
Dated: 2017

- (1) South Downs National Park Authority
- (2) South Downs National Park Trust

Grant Agreement

DRAFT

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THIS AGREEMENT, which is made by deed, is made on

PARTIES

- (1) **South Downs National Park Authority** [insert description] whose principal office is at South Downs Centre, North Street, Midhurst, West Sussex GU29 9DH ("**SDNPA**"); and
 - (2) **South Downs National Park Trust** a company limited by guarantee (company number 10719031) whose registered office is at South Downs Centre, North Street, Midhurst, West Sussex GU29 9DH and a registered charity [(registered charity number [insert number])] ("**the Trust**").
- ("**the Parties**")

BACKGROUND

- (A) SDNPA has agreed to grant certain funds to the Trust to enable it to further its Objects having regard to the Partnership Management Plan.
- (B) The Trust is a charitable company limited by guarantee [registered with the Charity Commission].
- (C) SDNPA has the right to appoint a maximum of one third of the trustees of the Trust.
- (D) The Parties are entering into this Agreement to confirm the terms on which the funds are to be granted by SDNPA to the Trust.

AGREED TERMS

1. Definitions

- 1.1 In this Agreement the following terms shall have the following meanings, unless they are inconsistent with the context:

"Annual Grant"	£40,000 or such other amount as the SDNPA shall in its absolute discretion determine
"Electronic Form"	has the meaning given in Section 1168 of the Companies Act 2006
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations
"FoIA"	the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation
"Objects"	The Objects of the Charity are: 1.1 to promote for the benefit of the public the conservation, protection and improvement of the physical, natural and cultural

environment primarily within the South Downs National Park and surrounding areas and also within such other National Parks as the Trustees may from time to time determine in particular but not exclusively by:

- (1) carrying out work to improve the landscape, environment and built heritage;
- (2) recording local traditions and customs, supporting traditional skills and promoting all arts inspired by the South Downs; and
- (3) supporting community groups and facilities which help achieve these aims;

1.2 to advance the education of the public in particular in the sustainability, conservation, protection and enhancement of the physical, natural and cultural environment of the South Downs National Park.

“Partnership Management Plan”

The document entitled: *The Partnership Management Plan: Shaping the future of your South Downs National Park 2014-2019* as may be amended from time to time

“Request for Information”

a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations

“State Aid Rules”

means those rules embodied in (i) the Consolidated version of the Treaty on European Union and TFEU (2012/C 326/01); (ii) any subordinate legislation made and/or any guidance issued by the Commission of the European Union from time to time under TFEU; and (iii) where applicable, the De Minimis Aid Regulation;

“VAT”

United Kingdom value added tax or any similar sales tax imposed in any other jurisdiction

“in writing”

the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise

- 1.2 The interpretation and construction of this Agreement shall be subject to the following provisions:
- 1.2.1 headings are for convenience only and shall not affect the construction of any provision; and
 - 1.2.2 where the context so admits:
 - 1.2.2.1 words importing the singular include the plural and vice-versa;
 - 1.2.2.2 words denoting any gender include all genders; and
 - 1.2.2.3 references to any enactment, order, regulation or other similar instrument shall be construed as a reference to that enactment, order, regulation or instrument as amended or re-enacted with or without modification by any subsequent enactment, order, regulation or instrument.

2. **Payment of the Annual Grant**

- 2.1 SDNPA shall pay the first Annual Grant to the Trust within **30** days of the execution of this deed.
- 2.2 It is the SDNPA's intention, without imposing any binding obligation on it to do so, to pay further Annual Grants on the anniversary of the date of this Agreement for **3** years.
- 2.3 The Annual Grant represents a freely given donation given by the SDNPA to the Trust, and as such it is expected that payment of such would not attract any VAT. However, and for the avoidance of doubt, the amount of the Annual Grant provided by the SDNPA to the Trust will be inclusive of VAT (if any).

3. **Purpose of the Annual Grant**

The Trust shall use the Annual Grant strictly for furthering the Objects having regard to the Partnership Management Plan.

4. **Monitoring and Reporting**

- 4.1 The Trust must keep accurate and up-to-date accounts and records of its receipt and expenditure of the Annual Grant and must comply, and facilitate the SDNPA's compliance with, all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and to the SDNPA.
- 4.2 The Trust shall provide the SDNPA with a twice yearly update which shall include a financial report and an update on operational activities.
- 4.3 On the SDNPA's reasonable request the Trust shall provide the SDNPA with such information and documents as the SDNPA may reasonably require in order for it to establish that the Annual Grant payments have been used in accordance with this Agreement.

5. **Clawback provision**

In the event that the Trust fails to commit to spend any funds from the Annual Grant payments received in the three years following receipt of the payment of the first Annual Grant, the SDNPA may, in its absolute discretion, require the Trust to repay any uncommitted amount of the Annual Grant payments within three months of the third anniversary of the payment of the first Annual Grant.

6. **Withholding, suspending and repayment of the Annual Grant**

6.1 The Annual Grant will be paid to the Trust in accordance with **clause 2**. However, without prejudice to the SDNPA's other rights and remedies, the SDNPA may, acting reasonably, at its discretion withhold, suspend and/or require immediate repayment of the Annual Grant or any part thereof (whether on a permanent or temporary basis), if the Trust:

6.1.1 uses the Annual Grant monies for undertaking activities other than furthering the Objects having regard to the Partnership Management Plan in the reasonable opinion of the SDNPA;

6.1.2 or any of its trustees, employees, agents or associates acts in any way which, in the SDNPA's reasonable opinion, is likely to bring the name or reputation of the SDNPA into disrepute; or

6.1.3 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) or 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.

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

7. **Variations**

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

8. **Severability**

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

9. **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, as referred to above or otherwise notified in writing. 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-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

10. **Freedom of Information**

10.1 The Trust acknowledges that the SDNPA is subject to the requirements of the FOIA and the EIRs. The Trust shall:

10.1.1 provide all necessary assistance and cooperation as reasonably requested by the SDNPA to enable the SDNPA to comply with its obligations under the FOIA and EIRs;

10.1.2 transfer to the SDNPA all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 working days of receipt;

- 10.1.3 provide the SDNPA with a copy of all Information belonging to the SDNPA requested in the Request For Information which is in its possession or control in the form that the SDNPA requires within 5 working days (or such other period as the SDNPA may reasonably specify) of the SDNPA's request for such Information; and
- 10.1.4 not respond directly to a Request For Information unless authorised in writing to do so by the SDNPA.
- 10.2 The Trust acknowledges that the SDNPA may be required under the FOIA and EIRs to disclose Information (including information which may be of a commercially sensitive nature relating to the Trust, its intellectual property rights or its business including any information which the Trust may have indicated to the SDNPA that, if disclosed by the SDNPA, would cause the Trust significant prejudice or financial loss) without consulting or obtaining consent from the Trust. The SDNPA shall take reasonable steps to notify the Trust of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the SDNPA shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs.
11. **State Aid**
- 11.1 The Trust shall comply and shall secure compliance of each supplier and their subcontractors with the State Aid Rules and shall not put SDNPA in breach of the State Aid Rules in connection with the Annual Grant.
- 11.2 The Trust shall ensure that use of the Annual Grant and all associated procurement processes and contractual terms used in connection with the Objects shall be compatible with the requirements referred to in Clause 11.1.
- 11.3 Should any payment of the Annual Grant or any part thereof be determined by any court or appropriate regulatory body to constitute unlawful state aid then the Trust agrees to repay such Annual Grant or part thereof to SDNPA on demand.
12. **No Partnership or Agency**
- This Agreement shall not create any relationship or joint venture between the parties, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
13. **Third Parties**
- This Agreement does not confer any rights on any person not named as a party to it.
14. **Counterparts**
- This Agreement may be executed in any number of counterparts, each of which will constitute an original, but which will together constitute one agreement. This Agreement will not be effective until each party has executed at least one counterpart.
15. **Governing law, jurisdiction and dispute resolution**
- 15.1 This Agreement and all matters (including, without limitation, any contractual or non-contractual obligations) arising from or connected with it shall be governed by and construed in accordance with English law.
- 15.2 Subject to **clause 15.3** below, the parties hereto submit to the exclusive jurisdiction of the English courts.
- 15.3 In the event of any disagreement or dispute between the Parties, the Parties will first use all reasonable endeavours to reach a resolution without resorting to any official dispute resolution procedure.

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

[Insert execution provision for SDNPA]

Executed by South Downs National Park Trust acting by **[NAME OF FIRST DIRECTOR]**, a director and **[NAME OF SECOND DIRECTOR]**, a director

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Director

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Director

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