
Terms and Conditions

This Agreement is supplemented by the Application Guidance Document and the Grant Notification Letter and other documents referred to in these terms and conditions. For the purposes of the Project and the Grant, in the event of conflict, the terms of this Agreement shall prevail over any other documents or terms and conditions issued by either party.

1 Interpretation

1.1 In this Agreement:

“**Application Guidance Document**” means either the CPF application guidance for large grants published by the British Council or the CPF application guidance for small grants published by the British Council, as applicable to the Grant;

“**British Council Entities**” means the subsidiary companies and other organisations Controlled by the British Council from time to time, and any organisation which Controls the British Council (the “**Controlling Entity**”) as well as any other organisations Controlled by the Controlling Entity from time to time;

“**British Council Requirements**” means the instructions, requirements, policies, codes of conduct, guidelines, forms and other documents notified to the Recipient in writing or set out on the British Council’s website at http://www.britishcouncil.org/new/about-us/jobs/folder_jobs/register-as-a-consultant/policies-for-consultants-and-associates/ or such other web address as may be notified to the Recipient from time to time (as such documents may be amended, updated or supplemented from time to time during the Term);

“**Code**” means the Department of Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the Freedom of Information Act 2000 (issued under section 45 of that Act) (November 2004) as may be updated or re-issued from time to time and any other relevant codes of practice published by the Department of Constitutional Affairs or its successor bodies;

“**Confidential Information**” means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, developments, trade secrets, Intellectual Property Rights, know-how, personnel, and customers of the British Council or the Recipient (as the case may be) and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

“**Control**” means the ability to direct the affairs of another party whether by virtue of the ownership of shares, contract or otherwise (and “**Controlled**” shall be construed accordingly);

“**CPF**” means the Cultural Protection Fund established by the UK government dedicating £30,000,000 (thirty million pounds) to support cultural heritage in conflict-affected countries;

“Digital Outputs” means anything created by the Project in digital format which is designed to give access to heritage and/or to help people engage with and learn about heritage (including but not limited to websites, online databases and archives and smartphone apps);

“Environmental Information Regulations” means the Environmental Information Regulations 2004;

“Equality Legislation” means any and all legislation, applicable guidance and statutory codes of practice relating to diversity, equality, non-discrimination and human rights as may be in force from time to time in England and Wales or in any other territory in which, or in respect of which, the Project relates;

“Evaluation Report” has the meaning set out in clause 4.3;

“Financial Irregularity” includes, regardless of the amount, any fraud or other impropriety, mismanagement, whether deliberate or unintended, and the use of the Grant for purposes other than the Project;

“Financial Year” means the period of 12 months running from 1 April to 31 March;

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

“Funder Agreement” means the agreement between the Funder and the British Council relating to the provision of the funding out of which the Grant is made;

“Funder Requirements” means the specific requirements of the Funder, including the terms of the Funder Agreement, notified to the Recipient in writing (including by means of email or any website or extranet);

“Grant” means the amount of the grant awarded to the Recipient as set out in the Grant Notification Letter;

“Grant Expiry Date” means the end date of the Project which is stated in the Grant Notification Letter and can only be extended through formal approval in writing from the British Council;

“Grant Notification Letter” means the letter sent by the British Council to the Recipient to confirm that the Recipient has been awarded a grant funded by the CPF;

“Information Disclosure Requirements” means the requirements to disclose information under:

- (a) the Code;
- (b) the FOIA; and
- (c) the Environmental Information Regulations;

“Intellectual Property Rights” means any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trade marks,

service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all applications (or rights to apply) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“**Location**” means the location where the Project is to be carried out, as specified in the Grant Notification Letter;

“**Permission to Start**” means the formal permission granted in writing by the British Council to the Recipient to begin work on the Project;

“**Project**” has the meaning given in clause 2.1;

“**Project Objectives**” means the main goals or impacts which the Project aims to achieve, agreed between the parties in, or in accordance with, the Grant Notification Letter;

“**Project Partner**” means any organisation that works with the Recipient to deliver the Project;

“**Receiving a Grant**” refers to the guidance published by the British Council to explain how the British Council will pay the Grant and monitor the Project; and

“**Request for Information**” means a request for information (as defined in FOIA) relating to or connected with this Agreement or the British Council more generally or any apparent request for such information under the Information Disclosure Requirements.

1.2 In this Agreement:

1.2.1 any headings in this Agreement shall not affect the interpretation of this Agreement;

1.2.2 a reference to a statute or statutory provision is (unless otherwise stated) a reference to the applicable UK statute as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;

1.2.3 where the words “include(s)” or “including” are used in this Agreement, they are deemed to have the words “without limitation” following them, and are illustrative and shall not limit the sense of the words preceding them;

1.2.4 without prejudice to clause 1.2.5, except where the context requires otherwise, references to:

- (i) services being provided to, or other activities being provided for, the British Council;
- (ii) any benefits, warranties, indemnities, rights and/or licences granted or provided to the British Council; and
- (iii) the business, operations, customers, assets, Intellectual Property Rights, agreements or other property of the British Council,

shall be deemed to be references to such services, activities, benefits, warranties, indemnities, rights and/or licences being provided to, or property belonging to, each of the British Council and the British Council Entities and this Agreement is intended to be enforceable by each of the British Council Entities; and

1.2.5 obligations of the British Council shall not be interpreted as obligations of any of the British Council Entities.

2 The Project

2.1 The British Council awards the Grant for the purposes of cultural heritage protection, as more fully described in the Project Objectives (the “**Project**”).

2.2 There will not be an absolute requirement to spend all of the Grant within the recipient country. However the Grant must be used to promote the economic development and welfare of the recipient countries designated in the Project Objective as the primary objective.

3 Commencement and Duration

3.1 This Agreement shall come into force on the Commencement Date, and this Agreement shall continue in full force and effect until the Project has been completed to the British Council’s satisfaction in accordance with the Project Objectives, or such other date as may be agreed between the parties in writing from time to time (the “**Term**”).

3.2 No part of the Grant shall be payable to the Recipient, and the Recipient shall not begin the Project, until the British Council has provided formal Permission to Start.

3.3 Notwithstanding anything to the contrary elsewhere in this Agreement, the British Council shall be entitled to terminate this Agreement by serving not less than 30 days’ written notice on the Recipient.

4 The Grant

4.1 In consideration of the Recipient’s delivery of the Project, the Grant shall be paid by the British Council to the Recipient by BACS transfer, subject to the Recipient’s satisfactory compliance with the terms of this Agreement and, in particular, the British Council Requirements, the Funder Requirements and the eligibility criteria set out in the Application Guidance Document.

4.2 The Grant shall only be paid by the British Council during the period up to and including the Grant Expiry Date specified in the Grant Notification Letter.

4.3 The British Council shall pay 90% of the Grant to the Recipient in arrears in accordance with the payment schedule set out in the Grant Notification Letter in line with the procedures outlined in the Application Guidance Document (see the section entitled **Receiving a Grant**), unless otherwise agreed between the parties. The remaining 10% of the Grant shall be paid by the British Council to the Recipient upon satisfactory completion of the Project (to be decided at the discretion of the British Council) and receipt of the Recipient’s evaluation report prepared in accordance with all relevant guidance provided by the British Council (“**Evaluation Report**”).

- 4.4 All Grant monies will be paid directly to the Recipient. The Recipient will be responsible for ensuring that all Grant funding, including any funding received or managed by local partner organisations, is spent in line with the terms and conditions of this Agreement. The Recipient shall ensure that it conducts appropriate due diligence before engaging with Project Partners.
- 4.5 Grant funding awarded to the Recipient which is not spent in the relevant Financial Year (1 April – 31 March) cannot be rolled over into the following Financial Year. For the avoidance of doubt, the British Council can award multi-year Grant funding to the Recipient of a duration of over one year. In the case of multi-year Grant funding, the amount of the Grant allocated to the Recipient for each Financial Year over a specified number of years must be spent by the Recipient in the relevant Financial Year and cannot be rolled over into the following Financial Year. Multi-year grant awards are subject to annual review by the British Council to ensure that progress to date is in line with the terms and conditions of the Grant Agreement and satisfaction of the British Council.

5 Eligibility Criteria

- 5.1 The Recipient must comply with the eligibility criteria set out in the Application Guidance Document in order to qualify for the Grant.
- 5.2 The Recipient warrants that it will continue to comply with the eligibility criteria in the Application Guidance Document throughout the Term.

6 Funder

- 6.1 The body providing the funding for the Grant is the UK government's Department for Culture, Media and Sport (the "**Funder**").

7 Insurance Requirements

- 7.1 The Recipient (and any consortia partners and contractors of the Recipient) shall take out and maintain during the Term with a reputable insurance company insurance cover against all risks, and with the indemnity limits, which would normally be insured against by a prudent organisation (including employer's liability and public liability) and produce to the British Council on demand full particulars of that insurance and the receipt for the then current premium.
- 7.2 Where insurance is taken out by the Recipient to cover employees of the Recipient, such cover shall also cover volunteers involved in the Project.
- 7.3 Insurance taken out by the Recipient for the Project shall cover the full reinstatement value of any property, works, materials, services and goods related to the Project against losses or damages including inflation, professional fees, third party injury, losses or damages and legal defence costs.
- 7.4 The Recipient shall comply with employers' liability and workers' compensation laws of the country in which employees and/or volunteers of the Recipient are contracted.
- 7.5 The Recipient shall take appropriate professional advice prior to receiving Permission to Start to enable it to comply with the obligations under this clause 7.

8 Locations

- 8.1 The Project will be carried out in the Location or such other locations as may be agreed between the parties in writing from time to time.

9 Recipient's obligations

- 9.1 The Recipient warrants that the information given to the British Council in connection with the Project (including the information in the Project Objectives) is true and acknowledges that the British Council awards the Grant on this basis.
- 9.2 The Recipient shall apply the Grant solely and exclusively for the purposes of achieving the Project Objectives. The Recipient agrees to reimburse the British Council in full if the Grant is not used for this purpose.
- 9.3 The Recipient shall achieve the Project Objectives and submit the final grant payment request by the Grant Expiry Date. In any event, the Project must be completed by the end of January 2020 (unless otherwise agreed between the parties) in order to allow for the completion of evaluations and the submission of final invoices and the completion report that the British Council must submit to the Funder.
- 9.4 The Recipient confirms that the Project and the award of the Grant to it shall not breach any applicable State Aid rules within the meaning of Article 107 Treaty of the Functioning of the European Union and any related legislation.
- 9.5 The Recipient shall deliver all aspects of the Project as set out in the Project Objectives in line with current best practice and in compliance at all times with the terms of this Agreement, guidance published by the British Council (including the Application Guidance Document, and the *Evaluation Guidance* and *Publicity Toolkit* relating to the CPF) and all applicable regulations and legislation in force from time to time.
- 9.6 The Recipient shall comply with, and complete and return any forms or reports from time to time required by, the British Council Requirements and/or the eligibility criteria set out in the Application Guidance Document. In addition, the Recipient acknowledges that the British Council is obliged to report to the Funder on the progress and funding of the Project and, consequently, the Recipient agrees to provide any information requested by the British Council for the purposes of reporting to the Funder on the Project.
- 9.7 The Recipient shall comply with the Funder Requirements and shall do nothing to put the British Council in breach of the Funder Requirements.
- 9.8 The Recipient shall not at any time do or say anything, and shall ensure that none of its Project Partners do or say anything, which damages or which could reasonably be expected to damage the interests or reputation of the British Council or the Funder or their respective officers, employees, agents or contractors.
- 9.9 Where the British Council and/or the Funder requires more information or considers that any report and/or other documentation is not acceptable, or where the British Council and/or the Funder believes that the performance of the activity undertaken is not in accordance with this Agreement, the British Council shall provide sufficient details to the Recipient to enable it to

rectify the situation. The British Council reserves the right to suspend or terminate (as the case may be) the Project and the Agreement in the event that the Recipient is not able to rectify the situation to the satisfaction of the British Council (and/or the Funder).

- 9.10 The Recipient undertakes to work with the British Council to monitor and evaluate progress made towards achieving the Project through regular communication, face to face meetings if required and progress reports and agrees to provide any relevant information related to the activities detailed in the Project Proposal as and when requested.

10 Monitoring and evaluation

- 10.1 The Recipient shall keep full and proper accounts and records of income and expenditure with regard to the Project and the British Council shall be entitled to receive copies of all information reasonably required on request (including bank statements, receipts and vouchers for expenditure incurred) and to audit the administration by the Recipient of the Grant and the Project.
- 10.2 The Recipient shall monitor and evaluate the Project according to the relevant guidance provided by the British Council (*Receiving a Grant* and *Evaluation Guidance*) and shall promptly send the British Council the Evaluation Report on completion of the Project.
- 10.3 Throughout the Term, the British Council will monitor the progress of the Project and will carry out checks at and after the end of the Project to confirm that it is delivering the outcomes expected. If the British Council (or anyone authorised by the British Council) make any recommendations relating to this, the Recipient shall take those recommendations into account in delivering the Project.
- 10.4 Throughout the Term, the British Council may conduct its own evaluation of the Grant funding and may require additional information from the Recipient regarding the Project as part of that work. The Recipient shall provide such information as and when required by the British Council.

11 Capturing and sharing learning

- 11.1 The British Council may require the Recipient to participate in publicity activities, activities to share learning or to assist with queries from other potential applicants for grant funding through the CPF during the Term.
- 11.2 The Recipient agrees to participate in such activities as and when required by the British Council.

12 Procurement

- 12.1 The Recipient shall comply with the British Council's procurement policy set out in the Application Guidance Document in relation to any procurement procedures undertaken by the Recipient as part of the Project.

13 Staff posts

- 13.1 The Recipient shall comply with the staff posts policy set out in the Application Guidance Document in relation to the recruitment of any staff posts funded by the British Council as part of the Project.
- 13.2 All staff posts funded by the Grant as part of the Project shall be advertised by the Recipient, with the following exceptions:
- 13.2.1 if the Recipient has a suitably qualified member of staff on its payroll whom the Recipient is moving into the post created by the Project (the Recipient shall provide the British Council with a job description for this post);
- 13.2.2 if the Recipient has a suitably qualified member of staff on its payroll whose hours the Recipient is extending so that they can work on the Project. In such circumstances the British Council shall fund the cost of the additional hours spent on the Project and the Recipient will need to provide the British Council with details about the role such member of staff will undertake.

14 Withholding, Reduction and Repayment of the Grant

- 14.1 The British Council may (and may be obliged by the Funder to) reduce, withhold or claim a repayment (in full or in part) of the Grant if:
- 14.1.1 the Recipient fails to comply with the terms of this Agreement;
- 14.1.2 the Recipient breaches the warranty in clause 5.2;
- 14.1.3 the Recipient makes a change to the Project which the British Council and/or the Funder has not approved;
- 14.1.4 the Recipient achieves the Project Objectives without spending the full amount of the Grant;
- 14.1.5 there is any financial irregularity or fraud in the operation of the Project;
- 14.1.6 there has been any overpayment of the Grant;
- 14.1.7 the Recipient does not have adequate insurances in place for the Project in accordance with clause 7; or
- 14.1.8 the Funder reduces the amount of funding available, withdraws funding or demands repayment of any part of the Grant.
- 14.2 The British Council will notify the Recipient in writing of any decision it (or the Funder) takes to reduce, withhold or claim a repayment of the Grant or any part of it and will, if appropriate, arrange a meeting with the Recipient to discuss the consequences of such decision.
- 14.3 If the British Council demands repayment of the Grant, or any part of it, in accordance with clause 14.1, the Recipient shall make repayment within 30 days.

- 14.4 As stated in clause 4.5 above, Grant funding which is not spent in the relevant Financial Year cannot be rolled over into the following Financial Year. The British Council shall have no obligation to pay any Grant funding awarded to the Recipient for a particular Financial Year which has not been spent in that Financial Year and claimed by the 19th Working Day of March in the relevant Financial Year. In this clause 14.4, “**Working Day**” means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- 14.5 The Grant is fully inclusive of any and all taxes that may be payable in connection with the award, receipt or use of the Grant. The Recipient will deduct any such taxes out of the Grant and in no circumstances shall the British Council be required to pay any additional sums in respect of such taxes. In the event that the British Council is required by the laws or regulations of any applicable jurisdiction to deduct any withholding tax or similar taxes from the Grant, the British Council shall deduct and account for such taxes before paying the remainder of the Grant to the Recipient and shall notify the Recipient in writing of all such sums properly deducted.

15 Change Control

- 15.1 If the Recipient wishes to change the scope of the Project, it shall submit details of the requested change to the British Council in writing and such change shall only be implemented if agreed in accordance with the remainder of this clause.
- 15.2 If the Recipient requests a change to the scope of the Project, it shall send such request to the British Council in writing, accompanied by a written statement of the following matters:
- 15.2.1 the likely time required to implement the change;
 - 15.2.2 any foreseeable impact that the proposed change may have on the Recipient’s ability to achieve the agreed Project Objectives; and
 - 15.2.3 any other impact of the proposed change on the terms of this Agreement; and
- the British Council shall withhold or give its consent to such change in its sole discretion. If the British Council allows the Recipient to proceed with the change, the Recipient shall do so, following a variation of this Agreement in writing reflecting the agreed change in accordance with clause 32.

16 Project Outputs and Intellectual Property Rights

- 16.1 Where any Intellectual Property Rights owned or licensed by the British Council are required to be used in connection with the delivery of the Project, the Recipient acknowledges that it shall have no right to use the same except to the extent necessary for the delivery of the Project and subject to such consents and restrictions as may be specified by the British Council.
- 16.2 The Recipient warrants that the delivery of the Project does not and will not infringe any third party’s Intellectual Property Rights.
- 16.3 Throughout the Term, the Recipient shall provide the British Council with digital images relating to the Project including any videos and project blogs produced to report on the Project (“**Project Outputs**”) and shall secure the permissions required for the British Council and / or

Funder to use these for publicity purposes in accordance with clause 16.4 prior to sending them.

- 16.4 The Recipient hereby grants to the British Council (and the Funder) an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use any Project Outputs and other information, data, reports, documents, or other materials obtained, created or developed in the course of the Project for non-commercial purposes to publicise and report on the activities of the British Council (and the Funder) in connection with the award of the Grant and the delivery of the Project.
- 16.5 In addition to the licence granted to the British Council under clause 16.4. the Recipient shall make available all Intellectual Property Rights generated by the Project under the terms of a Creative Commons licence, or equivalent access arrangement, to individuals, agencies, organisations and companies at no cost (unless agreed otherwise by the British Council and the Funder).

17 Liability and Indemnity

- 17.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.
- 17.2 Subject to clauses 17.1, the British Council's total liability to the Recipient in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort, breach of statutory duty, or otherwise, shall not exceed the amount of the Grant.
- 17.3 Provided that the British Council has paid the Grant to the Recipient in accordance with this Agreement, the Recipient shall be responsible for all claims, costs, expenses, losses and liabilities howsoever arising in connection with the Project and the receipt and use of the Grant and the Recipient shall indemnify and hold the British Council harmless from and against all such claims, costs, expenses, losses and liabilities.
- 17.4 The provisions of this clause 17 shall survive termination of this Agreement, however arising.

18 Confidentiality

- 18.1 For the purposes of this clause 18:
- 18.1.1 the "**Disclosing Party**" is the party which discloses Confidential Information to, or in respect of which Confidential Information comes to the knowledge of, the other party; and
- 18.1.2 the "**Receiving Party**" is the party which receives Confidential Information relating to the other party.
- 18.2 The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this Agreement:
- 18.2.1 is given only to such of its staff and professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the

performance of this Agreement and only to the extent necessary for the performance of this Agreement; and

18.2.2 is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff or its professional advisors or consultants otherwise than for the purposes of this Agreement.

18.3 The provisions of clause 18.2 shall not apply to any Confidential Information which:

18.3.1 is or becomes public knowledge (otherwise than by breach of this clause 18);

18.3.2 was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;

18.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

18.3.4 is independently developed without access to the Confidential Information; or

18.3.5 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.

18.4 Nothing in this clause 18 shall prevent the Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

18.5 In the event that the Recipient fails to comply with this clause 18, the British Council reserves the right to terminate this Agreement by notice in writing with immediate effect.

18.6 The provisions under this clause 18 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.

18.7 The Recipient acknowledges that the British Council is subject to the Information Disclosure Requirements and shall assist and co-operate with the British Council to enable the British Council to comply with those requirements.

18.8 Where the British Council receives a Request for Information in relation to information that the Recipient or any of its sub-contractors is holding on behalf of the British Council and which the British Council does not hold itself, the British Council shall, as soon as reasonably practicable after receipt, forward the Request for Information to the Recipient and the Recipient shall:

18.8.1 provide the British Council with a copy of all such information in the form that the British Council requires as soon as practicable and in any event within 10 calendar days (or such other period as the British Council acting reasonably may specify) of the British Council's request; and

18.8.2 provide all necessary assistance as reasonably requested by the British Council to enable the British Council to respond to the Request for Information within the time

for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations, as applicable.

- 18.9 The Recipient acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the British Council may nevertheless be obliged to disclose the Recipient's Confidential Information in accordance with the Information Disclosure Requirements:
- 18.9.1 in certain circumstances without consulting the Recipient; or
 - 18.9.2 following consultation with the Recipient and having taken its views into account,
- provided always that where clause 18.9.1 above applies, the British Council shall, in accordance with the recommendations of the Code, take reasonable steps to draw this to the attention of the Recipient after any such disclosure.
- 18.10 The provisions of this clause 18 shall survive the termination of this Agreement, however arising.

19 Termination

- 19.1 Without prejudice to any other rights or remedies which the British Council may have, the British Council may terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient if:
- 19.1.1 the Recipient uses the Grant or any part of it other than for the Project;
 - 19.1.2 the Funder Agreement is terminated for any reason; or
 - 19.1.3 there is a change of Control of the Recipient.
- 19.2 Either party may give notice in writing to the other terminating this Agreement with immediate effect if:
- 19.2.1 the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);
 - 19.2.2 an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/ or manage or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or
 - 19.2.3 the other party ceases, or threatens to cease, to carry on business.

19.3 In any circumstances where the British Council has the right to terminate this Agreement it may instead, by serving written notice on the Recipient, suspend the Project for a reasonable period.

20 Consequences of termination or expiry

20.1 On the termination or expiry of this Agreement:

20.1.1 If the Project Objectives include creating, repairing or restoring property, that property shall be maintained by the Recipient in good repair and condition for 5 years from Project completion, in accordance with the Recipient's CPF application form and the management and maintenance plan produced during the Project (in accordance with the Application Guidance Document requirements).

20.1.2 If the Project Objectives include creating Digital Outputs, the Digital Outputs shall be maintained by the Recipient in accordance with the management and maintenance plan produced during the Project (in accordance with the Application Guidance Document requirements) and continue to function as intended for 5 years from Project completion.

20.2 Termination or expiry of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or expiry, or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

21 Data Protection

21.1 The Recipient shall, in performing its obligations under this Agreement, comply in all respects with the Data Protection Act 1998 (or any equivalent legislation in any applicable jurisdiction).

22 Audit

22.1 The Recipient will fully co-operate with and assist the British Council in meeting its audit and regulatory requirements by providing access for the British Council, the Funder, their internal auditors (which shall include, for the purposes of this Agreement the British Council's internal audit, security and operational risk functions), their external auditors or any agents appointed by the British Council and/or the Funder or their regulators (or any person appointed by such body) to conduct appropriate reviews and inspections of the activities and records of the Recipient (and to take copies of records and documents and interview members of the Recipient's Team) relating to the Grant and the Project. The Recipient shall maintain all records relating to this Agreement (including, without limitation, records relating to the Grant and the Project) for a period of seven (7) years following the year in which the Project is completed.

22.2 The Recipient shall bear its own cost in relation to any reasonable number of audits carried out by the British Council and/or the Funder. Where any audit reveals any breach or non-compliance by the Recipient, the Recipient shall also bear the costs of the British Council and/or the Funder carrying out such audit.

23 Publicity

23.1 The provisions of this clause 23 shall apply unless specifically varied by the British Council Requirements or the Funder Requirements.

23.2 The Recipient shall:

23.2.1 obtain the British Council's prior written consent to all promotional activity, public statements or press releases issued by the Recipient or on the Recipient's behalf in relation to the Project or any aspect of it;

23.2.2 where requested to do so by the British Council, acknowledge the award of the Grant in the manner specified by the British Council in all materials produced by, or on behalf of the Recipient as part of the Project;

23.2.3 incorporate the British Council's logo, the Funder's logo and/or the CPF logo (in each case as directed by the British Council) in all marketing materials in accordance with the *Publicity Toolkit* provided by the British Council and will not use the British Council's logo, the Funder's logo and/or the CPF logo for any other purpose whatsoever; and

23.2.4 comply with the guidance in the *Publicity Toolkit* relating to the CPF in all public communications issued about the Project.

23.3 The British Council and the Funder may make the purpose and amount of the Grant public in any way they see fit.

24 Employees

24.1 The Recipient agrees that it will not, without the prior written consent of the British Council, whether directly or indirectly, and whether alone or in conjunction with, or on behalf of, any other person during the Term or for a period of 6 (six) months following termination, solicit or entice, or endeavour to solicit or entice away from the British Council any person employed by the British Council and involved directly in the award of the Grant.

25 Anti-Corruption

25.1 The Recipient undertakes and warrants that it has not offered, given or agreed to give (and that it will not offer, give or agree to give) to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything in relation to the obtaining of this Agreement or the performance by the Recipient of its obligations under this Agreement.

25.2 The Recipient warrants that it has in place, and undertakes that it will comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010) and fraud within its organisation and in connection with its dealings with other parties.

25.3 The Recipient shall ensure that:

25.3.1 no Project Partner offers, gives or agrees to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything in relation to the Project; and

- 25.3.2 each Project Partner has in place, and undertakes that it will comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010) and fraud within its organisation and in connection with its dealings with other parties.
- 25.4 The Recipient acknowledges and agrees that British Council may, at any point during the Term and on any number of occasions, carry out searches of relevant third party screening databases (each a “**Screening Database**”) to ensure that neither the Recipient nor any of the Recipient’s suppliers, Project Partners, directors, shareholders or employees (where applicable) is listed:
- 25.4.1 as an individual or entity with whom national or supranational bodies have decreed organisations should not have financial dealings;
- 25.4.2 as being wanted by Interpol or any national law enforcement body in connection with crime;
- 25.4.3 as being subject to regulatory action by a national or international enforcement body;
- 25.4.4 as being subject to export, trade or procurement controls or (in the case of an individual) as being disqualified from being a company director; and/or
- 25.4.5 as being a heightened risk individual or organisation, or (in the case of an individual) a politically exposed person.
- 25.5 If the Recipient has any grounds for suspecting Financial Irregularity in the use of any part of the Grant, the Recipient must notify the British Council immediately, and, where appropriate the police. The Recipient must explain to the British Council what steps are being taken to investigate the suspicion, and keep the British Council informed about the progress of the investigation. The British Council may require an independent investigation of the circumstances leading to the irregularity or suspected fraud, which would be conducted by its external audit provider.
- 25.6 If the Recipient or any of the Recipient’s suppliers, Project Partners, directors, shareholders or employees (where applicable) is listed in a Screening Database for any of the reasons set out in clause 14.3, or, if there are grounds for suspecting Financial Irregularity in the use of any part of the Grant, then without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:
- 25.6.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or
- 25.6.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps); and/or
- 25.6.3 reduce, withhold or claim a repayment (in full or in part) of the Grant; and/or
- 25.6.4 share such information with third parties.

25.7 The Recipient shall provide the British Council with all information reasonably requested by the British Council to complete the screening searches described in clause 25.4.

26 Anti-slavery and human trafficking

26.1 The Recipient shall:

26.1.1 ensure that slavery and human trafficking is not taking place in any part of its business or in any part of its supply chain or within any Project Partner;

26.1.2 implement due diligence procedures for its own suppliers, Project Partners, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains;

26.1.3 respond promptly to all slavery and human trafficking due diligence questionnaires issued to it by the British Council from time to time and ensure that its responses to all such questionnaires are complete and accurate; and

26.1.4 notify the British Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in any part of its business or in a supply chain which has a connection with this Agreement.

26.2 If the Recipient fails to comply with any of its obligations under clause 26.1, without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:

26.2.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or

26.2.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps); and/or

26.2.3 reduce, withhold or claim a repayment (in full or in part) of the Grant; and/or

26.2.4 share with third parties information about such non-compliance.

27 Equality, Diversity and Inclusion

27.1 The Recipient shall ensure that it does not (and that each Project Partner does not), whether as an employer or provider of services and/or goods, discriminate within the meaning of the Equality Legislation.

27.2 The Recipient shall comply with any equality or diversity policies or guidelines included in the British Council Requirements.

28 Safeguarding and Protecting Children and Vulnerable Adults

28.1 The Recipient warrants that, in relation to all activities in connection with the Project, where the Location is England or Wales, it will comply with all legislation and statutory guidance relevant at any time in the Location to the safeguarding and protection of children and vulnerable adults (including the UN Convention on the Rights of the Child and the Children Act

1989), and with the British Council's Child Protection Policy, as may be amended from time to time.

- 28.2 Where the Location is outside of England or Wales, the Recipient warrants that, in relation to all activities in connection with the Project, it will comply with all legislation and statutory guidance relevant at any time in the Location to the safeguarding and protection of children and vulnerable adults, and with the detail and principles of the Children Act 1989 and the UN Convention on the Rights of the Child (to the extent that such legislation is not directly applicable in the Location), and with the British Council's Child Protection Policy, as may be amended from time to time.
- 28.3 The Recipient acknowledges that, for the purposes of the Safeguarding Vulnerable Groups Act 2006, and any regulations made thereunder, as amended from time to time (the "**SVGA**"), and where the Location is England or Wales, it is the "**Regulated Activity Provider**" in respect of any "**Regulated Activity**" (both as defined in the SVGA) carried out in connection with the Project and that it will comply in all respects with the SVGA and any regulations or orders made thereunder. Equivalent provisions in equivalent legislation applicable in Locations other than England and Wales shall apply in those Locations.
- 28.4 The Recipient shall ensure that it is (and that any individual engaged by it to carry out Regulated Activity in connection with the Project is):
- 28.4.1 subject to a valid enhanced disclosure check undertaken through the UK Disclosure & Barring Service, or the equivalent local service, including a check against the adults' barred list or the children's barred list, as appropriate; and
- 28.4.2 where applicable, the Recipient shall monitor the level and validity of the checks under this clause 28.4 for each member of staff or other individual engaged by it to carry out Regulated Activity in connection with the Project.
- 28.5 The Recipient warrants that at all times during the Term, it is not, and has no reason to believe that any person who is or will be employed or engaged by the Recipient in connection with the Project is, barred from carrying out such employment or engagement.
- 28.6 The Recipient shall immediately notify the British Council of any information that the British Council reasonably requests to enable the British Council to be satisfied that the obligations of this clause 28 have been met.
- 28.7 The Recipient shall refer information about any person employed or engaged by it to carry out Regulated Activity in connection with the Project to the UK Disclosure & Barring Service, or the equivalent local service, where it removes permission for such person to carry out the Regulated Activity (or would or might have, if such person had not otherwise ceased to engage in the Regulated Activity) because, in its opinion, such person has harmed or poses a risk of harm to children and/or vulnerable adults.
- 28.8 The Recipient shall not employ or use the services of any person 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 children or vulnerable adults.

28.9 The Recipient shall ensure that all Project Partners are made aware of and observe all the terms of this clause 28 as if they were each a party to this Agreement in place of the Recipient.

29 Assignment

29.1 The Recipient shall not, without the prior written consent of the British Council, assign, transfer, charge, create a trust in, or deal in any other manner with all or any of its rights or obligations under this Agreement.

29.2 The British Council may assign or novate this Agreement to: (i) any separate entity Controlled by the British Council; (ii) any body or department which succeeds to those functions of the British Council to which this Agreement relates; or (iii) any provider of outsourcing or third party services that is employed under a service contract to provide services to the British Council. The Recipient warrants and represents that it will (at the British Council's reasonable expense) execute all such documents and carry out all such acts, as reasonably required to give effect to this clause 29.2.

30 Waiver

30.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

31 Entire agreement

31.1 This Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersede, cancel and replace all prior agreements, licences, negotiations and discussions between the parties relating to it. Each party confirms and acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.

32 Variation

32.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

33 Severance

33.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

34 Counterparts

34.1 This Agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but all counterparts shall together constitute one agreement. Where this Agreement is executed in counterparts, following execution each party must

promptly deliver the counterpart it has executed to the other party. Transmission of an executed counterpart of this Agreement by email in PDF, JPEG or other agreed format shall take effect as delivery of an executed counterpart of this Agreement.

35 Third party rights

- 35.1 Subject to clause 1.2.4, this Agreement does not create any rights or benefits enforceable by any person not a party to it except that a person who under clause 29 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.
- 35.2 The parties agree that no consent from the British Council Entities or the persons referred to in this clause is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

36 No partnership or agency

- 36.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

37 Force Majeure

- 37.1 Subject to clauses 37.2 and 37.3, neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control (a "**Force Majeure Event**") including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.
- 37.2 A party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 37.2.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
- 37.2.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
- 37.2.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 37.3 Nothing in this clause 37 shall excuse a party for non-performance (or other breach) of this Agreement if such non-performance (or other breach) results from the acts or omissions of

any of that party's consultants and/or sub-contractors (except where such acts or omissions are caused by any of the circumstances specifically listed in clause 37.1).

38 Notice

- 38.1 Notice given under this Agreement shall be in writing, sent for the attention of the person signing this Agreement on behalf of the recipient party and to the address given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party) and shall be delivered:
- 38.1.1 personally, in which case the notice will be deemed to have been received at the time of delivery;
 - 38.1.2 by pre-paid, first-class post if the notice is being sent to an address within the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the second (2nd) normal working day in the country specified in the recipient's address for notices after the date of posting; or
 - 38.1.3 by international standard post if being sent to an address outside the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the seventh (7th) normal working day in the country specified in the recipient's address for notices after the date of posting.
- 38.2 To prove service of notice, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

39 Governing Law and Dispute Resolution Procedure

- 39.1 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.
- 39.2 Subject to the remainder of this clause 39, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.
- 39.3 In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 calendar days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 39.3, either party may commence proceedings in accordance with clause 39.2.
- 39.4 Nothing in this clause 39 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.