

Date: 2023

GKM: Business Sustainability Challenge

GRANT FUNDING AGREEMENT

BETWEEN

NIAB

AND

[NAME OF GRANT RECIPIENT]

Project Name: to be inserted from application

Project reference: to be inserted from application

PARTIES

- (1) **NIAB**, a company limited by guarantee whose company number is 03395389 and whose registered address is 93 Lawrence Weaver Road, Cambridge CB3 0LE (the “**NIAB**”).
- (2) **[NAME OF GRANT RECIPIENT]** of **[ADDRESS]**. (“**Grant Recipient**”).

each referred to in this agreement as “a party” or both referred to as “the parties”.

BACKGROUND

- (A) The UK Government is providing funding through the Strength in Places Fund (SIPF) to help areas of the UK build on existing strengths in research and innovation to deliver benefits for their local economy.
- (B) NIAB leads a consortium of academic, business and local civic leadership that was successful in securing funding for a project focused on the horticultural and food production sector in the Kent & Medway region. This SIPF project is referred to as Growing Kent & Medway (GKM).
- (C) The GKM consortium has identified the following high-level objectives:
 - (a) Provide state-of-the-art infrastructure for research, innovation and demonstration.
 - (b) Raise investment in industry-driven Research & Innovation (R&I) and technology commercialisation.
 - (c) Foster a vibrant business-support environment to increase the number of businesses that innovate and thrive.
 - (d) Develop a strategic framework for upskilling and professionalising the sector.
- (D) The GKM consortium has entered into a funding agreement with UKRI with its own specific Grant Conditions.
- (E) NIAB are designing and implementing a series of grant funding competitions to raise investment in industry-driven R&I and technology commercialisation. These competitions are delivered in collaboration with a range of partners.
- (F) In the case of this Business Sustainability Challenge competition, Kent County Council (the Council) have been contracted to provide due diligence checking, contract management and financial administration of grants awarded to business applicants.
- (G) NIAB has agreed to pay a Grant to the Grant Recipient in accordance with the terms set out in the Offer Letter and this Grant Funding Agreement including the following documents annexed:
 - Offer Details and Outputs
 - Bank Details Form
 - VAT Declaration Form
 - Grant Application Form
 - Signed Collaboration Agreement (where applicable)

(H) The terms and conditions contained herein are intended to ensure that any small grant awarded is used for the purpose for which it is awarded.

IT IS AGREED THAT:

1. DEFINITIONS:

1.1 In this Grant Funding Agreement, the following words and phrases shall have the following meanings:

“Agreement”	Means this Grant Funding Agreement;
“Application”	means the Grant Application
“Authorised Signatory”	means that person authorised to act on behalf of the Grant Recipient (having signed the Application Form) to sign and to enter into the Grant Agreement and abide by the obligations under this Grant Agreement, and in respect of any Grant Recipient which is an unincorporated body refers to the Nominee properly appointed by them;
“Background IP”	means all Intellectual Property, information, data, software and materials belonging to a Party that are provided by that Party to the other for use in the Project (whether before or after the date of this Agreement), and including, but not limited to such Background IP as is set out in the Application but not, for the avoidance of doubt, the Foreground IP.
“Bribery Act”	means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;
“Business Sustainability Challenge competition”	means this competition developed and delivered by NIAB in conjunction with the Council awarding Grant under the terms of this Grant Funding Agreement;
“Collaboration Agreement”	means the signed Collaboration Agreement agreed between the Grant Recipient and any third party organisation that intends to collaborate in the delivery of the Project as set out in the Grant Application, as appended in Schedule 5;
“Confidential Information”	means each Parties confidential information disclosed by that Party to the other for use in the Project and identified as confidential before or at the time of disclosure, the other Party’s Background IP and any Foreground IP owned by it;

“Council”	means The Kent County Council responsible for contractual and financial administration of this Grant Agreement;
“Change”	means in relation to the Grant Recipient any of the following: - <ul style="list-style-type: none"> (a) A change in the ownership or control (b) A change in the nature or purpose of the Project (c) Any change affecting the Eligible Expenditure (d) Any change to any of the Outputs
“Data”	means information collected and/or used for the purposes of the Research, which can be processed manually, electronically or by other means;
“Data Protection Legislation”	means the UK Data Protection Legislation and any other relevant and applicable European Union legislation relating to Personal Data and all other legislation and regulatory requirements in force from time to time which apply to a Party relating to the use of Personal Data;
“Data Sharing Agreement”	means an agreement dated 27 January 2022 signed between NIAB, University of Greenwich, University of Kent and Locate in Kent Limited where each organisation is a Controller in relation to Personal Data processed for the purposes of the GKM project;
“Eligible Expenditure”	means expenditure detailed in the Offer Details as appended in Schedule 1 and complying with Clause 2.5;
“Environmental Information Regulations or EIR”	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such;
“EU State Aid Rules”	means the law embodied in Article 107- 109 of section 2, Title VII of the Common Rules on Competition, Taxation and Approximation of Laws - Consolidated Versions of the Treaty on European Union and the Treaty for the Functioning of the European Union
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under

this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner;

“Foreground IP”	means all Intellectual Property, information, data, software and materials identified, created or first reduced to practice or writing in the course of the Project;
“GDPR”	means REGULATION (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;
“GKM Project”	means the SIPF Project “Growing Kent & Medway” managed by NIAB receiving funding from UK Government;
“Grant Funding Agreement”	means this document and includes all the Schedules;
“Grant”	means such sum as may be approved for payment under the Business Sustainability Challenge competition;
“Grant Application”	means the application for Grant as appended in Schedule 4 and all supporting papers submitted to NIAB/ the Council, including the details of project activities, the project plan and any amendments to any of these documents approved by NIAB/ the Council in writing prior to the date of the Offer Letter;
“Grant Conditions”	means the UK Research and Innovation, Strength in Places Fund, Terms and Conditions of Grant, with effect from September 2022, and amended from time to time;
“Grant Period”	means the period for which the Grant is awarded commencing on the Start Date and ending on the date by which the grant

must be spent (no later than 10 months from the Offer Letter date);

“Grant Recipient”

means the person(s), organisation(s) or partnership to which a Grant is provided;

“Information”

has the meaning given under section 84 of the FOIA;

“Intellectual Property”

means any patents, trademarks, registered designs, copyright, unregistered design right, database right or semi-conductor topography right including the rights to apply for the same and for any renewals of such rights, rights in and to trade or business names, Know-how or Confidential Information, and any similar or analogous rights or forms of protection in any part of the world;

“Know How”

means technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is not in the public domain and that is not the subject of a patent application;

“Match Funding”

means the arrangements approved by the Council for securing contributions to the Project to meet the balance of Eligible Expenditure not supported by the Grant;

“Maximum Sum”

means the maximum amount of Grant payable;

“NIAB”

means the research organisation to which the SIFP funding is assigned which has overall responsibility for the leadership of the GKM Project and for the overall management of the research and innovation activities funded by the SIFP grant; responsible for the administration of the

GKM Business Sustainability Challenge;

“Nominee”	means that person properly authorised to act on behalf of an unincorporated Grant Recipient;
“Offer Letter”	means the Grant Offer letter confirming the Start Date of the Project and the Grant being offered;
“Outputs”	means those listed within Schedule 1;
“Personal Data”	shall have the same meaning as set out in the Data Protection Legislation;
“Project”	means the project in respect of which a Grant is being provided under this Grant Funding Agreement to enable delivery of the project fully described in the Grant Application Form and briefly described in the Offer Letter;
“Project Costs”	means the total cost of the Research;
“Project Management Team”	means the Council’s Business Investment Team;
“Research”	means the scope of work specified in the Application;
“Results”	means any Data, or information or other material generated by or as a result of the Research;
“Retention Requirements”	means: <ul style="list-style-type: none">(a) agreement(s) between with the Grant Recipient and service providers or suppliers detailing the type of support being provided, the timescale for delivery and the total cost, including VAT;(b) original invoices from the Grant Recipient’s service providers or suppliers or bank statements of the Grant Recipient showing payment of the total cost of the service to the provider; and(c) procurement evidence.
“SIPF project”	means the Growing Kent & Medway Project managed by NIAB receiving funding from UK Government;

“Start Date”	means the date of the Offer Letter;
“Subsidy Control Rules”	means any legislation applicable in the United Kingdom on or after 1 January 2021 that regulates the granting by a public sector body of any advantage which threatens to or actually distorts competition in the United Kingdom and/or any other country or countries;
“UK Government”	means UKRI the organisation providing the Strength in Places Fund (SIPF) programme funding, delivered by Research England in collaboration with Innovate UK;
“Working Day”	means Monday to Friday, excluding any public holidays in England and Wales and concessionary days in Kent.

2. PURPOSE OF GRANT

- 2.1 The Grant Recipient shall use the Grant only for the delivery of the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of NIAB.
- 2.2 The Grant Recipient shall not make any significant change to the Project without NIAB’s prior written agreement.
- 2.3 The Grant Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that are funded in full under this grant funding Agreement.
- 2.4 In consideration of the Parties’ respective obligations contained in this Grant Funding Agreement NIAB offer the Grant and the Grant Recipient accepts the Grant up to the Maximum Sum on the terms and conditions of this Grant Funding Agreement.
- 2.5 The Grant will only be paid in respect of Eligible Expenditure as set out in Schedule 1. Eligible Expenditure includes: -
 - 2.5.1 Labour
 - 2.5.2 Overheads
 - 2.5.3 Materials
 - 2.5.4 Capital usage
 - 2.5.5 Subcontractors
 - 2.5.6 Travel & Subsistence
 - 2.5.7 Other costs
- 2.6 Subject to entering into this Grant Funding Agreement Eligible Expenditure that has been defrayed on or after the Start Date may be claimed pursuant to this Grant Funding Agreement.

- 2.7 For the avoidance of doubt the reference to Grant and the provisions of this Grant Funding Agreement shall apply to all claims and Expenditure beginning on the Start Date.
- 2.8 If the Grant Funding Agreement is not entered into for any reason there shall be no expectation of Grant and any expenditure incurred from the Start Date in that case shall be entirely for the account and at the risk of the Grant Recipient.

3. THE APPLICATION AND ACCEPTANCE OF GRANT TERMS

- 3.1 The Grant Recipient shall sign this Grant Funding Agreement as appropriate, which may include electronic signature (whatever form the electronic signature takes).
- 3.2 The Start Date of the Grant is the Offer Letter date and the terms and conditions of this Grant Funding Agreement shall apply from the Start Date.
- 3.3 The Grant Recipient warrants to NIAB/ the Council that the Grant Application is accurate in all respects, having made proper and full enquiry in relation to the same. NIAB/ the Council has based its decision to offer and pay the Grant (and has relied) upon the representations made by the Grant Recipient in the Grant Application and in all documents and information provided as part of the appraisal process.
- 3.4 For the avoidance of doubt, clause 2.7 is intended to ensure that: -
- 3.4.1 no disclaimer of liability for the contents of the Grant Application affects NIAB's/ the Council's right to recover any sum under this Grant Agreement; and
 - 3.4.2 there is reserved to NIAB/ the Council any rights of action or remedies for any mistake, negligent misstatement, misrepresentation or error of judgment made in the Grant Application upon which NIAB/ the Council has relied in agreeing to provide Grant to the Grant Recipient.
- 3.5 The Grant Recipient accepts and agrees to all of the conditions having made full and proper enquiry before giving the warranties contained in this Grant Funding Agreement.
- 3.6 The Grant Recipient acknowledges that the Grant has been offered to it to carry out the Project specified within the Grant Application and repeated in the Offer Letter.
- 3.7 The Grant Recipient acknowledges and agrees that all the Schedules form part of this Grant Funding Agreement.

4. GRANT CLAIMS

- 4.1 Amount of Grant payable
- 4.1.1 the total amount of Grant payable is detailed in the Offer Letter as the Maximum Sum.
 - 4.1.2 the total amount of Grant paid to the Grant Recipient shall not exceed the Maximum Sum and the Grant shall be paid, for the period specified, in this Grant Funding Agreement and does not imply any commitment or agreement to any further funding.
- 4.2 Match Funding arrangements

4.2.1 the payment of Grant is conditional upon the receipt by the Grant Recipient of the Match Funding or the Match Funding being committed.

4.2.2 the Grant Recipient shall secure a minimum of 50% match funding. Eligible private sector match funding includes:

- (a) Bank loan or overdraft facility;
- (b) Company own funds;
- (c) Own funds (including Owners/Directors loan);
- (d) Personal funds from Company; and
- (e) Private investor/New Share capital/New equity investors.

4.3 Sources regarded as ineligible match funding include:

- (a) Costs already incurred;
- (b) Loans or overdraft facilities which have been committed to cover previous expenditure and potential future profits; and
- (c) Projected revenues from project activities.

4.4 Payment of the Grant shall only be made in respect of actual costs incurred, as follows:

4.4.1 on receipt by the Council of invoices properly certified;

4.4.2 on receipt by the Council of reasonable evidence of expenditure properly incurred as may be required by the Programme Management Team; or

4.4.3 subject to such future provision or proof of expenditure as the Council may from time-to-time require.

5. GRANT CLAIMS PROCEDURE

5.1 The Council will not make the payment of Grant unless all of the following have been complied with:

5.1.1 the expenditure is Eligible Expenditure;

5.1.2 that Eligible Expenditure has been defrayed (that is that Eligible Expenditure has been incurred and that payment has been made by the Grant Recipient);

5.1.3 evidence to demonstrate Eligible Expenditure and defrayal by the Grant Recipient is provided, including;

- (a) invoices; and
- (b) bank statement showing payment of invoice(s).

5.1.4 the Council has received a signed financial expenditure form for the relevant grant amount from the Grant Recipient;

5.1.5 the Grant Recipient shall make all Grant claims in arrears;

- 5.1.6 the first Grant Claim shall relate to all Eligible Expenditure incurred and defrayed by the Grant Recipient from the Start Date;
- 5.1.7 the Council will normally meet a Grant Claim within 25 Working Days of receipt, but this is subject to the Grant Recipient satisfactorily meeting any request for further particulars about the Eligible Expenditure specified in the Grant Claim or any other details provided for in the Grant Claim. The time for payment of the Grant Claim shall not be of the essence. The Council shall have no liability to the Grant Recipient for any losses caused by a delay in the payment of a Grant Claim howsoever arising.

6. OWNERSHIP OF BACKGROUND IP

- 6.1 All Background Intellectual Property used or supplied under this Agreement in connection with the Project shall remain the property of the Party introducing the same and nothing contained in this Agreement or any licence agreement pursuant to the Project shall affect the rights of either Party in its Background Intellectual Property

7. OWNERSHIP OF FOREGROUND IP

- 7.1 The Intellectual Property rights arising out of the Project shall belong to the Grant Recipient.
- 7.2 Notwithstanding its ownership of the Foreground IP, the Grant Recipient shall provide a signed copy of any Collaboration Agreement (where relevant) that shows how Foreground IP may be assigned or transferred to any third party organisation(s).
- 7.3 Notwithstanding its ownership of the Foreground IP, the Grant Recipient shall not assign or transfer the Foreground IP to any third party who is not a signatory to the Collaboration Agreement without notifying NIAB within a month of the assignment or transfer.
- 7.4 If the Grant Recipient assigns or transfers the Foreground IP, it shall procure that the assignee or transferee shall enter into such instrument as necessary to comply with the Grant Recipient's obligations set out in this Agreement, and particularly those at Clauses 7.5, 7.6 and 8.
- 7.5 The Grant Recipient shall promptly inform NIAB of any Results which are capable of exploitation whether patentable or not.
- 7.6 Consistent with the good management of Intellectual Property, the Grant Recipient shall use its best endeavours to:
 - 7.6.1 promote the dissemination of the Results of the Project; and
 - 7.6.2 where reasonable and practicable, exploit commercially such Results.

8. PUBLICITY AND BRANDING

- 8.1 In accepting this Grant, the Grant Recipient agrees to participate in any publicity or advertisement organised by NIAB.
- 8.2 The Grant Recipient consents to non-confidential information from the Application and the Project being used to promote the activities of the GKM Project.
- 8.3 The Grant Recipient shall not carry out any publicity of this Agreement or the Grant without the prior written agreement of NIAB.

8.4 All publicity materials **must** clearly identify that the grant is funded by the GKM Project and include the GKM and UK Government logos, to be provided by NIAB.

9. MONITORING

9.1 The Grant Recipient shall closely monitor the delivery and success of the Project throughout the Grant period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to.

9.2 The Grant Recipient shall not make any significant change to the Project without NIAB's consent.

9.3 The Grant Recipient shall retain sufficient documentation to evidence the Retention Requirements.

9.4 If necessary, NIAB will consider extending the Grant period provided that the delay is not such as to necessitate a reduction or suspension or the withholding or recovery of Grant under Clause 11.

9.5 The Grant Recipient shall comply with the deadlines that NIAB/ the Council sets for any requests for additional information in whatever form concerning the progress of the Project.

9.6 The Grant Recipient shall on request provide NIAB/ the Council with such further information, explanations and documents as NIAB/ the Council may reasonably require in order for it to audit the Project, any Match Funding and establish that the Grant has been used properly in accordance with this Agreement.

9.7 The Grant Recipient shall permit any person authorised by NIAB/ the Council such reasonable access to its employees, agents, premises, facilities and systems, records, for the purpose of auditing, discussing, monitoring and evaluating the Project and the Grant Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.

9.8 The Grant Recipient shall permit any person authorised by NIAB/ the Council to visit the Grant Recipient when required by NIAB/ the Council in its reasonable opinion for the purpose, of monitoring the delivery of the Project.

9.9 The Grant Recipient shall produce a Final Report within 14 days of the end of the Grant Period. The draft Final Report shall be in a form which is in compliance with the guidance issued by NIAB as amended from time to time and shall include the Data, methods, Results and final conclusions together with management information and any other information relating to the Project up to the end of the Grant Period.

9.10 The Grant Recipient shall assist NIAB in the production of case studies to show how the Grant has been used as required.

9.11 The Grant Recipient agrees to commit to GKM Project social value framework, details of which have been provided by NIAB as part of the Application process, and deliver their agreed social value commitments.

9.12 The Grant Recipient acknowledge that GKM is required to evaluate its activities for accountability purposes, to inform future programme design, for benefit realisation and impact evaluation. Requests for information may come from UKRI, specific GKM partners who have signed the Data Sharing Agreement (NIAB, University of Greenwich, University of Kent and Locate in Kent) and any independent evaluation partner that NIAB appoints.

- 9.13 The Grant Recipient (whether successful or unsuccessful in this Application) agree to collaborate on any evaluation activity relevant to this Business Sustainability Challenge as part of the GKM project. Where such requests arise they will be communicated by NIAB.
- 9.14 The obligations in this Clause 9 shall survive expiry or termination of this Agreement and shall continue for a further period of eight years.

10. REQUIREMENTS OF GRANT RECIPIENT

- 10.1 The Grant Recipient shall perform the obligations set out below.
- 10.1.1 in accordance with Clause 5 above, complete the Grant Agreement and provide the necessary evidence of Eligible Expenditure to enable the Grant to be paid to the Grant Recipient.
 - 10.1.2 use the Grant wholly and exclusively for the Project.
 - 10.1.3 provide the Project Management Team with periodic progress reports and other information which may be required from time to time, and keep them fully informed at all times of all matters relating to the need for and use of, the Grant.
 - 10.1.4 The Grant Recipient shall immediately notify the Project Management Team in writing if there is any material change affecting its finances or activities or any other matters stated in the Grant Application throughout the period that the Grant is being provided.
 - 10.1.5 submit for inspection the books of accounts and other records (or certified copies of them), as may be required relating to the use of the Grant, within 14 days of a request to do so.
 - 10.1.6 strive to achieve best practice in the SME sector, particularly in respect of the application of equalities and anti-discriminatory legislation.
 - 10.1.7 demonstrate it has developed proportionate and appropriate environmentally friendly ways of working.
 - 10.1.8 comply with all relevant statutory and other legal requirements (including all relevant rules, regulations and orders) pertaining to the operation of its business and all associated matters, including those obligations relating to employment.
 - 10.1.9 ensure that any good or services purchased with the Grant are procured compliantly subject to the procurement rules applicable to the Grant Recipient and the Grant Recipient shall retain such procurement records to evidence compliance with the Retention Requirements.
 - 10.1.10 maintain adequate financial records for a period of eight years after the Grant Period.
 - 10.1.11 ensure that its use of the Grant complies with Subsidy Control Rules/ EU State Aid Rules and acknowledge that if it is found to be in breach of applicable laws, may be required to repay some or all of any funding received under this Agreement.

11. VARIATION, WITHHOLDING AND REPAYMENT OF GRANT

- 11.1 The Council may cancel vary or withhold any or all of the Grant payments and/or require repayment of a Grant payment already made where at the sole and absolute discretion of the Council: -
- 11.1.1 the UK Government cancels varies or withholds any funds granted to NIAB for any reason;
 - 11.1.2 the arrangements for financing the Project are changed;
 - 11.1.3 in NIAB/ Council's opinion, progress on the Project is not satisfactory;
 - 11.1.4 in NIAB/ Council's opinion, the future of the Project is in jeopardy;
 - 11.1.5 in NIAB/ Council's opinion, there is a significant change in the scale or nature of the Project;
 - 11.1.6 in NIAB/ Council's opinion, any information given in relation to the Project changes substantially or is shown to be incorrect or misleading or any claim is based on misleading information; and
 - 11.1.7 the Grant Recipient fails to comply with the conditions of this Agreement.
- 11.2 The Council may demand that the Grant Recipient repay the grant funding forthwith in the following circumstances:
- 11.2.1 all or part of the Grant (as may be specified by the Council) if the Grant Recipient is dissolved, wound-up, disbanded, declared insolvent or bankrupt or otherwise ceases to operate (whether the subject of formal proceedings or not).
 - 11.2.2 all or part of the Grant (as may be specified by the Council) if the Grant Recipient ceases to operate for the purposes in respect of which the Grant was paid.
 - 11.2.3 all or part of the Grant (as specified by the Council) if the Grant Recipient has failed to comply with the conditions or obligations under this Grant Funding Agreement.
 - 11.2.4 the Grant Recipient shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
 - 11.2.5 should the Grant Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Grant Funding Agreement it will notify the Council as soon as possible so that, if possible, and without creating any legal obligation, the Council will have an opportunity to provide assistance in resolving the problem or to take action to protect the Council and the Grant monies.

12. FIXED ASSETS

- 12.1 Not used
- 12.2 Not used.

13. ANTI-DISCRIMINATION

- 13.1 The Grant Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 13.2 The Grant Recipient shall take all reasonable steps to secure the observance of clause 13.1 by all servants, employees or agents of the Grant Recipient and all suppliers and sub-contractors engaged on the Project.

14. ANTI-BRIBERY

- 14.1 The Grant Recipient shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.
- 14.2 The Grant Recipient shall ensure that any person associated with the Grant Recipient who is performing services, or providing goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Grant Recipient in this clause 14 (Relevant Terms). The Grant Recipient shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to the Council for any breach by such persons of any of the Relevant Terms.
- 14.3 Breach of this clause 14 shall be deemed a cause for termination under clause 22 of this Agreement.

15. PROTECTION OF PERSONAL DATA, FREEDOM OF INFORMATION LEGISLATION, & ENVIRONMENTAL INFORMATION REGULATIONS 2004

- 15.1 The Grant Recipient warrant that they will duly observe all their obligations under the Data Protection Legislation which arise in connection with this Agreement.
- 15.2 The Grant Recipient shall assist NIAB/ the Council at no additional charge in meeting any reasonable requests for information which are made to it in connection with the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or any other similar guidelines, codes of practice, or legislation which arise in connection with this Agreement.
- 15.3 The Grant Recipient acknowledges and agrees that all information submitted to NIAB/ the Council and the GKM Project by it will be subject to the requirements of the Freedom of Information Act 2000.
- 15.4 For the avoidance of doubt NIAB/ the Council shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Grant Recipient shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by NIAB/ the Council.

16. CONFIDENTIALITY

- 16.1 Subject to clause 15 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent

necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.

- 16.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:
- 16.2.1 at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
 - 16.2.2 is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence;
 - 16.2.3 is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party; or
 - 16.2.4 is required to be disclosed to the extent required by law or by any competent judicial, governmental or regulatory authority.

17. LIMITATION OF LIABILITY

- 17.1 NIAB/ the Council accepts no liability for any consequences, whether direct or indirect, that may come about from the Grant Recipient running the Project, the use of the Grant or from withdrawal of the Grant. The Grant Recipient shall indemnify and hold harmless NIAB/ the Council, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Grant Recipient in relation to the Project, the non-fulfilment of obligations of the Grant Recipient under this Agreement or its obligations to third parties.
- 17.2 Subject to clause 17.1, NIAB's/ the Council's liability under this Agreement is limited to the payment of the Grant.

18. REPRESENTATION AND WARRANTIES

- 18.1 The Grant Recipient represents, warrants, undertakes and agrees that:
- 18.1.1 it has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant);
 - 18.1.2 it has not committed, nor shall it commit, and prohibited act pertinent to English criminal law;
 - 18.1.3 it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Council immediately of any significant departure from such legislation, codes or recommendations;
 - 18.1.4 it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;

- 18.1.5 it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- 18.1.6 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- 18.1.7 all financial and other information concerning the Grant Recipient which has been disclosed to the Council is to the best of its knowledge and belief, true and accurate;
- 18.1.8 it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- 18.1.9 it is not aware of anything in its own affairs, which it has not disclosed to the Council or any of the Council's advisers, which might reasonably have influenced the decision of the Council to make the Grant on the terms contained in this Agreement; and
- 18.1.10 since the date of its last accounts there has been no material change in its financial position or prospects

19. EVENTS OF DEFAULT

19.1 An event of default will occur if;

- 19.1.1 the Grant Recipient shall use the Grant for any purpose other than the Eligible Expenditure; or
- 19.1.2 the Council establishes that the Grant is not or has ceased to be compliant with Subsidy Control rules/ EU State Aid rules; or
- 19.1.3 the Grant is not being used for the delivery of the Project in accordance with the terms and conditions set out in this Agreement; or
- 19.1.4 the Grant Recipient fails to advise the Council beforehand on significant changes to the Project as set out in the Grant Recipient's application; or
- 19.1.5 there is unsatisfactory progress against the Project; or
- 19.1.6 the Grant Recipient commits any breach of any obligation or undertaking in this Agreement and either such breach is in the Council's opinion not capable of remedy or such breach is capable of remedy and is not remedied within 28 days after the date of notice by the Council to the Grant Recipient requiring remedy; or
- 19.1.7 the Grant Recipient repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to fully perform the terms of this Agreement; or
- 19.1.8 any representation, warranty or statement made repeated or deemed to be made by the Grant Recipient in or pursuant to this Agreement is or proves to have been untrue or incorrect in any material respect when made or when

deemed to be repeated with reference to the facts and circumstances existing at such time; or

- 19.1.9 this Agreement is held by a court to be unlawful or unenforceable in any respect; or
- 19.1.10 the Grant Recipient suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR any individual who is or is comprised in the Grant Recipient or partner of the Grant Recipient is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR any partner of the Grant Recipient (being a partnership) has any partner to whom any of the foregoing apply; or
- 19.1.11 a receiver or administrative receiver or administrator or trustee in bankruptcy or supervisor shall be appointed over all or any of the Grant Recipient's assets; or a person becomes entitled to make such appointment; or an application is made to court for such an appointment; or if a notice is given of intention to make such an appointment; or
- 19.1.12 a petition shall be presented, or a resolution passed or proposed, or an order shall be made, for the winding up of the Grant Recipient or the appointment of a trustee in bankruptcy or supervisor of the Grant Recipient; or
- 19.1.13 a creditor or encumbrancer of the Grant Recipient attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Grant Recipient's assets; or
- 19.1.14 a proposal shall be presented or made for a voluntary arrangement of the Grant Recipient, or a resolution passed or order made in readiness for such a proposal, or the Grant Recipient applies for an interim order for a voluntary arrangement; or
- 19.1.15 where the Grant Recipient is dissolved or suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business ceases trading; or
- 19.1.16 any event occurs, or proceeding is taken, with respect to the Grant Recipient in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clauses 19.1.12 to 19.1.14 inclusive; or
- 19.1.17 any individual comprised in the Grant Recipient dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
- 19.1.18 the Grant is made in compliance with relevant UK Subsidy Control rules and the Grant Recipient fails the due diligence assessment which includes an assessment of whether the Grant Recipient is an 'undertaking in difficulty' or equivalent status.

19.2 Each event of default as set out in Clause 19.1 will be deemed to be a repudiatory breach of this Agreement by the Grant Recipient. The Council may (without prejudice to any of its other rights and remedies) upon and at any time after the occurrence of an event of

default, so long as the same is continuing, by notice to the Grant Recipient do any one or more of the following:

- 19.2.1 declare that its commitment and any obligation of the Council to make any further payment under this Agreement (including any further payment of Grant under Clause 4) shall be reduced and/or deferred to such amount and/or, to such later period as the Council may determine, whereupon such commitment shall be reduced and or deferred accordingly; and/or
- 19.2.2 declare that its commitment and any obligation of the Council to make any further payment under this Agreement shall be terminated, whereupon such commitment shall be reduced to zero and such obligation shall be terminated forthwith; and/or
- 19.2.3 declare that the Grant has become immediately repayable, and demand that the Grant Recipient shall forthwith repay the same together with all other sums payable under this Agreement and in such event the Council shall also be deemed to have made a declaration under clause 19.2.2.

- 19.3 For as long as any event of default is continuing and if any subsequent new default event occurs, the Council shall be entitled from time to time to further exercise again all the rights in Clause 19.2 and change its position concerning any exercise of rights under Clause 19.2 that has already taken place.
- 19.4 The Grant Recipient shall notify the Council forthwith in writing of the occurrence of any of the events specified in clause 19.
- 19.5 The Grant Recipient shall indemnify the Council within 14 days of demand against any loss, damage or liability incurred by the Council as a consequence of any event of default under clause 19. The Council's certificate of any amounts due to the Council under this clause 19.4 shall be conclusive unless manifestly incorrect.

20. INSURANCE

- 20.1 The Grant Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Grant Recipient, arising out of the Grant Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).
- 20.2 The Required Insurances referred to above include (but are not limited to):
 - 20.2.1 public liability insurance; and
 - 20.2.2 employer's liability insurance;
- 20.3 the Grant Recipient shall (on request) supply to the Council a copy of such insurance policies and evidence that the relevant premiums have been paid.

21. DURATION

- 21.1 Except where otherwise specified, the terms of this Agreement shall apply from the Offer Letter date until the anniversary of expiry of the Grant Period.
- 21.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

21.3 Notwithstanding the expiry or earlier termination of this Agreement, the provisions of clause 6 (background IP), clause 7 (foreground IP), clause 8 (publication and branding), clause 15 (Data Protection, FOI), clause 16 (confidentiality), clause 17 (liability), clause 21 (duration) and clause 25 (Notices) shall survive and continue in full force and effect, together with any provisions of this agreement necessary to give effect to such provisions.

22. TERMINATION

22.1 NIAB/ the Council may terminate this Grant Funding Agreement and any Grant payments on giving the Grant Recipient three months' written notice should it be required to do so by financial restraints or for any other reason.

23. ASSIGNMENT

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

24. WAIVER

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

25. NOTICES

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

26. DISAGREEMENT AND DISPUTE PROCEDURES

26.1 Both parties shall use their reasonable endeavour to resolve any disagreements between them in relation to the operation of this Grant Funding Agreement in the course of day-to-day liaison.

26.2 Disagreement which cannot be resolved in the course of the day-to-day liaison should, in the first instance, be addressed by a special meeting between the Authorised Representatives of both parties and involving any other appropriate parties. This should take place within a month, either party raising the disagreement in writing to the other party.

27. NO PARTNERSHIP OR AGENCY

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

28. JOINT AND SEVERAL LIABILITY

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

29. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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

30. GOVERNING LAW

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

31. SEVERABILITY

31.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

31.2 If any provision or part-provision of this Agreement is deemed deleted under clause 29.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

IN WITNESS of which the parties have executed this Agreement on the date first appearing above

For and on behalf of **NIAB**

Signature:

Signed by:

Date:

For and on behalf of **[NAME OF GRANT RECIPIENT]**

Signature:

Signed by: **[NAME OF AUTHORISED SIGNATORY]**

Date:

SCHEDULES

Schedule 1	Offer Details and Outputs
Schedule 2	Bank Details Form
Schedule 3	VAT Declaration Form
Schedule 4	Grant Application Form
Schedule 5	Signed Collaboration Agreement (where applicable)

SCHEDULE 1
OFFER DETAILS AND OUTPUTS

NAME OF GRANT RECIPIENT

Project Name: to be inserted from application

Project reference: to be inserted from application

Offer Details

Eligible Expenditure Category	Eligible Expenditure Costs
Labour	Insert figure
Overheads	Insert figure
Materials	Insert figure
Capital Usage	Insert figure
Subcontract	Insert figure
Travel & Subsistence	Insert figure
Other costs	Insert figure
Total Eligible Costs	Insert total figure
Rate of grant (%)	50%
Total Grant (Maximum Sum)	Insert figure

Outputs

- Final Report
- Social Value commitments

Need to add any more that we wish to see.

SCHEDULE 2
BANK DETAILS FORM

Bank Details for **[INSERT NAME OF GRANT RECIPIENT]**

1. Legal Name of Grant Recipient:

2. Name of Bank:

3. Address of Bank:

4. Name of Account:

5. Sort Code:

6. Account Number:

7. Account Validation:

It is a requirement of the Project Management Team that you validate the account details on this form and that they correspond to the organisation named in Box 1. A letter from the bank manager showing company name, account number, sort code and trading status or copies of three bank account statements issued in the three months preceding the application will be accepted as form of validation.

SCHEDULE 3
VAT DECLARATION FORM

NAME OF GRANT RECIPIENT

Please delete as appropriate

- I hereby declare that we are not registered or about to be registered for the purposes of Value Added Tax.
- We are registered for the purpose of Value Added Tax

VAT Registration Number:

I am aware that all recoverable VAT is ineligible expenditure and my grant will be calculated on nett expenditure (exclusive of VAT). *Please seek advice from a VAT advisor if required.*

Signed:

Name:

Position:

Date:

- **If at any time the organisation registers/deregisters for VAT please inform the Project Management Team Immediately.**

WARNING

- If you obtain or attempt to obtain by deception grant for yourself or anyone else, you may be liable to a fine and /or imprisonment.
- A false or misleading statement, whether made by the applicant or on his behalf may mean that approval will be revoked, and any grant may be withheld or recovered with interest.

SCHEDULE 4

GRANT APPLICATION FORM

INSERT PDF COPY OF THE APPLICATION FORM

SCHEDULE 5

COLLABORATION AGREEMENT (IF APPLICABLE)

INSERT PDF COPY OF THE SIGNED COLLABORATION AGREEMENT.