

Terms and Conditions of Grant

Annex 1 Terms and Conditions of Grant

Agreed terms

1. Definitions

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

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.

Commencement Date: [the date of signature by the Recipient].

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

Grant: the sum of £[AMOUNT] to be paid to the Recipient in accordance with the Offer Letter and these Conditions.

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending on [DATE BY WHICH THE GRANT MUST BE SPENT].

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, knowledge 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.

Prohibited Act: means:

- (a) offering, giving or agreeing to give to any servant of the Authority 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 any other contract with the Authority; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Authority;
- (b) entering into this Agreement or any other contract with the Authority where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Authority;

- (c) committing any offence:
 - (i) under the Bribery Act;
 - (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 any other contract with the Authority; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Authority.

Project: the works and any other ancillary services described in Annex 2.

Project Manager: the individual who has been nominated to represent the Authority for the purposes of this Agreement.

2. Purpose of Grant

- 2.1 The Recipient shall use the Grant only for the delivery of the Project and in accordance with the terms and conditions set out in the Offer Letter and these Conditions. The Grant shall not be used for any other purpose.
- 2.2 The Recipient shall not make any material or significant change to the Project without first notifying the Authority and obtaining the Authority's prior written agreement.
- 2.3 Where the Recipient intends to apply to a third party for other funding for the Project, it will notify the Authority in advance of its intention to do so and, where such funding is obtained, it will provide the Authority with details of the amount and purpose of that funding. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Authority is funding in full under this Agreement and that receipt of any such funding may result in the Authority withholding the Grant or requiring its repayment in full or part.

3. Payment of Grant

- 3.1 Subject to clause 11, the Authority shall pay the Grant to the Recipient **on receipt of eligible claims including receipted invoices for costs** in accordance with Annex 3, subject to the necessary funds being available when payment falls due. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Authority has available funds.
- 3.2 No Grant shall be paid unless and until the Authority is satisfied that such payment is solely reimbursement for proper expenditure in the delivery of the Project.

- 3.3 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.4 The Grant shall be paid into a separate bank account in the name of the Recipient which must be an ordinary business bank account. All cheques from the bank account must be signed by at least two individual representatives of the Recipient.
- 3.5 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 the Authority.
- 3.6 The Recipient shall promptly repay to the Authority 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.

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 agreed budget set out in Annex 4. For the avoidance of doubt, the amount of the Grant that the Recipient may spend on any item of expenditure listed in column 1 of Annex 4 shall not exceed the corresponding sum of money listed in column 2 without the prior written agreement of the Authority.
- 4.2 Where the Recipient has obtained funding from a third party in relation to its delivery of the Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the budget in Annex 4 together with a clear description of what that funding shall be used for.
- 4.3 The Recipient shall not use the Grant to:
 - (a) make any payment to members of its Governing Body;
 - (b) purchase buildings or land; or
 - (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date,
- 4.4 The Recipient shall not apply for any instalment of the Grant after the Grant Period.
- 4.5 Should any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies are returned to the Authority or, if agreed in writing by the Authority, shall be entitled to retain the unspent monies to use for charitable purposes as agreed between the parties.

- 4.6 Any liabilities arising at the end of the Project including any redundancy liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient using the Grant or other resources of the Recipient and the Recipient acknowledges that there will be no additional funding available from the Authority for this purpose.

5. Accounts and records

- 5.1 The Grant shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds.
- 5.2 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant.
- 5.3 The Recipient 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 six years following receipt of the final 10% of Grant. The Authority shall have the right to review, at the Authority's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 5.4 The Recipient shall provide the Authority with a copy of its annual accounts within six months (or such lesser period as the Authority may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 5.5 The Recipient shall comply and facilitate the Authority's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Authority.

6. Monitoring and reporting

- 6.1 The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that the Offer Letter and Conditions are being adhered to.
- 6.2 The Recipient shall provide the Authority with a financial report and an operational report **(that includes reporting on the number of jobs created)** on its use of the Grant and delivery of the Project every quarter and in such format as the Authority may reasonably require. The Recipient shall provide the Authority with each report within three months of the last day of the quarter to which it relates.
- 6.3 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 its financial reports together with details of what that funding has been used for.

- 6.4 Upon request, the Recipient shall provide the Authority with a risk register and insurance review in the format provided by the Authority. The Recipient shall address the health and safety of its staff in the risk register.
- 6.5 The Recipient shall on request provide the Authority with such further information, explanations and documents as the Authority may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 6.6 The Recipient shall permit any person authorised by the Authority 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 and shall, if so required, provide appropriate oral or written explanations to them.
- 6.7 The Recipient shall permit any person authorised by the Authority for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable opinion, the Authority 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.
- 6.8 The Recipient shall provide the Authority with a final report on completion of the Grant Period which shall confirm to the Project Manager's reasonable satisfaction whether the Project has been successfully and properly completed and release of the final 10% of the Grant shall not be made prior to its receipt.

7. Acknowledgment and publicity

- 7.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Authority and such other funding partners of the Authority as it may identify to the Recipient during the Grant Period ("Funding Partners") as the source or sources of the Grant.
- 7.2 The Recipient shall not publish any material referring to the Grant or the Project or the Authority without the prior written agreement of the Authority. The Recipient shall acknowledge the support of the Authority and Funding Partners in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements where requested by the Authority shall include the current names and logos of the Authority and Funding Partners and shall use such templates as may be provided by the Authority from time to time for the purpose.
- 7.3 In using the Authority's and Funding Partners' names and logos, the Recipient shall comply with all reasonable branding guidelines issued to it by the Authority and Funding Partners from time to time.

- 7.4 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by the Authority and Funding Partners.
- 7.5 The Authority reserves the right to acknowledge the Recipient's involvement in the Project at its discretion without prior notice to the Recipient.
- 7.6 The Recipient shall comply with all reasonable requests from the Authority to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Authority in its promotional and fundraising activities and those of Funding Partners relating to the Project.

8. Confidentiality

- 8.1 Subject to clause 9 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of this Offer Letter and the Conditions and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Offer Letter and the Conditions or save as expressly authorised in writing by the other party.
- 8.2 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:
- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Offer Letter and Conditions by the receiving party;
 - (b) 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
 - (c) is at any time after the date of this Offer Letter 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.

9. Freedom of information

- 9.1 The Recipient acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and shall assist and co-operate with the Authority (at the Recipient's expense) to enable the Authority to comply with these information disclosure requirements.

- 9.2 The Recipient shall:
- (a) transfer the request for information to the Authority as soon as practicable after receipt and in any event within two working days of receiving a request for information;
 - (b) provide the Authority with a copy of all information in its possession or power in the form that the Authority requires within five working days (or such other period as the Authority may specify) of the Authority requesting that information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.
- 9.3 The Authority shall be responsible for determining at its absolute discretion whether the information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
 - (b) is to be disclosed in response to a request for information, and in no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Authority.
- 9.4 In no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Authority.
- 9.5 The Recipient acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:
- (a) without consulting with the Recipient; or
 - (b) following consultation with the Recipient and having taken its views into account,
- provided always that where clause 9.5(b) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Recipient advanced notice, or failing that, to draw the disclosure to the Recipient's attention after any such disclosure.
- 9.6 The Recipient shall ensure that all information produced in the course of the Project or relating to the Offer Letter is retained for disclosure and shall permit the Authority to inspect records related to them as requested from time to time.

10. Data protection

The Recipient shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with any notification requirements under the Data Protection Act 1998 (**DPA**) and both Parties will duly observe all their obligations under the DPA, which arise in connection with the Agreement.

11. Withholding, suspending and repayment of Grant

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

- (a) the Recipient uses the Grant for purposes other than those for which they have been awarded;
- (b) the delivery of the Project does not start within 6 months of the Commencement Date and the Recipient has failed to provide the Authority with a reasonable explanation for the delay;
- (c) the Authority considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (d) the Recipient is, in the reasonable opinion of the Authority, delivering the Project in a negligent manner;
- (e) the Recipient obtains duplicate funding from a third party for the Project;
- (f) the Recipient obtains funding from a third party which, in the reasonable opinion of the Authority, undertakes activities that are likely to bring the reputation of the Project or the Authority into disrepute;
- (g) the Recipient provides the Authority with any materially misleading or inaccurate information;
- (h) the Recipient commits or committed a Prohibited Act;
- (i) any member of the Governing Body, employee or volunteer 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 the Authority, bring or are likely to bring the Authority's name or reputation into disrepute;
- (j) 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);
- (k) 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; or is unable to secure or maintain the private sector match funding referred to in Annex 2 for the delivery of the Project

- (l) the Recipient fails to comply with any of the terms and conditions set out in this Offer Letter and Conditions and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

11.2 Wherever any sum of money is recoverable from or payable by the Recipient (including any sum that the Recipient is liable to pay to the Authority in respect of any breach of the Offer Letter and Conditions), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Recipient under the Offer Letter and Conditions or under any other agreement or contract with the Authority.

11.3 The Recipient shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

11.4 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 this Offer Letter it will notify the Authority as soon as possible so that, if possible, and without creating any legal obligation, the Authority will have an opportunity to provide assistance in resolving the problem or to take action to protect the Authority and the Grant.

12. Use and/or disposal of assets funded by the Grant

12.1 The Recipient may not change the purpose for which the Project or any asset whose acquisition, creation or improvement was funded in total or in part by the Grant are used without the prior written approval of the Authority, for a period of 4 years from the end of the Grant Period.

12.2 The Recipient shall not for a period of 4 years following the end of the Grant Period by way of sale, transfer, lease or otherwise dispose of its interest in the Project or any asset whose acquisition, creation or improvement was funded in total or in part by the Grant without first giving the Authority at least 30 days prior written notice and (without prejudice to the Authority's other rights and remedies) the Authority may at its discretion require repayment of all or part of the Grant

12.3 If the Authority requires repayment of all or part of the Grant it shall serve notice on the Recipient stating the amount repayable and the date by which repayment shall be made and an invoice and failure by the Recipient to make repayment by the due date shall be actionable as a debt by the Authority

12.4 Repayment of the Grant in the event of disposal of funded assets would occur at rates not exceeding the following:

- (i) 100% in the first 12 months following the Project end date;
- (ii) 75% in 13- 24 months
- (iii) 50% in 25-36 months
- (iv) 25% in 37-48 months

13. Anti-discrimination

13.1 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.

13.2 The Recipient shall take all reasonable steps to secure the observance of clause 13.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

14. Human rights

14.1 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 this Agreement as if the Recipient was a public body (as defined in the Human Rights Act 1998).

14.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.

15. Limitation of liability

15.1 The Authority accepts no liability for any consequences, whether direct or indirect, that may be incurred by the Recipient in connection with the Project, the use of the Grant or from withdrawal or suspension of the Grant. The Recipient shall indemnify and hold harmless the Authority, its employees, agents, officers and 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 this Offer Letter or its obligations to third parties.

15.2 Subject to clause 15.1, the Authority's liability under this Agreement is limited to the payment of the Grant.

16. Warranties

The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Project) [and will appoint an independent competent professional adviser with specialist conservation knowledge and expertise to monitor and oversee the Project];
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Authority immediately of any significant departure from such legislation, codes or recommendations;
- (d) 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;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Recipient which has been disclosed to the Authority is to the best of its knowledge and belief, true and accurate;
- (h) 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;
- (i) it is not aware of anything in its own affairs, which it has not disclosed to the Authority or any of the Authority's advisers, which might reasonably have influenced the decision of the Authority to make the Grant; and
- (j) since the date of its last accounts there has been no material change in its financial position or prospects.

17. Insurance

- 17.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's Project, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).
- 17.2 The Required Insurances referred to above include (but are not limited to):
- (a) public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from the Project; and

- (b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Project.

The Recipient shall (on request) supply to the Authority a copy of such insurance policies and evidence that the relevant premiums have been paid.

18. Duration

18.1 Except where otherwise specified, the terms of this Offer Letter and Conditions shall apply from the date of this Offer Letter until the 5th anniversary of the expiry of the Grant Period.

18.2 Any obligations under this Offer Letter and Conditions that remain unfulfilled following expiry or termination shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

19. Termination

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

20. Assignment

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

21. Waiver

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

22. Notices

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or mailed (first class postage prepaid) or by e-mail to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or sent by e-mail 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 by 10.00 a.m. 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.

23. Dispute resolution

- 23.1 In the event of any complaint or dispute (which does not relate to the Authority's right to suspend or withhold the Grant or terminate) arising between the parties in relation to the Grant, the Project, or the Offer Letter and Conditions, the matter should first be referred for resolution to the Project Manager or any other individual nominated by the Authority from time to time.
- 23.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Project Manager or other nominated individual, as the case may be, either party may refer the matter to the Assistant Director for Major Projects and Infrastructure and the Chair or Chief Executive of the Recipient with a request to make reasonable attempts to resolve the dispute within 28 days, or such other period as may be mutually agreed by the Authority and the Recipient.
- 23.3 In the absence of agreement under clause 23.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

24. No partnership or agency

This Agreement shall not create any partnership or joint venture between the Authority 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.

25. Joint and several liability

Where the Recipient is neither a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Offer Letter on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under it

26. Contracts (Rights of Third Parties) Act 1999

This Offer Letter and Conditions 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.

27. Governing law

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

The terms of this Offer Letter and Conditions shall apply from the Commencement Date

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Annex 2 The Project

insert description of the project as detailed in the Humber High Street Challenge Fund Grant Application Ref####. Full project cost £#####

Outputs to be achieved:

Indicator	Output
Number of frontages to be improved	
Amount of floorspace brought back into use (m ²)	
Number of new housing units delivered	
Number of new permanent jobs created (FTE)*	
Apprenticeships supported	
Traineeships supported	
Training sessions delivered	
Private match funding to be invested within the project	

*Definitions:

- New: not existing with that employer before the intervention
- Permanent: life expectancy of at least one year
- Full Time Equivalent (FTE): 30 hours or more per week.

Annex 3 Payment Schedule

Amount of Grant Payable	Date of Payment
	As necessary upon receipt of eligible claim/s with all necessary documentation, including proof of relevant spending.

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Annex 4 Breakdown of Grant

Item of Expenditure	Budget (in £ UK Sterling)

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