



## Terms and Conditions

This agreement contains our Terms and Conditions and is valid from 26<sup>th</sup> April 2021 to 31<sup>st</sup> March 2022.

### PARTIES

- (1) **Cycling UK** registered charity number 1147607 in England and Wales and in Scotland SC042541, company number 25185, whose registered office is at Parklands, Railton Road, Guildford, Surrey, GU2 9JX; AND
- (2) **Grant Recipient:** organisation applying for Shift grant funding

### BACKGROUND

- (A) Cycling UK is seeking to partner with organisations who are able to contribute toward the outcomes for Shift (the **Scheme**) as set out in Schedule 2 (Delivery Plan and Evaluation Requirements) of this agreement. By this agreement Cycling UK agrees to provide funding in accordance with Schedule 1 (Grant Payment and Expenditure).
- (B) This agreement is intended to set out the responsibilities of the parties and ensure the Funds are managed appropriately and used properly and for the purposes for which they are intended.

### AGREED TERMS

#### 1. DEFINITIONS

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

**Beneficiary:** means any benefactor, person, customer or client from the same or different households, who participated in activities via this Scheme.

**Confidential Information:** all information of a confidential nature concerning the trade secrets or business dealings, Intellectual Property Rights, methods of business, clients, members, market information, transactions, plans or affairs of a party and any information (whether encrypted, in copy form or in any media) which by its nature the recipient ought to reasonably conclude is confidential information of the other party, but no information that is: in the public domain (other than by breach of this agreement); stock in trade or readily ascertainable by persons in the trade; or received lawfully by the recipient from a third party on a non-confidential basis shall be deemed information of a confidential nature/confidential information of the other party.

**Cycle:** means any pedal cycle, bicycle or bike, any child's cycle, any adapted cycle, any electric assisted cycles.

**Data:** means all personal details collected from beneficiaries who have participated in activities via this Scheme.

**Delivery:** means any cycle repair undertaken, any cycle safety check given, an organisation's participation in the programme.

**Funds:** sum of money to be provided by the Grant Funder to the Grant Recipient for the purposes of developing the Scheme in accordance with this agreement.

**GDPR:** means the General Data Protection Regulation 2016/679

**Grant Period:** the period for which the Funds are awarded and within which the Funds must be spent by the Recipient.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights (including moral rights), trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Personal Data/Sensitive Personal Data /Data Subjects shall** have the same meanings as set out in the **General Data Protection Regulation (GDPR) (EU) (2016/679)** or any successor legislation.

**Programme:** means the Shift programme.

**Scheme:** Shift

The background and the schedule shall form part of this agreement.

## 2. CYCLING UK'S OBLIGATIONS

- 2.1 Cycling UK shall make reasonable endeavours to pay the Funds to the Grant Recipient in accordance with Schedule 1 (Grant Payment and Expenditure), subject to the necessary Funds being available when payments are due, and the Grant Recipient agrees and accepts that payments of the Funds can only be made to the extent that Cycling UK has the available Funds.
- 2.2 Cycling UK shall be responsible for notifying the Grant Recipient as soon as reasonably practical of any significant changes to the Scheme that may have a direct impact on the availability of Funds or the ability of Cycling UK or Grant Recipient to perform their respective obligations under this agreement.

## 3. GRANT RECIPIENT'S OBLIGATIONS

- 3.1 The Grant Recipient shall co-operate with Cycling UK in all matters relating to the performance of the Grant Recipient's obligations under this agreement and shall act with all due skill and diligence in the performance of its obligations.
- 3.2 The Grant Recipient shall allocate the Funds to the Scheme in accordance with this agreement.
- 3.3 The Grant Recipient shall use the Funds exclusively for the purposes of the Scheme and Funds shall not be used for any other purpose.
- 3.4 The Grant Recipient shall immediately report to Cycling UK any loss of or abuse of Funds for any reason.
- 3.5 The Grant Recipient shall promptly repay to Cycling UK any money incorrectly paid to it either as a result of an administrative error or otherwise.

- 3.6 The Grant Recipient agrees that as a condition of receiving any Funds the Grant Recipient shall:
- (a) warrant that the Grant shall be used by the Grant Recipient solely for the delivery of the Scheme;
  - (b) make all reasonable endeavours to spend the Funds in accordance with any delivery plan and within the Grant Period, and not spend any part of the Funds on the delivery of the Scheme after the Grant Period has ended. Should any part of the Funds remain unspent at the end of the Grant Period, the Grant Recipient shall ensure that any unspent monies are returned promptly to Cycling UK;
  - (c) ensure that any liabilities arising at the end of the Scheme shall be the responsibility of and shall be managed and paid for by the Grant Recipient;
  - (d) provide to Cycling UK all information, reports, statistics, study results and data reasonably requested by Cycling UK to track and assess progress and performance of the Scheme;
  - (e) acknowledge and agree that Funds are subject to availability and where such Funds cease to be available they may not be capable of being paid in part or full and Cycling UK shall not be responsible for any failure to pay Funds in any such circumstances; and
  - (f) grant an unlimited, perpetual, royalty free, irrevocable, transferable, world-wide licence to the Cycling UK to use Scheme reports/study results.
  - (g) warrant that Funds are not used to support activity intended to influence or attempt to influence Parliament, Government or political parties, or attempt to influence the awarding or renewal of contract or grant agreements or attempt to influence legislative or regulatory action.

#### **4. ACCOUNTS, AUDIT, AND RECORDS**

- 4.1 The Grant Recipient shall keep separate, accurate and up-to-date accounts and records of all payments-in and payments-out of the Funds received by it.
- 4.2 The Grant Recipient shall keep all forms of invoice/order, receipt, account transactions or statements and any other relevant documents relating to the Funds held, for a period of at least six (6) years following expiry or termination of this agreement (howsoever arising).
- 4.3 Cycling UK shall have the right to review, at any time, the Grant Recipient's books, accounts and records that relate to the management and holding of the Funds, and shall have the right to take copies of all such books, accounts and records.
- 4.4 The Grant Recipient shall comply with all statutory requirements as regards tax, accounts, audit or examination of accounts, annual reports and annual returns applicable to itself
- 4.5 We cannot pay grant funds into a personal bank account. If you are applying for a grant you will need to access an organisational or business bank account. If you are a sole trader without a business account, at our discretion we may request additional information to verify your trading status.
- 4.6 All grant recipients may be asked, at Cycling UK's discretion, for additional information to authenticate their trading status and/ or registration.

- 4.7 Organisations must be registered and active in Scotland.
- 4.8 Organisations who are providing activities on a regular basis, as main business or for the primary income, must have appropriate public liability insurance in place. Cycling UK cannot be held liable for, including but not limited to, incidents, accidents, harm, damages, additional costs or any consequences, whether direct or indirect, that have come about through participating as a partner to deliver the programme.
- 4.9 In circumstances whereby Grant Recipients suffer losses or damages arising out of or in relation to delivering the programme or adhering to this agreement, Cycling UK accepts no liability and will not reimburse for any losses or damages.
- 5. MONITORING, MANAGEMENT AND REPORTING -**
- 5.1 In conjunction with the Cycling UK Research and Evaluation Manager, the Grant Recipient shall monitor the delivery and success of the activities it has allocated Funds to throughout the Grant Period to ensure that the aims and objectives of the Scheme are being met and that this agreement is being adhered to.
- 5.2 The Grant Recipient shall provide the Grant Funder with evaluation data as outlined in the Delivery Plan and Evaluation Requirements (Schedule 2).
- 5.3 The Grant Recipient shall on request provide Cycling UK with such further information, explanations and documents as Cycling UK may reasonably require in order for it to establish that the Funds are being used properly and in a timely fashion in accordance with this agreement.
- 5.4 The Grant Recipient shall permit any person authorised by Cycling UK such reasonable access at any time to its employees, agents, premises, facilities, books and records, for the purpose of inspecting, discussing, monitoring and evaluating the Grant Recipient's fulfilment of the conditions of this agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 6. PUBLICITY**
- 6.1 The Grant Recipient shall acknowledge the role of Cycling UK and the Scottish Government funded initiative in any materials that refer to the Scheme and in any written or spoken public presentations about the Scheme as it relates to this agreement. Such acknowledgements shall include only the supplied electronic marketing pack including Shift branded imagery in electronic format, in printed publications or on promotional materials. The use of all publicity materials, supplied or otherwise, must conform to the supplied branding guidelines
- 6.2 The Grant Recipient agrees to participate in and co-operate with promotional activities relating to the Scheme that may be instigated and/or organised by Cycling UK.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1 Cycling UK and the Grant Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, know-how and any other Intellectual Property Rights whatsoever owned by either Cycling UK or the Grant Recipient before the date of this agreement, or developed by either party during the performance of their respective obligations in this agreement, shall remain the property of that party.
- 7.2 The parties agree that Grant Recipient shall be entitled to keep all Intellectual Property Rights owned by them prior to the commencement of the Scheme and shall retain ownership of all Intellectual Property Rights arising in them by their implementation of the Scheme.
- 7.3 Where Cycling UK has provided the Grant Recipient with any of its Intellectual Property Rights for use in connection with the Scheme (including without limitation its name and logo), the Grant Recipient shall, on termination of this agreement, cease to use such Intellectual Property Rights immediately.
- 7.4 Unless expressly provided by this agreement Cycling UK does not transfer any of its Intellectual Property Rights to the Grant Recipient or give any licence to use its Intellectual Property Rights, subject to any further written agreement between the parties.
- 7.5 Each party shall immediately give written notice to the other party of any actual, threatened or suspected infringement or unauthorised use of any party's Intellectual Property Rights under or in connection with this agreement.
- 7.6 No party to the agreement shall take any action that might invalidate the Intellectual Property Rights owned by or licensed to the other party.
- 7.7 The provisions of this clause shall survive expiry or termination of the agreement.

## **8. CONFIDENTIALITY**

- 8.1 Each party shall during the term of this agreement and for a period of four (4) years thereafter keep secure, secret and confidential all Confidential Information disclosed to it by the other party as a result of this agreement. Each Party shall not disclose the same to any person save to the extent necessary to exercise its rights or perform its obligations in accordance with the terms of this agreement or as otherwise may be agreed in writing. Where disclosing such Confidential Information each party shall be responsible for ensuring the receiving parties are notified of the confidential nature of the information and bound by appropriate terms of confidentiality.
- 8.2 The provisions of this clause shall survive expiry or termination of the agreement.

## **9. DATA PROTECTION AND THE GENERAL DATA PROTECTION REGULATIONS (GDPR)**

- 9.1 The Grant Recipient shall always comply with all data protection legislation applicable in the UK from time to time

- (a) The Grant Recipient warrants that it shall under this agreement process only on documented instructions by Cycling UK, including regarding international transfers (unless, subject to certain restrictions, is legally required to transfer to a third country or international organisation).assist the Grant Funder in responding to requests from individuals (data subjects) exercising their rights;

9.2 Notwithstanding any other remedies available to Cycling UK, the Grant Recipient shall fully indemnify Cycling UK as a result of any such breach of the general Data Protection Regulations (GDPR), by the Grant Recipient or any other party used by the Grant Recipient in its performance of the agreement that results in Cycling UK suffering fines, loss or damages.

## **10. WITHHOLDING, SUSPENDING AND REPAYMENT OF FUNDS**

10.1 Cycling UK's intention is that the Funds will be paid to the Grant Recipient in full. However, without prejudice to Cycling UK's other rights and remedies, if the Grant Recipient fails to comply with any of its obligations in the Grant Agreement the Authority may in preference to the standard notice period set out in paragraph 15.1 and at its discretion, reduce, suspend, or terminate payments of Funds, or require any part or all of the Funds to be repaid. The Authority may exercise this right if any of the following events occurs:

- (a) the Grant Recipient uses the Funds for purposes other than those for which they have been provided;
- (b) Cycling UK reasonably considers that the Grant Recipient has not made satisfactory progress on the delivery of the Scheme;
- (c) Cycling UK reasonably believes that the activities of the Grant Recipient may bring the reputation of the Scheme or Cycling UK into disrepute;
- (d) the Grant Recipient provides Cycling UK with any materially misleading or intentionally inaccurate information;
- (e) the Grant Recipient fails to perform its obligations under this agreement in accordance with any applicable statutory requirements; or
- (f) there is any change of control (within the meaning of section 1124 of the Corporation Tax Act 2010)

10.2 Should the Grant Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective performance of this agreement it will notify Cycling UK as soon as possible so that, if possible, and without creating any legal obligation, the Grant Funder will have an opportunity to provide assistance in resolving the problem or to take any necessary action in the circumstances.

10.3 If exceptional circumstances should arise during the agreement period, both parties reserve the right, in consultation with the other party, to take appropriate action and to terminate the agreement before the expiry of the current period if either party considers such a step necessary

## **11. LIMITATION OF LIABILITY**

11.1 Nothing in this agreement shall limit or exclude the parties' liability for:

- (a) death or personal injury resulting from a party's negligence.

- (b) fraud or fraudulent misrepresentation; or
  - (c) anything for which the parties cannot legally limit or exclude or attempt to limit or exclude their liability.
- 11.2 Subject to clause 11.1 Cycling UK's total aggregate liability to Grant Recipient for any damages, costs, claims or expenses arising out of the performance (or non-performance) by Cycling UK, its employees, agents, consultants or subcontractors of its obligations under the agreement (whether by virtue of negligence, breach of statutory duty or otherwise) shall be limited to £10,000.
- 11.3 Subject to clauses 11.1, the Grant Recipient's total aggregate liability to Cycling UK for any damages, costs, claims or expenses arising out of the performance (or non-performance) by the Grant Recipient, its employees, agents, consultants or subcontractors of its obligations under this agreement (whether by virtue of negligence, breach of statutory duty or otherwise) shall be limited to £10,000.
- 11.4 Subject to clause 11.1 the Grant Funder shall not be held responsible or liable to the Grant Recipient for any:
  - (a) loss of opportunity;
  - (b) loss or corruption of data;
  - (c) depletion of goodwill or loss of reputation; or
  - (d) any special, indirect or consequential losses, costs, damages, charges or expenses.
- 11.5 Cycling UK accepts no liability for any consequences, whether direct or indirect, that may come about from the Grant Recipient participating in the Scheme or the use or misuse of Funds.
- 11.6 The provisions of this clause shall survive termination of the agreement.

## **12. WARRANTIES**

The Grant Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to perform its obligations under this agreement (assuming due receipt of the Funds);
- (b) it shall always comply with all relevant legislation, including the Bribery Act 2010, Health and Safety at Work Act 1974 and shall notify Cycling UK immediately of any significant departure from such legislation, codes or recommendations;
- (c) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (d) it has and shall keep in place systems to deal with the prevention of corruption, fraud and/or administrative malfunction; and
- (e) 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 this agreement.

### **13. INSURANCE**

- 13.1 The Grant 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 Grant Recipient, arising out of the Grant Recipient's performance of this agreement.
- 13.2 The Grant Recipient shall (on request) supply to the Grant Funder a copy of such insurance policies as are required under this clause 13 and evidence that the relevant premiums have been paid.
- 13.3 Organisations MUST have an appropriate public liability insurance policy to cover the activities funded by the Scheme and be able to provide Cycling UK with a valid copy of the policy if requested. The validity of the policy must be at least until the Scheme ends on 31st March 2022..

### **14. DURATION**

1. The terms and conditions of this agreement shall apply from the date of the agreement and remain in full force and effect until 31<sup>st</sup> March 2022.
2. The agreement may be extended for a period of up to six (6) months at the sole discretion of Cycling UK, in advance of the expiry of the initial term. Any extension to the agreement will be based on a time only extension granted in exceptional circumstances and where an unforeseen and evidenced delay has occurred to the Scheme.

### **15. TERMINATION**

- 15.1 Cycling UK may terminate this agreement (and any Funds payments) without liability at any time on giving the Grant Recipient three (3) months' written notice should it be required to do so by financial restraints or for any other reason.
- 15.2 Cycling UK may terminate this agreement forthwith and without further liability, if:
- (a) the Grant Recipient ceases to operate for any reason;
  - (b) the Grant Recipient becomes insolvent, 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
  - (c) the Grant Recipient fails to comply with any of the terms and conditions set out in this agreement and fails to rectify any such failure within thirty (30) days of receiving written notice detailing the failure.



## **16. EFFECTS OF TERMINATION**

16.1 Unless otherwise agreed in writing by the parties, on expiry or termination of this agreement for any reason:

- (a) each party shall promptly return the other's Confidential Information it then holds (and all copies of such Confidential Information in whatever form or media held). Each party shall certify to the other in writing that they have not retained any copies of Confidential Information;
- (b) the Grant Recipient shall cease all work under the agreement and promptly repay to the Cycling UK any Funds still held by the Grant Recipient at the effective date of expiry or termination;
- (c) the accrued rights and liabilities of the parties as at termination and any clauses expressly or impliedly intended to survive, shall continue in full force and effect; and
- (d) all rights and licences to use any licensed materials (including the trade-marks or branding of Cycling UK) shall cease.

16.2 The provisions of this clause shall survive termination of the agreement.

## **17. ASSIGNMENT**

The Grant Recipient may not, without the prior written consent of Cycling UK, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this agreement.

## **18. 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, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-Business Day or after 5.00 pm on any Business Day they shall be deemed received on the next Business Day) and if mailed all such communications shall be deemed to have been given and received on the second Business Day following such mailing.

## **19. NO PARTNERSHIP OR AGENCY**

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

## **20. THIRD PARTY RIGHTS**

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.

**21. MISCELLANEOUS**

- 21.1 If any court or competent authority finds that any provision of this agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected. If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original intention.
- 21.2 Each party agrees to do or procure to be done all such further acts and execute or procure the execution of all such documents as the other may from time to time reasonably require for the purpose of giving the other the full benefit of the provisions of this agreement.
- 21.3 Each of the parties acknowledge that, in entering into this agreement, they do not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this agreement. Each of the parties agree that their only remedies in respect of those representations and warranties that are set out in this agreement (whether made innocently or negligently) shall be for breach of contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 21.4 This agreement constitutes the entire agreement between the parties and supersedes all previous drafts, heads of terms, arrangements and understandings between the parties, whether written or oral, relating to the subject matter of this agreement.
- 21.5 No variation of this agreement shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.
- 21.6 The agreement may be executed and delivered in any number of counterparts, each of which is an original and which, together, have the same effect as if each party had signed the same document.

**22. GOVERNING LAW**

- 22.1 This agreement shall be governed by and construed in accordance with the law of Scotland and the parties irrevocably submit to the exclusive jurisdiction of Scottish Courts.
- 22.2 The provisions of this clause shall survive expiry or termination of the 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 – Grant Payment and Expenditure

### Payment Schedule

Approved grants will be paid via BACS transfer.

### Eligible Expenditure

We are offering grants of up to £1500 for you to either:

- engage with your community to deliver activities and services which will increase the number of everyday journeys undertaken by bike rather than car, public transport or taxi; and/or
- trial innovative ideas and services for business delivery

The costs for the following activities are covered by the scheme:

- purchase accessories of your organisation e.g. helmets, locks, panniers, lights
- training for staff/volunteers to be Cycle Ride Leaders
- security bike marking sessions
- Dr Bike/"M" check sessions
- Basic bike maintenance sessions
- Essential cycling skills sessions
- 1:1/small group confidence or route orientation sessions
- Cycle demonstration or try out sessions
- Hire or loan of cycles
- Other activities, as specified in your application form, for example Community Events in association with other Shift activities

## Schedule 2– Delivery Plan and Evaluation Requirements

### Delivery Plan

You agree to deliver the Scheme as documented on your submitted application; or to deliver the Scheme as documented in any additional information provided after your application was submitted; or to deliver the Scheme as documented in any editions or alterations after your application was submitted.

**Risk Assessments** - Cycling UK recommends that a risk assessment is undertaken for all group and bike maintenance activities.

### **Adhering to Covid-19 Guidance**

Due to the risks associated with COVID-19 Scottish Government have outlined detailed guidance for businesses to adhere to. More information on the guidance in Scotland can be found on the Scottish Government website: <https://www.gov.scot/collections/coronavirus-covid-19-guidance/>

### Evaluation Requirements

The Grant Recipient will need to complete the following 2-point process.

1. For each activity, the Grant Recipient (or persons responsible for data collection) must enter the following details on the online Participant & Event Record Form.

**Participant Records:**

- **Date of attendance**
- **Type of event** e.g. Dr Bike, led ride
- **Participant postcode** (full 6- or 7-digit postcode wherever possible)
- **Participant email address** if they are happy to share it.

**Event Records:**

- **Date of event**
- **Type of event**
- **Number of participants**

The Grant Recipient (or persons responsible for data collection) should explain to activity participants:

- By giving their email address, the participant will receive a survey via email from Cycling UK asking about the impact of the activities
- This information is important so that we can understand the benefit this scheme has in supporting cycling across Scotland.
- We are not tracking individuals and all data will be anonymized. We will never share anyone's name or identifiable details publicly.
- We won't send them any other marketing information or use their contact information for anything beyond evaluation and monitoring of the Shift programme
- If someone doesn't want to give an email address or doesn't have an email address, they are still welcome to participate in Shift funded activities.

2. Cycling UK will email the Grant Recipient an evaluation survey via email after your funding has been spent. You are required to complete this survey as part of our funding agreement.