

Carlisle City Council

&

Longtown & District Enterprise Trust

**Partnership Agreement 2004/2008
in respect of the management of the Longtown Market Town Initiative [“the Agreement”]**

1 Parties to the Agreement

- 1.1 The Agreement is between the Council of the City of Carlisle in its capacity as Accountable Body of Civic Centre Rickergate Carlisle CA3 8QG (“the Council”) and the Longtown and District Enterprise Trust (Registered Company no. 04974309) of the Moot Hall 9 Esk Street Longtown CA6 5PU [“the Trust”] in its capacity as the managing body for the Longtown Market Town Initiative [MTI]

2 The object of the Agreement

- 2.1 This agreement sets out the Roles and Responsibilities of the Council and the Trust in the implementation of the MTI Action Plan for the MTI scheme.
- 2.2 It details the Council’s role as employer for the Regeneration Officer.
- 2.3 It details the Trust’s obligations to the Accountable Body
- 2.4 For the avoidance of doubt the provisions of the Agreement are also applicable to the Approvals Panel Terms of Reference contained in Schedule 1

3. INTERPRETATION

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:

Accountable Body	The Council of the City of Carlisle for the purposes of applying for funding, administering and monitoring such funding in relation to the MTI
Annual Performance Plan	the plan approved annually by the NWDA that describes in detail the projects to be delivered in a given year,

	including the funding and outputs from those projects.
Approvals Panel	The Approvals Panel as described in and acting in accordance with Schedule 2 hereof
Approvals Panel	a committee made up of two nominees each from the City Council and the Trust that will consider the outcomes from individual project appraisals and will ensure that appropriate measures are in place to enable project delivery in line with funder's requirements. The Panel will also ensure that the proper processes have been followed before referring the project to the Council's Chief Financial Officer for signing off.
Approvals Panel Terms of Reference	The terms of reference for the Approvals Panel. A Project Approval Flow Diagram is included [by way of illustration] that shows the pathway through the project approval process and the Panel's role in that process. Such Approvals Panel Terms of Reference being annexed hereto as Schedule 2 and forming part of the Agreement
Board	The Executive Committee of the Longtown and District Enterprise Trust
Claim Submission	The submission of any claim for funding to the Funder by the Council
Delivery Agent	those Agencies outlined within the Delivery Plan who will deliver the substantive parts of the programmes outlined in the Delivery Plan.
Delivery Plan	The Longtown MTI delivery plan developed and compiled by the Board dated 2004 to 2008
Executive Committee	The Executive Committee of the Longtown and District Enterprise Trust
Funder	The North West Development Agency or any other agency for which the Council agree to act as Accountable Body.
Grant	the Offer from North West Development Agency for the complete funding of the programmes amounting to up to £1 million to match fund the programme
Head of Economic and Community Development	The Head of Economic and Community Development appointed by the Council or any successor whether known by the same title or another
MTI Action Plan	The plan of action to be carried out under

	the banner of the Longtown Market Town Initiative as contained in Schedule 2
NWDA	the North West Development Agency.
Partner(s)	The Council and/or the Trust as the context requires
Partnership	The Agreement between the Council and the Trust
Programme	the programme of work outlined in the Delivery Plan for the NWDA Single Programme bid 2004-2008 or other document prepared in respect of a programme funded by any other agency for which the Council agrees to act as Accountable Body
Project Appraisal	the technical evaluation of individual projects to ensure that they are in accordance with the MTI Delivery Plan, are value for money and deliver the outputs and outcomes required.
Regeneration Officer	The Regeneration Officer appointed by the Council or any successor whether known by the same title or another

4. General Roles and Responsibilities

4.1 The Role of the Trust

The Trust will fulfil the following roles and responsibilities:

- 4.1.1 The Trust will guide the delivery of the MTI Programme. It will oversee the work-programme of the Regeneration Officer [currently seconded from the Council] for the period up to March 31st 2008, or for any alternative period as agreed by both parties.
- 4.1.2 To formally manage the proceedings of “the Board ” through its Project Officer and Chairman, Vice Chairman and Company Secretary
- 4.1.3 To approve and monitor the MTI Delivery Plan for NWDA funded projects and to compile Annual Performance Plans
- 4.1.4 To define policy and priority of projects within the overall programme
- 4.1.5 To approve the overall budget for the programme
- 4.1.6 To monitor and review the progress of the programme
- 4.1.7 To ensure publicity for and ongoing consultation on the programme
- 4.1.8 To ensure that any proposal for change to the programme has the necessary commitment of funding to secure it
- 4.1.9 To operate premises and equipment in accordance with the Council’s Health and Safety policy
- 4.1.10 With Delivery Agents, to prepare funding bids and supporting information for projects within the overall programme in accordance with the agreed appraisal and approval process
- 4.1.11 To ensure adequate provision within the programme for a top slice of funding to provide revenue for the “Accountable Body” to cover administration costs

- 4.1.12 To secure adequate funding through the approval of the Annual Performance Plan
- 4.1.13 To undertake procurement processes in accordance with The Council's Constitution when procuring goods, services and works.
- 4.1.14 To provide an annual review of the programmes for the Council's Executive or Overview and Scrutiny Committees and other reports or evaluations as required under the terms of the grant offer.
- 4.1.15 To nominate representatives to serve on an Approvals Panel alongside the Council's nominees.
- 4.1.16 Day to day management of the Regeneration Officer will be by the Chair of the Executive Committee of the Trust or other such person nominated by the said Executive Committee. The Trust will provide guidance and management support to the Regeneration Officer and will work with the Head of Economic and Community Development to ensure that the conditions and circumstances of the Regeneration Officer's employment are in line with Council policy and practice.
- 4.1.17 The Trust will supply the Council with such information that it may require to satisfy itself that the Partnership is operating legally, in a financially sound manner and in accordance with the terms of the Agreement.
- 4.1.18 The Trust will supply the Council with sufficient information to complete the Claim Form (or any replacement form) annexed in Schedule X hereto
- 4.1.19 The Trust will co-operate with the Council to enable to fulfil its obligations as the Accountable Body and its roles as specified in the Agreement.

4.2 The Role of the Council

The Council will fulfil the following roles and responsibilities:

- 4.2.1 The Council will support the regeneration process in terms of acting as an Accountable Body in respect of agreed projects and programme[s] within the scope of the MTI Action Plan until 31ST March 2008 or for such other period as agreed with the Trust and Funding bodies.
- 4.2.2 The Council will act as employer for the Regeneration Officer until March 31ST 2008 or for an alternative period subject to the agreement in writing between the Council and the Trust
- 4.2.3 Work co-operatively with the Trust to support the implementation of the MTI Action Plan, subject to normal budget and capacity constraints and decision-making processes relating to individual projects.
- 4.2.4 Meet the requirements of any Funding Agreements for those projects for which it has agreed to take responsibility.
- 4.2.5 Provide management support for the Regeneration Officer along side the Chair of the Trust's Executive Committee and provide named officer[s] to work with the Regeneration officer on the implementation of those aspects of the Action Plan that involve the Council
- 4.2.6 Receive Grant – the Council will claim and receive grant from NWDA and other funders and pay claims when due
- 4.2.7 Produce Grant Offer Letters – the Council will enter into contracts with delivery agents on behalf of LDET
- 4.2.8 Monitor 'In Kind' Contributions –

The Council will ensure that all agreed 'in-kind' contributions are properly recorded and reported.

- 4.2.9 The Council will ensure that programme management systems are in place, that projects have been fully appraised and have received formal approval before any payments are made.
- 4.2.10 Be responsible for Monitoring processes – the Council will ensure all required information on expenditure, activities, outputs and outcomes are properly recorded and reported to the Funder.
- 4.2.11 Ensure Competitive Tendering – The Council will ensure that appropriate procurement procedures are followed that are in line with the Council's standing orders and EC Procurement Directives.
- 4.2.12 Where necessary will withhold funds - The Council reserves the right to withhold funds from projects that do not contribute to the delivery of the Annual Performance Plan, are not properly appraised or fail to deliver the required outputs.
- 4.2.13 Manage Accounts – The Council will account for the income and expenditure of the Trust and other Delivery Agents with regard to projects approved within Annual Performance Plans.
- 4.2.14 Hold an Inventory of Assets – The Council will ensure that an inventory of assets is created and maintained, including arrangements with delivery agents for the reporting of purchases and disposals. The Council will also enter into and hold property and lease agreements where necessary [to be identified in a schedule if necessary]
- 4.2.15 Monitor Conflicts of Interest – The Council will ensure that the Trust establishes procedures for the declaration, recording and dealing with conflicts of interest in connection with the management of the programme.
- 4.2.16 Employ Staff – The Council may employ staff on behalf of the Trust
- 4.2.17 Undertake Audits – The Council may ask internal auditors and others to examine any aspects of the scheme, including records maintained by Delivery Agents
- 4.2.18 Provide Services - The Council may provide other services if appropriate at its discretion – e.g accommodation, legal services etc.
- 4.2.19 Provide resources to deliver accountable body services for which a pre-agreed draw down of a top slice of the grant (5%) will be payable to the Council. This will have been agreed and submitted as part of the bid for the overall programme
- 4.2.20 Nominate representatives to serve alongside nominees of the Trust on the Approvals Panel.

4.3 To be implemented in Partnership

- 4.3.1 The Council and the Trust hereby agree that the following actions will be implemented in partnership between the Council and the Trust to ensure effective delivery of the programme
 - i. Developing work programmes and agreeing actions to achieve delivery.
The Trust will lead in setting work programmes and prioritising actions to implement the MTI Action Plan. The Council to be involved in this

process where it has a role in project delivery to ensure that the performance of the MTI Action Plan can be jointly monitored and managed effectively.

- ii. Working with external funders
Effective dialogue to take place between funding agencies, the Trust and the Council to ensure effective programme management and delivery of the MTI Action Plan.
- iii. Monitoring and Evaluating the Programme
Agreeing the appraisal, approval and monitoring arrangements for the MTI Action Plan programme and projects involving the Council as Accountable Body.
- iv. Participation in an Approvals Panel
Both parties will nominate representatives to and participate in the Approvals Panel. The terms of reference and the operating arrangements are set out in the Approvals Panel Terms of Reference in Schedule 2 to this agreement.

5 Administration Costs

5.1 Accountable Body Status

- 5.1.1 As the accountable body, the Council will receive and manage funding on behalf of the Partnership. The Council will incur costs in fulfilling this role
- 5.1.2 The Council will recover its costs from the 5% allocated for this purpose in the Delivery Plan. The costs incurred by Business Link and the Regeneration Support Team will be paid from within the 5% allocation.
- 5.1.3 Administration charges will be set once the programme has been agreed and costed. Outside of the package required to employ the Regeneration Officer administrative costs will be identified based on the time required by the Council to administer funding as well as any associated (postage, printing, accountancy etc) costs within the 5% allocation.
- 5.1.4 The Council will only charge administration fees at a level that will cover its costs in carrying out the Accountable Body role. The Council reserves the right to recover any costs incurred in full within the 5% allocation.

6 Line Management Arrangements

- 6.1 In support of the Regeneration Officer the Council will carry out the following actions:
 - i. Carry out Personal Development Interviews and maintain access to all normal training opportunities open to all employees of the Council
 - ii. Provide management support other than on a day to day basis
 - iii. Identify a lead officer[s] to support the work of the Regeneration Officer and the Trust
 - iv. Provide support through membership of the Council's Regeneration Team
 - v. Work with the Regeneration Officer to set work programmes where these affect the work priorities of Council staff

- vi. Implement disciplinary or any other procedures should the need arise and in consultation with the Trust.

6.2 The Trust will:

- i. Require the Regeneration Officer to keep the Council [through the designated lead officer] informed on the progress of the MTI programme, and to identify any issues that affect the Council's interests or reputation.
- ii. Require the Regeneration Officer to provide the Council with quarterly detailed actual income and expenditure statements and forecast year end positions. The information required under this paragraph shall be received by the Council not later than three working days before the due date of any Claim Submission.
- iii. Require the Regeneration Officer to provide information to the Council and the Board regarding commitments and the financial position of the Trust and the MTI before any new initiative or expansion of an existing initiative are approved
- iv. Provide an appropriate and supportive working environment for the Regeneration Officer.

7. **Access to Information:**

7.1 Each Partner shall, subject to compliance with the Data Protection Act 1998 and Freedom of Information Act 2000, afford to the other such access to information relating to the Partnership, or any aspect of it which is reasonably necessary to facilitate the effective operation of the Partnership. Such information may include, (but without limitation), access to Committee Reports, financial records and relevant details of Service Contracts.

7.2 The Partners shall take such steps as are necessary to avoid, or minimise the disclosure of confidential information relating to any aspect of the Partnership including, but without limitation, information relating to Service Users and Service Contractors, but the Partners acknowledge the existence and effect of the different confidentiality and disclosure rules which apply to them.

8. **Retention of Records**

8.1 The Partners recognise that as a consequence of entering into this Agreement they will be required to manage and retain records which may include but are not limited to financial, accounting and personal records. The Partners agree

that in retaining any records they shall comply with the Data Protection Act 1998 and Freedom of Information Act 2000 or any amendment or re-enactment thereof.

8.2 In respect of personal data the partners agree:

- i. That it shall be adequate, relevant and not excessive for the purpose or purposes for which it is held.
- ii. That it will be accurate and where necessary kept up to date
- iii. They will not retain it for longer than is necessary for its purpose or purposes
- iv. That normally personal information should not be held for longer than 6 years after the subject's last contact with either Partner subject to any specific exceptions or requirement of statute or regulation set out below.

8.3 The Partners agree that:

- i. Where legal action has been started and the records are required to be retained because the information contained in them is relevant to the action, the records may be kept for longer than 6 years but only so long as they are required.
- ii. The records may be kept for longer than 6 years if they are archived for historical purposes;
- iii. The records may be kept for longer than 6 years if they consist of a sample of records maintained for the purpose of retrospective comparison;

8.4 In respect of financial, accounting and other records not comprising personal information and required for the effective monitoring of the agreement and the use of the pooled fund the Partners agree that they will retain such records for a period of not less than 6 years from the date they were published.

9 Bribery and Corruption:

9.1 Either Partner has the power to cancel the Agreement and to receive from the other Partner (the defaulting Partner) the amount of any loss resulting from cancellation in the following circumstances where the defaulting Partner, or any person employed by him, or on his behalf has offered, or given, or agreed to give any person any gift, or consideration of any kind as an inducement, or reward for:

- i. Doing, or for refraining from doing, anything in relation to either the obtaining of, or the execution of, the Agreement, or any other agreement or contract arising from the operation of the pooled fund; or
- ii. Showing, or refraining from showing favour, or disfavour to any person in relation to the Agreement, or any other agreement or contract arising from the operation of the pooled fund.
- iii. Has committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or has given any fee, or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972.

9.2 In the case of action as described above by a person employed by the a defaulting Partner, or on the defaulting Partner's behalf, the innocent Partner's right to cancel and recover loss shall apply whether or not the action is with the defaulting Partner's knowledge.

10. Conflict of Interest

10.1 Where an employee of either Partner has a financial interest in supplies or services commissioned or proposed to be commissioned pursuant to this Agreement the Partnership Manager shall be informed in writing as soon as is reasonably practicable.

10.2 The Partnership Manager shall be responsible for informing the Board of any financial interest communicated to him pursuant to this clause

10.3 No employee of either of the partners shall make an official professional decision about a matter in which they have a personal involvement

11. Termination:

11.1 The Partnership may be terminated where: -

- i. The Partners have agreed at the Strategic Review Meeting referred to in Clause 10 that the Partnership should be terminated; and
- ii. The Partners have agreed a detailed exit strategy that addresses adequately all the consequences of termination including: -

- The relationship with Service Contractors;
- Personnel issues, if any;
- The financial impact of termination; and
- All other relevant issues.

11.2 The Partners have agreed to ensure that the minimum of the disruption is caused to Service Users in the advent of the Partnership being terminated.

12. Variations to the Agreement:

12.1 The Partners may jointly agree to vary this Agreement at any time during the Term of this Agreement. Such variation shall be recorded in writing and signed, with the variation being attached to this Agreement.

12.2 The following principles shall be adhered to where reasonably practicable:

- i. Variations should be discussed by the Board;
- ii. The Board shall make a written recommendation to the Partners regarding the proposed variation; and

iii. The (specify persons) may agree emergency variations verbally and any variations must be confirmed in writing within a reasonable period of time after the variation.

12.3 Where a variation has been suggested, but the Trust and the Council do not agree it, then this can be referred for dispute resolution in accordance with Clause 15 above.

13 Clawback:

13.1 If for whatever reason the Funder requires the repayment of any Grant monies to it by the Accountable Body the said monies shall be repaid to the Accountable Body by the Trust on demand and in any event within 21 days of receipt of an invoice by the Trust

14. Dispute Resolution:

14.1 Any dispute relating to the Partnership shall be dealt with in accordance with the provisions of this Clause.

14.2 Any dispute shall be referred in the first instance to (specify) who shall endeavour to resolve it within 28 days. If no resolution is possible within that period, then the dispute shall be referred jointly to (specify name/s) who shall endeavour to resolve the dispute within 28 days. In the event of the dispute still not having been resolved within such period the remaining provisions of this clause shall apply.

14.3 The Partners shall submit the dispute to an agreed neutral adviser. If it is not possible to agree a neutral adviser, then either partner may request the (specify) to appoint a neutral adviser.

14.4 The Partners shall with the assistance of the neutral adviser seek to resolve the dispute by using an alternative dispute resolution, (ADR), procedure established by the neutral adviser.

14.5 If the Partners accept any recommendations made by the neutral adviser, or otherwise reach agreement as to resolution of the dispute such agreement shall

be recorded in writing and signed by the Partners, (and, if applicable, the neutral adviser), and such Report shall bind the Partners.

14.6 If the dispute has not been resolved within 60 days after the appointment the neutral adviser then the dispute shall be resolved by the decision of an expert whose decisions shall be final and binding. The experts shall be appointed by agreement between the parties, or if they are unable to agree then by an application of either of them to the President for the time being of the Chartered Institute of Arbitrators.

14.7 The cost of the neutral adviser, or expert shall be borne by the Partners pro rata to their respective contributions. All other costs of the dispute shall be borne by the Partner incurring them.

15 **Statutory Compliance**

15.1 The Partners shall comply with all relevant legislation relating to the Partnership, including, (but without limitation), the Human Rights Act 1998. For the avoidance of doubt, the Partners acknowledge that as the Service comprise functions of a public nature, the Partners and the Service Contractors constitute public authorities within the meaning of the Human Rights Act 1998.

15.2 The Agreement is subject to the laws of England and Wales and at no time shall any of the provisions herein contained be operated or construed contrary thereto

15.3 For the purposes of this Agreement, the entire provisions of the Contracts (Rights of Third Parties) Act 1999 shall be excluded from and shall not have application to this Agreement.

16 **Non compliance with this agreement**

16.1 Should either party consider that this agreement is not being complied with, an initial meeting to discuss the problem will be set up between the Council's nominated officer and representative[s] of the Trust. This meeting may be called either by the Council or the Trust.

16.2 If a resolution cannot be found through this route then a special committee will be convened comprised of an equal number representatives from the

Council and the Trust. If a resolution still cannot be found, the agreement may be terminated by either party.

16.3 In these circumstances both parties agree to use reasonable endeavours, in consultation with major funding agencies as appropriate, to find alternative means of delivering the MTI programme

For the purposes of this agreement the nominated officers of the Council are:

David Beaty, Economic Development Manager
Neil Griffiths, External Funding Officer

Signed: On behalf of Carlisle City Council

Name.....Date.....
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Position.....
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Name.....Date.....
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Position.....
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Signed: On behalf of the Longtown and District Enterprise Trust:

Name.....Date.....
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Position.....
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Appended

- Schedule 1 - Terms of Reference etc for the Approvals Panel + Project Approval Flow Diagram
- Schedule 2 – MTI Action Plan