



Cycling Friendly & Social Housing Fund development grant awards

Standard Terms and Conditions 2021/22

www.cycling.scot

1. General

Definitions – The following definitions will apply unless the context requires otherwise:

- 1.1. **Application** means the information provided by the Applicant requesting a grant;
- 1.2. **Applicant** means the organisation named in the Application, receiving the Grant and bound by these Terms and Conditions;
- 1.3. **Data Protection Legislation** means any and all data protection legislation from time to time in force in the United Kingdom (UK) including the UK GDPR, the UK Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) as amended, and / or any applicable legislation adopted by the UK; and the guidance and codes of practice issued or otherwise endorsed by the ICO;
- 1.4. **Fairer Scotland Duty** means the Fairer Scotland Duty created under Part 1 of the Equality Act 2010;
- 1.5. **Grant** means the grant or grants as approved by the Grantor in connection with the Project;
- 1.6. **Grant Acceptance Letter** means the signed acceptance letter returned by the Applicant to the Grantor;
- 1.7. **Grant Offer Letter** means the letter from the Grantor outlining the purpose of the Grant and any conditions of the Grant;
- 1.8. **Grantor** means Cycling Scotland, a company registered in Scotland with company number (SC252907) and having its registered office at 160 2nd Floor, West George Street, Glasgow, Scotland, G2 2HG;
- 1.9. **Period of Grant** means 12 months from the return of a valid acceptance letter;
- 1.10. **Project** means the project, business or activity as detailed by the Applicant in the Application; and
- 1.11. **UK GDPR means** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018.

2. The Grant

- 2.1. The Grant must be used exclusively for the Project and only by the Applicant and only in accordance with the details provided in the Application or varied with the written agreement of the Grantor.
- 2.2. During the Period of Grant the Applicant will act in a fair and open manner without distinction as to race, religion, gender, age or disability, and in compliance with all relevant legislation.
- 2.3. The Applicant will assist the Grantor with meeting its Fairer Scotland Duty obligations for the duration of the Project.

3. Applicant Warranties

- 3.1. The Applicant warrants that:
 - 3.1.1 The Applicant is validly existing, has power to execute and perform its obligations under the Application and these Terms and Conditions and any related undertaking, its execution and such performance has been validly authorised, and on its execution and delivery those obligations will be valid, legal and binding on it; and
 - 3.1.2 It is the owner of the Project location as detailed in the Application and all plant, equipment and other assets required in connection with the Project or has permission of the owner of the Project location and all such plant, equipment and other assets to undertake the Project.

4. Conduct of business

- 4.1. The Applicant shall implement the Project in a proper and efficient manner and keep proper financial and other records and books of account all to the reasonable satisfaction of the Grantor which shall at all reasonable times be open for inspection by the Grantor.

- 4.2. The Applicant shall provide the Grantor with such information and within such period as the Grantor may require relating to the Project.
- 4.3. The Applicant shall obtain the prior written consent of the Grantor to discontinue or dispose of (on winding up or otherwise) the whole or a substantial part of the Project or its assets or make any alteration that is in the reasonable opinion of the Grantor a material alteration to the constitution of the Applicant, its membership or the character of the Project.
- 4.4. The Applicant shall not, without prior written consent of the Grantor, dispose of any asset funded, in part or in whole, with Grant funds during the lifetime of the asset. The Lifetime Period of commonly procured assets is as defined within the table hereunder:

| Asset | Lifetime Period |
|--|------------------------|
| Signage | 10 years |
| Cycle parking – racks, shelters, compounds | 10 years |
| Bicycle | 5 years |
| E-Bike | 3 years |
| Changing & Drying facilities | 7 years |
| Maintenance stands (fixed, outdoor) | 5 years |
| Maintenance tools | 3 years |

During the Lifetime Period the Grantor, on behalf of Scottish Ministers, shall be entitled to the proceeds of the disposal – or the relevant proportion of the proceeds based on the percentage of grant funding used in connection with the acquisition or improvement of the asset against the whole proceeds. The Grantor, on behalf of Scottish Ministers, shall also be entitled to the relevant proportion of any proceeds resulting from any provision included as a condition of sale. Recovery by the Grantor, on behalf of Scottish Ministers, shall not be required where the value of the asset is less than £1,000.

- 4.5. The Applicant shall ensure that all assets purchased using the Grant funding are fit for purpose.
- 4.6. The Applicant shall keep all assets of the Project in good condition and if the Applicant becomes aware of any damage to any of the Project’s assets, the Applicant must use all reasonable endeavours to repair and restore the asset, with fair wear and tear accepted, using sustainable materials and techniques where practically possible and if repair and restoration is not possible, to recommission or recycle in so far as practicable and avoid disposing as waste to landfill in so far as possible.
- 4.7. The Applicant shall permit the Grantor to inspect the Project’s assets on reasonable notice.
- 4.8. The Applicant shall maintain adequate insurance at all times including employee and public liability insurance and shall insure and keep insured against loss or damage by fire, storm, impact, theft and such other risks as may reasonably be required by the Grantor all property, buildings, plant, equipment, stock, vehicles and other assets of the Project for such sums as may be necessary to cover the full replacement or reinstatement thereof or for such sum as the Grantor may reasonably approve, exhibit the relevant policies and receipts for premiums to the Grantor and if required by the Grantor ensure that the interest of the Grantor be endorsed on such policies, and apply any proceeds of such insurance towards replacement or reinstatement.
- 4.9. The Applicant shall not move the Project or any of its plant, equipment or other assets acquired in connection with the Project without the prior written consent of the Grantor.
- 4.10. The Applicant shall only use the Grant in implementation of the Project and not for expenditure incurred prior to the Date of Application as defined in the Application.
- 4.11. The Applicant shall contact the Grantor for any significant change in scope of the Project, including change in deliverables, and provide information as required as part of the Project Amendment process.
- 4.12. The Applicant shall comply with all applicable statutory and other regulations and obtain, and provide to the Grantor on request, all necessary consents and licences, for the Project.
- 4.13. The Applicant shall indemnify the Grantor against any claims whatsoever arising in relation to the Project (including, without limitation, in respect of the Applicant’s negligence).

5. The Project

- 5.1. The Applicant will manage the Project and be fully responsible for all aspects of implementation.
- 5.2. Funding requests should be based on current quotations.
- 5.3. If at any time the total expenditure for the Project exceeds the estimated amount stated in the Grant Offer Letter there will be no corresponding increase in the Grant.
- 5.4. No expenditure incurred prior to the date of the signed and returned Grant Offer Letter can be paid for out of the Grant.
- 5.5. The Grantor shall not at any time be liable to any person in relation to any matter arising in connection with the development, planning, construction, operation, management and/or administration of the Project and in particular but without limitation, shall not be liable to the Applicant for any loss or damage arising directly or indirectly as a result of the compliance by the Applicant with these Terms and Conditions including any losses arising from a failure to make Grant payments on any agreed date.
- 5.6. If the final total allowable expenditure for any element of the Project is less than the estimated allowable expenditure (i.e. there is an underspend) the Applicant must inform the Grantor as soon as possible which at its absolute discretion, may reduce the Grant payable and / or demand a refund of any Grant paid. The amount of such reduction shall not exceed the amount of the underspend.
- 5.7. The Applicant will tell the Grantor of any offer of funding for the Project from anyone else at any time during the Project.
- 5.8. The Applicant will inform the Grantor promptly of any changes to the information provided in the Application and will make sure that relevant information is always correct and up to date.
- 5.9. The Applicant will inform the Grantor immediately if any of the key contact information changes.
- 5.10. The Applicant agrees to meet all laws regulating the way it operates, the works it carries out, the staff it employs and the goods that it buys. The Applicant will ensure that it has an equal opportunities policy in order to assist in compliance with all relevant laws and good practice throughout the period covered by these Terms and Conditions. The Applicant will submit copies of all licences and permits required by law or by the Grantor.
- 5.11. If the Applicant's work involves children or vulnerable adults (vulnerable persons) it will take all reasonable steps to ensure their safety. The Applicant will obtain the written consent of the legal carer or guardian before having any direct contact with any vulnerable person. The Applicant must have an appropriate written policy and set of operating procedures at all times to ensure all vulnerable persons are safeguarded. This should include procedures including disclosures, through the Central Registered Body in Scotland, of all staff, volunteers or contractors who will have significant direct contact with vulnerable persons.
- 5.12. In the event of assets funded by the Grantor being no longer required, the Applicant will obtain the Grantor's written instructions to confirm whether the assets should be returned to the Grantor. If the Grantor confirms that the assets are not to be returned to it, the Applicant shall ensure that the assets are recommissioned, re-used or recycled in as far as practically possible rather than disposed of with the aim of meeting the objectives of climate change and the circular economy.
- 5.13. If the Applicant commits a breach of these Terms and Conditions, or any of the events listed in conditions 10.1.3 to 10.1.8 occur in respect of the Applicant, the Applicant will obtain the Grantor's written instructions to confirm whether the assets should be returned to the Grantor, or disposed of.
- 5.14. If the Applicant is a charity it will register with the Office of the Scottish Charity Regulator if its income goes over the minimum exemption figure.

6. The Applicant

- 6.1. The Applicant will write to the Grantor as soon as possible if any legal claims are made or threatened against it and/or which would adversely affect the Project during the Period of Grant.
- 6.2. The Applicant will let the Grantor know as soon as possible of any investigation concerning it, its trustees, directors, employees or volunteers carried out by the Police, Office of the Scottish Charity Regulator, HM Revenue & Customs or any other regulatory body.

7. Monitoring and reporting

- 7.1. The Applicant must maintain full and proper accounts and records, including copies of invoices which show how the Grant has been used. These records must be copied by the Applicant to those managing the Project on request and be available to the Grantor or its representative(s).
- 7.2. The Applicant will ensure that a monitoring and evaluation plan based around the Grantor's guidance is developed and implemented in respect of the Project.
- 7.3. The Applicant will tell the Grantor immediately in writing of anything that significantly delays, threatens or makes the Project's completion unlikely.
- 7.4. The Applicant will inform the Grantor immediately of any variation in the Project's outcomes.
- 7.5. The Grant must be shown in the Applicant's annual accounts as a restricted fund and not included under general funds. This means that the unspent funds and/or assets in respect of the Grant must be shown separately in the Applicant's accounts. The Applicant's accounts must also show any interest accruing from the Grant.
- 7.6. The Applicant will provide a 6-month and 12-month report covering all aspects of Project progress including a financial report evidencing all income and expenditure and associated receipts. Applicants may be requested to undertake further reporting on Project outcomes.
- 7.7. Due dates for the annual reports are specified in the grant profile attached to the Grant Offer Letter. Failure to submit an annual report may result in some or all of the Grant monies being re-claimed.
- 7.8. Grant expenditure should occur within 12 months of the Applicants signing the Grant Acceptance Letter.

8. Procurement

- 8.1. In the procurement of any asset or service (capital or revenue) connected with the Project, the Applicant shall ensure that best value is obtained by appropriate market testing and seeking competitive tenders.
- 8.2. The Applicant will ensure their procurement policies and practices minimise any detrimental effect to the environment and complement the Grantor's commitment to protecting and improving the environment for Scotland's future generations. Such procurement policies and practices shall include obligations to consider and act on opportunities to improve economic, social and environmental wellbeing, including in relation to climate change and the circular economy through using sustainable materials and techniques where practically possible and keeping in mind the whole life cycle of any assets and equipment, as well as their re-using and repairing to extend their useful life, and remanufacturing when their life is deemed over.
- 8.3. The Applicant will ensure that it gives due consideration to ethical standards in any procurement made through the Grant.

9. Publicity

- 9.1. The Applicant will acknowledge the contribution of the Grantor publicly as appropriate and practical, including use of the Grantor's logo where possible provided that the Applicant will obtain the Grantor's written consent before using the Grantor's logo.
- 9.2. If the Applicant intends to use any of the Grantor's trade marks including "Cycling Scotland" and "cycling friendly", the Applicant must obtain the Grantor's prior written consent to use the trade marks.
- 9.3. The Applicant will follow the Grantor's branding and publicity guidelines at all times.
- 9.4. The Applicant will acknowledge the Grantor's support in any published documents that refer to the Project, including, but not limited to, job advertisements, accounts and public annual reports and written or spoken public presentations about the Project.
- 9.5. The Grantor reserves the right to publish details of the Project in papers, journals and other media. The Applicant agrees to the Grantor carrying out any forms of publicity and marketing as it sees fit. The Applicant agrees to do whatever the Grantor may reasonably require in assistance with any form of publicity and marketing, including press or media related activities.
- 9.6. The Applicant will ensure that the Grantor is acknowledged as the funder for any assets procured as a result of the funding.
- 9.7. The Applicant will ensure that the Grantor is acknowledged in relation to any publicity and promotion related to the Project, through signage provided by the Grantor where appropriate.

10. Breaches and repayments

- 10.1. In the event of the following, the Applicant shall be bound to repay on demand the full Grant, or such part as the Grantor thinks fit within 14 days of receiving a written demand:
- 10.1.1 if there is a breach of any of these Terms and Conditions;
 - 10.1.2 if, at any point, the Grant is found to exceed the amount of the expenses reasonably and properly incurred by the Applicant in connection with the Project;
 - 10.1.3 if any written information given to the Grantor by or on behalf of the Applicant in connection with the payment of the Grant is found to be false or misleading in any material respect, whether such written information is provided prior to or after the execution of this offer by the parties, or if information is withheld;
 - 10.1.4 if an encumbrancer of the Applicant attaches or takes possession of, or a receiver is appointed over, the assets of the Applicant;
 - 10.1.5 if the Applicant makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 10.1.6 if the Applicant goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Applicant under these Terms and Conditions);
 - 10.1.7 if anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Applicant;
 - 10.1.8 if the Applicant ceases, or threatens to cease, to carry on business;
 - 10.1.9 If there is a material alteration to the constitution of the Applicant, its membership, trustees or partners, or if the Applicant is a company, by the transfer of ownership of the controlling interest (as defined in section 840 of the Income and Corporation Taxes Act 1988) in the Applicant without the prior written consent of the Grantor, or on the occurrence of any event or change in circumstances in relation to the Applicant or the Project which in the reasonable opinion of the Grantor, would have a material adverse effect on the ability of the Applicant to comply with these conditions; or
 - 10.1.10 if the Applicant fails to provide proper annual accounts within 10 months of the end of the financial year during which the Grant has been paid or expended.
- 10.2. If the Applicant does not repay the requested amount within 14 days of written demand as per condition 10.1, the Grantor is entitled to charge interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest.
- 10.3. Any failure, delay or omission by the Grantor to exercise any right to demand repayment shall not be construed as a waiver of such right.

11. New conditions of Grant

The Grantor reserves the right to introduce new conditions of Grant as necessary.

12. Subsidy Control

If the Grant (or any part or condition thereof) does not comply with applicable subsidy control obligations, as applied by Scottish Government, Cycling Scotland may require repayment of the grant.

13. Assignment

The Grant shall be personal to the Applicant and the Applicant may not assign or transfer the Grant or any of its obligations, under these Terms and Conditions, nor subcontract any of such obligations, to any third party without the prior written consent of the Grantor. The Grantor may assign its rights under these Terms and Conditions to any third party without consent of the Applicant.

14. Law of Scotland

The Application incorporating the Applicant's undertaking to the Grantor and these Terms and Conditions shall be governed by the laws of Scotland.

15. Data protection and privacy statement

- 15.1. The Grantor complies with Data Protection Legislation and aims to fulfil the requirement for fair and lawful processing of personal information in the records which the Grantor creates and receives during its activities. The data protection policy covers how the Grantor collects, uses, discloses, transfers and stores personal data.
- 15.2. The Grantor's privacy policy covers how it handles consumer data, including on its websites. With the Applicant's consent data the Applicant provides when registering for the Cycling Friendly Award programme is shared to provide the Grantor's assessment as well as mailing lists and external mailing software for purposes of informing the Applicant of development grant funding opportunities and related Grantor training programmes and events. The Applicant will always have the option to unsubscribe. The Applicant can read the Grantor's Privacy Policy on the Grantor's website <https://www.cycling.scot>
- 15.3. The Grantor may process personal data when the Grantor needs to do this to fulfil a condition of the Grant funding, where the Applicant is a trustee, an employee or a contractor (to manage the relationship) or where the Grantor is required to do this by law or other regulations. When the Grantor shares data with external evaluators or provide reports to its funders (as it is required to do under the conditions of Grant), the information will be anonymised. The Applicant's personal data is not shared.
- 15.4. If there is an occasion on which the Grantor would like to share the Applicant's personal data with a third party, the Grantor will always let the Applicant know and will obtain the Applicant's consent before doing so.

If you have any enquiries on any of the above please email cyclingfriendly@cycling.scot

ENDS