



**TERMS AND CONDITIONS  
MAIN AND POST PROJECT AWARDS 2017-18  
Round 23**



Department  
for Environment  
Food & Rural Affairs

## 1. DEFINITIONS AND INTERPRETATION

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

“Agreement” means this written agreement consisting of these terms and conditions, the Letter and any annexes appendices or other documents incorporated therein.

“Commencement Date” means the date when the project will commence as identified in the Letter.

“Contracted Administrator” means the contractor responsible for managing aspects of the Darwin Initiative on the Department’s behalf.

“Department” means the Department for Environment, Food and Rural Affairs (Defra).

“Eligible Expenditure” means expenditure in relation to the project set out in the Letter which complies with the terms of this Agreement and the Finance for Darwin guidance. Eligible Expenditure does not include any ineligible expenditure listed in clause 8 of these terms and conditions.

“Grant Funding” means the sum to be paid to the Grantee as identified in the Letter form.

“Grant Period” means the period for which the Grant Funding is awarded starting on the Commencement Date and ending on the end date identified in the Letter.

“Grantee” means the institution receiving the grant.

“Grantee Application” means the Round 23 Stage 2 application form submitted by the Grantee.

“Letter” means means the grant award offer letter from the Department to the Grantee, setting out the details of the project for which the Grant Funding has been awarded, and including any annexes or appendices thereto.

1.2 Any references to a statute or statutory provision in these terms and conditions shall be a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

2. The grant is to be used solely for the purposes stated in the Letter. Any amount not specifically used for the purpose stipulated in the Letter may subsequently be recovered by the Department. The grant is subject to the terms of the Agreement.
3. The grant is payable on actual expenditure which is accounted for at the end of each financial year. Advance quarterly payments will be made to cover the first nine months of the year, with the final quarter being paid on satisfactory checking of the actual annual expenditure. The Department may subsequently recover any overpayment or illegitimate expenditure. The Grantee should refer to the document: “Finance for Darwin” available at <http://www.darwininitiative.org.uk/resources-for-projects> for further details on claiming the grant.
4. The Department will retain 25% of the award for the final year, or £20,000, whichever is the greater, until a satisfactory final report which meets the reporting requirements as set out in these terms and conditions and audit statement (if appropriate) are received and accepted. Where the final claim is less than £20,000, the Department may withhold funds from the penultimate claim. If a satisfactory final report is not submitted within three months of completion of the project, the Grantee shall have no entitlement to claim payment and the Department shall not be liable to pay the final grant instalment.



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5. Re-allocation (virement) of more than 10% between budget lines for any individual financial year may only be made with the written agreement of either the Department or the Contracted Administrator.
6. The grant is payable on the basis of the details and work programme set out in the the Letter and subsequent changes to the project (including changes to the project principals for which CVs were submitted with your application) should only be made with the prior written agreement of the Department acting through the Contracted Administrator, following the Change Request process set out in Section 6.3 of [Finance for Darwin](#).
7. The grant must be spent in line with the project budget set out in the Grantee Application and any subsequent approved changes. Any items bought with the grant should be used for the benefit of the project. Any items that have a longer life than the project, and which are directly relevant to the sustainability of the project, must remain available to the local partners, communities and/or stakeholders, to ensure that ongoing work is possible.
8. The Department reserves the right to vary these terms and conditions. Any variation will be effected in writing and notified to the Grantee in advance. The Department shall endeavour to give such notice as is reasonable and proportionate, having regard to the nature of the variation and its consequences for the Grantee.

#### **USE OF GRANT FUNDING**

9. The Grantee shall not use the grant funding for expenditure on any of the following activities:
  - a) Expenditure of a party political or exclusively religious nature;
  - b) Activities not commissioned by the Department and intended to influence or attempt to influence Parliament, Government departments or political parties, or attempting to influence legislative or regulatory action;
  - c) Activities funded from other sources;
  - d) Activities not set out in the in the Grantee Application;
  - e) Overheads allocated or apportioned at rates materially in excess of those used for any similar activity work carried out by the Grantee;
  - f) Activities that result in commercial gain or profit;
  - g) Any costs incurred or expenditure commitments entered into by the Grantee before the Commencement Date including pre-existing debts, i.e. provisions, contingent liabilities or contingencies;
  - h) Dividends declared;
  - i) Interest charges;
  - j) Service charges arising on finance leases, hire purchase and credit arrangements;
  - k) Costs resulting from the deferral of payments to creditors;
  - l) Depreciation and amortisation of assets to the extent that the costs of the assets have been funded by the grant funding;
  - m) Costs involved in winding up a company;
  - n) Redundancy payments
  - o) Payments into private pension schemes or for unfunded pensions;
  - p) Motoring fines, statutory fines and penalties, and any other fines;
  - q) Compensation for loss of office, bad debts arising from loans to proprietors, partners, employees, directors, shareholders, guarantors, or a person connected with any of these;



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- r) Gifts and entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- s) Travel and subsistence that would give rise to a taxable benefit were the cost to be incurred by, but not borne by, an individual;
- t) Reclaimable VAT and any other tax (except PAYE);
- u) Late payment charges for credit or charge cards (unless incurred as a result of late reimbursement by the Department);
- v) Any liability arising out of negligence on the part of the Grantee or its representatives, sub-contractors and agents;
- w) Payments arising from a contractual commitment by single tender action with a current or former director of the Grantee or current or former member of its staff without written approval from the Department;
- x) Any profit element. For the avoidance of doubt, no profit, dividends, bonuses and/or any similar or equivalent benefit will be paid to the owners, members and directors of the Grantee or any other organisation or persons;
- y) Purchase of land or the purchase and/or construction of buildings (unless the relevant purchase and/or construction is explicitly identified in the Letter as being within the scope of the project);
- z) Penalties/civil damages arising from civil/criminal legal proceedings taken against the Grantee or civil proceedings started by the Grantee, whether or not the Grantee is successful or acquitted, even if the proceedings were in pursuance of, or in consequence of the project being grant aided.

**CAPITAL COSTS**

10. The grant is offered as a contribution towards the Eligible Expenditure incurred in carrying out the project described in the Letter. Payment of the grant towards capital costs will be allowed only where the Department is satisfied that such costs are necessary to enable the main programme of work to be carried out and this has been agreed in the application. The maximum grant allowed towards capital costs will normally be limited to 10% of the total grant offered although additional costs for Darwin projects will be considered on a case by case basis.
  - If any capital item is sold, a share of the proceeds in the same ratio as the grant contribution to the total cost should be refunded to the Department or offset against any further approved expenditure.
  - A register must be maintained of all capital items purchased during the project and must be available for inspection by the Department at any time. This register must be submitted with as part of your annual and final claims.



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**11. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT**

Without prejudice to the Department's other rights and remedies, the Department may at its discretion reduce, withhold or suspend payment of the grant and/or to terminate the grant with immediate effect, and/or require repayment of all or part of the grant if one or more of the following events occur:

- (a) the Grantee uses the grant for purposes other than those for which they have been awarded;
  - (b) the delivery of the project does not start within 6 months of the date of the Letter and the Grantee has failed to provide the Department with a satisfactory explanation (in the Department's reasonable opinion) for the delay;
  - (c) the Department considers that the Grantee has not made satisfactory progress with the delivery of the project, against the agreed work programme, as set out in the Grantee Application and any subsequent agreed changes;
  - (d) the Grantee is, in the reasonable opinion of the Department, delivering the project in a negligent manner;
  - (e) the Grantee obtains duplicate funding from a third party for the project;
  - (f) the Grantee obtains funding from a third party which, in the reasonable opinion of the Department, undertakes activities that are likely to bring the reputation of the project or the Department into disrepute;
  - (g) the Grantee provides the Department with any materially misleading or inaccurate information;
  - (h) the Grantee commits or has committed fraud, bribery or any conduct calculated or likely in all material aspects to affect prejudicially the interests or reputation of the Department;
  - (i) the Grantee has acted dishonestly or negligently at any time and directly or indirectly to the detriment of the project;
  - (j) taken any actions which, in the reasonable opinion of the Department, bring or are likely to bring the Department's name or reputation into disrepute;
  - (k) the Grantee ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
  - (l) the Grantee becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
  - (m) the Grantee fails to comply with any of these terms and conditions or the Letter and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.
12. Wherever under these terms and conditions or the Letter any sum of money is recoverable from or payable by the Grantee (including any sum that the Grantee is liable to pay to the Department in respect of any breach), the Department may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Grantee under the Letter, these terms and conditions or under any other agreement or contract with the Department.
13. Should the Grantee be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the project or compliance with the Letter of these terms and conditions it will notify the Department as soon as possible so that, if possible, and without creating any legal obligation, the Department will have an opportunity to provide assistance in resolving the problem or to take action to protect the Department and the grant monies.



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**TERMINATION**

14. (a) In addition to its right of termination in clause 11 above, the Department shall be entitled to terminate this Agreement for any reason on giving the Grantee not less than thirty (30) days written notice.
- (b) The Department may terminate this Agreement and any Grant payments on giving the Grantee 30 days' written notice should it be required to do so by financial restraints or for any other reason.
- (c) In the event of a change of government or in policy direction, this Agreement may be terminated by the Department with immediate effect by notice in writing.
- (d) The Department shall be entitled to discontinue payment of the Grant Funding on satisfactory completion of the project for which the Grant Funding is provided or at the end of the Grant Period, whichever is earlier.
- (e) Where the Department discontinues payment of the Grant Funding and/or reduces the amount of Grant Funding, the Department accepts no liability for any consequences that may come about from the reduction or withdrawal of the Grant Funding.
- (f) Where the Department terminates the Agreement, no further payment of the Grant Funding shall be payable by the Department to the Grantee except for work carried out by the Grantee relating to the project prior to termination and in accordance with the Agreement but where the payment has yet to be made by the Department.

**LIMITATION OF LIABILITY**

15. The Department accepts no liability for any consequences, whether direct or indirect, that may come about from the Grantee running the project, the use of the grant or from withholding, reducing, withdrawing, termination and/or recovery of the grant. As a condition of the grant, the Grantee agrees to indemnify the Department, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Grantee in relation to the project, the non-fulfilment of obligations of the Grantee under the Letter and these terms and conditions or its obligations to third parties.
16. Subject to clause 15 the Department's liability under the Letter and these terms and conditions is limited to the payment of the grant.

**SPOT CHECKS AND AUDITS**

17. The Department may carry out its own audit spot checks on the Grantee to ensure the grant has been spent in accordance with the Letter and these terms and conditions. The Grantee has the ultimate responsibility for ensuring (and being able to demonstrate) that the grant is spent in the way that was outlined in the original application or subsequent changes agreed in writing by the Department. Where a site visit is planned the project leader will be given 30 days' notice and will be issued with a checklist to ensure the relevant paperwork is available. The Grantee must be able to produce copies of original receipts and invoices backing up its claims and should ensure that they are retained for at least seven years after the end of the project.
18. If the grant is for £100,000 or more in total, an audit of expenditure is required at the end of the project and a letter from an independent auditor must be submitted with the final claim form. Up to £1,500 may be allocated from the Grantee's budget for these costs, but this amount will be ring-fenced and any underspend may not be reallocated elsewhere in the budget. If the grant is less than £100,000 the Grantee is not required to provide an end of project audit letter.



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## REPORTING REQUIREMENTS

19. For each year of the project, the Grantee shall submit to the Contracted Administrator a half-yearly report by 31 October and an annual report by 30 April on the results of the programme of work funded by the Department which should include an appropriate level of evidence to support project activities to allow an independent reviewer to carry out an evaluation of your progress.
20. The final report of the project shall be submitted to the Contracted Administrator within 3 months of completion of the project and should also include appropriate evidence to demonstrate the achievements of the project and how it has met its objective. An annual report is not required in the final year of the project if the final report is presented on or before 31 July of the same year.
21. All reports shall be submitted according to the **guidelines and in the format** provided by the Department, which are available for download from the website <http://www.darwininitiative.org.uk/resources>. Reports should include an appropriate level of evidence of project activities to allow an independent reviewer to evaluate progress.

In addition to the progress reports and final reports referred to above, the Grantee shall be required to provide any supplementary reports/information on other aspects of its activities as may be reasonably requested by the Department to enable it to consider the use to which the grant is put. This may include occasional requests for information about project legacy after the project has ended. Projects are expected to engage with such requests and failure to do so may jeopardise further grants being awarded.

## EQUAL OPPORTUNITIES

22. The Grantee shall ensure that it applies a policy of equal opportunities compliant with current applicable legislation as employers, as users of volunteers and as providers of services, regardless of race, sex, age, religion or, so far as is practicable, any disability.
23. The Grantee will ensure that in carrying out the grant activity it, and anyone acting on its behalf, complies with all applicable laws and guidance issued by regulatory agencies and other governmental bodies, both in relation to UK laws and guidance and laws within the countries within which the project is operating.

## COMMUNICATIONS

24. When publicising the work programme, in reports, on its website, in online publicity campaigns and advertising etc, the Grantee must acknowledge that it has been funded by the Darwin Initiative through UK Government funding and use the Darwin Initiative logo wherever possible as set out in the current Darwin brand guidance and instructions as set out on the Darwin website <http://www.darwininitiative.org.uk/resources-for-projects/use-of-darwin-logo-and-publicity>. Where logos of participating partners and / or donors are used, the UK Aid logo should be displayed.

Please see GOV.UK for further information about the use of the UK Aid logo, for information: <https://www.gov.uk/government/publications/uk-aid-standards-for-using-the-logo>. In addition, project leaders are expected to advise the Department about any UK media/news stories before they are published. Where part of a larger programme, a Darwin project should be easily identifiable.

The Grantee shall promptly comply with any requests from the Department to remove or amend content where there is misuse of the Department's name, and or the UK AID logo, and/or the Darwin Initiative logo.



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## **INTELLECTUAL PROPERTY RIGHTS**

25. The Grantee shall make all reasonable enquiries concerning copyright, design, patent and other intellectual property rights and shall ensure that to the best of its belief that the carrying out of the project or exploitation of the project's results shall not infringe any rights owned by third parties. Where use of any third party rights are required for these purposes the Grantee shall ensure that it has all necessary permissions and licenses (for its benefit and the benefit of the Department and any other parties participating in the project) at all times following the commencement of funding.
26. If the project generates any intellectual property rights these shall be owned by the Grantee. The Grantee shall grant the Department and all other parties participating in the project a non-exclusive, royalty free, irrevocable global licence to use, commercially exploit and sub-license such intellectual property rights. Any financial benefits obtained by the parties making use of the licence or sub-licence shall be shared amongst the Department, the Grantee, the licensees and sub-licensees on a fair and equitable basis as determined by the Department.

## **27. PREVENTION OF BRIBERY**

### 27.1. The Grantee:

27.1.1 shall not, and shall procure that any of its staff, agents, consultants and sub-contractors shall not, in connection with this Agreement, commit a Prohibited Act;

27.1.2 shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

27.1.3 shall comply with the Department's anti-bribery policies as updated from time to time;

27.1.4 shall have and shall maintain throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with clauses 26.1.2, 26.1.3 and 26.1.4;

27.1.5 shall promptly report to the Department any request or demand for any undue financial or other advantage of any kind received by the Grantee in connection with the project;

27.1.6 shall immediately notify the Department in writing if a foreign public official becomes an officer or employee of the Grantee or acquires a direct or indirect interest in the Grantee, and the Grantee confirms that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement;

27.1.7 shall, if requested, provide the Department with any reasonable assistance, at the Department's reasonable cost, to enable the Department to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

27.1.8 If requested by the department the Grantee should , certify to the Department in writing (such certification to be signed by an officer of the Grantee) compliance with this clause 27 by the Grantee and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Grant Recipient shall provide such supporting evidence of compliance as the Department may reasonably request.





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## **28. ENVIRONMENTAL REQUIREMENTS**

28.1 The Grantee shall perform the project in accordance with the Department's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

28.2 The Grantee shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the project or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.

28.3 The Grantee shall take all possible precautions to ensure that any equipment and materials used in the provision of the project do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Department shall be notified in advance of their use. The Grantee shall endeavour to reduce fuel emissions wherever possible.

### **DATA PROTECTION ACT 1998 - FAIR PROCESSING NOTICE**

29. The purpose of this Fair Processing Notice is to inform you of the use that will be made of your personal data, as required by the Data Protection Act 1998.

30. The Department for Environment, Food and Rural Affairs (Defra) is the data controller in respect of any personal data that you provide when you complete your application, the grant acceptance and the supplier forms.

31. Defra will use your personal data primarily for the purpose of processing your application for Darwin Initiative funding. By submitting an application, applicants have agreed to any disclosure of the information supplied (including the content of a declaration or undertaking) which Defra considers necessary for the administration, evaluation, monitoring and publicising of the Funds (as detailed in the paragraphs below).

32. A completed application form signifies agreement to place certain details of successful applications (i.e. name, title, total grant value, project summary, lead organisation and location of project work) on the Darwin Initiative websites listed below. A completed application form also signifies agreement to send data on the project proposals during the application process to British Embassies and High Commissions outside the UK, including those outside the European Economic Area.

<http://www.darwininitiative.org.uk>;

<https://www.gov.uk/government/groups/the-darwin-initiative>;

33. Application form data will also be processed by Defra contractors dealing with Darwin Initiative administration, monitoring and evaluation (working within relevant data protection rules).

34. Defra may be required to release information, including personal data and commercial information, on request under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000. However, Defra will not permit any unwarranted breach of confidentiality nor will we act in contravention of our obligations under the Data Protection Act 1998. The Grantee shall assist and co-operate with the Department (at the Grantee's expense) to enable the Department to comply with its disclosure obligations under these enactments.





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35. We may use information, including personal data, to test computer systems to ensure that they work effectively and efficiently and to develop new systems in order to improve efficiency and the service that we provide to you and other persons. Any use of information for testing or developing computerised systems will be conducted in a secure manner in accordance with the Data Protection Act 1998 to safeguard the privacy of the information that you have supplied.

Defra's Personal Information Charter, which gives details of your rights in respect of the handling of your personal data, is on the Defra section of Gov.uk. If you don't have access to the internet, please telephone the Defra helpline 08459 33 55 77 and ask to speak to the Data Protection Officer for a copy of the Information Charter.