

Charis Grants Limited Funding Terms and Conditions for the npower Business Solutions Foundation

1. Terms

The following Terms will apply in relation to all funding granted by Charis.

2 Purpose and Scope of the Grant

2.1 The Recipient acknowledges that its receipt of the sums to be paid to the Recipient in accordance with these Terms (the **Grant**) is conditional on its compliance with the provisions set out in these Terms.

2.2 The Recipient must use the Grant only for the delivery of the Project.

2.3 The Recipient must not, without the prior written consent of Charis:

2.3.1 make any material changes to the Project;

2.3.2 use any portion of the Grant for any purposes or activities outside the Project;
or

2.3.3 spend any of the Grant on liabilities incurred before the period for which the Grant is awarded (the **Grant Period**) (unless expressly covered in the Recipient's application for grant funding in relation to the Project (the **Application**)).

2.4 The Grant is given on condition that it is used for the Project during the Grant Period. If the Recipient has not spent any or all of the Grant on the Project by the end of the Grant Period, the Recipient must, as soon as it becomes aware that the full amount of the Grant will not be applied to the Project during the Grant Period, notify Charis accordingly. Unless Charis (in its absolute discretion) notifies the Recipient that the Recipient may retain the unspent amount of the Grant (on such terms and conditions as Charis may impose), the Recipient must return any unspent amount of the Grant to Charis in accordance with clause 6.2.

2.5 The Recipient understands and acknowledges that:

2.5.1 Charis is under no obligation to fund any subsequent activities or projects related to the Project that the Recipient may wish to carry out;

2.5.2 Charis is not responsible for any overspend by the Recipient on the Project and Charis has no obligation to increase the Grant in those circumstances; and

2.5.3 any exit costs (including employment costs) that may be incurred by the Recipient at the end of the Project are the responsibility of the Recipient and Charis will not (unless they were included and approved within the Application and are part of the Grant) provide funding or bear any responsibility for those exit costs.

3 Payment of the Grant

Charis will pay the Grant to the Recipient as agreed into a UK bank account by electronic transfer, subject to the provisions set out in these Terms.

4 Recipient's warranties

4.1 The Recipient warrants, represents and undertakes that:

4.1.1 it has full power and authority to enter into these Terms and to deliver the Project, and that all necessary approvals and consents have been obtained and are in full force and effect;

- 4.1.2 the entering into these Terms does not and will not contravene or conflict with its constitution or governing documents or any legal obligations (including under contract) to which it is subject;
- 4.1.3 the information contained in the Application was in all material respects accurate and not misleading, and that since the Application there has not been any material change to that information or to the Recipient's position or developments that would have adversely affected the decision of a reasonable public-sector funder to fund the Project substantially on the provisions set out in these Terms;
- 4.1.4 to the best of its knowledge, nothing will have, or is likely to have, a material adverse effect on its ability to deliver the Project (assuming receipt of the Grant); and
- 4.1.5 it has, and will maintain, adequate insurances in respect of the Project in accordance with clause 9.

5 Project Standards and Conduct

- 5.1 The Recipient must carry out the Project in accordance with any applicable law, regulation and guidance.
- 5.2 The Recipient must take all necessary steps to ensure that its employees, officers, representatives, advisers and volunteers, who are or may be engaged or involved in the Project (**Relevant Staff**) comply with this clause 5.

6 Safeguarding

Where required in accordance with law and regulation (in particular in situations where Projects which involve children and vulnerable adults), the following provisions of this clause 6 will apply:

- 6.1 The Recipient must:
 - 6.1.1 ensure that all Relevant Staff are subject to a valid enhanced disclosure check for Regulated Activity undertaken through the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012 (**DBS**);
 - 6.1.2 monitor the level and validity of the checks under this clause 6.1 for all Relevant Staff; and
 - 6.1.3 not employ or use the services of any person (who may not be appointed as a Relevant Staff member) who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Project beneficiaries.
- 6.2 The Recipient warrants that it has no reason to believe that any Relevant Staff are barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made under it, as amended from time to time.
- 6.3 The Recipient must immediately provide to Charis any relevant information reasonably requested by Charis to enable Charis to be satisfied that the obligations of this clause 6 have been met.
- 6.4 The Recipient must refer to the DBS information about any person in respect of whom it declines or withdraws permission to be involved in the Project (or would have done so, if that person had not otherwise ceased to be involved) because, in its opinion, that person has harmed or poses a risk of harm to Project beneficiaries.
- 6.5 The Provider must comply with all relevant law and guidance in relation to the safeguarding of children and adults.
- 6.6 For the purposes of this clause, **Regulated Activity** means and in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006; and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding

Vulnerable Groups Act 2006 and **Regulated Activity Provider** has the meaning given to it in section 6 of the Safeguarding Vulnerable Groups Act 2006.

7 Repayment or recovery of the Grant

7.1 Charis may at its absolute discretion withhold, suspend, or require the Recipient to repay, all or part of the Grant if:

- 7.1.1 the information disclosed by the Recipient in the Application was materially inaccurate or misleading;
- 7.1.2 Charis reasonably considers that delivery of the Project falls short of the standards required under these Terms;
- 7.1.3 the Recipient (or any of its Relevant Staff or other staff) acts dishonestly or negligently in connection with the Project or breaches any of its or their legal obligations in a way that could lead to reputational damage for Charis or through indirect association, npower Business Solutions;
- 7.1.4 the Recipient (or any of its Relevant Staff or other staff) commits a criminal or an unlawful act;
- 7.1.5 the circumstances described in clause 2.3 apply (in which case, Charis's rights under this clause relate to the unspent amount only);
- 7.1.6 the Recipient applies any of the Grant in a manner not permitted under these Terms;
- 7.1.7 the Recipient becomes unable, for any reason, to continue the Project substantially on the terms agreed, or Charis reasonably considers that this will be the case;
- 7.1.8 the Recipient is subject to adverse findings, warning notices, interventions or other action from any regulatory body with power to regulate the Recipient or its activities;
- 7.1.9 the Recipient fails to commence, progress or complete the Project substantially in accordance with any timescales or milestones contained out in the Application or otherwise agreed in writing;
- 7.1.10 the Recipient: (i) passing a resolution for its winding up, or a court or regulator of competent jurisdiction making an order for it to be wound up or dissolved (other than for the purposes of a bona fide reconstruction or amalgamation), or being otherwise dissolved; or (ii) an administrator, receiver or administrative receiver being appointed to it; or (iii) entering into an arrangement, compromise or composition for the benefit of its creditors or any class of them; or (iv) becoming insolvent, being declared bankrupt, placed into liquidation or having a petition presented for its winding up, or being unable to pay its debts as they fall due; or (v) taking or suffering any actions analogous to (i) to (iv) above in consequence of debt;
- 7.1.11 the Recipient ceases to be a voluntary not-for-profit organisation;
- 7.1.12 the Recipient loses any regulatory consent necessary for the Project; or
- 7.1.13 the Recipient fails to comply with any of the provisions set out in these Terms and (where that failure is capable of being remedied) fails to remedy that failure within 20 Business Days of the receipt of a notice from Charis to remedy the failure.

7.2 Where Charis requires repayment of any part of the Grant under this clause 7, the Recipient must repay that amount in full within 20 Business Days of receipt of Charis's notice requiring repayment. Charis may alternatively, at its discretion, set off any amounts due to it under this clause 7 against any further instalments of the Grant due to be paid, or against any other payments due from Charis to the Recipient under these Terms or otherwise.

- 7.3 Charis's rights of withholding or recovery under this clause 7 are in addition to any other rights or remedies it may have.

8 Duration, termination and consequences of termination

- 8.1 Unless otherwise terminated in accordance with these Terms, the agreement will continue until 12 months after the end of the Grant Period or, if later, the date on which all Grant monies have been spent.

- 8.2 Without prejudice to its other rights under these Terms, Charis may terminate its agreement with the Recipient at any time on 30 days written notice. Where Charis terminates under this clause 8.2, it may not (unless otherwise entitled to do so under clause 7):

8.2.1 recover any Grant monies already paid to the Recipient; or

8.2.2 withhold any Grant monies otherwise due to be paid to the Recipient before the end of the notice period,

but Charis will have no liability to pay the Recipient any further sums in relation to the Grant.

- 8.3 Any rights or obligations under these Terms which are expressed to survive, or which otherwise by necessary implication survive the expiry or termination for any reason of the agreement (including all indemnities and any obligations relating to use of unspent amounts of the Grant or use of proceeds of sale of any assets that are to be purchased or developed with Grant monies) will continue after expiry or termination.

9 Insurance

The Recipient must put in place and maintain in force at its own cost appropriate insurance in respect of all liabilities that may be incurred by the Recipient in connection with the Project, including employers' liability, clinical negligence (where the provision or non-provision of any part of the Project may result in a clinical negligence claim), public liability and (where applicable to the Project) professional negligence. On written request from Charis, the Recipient must provide documentary evidence that these insurances are fully maintained and that any premiums on them are fully paid.

10 Accounting and record keeping

- 10.1 The Recipient must segregate and account separately for the Grant, and must keep separate, accurate and up-to-date accounts and records of its receipt and expenditure of the Grant. Without prejudice to any other obligations it may have to keep records for longer periods, the Recipient must keep all invoices, receipts, accounts and any other relevant documents relating to the expenditure of the Grant for at least six years following receipt of any Grant monies to which they relate. Charis will have the right to review the Recipient's accounts and records relating to the Grant and to take copies of such accounts and records.

- 10.2 The Recipient must comply, and facilitate Charis's compliance with, all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and to Charis.

11 Reporting and Review

- 11.1 The Recipient must report to Charis on its use of the Grant and delivery of the Project. Those reports must contain the information, and be in the format and delivered at the frequency and to the timescales, as Charis reasonably requests. The Recipient must also provide Charis with all reasonable assistance and co-operation in relation to any ad-hoc information requests made by Charis in relation to the Project. Without prejudice to these obligations, the Recipient must also provide a post-Project report on the Project to Charis describing activity, the Project's impact and its use of Grant monies during that period.

- 11.2 Charis and the Recipient will, at Charis's request and at the frequency specified by Charis, meet to review the progress and delivery of the Project.

- 11.3 Without prejudice to its other obligations under this clause 11, the Recipient must, within 2 Business Days of becoming aware of them, inform Charis of:
- 11.3.1 any service user safety incidents in relation to the Project;
 - 11.3.2 any adverse findings, warning notices, interventions or other regulatory action from any regulator in relation to the Recipient; and
 - 11.3.3 any loss of consent, approval or licence that has a material adverse impact on the Recipient's delivery of the Project.

12 Publicity

- 12.1 The Recipient must not, without the prior written consent of Charis, apply Charis's or npower Business Solutions' name or logo to the Project, and must obtain Charis's and/or npower Business Solutions' prior written approval (not to be unreasonably withheld) for any publicity in connection with the Recipient's receipt of the Grant.
- 12.2 Charis and npower Business Solutions shall have the right to publicise the Project and the Grant to the Recipient (including in any press releases) but will, as far as reasonably practicable, notify the Recipient in advance as to the nature and detail of such publicity.

13 Purchase of Assets

- 13.1 Where the Recipient uses any of the Grant to purchase assets, the Recipient must ensure that the assets are maintained in good condition over the period over the accepted period of use or as set out in the Application (the **Project Period**).
- 13.2 The Recipient must not before the end of the Project Period sell, transfer, mortgage, charge or otherwise encumber such assets without the prior written consent of Charis. Where the Recipient sells any assets before the end of the Project Period, the Recipient must use all reasonable endeavours to achieve the market price for the assets and must pay to Charis a proportion of the proceeds of such sale, equivalent to the proportion of the purchase costs of the assets that was funded by the Grant, provided that Charis may at its discretion allow the Recipient to keep all or a part of the relevant proceeds.
- 13.3 Where Charis requires the Recipient to grant it security over any assets, the Recipient must, at its own cost, take such action as Charis reasonably requires to create such security.
- 13.4 The Recipient acknowledges that Charis has no liability or responsibility for the Recipient's purchase, use or disposal of any assets.

14 Data Protection

The Recipient must observe its obligations under (i) the UK General Data Protection Regulation (ii) the Data Protection Act 2018 (iii) all applicable law concerning privacy, confidentiality or the processing of Personal Data including but not limited to the Human Rights Act 1998, the common law duty of confidentiality and the Privacy and Electronic Communication (EC Directive) Regulations.

15 Confidentiality

- 15.1 Without prejudice to the obligations of the Recipient under clause 14 in relation to personal information that is confidential, each party must, except as permitted by this clause 15, keep confidential all information disclosed to it by the other party in connection with these Terms, and must use all reasonable endeavours to prevent their Staff from making any disclosure to any person of that information.
- 15.2 Clause 15.1 will not apply to disclosure of information that:
- 15.2.1 is in or comes into the public domain other than by breach of these Terms;
 - 15.2.2 the receiving party can show by its records was in its possession before it received it from the disclosing party; or

- 15.2.3 the receiving party can prove it obtained or was able to obtain from a source other than the disclosing party without breaching any obligation of confidence.
- 15.3 A party may disclose the other party's confidential information: (a) to comply with applicable law; (b) to any appropriate regulator; (c) in connection with any dispute resolution or litigation between the parties; and (d) as permitted under any other express arrangement or other provision of these Terms.
- 15.4 The Recipient agrees that any information or report provided to Charis may be disclosed to npower Business Solutions, its Staff and group companies and other third parties for the purposes of managing and reporting upon the npower Business Solutions Foundation.

16 Liability

- 16.1 The total liability of Charis is limited to payment of the Grant, subject to the conditions set out in these Terms.
- 16.2 Charis has no responsibility for any other costs incurred by the Recipient in connection with the activities to which the Grant relates, and the Recipient must indemnify and keep Charis indemnified against any losses, damages, costs, expenses, liabilities, claims, actions, proceedings or other liabilities that result from or arise out of the Recipient's acts or omissions in relation to the Project or its duties to third parties.

17 General

- 17.1 The Recipient may not, without Charis's prior written consent, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of the agreement or (unless as an agreed or necessary part or enabler of the Project), transfer or pay to any other person any part of the Grant.
- 17.2 All intellectual property owned or created by either party in connection with the Project remains the property of that party.
- 17.3 No failure or delay by either party to exercise any right or remedy under these Terms will be construed as a waiver of any other right or remedy.
- 17.4 Where any dispute arises between the parties in connection with these Terms, they must attempt in good faith to resolve it by escalation to their respective senior officers.
- 17.5 Any notices given under these Terms must be in writing and must be served by hand, post, or e-mail to the address for the relevant party as notified in writing. Notices by post will be effective upon the earlier of actual receipt or 2 Business Days after mailing; by hand will be effective upon delivery; and by e-mail will be effective when sent in legible form, but only if, following transmission, the sender does not receive a non-delivery message.
- 17.6 Nothing in these Terms will create a partnership or joint venture or relationship of employer and employee or principal and agent between Charis and the Recipient.
- 17.7 Where the Recipient is not itself a legal entity (for example, an unincorporated association) the individuals who enter into these Terms on behalf of the Recipient will be jointly and severally liable for the Recipient's obligations and liabilities arising under these Terms.
- 17.8 Charis may amend these Terms at any time at its discretion.
- 17.9 These Terms do 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.
- 17.10 These Terms will be considered as an Agreement made in England and will be subject to the laws of England, and the parties irrevocably submit to the exclusive jurisdiction of the English courts.