

**MSIP INNOVATION CHALLENGE
GRANT TERMS AND CONDITIONS**

between

- (1) **MICHELIN SCOTLAND INNOVATION PARC LIMITED**, incorporated and registered in Scotland with company number SC631736, whose registered office is at Baldovie Road, Dundee, Scotland, DD4 8UQ (“**MSIP**”); and
- (2) [**NAME OF RECIPIENT**], incorporated and registered in [**Scotland/England and Wales**] with company number [**number**], whose registered office is at [**address**] (“**Recipient**”).

BACKGROUND

- (A) MSIP has agreed to pay the Grant to the Recipient to carry out the Project.
- (B) This Agreement sets out the terms and conditions on which the Grant is made by MSIP to the Recipient.
- (C) This Agreement is 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:

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

Grant Date: the date on which the Grant (or any part of it) is first drawn down by the Recipient.

Innovation Challenge Application Form: the application form completed by the Recipient applying for the Grant, as accepted by MSIP.

Intellectual Property Rights: means all copyright, patent, trademark, design right, database right and any other right in the nature of intellectual property whether or not registered, in any materials or works in whatever form which

are created, produced or generated as part of the Project by or on behalf of the Recipient.

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 created, produced or generated as part of the Project by or on behalf of the Recipient.

MSIP Innovation Lab: the MSIP innovation lab located at Baldovie Road, Dundee, DD4 8UQ.

Project: the project as further detailed by the Recipient in the Innovation Challenge Application Form and as subsequently agreed between MSIP and the Recipient in relation to the Innovation Challenge.

State Aid Rules: including but not limited to articles 107 to 109 the Treaty on the Functioning of the European Union, the General Block Exemption Regulation and any enabling regulation, Commission Regulation (EU) No 1407/2013 and Commission Regulation (EU) No 651/2014, all as amended from time to time.

Subsidy Control Rules: any rules, regulations, protocols or legislation developed by the United Kingdom government in relation to subsidy control as successor to, or replacement of, the State Aid Rules (or otherwise), whether under the UK-EU Trade and Co-operation Agreement (or otherwise), all as amended from time to time.

2. PURPOSE OF GRANT

2.1 The Recipient shall use the Grant only for the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of MSIP.

2.2 The Recipient shall not use the Grant to:

- (a) Carry out any works other than those outlined in the application form

unless this has been approved in writing by MSIP.

3. PAYMENT OF GRANT

- 3.1 Subject to clause 10, MSIP shall pay the Grant to the Recipient by way of a single lump sum payment, payable within 30 days of the date on the Invoice submitted by the Recipient. This invoice should be submitted within 1 month of the Grant date.
- 3.2 The Grant shall not be paid unless and until MSIP is satisfied (in its sole discretion) that such payment will be used for proper expenditure to further the Project.
- 3.3 The Grant shall be paid into a bank account in the name of the Recipient.

4. RECIPIENT CONTRIBUTION

- 4.1 In accepting the Grant, the Recipient undertakes to make a cash or in-kind (whether through the provision of materials, facilities, personnel or services) contribution of a value equating to not less than 20% of the Grant.

5. ACCOUNTS AND RECORDS

- 5.1 The Recipient shall keep accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.
- 5.2 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 five years following the Grant Date. MSIP shall have the right to review, at MSIP'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

- 6.1 The Recipient shall closely monitor the delivery and success of the Project throughout to ensure that the aims and objectives of the Project are

being properly pursued and that this Agreement is being adhered to.

- 6.2 The Recipient shall inform MSIP of any proposed material changes to the Project or any targets/milestones of the Project and seek consent for such changes with at least 30 days notice. If requested by MSIP, the Recipient will meet with MSIP to discuss any such changes.
- 6.3 Without prejudice to the generality of clause 6.2, the Recipient must inform MSIP in a timely manner of any change to the Recipient's address or the address of the principal premises from which the Project is being carried out.
- 6.4 The Recipient shall provide MSIP with a Final report on its use of the Grant, its outcomes and performance of the Project on the date falling no more than six months from the Grant Date.
- 6.5 The Recipient shall on request provide MSIP with such further information, explanations and documents as MSIP may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 6.6 The Recipient shall permit MSIP such reasonable access to its employees, 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.

7. ACKNOWLEDGEMENT AND PUBLICITY

- 7.1 The Recipient shall acknowledge the support of MSIP in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by MSIP) shall include MSIP's name and logo (or any future name or logo adopted by MSIP) using the templates provided by MSIP from time to time. In

using MSIP's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by MSIP from time to time. All press statements relating to the project should be shared with MSIP Marketing and Communications with sufficient notice to allow the opportunity for MSIP approval and input.

7.2 MSIP may publicise, acknowledge and disclose the award of the Grant to the Recipient, the Project, and MSIP's contribution of the Grant to the Project as MSIP considers appropriate without prior notice to the Recipient.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 Nothing in this Agreement shall cause MSIP to acquire any 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, developed or created by the Recipient whether relating to the Project or otherwise.

8.2 The Recipient shall ensure that nothing contained in any materials produced or submitted in relation to the Project shall constitute an infringement of any third party intellectual property rights and shall indemnify MSIP against all actions, proceedings, claims and demands made by reason of such infringement.

9. CONFIDENTIALITY

9.1 Subject to clause 7.2 and 9.3, 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 by the other party 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 last date of signature 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 Nothing in this clause **Error! Reference source not found.** shall prevent either party disclosing any information as required by law or judicial order.

10. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

10.1 MSIP's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to MSIP's other rights and remedies, MSIP 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 Grant Date and the Recipient has failed to provide MSIP with a reasonable explanation for the delay;

- (c) the Recipient is, in the reasonable opinion of MSIP, delivering the Project in a negligent manner;
 - (d) the Recipient provides MSIP with any materially misleading or inaccurate information;
 - (e) the Recipient has (i) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (ii) taken any actions which, in the reasonable opinion of MSIP, bring or are likely to bring MSIP's name or reputation into disrepute;
 - (f) 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);
 - (g) 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
 - (h) 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 15 days of receiving written notice detailing the failure.
- 10.2 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 MSIP as soon as possible so that, if possible, and without creating any legal obligation, MSIP will have an opportunity to provide assistance in resolving the problem or to take action to protect MSIP and the Grant monies.
- 10.3 If the Recipient ceases or is unable to continue to pursue the Project for any reason, the Recipient shall ensure that any part of the Grant which remains unspent is returned to MSIP.
- 10.4 If any part of the Grant is determined to breach any Subsidy Control Rules and MSIP considers it is necessary for MSIP to recover such sum in order to ensure compliance with its legal obligations, MSIP may require immediate repayment of the Grant (in whole or in part) together with interest at such rate and on such basis as may be determined from time to time in accordance with the law. The Recipient should ensure that the Project complies with Subsidy Control Rules.
- 10.5 The Recipient shall not, without the prior written consent of MSIP, dispose of any asset funded, in whole or in part, with the Grant within two years of the asset being acquired or developed. During that period, MSIP shall be entitled to the proceeds of that disposal or the relevant percentage of grant funding used in connection with the acquisition or improvement of the asset against the whole proceeds.
- 11. LIMITATION OF LIABILITY**
- 11.1 MSIP 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 MSIP, 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 this Agreement or its obligations to third parties.
- 11.2 Subject to clause 11.1, MSIP's liability under this Agreement is limited to the payment of the Grant.

12. WARRANTIES

12.1 The Recipient warrants, undertakes and agrees that:

- (a) all financial and other information concerning the Recipient which has been disclosed to MSIP is to the best of its knowledge and belief, true and accurate; and
- (b) it is not aware of anything in its own affairs, which it has not disclosed to MSIP, which might reasonably have influenced the decision of MSIP to make the Grant on the terms contained in this Agreement.

13. DURATION

13.1 Except where otherwise specified, the terms of this Agreement shall apply from the last date of signature of this Agreement until the six month anniversary of the Grant Date of this Agreement or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.

13.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

14. ASSIGNATION /TRANSFER

The Recipient may not, without the prior written consent of MSIP, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement 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 this Agreement shall be construed as a waiver of any other right or remedy.

16. 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 posted (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 posted all such communications shall be deemed to have been given and received on the second working day following such mailing.

17. NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between MSIP 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 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.

19. GOVERNING LAW

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 the Scottish courts.

If you wish to accept the offer of this Grant on the terms and conditions as set out in this Agreement, you should sign and date both copies of the Agreement below and return one copy to Sarah Petrie at Sarah.Petrie@MSIPDundee.com or MSIP Ltd, Baldovie Road, Dundee, DD4 8UQ. You should retain the second copy of the Agreement for your own records.

Signed for an on behalf of MICHELIN SCOTLAND INNOVATION PARC LIMITED:

Signed:

Sarah Petrie
Innovation Director

Date:

Place of Signing:

GRANT ACCEPTANCE

On behalf of the [RECIPIENT NAME] I accept the foregoing offer of the Grant by MICHELIN SCOTLAND INNOVATION PARC LIMITED on the terms and conditions set out in this Agreement. I confirm that I hold the relevant signing authority.

Signed:

[Director / Authorised Signatory]

Print Name:

Date:

Place of Signing: