**Standard Terms and Conditions for**

**Cultural Development Fund – Round 4**

For the Cultural Development Fund, the Department for Culture, Media, and Sport have delegated authority to Arts Council England to act on its behalf in administering, accounting for and monitoring this Grant.

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# Definitions

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

The “Arts Council” means the Arts Council 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 offer letter and in accordance with this Funding Agreement.

The “Asset Monitoring Period” means twenty years from the end of the Funding Period by which the Arts Council expects the Project Assets to be continued to be used in line with the Agreed Use. “Project Assets” and “Agreed Use” shall have the meaning as given in Schedule 1 hereto.

The “Capital Terms and Conditions” means the terms and conditions as are set out in Schedule 3 to this Funding Agreement.

The “Data Protection Legislation” means without limitation (i) the United Kingdom General Data Protection Regulation and (ii) the Data Protection Act 2018 together with all other applicable UK laws whether currently existing, yet to be implemented, or to act as successor legislation, that regulates the collection, processing, and privacy of personal data;

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

The “Funding Period” means the fixed term specified in the offer letter and these terms and conditions will apply over this period and any extension thereof.

“The Grant” means the grant amount detailed in the offer letter.

The “Start date” means the date on which you will make a commitment, financial or otherwise, to undertake the Agreed Programme [as set out in the Schedule 1].

The “End Date” means the date by which you must complete the Agreed Programme [as set out in the Schedule 1 ]

The “Named Partner(s)” means the organisations who will be involved in delivering the Agreed Programme as set out in Schedule [1] and which the Organisation has entered (or will enter before the Start Date) into a partnership agreement with pursuant to clause 6.13 hereof.

“Partnership Funding” means the funding from other sources needed in addition to our Grant to complete the Agreed Programme.

The “Project Asset(s)” means any equipment or property (whether real, moveable, or intellectual) that is purchased, renovated, created, improved, or equipped using the Grant in the course of the Agreed Programme.

The “Payment Conditions” means the information the Organisation must submit to the Arts Council as part of any request for payment as set out in Schedule [2]

“Restricted Party”means a person that is:-

1. listed on, or owned or controlled, directly or indirectly, by a person listed on a Sanctions List or a person acting on behalf of such a person;
2. resident, located in or organised under the laws of a Sanctioned Country, or a person who is owned or controlled, directly or indirectly, by or acting on behalf of such a person;
3. a government of, or owned or controlled (directly or indirectly) by, or acting on behalf of, a Sanctioned Country; or
4. otherwise a target of Sanctions ('target of Sanctions' signifying a person with whom a person subject to the jurisdiction of a Sanctions Authority would be prohibited or restricted by that Sanctions Authority from engaging in trade, business, or other activities, directly or indirectly);

“Sanctioned Country” means any country or other territory subject to a general export, import, financial or investment embargo under any Sanctions at the date of the Funding Agreement or any point during the Funding Period;

“Sanctions” means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority;

“Sanctions Authority” means:

1. the Security Council of the United Nations;
2. the United States of America;
3. the European Union;
4. the United Kingdom; and
5. the governments and official institutions or agencies of any of paragraphs (a) to (d) above, including OFAC, the US Department of State and His Majesty's Treasury;

“Sanctions List” means the Specially Designated Nationals and Blocked Persons List and the Sectoral Sanctions Identification List maintained by Office of Foreign Assets Control (‘OFAC’), the Consolidated List of Financial Sanctions Targets maintained by His Majesty's Treasury, or any similar list maintained by, or public announcement of a Sanctions designation made by, a Sanctions Authority, each as amended, supplemented or substituted from time to time;

The “Total Project Cost of the Agreed Programme” means all the income the received and all the expenditure the Organisation will need to spend to deliver the activities as defined in the Agreed Programme.

The “Subsidy Control Regime” means the Subsidy Control Act 2022, and the Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022, together with the Department for Business, Energy and Industrial Strategy’s and the Competition and Markets Authority’s published guidance on the Subsidy Control Regime or as such other laws and/or guidance that may apply or as amended or replaced from time to time, that regulates the award of financial assistance that meets the definition of ‘subsidy’ at section 2 of the Subsidy Control Act 2022.

# The Agreed Programme

2.1The Organisation will deliver the activities defined in the Agreed Programme, 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, and it will repay any Grant [including any unused or misused Grant] to the Arts Council immediately upon demand.

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.

2.4 The Organisation will not use the Grant to pay for any spending commitments made before the date the Funding Period begins (as specified in the offer letter).

2.5 The Organisation will get the Arts Council’s agreement before making any changes to the information contained in its application for funding, the Agreed Programme, Partnership Funding, the Total Project Cost of the Agreed Programme, the Named Partner(s) or to its name, aims, structure, delivery, outcomes, duration, design or ownership of any Grant funded assets or ‘Project Asset(s)’ as defined in the Capital Terms and Conditions.

2.6 The Organisation accepts that if they or the Named Partners have not started the Agreed Programme by the Start Date, including meeting the conditions and requirements set out in this Funding Agreement then we may withdraw from this Funding Agreement without any further liability on our part under this Funding Agreement. Any parts of the Grant already paid must be returned to the Arts Council if the Grant is withdrawn.

# 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 revenue element of the overall grant (if relevant) in such instalments as shown in the Revenue Monitoring and Payment Schedule in Schedule [2]. Capital payments will be made in line with the Capital Terms and Conditions in Schedule [3].

3.2 The Arts Council will not make any payments under this Funding Agreement until it has evidence that the Organisation’s board or equivalent has accepted the terms and conditions and that the Funding Agreement is properly accepted and signed by a board member or equivalent. The Organisation will ensure that at all times, while the Funding Agreement is in force, that it is correctly constituted and regulated and that the receipt of the Grant and the delivery of the Agreed Programme are within the scope of the Organisation’s constitution.

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, the Dates and Amounts of the Scheduled Payments as specified in Schedule [2] and the Capital Terms and Conditions.

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 the offer letter.

3.5 The Arts Council will be under no obligation to pay the Grant after the expiry of the Funding Period. [unless we have provided our prior written approval]

3.6 The Organisation must ensure that it obtains sufficient Partnership Funding to meet any part of the Total Project Cost of the Agreed Programme that we do not fund [and you will provide written evidence of this Partnership Funding to us immediately on receipt].

3.7 The Organisation will notify the Arts Council in writing as soon as the Total Project Cost for the Agreed Programme is expected or anticipated to increase, explaining the reason for any overrun and how the Organisation will fund any overrun, together with an updated budget or any other information the Arts Council requests.

3.8 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 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. If the Organisation spends less than the whole Grant amount on the Agreed Programme, the Organisation must promptly return the unspent amount to the Arts Council. If the Grant part-funds the Agreed Programme, the Organisation must return the appropriate share of the unspent amount to the Arts Council.

# VAT

4.1 The Grant is not considered for any taxable supply for VAT purposes. The Organisation acknowledges that the Arts Council’s obligation does not extend to paying any amounts in respect of VAT in addition to the Grant.

4.2 If the Organisation is registered for VAT or subsequently becomes liable to register for VAT, it must keep proper and up-to-date records, and it must make those records available and give copies to the Arts Council when requested.

4.3 The Organisation acknowledges that Grant payments for the Agreed Programme must be claimed net of any VAT that is recoverable from HM Revenue and Customs. If the Agreed Programme includes any irrecoverable VAT and you subsequently recover any VAT from HM Revenue and Customs, you must pay back immediately any of the VAT that has been paid for with the Grant.

# Monitoring

* 1. The Arts Council will designate a member of its staff for the Organisation in

relation to this Agreement. This member of Arts Council staff will be the main point of contact between Arts Council England and the Organisation. The Arts Council staff member will:

5.1.1 act as the main contact with the Organisation for all matters relating to the Grant and the Agreed Programme;

5.1.2 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;

5.1.3 attend the Organisation’s board and project steering group meetings (or equivalent) as an observer on a regular or an occasional basis in so far as it relates to the delivery and governance of the Agreed Programme;

5.1.4 act as a “critical friend” to the Organisation by engaging with its Agreed Programme and questioning its self-monitoring, direction, operations, and activities.

* 1. The Arts Council may ask independent assessors to experience work by the Organisation and to write a report assessing the quality of that work. The Organisation will ensure that such assessors are allowed access and enabled to experience the work for this purpose. The Organisation will assist the Arts Council in identifying appropriate activities to nominate for assessment, although the ultimate discretion as to which events are assessed will remain with the Arts Council.

# The Organisation’s Obligations

6.1 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.

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

6.2.1 the Arts Council will monitor and assess the Organisation’s Agreed Programme 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, including business plans together with monitoring reports/revisions, 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 and for reporting purposes to the Department for Culture, Media and Sport. The Organisation agrees and accepts that the Arts Council may share such information and data with the Department for Culture, Media and Sport.

6.2.2 the Organisation must get the Arts Council’s prior written agreement before making any significant changes to its legal status, transferring any assets, or merging or amalgamating with any other body including a company set up by the Organisation or to the Agreed Programme, and advise of the same occurring to a Named Partner.

6.2.3 the Organisation will follow the Cultural Development Fund’s branding and publicity guidelines at all times (and procure that the Named Partners will follow the same) and will acknowledge the Grant in press, marketing, and communications materials, verbally and in writing. The Organisation will appropriately use the Cultural Development Fund’s Grant award logo, and other logos as may be required on all published material, including printed and online material, as outlined on Arts Council England’s [website](https://www.artscouncil.org.uk/grant-award-logos/logo-guidelines#t-in-page-nav-10). The Organisation will and shall ensure the Named Partners will use the following statement when acknowledging the Grant publicly – “The Cultural Development Fund is a Department for Culture, Media and Sport (DCMS) fund administered by Arts Council England.” and include a link to this press release.[link to follow]

6.2.4 the Organisation consents and has procured the consent of the Named Partners to any publicity about the Grant and the Agreed Programme as the Arts Council and the Department for Culture, Media and Sport may from time to time require. The Arts Council and the Department for Culture, Media and Sport 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 to assist with any form of publicity and marketing, including any press or media related activities.

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

6.3.1 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;

6.3.2 the Organisation is responsible for getting its own management and business advice. This includes considering whether you need to seek your own advice in relation to: finances, accounting, tax, solvency, insurance, human resources, legal advice (including compliance with legislation) or other types of professional advice;

6.3.3 the Organisation must tell the Arts Council immediately of any changes in the Organisation or Named Partners that may threaten its or their solvency and inform the Arts Council if it is proposing to enter into any arrangement with any of its creditors;

6.3.4 the Organisation must tell the Arts Council in writing immediately if any legal claims or any regulatory investigations are made or threatened against it or any Named Partners 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).

6.4 In carrying out its business and funded activity under the Agreed Programme the Organisation must obtain all approvals, consents and licences required by law to deliver the Agreed Programme. At all times you must comply, and procure that the Named Partners will comply, with any relevant laws or government requirements that may be applicable and/or in force at any time during this funding agreement and comply with best practice in governance, reporting and operation. This includes (but is not limited to):

6.4.1 Data Protection Legislation. Data Protection Legislation shall mean without limitation (i) the United Kingdom General Data Protection Regulation and (ii) the Data Protection Act 2018 together with all other applicable UK laws whether currently existing, yet to be implemented, or to act as successor legislation, that regulate the collection, processing, and privacy of personal data.

6.4.2 all anti-bribery and anti-corruption legislation,

6.4.3 the Modern Slavery Act 2015 and/or any other slavery, servitude and forced or compulsory labour and human trafficking legislation,

6.4.4 ensuring that the Organisation does not work with organisations proscribed under the Terrorism Act 2000 -gov.uk/government/publications/proscribed-terror-groupsor-organisations--2/proscribed-terrorist-groups-ororganisations-accessible-version

6.4.5 any legislation or regulations in relation to ‘sanctioned’ countries, organisations and/or individuals which may be in force at any time during the duration of the funding agreement (“Sanctions Legislation”). Information on the UK Sanctions Regime can be found at: <https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act>

6.4.6 taking all reasonable steps to ensure the safety of the children and vulnerable adults it will work with. You will follow best practice in having appropriate policies and procedures in place to ensure the protection of children, young people, and vulnerable adults and in complying with those procedures. Such procedures will include procedures to check backgrounds and disclosures of all employees, volunteers, trustees, partners, or contractors who will supervise, care for, or otherwise have significant direct contact with children and adults at risk with the Disclosure and Barring Service (“DBS”). For further details of the DBS see: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

6.4.7 following best practice in having appropriate and effective policies and procedures in place concerning equality and diversity, harassment and bullying and in complying with those policies and procedures;

6.4.8 having in place at all times and acting in accordance with, appropriate and effective disciplinary, grievance and whistle-blowing policies;

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

6.4.10 adhering to all relevant legal obligations relating to offering apprenticeships and internships;

6.4.11 ensuring that salaries, fees, and subsistence arrangements are as good as or better than those agreed by any relevant trade unions and employers’ associations;

6.4.12 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. You 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;

6.4.13 considering any possible risks involved in your Agreed Programme and taking appropriate action to protect everyone involved and maintaining adequate and appropriate insurance at all times;

6.4.14 getting the best value for money when buying goods, works or services and ensuring that any procurement process is conducted in a transparent and proportionate manner and suppliers are treated equally, without discrimination.

6.4.15    having appropriate policies and procedures for obtaining quotes or competitive tendering in place for purchasing any goods, works or services costing more than £12,000 (including VAT) over the whole life of the contract, including any extensions (irrespective of how likely it is that they will be exercised).

6.4.16   complying with your obligations under the Public Contracts Regulations 2015 (as amended or replaced from time to time) (“PCR”), if you are a contracting authority subject to the PCR; and

6.4.17    for contracts within the scope of Regulation 13 of the PCR, procure in a manner compliant with the PCR (as amended or replaced from time to time); and advertised in such a way as to ensure that all interested suppliers in the market are aware of the opportunity to tender for the contract as if you are a contracting authority for the purposes of the PCR. The Organisation understands it shall not sub-divide a requirement to exclude the application of clause 6.4.16 or 6.4.17 or comply with your obligations under the PCR.

6.4.18 we may request, and you must provide any information we require to satisfy us that you have complied with your obligations under clauses 6.4.14 to 6.4.17.

6.4.19 you acknowledge that we may incur financial liability if you breach your obligations under clauses 6.4.14 to 6.4.17 and that you shall be liable to us for any losses, costs (including legal costs) damages and any other financial liability that it incurs as a direct result of such breach.

6.5 The Organisation accepts that the Arts Council’s staff, council members and advisers cannot give the Organisation or Named Partners professional advice and will not take part in carrying out the Organisation’s business. The Arts Council cannot be held responsible for any actions the Organisation or Named Partners take, or fail to take, or for the Organisation’s or any Named Partner’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 or Named Partners.

6.6 Subject to the terms of the Capital Terms and Conditions (where applicable), the Organisation will not sell, give away, licence, or borrow against any Project Assets (including any intellectual property rights) without first receiving the Arts Council’s prior written consent and shall procure that the Named Partners will not do the same. 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. The Organisation must maintain adequate insurance at all times for any Grant funded asset, including the full replacement value of any such assets.

6.7 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.

6.8 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.

6.9 The Freedom of Information Act 2000 applies to us. This means that any information we receive from you will be subject to the Freedom of Information Act. By law, we may have to provide your information to a member of the public if they ask for it under the Freedom of Information Act 2000. For further details, see our information sheet “How we treat your application under the Freedom of Information Act,” available on our website at [www.artscouncil.org.uk](http://www.artscouncil.org.uk/). If you have any concerns, you should let us know as some information may be covered by exemptions under the Freedom of Information Act 2000 if it is sensitive or confidential, but any decision to release information under the Freedom of Information Act 2000 is at our absolute discretion.

6.10 The Organisation must inform us of any recruitment process for board members/trustees and/or senior staff working on the Agreed Programme, including for any Named Partners. We reserve the right to be consulted in the process of recruitment and invited to attend interviews when you are recruiting board members/trustees and/or senior staff who will work on the Agreed Programme.

6.11 The Grant is made up of funds received from Parliament. The Organisation understands that the Arts Council can only guarantee future instalments of the Grant as long as funds are available to the Arts Council. Should funding be suspended or stopped from Parliament, the Organisation understands that the Arts Council may have to reduce or stop payments and the Arts Council accepts no liability pursuant to this action.

6.12 You acknowledge that the grant comes from public funds and acknowledge that the support provided must be compliant with the Subsidy Control Regime. Where applicable, you agree that we will publish information relating to the grant and that you will keep reasonably detailed records to demonstrate compliance with the Subsidy Control Regime and shall provide a copy of such records to us upon reasonable request. In the event that it is deemed by a competent court or other regulatory authority to be non-compliant with the Subsidy Control Regime, you will repay the entire grant (and any other sums due) immediately.

6.13 You will ensure that the Grant is not used for activities which directly generate

 income by offering goods or services on a market for a commercial fee.

6.14 The Organisation will not transfer any part of the Grant or this Funding Agreement or any rights under it to any other organisation or individual without the prior written agreement of the Arts Council. If the Arts Council requires the Organisation to enter into a partnership agreement with Named Partner(s) in order to deliver the Agreed Programme, the Organisation will submit the proposed partnership agreement to the Arts Council for its prior authorisation and subject thereto will ensure that no other organisation or individual acquires any third-party rights under this Funding Agreement. The Arts Council reserves the right absolutely to transfer the rights and obligations owing to it under this Funding Agreement to the Department for Culture, Media, and Sport.

6.15 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.

# Capital Projects

7.1 If any part of the Agreed Programme is used for Project Assets, then the Organisation understands and agrees that the Capital Terms and Conditions will apply in addition to these standard terms and conditions. The Arts Council will confirm in the offer letter whether the Capital Terms and Conditions apply to the Grant.

7.2 The Organisation agrees to indemnify us against all liabilities, damages, losses (including loss of reputation), expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and any reasonable professional costs and expenses) suffered or incurred by us in connection with:

7.2.1 your or any Named Partners acts or omissions in relation to the Project;

7.2.2 the non-fulfilment of any of your or any Named Partners obligations in the Grant Agreement; or

7.2.3 the performance or non-performance of any of your or any Named Partners obligations to any third party in relation to the Grant Agreement and/or Project.

8. Termination of this Agreement

8.1 If the Organisation breaches any of the terms and conditions of this Funding Agreement or clause 6.11 applies, 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.

8.2 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 or any Named Partners). 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.

8.3 The Arts Council may also withhold or demand repayment of all or part of the Grant if the Organisation or a Named Partner:

8.3.1 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);

8.3.2 makes significant changes to the Agreed Programme without the prior written approval of the Arts Council;

8.3.3 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 practice, profession, or line of work;

8.3.4 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;

8.3.5 becomes, or in our view are likely to become, 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;

8.3.6 acts illegally or negligently at any time;

8.3.7 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, the Department for Culture, Media and Sport or the Organisation’s reputation or it is in the Arts Council’s discretion necessary to protect public money;

8.3.8 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 and/ or

8.3.9 uses the Grant or any part of it for any activity that is intended to influence or attempt to influence Parliament, Government or political parties, or attempts to influence the awarding or renewal of contracts, and Grant or attempts to influence legislative or regulatory action.

8.3.10 works with any prohibited organisation proscribed under the Terrorism Act 2000 as set out in clause 6.4.4 or fails to comply with the obligations of clause 6.4.5.

8.4 If there is a 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.

8.5 If the Organisation or any Named Partner has other major revenue or capital grants with the Arts Council, it is also obligated to keep to the terms and conditions of those Funding Agreements. If there is any conflict between those terms and conditions and the terms and conditions of this Funding Agreement, then these terms and conditions will take precedence so far as they relate directly to the delivery of this Agreed Programme.

8.6 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.

# Duration of Funding Agreement

9.1 This Funding Agreement and these terms and conditions remain in force for whichever period is the longest time:

9.1.1 for one year following the payment of the last instalment of Grant;

9.1.2 as long as any part of the Grant remains unspent;

9.1.3 if the Organisation’s Agreed Programme is subject to the Capital Terms and Conditions, the expiry of the Asset Monitoring Period (20 years); or

9.1.4 until 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).

# Prevention of Fraud and Corruption

10.1  The Organisation shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the Agreed Programme or showing or refraining from showing favour or disfavour to any person in relation to the Agreed Programme and shall procure that the Named Partners will not do so either.

* 1. If any suppliers or staff members of the Organisation or any Named Partner engages in conduct prohibited by clause 10.1 or commits fraud in relation to the Agreed Programme or any other contract with the Crown (including the Arts Council), Arts Council may:
		1. terminate the Funding Agreement and recover from the Organisation the amount of any loss suffered by the Arts Council resulting from the termination; or,
		2. recover in full from the Organisation any other loss sustained by the Arts Council in consequence of any breach of this clause.

# Additional terms and conditions

11.1The Arts Council has the right to impose additional terms and conditions on the Grant if:

11.1.1 the Organisation is in breach of the Grant Agreement;

11.1.2 the Arts Council or another funder withdraws any part of the funding for the Agreed Programme;

11.1.3 The Arts Council judges that members of the Organisation’s or Named Partners’ governing body, volunteers or staff or any person or organisation closely involved in carrying out the Agreed Programme act in a way that may have a detrimental effect on the Agreed Programme or on our reputation as a distributor of public money or as a government sponsored body or on Department for Culture, Media and Sport’s role as a distributor of public money;

11.1.4 the Arts Council has reasonable grounds to believe that it is necessary to protect public money;

11.1.5 the Arts Council believes such conditions are necessary or desirable to make sure that the Agreed Programme is delivered as set out in the application form or following any agreed changes; and/or

11.1.6 you must ensure that, during the Funding Period, you and your Named Partners hold all necessary and recommended insurance policies including (but not limited to) buildings insurance, employer’s liability and public indemnity insurance in relation to the Project.

# Schedule 1: Agreed Programme

Applicant name:

Project number:

[month year]–[month year] Outline Activity Plan

|  |  |  |  |
| --- | --- | --- | --- |
| Activity | Outcome | Timeframe | Milestone/ SMART objective |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Applicant Name:

Project Number:

This schedule sets out the Capital Project. Changes to the Capital Project are covered in Clause 3 of Schedule 3 of the Standard Terms

and Conditions for the Cultural Development Fund.

|  |  |  |
| --- | --- | --- |
| 1  | Agreed Use  |  |
| 2  | Capital Project   |   |
| 3  | Expected Completion Date for the Capital Project  |  |
| 4  | Capital Grant in Aid Allocation  |  |
|  | Partnership Funding |  |
| 5  | Total Project Cost for the Capital Project   |  |
| 6  | Named Partners  | You must submit a copy of the final draft partnership agreement(s) between you and your Named Partner(s) for us to review and comment. This should be done before the final agreed partnership agreement is signed and completed. The completed partnership agreement will then need to be submitted to us as required under Milestone 1 of Schedule 2.  |
| 7  | Project Asset(s)  |  |
| 8  | Security   |   |
| 9   | Asset Monitoring Period  |  |

# Schedule 2: Monitoring and Payment Schedule

Applicant Name:

Project Number:

The Start Date must take place between **1 November 2024** and **1 April 2026**. By **1 April 2026,** you must have:

* secured 100 per cent of the Partnership Funding required to complete the project;
* obtained all necessary statutory approvals and consents required to start the project;
* completed all land and lease agreements required for the Capital Project, where applicable;
* completed security requirements as set out in the Funding Agreement;
* put a partnership agreement in place with all Named Partners, which meets the requirements set out in the terms and conditions for this programme;
* provided design drawings and an updated cost plan and timeline;
* provided an access audit and details of how its recommendations will be incorporated into the Agreed Programme; and
* completed a CDF Project Gateway form, which looks at the viability of your project at this point

Achieving the above by the Start Date (1 April 2026) will be a condition of receiving an initial payment. It is also set out in the terms and conditions for this programme. Not meeting the Start Date is considered a breach of the terms and conditions and may result in the Grant being withdrawn.

Capital payments will be paid based on evidence of having met the payment conditions associated with key milestones and on evidence of incurred expenditure, as set out in the Monitoring Schedule and Payment Conditions. Payment requests should be submitted monthly and no less than quarterly. The schedule of Capital payments is indicative.

We may also request one or more of the following conditions at the time you request your payment:

* A copy of your updated detailed project plan based on the programme as set out in schedule one, including target numbers, desired outcomes, and revised equality actions, which demonstrate to the Arts Council that you have made satisfactory progress
* Written evidence that the Partnership Funding listed as ‘expected’ in your application is in place (e.g. copies of offer letters from other funders)
* A comprehensive risk register for the project, including appropriate mitigations which are acceptable to the Arts Council
* Economic and social outputs: A copy of your revised economic and social outputs datasheet
* Procurement Method Statement that demonstrates compliance with our requirements set out in the terms and conditions
* An up-to-date timetable which sets out the major milestones and which separately identifies the design, procurement, construction, and commissioning activities
* A cash flow projection for the Agreed Programme
* Most recent management accounts
* Full evaluation: A full evaluation report for the activity
* An updated income and expenditure budget

In the event that you are unable to demonstrate the need for the amount set out in the relevant instalment in this Monitoring and Payment Schedule or you have notified us of any delay to the Agreed Programme in accordance with Clause 2.3 of the Terms and Conditions for the Cultural Development Fund, you accept that we reserve the right to amend or vary after consultation with you the Monitoring Schedule and Payment Conditions so that it reflects any revised spending plans.

|  |  |  |
| --- | --- | --- |
| **Milestones** | **On the condition that Arts Council England has received to its satisfaction:** | **Capital grant/ CDEL** |
| **Milestone 1** ***From feasibility through to design development but prior to letting of main contract (construction projects) or purchase of equipment*** | * Bank Details Form
* Signed Acceptance
* Achieved the Start Date requirements
* Completion of Security as set out in Section 8 of Schedule 1
* Any further payment conditions as detailed in assessment
 | Payments of up to 10% of the Grant |
| **Milestone 2*****From letting of the main contract (construction projects) or the first purchase of equipment through to the halfway point of the capital project timetable*** | * Evidence that you have received all appropriate statutory consents to undertake the Agreed Programme.
* A copy of the tender review report and or agreed contract sum for the Agreed Programme that has been followed our requirements for procuring goods, works or services goods and contracts as stated in Clauses 6.4.14 to 6.4.17 of the Terms and Conditions
* An interim activity report form
* An updated budget
* An updated cashflow
* An updated risk register
* An updated timetable of work
* Evidence that you have secured all the funding for the Agreed Programme
* Provision of confirmation and evidence of registration of Security
 | Payments up to 40% of the Grant |
| **Milestone 3*****From halfway point of the capital project timetable up to completion*** | * An interim activity report form
* An updated budget
* An updated cashflow
* An updated risk register
* An updated timetable of work
 | Payments up to 40% of the Grant |
| **Milestone 4*****Retention to be released only on certified completion of the project*** | * A final activity report form
* A statement of income and expenditure for the Agreed Programme that has been certified by an independent qualified accountant, including confirmation that all Grant expenditure will be capitalised on your balance sheet.
* An overview of your financial operating model, including your main sources of funding
* A forecast income and expenditure account showing how you have considered any additional running costs arising from the projectSubmission of a costed maintenance and management plan
* Submission of completed CDF project evaluation
 | Final payment of 10% of the Grant |
|  |  | **100% CDEL** |

The Monitoring Schedule and Payment Conditions for Revenue payments are shown on the screens in Grantium and are also listed in this schedule.

Revenue payments scheduled as below:

|  |  |  |
| --- | --- | --- |
| **Date** | **On the condition that Arts Council England has received to its satisfaction:** | **Revenue grant/RDEL** |
| XX |  | 20% |
| XX |  | 40% |
| XX |  | 30% |
| XX |  | 10% |
|  |  | **100% RDEL** |

# Schedule 3: Capital Terms and Conditions

The Arts Council has offered a Grant to the Organisation for the capital project described in its application or as otherwise agreed with the Arts Council and forming a whole or part of the Agreed Programme.

These Capital Terms and Conditions will apply in addition to the Standard Terms and Conditions.

**Definitions**

The “Agreed Use” means how you will use the Project Asset(s) as set out in Schedule [1].

The “Asset Monitoring Period” means the defined period from the end of the Funding Period by which the Arts Council expects the Project Assets to continue to be used in line with the Agreed Use. “Project Assets” and “Agreed Use” shall have the meaning as given in Schedule 1 hereto.

The “Capital Project” means that part of the Agreed Programme (whether in whole or in part) for which the Grant has been awarded as detailed in Schedule [1].

“Capital Expenditure” means an amount spent to acquire or improve a [long-term asset](https://www.accountingcoach.com/blog/what-is-a-long-term-asset) such as equipment or buildings and capitalised on the balance sheet.

The “Expected Completion Date” means the date by which you must complete the Capital Project.

The “Project Asset(s)” means any property (whether real, moveable, or intellectual) that is purchased, renovated, created, improved, or equipped using the Grant in the course of the Agreed Programme.

The” Total Project Cost of the Capital Project” means the total projected or actual cost of the Capital Project being the amount set out in Schedule [1]

1. The Organisation will deliver the activities defined in the Capital Project, attached as Schedule [1].
2. The Capital Grant in Aid Allocation can only be used to support Capital Expenditure.
3. In addition to the matters listed in clause 6.2.2 of the Standard Terms and Conditions, the Organisation will get the Arts Council’s written agreement before making any changes to the duration, design, or ownership of the Capital Project.
4. In carrying out the Capital Project, the Organisation must obtain all approvals, consent, planning consents, building regulation approvals, licences and any other necessary approvals and consents required by law to deliver the Capital Project.
5. The Organisation will take all reasonable steps to minimise the environmental impact of the Capital Project.
6. The Organisation will use the Project Asset(s) or allow them to be used only for the Agreed Use.
7. The Organisation will or will procure that the Named Partners maintain the Project Assets in good repair and condition and ensure they are adequately insured. You must:

7.1 include for any additional insurance cover required as a consequence of construction works, and you must ensure that our interests are noted on such policy as appropriate.

7.2 where applicable, maintain and manage the Project Asset(s) in

 accordance with the version of the relevant maintenance and

 management plan we have approved.

1. In addition to the matters listed in clause 5.1 of the Standard Terms and Conditions, the Organisation will allow the Arts Council to inspect the Project Asset(s) and any work to them and monitor the Agreed Use.
2. You consent to the Arts Council sharing information about the Capital Project with an independent project monitor, if one is appointed, at the Arts Council's cost and discretion, to help monitor the agreed Capital Project. The Arts Council will notify you if this will happen.
3. In addition to Payment Conditions, you may be requested to provide written reports to demonstrate progress towards meeting the Agreed Project and if you need to bring any matter to the Arts Council’s attention as required by the terms of the Funding Agreement.
4. Where required, the Organisation must allow the Arts Council (or anyone the Arts Council authorises) to have access to:

11.1 inspect the Project Asset(s) and any work to them;

11.2 monitor the progress of the agreed Capital Project, including meetings with the Organisation’s officers or agents at any time up to the end of the Asset Monitoring Period and/ or,

11.3 monitor the Agreed Use.

1. The Organisation accepts that the Arts Council will not release more than 90% of the Grant until the Capital Project has been completed to the Arts Council’s satisfaction.
2. If the Grant is to be used for any building works, the Organisation must ensure that:

13.1 you employ a lead professional(s) with appropriate building experience to manage the design and tender process, the post-contract works and to certify that the building works have been properly carried out;

13.2 you appoint design, cost, management and other specialist consultants and advisors as appropriate to and with appropriate experience for the project value, size, and complexity;

13.3 if structural work is necessary, you must employ a structural engineer;

13.4 you will use building professionals that are fully qualified members of an approved professional body and have all necessary professional indemnity insurance cover. This includes appointing a conservation-accredited professional if you are undertaking work to a Grade I or II\* listed building;

13.5 if building works come under the Construction (Design and Management) Regulations 2015, you will confirm that you have appointed a principle designer;

14.6 you put in place all necessary contracts with contractors and professional advisors on standard terms and conditions that an employer with appropriate experience would enter into for projects of the same value, size, and complexity;

14.7 building contracts must contain a clause which allows you to retain part of the contractors’ fees on practical completion of the works and

14.8 you must ensure that satisfactory arrangements are made for the retention of all relevant construction documents for a term of seven years from the last instalment of Grant payment. This is to include but not limited to:

14.8.1 contract drawings and specifications;

14.8.2 as-built drawings;

14.8.3 health and safety files;

14.8.4 building contract with the main build contractor and key sub or specialist contractors;

14.8.5 other building contracts as appropriate;

14.8.6 planning and/or listed building consent, including the confirmations of the discharge of the conditions of consents;

14.8.7 discharge of reserved building control completion certificate;

14.8.8 fire officer approval;

14.8.9 contracts of engagement for professional teams; and,

14.8.10 any other documents the Arts Council may request.

14.9 Prior to appointing contractors or professional advisors, you will undertake checks on their capability and financial status to understand whether the contractors or professional advisors are exposed to any risks, given the size of the proposed [contract](https://protect-eu.mimecast.com/s/-HD_CgZz5uDozYiJmmiG?domain=designingbuildings.co.uk). Based on these checks, you agree to take all reasonable steps to minimise any identified risks. This includes the requirement for a performance bond or parent company guarantee in tender documents for building contracts if considered necessary.

14.10 Pursuant to Clause 14.9, you agree to keep the Arts Council informed of all risks in respect of any third-party insolvency and the event of insolvency, you undertake to appoint an alternative contractor or professional consultant at your own cost.

1. In addition to 6.2.3 of the Standard Terms and Conditions, the Organisation shall and will procure that the Named Partners shall also use the Grant award logo during the construction and after the building work has been completed permanently in a public area until removal is requested by The Arts Council.
2. The Organisation understands and accepts that the Arts Council may require security over the Project Assets as described in these Capital Terms and Conditions before all or part of the Grant is paid. The type of security the Arts Council requires and any other supporting requirements are set out in the offer letter. This may include:

16.1 a first-ranking fixed and floating charge in our standard form;

16.2 a first-ranking fixed legal charge in our standard form;

16.3 a deed of covenant with restriction on title in our standard form, and/or;

16.4 a deed of dedication if the property is unregistered, to register a caution against first registration and the appropriate land charge and confirmation that upon first registration, our standard restriction wording will be registered against the title thereafter;

1. The applicable security document will be accompanied by any of the following documents as specified in the offer letter:

16.1 solicitors undertaking in our standard form to register the security document upon completion at the Land Registry and at Companies House within 28 / 21 days, respectively; and/or;

16.2 a certificate of title in our standard form from your solicitors (who hold professional indemnity insurance to an appropriate level) which confirms you are the freehold owner of the title of the Project Asset or a lessee under a lease which meets our requirements under clause 20 and/or

16.3 a legal opinion in our standard form from your solicitors confirming that you have the legal powers necessary to enter into all of the documents related to the Grant and relevant security if you are not a statutory body (this includes local authorities and universities), and/or;

16.4 if you are a statutory body, evidence of local authority cabinet approval or equivalent for the acceptance of the Grant on the terms and conditions provided and delivery of the agreed Capital Project.

1. We reserve the right to request any type of security or additional security (now or in the future) or consolidated security if it is considered necessary and desirable given the circumstances of the Capital Project. We will also consider past capital projects we funded in deciding our requirements. If we have asked for security, you understand that no payments of the Grant will be made until we have received the requested documents, completed to our satisfaction.
2. The Organisation confirms that it or any of the Named Partner(s) does not have any undisclosed loans secured on the Project Assets and that it or any of the Named Partner(s) will not take out any loans secured on any Project Assets (whether in whole or in part) without the written consent of the Arts Council. The Arts Council’s consent may be subject to conditions.
3. If any part of the Grant is to buy land (whether freehold land or leasehold land), the Organisation is to send the Arts Council when asked the following documents:

19.1 a surveyor’s report on the condition of the property, its value for the purpose of the Capital Project and whether it is suitable for the Capital Project;

19.2 confirmation by the Organisation’s solicitors that all necessary consents for the use of the property for the purposes of the Grant have been obtained;

19.3 for the purchase of leasehold land, a copy of the future lease and agreement for lease;

19.4 an undertaking to satisfy all other requirements as set out in Clauses 16 and 18 upon completion of the purchase of the freehold or leasehold interest; and,

19.5 any other documents or requirements that the Arts Council may request in order to meet the legal requirements noted above.

1. If any part of the Grant is to buy or involves leasehold land, then the Organisation must send the Arts Council a copy of the lease(s) and ensure that the lease(s) meet(s) Arts Council standard lease requirements; a registered and assignable lease which must be in place for of at least twenty (20) years, without a break clause, no forfeiture on insolvency clause and permitted user clause that is compliant with the Agreed Use.
2. Where the Project Asset is a leasehold interest, you must ensure that the funding does not enable your landlord to charge a higher rent due to the Grant during the Asset Monitoring Period.
3. Without prejudice to the terms of any security over the Project Asset(s) that the Organisation gives the Arts Council pursuant to clauses 16 and 18, the Organisation must seek the Arts Council’s prior written consent if it or any of the Named Partner(s) wishes to sell, let, sub-let or otherwise deal with or dispose of any Project Assets within the period specified in the security documentation.
4. If consent is given and the Organisation or any of the Named Partner(s) sells or disposes of the Project Asset(s) or enters into a rent review arrangement, you may have to repay the Arts Council all or part of the money received from the Arts Council. The amount the Organisation must repay will be directly proportional to the share of the Total Project Cost of the Capital Project that came from the Arts Council. If, with the Arts Council’s consent, the Organisation sells the Project Asset(s) wholly or partly bought with the Grant, it will be at full market value, and the Arts Council may impose conditions upon the transfer or disposition.
5. The Arts Council is required by our auditors, the National Audit Office, not to make payments in advance of an organisation's need. Subject to clauses 26 and 25, the Arts Council shall pay the Capital Grant in Aid Allocation in instalments to the Organisation based on the Organisation’s payment requests and progress reports (including updated cash flow and details of Capital Expenditure).
6. The Arts Council reserves the right to request further information from the Organisation in relation to the Organisation’s payment request. At the Arts Council’s absolute discretion, the Arts Council will not release funds to the Organisation to pay debts, liabilities, and expenditure deemed unreasonable.
7. Without limitation on the Arts Council’s absolute discretion as outlined in Clause 25 debts, liability, and expenditure will be deemed unreasonable if:

25.1 The Organisation has not followed the requirements for goods, services and contracts as stated in Clauses 6.4.14- 6.4.19 of the Standard Terms and Conditions in incurring the expenditure.

25.2 The expenditure has not been incurred to deliver the Capital Project and is not included in the agreed budget.

25.3 The expenditure is not deemed Capital Expenditure

1. This Funding Agreement will remain in force for the period specified in clause 9 of the Standard Terms and Conditions.