significant respects, the expenditure incurred by Leeds City Council complies with the terms and conditions of the Grant Agreement dated [29/10/18] and attached to the ULEV Taxi Infrastructure Scheme Project Grant Determination No: 31/2970" to be signed as follows

- (a) for quarterly audit declarations – signed by the Recipient's Chief Finance Officer and

- (b) for annual audit declarations - signed by the Recipient's Chief Finance Officer and Chief Internal Auditor and
- (c) for final audit declarations - signed by the Recipient's Chief Executive and Chief Internal Auditor

Bribery Act means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation

Call Off Agreement means agreement between the Recipient and the Supplier for delivery of the Sites and for the provision of Services by the Supplier within the Recipient's area

Change in Law means a Change in Law where the change is of a general legislative nature, or which generally affects or relates to the supply of services which are the same as, or similar to, the Services

Commencement Date means the date of this Agreement

Compliant Site Data has the meaning given in the Call Off Agreement

Compliant Site Data Key Milestone means the Key Milestone relating to the provision of Compliant Site Data

Consents means any consent, authorisation, licence or approval (including any of the foregoing from a third party) to be provided by the Supplier in accordance with the Call Off Agreement

Contract Manager has the meaning given in the Call Off Agreement

Data Protection Legislation means any and all laws, statutes, enactments, secondary legislation, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data or corporate data and/or confidentiality and privacy applicable to the performance of this Agreement, including the GDPR, the LED and any applicable national implementing Relevant Laws, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI2003/2426), the Regulation of Investigatory Powers Act 2000 and the Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000 (SI 2000/2699) and any relevant national laws implementing Directives 95/46/EC and 2002/58/EC

Discontinued Site has the meaning given in the Call Off Agreement

DNO means a distribution network operator within the meaning of part 1 of the Electricity Act 1989 as amended by the Utilities Act 2000

Eligible Expenditure means costs properly and reasonably incurred by the Recipient in respect of the Project as defined in Schedule 2 Part 1 and which shall not exceed the amount of the Grant that the Recipient may spend on any item of expenditure as further described in the applicable Call Off Agreement

EVCP means an electric vehicle charging point as specified in the Statement of Requirements

Framework Agreement means agreement between the Funder and the Supplier dated 30 October 2018

Funder means West Yorkshire Combined Authority

Funder's Project Board means consisting of the Funder's Senior Representative Officer and Funder's Project Manager, Partner Council lead officers as nominated by the chief highways officers for the WYCA Region, Recipient's Project Manager, senior representative from the Supplier and specialists in procurement, air quality and taxi licensing as required to approve at certain stages throughout the Project as set out in the Site Call Off Process

Funder's Project Manager means the individual who has been nominated to represent the Funder for all purposes in connection with this Agreement and to be the Funder's primary contact for all matters connected with the Project and this Agreement

GDPR means the General Data Protection Legislation (Regulation (EU) 2016/679 of the European Parliament and of the European Council of 27 April 2016

Governing Body means the Executive Board of the Recipient including its directors or trustees

Grant means an indicative maximum sum of £902,532.00, payable subject to the maximum amounts as set out in Schedule 3 and made up of

- (a) £664,576.00 a proportion of the total funding of £1,955,00000, paid to the Recipient in accordance with Schedule 3 provided any conditions within the Grant Letter have been met and as based initially on an indicative direct proportion of the population of the Recipient's area within the WYCA Region and limited to no more than the Standard Funding Cap £22,500.00 per Site (**Grant Letter Funding**) and
- (b) an indicative total sum of £237,956.00 of Local Transport Plan (LTP) funding payable at any time from the Commencement Date to the end of the term of the Framework Agreement (**LTP Funding**)

Grant Letter means OLEV Grant Funding Letter dated 30th March 2017 including annexes and a local variation (to include a second bay at each site for use by the general public as set out by email exchange dated 8th November 2017) and to include any time extensions

Grant Period means the period for which the Grant is awarded starting on the Commencement Date and ending on

- (a) 31st March 2020 or such later date provided agreement can be reached on an extension with OLEV by the Funder for the Grant Letter Funding and
- (b) from the Commencement Date to the end of the term of the Framework Agreement for the LTP Funding

Intellectual Property Rights means all patents, know-how, registered trade-marks, registered designs, utility models, applications and rights to apply for any of the foregoing unregistered design rights, unregistered trade-marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights 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 Milestone means a key date or event relating to the performance of the Supplier's obligations under the Call Off Agreement Schedule 3

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

Maximum Available Funding Profile means maximum available funding profile set out in Schedule 3 as updated from time to time

Milestone Payment means the Grant Funding payable for a Site, which is split into Milestone Payment 1 and Milestone Payment 2 as defined in the Call Off Agreement

Milestone Payment Schedule means the schedule of payments to be made by the Recipient to the Supplier in accordance with Schedule 6 paragraph 3 of the Call Off Agreement

OLEV means the Department for Transport's Office for Low Emission Vehicles

Partner Councils all the Councils involved in the Project and receiving funding from the Funder consisting of Bradford Metropolitan District Council, Leeds City Council, Calderdale Council, Wakefield Council and Kirklees Council

Prohibited Act means

- (a) offering, giving or agreeing to give the Funder or third party any gift or consideration of any kind as an inducement or reward for
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Funder or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Funder or any third party
- (b) entering into this Agreement or any other contract with the Funder or any third party where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder
- (c) committing any offence
 - (i) under the Bribery Act
 - (ii) under legislation creating offences in respect of fraudulent acts or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Funder or
- (d) de-frauding or attempting to defraud or conspiring to defraud the Funder

Project means the delivery of the West Yorkshire Taxi Infrastructure Scheme to deliver a proportion of the 88 Sites set initially for this Recipient at 30 Sites over a three year period up to 31st March 2020 within the Recipient's area and as further described in the Framework Agreement

Quarterly Highlight Report means report showing a record of work completed to date on the Project, work which is yet to be completed, Key Milestones provided in the Call Off Agreement, potential risks or issues for each Site that may impact on delivery of the Project by the planned completion under each Site Agreement and the Call Off Agreement

Recipient means Leeds City Council

Recipient's Project Manager means the individual who has been nominated to represent the Recipient for all purposes in connection with this Agreement and to be the Recipient's primary contact for all matters connected with the Project and this Agreement

Relevant Law means

- (a) any statute, regulation, by law, ordinance or subordinate legislation which is in force for the time being to which a party is subject
- (b) the common law as applicable to the parties (or any one of them)
- (c) any binding court order, judgment or decree applicable to the parties (or any one of them) and
- (d) any applicable industry code, policy, guidance, standard or accreditation terms (i) enforceable by law which is in force for the time being, and/or (ii) stipulated by any regulatory authority to which the Partner Council is subject

in each case, for the time being

Services means the engineering or construction works and/or any activities provided by the Supplier in relation to the development and use of the Sites under the Call Off Agreement

Site(s) means sites where an EVCP is installed as defined in the Call Off Agreement

Site Agreement means an agreement between the Supplier and the Recipient or a third party in respect of a Site in a form to be agreed by the Recipient

Site Agreement Minimum Requirements has the meaning given in the Call Off Agreement

Site Call Off Process has the meaning given in the Call Off Agreement

Site Specific Funding Cap has the meaning given in Schedule 6 of the Call Off Agreement

Stage 2 Approval has the meaning given in the Call Off Agreement

Standard Funding Cap means for each Site no more than £22,500.00 of the Grant may be used

Statement of Requirements means the Funder's requirements for the Project as set out in Schedule 2 of the Framework Agreement

Supplier means the Supplier as defined in the Framework Agreement

ULEV means Ultra-Low Emissions Vehicle

WYCA Region means the region including the five West Yorkshire local authorities for Bradford, Calderdale, Kirklees, Leeds and Wakefield

- 1.2 Headings and sub-headings are for ease of reference only and are not to be taken into consideration in the interpretation or construction of this Agreement.
- 1.3 All references in this Agreement to clauses are references to clauses of this Agreement.
- 1.4 All references to any directive or statute or statutory provision or subordinate legislation include reference to any provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, legally binding codes of practice or other subordinate legislation made under the relevant directive or statute or statutory provisions or subordinate legislation whether before or after the date of this Agreement.
- 1.5 Words importing the singular include the plural and vice versa.
- 1.6 The Schedules and their Annexes form part of this Agreement and will have the same force and effect as if expressly set out in the body of this Agreement.
- 1.7 All monetary amounts are expressed in pounds sterling (£).
- 1.8 The words **includes** and **including** are to be construed as meaning **including without limitation**.
- 1.9 any reference in this Agreement to approval of the Funder shall mean to the formal approval of the Funder's Project Board or such other Committee or Officer of the Funder to which the authority to make decisions has been delegated.

2 Purpose of grant

- 2.1 The Recipient shall use the Grant only for the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 2.2 Where the Recipient intends to apply to a third party for other funding for the Project, it will notify the Funder in advance of its intention to do so and, where such funding is obtained, it will provide the Funder with details of the amount and purpose of that funding. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Funder is funding in full under this Agreement.

3 Payment of grant

- 3.1 Subject to Clause 13, the Funder shall pay the Grant to the Recipient in quarterly instalments in arrears subject to approval by the Funder of the claims made by the Recipient as set out in clause 4.3. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder has available funds and provided the Funder is satisfied that any payment by the Funder is for Eligible Expenditure on the delivery of the Project under the Call Off Agreement and as set out in the Grant Letter.
- 3.2 The obligation on the Funder to pay the Grant to the Recipient shall be conditional upon the Recipient first obtaining the appropriate approval of the Funder in accordance with the procedures set out in the Call Off Agreement and any overarching approval required under the Site Call Off Process.
- 3.3 There shall be an initial indicative number of thirty (30) Sites across the Recipient's area. The allocation of funding to the Recipient is indicative and non-binding and will be reviewed by the

Funder quarterly with any changes to the indicative allocation and/or reallocation between the Partner Councils (which will remain indicative and not binding) being notified to the Recipient.

- 3.4 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.5 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.
- 3.6 The Grant shall be paid into a separate bank account in the name of the Recipient which must be an ordinary business bank account. All cheques from the bank account must be signed by at least two individual representatives of the Recipient:

Leeds City Council:

Sort Code: 60 – 60 - 05

Account number: 08502560

VAT No. 171459162

Remittance e-mail:

treasury@leeds.gov.uk

exchequer@leeds.gov.uk

simon.clothier@leeds.gov.uk

- 3.7 The Grant is paid inclusive of value added tax (if any).

4 Grant claims

- 4.1 The Recipient must claim only eligible expenditure as defined at Part 1 of Schedule 2.
- 4.2 The Recipient must submit Grant claims (as appropriate) at quarterly intervals in line with Instructions for Submitting Grant Claims at Part 2 of Schedule 2 and Schedule 3. All relevant sections of the form must be completed, including the latest forecasts of the estimated cost and delivery timetable of the Project.
- 4.3 The Grant shall be claimed by the Recipient for the Project quarterly using information provided by the Supplier to the Recipient in accordance with the Milestone Payment Schedules under the Call Off Agreement. The Grant claims from the Recipient should set out only the Eligible Expenditure as provided by the Supplier. The Funder is not responsible for any potential shortfall in funding for Milestone Payments under the Call Off Agreement.
- 4.4 For the avoidance of doubt:
- (a) the amount of the Grant that the Recipient claims on any item of expenditure is listed in the Supplier's standard rates for equipment, services and works for the Project as provided in Schedule 7 of the Call Off Agreement and shall not exceed for each Site the Standard Funding Cap;

(b) the Recipient's quarterly Grant claims shall not (when aggregated with other claims in the relevant period) exceed the budget profile amounts for the period in which that quarter falls as set out within the Maximum Available Funding Profile in Schedule 3, without the prior written agreement of the Funder.

4.5 The Recipient shall not claim the Grant to:

- (a) make any payment to members of its Governing Body;
- (b) purchase buildings or land as part of the Project;
- (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date;
- (d) pay any Project costs in excess of the agreed budget as set out in the Maximum Available Funding Profile;
- (e) fund any changes to the scope of the Project; or
- (f) pay any maintenance liabilities, operating costs or other whole life costs of the Project and/or of any Site and/or of any EVCP,

unless this has been approved in writing by the Funder.

4.6 The Funder reserves the right to vary the Grant in any of the circumstances mentioned below:

- (a) It is not satisfied that proper progress in the Services under the Call Off Agreement between the Recipient and the Supplier or any part thereof is being maintained; or
- (b) A Site becomes a Discontinued Site for whatever reason; or
- (c) For any other reason as set out in this Agreement and/or the Framework Agreement and/or the Call Off Agreement

4.7 The Funder reserves the right to increase the Grant to the Recipient if it is satisfied with the delivery of the Project by the Recipient but not satisfied that the requisite number of Sites over the remainder of the WYCA Region will be completed by 31st March 2020.

5 Use of grant

5.1 To use the Grant only for the delivery of the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder. The Grant shall be used by the Recipient for the delivery of the Project in accordance with the agreed Maximum Available Funding Profile set out in Schedule 3. For the avoidance of doubt, the amount of the Grant that the Recipient may claim in any quarter shall not (when aggregated with other claims in the relevant period) exceed the individual maximum sum of money listed in Schedule 3 for the particular period in which that quarter falls without the prior written agreement of the Funder.

5.2 Where the Recipient has obtained funding from a third party in relation to the Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the budget as set out within the Maximum Available Funding Profile in Schedule 3 together with a clear description of the use for the funding.

- 5.3 Where any part of the Grant is exceptionally claimed in advance, by agreement with the Funder, the Recipient shall ensure that any unspent monies in respect of that expenditure item are returned to the Funder or, if agreed in writing by the Funder, retained by the Recipient against subsequent Grant claims.
- 5.4 The Recipient shall not spend any part of the Grant on the delivery of the Project after the Grant Period.
- 5.5 Should any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies are returned to the Funder.
- 5.6 Any liabilities arising at the end of the Project including any redundancy liabilities for staff employed by the Recipient to work on the Project must be managed and paid for by the Recipient using the Grant (if this item of expenditure has been included within the Grant) or other resources of the Recipient. There will be no additional funding available from the Funder for this purpose.

6 Development, delivery and maintenance of the project

- 6.1 The Recipient agrees to the following obligations:
- (a) To provide a Contract Manager to be the main point of contact to liaise with the Supplier in the delivery of the Project.
 - (b) To take all reasonable steps to ensure the relevant information and documents it holds on the Sites and/or that the parties consider necessary or relevant for the performance of the parties' obligations under the Call Off Agreement is passed to the Supplier as soon as reasonably possible.
 - (c) To reasonably assist the Supplier in the preparation of Site Agreements if on the Recipient's land and to include in each Site Agreement the Site Agreement Minimum Requirements as set out in the Call Off Agreement.
 - (d) Not to vary or make any significant change to the scope of the Project without the Funder's prior written approval.
 - (e) To act in good faith in carrying out of the Project and meeting its obligations to the Funder under this Agreement.
 - (f) Inform the Funder if after carrying out its own due diligence it believes there is reason to believe a site will become a Discontinued Site and/or there is a Discontinued Site in accordance with the processes set out on the Call Off Agreement. If a site becomes a Discontinued Site then the Recipient should recommend alternative locations to the Supplier within the area within a reasonable timescale to best meet the overall objectives of the Project.
 - (g) To pay any costs of the Project which are not payable from the Grant.
 - (h) To implement the Project in accordance with all Relevant Law, including (for the avoidance of doubt) compliance with any Change in Law.
 - (i) (Without limiting the generality of (h)) to ensure that the use of the Grant by the Recipient, the payment of any monies to the Supplier and the use by the Supplier of those monies, complies with applicable State aid law.

- (j) For a minimum of three (3) years after installation of the last EVCP as set out in the Statement of Requirements, not to modify the completed Project or take any part of it out of public use (other than for temporary interruptions) where such actions would have a material impact upon the benefits of the Project, without the prior written consent of the Funder but the Funder acknowledges that it cannot fetter the statutory duties of the Recipient as Highway Authority or Planning Authority.

7 Accounts And Records

- 7.1 The Grant shall be shown in the Recipient's accounts as capital grant spent or capital grant allocated.
- 7.2 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.
- 7.3 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least [six] years following receipt of any Grant monies to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 7.4 The Recipient shall provide the Funder with a copy of its annual accounts within six months (or such lesser period as the Funder may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 7.5 The Recipient shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

8 Monitoring and reporting

- 8.1 The Recipient shall closely monitor the development, delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to. This shall be maintained through the completion of Quarterly Highlight Reports by the Recipient's Project Manager along with regular meetings between the Funder and Recipient to report Project progress and any issues that may have arisen or may arise during the course of the Project.
- 8.2 The Quarterly Highlight Report and any further monitoring required through the Call Off Agreement is to be provided to the Funder's Project Manager in the format agreed between the parties for review by the Funder's Project Board.
- 8.3 The Recipient shall on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that any Funding claim is in accordance with the terms of this Agreement.
- 8.4 The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and to monitor the Project and shall, if so required, provide appropriate oral or written explanations from them.
- 8.5 The Recipient shall assist the Funder in providing (for each funding source) an end of Project report after the end of the relevant Grant Period to confirm whether the Project has been

successfully and properly completed including a lessons learnt log. Such assistance is to be completed no later than 30th September 2023.

- 8.6 The Recipient shall provide the Funder with a final monitoring report when making its final Grant claim in accordance with the grant claim provisions set out in Part 2 of Schedule 2 and which shall confirm whether the Project has been successfully and properly completed.

9 Acknowledgment and publicity

- 9.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant in the supporting notes.
- 9.2 The Recipient shall not publish any material referring to the Project or the Funder without the prior written agreement of the Funder (which shall not be unreasonably withheld). The Recipient shall acknowledge the support of the Funder in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by the Funder) shall include the Funder's name and logo (or any future name or logo adopted by the Funder) using the templates provided by the Funder from time to time.
- 9.3 In using the Funder's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by the Funder from time to time.
- 9.4 In using the Recipient's name and logo, the Funder shall comply with all reasonable branding guidelines issued by the Recipient from time to time.
- 9.5 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and / or organised by the Funder.
- 9.6 Either party may acknowledge the involvement of the other party in the Project as appropriate without prior notice.
- 9.7 The Recipient shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Funder in its promotional and fundraising activities relating to the Project.

10 Intellectual Property Rights

- 10.1 The Funder and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Funder or the Recipient before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.
- 10.2 Each party hereby grants, or shall procure the grant of, to the other a non-exclusive, non-transferable, royalty free, paid-up, worldwide, personal licence to use, copy, maintain and modify its Intellectual Property Rights during the Grant Period to the extent necessary and for the sole purpose of the proper performance of this Agreement (including the performance of the rights and obligations contained in clause 9).
- 10.3 Where the Funder has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of this Agreement, cease to use such Intellectual Property Rights

immediately and shall either return or destroy any document, information, data or other material that contains such Intellectual Property Rights as requested by the Funder.

11 Confidentiality

11.1 Subject to clause 12 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.

11.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:

- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
- (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
- (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

12 Freedom of information

12.1 It is acknowledged that both the Funder and Recipient are subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 (**EIRs**).

12.2 Both Recipient and Funder shall:

- (a) provide all necessary assistance and co-operation as reasonably requested by the other to enable the other to comply with its obligations under the FOIA and EIRs;
- (b) transfer to the other all requests for information relating to this Agreement that it receives as soon as practicable and in any event within 2 working days of receipt;
- (c) provide the other with a copy of all information belonging to the other requested in the request for information which is in its possession or control in the form that the other requires within 5 working days (or such other period as the other may reasonably specify) of the other's request for such information; and
- (d) not respond directly to a request for information unless authorised in writing to do so by the other.

12.3 It is acknowledged that either party may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the other. The receiving party shall take reasonable steps to notify the other of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public

Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the receiving party shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

13 Data Protection

Both parties shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with any notification requirements under the Data Protection Legislation and both Parties will duly observe all their obligations under the Data Protection Legislation, which arise in connection with the Agreement.

14 Withholding, suspending and repayment of grant

14.1 The Funder's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant in the following circumstances:

- (a) The Recipient is entitled under the Call Off Agreement to claw back funding from the Supplier;
- (b) The Recipient fails to obtain approval of the Funder where required in accordance with any process set out in the Call Off Agreement;
- (c) The Milestone Payments for the Project are lower than the budget as set out within the Maximum Available Funding Profile resulting in either a saving or a re-allocation of the Grant between the Partner Councils;
- (d) If at any time the Recipient has breached any of the terms, conditions or obligations set out in this Agreement including the conditions imposed on the provision of the funding by OLEV in accordance with the Grant Letter;
- (e) the Recipient varies the scope of the Project without the consent of the Funder;
- (f) The Funder is not satisfied that the Services or any part thereof have been carried out in accordance with the Call Off Agreement or in accordance with the Consents or otherwise in compliance with all relevant legislation;
- (g) The Funder is not satisfied that the Supplier under the Call Off Agreement is providing the Services in a manner which achieves the Statement of Requirements;
- (h) The Recipient informs the Funder that the funding has been claimed by the Supplier in respect of ineligible costs;
- (i) If in the case of land owned by a third party, the EVCP has been moved to an unsuitable location;
- (j) if a site becomes a Discontinued Site and/or this has a material effect on a Site Call Off Process for the Project;
- (k) the Recipient fails to complete the Site Call Off Process under the Call Off Agreement and misses Site Key Milestones which are not recoverable within thirty (30) days and/or a further timeframe considered reasonable by the Funder;

- (l) the Recipient obtains duplicate funding from a third party for the Project;
- (m) the Recipient provides the Funder with any materially misleading or inaccurate information and / or fails to ensure the provision of reporting information required from the Supplier in accordance with the Framework Agreement;
- (n) any member of the governing body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (o) any use by the Recipient of the Grant or part thereof is held to be a breach of any relevant legislation.

14.2 The Funder may retain or set off any sums owed to it by the Recipient which have fallen due and payable against any sums due to the Recipient under this Agreement or any other agreement pursuant to which the Recipient provides goods or services to the Funder.

14.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

14.4 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective development and delivery of the Project or compliance with this Agreement it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.

15 Limitation of liability

15.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant (save for the obligation on the Funder to pay the Grant in accordance with this Agreement),.

15.2 The Recipient shall indemnify and hold harmless the Funder, its employees, agents, officers or sub-contractors 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 Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under this Agreement or its obligations to third parties until 31st March 2023.

16 Warranties

16.1 The Recipient warrants, undertakes and agrees that:

- (a) it has the necessary resources to assist the Supplier in developing and delivering the Project (assuming due receipt of the Grant);
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with state aid and procurement rules and legislation;

- (e) it shall ensure that all design, construction and safety standards are adhered to;
- (f) for the purposes of the Construction (Design and Management) Regulations 2015, the Funder is not the CDM Client for any Services associated with Call Off Agreement. The Recipient is the CDM Client for duration of the Call Off Agreement;
- (g) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (h) it will obtain or arrange or assist the Supplier in obtaining of all statutory consents, licences, rights and approvals required for the Project including any required from a third party as set out in the Call Off Agreement;
- (i) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (j) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (k) all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (l) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant; and
- (m) it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this Agreement.

17 Insurance

- 17.1 The Recipient shall effect and maintain or shall procure that any external advisors and/or the Supplier and/or contractors appointed to develop or deliver of the Project on behalf of the Recipient effects and maintains with a reputable insurance company a policy or policies sufficient to cover all liabilities which may be incurred by the Recipient or its advisors or contractors (including but not limited to public liability insurance, employer's liability insurance, professional indemnity insurance as set out in the Call Off Agreement).
- 17.2 The Recipient shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

18 Duration

- 18.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until 30th September 2023 or, where agreed by the Funder, for so long as any Grant monies remain unspent by the Recipient.
- 18.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

19 Termination

This Agreement may be terminated at any time by the Funder forthwith by written notice from the Funder to the Recipient.

20 Assignment

The Recipient may not, without the prior written consent of the Funder, novate, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant.

21 Waiver

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.

22 Notices

All notices in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

23 Dispute resolution

- 23.1 The Funder and the Recipient shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to this Agreement before resorting to litigation (**Dispute**).
- 23.2 If the Dispute is not settled through discussion between the Recipient's Project Manager and the Funder's Project Manager within a period of seven Working Days of the date on which the Dispute arose, the parties may refer the Dispute in writing to a director or chief executive (or equivalent) (**Senior Personnel**) of each of the parties for resolution.
- 23.3 If the Dispute is not resolved within 14 Working Days of referral to the Senior Personnel, either party may propose by notice to the other party (**Notice**) that a structured mediation or negotiation be entered into with the assistance of a mediator.
- 23.4 If the parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Working Days of the service of the Notice, either party may apply to the Centre for Effective Dispute Resolution (**CEDR**) to appoint a mediator. The costs of that mediator shall be divided equally between the parties or as the parties may otherwise agree in writing.
- 23.5 Where a Dispute is referred to mediation under clause 23.3, the parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 23.6 If the parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the parties' authorised representatives, shall be final and binding on the parties.

23.7 If either party refuses at any time to participate in the mediation procedure and in any event if the parties fail to reach agreement on the Dispute within 40 Working Days of the service of the Notice either party may commence proceedings in the relevant court.

23.8 For the avoidance of doubt, the existence of the Dispute shall not entitle the Recipient or the Funder to suspend the Project and the Recipient and the Funder shall continue to meet their respective obligations under this Agreement without delay or disruption while the Dispute is being resolved pursuant to this Clause 23.

24 No partnership or agency

This Agreement shall not create any partnership or joint venture between the Funder and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

25 Joint and several liability

Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this Agreement.

26 Contracts (rights of third parties) act 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

27 Governing law

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

27.1 Statutory Functions

The Funder and the Recipient agree that nothing contained or implied in this Agreement shall prejudice or affect the Recipient's rights powers duties and obligations in the exercise of its functions as a local authority and the rights powers and duties and obligations of the Recipient under all statutes, statutory instruments, directives, byelaws, orders and regulations may be as fully and effectively exercised in relation to the Sites as if this Agreement had never been executed and entered into by the Recipient

Executed as a deed by the parties or their duly authorised representatives on the date of this Agreement.

Executed as a DEED by the affixing of the COMMON SEAL of **WEST YORKSHIRE COMBINED AUTHORITY** which was authenticated by:

.....
Authorised Signatory

THE COMMON SEAL of **LEEDS CITY COUNCIL** was hereunto affixed in the presence of:

.....
Authorised Signatory

Schedule 1

The Project

The Project is for the delivery of the West Yorkshire Taxi Infrastructure Scheme to deliver a proportion of the 88 Sites set initially for this Recipient at 30 Sites over a three year period up to 31st March 2020 within the Recipient's area and as further described in the Framework Agreement.

Schedule 2

Part 1 - Eligible Expenditure

- 1 Only the Recipient's capital receipt may be claimed for in accordance with regulations made under section 11 of the Local Government Act 2003 (defined as a Capital Cost). Full supporting evidence for all capital costs on an open book basis is required. All Grant conditions in accordance with the Grant Letter shall be followed by the Recipient.
- 2 The Recipient may claim for expenditure if eligible and which has been lawfully incurred by it on the Project.
- 3 The Recipient may claim in respect of work done but only if work has been invoiced and paid for.
- 4 Exceptionally, where agreed in advance by the Funder, the Recipient may also claim for payments that have been made in advance of work being done where that is justified commercially, for example where more favourable rates are obtained for advance payment for work undertaken by statutory undertakers, or for down-payments on large orders for manufacture of equipment of vehicles.
- 5 The Recipient may only claim costs which are directly attributable to bringing the tangible fixed assets (within the scope of the Project) into working condition. This must be in accordance with the conditions set out above. In particular:
 - (a) the costs which are directly attributable to bringing the relevant asset into use, and therefore properly charged to capital; and
 - (b) claims should not be made for directly attributable costs when substantially all the activities that are necessary to get the tangible fixed asset ready for use are complete, even if the asset has not yet been brought into use.
- 6 In all circumstances it is the responsibility of the Recipient with its advisors to come to decisions on whether it is appropriate to charge costs to revenue or capital.
- 7 Grant claims shall not include reclaimable VAT.

Part 2 - Instructions for Claiming Grant

- 8 Unless otherwise agreed by the Funder, Claims should be made on a "Quarterly Monitoring Report and Grant Claim Form" in such form as may be notified by the Funder to the Recipient from time to time. No more than the Standard Funding Cap of the Grant set at £22,500.00 may be claimed by the Recipient per Site.
- 9 All claims must include an Audit Declaration as set out in the agreed terms for quarterly, annual and final audit declarations by the Recipient to sign and return.
- 10 For the final claim for the Grant for the Project the Recipient is required to submit an Audit Declaration within six months of the physical completion of the Project as set out in the Grant Letter. The final payment of Grant will only be met on receipt by the Funder of the Recipient's Audit Declaration for forwarding on to the section 31 Grant Claims Manager (ULEV Taxi Infrastructure Scheme) in the Department of Transport (OLEV).

Schedule 3

Maximum Available OLEV and LTP Funding

Table 1

Maximum Threshold of Funding Available for Recipient Claims					
Partner Council	Max OLEV: from Commencement Date to 31/03/19	Max OLEV: from 01/04/19 to 31/03/20	Max LTP	Total	Sites
Bradford	£224,197	£454,202	£162,630	£616,831	20
Calderdale	£88,025	£178,330	£63,852	£242,182	8
Kirklees	£183,396	£371,543	£133,033	£504,576	17
Leeds	£328,039	£664,576	£237,956	£902,532	30
Wakefield	£141,344	£286,350	£102,529	£388,879	13
TOTAL	£965,000	£1,955,000	£700,000	£2,655,000	88

Table 2

Quarter	Submission Deadline – second Friday of:
1	July
2	October
3	January
4	April

Notes

- 1 The Recipient shall submit all claims on the second Friday following the final month of each quarter as set out in Table 2 of this Schedule 3.
- 2 The available LTP funding can be claimed in any quarters until the end of the Grant Period.
- 3 The Grant Letter states that "*The Secretary of State will not meet any grant claims that would result in the agreed annual grant allocation being exceeded*".