



Terms and Conditions

TERMS AND CONDITIONS OF WEST OF MORECAMBE LTD (EAST IRISH SEA FUND) ('Terms')

BACKGROUND

- (A) The Terms set out the terms and conditions on which the Funder makes the Grant to the Recipient.
- (B) The Terms are intended to ensure that the Grant is used for the purpose for which it is awarded.

1. Definitions

In these Terms the following terms shall have the following meanings:

- "Bribery Act";** the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
- "Funder"** West of Morecambe Fisheries Limited (8447980) a company incorporated in England and Wales whose registered office is at 20-22 Bedford Row, London WC1R 4JS.
- "Grant";** the amount decided at the sole discretion of the Funder to be paid to the Recipient for the purpose of the Project in accordance with these Terms.
- "Intellectual Property Rights";** all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing however arising for their full term and any renewals and extensions.
- "Prohibited Act";** means:
- (a) offering, giving or agreeing to give to any servant of the Funder any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of these Terms or any other contract with the Funder; or
 - (ii) showing or not showing favour or disfavour to any person in relation to these Terms or any other contract with the Funder;
 - (b) entering into a contract with the Funder where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;
 - (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to these Terms or any other contract with

the Funder; or

- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

"Project"; the purpose for which the Grant shall be used by the Recipient as set out on the Recipient's application form and approved by the Funder and which shall comply with the general aims of the Funder.

"Recipient" the individual(s) or organisation chosen according to the Funder's selection process to receive the Grant.

2. Purpose of Grant

- 2.1 The Recipient shall use the Grant only for the delivery of the Project and in accordance with these Terms. 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.

3. Payment of Grant

- 3.1 Subject to clause 9, the Funder shall pay the Grant to the Recipient, subject to the necessary funds being available when payment falls due. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder has available funds.
- 3.2 No Grant shall be paid unless and until the Funder is satisfied that such payment will be used for proper expenditure in the delivery of the Project.
- 3.3 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.4 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.

4. Use of Grant

- 4.1 The Grant shall be used by the Recipient for the delivery of the Project.
- 4.2 Should any part of the Grant remain unspent, 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.

5. Accounts and records

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.

6. Monitoring and reporting

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.

7. Acknowledgment and publicity

7.1 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.

7.2 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.

7.3 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 activities relating to the Project.

8. Intellectual Property Rights

Where the Funder has provided the Recipient with any of its Intellectual Property Rights or that of any third party for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of by either party, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the Funder.

9. Withholding, suspending and repayment of Grant

9.1 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:

9.1.1 the Recipient uses the Grant for purposes other than those for which they have been awarded;

9.1.2 the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent manner;

9.1.3 the Recipient obtains duplicate funding from a third party for the Project;

9.1.4 the Recipient provides the Funder with any materially misleading or inaccurate information;

9.1.5 the Recipient commits or committed a Prohibited Act;

9.1.6 any member of the Recipient, including employees or volunteers 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;

9.1.7 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

9.1.8 the Recipient fails to comply with any of these Terms and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

10. Anti-discrimination

- 10.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 10.2 The Recipient shall take all reasonable steps to secure the observance of clause 10.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

11. Human rights

- 11.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of these Terms as if the Recipient were a public body (as defined in the Human Rights Act 1998).
- 11.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

12. Limitation of liability

- 12.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant. The Recipient shall indemnify and hold harmless 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 under these Terms or its obligations to third parties.
- 12.2 Subject to clause 12.1, the Funder's liability under these Terms is limited to the payment of the Grant.

13. Warranties

- 13.1 The Recipient warrants, undertakes and agrees that:
- 13.1.1 it has not committed, nor shall it commit, any Prohibited Act;
- 13.1.2 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;
- 13.1.3 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction; and
- 13.1.4 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 these Terms.

14. Assignment

The Recipient may not, without the prior written consent of the Funder, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of rights under these Terms or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant.

15. Waiver

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

16. Dispute resolution

16.1 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 under these Terms should first be referred for resolution to the Funder or any other individual nominated by the Funder from time to time.

16.2 In the absence of agreement under clause 16.1 after 28 days the parties shall seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

17. No partnership or agency

These Terms 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.

18. Joint and several liability

Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who take recipient of funding on behalf of the Recipient subject to these Terms shall be jointly and severally liable for the Recipient's obligations and liabilities arising under these Terms.

19. Contracts (Rights of Third Parties) Act 1999

These Terms do not and are not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

20. Governing law

These Terms 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.