This Grant Agreement is made between the following Parties:

(1) You, the Grant recipient (as identified in the Offer Letter); and

(2) Forestry Commission, of 620 Bristol Business Park, Coldharbour Lane, Bristol, BS16 1EJ.

BACKGROUND

(A) Forestry Commission is the authority responsible for managing the Scheme.

(B) Forestry Commission has agreed to pay you a Grant subject to the Terms and Conditions set out below and in the Offer Letter, in accordance with the Agreement Document(s) and Agreement Map.

(C) These Terms and Conditions apply to the Scheme and should be read in conjunction with the Agreement Document and Agreement Map(s), which are personal to you. These documents together form the Agreement between you and Forestry Commission.

1 DEFINITIONS AND INTERPRETATION

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

**Agreement**: the agreement between you and Forestry Commission, which consists of these terms and conditions of funding, the Agreement Document, Agreement Map, Urban Tree Challenge Fund Claim Form and the Urban Tree Challenge Fund Agreement Declaration Form.

**Agreement Document**: the document accompanying these terms and conditions of funding and sent to you with the offer letter, which gives details of the Grant to be paid to you.

**Agreement Map(s)**: the final application map(s) submitted to Forestry Commission and sent to you with the Agreement Document, these Terms and Conditions, and the offer letter that gives details of the Grant. If you submit key information on more than one map, then more than one map will be an Agreement Map.

**Capital Item**: items required to plant and successfully establish trees under the Urban Tree Challenge Fund. The full list of available capital items is set out in the application form and on the Urban Tree Challenge Fund webpage. The specification for each capital item is also listed in the application form and on the Urban Tree Challenge Fund webpage.

**Commencement Date**: the date of your written acceptance of the Grant offer, unless Forestry Commission has specified a later Commencement Date in its Formal Offer Letter to you.

**EIA Regulations**: The Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999, as amended. These apply to afforestation, deforestation proposals, and forest roads and quarries.

**Eligible Expenditure**: expenditure in relation to the Funded Activities that complies in all respects with the eligibility rules set out in Annex A of these Terms and Conditions.
Financial Year: the annual period commencing 6 April and ending on 5 April over which Budget estimates are made by the British Government and which functions as the income-tax year.

Grant: the grant which is payable to you under this Agreement (as set out in the Agreement document).

Ineligible Expenditure: expenditure which is not Eligible Expenditure as set out in Annex A of these Terms and Conditions.

Land: all units of land which are proposed for tree planting and in relation to which claims will be made under this Agreement.

Low Canopy Cover: Areas where canopy cover is recorded at lower than 20%, data is available at a city level from Forestry Commission. This can be further refined by a self-assessment using Itree methodology or supplementary evidence provided by the applicant. Planting sites do not have to be in an area with low canopy cover to be eligible but sites with low canopy cover will score higher.

Maintenance Period: the period of time over which successful Tree Establishment required under this Agreement must be maintained. The Maintenance Period begins when the final payment is made under the Grant and lasts for five years.

Match Funding: Fund recipients should provide at least 50% matched funding. Matched funding in kind (e.g. contributions of labour) will be considered as well as monetary matched funding. However, the payment rates available through grant funding for capital items will not be exceeded.

Offer Letter: the letter accompanying these Terms and Conditions, which gives details of the Grant and forms part of this Agreement. An Offer Letter will not be issued until Forestry Commission is satisfied that all consents, permissions and licences are in place, that all information has been submitted and that consent is either granted or not required under the EIA Regulations.

Permissive Access: where appropriate access on foot must be provided, the routes of permissive access must ensure access across the entire site and be managed where necessary to enable public access on foot.

Urban Tree Challenge Fund Trees Close to People: Area within 1km of the Office of National Statistics Built Up Area geography with a resident population equal to or above 2,000 people. Planting sites need to be located within the Trees Close to People map layer to be eligible.

Prohibited Act:

(a) offering, giving or agreeing to give to any servant of the Forestry Commission or 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 this Agreement; or
   
   (ii) showing or not showing favour or disfavour to any person in relation to this Agreement;

(b) committing any offence:
(i) under the Bribery Act 2010;
(ii) under legislation creating offences in respect of fraudulent acts; or
(iii) at common law in respect of fraudulent acts in relation to this Agreement; or
(c) defrauding or attempting to defraud or conspiring to defraud the Forestry Commission or the Crown.

**Scheme:** The Urban Tree Challenge Fund.

**Tree Establishment:** Forestry Commission, or its authorised agent, will determine this through an inspection where Forestry Commission or its authorised agent will be looking for evidence that the trees have been planted and established in accordance with the specification for each capital item.

**Urban Tree Challenge Fund Agreement Declaration Form:** the Urban Tree Challenge form executed by you accepting the Urban Tree Challenge Fund grant offer as set out in the offer letter.

**Urban Tree Challenge Fund:** the voluntary scheme to support landowners and managers to undertake tree planting in Urban Areas as defined by the Forestry Commissions Trees Close to People map layer.

**Urban Tree Challenge Fund Claim Form:** the template document enclosed with the Offer Letter.

**Working Day:** any day other than a Saturday, a Sunday or a public holiday in England.

1.1 References to **clauses** are to the clauses of these Terms and Conditions. Clause headings shall not affect the interpretation of these Terms and Conditions.

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.

1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.5 A reference to a public organisation includes a reference to any successor of that public organisation.

1.6 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2 **Declarations**

2.1 You confirm that:
Urban Tree Challenge Fund

(a) the declarations made in your application for the Grant remain true and accurate to the best of your knowledge and belief;
(b) you have full capacity and authority to enter into the Agreement (if you are a tenant you will need to provide us with confirmation of the landlord’s consent and if you are not the sole owner of land within the application you will need to provide us with confirmation of all other landowners’ consent);
(c) you are not aware of any circumstances which would prevent you from fulfilling your obligations under the Agreement;
(d) if there are any changes to your circumstances which could affect your eligibility or suitability for the Grant or your ability to fulfil your obligations under the Agreement, you will notify Forestry Commission in writing without delay;
(e) you have not received and will not receive any duplicate funding or allowances from other public sources in respect of the same obligations you are required to undertake under the Agreement;
(f) your obligations under the Agreement do not duplicate and will not duplicate any other legal obligations you would otherwise be required to undertake;
(g) you will at all times comply with all relevant domestic and EU legislation in the performance of your obligations under the Agreement;
(h) you agree that the woodland planted with support under this Grant will be maintained throughout the Maintenance Period to ensure successful establishment of the trees across planting area set out in the Agreement Document;
(i) you understand that if the trees are not established successfully by the end of the Maintenance Period the Grant support will be reclaimed pursuant to clause 7. You understand that conversion to another land use after planting may be subject to the Environment Impact Assessment Regulations (Forestry) (England and Wales) Regulations 1999, as amended, as deforestation and that the current policy in England is that conversion of forest to other land uses shall not occur except in exceptional circumstances;
(j) you understand that work undertaken before the Commencement Date of your Agreement will be not funded.

2.2 You confirm that the following eligibility criteria apply:
(a) all tree planting entered into the Agreement is within England;
(b) all tree planting entered into the Agreement is within Forestry Commission’s map layer titled Urban Tree Challenge Fund Trees Close to People. Planting sites do not have to be in an area with Low Canopy Cover or in a Priority Place but sites that are will receive higher scores;
(c) an individual planting site must consist of a minimum of 150 feather or whip size trees; for large trees a minimum of 10 trees will need to be planted in one area;
(d) the total gross area for an individual planting site will not exceed 0.5 hectares;
(e) the minimum application value for a block bid is £500,000;

(f) at least 50% match funding is required.

(g) the land must be free of existing Grant Agreements by the Commencement Date.

(h) your proposal to plant trees is not a requirement to mitigate the impacts of development under a planning consent;

(i) the land in respect of which the Grant is to be paid is eligible land and that there are no legal or other restrictions affecting the eligible land which prevent the completion of the approved activities.

(j) the land must be free of trees and existing tree pits must have been empty for a period of 3 years.

3 Term

3.1 The Agreement shall commence on the Commencement Date and, subject to any earlier termination in accordance with clause 14, it shall continue in force for five years after the date the Grant is paid, i.e. to the end of the Maintenance Period.

3.2 Where the Grant is paid in instalments, e.g., to support phased planting, the Agreement shall continue in force for five years after the date the last Grant payment is paid, i.e. to the end of the Maintenance Period.

3.3 The parties may agree to delay the planting by amending the planting season stated in the Agreement Document(s) in one year increments, but will not be extended beyond 31 March 2021. The party requesting the extension must make their request in writing, no less than one month before the expiry of the Agreement. Neither party shall be under any obligation to agree to an extension requested by the other party. The extension shall take effect once it has been confirmed in writing by Forestry Commission.

4 Transfers or Acquisitions of Land

4.1 You must notify Forestry Commission without delay if there is a change in management control affecting any part of the Land, including (without limitation) sale or transfer to a new owner, changes to any lease or tenancy, permanent boundary changes or acquisition of any new land.

4.2 You acknowledge and accept that any change in management control affecting the Land may have consequences for the Agreement. Upon notification of a change in management or control Forestry Commission will review entitlement to the grant and this could result in the suspension, reduction, withdrawal or reclaim of all or part of the Grant.

5 Amount of Grant

5.1 Forestry Commission will pay the reasonable costs in relation to the Capital Items for tree planting. The amount of grant will be set out in the Agreement document.
5.2 Following submission of your application Forestry Commission may contact you to discuss the number of trees in your application and the potential to remove or change individual planting sites to fit with available funding. This will also help to ensure that overall the fund supports approximately a 5:1 ratio for small trees against large trees.

5.3 The Grant must not be used to support activity which influences or attempts to influence Parliament, Government or political parties, to propagate a religion or belief, or to influence the awarding or renewal of contracts or grants, or to influence legislative or regulatory action.

5.4 Forestry Commission makes no commitment to renewing or continuing funding after the term of this Agreement and will not be liable for any additional cost incurred by you either during or after the term.

5.5 Where you intend to apply to a third party for other funding for the Funded Activity, you will notify Forestry Commission in advance of the intention to do so and, where such funding is obtained, you will provide Forestry Commission with details of the amount and purpose of that funding.

5.6 The Grant will be paid only in respect of Eligible Expenditure incurred by the Grant Recipient to deliver the Funded Activities. The Grant shall not be used to fund Ineligible Expenditure.

6 PAYMENT

6.1 In order to claim payment of the grant that you are entitled to in accordance with the Agreement you must submit a completed claim form. We will accept one claim per financial year.

6.2 Forestry Commission will endeavour to pay the Grant to you within 30 Working Days of receiving a claim form provided always that the documents submitted are accepted for payment. Claims may require an inspection before payment. Forestry Commission will have no liability to you for any losses caused by a delay in the payment of a Grant claim howsoever arising.

6.3 You must submit an Urban Tree Challenge Fund Claim Form to Forestry Commission within the Financial Year that you become entitled to claim payment for the Grant or an element of the Grant under this Agreement. If you fail to do so, you will lost the right to claim payment of the Grant or that element of the Grant.

7 REPAYMENT

7.1 If you breach (by act or omission) the terms and conditions of the Agreement, fail to comply with the terms and conditions, or if there is a change in circumstances affecting your eligibility to receive the Grant, Forestry Commission reserves the right to suspend, reduce, withhold or reclaim (require repayment of) the Grant, in full or in part.

7.2 If any sum becomes repayable under the Agreement, it shall be treated as a debt owing by you to Forestry Commission until such time as the outstanding amount is repaid. A recovery
order will be issued to you specifying the amount to be repaid and the date by which repayment must be made.

7.3 If you fail to make a repayment within 60 days of the date of the relevant recovery order, Forestry Commission reserves the right to charge interest on the outstanding debt at a daily rate equivalent to the Bank of England base rate plus 1%.

7.4 Where any sum is repayable under the Agreement and you have failed to repay the outstanding amount within the period specified in the recovery order, Forestry Commission reserves the right, at its absolute discretion, to deduct the outstanding debt from future payments due to you under this Agreement and any other agreement Forestry Commission may have with you, or to terminate the Agreement in accordance with clause 14.

8 **ACCESS TO DOCUMENTS AND INFORMATION**

8.1 You agree that you shall, upon request, supply any documents, information, data, reports or written or verbal explanations which may be required by Forestry Commission or any other UK public body in connection with this Agreement, including for the purposes of discussing, monitoring or evaluating your fulfilment of the terms and conditions.

8.2 You agree to take before and after photographs of each planting area, retain them for a period of seven years and make them available upon request.

9 **SITE VISITS**

Forestry Commission (or its authorised representatives) shall be entitled to inspect the Land or premises, at all reasonable times and on reasonable notice, throughout the duration of the Agreement and Maintenance Period for the purpose of ensuring that the Terms and Conditions of this Agreement have been complied with.

10 **MAINTENANCE OF ACCOUNTS AND RECORDS AND FINANCIAL MANAGEMENT**

10.1 You shall keep accurate and up-to-date accounts and records of the receipt and expenditure of the Grant and evidence of your compliance with this Agreement.

10.2 You shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least seven years from termination or expiry of this Agreement. Forestry Commission shall have the right to review your accounts and records relating to the Grant and to take copies of such accounts and records.

10.3 You 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 2010.

10.4 You must have a sound administration and audit process, including internal financial controls to safeguard against fraud and theft. All cases of fraud or theft (whether proven or suspected) relating to the Funded Activities must be notified to Forestry Commission as soon as they are identified. You will comply with (and facilitate Forestry Commission’s compliance with) all statutory requirements, standards and Forestry Commission directions as regards
accounts, audit, financial reporting, validation, assurance or examination of accounts, annual reports and annual returns applicable to you and Forestry Commission.

10.5 You must comply with the recommendations of the Public Accounts Committee and any other expenditure controls specified by government.

11 **INTELLECTUAL PROPERTY RIGHTS**

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 or licensed to either you or Forestry Commission before the Commencement Date or developed by either party under the Agreement, shall remain the property of that party.

12 **DATA AND INFORMATION**

12.1 The parties shall comply with all relevant UK and EU data protection legislation in delivering their obligations under the Agreement.

12.2 You acknowledge that Forestry Commission is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs).

12.3 You agree to provide all necessary assistance and cooperation which is reasonably requested by Forestry Commission for the purposes of complying with its obligations under the FOIA and EIRs. If you are required to supply information pursuant to a FOIA/EIR request, you shall supply all such information which is within your possession or control within 5 Working Days (or such other period as the Forestry Commission shall reasonably require).

12.4 If you receive a FOIA/EIR request from a member of the public, you shall not respond to the request but shall forward the request to Forestry Commission within two Working Days of receipt.

12.5 Forestry Commission shall determine in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of FOIA and/or the EIRs.

13 **LIMITATION OF LIABILITY**

13.1 Neither party excludes or limits its liability for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation, or any other liability which cannot be limited or excluded by law.

13.2 Forestry Commission accepts no liability for any consequences, whether direct or indirect, arising from the Agreement or your use of the Grant.

13.3 Subject to clause 13.1 and 13.2, Forestry Commission’s total aggregate liability in connection with the Agreement shall not exceed the amount of the Grant.

13.4 You shall indemnify Forestry Commission against all claims, demands, actions, costs, expenses (including legal fees), disbursements, interest, payments, losses, damages and all
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other liabilities arising as a result of your actions or omissions in connection with the Agreement, including in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise.

14 Termination

14.1 Forestry Commission reserves the right to terminate the Agreement on written notice to you in any one or more of the following situations:

(a) you breach, or there is anticipatory breach of, the terms of the Agreement or there is a change in circumstances affecting your eligibility for the Grant;

(b) you intend to use, have used in the past, or use the Grant for purposes other than the Funded Activities;

(c) you are, in the reasonable opinion of the Forestry Commission, delivering the Funded Activities in a negligent manner;

(d) you obtain funding from a third party which, in the reasonable opinion of Forestry Commission, undertakes activities that are likely to bring the reputation of the Funded Activities or Forestry Commission into disrepute;

(e) you provide the Authority with any materially misleading or inaccurate information;

(f) Forestry Commission determines (acting reasonably) that any of your directors or employees has acted dishonestly or negligently at any time during the term of this Agreement and to the detriment of the Authority, or has taken any actions which unfairly bring or are likely to unfairly bring Forestry Commission (including its name or reputation) into disrepute;

(g) You transfer, assign or novate to any third party, or encumber in any way, the Grant without the consent of Forestry Commission;

(h) You cease to operate for any reason (including through winding up, dissolution, insolvency, bankruptcy, receivership, administration, liquidation) or you are unable to pay your debts as they fall due;

(i) the Grant is found to be unlawful State Aid; or

(j) you fail to repay within the period specified in a recovery order any sum which has become recoverable.

14.2 You may terminate the Agreement at any time prior to receiving the Grant by giving written notice to Forestry Commission.

14.3 In the event of a change in policy direction, this Agreement may be terminated by Forestry Commission with immediate effect by notice in writing (such notice period as the Authority determines will be reasonable in all the circumstances).
15 **Consequences of Expiry or Termination**

15.1 Expiry or termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of expiry or termination which existed at or before the date of expiry or termination.

15.2 Expiry or termination of the Agreement shall not affect the continuing rights and obligations of the parties under clauses 7 (Repayment), 8 (Access to Documents and Information), 9 (Site Visits), 10 (Maintenance of Accounts and Records and Financial Management), 11 (Intellectual Property Rights), 12 (Data and Information), 13 (Limitation of Liability), 14 (Termination), 17 (Severability), 19 (Waiver), 20 (Notices), 21 (Dispute Resolution), 24 (Third Party Rights), 25 (Governing Law) or any other provision in the Agreement which is expressly stated to survive expiry or termination of the Agreement or which is required to give effect to such termination or expiry or the consequences of such termination or expiry.

16 **Variation**

Forestry Commission reserves the right to vary these Terms and Conditions. Any variation will be effected in writing and notified to you in advance. Forestry Commission shall endeavour to give such notice as is reasonable and proportionate, having regard to the nature of the variation and its consequences for you.

17 **Severability**

If any term, condition or provision of the Agreement is held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in the Agreement.

18 **Force Majeure**

18.1 If you are prevented from complying with your obligations under the Agreement due to force majeure or exceptional circumstances, Forestry Commission must be notified in writing, within 15 Working Days from the date on which you (or any person authorised to act on your behalf) is in a position to do so.

18.2 Force majeure or exceptional circumstances may include:

(a) your death or long-term professional incapacity;

(b) a severe natural disaster gravely affecting the Land;

(c) the accidental destruction of livestock buildings on the Land;

(d) an epizootic or a plant disease affecting part or all of your crops, trees or livestock; or

(e) expropriation of all or a large part of the Land (provided that the expropriation could not have been anticipated at the time the application for funding was made).
18.3 Forestry Commission will consider the facts on a case-by-case basis in deciding whether or not you are relieved of all or part of its obligations under the Agreement and whether all or part of the Grant should be suspended or repaid.

19 **WAIVER**

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.

20 **NOTICES**

20.1 All notices in relation to the Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, electronically mailed, or mailed (first class postage prepaid) using the contact details set out in the Offer Letter (or any updated contact details which are subsequently notified by one party to the other). It is your responsibility to notify Forestry Commission of any change to your contact details.

20.2 If personally delivered or if e-mailed, all such notices 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 notices shall be deemed to have been given and received on the second Working Day following such mailing.

21 **DISPUTE RESOLUTION**

Any dispute arising between the parties or any complaint or appeal by you concerning Forestry Commission’s actions in connection with the Agreement shall be resolved according to Forestry Commission’s actions complaint procedure which is set out here: https://www.gov.uk/government/organisations/forestry-commission/about/complaints-procedure. Information on this process can also be obtained from: The Executive Office, England National Office, 620 Bristol Business Park, Coldharbour Lane, Bristol, BS16 1EJ. Tel: 0300 067 4000 or by email at nationalenquiries@forestrycommission.gov.uk.

22 **NO CONTRACT, PARTNERSHIP OR AGENCY**

22.1 The Parties acknowledge and agree that nothing in this agreement or the provision of Grant monies gives or is intended to give rise to contractual relations.

22.2 The Agreement shall not create any partnership or joint venture between Forestry Commission and you, 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.
23 **STATE AID**

23.1 The Urban Tree Challenge Fund is exempt from State Aid due to small scale of tree planting which is below the EU definition of a forest. Such small blocks of planting will not produce goods or services that could be placed on the market.

24 **THIRD PARTY RIGHTS**

This Agreement does not and is not intended to confer any contractual benefit on any person who is not a party to the Agreement.

25 **GOVERNING LAW**

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.
ANNEX A - Eligible Expenditure schedule (breakdown of forecast grant expenditure)

Site visits may be carried out by Forestry Commission pursuant to clause 9 (Site Visits) to confirm eligibility for payment of the Grant.

<table>
<thead>
<tr>
<th>Item of Expenditure</th>
<th>Budget (in UK Sterling)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Tree</td>
<td>The total payment rate available to supply, plant, and protect including 3 years of establishment payments for a standard tree 14-16cm girth is £418.72.</td>
</tr>
<tr>
<td>'Feather’ Tree</td>
<td>The total payment rate available to supply, plant, and protect including 3 years of establishment payments for a small tree between 150cm and 175cm in height is £1.90.</td>
</tr>
<tr>
<td>'Whip’ Tree</td>
<td>The total payment rate available to supply, plant, and protect including 3 years of establishment payments for a small tree between 100cm to 125cm in height is £1.15.</td>
</tr>
</tbody>
</table>

INELIGIBLE EXPENDITURE

The following costs must be excluded from Eligible Expenditure:

I. Payment that supports for lobbying or activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action;
II. using grant funding to petition for additional funding;
III. where applicable, input VAT reclaimable by the Grant Recipient from HMRC;
IV. Goods or services that the Grant Recipient has a statutory duty to provide;
V. Payments reimbursed or to be reimbursed by other public or private sector grants
VI. Contributions in kind (i.e. a contribution in goods or services, as opposed to money);
VII. Interest payments (including service charge payments for finance leases);
VIII. Statutory fines, criminal fines or penalties; or
IX. Liabilities incurred before the issue of this funding agreement unless agreed in writing by the Funder.