

TORBAY COUNCIL

Agreement for the Torbay Adult Social Care Voluntary, Community and Social Enterprise (VCSE) Alliance

Agreement Number

TAS5121

This Agreement is made on

[Insert the date when signed by all parties]

between

The Commissioner (1)

Torbay Council of Town Hall, Torquay, Devon, TQ1 3DR

And

The VCSE Partner(s)

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner(s) Lot A] (A1, A2, A3)**

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner(s) Lot B] (B1, B2, B3)**

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner(s) Lot C] (C1, C2, C3)**

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner(s) Lot D] (D1, D2, D3)**

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner Lot E] (E)**

**[Insert name, registered office address and, where applicable, the
company number of VCSE Partner Lot F] (F)**

Commencement Date

[Insert the date on which the Agreement shall commence]

Termination Date (Initial Term)

[Insert the date on which the Agreement shall end]

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below (**Schedules**). The Commissioner and the VCSE Partners undertake to comply with the provisions of the Schedules in the performance of this Agreement and any resultant Service Contracts.

The VCSE Partners shall supply to the Commissioner, and the Commissioner shall receive and pay for, the Services on the terms of this Agreement and any resultant Service Contracts.

The Definitions in Schedule 2 apply to the use of all capitalised terms in this Agreement.

Schedules

Schedule 1	KEY PROVISIONS
Schedule 2	DEFINITIONS AND INTERPRETATION
Schedule 3	SCOPE OF THE ALLIANCE
Schedule 4	AWARDED LOTS AND VCSE PARTNERS' TENDER RESPONSE DOCUMENTS
Schedule 5	FINANCIAL FRAMEWORK
Schedule 6	GOVERNANCE ROLES
Schedule 7	AWARD PROCESS
Schedule 8	CHANGE CONTROL PROCEDURE
Schedule 9	RECTIFICATION NOTICE

IN WITNESS OF WHICH We have signed this Agreement on the date written at the head of this Agreement.

Executed as a deed by affixing the common seal of **Torbay Council** in the presence of:

.....

Name

Position

COMMON SEAL

Signed by the Authorised Representatives of THE VCSE PARTNERS, as named on the Front Sheet to this Agreement

PARTNER A1			
Name:		Signature	
Position:		Date	
PARTNER A2			
Name:		Signature	
Position:		Date	
PARTNER A3			
Name:		Signature	
Position:		Date	

PARTNER B1			
Name:		Signature	
Position:		Date	
PARTNER B2			
Name:		Signature	
Position:		Date	
PARTNER B3			
Name:		Signature	
Position:		Date	
PARTNER C1			
Name:		Signature	
Position:		Date	
PARTNER C2			
Name:		Signature	
Position:		Date	

PARTNER C3			
Name:		Signature	
Position:		Date	
PARTNER D1			
Name:		Signature	
Position:		Date	
PARTNER D2			
Name:		Signature	
Position:		Date	
PARTNER D3			
Name:		Signature	
Position:		Date	
PARTNER E			
Name:		Signature	
Position:		Date	

PARTNER F			
Name:		Signature	
Position:		Date	

Schedule 1 KEY PROVISIONS

BACKGROUND

- (A) Torbay Council has approved transformation funding from the Adult Social Care precept 2021-22 and the formation of an Alliance to support the delivery of projects utilising this funding. This forms part of the objectives of the Adult Social Care (ASC) Vision and Improvement Plan.
- (B) The Commissioner published a contract notice on Contracts Finder and www.supplyinghtesouthwest.org.uk seeking participation in a voluntary sector Alliance with the intention of developing an asset based community services model in Torbay that will be co-designed between the Alliance and the local Voluntary, Community and Social Enterprise (VCSE) sector.
- (C) Adult Social Care precept 2021-22
Torbay Council Cabinet have approved transformation funding and the use of an alliance approach to support the co-production and assessment of community development projects. This forms part of the objectives of the Adult Social Care (ASC) Vision and Improvement Plan. The procurement of an Alliance will support this approach to enabling material sums of funding to deliver greater system innovation and change.
- (D) Future non recurrent monies
It is also the intention of Torbay Council to use this Alliance as a procurement vehicle to seek and assess proposals from the sector in Torbay for any future monies that are allocated to be invested in the local VCSE sector. This may include the Community Mental Health Framework contract with the sector, future years ASC precept monies and other non-recurrent monies or hypothecated funding that may become available and could appropriately be invested in the local community.
- (E) The Commissioner has, through a competitive process, selected the VCSE Partners named on the Front Sheet to form an Alliance with the Commissioner with the intention of the Alliance Partners contributing to the development of an asset-based community services model in Torbay that will be co-designed between Torbay Council and the VCSE sector and the VCSE Partners are willing and able to form an Alliance in accordance with the terms and conditions of this Agreement.
- (F) The Commissioner is responsible for a broad range of statutory and non-statutory interventions for people resident within the Torbay Unitary Authority boundary.
- (G) The Alliance will drive forward change and respond effectively to the needs of the community of Torbay using asset-based principles.
- (H) Using an Alliance model, the focus will be on creating systemic change: changes to culture, funding structures, commissioning and policy which support a new way of working. Together there will be a contractual environment where suppliers share responsibility for achieving outcomes and are mutually supportive, making decisions based on the best outcome for the service user.
- (I) The documents that form part of this Agreement are:
- (i) The completed tender documents including the Specification, VCSE Partner Tender Responses and any other supporting documentation; and
 - (ii) The Front Sheet and its associated Schedules.

STANDARD KEY PROVISIONS

1. Application of the Key Provisions

- 1.1 The standard Key Provisions at clauses 1 to 8 of these Key Provisions shall apply to this Agreement.

2. Definitions and Interpretation

2.1 The provisions of this Agreement are to be interpreted in accordance with Schedule 2 (Definitions and Interpretation).

3. Structure of this Agreement

3.1 The terms of this Agreement are set out in the following sections:

- (a) **SECTION A:** sets out the vision, purpose, objectives and principles of the Alliance.
- (b) **SECTION B:** sets out each of Our roles in the Alliance, and the governance of the Alliance.
- (c) **SECTION C:** sets out how We manage Our performance, financial risk and benefit sharing mechanisms.
- (d) **SECTION D:** sets out the remaining contractual terms.

4. Term

4.1 This Agreement will come into force on the Commencement Date and, subject to clauses 4.2, 4.3 and 4.4 and the provisions for earlier termination set out in this Agreement, will expire on **[insert date]** ("**Initial Period**").

4.2 The Commissioner may, with the consent of the VCSE Partners, not less than **six (6) months** prior to the expiry of the Initial Period serve notice to extend this Agreement for period of **three (3)** years from the expiry of the Initial Period.

4.3 Each of us acknowledge that any extension, including the duration of the extension and the level of any associated funding, is subject to approval through the Commissioner's formal governance processes.

4.4 Any extensions beyond the Initial Period will be on the same terms and conditions as this Agreement, including any variations which result in a permanent change to this Agreement .

5. Authorised Representatives

5.1 At the commencement of this Contract:

- (a) The Commissioner Authorised Representative is:

Steve Honeywill, Head of Partnership and People, Torbay Council

- (b) The VCSE Partner Authorised Representatives are:

Partner A [insert name and role of the Authorised Representative].

Partner B [insert name and role of the Authorised Representative].

Partner C [insert name and role of the Authorised Representative].

Partner D [insert name and role of the Authorised Representative].

Partner E [insert name and role of the Authorised Representative].

Partner F [insert name and role of the Authorised Representative].

- (c) The Alliance Leadership Team Authorised representative is:

[insert name and role of the Alliance Leadership Team Authorised Representative – this is expected to be the ALT Chair].

6. Names and Addresses for Notices

6.1 Notices served under this Contract are to be delivered to:

(a) For the Commissioner:

**Steve Honeywill, Head of Partnership and People Torbay Council, Town Hall,
Castle Circus, Torquay, TQ1 3DR**

Steve.Honeywill@torbay.gov.uk

(b) For the VCSE Partners:

**Partner A [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

**Partner B [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

**Partner C [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

**Partner D [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

**Partner E [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

**Partner F [complete name and/or role (this is normally going to be the
Authorised Representative identified at 5.1(b) above and postal address that
they shall be contacted at – please note the address may be different to the
registered office address of the Supplier above].**

[insert e-mail address of the person identified above]

(c) For the Alliance Leadership Team:

**[complete name and/or role (this is normally going to be the Authorised
Representative identified at 5.1(c) above and postal address that they shall be**

contacted at – please note the address may be different to the registered office address of the Supplier above].

[insert e-mail address of the person *identified* above]

7. Order of Precedence

7.1 Unless otherwise specifically provided to the contrary in this Agreement, in the event of, and only to the extent of, a conflict or inconsistency between any provision of this Agreement, the Schedules, any appendices, any other document referred to in this Agreement or Schedules or any resolution of the Alliance Leadership Team the order of precedence below will apply:

- (a) the provisions of the front sheet of this Agreement;
- (b) 0 Key Provisions;
- (c) Schedule 3 Scope of Services, including Specifications in respect of any resultant Service Contracts;
- (d) Schedule 5 Financial Framework;
- (e) Schedule 4 Alliance Partners' Tender Response Documents;
- (f) Schedule 2 Definitions and Interpretation;
- (g) Schedule 8 Change Control Procedure;
- (h) **Error! Reference source not found.** Award Process;
- (i) Schedule 6 Governance Roles; and
- (j) any resolution of the Alliance Leadership Team.

8. Pre-Completion

8.1 Each of Us acknowledges that as at the Commencement Date of this Agreement we have obtained all necessary consents and authorisations to enter into this Agreement.

SECTION A ALLIANCE VISION, PURPOSE, OBJECTIVES, PRINCIPLES AND COMMITMENTS

A1. The Commissioner is forming this Alliance in order to deliver the Vision and Purpose set out in clauses A2 and A3.

A2. Alliance Vision

A2.1 The vision for the Alliance is to enable people to live better lives in terms of social connection, independence and outcomes through enhancing our Asset Based Model and delivering innovation.

A3. Alliance Purpose

A3.1 The VCSE Alliance has been developed the Commissioner’s Adult Social Care Commissioning Team. The purpose of the Alliance model is to enable the Voluntary, community and social enterprise sector to work together in partnership and co-production with the Commissioner in making recommendations on how to deploy ASC precept monies to meet local need and develop innovative solutions.

A3.2 The purpose of the VCSE Alliance is to:

- (a) Support the development of new voluntary and community schemes in Torbay that assist prevention and wellbeing;
- (b) Evaluate project proposals against an agreed set of criteria and making recommendations to the Commissioner on projects to be funded through the ASC precept;
- (c) Enhance collaboration between Alliance Partners and so that the Voluntary Sector Network reach consensual decision wherever possible on which schemes or concepts to support financially;
- (d) Support the objectives of the Torbay Adult Social Care Plan in taking forward an Asset Based Approach in schemes supported by the Alliance;
- (e) Bring forward new proposals or concepts for development for local people whose support and links to the community could be enhanced and their lives improved.

together the "**Alliance Purpose**"

A4. Alliance Objectives

A4.1 The Alliance may choose to set objectives for the Alliance and/or the project proposals it recommends. Those Objectives once agreed shall sit within this clause A4,

Together the "**Alliance Objectives**".

A5. Alliance Principles

A5.1 All of Us commit to working to the Alliance Principles which are:

- (a) Transparency in all dealings.
- (b) A flexible, responsive and consistent approach.
- (c) A united partnership approach embedded in shared values and behaviours;
- (d) Shared risk and responsibility across the Alliance.
- (e) Respect for all knowledge, views and expertise.
- (f) Ability to challenge each other in a constructive manner focused on finding solutions.
- (g) Utilising an evidence-based approach (including the development of evidence base).

- (h) To adopt a culture of 'no fault, no blame' between the Alliance Partners and to seek to avoid all disputes and litigation (except in very limited cases of wilful default).
- (i) A commitment to working on organisational culture to shift towards positive regard for service recipients, strength-based conversations and a reflective environment for staff.

Together the "**Alliance Principles**".

A6. Alliance Values and Behaviours

A6.1 In performing Our obligations under this Agreement, We will adopt the following values and behaviours. These will guide Our conduct in delivering the Services, in Our interactions and in making Our decisions.

- (a) **People First** - We will put people before processes; working with each person to find the right solutions.
- (b) **Trust** – We will be open and honest in our relationships with each other and our networks.
- (c) **Learning** – We will learn with honesty and shared accountability; applying our learning to challenge, adapt and improve;
- (d) **Ambition** – We will be ambitious with people; always looking for opportunities that give people real options and choices to achieve the things they want;
- (e) **Perseverance** – We will continue to work with people to find a way, no matter how big the challenge or how small the resources;
- (f) **Co-operation** – We will work closely together towards shared outcomes and goals;
- (g) **Respect** – We will work with due regard for the feelings, wishes and rights of others;
- (h) **Inclusive** – we will work to not exclude any parties; we will aim to provide equality of access to opportunities and resources for people who might otherwise be excluded or marginalised.

Together the "**Alliance Values and Behaviours**".

A7. Our Obligations

A7.1 In performing work under this Agreement We will:

- (a) exercise due skill, care and diligence in the performance of Our work under this Agreement so that the community offers we provide are safe, high quality, efficient and designed to achieve the Alliance Purpose and Alliance Objectives;
- (b) deliver the Services and Activities and support in accordance with the Service Standards and Requirements;
- (c) identify and record risks that may arise in the conduct of the Alliance or the delivery of the Alliance Purpose, identify any appropriate mitigating actions and take such mitigating actions as are appropriate to address such risks;
- (d) deliver appropriate and accessible support that do not create risk to the environment or personal health and safety;
- (e) do everything properly and reasonably within Our control necessary to enable each other to perform Our respective obligations under this Agreement;
- (f) act in a manner which does not impede or restrict any Alliance Partner's performance of its obligations under this Agreement; and
- (g) act in good faith, which for this Agreement means:
 - (i) acting fairly and reasonably;
 - (ii) acting honestly in performing work under this Agreement; and

(iii) doing all things reasonably expected of each of Us to give effect to the spirit and intent of this Agreement.

A7.2 We agree that We must communicate with each other and all relevant staff in a clear, direct and timely manner to optimise the ability for each of Us to make effective and timely decisions to achieve the Alliance Objectives.

SECTION B ALLIANCE ROLES AND GOVERNANCE OF THE ALLIANCE

B1. Number of Partners

- B1.1 The core membership of the Alliance will be between five and fourteen VCSE Partners with a range of different sized organisations covering various aspects of the community sector in Torbay.
- B1.2 Torbay Council as Commissioner Partner of the Alliance will nominate one representative to the Alliance.

B2. The Role of Torbay Council as Commissioner

- B2.1 The Commissioner has determined that an Alliance is its preferred approach to co-designing/co-producing and assessing the Services required to deliver the Vision and Purpose set out in this Agreement.
- B2.2 The Commissioner will set the overall Funding Envelope for any schemes agreed through the Alliance. The initial funding is as set out in Schedule 5 (Financial Framework) and will be subject to review, as a minimum, on an annual basis in accordance with the timescales described in Schedule 5 .
- B2.3 The Commissioner will receive reports on outcomes and performance of the funded services from the Alliance, in accordance with clause C1 and paragraph 3.2.3 of F Specification within Part 1 Information and Specification.

B3. VCSE Partners Roles

- B3.1 The VCSE Partners will ensure achievement of any agreed Alliance Objectives and adhere to the Alliance Principles, Values and Behaviours and shall fulfil the obligations set out in clause A7.
- B3.2 The VCSE Partners will each nominate a representative and a deputy to the Alliance Leadership Team. The VCSE Partners will delegate authority to their Alliance Leadership representative to make decisions including decisions that may have resource and activity implications.

B4. Alliance Leadership

- B4.1 The Alliance Leadership Team is the group accountable for:
- (a) seeking, assessing and recommending proposals that align with the Alliance Vision, Purpose and any agreed Objectives; and
 - (b) Monitoring and reporting on the performance of and the outcomes achieved through the Services commissioned following a recommendation by the Alliance..

General responsibilities

- B4.2 We will each make sure that the Alliance will:
- (a) establish and ensure the strategic leadership and direction of the Alliance;
 - (b) establish and implement the governance and accountability structures for the Alliance;
 - (c) ensure the performance of the Alliance;
 - (d) demonstrate and promote the Alliance Purpose, Alliance Principles and Alliance Values and Behaviours;
 - (e) promptly resolve any dispute on a Best for People using Service basis.
- B4.3 The VCSE Partners acknowledge and accept that the Commissioner may seek to shift activity in order to achieve the Alliance Objectives and the Alliance Purpose.

Representation

- B4.4 Each VCSE Partner will appoint one Member and a deputy to, and will at all times maintain a Member on, the Alliance Leadership Team (ALT).
- B4.5 Any of Us may remove or replace Our respective ALT Member at any time subject to providing prior notice to the other ALT Members and ALT's agreement to said removal or replacement.
- B4.6 Each ALT Member has, in accordance with and subject to this Agreement, the power delegated to them, or has been authorised to represent and bind the Partner on any matter relating to the Alliance and the Alliance Agreement, that fall within the limits of each ALT Member's organisational authority.
- B4.7 The Alliance Leadership Team will appoint a chair and a deputy chair from within the ALT membership.
- B4.8 The chair will serve a maximum of [term to be agreed by ALT] years. The deputy chair will serve a maximum of [term to be agreed by ALT] years and at the end of this period will become chair and a new deputy will be appointed.
- B4.9 We will all ensure that, except for urgent or unavoidable reasons, Our respective ALT Member (or their Deputy ALT Member) attends all and fully participates in ALT meetings.

Meetings

- B4.10 ALT will meet at a frequency of [frequency to be agreed by ALT]. It is recognised that during the mobilisation of the Alliance meetings may need to take place more frequently than will be required once the approach is established.
- B4.11 A quorum for an ALT meeting requires the attendance of at least one representative from each ALT organisation with delegated authority to make decisions. Where VCSE Partner has more than one representative on ALT at least one representative of that organisation must be present.
- B4.12 A meeting of the Alliance may consist of a conference between the ALT Members (or their Deputy ALT Members) who are not all in one place, but each of whom is able directly or by telephonic or video communication to speak to each of the others, and to be heard by each of the others simultaneously.
- B4.13 The Alliance shall be entitled to invite the following people to attend but these people may not vote on decisions at meetings of the:
- (a) anyone to whom the Alliance Leadership Team extends an invitation from time to time;
 - (b) any co-opted members to fulfil an advisory role to the Alliance.
- B4.14 We will all ensure that none of Our other employees, agents or representatives (other than its ALT Member or Deputy ALT Member) attends unless expressly invited to attend pursuant to this clause B4.13.

Conflict of Interests

- B4.15 If any of Us becomes aware of any actual or potential conflict of interest which is likely to have an adverse effect on Our ability to properly perform Our obligations under this Agreement, that VCSE Partner must immediately notify the Commissioner's Authorised Representative of the actual or potential conflict of interest.
- B4.16 Any identified conflicts of interest will be managed in accordance with the requirements of the Commissioner's Financial Regulations and Contract Procedures.

B5. DECISION MAKING, CO-OPERATION AND DISPUTES

Decision Making

- B5.1 The mechanisms for decision making are as set out in **Error! Reference source not found.** and, subject to the approval of the Commissioner, may be developed and amended as part of the Alliance formation process.
- B5.2 We agree that We will always work together and make decisions on a Best for People using Service basis in order to achieve the Alliance Objectives and the Alliance Purpose. Our decisions will be made in accordance with the Alliance Principles and We agree to act in accordance with the Alliance Values and Behaviours.
- B5.3 Each Alliance Member (or Deputy Member) will have an equal say in decisions and will make decisions on a Best for People using Service basis.
- B5.4 Subject to the other provisions of this Agreement a decision made by the Alliance will be binding on the Alliance. Accordingly, We will be bound by the actions and decisions of ALT carried out in accordance with this Agreement.

Commissioner Only Decisions

- B5.5 We recognise the Commissioner is the sole decision maker as to whether funding is allocated to a particular project or service, following a recommendation by the Alliance.
- B5.6 Furthermore, We recognise that the Commissioner has specific statutory responsibilities for ensuring the compliance and delivery of the service areas covered by this agreement and that their role as Commissioner means that they shall be entitled to exercise the following decisions without seeking approval from the Alliance and without having to act on a Best for People using Service basis (each a "**Commissioner Only Decision**"):
- (a) any Mandatory Change;
 - (b) any matter upon which the Commissioner may be required to submit to public consultation;
 - (c) any issuing of an Exclusion Notice;
 - (d) any steps taken by the Commissioner in relation to clause D6 (Transfer to Third Parties); and
 - (e) any steps taken by the Commissioner in relation to clause D7 (Change of Control).

Admitting new Partners

- B5.7 New Alliance Partners may be added to the Alliance where:
- (a) there is unanimous agreement from the Alliance to recommend to the Commissioner for decision and the Commissioner approves the decision;
 - (b) the
- B5.8 Where the Commissioner approves the decision to add new Alliance Partners the appointment process will be as follows:
- (a) a formal tender process, facilitated by the Commissioner, will be undertaken;
 - (b) the tender process will be undertaken in accordance with the requirements of the Commissioner's Financial Regulations and Contract Procedures, as amended from time to time;
 - (c) the tender process, documentation and evaluation criteria will be in accordance with those set out in the original procurement process undertaken to establish the Alliance;
 - (d) the existing VCSE Partners will, subject to the Commissioner's Declaration of Interest process, form the tender evaluation panel;

- (e) the admission to the Alliance of any successful bidder(s) as Alliance Partners will be subject to unanimous agreement of ALT and the Commissioner.

B5.9 The new Alliance Partner will need to agree to be bound by the terms of this Agreement and to commit to ensuring achievement of the Alliance Objectives and adhere to the Alliance Principles, Values and Behaviours and to fulfil the obligations set out in clause A7.

Disputes

B5.10 We will work cooperatively to identify and resolve issues to Our mutual satisfaction so as to avoid all forms of Dispute in performing our obligations under this Agreement.

B5.11 We believe that:

- (a) by focusing on our agreed Alliance Objectives and Alliance Principles;
- (b) being collectively responsible for all risks; and
- (c) fairly sharing risk and responsibility.

We will reinforce our commitment to avoiding disputes and conflicts arising out of or in connection with the Alliance.

B5.12 We will immediately notify each other of any Dispute or potential Dispute when it arises and, every effort shall be made by the affected Alliance Partners to resolve the Dispute.

B5.13 Where the Dispute cannot be resolved between the affected Alliance Partners within ten (10) Business Days of notification of the Dispute, We shall seek to resolve the Dispute in accordance with clauses B5.14 to **Error! Reference source not found.**

B5.14 In the first instance ALT shall seek to resolve any Dispute to the mutual satisfaction of each of Us. If the Dispute cannot be resolved by ALT within ten (10) Business Days of the Dispute being referred to it, the Dispute shall be referred to the Commissioner for resolution.

B5.15 The Alliance shall deal proactively with any Dispute on a Best for People using Service basis in accordance with this Agreement so as to seek to reach a unanimous decision. If the Commissioner reaches a decision that resolves, or otherwise concludes a Dispute, it will advise Us of its decision by written notice. Any decision of the Commissioner will be final and binding on Us.

B6. Transparency and Ethical Walls

B6.1 We will provide to each other all information that is reasonably required in order to achieve the Alliance Objectives.

B6.2 We will have responsibilities to comply with competition laws and We acknowledge that We will all comply with those obligations. We will therefore make sure that We share information, and in particular Competition Sensitive Information, in such a way that is compliant with competition law.

B6.3 No matter what else is written in this Agreement the VCSE Partners will ensure that they provide the Commissioner with such information as the Commissioner may require so that the Commissioner can be satisfied that the Alliance Objectives are being satisfied.

B6.4 ALT will establish appropriate ethical walls between and within the VCSE Partner organisations so as to ensure that Competition Sensitive Information and Confidential Information, in particular that relating to proposals for funding, are only available to the members of ALT who need to see it for the purposes of the Alliance and for no other purpose whatsoever so We do not breach competition law.

- B6.5 It is accepted by the Alliance that the involvement of the VCSE Partners in the Alliance is likely to give rise to situations where information will be generated and made available to the VCSE Partners, which could give the VCSE Partners an unfair advantage in competitions which may be capable of distorting such competitions (for example, proposals from potential Recipient Organisations which include disclosure of pricing information, innovation or creativity, approach to risk which may provide VCSE Partners with a commercial advantage over the wider VCSE sector).
- B6.6 The VCSE Partners therefore recognise the need to manage the information referred to in clause B6.5 above in a way which maximises their opportunity to take part in competitions by putting in place appropriate procedures, such as ethical walls.
- B6.7 A VCSE Partner will have the opportunity to demonstrate to the reasonable satisfaction of the Commissioner in relation to any competitive procurements that the information it has acquired as a result of its participation in the Alliance, other than as a result of a breach of this Agreement, does not preclude the Commissioner from running a fair competitive procurement in accordance with the Commissioner's legal obligations.
- B6.8 Notwithstanding clause B6.7 above, the Commissioner reserves its rights to take such measures as it considers necessary in relation to such competitive procurements in order to comply with its obligations under Legislation (for example, the Public Contract Regulations 2015 and the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013) including, but not limited to, excluding any potential bidder from the competitive procurement in accordance with the laws governing that competitive procurement.

SECTION C PERFORMANCE MANAGEMENT, FINANCIAL RISK AND BENEFIT SHARING OF THE ALLIANCE

C1. Outcomes

- C1.1 We have agreed the Alliance Outcomes in order to monitor Our performance and to ensure the Alliance Objectives are met.
- C1.2 The Alliance will monitor, measure and provide quarterly reports to the Commissioner on the Outcomes delivered through all funding agreements and contracts put in place as a result of the recommendation of the Alliance, over the lifetime of said agreements, together with achievement of the overarching Alliance Outcomes.

C2. Funding Envelope

- C2.1 The Commissioner will set the Funding Envelope for the projects and services to be identified through the Alliance.
- C2.2 In identifying potential projects and services to be funded through the Alliance Funding Envelope We shall apply Best For People Using Services decision making and allocate resources in a way that maximises the achievement of outcomes.
- C2.3 The setting of the Funding Envelope does not preclude the Alliance or its individual members or organisations in receipt of funding through the Alliance from leveraging other sources of funding to maximise achievement of the Alliance Objectives and Outcomes.
- C2.4 The Commissioner will not hold any contingency funds save that in circumstances where new non-recurrent additional central funds become available for a purpose within the scope of the Alliance, in which case the Commissioner would include the additional funds within the Funding Envelope.
- C2.5 When the Alliance considers potential projects and services the monies provided within the Funding Envelope may only be used to fund the following costs:
 - (a) Direct Costs
Costs attributed to direct delivery of services;
 - (b) Management Overhead Costs
Organisational management overhead costs associated with service delivery.
Organisational management overhead costs should not exceed more than 10% of the total direct costs.

SECTION D REMAINING CLAUSES

D1. Confidentiality and Freedom of Information

- D1.1 Protecting Confidential Information is important to Us all. We will therefore all be bound by the terms of this clause D1 (Confidentiality and Freedom of Information).
- D1.2 Subject to the remaining provisions of this clause D1, each of Us agrees and undertakes to the others that, unless destroyed in accordance with any data or information sharing agreement entered into by Us or by agreement with the relevant owner, it will keep confidential and will not use for its own purposes nor part with nor, without the prior written consent of the owner of the information in question, disclose to any third party any personal data or information of a confidential nature (including, without limitation, data and applications, know-how, trade secrets, information of a commercial nature and sensitive personal data) which may become known to each of Us from the others ("**Confidential Information**"). To the extent necessary to implement the provisions of this Agreement and notwithstanding the above, each of Us may disclose the Confidential Information to such of Our employees, agents and professional advisers as may be necessary for the purposes of carrying out Our obligations under this Agreement.
- D1.3 The obligations in clause D1.2 shall not apply to the extent such Confidential Information is required by law to be disclosed or is already in the public domain or comes into the public domain otherwise than through an unauthorised disclosure by one of Us.
- D1.4 To the extent that any Confidential Information is covered or protected by legal privilege, then disclosing such Confidential Information to any of Us or otherwise permitting disclosure of such Confidential Information does not constitute a waiver of privilege or of any other rights which one of Us may have in respect of such Confidential Information.
- D1.5 We all agree to procure, as far as is reasonably practicable, that the terms of this clause D1 (Confidentiality and Freedom of Information) are observed by any of Our respective successors, assigns or transferees of Our respective businesses or interests or any part thereof as if they had been party to this Agreement.
- D1.6 We each acknowledge Our respective duties under the Freedom of Information Act 2000 ("FOIA") and agree that We shall assist and co-operate with each other in order to enable each of Us to comply with our respective disclosure obligations under FOIA.
- D1.7 In particular:
- (a) if one of Us receives a request for information under FOIA and that party is not itself subject to FOIA, it will not respond to that request (unless directed to do so by the relevant party to whom the request relates) and will promptly (and in any event within two (2) business days) transfer the request to the relevant one of Us most directly concerned with the information requested;
 - (b) when disclosing information which the disclosing party believes is covered by an exemption under FOIA, the disclosing party shall identify the information concerned and the grounds why it believes that the disclosed information should benefit from an exemption from public access under FOIA;
 - (c) we acknowledge that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under FOIA is a decision solely for the party to whom the request is addressed; and
 - (d) that where one of Us receives a request for information under FOIA, We will liaise with the other relevant parties as to the contents of any response before a response to a request is issued and will promptly (and in any event within 2 business days) provide a copy of the request and any response to

the relevant party.

- D1.8 Subject to clause D1.9, each of Us will hold harmless all other Alliance Partners and will indemnify and keep indemnified each of Us, in full and on demand, against all Claims (and related costs, charges and reasonable legal expenses) which any of Us incur or suffer, arising from any claim at law (including in negligence of any degree or other tort, or collateral contract or otherwise at law) for any indirect, incidental or consequential or other loss or damage of whatsoever kind, arising from any breach by such other party to this Agreement of the obligations of confidentiality under this clause D1 (Confidentiality and Freedom of Information).
- D1.9 Each of Us will take all reasonable steps to mitigate any Losses for which one of Us may be entitled to be indemnified for by the other Alliance Partners or to bring a Claim against the other Alliance Partners pursuant to clause D1.8.
- D1.10 Nothing in this clause D1 (Confidentiality and Freedom of Information) will affect any of Our regulatory or statutory obligations, including but not limited to competition law of any applicable jurisdiction.

D2. Audit

- D2.1 During the Term and for a period of 7 years after the Termination Date, the Commissioner may conduct or be subject to an audit for the following purposes;
- (a) Financial matters:
 - (i) to carry out the financial audit and certification of the Commissioner's accounts;
 - (b) Information governance:
 - (i) to review the integrity, confidentiality and security of any data relating to the Commissioner or any service users; or
 - (ii) to review the Alliance's compliance with the General Data Protection Regulation and the FOIA in accordance with clause D1 and any other legislation applicable to the activities of the Alliance and/or the Services provided; or
 - (iii) to review any records created as applicable to the activities of the Alliance and/or the Services provided;
 - (c) Decision making:
 - (i) to review the set up and functioning of the Alliance; or
 - (ii) to review the decision making in relation to the proposals funded through the Alliance; or
 - (iii) to review the processes used for the awarding of contracts and establishing the suitability of organisations receiving funding through the Alliance.
 - (d) Service delivery
 - (i) to review any records created as applicable to the activities of the Alliance and/or the Services provided; or
 - (ii) to verify the accuracy and completeness of the Performance and/or Management Reports (if applicable) and any other management information delivered or required by this Agreement; or
 - (iii) to verify compliance against national best practice standards; or
 - (iv) to demonstrate the Commissioner has achieved best value through the adoption of the alliance commissioning model.
- D2.2 The Commissioner will use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Alliance or individual VCSE Partners.
- D2.3 Subject to the Commissioner's obligations of confidentiality, the VCSE Partners will on demand provide the Commissioner and any relevant regulatory body (and/or their agents

or representatives) with all reasonable co-operation and assistance in relation to each audit.

- D2.4 The Commissioner will endeavour to (but is not obliged to) provide at least 15 days' notice of its or, where possible, a regulatory body's, intention to conduct an audit.
- D2.5 The parties agree that they will bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause D2.
- D2.6 If an audit identifies that any of the VCSE Partners have failed to perform its obligations under this Agreement in any material manner; the parties shall agree and implement a remedial plan.

D3. Rectification, Exclusion and Termination

- D3.1 This clause D3 sets out the circumstances in which an Alliance Partner may be excluded from the Alliance. These circumstances include:
- (a) Wilful Default as more fully described in clause D3.3 below; or
 - (b) an event of Insolvency affecting a VCSE Partner; or
 - (c) as a result of a breach of any regulatory compliance standards issued by any Regulatory or Supervisory Body.
- D3.2 In cases where the default can be remedied then the Defaulting Partner will be given the opportunity to rectify the problem as set out in clauses D3.4 to D3.6 below.

Wilful Default

- D3.3 In this Agreement the phrase "**Wilful Default**" means that an Alliance Partner has committed one of the following acts or omissions. The Alliance Partner committing the act is called the "**Defaulting Partner**". The acts or omissions are:
- (a) an intentional or reckless act or omission by the Defaulting Partner or any of its representatives appointed to the Alliance which that Defaulting Partner knew or ought reasonably to have known:
 - (i) was likely to have harmful consequences for the Alliance, one or more other Partners, Recipient Organisations or Service Users; or
 - (ii) was a breach of an Alliance Principle or an Alliance Value or Behaviour;
 - (b) an intentional or reckless act or omission by the Defaulting Partner or any of its representatives appointed to the Alliance without regard to the possible harmful consequences arising out of the act or omission;
 - (c) an intentional failure by the Defaulting Partner or any of its representatives appointed to the Alliance to act in good faith as required under this Agreement;
 - (d) a repudiation of this Agreement by the Defaulting Partner;
 - (e) a fraudulent act or omission by the Defaulting Partner or any of its representatives appointed to the Alliance.
 - (f) an intentional or reckless breach of a confidentiality obligation, or other obligation, in clauses relating to confidentiality in this Agreement although this does not mean any innocent or negligent act, omission or mistake of the Defaulting Partner or any of its officers, employees or agents acting in good faith.

Opportunity to Rectify Default

- D3.4 If at any time the Alliance considers that one of Us is in Wilful Default, then the Alliance may call a meeting to decide what action it may take for the good of the Alliance (a "**Rectification Meeting**"). Any meeting called under this clause D3.4 will be conducted in accordance with clause B4. We all agree that We will attend all Rectification Meetings.

- D3.5 At a Rectification Meeting, We will all discuss the reasons why the Defaulting Partner is failing to comply with its obligations under this Agreement. The Alliance will have an opportunity to explain why it has called the Rectification Meeting and the Defaulting Partner will have an opportunity to explain why it is so failing. Each Alliance Partner will have an opportunity to give their views.
- D3.6 If by the end of the Rectification Meeting the Alliance considers that an action needs to be taken, then the Alliance may issue a Rectification Notice setting out the actions or directions that the Defaulting Partner will take. We all agree that, if any one of Us is the Defaulting Partner, We will carry out the actions or directions given under the Rectification Notice unless to do so would cause a breach of legislation or contract elsewhere.

Further Rectification or Exclusion

- D3.7 If the Defaulting Partner fails to properly carry out the actions or directions set out under a Rectification Notice then the Alliance Leadership Team may call a further meeting in the same way as set out in clause D3.4. Any meeting called under this clause D3.7 will be conducted in accordance with the provisions of clause B4. If by the end of that further Rectification Meeting the Alliance Leadership Team is still concerned that the Defaulting Partner has not rectified the issue then the Alliance Leadership Team may issue one further Rectification Notice ("Final Rectification Notice") to the Defaulting Partner.

Grounds for Exclusion

- D3.8 The Commissioner may serve an Exclusion Notice on a VCSE Partner at any time where:
- (a) The VCSE Partner has failed to rectify a Wilful Default as more fully described in clauses D3.4 to D3.7; or
 - (b) the VCSE Partner is subject to an event of Insolvency; or
 - (c) the VCSE Partner is in breach of any regulatory compliance standards issued by any Regulatory or Supervisory Body.

Consequences of Exclusion or Termination

- D3.9 A VCSE Partner which has been excluded shall have no further interest in the Alliance nor shall it be represented on ALT.

D4. Survivorship

- D4.1 If:
- (a) any of Us are excluded from the Alliance; or
 - (b) this Agreement is terminated or expires for any reason then such termination or expiry will be without prejudice to rights or obligations accrued as at the date of such termination or expiry and,
- those provisions of this Agreement which are expressly or by implication intended to come into or remain in force and effect following such exclusion from the Alliance or termination or expiry of this Agreement, will so continue and continue to apply to a Partner that has been excluded from the Alliance, subject to any limitation of time expressed in this Agreement.

D5. Variation Procedure

- D5.1 No purported alteration or variation of this Agreement will be effective unless it is agreed in writing by all of Us.
- D5.2 All variations to this Agreement will be undertaken in accordance with the requirements of Schedule 8 (Change Control Procedure)

D6. Transfer to Third Parties

- D6.1 The VCSE Partners may not sub-contract any or all of its obligations under this Agreement.
- D6.2 The VCSE Partner may not assign, delegate, transfer, charge or otherwise dispose of all or any of its rights or obligations under this Agreement without the prior written consent of the Commissioner.
- D6.3 Each VCSE Partner will be responsible for the performance of and will be liable to each of Us for the acts and omissions of any third party to which it may assign, transfer or otherwise dispose of any obligation under this Agreement as if they were the acts or omissions of that VCSE Partner unless:
- (a) the VCSE Partner in question has obtained the prior consent of the Commissioner in accordance with clause D6.2; and
 - (b) the terms of that assignment, transfer or disposal have been approved and accepted by that third party so that that third party is liable to each of Us for its acts and omissions.
- D6.4 This Agreement will be binding on and will be to the benefit of each of Us and Our respective successors and permitted transferees and assigns.
- D6.5 The Commissioner may only novate the whole (not part) of this Agreement to any central government department, NHS body or a Minister of the Crown

D7. Change of Control

- D7.1 Where any VCSE Partner undergoes a Change of Control, it shall give notice to the Commissioner as soon as reasonably possible and in any event within five (5) Business Days of the Change of Control
- D7.2 Upon a VCSE Partner Change of Control, the Commissioner may elect to exclude that VCSE Partner from the Alliance where:
- (a) as a result of the Change of Control, the VCSE Partner becomes controlled by a Restricted Person; or
 - (b) the Commissioner reasonably concludes that, as a result of the VCSE Partner Change of Control, there is (or is likely to be) an adverse effect on the ability of the VCSE Partner to meet its obligations under this Agreement (and, in reaching that conclusion, the Commissioner may consider any factor that it considers relevant to the provision of the Services and the operation of this Agreement).

D8. Information and Further Assurance

- D8.1 Each of the VCSE Partners will during the Term:
- (a) promptly provide to the Commissioner, and to any other person involved in the performance and achievement of the Alliance Objectives, such co-operation and access as the Commissioner may reasonably require from time to time in connection with the Alliance Objectives;
 - (b) comply with any reasonable instructions and guidelines issued by the Commissioner from time to time,
- in each case to the extent that such action does not cause a VCSE Partner to be in breach of an Exclusion Notice or any Legislation.
- D8.2 During the Term We will use Our respective reasonable endeavours to procure that any necessary third parties will, each execute and deliver to the each of Us such other instruments and documents and take such other action as is reasonably necessary to fulfil the provisions of this Agreement in accordance with its terms.

D8.3 Before the Partners exchange or share any Confidential Information or personal data, they shall enter into appropriate data sharing agreements.

D9. Warranties

D9.1 Each of Us warrants to the others that:

- (a) it has full power and authority to enter into this Agreement and all governmental or official approvals and consents and all necessary consents have been obtained and are in full force and effect;
- (b) its execution of this Agreement does not and will not contravene or conflict with its constitution, any law, or any agreement to which it is a party or which is binding on it or any of its assets; and
- (c) to the best of its knowledge, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Agreement.

D9.2 The warranties set out in this clause D9 are given on the date of this Agreement and repeated on every day during the term of this Agreement.

D10. Relationship of the Alliance Partners

D10.1 None of Us will pledge the credit of the other Alliance Partners (or any one of Us) or represent itself as being the other Alliance Partners (or any one of Us), or an agent, partner, employee or representative of the other Alliance Partners (or any one of Us) and none of Us will hold itself out as such or as having any power or authority to incur any obligation of any nature, express or implied, on behalf of the other Alliance Partners (or any one of them).

D10.2 Nothing in this Agreement will be construed as creating a legal partnership or a contract of employment between any of Us.

D10.3 Save as expressly provided otherwise in this Agreement, none of the VCSE Partners will be, or be deemed to be, an agent of the Commissioner and none of the VCSE Partners will hold itself out as having the authority or power to bind the Commissioner in any way.

D10.4 None of Us will place or cause to be placed any order with the VCSE Partners or otherwise incur liabilities in the name of any of the other Alliance Partners or their representatives.

D11. Notices

D11.1 Any notices given under this Agreement must be in writing and must be served in the ways set out below in this clause D11.1 at the addresses set out at clause 6. The following table sets out the respective deemed time and proof of service:

Manner of Delivery	Deemed time of delivery	Proof of Service
Personal delivery	On delivery	Properly addressed and delivered
Prepaid first class recorded delivery domestic postal service	9.00am on the second Business Day after posting	Properly addressed prepaid and posted
Email	On delivery	Properly addressed and delivered

D11.2 The nominated addresses We will each use to send notices to each other are as set out in clause 6.

D12. Third Party Rights

D12.1 A person who is not an Alliance Partner has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of this Agreement.

D12.2 Our rights to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not an Alliance Partner.

D13. Severability

D13.1 If any part of this Agreement is declared invalid or otherwise unenforceable, it will be severed from this Agreement and this will not affect the validity and/or enforceability of the remaining provisions.

D14. Entire Agreement

D14.1 This Agreement constitute Our entire agreement and understanding and supersedes any previous agreement between Us relating to the subject matter of this Agreement.

D14.2 Each of Us acknowledges and agrees that in entering into this Agreement We do not rely on and have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether an Alliance Partner or not) other than as expressly set out in this Agreement.

D14.3 Nothing in this clause D14 (Entire Agreement) will exclude any liability for fraud or any fraudulent misrepresentation.

D15. Waiver

D15.1 Any relaxation or delay of any of Us in exercising any right under this Agreement must not be taken as a waiver of that right and must not affect Our ability subsequently to exercise that right.

D16. Dispute Resolution Procedure

D16.1 Subject as otherwise specifically provided for in this Agreement, any Dispute arising out of or in connection with this Agreement will be resolved in accordance with clauses B5.10 to B5.15

D17. Costs And Expenses

D17.1 Each of Us will be responsible for paying Our own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

D18. Law and Jurisdiction

D18.1 This Agreement and any Dispute arising out of or in connection with it, whether such Dispute is contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise, will be governed by, and construed in accordance with, the laws of England.

D18.2 Subject to the Partners first complying with clause D16 (Dispute Resolution Procedure) and clauses B5.10 to B5.15 the Alliance Partners hereby submit to the exclusive jurisdiction of the English courts.

Schedule 2 DEFINITIONS AND INTERPRETATION

1 Interpretation

- 1.1 The headings in this Agreement will not affect its interpretation.
- 1.2 Reference to any statute or statutory provision, to law, or to guidance, includes a reference to that statute or statutory provision, law or guidance as from time to time updated, amended, extended, supplemented, re-enacted or replaced.
- 1.3 Reference to a statutory provision includes any subordinate legislation made from time to time under that provision.
- 1.4 References to Conditions, Sections and Schedules are to the Conditions, Sections and Schedules of this Agreement, unless expressly stated otherwise.
- 1.5 References to any body, organisation or office include reference to its applicable successor from time to time.
- 1.6 Any references to this Agreement or any other documents or resources includes reference to this Agreement or those other documents or resources as varied, amended, supplemented, extended, restated and/or replaced from time to time and any reference to a website address for a resource includes reference to any replacement website address for that resource.
- 1.7 Use of the singular includes the plural and vice versa.
- 1.8 Use of the masculine includes the feminine and vice versa.
- 1.9 Use of the term "including" or "includes" will be interpreted as being without limitation.
- 1.10 The following words and phrases have the following meanings:

Agreement: this Agreement;

Alliance: means the Commissioner Partner and the VCSE Partners working together as an alliance to achieve the Alliance Objectives;

The Alliance Leadership Team (ALT): the Partner representatives responsible for assessing and scoring proposals for the use of ASC precept and other monies to progress the asset based model and the furthering of community support in line with the objectives of the ASC plan.

Alliance Objective(s): the objectives set out in clause A4.1;

Alliance Partners: the Commissioner Partner and the VCSE Partners;

Alliance Purpose: has the meaning set out in clause A3;

Alliance Principles: has the meaning set out in clause A5;

Alliance Values and Behaviours: has the meaning set out in clause A6;

Alliance Vision: has the meaning set out in clause A2;

Best for People using Service: best for the achievement of the Alliance Objectives on the basis of ensuring coherence with the Alliance Principles;

Change: any alteration of or variation to this Agreement including a Mandatory Change but excluding a Service Change;

- (a) **Change of Control:** a sale or other disposal of any legal, beneficial or equitable interest in any or all of the equity share capital of a corporation, the effect of which is to confer on any person the ability to control the exercise of 50% or more of the total voting rights exercisable at general meetings of that corporation (provided that a Change of Control will be deemed not to have occurred if after such sale or disposal the same entities

directly or indirectly exercise the same degree of control over the relevant corporation);
or

- (b) any **change** in the ability to control a public sector body by virtue of entering into any franchise, management or other agreement or arrangement under which the control over the management of the relevant public body is conferred on another person;

Commencement Date: The date on the Front Sheet of this Agreement;

Commissioner: Torbay Council is referred to in this Agreement as the "**Commissioner**" in reference to its role as statutory commissioner with responsibility for setting up the Alliance and for the commissioning of the Services;

Commissioner Partner: Torbay Council is referred to as the "**Commissioner Partner**" in reference to its role as a member of the Alliance and sharing responsibility for the achievement of the Alliance Objectives

Commissioner Only Decision: has the meaning set out in clause B5;

Competition Sensitive Information: Confidential Information which is owned, produced and marked as Competition Sensitive Information including information on costs by one of the VCSE Partners and which that VCSE Partner properly considers is of such a nature that it cannot be exchanged with the other VCSE Partner(s) without a breach or potential breach of competition law;

Confidential Information: the existence of this Agreement, the provisions of this Agreement and all information which is secret or otherwise not publicly available (in both cases in its entirety or in part) including commercial, financial, marketing or technical information, know-how, trade secrets or business methods, in all cases whether disclosed orally or in writing before or after the date of this Agreement;

Defaulting Partner: has the meaning in clause D3.3;

Dispute: has the meaning set out in clause B5.12;

Exclusion Notice: a notice issued pursuant to clause D3 which must specify the grounds on which the Exclusion Notice has been issued and which will have the effects specified in clause D3;

Final Rectification Notice: has the meaning given to it in clause D3.7;

Financial Framework: Schedule 5 to this Agreement which sets out the financial arrangements for the functioning of the Alliance;

Funding Envelope: the total available funding for the Services as more fully described in paragraph 1 of Schedule 5

Indirect Losses: loss of profits (other than in the case of a VCSE Partner profits directly and solely attributable to provision by that VCSE Partner of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Initial Period: has the meaning ascribed to it in clause 4 of 0;

Insolvency: any of the following events or circumstances:

- (a) where a **VCSE Partner** suspends, or threatens to suspend, payment of its debts (whether principal or interest) or is deemed to be unable to pay its debts within the meaning of Section 123(1) of the Insolvency Act 1986;
- (b) where one or more **VCSE Partners** calls a meeting, gives a notice, passes a resolution or files a petition, or an order is made, in connection with the winding up of that Partner (save for the sole purpose of a solvent voluntary reconstruction or amalgamation);

- (c) where a **VCSE Partner** has an application to appoint an administrator made or a notice of intention to appoint an administrator filed or an administrator is appointed in respect of it or all or any part of its assets;
- (d) where a **VCSE Partner** has a receiver or administrative receiver appointed over all or any part of its assets or a person becomes entitled to appoint a receiver or administrative receiver over such assets;
- (e) where a **VCSE Partner** takes any steps in connection with proposing a company voluntary arrangement or a company voluntary arrangement is passed in relation to it, or it commences negotiations with all or any of its creditors with a view to rescheduling any of its debts; or
- (f) where a **VCSE Partner** has any steps taken by a secured lender to obtain possession of the property on which it has security or otherwise to enforce its security; or
- (g) where a **VCSE Partner** has any distress, execution or sequestration or **other** such process levied or enforced on any of its assets which is not discharged within 14 Business Days of it being levied;
- (h) where a **VCSE Partner** has any proceeding taken, with respect to it in **any** jurisdiction to which it is subject, or any event happens in such jurisdiction that has an effect equivalent or similar to any of the events listed above; and/or
- (i) where **the Commissioner** substantially or materially ceases to operate or is dissolved;
- (j) **where the Commissioner** is financially unsustainable as a result of any financial intervention or sanction by the Secretary of State and which has a material adverse effect on the delivery of the Services; and

Legislation: any applicable statute, statutory rule, order, directive, regulation or other instrument having force of law (including any directive or order promulgated by any competent national or supra national body) and all other legislation as may be in force from time to time;

Losses: all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Mandatory Change: any Change in the scope of the Services which the Commissioner is required to implement by reason of a change in Legislation or applicable health or social care guidance, direction, standard or requirement to which the Commissioner has a duty to have regard;

VCSE Partners: all or each of **Partner A1, Partner A2, Partner A3, Partner B1, Partner B2, Partner B3, Partner C1, Partner C2, Partner C3, Partner D1, Partner D2, Partner D3, Partner E and Partner F** as named on the Front Sheet to this Agreement;

Recipient Organisation: any organisation receiving funding through the Alliance and having a tangible operational presence or roots in the Torbay community;

Rectification Notice: a notice issued by the **Alliance Leadership Team** pursuant to clause D3.6 which sets out the actions or directions that the Defaulting Partner needs to take to address any failure to meet its obligations under this Agreement;

Regulatory or Supervisory Body: any statutory or other body having authority to issue guidance, standards or recommendations with which an Alliance Partner must comply or to which it must have regard;

Restricted Person: means any person who:

- (a) has a material interest in the production of tobacco products or alcoholic beverages; or
- (b) who the Commissioner reasonably believes is inappropriate for public policy reasons to have a controlling interest in a VCSE Partner;

Service Users: the people that live in *Torbay* and are in receipt of the Services;

Services: the broad range of services put in place by the Commissioner, following a recommendation from the Alliance and using monies from the Funding Envelope;

Term: the period set out in clause 4 of 0 as extended by clauses 4.2, 4.3 and 4.4

We, Us or Our: collectively the Commissioner Partner and the VCSE Partners as the context requires and any one of Us is an "**Alliance Partner**".

Schedule 3 SCOPE OF THE ALLIANCE

Section F Specification of Part 1 Information and Specification of the tender documents for the formation of the Alliance will form this Schedule 3.

F Specification

F1 Overall Scope and Nature of the Requirement

- F1.1 Torbay Council has approved transformation funding from the Adult Social Care precept 2021-22 and the formation of an Alliance to support the delivery of projects utilising this funding. This forms part of the objectives of the Adult Social Care (ASC) Vision and Improvement Plan.
- F1.2 The Commissioner is responsible for a broad range of statutory and non-statutory interventions for people resident within the Torbay Unitary Authority boundary. It is the Council's that the Alliance Partners will contribute to the development of an asset-based community services model in Torbay that will be co-designed between the Council and the VCSE sector.
- F1.3 The Alliance will drive forward change and respond effectively to the needs of the community of Torbay using asset-based principles.
- F1.4 Using an Alliance model, the focus will be on creating systemic change: changes to culture, funding structures, commissioning and policy which support a new way of working. Together there will be a contractual environment where suppliers share responsibility for achieving outcomes and are mutually supportive, making decisions based on the best outcome for the service user.
- F1.5 Adult Social Care Precept 2021-22 – Torbay Council Cabinet have approved transformation funding and the use of an alliance approach to support the co-production and assessment of community development projects. This forms part of the objectives of the Adult Social Care (ASC) Vision and Improvement Plan. The procurement of an Alliance will support this approach to enabling material sums of funding to deliver greater system innovation and change.
- F1.6 Future Non-Recurrent Monies – It is also the intention of the Council to use this Alliance as a procurement vehicle to seek and assess proposals from the sector in Torbay for any future monies that are allocated to be invested in the local VCSE sector. This may include the Community Mental Health Framework contract with the sector, future years ASC precept monies and other non-recurrent monies or hypothecated funding that may become available and could appropriately be invested in the local community.

F2 Mandatory Pass / Fail Requirements

This section sets out the Authority's mandatory requirements for the successful Applicant to perform the Contract.

Evidence requirements are as set out in section E of Part 2 Response.

F2.1 Organisation Classification

2.1.1 This Tender is reserved for organisations classified as Voluntary, Community or Social Enterprises, in accordance with the following definition, as set out in Procurement Policy Note 11/20 and E3 Definitions of Part 1 Information and Specification of these tender documents:

“Any organisation (incorporated or not) working with a social purpose. This ranges from small community-based groups / schemes, through to larger registered charities and social enterprises, public service mutuals and cooperatives that operate locally, regionally and nationally.”

2.1.2 Please note this term is often interchangeable with the terms 'third sector' or 'civil society' organisations.

F2.2 Organisation Location and Reach

2.2.1 This Tender is reserved for organisations whose Location is within the 'non-metropolitan area of Torbay', in accordance with the following definition, as set out in Procurement Policy Note 11/20 and E3 Definitions of Part 1 Information and Specification of these tender documents:

“Where the supplier is based or established in a particular location and has substantive business operations in that location. In this context, this means having a registered office, factory or other permanent base in that location from which meaningful business operations have been conducted for at least 12 months.”

2.2.2 Please note this does not preclude foreign Applicants from participating as long as they are based or established and have substantive business operations in the 'non-metropolitan area of Torbay'.

2.2.3 Applicants are required to have an organisational reach that is either Torbay wide or encompasses at least one of the towns of Brixham, Paignton or Torquay.

F2.3 Consortia, Partnerships and Sub-Contracting

Due to the nature of the Alliance Applicants must bid as individual organisations and are not permitted to submit bids on behalf of consortia or partnerships or use sub-contracting arrangements to deliver the Agreement.

F2.4 Invoicing

- 2.4.1 The Council will make payments in respect of agreed expenses to the Alliance Partners monthly in arrears.
- 2.4.2 The Alliance Partners must invoice the Council monthly in arrears for agreed expenses.
- 2.4.3 The Alliance Partner must make all invoices payable by Torbay Council and must be marked with Torbay Council's name and address, the Alliance Partner's name and address and the Council's official purchase order number.
- 2.4.4 Invoices must be submitted by e-mail to: invoices@torbay.gov.uk.
- 2.4.5 The Alliance Partner must provide a consolidated invoicing approach as standard, including for third party's services unless otherwise specified. Any information specific to the invoice and the provision of services, must be attached to the invoice, to enable prompt processing / payment;
- 2.4.6 All invoices must contain a full breakdown of costs and must match the agreed pricing stated on the final quotation and official purchase order.
- 2.4.7 The Council's settlement terms are 30 days from the date of an undisputed invoice, or receipt of goods or service, whichever is the later.
- 2.4.8 Disputed parts of invoices and invoices not bearing purchase order numbers will not be paid and a corrected invoice will be required.
- 2.4.9 Payment will be by BACS and remittance advices will be transmitted to the Alliance Partner by email (the Alliance Partner's appropriate email address must be supplied).
- 2.4.10 Where IR35 regulations may apply to an Individual, Sole Trader or Personal Services Company, Torbay Council will conduct an employment status check to find out if the Alliance Partner should be classed as employed or self-employed for tax purposes (CEST). The Alliance Partner will agree to abide by the outcome of the employment status check, which may affect the way in which the Alliance Partner is paid and could include the possible deduction of Tax and National Insurance.

F2.5 Use of Council Branding / Not Used

- 2.5.1 Torbay Council owns its identity, branding devices and logos, these are protected by law.
- 2.5.2 Alliance Partners must agree only to use the Council's visual identity in accordance with the terms set out in the Agreement.
- 2.5.3 Alliance Partners will be issued a licence number to use the Council's visual identity and use must be only in relation to this Agreement, further usage will be subject to separate request and approval.
- 2.5.4 Permission to use the Council's visual identity does not prevent the Council from revoking that permission at a later point. Any revocation is at the sole and complete discretion of the Council.
- 2.5.5 The Council's identity is provided 'as is' and must not be altered in any way.

F3 Core Requirements

This section sets out the Authority's core requirements for this Contract, which Applicants are required to demonstrate within their response that they are capable of meeting

F3.1 The Voluntary, Community and Social Enterprise (VCSE) Alliance

- 3.1.1 The VCSE Alliance will comprise representatives of the Council and those organisations within the VCSE sector selected through this tender process to become Partners in the Alliance.
- 3.1.2 Membership of the Alliance will encompass the following specialisms and areas of expertise:
 - (a) Older People
 - (b) Mental Health
 - (c) Learning Disability and Autism
 - (d) Community Groups
 - (e) Infrastructure and Community Support
- 3.1.3 Applicants will have the opportunity within their response to identify other specialisms or areas of expertise where they feel value can be added to the Alliance.
- 3.1.4 The Alliance Partners will collectively have a geographical reach covering the whole of the Torbay local authority footprint.
- 3.1.5 The Alliance will support the Council in the following key areas:
 - (a) working collaboratively to identify ways in which funding made available through the Adult Social Care precept can be used to enhance provision and support transformation at scale;
 - (b) actively encouraging ideas and proposals from across the VCSE sector in Torbay;
 - (c) acting as a conduit for communication and information sharing to the wider VCSE sector in Torbay;
 - (d) assisting the Council in better understanding the gaps across the VCSE sector and actively engaging in and supporting market shaping and capacity building across the sector.

F3.2 Aims and Purpose of the Alliance

- 3.2.1 In forming this Alliance, the Council aims to
 - (a) improve the lives of people in the Torbay community by supporting the whole person to meet their aspirations;
 - (b) increase and improve our Adult Social Care partnership with the community.
- 3.2.2 The focus of the Alliance will be the use of the precept to deliver and enhance transformation at scale and it is expected that this will be best achieved through schemes exceeding £100,000 in value.
- 3.2.3 The Alliance will
 - (a) seek to identify and recommend proposals which support innovation and transformation across adult social care provision;

- (b) be fully inclusive, actively identifying and encouraging proposals and ideas from the wider Torbay VCSE sector and not just from within the Alliance membership;
 - (c) identify, develop and recommend proposals to enhance and develop existing asset and community-based approaches or the introduction of new approaches;
 - (d) take a co-design and co-production approach to developing proposals;
 - (e) ensure authenticity and community support is demonstrated within all proposals;
 - (f) monitor the performance of funded Services and provide quarterly, as a minimum, reports to the Commissioner on achievement of outcomes.
- 3.2.4 In addition to improving people's lives proposals should improve capacity and resilience in the Torbay VCSE sector, enabling the provision of providing activities and infrastructure as alternatives to statutory services.
- 3.2.5 Funding for approved proposals will be issued in accordance with the award process set out in Schedule 7 of the Alliance Agreement.

F3.3 Priorities

- 3.3.1 The overarching vision for use of the precept is to develop communities and neighbourhoods to help people in poverty develop mutual support and increase employment and volunteering opportunities.

It is important that all activities funded through the Alliance compliment the objectives set out in the Torbay Adult Social Care Three Year Plan¹ and the Vision and Themes within the Torbay Community and Corporate Plan 2019-2023².

- 3.3.2 To be considered for funding through the precept, proposals must meet at least one of the following priorities in order:
- (a) support and enable local communities to keep themselves healthy, independent and connected with their local neighbourhood; Described by commissioners as an Asset Based Approach.
 - (b) support the community and voluntary sector and providers to be sustainable and focussed on encouraging the community to develop their own ideas;
 - (c) provide good information and advice in partnership with the community and voluntary sector;
 - (d) facilitate the Community Helpline to support more communities that will in due course become the "Front Door" for Adult Social Care.
 - (e) ensure equal access to advice and support for people who pay for their own care in Asset Based fashion, so we support people's strengths and independence
 - (f) support modernisation and integration of our approach to technology, use of disabled facilities grant and equipment.
 - (g) support employment and training for people with mental health problems and learning disabilities;

¹ [Adult Social Care Improvement Plan - Torbay Council](#)

² [corporate-plan.pdf \(torbay.gov.uk\)](#)

- (h) develop and enhance how housing can keep people healthy, independent and connected;
- (i) keep people out of hospital;
- (j) provide digital solutions or address digital exclusion.
- (k) build on the 'The Making Melville Marvellous' Project. A neighbourhood-based project to bring everyone together to look at the key issues and develop a template for regenerating other neighbourhoods. With the intention of developing a 'Torbay blueprint' for creating solutions together to serious social problems, attracting investment into people and infrastructure projects, creating long term economic redevelopment.

3.3.3 In addition, the following overarching Council priorities should be considered within all proposals:

- (a) supporting the creation of a whole community response to make Torbay a child-friendly and age-friendly place. One Torbay: Working for all of Torbay so that the people in our communities thrive, by:
 - helping to turn the tide on poverty
 - having high aspirations for all Torbay residents
 - building safer communities
- (b) helping to create an environment in which businesses and jobs can grow and where we have a local economy which is successful and sustainable
- (c) helping to tackle climate change
- (d) supporting the Council to meet its responsibilities as a corporate parent;
- (e) supporting the creation of a culture of partnership working between the Council and communities.

F4 Permitted Changes to the Contract

Changes may be made to the Agreement where the Change is of the following scope and nature:

- (a) there are new outcomes or objectives to be met; or
- (b) new VCSE Partners are admitted to the Alliance; or
- (c) additional Commissioning Partners are admitted to the Alliance; or
- (d) changes to the criteria for awarding funding through the Alliance;

and the circumstances necessitating the Change are:

- (a) additional sources of funding being made available; or
- (b) additional Commissioning Partners being admitted to the Alliance; or
- (c) change to the Council's priorities in relation to how the allocated funding is utilised;
or
- (d) a need to meet joint social care objectives and outcomes; or
- (e) changes in Public Procurement Legislation and/or Council Contract Procedures.

Schedule 4 AWARDED LOTS AND VCSE PARTNERS' TENDER RESPONSE DOCUMENTS

Awarded Lots

The Lots awarded under this Agreement are:

Lot	Number of Places Awarded	Awarded Partner(s)
<p>Lot A Older People</p> <p>This lot covers organisations who specialise in or have expertise in working with people over the age of 50</p>		<p>Partner A1</p> <p>Partner A2</p> <p>Partner A3</p>
<p>Lot B Mental Health</p> <p>This lot covers organisations who specialise in or have expertise in working with people who are experience mental ill health</p>		<p>Partner B1</p> <p>Partner B2</p> <p>Partner B3</p>
<p>Lot C Learning Disability and Autism</p> <p>This lot covers organisations who specialise in or have expertise in working with people with a learning disability or autism</p>		<p>Partner C1</p> <p>Partner C2</p> <p>Partner C3</p>
<p>Lot D Community Group</p> <p>This lot covers organisations operating in defined and recognised areas of Torbay, which have a strong focus on local people and involvement in supporting their general needs</p>		<p>Partner D1</p> <p>Partner D2</p> <p>Partner D3</p>
<p>Lot E Infrastructure and Community Support</p> <p>This lot covers organisation providing infrastructure and community support to the VCSE sector in Torbay</p>		<p>Partner E</p>
<p>Lot F Other</p> <p>This lot covers organisations that do not fall under Lots A-E, but who, through the nature of their work, can add value and expertise to benefit the work of the Alliance</p>		<p>Partner F</p>

VCSE Partner Tender Response Documents

1 The following appendices shall form this Schedule 4

- (a) Appendix 4A1 Part 2 Response Partner A1;
- (b) Appendix 4A2 Part 2 Response Partner A2;
- (c) Appendix 4A3 Part 2 Response Partner A3;
- (d) Appendix 4B1 Part 2 Response Partner B1;
- (e) Appendix 4B2 Part 2 Response Partner B2;
- (f) Appendix 4B3 Part 2 Response Partner B3;
- (g) Appendix 4C1 Part 2 Response Partner C1;
- (h) Appendix 4C2 Part 2 Response Partner C2;
- (i) Appendix 4C3 Part 2 Response Partner C3;
- (j) Appendix 4D1 Part 2 Response Partner D1;
- (k) Appendix 4D2 Part 2 Response Partner D2;
- (l) Appendix 4D3 Part 2 Response Partner D3;
- (m) Appendix 4E Part 2 Response Partner E;
- (n) Appendix 4F Part 2 Response Partner F.
- (o) Appendix 4A3 Part 2 Response Partner A3;

2 For the purposes of paragraph 1 the VCSE Partners' tender response documents are comprised of:

- (a) Part 2 Response;
- (b) any appendices submitted by the VCSE Partner in support of their response; and
- (c) any relevant post tender clarification questions.

Schedule 5 FINANCIAL FRAMEWORK

1 Funding Envelope

- 1.1 The Commissioner will review and agree the budget on annual basis. This review will be undertaken as part of the Commissioner's annual budget setting process and will be carried out in accordance with prevailing governance arrangements and timescales. It is anticipated that the budget setting process will take place in the autumn of the preceding financial year.
- 1.2 The Commissioner's Authorised Representative (named at clause 6.1(a) of 0) will notify the VCSE Partners named at clause 6.1(b) of 0 in writing of the budget for the forthcoming year, within 5 working days of completion of the Commissioner's budget setting process.
- 1.3 Any payment to Recipient Organisations covered by the terms and criteria of this Agreement will be made by a Grant payment, payment intervals will be dependent on the nature of the scheme and its scale and scope.

2 Permitted VCSE Partner Costs

- 2.1 VCSE Partners will be able to claim an attendance fee / expenses for their time in attending ALT meetings. The maximum expenses claimable per meeting will be capped at £80.00 per meeting for physical meetings and £40.00 per meeting for virtual meetings.
- 2.2 The level of expenses paid to any VCSE Partner will be as set out in Section of that VCSE Partners Part 2 Response.

3 Invoicing and Payment Mechanisms

- 3.1 Each VCSE Partner will invoice the Commissioner in respect of their individual expenses claims.
 - 3.2 The Commissioner shall pay each invoice received from any VCSE Partners within 30 days of the date when Commissioner has determined that the invoice is a valid and undisputed invoice. The VCSE Partners shall accept payment electronically via BACS.
 - 3.3 The Commissioner will consider and verify any invoices submitted by the VCSE Partners for payment in a timely fashion and agrees that undue delay in doing so is not to be regarded as sufficient justification for failing to treat an invoice as valid and undisputed.
 - 3.4 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with the Dispute Resolution Procedure. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 30 days after resolution of the dispute between the parties.
 - 3.5 Subject to paragraph 3.4, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
 - 3.6 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Commissioner following delivery of a valid VAT invoice. The Alliance or VCSE Partners shall at all times comply with the requirements relating to VAT and shall indemnify the Commissioner against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Commissioner at any time in respect of the VCSE Partners' failure to account for, or to pay, any VAT relating to payments made to the VCSE Partners under this Contract.
- 3.7 The VCSE Partners shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Commissioner pursuant to this Contract. Such records shall be retained for inspection by the Commissioner for six years from the end of the Contract Year to which the records relate.

Schedule 6 GOVERNANCE ROLES

VCSE Alliance

	Name of Alliance Member	Job Title	Deputy	Title	Organisation
1.					Torbay Council
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					

14.					
15.					

Chair and Deputy Chair of ALT

	Name	Job Title	Organisation
Chair			
Deputy			

Schedule 7 AWARD PROCESS

- 1 The Alliance will adopt the approach set out in this Schedule 7 when identifying and assessing proposals and making recommendations on the award of funding.
- 2 The Alliance Partners, in consultation with the Commissioner's Procurement, Contract Management and Commissioning (PCMC) Team, shall develop:
 - (a) appropriate proposal documentation;
 - (b) an assessment framework, including assessment criteria and methodology;
 - (c) proposal recommendation report;
 - (d) mini-competition documentation.
- 3 The proposal documentation and assessment framework shall recognise that proposals may not be fully detailed as the initial submission stage and may require further development in the event in principle agreement is given to the proposal.
- 4 In identifying proposals the Alliance Partners shall:
 - (a) be fully inclusive, utilising their networks to actively encourage and support ideas and proposals from across the Torbay VCSE sector;
 - (b) work collaboratively with each other and the Torbay VCSE sector to identify ways in which funding can be used to enhance existing provision and support innovation and transformation at scale across adult social care provision;
 - (c) at all times operate on a Best for People who Use Services basis.
- 5 In addition to actively seeking ideas and proposals from across the Torbay VCSE sector Alliance Partners may submit proposals on behalf of their own organisation.
- 6 To maintain confidentiality and the integrity of the process, the Commissioner shall create an email address specifically for submission of proposals.
- 7 The Commissioner shall acknowledge receipt of the proposal and provide indicative timescales for the completion of the assessment by the Alliance.
- 8 Assessment of proposals may take place by individual Alliance Partners remotely or at ALT meetings.
- 9 Prior to being sent proposals for assessment VCSE Partners shall be required to declare any interest they may have in the organisation making the proposal and where a conflict of interest is identified shall be required to abstain from the assessment process.
- 10 Where the proposal has been made by a VCSE Partner they shall not take any part in the assessment process.
- 11 Proposals shall be sent to Alliance Partners by secure email. Alliance Partners shall provide any feedback on proposals by secure email.
- 12 Proposals will be assessed in accordance with the assessment framework, which shall be capable of differentiating between fully formed proposals and ideas for development.
- 13 The assessment shall take into consideration the overall value of the funding envelope and any minimum and/or maximum cap set on the value of awards.
- 14 Assessment criteria shall take into consideration the degree to which the proposal or idea:
 - (a) meets the priorities and overarching vision for use of the precept;
 - (b) will improve peoples' lives;
 - (c) supports innovation and transformation at scale

- (d) can be sustained once funding has ended;
 - (e) develops existing asset-based community approaches or introduces new approaches;
 - (f) supports or adopts a co-design and co-production approach;
 - (g) authenticity and community support is demonstrated;
 - (h) will improve capacity and resilience in the Torbay VCSE sector;
 - (i) delivers best value and public good through the use of public funds.
- 15 Recommendations to support proposals, deemed by all members of the Alliance to meet the assessment criteria, shall be made by the Alliance to the Commissioner's Director of Adult and Community Services (DACs):
- 16 All recommendations shall be accompanied by:
- (a) full details of the proposal;
 - (b) the assessment scores;
 - (c) a written rationale by the Alliance in support of the proposal;
 - (d) a recommendation as to the value of the award.
- 17 Recommendations may be made to fund a fully formed proposal or to support the further development of an idea.
- 18 The Alliance may make a recommendation to make a direct award of funding to the Applicant organisation, where this is the case the DACs shall seek advice from the PCMC to ensure the decision is in the best interests of the Council and its residents. In all cases where the Alliance is recommending a direct award this must be a unanimous decision of the eligible Alliance Partners.
- 19 The decision on whether to support a proposal and the level of grant awarded shall sit solely with the DACs Services.
- 20 Where a direct award cannot be made or is not supported by the DACs a further competition, with the support of the PCMC team, shall be undertaken.
- 21 To ensure the integrity of the further competition this shall be carried out through the Commissioner's e-tendering portal, using the documentation developed by the Alliance for this purpose.
- 22 Subject to the declaration of interest process set out at paragraph 9 above, the Alliance Partners shall be involved in the development of the further competition documents and form the evaluation panel. As part of this process VCSE shall be required to signal any intention to submit a bid through the further competition, where they is the case they shall be excluded from any participation in developing the documents or assessing bids.
- 23 Following further competition the Alliance shall submit a recommendation to award to the DACs for approval.
- 24 In the case of proposals requiring further development the Alliance shall support the Applicant Organisation and the wider sector with the development activities.
- 25 The Alliance shall monitor and report to the Commissioner on the outcomes achieved through the funded projects.

Schedule 8 CHANGE CONTROL PROCEDURE

1 Definitions

The definitions in this paragraph 1 apply in this Schedule 8.

Change Control Note: the written record of a Change agreed or to be agreed by the parties pursuant to the Change Control Procedure.

2 Permitted Changes

2.1 Changes to this Agreement shall be made only where the change is of the following nature

- (a) there are new outcomes or objectives to be met by the Alliance); or
- (b) new VCSE Partners are admitted to the Alliance; or
- (c) additional commissioning Partners are admitted to the Alliance; or
- (d) there are changes to the criteria for awarding funding through the Alliance.

And the circumstances necessitating the change are:

- (a) supporting the creation of a whole community response to make Torbay a child-friendly and age-friendly place. One Torbay: Working for all of Torbay so that the people in our communities thrive, by:
 - helping to turn the tide on poverty
 - having high aspirations for all Torbay residents
 - building safer communities
- (b) helping to create an environment in which businesses and jobs can grow and where we have a local economy which is successful and sustainable
- (c) helping to tackle climate change
- (d) supporting the Council to meet its responsibilities as a corporate parent;
- (e) supporting the creation of a culture of partnership working between the Council and communities.

3 General Principles

1.2 Where the Commissioner and/or the VCSE Partners see a need to change this Agreement, the Commissioner may at any time request and the VCSE Partners may at any time recommend, such Change only in accordance with the Change Control Procedure set out in paragraph 4 of this Schedule 8.

1.3 Until such time as a Change is made in accordance with the Change Control Procedure, the Commissioner and the VCSE Partners shall continue to perform this Agreement in compliance with its terms before such Change.

1.4 Any discussions which may take place between the Commissioner and the VCSE Partners in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.

4 Procedure

1.5 Discussion between the Commissioner and the VCSE Partners concerning a Change shall result in any one of the following:

- (a) no further action being taken; or
- (b) a request to change this Contract by the Commissioner; or
- (c) a recommendation to change this Contract by the VCSE Partners.

1.6 Where a written request for an amendment is received from the Commissioner, the VCSE Partners shall, unless otherwise agreed, submit a Change Control Note signed by the VCSE Partners to the Commissioner within three weeks of the date of the request.

1.7 A recommendation to amend this Contract by the VCSE Partners shall be submitted directly to the Commissioner in the form of a Change Control Note signed by the VCSE Partners at

the time of such recommendation. The Commissioner shall give its response to the Change Control Note within three weeks.

- 1.8 Each Change Control Note shall contain:
- (a) the title of the Change;
 - (b) the originator and date of the request or recommendation for the Change;
 - (c) the reason for the Change;
 - (d) full details of the Change, including any specifications;
 - (e) the price, if any, of the Change;
 - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (g) a schedule of payments if appropriate;
 - (h) details of the likely impact, if any, of the Change on other aspects of this Contract including:
 - (i) the timetable for the provision of the Change;
 - (ii) the personnel to be provided;
 - (iii) the Charges;
 - (iv) the Documentation to be provided;
 - (v) the training to be provided;
 - (vi) working arrangements;
 - (vii) other contractual issues;
 - (i) the date of expiry of validity of the Change Control Note; and
 - (j) provision for signature by the Commissioner and the VCSE Partners.
- 1.9 For each Change Control Note submitted by the VCSE Partners the Commissioner shall, within the period of the validity of the Change Control Note:
- (a) allocate a sequential number to the Change Control Note; and
 - (b) evaluate the Change Control Note and, as appropriate:
 - (i) request further information;
 - (ii) arrange for two copies of the Change Control Note to be signed by or on behalf of the Commissioner and return one of the copies to the VCSE Partners; or
 - (iii) notify the VCSE Partners of the rejection of the Change Control Note.
- 1.10 A Change Control Note signed by the Commissioner and by the VCSE Partners shall constitute an amendment to this Agreement.

Schedule 9 RECTIFICATION NOTICE

This is a Rectification Notice given by the Commissioner or the Alliance Leadership Team to a Partner in respect of any default identified under the requirements of Schedule 1 clause D3 (Rectification, Exclusion and Termination) of this Agreement.

If the defaults referred to below are capable of remedy, it is important that the Partner remedies those defaults. Failure to remedy the defaults may give rise to a right for the Commissioner to terminate the Agreement with the Partner.

Name of the Commissioner	
Name of the Partner	
Details of Partner's default	
Any additional information	
Details of agreed actions to remedy the default and timescales for completion	
Details of consequences of failing to meet timescales for completion of remedial actions	