

## TERMS AND CONDITIONS FOR BARNET COMMUNITY ENERGY FUND

These terms and conditions are **BETWEEN:**

- (1) The Mayor and Burgesses of the London Borough of Barnet of 2 Bristol Avenue, Colindale, London, NW9 4EW ("**LBB**"); and
- (2) The Grant Recipient which is, if the organisation named on the Bank Account Form is an incorporated entity, that organisation; and if the organisation named on the Bank Account Form is an unincorporated entity, the Delivery Agent named in the Application Form as a Primary Contact ("**You**" and "**Your**").

**Each a party, together the parties.**

### 1. DEFINITIONS

In this Agreement the following terms shall have the following meanings:

1.1	<b>"Application Form"</b>	the final agreed application form sent by You to LBB (subject to any variations subsequently agreed in writing or made in accordance with this Agreement);
1.2	<b>"Bank Account Form"</b>	the bank account form sent to You with this Agreement;
1.3	<b>"Barnet Community Energy Fund Programme"</b>	Funding from the Barnet Community Energy Fund Programme;
1.4	<b>"Commencement Date"</b>	the date on which You send LBB the confirmation email confirming Your acceptance of the terms and conditions of this Agreement;
1.5	<b>"DPA"</b>	the Data Protection Act 2018;
1.6	<b>"Funders"</b>	Agencies outside LBB that contribute monies to the Barnet Community Energy Fund Programme;
1.7	<b>"Grant"</b>	the sum set out in the Application Form and Bank Account Form to be paid to You subject to the terms of this Agreement;
1.8	<b>"Grant Period"</b>	the period from the Commencement Date to the end of the final week of the Project;
1.9	<b>"In Writing"</b>	includes by email;
1.10	<b>"Monitoring and Evaluation Form"</b>	the monitoring and evaluation form sent to You with this Agreement unless otherwise indicated on the Application Form as an online conversation or telephone conversation

1.11	<b>“Payment Guidance”</b>	the payment guidance sent to You with this Agreement;
1.12	<b>“Project”</b>	delivery of the project by You as described in the Application Form;
1.13	<b>“Service User”</b>	Residents in the London Borough of Barnet who are the beneficiaries of the Project;
1.14	<b>“Start Date”</b>	the date on which You begin delivering the Project as indicated by the projected delivery timescale on the Application Form or as subsequently agreed In Writing by the Parties;
1.15	<b>“Start Month”</b>	the first month beginning on the Start Date of the Project as stated on the Application Form or as subsequently agreed In Writing by the Parties;
1.16	<b>“UK GDPR”</b>	means the retained EU law version of the General Data Protection Regulation (EU) 2016 679) as defined by the DPA.

## 2. ACCEPTANCE AND PURPOSE OF GRANT

- 2.1 You agree that You can accept the terms of, and enter into, this Agreement and, if you are an incorporated entity, that the individual entering into this Agreement by email confirmation to LBB has authority to enter into this Agreement on behalf of Your organisation.
- 2.2 You will use the Grant only for the delivery of the Project and in accordance with this Agreement, your Application Form and any variation agreed In Writing. The Grant will not be used for any other purpose without the prior consent of LBB In Writing. Any part of the grant that is not required for the purpose approved must be refunded to the Council.
- 2.3 You will not make any significant change to the Project as described in your Application without the prior consent of LBB In Writing.
- 2.4 The following streams of funding are available:
  - 2.4.1 Stream A – feasibility and business case development grants of up to £5,000 per project supported;
  - 2.4.2 Stream B – project implementation and delivery of grants of up to a third of the capital value of the project, capped at £15,000 per project supported;
  - 2.4.3 Stream C – training, events and engagement grants of between £500-5,000 per project supported, depending on size and impact. These can be used by community energy groups to provide training and engage and partner with new community groups and must demonstrate carbon reduction and value for money.

- 2.5 You agree that you understand LBB's net-zero targets.
- 2.6 You agree to:
  - 2.6.1 use the Grant to deliver carbon savings to assist LBB with achieving its net-zero targets;
  - 2.6.2 use the Grant to maximise the delivery of community co-benefits such as those set out in the 'Greater London Authority guidance for London's Local Planning Authorities on establishing carbon offset funds' ([gla carbon offsetting guidance 2022.pdf](#));
  - 2.6.3 measure and calculate Your total estimated carbon savings at regular intervals during the Project where the Grant relates to Stream B funding
- 2.7 The Delivery Agent (who will be You if You are an unincorporated entity) will:
  - 2.7.1 Ensure compliance with all terms of this Agreement; and
  - 2.7.2 Coordinate and manage the Project in accordance with this Agreement.

The Delivery Agent as named in the Application Form will not be changed during the Grant Period, except with the prior written consent of LBB. If the Delivery Agent changes during the Grant Period without LBB's prior written consent, this amounts to a failure to comply with the terms and conditions of this Agreement for the purpose of clause 10.1.

### **3. PAYMENT OF GRANT**

- 3.1 Subject to clause 10:
  - 3.1.1 For grants up to and including the value of five thousand pounds (£5,000.00), LBB will pay 90% of the Grant to You upon return of the Bank Account Form. The remaining 10% will be paid to You following completion of all monitoring and evaluation requirements specified in the Monitoring and Evaluation Form.
  - 3.1.2 For grants of value five thousand and one pounds (£5,001.00) up to fifteen thousand pounds (£15,000.00) inclusive, LBB will pay the first instalment of the Grant to You upon return of the Bank Account Form and subsequent payments on receipt of a valid and correct claim. A valid and correct claim will need to include evidence of progress in the delivery of the Project
- 3.3 You agree and accept that payments of the Grant can only be made to the extent that You have met the Project criteria to the satisfaction of LBB and agree to return the Monitoring and Evaluation Form complete within four (4) weeks of completion of the Project.
- 3.4 No Grant, or part of the Grant, will be paid unless and until LBB has approved the Grant and LBB is satisfied that such payment will be used for proper expenditure in the delivery of the Project.

- 3.5 The amount of the Grant will not be increased in the event of any overspend by You in Your delivery of the Project.
- 3.6 You agree and accept that payments of the Grant shall be exclusive of Value Added Tax (VAT). Any VAT payable by You will be Your responsibility and LBB shall not be obliged to pay any additional amount to You.
- 3.7 You will promptly repay to LBB any money incorrectly paid to You either as a result of an administrative error or otherwise.
- 3.8 Failure to return the completed Monitoring and Evaluation Form will exclude you from future Barnet Community Energy Funding.

#### **4. USE OF GRANT**

- 4.1 The Grant will be used by You only for the delivery of the Project in accordance with the agreed budget as set out in the Application Form.
- 4.2 There will be no additional funding available from LBB for any liabilities arising at the end of the Grant Period.
- 4.3 Should any part of the Grant remain unspent at the end of the Grant Period, LBB reserves the right to demand that You return the unspent monies to the Barnet Community Energy Fund.
- 4.4 You agree to commence delivery of the Project by the Start Date in the Application Form, unless otherwise agreed In Writing by LBB.

#### **5. STATUTORY AND REGULATORY COMPLIANCE; COMPLAINTS, COMMENTS & COMPLIMENTS**

- 5.1 You will comply with all statutory requirements and other laws and regulations relating to the Project and Grant including (but not limited to) all child and vulnerable adult protection and safeguarding, health and safety, equality, data protection, bribery, public procurement and employment, laws and regulations, and will do nothing nor act in a manner that will result in LBB breaching the same. You acknowledge that your compliance with all statutory requirements and other laws and regulations is Your responsibility and is not the responsibility of LBB. You will provide all information and documents reasonably required by LBB to evidence your compliance with statutory requirements and other laws and regulations.
  - 5.1.1 If there are any concerns regarding the safeguarding of a child or adult, you will refer information to Barnet Children's Multi-Agency Safeguarding Hub (MASH) or Barnet Adults Multi-Agency Safeguarding Hub. Concerns regarding a child are to be reported with immediate effect. Barnet Children's MASH can be contacted on 020 8359 4066. Barnet's children safeguarding procedures can be found here: <https://thebarnetscp.org.uk/bscp/professionals/reporting-a-concern-about-a-child-1>
  - 5.1.2 If you are concerned about an adult who may be at risk of abuse, harm or neglect you can make a [referral](#) or contact Social Care Direct on 020 8359 5000 (Monday to Friday, 9am - 5pm) or 020 8359 2000 (out of hours). Further safeguarding information can be found here:

[www.barnet.gov.uk/adult-social-care/keeping-safe/adults-multi-agency-safeguarding-hub-mash](http://www.barnet.gov.uk/adult-social-care/keeping-safe/adults-multi-agency-safeguarding-hub-mash)

- 5.2 You will comply with the Equality Act 2010 (as amended from time to time) and will not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation other than in accordance with lawful justification.
- 5.3 You will comply fully with the Data Protection Act 2018 and all related guidance from the Information Commissioner's Office and the UK GDPR.
- 5.4 You will have a complaints, compliments and comments procedure in place. You will be expected to make Service Users aware of the procedure if You believe a Service User wishes to make a complaint, compliment or comment. You will be required to inform LBB of any complaints related to any Project funded by a Barnet Community Energy Grant at the earliest opportunity and to keep LBB informed as to the progress and outcome of such complaints.
- 5.5 Where such complaints as indicated in 5.4 above are of a material nature or where You do not appear to be following due process, LBB reserves the right to review funding arrangements subject to the outcome of the complaint.

## **6. ACCOUNTS AND RECORDS**

- 6.1 You will keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant payments You receive from LBB.
- 6.2 You will keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six (6) years following receipt of any Grant payments to which they relate. LBB shall have the right to review, at LBB's reasonable request, Your accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 6.3 You will comply and cooperate with all reasonable requests from LBB for information related to the Grant or Project, and access to your records.
- 6.4 You will comply with all applicable legal and statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns.

## **7. MONITORING AND REPORTING**

- 7.1 You will closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being followed.
- 7.2 Throughout and after the Grant Period, LBB may request information and reports on Your Project.
- 7.3 A LBB representative may like to attend one or more session(s) or final presentation of Your Project.
- 7.4 You will submit the Monitoring and Evaluation Form within four (4) weeks of completion of the Project and return to LBB.

7.5 You shall allow LBB representatives a right of access at all reasonable times to inspect:

7.5.1 written records (including books of account, leases or hiring agreements, and any publicity issued by or on behalf of the organisation);

7.5.2 any premises which the organisation uses for the conduct of its activities; and

7.5.3 any works undertaken or items of equipment purchased with the aid of the Grant.

## **8. ACKNOWLEDGMENT AND PUBLICITY**

8.1 You will acknowledge the Grant, on your website and social media using quotes from LBB as provided in the press release, where required.

8.2 You are eligible to use and encouraged to use, the LBB and Funders logo(s) as provided by LBB on your literature for the Project, website and social media.

8.3 LBB may acknowledge Your involvement in the Project as they deem appropriate.

## **9. BRANDING AND SPONSORSHIP**

9.1 You agree to comply with any branding guidelines and instructions provided to You by LBB and will cease use of the LBB logo immediately if LBB instructs You to do so In Writing.

## **10. WITHHOLDING SUSPENDING AND REPAYMENT OF GRANT**

10.1 Without prejudice to LBB's other rights and remedies, LBB may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

10.1.1 You use the Grant for purposes other than the Project or do not comply with any part of the Application Form (which in both cases amounts to a material breach of this Agreement);

10.1.2 You act in a manner or carry out activities which bring or are reasonably likely to bring LBB, the Project into disrepute;

10.1.3 the delivery of the Project does not start, unless otherwise consented to by LBB In Writing;

10.1.4 You are, in the reasonable opinion of LBB, delivering the Project in a negligent manner or are breaching any statute, laws or regulations.

10.1.5 All or any amount of the Grant was incorrectly paid to You (including as a result of an administrative error);

10.1.6 You provide LBB with any materially misleading or inaccurate information;

10.1.7 You (or your organisation if You are an individual) cease, or threaten to cease to operate, trade or exist for any reason;

10.1.8 You (or your organisation if You are an individual) become, or threaten to become insolvent; and/or

10.1.9 You fail to comply with any of the terms and conditions in this Agreement and fail to rectify any such failure within **seven (7) working days** of receiving notice In Writing from LBB.

10.1.10 You are subject to financial or other difficulties which are capable of having (or have already had) a material impact on Your delivery of the Project or compliance with this Agreement if You do not notify LBB as soon as possible.

## 11. LIMITATION OF LIABILITY AND INDEMNITY

11.1 The Parties agree that legal liability arising out of or in connection with the Grant and/or Project rests with You.

11.2 LBB and their directors, officers, employees, agents, representatives and sub-contractors, will not be liable or responsible, financially or otherwise, for any expenditure, damages and/or loss arising out of any non-payment of the Grant on any due date, or otherwise arising in connection with the Grant, Project and/or Your failure to comply with this Agreement.

11.3 Subject to clauses 11.1 and 11.2, the maximum aggregate liability of LBB collectively to You for any reason under or in connection to this Agreement will not exceed the Grant, save in the event of any loss, damage or expense arising as a consequence of any fraud or fraudulent activity or for liability for death or personal injury resulting from LBB's negligence.

11.4 You will indemnify and hold harmless LBB, their directors, officers, employees, agents, representatives and sub-contractors, with respect to all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit and loss of income, loss of reputation and all interest, penalties and legal costs, calculated on a full indemnity basis, and all other professional costs and expenses) suffered or incurred by LBB arising out of or in connection with:

11.4.1 any breach of any provision of this Agreement; and/or

11.4.2 Your negligent performance or non-performance of this Agreement.

11.5 You will maintain in force during the Grant Period and for a reasonable period after the Grant Period adequate insurance cover in respect of the Project and Your obligations under this Agreement and provide evidence of such cover to LBB. In particular, you will send to LBB a copy of Your public liability insurance before the start of the Project Period if not already submitted.

## 12. DATA PROTECTION

12.1 You will ensure all necessary consents are obtained from personnel and participants involved in the Project to comply with the Data Protection Act 2018 and/or UK GDPR and all guidance of the Information Commissioner's Office



when collecting and holding personal data, and inputting data into any system used for monitoring and evaluation.

12.2 LBB can only view data in anonymous (non-personalised) format as requested in the Monitoring and Evaluation Form. LBB will use this data to produce a report for our funders but also for our elected members and any statutory services to highlight the positive work provided by You and other Member organisations.

12.3 LBB will provide You with template data collection forms (our Monitoring and Evaluation Form) but provides no advice or assurance in respect of compliance with data protection or privacy legislation and related guidance. It is Your responsibility to comply with such legislation and guidance in accordance with clause 12.1.

### **13. WARRANTIES**

13.1 You warrant, undertake and agree that:

13.1.1 You have all necessary resources and expertise to deliver the Project and are not aware of any matter which might reasonably have influenced LBB's grant panel's decision to fund and/or approve the Grant;

13.1.2 You will use the Grant economically, efficiently and effectively;

13.1.3 All financial and other information concerning You that has been or will be disclosed to us by You is to the best of Your knowledge and belief, true and fair;

13.2 You have and will keep in place systems to deal with the prevention of fraud and/or administrative malfunction.

### **14. CONFIDENTIALITY AND FREEDOM OF INFORMATION**

14.1 Subject to the following provisions of this clause 14, neither party will, without the other party's prior consent In Writing, use or disclose any confidential information relating to the other party or, in the case of You, about LBB which You learn as a consequence of receiving the Grant, entering into this Agreement and/or delivering the Project.

14.2 Clause 14 does not apply to information disclosed by either party under the requirements of a governmental authority or judicial order or legal requirement (including disclosure required under the Freedom of Information Act 2000) or to information already in the public domain (otherwise than as a result of a breach of confidence by the disclosing party), provided that where reasonably practicable the disclosing party consults with the other party before disclosing confidential information under this clause.

14.3 You acknowledge that LBB is in receipt of public funds and as such they may be subject to statutory or other obligations/requirements to permit access to information held by LBB or You. You will without charge promptly provide all assistance as LBB reasonably require in order that LBB may comply with the lawful and proper requests for access to documents and information held by You.



## **15. DURATION**

- 15.1 Except where otherwise specified, the terms of this Agreement shall apply from the Commencement Date until the Monitoring and Evaluation Form is submitted at the end of the project.
- 15.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive expiry or termination and continue in full force and effect until they have been fulfilled.
- 15.3 LBB may terminate this Agreement and any Grant payments upon giving You one (1) month's notice In Writing should it be required to do so by financial restraints or for any other reason.

## **16. ASSIGNMENT**

You may not, without the prior written consent of LBB, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant.

## **17. DISPUTE RESOLUTION**

In the case of any dispute in relation to the Grant (other than in respect of LBB's right to withhold or delay payment of Grant instalments or withdraw), the parties will use their best efforts to negotiate in good faith and settle amicably such dispute through negotiations.

## **18. NO PARTNERSHIP OR AGENCY**

This Agreement shall not create any partnership or joint venture between LBB and You, nor any relationship of principal and agent, nor authorise either party to make or enter into any commitments for or on behalf of the other party.

## **19. GOVERNING LAW**

This Agreement is governed by and construed in accordance with the law of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English and Welsh courts.

## **20. THIRD PARTY RIGHTS**

No person who is not a party to this Agreement will have any right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999, except to the extent that LBB can enforce and enjoy the benefit of any of its rights, and Your warranties, assurances and obligations to LBB, under this Agreement.

## **21. FORCE MAJEURE**

Either party may delay performance of an obligation under this Agreement, and in particular LBB may delay or suspend any obligation to make a payment under this Agreement, if it cannot perform the obligation for circumstances outside its reasonable control. For the avoidance of doubt, any situation arising as a result of Brexit does not constitute a Force Majeure. LBB reserves the right to exercise flexibility in any such event.

## 22. VARIATION

This Agreement may only be varied by agreement In Writing by both parties.

I/We confirm acceptance of the above Terms and Conditions:

Applicant's signature	
Applicant's full name	
Applicants role / Job title	
Date	