

Standard terms and conditions

National portfolio organisations

1. Definitions

The “Organisation” means the organisation receiving the grant bound by these terms and conditions.

The “Arts Council” means the Arts Council of England and includes its employees and those acting for it.

The “Agreed Programme” means the activity or activities that have been agreed with the Arts Council and for which the Arts Council is giving the Organisation the grant as set out in the grant offer letter and in accordance with this Funding Agreement.

The “Funding Agreement”, which the Organisation has accepted and signed, includes and incorporates these standard terms and conditions and attached Schedules and the grant offer letter together with any other conditions the Organisation has agreed.

The “Funding Period” means the fixed term specified in the grant offer letter.

2. The Agreed Programme

2.1 The Organisation will deliver the activities as defined in the Agreed Plan, which is attached as Schedule 1. The Organisation acknowledges that the grant is paid on trust to the Organisation for the sole purpose of delivering the Agreed Programme.

2.2 The Agreed Programme will form part of the basis for the reporting, monitoring and assessment of performance under this Funding Agreement.

2.3 The Organisation will tell the Arts Council immediately in writing of anything that significantly delays, threatens or makes unlikely the successful delivery of the Agreed Programme or any key part of it.

3. Funding

- 3.1 Subject to satisfactory receipt of any information required from time to time, the Arts Council agrees to pay to the Organisation the total grant in such instalments as shown in Schedule 2.
- 3.2 The Arts Council will not make any payments under this Funding Agreement until it has received evidence that the terms and conditions have been properly accepted by the Organisation's board or equivalent. The Funding Agreement must be signed by a board member or equivalent or by a properly delegated officer.
- 3.3 The Organisation accepts that these standard terms and conditions are not negotiable and the Organisation shall have no right to amend or vary the provisions of this Funding Agreement (unless with the prior written agreement of the Arts Council) which, for the avoidance of doubt, includes the Agreed Programme as specified in Schedule 1, the Funding Period and the Dates and Amounts of the Scheduled Payments as specified in Schedule 2.
- 3.4 The Organisation accepts that the Arts Council will not increase the grant if the Organisation spends more than the total grant shown in Schedule 2.
- 3.5 The Organisation will show the grant and related expenditure in its annual accounts under the description of "Arts Council Funding" (as a restricted fund or unrestricted fund, deriving from grant in aid as revenue grant or as a capital grant or from lottery funds as directed in the offer letter). If the Organisation has more than one restricted fund, it will include a note to the accounts identifying each restricted fund separately. If the Organisation has more than one grant from the Arts Council, it will record each grant separately in the notes to the accounts. The Organisation will identify unspent funds and assets in respect of the grant separately in its accounting records.

4. Monitoring

4.1 The Arts Council will designate a relationship manager for the Organisation in relation to this Agreement. The relationship manager is the main point of contact between Arts Council England and the Organisation. The relationship manager will:

- act as the main contact with the Organisation for all matters relating to the grant and the Agreed Programme;
- monitor the Organisation ensuring it complies with the terms of this Funding Agreement and other requirements in accordance with the Arts Council's monitoring requirements, identify issues and share these with relevant colleagues;
- attend the Organisation's board meetings (or equivalent) as an observer on a regular or an occasional basis; and
- act as a "critical friend" to the Organisation by engaging with its artistic and/or other activity, and questioning its self-monitoring, direction, operations and activities.

4.2 The Arts Council welcomes dialogue on its relationship with the Organisation, and the first point of contact for such feedback is the relationship manager. If the Organisation wishes to make a complaint it should use the Arts Council's complaints procedure.

4.3 From time to time the Arts Council may ask one of its independent Artistic Assessors to experience work by the Organisation and to write a report assessing the artistic quality of that work. The Organisation will ensure that Artistic Assessors are able to experience their artistic work so that Assessors can carry out this role.

5. The Organisation's Obligations

5.1 The Arts Council requires the Organisation to meet any special or additional conditions which may have been agreed between the Arts Council and the Organisation in writing from time to time and which will be deemed incorporated into this Funding Agreement.

5.2 In addition, the Arts Council requires the Organisation to meet the following requirements:

- 5.2.1 The Arts Council will monitor and assess the Organisation's activity and how effectively the funding is being used. To enable this, the Organisation will send the Arts Council all such information as the Arts Council may in its sole discretion reasonably request from time to time. This includes the information, without limitation, set out in Schedule 2, and copies of all or any other relevant documentation about the financial and operational running of the Organisation, to include business plans, board papers or equivalent, reserves policies and any other information which the Arts Council deems relevant to its understanding of how the Agreed Programme is being delivered and the funding used. The Arts Council will send the Organisation each year details of the procedures for the Organisation to follow for that year's annual review.
- 5.2.2 The success of the relationship relies on effective communication and the sharing of information. The Organisation must tell the Arts Council in advance if it wants to make any significant changes to its legal status or to the Agreed Programme under this Funding Agreement. The Arts Council will not unreasonably withhold its consent to any such changes.
- 5.2.3 The Organisation will follow the Arts Council's branding and publicity guidelines at all times and will acknowledge the grant in press, marketing and communications materials, verbally and in writing. The Organisation will use the Arts Council's grant award logo, and other logos as may be required, appropriately on all published material including printed and online material.
- 5.2.4 The Organisation consents to any publicity about the grant and the Agreed Programme as the Arts Council may from time to time require. The Arts Council can carry out any forms of publicity and marketing to promote the award of the grant as it sees fit and the Organisation will do whatever is reasonably required in order to assist with any form of publicity and marketing, including any press or media related activities.

5.2.5 The Organisation is fully responsible for every part of its business. This includes, without limitation:

5.2.5.1 the Organisation must ensure that all current and future members of its governing body receive a copy of this Funding Agreement while it remains in force and will ensure that the receipt of this grant and the delivery of the Agreed Programme are within the scope of the governing documents;

5.2.5.2 the Organisation is responsible for getting its own management, business and artistic advice. This includes considering whether it needs to get financial, accounting, tax, solvency, legal, insurance or other types of professional advice;

5.2.5.3 the Organisation must tell the Arts Council immediately of any changes in the Organisation that may threaten its solvency and inform the Arts Council if it enters into or proposes any arrangement with any of its creditors;

5.2.5.4 the Organisation must tell the Arts Council in writing as soon as possible if any disputes with third parties arise or if any legal claims or any regulatory investigations are made or threatened against it and/or which would adversely affect the Agreed Programme during the period of the grant (including any claims made against members of its governing body or staff).

5.2.6 In carrying out its business and funded activity the Organisation must obtain all approvals, consents and licences required by law to deliver the Agreed Programme, will comply with any relevant laws or government requirements and comply with best practice in governance, reporting and operation. This includes (but is not limited to):

5.2.6.1 following best practice in having appropriate policies and procedures in place to ensure the protection of children, young people and vulnerable adults;

5.2.6.2 having an equal opportunities policy in place at all times;

5.2.6.3 managing all personal information in accordance with the Data Protection Act 1998;

5.2.6.4 maintaining all main financial records including profit and loss accounts, management statements, personnel and payroll records for staff funded under this Funding Agreement for seven years after the grant has ended. The Organisation will complete all statutory returns for employees and make all relevant payments to cover their pensions and salary deductions, such as income tax and National Insurance contributions;

5.2.6.5 buying goods or services in a way that will give value for money. This means getting the best price for goods or services and having appropriate policies and procedures for achieving this. If the funding that the Organisation receives under this Funding Agreement accounts for 50% or more of annual income then the Organisation must ensure that when it procures goods or services, it is done so in line with English and EU procurement law. The Organisation must seek legal advice where appropriate;

5.2.6.6 considering any possible risks involved in its funded activities and taking appropriate action to protect everyone involved and maintaining adequate and appropriate insurance at all times; and

5.2.6.7 acting at all times without distinction and in compliance of all relevant legislation and best practice as to age, disability, gender, gender reassignment, race, religion or belief and sexual orientation; In particular, the Organisation will develop and put in place appropriate policies and procedures to comply with relevant equality legislation.

5.3 The Organisation accepts that the Arts Council's staff, council members and advisers cannot give the Organisation professional advice and will not take part in carrying out the Organisation's business. The Arts Council cannot be held responsible for any action the Organisation takes, or fails to take, or for the Organisation's debts or liabilities. The Arts Council will not be liable for any losses or charges if it does not make any grant payment on the agreed

date. The Arts Council will not be responsible to anyone else who may take, or threaten to take, proceedings against the Organisation.

- 5.4 The Organisation will not sell, give away, licence or borrow against any grant funded assets without first receiving the Arts Council's prior written consent. As the grant has come from public funds, the Organisation understands and accepts that if the Arts Council provides the consent it may require that the disposal is at full market value and/or subject to conditions requiring the Organisation to repay all or part of the grant money received.
- 5.5 The Organisation must give the Arts Council, the National Audit Office or any of their agents access to meetings, events and any/all financial records, other information and/or premises, as may be reasonably requested, relating to the Agreed Programme, the Organisation or to any other matter arising under this Funding Agreement and the Arts Council may postpone payment of the grant or an instalment of the grant until the Arts Council has received the material it has requested.
- 5.6 The Organisation must immediately tell the Arts Council about any changes to bank or building society details or any other changes to information provided to the Arts Council.
- 5.7 The Arts Council may share information about the grant and/or the Agreed Programme with third parties. The Arts Council is also subject to the provisions of the Freedom of Information Act 2000 ('the Act'). This means that any information provided by the Organisation could be released to any person who asks for it under the Act. The Organisation may tell the Arts Council if it thinks that any of the information should be confidential under any of the exemptions of the Act. However the Arts Council will make the final decision in accordance with the Act.
- 5.8 The Arts Council may request to be consulted on the process of recruitment and invited to attend interviews when the Organisation is recruiting trustees and/or senior staff.

- 5.9 If any part of the grant is made up from lottery funds, the Organisation understands that the Arts Council can only guarantee future instalments of that part of the grant as long as funds from the National Lottery are available.
- 5.10 The Organisation acknowledges that the grant comes from public funds and it will not use the grant in a way that constitutes unapprovable State aid. In the event that it is deemed to be unapprovable State aid, then it will repay the entire grant immediately.
- 5.11 The Organisation will ensure that no other organisation or individual acquires any third party rights under this Funding Agreement.
- 5.12 The Arts Council may impose additional terms and conditions on the grant either in the offer letter and/or if the Organisation is at any time in breach of this Funding Agreement and/or if the Arts Council believes it is necessary to make sure that the Agreed Programme is delivered as agreed between the Organisation and the Arts Council and/or the Arts Council has reasonable grounds to believe it is necessary to protect public money.

6. Termination of this Agreement

- 6.1 If the Organisation breaches any of the terms and conditions of this Funding Agreement, then the Arts Council in its absolute discretion may withhold or demand repayment of all or part of the grant. The Organisation will repay any grant requested immediately upon demand.
- 6.2 The Arts Council may suspend payment of the grant if it wishes to investigate any matters concerning the grant (or any other grants given by the Arts Council to the Organisation). The Organisation understands and accepts that the Arts Council will accept no liability for any consequences, whether direct or indirect, that may arise from a suspension even if the investigation finds no cause for concern.
- 6.3 The Arts Council may also withhold or demand repayment of all or part of the grant if the Organisation:

- 6.3.1 closes down its business (unless, with the Arts Council's prior consent, it joins with, or is replaced by, another Organisation that can take over this Funding Agreement and carry out the purposes of the grant to the Arts Council's satisfaction);
 - 6.3.2 makes significant changes to the Agreed Programme without the prior written approval of the Arts Council;
 - 6.3.3 does not fulfil the purpose of the grant with reasonable care, thoroughness, competence and to a standard that the Arts Council expects from the Organisation with its level of experience in its artistic practice, profession or line of work;
 - 6.3.4 provides any information to the Arts Council that is wrong or misleading, either by mistake or because it is trying to mislead the Arts Council during the application process or during the period of this Funding Agreement;
 - 6.3.5 becomes insolvent, any order is made, or resolution is passed, for it to go into administration, be wound up or dissolved; an administrator or other receiver, manager, liquidator, trustee or similar officer is appointed over all or a considerable amount of the Organisation's assets; or the Organisation enters into or proposes any arrangement with its creditors;
 - 6.3.6 acts illegally or negligently at any time;
 - 6.3.7 acts in such a way that the Arts Council believes it has significantly affected the Agreed Programme, or is likely to harm the Arts Council's or the Organisation's reputation or it is in the Arts Council's discretion necessary to protect public money; and/or
 - 6.3.8 sells or in some other way transfers any part of the grant, the business or the activity funded under the Agreed Programme to someone else without first getting the Arts Council's approval in writing.
- 6.4 If the Organisation is in breach of any of the terms of this Funding Agreement and the Arts Council does not enforce one or more of its rights straight away,

this does not mean that it will not do so in the future. The Arts Council will give up its right to enforce this Funding Agreement only if it tells the Organisation in writing.

- 6.5 If the Organisation breaches any of the terms of this Funding Agreement, the Arts Council can choose to treat that as the Organisation breaching the terms of any other grant agreements the Arts Council has with the Organisation. This will allow the Arts Council to take the same actions under those agreements that the Arts Council may take under this Funding Agreement, including making the Organisation pay back the grant and stopping any future payments.
- 6.6 This Funding Agreement and these terms and conditions remain in force for whichever period is the longest time:
- 6.1.1 for one year following the payment of the last instalment of grant
 - 6.1.2 as long as any part of the grant remains unspent;
 - 6.1.3 the expiry of the maximum period required under the grant for asset monitoring; or
 - 6.1.4 as long as the Organisation does not carry out any of the terms and conditions of this Funding Agreement or any breach of them continues (this includes any outstanding reporting on grant expenditure or the delivery of the Agreed Programme).