

CONGLETON TOWN COUNCIL

COMMITTEE REPORTS AND UPDATES

COMMITTEE:	Council		
MEETING DATE AND TIME	4 th April 2024 7.00 pm	LOCATION	Congleton Town Hall
REPORT FROM	David McGifford (Chief Officer)		
AGENDA ITEM REPORT TITLE	6 Town Hall Decarbonisation Grant		
Background	<p>In 2019 Congleton Town Council declared a Climate emergency and committed to working toward Carbon Neutrality. To support this objective Congleton Town Council resolved to approve the procurement of professional services at a meeting on the 22nd April 2022 (CTC /76/2122) resulting in Tomson Consulting being commissioned to carry out a review of the energy efficiency of our Town Hall and produce a plan to reduce its energy consumption and remove its reliance and fossil fuels in order to reduce our carbon footprint for the future. A project that has become known as Town Hall Decarbonisation.</p> <p>The report produced by Tomson consulting was presented to both the Town Hall & Assets and the Environment Committees and associated working groups. The proposals within it have formed the basis of our ongoing activities to improve the energy efficiency of the building. However, we have only been able to pursue those actions that are relatively modestly priced, many of the big ticket items – such as replacing our gas boilers with a next generation heating system, were only going to be possible if we acquired grant funding to finance them.</p> <p>Following ongoing and persistent lobbying at Cheshire East we secured a fabulous opportunity to advance our intentions by submitting an application for Public Sector Decarbonisation Funding. Cheshire East agreed to use their retained consultants to carry out all of the necessary work required to submit an application on our behalf for the bulk of the estimated £434,427 that would be required to complete all of the necessary work on the Town Hall.</p> <p>Projects</p> <p>The potential projects that were included within the grant application included –</p> <ul style="list-style-type: none">• Next-generation heating systems (non-fossil fuel)• Fabric upgrades – walls, window (secondary glazing), roof• Solar panels• LED lighting <p>Each of these had indicative figures against them but there is flexibility on how the grant funding is spent.</p> <p>As this is a listed building works will need to go through the planning process and be supported by the CEC Conservation Officer who has already visited the town hall with the Cheshire East officers who generated the grant application.</p> <p>Grant Submission</p> <p>The basic requirement for accessing a grant is for the project to be completed over a 2 year period from the award of the grant. The project plan needed to meet the criteria set by Salix with supporting evidence of the needs, benefits and indicative costs as well as an</p>		

organisational structure to manage the project. Grants requested for each year need to be stated and supported by the expected outcomes during those periods.

Generating the grant submission package did not require any financial input or significant officer input from the Town Council as CEC and their consultants used the excellent report produced for us by Tomson as the basis for the bid documents

Following guidance from CEC we were advised that the estimated Town Council contribution would need to be £53,000.

On October 10th 2023 an application was submitted for the project to SALIX for Public Sector Decarbonisation Funds (phase 3a) The breakdown of the SALIX grant and the Town Councils contribution was as follows:-

Total	£434,427 (100%)
SALIX grant	£381,427 (87.8%)
Congleton Town Council	£53,000 (12.2%)

The £53,000 Town Council contribution is currently held in Earmarked Reserves following approval at the Council Meeting on the 25th of January 2024, resolution CTC/76/2024.

Following the grant submission there were additional meetings with Salix to provide clarification on the information that we had provided.

Grant Offer

On the 19th of March 2024 we received a grant offer from Salix (**see Appendix 1**) and they are seeking **a response to this offer on the 5th of April 2024**

The key information from the grant offer is as follows -

Total	£437,374 (100%)
SALIX grant	£357,683 (81.78%)
Congleton Town Council	£79,691 (18.22%) which is an additional £26,691

Grant breakdown and expected outcomes

Year 1 Grant £57,683 Appoint a project manager and agree projects through to detailed designs through to tender

Year 2 Grant £300,000 Delivery of projects

Following the tendering process we will have a clear understanding of the costs of the projects, We have been advised that we can choose to contribute our grant when we see fit so in practical terms that would be year 2.

If the project progresses as planned we need to address the shortfall of £26,691 which can be done during year 1, the current options are -

- Apply for additional funding from other sources if there is the opportunity which will need to be agreed upon by SALIX
- Whilst noting that we have other ambitions, this matter should be part of our Business Planning exercise in June / July 2024 and budget setting for 2025/26 which will take place in November 2024

	<p>Governance Project Board</p> <p>Part of the contractual conditions is for the council to provide monthly updates to the grant provider SALIX. As we are ultimately responsible for this project the main role of the council is to create a Project Board to work under delegated authority. The board will receive the monthly progress reports provided by the appointed Project Manager ensuring that the agreed programme of works is progressing as planned or noting any issues. Updates to the Council will be provided at the planned Council meetings for the year or at Emergency Meetings if there is a deviation of the plan that impacts on finance or outcomes.</p> <p>The Chief Officer will be the Senior Responsible Officer for the project and it is proposed that the Initial Project Board Members would be as follows:-</p> <p>The Chief Officer, the Town Mayor and the Chairs of the THAS, F&P and Environment Committees, Congleton Town Council’s RFO and Paul Williams who has been our internal advisor for environmental improvements and is the Technology Director - Dane Valley Community Energy.</p> <p>Profile</p> <p>In accepting this grant offer this project would show Congleton to be a leader amongst town and parish councils and allow us to work alongside specialists and officers to deliver on our Climate Emergency commitments. In addition, by future-proofing the Town Hall by replacement of the heating system we avoid the risk of an unplanned failure of our 14-year-old boilers.</p> <p>Legal Guidance</p> <p>The Chief Officer forwarded the contract to our legal advisors to ascertain if there are any issues we should be aware of with a specific focus on financial risk. This feedback was received and shared with Salix on the 28th of March (see Appendix 2) any feedback from SALIX will be reported at the meeting on the 4th of April 2024.</p>
<p>Considerations</p>	<p>Finance As stated within the report we have not allocated sufficient funds to meet the increased contribution requested within the grant offer, however, during year 1 there is no requirement for the Town Council to use any of its own funds.</p> <p>During year 1 the council has time and the opportunity to attract or plan for additional funding for year 2 to bridge the shortfall. Should this not be successful the council could withdraw due to inadequate funding or potentially choose to continue with a reduced scheme within our current allocation.</p> <p>Prior to progressing into year 2 there also needs to be an understanding of any potential operational savings or increases.</p> <p>Environmental The proposed environmental improvements to the town hall are projected to generate CO2 savings estimated to be 51 tonnes per year</p> <p>Equality It is well established that the effects of climate change have the most adverse impact on the poorest people in our society (who are less able to cope with extreme heat/cold/flooding etc)</p>
<p>Proposal</p>	<ol style="list-style-type: none"> 1. That the Council approves the signing of the Grant Offer as per Appendix 1 2. That the Chief Officer creates the required Project Board with the membership and powers as stated within the report



PHASE 3c PUBLIC SECTOR DECARBONISATION SCHEME GRANT OFFER LETTER

David McGifford
Chief Officer
Congleton Town Council
Town Hall
Congleton
CW12 1BN

18/03/2024

Dear David,

Phase 3c PSDS Grant Offer Letter

1. The Department for Energy Security and Net Zero (The Department) has made funding available to enable Salix Finance to provide you (the "Recipient") with a grant of up to £357,683.00 to assist you in carrying out your low carbon heating project.
2. The following schedules are included as part of this Grant Offer Letter:
 - Schedule 1 - Terms and Conditions
 - Schedule 2 - Specific Conditions
 - Schedule 3 - Project Programme and Expenditure Forecast
 - Schedule 4 - Monthly Monitoring Report
 - Schedule 5 - Payment Request
 - Schedule 6 - Specimen Signatures
 - Schedule 7 - Phase 3c PSDS Application
 - Schedule 8 - Requirements related to the Consortium (where relevant)
 - Schedule 9 - Subsidy Control (where relevant)
3. We are writing to acknowledge receipt of your application for the Grant, a copy of the approved assessed application form which is attached at Schedule 7, and to provide you with an offer of grant funding. Terms defined in this Grant Offer Letter have the same meanings as defined in the attached Terms and Conditions.
4. The key details of the Grant are as follows:

Name of Recipient	Congleton Town Council
Total Project Value	£437,374.12
Total Grant Value	£357,683.00
Amount of Grant (Year 1) - 2024/25	£57,683.00
Amount of Grant (Year 2) - 2025/26	£300,000.00
Project Name	Congleton Town Hall, High Street Congleton Cheshire CW12 1BN
Project Reference Number/Submission ID	55423
Expected Practical Completion Date	31/03/2026
Grant Start Date	Date GOL is countersigned and returned to Salix
Grant End Date	31/03/2026

5. You must appoint a person (the "**Accountable Officer**") who will be responsible for ensuring that you use the Grant in compliance with the attached Terms and Conditions.
6. Grant recipients can only claim for funding incurred after the Grant Start Date.
7. If the Grant Start Date is in the 2023/24 Financial Year, Grant recipients may be able to claim for works prior to 1st April 2024 should there be sufficient underspend from previous phases, only where all of the following criteria is met:
 - 7.1 The Grant Offer Letter is signed prior to costs being incurred for any of the works being claimed for; and,
 - 7.2 the claim amount is forecasted to Salix by March 2024; and,
 - 7.3 the claim is submitted to Salix in April 2024 for payment in May 2024. Claims for spend incurred prior to 1st April 2024 which have not been previously forecasted and agreed with Salix will not be paid in any circumstances.
8. The signature of the Accountable Officer is to be inserted at Schedule 6.
9. In communicating with Salix, your contact is Gerald Habib, gerald.habib@salixfinance.co.uk.
10. The provision of the Grant is subject to the Terms and Conditions set out in this Grant Offer Letter and the attached schedules, including the Terms and Conditions attached at Schedule 1. The Grant is being provided to you on the understanding that you agree to deliver the Project and agree to comply with the Terms and Conditions set out in this Grant Offer Letter and the attached schedules.

Schedule 1: Terms and Conditions

Phase 3 Public Sector Decarbonisation Scheme Terms and Conditions

These terms and conditions will govern the relationship between Salix Finance Limited, a company incorporated in England and Wales with company number 05068355 and whose registered office is at 10 South Colonnade, Canary Wharf, London, E14 4PU (**Salix**) the Recipient in connection with the provision of the Public Sector Decarbonisation Scheme (PSDS) Grant by Salix to the Recipient.

These terms and conditions shall apply to and be incorporated into the Grant Offer Letter and should be read in conjunction with the Grant Offer Letter. These terms and conditions, the Grant Offer Letter and its schedules shall together constitute the **Agreement**.

1. Definitions and interpretation

1.1. In these terms and conditions, the following terms shall have the following meanings:

Authorising Official: the person appointed by the Recipient, and whose identity is approved by Salix, who is responsible for ensuring that the Recipient uses the Grant in compliance with the Agreement and who has the authority to sign official and legal information.

Bribery Act: 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.

Building Contract: the contract to design and/or complete the design of and build the Project.

Business Day: a day (other than a Saturday, Sunday or public holiday) on which commercial banks are open for general business in London..

Change of Control: means the sale of all or substantially all the assets of a party to the Agreement; any merger, consolidation or acquisition of a party to the Agreement with, by or into another corporation, entity or person, or any change in the ownership of more than fifty percent (50%) of the voting capital stock of a party to the Agreement in one or more related transactions.

Dangerous Substance: any radioactive emission, noise or natural or artificial substance (whether in the form of a solid, liquid, gas or vapour, including any controlled, special, hazardous, toxic, radioactive or dangerous substance or waste), the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to any living organism or damaging the Environment or public health or welfare.

Data Protection Legislation: all applicable data protection legislation and privacy legislation in force from time to time in the UK including the GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); any other directly applicable European Union regulation relating to privacy; 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 and the privacy of electronic communications.

If you wish to accept the offer of grant funding upon the terms set out in this Grant Offer Letter and the attached schedules, please countersign this letter within 10 Business Days of the date of this letter and return the original to us. If you fail to countersign and return this letter within 10 Business Days of the date of this letter, the offer of grant funding shall expire.

Chiara Lorenzetti

19-Mar-24 | 9:52 AM GMT *

.....
Authorised Signatory

.....
Date

Chiara Lorenzetti

.....
Print Name

For and on behalf of Salix Finance Limited

We hereby accept the offer of grant funding upon the terms set out in this Grant Offer Letter and the attached schedules.

.....
Authorised Signatory

.....
Date

David McGifford

.....
Print Name

.....
Job Title

For and on behalf of Congleton Town Council

Deleterious Material: any material, equipment, product or kit that is generally accepted, or generally suspected, in the construction industry at the relevant time as:

- (a) posing a threat to the health and safety of any person;
- (b) posing a threat to the structural stability, performance or physical integrity of the Project, or any part or component of the Project;
- (c) reducing, or possibly reducing, the normal life expectancy of the Project or any part or component of the Project; or
- (d) not being in accordance with any relevant British standard, relevant code of practice or good building practice.

The Department: the Department for Energy Security & Net Zero (and its successors, assigns and transferees).

Eligible Expenditure: the expenditure incurred, or to be incurred, by the Recipient during the Grant Period for the purposes of delivering the Project in accordance with the Project Programme, Grant Application and the Agreement, and which comply in all respects with the eligibility rules set out in Clause 5 of these Terms and Conditions.

Environment: the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

Environmental Law: all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes insofar as they relate to or apply to the Environment.

Evidence of Need: such evidence requested by Salix which Salix considers, in its absolute discretion, provides it with a sufficient level of assurance to demonstrate that the Grant will be used for Eligible Expenditure.

Final Commissioning: The integrated application of a set of engineering techniques and procedures to check, inspect and test every operational component of the project: from individual functions (such as instruments and equipment) up to complex amalgamations (such as modules, subsystems and systems). Commissioning activities in the broader sense are applicable to all phases of the project from the basic and detailed design, procurement, construction and assembly until the final handover of the unit to the owner, sometimes including an assisted operation phase.

GDPR: General Data Protection Regulation ((EU) 2016/679).

Governing Body: the governing body of the Recipient including its directors or trustees.

Grant: the sum specified in the Grant Offer Letter, to be paid to the Recipient in accordance with the Agreement.

Grant Application: the application for the Grant, submitted by the Recipient to Salix, which incorporates the Grant Application Support Notes, a copy of which is attached at Schedule 7 to the Grant Offer Letter.

Grant Application Support Notes: any notes or documentation supporting the Recipient's application for the Grant.

Grant End Date: the date referred to as the 'Grant End Date' in the Grant Offer Letter.

Grant Offer Letter: the letter from Salix to the Recipient, setting out the basis upon which the Grant will be provided to the Recipient. ✓

Grant Period: the period for which the Grant is awarded starting on the Grant Start Date and ending on the Grant End Date. ✓

Grant Start Date: the date referred to as the 'Grant Start Date' in the Grant Offer Letter. ✓

Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions. ✓

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

Like-for-Like Costs: all the costs incurred should the existing heating plant be replaced with a typical fossil fuel heating plant of the same type and size. In most cases this will be equivalent to the costs of replacing the existing system with a conventional non-domestic boiler. The total recipient contribution for all applications must be a minimum of 12% of total project value. If the like-for-like cost is less than 12% of the total project value, then the recipient will need to provide further funding to bring the total recipient contribution up to 12%. ✱

Measures: the individual items of design, construction or other building works which are necessary to achieve Practical Completion, as contained within the Project Programme. ✓

Necessary Consents: any planning permission required for the Project, any environmental licences and any other authorisation under any other statute, bye-law or regulation of any competent authority that is reasonably necessary to enable the works on the Project to be lawfully commenced, carried out or completed. ✓

Payment Date(s): the date or dates on which a Grant is made or is to be made. ✓

Payment Request: a request for payment of a Grant, or part of a Grant, in the form set out at Schedule 5 (Payment Request) to the Grant Offer Letter. ✓

Personal Data: shall have the same meaning as set out in the Data Protection Legislation.

Practical Completion: the date on which the certificate of practical completion (or the equivalent evidence of practical completion of works) of the Project is properly issued in accordance with the terms of the Building Contract. ✓

Procurement Regulations: the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with their amendments, updates and replacements from time to time. ✓

Prohibited Act:

- (a) offering, giving or agreeing to give to any servant of the Crown any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Agreement or any other contract with the Crown; or
 - (ii) showing or not showing favour or disfavour to any person in relation to the Agreement or any other contract with the Crown;
- (b) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences in respect of fraudulent acts;
 - (iii) at common law in respect of fraudulent acts in relation to the Agreement or any other contract with the Crown; or
 - (iv) defrauding or attempting to defraud or conspiring to defraud the Crown.

Project: the project or projects operated by the Recipient to assist in the reduction of energy use or the switch to, or enabling works in preparation for, a cleaner heat source, as set out in the Grant Application and as described in the Grant Offer Letter. ✓

Project Programme: the detailed timetable for delivery and completion of the Project including a breakdown of the Measures and the cost of such Measures, as set out in Schedule 3 (Project Programme) to the Grant Offer Letter. ✓

Project Start Date: the date upon which works on the Project are to commence, as specified in the Grant Offer Letter. ✓

Public Sector Body: anybody within England who undertakes tasks paid for wholly or partly by public funds and that is a 'contracting authority' as defined by the Public Contracts Regulations 2015, including (without limitation) any government department or authority, any non-departmental government body, any local and public authority, emergency service, institution of further and higher education, maintained school within the state education system, academy, multi-academy trust, free school, nursery school maintained by a local authority and any NHS Trust or Foundation Trust, but specifically excluding public corporations, private companies, social housing, and charities that are not non departmental public bodies. ✓

Recipient: the person named as such in the Grant Offer Letter. ✓

Retention Costs: Retention money is a sum of money held by the employer as a safeguard for any defective or non-conforming work by the contractor. It is usually a percentage of the total payment, and is held until the contract is fulfilled and the employer is satisfied with the work. The purpose of retention money is to provide security against the contractor's failure to complete any outstanding work, remedy any defects or damage, and in respect of any other liability of the contractor to the employer. The contractor has to complete the scope of work under the contract in order to receive the retention money amount withheld. Retention money is commonly used in construction contracts, with a percentage of the progress claim usually deducted as retention money. ✱

Specific Conditions: any specific conditions set out at Schedule 2 (Specific Conditions) to the Grant Offer Letter.

Terms and Conditions: these terms and conditions.

- VAT:** value added tax payable by virtue of the Value Added Tax Act 1994 and any similar tax from time to time in addition to it, replacing it or performing a similar fiscal function. ✓
- 1.2. In the event of any inconsistency between the Grant Offer Letter and these Terms and Conditions, the provisions of the Grant Offer Letter shall prevail. In the event of any inconsistency between these Terms and Conditions and any Specific Conditions, the provisions of the Specific Conditions shall prevail. ✓
 - 1.3. Headings do not affect the interpretation of these Terms and Conditions. ✓
 - 1.4. Any reference to Salix in these Terms and Conditions includes references to its successors, transferees or assignees. ✓
 - 1.5. A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it. ✓
 - 1.6. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). ✓
 - 1.7. A reference to a Clause is a reference to a clause of these Terms and Conditions. ✓
 - 1.8. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular. ✓
 - 1.9. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders. ✓

2. Purpose of Grant

- 2.1. The Recipient shall use the Grant only for the delivery of the Project in accordance with the Project Programme, the Grant Application and the Agreement. The Grant shall not be used for any other purpose without the prior written agreement of Salix. ✓
- 2.2. The Recipient shall not make any significant change to the Project, or the Project Programme without Salix's prior written agreement issued in a grant amendment letter. Salix cannot guarantee payment for any significant changes made prior to this written agreement. ✓
- 2.3. The Grant is being provided to the Recipient in consideration for the Recipient agreeing to deliver the Project and agreeing to comply with the Agreement. ✓

3. Payment of the Grant

- 3.1. Subject to Clause 17 of these Terms and Conditions, Salix shall pay an amount not exceeding the Grant awarded in each financial year to the Recipient in instalments in the amounts and on the Payment Dates set out in the Project Programme, subject to: ✓
 - 3.1.1. the Recipient providing Salix with Evidence of Need; ✓
 - 3.1.2. the Evidence of Need demonstrating that the Eligible Expenditure was incurred in the financial year it is being claimed. ✓
 - 3.1.3. the Evidence of Need demonstrating that the Eligible Expenditure was incurred by the Recipient prior to the Payment Request. ✓

- 3.1.4. the necessary funds being made available to Salix from the Department when payments fall due;
- 3.1.5. Salix receiving a completed Payment Request signed by the Authorising Official on behalf of the Recipient no later than 21 Business Days before the proposed Payment Date; *1 M 14* *
- 3.1.6. Salix receiving all documents and information, clearly outlining and itemising costs incurred at each location, which it may, in its absolute discretion, request from the Recipient; Salix receiving all documents and information which it may, in its absolute discretion, request from the Recipient;
- 3.1.7. the further conditions precedent that on each Payment Date:
 - (a) Salix is satisfied, in its absolute discretion, that the confirmations provided by the Authorising Official on behalf of the Recipient in the Payment Request are true and accurate;
 - (b) Salix is satisfied, in its absolute discretion and subject to Clause 3.6 below, that the remaining Grant to be provided is sufficient to meet the remaining costs required for delivery of the Project in accordance with the Project Programme; *?* * *check design stage costs.*
 - (c) Salix is satisfied, in its absolute discretion and where relevant, the Recipient has provided Salix the evidence needed to meet any Specific Conditions which have a due date prior to the date of the Payment Request; and ✓
 - (d) Salix is satisfied that all Specific Conditions are resolved prior to the Recipient requesting the final Payment Request; ✓
- 3.2. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that Salix has been provided with available funds by the Department. ✓
- 3.3. No Payment Request shall be submitted before the Grant Start Date. ✓
- 3.4. No Payment will be made for Eligible Expenditure undertaken after the Grant End Date unless it is to fund Final Commissioning or Retention costs and this has previously been agreed by Salix in writing.
- 3.5. No Grant shall be paid unless and until Salix is satisfied that such payment will be used for Eligible Expenditure.
- 3.6. In the event of any overspend by the Recipient in its delivery of the Project outside of the sums set out in the Project Programme, or awarded in each financial year, the amount of such overspend shall be met by the Recipient from its own funds unless Salix, in its absolute discretion:
 - 3.6.1. agrees to increase the Grant by an amount equal to the overspend; or
 - 3.6.2. agrees to adjust the Project Programme and/or reduce the Measures so as to ensure that the remaining Grant is sufficient to meet the remaining costs require for delivery of the Project. } *
- 3.7. The Grant shall be paid into a bank account in the name of the Recipient, the details of which shall be notified to Salix prior to the first Payment Request, which must be an ordinary business bank account.
- 3.8. The Recipient shall not transfer any part of the Grant to bank accounts which are not ordinary business accounts within the clearing bank system, without the prior written consent of Salix.

- 3.9. The Recipient shall promptly repay to Salix any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient. ✓
- 3.10. The Recipient is to provide satisfactory evidence to Salix demonstrating that the Recipient has contributed the 'Like-for-Like' costs towards the delivery of the Project. This is to be done prior to final Payment Request unless prior written consent has been provided by Salix of an exemption. ✓
- 3.11. The Recipient will inform Salix if and when any Retention have been made to their contractors if applicable and follow Salix instructions should any Retention not be paid. ✓

4. Use of the Grant

- 4.1 The Grant shall be used by the Recipient for the delivery of the Project in accordance with the Project Programme, the Grant Application and in accordance with the Agreement. For the avoidance of doubt, the amount of the Grant that the Recipient may spend on any item of Eligible Expenditure listed in the Project Programme shall not exceed the forecasted amounts as listed in the Project Programme (without prior written agreement of Salix). ✓
- 4.2. The Recipient shall not use the Grant to:
 - 4.2.1. make any payment to members of its Governing Body;
 - 4.2.2. purchase buildings or land; or
 - 4.2.3. pay for any expenditure commitments of the Recipient entered into before the Grant Start Date, unless this has been approved in writing by Salix. ✓
- 4.3. The Recipient shall not spend any part of the Grant on the delivery of the Project after the Grant Period, unless clause 3.4 applies. ✓
- 4.4. Should any part of the Grant remain unspent at the end of the Grant Period, or should any part of the Grant be provided for items of Eligible Expenditure which subsequently cost less than forecasted in the Project Programme, the Recipient shall, unless otherwise agreed in writing by Salix, ensure that any unspent monies are returned to Salix. ✓
- 4.5. Where the Recipient enters into a contract with a third party in connection with the Project, the Recipient will remain responsible for paying that third party. Salix has no responsibility for paying the invoices of third parties. ✓
- 4.6. Onward payment of the Grant and the use of sub-contractors shall not relieve the Recipient of any of its obligations under the Agreement. ✓
- 4.7. Any liabilities arising at the end of the Project and which are not otherwise incorporated within the Project Programme, including but not limited to any redundancy liabilities for staff employed by the Recipient to deliver the Project, must be managed and paid for by the Recipient using other resources of the Recipient and not using the Grant. There will be no additional funding available from Salix for this purpose. ✓

5. Eligibility Rules

- 5.1. Salix will only pay the Grant in respect of Eligible Expenditure incurred by the Recipient to deliver the Project and the Recipient will use the Grant solely for delivery of the Project in accordance with the Project Programme.

- 5.2. The only costs/payments that will be classified as Eligible Expenditure are those specific items of expenditure set out in the Project Programme.
- 5.3 Notwithstanding any items of expenditure set out in the Project Programme, the Recipient may not use the Grant to meet any of the following payments:
- 5.3.1. Salix will only pay the Grant in respect of Eligible Expenditure incurred by the Recipient to deliver the Project and the Recipient will use the Grant solely for delivery of the Project in accordance with the Project Programme. ✓
 - 5.3.2. The only costs/payments that will be classified as Eligible Expenditure are those specific items of expenditure set out in the Project Programme. ✓
 - 5.3.3. using the Grant to petition for additional funding;
 - 5.3.4. expenses such as for entertaining, specifically aimed at exerting undue influence to change government policy; ✓
 - 5.3.5. input VAT reclaimable by the Recipient from HMRC; ✓
 - 5.3.6. payments for activities of a political or exclusively religious nature; ✓
 - 5.3.7. contributions in kind;
 - 5.3.8. interest payments or service charge payments for finance leases; ✓
 - 5.3.9. gifts; ✓
 - 5.3.10. entertaining (meaning anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations); ✓
 - 5.3.11. statutory fines, criminal fines or penalties, civil penalties, damages or any associated legal costs; ✓
 - 5.3.12. costs incurred in giving evidence to Parliamentary Select Committees;
 - 5.3.13. costs incurred in attending meetings with government ministers or civil servants to discuss the progress of the Project;
 - 5.3.14. costs incurred in responding to public consultations or costs incurred in lobbying other people to respond to any such consultation;
 - 5.3.15. costs incurred in providing independent evidence-based advice to local or national government as part of the general policy debate;
 - 5.3.16. payments for works or activities which the Recipient has a statutory duty to undertake, or that are fully funded by other sources;
 - 5.3.17. bad debts to related parties;
 - 5.3.18. payments for unfair dismissal or other compensation;
 - 5.3.19. depreciation, amortisation or impairment of assets owned by the Grant Recipient; and/or
 - 5.3.20. liabilities incurred before the Grant Start Date unless expressly included in the Project Programme. ✓

6. Authorising Official

- 6.1. The Recipient must appoint an Authorising Official who is responsible for ensuring that the Recipient uses the Grant in compliance with the Agreement. D M C G .
- 6.2. The identity of the Authorising Official must be approved by Salix prior to the commencement of the Project, and the identity of such person shall not change during the Grant Period without the prior written consent of Salix. ✓
- 6.3. The Authorising Official will be responsible for ensuring all members of a consortium comply with the terms set out in schedule 8 of the Grant Offer Letter. ✓
- 6.4. The Authorising Official must:
 - 6.4.1. maintain oversight of the Recipient's use of the Grant and safeguard, control and ensure the efficient, economical and effective management of the Grant;
 - 6.4.2. advise the Recipient on the discharge of the Recipient's responsibilities under the Agreement;
 - 6.4.3. ensure that principles of probity, robust governance, transparency and value for money are maintained at all times in relation to the utilisation of the Grant;
 - 6.4.4. be responsible for signing each Payment Request; and
 - 6.4.5. ensure that conflicts of interest are avoided.
 - 6.4.6. be responsible for informing Salix with immediate effect, in the event of long absence or leaving the organisation, by providing the name and contact information for the delegated authority or a replacement Authorising Official respectively.

7. Covenants

- 7.1. In consideration of the Grant being given, the Recipient undertakes to Salix:
 - 7.1.1. Not to use the Grant otherwise than in respect of the Project, not to use the Grant in a way that does not comply with subsidy control rules in the United Kingdom (where relevant - refer Clause 10), to subsidise any economic activity, and, in particular, not to use the Grant to generate revenue or capital gain, or to make any of the payments set out in Clause 5.3; that it will respond fully, promptly and truthfully (to the best of its knowledge) to any enquiries that Salix may make about the Project and/or use of the Grant within 10 working days of receipt; to ensure that the works on the Project are completed, and the design, construction and development of the Project is undertaken, in a proper and workmanlike manner, using materials of good quality which are fit for their respective purposes, and in accordance with: ✓
 - 7.1.2. that it will respond fully, promptly and truthfully (to the best of its knowledge) to any enquiries that Salix may make about the Project and/or use of the Grant within 10 working days of receipt; ✓
 - 7.1.3. to ensure that the works on the Project are completed, and the design, construction and development of the Project is undertaken, in a proper and workmanlike manner, using materials of good quality which are fit for their respective purposes, and in accordance with: ✓
 - (a) the Project Programme and Grant Application;
 - (b) the Necessary Consents and all applicable authorisations and laws;

- (c) the Building Contract and any other contracts and agreements relating to the completion of the Project.
- 7.1.4. that it shall properly and diligently monitor the work on the Project during the Grant Period, and for such period after Practical Completion as Salix shall reasonably specify, to ensure that the Grant is being used appropriately and the Project continues to produce, or will in the future produce, the energy savings and CO2 reductions envisaged and agreed with Salix;
- 7.1.5. that it shall keep a full, accurate and proper auditable record of the progress of the Project, including all Eligible Expenditure and other costs incurred in relation to the Project and the present and future effectiveness of the Project in delivering energy savings and CO2 reductions, and shall provide such information, evidence and assistance as is reasonably required, and in such form as specified, by Salix or the Department including, but not limited to, any information relating to the amount of CO2 savings and cost effectiveness of such savings expected to be attained during and after Practical Completion of the Project.
- 7.1.6. where reasonably specified by Salix, it shall ensure that any information or evidence provided under the Agreement is audited by an identified and independent reporting accountant or otherwise confirmed or verified by a person of such other relevant expertise;
- 7.1.7. that it shall not create, or permit to subsist any mortgage, charge (whether floating or specific), pledge, lien or other security interest on any of its undertaking, property or assets comprised or utilised in the Project without prior notification to Salix.
- 7.1.8. that it will ensure at all times that it has appropriate auditing arrangements in place in relation to the Grant and its use, which shall include, but shall not be limited to, keeping and maintaining full and accurate records and evidence of the use of the Grant, including expenses defrayed, and of any third parties indirectly benefitting from the Grant, in particular contractors, manufacturers and installers of equipment installed as part of the Project;
- 7.1.9. that it will ensure that no Dangerous Substance has been deposited, disposed of, kept, treated, processed, manufactured, used, collected, sorted or produced at any time, or is present in the Environment, in connection with the Project in circumstances that are likely to result in a breach of Environmental Law;
- 7.1.10. that it will ensure that no professional engaged on the Project has specified or used anything in the work on the Project that, at the time of specification or use, was a Deleterious Material;
- 7.1.11. that it will retain the records maintained under Clause 7.1.5 for a period of not less than six years from the Grant End Date and shall allow Salix (and where necessary the Department) access to such records;
- 7.1.12. that it will provide Salix with any updated information and documentation relating to the cost of delivering the Project, the expected energy savings and CO2 reduction and any expected or anticipated changes required to the Measures or Project Programme, as soon as it becomes aware of the same;
- 7.1.13. that all estimates, forecasts and projections provided by the Recipient, or on its behalf, to Salix in connection with the Project or the Project Programme have been prepared with due care and skill, are based on information known to it and reasonably expected to be relevant, and are subject only to such assumptions and qualifications as are expressly made;
- 7.1.14. to cause Practical Completion to occur by no later than the Grant End Date and otherwise in accordance with the Project Programme and Grant Application;

- 7.1.15. that if during the Grant Period the Practical Completion is expected to occur after the Grant End Date, that the costs incurred after the Grant End Date shall be met by the Recipient from its own funds, with written consent from Salix; ✓
- 7.1.16. that it will comply with any Specific Conditions; that it will provide Salix the evidence requested to resolve the Specific Conditions in the time specified set out in Schedule 2; ✓
- 7.1.17. that it will maintain or cause to be maintained in full force and effect adequate insurances in respect of all its assets comprised or utilised in the Project against all risks and contingencies; ✓
- 7.1.18. that it will ensure that all professional consultants and/or contractors involved in carrying out works on the Project hold and maintain appropriate professional indemnity insurance cover in relation to the services carried out or to be carried out and that the Recipient obtains copies of the relevant certificates; ✓
- 7.1.19. that it will contribute funding equivalent to either the cost of a like-for-like replacement of the fossil fuel plant or 12% of the total project costs, whichever is greater, and any other costs identified outside the Grant that are submitted as part of the Grant Application and awarded Grant. ✓
- 7.1.20. The total project costs are inclusive of any costs in compliance with the Phase 3c scheme criteria including those incurred whenever Eligible Expenditure exceed the £325 tCO₂eKT CCT. The Like-for-Like Cost of replacing the fossil fuel heating plant is defined as all the costs incurred should the existing heating plant be replaced with a typical fossil fuel heating plant of the required type and size. ✓

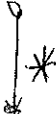
8. Accounts and records

- 8.1. In consideration of the Grant being given, the Recipient undertakes to Salix:
- 8.2. The Recipient shall keep all invoices, receipts and accounts and any other relevant documents relating to the Project and the expenditure of the Grant for a period of at least six years following the Grant End Date. Salix shall have the right to review, at Salix's request, the Recipient's accounts and records that relate to the Project and the expenditure of the Grant and shall have the right to take copies of such accounts and records. ✓
- 8.3. The Recipient shall ensure that all its sub-contractors and, where relevant, consortium members retain each record, item of data and document relating to the Project for a period of at least six years from the Grant End Date. ✓
- 8.4. The Recipient shall comply and facilitate Salix's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and Salix. ✓

9. Monitoring and reporting

- 9.1. The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the Agreement is being adhered to.
- 9.2. The Recipient acknowledges that Salix may monitor the Project to ensure that the Project fulfils all requirements specified by Salix and the Department, including providing the energy savings and CO2 reductions envisaged and agreed with Salix at the outset of the Project.
- 9.3. On or before the 15th day of each calendar month during the Grant Period, the Recipient shall provide Salix with a report, signed by the Authorising Official containing the information set out in Schedule 4 of the Grant Offer Letter (Monitoring Reports) including an updated Forecast, as of the 10th day of the calendar month, together with copies of all invoices or other evidence of the total costs and expenses incurred since the previous report.
- 9.4. Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in the reports provided pursuant to Clause 9.4 together with details of what that funding has been used for.
- 9.5. Along with its first report provided pursuant to Clause 9.4 the Recipient shall provide Salix with a risk register and insurance review in the format requested by Salix. The Recipient shall address the health and safety of its staff in the risk register.
- 9.6. The Recipient shall on request provide Salix and/or the Secretary of State with such further information, explanations and documents as Salix may reasonably require in order for it to establish that the Grant has been used properly in accordance with the Agreement.
- 9.7. The Recipient shall permit any person authorised by Salix and/or the Secretary of State such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of the Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 9.8. The Recipient shall, if so requested by Salix, permit any person authorised by Salix for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable opinion, Salix considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.
- 9.9. The Recipient shall provide Salix with a final report on Practical Completion which shall confirm whether the Project has been successfully and properly completed and which shall contain the information set out in Schedule 4 of the Grant Offer Letter (Monitoring Reports) in respect of the Grant Period.
- 9.10. In each of the first three years from the date of Practical Completion, the Recipient shall provide Salix with a report outlining the effectiveness of the Project in delivering energy savings and CO2 reductions, and containing such other information and evidence as is reasonably requested by Salix in relation to the Project.
- 9.11. The Recipient represents and undertakes (and shall repeat such representations on delivery of the relevant report or information):
 - 9.11.1. that the reports and information it gives pursuant to this Clause 9 are accurate;
 - 9.11.2. that it has diligently made full and proper enquiry of the matter pertaining to the reports and information given; and
 - 9.11.3. that any data it provided pursuant to the Grant Application may be shared within the powers conferred by legislation with other organisations for the purpose of preventing or detecting crime.

10. Receipt of other funding sources

- 10.1. The Recipient is prohibited from accepting any other public sector or European funding in relation to the Project without first obtaining the prior written consent of Salix and the Recipient shall not claim or use any part of the Grant for any purpose other than the delivery of the Project. 
- 10.2. The Recipient shall comply with the subsidy control rules applicable in the United Kingdom in relation to the delivery of the Project at the time this Grant Offer Letter is signed (including, but not limited to, the World Trade Organisation Agreement on Subsidies and Countervailing Measures; the Subsidy Control Act 2022; the UK-EU Trade and Co-operation Agreement; and the UK's other Free Trade Agreements) and shall ensure that the delivery of the Project shall not put the Secretary of State and/or Salix in breach of such subsidy control rules.
- 10.3. The Recipient acknowledges and represents to the Secretary of State and Salix that the Grant is being awarded on the basis that the Project, and related work being undertaken using the Grant, do not affect trade in goods and electricity between Northern Ireland and shall ensure that the Grant is not used in way that affects any such trade.
- 10.4. The Recipient is required to obtain and retain all declarations and information as may be required to enable the Recipient, Salix and the Secretary of State to comply with the relevant subsidy control rules, including the Subsidy Control Act 2022, and to provide copies of such declarations and information to the Secretary of State and Salix when required to do so.
- 10.5. The Recipient shall maintain appropriate records of compliance with the relevant subsidy control regime and shall take all reasonable steps to assist both the Secretary of State and Salix to comply with their obligations to maintain such records and respond to any proceedings or investigation(s) into, or in connection with, the Grant and/or Project by any relevant court or tribunal of relevant jurisdiction or regulatory body.
- 10.6. Salix may, if required to do so by the Secretary of State or any other Governmental body, recover from the Recipient, on demand, any Grant, plus interest, made in contravention of the applicable subsidy control rules.
- 10.7. The Recipient shall, if requested by the Secretary of State or any Governmental body or Salix, repay to the Secretary of State, such Governmental body or Salix, any Grant, plus interest, made in contravention of the applicable subsidy control rules.
- 10.8. The Recipient accepts that the Secretary of State and/or Salix may exercise the options referred to in paragraphs 10.6 and 10.7 where the Secretary of State and/or Salix:
 - 10.8.1. is required to cease grant funding or to recover all, or any proportion, of the Grant or any other amount by virtue of a decision of a court or any equivalent body as a result of the relevant subsidy control rules which apply in domestic UK law; or
 - 10.8.2. has reasonable grounds to consider that the payment of the Grant, or the Recipient's use of it, contravenes any requirement of law, in particular (but without limitation) the relevant subsidy control rules which apply in domestic UK law.

11. Acknowledgment and publicity

- 11.1. The Recipient shall not publish any material referring to the Project or Salix without the prior written agreement of Salix. The Recipient shall acknowledge the support of Salix and the Department, in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by Salix) shall include Salix's name and the Department's name (or any future name or logo adopted by Salix or the Department) using the materials provided by Salix from time to time.
- 11.2. In using Salix's name and logo, or the logo of the Department, the Recipient shall comply with all reasonable branding guidelines issued by Salix or the Department from time to time.
- 11.3. The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by Salix or the Department.
- 11.4. Salix and the Department may acknowledge the Recipient's involvement in the Project and the Scheme as appropriate without prior notice.
- 11.5. The Recipient shall comply with all reasonable requests from Salix and the Department to facilitate visits, provide reports, statistics, photographs and case studies that will assist Salix and the Department in its promotional and fundraising activities relating to the Project.
- 11.6. The Recipient shall respond to any surveys and market research when requested by Salix or the Department from time to time and at various milestones.
- 11.7. The Recipient shall acknowledge the department and Salix in any external facing branding including hoardings using the templates and logos supplied by Salix. Salix must have sign off on these.

12. Intellectual Property Rights

- 12.1. Salix and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either Salix or the Recipient before the Grant Start Date or developed by either party during the Grant Period, shall remain the property of that party.
- 12.2. Where Salix has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of the Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by Salix.

13. Confidentiality

- 13.1. Subject to Clause 14 (Freedom of Information), each party shall during the term of the 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 the Agreement or save as expressly authorised in writing by the other party.
- 13.2. 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:
 - 13.2.1. 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 the Agreement by the receiving party;

- 13.2.2. 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; or
- 13.2.3. is at any time after the date of the 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.

14. Freedom of information

- 14.1. The Recipient acknowledges that Salix is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs).
- 14.2. The Recipient shall:
 - 14.2.1. provide all necessary assistance and cooperation as reasonably requested by Salix to enable Salix to comply with its obligations under the FOIA and EIRs;
 - 14.2.2. transfer to Salix all requests for information relating to the Agreement that it receives as soon as practicable and in any event within 2 working days of receipt;
 - 14.2.3. provide Salix with a copy of all information belonging to Salix requested in the request for information which is in its possession or control in the form that Salix requires within 5 working days (or such other period as Salix may reasonably specify) of Salix's request for such information; and
 - 14.2.4. not respond directly to a request for information unless authorised in writing to do so by Salix.
- 14.3. The Recipient acknowledges that Salix may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the Recipient. Salix shall take reasonable steps to notify the Recipient of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the Agreement) Salix (in consultation with the Department) shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

15. Data protection

- 15.1. Both Parties will comply with all applicable requirements of and all their obligations under the Data Protection Legislation which arise in connection with the Agreement.

16. Procurement of Capital Equipment, Goods and Services

- 16.1. The procurement of all works, equipment, goods and services required to deliver the Project must be carried out in accordance with the Recipient's internal procurement guidelines and financial regulations, and with all applicable laws including the Procurement Regulations. Salix shall not be liable for the Recipient's failure to comply with its obligations under such guidelines, regulations or laws. - SVS ✓

17. Withholding, suspending and repayment of Grant

- 17.1. Salix's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to Salix's other rights and remedies, Salix may at its discretion reduce, withhold or suspend payment of all or any part of the Grant and/or require repayment of all or part of the Grant if:

17.1.1. the Recipient has used, or intends to use, all or any part of the Grant for purposes other than those for which the Grant has been awarded;

17.1.2. the delivery of the Project does not start within 6 weeks of the Project Start Date and the Recipient has failed to provide Salix with a reasonable explanation for the delay; * Note ✓

17.1.3. Salix, acting reasonably, considers that the Recipient has not made satisfactory progress with the delivery of the Project;

17.1.4. the Recipient is, in the reasonable opinion of Salix, delivering the Project in a negligent manner and/or not in accordance with the Project Programme or Grant Application;

17.1.5. the Recipient obtains duplicate funding from a third party for the Project; ✓

17.1.6. the Recipient obtains funding from a third party without prior written consent of Salix, such consent not to be unreasonably withheld; ✓

17.1.7. the Recipient provides Salix with any materially misleading or inaccurate information and/or any of the information provided in the Grant Application or in any subsequent correspondence is found to be incorrect or incomplete to an extent that Salix considers to be significant; ✓

17.1.8. the Recipient commits or committed a Prohibited Act or fails to report a Prohibited Act to Salix, whether committed by the Recipient or a third party, as soon as they become aware of it; ✓

17.1.9. any member of the Governing Body, employee, volunteer or agent of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of Salix, bring or are likely to bring Salix's name or reputation into disrepute (and actions include omissions in this context) or (c) transferred, assigned or novated the Grant to a third party or (d) failed to act in accordance with all applicable laws; ✓

17.1.10. the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation); ✓

17.1.11. the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; ✓

17.1.12. in the sole opinion of Salix, the Grant has been used for non-compliant subsidy;

- 17.1.13. in the sole opinion of His Majesty's Revenue & Customs, the Recipient engages in tax evasion or aggressive tax avoidance;
- 17.1.14. Salix is unable to pay the Grant to the Recipient because it has not been provided by the Department with sufficient funding to provide the Grant;
- 17.1.15. in the sole opinion of Salix, there is a financial irregularity within the Recipient which is not rectified within the timescale provided by Salix;
- 17.1.16. the Recipient undergoes a Change of Control which Salix, acting reasonably, considers:
 - (a) will be materially detrimental to the completion of the Project and/or;
 - (b) causes, or would cause, the Recipient to be in breach of the Agreement;
 - (c) would raise national security concerns; or
- 17.1.17. the Recipient fails to comply with the Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure; or; or Salix gives at least two months notice in writing to the Recipient.
- 17.1.18. the Recipient will provide Salix the evidence requested to resolve the Specific Conditions in the time specified set out in Schedule 2; or Salix gives at least 2 months notice in writing to the Recipient.
- 17.1.19. the Recipient fails to provide accurate forecasts for their payments to Salix, in their monthly monitoring report, or regularly provide a forecast which differs substantially from the payment request submitted therefore hindering Salix from submitting accurate payment forecasts to the Department.
- 17.2. Salix may retain or set off any sums owed to it by the Recipient which have fallen due and payable against any sums due to the Recipient under the Agreement or any other agreement pursuant to which the Recipient provides goods or services to Salix.
- 17.3. The Recipient shall make any payments due to Salix without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 17.4. Should the 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 the Agreement it will notify Salix as soon as possible so that, if possible, and without creating any legal obligation, Salix will have an opportunity to provide assistance in resolving the problem or to take action to protect Salix and the Grant monies.

18. Anti-discrimination

- 18.1. The 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.
- 18.2. The Recipient shall take all reasonable steps to secure the observance of Clause 18.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

19. Human Rights

- 19.1. The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of the Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998). ✓
- 19.2. The Recipient shall undertake, or refrain from undertaking, such acts as Salix requests so as to enable Salix to comply with its obligations under the Human Rights Act 1998. ✓

20. Financial Management and Prevention of Bribery, Corruption, Fraud and Other Irregularity

- 20.1. The Recipient will at all times comply with all applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act. ✓
- 20.2. The Recipient must have a sound administration and audit process, including internal financial controls to safeguard against fraud, theft, money laundering, counter terrorist financing or any other impropriety, or mismanagement in connection with the administration of the Grant. Salix may require that the Recipient's internal/external auditors report on the adequacy or otherwise of those processed. ✓
- 20.3. All cases of fraud, theft or other financial irregularity (whether actual or suspected) relating to the Project and/or use of the Grant must be notified to Salix as soon as they are identified. The Recipient shall explain to Salix what steps are being taken to investigate the fraud, theft or financial irregularity and shall keep Salix informed about the progress of any such investigation. Salix may however request that the matter is referred to external auditors or other third parties for investigation as required. ✓
- 20.4. Salix will have the right, at its absolute discretion, to insist that the Recipient addresses any actual or suspected fraud, theft or other financial irregularity and/or to suspend future payment of the Grant to the Recipient. The Recipient will be required to act where there is evidence that a fraud has or could be committed, and/or the Recipient reasonably suspects this to be the case. The Recipient shall comply with all reasonable requests in a timely manner from Salix to engage and co-operate with the audit process and supply any documentation requested, including the facilitation of site visits. ✓
- 20.5. For the purposes of this Clause 20, "financial irregularity" includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of the Grant for any purpose other than those stipulated in the Agreement. The Recipient may be required to provide statements and evidence to Salix or the appropriate organisation as part of pursuing sanctions, or criminal or civil proceedings. ✓

21. Limitation of liability

- 21.1. Salix accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant. The Recipient shall indemnify and hold harmless Salix, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under the Agreement or its obligations to third parties. ✓
- 21.2. Subject to Clause 21.1, Salix's liability under the Agreement is limited to the payment of the Grant.

22. Warranties

22.1. The Recipient warrants, undertakes and agrees that:

- 22.1.1. it is a Public Sector Body;
- 22.1.2. It has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant);
- 22.1.3. It has not committed, nor shall it commit, any Prohibited Act;
- 22.1.4. 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 Salix immediately of any significant departure from such legislation, codes or recommendations;
- 22.1.5. 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;
- 22.1.6. it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- 22.1.7. It has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- 22.1.8. all financial and other information concerning the Recipient which has been disclosed to Salix is to the best of its knowledge and belief, true and accurate;
- 22.1.9. 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;
- 22.1.10. It is not aware of anything in its own affairs, which it has not disclosed to Salix or any of Salix's advisers, which might reasonably have influenced the decision of Salix to make the Grant on the terms contained in the Agreement; and
- 22.1.11. since the date of its last accounts there has been no material change in its financial position or prospects which would, in the reasonable opinion of Salix, adversely affect the Recipient's ability to deliver the Project in accordance with the Project Programme, the Grant Application and the Agreement.

*Partnership
c EC.*

23. Change of Control

- 23.1. The Recipient shall notify Salix immediately in writing and as soon as the Recipient is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any law.
- 23.2. The Recipient shall ensure that any notification made pursuant to Clause 23.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.
- 23.3. Where the Grant has been awarded to a consortium and the Recipient has entered into a collaboration agreement, the notification required under Clause 23.1 shall include any changes to the consortium members as well as the Recipient.
- 23.4. Following notification of a Change of Control, and unless Salix gave prior consent to the Change of Control, Salix shall be entitled to exercise its rights under Clause 17.1.16 by providing the Recipient with notification of its proposed action in writing within three (3) months of:

Sho

23.4.1. being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or ✓

23.4.2. where no notification has been made, the date that Salix becomes aware that a Change of Control is anticipated or is in contemplation or has occurred. ✓

24. Duration

24.1. Except where otherwise specified, the terms of the Agreement shall apply from the Grant Start Date until the anniversary of expiry of the Grant Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer. ✓

24.2. Any obligations under the 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. ✓

25. Assignment

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

26. Waiver

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

27. Notices

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

28. No partnership or agency

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

29. Assignment

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

30. Assignment

- 30.1. Except as expressly provided in Clause 30.2, the 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, save that the Department may rely upon and enforce any provision of the Agreement against the Recipient. ✓
- 30.2. The Agreement is also made for the benefit of the Department from time to time and all provisions of the Agreement shall be enforceable by the Department to the fullest extent permitted by law as if they were a party to the Agreement in place of Salix.

31. Governing law

- 31.1. The 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. ✓

32. Entire agreement

- 32.1. The Agreement (together with all documents attached to or referred to within it) constitutes the entire agreement and understanding between the parties in relation to the Grant and supersedes any previous agreement or understanding between them in relation to such subject matter. ✓

Schedule 2 : Specific Conditions

Note to Recipient: The conditions below are to be discharged by providing sufficient evidence to Salix. Payment will be made to the Recipient once conditions have been discharged by the Expected Discharge Date as set out in Schedule 4.

Conditions prior to receiving first payment:

	Condition	Milestone the condition is to be discharged by	Expected discharge date
1	The Recipient shall provide a Forecast by the 15th of the month following the Grant Start Date or six weeks in advance of submitting the first payment request.	N/A	15/03/2024

Conditions upon completion of relevant milestone:

	Condition	Milestone the condition is to be discharged by	Expected discharge date
2	To provide to Salix an updated project programme including contingency plan.	Project Approval	03/06/2024
3	Any changes to the proposed energy savings must be communicated to Salix. Any changes to the proposed energy savings must also be accompanied by an updated application form.	Detailed Designs Complete	01/04/2025
4	To provide to Salix evidence of fuel costs used in the application and written rationale of the methodology taken.	Detailed Designs Complete	01/04/2025
5	To provide to Salix data sheets for all technologies once the product specifications and manufacturers have been confirmed.	Orders Placed	02/06/2025
6	To provide to Salix a monitoring plan detailing how carbon savings will be monitored and reported following completion of the project. This plan can be communicated in a short report.	Final Commissioning	02/02/2026
7	To provide to Salix an updated application form with finalised figures for all data including costs and energy values once the project is complete on site.	Final Commissioning	02/02/2026

X

Schedule 3 : Project Programme and Expenditure Forecast

Note to Recipient: This schedule has been populated with information taken from the initial Application and discussions with the Recipient.

The grant funding for multi-year projects is capped as per the funding set out in this Grant Offer Letter. There is no flexibility to transfer funding from one year to another.

Year 1 (2024/25)	£57,683.00	- what if
Year 2 (2025/26)	£300,000.00	
Total	£357,683.00	

Design is above 57,683.

1. Name of Project with Project Reference Number

Congleton Town Hall, High Street Congleton Cheshire CW12 1BN
 Project Reference Number: 55423

2. Summary Description of Project (Taken from Section 1.2 of Application Form)

The project involves the introduction of energy saving measures taking a fabric first approach to the historic grade 2 listed Congleton Town Hall, Cheshire. Measures include Roof, wall & window upgrades along with introducing low energy air to water heat pumps, new controls, LED lighting upgrade and a photo voltaic array to compliment the new electrical base load of the building.

3. List of Measures and the Cost of Each Measure

Measure	Total Value	Phase 3c Grant Value
Low carbon heating measure	£210,607.00	£157,607.00
Other energy efficiency measure	£226,767.12	£200,076.00
Total	£437,374.12	£357,683.00

4. Recipient contribution (like-for-like costs)

Total Project Value	Total Grant Funding Requested	Recipient Contribution
£437,374.12	£357,683.00	£79,691.12

4. Detailed Timetable and Payments Schedule

Note to Recipient: Recipients are to ensure they provide accurate, updated payment forecasts as part of the monthly monitoring report, as this is used to ensure that Salix has the correct funds to pay Recipients. Incorrect forecasts may delay the payment of claims.

Delivery Milestone Reached	Date Milestone to be Completed	Costs Associated with Completion of Milestone
Project approval	01/04/2024	£0.00
Designs Initiated	01/05/2024	£10,000.00
Detailed designs complete	01/08/2024	£30,683.00
Out to tender	15/09/2024	£10,000.00
Tenders complete	31/12/2024	£7,000.00
Orders placed	01/04/2025	£100,000.00
Works in progress on site	01/05/2025	£150,000.00
Completed on site	01/09/2025	£40,000.00
Final commissioning	31/10/2025	£10,000.00

For more complex projects a site-by-site milestone process may be more appropriate and will be agreed between the Recipient and Salix.

5. Key/High Level Risks with Mitigation Measures

Description of Risk	Level of Risk	Type of Risk	Mitigating Measures
DNO commissioning delay/infrastructure upgrades	Moderate	Project Delivery	Early and ongoing engagement
Project is unable to secure funding, including match	Moderate	Cost	Identify all known relevant sources of funding. Keep track of any funding application deadlines. Keep relevant stakeholders engaged in the project.
Low level of interest from contractors.	High	Supply Chain	Engagement with delivery partners during tender development (Clade)

6. Sites where projects are taking place

#	Building Name	Unique Property Reference Number	Type of Building	Postcode	Measures
1	Town Hall	100012598449	Town hall	CW12 1BN	Air source heat pump (air to water)
2	Town Hall	100012598449	Town hall	CW12 1BN	Roof insulation
3	Town Hall	100012598449	Town hall	CW12 1BN	BEMS - not remotely managed
4	Town Hall	100012598449	Town hall	CW12 1BN	Solar PV
5	Town Hall	100012598449	Town hall	CW12 1BN	Double glazing with metal or plastic frames
6	Town Hall	100012598449	Town hall	CW12 1BN	External wall insulation
7	Town Hall	100012598449	Town hall	CW12 1BN	LED - new fitting

Schedule 4 : Monthly Monitoring Report

The Monthly Monitoring Report is a mechanism to understand how the Grant Recipient is proceeding with their project each month. This process involves focusing on the milestones that have been reached by the Grant Recipient, the forecast for future payment requests and any risks to the project. A copy of the Monthly Monitoring Report template can be found attached with this Grant Offer Letter.

The Grant Recipient will be issued with their bespoke Monthly Monitoring Report shortly in an email directly from Salix. Further guidance will also be provided by Salix on how to complete this report.

These Monthly Monitoring Reports are a requirement of the scheme until the point of practical completion and should be provided to the Grant Recipient's Salix relationship manager by the 15th of each month or earlier if this does not fall on a working day. This will allow Salix and the Department to understand the current development of the project so overall scheme progress and risks can be assessed.

If the Grant Recipient fails to provide a completed and accurate Monthly Monitoring Report by the stated return date this may result in payment being withheld until this has been resolved.

The Grant Recipient's First Monthly Monitoring Report will be expected on 15th April 2024 or 15th of the month following the Grant Start Date, whichever is later.

Schedule 5 : Payment Request

Phase 3c Public Sector Decarbonisation Scheme (PSDS) payment requests can be submitted to Salix Finance monthly. The payment request must be completed via this template, a copy of which will be shared with the Accountable Officer and should contain the following information:

To: Salix Finance Limited 2nd Floor
10 South Colonnade,
Canary Wharf
London, E14 4PU

For the attention of: Phase 3c Public Sector Decarbonisation Scheme Team
Email: gerald.habib@salixfinance.co.uk

From: Congleton Town Council

Date:

Submission ID/Reference Number: 55423

Description of Project: Congleton Town Hall, High Street Congleton Cheshire CW12 1BN

Dear Sir or Madam,

Phase 3c PSDS Grant Offer Letter dated 18/03/2024 entered into between Salix and the Recipient

1. We refer to the Phase 3c PSDS Grant Offer Letter. This is a Payment Request. Words and expressions defined in the Phase 3c PSDS Grant Offer Letter have the same meaning in this Payment Request unless given a different meaning in this Payment Request.

2. We hereby request part payment of the Grant as follows:

Amount: £
Payment Date: [date funds will be received]

→ when + how much

3. We confirm that as at the date of this Payment Request and on each Payment Date:

(a) each payment of the Phase 3c PSDS Grant that has been received to date has been used for the Phase 3c PSDS Grant Purpose,

(b) each payment of the Phase 3c PSDS Grant that has been received to date has been spent on those items of expenditure listed in the Phase 3c PSDS Grant Application and such items have not exceeded the forecasted amounts listed in the Phase 3c PSDS Grant Application (without prior written agreement of Salix);

(c) the remaining Phase 3c PSDS Grant to be provided is sufficient to meet the remaining costs required for fulfilment of the Phase 3 PSDS Grant Purpose;

(d) all information and evidence provided to Salix in support of the application for the Phase 3c PSDS Grant was complete, true and accurate at the time it was provided; and

(e) we have complied with the Phase 3c PSDS Grant Terms and Conditions in all respects.

4. This Payment Request is irrevocable.

.....
Authorised Signatory

.....
Date

.....
Print Name
For and on behalf of Congleton Town Council

.....
Job Title

Schedule 6 : Specimen Signature

Name of Accountable Officer:	David McGifford
Position in Organisation:	
Signature:	

Schedule 7 : Phase 3c PSDS Application

<p>I agree to the terms below:</p> <p>The information supplied in our Application Form, energy savings information and supporting information is true and correct to the best of our knowledge.</p> <p>We understand that we will be required to provide Salix with monthly reports on the progress of the project together with reasonable evidence of costs.</p> <p>We understand that if a project's timescales or scope change, we must notify Salix.</p> <p>We agree to Salix sharing knowledge and information about our Application and funded projects with both current and future clients, including the Department for Energy Security and Net Zero and its research and evaluation partners.</p> <p>We consent for Salix to share our data with government departments and public authorities which have a legitimate interest in the data.</p> <p>In all cases, where shared data contain personal data, they will be managed in accordance with the published DESNZ Phase 3c Public Sector Decarbonisation Scheme Privacy Notice, which can be found here.</p> <p>We confirm that we give consent for Salix to share our contact details to any contractor appointed by the Department for Energy Security and Net Zero to evaluate this scheme. Further information on data processing in respect of PSDS Phase 3c is contained in the Salix Privacy Notice, and the DESNZ Privacy Notice.</p> <p>We confirm there is no double funding for this project (i.e. that two sources of government funding are not being used to subsidise the same capital spend, including previous phases of the Public Sector Decarbonisation Scheme).</p> <p>I confirm that the funding for the project will be governed by the terms and conditions of the Phase 3c Public Sector Decarbonisation Scheme Grant Offer Letter</p>	<p>Yes</p>
<p>Please select the date confirming when your proposed project will complete:</p>	<p>31st March 2026</p>
<p>Subsidy control rules</p> <p>In some instances, public sector organisations can operate as economic actors as defined in the UK EU Trade and Cooperation Agreement (TCA). If, in connection with the delivery of the Phase 3c PSDS Grant/ activities, you are undertaking any economic activity, you must cooperate with Salix to ensure compliance with the subsidy control rules. A public sector organisation will be an 'economic actor' if it is engaged in an economic activity by offering goods or services on a market (see Article 363(1)(a) and (b) TCA).</p>	

Schedule 8: Requirements relating to the Consortium

Not applicable

Set out below are our responses to the specific questions raised by you in relation to the financial aspects of the grant funding agreement with Salix Finance and the potential risks the agreement poses to the Council.

We have also provided some additional observations and comments arising from our review.

Please note that where we have used capitalised terms then these have the same meaning as they are defined in the agreement.

1. In year 1 we have been advised that we do not need to use our contribution towards the costs / figures that have been shown in the agreement , we would only have to use our contribution if the year 1 costs are greater than the forecasted figure as we cannot transfer any grant money from year 2 back into year 1 .

The Total Project Value is £437,374.12 and the Grant Value is for a maximum of £357,683 meaning the balance of costs would have to be met by the Council.

The Grant Offer Letter sets out the breakdown of the anticipated costs between year 1 and year 2 of the Project. In year one the grant amount available is £57,683 and year two it is £300,000.

These amounts available in year one and two are capped with Schedule 3 stating that “there is no flexibility to transfer funding from one year to another.” This is supported by clause 3.1 which states that Salix shall pay an amount not exceeding the grant awarded for each financial year.

Clause 3.6 does appear to suggest that there is some potential flexibility to adjust the forecasts as it says that in the event of any overspend by the Council outside of the sums set out in the Project Programme or awarded in each financial year, the amount of the overspend will be met by the Council from its own funds unless Salix in its absolute discretion agrees to increase the Grant or to adjust the Project Programme.

It would be prudent to assume that in these circumstances the Council would indeed have to fund any overspends but this clause offers the possibility that Salix would agree to amendments to the planned spending so in those circumstances it would be worth having a conversation with them around that. Clause 4.1 says that you must ensure the amount spent on any item of Eligible Expenditure does not exceed the forecasted amount without the prior agreement of Salix so this again seems to be tacit acknowledgement that the costs may change.

The Project Programme and Expenditure Cost in Schedule 3 does envisage that the year one expenditure for the Project would be the same value as the grant amount available which would suggest that there is no expectation that the Council would fund any of the year one costs, assuming the forecasts are correct.

The provisions of clause 3.10 would appear to support this as the Council is only required to provide satisfactory evidence to Salix that it has contributed the Like for Like Costs towards the delivery of the Project prior to the final Payment Request.

However please see comment below regarding the concept of Like for Like Costs and the minimum contribution that you are required to make.

2. Risk 1 - After the year 1 work has been completed we will know the costs of delivering the projects which may be greater than has been forecasted and beyond our financial resources. If we choose to exit the project at that stage we would lose any funds that we

have contributed. We do not believe that we are expected to contribute anything else in this scenario.

There is nothing within the agreement that would expressly give you the contractual right to withdraw from the project or bring the agreement to an early end.

Conversely while there is a clear expectation that you will use the Grant, there isn't anything that expressly requires the Council to actually draw and use the Grant. There is a covenant in clause 7.1.14 that requires the Council to cause Practical Completion to occur no later than the Grant End Date but failure to do that could affect the availability of the Grant with the expectation that the Council would be responsible for the payment of any outstanding costs.

However we would be concerned about the risks arising from clause 17 which state that Salix would be entitled to withhold the or suspend the payment of the Grant if it does not feel that sufficient progress is made with the Project. However clause 17 also states in addition to withholding payment Salix may also "require repayment of all or part of the Grant" which poses a risk to Council that if you do not proceed with the Project then Salix may be entitled to require repayment.

In the circumstances you describe above you would invariably have to discuss this with Salix however it might be worth asking them the question now around what would happen to ensure both sides are clear in their understanding and expectations.

Please also note the requirement on the Council have contributed at least 12% of the Like for Like Costs of the Project. Based on current projections the Council's contribution would be 18.22% of the anticipated costs. While the agreement does not state this, if you were to withdraw from the Project there is a risk that the agreement could be interpreted as requiring the Council to have contributed the Like for Like Costs of the Project to that date. So, if you were to withdraw at the end of year one having utilise the full amount of the Grant for that year then the Council may be required to contribute the Like for Like Costs for that amount. **We would stress that this is a question of interpretation and only highlighting a potential risk.**

3. Risk 2 - Failure to deliver projects within the agreed timescale as there appears no facility to extend the period of the grant so CTC would need to fund the remaining works.

This interpretation seems to be correct.

Under clause 4.3 you are not permitted to spend any part of the Grant on the delivery of the Project after the Grant Period expires unless that payment is for Final Commissioning or payment of costs retained from contractors on the Project and these payments have been agreed by Salix.

This is supported by clause 4.4 which states that any unspent Grant at the end of the Grant period will be returned to Salix.

Furthermore, clause 7.1.15 contains an undertaking from the Council which states that if during the Grant period the Practical Completion is expected occur after the Grant End Date (31/02/2026) then the costs incurred after that date shall be met by the Council. This finishes by saying "with the written consent of Salix" which does not make sense in the context.

4. SAS to comment on point 1-3 and advise on any other financial concerns

Whilst not a point of concern, you will have noted that payment of any Grant instalments will be made to after the Council submits a Payment Request no later than 21 Business Days before the proposed Payment Date (being the date on which the Grant is to be paid). However, any payment to be made is subject to the Council satisfying the requirements placed on it to provide sufficient evidence to Salix that the Grant will be used for Eligible Expenditure. Payment is also subject to Salix having received the necessary funds from the government – this is something that is repeated multiple times throughout the agreement.

Clause 4.5 states that where the Council enters into a contract with a third party in connection with the Project, the Council will remain responsible for paying that third party and Salix will have no responsibility for paying the invoices of third parties. This is not unusual or unexpected, however, it does present a risk to the Council whereby you incur costs or become liable for costs under a contract which are expected to be covered by the Grant but Salix do not then pay the Grant to the Council citing an issue under the agreement. In that scenario the Council would still be liable to pay the third party. While you may consider this risk to be minimal it is something that you will need to be mindful of.

As already noted in the responses to specific queries above, the agreement repeatedly makes clear that the Council must strictly adhere to the forecasted expenditure listed under the Project Programme and any deviation from this will only be with the prior written agreement of Salix. This would seem to present one of the more significant elements of risk to the Council under the agreement because the Council will otherwise have to pick up the cost of overspends or costs outside of the Project Programme. No doubt this will something that you closely monitor.

Clause 5.3 – this lists all items which the Council may not spend the Grant on. Whilst there is nothing in this list that wouldn't reasonably be expected, clauses 5.3.1 and 5.3.2 are repetition of the previous clauses 5.1 and 5.2 so these ought to be removed.

Clause 7.1.1 – similar to the issue of repetition in clause 5.3, the second half of clause 7.1.1 is repeated below in clauses 7.1.2 and 7.1.3.

Clause 7.1 – we have already touched on some of the financial covenants that appear in this clause, but as a more general observation it is important to ensure that you are familiar with these covenants and ensure that the Council complies with them at all times as failure to do so would constitute a breach of the agreement. Please see comment on clause 17 below for the risks this poses.

Clause 8.3 – the requirements to maintain records and provide access to records is quite onerous (please see clause 9), but something that is within the control of the Council. However it could be hard for you to police the requirement for contractors to similarly maintain records.

Clause 9 – as already mentioned, the monitoring and reporting requirements are onerous and something that you will have to be familiar with and ensure there are procedures in place to ensure compliance with them in order to avoid being in breach of the agreement.

Clause 10 – again this is not a concern necessarily, but the Council is prohibited from obtaining any other funding for the Project without first obtaining Salix's permission. In addition to repayment of unused Grant money another scenario in which Salix could require Grant money to be repaid is under clauses 10.6 to 10.8 where the Grant is found to be made in contravention of subsidy control rules.

As already mentioned above, clause 17 entitles Salix to withhold or suspend payments of the Grant and even require repayment of all or any part of the Grant if any of the circumstances under listed in this clause occur. You will need to be familiar with these matters and closely monitor to ensure you do not fall foul of them. **We would consider this to be the most significant risk under the agreement.** The list includes failure to comply with the agreement so if you fail to provide any reporting information or breach an undertaking or warranty then the potential for Salix to require repayment would arise.

Clause 17.1.17 and 17.0.08 – these clauses appear to have typos in them with the wording “or Salix gives at least two months notice in writing to the Recipient”. These sentences don’t make sense in the context.

Clause 22 – make sure you note these warranties closely as a breach of them would constitute a breach of the agreement and clause 17 would become relevant with the potential for Salix to demand repayment of the Grant.

Clause 24 – it is not clear how long the agreement is actually intended to continue for. Clause 24.1 states it shall be the longer of the anniversary of the expiry of the Grant Period (but which anniversary?) Or for so long as Grant monies remain unspent by the Council. This in itself cuts across the established position that the Grant must be spent within the Grant Period.