

Terms and Conditions for the use of Creative New Zealand Grant Funding

1. Introduction

1.1 About these terms and conditions

These terms and conditions explain what you can do with the **grant funding** you receive from Creative New Zealand. It also explains what you need to do when you have finished using the funding.

References to “you” mean you, the grantee, and references to “us” mean us, the Arts Council of New Zealand Toi Aotearoa / Creative New Zealand, the grantor.

In addition to these terms and conditions, there may be additional terms that we notify you of and that apply specifically to you and your funding. The additional terms become part of these Terms and Conditions for the use of Creative New Zealand Grant Funding. You and Creative New Zealand will be bound by those additional terms.

Please read all terms and conditions and any information we send to you carefully.

1.2 Support is available

If there is anything you don’t understand in these terms and conditions, you can contact us and ask any questions by speaking with one of our funding advisers. www.creativenz.govt.nz/speak-with-an-adviser

You can also seek independent advice or ask someone you trust if you need further support.

1.3 How these terms and conditions apply

These terms and conditions apply when you use any grant funding awarded to you by Creative New Zealand, unless we specify otherwise.

You can use this funding for eligible costs according to the criteria of the fund or opportunity you applied for. These criteria are listed under the fund or opportunity information page on our website. Alternatively, you can use the funding according to a budget approved by Creative New Zealand. These uses are called **eligible activity**.

The terms and conditions apply to you for the period of time that you are allowed to use the funding. This is called the **fund period** and will be communicated to you by us.

You must only use the funding for eligible activity during the fund period, according to these terms and conditions.

1.4 New Zealand law applies

These terms and conditions and any disputes arising out of or in connection to these terms and conditions are governed by New Zealand law.

2. What you are agreeing to

When you accept these terms and conditions:

- You agree to use the funding according to these terms and conditions.
- You confirm that now and in the future:
 - all the information you share with Creative New Zealand is true, complete, and not misleading (including by omission)
 - you have the power to enter into this Agreement
 - if you are an individual, you are 18 years or older, or if the funds we make available will be used by someone who is under 18, you are the parent or legal guardian of that person
 - you have and will hold all the rights, licences and consents or other authorities required to undertake any eligible activity, and to otherwise carry out the provisions of this Agreement
 - you will not break or ignore any intellectual property rights, rights of privacy, moral rights or any other rights of another person or group while undertaking any eligible activity
 - you will not do anything that is defamatory or include any defamatory material in your eligible activity.

3. How we will work together

3.1 Our values

In relation to your funding and how you use the funding under these terms and conditions, we both agree to:

- act with honesty and in good faith
- keep communication open and ongoing by keeping each other up to date with things that are happening that may impact on the funding and the responsibilities under these terms and conditions

- work in a collaborative and positive way
- recognise and respect each other's responsibilities, accountabilities, and independence.

3.2 If a disagreement happens

If a disagreement happens between us about these terms and conditions, we both agree to try to find a solution by talking with each other in good faith.

If we can't agree on a solution in a reasonable amount of time, we will ask an independent mediator to help solve the problem.

Creative New Zealand can only address issues between you and us in relation to these terms and conditions. We can't provide advice or investigate complaints about other parties.

3.3 Legal relationship between you and Creative New Zealand

These terms and conditions between you and Creative New Zealand are only about your funding and how and when you can use it.

Nothing in these terms and conditions creates an ongoing partnership, joint venture, employer-employee relationship or relationship where Creative New Zealand or yourself can make decisions on behalf of the other.

3.4 Any changes to what was agreed

If there is a change to your eligible activity such as:

- you need more time
- your circumstances change significantly
- your eligible activity or funding is no longer suitable,

please talk to us and we will work with you on your options.

We may update these terms and conditions from time to time. If we do, we will let you know. We will give you a reasonable notice period for any changes that may affect you.

3.5 Changes to the funder

Creative New Zealand reserves the option to transfer some or all of our funding operations to another organisation. If we transfer our funding promise under this Agreement to another organisation, that organisation

would then take over our obligations to you. You also agree to that organisation becoming the funder under this Agreement, and that you will work with it in the same way that you have agreed to work with us under this Agreement.

4. What you need to do when you receive funding

4.1 Make sure you understand your responsibilities

All eligible activity that you carry out with the funding must comply with all New Zealand laws, bylaws and regulations. This includes, for example, but is not limited to, things such as:

- tax
- health and safety
- employment
- intellectual property
- laws and regulations relating to the protection of young people and vulnerable adults.

We also expect you to comply with best practice standards for all eligible activity. This includes, for example, but is not limited to, things such as:

- following industry codes of practice
- following industry ethical and professional standards
- having appropriate policies and procedures in place
- conducting safety checks on individuals who work with children or vulnerable adults.

It is your responsibility to check what laws and standards apply to you and make sure you comply. You are also responsible for anyone who is working with you on any eligible activity.

You can seek independent advice if you are not sure about your responsibilities.

Reporting and record keeping

4.2 Keeping us informed

You must tell us within 5 days if anything happens that might affect your ability to carry out your obligations under the terms and conditions. That

includes if your governing board or body (if one) resolves or decides something that could affect your existence as an entity, or your ability to carry out your obligations.

4.3 Keep full and accurate records

You must keep full and accurate records for all matters relating to your eligible activity, including, but not limited to:

- how your funding was spent
- any legal requirements or industry standards which apply to your eligible activity and how these were met
- the activity you deliver with the funding to meet your reporting requirements.

4.4 Creative New Zealand's right to check records

You must hold onto your records while the terms and conditions apply, and for at least 7 years after they end. We may ask you for copies of these records anytime during this period. You must provide Creative New Zealand with reasonable access to these records if we request them during that period.

The reason for keeping full and accurate records is that your funding comes from public money. Creative New Zealand has a responsibility to make sure this money is being used well.

4.5 Auditing

We can decide to audit you to ensure the money is being used well. If we decide an audit is necessary, you will allow us, or our delegate, to conduct an audit of you (or your organisation). You agree to cooperate with any on-site audit and investigations, and to make available all relevant records and accounts to us or our delegate. We will reimburse you for all actual and reasonable costs associated with an audit.

4.6 Reporting

At the end of the fund period, you must provide Creative New Zealand with a completion report. Depending on the fund, you may also need to provide Creative New Zealand with additional reports during the period of your funding. These reporting requirements will be specified in your offer of funding, and can be added to later by Creative New Zealand upon our reasonable request.

You must include all the content, and in the formats Creative New Zealand reasonably requests in the report. You must provide Creative New Zealand with the report within the advised deadline. If you do not, you will be in breach of this provision and Creative New Zealand may refuse or delay any subsequent payments — see paragraphs 5.1 and 5.2 below.

4.7 What reports are used for

Any report you share with us helps us to understand what was achieved with our funding for New Zealanders. We may share aspects of the report with others to meet our own public sector reporting accountabilities. If we share details of your report with others, it will not identify who you are or any commercially sensitive information unless you agree we can do this or we are required to do by law (for example, because of the Official Information Act 1982 — see paragraph 4.10 below).

We will also use your reporting to monitor delivery against Creative New Zealand's strategies and policies.

The above commitments are separate from the publicity rights in paragraph 5.2 below.

4.8 Intellectual Property Rights in reports

The content of any report created by you will belong to you (or to any third party who has given you the right to use that content). You agree to give Creative New Zealand an ongoing, royalty-free right to use and copy any intellectual property in that report that you own for our own reporting and in our publications. You must notify us of any third-party content contained in your report. If we want to use that content for our publications and own reporting, you agree to seek permission from the third party for this purpose on our behalf.

We will ensure you are appropriately credited in any use of your content by us. You can let us know if you don't wish to be identified or if you don't wish to appear in any publications.

4.9 Report responsibilities continue

If we request a report under these Terms and Conditions, you are still required to provide this to Creative New Zealand, even if your funding is stopped or cancelled.

4.10 Official Information Act

You must tell us if any information you give us is commercially sensitive or otherwise private. Creative New Zealand is subject to the Official Information Act 1982. That means we might be required to give information that we hold about you (now and in the future) to another person if they request it under that Act.

We are expected to share information unless there is a “good reason for withholding it”. A “good reason” can include if that information is commercially sensitive, or if it is private information about a natural person.

More information about the Official Information Act can be found on the Ombudsman’s website [here](#).

5. Acknowledgements and publicity

5.1 Acknowledging Creative New Zealand

You need to acknowledge Creative New Zealand in all your marketing, promotional activities and published materials that are a result of, or about, your funding.

You can find information about acknowledging Creative New Zealand on our website.

[How to acknowledge Creative New Zealand](#)

You should also acknowledge our funding as an entry in your financial accounts, if you have them.

5.2 Creative New Zealand’s publicity rights

You agree that we can publish your name, a brief description of what you will use your funding for, and the amount of your funding.

You agree we may include short descriptions or extracts from any eligible activity in our media releases and publications. You must tell us if there is any part of your eligible activity we cannot use, such as content owned by third parties. If we want to use an extract of that content, you agree to seek consent from the third party for this purpose on our behalf.

If you put on a ticketed event using your funding, we may request up to two complimentary tickets. If you produce a book or publication using your funding, we may request a copy.

5.3 People involved in your eligible activity

You can't transfer your funding or your rights and responsibilities under these terms and conditions to anyone else unless Creative New Zealand agrees in writing.

You are responsible for ensuring any people or groups that work with you on your eligible activity also comply with these terms and conditions.

You must let Creative New Zealand know if there are any significant changes to people involved in any eligible activity that you had planned. For example, if there are changes to the leadership of an organisation or group, or you are working in collaboration with new parties.

6. What happens if things don't go to plan

6.1 If you break these terms and conditions

If you break any provision in the terms and conditions and you can fix that breach, we can require you to fix the breach within 14 days. If you fail to fix the breach, or we believe that you are unable to fix the breach, we may:

- require you to pay back some or all of the funding you have received from us
- stop or suspend any future payments to you
- if additional terms and conditions apply, require you to follow any applicable processes specified in those additional terms and conditions
- end our agreement under these terms and conditions immediately.

We will decide what action to take and the amount (if any) you must repay. You may not receive further funding from us or capability building support, or partake in Creative New Zealand initiatives, while you are in breach of the terms and conditions.

We can also take the actions set out in paragraph 6.1 above if a material or adverse change occurs in your position including:

- you show any reasonable indication that suggests that you are insolvent, at risk of becoming insolvent, or unable to pay your debts when they are due

- you close down or otherwise cease operating your business (if you have one)
- you are convicted of a crime involving fraud or dishonesty
- you act illegally or negligently in a way that we reasonably believe will affect the performance of your eligible activity or our reputation
- you get what we consider to be significant funding for the same or materially similar purpose direct from the Crown.

If you break these terms and conditions, we can treat this action as breaking any other agreement you might have with us. This means that we can take the same actions under that other agreement that we may take under the terms and conditions.

Any failure or decision to delay or not use any right, power or remedy in these terms and conditions wholly or partly will not prevent the later use of any such right, power or remedy. Any waiver of a breach will only be effective once this has been confirmed in writing and such waiver does not limit the power to take action for any other breach.

6.2 Events outside of our control

Sometimes an event may occur outside of your or Creative New Zealand's control that neither of us could have reasonably expected to happen.

Sometimes such an event may stop us from being able to do what we said we would do under these terms and conditions. It may include things such as a natural disaster, civil disturbance, national emergency, pandemic, governmental action, or similar event. It can also include if we are told our funding from Parliament and/or under the Gambling Act 2003 will reduce or stop.

Matters which are within a party's control include:

- things that happen that could have been avoided by having good planning or safeguards, whether by yourself or other people you are responsible for under your eligible activity; or
- a lack of funds in any way, including becoming insolvent or bankrupt.

If you or Creative New Zealand do experience an event outside of either of our control, we must let each other know as soon as possible and explain:

- what the event is

- how it affects each of our responsibilities under the terms and conditions including any parts that might not be able to be completed or met
- how long this event might go on for.

The affected party must do everything it reasonably can to reduce the impact of the event on the other party, including keeping each other up to date about what steps have been taken and are planned. The affected party must still try to meet the requirements in these terms and conditions as far as it can.

Creative New Zealand may decide to pause the fund period if such an event occurs. Once the event has ended, the fund period needs to begin again within 3 months. If restarting will take longer than 3 months, Creative New Zealand has the right to terminate these terms and conditions. Or, we might ask that extra terms and conditions are agreed to reflect the circumstances, or that the funding (if not already used in accordance with these terms and conditions) must be repaid.

6.3 When these terms and conditions end

These terms and conditions end and no longer apply when:

- one of us terminates them in accordance with these terms and conditions, or
- you have provided a satisfactory completion report to Creative New Zealand, or
- your funding is cancelled, or
- if we have agreed upon a date for the agreement to end, then when that date happens.

Some specific responsibilities may continue after the terms and conditions end if we've said this clearly, such as record keeping and reporting responsibilities.

We do not have to continue funding you after the terms and conditions end.