

Terms & Conditions

The Open Up Challenge (the “Challenge”) is run by Nesta Enterprises Limited (“Nesta”), working with various delivery partners (the “Partners”). Please read these terms and conditions and all additional information on the Open Up Challenge website ([here](#)) carefully before registering or submitting an application to the Challenge. By registering or submitting an entry, you accept these Terms and Conditions and agree to comply with them. If you are registering or submitting an entry on behalf of an organisation or a team, you undertake to Nesta that you have the authority to bind each of them and that you will be responsible for ensuring that they comply. References to “we”, “us” and “our” in these Terms and Conditions are references to Nesta. Please note that Challenge Participants may be required to sign additional terms and conditions with relevant Partners as required from time to time, in order to access or use certain Challenge services, including the data sandbox.

1. The Challenge

- 1.1. All application information is available at <http://openup.challenges.org/apply/>.
- 1.2. To enter Stage 1 of the Challenge, you can register and submit an entry at any time from March 23, 2017 until May 31, 2017. Applications to the Challenge and all information relating to your entry must be in English, must be legible and complete, and must comply with all applicable provisions on the Open Up Challenge website and these terms and conditions. Please see detailed timetable included on the Open Up Challenge website for further details. The Stage 2 application process will take place after the completion of Stage 1.
- 1.3. Late applications will not be accepted and Nesta is not responsible for applications which are lost, damaged or late due to computer, network or telecommunications failure due to third party telephone or data networks.
- 1.4. Applications will be assessed on submission against the eligibility criteria set out on the Open Up Challenge website and must continue to meet the eligibility criteria throughout the Challenge.
- 1.5. We reserve the right at our sole discretion to refuse or disqualify any applicant or team which does not or ceases to meet the eligibility criteria or which is otherwise in our

reasonable opinion in breach of these terms and conditions or applicable law. Please notify us in writing if you decide to withdraw from the Challenge for any reason.

- 1.6. If you are entering as a team, your team must nominate one person as team leader. The team leader is responsible for making sure that all other team members are aware of and comply with these terms and conditions and all relevant application information on the Open Up Challenge website. Teams must notify us in writing if the team leader changes, and provide us with up to date contact details. Participants entering the Challenge as part of an organisation or team shall be jointly and severally liable for their obligations under these terms and conditions.
- 1.7. We will use the contact details provided to contact you or the team leader (as applicable) about the Challenge. All communication between us about the Challenge shall be in English. If you do not respond to any communication within 14 days, we may at our sole discretion treat you (and your organisation or team, if applicable) as having withdrawn from the Challenge and, where relevant, select an alternative winner.
- 1.8. Except for the in-kind support as laid out in the “Technical and Business Support” description included on the Open Up Challenge website or unless made explicit to you, at our discretion, in writing, you will be responsible for all your costs of entering and participating in the Challenge, including without limitation all costs of development, prototyping, manufacturing, testing, licensing, searches, registration and protection of intellectual property rights, legal costs, costs of obtaining third party consents and licenses, and travel and accommodation costs. You recognise that there is no guarantee that you, or any entrant, will be selected for a development grant or prize and that participation is entirely at your own risk.
- 1.9. We reserve the right to vary the form or substance of the Challenge (including without limitation the information on the Open Up Challenge website, the criteria and requirements for success, these terms and conditions and any deadlines) as we deem appropriate in the circumstances, taking into account the aims of the Challenge. We shall use reasonable endeavours to notify all registered participants of any changes. If you are not happy with the changes, you should withdraw from the Challenge; your continued participation will indicate your agreement to any changes.
- 1.10. We also reserve the right at our sole discretion to suspend or terminate the Challenge if:
 - a) funding for the Challenge is reduced materially or withdrawn;

- b) we determine in our reasonable opinion that the Challenge will no longer achieve its aims or is no longer relevant or useful; or
- c) there are changes or developments outside our control that affect the Challenge (including without limitation changes to the law, regulation, or technology).

1.11. No compensation will be paid to participants if the Challenge is changed, suspended or terminated by us in accordance with Clauses 1.10, 1.11 or 9.1 of these terms and conditions.

2. Award of Development Grants and Prize Awards

2.1. Development Grants will be awarded at the start of Stages 1 and 2 and Prize Awards will be awarded at the end of Stages 1 and 2 (as described on the Open Up Challenge website). Applications will be assessed as described in the “Assessment Criteria” section of the Open Up Challenge website.

2.2. The amount and timing of Development Grants (at Stage 2) and Prize Awards may vary from team to team. We reserve the right to distribute Development Grants or Awards on a schedule different than that outlined on the Open Up Challenge website. We reserve the right at our sole discretion to refuse any entry or to make no award if none of the entries meet our required standards.

2.3. We reserve the right to ask for additional evidence to support applications and claims and to reject claims on the grounds set out on the Open Up Challenge website. We may determine at our sole discretion the form and extent of assessment and testing for each entry, which may differ for individual entries.

2.4. The eligibility, assessment and entry of applicants to the Challenge and the award of any prizes will be determined by the Open Up Challenge Judging Panel (the “Panel”), subject to Nesta’s approval, and following the process set out on the Open Up Challenge website, taking account of the advice of expert assessors and due diligence providers. Any decision by Nesta or the Panel about eligibility, assessment, entry and Prize Awards will be final and binding. Correspondence will not be entered into.

2.5. Development Grants and Prize Awards will be paid out with the following minimum conditions:

<p>Stage 1 Development Grant (beginning of Stage 1)</p>	<p>Nesta will pay the Development Grant to you to in order to support your participation in Stage 1 of the Challenge. We may ask you to produce evidence of adhering to this condition. The grant may not cover all of your costs of participating in Stage 1 of the Challenge.</p> <p>Half of the Stage 1 Development Grants will be paid in July 2017, with the remaining half being paid in the first half of September 2017, upon the condition that there have been no breaches of these terms and conditions, or any other conditions that we apply to the award of the Development Grants.</p>
<p>Stage 1 Prize Award (end of Stage 1)</p>	<p>Nesta will pay the Prize Award to you at the discretion of the Judging Panel as a reward for your achievements in Stage 1.</p>
<p>Stage 2 Development Grant (beginning of Stage 2)</p>	<p>Nesta will pay the Development Grant to you to support your participation in Stage 2 of the Challenge. We may ask you to produce evidence of adhering to this condition. You agree to keep separate, accurate, and up-to-date accounts and records of the receipt and expenditure of such Development Grant and make these available to Nesta on request. The grant may not cover all of your costs of participating in Stage 2 of the Challenge.</p>
<p>Stage 2 Prize Award (end of Stage 2)</p>	<p>Prize Awards should in large part be used by the winning individuals or teams selected by the Panel to achieve the aims of the Challenge. Winners may be required at our discretion to enter into a formal agreement with Nesta to ensure the Prize Award is used for its intended purpose. We reserve the right for Nesta to recover prize monies in certain circumstances.</p>

Full Development Grant and Prize Award terms and conditions will be provided prior to payment of any Development Grant or Prize Award.

2.6. Prize Awards will be paid in pounds sterling within 90 days of announcement of the winners to a UK bank account in the name of the winners. Where the winner is an organisation or team, all members must authorise in writing payment by Nesta to the nominated account. We reserve the right to withhold payment in the case of a complaint or challenge to the Panel decision until such complaint or challenge is resolved. Winners will be responsible for payment of all taxes, bank transfer and other levies, costs and charges associated with payment to them of any Prize Award and shall provide promptly any information requested by us in connection with reporting or assessment required by tax or other authorities in connection with the Prize Award.

3. Your commitments to us

3.1. To participate in the Challenge, you must, and team leaders must ensure that each team member shall:

- (a) satisfy the eligibility criteria throughout the Challenge;
- (b) ensure that all information submitted as part of the Challenge is true, accurate and complete to the best of your knowledge;
- (c) provide promptly any additional information we reasonably request and participate in assessment, testing, challenges and presentations which are required as part of the Challenge;
- (d) obtain all authorisations, consents, licenses and permissions necessary to: (i) submit and develop your solution as part of the Challenge; (ii) grant the rights granted to us under these terms and conditions (including without limitation those granted in paragraph 4.2 below); and (iii) if you win a Prize Award, to develop and market your winning solution as proposed in your winning entry;
- (e) use best endeavours not to infringe any intellectual property right, obligation of confidentiality or other third party rights or any contractual obligation in connection with participation in the Challenge;
- (f) not attempt to undermine the Challenge, cheat, or behave in any way which is in our reasonable opinion unfair, disruptive, inappropriate or potentially dangerous, or which damages the reputation of the Challenge, Nesta, or Partners in the Challenge;

- (g) comply with the rules of the Challenge, including all items on the Open Up Challenge website;
- (h) act lawfully, ethically and in good faith, and comply with all applicable laws, regulations, guidelines and codes of practice;
- (i) obtain appropriate insurance in respect of any activities undertaken as part of the Challenge and provide evidence of this to us on request; and
- (j) comply with our reasonable instructions while participating in the Challenge, including in relation to health and safety, and security.

4. Intellectual Property Rights

- 4.1. Except as set out in clauses 4.2 below, as between you and us, you will retain all intellectual property rights in the results and materials (including but not limited to any data, know-how and information), generated by you while participating in the Challenge (the “Challenge IPR”) and no rights in Challenge IPR shall be transferred to us or our Partners. You shall have sole responsibility at your own cost for filing, prosecuting, maintaining, defending and enforcing any Challenge IPR.
- 4.2. If the winner of a Prize Award fails to develop and exploit the Challenge IPR within five (5) years of the award of the Prize Award, or we have reasonable grounds to believe that the winner does not intend either to continue to develop to commercial application or to exploit the Challenge IPR, the winner shall, and shall procure that any other proprietor of the Challenge IPR shall, grant to Nesta (or a person nominated by them) a non-exclusive royalty-free, worldwide, perpetual, irrevocable, sub-licensable right to use, develop and exploit or to appoint a third party to use, develop and exploit the Challenge IPR and any other IPR owned or controlled by the winner or any other proprietors of the Challenge IPR that is necessary to use, develop and exploit the Challenge IPR.

5. Information and Publicity

- 5.1. We will use information which you provide, including the personal details of you, and your team members if applicable, to administer the Challenge. We may share those details with our Partners and anyone helping us to administer the Challenge.
- 5.2. You must identify and notify to us in writing any confidential or sensitive information submitted during the course of the Challenge. We may share that information with our staff,

Partners, judges and anyone helping us to administer the Challenge, to the extent necessary to enable them to perform their duties in relation to the Challenge and subject to obligations of confidentiality, but shall otherwise use our best endeavours not to disclose that information to any third party and to adopt appropriate technical measures to prevent unauthorised access to that information.

5.3. We and our Partners may carry out publicity and promotion for the Challenge, and publish propositions and evaluation in relation to the Challenge. You (and your team, where applicable) agree to participate as required in events, blogs, filming and other publicity for the Challenge; and hereby consent to the use of:

- a) your names;
- b) a summary of your entry (which shall contain no confidential information); and
- c) photographs, film and/or sound recordings of your participation in the Challenge,

in any such promotional material and/or publications in any media and online. All film, photos, sound recordings and other materials created by us shall belong to us and may be used, published and distributed by us without further permission from you or your team.

5.4. Any public statements made by a participant in the Challenge about the Challenge, either during the Challenge or within twelve (12) months following the award of the prize, must acknowledge the support of Nesta. You must seek our prior approval for any significant publicity or promotional activity connected to the Challenge. Subject to this clause, you and your team (where applicable) shall not use the name, logo, trademarks or any other intellectual property of Nesta or its Partners without prior written consent.

6. Notices

6.1. Any notice or other communication sent to Nesta in connection with these terms and conditions shall be in writing and sent to 58 Victoria Embankment, London, EC4Y 0DS United Kingdom, and marked for the attention of the Company Secretary.

7. Exclusion and Limitation of Liability

7.1. To the extent permitted by applicable law, Nesta excludes all liability for any direct, indirect, incidental or consequential loss or damage, including without limitation, any costs, claims, taxes, charges or expenses, arising from your participation in the Challenge, including without limitation where these arise as a result of:

- a) Nesta exercising its rights to vary, suspend or terminate the Challenge;
- b) your reliance on statements or advice given by us, our Partners or contractors before, during or after the Challenge;
- c) any breach of confidentiality, except where this is caused by our negligence or default.

7.2. Without prejudice to clause 8.1, Nesta's maximum aggregate liability to you or your team (as applicable) in connection with the Challenge (if any) shall be limited to £1,000. Nothing in these terms and conditions seeks to exclude or limit Nesta's liability for death or personal injury caused by negligence or fraudulent misrepresentation made by us.

7.3. Any physical materials or prototypes submitted to Nesta as part of your entry to the Challenge will be at your own risk. While we will use reasonable endeavours to keep safely, maintain and return any such materials or items, we cannot guarantee this.

7.4. Nesta is not responsible to any of you or your team in the Challenge for the actions or statements of any other participant and is under no obligation to arbitrate disputes between participants, including in relation to confidentiality and ownership of intellectual property. Participants who are unable to resolve disputes between themselves may at Nesta's sole discretion be removed from the Challenge.

7.5. You shall indemnify and keep indemnified Nesta and our Partners against all liabilities, costs, expenses, damages and losses (including reasonable professional costs and expenses) suffered or incurred by us or our Partners arising out of or in connection with any third party claim made against Nesta or any of its Partners as a result of:

- (a) any breach by you or any of your team members (if applicable) of paragraphs 2.5 and 3 of these terms and conditions; or
- (b) any actual or alleged infringement of a third party's intellectual property rights arising out of in connection with your conduct, performance or output (including your application or proposed solution(s) to the challenge) during or after the Challenge; and
- (c) any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with your conduct, performance or output in connection with the Challenge.

8. No Partnership or Agency

- 8.1. Nothing in these terms and conditions is intended to, or shall be deemed to, establish any partnership or joint venture between you (or your team, if applicable) and Nesta, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

9. Force Majeure

- 9.1. Neither Nesta nor its Partners shall be in breach of these terms and conditions, nor liable for any delay in performing, or failure to perform, any of its obligations pursuant to these terms and conditions if such delay or failure results from events, circumstances or causes beyond its reasonable control.

10. Governing Law and Jurisdiction

- 10.1. These terms and conditions shall be governed by and interpreted in accordance with the laws of England and Wales and you hereby submit to the exclusive jurisdiction of the English courts. Without prejudice to the foregoing, where Nesta makes a complaints or independent review process available for disputes arising from the Challenge, you agree to pursue any claims or demands which you have against Nesta first through such process and to abide by the rules of such process.

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