Terms and Conditions of an Innovate UK / Affinity Partner award

A. These terms and conditions, together with the Affinity Partner Framework Agreement, and Innovate UK’s Policies apply to all organisations applying for award funding. This is either individually or in collaboration. Each organisation must accept these terms and conditions before submitting an application.

B. If you are successful, you will receive an award letter confirming any project-specific conditions of the award. This letter must be countersigned and uploaded by the organisation in the correct manner before the project can start.

C. Transfer to UK Research and Innovation

In April 2018 changes will be made to the structure of the UK's research and innovation bodies (including Innovate UK). A new body corporate will be established under the Higher Education and Research Act 2017 that brings together the UK’s 7 Research Councils, Innovate UK and a new organisation, Research England. This new body will be known as UK Research and Innovation (UKRI).

With the establishment of UKRI, Innovate UK (formerly the Technology Strategy Board) will cease to exist as a body corporate in its own right and will become a committee or ‘Council’ of UKRI. Innovate UK will continue to administer contract and award funding and to manage the relationship with MSPs as a Council of UKRI. However, existing contracts awarded by Innovate UK under the DPS will be transferred to UKRI under a statutory transfer scheme and future contracts awarded under the DPS will be entered into by UKRI. More information is available from the UKRI website.

1. General terms and conditions

Innovate UK has the right to change these award terms and conditions unilaterally and at any time by giving 1 month’s notice.

You cannot assign, transfer or sub-contract any of your rights or obligations under this agreement to any third party.

Rights and/or remedies under this award, whether exercised or not, remain available throughout the life of the award.

An award does not create any partnership or joint venture at law.

Innovate UK:

- accepts no liability for any consequences, whether direct or indirect, that may come about by undertaking the project, using the award, or ending the award
- limits its liability to the amount of eligible costs that can be evidenced

Our awards are subject to the laws of England and Wales.

An award cannot be used for any political or lobbying activity or purpose.
2. Duration

These terms and conditions come into effect from the start date until the end date provided in the award letter, or until the award is terminated (taking into account condition 12).

3. Your obligations

If your application is successful, you agree to:

- make sure that the project is managed in accordance with your project proposal and all terms and conditions of this award
- carry out the project with reasonable skill and care using appropriately skilled personnel as would be expected of a similar organisation working in the same or similar field
- inform Innovate UK promptly, through your Monitoring Officer (MO), of any issue or material change that may affect the progress, delivery or exploitation of the project. Where stated in the competition guidance in which you have been successful you will also complete the Affinity Partner’s ‘Annual Economic Monitoring Form’ within 4 weeks of each anniversary of the date the project started
- within 3 months of the completion of the project, you will:
  - provide the MO with the final project report and confirmation that the final claim and final Independent Accountant’s Report have been submitted
  - where stated in the guidance of the competition in which you have been successful you will also complete the Affinity Partner’s ‘Close-Out Form’ within 4 weeks of the end date of the project

The award is subject to the project starting within 90 days from our email notification to you. Innovate UK has the right to withdraw the award offer if the partners do not complete their project and bank details within 30 days of notification. This information is needed so that we can start our pre-project checks.

4. Payment of award

Innovate UK will pay your award by instalments quarterly and in arrears on submission of a claim, unless otherwise agreed in your award offer letter. You can only claim the net eligible costs you have incurred and paid in the 3 month period for which you are submitting the claim.

Your claims must be supported by the following:

- a revised forecast of eligible project costs which details expected costs for each future claim period and highlights any variations from the last forecast
- an Independent Accountant’s Report (see paragraph 7)

Claims must be for completed quarters only, except for the final quarter where you can submit a claim for costs incurred but not necessarily paid, provided that the cost is:
Innovate UK will normally pay the award within 30 days, unless we need further information to support the claim. If that happens we will contact you within 14 days of receiving your claim.

Innovate UK does not have to pay any claim received more than 30 days after the end of the quarter to which it relates. We will not pay any claims received later than 3 months after completion of the project.

Innovate UK reserves the right not to consider new applications from organisations who have failed to return required financial reports on any projects funded by Innovate UK.

Innovate UK will not pay more than 85% of the award until all outstanding claims and supporting information have been received and the final Independent Accountant’s Report has been approved.

You are responsible for maintaining detailed records and documentation relating to your award. These should provide evidence that your eligible project costs comply with all state aid rules, as outlined in paragraph 10. These records must be kept for 10 years following the award and must be supplied as requested within 20 days.

Innovate UK may appoint an auditor to ensure you are complying with all terms and conditions. You agree to give the auditor access to your project records within 2 weeks of notice of their appointment. If the auditor determines that you should repay the award to Innovate UK, Innovate UK may recover the cost of the auditor’s work from you.

5. Monitoring

Your project will be monitored in accordance with Innovate UK’s project monitoring framework. You will meet with your assigned monitoring officer as often as is specified at the start of the project. You will allow them access to your employees, agents, premises, facilities and records to review your progress, and send them any information, explanations and documents requested within 10 days.

6. Suspension, withdrawal and repayment of award

If Innovate UK has reason to believe that these terms and conditions have been broken or not met, the award may be suspended, withdrawn or reclaimed in whole or in part.

We will take appropriate care in how we do this, but in certain circumstances Innovate UK can immediately suspend award payments.

If we have concerns, whether we have suspended your award or not, we will write to inform you and you will then have 30 days in which to address our concerns.

Examples of events that may result in suspension include where in our opinion there may have been:

- for labour, overhead and/or travel and subsistence only
- paid within 30 days of the end of the project
- included within the final Independent Accountant’s Report
• misuse of the award funds, including in a fraudulent or financially misleading way (or for purposes not related to the project)
• false statements in any part of your application or project
• failure to maintain satisfactory progress on the project or to meet your delivery plan
• a suspected conflict of interest or a suspected breach of Innovate UK’s Conflict of Interest policy
• suspected overpayment of award by Innovate UK
• any material changes to the proposed outcomes of the project
• a breach or suspected breach of the confidentiality provisions of Innovate UK’s Information Management Policy
• a breach of state aid rules in (paragraph 9).

Innovate UK may immediately and permanently withdraw all future award payments without any prior requirement to suspend the award in the event of any of the following:

• you are found, to Innovate UK’s satisfaction, to have misused award funds or made false statements
• you fail to resolve to Innovate UK’s satisfaction, or it is not possible to resolve, the reasons for suspension
• you have been found to have applied for or secured multiple awards for the same or largely interchangeable project scopes
• you are found to have breached any of Innovate UK’s policies
• you are found to have committed an offence under the Bribery Act 2010 or Fraud Act 2006 or are contravention of any of the legislation with which Innovate UK specifies absolute compliance, whether as part of the project or otherwise
• you become insolvent, are declared bankrupt, placed into receivership, administration or liquidation, or a petition has been presented for winding up, or any similar arrangements that may affect you financially (including any requirements imposed by GBER (see paragraph 9).
• there is a change to your legal status which you have failed to declare or have misrepresented to us.
• you have breached state aid rules (see paragraph 9).
• we experience a force majeure (see paragraph 15).
If you do not resolve an issue causing suspension or if we permanently withdraw the award (except where this is due to a force majeure) Innovate UK may require you to repay some or all award payments.

7. Financial reporting
You agree to appoint an Independent Accountant who will inspect your financial statements relating to the award. They will prepare an Independent Accountant’s Report using Innovate UK’s standard template, at the intervals stated in the relevant guidance note. The report will contain an opinion that:

- the financial information and level of award claimed are accurate and legitimate
- eligible costs that you have submitted have been properly incurred and paid
- you have provided satisfactory explanations for any queries raised by the Independent Accountant

You must appoint an Independent Accountant in a manner consistent with Innovate UK’s Standard Terms of Engagement of Accountants.

In some circumstances, you may be asked to provide your latest published annual accounts or management accounts, which do not breach of any law, order or regulation restricting such disclosure.

Innovate UK may also require you to submit an Accountant’s Report if any of the following occur:

- you withdraw from the project
- the project is terminated
- you submit a claim disclosing expenditure substantially greater than forecast
- you are suspected of breaching any terms and conditions

8. Confidentiality and information management
Innovate UK has the right to request access to any additional information we feel necessary in connection with this award. You must provide or allow access to such information within 2 weeks of a request.

9. State Aid obligations
Innovate UK awards funding through its Research, Development and Innovation Scheme operating under Commission Regulation (EU) No 651/2014 (“the General Block Exemption Regulation (GBER”).

You must inform Innovate UK of any other public funding applied for or awarded against the eligible costs covered by this offer. It is your responsibility to ensure that the cumulative total of public funding you are receiving for a project does not exceed those limits stated in GBER.
Innovate UK will stop award payments if you become subject to a recovery order that follows on from a previous Commission decision, which declares any aid you have received illegal and incompatible with the internal market.

Where you are required by an order of the European Commission to repay any award to Innovate UK that is found to be unlawful State Aid, interest will be charged. This is on the amount being reclaimed from the date of payment at the applicable legislated rate.

No subcontract may be made which would constitute a breach of State Aid obligations.

10. Intellectual property
Innovate UK will not own any intellectual property rights (IPRs) developed during or as a result of the project.

You agree to grant Innovate UK a UK-wide irrevocable, royalty-free, non-exclusive licence, together with the right to grant sub-licences, to the IPRs from the Project to use or publish the results of the Project.

You will ensure that you have the necessary rights to use or access third party IPR needed to carry out the project.

11. Exploitation of project results
Innovate UK expects you to refine and update your Exploitation Plan over the project lifetime.

For a period of up to 10 years from the end of the project, you should take all reasonable steps to exploit the results of the project in the UK or wider European Economic Area. Innovate UK will annually evaluate the impact of funding awarded to the project and you agree to help by providing an updated Exploitation Report. This information will be shared with our sponsor; the Dept. for Business, Energy and Industrial Strategy and the Affinity Partner with whom we offer this award.

12. UK statutory framework
Innovate UK is required to comply with all legislation in England and Wales. We particularly draw to your attention the data protection legislation, the Bribery Act 2010, the Fraud Act 2006 and the Modern Slavery Act 2015.

Innovate UK expects you to comply with all legislation (including in the Devolved Authorities) where they apply to you and to act in a way that does not impact our ability to comply. For example, we expect you to comply with data protection legislation and to accept that we may be required to disclose your information in circumstances where we have received a request under the Freedom of Information Act 2000.
13. Publication of information

Innovate UK encourages you to seek your own publicity. If you wish to publicise the project in any way whatsoever, please consult the Innovate UK guide ‘Publicising your project: guidelines from Innovate UK’ available on request from Innovate UK’s Press Office (pressoffice@innovateuk.gov.uk). You must also comply with the Affinity Partner’s Press and Publications Guidelines as set out in the Framework Agreement. Please liaise with media@ati.org.uk on any publications you wish to make.

You give Innovate UK permission to use your name and logo to allow us to publicise the award.

We will agree with you any requests for future publication by us of the progress of the project.

14. Dispute resolution

Where a dispute arises between you and Innovate UK, we would advise your Chief Executive Officer to contact us to discuss, in good faith, how the matter can be resolved. If a mutually acceptable resolution cannot be found, the parties agree to refer the matter to the London Court of International Arbitration (LCIA), whose decision will be binding.

15. Force majeure

Where an event of force majeure, or a change to the laws of England and Wales, UK government or devolved administration policy and/or the Legal Acts of the European Union occurs which affects Innovate UK’s ability to continue funding your project, we may terminate the award by giving you as much notice as possible in writing. In such circumstances, Innovate UK will meet any eligible costs you have reasonably incurred and paid before the date of termination.

16. Entire agreement

By submitting an application you are accepting all terms and conditions set out here and in the linked documents.