



HISTORIC ENVIRONMENT GRANT PROGRAMME SCHEME OF REPAIR CONDITIONS

PART 1

1 Definitions and Interpretation

Defined terms set out in the **Offer of Grant** and the **Standard Conditions** forming part of the **Offer of Grant** will have the same meaning in these **Scheme of Repair Conditions** unless otherwise specified. In addition, **you** will find a list of defined terms used in these **Scheme of Repair Conditions** in **Condition 9**. Where defined terms have been used throughout these **Scheme of Repair Conditions**, they have been highlighted in bold. The rules of interpretation set out in **Condition 32** of the **Standard Conditions** apply to these **Scheme of Repair Conditions** as well.

2 The Scheme of Repair

When carrying out the **Scheme of Repair**, **you** must:-

- 2.1 appoint a **Professional Adviser** and retain his services until the **Scheme of Repair** has been completed in accordance with **Condition 3**;
- 2.2 make sure that the **Scheme of Repair** is completed:
 - in a good and workmanlike manner;
 - using only good quality materials having regard to the historic fabric of the **Property**;
 - using best industry practice having regard to the historic nature of the **Property**;
 - in accordance with the **Guidance for Repair Grants**; and
 - to a standard acceptable to **us**;
- 2.3 make sure that adequate works insurance cover is in place to protect the historic fabric of the **Property** during the **Scheme of Repair** and deliver a copy of the policy to **us**. If we have required a **Standard Security** to be granted to **us**, **our** interest as a secured lender must be noted on the policy;
- 2.4 appoint a Principal Designer and a Principal Contractor, and act as the sole client, for the purposes of the Construction (Design and Management) Regulations 2015;
- 2.5 allow **us** and **our** representatives access to the **Property** at all reasonable times to inspect the state and progress of the **Scheme of Repair**. Those people accessing the **Property** will (i) comply with all safety precautions in force from time to time at the **Property**; and (ii) not issue any directions to any contractor in respect of the **Scheme of Repair**.

3 Scheme of Repair Completion Date

- 3.1 **You** must advise **us** when the **Professional Adviser** believes that the **Scheme of Repair** is one month prior to the anticipated date of practical completion, and permit **us**, (and **our** representatives) to inspect the **Property** at this time in accordance with the **Guidance for Repair Grants**. **You** must allow **us** to inspect the **Property** before scaffolding is dismantled. Following the inspection, **we** may request further visits leading up to and on or after the date that the **Professional Adviser** considers practical completion of the **Scheme of Repair** to have taken place.
- 3.2 If, following **our** inspections (if any), **we** do not agree that the **Scheme of Repair** has been practically completed, **we** will consult with the **Professional Adviser** to draw up a list of outstanding works required to be carried out by **you** before **we** will consider the **Scheme of Repair** to be practically complete. Once the outstanding works have been carried out, **we**, (and **our** representatives) will be entitled to re-inspect the **Property**. The provisions of **Conditions 3.1** and this 3.2 will be repeated as often as is necessary until **we** agree that the **Scheme of Repair** is practically complete.
- 3.3 If a dispute arises between **us** and **you** as to whether or not the **Scheme of Repair** has been practically completed, either **us** or **you** can refer the dispute to an **Expert** within 10 **Working Days** of the dispute arising. The **Expert's** decision must include a determination on expenses (and if it does not the fees will be borne equally by **you** and **us**). The decision of the **Expert** will be final and binding for the purposes of the **Grant Contract**.

4 Obligations during the Grant Funded Period

During the **Grant Funded Period**, **you** must:-

4.1 Disposal

not **Dispose** of **your** interest in the **Property** without **our** consent. **You** must notify **us** immediately if you intend to **Dispose** of the **Property**, or any interest in it, during the **Grant Funded Period**.

4.2 Letting

not let, agree or allow any letting, or grant any licence or any other right of occupancy of the **Property** for a term of 20 years or less, without **our** prior written consent.

4.3 Scheme of Repair Recovery Event

inform **us** as soon as **you** become aware of any **Scheme of Repair Recovery Event**.

5 Obligations during the Control Period

Following the Scheme of Repair Completion Date Until the end of the **Control Period** **you** must:-

5.1 End Use

make the **Property** available for the **End Use**.

5.2 Repair and Maintain

5.2.1 comply with the approved **Maintenance Plan** (if one was required) and:-

5.2.1.1 repair and maintain the **Property** so as to keep it in good repair and condition to **our** reasonable satisfaction. In determining the standard of repair and maintenance required, **we** will have regard to the historic and architectural importance of the **Property** as part of the Nation's heritage;

5.2.1.2 have the fabric of any building on the **Property** inspected every 5 years by a registered architect who is a member of the Royal Incorporation of Architects in Scotland or by a building surveyor who is registered with the Royal Institution of Chartered Surveyors in Scotland. **You** must submit a copy of their report to **us** as soon as possible after each inspection.

5.3 Not Alter

not alter, extend or demolish the **Property** or any part of it without **our** prior written approval.

5.4 Insure

5.4.1 maintain the **Insurance Policy**. If we have required a **Standard Security** to be granted to **us**, **our** interest as a secured lender must be noted on the policy.

5.4.2 unless **we** have agreed that reinstatement is not practical and that a **Scheme of Repair Recovery Event** has taken place, **you** must use all money received under the **Insurance Policy** to make good the damage which gave rise to the claim for which the money was paid.

This **Condition** 5.4 will not apply where the **Property** is a Scheduled Ancient Monument, and it is not possible to obtain such insurance at reasonable cost. If that is the case **you** must inform **us**.

5.5 Inspection

allow **us**, and **our** representatives, access to the **Property** for the purpose of inspection in order for **us** to check whether **you** are complying with the terms of the **Grant Contract**.

5.6 Submit Monitoring Report

submit the **Monitoring Report** to **us** by the anniversary of the **Scheme of Repair Completion Date** in each **Financial Year**.

6 Enforcement and Discharge of Standard Security and Conservation Burden

- 6.1 Prior to the **Works Completion Date**, you will not require our consent in terms of the **Conservation Burden** to alter, extend or demolish any part of the **Property**, where such alteration, extension or demolition forms a part of the **Scheme of Repair**.
- 6.2 If you opt to repay the whole of the **Grant** prior to the end of the **Control Period**, we will discharge any (i) **Standard Security** and (ii) the **Conservation Burden**, in return for full repayment of the **Grant** together with **Interest** incurred from the date of payment of the **Grant** until the **Grant** is repaid.
- 6.3 Following the end of the **Control Period** we will not seek to enforce the terms of the **Standard Security** and/or **Conservation Burden** (other than in respect of a breach which has occurred prior to the end of the **Control Period**) and, if requested to do so will discharge the **Standard Security** and **Conservation Burden**.
- 6.4 You will be responsible for all costs that we properly incur (including any internal administration charge) in dealing with the grant of a discharge of any **Standard Security** and/or the **Conservation Burden** either at the end of the **Control Period** or in the event of earlier repayment of the **Grant**.

7 Expenses

- 7.1 You and us are each responsible for the fees and expenses that we each incur in putting in place the **Grant Contract**, the **Standard Security** and the **Conservation Burden**, other than registration dues which you will be required to pay. If you require us to enter into a ranking agreement to rank the order of priority of the **Standard Security**, you will be responsible for half of our properly incurred costs in documenting the ranking agreement and having it registered.
- 7.2 Within 10 **Working Days** of demand you must pay to us all costs, charges and expenses that we have incurred in the enforcement of the conditions of any **Conservation Burden** and/or **Standard Security**.
- 7.3 If we:-
- 7.3.1 consent to any variation of;
- 7.3.2 are required to give consent under; or
- 7.3.3 validly refuse our consent under;
- any **Standard Security** and/or **Conservation Burden**, you will be responsible for meeting all costs that we properly incur (including any internal administration charge) in dealing with the request and documenting any consent or variation (which, for the avoidance of doubt) would include:-
- any permitted novation of the **Grant Agreement**;
 - the discharge and re-grant of the **Standard Security** following any permitted transfer of title; and

- any request to enter into a ranking agreement to regulate the ranking of the **Standard Security** with any other charges granted by **you**.

8 Post Settlement

- 8.1 Where any **Standard Security** and/or **Conservation Burden** are to be registered in the Land Register of Scotland, **you** will deliver to **us**, on demand from time to time and at **your** expense, such documents and evidence as the Keeper may require to enable the Keeper to update or create (as the case may be) the Title Sheet of the **Property** to disclose (i) **you** as the registered proprietor of **your** interest in the whole of the **Property**; and (ii) **us** as security holder over that interest in the whole of the **Property**. The updated or newly created Title Sheet of the **Property** will (a) contain no exclusion or limitation of warranty in terms of Section 75 of the Land Registration etc (Scotland) Act 2012; (b) disclose no entry, deed or diligence prejudicial to **our** interest other than such as are created by or against **us** or have been disclosed to, and accepted in writing by **us** prior to settlement; and (c) show **us** as the first ranking security holder over **your** interest in the **Property**, unless we have agreed to enter into a ranking agreement prior to settlement.
- 8.2 Within 2 months after settlement deliver an updated charges search brought down to a date not less than 22 days after the date of registration of any **Standard Security** and/or **Conservation Burden** disclosing no entries prejudicial to the granting and registration of the **Standard Security** and/or **Conservation Burden**.

9 Defined Terms

- 9.1 "**Building Contract**" means the building contract entered into between **you** and **your** contractor to carry out the **Scheme of Repair** with a defects liability period of not less than 6 months and operating an appropriate retention until rectification of defects at the end of that period;
- 9.2 "**Completion Documents**" means the documents listed in Part 2 of these **Scheme of Repair Conditions**;
- 9.3 "**Conservation Burden**" means any deed of conservation burdens to be granted by **you** to **us** substantially in the form of the draft **Conservation Burden** made available on the **Programme Resources** page on our website;
- 9.4 "**Delay Event**" means any event which causes a delay in completion of the **Scheme of Repair** attributable to (i) exceptionally inclement weather; (ii) civil commotion or labour disputes; (iii) shortage of materials; or (iv) any other matter which in **our** reasonable opinion, is beyond **your** control or the control of **your** contractor appointed under the **Building Contract**;
- 9.5 "**Dispose**" means
- if **you** own the Property, any disposal of the whole or part of the **Property** by way of (i) transfer, gift, sale or exchange; and/or (ii) the grant of any lease for a term of more than 20 years;

- if **you** are the tenant under a long lease of the **Property** (being a lease of more than 20 years) (i) any assignation, renunciation or termination of the whole or part of that interest; and/or (ii) the grant of a sub-lease for a term of more than 20 years of the whole or part of the **Property**;
- 9.6 "End Use" means the use specified in the **Offer of Grant** or such other use that **we** consent to during the **Control Period**, provided it is in line with the objectives of the **Programme**;
- 9.7 "**Expert**" means an independent architect agreed between the parties. If we fail to agree, either **you** or **us** can apply to have the expert appointed by the President of the Royal Incorporation of Architects in Scotland. The expert will act as an expert and not an arbitrator;
- 9.8 "**Guidance for Repair Grants**" means Guidance for Repair Grants and its Annex: HES Advisory Standards for Repair Grants that **we** publish on the Programme Resources page on **our** website from time to time;
- 9.9 "**Insurance Policy**" means a policy of insurance over the **Property** to cover the risks of fire, civil commotion, explosion, impact by aircraft, flood, storm, tempest, lightning, heave, subsidence, public liability and such other risks as **we** may require (provided that such other risks are available on normal commercial terms and conditions in the UK insurance market), but expressly providing that the risks of storm, tempest, heave and subsidence are only to be insured against once enough repairs have been carried out to the **Property** to render them in a condition where cover for such risks is reasonably obtainable by **you**. The policy must be for such sums as **we** consider sufficient to cover the full cost of rebuilding or reinstating the **Property** from time to time together with an amount to cover architects', engineers' surveyors' and other professional fees, the cost of demolition, site clearance, temporary hoarding and other works that may be required in law and incidental expenses and all Value Added Tax on such costs and others;
- 9.10 "**Maintenance Plan**" means the plans for management and maintenance of the **Property** throughout the **Control Period**;
- 9.11 "**Monitoring Report**" means an annual report detailing (i) the public access arrangements for the **Property**, (ii) the publicity given to the public access arrangements; (iii) where appropriate, the number of visitors to the **Property** during the period of the report; (iv) **your** progress (or otherwise) in meeting the **Project Outcomes**; (v) actions taken by **you** during the reporting period to comply with the **Maintenance Plan**; and (vi) the Insurance Policy taken out to cover the reporting period (including a copy of the certificate of insurance showing **our** interest noted on the **Insurance Policy** where that is required);
- 9.12 "**Professional Adviser**" means a suitably accredited professional appointed by **you** and approved by **us** to develop, manage and oversee the carrying out of the **Scheme of Repair** in compliance with the **Programme Guidance**;
- 9.13 "**Property**" means the property to which the **Scheme of Repair** is being carried out, as referred to in **your Application** and in the **Offer of Grant**, title to which is more particularly described in the **Standard Security**;
- 9.14 "**Scheme of Repair**" means the scheme of work to repair the **Property** as set out and approved in terms of **your Application**, specified in the **Offer of**

Grant and detailed in the **Specification**, to be carried out in accordance with the terms of the **Grant Contract**;

- 9.15 **"Scheme of Repair Completion Date"** means the later of the date that **we** consider the **Scheme of Repair** to be practically complete in terms of Conditions 3.1 or such later date as agreed between **us** and **you**, or as determined under Condition 3.3;
- 9.16 **"Scheme of Repair Recovery Event"** means, that at any time during the **Grant Funded Period**:-
- 9.16.1 **you** breach any condition of the **Conservation Burden** and/or the **Standard Security** (if **you** have granted one). If **we** think **you** can remedy the breach we will give **you** notice of the breach and specify a period of time in which to remedy it before **we** would seek recovery;
- 9.16.2 the **Property** is damaged by a risk covered by the **Insurance Policy**, and **we** agree that it is not practical to reinstate the damage;
- 9.17 **"Specification"** means the documents and plans relating to the specification of materials and techniques to be used in carrying out the **Scheme of Repair** under the **Building Contract** all as approved by **us** as part of **your Application**, and such other documents, plans or amendments approved by **us** from time to time in **our** absolute discretion; and
- 9.18 **"Standard Security"** means a **Standard Security** granted by **you** in **our** favour over the **Property** to be registered in the Land Register of Scotland in the form of the style Standard Security made available on the **Grants Portal**. A copy of the Standard Conditions referred to in the **Standard Security** is also available on the **Grants Portal**.



PART 2 - COMPLETION DOCUMENTS

1 Defined Terms

The following defined terms used in this Part 2 of the **Conditions** have the meanings set out below:-

- 1.1 "**Advance Notice**" means an advance notice as defined in Section 56 of the Land Registration (Scotland) Act 2012;
- 1.2 "**Transaction**" means the grant of the **Standard Security** and the **Conservation Burden**; and
- 1.3 "**validly executed**" means executed in a manner presumed to be valid for the purposes of Sections 3 and/or 7 and/or Schedule 2 of the Requirements of Writing (Scotland) Act 1995;

2 Completion Documents

The following items are **Completion Documents** for the purposes of the **Grant Contract**:-

- 2.1 if **we** have told **you** in the **Offer of Grant** that **we** require one, a validly executed **Standard Security** together with particulars of execution;
- 2.2 if **we** have told **you** in the **Offer of Grant** that **we** require one, a validly executed **Conservation Burden** by **you**, where **you** are the proprietor of the **Property**, or by the proprietor of the **Property** if **you** are a tenant under a lease of more than 20 years;
- 2.3 if the **Property** is a Scheduled Ancient Monument under the Ancient Monuments and Archaeological Areas Act 1979 and **you**:-
 - 2.3.1 are not (i) the owner of the **Property** nor (ii) a tenant of the **Property** under a lease of more than 20 years; and
 - 2.3.2 **we** have told **you** in the **Offer of Grant** that **we** require one, a letter of consent from the owner of the **Property** to the carrying out of the **Grant Funded Project**, in the style made available on the Programme Resources page of **our** website;
- 2.4 if the **Property** is a place of worship, and **we** have told **you** in the **Offer of Grant** that **we** require one, a letter of consent from the appropriate denominational head to the carrying out of the **Grant Funded Project**, in the style made available on the Programme Resources page of **our** website;

If a **Standard Security** and/or **Conservation Burden** is required by **us**, **we** will also require the following to be delivered as **Completion Documents**:-

- 2.5 a valid marketable title to the **Property**, subject to and containing no onerous or unusual servitudes or real burdens affecting the **Property** and, where registered in the Land Register of Scotland, containing no exclusion of the

Keeper's indemnity or warranty, as the case may be, all in terms entirely satisfactory to **us**;

- 2.6 where **your** interest in the **Property** is being registered in the Land Register of Scotland for the first time, either (i) as a consequence of; or (ii) simultaneously with; settlement of the **Transaction**, deliver to **us** at settlement, the following items:-
- 2.6.1 a plan or bounding description sufficient to enable the **Property** to be identified on the cadastral map;
- 2.6.2 evidence (such as a Plans Report) that the description of the **Property** as contained in the title deeds is habile to include the whole of the occupied extent and that there is no conflict between the extent of the **Property** and any registered cadastral unit; and
- 2.6.3 where **you** are simultaneously acquiring an interest in the **Property** at the same time as settlement of the **Transaction**, either
- 2.6.3.1 a validly executed disposition or long lease of the **Property** in **your** favour, together with a Land Registration Application Form (providing for payment of registration dues in relation to the disposition/ lease by **your** solicitor by Direct Debit); or
- 2.6.3.2 suitable undertakings from **your** solicitor to present the **Standard Security** and/or **Conservation Burden** (along with **our** solicitors' Land Register Application Forms) simultaneously with presentation of your disposition/ lease;
- 2.7 a Legal Report brought down to a date as near as practicable to settlement which report will show:-
- 2.7.1 no entries adverse to **your** interest in the **Property**;
- 2.7.2 where **you** are simultaneously acquiring an interest in the **Property** at the same time as settlement of the **Transaction**, an **Advance Notice** in respect of the disposition/ lease in **your** favour (in a form adjusted with **us**);
- 2.7.3 where **your** interest in the **Property** is either already registered in the Land Register of Scotland or will be so registered as a result of settlement of the **Transaction**, an **Advance Notice** in respect of the **Standard Security**; and
- 2.7.4 no other **Advance Notices** in respect of the **Property**;
- 2.8 deliver a letter of obligation from **your** solicitor, in a form acceptable to **us**, undertaking to clear the register of all deeds, decrees or diligence that may be prejudicial to the registration of the **Conservation Burden**;

- 2.9 at settlement, deliver a search in the Register of Community Interests in Land brought down to as near as practicable to settlement disclosing no entries affecting the **Property**;
- 2.10 at settlement, where **you** are a company, exhibit to **us** searches in **your** Register of Charges and company file confirming that there is no notice regarding the appointment of a receiver, administrator or liquidator, winding-up, striking-off or change of name affecting **you** and disclosing the full names of **your** present directors and secretary. If such searches disclose any floating charge affecting the **Property** deliver a certificate of non-crystallisation of such floating charge granted by the charge-holder, dated not more than 2 days before settlement consenting to the **Transaction** and confirming that the charge has not crystallised and that the charge-holder has taken no steps to appoint a receiver;
- 2.11 unless otherwise agreed by **us** in advance, validly executed discharges of any heritable securities over the **Property** with all items required for their registration so that **we** will have a first ranking **Standard Security** over the **Property**; and
- 2.12 payment of all registration dues payable in respect of the Transaction.