Arts Council of Wales

Standard Conditions of Grant For Project Grants to Organisations (Conditions)

April 2013

Cyngor Celfyddydau Cymru
Arts Council of Wales

Noddir gan Lywodraeth Cymru
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Arts Council of Wales operates an equal opportunities policy.

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Standard Conditions of Grant
For Project Grants to Organisations (Conditions)

1 Offer of grant and form of agreement

1.1 The offer of grant, set out in the Grant Offer Letter, is open for acceptance for a period of four calendar weeks from the date of the Grant Offer Letter unless the Arts Council (we) have given more time in writing. If acceptance of the offer of grant is not received by us in writing, signed by a duly authorised officer of the recipient organisation (you), we may in our sole discretion withdraw the offer of grant immediately by giving you notice in writing.

1.2 These Conditions together with the Grant Offer Letter (which may include additional conditions specific to the offer of grant), the Payment Schedule and your grant application comprise the entire agreement (the Agreement) between us and you for the offer and permitted use of the grant.

1.3 Upon receipt by us of your acceptance of the offer of grant (the Award Acceptance) either by email or by post, we will both become bound by the Agreement.

2 Conditions of grant offer

In consideration of you accepting the offer of grant and agreeing to be bound by the terms of the Agreement, we agree to pay the grant specified in the Grant Offer Letter subject to the following Conditions:

2.1 The Agreement between you and us is specific to you and the benefit of the Agreement may not be transferred or assigned by you to any other person or organisation, but we may assign or transfer the Agreement or any of our rights under the Agreement.

2.2 We are not able to pay for goods or services that have been bought or ordered for the agreed programme of activity before receipt of your Award Acceptance.

2.3 We may alter the amount of the grant in the light of any material alterations in the plans or circumstances of your organisation (see Condition 3.1) or any failure to comply with the information requirements set out in the Payment Schedule.

2.4 The amount of the grant written in the Grant Offer Letter is the most we will pay for the agreed programme of activity. However if the cost at the end of the agreed programme of activity is less than that originally agreed, we reserve the right to

make a proportionate reduction in our grant. This will normally be to the same percentage of the total costs of the agreed programme of activity that we agreed to pay. We will decide whether to claim this back and will take account of whether you can use the grant to continue activities that we approve. You must not go ahead with any additional activities until you have received our written approval.

2.5 We will not pay for ineligible costs and will reclaim from you any part of the grant that has been used or claimed for such costs. You are responsible for checking that all your costs are eligible before committing any expenditure.

2.6 We are not obliged to pay any grant to you save to the extent that we continue to receive sufficient funds from the Welsh Government and from the Department of Culture, Media and Sport under the National Lottery Act 1993.

2.7 If you, within nine months of the date of our offer of grant, have not either fulfilled the payment requirements for the grant either in whole or in part, or confirmed in writing to us when these will be fulfilled (and we have accepted your explanation), we may in our sole discretion withdraw the grant and bring the Agreement to an end by giving you one month's notice in writing.

2.8 You are responsible for the management of your own affairs and must not assume that your business is financially stable even if we continue to support it. You must get proper advice whenever you need to, so that you can carry out your business legally and with due diligence. You are advised to seek professional advice regarding your tax position if you are uncertain as to any liability that may arise. Our staff, members and advisers will not take part in carrying out your business and cannot be held responsible for your business.

3 Your undertakings

In consideration of the grant being made available to you, you hereby undertake:

3.1 To use the grant only for the purposes of the agreed programme of activity described in your grant application and the Grant Offer Letter and to carry out and complete this in accordance with the details set out in these documents.

3.2 To notify us immediately if there are any material changes in your circumstances or plans (including start and finish dates) affecting the agreed programme of activity, or you want to make any significant changes to the agreed programme of activity. You must not go ahead with any material or significant changes to the agreed programme of activity until you have received our written approval for these changes. We reserve the right to alter or withdraw the offer of grant if we either do not agree with the change, or do not agree that the change is reasonable in relation to the grant offered.

3.3 At all times during which the Agreement is in existence and in force you agree to:

(a) Comply with all relevant legislation, including but without limitation to those relating to the employment of staff, as the licensee or the manager of any building and those relating to health and safety, equal opportunities, discrimination on the grounds of gender, race, disability or otherwise and the protection of children, young people and vulnerable adults;
(b) Obtain all and any licences, certificates, permissions and insurances that are necessary by law;
(c) Comply with all obligations relating to copyright and performing rights so far as they affect the agreed programme of activity; and
(d) Provide us, when requested to do so, with evidence of compliance with the above.

3.4 To have and implement an equal opportunities policy that has been reviewed and updated by your board or management committee within the last three years and complies with all relevant legislation, and give evidence to us of the results of the policy across all aspects of your activities. You should follow best practice in this area by referring to the Equality and Human Rights Commission and any other relevant organisation.

3.5 To adopt and implement a written policy and set of procedures to protect children, young people and vulnerable adults and consider any possible risks involved in the agreed programme of activity and take appropriate action to protect everyone involved. As part of these procedures, you must check the backgrounds of any of your staff who are working in (or who are being considered for) a position, whether this work is formal or informal, voluntary or paid which is eligible for a Disclosure and Barring Service check. Guidance on Disclosure and Barring Service checks is available at www.gov.uk/disclosure-barring-service-check. You must make any 'disclosures' as described in the Children Act 2004.

3.6 To employ staff with the necessary skills and experience to deliver the agreed programme of activity and to safeguard the grant paid or payable to you and the assets of your organisation. In addition, you must seek to ensure that staff are employed on terms and conditions as good as or better than those agreed by any relevant trade unions and employers' associations.

3.7 Where the agreed programme of activity involves you in the purchase of goods and services a 'competitive process' (getting formal quotes from more than one business or supplier) should be followed, unless this is inappropriate for any reason. These reasons might include 'de minimus levels' (this means, most people would agree that the amount of time and effort involved in getting formal quotes is too much and not worth it), technical or artistic reasons, or protecting someone's exclusive rights. If you are a public body you must comply with relevant domestic and European legislation on procurement and competition.

3.8 In entering into the Agreement you agree to abide by our payment and monitoring requirements as set out in the Grant Offer Letter and Payment Schedule and to provide us promptly with such information as we may require to monitor the use of the grant for the duration of the agreed programme of activity and for one year after you have submitted a Completion Report (together, the Monitoring Period) (see 3.11).

3.9 To ensure that an adequate system of financial control is in place and to keep proper auditable records of all income and expenditure in relation to the agreed programme of activity and to submit, if requested, original paid invoices to us in support of claims for the payment of grant (we agree to return original invoices following our checking of your claim).

3.10 To supply us with regular progress reports and any further information that may be required by us from time to time during the agreed programme of activity as requested and to supply us with a Completion Report containing a full return of all income and expenditure no later than four weeks after the agreed programme of activity is completed. This should be accompanied, whenever practicable, by evidence or examples of the work produced or delivered by you with the assistance of the grant. We cannot consider any future application for funding from you if there are any outstanding monitoring requirements on this or any other funded activity.

3.11 To ensure that all annual financial statements submitted to us are prepared in accordance with relevant Accounting Standards, including the current Statement of Recommended Practice (SORP) applicable to charities and any appropriate legal or constitutional requirements, and you must identify separately the grant received and/or due from us.

3.12 To make your financial records available for inspection by us at any time and, upon reasonable prior notice, by our internal auditors, or the Welsh Government, or the Wales Audit Office.

3.13 To allow our representatives to attend any part of the agreed programme of activity for quality appraisal purposes. We will pay for any tickets required.

3.14 To monitor and evaluate the success of the agreed programme of activity and provide us with any information we require to satisfy ourselves that the agreed programme of activity has been completed successfully and properly in accordance with the Agreement.

3.15 To allow us, from time to time, to carry out a formal appraisal of your organisation in accordance with our established guidelines for this purpose, and to cooperate in this process.

3.16 During the monitoring period specified in para 3.8 above, to allow us to send an observer to all meetings of your board or management committee and any other committees (including all sub-committees and appointments committees), and to send to us a copy of all notices of meetings, agendas, papers and minutes at the same time that these are sent to members, in accordance with such instructions as we may give you from time to time as to the addressee of such papers. This includes late or tabled papers.

3.17 To hold regular meetings of your board or management committee during the financial year and to review your financial performance and position at these meetings.

3.18 To maximise public awareness by acknowledging the grant on all published and printed material (including online materials and any recruitment advertising) in accordance with guidelines enclosed with the Grant Offer Letter and notified by us from time to time. These guidelines are also available at www.artscouncilofwales.org.uk or from our Design and Publications Officer, ann.wright@artscouncilofwales.org.uk. All press releases must be sent through to our Communications Officer, sian.james@artscouncilofwales.org.uk and press releases referring to the Arts Council of Wales should be approved in advance by our Head of Communications, betsan.moses@artscouncilofwales.org.uk.

3.19 Not to use the acknowledgement of grant or any other references to us in any way to imply that we undertake or accept responsibility to third parties for your debts or obligations.

3.20 To co-operate in any bona-fide research conducted by us or on our behalf.

3.21 To provide us with images relating to the agreed programme of activity (if available). These images should be forwarded to our Design and Publications Officer and will be included in our image library. The photographer and/or producer should be credited and their permission already gained for us to publish any images.

3.22 Unless advised by us in writing, to ensure that any new and vacant posts are publicly advertised and filled by competitive interview. You must send to us particulars, job descriptions and details of interview arrangements for the appointment of such senior employees of your organisation as we may specify from time to time and you must allow our representative to observe the interview process.

3.23 To conduct the agreed programme of activity in accordance with the Welsh Language Act 1993 and the Welsh Language (Wales) Measure 2011 as applicable to your organisation from time to time and in any extent to comply with the spirit of those statutes so that so far as practicable the agreed programme of activity shall be conducted on a basis of equality between the Welsh and English languages and that within this principle the agreed programme of activity will reflect the linguistic

character of the work and that appropriate interpretation is available for both the community in which you are providing the activity and the audiences at which the activity is aimed.

3.24 To publicise bilingually and with equal prominence, core information relating to the agreed programme of activity. Core information is defined as date and time (if expressed in words), venue, location, booking procedure, organisation's/organiser's contact details, directions, public access, parking and arrangements for disabled visitors. This applies to all marketing and publicity material including press releases, flyers, posters, handouts, leaflets, postcards, DVDs, brochures, websites, CD-ROM, e-marketing, social media and event programmes. All events must be uploaded to the Arts Council's Arts Directory on our website -
www.artscouncilofwales.org/arts-directory
www.cyngorcelfyddydaucymru.org/cyfeiriadur-celf

3.25 To make all publicity materials accessible by following the guidance given in *Equal Spaces: Best practice guidance for arts providers on disability issues*, which is available on our website. This applies to all marketing and publicity material including flyers, posters, handouts, leaflets, postcards, DVDs, brochures, websites, CD-ROM, e-marketing, social media and event programmes.

4 Default

We may in our absolute discretion at any time and without prejudice to any other rights that we may have against you either require you to return all or part of any grant that may have been paid and/or withhold any outstanding payments of grant should any of the following events of default arise:

4.1 You have failed to observe any of your undertakings to us whether contained in paragraph 3 of these Conditions or required by way of additional conditions specified in our Grant Offer Letter;

4.2 If any information or representation provided or made to us in connection with the grant or otherwise deemed to form part of the Agreement is found to have been made fraudulently or incorrectly or is misleading in any material particular;

4.3 You have acted illegally, fraudulently or negligently at any time during the agreed programme of activity and we believe it has significantly affected the agreed programme of activity or is likely to harm our or your reputation;

4.4 You cease to operate for any reason, become insolvent, are declared bankrupt, go into receivership, administration or liquidation, make an arrangement with creditors, or a trust deed is granted for creditors, or if the estate is seized for legal reasons.

5 Disclosure of information

5.1 We have obligations and responsibilities under the Freedom of Information Act 2000 to provide on request access to recorded information we hold. One of the consequences of these statutory responsibilities is that information, which we hold about recipients, may be subject to disclosure, in response to a request, unless we decide that one of the various statutory exemptions applies. Where information, data and material of any nature comprise Personal Data or Sensitive Personal Data, as both terms are defined in the Data Protection Act 1998, we will not, except in the cases outlined below, disclose any such confidential information to any third party without your consent.

5.2 You agree that any information which we obtain from you or already hold about you, or receive about you from any enquiries made, may be disclosed to authorised third party organisations for the purposes of prevention of fraud.

5.3 You agree that information disclosed by us to fraud prevention organisations and other organisations for the purposes of prevention of fraud may be shared by such organisations with other organisations for the purposes of prevention of fraud. For the avoidance of doubt, information for the purposes of this condition includes any Information which is deemed personal data pursuant to the Data Protection Act 1998.

5.4 We may disclose information if we have a duty to do so or if the law permits us to do so.

Review date: March 2014

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