



**Discover Programme
Grant Terms &
Conditions**

SEPTEMBER 2023

These Terms and Conditions (as defined below) set out the terms and conditions for all Grants funded under the Discover Programme by Science Foundation Ireland. These Terms and Conditions should be read in conjunction with the other documents comprising the Discover Programme Grant Conditions (as defined below), which together set out the terms and conditions of the Grant. The SFI Policy Documents can be found on SFI's website (www.sfi.ie) and a hard copy can be provided on request. The SFI Policy Documents may be amended, supplemented or replaced by SFI at any time.

The Organisation must ensure that the Project Lead, Project Team and others supported by the Grant are made aware of their obligations and comply with the Discover Programme Grant Conditions.

Failure to comply with the Discover Programme Grant Conditions may lead to sanctions, up to and including termination or revocation of the Grant and SFI reserves the right to recover funds paid in part or in full.

For the avoidance of doubt, consideration of whether an Organisation, Project Lead, Project Team or any other individual supported by the Grant has failed to comply with the Discover Programme Grant Conditions shall be assessed by SFI on a case-by-case basis, and in accordance with the Discover Programme Grant Conditions, Applicable Law and SFI Policy Documents.

SFI may vary the terms and conditions set out below at any time in accordance with Clause 30.

1. Definitions & Interpretation

1.1 In the Discover Programme Grant Conditions, unless the context requires otherwise:

<i>Applicable Law</i>	means any law applicable in Ireland (without further enactment) or any other applicable jurisdiction and shall include without limitation (to the extent that it is legally binding), common law, statute, statutory instrument, proclamation, bye-law, directive, decision, regulation, rule, order, notice, code of practice, code of conduct, governmental circulars or other directions, rule of court, instruments, delegated or subordinate legislation.
<i>Application</i>	means the application form including all accompanying documents.
<i>Brand Guidelines</i>	means brand guidelines issued from time to time by SFI, including any such guidelines which are set out on the SFI Website, as amended or replaced by SFI from time to time.
<i>Budget</i>	means the budget set out in the Letter of Offer and any change agreed in writing by SFI.
<i>Data Protection Law</i>	means all Applicable Law relating to processing of personal data and privacy, including the General Data Protection Regulation, the Data Protection Act 2018 and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.
<i>Determination</i>	has the meaning set out in Clause 13.4.
<i>Discover Programme Grant Conditions</i>	means the Application, the Budget, the Letter of Offer, the SFI Policy Documents and these Terms and Conditions that apply to Grants awarded under the SFI Discover Programme, as may be amended from time to time.
<i>Eligible Costs</i>	means costs specified in the Budget which fall within any category of eligible costs set out in the call documentation for the SFI Discover Programme or which are otherwise agreed in writing by SFI to be 'Eligible Costs' for the purpose of the Grant.
<i>Export Control Laws</i>	mean any United Nations or European Union trade sanctions, restrictive measures, European Union law and Applicable Law that apply in Ireland

	from time to time, which impose arms embargoes or control the export of goods, technology or software, including weapons of mass destruction and arms, military and security equipment and dual-use items (items designed for civil use but which can be used for military purposes).
<i>Garda Vetting</i>	means vetting by An Garda Síochána that is required to be carried out under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 or under any other provision of Applicable Law.
<i>General Data Protection Regulation</i>	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.
<i>Grant</i>	means the grant described in the Letter of Offer, funded by and awarded under the SFI Discover Programme.
<i>Intellectual Property Rights</i>	means all intellectual property rights including patents, trademarks, service marks, registered designs, drawings, utility models, design rights, business ideas, concepts, inventions, discoveries, breeders' rights, copyright (including the copyright in software in any code), database rights, know-how, trade secrets and other confidential information, technology, business or trade names, goodwill and all other rights of a similar or corresponding nature in any part of the world, whether registered or not or capable of registration or not, and including all applications and the right to apply for any of the foregoing rights anywhere in the world.
<i>Letter of Offer</i>	means the written notification issued by SFI specifying the level and duration of the Grant that has been awarded and related documents that the Organisation accepts by executing the acceptance certificate attached to such notification.
<i>Misconduct</i>	means any action, omission or conduct which may bring SFI, the Organisation or the Project into disrepute, including any fraud, impropriety, bullying or harassment.
<i>National IP Protocol</i>	means the National IP Protocol 2019 published by the Department of Enterprise, Trade and Employment, which is available via the SFI Website, as may be amended, supplemented or replaced from time to time.
<i>Organisation</i>	means the organisation to whom the Letter of Offer issued under the SFI Discover Programme is addressed.
<i>Parties</i>	means SFI, the Organisation and the Project Lead whereby the Organisation and the Project Lead are together a Party and SFI is a separate Party.
<i>Programme Asset</i>	means any asset, including equipment, acquired or generated (directly or indirectly) through the benefit of the Grant.
<i>Project</i>	means the project described in the Application and any modifications/amendments agreed in writing by SFI.
<i>Project Intellectual Property</i>	means all Intellectual Property Rights resulting from the Project.
<i>Project Lead</i>	means the individual in the Organisation, nominated in the Application and approved by SFI in the Letter of Offer, who shall be responsible for the direction and delivery of the Project.
<i>Project Team</i>	means the Project Lead, staff, students and others involved or otherwise engaged by the Organisation or any other member of the Project Team for the purposes of the Project.
<i>SFI Discover Programme</i>	means the Discover Programme funded by SFI to support and develop science, technology, engineering and maths (STEM) education and public engagement sector in Ireland.

SFI or Foundation	means Science Foundation Ireland, a body established in Ireland under the Industrial Development (Science Foundation Ireland) Act 2003 and the Industrial Development (Science Foundation Ireland) (Amendment) Act 2013 to promote and develop world class research capability in strategic areas of scientific endeavour.
SFI Policy Documents	means SFI policy documents relating to grants, including the Brand Guidelines and policies relating to matters such as reporting, budget and finance, intellectual property, data management and child safeguarding which are relevant to the Project and which are published on the SFI Website, as may be amended, supplemented or replaced by SFI from time to time.
SFI Website	means www.sfi.ie .
Subject Invention	means any invention conceived or first actually reduced to practise in the performance of the Project.
Term	has the meaning given to it in Clause 23.1.
Terms and Conditions	means the terms and conditions set out in this document as may be amended, supplemented or replaced by SFI from time to time.

1.2 In the Discover Programme Grant Conditions, unless the context requires otherwise:

- (a) any reference to a person shall be construed as a reference to any individual, firm, company, corporation, undertaking, government, state or agency of a state, or any association or partnership (whether or not having separate legal personality) and shall include that person's legal representatives, successors and permitted assigns;
- (b) the provisions of the Letter of Offer and any applicable SFI Policy Documents form an integral part of the Discover Programme Grant Conditions and shall have as full effect as if they were incorporated in the body of these Terms and Conditions;
- (c) any reference to any statute or statutory provision means that statute or statutory provision as it has been amended, extended, consolidated, re-enacted or replaced and includes any order, regulation, instrument or other subordinate legislation made under the relevant statute;
- (d) any words following the terms "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) references to agreement of the Parties shall mean agreement in writing (including in electronic or digital form) and shall include any agreement recorded on SFI's grants management system (currently SESAME).

1.3 In the event of a conflict or inconsistency between any provisions of the Discover Programme Grant Conditions, this shall be resolved by giving the following precedence:

- (a) the Letter of Offer;
- (b) the Budget;
- (c) these Terms and Conditions;
- (d) the SFI Policy Documents; and

(e) the Application.

2. Payment of Grant

- 2.1 SFI shall pay the Grant in instalments in accordance with the payment schedule set out in Appendix A of the Letter of Offer, as may be amended by SFI, subject to compliance by the Organisation and the Project Lead with the Discover Programme Grant Conditions.
- 2.2 If the Organisation incurs Eligible Costs that exceed the amount of the Grant, then such excess shall be borne by the Organisation. If the Organisation incurs Eligible Costs that are less than the maximum Grant approved, then SFI shall pay only such part of the Grant as is necessary to discharge the Eligible Costs actually incurred. Any part of the Grant which remains unused or uncommitted at the end of the Term must be returned to SFI within 90 days of the end of the Term or, at SFI's option, may be credited or set off by SFI against any payments to be made to the Organisation under any other grant.
- 2.3 If any overpayment of the Grant occurs then SFI shall be entitled to be reimbursed, including by crediting or setting off such overpayment against further payments of the Grant or any other grant from SFI to the Organisation.
- 2.4 Payment of instalments shall be made, when required by Applicable Law, only on production of a current, valid tax clearance certificate from the Revenue Commissioners to SFI or alternatively, the Organisation can liaise with SFI to enable SFI to obtain online certification from the Revenue Commissioners that the Organisation is in possession of a tax clearance certificate.
- 2.5 Payment of instalments shall be made by electronic transfer to the bank account nominated by the Organisation.
- 2.6 Claims for the payment of each instalment of the Grant shall confirm cumulative actual expenditure from the start of the Grant up to the date of the report.
- 2.7 Applications for supplementary funds during the course of a Project will not be considered, unless they are provided for under any SFI Policy Documents or otherwise agreed in writing with SFI.

3. Costs

- 3.1 The Grant may be used only to fund Eligible Costs incurred in accordance with the terms of the Discover Programme Grant Conditions.
- 3.2 The Organisation must use the Grant exclusively for the Project.

4. Warranties

- 4.1 The Organisation warrants to SFI that:
 - (a) the acceptance certificate attached to the Letter of Offer is executed by its duly authorised representative with full power and authority to enter into the Discover Programme Grant Conditions;
 - (b) it has obtained and shall maintain for the duration of the Project all necessary consents, approvals, authorisations, licences and permissions which are required so

that it can comply with its obligations under the Discover Programme Grant Conditions and shall not commit any act or omission which might invalidate, breach or otherwise impair the effect of such consents, approvals, authorisations, licences or permissions;

- (c) every statement, representation or information provided in the Application and any accompanying documents, in any report submitted by the Organisation to SFI, or information provided by the Organisation whether in response to a request from SFI, as part of a review or otherwise, is and will be, to the best of the Organisation's knowledge, true, complete and accurate;
- (d) there is no other information which the Organisation or its agents are aware of that has not been provided and which is relevant to the Application or the Grant;
- (e) the Project Lead and any persons on the Project Team or otherwise performing duties related to the Grant are suitably skilled, trained and qualified for the performance of such duties;
- (f) the Project shall be:
 - (i) performed with due skill, care and diligence and by appropriately qualified personnel;
 - (ii) conducted in compliance with all Applicable Law; and
 - (iii) conducted in accordance with such ethical guidelines and codes of practice as may be published or adopted by SFI or any relevant industry or competent regulatory body, including any applicable SFI Policy Documents; and
- (g) without prejudice to the generality of Clause 4.1(f)(ii), the Organisation shall comply with all applicable child welfare law. To the extent that the Organisation is a provider of a relevant service within the meaning of section 2 of the Children First Act 2015 as amended, supplemented or replaced from time to time (the "CFA"), the Organisation shall comply with the requirements of the CFA.

5. Responsibilities of the Organisation

5.1 The Organisation is fully responsible for the Project, the use of the Grant, and for the adherence by the Organisation, the Project Lead and the Project Team to the Discover Programme Grant Conditions.

5.2 Without limiting Clause 5.1, the Organisation must:

- (a) comply with the Discover Programme Grant Conditions and with the SFI Policy Documents;
- (b) ensure that all Grant instalments claimed by it and paid to it by SFI are allowable, necessary and reasonable;
- (c) not accept or receive funding for the same Project from any other source unless previously approved of in writing by SFI. For the avoidance of doubt, this shall not apply to any co-funding arrangement and shall only operate to prevent double funding in respect of the same activities;

- (d) not permit a significant change to the Project, unless agreed in writing by SFI;
- (e) ensure that the Project Lead and any other member of the Project Team receives a copy of each part of the Discover Programme Grant Conditions, and any subsequent changes;
- (f) ensure that the Project Lead and each other member of the Project Team has applied for and received an ORCID identifier, where the Project is to be published, or such other system identification as may be deemed necessary by SFI;
- (g) employ or otherwise engage the Project Lead and ensure that the Project Lead is responsible to the Organisation for the direction, management and pursuit of the Project in all of its objectives and the efficient, proper and appropriate conduct of the Project;
- (h) ensure that the Project Lead acts as the primary point of contact for SFI during the Term;
- (i) ensure that the Project Lead and each other member of the Project adheres to the SFI Policy Documents, which may reflect national and European policy;
- (j) obtain the prior written consent of SFI (such consent not to be unreasonably withheld or delayed) in respect of any proposed change in the status of the Project Lead that has a material effect on the proper stewardship of the Grant awarded. Such changes may include, but not be limited to, the Project Lead changing role within the Organisation, death, illness or departure of the Project Lead, retirement, resignation or leave of absence or any other significant change in the time commitment allotted to the SFI-funded Grant. SFI approval will be subject to SFI being satisfied that the change or replacement meets the eligibility criteria and that any proposed replacement has the expertise and experience to lead the Project to a successful conclusion in accordance with its objectives;
- (k) ensure that it has policies and procedures in place in connection with the Project and act in accordance with these policies and procedures at all times and comply with any Applicable Law;
- (l) ensure that a safe working environment is provided for all individuals associated with the Project. The Organisation's approach and policy on health and safety matters must meet all applicable regulatory and legislative requirements and be consistent with best practice;
- (m) ensure that any and all of its staff interact in a professional manner with staff and/or representatives from SFI; and
- (n) conduct all reasonable checks and due diligence permitted by law and any Garda Vetting required under Applicable Law in respect of all proposed members of the Project Team with the aim of ensuring that members are persons of good standing and that no such member has previously been found guilty of Misconduct in any jurisdiction.

6. Responsibilities of Project Lead

- 6.1 The Project Lead is responsible for the direction, management and efficient and appropriate conduct of the Project and use of the Grant from a financial, legal and ethical perspective. In particular, the Project Lead must do all acts, deeds and things necessary or desirable to facilitate and enable the Organisation to comply with the Discover Programme Grant Conditions and its reporting obligations in particular.
- 6.2 The Project Lead must ensure that information submitted in reports to SFI under or in connection with the Discover Programme Grant Conditions is accurate, complete and provided in accordance with specified timelines.
- 6.3 Without prejudice to any rights or obligations under Applicable Law, the Project Lead must take all reasonable steps to ensure that the members of the Project Team do not engage in Misconduct and shall take all steps reasonably necessary to prevent Misconduct.

7. **Notification**

- 7.1 The Organisation must ensure that it, or the Project Lead on its behalf, notifies SFI in writing of the following matters promptly and, in any event, within thirty (30) days:
- (a) any proposed material change in the scope or objectives of the Project;
 - (b) any significant problems relating to the administrative or financial aspects of the Project;
 - (c) the Project Lead deciding:
 - (i) to substantially reduce their time commitment or professional commitment to the work anticipated in the Project;
 - (ii) to sever his/her or their connection with the Organisation;
 - (iii) to be absent for a continuous period of three months or more; or
 - (iv) to relinquish active direction of the Project for any reason including for reasons of retirement, resignation or sabbatical leave;
 - (d) save where expressly prohibited by Applicable Law, if there is any change or proposed change in the status of the Project Lead, including suspension from duty or dismissal due to Misconduct:
 - (e) the accrual of any income to the Project which was not identified in the Application including if the Project secures funding from any other source which was not identified in the Application;
 - (f) the conception or creation of any Subject Invention by any member of the Project Team or deriving directly or indirectly from the use or access to the knowledge of the Project of which the Project Lead is or ought to have been aware;
 - (g) any change in the auditors appointed by the Organisation or any change to the authorised signatories of the Organisation's accounts and the names of any auditors or authorised signatories appointed in their place;

- (h) if there are reasonable grounds for believing there has been or shall be a breach of the Discover Programme Grant Conditions;
- (i) subject to compliance with Applicable Law and fair procedures, if there is a suspension or dismissal of any member of the Project Team arising from a proven or upheld incident of Misconduct;
- (j) subject to compliance with Applicable Law and fair procedures, if a complaint in relation to applicable child welfare and safeguarding law and/or guidance has been made and/or upheld against any member of the Project Team either prior to the award of the Grant or during the lifetime of the Project;
- (k) if there are reasonable grounds for SFI to reduce, suspend, terminate or revoke the Grant;
- (l) the occurrence of any event which constitutes an infringement of Intellectual Property Rights or provides reasonable grounds for believing that Intellectual Property Rights have been or are likely to be infringed;
- (m) the occurrence of any event which has had or may have a material adverse effect on the Project; or
- (n) if the Project secures funding from any sources that are not specified in the Application.

7.2 An Organisation's obligations as set out in Clauses 7.1(b), 7.1(d), 7.1(e), 7.1(f), 7.1(h), 7.1(i), (j), 7.1(l), 7.1(m) and 7.1(n) above shall remain in full force and effect beyond the lifetime of the Project notwithstanding the conclusion of the Term or the fact that the Grant has been reduced, suspended, terminated or revoked in whole or in part accordance with Clause 23.

8. Reports

8.1 It is the responsibility of the Organisation and Project Lead to ensure that complete and accurate reports which are satisfactory to SFI are submitted:

- (a) as required under the Discover Programme Grant Conditions; and
- (b) otherwise at the request of SFI and such request may be made for a period of up to ten (10) years following the date of termination or expiry of a Grant.

For the purposes of this Clause 8.1 and Clause 8.5 below, reports which are "satisfactory" to SFI mean complete and accurate reports which comply with any reporting requirements published on the SFI Website, including the most current SFI Policy Documents on reporting and compliance, or which have otherwise been notified by SFI to the Organisation, and which are relevant to the Project.

8.2 In addition to its obligations under Clause 8.1, the Organisation must promptly provide SFI with:

- (a) where it is alleged that the Organisation has committed a breach of the Discover Programme Grant Conditions, notice and a copy of any internal or external audit report generated by or on behalf of the Organisation which relates, directly or indirectly, to the Project and/or the Grant and any other report or document

generated by or on behalf of the Organisation which may be relevant to the alleged breach of the Discover Programme Grant Conditions; and

- (b) such further information relating to the Project and/or the Grant as SFI may reasonably request.
- 8.3 Where the reporting requirements of the Organisation incorporate information or data from third parties, the Organisation is responsible for ensuring that it is duly authorised to disclose such third-party information to SFI.
- 8.4 The Organisation must submit each report referred to in the Discover Programme Grant Conditions promptly and, where applicable, within the period specified by SFI. If there are exceptional reasons which will cause a delay in the submission of a report by the specified deadline, including the submission of the final report relating to the Project, the Organisation may make a written request to SFI for the deadline to be extended. Any agreement to extend the deadline shall be at the sole discretion of SFI.
- 8.5 Without limiting SFI's rights under Clause 23.2, if there is any failure to submit any report in accordance with the Discover Programme Grant Conditions, then:
- (a) SFI may reduce, suspend, terminate or revoke the Grant in accordance with Clause 23.2;
 - (b) the Organisation and Project Lead will not be eligible to be named on a subsequent application for funding from SFI until such outstanding report has been submitted and declared satisfactory by SFI, unless granted prior permission in writing by SFI to do so;
 - (c) without limiting Clause 8.5(a), in the case of the final report, if a report satisfactory to SFI is not received within 6 months of the termination of the Project, SFI shall be entitled to terminate the Grant and not pay the final Grant payment.
- 8.6 The Organisation shall, if so required by SFI, procure that any report required pursuant to this Clause 8 shall be reviewed or audited by the Organisation's auditors or other professional advisers, as appropriate, at the expense of the Organisation. Alternatively, SFI may require such report to be audited or reviewed by its nominated auditor or professional advisers, as appropriate, and the Organisation shall fully cooperate with such auditor or professional advisers and shall allow them full access to all financial records and other records referred to above or that are relevant to the Project including all statistical, administrative and other relevant supporting papers and records in both paper and electronic form. SFI may, on demand and by written notice, require the Organisation to reimburse SFI all costs and expenses incurred in respect of any such audit or review, except where the audit or review was carried out as a matter of routine by SFI or did not reveal any material non-compliance with the Discover Programme Grant Conditions.

9. **Audits and Record Keeping**

- 9.1 The Organisation and the Project Lead must retain all documents, as are reasonably necessary to demonstrate compliance with the Discover Programme Grant Conditions, including financial, statistical, administrative and all other relevant supporting papers and records in both hard and electronic form in relation to the Project, the Grant, the Project Intellectual Property for the duration of the Grant and for a period of ten (10) years after the date of termination of the Grant.

- 9.2 All financial records in relation to the Project, the Grant and the Project Intellectual Property must be maintained in accordance with good accounting practice and must include such information, data, ledgers, bank statements, accounts, authorities, directions and instructions to its auditors, accountants, banks and other servants or agents, and any other papers which may be reasonably necessary to enable SFI to exercise its rights of audit and to satisfy itself that the Organisation has complied with the Discover Programme Grant Conditions.
- 9.3 The Organisation and the Project Lead must ensure that in any agreement into which it may enter with a third party in relation to the co-funding of the Project, SFI or its authorised representative(s) is provided with the right to inspect the financial and other records mentioned above (including in respect of Misconduct) of the Organisation that relate to the Grant and must not enter into any confidentiality or other agreements that conflict with or impact on SFI's rights under this Clause 9.
- 9.4 The Organisation and Project Lead must make all the records and papers which are referred to in Clauses 9.1 and 9.2 available to SFI or its authorised representative(s) upon reasonable notice for the duration of the Project and for a period of ten (10) years from the date of termination of the Grant or for such longer period as SFI may request.
- 9.5 SFI or its authorised representative(s) may, on reasonable notice, undertake such reviews and audits of the Project and the records and papers referred to in Clauses 9.1, and 9.2, management control systems and any other matters as may be deemed necessary by SFI, including in connection with Misconduct, financial audits or any other audits or investigations conducted by the Organisation. The Organisation must cooperate fully, comply with all reasonable requests and provide for inspection to SFI or its authorised representative(s) such information or records as may be reasonably required for the purpose of facilitating such review or audit. For the avoidance of doubt, SFI does not wish to conduct any inquiry or investigation of its own into alleged Misconduct. Nevertheless, SFI shall be entitled to audit the process adopted and any reports produced or other findings made by the Organisation in respect of Misconduct.
- 9.6 Without limiting Clauses 9.1 to 9.5 (inclusive), if SFI has reasonable grounds of concern related to a possible or suspected breach of the Discover Programme Grant Conditions, SFI or its authorised representative(s) shall be entitled, on request, to be provided with any or all of the information referred to in this Clause 9 as may be necessary for SFI to satisfy itself that the Discover Programme Grant Conditions have been complied with or in connection with any inquiry, investigation or determination.

10. **Site Visit**

- 10.1 SFI, or its authorised representative(s), may, upon reasonable notice to the Organisation, visit any site(s) owned, controlled or occupied by the Organisation at which the Project is being conducted in order to review and inspect the Project. If any site visit is made by SFI at any premises owned, controlled or occupied by the Organisation, the Organisation must provide, and shall procure that its servants and agents provide, all reasonable assistance to SFI and its authorised representatives in the performance of their duties. For the avoidance of doubt, for the purposes of this Clause 10.1, SFI does not require access to any premises owned, controlled or occupied by a partner involved in the Project. At SFI's discretion, site visits may take place remotely, e.g. by video access to relevant persons and sites.
- 10.2 SFI reserves the right to recover the costs associated with such visits/inspection from the Organisation or to require the Organisation to discharge the costs directly, for example, if

planned site visits are cancelled by the Organisation, resulting in costs incurred to SFI or if the site visit /inspection reveals any material non-compliance with the Discover Programme Grant Conditions which has not been caused by a Force Majeure Event.

- 10.3 The Organisation's obligations under these Discover Programme Grant Conditions shall not be relieved, absolved or otherwise modified by anything in Clauses 8, 9 or 10 or any failure by SFI to exercise any of SFI's rights under the Terms and Conditions, including under Clauses 8, 9 and 10.

11. **Governance/Prevention of Misconduct**

- 11.1 The Organisation shall, and shall ensure that the Project Team shall, comply with the SFI Policy Documents and any other guidance SFI may release that may be relevant to the Project. The Organisation and Project Lead shall ensure that all members of the Project Team are aware of the SFI Policy Documents and other relevant guidance issued and understand their responsibility as recipients of public funds.

- 11.2 The Organisation and Project Lead shall ensure that the Project Team maintain high professional standards in respect of their activities relevant to the Project and shall implement and maintain procedures to ensure the quality of any output of the Project. The Organisation and Project Lead shall have in place effective systems for assuring the quality of the Project and the activities conducted by the Project Team.

- 11.3 The Organisation shall have effective mechanisms for identifying Misconduct and shall have clearly publicised and agreed procedures for investigating allegations made of such Misconduct and shall ensure that all members of the Project Team are aware of those procedures. Such procedures shall, as a minimum standard, be aligned with best practice.

- 11.4 Where Misconduct is detected, the Organisation shall ensure that it is addressed and terminated immediately in accordance with the Organisation's policy.

- 11.5 The Organisation shall have effective mechanisms for reporting Misconduct and the Organisation shall, as soon as possible and in any event within 30 days of becoming aware of the Misconduct, and subject to compliance with Applicable Law and fair procedures:

- (a) inform SFI of any suspected or alleged Misconduct directly or indirectly relating to the Project as soon as possible and in any event within 30 days;
- (b) provide SFI with details of any investigation relating to Misconduct as soon as possible and in any event within 30 days of the initiation of such event;
- (c) provide SFI with details of any developments in relation to such suspected or alleged Misconduct as soon as possible, and in any event within 30 days of the development, including developments in relation to the event referred to in Clause 11.5(b) and any findings of Misconduct; and
- (d) where the allegation of Misconduct is of a particularly serious nature, disclose the identity of the relevant individual(s) to SFI (provided this is in accordance with Applicable Law).

The Organisation shall report the matter only to such representative(s) of SFI as may be specifically designated by SFI for this purpose and SFI agrees to keep the information confidential in which case SFI shall be subject to the provisions of Clause 26 of these Terms

and Conditions in respect of the information unless and until the allegation of Misconduct has been upheld by the Organisation.

- 11.6 The Organisation shall not, and shall ensure that no member of the Project Team shall, enter into any confidentiality agreement that restricts its/their capacity to inform SFI of the details of any Misconduct, its investigation and outcome, as required above or that may require SFI to enter into any such confidentiality agreement.

12. **Conflict of Interest**

12.1 The Organisation is responsible for:

- (a) putting in place a dedicated conflict of interest policy, where this is required by any applicable guidance;
- (b) recording and managing actual and potential conflicts of interest in respect of the Grant and the Project, including in accordance with such conflict of interest policy;
- (c) disclosing any actual or potential conflicts of interest in respect of the Grant and the Project to SFI; and
- (d) ensuring that any relationship between the Organisation, the Project Lead or other members of the Project Team and any commercial organisation or other third party which is relevant to the Grant or the Project does not give rise to a conflict of interest for the Organisation, the Project Lead or other members of the Project Team.

12.2 Any conflict of interest or potential conflict of interest relating to the Organisation, the Project Lead, other members of the Project Team or the governance committee established in relation to the Grant in accordance with SFI Policy Documents must be fully disclosed to SFI as soon as such conflict or potential conflict becomes apparent. In the event of any conflict or potential conflict of interest, SFI shall, at its discretion, decide on the appropriate course of action.

13. **State Aid**

13.1 The Parties acknowledge and agree that:

- (a) State aid law based on Article 107(1) of the Treaty of the Functioning of the European Union (TFEU) may apply to the Grant, the Discover Programme Grant Conditions and all uses of and activities funded by the Grant;
- (b) SFI has agreed to award the Grant on the basis that the Organisation complies with any State aid conditions specified in the Letter of Offer; and
- (c) the Organisation's use of the Grant complies with State aid law and the Organisation accepts and acknowledges that if the Organisation is found by a relevant competent authority or by a court of competent jurisdiction to have breached State aid law, some or all of the Grant funding, together with interest, may be recovered.

13.2 In the event of an investigation by the European Commission or proceedings before any court or tribunal of competent jurisdiction are commenced or threatened that the Organisation's receipt of the Grant, use of the Grant or activities funded by the Grant is contrary to applicable State aid law ("**Investigation**"), then the Organisation shall, and shall procure that the Project

Lead shall, cooperate fully and promptly with any such Investigation and, if so requested by SFI and/or its authorised representative(s), promptly provide to SFI and/or its authorised representative(s) all assistance, information and data, including all records and papers which are referred to in Clauses 9.1 and 9.2, in connection with any such Investigation(s).

- 13.3 In the event of any Investigation(s), the Organisation shall keep SFI and/or its authorised representative(s) fully and promptly informed and, to the fullest extent permitted by Applicable Law, liaise with SFI concerning any response(s) to any such Investigation(s).
- 13.4 The Organisation shall, and shall procure that the Project Lead shall, comply fully and promptly with (i) any Investigation(s); and/or (ii) any finding, determination, judgment, ruling or order by the European Commission or any court or tribunal of competent jurisdiction that the Organisation's receipt of the Grant, use of the Grant or activities funded by the Grant is contrary to applicable State aid law ("**Determination**").
- 13.5 The obligations set out in this Clause 13 shall continue in full force and effect for a period of 10 years from the date of completion of the Project, notwithstanding any earlier termination or expiry of the Term.

14. **Limitation of Liability and Indemnity**

- 14.1 To the greatest extent permitted by law, SFI shall have no obligation, responsibility, or any liability, whether in contract, tort (including negligence), strict liability or otherwise of any kind whatsoever to the Organisation, the Project Lead, any member of the Project Team or any third party arising out of or in connection with the Grant, payment of the Grant, the Discover Programme Grant Conditions or any act, omission or thing connected with the Grant or the Discover Programme Grant Conditions, except to pay the Grant to the Organisation in accordance with the Discover Programme Grant Conditions.
- 14.2 Nothing in the Discover Programme Grant Conditions shall operate to limit or exclude any liability of the Organisation or the Project Lead for fraud, fraudulent misrepresentation or Misconduct.
- 14.3 The Organisation shall fully indemnify, keep fully and effectively indemnified and hold SFI, and its officers, members, servants, authorised representative(s) and agents, harmless on demand against all liabilities, loss, damages, demands, expenses, costs (including legal and/or professional costs and expenses), awards, fines, claims and proceedings ("**Liabilities**") of any kind arising from any act or omission of the Organisation, Project Lead or any member of the Project Team in connection with the Project or the use of the Grant or from the provision of any funds, advices, or assistance of any kind given by SFI pursuant to the Discover Programme Grant Conditions or otherwise howsoever and without limiting the foregoing shall fully indemnify, keep fully and effectively indemnified and hold SFI, and its officers, members, servants, authorised representative(s) and agents, harmless on demand against all such Liabilities in relation to:
- (a) the management, monitoring, conduct and control of any activities related to the Project funded by the Grant;
 - (b) any claim by or relating to any member of the Project Team whether during or after the Term, whether under contract, tort, common law, statute or otherwise, including any claim that any such member was or is entitled to be an employee of SFI, whether

under the European Communities (Safeguarding of Employee Rights on Transfer of Undertakings) Regulations, 2003 or otherwise; and

- (c) any investigation, activities or study that requires ethical approval and that is conducted as part of or in connection with the Project or any use of the Grant.

14.4 For the avoidance of doubt, the above indemnity shall not apply to the extent that any Liabilities arise due to the negligence of SFI.

15. **Insurance**

15.1 The Organisation must insure all Programme Assets with an insurer of good repute against fire, loss, damage or theft and such other appropriate risks as may be advised, to their full replacement value. If any claim is made under that insurance then the Organisation must use the proceeds of the claim to procure a suitable replacement of the relevant Programme Asset(s), unless otherwise agreed in writing by SFI. The Organisation shall also notify SFI promptly in circumstances where any Programme Assets are affected by fire, loss, damage or theft.

15.2 The Organisation must maintain at all times during the Term with a well-established and reputable insurer or underwriter authorised to provide insurance in Ireland such policies and levels of insurances as any reasonable and prudent organisation would maintain in similar circumstances, including the following types of insurance, and must provide SFI with details of such insurance on request:

- (a) a public liability policy insuring against liability for any claims, losses, damages and expenses (including legal and/or professional costs) due to damage or destruction of property or death or personal injury of any person arising as a result of or in connection with the Project. The Organisation's policy must include an indemnity to principals clause specifically indemnifying SFI.

- (b) an employers' liability policy insuring against liability for any claims, losses, damages and expenses (including legal and/or professional costs) due to injury to or disease or death of any person employed or otherwise engaged by the Organisation arising as a result of or in connection with the Project. The Organisation's policy must include an indemnity to principals clause specifically indemnifying SFI.

15.3 Where requested by SFI, the Organisation shall maintain at all times during the Term, with a well-established and reputable insurer or underwriter authorised to provide insurance in Ireland, an events and cancellation policy insuring against liability for any claims, losses, damages and expenses (including budgeted costs) due to cancellation of an event in connection with the SFI Discover Programme including where the cancellation is due to force majeure (including a Force Majeure Event). The Organisation's policy must include an indemnity to principals clause specifically indemnifying SFI. The Organisation agrees to provide SFI with details of such insurance on request.

15.4 The insurances required to be obtained by the Organisation under this Clause 15 shall not limit the obligations, liabilities or responsibilities of the Organisation under the Discover Programme Grant Conditions or otherwise. The Organisation must discharge all of its

obligations under the Discover Programme Grant Conditions which are insurable, whether or not it has the requisite insurance or has received payment in respect of the insured obligations from its insurers.

15.5 The Organisation shall:

- (a) be liable to pay the full amount of any deductible or excess amounts arising under the insurance policies in respect of each and every claim;
- (b) to the extent permitted under Applicable Law, notify SFI of any claims relevant to the Project made under such policies where such claims are material to the indemnities and insurances provided for in this Clause 15; and
- (c) to the extent permitted under Applicable Law, as soon as possible provide SFI with full details in writing of any event, occurrence or non-occurrence which is material to the indemnities and insurances provided for in this Clause 15.

16. **Intellectual Property**

16.1 The Organisation and Project Lead must use all reasonable endeavours to ensure that, where practicable and relevant, discoveries and advancements in knowledge arising from the Project are translated for public benefit and are disseminated as widely as possible in accordance with the National IP Protocol, except where such dissemination could undermine the Intellectual Property Rights of the Organisation or the Project Lead, or would otherwise be contrary to the National IP Protocol.

16.2 The Organisation and Project Lead must ensure that any Project Intellectual Property are treated in accordance with the principles set out in the National IP Protocol and any associated guidance, where relevant.

16.3 SFI makes no claim to any Project Intellectual Property.

17. **Rights Retention**

17.1 In circumstances where the Project Lead and/or any other member of the Project Team proposes to publish any output from the Project including in respect of any author accepted manuscript version, then subject to Clause 16.1, the publishing authors or individuals shall ensure that such outputs:

- (a) are published and made available in open access resources (e.g. by way of a CC BY public copyright licence) in order to support the accessibility and availability of the output of publicly funded research; and
- (b) comply with SFI's open access policy.

18. **Export Controls**

18.1 The Organisation shall comply with (and shall procure that the Project Team complies with) Export Control Laws for the duration of the Term.

18.2 In connection with Clause 23.3 and subject to Clause 23.4, the Parties agree that the Grant may be suspended, terminated or revoked, in whole or in part, by SFI with immediate effect by written notice in the event that the Organisation or any member of the Project Team is

found by a relevant competent authority or by a court of competent jurisdiction to have engaged in a Grant funded activity which is in material breach of Clause 18.1 above, provided that any such action taken by SFI (including any reimbursement of the Grant) shall be reasonable, proportionate and commensurate with the specific issue which has arisen, including taking account of:

- (a) any reputational loss or damage caused to SFI as a consequence of the material breach of Clause 18.1 above; and
- (b) (in circumstances where reimbursement is ordered by SFI), the amount of the Grant which has been utilised in the activities found to be in breach of Clause 18.1.

19. **Child Safeguarding**

19.1 The Parties acknowledge that the Grant, and all uses and activities funded by the Grant, must comply with all Applicable Law and guidance relating to child welfare and safeguarding.

19.2 Where the Project in any way involves children, the Organisation must immediately inform SFI:

- (a) if any breach of Applicable Law or guidance relating to child welfare or safeguarding has been upheld against any member of the Project Team prior to the award or during the Term of the Grant; or
- (b) of any complaint of a breach of Applicable Law or guidance relating to child welfare or safeguarding against any member of the Project Team which is in the course of being investigated prior to the award or during the Term of the Grant.

20. **Publicity and Acknowledgement**

20.1 The Organisation shall, and shall ensure that all members of the Project Team shall, promote the reputation and standing of SFI in the conduct and administration of the Project. In particular, the Organisation shall ensure that:

- (a) in any communications, including brochures, reports, promotional materials, banners, media appearances and releases, SFI's support is credited and acknowledged in a prominent place (including in the first paragraph of all press materials, at the top of all websites, and on the front of any collateral and branding for events) and the logo of SFI is published in any printed materials in a clear and visible position in accordance with SFI Brand Guidelines (available on the SFI website) wherever journal or other media rules permit;
- (b) SFI support for specific events, including lectures and speakers, is acknowledged;
- (c) if the Organisation or any member of the Project Team intends to undertake any media activity (including issuing a press release or briefing or holding a photo call) relating to the Project or any uses of or activities funded by the Grant, the Organisation or Project Lead must notify SFI's Communications Office 10 days in advance to allow for coordination – communications@sfi.ie. SFI Communications Office must be provided with copies of any news releases or briefings or photos related to the Project or any uses of or activities funded by the Grant; and

- (d) any other terms of the Letter of Offer relating to publicity and the Brand Guidelines are complied with.

21. Programme Assets

- 21.1 The Organisation must ensure “Funded by SFI” labels are placed clearly on all equipment purchased out of funds provided pursuant to this Grant while such equipment is utilised by or on behalf of the Organisation. SFI’s logo and guidelines are available on the SFI Website.
- 21.2 The Organisation must act with prudence and probity in the acquisition and care of all Programme Assets and must ensure that all expenditures shall be an Eligible Cost. In particular, the Organisation must:
 - (a) ensure that the acquisition complies with Applicable Law and any applicable internal procedures of the Organisation;
 - (b) not pledge, charge or otherwise encumber any Programme Asset without the prior written approval of SFI; and
 - (c) use the Programme Assets on the Project (and any related activities or projects) for which they were acquired as long as they are needed.
- 21.3 If, during or after the Term, a Programme Asset is not required for use by the Project, then the Organisation:
 - (a) may, with the prior written consent of SFI, sell or otherwise release such Programme Asset on terms agreeable to SFI; or
 - (b) subject to Clause 21.4, make it available for use by other organisations or third parties in accordance with the ethos of the SFI Discover Programme.
- 21.4 Title to Programme Assets purchased or generated with the Grant by the Organisation shall vest in the Organisation, unless agreed otherwise with SFI in writing. If it is proposed that the Grant is to be transferred to another organisation, then without limiting Clause 31, no such transfer may occur until agreement in writing is reached between the Organisation and SFI regarding rights in and to any Programme Assets purchased or generated with the Grant.
- 21.5 The Organisation must maintain the Programme Asset and must keep detailed and accurate records contained the following information:
 - (a) a description of the Programme Asset;
 - (b) details regarding the funding by which each Programme Asset was acquired, date of acquisition and cost;
 - (c) details regarding title to the asset;
 - (d) information from which one can calculate the percentage of SFI’s participation in the cost of the Programme Asset; and
 - (e) such other information as may be relevant and appropriate having regard to the value and nature of the Programme Asset.

22. **Government Funding / Statutory Requirements**

22.1 The Organisation acknowledges that SFI is dependent on the Irish State for funding of its Grant activities and that, if sufficient funding is not forthcoming from the State, SFI may not be in a position to fund all of its grant commitments including the Grant. Accordingly, the Organisation agrees that if SFI does not have sufficient funding to cover all of its Grant commitments as aforesaid:

- (a) SFI shall be entitled in its sole discretion to determine which grant commitments it will continue and which commitments it will reduce, suspend, terminate or revoke; and
- (b) SFI shall be entitled in its sole discretion to forthwith reduce, suspend, terminate or revoke the Grant by written notice to the Organisation.

23. **Term, Termination and Extension**

23.1 The Grant shall commence on the date specified in the Letter of Offer and, unless terminated earlier in accordance with the Discover Programme Grant Conditions, shall continue for the period specified in the Letter of Offer (the “**Term**”).

23.2 The Grant may be reduced, suspended, terminated or revoked, in whole or in part by SFI with immediate effect if the Organisation fails to remedy the following circumstances within 30 days of written notice by SFI:

- (a) if, in the reasonable opinion of SFI, progress in the Project is not satisfactory; or
- (b) if the Organisation or the Project Lead has materially failed to comply with the Discover Programme Grant Conditions.

23.3 The Grant may be reduced, suspended, terminated or revoked, in whole or in part by SFI with immediate effect by written notice in any of the following circumstances:

- (a) if a petition is presented or an order is made or a resolution is passed for the winding-up of the Organisation, or any action is taken by its officers or any other person for the winding-up, dissolution or striking off of the Organisation; or any action is taken by any person to appoint a receiver, administrator, administrative receiver, examiner, trustee, or similar officer of the Organisation, or any of its assets, or anything analogous to any of the foregoing events occurs in respect of the Organisation in any applicable jurisdiction;
- (b) if the Project Lead:
 - (i) or any member of the Project Team is convicted of any criminal offence involving dishonesty;
 - (ii) or any member of the Project Team is found, following the conclusion of an investigation by the Organisation, to have engaged in any Misconduct;
 - (iii) severs his/her connection with the Organisation or reduces his connection with the Organisation to such extent that, in the reasonable opinion of SFI, he/she can no longer give active direction of the Project;

- (iv) in the reasonable opinion of SFI, relinquishes active direction of the Project;
or
 - (v) does not, in the reasonable opinion of SFI, actively initiate the Project within 60 days of the effective date specified in the Letter of Offer, unless a different period for initiation has been agreed between the SFI and the Organisation;
or
 - (c) if there is a complaint in relation to applicable child welfare and safeguarding law and/or guidance made against a member of the Project Team and the Organisation has not satisfied SFI that reasonable measures have been put in place to comply with applicable child welfare and safeguarding law and/or guidance;
 - (d) if an investigation by the European Commission or proceedings before any court or tribunal of competent jurisdiction are commenced or threatened that the Organisation's receipt of the Grant, use of the Grant or activities funded by the Grant is contrary to applicable State aid law; or
 - (e) if SFI otherwise reasonably believes that such action is necessary to protect the interests of SFI, the Project or the Grant.
- 23.4 SFI may, but shall not be obliged to, provide the Organisation with written notice in advance of exercising its rights under Clause 23.2, 23.3 or 18 and provide the Organisation an opportunity to remedy the relevant circumstances. Where SFI gives written notice pursuant to Clause 23.2, 23.3 or 18, SFI shall specify the reason(s) for exercising or considering exercising its rights of termination or revocation.
- 23.5 No costs incurred during any period of suspension of the Grant or after the effective date of termination or revocation of the Grant shall be Eligible Costs, except in circumstances where:
- (a) in the opinion of SFI, no fault attaches to the Organisation or the Project Lead and the Organisation could not reasonably have avoided or eliminated such costs; or
 - (b) the incurring of such costs was otherwise expressly authorised in writing by SFI, provided that such costs would otherwise be eligible under the Discover Programme Grant Conditions.
- 23.6 The Grant may be terminated by the Organisation on giving 30 days' written notice to SFI, setting out the reasons for such action, provided that:
- (a) prior to issuing such notice, the Organisation must consult with SFI to establish if any other course of action may be possible; and
 - (b) where SFI incurs expenses associated with early termination under this Clause 23.6, the Organisation must repay to SFI the relevant expenses, provided such expenses are reasonable and objectively justifiable, within 30 days of written request by SFI.
24. **No Cost Extensions**
- 24.1 SFI may, but shall not be obliged to, on receipt of a request by the Organisation and the Project Lead in accordance with Clause 24.2, extend the Term if SFI is satisfied that additional time is required to ensure adequate completion of the Project within the funds already made available (a "**No-Cost Extension**").

24.2 Any request for a No-Cost Extension by the Organisation and the Project Lead must be made in writing and must comply with the relevant SFI Policy.

25. **Effects of Reduction, Termination or Revocation**

25.1 Where the Grant is reduced by SFI, the Grant shall remain in force subject to the remaining provisions of this Clause 25. SFI shall use reasonable endeavours to take account of such reduction in any future payments which are due to be made to the Organisation. Where no further payments are due to be made to the Organisation, SFI may require the Organisation by written notice, to pay to SFI such sums as may be necessary to give effect to the reduction of the Grant. Such sums may include amounts of the Grant spent on Eligible Costs, provided that such sums may not exceed the total amount of the reduction of the Grant.

25.2 Within 60 days of the effective date of termination, revocation or expiration of the Grant, the Organisation must provide to SFI a report containing such information as would be contained in the final report relating to the Project together with an itemised accounting of costs incurred prior to such date.

25.3 Where the Grant is terminated by SFI in accordance with Clauses 23.2, 23.3 or 33, the Organisation must repay to SFI or, at SFI's option, may be credited or set off by SFI against any payments to be made to the Organisation under any other grant, such amount of the Grant as remains unspent and such other sums as may be necessary to give effect to the revocation of the Grant as notified in writing by SFI. Such sums may include amounts of the Grant spent on Eligible Costs, provided that such further sums may not exceed the total amount of the Grant paid by SFI to the Organisation.

25.4 Where the Grant is revoked by SFI in accordance with Clause 23.2 or 23.3, the Organisation must repay to SFI such amount of the Grant as remains unspent and such other sums as may be necessary to give effect to the revocation of the Grant as notified in writing by SFI. Such sums may include amounts of the Grant spent on Eligible Costs, provided that such further sums may not exceed the total amount of the Grant paid by SFI to the Organisation.

25.5 Where the Grant is terminated by the Organisation in accordance with Clause 23.6, 30.1 or 33 the Organisation must repay to SFI such amount of the Grant as remains unspent and such further sums as SFI may, by written notice, demand in respect of the Grant, as SFI deems appropriate in its absolute discretion, taking into account the reasons provided by the Organisation for such early termination, provided that such further sums may not exceed the total amount of the Grant paid by SFI to the Organisation.

25.6 Any amounts to be repaid by the Organisation to SFI under Clauses 25.1, 25.4 or 25.5 must be repaid within 90 days of the effective date of termination, reduction or revocation, as applicable (unless otherwise stated herein). If the Organisation fails to repay any such amount within such 90-day period (or such other period stated herein), then that amount may be recovered by SFI from the Organisation as a simple contract debt and shall carry interest at the rate specified in the Prompt Payment of Accounts Act 1997 accruing from the expiry of the 90 day timeframe for payment referred to in this Clause 25.6.

25.7 Upon the expiration or early termination of the Grant the Organisation must cooperate with and provide all reasonable assistance to SFI and any third party acting on behalf of or on the instructions of SFI as may be necessary to ensure an orderly wind down of the Project.

26. **Confidentiality**

- 26.1 In this Clause 26, “**Confidential Information**” means all information disclosed (whether in writing, orally or by another means, whether directly or indirectly and whether specifically designated as ‘confidential’ or which ought reasonably be regarded as confidential) under or in connection with the Discover Programme Grant Conditions by one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) whether before, on or after the date of the Letter of Offer including information relating to the Disclosing Party's products, services, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs.
- 26.2 Subject to the terms of Clauses 17 and 28 during the Term and after termination or expiration of the Term for any reason the Receiving Party:
- (a) must not use Confidential Information for a purpose other than the performance of its obligations and the exercise and enforcement of its rights under the Discover Programme Grant Conditions or, in the case of SFI, in the performance of its statutory powers and functions and any related activities;
 - (b) must not disclose Confidential Information to a person except with the prior written consent of the Disclosing Party other than in accordance with Clause 26.3, 26.4 or 26.2(a); and
 - (c) must make every effort to prevent the unauthorised use or disclosure of Confidential Information.
- 26.3 The Receiving Party may disclose Confidential Information to any of its directors, other officers, employees, agents, service providers, advisers, consultants (whether paid or unpaid), auditors or bankers, (a “**Recipient**”) to the extent that disclosure is reasonably necessary for the purposes of the Discover Programme Grant Conditions, or in the case of SFI, related to the performance of its statutory powers and functions and related activities and provided that the Receiving Party must ensure that a Recipient is bound by a non-disclosure agreement or is subject to statutory confidentiality provisions.
- 26.4 The Receiving Party may disclose Confidential Information, if and to the extent that:
- (a) this is required by the law of any relevant jurisdiction (including the Freedom of Information Act 2014) or pursuant to an order of a court of competent jurisdiction;
 - (b) this is required by any securities exchange or regulatory or governmental body to which that party is subject, wherever situated, whether or not the requirement for information has the force of law;
 - (c) the information has come into the public domain through no fault of the Receiving Party;
 - (d) the information was in the possession of the Receiving Party before such disclosure by the Disclosing Party;
 - (e) the information was obtained by the Receiving Party from a third party who was free to divulge the same;
 - (f) the Disclosing Party has given prior written approval to the Receiving Party in respect of the disclosure, such approval not to be unreasonably withheld or delayed;

- (g) the information was independently developed by the Receiving Party, which independent development can be shown by written evidence; or
- (h) it is disclosed to a bona fide current and/or potential purchaser, investor and/or lender of the Receiving Party, and any legal and/or professional representatives thereof; provided that such potential purchaser, investor and/or lender shall be subject to a confidentiality agreement (on terms usual to such transactions) covering such Confidential Information,

PROVIDED THAT any such information disclosed pursuant to Clause 26.4(a) or 26.4(b) shall be disclosed, where reasonably practicable, only after written notice to the Disclosing Party.

- 26.5 Unless the Organisation specifically informs SFI of any objection by any company, commercial entity or any entity collaborating on the Project, SFI shall be entitled to assume that it is authorised to publicise the name of such company, commercial entity or any entity collaborating on the Project and other summary details (not including any commercially sensitive information) in relation to the collaboration.
- 26.6 The Parties acknowledge and agree that in the event of a default in the obligations set out in this Clause 26, damages may not be a sufficient remedy for the Disclosing Party. Accordingly, in addition to other remedies, such Disclosing Party may seek injunctive relief or specific performance of the other party's obligations.
- 26.7 Upon termination or expiry of the Grant the Receiving Party must, at the option of the Disclosing Party, either destroy or return to the Disclosing Party all Confidential Information and all copies thereof which are held by the Disclosing Party.
- 26.8 The obligations of each of the Parties as to disclosure and confidentiality shall continue in force notwithstanding the termination or expiration of the Term.
- 26.9 Notwithstanding any other provision of the Discover Programme Grant Conditions, nothing in these Discover Programme Grant Conditions, including this Clause 26, shall prohibit or restrict SFI and/or its authorised representative(s) complying with or responding to any Investigation(s) and/or any Determination(s).

27. **Data Protection**

- 27.1 SFI shall be entitled to collect, use and disclose personal data provided in the Application and otherwise obtained under or in connection with the Discover Programme Grant Conditions for processing the Application, making a Grant, for the payment, monitoring, maintenance and review of the Grant, for the performance of its statutory powers and functions and for the general activities of SFI. Further details regarding SFI's collection, use and disclosure of personal data and individuals' rights in respect of personal data relating to them which is held by SFI are available in the privacy statement on the SFI Website and in reports, documents and other bulletins published by SFI.
- 27.2 From time to time, SFI may issue or otherwise make available data protection / privacy notices to the Organisation which includes details of SFI's processing of personal data. The Organisation shall ensure that such data protection/privacy notices are provided to all relevant data subjects, including the Project Lead and members of the Project Team.
- 27.3 During the Term or at any time following the expiration or termination of the Grant, SFI may contact the Organisation, the Project Lead or any member of the Project Team concerning

funding opportunities, SFI activities or any events, or for the purposes of monitoring and evaluation including but not limited to collecting scientific data and data related to impact. SFI may choose to authorise a third party to contact the Organisation, the Project Lead or any member of the Project Team on its behalf.

27.4 For the purpose of peer review, information may be sent to external experts in countries outside the European Economic Area, including countries which are not recognised by the European Commission as having adequate data protection laws. If and to the extent that SFI does so, it will ensure that appropriate measures and safeguards are in place to comply with its obligations under applicable law governing such transfers.

27.5 The Organisation shall ensure that it is in a position to provide relevant personal data of any person on the Project Team or any person otherwise participating in the Project (for example any industry partners) to SFI and to enable SFI, subject to compliance by SFI with its obligations under Data Protection Law, to process such data for the purposes set out above and for any purposes relevant to the Discover Programme Grant Conditions. For the avoidance of doubt, the Organisation shall be responsible for ensuring compliance with its own obligations under Data Protection Law only in respect of any such disclosure and this shall include ensuring that the Organisation has an appropriate legal basis under Data Protection Law and has complied with its transparency obligations to permit such disclosure.

28. **Freedom of Information**

28.1 SFI may be required to disclose information in response to a request made under the Freedom of Information Act 2014 (the “**FOI Act**”) or the EC (Access to Information on the Environment) Regulations 2007 to 2018 (the “**AIE Regulations**”).

28.2 If the Organisation and/or the Project Lead considers that any information supplied to SFI is confidential and/or commercially sensitive it shall, at the time of providing the information, identify such information and give reasons for its confidentiality and/or commercial sensitivity. SFI may, if it considers it appropriate or if it is obliged to do so under the FOI Act or the AIE Regulations, consult with the Organisation and/or the Project Lead prior to releasing or consenting to the release of such information in the circumstances mentioned in Clause 28.1.

28.3 If the Organisation receives a request made under the FOI Act or the AIE Regulations which relates to the Grant or the Discover Programme Grant Conditions, the Organisation must notify and consult with SFI on the response to the request.

29. **Entire Agreement**

29.1 The Discover Programme Grant Conditions constitute the entire agreement between the Parties with respect to the Grant and supersede and replace any prior written or oral agreements, representations or understandings between the Parties with respect to the Grant. Each of the Parties acknowledges and agrees that in entering into the Discover Programme Grant Conditions, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person (whether a party to the Discover Programme Grant Conditions or not) other than as expressly set out in the Discover Programme Grant Conditions. Nothing in this Clause shall operate to limit or exclude any liability for fraud or fraudulent misrepresentation. Save as expressly set out herein, the Discover Programme Grant Conditions may not be varied except by agreement in writing between the Parties.

30. **Variation**

30.1 SFI may vary these Terms and Conditions and the SFI Policy Documents at any time by giving written notice to the Organisation (a “**Variation Notice**”). The Variation Notice shall include the new version of these Terms and Conditions and/or SFI Policy Documents and shall specify high level reasons for the variations and the date on which they shall come into effect (the “**Variation Date**”), which shall be at least 30 days after the date of issue of the Variation Notice. If the Organisation or the Project Lead is not agreeable to the new version of the Terms and Conditions or SFI Policy Documents, the Organisation shall be entitled within not more than 30 days following the date of issue of the Variation Notice to:

- (a) issue a notice of objection or refusal to SFI in accordance with the provisions of Clause 30.2 below; or
- (b) terminate the Grant with immediate effect by written notice to SFI.

30.2 Any notice of objection or refusal issued by the Organisation in accordance with Clause 30.1(a) above shall set out the reasons for such objection or refusal and the direct consequences (including breach of any contract directly related to the Project between the Organisation and a third party) that shall flow from the variation. SFI agrees to give reasonable consideration to such notice of objection or refusal and within a reasonable period following receipt of a notice of objection or refusal, SFI shall (subject to Clause 30.3) be entitled at its discretion to:

- (a) withdraw the Variation Notice in which case the Terms and Conditions and SFI Policy Documents shall continue in force unchanged;
- (b) issue a revised Variation Notice having regard to the reasons given for any refusal or objection (in which event, the provisions of Clauses 30.1, 30.2 and 30.3 shall apply once again); or
- (c) reduce, suspend, terminate or revoke the Grant, in whole or in part.

30.3 Where the notice of objection or refusal states that the variation specified in the Variation Notice would, if implemented, cause the Organisation to be in material breach of a contract directly related to the Project then SFI shall acting reasonably and in good faith further consult the Organisation and shall give reasonable consideration to the matters raised by the Organisation.

30.4 If no notice of objection or refusal is received by SFI before the Variation Date, then the new version of these Terms and Conditions and/or the SFI Policy Documents shall be deemed to have been accepted by the Organisation and the Project Lead and shall come into effect on the Variation Date, provided that no variation of the Terms and Conditions or SFI Policy Documents made under this Clause 30 shall give rise to any requirement for repayment by the Organisation of the whole or any part of the Grant already paid to it prior to the Variation Date.

31. **Assignment**

31.1 The Grant is made personally to the Organisation and the Organisation may not, without the prior written agreement of SFI, assign, transfer, sub-contract, charge or in any other manner make over to any third party the benefit and/or burden of the Grant.

31.2 If a Project Lead intends to take up an appointment at another Organisation, then the Project Lead, as applicable, the Organisation or such other Organisation may seek SFI's agreement for the Grant (including both its benefit and burden) to be transferred from the Organisation to such other Organisation. SFI may, but shall not be obliged to, agree to such request provided that:

- (a) the transfer is agreed, in writing and in advance, by SFI, the original Organisation and the new Organisation under a deed of novation or such other instrument as SFI deems appropriate;
- (b) arrangements satisfactory to SFI and the new Organisation are put in place to continue the Project in the new Organisation in a manner in which it was originally approved; and
- (c) SFI reserves the right to impose whatever conditions and to take whatever action it deems appropriate in the event of such a transfer, including halting the continued payment of instalments.

32. **Dispute Resolution**

32.1 The Parties shall use their best efforts to negotiate in good faith and settle any dispute that may arise out of or in relation to the Grant, the Discover Programme Grant Conditions or any breach of them. If any such dispute cannot be settled amicably through ordinary negotiations by the authorised representative of the Parties, the dispute shall be referred to the Head of the Organisation and the Chief Operations Officer of SFI, who shall meet in good faith to try and resolve the dispute. If the dispute or difference is not resolved as a result of such meeting, the following procedure shall apply before resorting to litigation:

- (a) where the Parties agree that a matter is of a technical nature, it may be referred to a technical expert (the "**Expert**") to be appointed by agreement between the parties. Such Expert shall act as an expert and not as an arbitrator; or
- (b) where the dispute is of a non-technical nature or the Parties cannot agree as to whether or not the dispute is of a technical nature, or where the parties cannot agree on the appointment of the Expert, the matter may be referred to mediation in accordance with the Centre for Effective Dispute Resolution ("**CEDR**") procedures then in force. The mediator shall be appointed by agreement between the Parties or, in default of agreement, the matter shall be referred to the CEDR for appointment of a mediator. Each party shall bear its own costs in connection with the mediation and the costs of the mediator shall be borne equally between the Parties.

32.2 Nothing contained in the Discover Programme Grant Conditions shall prevent either Party from seeking injunctive or other relief in a court of law to protect or enforce its legal rights.

33. **Force Majeure**

33.1 Subject to Clause 33.2, no Party shall be in breach of the Discover Programme Grant Conditions if there is any total or partial failure of performance by it of its duties and obligations under the Discover Programme Grant Conditions to the extent that such failure is caused by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, global or national pandemic or epidemic, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labour disputes of whatever nature or any other reason beyond the reasonable control of such Party (the "**Affected Party**"), provided that the

Affected Party must give written notice to the other Parties of the occurrence of such an event (a “**Force Majeure Event**”) and its effects on the Affected Party’s ability to perform its duties and obligations as soon as reasonably practicable after the Force Majeure Event occurs. The Affected Party’s affected duties and obligations shall be suspended during the period (and only during the period) in which the Force Majeure Event continues. The Affected Party further agrees to take all such measures as may be reasonably necessary to mitigate the effects of the Force Majeure Event on the performance of its obligations under the Grant Conditions. As soon as the Force Majeure Event ceases to exist, the Affected Party must give written notice to the others of this fact. If the Force Majeure Event continues for a period of more than 60 days, a Party not claiming relief under this Clause 33 shall have the right to terminate the Discover Programme Grant Conditions with immediate effect by giving written notice of such termination to the other Parties.

33.2 It is agreed and acknowledged that Clause 33.1 shall not relieve the Affected Party of liability for failure to perform or delay in performing its obligations under these Discover Programme Grant Conditions to the extent that:

- (a) insurance cover is available on commercially reasonable terms; or
- (b) the Affected Party has insurance cover in place;

in respect of the relevant Force Majeure Event.

34. **Severability**

If any provision or term of the Discover Programme Grant Conditions or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason, including by reason of the provisions of any legislation or other provisions having the force of law, or by reason of any decision of any Court or other body or authority having jurisdiction over the Parties, including the EU Commission and the European Court of Justice, such terms or provisions shall be severable from the Discover Programme Grant Conditions and shall be deemed to be deleted, provided always that if any such deletion substantially affects or alters the basis of the Grant, the Parties shall negotiate in good faith to amend and modify the provisions and terms of the Grant as may be necessary or desirable in the circumstances.

35. **Nature of Relationship**

Nothing in the Discover Programme Grant Conditions is intended to or shall create a partnership or joint venture or legal relationship of any kind that would impose liability upon one Party for the act or failure to act of the other Party or to authorise either Party to act as agent for the other. SFI does not act as an employer with respect to the Project, the Project Team or any other personnel of the Organisation. SFI shall not be responsible for, and shall have no liability whatsoever in respect of, any claim for redundancy, compensation, dismissal or discrimination or any other claims for which the Organisation or Project Lead may be liable as an employer or otherwise.

36. **Waiver**

No failure or delay on the part of any Party to exercise any right or remedy shall be construed or operated as a waiver. No single or partial exercise of any right or remedy prevents further exercise of that right or remedy or the exercise of another right or remedy.

37. **Rights and Remedies**

Except where the Discover Programme Grant Conditions expressly provide otherwise, the rights and remedies provided under the Discover Programme Grant Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

38. Notices

38.1 Any notice or other document to be given under the Discover Programme Grant Conditions must be in writing and will be deemed to have been given if:

- (a) delivered by hand;
- (b) sent by registered post; or
- (c) sent by e-mail

to the correct address or e-mail address of the party to whom it is being sent, as set out in the Letter of Offer (as may be amended from time to time by notice in writing to the other party) and shall be deemed to have been received as follows:

- (i) by hand: on the date of delivery;
- (ii) by registered post: 1 working day after posting; or
- (iii) by email: 24 hours after it left the sender's email server.

39. Governing Law and Consent to Jurisdiction

The Discover Programme Grant Conditions shall be governed by and construed in accordance with the laws of Ireland. Subject to Clause 32 all Parties submit to the exclusive jurisdiction of the Irish Courts for the resolution of disputes arising out of or in connection with the Discover Programme Grant Conditions, including any non-contractual disputes or claims.

40. Legal Proceedings

The Organisation, the Project Lead and the Project Team shall agree to be available to participate in any legal proceedings arising out of the Discover Programme Grant Conditions to which SFI is a party including proceedings in connection with the ownership, exploitation, commercialisation and/or management of any Project Intellectual Property.