# Standard Terms of Grant – Species Survival Fund

30/06/2023

See all updates

## Definitions

**'we', 'us', 'our', 'Funder'** – the Trustees of the National Heritage Memorial Fund (who administer the Species Survival Fund on behalf of Defra). Operating as the Heritage Fund.

**'you', 'your'** – the organisation(s) awarded the Grant as set out in the Grant Notification Letter.

**Additional Grant Conditions** – any additional grant conditions set out in the Grant Notification Letter.

**Application** – your completed Application form and any documents or information you send us to support your request for a Grant.

**Application guidance** – the guidance setting out the scope of the programme and how to apply.

**Approved Purposes** – the Approved Purposes summarise the Project described in your Application.

**Approved Usage** – how you said you would use Your Property in your Application (allowing for any changes that we may have agreed up to the release of any of the Grant).

**Bribery Act** – means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time, together with any guidance or codes of practice issued by the relevant government department concerning this legislation.

**Defra** – The Department for Environment, Food & Rural Affairs.

**Data Protection** – means (i) the UK GDPR; (ii) the Data Protection Act 2018 to the extent that it relates to the processing of Personal Data and privacy; and (iii) all applicable Law relating to the processing of Personal Data and privacy.

**Digital outputs** – all material with heritage content created in or copied into a digital format by or for you in connection with the Project.

**Duplicate Funding** – Ineligible Costs already covered through other funding, for example other funds from Defra or other schemes such as the Species Recovery Fund.

**Eligible Costs** – the approved costs set out in Appendix 1 to the Grant Notification Letter/Check your Grant Details.

**Evaluation Report** – the report you must send us before we pay the last 10% of the Grant telling the story of the Project, its achievements and lessons learned.

**Event of Default** – any of the events set out in paragraph 39.

**Freedom of Information** – means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

**Financial Irregularity** – includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of the Grant for any purpose other than those stipulated in this Grant Contract.

**Grant** – the amount we have awarded you for your Project.

**Grant Contract** – made up of:

- Grant Notification Letter
- signed Permission to Start Form
- Standard Terms of Grant – Species Survival Fund
- any Additional Grant Conditions
- Receiving a Grant
- your Application

**Grant Expiry Date** – the date by which you must achieve the Approved Purposes and by which you will make the final drawdown of the Grant.

**Grant Notification Letter** – the letter confirming our Grant to you.

**Ineligible Costs** – ineligible costs set out in the Application Guidance and paragraph 68 of these Standard Terms.

**Permission to Start** – our written confirmation that you may start the Project and the date on which the Grant Contract comes into effect.

**Project** – the Project or Projects referred to in your Application that consists of, or include, the Approved Purposes.

**Project Completion Date** – the date of the letter we send you letting you know that the Project is recorded as complete.

**Prohibited Act** –

- directly or indirectly offering, giving or agreeing to give to any servant of the Funder or the Crown any gift or consideration of any kind as an inducement or reward for:
    - doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Grant Contract; or
    - showing or not showing favour or disfavour to any person in relation to the Grant Contract;
- committing any offence:
    - under the Bribery Act;
    - under legislation creating offences in respect of fraudulent acts; or
    - at common law in respect of fraudulent acts in relation to the Grant Contract; or
- defrauding or attempting to defraud or conspiring to defraud the Authority or the Crown.

**Project Outputs** – the outcomes and output measures set out in your Application taking account of any changes we tell you about in the Grant Notification Letter.

**Receiving a Grant** – the guidance we publish to explain how we will pay the Grant, monitor the Project and agree any changes to the Grant.

**Term of the Grant Contract** – the duration of the Grant Contract set out in the Grant Notification Letter.

**Third Party** – any owner or controller of Third Party Property.

**Third Party Contract** – a contract that you enter into with a Third Party in line with paragraph 47 of this Contract.

**Third Party Property** – any land or other property identified in the Application that belongs to or is controlled by a Third Party.

**UK Subsidy Control Law** – the relevant laws relating to public subsidies in force at the time the Grant is awarded including, but not limited to, the Subsidy Control Act 2022, the EU-UK Trade and Cooperation Agreement and any related guidance issued by the Secretary of State for Business, Energy and Industrial Strategy.

**Your Property** – any land, buildings or any other assets that you buy, create, receive or restore that is funded by the Grant including digital properties, intellectual property rights (if any) and any documents that you produce or order as part of the Approved Purposes.

## Achieving the Approved Purposes

1. You must use the Grant only for the Approved Purposes and Eligible Costs, unless you get our written approval to any change beforehand.

2. You must not start work to achieve the Approved Purposes without our approval beforehand, known as Permission to Start.

3. You must achieve the Approved Purposes and make your final Grant drawdown by the Grant Expiry Date.

4. You must use Your Property, or allow it to be used, only for the Approved Usage during the Term of the Grant Contract.

5. As well as these Standard Terms of Grant, you must follow the Additional Conditions (if any) in the Grant Notification Letter, meet the requirements set out in the Application guidance – Receiving a Grant and the Grant acknowledgement requirements we provide – and address any issues we identify in the course of monitoring.

6. You must carry out the Approved Purposes in line with current best practice.

7. You must follow all legislation and regulations that apply. You must have appropriate policies and procedures in place and act in accordance with them at all times to help you comply with any relevant laws, government requirement and best practice including but not limited to state aid and subsidy control, data protection, Environmental Information Regulations 2004, Freedom of Information Act 2000, equal opportunities, employment law, harassment and bullying and safeguarding vulnerable people.

8. You agree to follow a whistleblowing process to report if the dignity, safety, security and wellbeing of end-users is not met.

9. If you are public body you must behave ethically by following the 7 principles of public life and make sustainable choices to reduce your Project's impact on the environment.

10. You must follow the government Code of Conduct that sets out standards of behaviour for people or organisations that receive government grants.

11. You must tell us if you receive Duplicate Funding for the Project from any other source at any time during the Project. If this means that you no longer need funding from us and/or our funding duplicates other specific funding this constitutes an Event of Default and you must pay the Grant or an appropriate portion of the Grant back to us immediately upon demand.

## Subsidy Control

12. You acknowledge that the Grant comes from public funds under a scheme assessed by Defra to be compliant with Subsidy Control Law and is awarded for the Approved Purposes and Approved Usage.?

13. You agree to maintain appropriate records of compliance with Subsidy Control Law and agree to take all reasonable steps to assist us and/or Defra in complying with UK Subsidy Control Law requirements and in responding to any investigation(s) instigated by a Government Department or third-party challenge in the national courts.

14. You acknowledge and accept that the finding of Subsidy Control non-compliance in respect of the Project by a Government Department or a Court of competent jurisdiction, may lead to the Grant Recipient being ordered to repay the Grant with interest.

## Anti-Fraud Measures, Monitoring and Evaluation

15. You must at all times comply with all applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act.

16. You must have a sound administration and audit process, including internal financial controls to safeguard against fraud, theft, money laundering, counter terrorist financing or any other impropriety, or mismanagement in connection with the administration of the Grant. You must require that the internal/external auditors report on the adequacy or otherwise of that system.

17. If you are a UK Taxpayer, you'll receive your Grant payments without tax taken off. You may need to tell HMRC about these. For more information visit the Government website and search for BIM40451. You may also wish to discuss this with your accountant. You agree and accept that you may become ineligible for Grant support and may be required to repay all or part of the Grant if you engage in tax evasion or aggressive tax avoidance in the opinion of HMRC.

18. You must give us all relevant financial or other validation information, records and progress reports at the stages set out in Receiving a Grant and any additional information we may need from time to time on the Grant, Your Property, Third Party Property, the Approved Purposes (and achieving them) and the Approved Usage.

19. You must allow us (or anyone we authorise) to have any access we may need to:

- inspect Your Property, Third Party Property and any work to Your Property or Third Party Property;

- monitor the conduct and progress of the Approved Purposes; and
- monitor the Approved Usage.

In these cases we will give you notice. You will report on the progress of the Project at times agreed with us.

20. All cases of fraud or theft (whether proven or suspected) relating to the Approved Purposes must be notified to us as soon as they are identified. You must explain to us what steps are being taken to investigate the irregularity and must keep us informed on the progress of any such investigation. We may however request that the matter be referred to external auditors or other Third Party as required.

21. We have the right, at our absolute discretion, to insist that you address any actual or suspected fraud, theft or other Financial Irregularity and/or to suspend future payment of your Grant. Any grounds for suspecting Financial Irregularity includes what you, acting with due care, should have suspected as well as what is actually proven.

22. We will monitor the progress of the Project and will carry out checks at and after completion of the Project to confirm that it is delivering the outcomes expected. If we (or anyone we authorise) make any recommendations on the matters set out in paragraph 16, you must take those recommendations into account when meeting your obligations to us.

23. You must take appropriate steps to monitor your own success in achieving the Approved Purposes and in using Your Property for the Approved Usage and collect quantitative and qualitative data to evidence the outputs of the Project. On completing the Project, you must submit your Evaluation Report before we will release the final Grant payment.

24. You must co-operate with our appointed external evaluator by engaging in evaluation activities including collection of all required data as part of a wider evaluation of the impact of the Species Survival Fund as more particularly detailed in Receiving a Grant guidance.

## Procurement

25. Before you or a Third Party start any phase of the work needed to achieve the Approved Purposes, you or a Third Party must put in place all necessary contracts with appropriately qualified contractors and professional advisers to allow you or a Third Party to finish that phase of the work. Works contracts must contain a clause which allows you to retain part of the contractors' fees on practical completion of the works. If you or a Third Party want any contracts to be on different terms, you must get our approval beforehand.

26. You must ensure that you or any of your Representatives involved in the Approved Purposes will adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant.

27. If the Approved Purposes involve buying goods or services or getting work done, you must carry out a tendering exercise in line with the requirements set out in the Receiving a Grant.

## Your Property

28. If you use any of the Grant yourself to buy, receive, create, restore, conserve or otherwise fund Your Property, you must continue to own it and keep exclusive control over what happens to it. Other than as permitted under paragraph 33

(Digital outputs) you must not sell, let, charge, lien or otherwise part with it or any interest in it, or give any rights over it to anyone else (or take any steps to do so) without prior approval from us.

If we give you our approval, it may depend on any of the following requirements:

- that you pay us a share of the net proceeds of selling or letting Your Property within one month of parting with assets or other goods;
- that you sell or let your Property at its full market value;
- any other conditions we think fit.

29. Following completion of the Approved Purposes you must maintain, manage or conserve Your Property in accordance with a maintenance schedule or other management and maintenance plan. If your eligible costs include increased management and maintenance costs, you must submit your management and maintenance plan to us before the Grant Expiry Date for our approval.

- You must during the term of the Grant Contract and the subsequent Financial Year and during the duration of the Grant Contract, ensure that you have and maintain at all times adequate insurance with an insurer of good repute to cover claims under the Grant Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with the Approved Purposes or Approved Usage or the Grant Contract.
- You must upon request produce your policy or policies of insurance or where this is not possible, a certificate of insurance confirming the insurances are in full force and effect together with confirmation that the relevant premiums have been paid.

30. You must keep any equipment, tools, objects or fixtures (if any) that form part of Your Property in a physically secure and appropriate environment.

31. You must tell us, in writing, within five working days about any significant damage to Your Property.

32. Where possible you must arrange for the general public to have appropriate access to Your Property. You must make sure that no person is unreasonably denied access to Your Property.

## Publicity and acknowledgement

33. By accepting this Grant, you consent to us making the purpose and amount of the Grant public in whatever way we think fit.

34. Once we have announced the Grant, you must acknowledge the Grant publicly in line with the requirements we provide to you. You must meet any other acknowledgement or publicity requirements we may tell you about from time to time. Before we make any public announcement of the Grant, you must not issue any public statement, press release or other publicity in relation to the Grant or which refers to us, other than in a form we have approved beforehand.

35. You must also provide us with digital images in electronic format of your Project. You must also apply the required Creative Commons Attribution 4.0 International (CC BY 4.0) Open Licence to the images. You must get all the permissions required for you and us to make use of them before you use them or send them to us.

## Digital outputs

36. You agree to observe the following Standard Terms as amended from time to time:

a) Apply a Creative Commons Attribution 4.0 International (CC BY 4.0) Open Licence or equivalent, to all Grant-funded digital outputs, with the exception of code and metadata, and not including public domain assets or non-original digital reproductions of public domain assets (see below).

b) Clearly identify and apply Creative Commons 0 1.0 Universal (CC0 1.0) Public Domain Dedication, or equivalent to:

- code and metadata created in the course of the project; and
- public domain assets or non-original digital reproductions of public domain assets.

c) Obtain and maintain in force all authorisations of any kind required for you to apply the relevant Open Licence or Public Domain Dedication (CC BY 4.0 or CC0 1.0).

d) Contract to the effect that any creation by you or on your behalf of material which forms digital outputs is undertaken on terms that either the copyright in the digital material is assigned to you or that the copyright owner agrees that material may be shared under a CC BY 4.0 Open Licence or equivalent.

e) Ensure that the digital outputs are kept up-to-date, function as intended and do not become obsolete before the fifth anniversary of the Project Completion Date.

f) Provide us with the web address (URL) of the site or sites that will host your digital outputs for the specified length of time, and update these if materials are relocated. For projects where materials are located across a range of sites, the URL of an online index page is required.

g) Comply with these Standard Terms of Grant in relation to the digital files that make up the digital outputs for the period agreed in the Grant Notification Letter. For the avoidance of doubt, this includes ensuring free and unfettered online access to the digital outputs. You must not release your Project’s digital outputs on other terms without our prior written consent.

## Grant payment and repayment

37. We will, up to the Grant Expiry Date, pay you the Grant or any instalment of it in line with these Standard Terms of Grants and the procedures explained in Receiving a Grant as long as:

- the National Heritage Memorial Fund continues to operate under the National Heritage Act 1980 (as amended from time to time), and enough funds are made available to us by Defra; and
- we are satisfied that you or a Third Party are achieving (and will continue to achieve) or have achieved the Approved Purposes in line with these Standard Terms of Grant and that you are spending the Grant in proportion to any other funds you receive from other sources for the Approved Purposes;
- the spend is eligible expenditure.

38. You acknowledge that the Grant is the total amount of funds we will provide and will not be increased as the result of you overspending or for any other reason.

# Clawback, Events of Default, Termination and Rights Reserved for Breach and Termination

## Events of Default

39. You must repay to us immediately any Grant that we have paid you (and we will stop any future instalments of the Grant) if any of the following Events of Default occur:

a) You fail to use the Grant for the Approved Purposes and/or Approved Usage;

b) You use the Grant for any Ineligible Costs which are set out in the Guidance and in Ineligible Costs below;

c) You fail in our opinion to make satisfactory progress with the Approved Purposes and, in particular, with meeting the Project Outputs;

d) You fail to comply with our anti-fraud requirements in paragraph 16 above;

e) You fail to comply with our Third Party Contracts requirements;

f) You have, in our opinion, given us fraudulent, incorrect, incomplete or misleading information in the Application or in any subsequent supporting correspondence to an extent which we consider to be significant or you knowingly withhold information that is relevant to the content of your Application;

g) You have acted negligently in any significant matter or dishonestly or fraudulently in connection with the Approved Purposes or the Approved Usage (in this context negligence includes but is not limited to failing to prevent or report actual or anticipated fraud or corruption);

h) You cease to operate for any reason, or pass a resolution (or any court of competent jurisdiction makes an order) that you be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);

i) You become insolvent as defined by section 123 of the Insolvency Act 1986, or you are declared bankrupt, or you are placed into receivership, administration or liquidation, or a petition has been presented for your winding up, or you enter into any arrangement or composition for the benefit of your creditors, or you are unable to pay your debts as they fall due;

j) You undergo a change of control which we, acting reasonably, consider:

- will be materially detrimental to the Approved Purposes; and/or
- the new body cannot continue to receive the Grant because they do not meet the eligibility criteria used to award the Grant to you;
- we believe that the Change of Control would raise national security concerns; and/or
- the new body intends to make fundamental change(s) to the Approved Purposes.

k) you transfer or novate the Grant to any other person or organisation without obtaining our prior written approval;

l) any competent authority directs the repayment of the Grant;

m) you do or fail to do anything that brings any or all of NHMF, Defra and/or the Species Survival Fund into disrepute, or which we consider for any reason puts public funds at risk. This includes but is not limited to receiving funding from another party which in our opinion undertakes activities that are likely to bring the Species Survival Fund and/or NHMF, Defra in disrepute;

n) you fail to declare you have received Duplicate Funding;

o) you fail to declare any partnership funding;

p) you fail to act in accordance with the Law howsoever arising, including incurring expenditure on unlawful activities;

q) you breach the Code of Conduct and/or fail to report an actual or suspected breach of the Government Code of Conduct for Recipients of General Grants;

r) you commit a Prohibited Act;

s) you fail to keep to any of these Standard Terms of Grant.

40. If any Event of Default occurs, it shall be for NHMF, acting reasonably:

- to determine whether the Event of Default is capable of remedy;
- if the Event of Default is considered by NHMF to be capable of remedy, to notify the Grantee of the period within which the Event of Default must be remedied to avoid the Grant becoming repayable in accordance with paragraph 39.

41. If you achieve the Approved Purposes without spending the full amount of the Grant, you must pay back the part of the Grant you have not spent.

42. If you sell or otherwise part with all or part of Your Property without our permission under paragraph 28, or you receive money in some other way as a result of you not following these Standard Terms of Grant, you may have to pay us immediately a share of the net proceeds if that share is more than the amount we would otherwise be entitled to under paragraph 39.

## Termination

43. Either Party may terminate the Grant Contract at any time by giving at least three months written notice to the other Party.

44. If applicable, all Unspent Grant monies (other than those irrevocably committed in good faith before the date of termination, in line with the Grant Contract and approved by us as being required to finalise the Approved Purposes) must be returned to us within 30 days of the date of receipt of a written notice of termination.

45. If we terminate the Grant Contract in accordance with paragraph 43 or the Additional Grant Conditions, we may choose to pay your reasonable costs in respect of the delivery of the Approved Purposes performed up to the termination date. Reasonable costs must be identified by you and must be subject to you demonstrating that you have taken adequate steps to mitigate your costs. For the avoidance of doubt, the amount of reasonable costs payable must be determined solely by us.

46. We will not be liable to pay any of your costs or those of any contractor/supplier related to any transfer or termination of employment of any employees engaged in the provision of the Approved Purposes.

## Third Party Contracts

47. If the Approved Purposes involve a Third Party using part of the Grant to create, restore, conserve or otherwise fund Third-Party Property, we will only pay you that part of the Grant on the conditions set out in Receiving a Grant guidance and if:

- you have sent us any details of the Third Party and of the Third Party Property that we need to see and approve in line with Receiving a Grant;
- the Third Party has entered into a Third Party contract with you that allows you to enforce against the Third Party, in relation to their Third Party Property and the part of the Grant you have set aside for them, terms that are no less strict than these Standard Terms of Grant.

48. If a Third Party breaks any of the terms of its Third Party Contract, you must, unless we agree otherwise, take all reasonable steps to enforce those terms and recover any money they owe you as a result. You must pay us a share of any money you recover from a Third Party. You must work out the share in line with Receiving a Grant. You must pay us this money immediately.

49. If we tell you in writing, you must allow us to take over and carry forward for our own benefit any proceedings against a Third Party. You must also make sure that all Third Party Contracts allow for this to happen. If we tell you, you must transfer to us any rights that you may have as a result of a Third Party Contract being broken.

50. You must not use any part of the Grant towards work on Your Property or Third Party Property without getting our written permission beforehand if that part of the Grant has been identified in the Grant Notification Letter as one which you must refer to us before you offer it.

51. Unless we agree otherwise, you must make sure (in a way that can be enforced in law) that anyone who buys or receives Third Party Property from a Third Party:

a) insures the Third Party Property up to an amount and against such risks as is reasonable and appropriate in all the relevant circumstances;

b) maintains the Third Party Property’s character and appearance, bearing in mind the area it is based in;

c) keeps to any other conditions we say must be followed before the Third Party Property is sold; and

d) repays you in line with the conditions of Receiving a Grant for repaying the Grant.

52. You must take all reasonable steps to monitor and, unless we agree otherwise:

- enforce against anyone who buys or receives Third Party Property from a Third Party the conditions referred to in paragraph 51 above;
- recover any amounts owed to you in connection with paragraph 51; and
- pay us a share of any amount you recover. You must work out this share in the same way as under paragraph 42 of these Standard Terms of Grant.

## General terms

53. You may not, and must not claim to, transfer the Grant or any rights under these Standard Terms of Grant.

54. You must take all steps and sign and date any documents as may be necessary to carry out your obligations under these Standard Terms of Grant and to give us the rights granted to us under them.

55. If there is more than one of you, any liability under these Standard Terms of Grant will apply to you all together and separately.

56. We may rely on any of our rights under these Standard Terms of Grant at any time, even if we do not always choose to do so immediately. If we decide not to rely on one right, we may still rely on any of our other rights under these Standard Terms of Grant.

57. If you need our approval for anything, you must write to us to ask for it. You may only rely on any approval needed under these Standard Terms of Grant if we (or anyone we authorise) give it to you in writing.

58. Any notice, request or other document we or you send to each other under these Standard Terms of Grant can be delivered or sent by any effective means.

59. Any documents you need to send us under these Standard Terms of Grant are for our own purposes only. If we approve or accept any documents, this does not mean that we have approved or accepted them for any other purpose.

60. The Grant Contract will last from the permission to start date until the end of 10 years from the Project Completion Date.

61. These Standard Terms of Grant cannot be enforced by anybody other than you or us.

62. We accept no liability for any consequences, whether direct or indirect, that may come about from your delivering/running the Approved Purposes and Approved Usage, the use of the Grant or from withdrawal, withholding or suspension of the Grant. You must indemnify and hold harmless the Funder, its Representatives with respect to all actions, claims, charges, demands, losses and proceedings arising from or incurred by reason of the actions and/or omissions of you, the Grantee, in relation to the Approved Purposes or Approved Usage, the non-fulfilment of your obligations under this Grant Contract or your obligations to Third Parties.

63. Our staff, trustees and advisers cannot give you professional advice and cannot be held responsible for any action you take, any action you fail to take, or for your debts or liabilities. Even though we may give you funding you are still fully responsible for every part of your Project, your business and the decisions about it. We will not be responsible to anyone else who may take, or threaten to take proceedings against you.

64. You must tell us in writing as soon as possible if any legal claims are made or threatened against you and/or would adversely affect the Project during the period of the Grant (including any claims made against members of your governing body or staff concerning the organisation).

65. You must tell us in writing as soon as possible of any investigation concerning your organisation, trustees, directors, employees or volunteers carried out by the Police, Charity Commission, H M Revenue & Customs or any other regulatory body.

66. We reserve the right at any time to introduce new requirements, guidance and/or Additional Conditions and amend these Standard Terms of Grant.

67. These Conditions must be governed by and construed in accordance with the law of England and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

## Ineligible Costs

68.

- recoverable VAT
- costs related to promoting the cause or beliefs of political or faith organisations
- costs related to lobbying and/or activity to influence legislative or regulatory action
- costs incurred before a Grant is awarded
- full cost recovery for organisations which are not charities
- redundancy costs
- cost of land acquisition
- research
- costs already covered through other funding, for example from other funds from Defra or Natural England