

## 1. Definitions

- (a) “Applicant” means the person identified in the Application Form who is authorized to submit an Application on behalf of the applying organization/business.
- (b) “Application” means the application, including all supporting documents submitted by the Applicant for funding under the Program.
- (c) “Application Form” means the Program application form completed and submitted by the Applicant.
- (d) “Approval Letter” means the written communication by RHF to the Recipient accepting the Application and awarding the funds to the Recipient subject to such additional terms and conditions (including, without limitation, terms and conditions for the pay-out of the funds and the amount, manner and timing of, and pre-conditions for, such payments).
- (e) “Budget” means the budget provided by the Applicant as part of the Application.
- (f) “Claim” and “Claims” shall have the meaning given to such terms in Section 8.
- (g) “Eligibility Criteria” means the minimum criteria set forth for a Recipient to be eligible for funds under the Program, which criteria are hereby incorporated into the Eligibility Guidelines on BC Accessibility Grants Program website.
- (h) “Event of Default” has the meaning given to such term in Section 7.
- (i) “Funds” means the funds awarded by RHF to the Recipient on the basis of the Application submitted by the Applicant.
- (j) “Approval Letter” means the agreement between the Recipient and RHF in respect of the funds formed by the Application, the Approval Letter, and any rules, regulations, policies, guidelines, statements or additional terms and conditions incorporated by reference into such agreement.
- (k) “Funds Period” means the period beginning on the date of the Approval Letter and ending upon the expiration or termination of the Approval Letter.
- (l) “Approval Terms” means the Approval Letter and the Agreement for Performance of Charitable Activities.
- (m) “Laws” means all applicable federal, provincial or municipal laws, orders, directives,

decisions, ordinances, rules, regulations, bylaws, codes and requirements rendered or promulgated by any legislative body, ministry, department or administrative or regulatory agency or body whatsoever relating to the Recipient or the Project.

- (n) “Permits” means all permits, licenses and authorizations required by the Recipient under applicable Laws, including, without limitation, all permits required in connection with the Project.
- (o) “Personal Information” means any information about an identifiable individual collected, used or disclosed in the course of preparing or evaluating the Application, administering the funds or the Program or carrying out the Project (including, without limitation, the amount of the funds, the general nature of activities supported by the funds, quotes from, photographs of, and other information about the Recipient to illustrate how the funds have improved accessibility in the built environment).
- (p) “Products” means the goods, equipment or services purchased, acquired, engaged for the benefit of the Recipient in accordance with the Project paid by the Recipient or a third party and reimbursed by RHF.
- (q) “Program” means the BC Accessibility Grants Program project initiative of RHF.
- (r) “Project” means the project described in Application Form.
- (s) “Recipient” means the funds recipient in the Application Form.
- (t) “Records” has the meaning given to that term in Section 6(a).
- (u) “RHF” means the Rick Hansen Foundation.

## **2. Use of Funds**

- (a) The Recipient shall use the funds exclusively for the Project in accordance with the Approval Letter, and all rules, regulations, policies, guidelines, statements or additional terms and conditions (including any additional terms and conditions established by RHF in the Approval Letter) governing the funds from time to time. If RHF is providing the funds, in whole or in part, with funds received from the federal government or any other government, public body or third party funding, any rules, regulations, policies, guidelines, statements or other terms and conditions governing such government or third party funding shall be incorporated by reference into these funds Terms and shall apply to the use of the funds or the Products by the Recipient. The Recipient shall use the funds or Products in accordance with its policies and procedures to the extent such policies or procedures do not conflict the requirements of this Section 2(a).

- (b) The following additional terms apply:
- (i) For greater clarity, the Recipient may not use any part of the funds for its general overhead or other costs or expenses not directly related to Project.
  - (ii) Upon completion or termination of the Project for any reason whatsoever, the Recipient shall promptly repay to RHF any unused portion of the funds, or any portion of the funds that should have been unused in accordance with the Budget, the Approval Letter or any other document governing the use of the funds.
  - (iii) The Recipient shall complete the Project and any deliverables described in the Approval Letter within the time periods set forth in the Approval Letter. In the event the Recipient anticipates exceeding any time periods for the completion of the Project or any deliverables, the Recipient must promptly request in writing RHF's approval for an extension of such time periods, and in any event no later than two months prior to the completion date of the Project. If the Recipient fails to request an extension in accordance with the foregoing, RHF may deny such extension request in its sole discretion. Otherwise RHF may allow such extensions as RHF, in its sole discretion, considers reasonable under the circumstances.
  - (iv) The Recipient shall not make any changes to the Project, the Budget or any other matter affecting the use of the funds without the prior written consent of RHF.
- (c) The Recipient represents, warrants and covenants to RHF that the funds shall not be used for the direct or indirect benefit of any director, officer, member or employee of RHF or the Rick Hansen Institute or for any of their immediate family members, provided however, that any benefit available to such individuals solely as members of the general public shall not be contrary to this Section 2.

### **3. Payout of Funds**

- (a) The following applies: Subject to RHF's rights under the Approval Letter, RHF shall the pay the funds to the Recipient in accordance with the payout terms and conditions set forth in the Approval Letter.

### **4. Funding Reduction**

The Recipient acknowledges that ongoing funding of the Program and the funds by RHF are dependent on numerous factors including, without limitation, the overall financial condition of RHF, the amount of donations, gifts and other sources of outside funding actually received by

RHF at any given time and the budget or other spending decisions made by RHF. Accordingly, the Recipient agrees that if the level of funding for the Program is reduced for any fiscal year of RHF during the funds period as a result of RHF's overall financial condition, funding situation or budgeting or other spending decisions, then RHF shall be entitled, in its sole discretion, to (a) reduce the amount of the funds or any instalment payment of the funds to be made during such fiscal year or (b) to reduce the funds, cancel any further instalment payment and terminate the funds Agreement upon thirty (30) days' written notice to the Recipient.

## **5. Eligibility Criteria and Reporting**

- (a) The Recipient represents, warrants and covenants that the Project meets, and shall continue to meet during the funds Period, the Eligibility Criteria of the Program. The Recipient shall promptly notify RHF in writing if the Recipient no longer meets one or more of the Eligibility Criteria.
- (b) The Recipient shall comply with the reporting requirements set forth in the Approval Letter.
- (c) At the request of RHF, acting reasonably, the Recipient shall promptly provide such additional information, documents or material as required by RHF to determine that the Recipient continues to meet the Eligibility Criteria, that the funds is used for the Project and in accordance with the terms of the Approval Letter and to clarify any matter addressed or required to be addressed in the Recipient's reports. At the request of RHF, the Recipient shall participate in a meeting with RHF (whether in-person or otherwise) to discuss any of the foregoing matters with RHF.

## **6. Records, Information Requests, Inspection and Audits**

The following provisions shall apply:

- (a) The Recipient shall keep proper books and records, in accordance with generally accepted Canadian accounting principles, consistently applied, in relation to the Project, including, without limitation, records of all revenues (including the BC Accessibility Grants funds and funding from other sources) and expenditures related to the Project, contracts and agreements, invoices, receipts, progress and evaluation reports, Project or financial review or audit reports, and other documents or materials relating to the Project or the use of the funds and all records all records which the Recipient is required to maintain pursuant to applicable law (the "Records") and, as part of such Records, the Recipient shall maintain a separate general ledger account in respect of the funds. The Recipient shall promptly provide to RHF copies of any Records requested by RHF, acting reasonably. The Recipient shall retain the Records for a period of six (6) years from end of the funds Period.

- (b) The Recipient shall promptly provide to RHF copies of any Records or other information relating to the funds or the Project requested by RHF, acting reasonably.
- (c) RHF or its authorized agents and representatives shall have the right during business hours, upon twenty-four (24) hours' notice to the Recipient, to enter the Recipient's or the Project's premises and inspect all operations of the Recipient or the Project and to undertake an operational and financial review of the Recipient or the Project. Such inspection and review may require that RHF or its authorized agents and representatives have access to, and take copies of, all Records in the Recipient's possession or under its control relating to the funds or the Project, so that RHF can ascertain how the Recipient has used the funds in respect of the Project and whether the Recipient has complied with terms of the Approval Letter or so that RHF can meet its own reporting or accountability requirements. RHF and its authorized agents and representatives shall have the right, whether as part of an inspection or otherwise, to audit the Recipient's Records relating to the funds or the Project at RHF's expense. The Recipients shall fully co-operate with RHF and its authorized agents or representatives in the exercise of RHF's rights under this Section 6(c).
- (d) RHF will hold in confidence and treat all Records, and the information contained therein, obtained from the Recipient in exercising its rights under this Section 6 and will not disclose any such Records or information contained therein to any person:
  - (a) without the prior written authorization of the Recipient;
  - (b) unless required by applicable Law or in any judicial administrative or other legal proceeding, or pursuant to subpoena, civil investigative demand or other compulsory process; or
  - (c) unless required for RHF to pursue or enforce its rights or remedies under the Approval Letter, in tort, at law or equity or otherwise.

## **7. Default and Remedies**

The following provisions shall apply:

- (a) During the term of the Approval Letter, the occurrence of one or more of the following events shall be deemed an "Event of Default" by the Recipient (as applicable):
  - (i) Any breach by the Recipient of any of Recipient's representations, warranties, covenants or obligations under the Approval Letter;
  - (ii) An act of bankruptcy by the Recipient or if the Recipient becomes the subject of any bankruptcy proceeding under the Bankruptcy and Insolvency Act (Canada) or otherwise or becomes insolvent or it any

substantial part of the Recipient's property becomes subject to any levy/seizure, assignment, application for sale for or by any creditor or governmental authority or if a receiver, receiver-manager or similar official is appointed, either privately or judicially over the Recipient or a substantial portion of its property or if the Recipient ceases or threatens to cease to carry on its activities;

(iii) the Recipient, in the opinion of RHF, acting reasonably, is unable to complete the Project;

(b) Upon the occurrence of an Event of Default by the Recipient, RHF shall have the right, in its sole discretion, to do any, or any combination, of the following:

- (i) to provide the Recipient with an opportunity to cure the Event of Default within a time period set by RHF in its sole discretion before exercising any of its other rights or remedies;
- (ii) to withhold or cancel payment of any outstanding instalment of the funds;
- (iii) to terminate the Approval Letter immediately and without notice to the Recipient; or
- (iv) to demand that the Recipient repay or reimburse (as the case may be), RHF all or part of the funds paid to, or expended for the benefit of, the Recipient and the Recipient shall be required make such repayment or reimbursement within five (5) days of the date of such demand.

The foregoing rights or remedies are cumulative and not exclusive to each other, and any such remedy will not be deemed or construed to affect any right or remedy, which RHF is entitled to seek in the Approval Letter, tort, law, equity or otherwise.

## **8. Indemnity**

The Recipient shall indemnify, defend and hold harmless RHF, its directors, officers, members, employees and agents (the "Indemnified Parties") from and against all claims, demands, losses, actions, causes of action, suits, proceedings, costs, charges, fines, penalties, fees or expenses (including legal fees on a solicitor and client basis), assessments, judgments, damages and liabilities whatsoever (each a "Claim" and collectively "Claims") which the Indemnified Parties, or any of them, may sustain, suffer, incur, be a party to, or be liable for in connection with (i) any breach, violation or non-performance by the Recipient of any covenants, representations, warranties, agreements or obligations of the Recipient under the Approval Letter, Agreement for Performance of Charitable Activities, or applicable Laws; (ii) the negligent or willful misconduct by Recipient; or (iii) any Claims sustained by or brought

against RHF by a third party arising out of, related to or in connection with the Project, the Application, the funds, the Approval Letter, the Agreement for Performance of Charitable Activities, or the Program. This indemnity will survive the termination or expiration of the Approval Letter.

## **9. Release**

The Recipient hereby releases RHF from any and all liability related to or in connection with all Claims sustained by or brought against the Recipient by a third party arising out of, related to or in connection with the Project, the Application, the funds, the Products, the Approval Letter, the Agreement for Performance of Charitable Activities, or the Program, and the Recipient shall not seek recovery or indemnity from RHF in respect of any Claim whatsoever sustained by or brought against the Recipient by a third party arising out of, related to or in connection with the Project, the Application, the funds, the Products, the Approval Letter, the Agreement for Performance of Charitable Activities, or the Program.

## **10. Limitation of Liability**

RHF shall not be not be liable to the Recipient for any losses or liabilities sustained or incurred by the Recipient, except for such losses and liabilities as may directly result from the breach by RHF of any provision of the Approval Letter and, in any event, any liability of RHF to the Recipient (whether in tort, contract, law, equity or otherwise) shall be limited to an amount equal to the funds. Under no circumstances shall RHF be liable to the Recipient for any punitive, exemplary, aggravated, special, indirect, incidental or consequential damages.

## **11. Compliance with Laws**

Recipient covenants and agrees that it shall perform its obligations under the Approval Letter and Agreement for Performance of Charitable Activities and carry out the Project in compliance with all applicable Laws and that it shall obtain and maintain all Permits for the duration of the Project or the term of the Approval Letter, whichever is longer.

## **12. Public Recognition and Privacy**

- (a) The Recipient shall acknowledge RHF's support of the Project as outlined in the Approval Letter, as well as any RHF partners, sponsors and funders as requested by RHF, and the receipt of the funds in all external communications (whether to the general public, the media, other funding entities or otherwise) made by the Recipient in connection with the Project, provided however that RHF shall have the right to limit or terminate such requirement in respect specific communications, categories of communications or generally as RHF deems appropriate in its sole



discretion

- (b) The content of any press or media releases, public statements or other external communications by the Recipient referring to RHF or the funds shall be subject to RHF's prior written approval, acting reasonably. Further, the Recipient shall immediately notify RHF of opportunities to raise public awareness or the profile of the Project or the funds and shall cooperate with RHF to ensure that RHF's contribution to the Project is adequately reflected at such opportunities.
- (c) Notwithstanding any of the foregoing, the Recipient shall not refer to "Rick Hansen", RHF or the Rick Hansen Institute in connection with any fundraising activities of the Recipient, whether for the Project or otherwise, without the prior written consent of RHF.
- (d) RHF shall have the right to use the Recipient's name and Project information in all of RHF's communications in respect of the funds.

### **13. Governing Law and Jurisdiction**

The Approval Letter and Agreement for Performance of Charitable Activities will be governed by and construed in accordance with the substantive laws of British Columbia and the federal laws of Canada applicable in British Columbia, without regard to the conflict of law rules of such laws that would apply a different law. Each party hereby irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia.

### **14. Notices**

All notices required or permitted hereunder will be given in writing and sent by e-mail, or sent by pre-paid registered mail, or hand-delivered at the following address:

**If to RHF:**

Rick Hansen Foundation 300-3820 Cessna Drive Richmond British Columbia  
Email: [access@rickhansen.com](mailto:access@rickhansen.com)

**If to the Recipient:**

To the address (including email address) provided in the Application Form.

All notices will be deemed to have been received: (a) when delivered if delivered prepaid registered mail or by hand, and (b) when a legible e-mail is received by the receiving party if received before 5:00 pm Vancouver time on a business day, or on the next business day, if such email is received on a day which is not a business day in British Columbia or after 5:00 pm Vancouver time on a business day. Any party may change its address for notices from time to time by written notice in accordance with this Section 14. Each party hereby



irrevocably consents to service of process in the manner provided for delivery or faxing of notices in this Section (for clarity, nothing in this Approval Letter will affect the right of any party to serve process in any other manner permitted by law).

### **15. Remedies Not Exclusive**

The remedies provided to RHF under this Agreement are cumulative and not exclusive to each other, and any such remedy will not be deemed or construed to affect any right which RHF is entitled to seek at in contract, law or equity or by statute.

### **16. Waiver**

No failure or delay on the part of RHF in exercising any power or right under this Agreement will operate as a waiver of such power or right. No single or partial exercise of any right or power by RHF under this Agreement will preclude any further or other exercise of such right or power. No modification or waiver of any provision of this Agreement and no consent to any departure by Recipient from any provision of this Agreement will be effective until the same is in writing. Any such waiver or consent by RHF will be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on the Recipient in any circumstances will entitle the Recipient to any other or further notice or demand in similar or other circumstances.

### **17. Severability**

If any covenant or other provision of the Approval Letter or Agreement for Performance of Charitable Activities is invalid, illegal, or incapable of being enforced by reason of any rule of law or public policy, then such covenant or other provision will be severed from and will not affect any other covenant or other provision of the Approval Letter or Agreement for Performance of Charitable Activities, and the Approval Letter or Agreement for Performance of Charitable Activities will be construed as if such invalid, illegal, or unenforceable covenant or provision had never been contained. All other covenants and provisions of this Approval Letter or Agreement for Performance of Charitable Activities will, nevertheless, remain in full force and effect and no covenant or provision will be deemed dependent upon any other covenant or provision unless so expressed herein.

### **18. Entire Agreement**

The Approval Letter, Agreement for Performance of Charitable Activities, and any documents and agreements to be delivered pursuant supersede all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements, covenants, conditions, representations and warranties with respect to the subject matter of the Approval Letter.

There is no representation, warranty, collateral term or condition or collateral agreement affecting the Approval Letter or Agreement for Performance of Charitable Activities, other than as expressed in writing in this Agreement. No change or modification of the Approval Letter or Agreement for Performance of Charitable Activities will be valid unless it is in writing and signed by each party.

### **19. Relationship of the Parties**

The parties are independent contractors. Nothing herein contained shall be construed so as to create an agency relationship, an employment relationship, a partnership, or a joint venture between the Recipient and RHF. Neither party is or will be agent of the other for any purpose and has and will have no authority to bind the other in any manner, except as expressly agreed to in writing.

### **20. Survival**

Sections 8 to and including 10, 12, 13, and 15 and this Section 20 and all other representations, warranties or covenants, which by their nature or context are intended to survive the termination or expiration of the Approval Letter and shall survive the termination, cancellation, or expiration of the Approval Letter.

### **21. Assignment**

The Recipient shall not assign the Approval Letter or any of its rights, benefits, obligations or liabilities under or in respect of the Approval Letter.

### **22. Priority of Approval Letter**

In the event of a conflict or in consistency of any provision of the Approval Letter or Agreement for Performance of Charitable Activities with any other provision, the Approval Letter shall prevail.

### **23. Enurement**

The Approval Letter and Agreement for Performance of Charitable Activities will enure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, successors and assigns.