

Dated xx

British Heart Foundation

and

Grant Fundee (name recipient)

GRANT AGREEMENT



**British Heart
Foundation**

THIS AGREEMENT is dated XXXth of XXX 20XX

Parties

- (1) BRITISH HEART FOUNDATION, a company registered in England (reg no 699547) and a charity registered in England and Wales (reg no 225971) and Scotland (SCO39426), whose principal address is at Greater London House, 180 Hampstead Road, London, NW1 7AW (**Funder**).
- (2) RECIPIENT NAME whose principal address is at XX, XX, POSTCODE (**Recipient**).

Background

- (A) The Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project.
- (B) This Agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient.
- (C) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.

Agreed terms

1. Definitions

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

Award Letter: The letter/email from BHF to the Grant Holder specifying the amount of grant that has been awarded and any special conditions of award in addition to these BHF Standard Conditions.

Commencement Date: [Start Date here].

Governing Body: the governing body of the Recipient including its directors or trustees.

Grant: the sum of £xx.xx to be paid to the Recipient in accordance with this Agreement.

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending one calendar year and one month from the Commencement date unless extended or terminated earlier pursuant to the terms of this Agreement.

Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Key Project Aims: the key aims set out in Section3: Meeting the Criteria of the PAF.

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Project Application Form (PAF): Submitted by the Recipient to the Funder as part of the application for the Grant a copy of which is attached at Schedule 1.

Programme Manager: the individual who has been nominated to represent the Funder for the purposes of this Agreement.

Project: the project described in the PAF at Schedule 1.

Project KPIs: the measuring methods used to assess the performance and effectiveness of the Project as set out in the Service Delivery and use the indicators set out in the PAF to assess success in the outputs section of the quarterly report

Project Lead: the individual who has been nominated to represent the Recipient and have responsibility for the oversight of the project, for the purposes of this agreement.

Project Manager: All funded projects must include a project manager, whose role will be to plan, manage and co-ordinate all the activities associated with the project.

Project Outcomes: the desired and intended outcomes for the Project as set out in the Service Delivery section of the PAF.

Quarter Days: 1st January, 1st April, 1st July and 1st October in any year.

Quarter Period; any one of the periods commencing on a Quarter Day and expiring on the date immediately prior to the next following Quarter Day.

2. Purpose of Grant

- 2.1 The parties agree that the Grant shall be used solely for the delivery of the Project and the activities set out in the Project Application Form (PAF), in accordance with the terms and conditions set out in this Agreement and, where appropriate, the award letter. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 2.2 The Recipient shall not make any significant change to the Project without the Funder's prior written agreement.
- 2.3 Where the Recipient intends to apply to a third party for other funding for the Project, it will notify the Funder in advance of its intention to do so and, where such funding is obtained, it will provide the Funder with details of the organisation providing the funding and the amount and purpose of that funding. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Funder is funding in full under this Agreement

- 2.4 The Agreement is personal to the parties and neither may transfer, assign, charge or sub-contract its rights or obligations under this Agreement to a third party, including, without limitation, any entity within that party's group, without the prior written agreement of the other party.

3. Payment of Grant

- 3.1 Subject to clause 11 and the provisions of this Clause 3, the Funder shall pay to the Recipient the Grant in instalments; in arrears and based upon actual expenditure. Such payment to be made by the Funder within 30 days of receipt of a invoice submitted by the Recipient.
- 3.2 The Recipient shall use its best endeavours to submit invoices for the agreed instalment periods within 60 days of the expiry of the date set out in Schedule 2 to which the invoice relates. Except where there is a bone fide dispute relating to the payment or amount of instalment, if the Funder fails to receive a quarterly invoice within 6 months of the expiry of the Period to which the invoice relates, the parties agree that the Grant shall be reduced by a sum equivalent to the amount that would have been payable under that invoice and that there will be no liability on the part of the Funder to settle any invoice or pay any amounts properly attributable to a instalment period.
- 3.3 The Funder shall not be obliged to pay more than 60% of the total Grant in respect of any one instalment period, but it may do so at its absolute discretion but subject always to the provisions of Clause 3.4.
- 3.4 No Grant shall be paid unless and until the Funder is satisfied that such payment will be used to settle proper expenditure incurred in the delivery of the Project.
- 3.5 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.6 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.
- 3.7 Figures provided are subject to confirmation by BHF and the parties may vary by agreeing in writing.

4. Use of Grant and Recipient Obligations

- 4.1 The Recipient agrees that it shall, in accordance with the terms of this Agreement:
- (a) Carry out the Project;
 - (b) In carrying out the Project, ensure that the Key Project Aims, as set out in the Project Application Form (PAF), are fulfilled
 - (c) Deliver the Project Outcomes, as set out in the PAF, by the end of the Project; and
 - (d) Use the indicators set out in the PAF to assess the success of the Project in satisfying the Project Aims and Project Outcomes.
- 4.2 The Recipient agrees that it shall use the Grant solely for the delivery of the Project and the programme of work and activities set out or anticipated in the PAF, and solely in accordance with the budget to be agreed between the parties in writing which budget shall be based on the budget template set out in the PAF and finalised using the template provided by the Funder. The parties agree that no budget shall be agreed unless signed by a duly authorised officer of the Funder.
- 4.3 Where the Recipient has obtained funding from a third party in relation to its delivery of the Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the budget in Schedule 1 together with a clear description of what that funding shall be used for.
- 4.4 The Recipient shall not use the Grant to:
- (a) make any payment to members of its Governing Body;
 - (b) purchase buildings or land; or
 - (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date,
- unless this has been approved in writing by the Funder.
- 4.5 Where it is agreed that the Grant can be applied to the salary costs of those employees of Recipient that are actively engaged in the Project, the parties agree that:
- (a) The Grant shall only be applied to fund those posts specified in the PAF and grant award letter; and only for such hours as are designated for that post whether this is on a full-time or part-time basis (the "Posts");
 - (b) The recipient shall notify in writing the Funder's Programme Manager, in respect of the selection and appointment of a Recipient employee for a Post employed solely for this project and, start date and job description for the post.

- (c) Where the Recipient anticipates that any post holder funded by the grant will be absent for a period of more than three consecutive weeks, the Recipient shall notify the Funder of this as soon as possible and make appropriate arrangements to ensure that the Project proceeds without delay and without compromising standards; The role or job description of each Post, as agreed between the parties during the selection process, shall not alter without the written agreement of both parties;
- (d) Funder shall at no time act as an employer in respect of any Post or Postholder and the Recipient shall neither by act or omission do anything that would result in the Funder being deemed to be the employer of any Recipient employee or Postholder and the Recipient shall indemnify the Funder fully in this regard;
- (e) In respect of each Postholder, Recipient shall be responsible for:
 - (i) complying with all relevant laws and regulations;
 - (ii) paying all national insurance, pension or other similar contribution or levy;
 - (iii) monitoring and managing the Postholder's performance;
 - (iv) ensuring the completion of all training;
 - (v) ensuring the maintenance of any necessary or desirable status or professional body membership relevant to their Post.
- (f) A Postholder may provide treatment to a private healthcare patient as part of the Project but only on the basis that no payment is made by that patient to the Postholder or the Recipient;
- (g) Funder may provide Funder-branded clothing and apparel, a name badge and business cards to Postholders, at Funder's discretion, and Recipient shall use reasonable endeavours to ensure the same are worn or used by all Postholders whilst they carry out their activities as part of the Project;
- (h) Where a funded postholder is replaced for any reason during the Grant Period, the Recipient shall manage the replacement process on a timely basis and notify the Programme Manager once the process is resolved.
- (i) Salaries will be reimbursed at a level no higher than the grade and level awarded. Increases in salaries other than annual increments and nationally agreed pay awards will not be met by BHF. Where funding NHS staff, BHF reimburses salaries aligned to the national pay scales or recognised local pay models. BHF will not object to Institutions paying higher salaries at their own cost.

4.6 The Recipient shall use best endeavours to attend a Funder introductory meeting within three months of receiving notification of the awarded grant and in any event prior to the Commencement Date.

- 4.7 Where the Grant is used to purchase equipment or goods ("Items"), Items shall be used solely for the activities or purposes set out in the PAF. If any Items are no longer required or used as part of the Project, the Recipient may dispose of, reuse or recycle those Items subject to the prior written consent of Funder. The Recipient shall be solely responsible for the installation, storage, repair and maintenance of any Items. The Recipient shall only use grant monies for the purchase of licences for use of equipment or software where this has been agreed in the awarded budget.
- 4.8 In the event of an underspend or overspend of award monies for a given Quarter Period the Recipient shall notify the BHF in writing by completing a change Request form, such notification to include any request for (i) additional funding to complete this period, (ii) permission to carry over funds for the Grant into another Quarter Period, or other agreed period, as the case may be, and subject to clause 4.8.
- 4.9 The Recipient shall not spend any part of the Grant on the delivery of the Project after the Grant Period.
- 4.10 Should any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies are returned to the Funder or, if agreed in writing by the Funder, shall be entitled to retain the unspent monies to use for charitable purposes as agreed between the parties.
- 4.11 The parties acknowledge and agree that all and any liabilities arising during or at the end of the Project including any sick leave, maternity leave or redundancy liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient using resources other than the Grant. No additional funding shall be forthcoming from or payable by the Funder for such purposes or liabilities.
- 4.12 By approving a grant application for submission, the Recipient confirms to the best of their knowledge that there are no outstanding sanctions in place relating to bullying, harassment, research misconduct or scientific fraud against the Project Lead, or any funded Post Holder, or named project member. In accepting a grant, the Institution agrees to comply with our Policy on Bullying and Harassment set out in Schedule 2 and our Policy on Research Misconduct set out in Schedule 3.

5. Accounts and records

- 5.1 The Grant shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds.
- 5.2 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.

- 5.3 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six years following receipt of any Grant monies to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 5.4 The Recipient shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

6. Monitoring and reporting

- 6.1 The Recipient shall closely and regularly monitor the delivery and success of the Project throughout the Grant Period to ensure that the Key Project Aims and the Project Outcomes, assessed, without limitation, using the Project KPIs, are being met or are on course to be achieved to the required deadlines and that this Agreement is being adhered to.
- 6.2 The Recipient shall appoint a project lead ("Project Lead") and Project Manager ("Project Manager") for the Project as soon as is practically possible, but no later than one month from the date of this Agreement. and ensure that a suitably qualified Project Lead and Project Manager is in post and known to the Funder throughout the Grant Period
- 6.3 The Recipient shall ensure that if replaced during the course of the project, any new Project Lead and Project Manager receives a suitable hand over to undertake requirements of project and meet the terms of this agreement
- 6.4 The Recipient shall provide the Funder with a financial report (the "Financial Report") showing actual expenditure and an operational report (the "Activity Report") on its use of the Grant and delivery of the Project during the Term in such formats and frequency as agreed between the two parties during project set up. The Recipient shall provide the Funder with each such report within one month of the last day of the Period to which it relates. The Funder reserves the right to request additional reporting, in such formats as the funder may reasonably require, if deemed necessary for payment of activity.
- 6.5 Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in its Financial Reports together with details of what that funding has been used for.
- 6.6 Along with its first Quarterly Financial Report, the Recipient shall provide the Funder with a risk register and insurance review in the format provided by the Funder. The

Recipient shall address the health and safety of its staff in the risk register. The Recipient shall on request provide the Funder with such information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this agreement.

- 6.7 The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 6.8 The Recipient shall permit any person authorised by the Funder for the purpose to visit the Recipient once every Quarter Period to monitor the delivery of the Project. Where, in its reasonable opinion, the Funder considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.
- 6.9 The Recipient shall provide the Funder with a final report on completion of the Grant Period which shall confirm whether the Project has been successfully and properly completed. No final Quarterly payment under the Grant will be made unless the final report has been received and approved by BHF.
- 6.10 Recipient shall notify Funder immediately of any complaint or disciplinary procedure made in respect of any Postholder, or any complaint made in respect of a third party or contractor involved in the Project, and keep the Funder informed of the status of any investigation arising out of a complaint and the final resolution. The Funder reserves the right to suspend the Grant where any such complaint has been made.
- 6.11 The Funder may appoint external evaluators to evaluate the performance and success of the Project and in such circumstances the Recipient shall provide such assistance or information as is reasonably necessary for this evaluation to be carried out.

7. Acknowledgment and publicity

- 7.1 The Recipient shall undertake an evaluation of activities to evaluate the performance and success of the project, the findings of which shall be made available to the Funder and the broader healthcare system.
- 7.2 Failure to submit findings from this evaluation within timeframes set out during set up stage may cause BHF to terminate an existing Grant and refuse to consider further applications from the Grant Holder.

- 7.3 The Recipient shall ensure that BHF's support is acknowledged in all publications relating to the project, its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant.
- 7.4 The Recipient shall not publish any material referring to the Project or the Funder without the prior written agreement of the Funder.
- 7.5 Subject to clause 7.1, any use of the Funder's name and logo by the Recipient shall require the prior written consent of the Funder. Where express consent is given to the Recipient to use the Funder's name and logo, the Recipient shall:
- (a) Only use an approved form of the Funder's name and logo, and
 - (b) comply with all reasonable branding guidelines issued by the Funder from time to time.
- 7.6 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by the Funder.
- 7.7 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.
- 7.8 The Recipient shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Funder in its promotional and fundraising activities relating to the Project.

8. Intellectual Property Rights and Sharing Knowledge

- 8.1 BHF is committed to fighting heart and circulatory disease; its major support is in funding research. As a charity, BHF is under an obligation to ensure that the useful results of research that it funds (whether in whole or in part) are applied for the public good. In some circumstances this may be best achieved through the protection of intellectual property and commercial exploitation. BHF therefore requires all Recipients and BHF funded personnel to play an active role in considering whether the protection, management and exploitation of BHF funded Intellectual Property is an appropriate means of achieving public benefit and develop and implement strategies and procedures for the identification, protection, management and exploitation of BHF Intellectual Property. BHF is also obliged to ensure that it obtains a fair share of the fruits of any BHF funded Intellectual Property (and value arising from exploitation). All Recipients are required to co-operate in this and provide all assistance as reasonably requested by the BHF from time to time in a commercial and timely manner.
- 8.2 BHF requires the Recipient to:

- (a) notify BHF promptly in writing when Intellectual Property that may be of medical or commercial value arises from the Grant where appropriate and ensure that such Intellectual Property is protected and not published or otherwise publicly disclosed prior to protection (whilst at the same time ensuring that potential delays in publication are minimised);
 - (b) ensure that all persons in receipt of BHF funding or working on a BHF funded activity (including employees, students, visiting staff and subcontractors) are employed or retained on terms that vest in the Recipient sole and exclusive ownership of all BHF funded Intellectual Property;
 - (c) notify BHF promptly of the proposed terms of any exploitation of BHF funded Intellectual Property and provide regular and timely updates to BHF on the progress of negotiations between the Recipient and all relevant third parties regarding such terms;
 - (d) permit BHF to have reasonable and timely access to people and information who and which has any bearing on a BHF funded activity or the exploitation envisaged under this Condition 5, including the opportunity for BHF to attend meetings with all relevant stakeholders to the exploitation; and
 - (e) apply with full rigour all relevant arrangements, as may from time to time be agreed with the Recipient in connection with Intellectual Property and the exploitation thereof, and allow BHF or its nominees the right to inspect relevant books and accounts upon request to confirm that there has been an appropriate benefit sharing made in relation to any such exploitation. (The Recipient shall have the same right if any exploitation is undertaken by BHF).
- 8.3 No Intellectual Property arising from the Grant may be exploited or disposed of in any way without the prior written consent of BHF, such consent not to be unreasonably withheld. Exploitation includes use for any commercial purpose or any licence, sale, assignment, materials transfer or other transfer of rights. Before granting the consent referred to in this condition 5.3, the BHF may, if necessary, require amendments to the proposed terms of any exploitation of BHF funded Intellectual Property to ensure the chosen route and terms of any such exploitation are a fair and appropriate way of achieving the public good. As a condition of granting such consent, BHF will require the Recipient to accept the standard revenue and equity sharing terms of BHF which are in place at that time.
- 8.4 If the Recipient does not protect, manage or exploit any Intellectual Property arising out of the Grant to BHF's satisfaction, BHF shall have the right, but not a duty, to protect, manage and exploit such BHF funded Intellectual Property. If BHF decides to exercise its right, the Recipient agrees to co-operate fully and to carry out, and ensure that the BHF funded personnel, its employees and other relevant personnel under the control of the Recipient carry out, all acts required to assist BHF in such protection and exploitation.

- 8.5 The Recipient shall ensure that no agreements are entered into with any third parties including, but not limited to commercial organisations on terms inconsistent with these BHF Standard Conditions.

9. Confidentiality

- 9.1 Each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.

- 9.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:

- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
- (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
- (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

- 9.3 The Recipient may disclose the Funder's confidential information to such of its employees, agents, consultants or subcontractors as need to know it for the purpose of discharging the Recipient's obligations to the Funder. The Recipient shall ensure that its employees, agents, consultants or subcontractors to whom it discloses the Funder's confidential information comply with this clause 9.

10. Data protection

- 10.1 The parties shall comply with their obligations under applicable data protection legislation, including, as applicable, the Data Protection Act 1998 and General Data Protection Regulation ("GDPR") (or its equivalent implementing legislation). Any data protection terms in this clause 10 shall have the meaning ascribed to them by the GDPR.

- 10.2 The parties agree that the processing operations under the Agreement conform to the description set out in Schedule 3.

10.3 If you process or receive or otherwise have access to our personal data, we are the data controller and you are the data processor.

10.4 You agree that you shall:

- (a) implement and maintain appropriate technical and organisational measures to meet the requirements of applicable data protection legislation; and
- (b) comply with your obligations and the requirements set out under Article 28(3) of the GDPR.

11. Withholding, suspending and repayment of Grant

11.1 The Funder's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

- (a) the Recipient uses the Grant for purposes other than those for which they have been awarded;
- (b) the delivery of the Project does not start within 3 months of the Commencement Date and the Recipient has failed to provide the Funder with a reasonable explanation for the delay;
- (c) the Funder considers, in its sole opinion, that the Recipient has not made satisfactory progress with the delivery of the Project or that the level or nature of activity undertaken by the Recipient as part of the Project is materially different to that set out in or anticipated in the Project Application Form (PAF);
- (d) the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent or unsatisfactory manner;
- (e) the Recipient obtains duplicate funding from a third party for the Project;
- (f) the Recipient obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Project or the Funder into disrepute;
- (g) the Recipient provides the Funder with any materially misleading or inaccurate information;
- (h) the Recipient commits or committed any prohibited act;
- (i) any member of the governing body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (j) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or

dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);

- (k) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
- (l) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

11.2 Wherever under this Agreement any sum of money is recoverable from or payable by the Recipient (including any sum that the Recipient is liable to pay to the Funder in respect of any breach of this Agreement), the Funder may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Recipient under this Agreement or under any other agreement or contract with the Funder.

11.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

11.4 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.

12. Indemnity and limitation of liability

12.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may arise from the Recipient carrying out the Project, the use of the Grant or the suspension, reduction or withdrawal of the Grant. The Recipient shall indemnify the Funder, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient, or any subcontractor, under this Agreement or its obligations to third parties.

12.2 Subject to clause 12.1, and except in the case of fraud or negligence resulting in death or personal injury, the Funder's liability under this Agreement is limited to the payment of the Grant.

- 12.3 If any third party makes a claim, or notifies an intention to make a claim, against the Funder which may reasonably be considered likely to give rise to a liability under this indemnity (“**Claim**”), the Funder shall:
- (a) as soon as reasonably practicable, give written notice of the Claim to the Recipient, specifying the nature of the Claim in reasonable detail;
 - (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Recipient (such consent not to be unreasonably conditioned, withheld or delayed), provided that the Funder may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to Recipient, but without obtaining Recipient's consent) if Funder reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;
 - (c) give the Recipient access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Funder , so as to enable the Recipient and its professional advisers to examine them and to take copies (at the Recipient's expense) for the purpose of assessing the Claim; and
 - (d) subject to Recipient providing security to the Funder to the Funder's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Recipient may reasonably request to avoid, dispute, compromise or defend the Claim.
- 12.4 If a payment due from the Recipient under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Funder shall be entitled to receive from the Recipient such amounts as shall ensure that the net receipt, after tax, to the Funder in respect of the payment is the same as it would have been were the payment not subject to tax.
- 12.5 Nothing in this clause shall restrict or limit the Funder's general obligation at law to mitigate a loss which it may suffer or incur as a result of a matter that may give rise to a claim under this indemnity.
- 12.6 Nothing in this Agreement shall limit or exclude any party's liability for:
- (a) death or personal injury caused by a party's negligence or the negligence of its personnel or subcontractors; or

- (b) fraud or fraudulent misrepresentation.

12.7 The provisions of this clause 12 shall survive termination of this Agreement, however arising.

13. Warranties

13.1 The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant) throughout the Grant Period;
- (b) all work undertaken as part of the Project shall be carried out in an adequate, professional and reasonable way, and that it shall ensure appropriate and adequate supervision of any people carrying out the activities comprising the Project;
- (c) it has not committed, nor shall it commit, any prohibited act;
- (d) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such legislation, codes or recommendations;
- (e) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (f) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (g) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (h) all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (i) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- (j) it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this Agreement;
- (k) since the date of its last accounts there has been no material change in its financial position or prospects;

- (l) it is not directly or indirectly involved in the production, marketing or sale of tobacco products (other than an insignificant or de minimis part) in any country ("**Restricted Business**");
- (m) it does not derive its income (other than an insignificant or de minimis part) from acting as the main or a significant advisor or consultant to a business that produces, markets or sells tobacco products in any country ("**Restricted Activity**"); and
- (n) it does not have at the Commencement Date nor will they have during the life of this Agreement any commercial relationship with, nor sponsorship, support or other contact or arrangement with any individual, entity, organisation or brand owner that:
 - (i) is a Restricted Business; or
 - (ii) carries out any Restricted Activity; or
 - (iii) is in the Funder's reasonable opinion otherwise incompatible with its charitable heart health aims and objectives.

13.2 Any breach of clauses 13.1(l), 13.1(m) or 13.1(n) shall be a material breach of this Agreement for the purposes of clause 17.2(e).

14. Appointment of third parties

- 14.1 Recipient may appoint a third party contractor to undertake some or all of the Project subject to:
- (a) the prior written consent of Funder,
 - (b) the Recipient being accountable for the delivery of the Project at all times; and
 - (c) the application of any terms required by the Funder.

15. Insurance

- 15.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).
- 15.2 The Required Insurances referred to above include (but are not limited to):
- (a) public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from or in connection with the Project and the activities undertaken thereunder; and

- (b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from or in connection with the Project or any activities undertaken thereunder.

The Recipient shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

- 15.3 The Recipient shall ensure that any subcontractors appointed under clause 18.1 also maintain adequate insurance having regard to the obligations under this Agreement which they are contracted to fulfil.

16. Duration

- 16.1 Except where otherwise specified or implied, the terms of this Agreement shall apply from the date of this Agreement until the expiry of the Grant Period, or earlier termination of the Grant Period, or for so long as any Grant monies remain unspent by and in the possession of the Recipient, whichever is longer.

17. Termination and change of control or constitution

- 17.1 The Funder may terminate this Agreement and any Grant payments on giving the Recipient three months' written notice for any reason.
- 17.2 The Funder may terminate this Agreement and any Grant payments with immediate effect on giving the Recipient written notice if:
 - (a) any member of the Governing Body, employee, volunteer, agent or sub-contractor of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
 - (b) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
 - (c) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
 - (d) there is a material change in the control or constitution of the Recipient or its general activities relative to its control, constitution or general activities as at the Commencement Date, or the Recipient ceases to exist as a body or entity.

For the avoidance of doubt, in this clause 17.2.d, a change in the political control of the Recipient shall not constitute a change of control.

- (e) The Recipient commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so.

17.3 The Recipient shall notify the Funder of any known or contemplated material change to the status, constitution or existence of the Recipient as soon as reasonably practical.

17.4 Where the Funder terminates this Agreement for any reason other than breach on the part of the Recipient, the Funder shall pay the Recipient such part of the Grant as is reasonable taking into account the work done and the expenditure properly incurred by the Recipient up to the date of termination.

18. Subcontracting

18.1 This Agreement is personal to the Recipient and the Recipient may not, without the prior written consent of the Funder, assign, transfer, subcontract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, without the prior written consent of the Funder, transfer or pay to any other person any part of the Grant.

18.2 Where the Recipient receives the consent of the Funder to subcontract any of its obligations under this Agreement to a subcontractor, the Recipient shall not be relieved of any of its liabilities or obligations under this Agreement by entering into any subcontract and the Recipient accepts liability for the acts and omissions of any subcontractor or any member of its staff as if they were acts and omissions of the Recipient.

18.3 The parties agree and acknowledge that, in the event that the Funder terminates this Agreement pursuant to clause 17.2(d) of this Agreement, any transfer of the benefits and obligations of this Agreement to any entity or organisation that succeeds or replaces the Recipient, and any terms and conditions applying thereto, shall be at the sole discretion of the Funder.

19. Anti-bribery

19.1 The Recipient shall (and shall procure that any third party it appoints to assist pursuant to this Agreement):

- (a) comply with all applicable laws, statutes, regulations, and codes of practice relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");

- (b) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and
- (c) promptly report to the Funder any request or demand for any undue financial or other advantage of any kind received by the Recipient in connection with the performance of this Agreement.

19.2 Breach of this clause 19 shall be deemed a material breach of this Agreement for the purposes of clause 17.2(e).

20. ETHICAL CONDUCT

20.1 The Recipient shall, and shall procure that all associates and any sub-contractors appointed under clause 18.1 shall, at all times:

- (a) fully comply with the Code of Conduct;
- (b) comply with all applicable laws, statutes, regulations and codes of practice relating to anti-bribery and anti-corruption, including the Bribery Act 2010 (the “**Anti-bribery Requirements**”);
- (c) comply with all applicable laws, statutes, regulations and codes of practice relating to the detection and prevention of slavery and human trafficking, including the Modern Slavery Act 2015 (the “**Anti-slavery Requirements**”);
- (d) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010 and the Modern Slavery Act 2015, to ensure compliance with the Code of Practice, the Anti-bribery Requirements and the Anti-slavery Requirements and will enforce them where appropriate;
- (e) promptly report to the Funder any request or demand for any undue financial or other advantage of any kind received by the Recipient in connection with the performance of this Agreement and/or any other breach or suspected breach of the Code of Practice, the Anti-bribery Requirements or the Anti-slavery Requirements;

- 20.2 Any breach of clause 20.1 shall be a material breach of this Agreement for the purposes of clause 17.2(e).

21. Waiver

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

22. Notices

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

23. Dispute resolution

- 23.1 In the event of any complaint or dispute (which does not relate to the Funder's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Programme Manager or any other individual nominated by the Funder from time to time.
- 23.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Programme Manager or other nominated individual, as the case may be, either party may refer the matter to the Chief Executive of the Funder and the Chief Executive of the Recipient with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Funder and the Recipient.
- 23.3 In the absence of agreement under clause 23.2, the parties may seek to resolve the dispute through mediation, the courts or otherwise.

24. No partnership or agency

This Agreement shall not create any partnership or joint venture between the Funder and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

25. Joint and several liability

Where the Recipient is neither a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this Agreement.

26. Contracts (Rights of Third Parties) Act 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

27. Variation

All and any alteration, change or variation of this Agreement must be in writing and signed by both Parties.

28. Governing law

This Agreement shall 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.

29. Additional terms

29.1 Steering Group

- (a) The Recipient Project Lead shall set up the steering group (the "Steering Group") before the commencement date
- (b) The Recipient Project Lead shall convene, chair and minute a quarterly operational steering group meeting to be attended by the Project Lead, HSEL or Clinical Lead and other appropriate attendees from Funder and the Recipient organisation.
- (c) Recipient shall ensure that the membership of the Steering Group shall include the key decision makers from the Funder and Recipient who have the authority to influence the long term sustainability of desired Project outcomes.
- (d) Recipient shall convene quarterly Steering Group meetings to take place within 7 days of each Quarter Date during the Term. Steering Group meetings shall be scheduled to take place during normal office hours on a working day.
- (e) The parties agree that a key function of the Steering Group shall be to track the Project's performance and to make any required operational changes to ensure that the Project outcomes are achieved and risks, issues and mitigations are identified.

Health Innovation Fund Grant Agreement

This document has been executed as an Agreement and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1

The Project Application Form (“PAF”)

As submitted by the Recipient to the Funder in support of its Grant application

Schedule 2
Payment Schedule

SCHEDULE 3

Processing of personal data

Description of processing activities.

1. Duration of the processing

Not applicable as no personal data will be transferred to BHF.

2. Nature and purpose of the processing

Not applicable as no personal data will be transferred to BHF.

3. Type of personal data

Not applicable as no personal data will be transferred to BHF.

4. Categories of data subjects

Not applicable as no personal data will be transferred to BHF.

Health Innovation Fund Grant Agreement

This Agreement has been entered into on the date stated at the beginning of it.

SIGNED by XX for and on behalf)
of xx)
)

Authorised Representative

SIGNED by for)
and on behalf of **British Heart**)
Foundation)

Director / Authorised Representative