

Alistair Speedie  
SWESTrans  
Kirkbank House  
English Street  
DUMFRIES  
DG1 2HS

Our ref: B2119800  
19 May 2008

Dear Alistair

## OFFER OF GRANT TO SWESTRANS FOR MAINSTREAMING SMART MEASURES BY LOCAL AUTHORITIES AND HEALTH BOARDS

The Scottish Ministers in exercise of their powers under section 70 of the Transport (Scotland) Act 2001 hereby offer to give to SWESTrans (“the Grantee”) a grant of up to One Hundred and Twelve Thousand Pounds STERLING (£112,000), payable over the financial years 2008-09 to 2009-10, and shall be allocated as follows:-

Financial Year 2008-09	-	Maximum £	84,000
Financial Year 2009-10	-	Maximum £	28,000

This grant is in connection with mainstreaming of SMART Measures, and in particular Travel Plans with Local Authorities and Health Boards (“the Project”) and subject to the following terms and conditions:

### 1. Definitions and Interpretation

- 1.1 In these Conditions, the words and expressions set out in **Schedule 4** shall have the meanings ascribed to them in that Schedule.
- 1.2 In these Conditions unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.3 The headings in these Conditions are for convenience only and shall not be read as forming part of the Conditions or taken into account in their interpretation.
- 1.4 Except as otherwise provided in these Conditions, any reference to a clause, paragraph, sub-paragraph or schedule shall be a reference to a clause, paragraph, subparagraph or schedule of these Conditions.

### 2. Purposes of the Grant

- 2.1 The Grant is made to enable the Grantee to carry out the Project.

2.2 The Grant shall only be used for the purposes of the Project and for no other purpose whatsoever.

2.3 No part of the Grant shall be used to fund any activity or material which is party political in intention, use, or presentation or appears to be designed to affect support for a political party.

2.4 The main expected outcomes of the Grant is to increase the number of staff, visitors and suppliers in Local Authorities and Health Boards using more sustainable modes of transport. The objectives of the grant are:

- i. work with Local Authorities and Health Boards to implement and expand the coverage and monitoring of Travel Plans and disseminate lessons learnt through the production of case studies; and
- ii. work with Local Authorities, and other sustainable and active travel stakeholders, to encourage organisations and individuals, for example through best practice, leadership, national events, promotion of publications, websites and tools, to test and habitually use more sustainable forms of transport.

2.5 The targets against which progress in achieving objectives / expected outcomes shall be monitored are:

- i. The continuation or implementation of a monitoring scheme by April 2009. Implementation of the Energy Saving Trust Travel Plan monitoring tool, by all Local Authorities and Health Boards by April 2010;
- ii. The development of at least two travel plan case studies for each Local Authority and each Health Board within the RTP area per financial year.

The case studies can cover any element of the travel plan process including development, gaining senior management support, implementation of a measure and monitoring or reviewing of the travel plan. The case study should be at least one page in length and contain the following elements:-

- The rationale for the process i.e. why it was done
- The outputs i.e. what was done
- The outcome i.e. what was achieved
- Learning experience i.e. what would be done differently
- Link to National indicators and targets; and
- Signed off by a senior member of the Local Authority or Health Board

At least one case study per organisation should cover the implementation of a travel plan measure that was put into operation within the last 12 months.

- iii. Increase the coverage of the Local Authority and Health Board Travel Plans to cover at least 60% of staff by April 2009, 80% of staff by April 2010. This should exclude teachers and other educational staff working in schools.
- iv. Produce at least one case study of a project which implements the advice contained in SPP17, or PAN76, within the area covered by the RTP by April 2010.

- v. Produce an action plan detailing measurable sustainable and active travel outcomes that the RTP will be implementing. For example this could be increase the number of people using a car sharing database or an increase use of tele / home working

A short report by 31 May 2009 for financial year 2008-09, 31 May 2010 for financial year 2009-10, outlining how the grant has been used in the preceding Financial Year and the outcomes achieved in relation to achieving the objectives of the action plan and how it is taken forward with the RTS.

2.7 The eligible costs exclude reclaimable Value Added Tax

### 3. Payment of Grant

3.1 The Grant shall be paid by the Scottish Ministers to the Grantee in accordance with the terms of **Schedule 1** attached.

3.2 The Grantee shall within **3 months** following the end of each financial year in respect of which the Grant has been paid submit to the Scottish Ministers a statement of compliance with the Conditions of the Grant using the form of words provided in **Schedule 3**. The statement shall be signed by the Grantee's Finance Director.

3.3 In the event that the amount of the Grant paid by the Scottish Ministers to the Grantee at any point in time is found to exceed the amount of the expenses reasonably and properly incurred by the Grantee in connection with the Project, the Grantee shall repay to the Scottish Ministers the amount of such excess within 14 days of receiving a written demand for it from or on behalf of the Scottish Ministers. In the event that the Grantee fails to pay such amount within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest.

3.4 The Scottish Ministers shall not be bound to pay to the Grantee, and the Grantee shall have no claim against the Scottish Ministers in respect of, any instalment of the Grant which has not been claimed by the Grantee by 31 March of the applicable financial year as set out in Schedule 1, unless otherwise agreed in writing by the Scottish Ministers.

### 4. Inspection and Information

4.1 The Grantee shall keep the Scottish Ministers fully informed of the progress of the Project in the form of quarterly reports. Details shall include actual expenditure to date compared with profiled expenditure and any change to estimated expenditure for the financial year and/or the Project as a whole, the reasons for any such changes and progress in achieving outcomes.

4.2 Revisions to targets against which progress in achieving outcomes are monitored shall be subject to the written agreement of the Scottish Ministers.

4.3 The Grantee shall, on completion of the Project, submit a report to the Scottish Ministers summarising the outcomes and performance of the Project. Such a report shall include such statistical and other information relating to the impact of the Project as shall be required by the Scottish Ministers.

4.4 The Grantee shall also provide any other information that the Scottish Ministers may reasonably require to satisfy themselves that the Project is consistent with the Agreement. The

Grantee shall provide the Scottish Ministers with prompt access to any information they reasonably require to ensure compliance with these Conditions.

4.5 The Grantee shall keep and maintain for a period of **6 years** after the expenditure occurs, adequate and proper records and books of account recording all receipts and expenditure of monies paid to it by the Scottish Ministers by way of the Grant. The Grantee shall afford the Scottish Ministers, their representatives, the Auditor General for Scotland, his/her representatives and such other persons as the Scottish Ministers may reasonably specify from time to time, such access to those records and books of account as may be required by them at any reasonable time in response to a written request for such access from the person seeking it. The Grantee shall provide such reasonable assistance and explanation as the person carrying out the inspection may from time to time require.

## 5. Confidentiality and Data Protection

5.1 The Grantee will respect the confidentiality of any commercially sensitive information that they have access to as a result of the Project.

5.2 Notwithstanding the above, the Grantee may disclose any information as required by law or judicial order. All information submitted to the Scottish Ministers may need to be disclosed and/or published by the Scottish Ministers. Without prejudice to the foregoing generality, the Scottish Ministers may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. Further, the Scottish Ministers may also disclose all information submitted to them to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland, in right of the Scottish Administration or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Scottish Ministers shall if they see fit disclose such information but are unable to impose any restriction upon the information that it provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement

5.3 The Grantee shall ensure that all requirements of the Data Protection Act 1998 are fulfilled in relation to the Project.

## 6. Disposal of Assets

The Grantee shall not, without prior written consent of the Scottish Ministers, dispose of any asset funded, in part or in whole, with Grant funds within **5 years** of the asset being acquired or developed. During that period the Scottish Ministers shall be entitled to the proceeds of the disposal – or the relevant proportion of the proceeds based on the percentage of grant funding used in connection with the acquisition or improvement of the asset against the whole proceeds. The Scottish Ministers shall also be entitled to the relevant proportion of any proceeds resulting from any provision included as a condition of sale. Recovery by the Scottish Ministers shall not be required where the value of the asset is less than £1,000.

## 7. Publicity

The Grantee shall where reasonably practicable acknowledge in all publicity material relating to the Project the contribution of the Scottish Ministers to its costs. The Scottish Ministers may require to approve the form of such acknowledgement prior to its first publication.

## 8. Intellectual Property Rights

8.1 All Intellectual Property Rights are hereby assigned to and shall vest in the Crown or its assignees.

8.2 The Grantee shall ensure that nothing contained in any materials produced or submitted to the Scottish Ministers by the Grantee or anyone acting on its behalf nor the reproduction of such materials, shall constitute an infringement of any third party copyright or intellectual property right and shall indemnify the Scottish Ministers against all actions, proceedings, claims and demands made by reason of any such infringement.

## 9. Default

9.1 The Scottish Ministers may re-assess, vary, make a deduction from, withhold, or require immediate repayment of the Grant or any part of it in the event that:

9.1.1 The Grantee commits a Default;

9.1.2 The Scottish Ministers consider that any change or departure from the purposes for which the Grant was awarded warrants an alteration in the amount of the Grant;

9.1.3 The Grantee fails to carry out the Project;

9.1.4 In the Scottish Ministers' opinion, the progress on the Project is not satisfactory; or

9.1.5 In the Scottish Ministers' opinion, the future of the Project is in jeopardy;

9.2 The Scottish Ministers may withhold the payment of the Grant if at any time within the duration of the Agreement:

9.2.1 The Grantee passes a resolution that it be wound up, or a court makes an order that the Grantee be wound up, in either case otherwise than for the purposes of reconstruction or amalgamation, or circumstances arise which would enable a court to make such an order or the Grantee is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

9.2.2 Where the Grantee is an individual, if a petition is presented for the Grantee's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Grantee; or the Grantee makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage his affairs; or

9.2.3 A receiver, manager, administrator or administrative receiver is appointed to the Grantee, or over all or any part of the Grantee's property, or circumstances arise which would entitle a court or a creditor to appoint such a receiver, manager, administrator or administrative receiver.

9.3 In the event that the Grantee becomes bound to pay any sum to the Scottish Ministers in terms of clause 9.1, the Grantee shall pay the Scottish Ministers the appropriate sum within 14 days of a written demand for it being given by or on behalf of the Scottish Ministers to the Grantee. In the event that the Grantee fails to pay the sum within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the

Bank of England base lending rate prevailing at the time of the written demand, from the date of the written demand until payment in full of both the sum and interest.

9.4 Notwithstanding the provisions of this clause 9, in the event that the Grantee is in breach of any of the Conditions, the Scottish Ministers may, provided that the breach is capable of a remedy, postpone the exercise of their rights to recover any sum from the Grantee in terms of clause 9 for such period as they see fit, and may give written notice to the Grantee requiring it to remedy the breach within such period as may be specified in the notice. In the event of the Grantee failing to remedy the breach within the period specified, the Grantee shall be bound to pay the sum to the Scottish Ministers in accordance with the foregoing provisions.

9.5 Any failure, omission or delay by the Scottish Ministers in exercising any right or remedy to which they are entitled by virtue of clauses 9.1 to 9.3 shall not be construed as a waiver of such right or remedy.

## **10. Assignment**

The Grantee shall not be entitled to assign, sub-contract or otherwise transfer its rights or obligations under the Agreement without the prior written consent of the Scottish Ministers.

## **11. Termination**

The Agreement may be terminated by the Scottish Ministers giving not less than 3 months' notice in writing from the date of the notice being sent.

## **12. Corrupt Gifts and Payments of Commission**

The Grantee shall not offer or give or agree to give any person any gift or consideration of any kind as an inducement or reward in relation to this Grant. The Grantee shall ensure that its employees shall not breach the terms of the Prevention of Corruption Acts, 1889 to 1916 in relation to this or any other grant.

## **13. Continuation of Conditions**

These Conditions shall continue to apply for a period of 5 years after the end of the financial year in which the final instalment of the Grant was paid.

## **14. Compliance with the Law**

The Grantee shall ensure that in relation to the Project, they and anyone acting on their behalf shall comply with the relevant law, for the time being in force in Scotland.

If you wish to accept the offer of this Grant on the whole terms and conditions as set out in the letter and annexed Schedules, you should sign and date both copies of the Grant Acceptance below and return one copy of the offer of Grant and Schedules to me at Sam Anwar, 2D North, Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ. You should retain the second copy of the offer of Grant and Schedules for your own records.

Yours sincerely

Sam Anwar  
Sustainable Travel Team

Victoria Quay, Edinburgh EH6 6QQ  
[www.scotland.gov.uk](http://www.scotland.gov.uk)

19 May 2008



REGISTERED



## GRANT ACCEPTANCE

On behalf of *SWESTrans* I accept the foregoing offer of Grant by the Scottish Ministers dated *19 May 2008* on the whole terms and conditions as set out in the letter and annexed Schedules. I confirm that I hold the relevant signing authority.

Signed:

*[Director/Company Secretary/Authorised Signatory]*

Print Name:

Position in Organisation of Person Signing:

Date:

Place of Signing:

Signed:

*[Witness]*

Witness Name:

Address:

Date:

Place of Signing:

## SCHEDULE 1

### PAYMENT OF GRANT

1. The total Grant of One Hundred and Twelve Thousand Pounds STERLING shall be payable by the Scottish Ministers to the Grantee on receipt of a completed claim for Grant in the form set out in **Schedule 2** together with the associated monitoring information set out in paragraph 4.1 of the Offer of Grant.

2. The total Grant shall be payable over the financial years 2008– 09 to 2009-10. The Grant for each financial year has been allocated as follows:

Financial Year 2008-09	–	Maximum £	84,000
Financial Year 2009-10	–	Maximum £	28,000

The Scottish Ministers shall not be bound to pay any instalment of the Grant which has not been claimed by the Grantee by 31 March of the applicable financial year, unless otherwise agreed in writing by the Scottish Ministers.

3. The Grantee shall provide a monthly profile of expenditure of the Grant before the start of each financial year. Any change to the profile or to the overall costs of the Project shall be notified to the Scottish Ministers at the earliest opportunity via the claims for Grant and monitoring reports.

4. Each claim shall be for an amount equal to the actual reasonable and proper costs and expenses incurred by the Grantee in connection with the Project since the submission by it of the last claim for an instalment of the Grant.

5. Each claim shall be submitted together with such explanatory or supplementary material as the Scottish Ministers may from time to time require whether before or after submission of the claim.

6. On receipt of each claim (and any required documentation and information), the Scottish Ministers shall determine the amount of expenditure which they consider the Grantee [has reasonably and properly incurred in connection with the Project having regard to that claim. The determination shall be based on the information provided by the Grantee in accordance with this Schedule. The Scottish Ministers shall use their best endeavours (but shall be under no obligation or duty) to pay the amount determined to the Grantee within 6 week(s) of receiving a claim and any required documentation and information relevant to the claim.

7. In order to facilitate the accrual of expenditure of the Grant for the financial year the Grantee shall, where appropriate, advise the Scottish Ministers in writing by *mid* April the amount of the Grant actually expended up to and including 31 March.



## SCHEDULE 3

### STATEMENT OF COMPLIANCE WITH CONDITIONS OF GRANT

#### MAINSTREAMING SMART MEASURES BY LOCAL AUTHORITIES AND HEALTH BOARDS

This is to confirm that the grant claimed by *SWESTrans* in relation to the above Project during the financial year ended 31 March 20xx was properly due and was used for its intended purpose(s) in accordance with the terms and conditions of the Grant. This statement is supported by the records of *SWESTrans*

Signed:

Name in block capitals:

Position:

Date:

## SCHEDULE 4

### DEFINITIONS

“**Agreement**” means the agreement constituted by the Scottish Ministers’ invitation to apply for a grant, the Grantee’s Application, these Conditions and the Grantee’s acceptance of these Conditions;

“**Conditions**” means these grant conditions;

“**Default**” means:

- (a) Any breach of the obligations of either party under this Agreement (including, but not limited to, any breach of any undertaking or warranty given under or in terms of this Agreement);
- (b) Any failure to perform or the negligent performance of any obligation under this Agreement;
- (c) Any breach of any legislation; or
- (d) Any negligence or negligent or fraudulent miss-statement or misappropriation of Grant, or any other default,

In all cases by either party, its employees, agents or representatives;

“**Financial Year**” means a period from 1 April in one year until 31 March in the next;

“**Grant**” means the grant offered by the Scottish Ministers to the Grantee as specified in the Award Letter, as varied from time to time in accordance with these Conditions;

“**Grantee**” means the person, organisation or body to which the Grant will be payable as specified in these Conditions. Where two or more persons, organisations or bodies are the Grantee, references to the “Grantee” are to those persons, organisations or bodies collectively and their obligations under the Agreement are undertaken jointly and severally;

“**Intellectual Property Rights**” means all rights of ownership, including all copyrights and other intellectual property rights in books, leaflets and other printed and published materials in whatever form produced as part of the Project by or on behalf of the Grantee including all reports and any such published materials stored in or made available by means of an information technology system and the computer software relating thereto and all patents, trademarks, registered designs and other rights in the nature of intellectual property;

“**Project**” means the purpose for which the Grant has been awarded as described in the Offer of Grant;

“**Payment**” means each of the payments specified in Schedule 1 hereto.