



Recipient Agreement

for provision of funds from the Warm Homes Fund

Dated

Affordable Warmth Solutions CIC (1)

and

[Recipient] (2)

[v7.2 171204]

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DATE

2017

PARTIES

- (1) **Affordable Warmth Solutions CIC** (Company Number 06778194) whose registered office is at Wrigleys Solicitors LLP, 19 Cookridge Street, Leeds, West Yorkshire, LS2 3AG ("AWS"); and
- (2) **[Recipient] [(Company Number [...])]** whose registered office is at [...] ("the Recipient")

Introduction

- A The Recipient has submitted an application to AWS for provision of funds from the Warm Homes Fund to be used for the Purpose as defined in this Recipient Agreement.
- B Following consideration of that application AWS has agreed to provide funds to the Recipient in accordance with and subject to the terms of this Recipient Agreement.

It is agreed as follows

- 1 This Recipient Agreement comprises:
 - (a) this form of agreement;
 - (b) the Funding Information set out in Schedule 1; and
 - (c) the Funding Conditions set out in Schedule 2.
- 2 If there is any conflict between the documents comprising this Recipient Agreement, those documents have priority in the order in which they are set out above.

Executed as a deed and delivered by the Parties on the date written above.

Executed as a deed by Affordable Warmth Solutions CIC

acting by two directors or by one director and the company secretary

Director

Name (print)

Director / Company Secretary

Name (print)

Executed as a deed by [Recipient]

acting by two directors or by one director and the company secretary

Director

Name (print)

[Director and officer with responsibility for proper administration of the Recipients financial affairs, duly appointed in compliance with Section 151 Local Government Act 1972]

Director / Company Secretary

Name (print)

[Alternative Recipient attestation]

Executed as a deed by affixing the common seal of [Recipient]

In the presence of

Signature

Name (print)

Position

Signature

Name (print)

Position

[Director and officer with responsibility for proper administration of the Recipients financial affairs, duly appointed in compliance with Section 151 Local Government Act 1972]

[Note: additional countersignature for use where the Recipient's S151 Officer is not otherwise a signatory]

I, the officer with responsibility for proper administration of the Recipients financial affairs duly appointed in compliance with Section 151 Local Government Act 1972, confirm that this Recipient Agreement has been reviewed and approved in accordance with all applicable governance requirements relating to the financial affairs of the Recipient.

Signature

Name (print)

Position

Schedule 1: Funding Information

The Purpose is [...] **[Note: where the Purpose includes more than one Category, each of those Categories will be identified here]**

The Funding Application is [...] **[Note: identify Recipient’s funding application by title, date and any reference]**

The Award Letter is The letter from AWS to the Recipient dated [...] (reference: [...]) [and the letter from AWS to the Recipient dated [...] (reference [...])]

The Planned Delivery Forecast is [...] **[Note: identify Planned Delivery Forecast by title, date and any reference]**

The Funding Amount is	[Category 1]	£[...] ([Amount in words])
	[Category 2]	£[...] ([Amount in words])
	[Category 3]	£[...] ([Amount in words])

The Required Own Funding is	[Category 1]	£[...] ([Amount in words])
	[Category 2]	£[...] ([Amount in words])
	[Category 3]	£[...] ([Amount in words])

The Investment Deadline is	[Category 1]	[...]
	[Category 2]	[...]
	[Category 3]	[...]

The Funding Instalments are	No.	Amount or mechanism for determining amount	Instalment Release Conditions
		For each of Category 1 and Category 2 each Funding Instalment will be calculated as follows:	<ul style="list-style-type: none"> The Recipient demonstrates delivery of the relevant measures in accordance with this Recipient Agreement

<ul style="list-style-type: none"> • £[...] ([Amount in words]) per [description of measure] delivered for households in Category 1 • £[...] ([Amount in words]) per [description of measure] delivered for households in Category 2 • for each Interim Funding Instalment, less a deduction of the lesser of <ul style="list-style-type: none"> ➢ 5% of each of the above amounts, and ➢ £50,000.00 (fifty thousand pounds), to be applied as a single combined cap on all such deductions in respect of Category 1 and Category 2, <p>(referred to below as the 'retained amount') to be retained and released with the last Funding Instalment; and</p> • less the amount of all previous Funding Instalments for the relevant Category; <p>provided that:</p> <ul style="list-style-type: none"> • unless AWS agrees otherwise, the cumulative number of measures delivered as taken into account in calculation of each Funding Instalment for each Category will be capped at the lesser of <ul style="list-style-type: none"> ➢ the cumulative planned number of measures stated below for the relevant Category and Funding Instalment plus 20%, and ➢ the cumulative planned number of measures stated below for the relevant Category for the last Funding Instalment in respect of which a cumulative planned number of measures is stated for that Category; • the total of all Interim Funding Instalments will not exceed the relevant Funding Amount less the retained amount; <p>and</p> <ul style="list-style-type: none"> • the total of all Funding Instalments will not exceed the relevant Funding Amount. 	<ul style="list-style-type: none"> • The Recipient demonstrates delivery of all measures [included in the relevant Category] in a combination and volume not materially inconsistent with the combination and volume of measures forecast within the Planned Delivery Forecast
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1	<p>Cumulative planned number of measures:</p> <p>Category [1]</p> <p>[description of measures] [...]</p> <p>Category [2]</p> <p>[description of measures] [...]</p> <p>Anticipated amount (based on delivery of the above cumulative number(s) of measures) £[...]</p>	As set out above
2	<p>Cumulative planned number of measures:</p> <p>Category [1]</p> <p>[description of measures] [...]</p> <p>Category [2]</p> <p>[description of measures] [...]</p> <p>Anticipated amount (based on delivery of the above cumulative number(s) of measures) £[...]</p>	As set out above
3	<p>Cumulative planned number of measures:</p> <p>Category [1]</p> <p>[description of measures] [...]</p> <p>Category [2]</p> <p>[description of measures] [...]</p> <p>Anticipated amount (based on delivery of the above cumulative number(s) of measures) £[...]</p>	As set out above
4	<p>Cumulative planned number of measures:</p> <p>Category [1]</p>	As set out above

	<p>[description of measures] [...]</p> <p>Category [2]</p> <p>[description of measures] [...]</p> <p>Anticipated amount (based on delivery of the above cumulative number(s) of measures) £[...]</p>	
[...]	<p>Cumulative planned number of measures:</p> <p>Category [1]</p> <p>[description of measures] [...]</p> <p>Category [2]</p> <p>[description of measures] [...]</p> <p>Anticipated amount (based on delivery of the above cumulative number(s) of measures) £[...]</p>	As set out above
[...]	Final Funding Instalment: the retained amount	Submission and acceptance of Project Closure Report

No.	Amount or mechanism for determining amount	Instalment Release Conditions
	<p>[Note: provisions for determining the amount of each Funding Instalment will be developed based on the activities and funding requirements forming the subject of the Funding Application, the Award Letter and Planned Delivery Forecast. Those provisions may be based on reimbursal of Purpose Costs or some other mechanism as appropriate.]</p> <p>[...]</p> <p>[For Category 3 each Funding Instalment will be calculated as follows:</p>	<p>Submission of Funding Use Report demonstrating cumulative Purpose Costs (exclusive of VAT) in accordance with this Recipient Agreement</p> <p>[Note: any specific milestones or other outcomes required as pre-conditions to release of a Funding Instalment will be added below.]</p>

	<ul style="list-style-type: none"> • [[...]% of] the cumulative Purpose Cost (exclusive of VAT) up to the date of submission of the relevant Payment Request Form; • less the amount of all previous Funding Instalments for Category 3; <p>provided that:</p> <ul style="list-style-type: none"> • unless AWS agrees otherwise, the Purpose Cost as taken into account in calculation of each Funding Instalment will be capped at the cumulative forecast Purpose Cost stated below for the relevant Funding Instalment.] 	
1	[Cumulative forecast Purpose Cost (exclusive of VAT)] [£[...]]	[As set out above]
2	[...]	[As set out above]
3	[...]	[As set out above]
4	[...]	[As set out above]
5	[...]	[As set out above]
[...]		[As set out above]
[...]		[Submission and acceptance of Project Closure Report]

Funding Use Report Deadlines

The first Funding Use Report Deadline is [...]

Subsequent Funding Use Report Deadlines fall on the Business Day next following expiry of each period of 3 calendar months following the first Funding Use Report Deadline

The AWS Representative is	Name	Jeremy Nesbitt
	Position	Managing Director
	Telephone	0121 623 2154
	Email	jeremy.nesbitt@ngrid-aws.org.uk
	Address	35 Homer Road, Solihull, West Midlands, B91 3QJ

The Recipient Representative is	Name	
	Position	
	Telephone	
	Email	
	Address	

The Recipient Bank Account is	Bank	
	Account name	
	Sort code	
	Account number	

Schedule 2: Funding Conditions

1 Interpretation

1.1 In this Recipient Agreement:

- (a) 'Affordable Warmth Solutions' or 'AWS' means Affordable Warmth Solutions CIC, a community interest company registered in England with number 6778194 whose registered office is at 19 Cookridge Street, Leeds, West Yorkshire LS2 3AG;
- (b) 'Award Conditions' are matters identified as such in the Award Letter;
- (c) 'Award Letter' means the document identified as such in the Funding Information;
- (d) 'AWS Representative' means the individual identified as such in the Funding Information or any replacement individual notified in accordance with this Recipient Agreement;
- (e) 'Business Day' means any day which is not a Saturday, a Sunday, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday;
- (f) 'Category' means any element of the Purpose identified as a category within the Funding Information;
- (g) 'Effective Date' means the date of this Recipient Agreement;
- (h) 'Excluded Loss' means any loss of revenue, profit, production, anticipated saving, opportunity, sale of property, or any indirect or consequential loss;
- (i) 'Force Majeure' means any act, event or omission beyond the reasonable control of a Party, including, but not limited to
 - (i) natural disaster,
 - (ii) war, armed conflict, terrorist attack, civil war, civil commotion or riot (or the threat of, or preparation therefor),
 - (iii) imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions,
 - (iv) insolvency or other failure of a bank or other financial institution that is lawfully:
 - (A) holding deposits placed by a Party, or
 - (B) dealing in investments on behalf of or using funds provided by a Party,and
 - (v) any law or governmental order, rule, regulation or direction or other action taken by a government or public authority that renders performance of any relevant obligation under this Recipient Agreement unlawful;

- (j) 'Form of Agreement' means the form of agreement executed by the Parties and incorporating these Funding Conditions;
- (k) 'Funding Amount' means the amount identified as such in the Funding Information or, where the Purpose includes more than one Category, the amount identified as such in the Funding Information in respect of the relevant Category;
- (l) 'Funding Application' means the Recipient's application to AWS for provision of funds from the Warm Homes Fund, as identified in the Funding Information;
- (m) 'Funding Information' means the document of that name attached to the Form of Agreement as Schedule 1;
- (n) 'Funding Instalment' means an instalment of the Funding Amount or, where the Purpose includes more than one Category, an instalment of the Funding Amount for the relevant Category, in each case identified as such in the Funding Information;
- (o) 'Funding Use Report' means a report containing the information set out or referred to in Clause 6.3;
- (p) 'Funding Use Report Deadline' means a date identified as such in the Funding Information;
- (q) 'HSE Notifiable Incident' means any incident, injury, dangerous occurrence, work related illness or fatality that the Recipient or any Third Party is required to notify or report to the Health and Safety Executive in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 or any other applicable law or regulation;
- (r) 'Instalment Release Conditions' means in relation to a Funding Instalment the conditions and other matters identified as such in the Funding Information;
- (s) 'Interim Funding Instalment' means any Funding Instalment other than the last Funding Instalment or, where the Purpose includes more than one Category, any Funding Instalment for the relevant Category other than the last Funding Instalment for that Category;
- (t) 'Investment Deadline' means the date identified as such in the Funding Information or such later date as may be agreed in writing between the Parties or, where the Purpose includes more than one Category, the date identified as such in the Funding Information in respect of the relevant Category or such later date as may be agreed in writing between the Parties in respect of the relevant Category;
- (u) 'Misuse' means use of any part of the Funding Amount otherwise than
 - (i) for the Purpose or, where the Purpose includes more than one Category, for the element of the Purpose included in the relevant Category, and
 - (ii) in accordance with this Recipient Agreement,
 and 'Misused' shall be construed accordingly;

- (v) 'National Grid' means National Grid Holdings One plc (Company Number 02367004) whose registered office is at 1 - 3 Strand, London, WC2N 5EH;
- (w) 'Party' means either of AWS or the Recipient as the context requires, and 'Parties' means both AWS and the Recipient;
- (x) 'Payment Request' means a request submitted by the Recipient to AWS for release of a Funding Instalment;
- (y) 'Planned Delivery Forecast' means the forecast delivery of measures set out in the document identified as such in the Funding Information, subject to any change to that forecast agreed in writing between the Parties;
- (z) 'Project Closure Report' means the final Funding Use Report submitted or to be submitted by the Recipient to AWS following:
 - (i) completion of delivery of the Purpose or relevant Category; and
 - (ii) satisfaction of the Award Conditions and use of all Required Own Funding in relation to the Purpose or relevant Category;

in each case in accordance with this Recipient Agreement;
- (aa) 'Purpose' means the purpose identified as such in the Funding Information;
- (bb) 'Purpose Costs' are costs reasonably and properly incurred and paid by the Recipient consistent with the Funding Application and Award Letter in furtherance of the Purpose or, where the Purpose includes more than one Category, the relevant Category, in each case excluding any value added tax paid or payable on the amount of any such costs;
- (cc) 'Recipient' means the Party identified as such in the Form of Agreement;
- (dd) 'Recipient Agreement' means the Form of Agreement together with the other documents identified in the Form of Agreement as comprising this Recipient Agreement;
- (ee) 'Recipient Bank Account' means the bank account identified as such in the Funding Information or any replacement bank account the Recipient may specify by written notice to AWS for receipt of any Funding Instalment;
- (ff) 'Recipient Representative' means the individual identified as such in the Funding Information or any replacement individual notified in accordance with this Recipient Agreement;
- (gg) 'Representative' means either the AWS Representative or the Recipient Representative as the context requires;
- (hh) 'Required Own Funding' means the amount identified as such in the Funding Information or, where the Purpose includes more than one Category, the amount identified as such in the Funding Information in respect of the relevant Category;

- (ii) 'Section 151 Officer' means an officer of the Recipient with responsibility for proper administration of the Recipients financial affairs, duly appointed in compliance with Section 151 of the Local Government Act 1972 (where applicable);
- (jj) 'Third Party' means any legal entity other than a Party or permitted assignee; and
- (kk) 'Warm Homes Fund' means the fund allocated by National Grid from the proceeds of sale of National Grid Gas Distribution Limited (Company Number 10080864, now known as Cadent Gas Ltd) for the benefit of energy consumers.

1.2 In this Recipient Agreement:

- (a) a word or phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression is illustrative and does not limit the sense of the words preceding that word or phrase; and
- (b) reference to any statute or regulation is to that statute or regulation as may be amended, replaced or re-enacted from time to time.

1.3 Headings are included in this Recipient Agreement for ease of reference only and do not affect its interpretation.

1.4 This Recipient Agreement may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each Party had signed the same document.

1.5 This Recipient Agreement is effective from the Effective Date and continues until all obligations under this Recipient Agreement are fully performed.

2 Provision of Funding Amount

2.1 Subject to continued compliance by the Recipient with its obligations under this Recipient Agreement, AWS will pay the Funding Amount to the Recipient in the Funding Instalments in accordance with the following provisions of this Clause 2.

2.2 On or before each Funding Use Report Deadline, the Recipient may submit a Payment Request to AWS together with or as part of its Funding Use Report. Unless otherwise agreed by AWS in writing the Recipient:

- (a) may submit only one Payment Request relating to each Funding Use Report Deadline; and
- (b) shall not submit any Payment Request after the Investment Deadline.

2.3 Each Payment Request must relate to only one Funding Instalment or, where the Purpose includes more than one Category, only one Funding Instalment for each Category, and must:

- (a) be in such form (whether including an invoice or other pro-forma) and level of detail and supported by such evidence as AWS may reasonably require;
- (b) identify the Funding Instalment(s) to which the request relates and the amount of such Funding Instalment(s), and set out any calculation necessary to demonstrate the accuracy of such amount(s);

- (c) identify the Funding Use Report Deadline to which the request relates;
- (d) confirm details of the Recipient Bank Account;
- (e) demonstrate fulfilment of the Instalment Release Conditions applicable to such Funding Instalment(s); and
- (f) include a statement certifying that
 - (i) the Payment Request,
 - (ii) the Funding Use Report accompanying the Payment Request, and
 - (iii) all supporting evidence provided with the Payment Request,
 are complete and accurate and that, save as otherwise reported to AWS in accordance with this Recipient Agreement, the Recipient has complied with all requirements of this Recipient Agreement.

2.4 Provided that AWS is reasonably satisfied that:

- (a) the Instalment Release Conditions are fulfilled in relation to the entirety of the amount of the Funding Instalment(s) requested by the Recipient;
- (b) on or before the relevant Funding Use Report Deadline, the Recipient has submitted a Payment Request for such Funding Instalment(s) together with a Funding Use Report, each in accordance with and supported by the information required by this Recipient Agreement; and
- (c) the Recipient has otherwise complied with its obligations under this Recipient Agreement:

AWS shall pay such Funding Instalment(s) to the Recipient within Twenty Business Days following the relevant Funding Use Report Deadline.

2.5 AWS shall make all payments under this Recipient Agreement in GBP into the Recipient Bank Account.

2.6 The Recipient acknowledges that it is not entitled to charge VAT on the amount of any Funding Instalment, and accordingly any invoice submitted by the Recipient to AWS pursuant to this Recipient Agreement for payment of all or any part of any Funding Instalment shall not include VAT.

3 Use of Funding Amount and compliance with Award Conditions

3.1 The Recipient undertakes to use each Funding Instalment received from AWS pursuant to this Recipient Agreement:

- (a) solely for the Purpose or, where the Purpose includes more than one Category, the relevant Category; and
- (b) by the relevant Investment Deadline;

and to account to AWS for that use. The Recipient shall not use any part of any Funding Instalment for any other purpose.

3.2 The Recipient may request an amendment to the Purpose and/or the relevant Investment Deadline. AWS may agree to or decline any such request in its absolute discretion. Any amendment to the Purpose or an Investment Deadline shall take effect only on receipt by the Recipient of AWS' written agreement referring to this Recipient Agreement and setting out the amended Purpose or Investment Deadline (as the case may be).

3.3 The Recipient shall comply with the Award Conditions.

4 Status of funds pending use and withdrawal restrictions

4.1 Pending use for the Purpose in accordance with this Recipient Agreement all amounts received from AWS under this Recipient Agreement remain the sole property of AWS.

4.2 The Recipient shall not withdraw or otherwise pay from the Recipient Bank Account all or any part of any amount received from AWS under this Recipient Agreement other than:

- (a) for immediate use for the Purpose in accordance with this Recipient Agreement,
- (b) to the extent that, in accordance with relevant Instalment Release Conditions, any such amount was received from AWS in reimbursement of Purpose Costs;
- (c) by way of direct transfer to AWS in the event that AWS requests return of all or any part of any such amount in accordance with this Recipient Agreement; or
- (d) as otherwise agreed in writing by AWS.

4.3 Notwithstanding the forgoing provisions of this Clause 4 the Recipient shall not be under any duty to invest or to account to AWS for interest received on any part of any Funding Amount held by the Recipient in the Recipient Bank Account.

5 Required Own Funding and other Third Party funds

5.1 The Recipient shall provide the Required Own Funding:

- (a) from its own funds; and/or
- (b) by obtaining amounts from Third Parties, provided that the Recipient has identified each such amount and Third Party as a source of Required Own Funding in the Funding Application;

and shall ensure that the Required Own Funding is used solely for the Purpose and by the relevant Investment Deadline.

5.2 If at any time the Recipient seeks or accepts funding from any Third Party for the Purpose or any Category and that funding was not identified in the Funding Application as a source of Required Own Funding for the Purpose or such Category:

- (a) the Recipient shall promptly and in any event before submitting any or any further Payment Request Form or invoice to AWS pursuant to this Recipient Agreement notify AWS of the amount and source of that funding; and
- (b) AWS may in its sole discretion reduce the Funding Amount for the Purpose or such Category by an amount equal to the amount of that funding and reduce the Funding Instalments accordingly.

5.3 The Recipient shall demonstrate and certify availability of the Required Own Funding for use for the Purpose by the relevant Investment Deadline by such means as AWS may reasonably require, including (where required by AWS) by means of a letter from the Recipient's auditors addressed to AWS and confirming:

- (a) the source and amount of the Required Own Funding; and
- (b) the availability of that Required Own Funding to the Recipient for use for the Purpose by the relevant Investment Deadline.

6 Provision of information, Funding Use Reports and HSE Notifiable Incidents

6.1 The Recipient shall provide all information requested by AWS in relation to:

- (a) use of the Funding Amount(s) by or on behalf of the Recipient or otherwise in connection with the Purpose;
- (b) related benefits to energy consumers; and
- (c) performance of the Recipient's obligations under this Recipient Agreement.

6.2 Without limitation to the foregoing:

- (a) on or before each Funding Use Report Deadline; and
- (b) within five Business Days of a request from AWS for an additional Funding Use Report;

the Recipient shall submit a Funding Use Report to AWS in such form and level of detail and supported by such evidence as AWS may reasonably require.

6.3 Each Funding Use Report shall:

- (a) demonstrate that all Instalment Release Conditions relating to any Funding Instalment paid to the Recipient or forming the subject of a Payment Request Form are and remain fulfilled;
- (b) account for and demonstrate use of the Funding Amount(s) (or such part of the Funding Amount(s) as has been used) by the Recipient;
- (c) show any remaining balance of the Funding Amount(s) held by the Recipient and identify any spending plans and commitments made by the Recipient in respect of any such remaining balance;
- (d) identify the source and availability of the Required Own Funding;
- (e) account for and demonstrate use of the Required Own Funding (or such part of the Required Own Funding as has been used);
- (f) show any remaining balance of the Required Own Funding held by or otherwise available to the Recipient and identify any spending plans and commitments made by the Recipient in respect of any such remaining balance;
- (g) identify the source and amount of any other funds sought or accepted by the Recipient from any Third Party for the Purpose;

- (h) provide details of progress with the Purpose, including details of any works in progress and completed works;
- (i) provide details of satisfaction or progress towards satisfaction (as the case may be) of any Award Conditions;
- (j) provide such information as AWS may reasonably require to demonstrate that use of any part of the Funding Amount(s) by or on behalf of the Recipient, and all activities funded (whether in whole or in part) or otherwise undertaken in connection with that use, comply with all applicable laws and regulations;
- (k) provide such additional information as AWS may reasonably require in relation to the Purpose, progress made with the Purpose and related benefits to energy consumers; and
- (l) include a statement certifying that the Funding Use Report is complete and accurate and that, save as otherwise reported to AWS in accordance with this Recipient Agreement, the Recipient has complied with all requirements of this Recipient Agreement.

6.4 If any HSE Notifiable Incident occurs in connection with any works or services forming part of or otherwise undertaken in connection with the Purpose the Recipient shall:

- (a) notify AWS of that HSE Notifiable Incident as soon as reasonably practicable and in any event within one Business Day; and
- (b) promptly provide to AWS
 - (i) a copy of any report relating to that HSE Notifiable Incident submitted to the Health and Safety Executive; and
 - (ii) all such further information relating to that HSE Notifiable Incident as AWS may reasonably request.

7 Misuse, breach and remediation

7.1 The Recipient shall:

- (a) promptly report to AWS any Misuse or other breach of the Recipient's obligations under this Recipient Agreement; and
- (b) provide details of such Misuse or breach as AWS may require.

Without prejudice to any other right or remedy that AWS may have in connection with any such Misuse or breach, the Recipient shall if requested by AWS co-operate with AWS in developing and implementing a remediation plan with the objective of remedying and preventing any recurrence of any such Misuse or breach.

8 Return of funds and termination

8.1 If:

- (a) in AWS' reasonable opinion (whether on the basis of any Funding Use Report or otherwise)

- (i) more than ten Business Days or such other period as may be specified in any relevant Instalment Release Condition following receipt from AWS, any part of the Funding Amount(s) paid to the Recipient has not been used or applied in accordance with this Recipient Agreement; or
- (ii) any Instalment Release Condition applicable to any Funding Instalment paid to the Recipient was not fulfilled at the time of such payment or is no longer fulfilled;

or

- (b) following exercise of AWS' discretion to reduce any Funding Amount pursuant to Clause 5.2 above, the amount of any Funding Instalment paid to the Recipient exceeds the amount of such Funding Instalment as adjusted pursuant to that Clause;

AWS may in its sole discretion issue a notice to the Recipient requiring repayment of such part of such Funding Amount or Funding Instalment or (where Clause 8.1(b) applies) the amount of such excess.

8.2 The following are Reasons for Termination.

- (a) Any part of the Funding Amount(s) has been Misused.
- (b) The Recipient has not provided and used the Required Own Funding for the Purpose in accordance with this Recipient Agreement.
- (c) Any statement or certificate made or provided by the Recipient:
 - (i) in the Funding Application; or
 - (ii) under or in connection with this Recipient Agreement, whether in any Payment Request Form, Funding Use Report or otherwise;
 is materially inaccurate or misleading.
- (d) The Recipient has materially not complied with any other obligation under this Recipient Agreement and such non-compliance has not been remedied.

8.3 If in AWS' reasonable opinion any Reason for Termination has occurred AWS may in its sole discretion do either or both of the following.

- (a) Issue a notice to the Recipient requiring repayment of:
 - (i) any part of the Funding Amount(s) that has been Misused; and/or
 - (ii) a part of the Funding Amount(s) previously paid to the Recipient equal in amount to any part of the Required Own Funding not provided and used for the Purpose in accordance with this Recipient Agreement.
- (b) Issue a notice to the Recipient terminating provision of further funding under this Recipient Agreement. Following any such termination AWS shall have no further obligation to pay all or any part of the Funding Amount(s) to the Recipient.

8.4 The Recipient shall repay any amount required to be repaid to AWS pursuant to this Clause 8 in full within five Business Days of the date of AWS' notice requiring repayment of such amount.

9 Responsibility, indemnity and liability

9.1 The Recipient shall ensure that use of the Funding Amount(s) by or on behalf of the Recipient, and all activities funded or otherwise undertaken in connection with that use, comply with all applicable laws and regulations. The Parties acknowledge that:

- (a) AWS is not responsible for any such compliance, and provision of funds to the Recipient does not imply any responsibility for AWS in relation to any such compliance;
- (b) AWS accepts no responsibility, whether financial or otherwise, for expenditure or liabilities arising out of any such use or activities; and
- (c) the Recipient is solely responsible for ensuring that the terms of any agreement entered into by or on behalf of the Recipient with any Third Party in connection with the Purpose are consistent with and enable the Recipient to comply with the terms of this Recipient Agreement.

9.2 The Recipient shall indemnify AWS and keep AWS indemnified against any and all claims, proceedings, compensation, costs, losses and liabilities whatsoever suffered or incurred by AWS:

- (a) in connection with the Purpose or any activity undertaken by the Recipient or any Third Party in connection with the Purpose; and
- (b) otherwise by reason of any act, default, breach of warranty or neglect of or by the Recipient or any Third Party, including but not limited to any employee, contractor or agent, under or in connection with this Recipient Agreement or the Purpose.

9.3 AWS has no liability for any costs, losses or liabilities incurred by the Recipient in the event that:

- (a) all or any part of the Funding Amount(s) is required to be repaid; or
- (b) provision of further funding is terminated;

in accordance with this Recipient Agreement.

9.4 Any liability of AWS to the Recipient under or in connection with this Funding Agreement, whether in contract, tort (including negligence) or otherwise howsoever arising shall:

- (a) exclude any Excluded Loss; and
- (b) be limited to the remaining balance of the Funding Amount(s) after deduction of any part of the Funding Amount(s) paid to the Recipient and not repaid to AWS.

9.5 Nothing in this Recipient Agreement shall exclude or limit the liability of either Party for:

- (a) personal injury or death arising from that Party's negligence;
- (b) fraud or fraudulent misrepresentation of that Party; or

- (c) any other liability that by law cannot be excluded or limited.

10 Audit

10.1 The Recipient shall ensure that the control of expenditure to be funded pursuant to this Recipient Agreement is governed by the normal standards and procedures of the Recipient and is covered by formal audit arrangements.

10.2 AWS shall have the right to audit the Recipient's expenditure in relation to the Purpose, including expenditure of the Required Own Funding and any other funds, at any time on reasonable notice. Following receipt of such notice the Recipient shall provide access to all accounting, financial and other records in its possession or control relating to:

- (a) the Purpose;
- (b) the Funding Amount(s);
- (c) use of the Funding Amount;
- (d) provision of the Required Own Funding;
- (e) use of the Required Own Funding;
- (f) use of any other funds in connection with the Purpose; and
- (g) any other matter required to be included in any Funding Use Report;

for inspection by auditors and other personnel from or appointed by AWS and shall allow those persons to retain copies of such records.

11 Publications and information sharing

11.1 Save as may be required by law or any competent regulatory authority, the Recipient shall not make any announcement, publication or communication in any form whatsoever which concerns, relates to or refers to this Recipient Agreement, its subject matter, AWS or National Grid without the prior written approval of AWS. AWS may agree or reject such request for approval in its absolute discretion. In seeking any such prior written approval, the Recipient shall provide to AWS a copy of any proposed announcement, publication or communication.

11.2 Without prejudice to any other freedom to disclose that AWS may have, the Recipient acknowledges that subject to compliance with any applicable legal and regulatory requirements, including any applicable requirements of or arising under the Data Protection Act 1998 or the General Data Protection Regulation (EU) 2016/679, AWS may share any information received from the Recipient under or in connection with this Recipient Agreement with:

- (a) National Grid;
- (b) the Office of Gas and Electricity Markets;
- (c) the Department for Business, Energy and Industrial Strategy; and
- (d) any other government department, regulatory or other public body with responsibilities relating to energy or the alleviation of fuel poverty.

- 11.3 Where any information received by AWS from the Recipient under or in connection with this Recipient Agreement includes personal data as defined in the Data Protection Act 1988 or the General Data Protection Regulation (EU) 2016/679 the Recipient warrants that, save as otherwise notified to AWS in accordance with this Recipient Agreement, it has obtained the explicit consent of each data subject in compliance with all requirements of such act and regulations sufficient to ensure that the sharing of any such personal data by AWS with any entity referred to in Clause 11.2 above is lawful.
- (a) The Recipient shall:
 - (i) use all reasonable endeavours to obtain such explicit consent; and
 - (ii) provide to AWS copies of records or other evidence of such explicit consent on request from AWS.
 - (b) If and to the extent the Recipient has not obtained any such explicit consent the Recipient shall at the same time as providing any personal data to AWS notify AWS that it has not obtained such explicit consent, identifying in that notification:
 - (i) the specific personal data and data subject(s) in relation to which the Recipient has not obtained such explicit consent; and
 - (ii) steps taken by the Recipient in seeking to obtain such explicit consent.

12 Anti-bribery and corruption

- 12.1 The Recipient shall:
- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
 - (b) ensure that the use of the Funding Amount provided to the Recipient under this Recipient Agreement is compliant with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010;
 - (c) at all times until all of its obligations under this Recipient Agreement are fully performed comply with AWS's anti-bribery and anti-corruption policies as may be updated by AWS from time to time (copies of which are available upon request to AWS);
 - (d) have and maintain in place its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the provisions of this Clause 12 and enforce those policies and procedures;
 - (e) promptly report to AWS any request or demand for any undue financial or other advantage of any kind received by the Recipient and any breach of any part of the provisions of this Clause 12 in connection with the performance of this Recipient Agreement or the Purpose; and
 - (f) provide such supporting evidence of compliance with this Clause 12 as AWS may reasonably request.

- 12.2 The Recipient shall ensure that any person associated with it employed or engaged in connection with this Recipient Agreement or the Purpose is subject to terms equivalent to those imposed on the Recipient pursuant to this Clause 12. As between the Parties the Recipient shall be responsible for the observance and performance by any such person of such terms.
- 12.3 For the purpose of this Clause 12, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with the Bribery Act 2010.

13 Representatives and certificates

- 13.1 Each Party's Representative shall have full authority of that Party in relation to all matters under or in connection with this Recipient Agreement.
- 13.2 Each Party may replace its Representative by written notice to the other Party naming the replacement.
- 13.3 Where pursuant to any provision of this Recipient Agreement the Recipient is required to certify the accuracy or completeness of any fact or statement, that certificate shall:
- (a) be signed by a director of the Recipient or such other senior representative of the Recipient as AWS may agree; and
 - (b) where the Recipient is a local authority as defined in the Local Government Act 1972, identify the signatory as the Recipient's Section 151 Officer (where this is the case) or be countersigned by the Recipient's Section 151 Officer.

14 Notices

- 14.1 Unless the contrary is stated, any notice to be served by either Party under this Recipient Agreement shall be:
- (a) in writing; and
 - (b) served by email, pre-paid first-class post, recorded delivery or actual delivery to the other Party's Representative at the address stated in or notified in accordance with this Recipient Agreement or to any other address notified by that Party for service of notices under this Recipient Agreement;

provided that any notice under Clause 8 (Return of funds and termination) shall not be validly served by email unless and until the Party serving that notice receives a manually created email or other written acknowledgment from the other Party's Representative (not being an automatically created read receipt, out of office notification or other automated response) expressly acknowledging receipt of the email containing or attaching that notice.

15 Entire agreement, waiver, amendments and survival

- 15.1 This Recipient Agreement sets out the entire agreement between the Parties in relation to its subject matter and supersedes anything previously said, done, agreed or implied which add to or conflicts with this Recipient Agreement. To the extent permitted by law, all other terms which may be implied into this Recipient Agreement by statute or otherwise are excluded.

- 15.2 The Recipient acknowledges and confirms that it does not enter into this Recipient Agreement in reliance on any representation, warranty or undertaking other than those expressly set out in this Recipient Agreement.
- 15.3 Nothing in this Recipient Agreement and no action taken under this Recipient Agreement creates a partnership or a relationship of principal and agent between the Parties or otherwise authorises either Party to bind the other Party.
- 15.4 None of the provisions of this Recipient Agreement are to be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver shall be a waiver of any past or future default or breach of any such provision or constitute a waiver of any other provision unless expressly stated in such waiver.
- 15.5 No review inspection notification approval acceptance or payment by or on behalf of AWS under or in connection with this Recipient Agreement shall relieve the Recipient of its obligation to comply with any provision of this Recipient Agreement.
- 15.6 Any amendment to this Recipient Agreement must be in writing, signed by the duly authorised representatives of the Parties and expressed to amend this Recipient Agreement. Any purported amendment made in any other manner shall have no effect.
- 15.7 The terms of this Recipient Agreement which by their nature or context are intended to have effect after termination shall do so.

16 Assignment and third parties

- 16.1 The Recipient may not assign all or any part of the benefit of this Recipient Agreement without the prior written consent of AWS.
- 16.2 AWS may assign its rights and benefits under this Recipient Agreement to National Grid without the consent of the Recipient.
- 16.3 No Third Party may enforce any provision of this Recipient Agreement under the Contracts (Rights of Third Parties) Act 1999. The rights of the Parties to rescind or vary this agreement are not subject to the consent of any other person

17 Force Majeure

- 17.1 Neither Party shall be liable to the other for any failure or delay in performance of any obligation under this Recipient Agreement which is caused by Force Majeure, provided that the foregoing shall not apply in relation to any such failure or delay due to consequences of Force Majeure which are caused or contributed to by any breach of this Recipient Agreement by the Party affected by such Force Majeure.
- 17.2 If performance of a Party's obligations under this Recipient Agreement is affected by Force Majeure that Party shall promptly notify the other Party in writing of the nature of such Force Majeure, the effects of such Force Majeure on performance of that Party's obligations and any subsequent cessation of or material change in such effects.
- 17.3 In the case of Force Majeure affecting AWS' ability to pay all or any part of the Funding Amount to the Recipient in accordance with this Recipient Agreement, AWS may terminate this Recipient Agreement by written notice to the Recipient if the effects of such Force Majeure persist for a continuous period of more than six months. Following any such

termination AWS shall have no further obligation to pay any amount to the Recipient under this Recipient Agreement.

18 Governing law and jurisdiction

18.1 This Recipient Agreement shall be governed by and construed in accordance with the laws of England and Wales. The Parties irrevocably submit to the jurisdiction of the courts of England and Wales to settle any dispute that may arise under or in connection with this Recipient Agreement. Save in relation to matters of enforcement, that jurisdiction shall be exclusive.