

[Leeds City Region: RIF Heads of Terms]

[•] 2013

Dear Sirs

Limited Partnership Agreement in relation to participation in the Leeds City Region Revolving Investment Fund ("RIF")

Following our recent discussions, we write to set out the principal terms upon which we are prepared to establish a limited partnership ("LP") as the vehicle for the RIF.

These terms together with such others as we agree between us, will be incorporated into a legally binding agreement. This letter is not intended to be legally binding except as set out in clause 16 below.

1 PARTIES

- 1.1 The parties to the LP agreement shall be Leeds City Council, the Council of the Borough of Kirklees, the Council of the City of Wakefield, City of York Council, City of Bradford Metropolitan District Council, the Council of the Borough of Harrogate and [the Borough Council of Calderdale] (the "**Founder Members**").
- 1.2 The Founder Members agree that the relevant powers for establishment of the RIF and any subsequent administering of loans as being sections 12 and 15 of the Local Government Act 2003, section 1(1) of the Localism Act 2011, section 111 of the Local Government Act 1972 and/or (dependent upon the specific circumstances of a loan that may be sought) section 3 of the Local Authorities (Land) Act 1963.

2 PURPOSE

The purpose of the LP shall be to establish the vehicle to control the RIF. The RIF is to be used to support commercially viable projects by way of loan finance, which due to difficult current financial market conditions, cannot secure sufficient and appropriate finance to proceed. The RIF will provide support in accordance with the investment strategy attached to this letter at Appendix 1 (the "**Investment Strategy**"). Any such support will be made on commercial terms and in compliance with State Aid rules.

3 NAME AND PRINCIPAL PLACE OF BUSINESS

The LP shall be carried on under the name of [TBC] and the principal place of business shall be [TBC].

4 COMMENCEMENT AND TERMINATION

- 4.1 The RIF will be launched on 28 June 2013.
- 4.2 The LP agreement and the RIF will continue until all parties unanimously agree that it should terminate.
- 4.3 Following the initial launch of the RIF on 28 June 2013, the RIF will subsequently be reviewed and the parties shall consider whether the RIF should become public and

private sector funded and managed by an independent fund manager with greater breadth of financing options and investment areas. However no commitment will be made by any of the Founder Members in relation to the outcome of such review at the time of initial launch of the RIF.

5 CAPITAL CONTRIBUTIONS AND PROVISION OF FUNDS

- 5.1 The parties agree that the RIF will:
- 5.2 Provide short term debt finance (including mezzanine, but excluding equity);
- 5.3 Focus on asset based construction projects (including housing); and
- 5.4 Invest only in projects within the geographical areas of the Founder Members (unless in exceptional circumstances the loan provides benefits to the Leeds City Region).
- 5.5 The Founder Members will commit the following sums (the "**Initial Commitment**") :

City of Leeds Council	£6.440m
City of Bradford Metropolitan District Council	£4.133m
The Council of the Borough of Kirklees	£3.304m
The Council of the City of Wakefield	£2.625m
City of York Council	£1.632m
Borough Council of Calderdale	£1.632m
The Council of the Borough of Harrogate	£0.320m

- 5.6 The Initial Commitment for each Founder Member will be by virtue of a capital contribution and/or a loan. The split between capital contribution and loan is to be agreed.
- 5.7 Funds shall be drawn down by notice by the General Partner. Save for an initial draw down of [£xxx] in order to provide working capital for the General Partner (such amount to be made up of draw downs from Founder Members in proportion to their Initial Commitments and which shall be paid to the General Partner within 28 days of the RIF being formed), funds shall not be drawn down until an investment is approved pursuant to paragraph 7.2, or unless otherwise unanimously agreed by the Founder Members.
- 5.8 The Founder Members shall agree a form of model to be applied to any application for short term debt that will ascribe a proportionate benefit to each of the geographic areas of the Founder Members (the "**Model**").
- 5.9 Draw down by the General Partner from each Founder Member in respect of a particular approved investment will be proportionate to the benefit that is attributed to each Founder Member by the Model provided that if the Initial Commitment of a Founder Member has been fully utilised, the remaining Founder Members shall nevertheless proportionally fund the full amount of the relevant loan in accordance with the Model up to the amount of their Initial Commitment notwithstanding.

- 5.10 Following a receipt of a notice from the General Partner that an investment has been approved in accordance with paragraph 7.2, the relevant Founder Members shall promptly, and in any event within [x] days, pay to the General Partner the amount stated in such notice.

6 REVIEW

- 6.1 The Founder Members **may** review the objectives and performance of the RIF once the RIF has provided short term debt finance of £10m in aggregate. Should such a review be undertaken, the Founder Members may by unanimous decision decide that no further debt finance shall be provided and in which instance there will be no further right for the General Partner to draw down the remaining Initial Commitments and the relevant Founder Members will be relieved of their obligations to make such Initial Commitments available.
- 6.2 The Founder Members **shall** review the objectives and performance of the RIF at 3 yearly intervals or when the Initial Commitment has been fully invested (if earlier).
- 6.3 If the Founder Members determine that the RIF is no longer required they can by unanimous consent decide to terminate the RIF and distribute its assets as and when realised to the Founder Members in proportion to their drawn down Initial Commitments.

7 GENERAL PARTNER

- 7.1 The General Partner shall have the authority on behalf of the LP and the RIF to do the following, subject at all times to the General Partner complying with the Investment Strategy:
- (a) Open accounts with banks for and in the name of the LP;
 - (b) To procure, enter into, make and perform such contracts, agreements and other undertakings on behalf of the LP (including sub-contracting its fund management functions) that are deemed necessary to assist with the RIF meeting its purpose;
 - (c) Execute legal documentation on behalf of the RIF (subject to approval at paragraph 7.3)
 - (d) To commence or defend litigation that pertains to the LP;
 - (e) To maintain the LP's records and books;
 - (f) To carry out valuations of the LP assets;
 - (g) Conduct due diligence prior to any investment;
 - (h) Negotiate, agree and enter into heads of terms for specific loans and accompanying security documentation;
 - (i) Appoint external advisors as appropriate in relation to the above authorisations; and
 - (j) Such other things as the LP may unanimously agree from time to time.

- 7.2 The General Partner must not complete any investment on behalf of the RIF without the approval of Leeds City Council's Director of Resources, following consultation with each of the members of the General Partner investment advisory committee. Such consultation may be either with individual members or collectively, and may occur by telephone or electronic communication. The investment advisory committee shall consist of one nominee from each of the Founder Members, whose terms of reference will be to review the compliance of the relevant investment with the Investment Strategy.

8 TERMINATION OF GENERAL PARTNER APPOINTMENT

The General Partner may only be replaced by unanimous decision of the Founder Members (excluding any Founder Member who controls the General Partner) or where the General Partner materially breaches the terms and scope of its authority as set out in the LP agreement.

9 REPORTING REQUIREMENTS OF GENERAL PARTNER

- 9.1 The General Partner shall report to the Founder Members on a quarterly basis or as otherwise unanimously agreed between them:
- 9.2 The report shall include details of the following:
- (a) loan applications received (including details of the amounts applied for, identity of the applicants, sector and geographic location);
 - (b) details of loans undergoing consideration (including a status update).
 - (c) details of loans made since the last report;
 - (d) details of any non-performing loans;
 - (e) balance of the RIF available for investment.

10 COSTS OF AND SECONDMENT TO GENERAL PARTNER

- 10.1 The General Partner shall be responsible for drawing sufficient resource (including by way of secondment) from the Leeds City Region to establish a team to administer the RIF and implement the qualifying loans on behalf of the General Partner.
- 10.2 The costs of the General Partner, and (subject to remaining within and being incurred in accordance with the agreed budget) the costs incurred by the Project Delivery Team prior to establishment of the RIF shall be met by the RIF.
- 10.3 The RIF shall be operated with the intention of seeking to recover its operating costs from loan applicants through the charging of fees and/or recovery of third party costs incurred in relation to the provision of services by the RIF, while recognising that any under-recovery will be for the account of the RIF.

11 LIMITED PARTNERS

From the commencement of the LP the Founder Members will be Limited Partners with no day to day management or responsibility in relation to the LP. However, the Limited Partners may unanimously agree changes to the authority of the General

Partner.

12 QUALIFYING INVESTMENTS

All applications for investment from third parties received by the Leeds City Region (or the RIF directly) shall be considered by the Leeds City Region in conjunction with the Leeds City Region investment framework, which shall determine whether such applications should be referred to the RIF or another source of funding available from the Leeds City Region or declined. The terms of reference for such review have yet to be finally determined but will include political review prior to any referral to the RIF.

13 CHANGE OF LIMITED PARTNER

No change shall be made to the Limited Partners and the amount of their Initial Commitment and no person shall be added as an additional limited partner without the unanimous approval of all of the Founder Members.

14 FURTHER INVESTMENT

- 14.1 For the avoidance of doubt there is no obligation on the Founder Members to contribute more than their Initial Commitment set out at paragraph 4.2 above.
- 14.2 In the event that some but not all of the Founder Members wish to increase their commitments the terms of the LP agreement may be amended by unanimous consent of all of the Founder Members or such Founder Members may establish a further investment fund which would mirror the RIF.

15 DISTRIBUTIONS OF INCOME AND CAPITAL

- 15.1 The intention is that all interest and capital paid into the RIF is recycled for new qualifying investments, unless otherwise approved by unanimous consent of the Founder Members.
- 15.2 Any interest or capital approved to be distributed to the Founder Members by the RIF shall be on a pro-rata basis, based on each Founder Member's drawn down Initial Commitment to the LP.

16 LEGAL EFFECT

- 16.1 Paragraphs 1 to 15 inclusive of this letter are an expression of the current intentions of the parties and are not intended to be legally binding or otherwise to give rise to any enforceable rights or obligations.
- 16.2 Paragraphs 17 to 20 inclusive of this letter are legally binding and will become enforceable by the parties upon countersignature of this letter.

17 THIRD PARTIES

No person who is not a party to this agreement shall have any right to enforce it pursuant to the Contracts (Rights of Third Parties) Act 1999.

18 COSTS

Subject to clause 10.2, Leeds City Council shall pay all professional and other costs relating to the negotiation, preparation, execution and implementation of the RIF, the

LP and all contractual documentation arising pursuant to this agreement. Each of the Limited Partners shall be responsible for their own individual costs incurred.

19 COUNTERPARTS

This agreement may be executed in any number of counterparts, but shall not take effect until each party has executed at least one counterpart. Each counterpart shall constitute an original but all the counterparts together shall constitute a single agreement.

20 GOVERNING LAW

This letter shall be governed by and construed in accordance with English law.

Please confirm your agreement to the above terms and conditions by signing, dating and returning to us the attached copy of this letter.

Yours faithfully,

.....
for and on behalf of Leeds City Council

We agree with the heads of terms set out above and we undertake to comply with the legally binding terms and conditions contained in this letter.

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for and on behalf of City of Bradford Metropolitan District Council

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Date

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for and on behalf of The Council of the Borough of Kirklees

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Date

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for and on behalf of The Council of the City of Wakefield

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Date

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for and on behalf of City of York Council

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Date

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for and on behalf of The Council of the Borough of Harrogate

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Date

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for and on behalf of The Borough Council of Calderdale

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Date