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Standard Terms

**1 Interpretation**

1.1 In this Agreement:

**“British Council Entities”** means the subsidiary companies and other organisations Controlled by the British Council from time to time, and any organisation which Controls the British Council (the **“Controlling Entity”**) as well as any other organisations Controlled by the Controlling Entity from time to time;

**“British Council Requirements”** means the instructions, requirements, policies, codes of conduct, guidelines, forms and other documents notified to the Recipient in writing or set out on the British Council’s website at <https://www.britishcouncil.org/partner/international-development/jobs/policies-consultants> or such other web address as may be notified to the Recipient from time to time (as such documents may be amended, updated or supplemented from time to time during the Term);

**“Code”** means the Department of Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the Freedom of Information Act 2000 (issued under section 45 of that Act) (November 2004) as may be updated or re-issued from time to time and any other relevant codes of practice published by the Department of Constitutional Affairs or its successor bodies;

**“Confidential Information”** means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, developments, trade secrets, Intellectual Property Rights, know-how, personnel, and customers of the British Council or the Recipient (as the case may be) and all personal data and special categories of personal data within the meaning of the Data Protection Legislation;

**“Control”** means the ability to direct the affairs of another party whether by virtue of the ownership of shares, contract or otherwise (and **“Controlled”** shall be construed accordingly);

**“Environmental Information Regulations”** means the Environmental Information Regulations 2004;

**“Equality Legislation”** means any and all legislation, applicable guidance and statutory codes of practice relating to diversity, equality, non-discrimination and human rights as may be in force from time to time in England and Wales or in any other territory in which, or in respect of which, the Project relates;

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

**“Force Majeure Event”** means an act, event, omission or accident beyond the reasonable control of the affected party which was not reasonably foreseeable and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that party, including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, epidemic, pandemic or other spread of infectious disease or the imposition of any measures to prevent the spread of disease, nuclear, chemical or biological contamination, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm;

**“Funder Agreement”** means the agreement (if any) between the Funder (if any) and the British Council relating to the provision of the funding out of which the Grant is made;

**“Funder Requirements”** means the specific requirements of the Funder (if any), including the terms of the Funder Agreement, notified to the Recipient in writing (including, without limitation, by means of email or any website or extranet);

**“Information Disclosure Requirements”** means the requirements to disclose information under:

- (a) the Code;
- (b) the FOIA; and
- (c) the Environmental Information Regulations;

**“Intellectual Property Rights”** means any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trade marks, service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all applications (or rights to apply) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**“Recipient’s Team”** means the Recipient and, where applicable, any Relevant Person, and all other employees, consultants, agents and sub-contractors and any other person, organisation, company, or other third-party representatives which the Recipient engages in any way in relation to the Project;

**“Relevant Person”** means any individual employed or engaged by the Recipient and involved in the Project, or any agent or contractor or sub-contractor of the Recipient who is involved in the Project; and

**“Request for Information”** means a request for information (as defined in FOIA) relating to or connected with this Agreement or the British Council more generally or any apparent request for such information under the Information Disclosure Requirements.

## 1.2 In this Agreement:

1.2.1 any headings in this Agreement shall not affect the interpretation of this Agreement;

- 1.2.2 a reference to a statute or statutory provision is (unless otherwise stated) a reference to the applicable UK statute as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;
- 1.2.3 where the words “include(s)” or “including” are used in this Agreement, they are deemed to have the words “without limitation” following them, and are illustrative and shall not limit the sense of the words preceding them;
- 1.2.4 without prejudice to clause 1.2.5, except where the context requires otherwise, references to:
- (i) services being provided to, or other activities being provided for, the British Council;
  - (ii) any benefits, warranties, indemnities, rights and/or licences granted or provided to the British Council; and
  - (iii) the business, operations, customers, assets, Intellectual Property Rights, agreements or other property of the British Council,
- shall be deemed to be references to such services, activities, benefits, warranties, indemnities, rights and/or licences being provided to, or property belonging to, each of the British Council and the British Council Entities and this Agreement is intended to be enforceable by each of the British Council Entities; and
- 1.2.5 obligations of the British Council shall not be interpreted as obligations of any of the British Council Entities.

## **2 Recipient’s obligations**

- 2.1 The Recipient warrants that the information given to the British Council in connection with the Project Proposal is true and acknowledges that the British Council awards the Grant on this basis.
- 2.2 The Recipient shall apply the Grant solely and exclusively for the purposes of funding the Project. The Recipient agrees to reimburse the British Council in full if the Grant is not used for this purpose.
- 2.3 The Recipient confirms that the Project and the award of the Grant to it shall not breach any applicable State subsidy control rules.
- 2.4 The Recipient shall notify the British Council in writing of any amount of other funding including other public sector funding (if any) and/or guarantees secured by or offered to it for any purpose whatsoever as soon as it is approved.
- 2.5 The Recipient shall deliver the Project with (i) reasonable skill and care and to the highest professional standards (ii) in compliance at all times with the terms of this Agreement (and, in particular, the Special Terms (Schedule 1) and the Project Proposal (Schedule 2)), the reasonable instructions of the British Council and all applicable regulations and legislation in

force from time to time. The Recipient shall allocate sufficient resources to enable it to comply with its obligations under this Agreement.

- 2.6 The Recipient shall comply with, and complete and return any forms or reports from time to time required by, the British Council Requirements and/or the Eligibility Criteria.
- 2.7 The Recipient shall comply with the Funder Requirements (if any) and shall do nothing to put the British Council in breach of the Funder Requirements (if any).
- 2.8 The Recipient shall not at any time do or say anything which damages or which could reasonably be expected to damage the interests or reputation of the British Council or the Funder (if any) or their respective officers, employees, agents or contractors.
- 2.9 The Recipient shall keep full and proper accounts and records of income and expenditure with regard to the Project and the British Council shall be entitled to receive copies of all information reasonably required on request (including, without limitation, bank statements, receipts and vouchers for expenditure incurred) and to audit the administration by the Recipient of the Grant and the Project.
- 2.10 Where the British Council and/or the Funder requires more information or considers that any report and/or other documentation is not acceptable, or where the British Council and/or the Funder believes that the performance of the activity undertaken is not in accordance with this Agreement, the British Council shall provide sufficient details to the Recipient to enable it to rectify the situation. The British Council reserves the right to suspend or terminate (as the case may be) the Project and the Agreement in the event that the Recipient is not able to rectify the situation to the satisfaction of the British Council (and/or the Funder).
- 2.11 The Recipient undertakes to work with the British Council to monitor and evaluate progress made towards achieving the Project through regular communication, face to face meetings if required and progress reports and agrees to provide any relevant information related to the activities detailed in the Project Proposal as and when requested.
- 2.12 The Recipient shall comply with all applicable legislation and codes of practice relating to child protection and the promotion of the welfare of children in force in England and Wales and any other territory in which the Project takes place or to which the Project relates.
- 2.13 The Recipient shall use its reasonable endeavours to ensure that it does not become involved in any conflict of interests between the interests of the British Council and/or the Funder and the interests of the Recipient itself or any client of the Recipient. The Recipient shall notify the British Council in writing as soon as is practically possible of any potential conflict of interests and shall follow the British Council's reasonable instructions to avoid, or bring to an end, any conflict of interests. In the event that a conflict of interests does arise, the British Council shall be entitled to terminate this Agreement on immediate written notice.

### **3 Capital Assets**

- 3.1 A "**Capital Asset**" means any item of equipment or other asset costing £500 (five hundred pounds) (excluding VAT) or more which, on the date of purchase, has a useful life of more than one year and is purchased wholly or partly out of the Grant.

- 3.2 The Recipient shall obtain the prior written consent of the British Council (and, where applicable, the Funder) before purchasing any Capital Asset.
- 3.3 Subject to clause 3.2, the Recipient shall advise the British Council in writing of the purchase of any Capital Asset and shall advise the British Council of its date of purchase, its purchase price (excluding VAT), its location and details of anyone else having an interest in the Capital Asset.
- 3.4 The Recipient shall not dispose of any Capital Asset without the British Council's prior written consent. The British Council may require the sale of any Capital Asset at open market value and may also require payment to the British Council of a share of the net proceeds of sale in proportion to the amount of Grant contributed to its purchase.

#### **4 Withholding, Reduction and Repayment of the Grant**

- 4.1 The British Council may (and may be obliged by the Funder to) reduce, withhold or claim a repayment (in full or in part) of the Grant if:
  - 4.1.1 the Recipient fails to comply with the terms of this Agreement;
  - 4.1.2 the Recipient breaches the warranty in clause 4.2 of Schedule 1;
  - 4.1.3 the Recipient makes a change to the Project which the British Council and/or the Funder has not approved;
  - 4.1.4 the Recipient attempts to dispose of a Capital Asset without the British Council's prior written consent;
  - 4.1.5 there is any financial irregularity or fraud in the operation of the Project;
  - 4.1.6 there has been any overpayment of the Grant; or
  - 4.1.7 the Funder reduces the amount of funding available, withdraws funding or demands repayment of any part of the Grant.
- 4.2 The British Council will notify the Recipient in writing of any decision it (or the Funder) takes to reduce, withhold or claim a repayment of the Grant or any part of it and will, if appropriate, arrange a meeting with the Recipient to discuss the consequences of such decision.
- 4.3 If the British Council demands repayment of the Grant or any part of it, the Recipient shall make repayment within 30 days.
- 4.4 The Grant is fully inclusive of any and all taxes that may be payable in connection with the award, receipt or use of the Grant. The Recipient will deduct any such taxes out of the Grant and in no circumstances shall the British Council be required to pay any additional sums in respect of such taxes. In the event that the British Council is required by the laws or regulations of any applicable jurisdiction to deduct any withholding tax or similar taxes from the Grant, the British Council shall deduct and account for such taxes before paying the remainder of the Grant to the Recipient and shall notify the Recipient in writing of all such sums properly deducted.

## **5 Change Control**

5.1 If the Recipient wishes to change the scope of the Project, it shall submit details of the requested change to the British Council in writing and such change shall only be implemented if agreed in accordance with the remainder of this clause.

5.2 If the Recipient requests a change to the scope of the Project, it shall send such request to the British Council in writing, accompanied by a written statement of the following matters:

5.2.1 the likely time required to implement the change;

5.2.2 any foreseeable impact that the proposed change may have on the Recipient's compliance with the Eligibility Criteria;

5.2.3 any other impact of the proposed change on the terms of this Agreement; and

the British Council shall withhold or give its consent to such change in its sole discretion. If the British Council allows the Recipient to proceed with the change, the Recipient shall do so, following a variation of this Agreement in writing reflecting the agreed change in accordance with clause 21.

## **6 Intellectual Property Rights**

6.1 Where any Intellectual Property Rights owned or licensed by the British Council are required to be used in connection with the delivery of the Project, the Recipient acknowledges that it shall have no right to use the same except to the extent necessary for the delivery of the Project and subject to such consents and restrictions as may be specified by the British Council.

6.2 The Recipient warrants that the delivery of the Project does not and will not infringe any third party's Intellectual Property Rights.

6.3 The Recipient hereby grants to the British Council an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use any information, data, reports, documents, or other materials obtained, created or developed in the course of the Project for non-commercial purposes to publicise and report on the activities of the British Council in connection with the award of the Grant and the delivery of the Project.

## **7 Liability and Indemnity**

7.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

7.2 Subject to clauses 7.1, the British Council's total liability to the Recipient in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort, breach of statutory duty, or otherwise, shall not exceed the amount of the Grant.

7.3 Provided that the British Council has paid the Grant to the Recipient in accordance with this Agreement, the Recipient shall be responsible for all claims, costs, expenses, losses and liabilities howsoever arising in connection with the Project and the receipt and use of the Grant

and the Recipient shall indemnify and hold the British Council harmless from and against all such claims, costs, expenses, losses and liabilities.

7.4 The provisions of this clause 7 shall survive termination of this Agreement, however arising.

## **8 Confidentiality**

8.1 For the purposes of this clause 8:

8.1.1 the “**Disclosing Party**” is the party which discloses Confidential Information to, or in respect of which Confidential Information comes to the knowledge of, the other party; and

8.1.2 the “**Receiving Party**” is the party which receives Confidential Information relating to the other party.

8.2 The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this Agreement:

8.2.1 is given only to such of its staff and professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and only to the extent necessary for the performance of this Agreement; and

8.2.2 is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff or its professional advisors or consultants otherwise than for the purposes of this Agreement.

8.3 The provisions of clause 8.2 shall not apply to any Confidential Information which:

8.3.1 is or becomes public knowledge (otherwise than by breach of this clause 8);

8.3.2 was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;

8.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

8.3.4 is independently developed without access to the Confidential Information; or

8.3.5 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.

8.4 Nothing in this clause 8 shall prevent the Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

8.5 In the event that the Recipient fails to comply with this clause 8, the British Council reserves the right to terminate this Agreement by notice in writing with immediate effect.

- 8.6 The provisions under this clause 8 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.
- 8.7 The Recipient acknowledges that the British Council is subject to the Information Disclosure Requirements and shall assist and co-operate with the British Council to enable the British Council to comply with those requirements.
- 8.8 Where the British Council receives a Request for Information in relation to information that the Recipient or any of its sub-contractors is holding on behalf of the British Council and which the British Council does not hold itself, the British Council shall, as soon as reasonably practicable after receipt, forward the Request for Information to the Recipient and the Recipient shall:
- 8.8.1 provide the British Council with a copy of all such information in the form that the British Council requires as soon as practicable and in any event within 10 calendar days (or such other period as the British Council acting reasonably may specify) of the British Council's request; and
  - 8.8.2 provide all necessary assistance as reasonably requested by the British Council to enable the British Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations, as applicable.
- 8.9 The Recipient acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the British Council may nevertheless be obliged to disclose the Recipient's Confidential Information in accordance with the Information Disclosure Requirements:
- 8.9.1 in certain circumstances without consulting the Recipient; or
  - 8.9.2 following consultation with the Recipient and having taken its views into account, provided always that where clause 8.9.1 above applies, the British Council shall, in accordance with the recommendations of the Code, take reasonable steps to draw this to the attention of the Recipient after any such disclosure.
- 8.10 The provisions of this clause 8 shall survive the termination of this Agreement, however arising.

## **9 Termination**

- 9.1 Without prejudice to any other rights or remedies which the British Council may have, the British Council may terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient if:
- 9.1.1 the Recipient uses the Grant or any part of it other than for the Project;
  - 9.1.2 the Funder Agreement is terminated for any reason;
  - 9.1.3 there is a change of Control of the Recipient; or
  - 9.1.4 the funding for the Grant is otherwise withdrawn or ceases.



- 9.2 Either party may give notice in writing to the other terminating this Agreement with immediate effect if:
- 9.2.1 the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);
  - 9.2.2 an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/ or manage or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or
  - 9.2.3 the other party ceases, or threatens to cease, to carry on business.
- 9.3 In any circumstances where the British Council has the right to terminate this Agreement it may instead, by serving written notice on the Recipient, suspend the Project for a reasonable period.
- 9.4 Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

## **10 Data Processing**

- 10.1 In this clause:
- 10.1.1 “**Data Protection Legislation**” shall mean any applicable law relating to the processing, privacy and use of Personal Data, as applicable to either party or the Project under this Agreement, including the DPA and/or the GDPR, and/or any corresponding or equivalent national laws or regulations; and any laws which implement any such laws; and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; all guidance, guidelines, codes of practice and codes of conduct issued by any relevant regulator, authority or body responsible for administering Data Protection Legislation (in each case whether or not legally binding);
  - 10.1.2 “**DPA**” means the UK Data Protection Act 2018;
  - 10.1.3 “**GDPR**” means, as applicable, the General Data Protection Regulation (EU) 2016/679 or the UK GDPR as defined in the DPA (as amended); and
  - 10.1.4 “**Personal Data**” means “personal data” (as defined in the Data Protection Legislation) that are processed under this Agreement.
- 10.2 The Recipient shall not breach the Data Protection Legislation and warrants that in carrying out its obligations under this Agreement it will not breach the Data Protection Legislation or do or

omit to do anything that might cause the British Council to be in breach of the Data Protection Legislation.

## **11 Audit**

- 11.1 The Recipient will fully co-operate with and assist the British Council in meeting its audit and regulatory requirements by providing access for the British Council, its internal auditors (which shall include, for the purposes of this Agreement the British Council's internal, audit, security, safeguarding and operational risk functions), its external auditors or any agents appointed by the British Council or their regulators (or any person appointed by such body) to conduct appropriate reviews and inspections of the activities and records of the Recipient (and to take copies of records and documents and interview members of the Recipient's staff). The Recipient shall maintain all records relating to this Agreement (including the provision of the Services and the receipt of all Charges) for a period of seven (7) years following the year in which the provision of the Services under this Agreement is completed or such longer period as the British Council may notify to the Recipient in writing from time to time.
- 11.2 The Recipient shall bear its own cost in relation to any reasonable number of audits carried out by the British Council and/or the Funder. Where any audit reveals any breach or non-compliance by the Recipient, the Recipient shall also bear the costs of the British Council and/or the Funder carrying out such audit.

## **12 Publicity**

- 12.1 The provisions of this clause 12 shall apply unless specifically varied by the British Council Requirements or the Funder Requirements.
- 12.2 The Recipient shall:
- 12.2.1 obtain the British Council's prior written consent to all promotional activity, public statements or press releases issued by the Recipient or on the Recipient's behalf in relation to the Project or any aspect of it;
  - 12.2.2 where requested to do so by the British Council, acknowledge the award of the Grant by the British Council (and, where applicable, the Funder) in any publicity about the Project; and
  - 12.2.3 incorporate the British Council's logo in all marketing materials in accordance with the British Council's visual identity guidelines for the Project (being such guidelines as shall be notified in advance to the Recipient) and will not use the British Council's logo for any other purpose whatsoever.

## **13 Employees**

- 13.1 The Recipient agrees that it will not, without the prior written consent of the British Council, whether directly or indirectly, and whether alone or in conjunction with, or on behalf of, any other person during the Term or for a period of 6 (six) months following termination, solicit or entice, or endeavour to solicit or entice away from the British Council any person employed by the British Council and involved directly in the award of the Grant.

## **14 Anti-Corruption, Anti-Collusion and Tax Evasion**

- 14.1 The Recipient undertakes and warrants that it has not offered, given or agreed to give (and that it will not offer, give or agree to give) to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything in relation to the obtaining of this Agreement or the performance by the Recipient of its obligations under this Agreement.
- 14.2 The Recipient warrants that it, and any Relevant Person, has and will retain in place, and undertakes that it, and any Relevant Person, will at all times comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010), tax evasion (as set out in the Criminal Finances Act 2017) and fraud within its organisation and in connection with its dealings with other parties, whether in the UK or overseas.
- 14.3 The Recipient warrants that:
- 14.3.1 it, and any Relevant Person, has not colluded, and undertakes that it will not at any time collude, with any third party in any way in connection with this Agreement (including in respect of pricing under this Agreement); and
  - 14.3.2 it, and any Relevant Person, has not engaged, and will not at any time engage, in any activity, practice or conduct which would constitute either:
  - 14.3.3 a UK tax evasion facilitation offence under section 45 of the Criminal Finances Act 2017; or
  - 14.3.4 a foreign tax evasion facilitation offence under section 46 of the Criminal Finances Act 2017.

Nothing under this clause 14.3 is intended to prevent the Recipient from discussing the terms of this Agreement with the Recipient's professional advisors.

- 14.4 The Recipient acknowledges and agrees that British Council may, at any point during the Term and on any number of occasions, carry out searches of relevant third party screening databases (each a "**Screening Database**") to ensure that neither the Recipient, the Recipient's Team nor any of the Recipient's Team's directors or shareholders (where applicable), is or have been listed:
- 14.4.1 as an individual or entity with whom national or supranational bodies have decreed organisations should not have financial dealings;
  - 14.4.2 as being wanted by Interpol or any national law enforcement body in connection with crime;
  - 14.4.3 as being subject to regulatory action by a national or international enforcement body;
  - 14.4.4 as being subject to export, trade or procurement controls or (in the case of an individual) as being disqualified from being a company director; and/or
  - 14.4.5 as being a heightened risk individual or organisation, or (in the case of an individual) a politically exposed person,

(together the “**Prohibited Entities**”).

- 14.5 The Recipient warrants that it will not make payment to, transfer property to, or otherwise have dealings with, any Prohibited Entity.
- 14.6 If any of the Recipient, the Recipient’s Team or the Recipient’s Team’s directors or shareholders (where applicable) is:
- 14.6.1 listed in a Screening Database for any of the reasons set out in clause 14.4, or
  - 14.6.2 breaches any of its obligations set out in clauses 14.1, 14.2, 14.3 or 14.5;
- then the Recipient shall promptly notify the British Council of any such breach(es) and the British Council shall be entitled to take the steps set out at clause 14.7 below.
- 14.7 In the circumstances described at clause 14.6.1 and/or 14.6.2, and without prejudice to any other rights or remedies which the British Council may have, the British Council may:
- 14.7.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or
  - 14.7.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps and shall provide evidence of its compliance if required); and/or
  - 14.7.3 reduce, withhold or claim a repayment (in full or in part) of the charges payable under this Agreement; and/or
  - 14.7.4 share such information with third parties.
- 14.8 The Recipient shall provide the British Council with all information reasonably requested by the British Council to complete the screening searches described in clause 14.4.
- 14.9 Without limitation to clauses 14.1, 14.2, 14.3, 14.4, 14.5, 14.6, 14.7 and 14.8 above, the Recipient shall:
- 14.9.1 ensure that all Relevant Persons involved in the Project or with this Agreement have been vetted and that due diligence is undertaken on a regular continuing basis to such standard or level of assurance as is reasonably necessary in relation to a person in that position in the relevant circumstances; and
  - 14.9.2 maintain accurate and up to date records of:
    - (i) any requests to facilitate any UK tax evasion offence or any foreign tax evasion offence made to the Recipient or any Relevant Person in connection with the Project or with this Agreement either in the United Kingdom or elsewhere;
    - (ii) any action taken by the Recipient or any Relevant Person to inform the relevant enforcement bodies or regulatory authorities that the Recipient or any Relevant Person has been requested to facilitate a UK tax evasion

offence or a foreign tax evasion offence (except to the extent that the Recipient or any Relevant Person is prevented by law from doing so);

- (iii) its compliance with its obligations under this clause 14 and all training and guidance provided to Relevant Persons in respect of the obligations under this clause and applicable laws for the prevention of tax evasion;
- (iv) the Recipient's monitoring of compliance by Relevant Persons with applicable policies and procedures;
- (v) the measures that the Recipient has taken in response to any incidence of suspected or actual tax evasion or facilitation of tax evasion or breach of this clause 14; and

14.9.3 maintain and provide such access to the records or information referred to in clause 14.9.2; and

14.9.4 ensure that all Relevant Persons involved in performing services in connection with this Agreement are subject to and at all times comply with equivalent obligations to the Recipient under this clause 14.

14.10 For the purposes of this clause 14, the expression "**Relevant Person**" shall mean all or any of the following: (a) Relevant Persons; and (b) any Relevant Person employed or engaged by a Relevant Person.

## **15 Safeguarding and Protecting Children and Vulnerable Adults**

15.1 The Recipient will comply with all applicable legislation and codes of practice, including, where applicable, all legislation and statutory guidance relevant to the safeguarding and protection of children and vulnerable adults and with the British Council's Safeguarding Policy and Adults at Risk Policy included in the British Council Requirements as amended from time to time, which the Supplier acknowledges may include submitting checks by the UK Disclosure & Barring Service (DBS) and/or equivalent local checks<sup>1</sup>.

15.2 The Recipient must provide to the British Council, documentary evidence of the relevant disclosure and/or the criminal records checks in advance of undertaking any activities involving children and/or vulnerable adults in connection with the Project under this Agreement.

15.3 In addition, the Recipient will ensure that, where it engages any other party in connection with the Project under this Agreement, that party will also comply with the same requirements as if they were a party to this Agreement.

## **16 Anti-slavery and human trafficking**

16.1 The Recipient shall:

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<sup>1</sup> Equivalent local checks include, but are not limited to, the ACRO Criminal Records Office, 'International Child Protection Certificate' online criminal records checks and Code of Good Conduct' or any other services as detailed at the following link: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants> (when/if link does not work contact the British Council Project manager)

- 16.1.1 ensure that slavery and human trafficking is not taking place in any part of its business or in any part of its supply chain;
  - 16.1.2 implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains;
  - 16.1.3 respond promptly to all slavery and human trafficking due diligence questionnaires issued to it by the British Council from time to time and ensure that its responses to all such questionnaires are complete and accurate; and
  - 16.1.4 notify the British Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in any part of its business or in a supply chain which has a connection with this Agreement.
- 16.2 If the Recipient fails to comply with any of its obligations under clause 16.1, without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:
- 16.2.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or
  - 16.2.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps); and/or
  - 16.2.3 reduce, withhold or claim a repayment (in full or in part) of the Grant; and/or
  - 16.2.4 share with third parties information about such non-compliance.

## **17 Equality, Diversity and Inclusion**

- 17.1 The Recipient shall ensure that it does not, whether as an employer or provider of services and/or goods, discriminate within the meaning of the Equality Legislation.
- 17.2 The Recipient shall comply with any equality or diversity policies or guidelines included in the British Council Requirements.

## **18 Assignment**

- 18.1 The Recipient shall not, without the prior written consent of the British Council, assign, transfer, charge, create a trust in, or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 18.2 The British Council may assign or novate this Agreement to: (i) any separate entity Controlled by the British Council; (ii) any body or department which succeeds to those functions of the British Council to which this Agreement relates; or (iii) any provider of outsourcing or third party services that is employed under a service contract to provide services to the British Council. The Recipient warrants and represents that it will (at the British Council's reasonable expense) execute all such documents and carry out all such acts, as reasonably required to give effect to this clause 18.2.

## **19 Waiver**

- 19.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

## **20 Entire agreement**

- 20.1 This Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersede, cancel and replace all prior agreements, licences, negotiations and discussions between the parties relating to it. Each party confirms and acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.

## **21 Variation**

- 21.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

## **22 Severance**

- 22.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

## **23 Counterparts**

- 23.1 This Agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but all counterparts shall together constitute one agreement. Where this Agreement is executed in counterparts, following execution each party must promptly deliver the counterpart it has executed to the other party. Transmission of an executed counterpart of this Agreement by email in PDF, JPEG or other agreed format shall take effect as delivery of an executed counterpart of this Agreement.

## **24 Third party rights**

- 24.1 Subject to clause 1.2.4, this Agreement does not create any rights or benefits enforceable by any person not a party to it except that a person who under clause 18 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.
- 24.2 The parties agree that no consent from the British Council Entities or the persons referred to in this clause is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

## **25 No partnership or agency**

- 25.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have

authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

## **26** **Force Majeure**

- 26.1 Subject to clauses 26.2 and 26.3, neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business and/or material obligations hereunder by a Force Majeure Event.
- 26.2 A party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 26.2.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
  - 26.2.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
  - 26.2.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 26.3 Nothing in this clause 26 shall excuse a party for non-performance (or other breach) of this Agreement if such non-performance (or other breach) results from the acts or omissions of any of that party's consultants and/or sub-contractors (except where such acts or omissions are caused by a Force Majeure Event).

## **27** **Notice**

- 27.1 Notice given under this Agreement shall be in writing, sent for the attention of the person signing this Agreement on behalf of the recipient party and to the address given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party), or by email, and shall be delivered:
- 27.1.1 personally, in which case the notice will be deemed to have been received at the time of delivery;
  - 27.1.2 by pre-paid, first-class post if the notice is being sent to an address within the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the second (2nd) normal Working Day in the country specified in the recipient's address for notices after the date of posting;
  - 27.1.3 by international standard post if being sent to an address outside the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the seventh (7th) normal working Day in the country specified in the recipient's address for notices after the date of posting; or



27.1.4 by email to the relevant email address specified in clause **Error! Reference source not found.** of Schedule 1 (or such other email address as the relevant party may notify to the other party), in which case, the notice will be deemed to have been received at the time of transmission, or if this time falls outside of normal working hours in the United Kingdom (or such other country as has been specified by the receiving party), when normal working hours resume, in each case provided that no out of office auto-reply or error message is received by the sender in response within one hour after transmission of the notice. If an out of office auto-reply or error message is received by the sender in response within one hour after transmission of the notice, then no valid notice has been delivered and the notice must be sent by one of the alternative methods listed above.

27.2 To prove service of notice under clauses 27.1.1 to 27.1.3 above, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

## **28 Governing Law and Dispute Resolution Procedure**

28.1 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.

28.2 Subject to the remainder of this clause 28, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.

28.3 In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 calendar days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 28.3, either party may commence proceedings in accordance with clause 28.2.

28.4 Nothing in this clause 28 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.