

# **AGREEMENT**

**DATED 31 March 2008**

in respect of

**THE INDEPENDENT LIVING FUND (2006)**

Department for Work and Pensions

## CONDITIONS OF GRANT

### THE INDEPENDENT LIVING FUND (2006)

**THIS AGREEMENT** is made **BETWEEN THE SECRETARY OF STATE FOR WORK AND PENSIONS** of the one part and Stephen Andrew Jack of 1 Hunter Road, West Wimbledon, London, SW20 8NZ, Marie Theresa Martin of 2 Seymour Road, Hampton Hill, Middlesex, TW12 1DD, Professor Peter Nicholas Collins Cooke of Little Ruffians, 4 Lyon Close, Northcourt Lane, Abingdon, Oxon, OX14 1PT, Nicholas Paul Danagher of 54 Oakbank Avenue Walton on Thames Surrey KT12 3RA, Michael Beresford Boyall of 24 Belle Baulk Towcester Northamptonshire NN12 6YE, Sally Rowan Sparrow of Poplar Farm House Poplar Lane Sproughton Ipswich IP8 3HL and Margaret McGlade of 43 Compton Road Nottingham NG5 2NH and Yogi Amin of 24 Hardwick Crescent Brincliffe Sheffield S11 8WB and Susan Jane Winterburn of 4 Lastingham Terrace York North Yorkshire YO10 4BW as the trustees for the time being of the Independent Living Fund (2006) of the second part and Elaine Morton of the Independent Living Funds PO Box 7525 Nottingham NG2 4ZT as the Chief Executive for the time being of the Independent Living Fund (2006) of the third part.

#### WHEREAS

- (1) The Secretary of State wishes to make grants in exercise of the power conferred by Section 1(1)(d) of the Disability (Grants) Act 1993 to the Trustees to hold upon the Independent Living Fund (2006) and subject to the powers contained in that Deed;
- (2) The Secretary of State makes the grants in the exercise of the power conferred by section 1(1)(d) of the Disability (Grants) Act 1993 subject to the Trustees satisfying the conditions and requirements set out in the Deed above and the following conditions and requirements as agreed pursuant to clause 5(4) of the Independent Living Fund (2006);
- (3) The Secretary of State makes the grants in the exercise of the power conferred by section 1(1)(d) of the Disability (Grants) Act 1993 in the expectation that the provisions in the Management Statement will be observed by all parties to that agreement.

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**IT IS HEREBY AGREED** as follows:

**1. Definitions and interpretation**

1.1 In this agreement the following expressions shall have the following meanings:

- (a) “**Financial Year**” means a year running from 1<sup>st</sup> April to 31<sup>st</sup> March.
- (b) “**the Fund**” means the Independent Living Fund (2006).
- (c) “**the Fund’s deed**” means the trust deed for the Independent Living Fund (2006).
- (d) “**Independent Living Fund (2006)**” means the trust of that name declared by a deed dated 10 April 2006 (as modified from time to time).
- (e) “**month**” means calendar month and monthly shall be interpreted accordingly.
- (f) “**the Power**” means the power to provide financial assistance conferred by clause 3 of the Fund’s deed.
- (g) “**Public Funds**” means monies paid or payable to the Trustees upon the Fund by a Minister of the Crown out of monies provided by Parliament.
- (h) “**Management Statement**” means the agreement between the Secretary of State and the Trustees dated 1 October 2007 which sets out the broad framework within which the Independent Living Funds (as defined therein) will operate.
- (i) “**Secretary of State**” means the person who from time to time shall be the Secretary of State for Work and Pensions in Her Majesty’s Government, or, if there shall be no such person, such representative of Her Majesty’s Government as is substantially responsible for performing the duties now performed by the said Secretary of State.
- (j) “**Sponsor Department**” means the Department for Work and Pensions.
- (k) “**Trustees**” means and includes the trustees for the time being of the Independent Living Fund (2006).

1.2 Except as specifically defined above, in this agreement expressions used in the Fund’s deed shall be construed in accordance with that deed and the definitions contained therein.

- 1.3 Unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine and vice versa.
- 1.4 References to legislation and guidance shall be construed as references to that legislation and guidance as amended or replaced from time to time. References to legislation that extends to Great Britain shall where appropriate include the corresponding Northern Irish legislation.
- 1.5 Clause headings are for reference only and shall not be taken into account in the interpretation of this agreement.

## **2. The Agreement**

- 2.1 The Secretary of State and the Trustees agree with each other to observe and perform the provisions of this agreement and the related Management Statement on their respective parts.

## **3. Payments by the Secretary of State**

- 3.1 Subject to clauses 3.2, 3.3 and 3.4 below, the Secretary of State will in relation to the Fund, pay to the Trustees during the Financial Year Public Funds to a total as from time to time notified in writing by the Secretary of State in relation to the Fund.
- 3.2 The Public Funds shall not be paid in total in advance but shall be paid by monthly instalments having regard to need in such amounts as the Secretary of State may from time to time agree with the Trustees or in the absence of any such agreement as the Secretary of State may from time to time decide having regard to the information referred to in clause 4 hereof.
- 3.3 Any amount of the total notified by the Secretary of State in relation to the Fund which has not been paid to the Trustees at the end of the Financial Year shall be retained by the Secretary of State.
- 3.4 The Secretary of State may retain from the total notified in relation to the Fund an amount equal to any gift or legacy received by the Trustees in respect of the Fund to which the total relates during the Financial Year or any preceding Financial Year and which has not been taken into account in the payment of Public Funds.
- 3.5 The grant-in-aid paid to the Fund forms part of the Sponsor Department's Departmental Expenditure Limit.

## **4. Requests for Payment of Public Funds**

- 4.1 Throughout the Financial Year the Trustees shall prepare and submit to the Secretary of State monthly records of expenditure together with details of planned expenditure for the following month.

- 4.2 When requesting a monthly payment of Public Funds the Trustees shall provide the Secretary of State with the following information:
- (a) the total of Public Funds received in the Financial Year to date,
  - (b) the total of actual expenditure by the Trustees in the Financial Year to date,
  - (c) the balance of cash in hand, and the balances held in all the bank accounts maintained by the Trustees for the provision of financial assistance pursuant to the Power,
  - (d) an estimate of expenditure for the next month, with details of how the amount requested has been calculated,
  - (e) an analysis of expenditure to date for the Financial Year, with a forecast of expenditure for the remainder of the Financial Year,
  - (f) an exception report where the actual expenditure on the provision of financial assistance pursuant to the Power for the Financial Year to date exceeds plus or minus a percentage (determined by the Sponsor Department) of the planned and forecast expenditure thereon for the Financial Year to date,
  - (g) an exception report where actual expenditure on administration costs (including any capital expenditure) exceeds plus or minus a percentage (determined by the Sponsor Department) of the planned and forecast expenditure thereon for the Financial Year to date,
  - (h) details of planned and committed expenditure in each month since the last payment of Public Funds in respect of any capital project for which the total planned expenditure including linked administration costs exceeds £40,000, and
  - (i) details of all gifts or legacies received by the Trustees since the last payment of Public Funds and held by them and of any payments made by the Trustees since that last payment which were funded thereby.

The information in (a) to (e) above to be provided separately for expenditure on the provision of financial assistance pursuant to the Power and on administration (including capital expenditure).

## **5. Levels of Reserves/Balances**

- 5.1. At the end of any monthly accounting period the Trustees may -

- (a) hold as a reserve or balance an amount no more on account of need likely to occur before receipt of the next instalment of Public Funds;
- (b) at the end of the Financial Year carry over into the next Financial Year any issued but unexpended balance of Public Funds to a limit determined by the Sponsoring Department of the original Public Funds voted by Parliament.

**6. Conditions relating to clause 3(1)(d) of the Independent Living Fund (2006)**

6.1 Further to clause 3(1)(d) of the Independent Living Fund (2006) deed, a Candidate is usually expected to make a contribution towards the cost of their Qualifying Support and Services to enable him or her to live independently. Therefore, Trustees shall, subject to 6.2 and 6.3 below, reduce the value of financial assistance from the Trust to a Candidate by the aggregate value of:

- (a) half of the amount of Disability Living Allowance (care component) or Attendance Allowance received;
- (b) if the Candidate is in receipt of Constant Attendance Allowance, the lesser of half of the amount of Constant Attendance Allowance received or half of the amount of the highest rate of Disability Living Allowance (care component);
- (c) the full amount of Severe Disability Premium (paid with income support) or the additional amount for persons severely disabled (paid with pension credit) received;
- (d) the full amount of any Special Transitional Additions received; and
- (e) if a Candidate is not in receipt of income support, the difference between their weekly resources, calculated in accordance with paragraph 7.4 below, and their weekly needs, calculated in accordance with paragraph 7.5(a) and (b) below;

minus the amount of any charges paid to a Local Authority in respect of qualifying support and services provided by the Local Authority.

6.2 In cases where a Candidate in Group 1 is considered by the Trustees to be a 'Protected customer', such Candidates are not expected to contribute the amounts in 6.1(a) and (b) above.

6.3 In cases where a Candidate is suffering from financial hardship, the Trustees may (if expressly approved by resolution of the Trustees at a meeting) make payments to or for the benefit of a Candidate, for a specified or unlimited period of time without that Candidate making the full contribution or any contribution expected in 6.1 above.

**7. Conditions relating to the eligibility of applicants for financial assistance from the Fund**

Capital

- 7.1 The prescribed amount of capital for the purposes of paragraph 4(b)(ii) and (c)(ii) of Part II of the First Schedule to the Fund's deed is £22,250.
- 7.2 Subject to the additional disregards in paragraph 8.3 below, the amount of capital shall be calculated in accordance with the provisions of section 136 of the Social Security Contributions and Benefits Act 1992 and regulations 46 to 52 and schedule 10 of the Income Support (General) Regulations 1987.
- 7.3 In addition to the capital to be disregarded listed in Schedule 10 of the Income Support (General) Regulations 1987, the following shall also be disregarded when calculating the amount of capital:
- (a) any Vaccine Damage Payment payable in respect of the applicant, whether held in a trust fund or not, and
  - (b) the value of capital set aside for impending disability-related purchases, provided that the period of any such set aside has not (unless expressly approved by resolution of the Trustees at a meeting) exceeded 6 months.

Relevant weekly resources

- 7.4 For the purposes of paragraph 4(c)(i) of Part II of the First Schedule to the Fund's deed, relevant weekly resources in respect of an Applicant means the aggregate of (a) and (b) but disregarding (c) and (d):
- (a) the Applicant's income calculated in accordance with the provisions of section 136 of the Social Security Contributions and Benefits Act 1992 and regulations 28 to 32, 40 to 42 and schedule 9 of the Income Support (General) Regulations 1987;
  - (b) where the Applicant's capital calculated in accordance with 7.2 and 7.3 exceeds £13,500 it shall be treated as equivalent to a weekly income of £1 per week for each complete £250 or part thereof in excess of £13,500 but not exceeding £22,250;
  - (c) the Applicant's earnings calculated in accordance with section 136 of the Social Security Contributions and Benefits Act 1992 and regulations 35 to 39D of the Income Support (General) Regulations 1987, or any payment in lieu of such earnings made under an Income Protection Insurance Policy;

- (d) any Statutory Sick Pay, Statutory Maternity Pay, Statutory Adoption Pay, Statutory Paternity Pay, Working Tax Credit, Pensions Savings Credit, Constant Attendance Allowance, Exceptionally Severe Disablement Allowance, Severe Disablement Occupational Allowance, Carer's Allowance, Student Loan (administered by the Student Loans Company Limited), student grant or bursary and (any form of) child maintenance.

Weekly needs

7.5 For the purposes of paragraph 4(c)(i) of Part II of the First Schedule to Fund's deed, weekly needs in respect of an Applicant means the aggregate of:

- (a) the 'applicable amount' as determined in respect of the Applicant for the purposes of income support calculated in accordance with section 135 of the Social Security Contributions and Benefits Act 1992 and regulations 17 to 22A (but not including an amount for housing costs in regulation 17(1)(e)) and schedule 2 (but not including an amount for the Severe Disability Premium in paragraph 13 of Part II of Schedule 2) of the Income Support (General) Regulations 1987, or, where appropriate, the 'appropriate minimum guarantee' as determined in respect of the applicant for the purposes of pension credit calculated in accordance with section 2 of the State Pension Credit Act 2002 and regulation 6 of the State Pension Credit Regulations 2002.

and, where appropriate,

- (i) an allowance for the cost of school meals, and
  - (ii) an allowance for the amount of child maintenance paid, and
  - (iii) an allowance for the interest on a loan taken out for a disability related improvement, adaptation or extension of the Applicant's home.
- (b) The Applicant's housing and water rate costs less any sums received by way of housing benefit, council tax benefit or under a mortgage protection insurance policy.
  - (c) the costs of the assistance with the Applicant's qualifying support and services which is needed in order to enable the Applicant to live independently.

References to amounts, allowances, sums and costs shall where necessary be apportioned so as to equate to weekly amounts, allowances, sums and costs.

**8. Apportionment**

8.1 The Trustees shall in relation to the Fund apportion the Public Funds between separate appropriations for administration costs (including any capital expenditure) and the provision of financial assistance pursuant to the Power. The appropriation for administration costs shall not exceed such limits as may be notified by the Secretary of State. The Trustees may make written application for these allocations to be revised within the Financial Year.

**9. Receipts from interest earned**

9.1 Any interest earned by the Fund on its assets shall be given the same budgeting treatment as the cost of capital charge on the assets.

9.2 If the receipts are used to finance additional expenditure by the Fund, the Sponsor Department will need to ensure it has the necessary Departmental Expenditure Limit cover. Any interest earned on cash balances arising from grant-in-aid or other Public Funds shall be treated as a receipt from an Exchequer source. Depending on the budgeting treatment of this receipt, and its impact on the Fund's cash requirement, it may lead to commensurate reduction of grant-in-aid or be required to be surrendered to the Consolidated Fund via the Sponsor Department.

**10. Banking Arrangements**

10.1 The Trustees will in relation to the Fund authorise a list of officers empowered to authorise payments from the bank. They will also set limits, as appropriate, on the amounts to be authorised by individuals and those that require multiple signatures.

**11. Acquisition, Management and Disposal of Assets**

**Delegated Powers**

11.1 The Trustees shall have the following delegated powers, and limits, in respect of Public Funds:

(a) Individual losses and overpayments under £40,000 may be written off (either by the Trustees or by any servant or agent to whom the Trustees have delegated this power in accordance with clause 9 of the Fund's Deed) without prior consultation with the Secretary of State, provided that the requirements in relation to overpayments and losses in Annexes 4.10 and 4.11 of Managing Public Money (as defined therein) have been complied with.

(b) With the exception of leases or rental agreements with Land Securities Trillium, the Trustees shall not enter into any leases or rental agreements on which expenditure would exceed £30,000 per annum per lease, or per annum per agreement, or £150,000 per

annum in total, without the prior written approval of the Secretary of State.

- (c) the Trustees shall not enter into any capital expenditure exceeding life time cost of £40,000 for any single project without the prior written consent of the Secretary of State; "capital expenditure" in the context of this section is defined as expenditure incurred to purchase:
  - (i) office equipment/machinery
  - (ii) computer software or hardware
  - (iii) vehicles
  - (iv) furniture and fittings
  - (v) land or buildings.

#### Assets

- 11.2 The Trustees shall maintain an accurate and up-to-date register of its fixed assets.
- 11.3 Subject to 11.5 below, the Trustees shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale. High value assets (calculated as the current book value), as defined by reference to the Sponsor Department's capitalisation level (currently £5000), shall be sold by auction or competitive tender (unless the Secretary of State's prior written consent is obtained) and in accordance with Annex 4.8 of Managing Public Money.
- 11.4 The Trustees shall not dispose of any assets acquired with Public Funds with a net book value in excess of £15,000 without the prior written consent of the Secretary of State. Use of proceeds of any disposal in excess of this amount shall be at the discretion of the Secretary of State.
- 11.5 With the exception of the disposal of assets in accordance with 11.4, the Trustees may retain receipts derived from the sale of assets provided that:
  - (a) The Secretary of State and Her Majesty's Treasury are content for the Trustees to retain these receipts;
  - (b) they are used to finance other capital spending;
  - (c) the Secretary of State receives prior notification of individual sales (or has consented to individual sales in accordance with 11.6); and

(d) total sales in any Financial Year do not exceed 3% of the original Public Funds voted by Parliament in the Financial Year.

11.6 Subject to any contrary direction given hereinafter by the Secretary of State, at the end of the Specified Period of the Fund, the Trustees shall after paying or making such reasonable provision as they think fit for the payment of the debts and liabilities of the Funds, transfer all of the remaining assets of the said Funds to the Secretary of State.

**12. Procurement**

12.1 The Trustees' procurement policies shall reflect guidance from the Office of Government Commerce including Procurement Policy Guidelines. The Trustees shall also ensure that the Fund complies with any relevant EU or other international procurement rules.

12.2 Periodically and wherever practicable the Fund's procurement shall be benchmarked against best practice elsewhere and contracted out where this would achieve better value for money.

**13. Competition**

13.1 Goods, works or services should be acquired by competition unless there are compelling reasons to the contrary. The form of competition should be appropriate to the value and complexity of the product or service to be acquired. Tenders should be accepted from suppliers who provide best value for money overall.

13.2 Proposals to let single-tender or restricted contracts shall be subject to a specified delegated authority from the Secretary of State to the Trustees, and the Trustees shall send to the Secretary of State after each Financial Year a report for that Financial Year explaining any contracts above £3000 in which competitive tendering was not employed.

**14. Value for money**

14.1 Procurement by the Trustees of works, equipment, goods and services shall be based on value for money, i.e. quality (in terms of fitness for purpose) and delivery against price. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

**15. Timeliness in paying bills**

15.1 The Trustees shall collect receipts and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in Annex 4.2 of Managing Public Money. The Trustees shall comply with the British Standard for Achieving Good Payment Performance in Commercial Transactions (BS 7890), and with the Late Payment of Commercial Debts (Interest) Act 1998 as amended.

**16. Novel, contentious or repercussive proposals**

16.1 The Trustees shall obtain the written consent of the Secretary of State before:

- (a) incurring any expenditure for any purpose which is or might be considered novel or contentious, being outside the Sponsor Department's Departmental framework, or which has or could have significant future cost implications, including on staff benefits;
- (b) making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Secretary of State;
- (c) making any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.

**17. Risk management**

17.1 The Trustees shall ensure that the risks which it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with Her Majesty's Treasury guidance, Management of Risk: A Strategic Overview.

17.2 The Trustees shall adopt and implement policies and practices to safeguard the Fund against fraud and theft, in line with Her Majesty's Treasury guidance: Managing the Risk of Fraud.

17.3 The Trustees shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract.

**18. Commercial insurance**

18.1 The Trustees shall not take out any insurance without the prior written approval of the Sponsor Department, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in box A4.5B in Annex 4.5 of Managing Public Money.

18.2 The Sponsor Department shall have a written agreement with the Trustees about the circumstances in which, in the case of a major loss or third-party claim, an appropriate addition to budget out of the Sponsor Department's funds and/or adjustment to the Fund's targets shall be considered.

18.3 A Certificate of Exemption for Employer's Liability Insurance has not been issued to the Fund.

**19. Compliance with instructions and guidance**

19.1 The Fund shall comply with all relevant instructions and guidance published by Her Majesty's Government (including, for example, Cabinet Office and Her Majesty's Treasury guidance), as amended and updated from time to time.

**20. Accommodation and records**

20.1 The arrangements concerning the accommodation of the Fund are to be covered by an agreement between the Trustees and the Secretary of State, if the arrangement is with a contractor other than Land Securities Trillium.

20.2 All information held and processed by the Trustees shall be in accordance with the Data Protection Act 1998, the Freedom of Information Act 2000 and any relevant guidance concerning the same.

20.3 The Trustees shall preserve and keep safe all written records, databases, computer hardware and software and all accounting records (however kept or recorded) which have been and are prepared and used in respect of the provision of financial assistance pursuant to the Power and ensure that adequate copies and back-up systems are kept and preserved in respect of them.

20.4 All records, whether held clerically or electronically or by any other means, relating to beneficiaries of the Fund, may only be destroyed two years after the 'Put Away' date. Other records, whether held clerically or electronically or by any other means, including finance records, those that relate to the establishment of the Fund, and those relating to policy decisions taken by the Trustees, may only be destroyed seven years after the 'Put Away' date. No records held by the Fund shall be kept for any longer than necessary.

20.5 In the event of the Fund's deed being revoked, all records of the Fund shall be transferred to the Secretary of State.

**21. Personnel Matters**

**Pay and Conditions of Service**

21.1 The staff of the Fund, whether on permanent or temporary contract, shall be subject to levels of remuneration and terms and conditions of service (including superannuation) approved, where necessary, by the Sponsor Department and where appropriate, Her Majesty's Treasury.

- 21.2 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the Fund's staff and to any other party entitled to payment in respect of travelling expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code except where prior written approval has been given by the Sponsor Department (and where necessary Her Majesty's Treasury) to vary such rates.
- 21.3 The travel expenses of Trustees shall be tied to the rates allowed to senior staff of the Fund. Reasonable actual costs shall be reimbursed.
- 21.4 The Fund shall operate a performance-related pay scheme which shall form part of the annual aggregate pay budget approved by the Sponsor Department.

Pensions: redundancy/compensation

- 21.5 The Fund's staff shall normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme.
- 21.6 Any proposal by the Trustees to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior written approval of the Sponsor Department. Proposals on severance payments must comply with DAO(GEN) 11/05.

**22. Review of this Conditions of Grant Agreement**

- 22.1 Subject to section 22.2 below, this agreement will normally be reviewed at least every five years or following a review of the Fund's functions as provided for in Section 7 of the Management Statement.
- 22.2 The figures quoted in this agreement will be reviewed and up rated as needed on at least a biennial basis.
- 22.3 Her Majesty's Treasury will be consulted on any significant variation proposed to this agreement.

Signed by authority of the  
Secretary of State for  
Work and Pensions

Signature:

Date:

ILF CONDITIONS OF GRANT AGREEMENT

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Signed by: STEPHEN ANDREW JACK (Chairman of the Board of Trustees)

Signature:

Date:

Signed by: MARIE THERESA MARTIN (Trustee)

Signature:

Date:

Signed by: PROFESSOR PETER NICHOLAS COLLINS COOKE (Trustee)

Signature:

Date:

Signed by: NICHOLAS PAUL DANAGHER (Trustee)

Signature:

Date:

Signed by: MICHAEL BERESFORD BOYALL (Trustee)

Signature:

Date:

Signed by: SALLY ROWAN SPARROW (Trustee)

Signature:

Date:

ILF CONDITIONS OF GRANT AGREEMENT

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Signed by: MARGARET MCGLADE (Trustee)

Signature:

Date:

Signed by: SUSAN JANE WINTERBURN (Trustee)

Signature:

Date:

Signed by: YOGI AMIN (Trustee)

Signature:

Date:

Signed by: ELAINE MORTON (Chief Executive)

Signature:

Date: