



LuxNova Partners

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Heat Networks Investment Project Local Authority Grant Funding Agreement

relating to construction grant funding for the
2020/2021 financial year for London Borough of
Enfield

in relation to the
Enfield District Heating Networks Project
(North and West Extensions)

- (1) The Mayor And Burgesses Of The London Borough Of Enfield,
as Recipient
- (2) The Secretary of State for Business, Energy and Industrial
Strategy, as Provider of the Grant
- (3) Triple Point Investment Management LLP, acting as Agent
- (4) Triple Point Investment Management LLP, acting as Account
Trustee

Dated 19TH MARCH 2021

EXECUTION VERSION

Contents

Clauses

1	Definitions and interpretation	1
2	The Grant	11
3	Purpose	11
4	Conditions of Funding	11
5	Funding	12
6	Tax Indemnities	15
7	Other Indemnities	16
8	Costs and Expenses	17
9	Representations	17
10	Information Undertakings	20
11	General Undertakings	23
12	Early repayment of unspent budget	25
13	Repayment Events	25
14	Changes to the parties	29
15	Role of the Agent and Account Trustee	29
16	Conduct of business by the Finance Parties	32
17	Payment Mechanics	32
18	Set-Off	33
19	Notices	33
20	Calculations and Certificates	35
21	Partial Invalidity	35
22	Remedies and Waivers	35
23	Amendments and Waivers	35
24	Confidentiality, transparency and publicity	35
25	Intellectual Property Rights	38
26	Environmental Requirements	38
27	Insurance	39
28	Counterparts	39
29	Dispute Resolution	39
30	Continuing Obligations	39
31	Non-Binding Nature of Document	39

Schedules

1	Project Description	44
2	Conditions Precedent	57
3	Funding Request	64
4	Project Monitoring Reports	68
5	Subsidy Control	69
6	Continuing Obligations	70
7	Grant Funding Letter	74

This Agreement is entered into as a deed on the 19TH MARCH 2021

Between:

- (1) **The Mayor And Burgesses Of The London Borough Of Enfield**, a local authority having its registered address at Civic Centre, Silver Street, London, United Kingdom, EN1 3XD (the **Recipient**);
- (2) **The Secretary of State for Business, Energy and Industrial Strategy** as grant provider (the **Original Provider**);
- (3) **Triple Point Investment Management LLP**, a limited liability partnership registered in England and Wales under company number OC321250 whose registered office is at 1 King William Street, London, EC4N 7AF, as agent of the other Finance Parties (the **Agent**); and
- (4) **Triple Point Investment Management LLP**, a limited liability partnership registered in England and Wales under company number OC321250 whose registered office is at 1 King William Street, London, EC4N 7AF, as account trustee for the Original Provider (the **Account Trustee**).

It is agreed as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

2020 Grant Agreement	means the grant funding agreement entered into between the Parties on or about 26.3.2020
2020 Funding Agreements	means the 2020 Grant Agreement and the £9,761,000 loan agreement entered on or about the date thereof
Account Bank	means such bank as the Agent shall notify to the Recipient from time to time.
Affiliate	means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.
Agency Protocol	means the separate protocol dealing with aspects of the Agent's appointment, as amended from time to time, available from the Agent on request by the Recipient.
Application	means the Recipient's original application to the Heat Networks Investment Project together with any further information provided by the Recipient as part of the application or award process prior to the date of this Agreement.
Approved Purpose	means funding Eligible Costs for the Project, in accordance with the Maximum Grant.
Authorisation	means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Authority	means a district council, county council, unitary authority or such other entity as detailed as such in Schedule 1 (<i>Project Description</i>).
Availability Period	means the period detailed as such in Schedule 1 (<i>Project Description</i>).
Business Day	means a day (other than a Saturday or Sunday) on which the Bank of England and banks in London are open for business.
Central Government Body	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none">(a) Government Department;(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);(c) Non-Ministerial Department; or(d) Executive Agency.
Change of Control	means the sale of all or substantially all the assets of a Party; any merger, consolidation or acquisition of a party with, by or into another corporation, entity or person, or any change in the ownership of more than fifty percent (50%) of the voting capital stock of a party in one or more related transactions (but in each case noting that collapsing Lee Valley Heat Network Limited such that the Recipient becomes the sole shareholder in Energetik shall not constitute a Change of Control).
Completion Date	<p>means the earlier to occur of:</p> <ul style="list-style-type: none">(a) issue of a completion certificate in respect of the Project under all Construction Contracts by the appropriate contractor or surveyor; or(b) the start of transmission of heat to the anchor load customer identified in Schedule 1 (<i>Project Description</i>).
Conditions Satisfaction Date	means the date by which the initial conditions for funding must be satisfied in accordance with Clause 4.1 (<i>Initial conditions precedent</i>) and being the date identified as such in Schedule 1 (<i>Project Description</i>).
Construction Contracts	means those contracts that are required for the development, design, construction, management, commissioning and testing of the Project, which have been delivered to and approved by the Agent

on or prior to delivery of the relevant Funding Request.

Construction Costs

means those construction costs set out in Schedule 1 (*Project Description*) incurred or to be incurred by the Recipient and which correspond with costs identified in the construction budget and the total amount of which does not exceed the total amount identified in the construction budget.

Construction Start Date

means the date identified as such in Schedule 1 (*Project Description*).

Data Protection Legislation

means all applicable legislation relating to privacy and the processing of personal data in force from time to time in the United Kingdom including the GDPR (for as long as applicable in the United Kingdom) and the Data Protection Act 2018.

Default

means a Repayment Event or any event or circumstance specified in Clause 13 (*Repayment Events*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Grant Documents or any combination of any of the foregoing) be a Repayment Event.

DPA 2018

means the Data Protection Act 2018.

Eligible Costs

means the capitalised costs for commercialisation, design, construction and commissioning which:

- (a) are specified in the Recipient's Application (provided that these are not excluded or qualified in Schedule 1 (*Project Description*) and are reasonably incurred in undertaking the Project); and
- (b) fall within the respective definitions of eligible cost set out for production plant and distribution network for the purposes of relevant Subsidy Control Law,

but not including Excluded Costs.

Energetik

means Lee Valley Heat Network Operating Company Ltd. (company number 09763702) (trading as "Energetik").

Excluded Costs

means those costs identified as such in Schedule 1 (*Project Description*).

Finance Party

means the Agent, the Account Trustee or the Provider, together the **Finance Parties**.

Financial Indebtedness

means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

Funding

means the advance of the Grant.

Funding Date

means the date of the Funding, being the date on which the Grant is to be made.

Funding Request

means a notice substantially in the form set out in Schedule 3 (*Funding Request*).

GAAP

means generally accepted accounting principles in England and Wales.

General Data Protection Regulation / GDPR

means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data

or any law which replaces, supersedes or supplements the European Union Regulation in relation to the United Kingdom (whether in whole or part) as a result of the United Kingdom ceasing to be a member state of the European Union.

Grant

means the S.31 grant offered under this Agreement as described in Clause 2 (*The Grant*) or the principal amount outstanding for the time being of that Grant.

Grant Documents

means this Agreement, the Application, the Grant Funding Letter, S.151 officer agreement and any other document designated as such by the Agent and the Recipient and **Grant Document** shall mean any of them.

Grant Funding Letter

means the letter the Provider issued to the Recipient dated 17.2.2021, a copy of which is set out in Schedule 7 (*Grant Funding Letter*) (as may have been amended prior to the date of this Agreement).

Grant Manager

means the individual who has been nominated by the Provider to be the single point of contact for the Recipient in relation to the Grant.

Group

means:

- (a) for the purposes of clauses 9.12 (Anti-corruption law) and 13.16 (Corruption) only: the Recipient and its Subsidiaries for the time being; and
- (b) for the purposes of the remainder of this Agreement: the Recipient, Energetik, and any Subsidiaries of Lee Valley Heat Network Limited or Energetik.

If Lee Valley Heat Network Limited is not dissolved by 30.9.2020, it will automatically be deemed to be included in paragraph (b) above, with effect from 30.9.2020, until it is dissolved.

Heat Networks Investment Project

means the project of the Original Provider to provide up to three hundred and twenty million pounds by way of grants and loans in connection with heat network projects in England and Wales.

Holding Company

means, in relation to a person, any other person in respect of which it is a Subsidiary.

Investment Vehicle

means any entity which owns or operates (or will own or operate) the Project, other than the Recipient.

Intellectual Property Rights or IPR

means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-

how, trade secrets and any modifications, amendments, updates and new releases of the same and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

IPR Material

means all material produced by the Recipient or its Representatives during the Project Life (including but not limited to, materials expressed in any form of report, database, design, document, technology, information, know how, system or process).

LCIA Rules

means the Arbitration Rules of the London Court of International Arbitration.

Longstop Date

means the date which is five calendar years after the date of the first release of Grant to the Recipient pursuant to clause 5 (*Funding*).

Mandatory Requirements

means the key deliverables and assurances which formed part of the Application and which are detailed in Schedule 1 (*Project Description*).

Material Adverse Change

means the events or circumstances described in Clause 13.12 (*Material Adverse Change*).

Material Adverse Effect

means in the opinion of the Provider, a material adverse effect on:

- (a) the ability of the Recipient to comply with the terms of the Grant Documents;
- (b) the ability of the Recipient, and/or any Investment Vehicle, to perform its role in the Project;
- (c) the legality, validity, effectiveness, adequacy or enforceability of any of the Grant Documents;
- (d) the rights and remedies of a Finance Party under the Grant Documents; or
- (e) the Project meeting the Mandatory Requirements.

Maximum Grant

means the maximum amount of the Grant as detailed in Schedule 1 (*Project Description*).

New Provider

has the meaning given to that term in Clause 14 (*Changes to the parties*).

Original Financial Statements

means in relation to the Recipient and, if applicable, any Investment Vehicle, its audited consolidated financial statements for the financial year identified as such in Schedule 1 (*Project Description*).

Party	means the Provider and the Recipient, and Parties shall be each Party together.
Personal Data	has the meaning given to it in the Data Protection Legislation as amended from time to time.
Procurement Regulations	means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with their amendments, updates and replacements from time to time.
Prohibited Use	<p>means:</p> <ul style="list-style-type: none">(a) use to support activity intended to influence or attempt to influence Parliament, Government or political parties, or use in attempting to influence the awarding or renewal of contracts and grants, or use in attempting to influence legislative or regulatory action, or any other use of a political nature;(b) use of an exclusively religious nature;(c) use in respect of costs reimbursed or to be reimbursed by funding from other public authorities or from the private sector;(d) use in connection with the receipt of contributions in kind (a contribution in goods or services as opposed to money);(e) use to cover interest payments (including service charge payments for finance leases);(f) use for the giving of gifts to individuals, other than promotional items with a value no more than £10 a year to any one individual;(g) use for entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current United Kingdom tax regulations);(h) use to pay statutory fines, criminal fines or penalties;(i) use to pay for Eligible Costs incurred before the date of this Agreement; or(j) use in respect of VAT that the Recipient is able to reclaim from HM Revenue and Customs.
Project	means the project as identified and detailed in the Application summarised in Schedule 1 (<i>Project Description</i>).

Project Agreements	means any material documents entered into by the Recipient or Energetik in relation to the Project (including the Construction Contracts, any operation and maintenance contracts, plot connection agreements, energy services agreements, heat supply contracts, heat purchase contracts, on-funding agreements, management contracts and real estate arrangements) and any other contract designated as such by the Agent following the date hereof (acting reasonably).
Project Life	means the expected duration of the Project as set out in the Application.
Projected Costs	means the total anticipated Eligible Costs of the Project as set out in the Application.
Protected Party	means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Grant Document.
Provider	<p>means:</p> <p>(a) the Original Provider; and</p> <p>(b) any entity which has become a Party in accordance with Clause 14 (<i>Changes to the parties</i>),</p> <p>which in each case has not ceased to be a Party in accordance with the terms of this Agreement, and Providers shall be construed accordingly</p>
Recipient's Bank Account	has the meaning given to it in Schedule 1 (<i>Project Description</i>).
Relevant Funding	means fiscal or non-fiscal funding as designated in Schedule 1 (<i>Project Description</i>).
Relevant Proportion	has the meaning given to it in Schedule 1 (<i>Project Description</i>), but without prejudice to Clause 12.2.2.
Repayment Event	means any event or circumstance specified as such in Clause 13 (<i>Repayment Events</i>).
Representative	means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.
Security	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

State Subsidy

means any financial contribution granted by a public body authority or through State resources in any form whatsoever which confers a benefit on the recipient, which shall include, but not be limited to, the definition of a subsidy contained in the UK-EU TCA.

Subsidy Control Law

means all laws of the United Kingdom limiting State Subsidy, including the European Union (Future Relationship) Act 2020, any relevant secondary legislation and any other law which replaces or supersedes or implements, or retains the law embodied in Articles 107-109 of the Treaty for the Functioning of the European Union ("TFEU") and any relevant primary or secondary legislation in relation to the United Kingdom (whether in whole or part) as a result of the United Kingdom ceasing to be a member state of the European Union, together with any guidance issued by a Central Government Body relating to the provision of State Subsidies, including the interaction of State Subsidies with the United Kingdom's commitments as a member of the World Trade Organisation and under its trade agreements with other countries.

Subsidiary

means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.

Tax

means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Third Party

means any person or organisation other than the Recipient or the Provider or the Agent;

Trust Account

means the account held with the Account Bank which is operated in accordance with the Trust Account Deed.

Trust Account Deed

means the agreement entered into between the Provider, the Agent and the Account Trustee dated on or about the date hereof.

UK-EU TCA

means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed on 30 December 2020, including such amendments as are agreed between its parties from time to time.

Unpaid Sum

means any sum due and payable but unpaid by the Recipient under the Grant Documents.

VAT

means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, including whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Agreement to:

- (a) the **Agent**, any **Finance Party**, any **Provider** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Grant Documents;
- (b) **approved Investment Vehicle** means any Investment Vehicle identified in the Application and approved by the Provider on or prior to the date of this Agreement or subsequently notified to and approved by the Provider pursuant to Clause 11.5.2 (*Use of Grant Proceeds*);
- (c) **assets** includes present and future properties, revenues and rights of every description;
- (d) a **Grant Document** or any other agreement or instrument is a reference to that Grant Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (e) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (f) a **person** includes any individual, firm, Recipient, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (g) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (h) a reference to **law** or **laws** is a reference to that law or laws as amended, re-enacted, replaced, superseded or supplemented from time to time and a provision of law is a reference to that provision as amended, re-enacted, replaced, superseded or supplemented from time to time, including the introduction, replacement or modification of any provision of laws applying in United Kingdom as a consequence of the United Kingdom ceasing to be a member state of the European Union; and
- (i) a time of day is a reference to London time.

1.2.2 Section, Clause and Schedule headings are for ease of reference only.

1.2.3 Unless a contrary indication appears, a term used in any other Grant Document or in any notice given under or in connection with any Grant Document has the same meaning in that Grant Document or notice as in this Agreement.

- 1.2.4 A Default (other than a Repayment Event) is **continuing** if it has not been remedied to the reasonable satisfaction of the Provider or waived and a Repayment Event is **continuing** if it has not been waived.
- 1.2.5 The Parties agree that entry into (and performance of) this Agreement shall not be deemed to be a contravention of the 2020 Funding Agreements.
- 1.2.6 The Parties agree that entry into (and performance of) the 2020 Funding Agreements shall not be deemed to be a contravention of this Agreement.
- 1.2.7 Notwithstanding any reference in this Agreement to the Trust Account, the Trust Account Deed, or the Account Trustee, the Provider reserves the right to fund the Grant directly to the Recipient.

1.3 Currency symbols and definitions

£, GBP and sterling denote the lawful currency of the United Kingdom.

1.4 Third party rights

Subject to Clause 15.3.2 (*Exclusion of liability*), a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

Section 2 - The Grant

2 THE GRANT

2.1 The Grant

Subject to the terms of this Agreement, the Provider offers the Recipient a grant in an aggregate amount equal to the Maximum Grant.

2.2 Funding type

The Recipient acknowledges that the Grant constitutes the Relevant Funding for the purposes of the Heat Networks Investment Project annual budget.

3 PURPOSE

3.1 Purpose

The Recipient shall apply all amounts received by it under this Agreement towards the Approved Purpose only and for no other purpose.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount provided pursuant to this Agreement.

4 CONDITIONS OF FUNDING

4.1 Initial conditions precedent

The Recipient may not deliver a Funding Request unless, and the Recipient acknowledges that the Provider will only be obliged to disburse the proposed Grant to the Trust Account once the Agent has received all of the documents and other evidence listed in Part 1 (*Conditions to Award*) of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent on or prior

to the Conditions Satisfaction Date. The Agent shall notify the Recipient and Provider promptly upon being so satisfied. The proposed Grant shall be deposited by the Provider in the Trust Account in accordance with the Agency Protocol.

4.2 Further conditions precedent

Without prejudice to Clause 5.3, the Agent will not instruct the Account Trustee to release funds from the Trust Account by way of an advance of the Grant to the Recipient unless on the date of the Funding Request and on the proposed Funding Date:

- 4.2.1 no Default is continuing or would result from the proposed Grant;
- 4.2.2 the Agent has received all of the documents and other evidence listed in Part 2 (*Conditions of Grant*) of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent;
- 4.2.3 the representations set out in Clause 9 (*Representations*) are true and correct;
- 4.2.4 the aggregate amount of the proposed Funding Request, together with all prior Funding Requests, is no greater than the Maximum Grant; and
- 4.2.5 in the event that any of the parameters, assumptions, costs or projected revenues of the Project are (in the Provider's opinion) substantially different from those set out in the Application, the Provider may review its approval of the Project to confirm the continuing appropriateness of the amount and terms of the Grant.

Section 3 – Funding

5 FUNDING

5.1 Delivery of a Funding Request

The Recipient may request the advance of the Grant by delivery to the Agent of a duly completed Funding Request not later than 5pm on a date which is at least 3 Business Days before the proposed Funding Date.

5.2 Completion of a Funding Request

- 5.2.1 Each Funding Request is irrevocable and will not be regarded as having been duly completed unless:
 - (a) it evidences the purpose of the Grant;
 - (b) the proposed Funding Date is a Business Day within the Availability Period and is on or after the 3rd Business Day following the date the Funding Request was delivered;
 - (c) other than in respect of a Utilisation in respect of Future Eligible Costs, it requests drawdown of the proposed Grant in accordance with the milestones (if any) set out in the Grant Funding Letter (or such lesser amount or at a different time as the Provider may agree in its sole and absolute discretion) and it evidences (to the reasonable satisfaction of the Agent) that the activity or work related to that milestone (if any) has been satisfactorily completed and the relevant Eligible Costs have become due and payable;
 - (d) the amount of any State Subsidy in respect of the Project remains compatible with relevant Subsidy Control Law;

- (e) it confirms that, to the best of the Recipient's knowledge and belief, the Agent has received all of the documents and evidence listed in Part 2 (*Conditions of Grant*) of Schedule 2 (*Conditions Precedent*), and that the representations set out in Clause 9 (Representations) remain true and correct;
- (f) it includes a statement of the total anticipated Eligible Costs of the Project as at that date; and
- (g) it includes a declaration from a director of the Recipient that it is not aware of any Material Adverse Effect having occurred.

5.2.2 Evidence of the purpose of the Grant will be confirmed as follows:

- (a) in so far as any amount of the Grant to be advanced to the Recipient in a Funding Request is to be applied in funding to Eligible Costs for the Project which will have been incurred by the Recipient or the Investment Vehicle as at the relevant Funding Date ("**Relevant Eligible Costs**") the Funding Request:
 - (i) sets out details of those Relevant Eligible Costs;
 - (ii) has appended to it invoices or other evidence of the total costs and expenses of the Project, including a breakdown of which costs and expenses constitute Eligible Costs and specifying details of the Relevant Eligible Costs to be funded using the Grant; and
 - (iii) contains a declaration from an authorised signatory of the Recipient that such costs and expenses need to be paid in order for the Project to proceed and cannot be (and will not be) funded or reimbursed from other sources (including any other facility or other agreement or memorandum of understanding relating to the Heat Networks Investment Project);
- (b) in so far as any amount of the Grant to be advanced to the Recipient in a Funding Request is to be applied in funding to Eligible Costs for the Project which will be incurred by the Recipient or the Investment Vehicle after the relevant Funding Date ("**Future Eligible Costs**") the Funding Request:
 - (i) sets out details of those Future Eligible Costs; and
 - (ii) includes a statement that the Recipient will comply with the provisions of Clause 5.2.3 or 5.2.4 below (as applicable), in relation to those Future Eligible Costs.

5.2.3 In so far as any amount of the Grant has been advanced to the Recipient in accordance with this Clause 5 which relates to Future Eligible Costs (and such amount is not requested pursuant to Clause 5.2.4 below), the Recipient shall deliver to the Agent the following:

- (a) invoices or other evidence of the total costs and expenses of the Project incurred by the Recipient or the Investment Vehicle prior to the date of delivery of such invoices or other evidence, including a breakdown of which costs and expenses constitute Eligible Costs and specifying which Future Eligible Costs were funded using the Grant; and
- (b) a declaration from an authorised signatory of the Recipient that such costs and expenses were incurred in order for the Project to proceed and could not be (and were not) funded or reimbursed from other sources (including any other facility or other agreement or memorandum of understanding relating to the Heat Networks Investment Project),

no later than 31 March 2022.

5.2.4 In so far as any amount of a Grant has been requested by the Recipient in accordance with this Clause 5 which relates to Future Eligible Costs, the Recipient:

- (a) may inject the full amount of the Grant as equity into Energetik, once the Recipient has confirmed to the Agent that Conditions Subsequent 1.9 and 1.10 have all been satisfied; and
- (b) shall procure that Energetik shall only be permitted to utilise such amounts for the purposes of the Project (a "**Construction Utilisation**") if Energetik has complied with the conditions set out in Clause 5.2.5 below for each such Construction Utilisation.

5.2.5 Before any Construction Utilisation, Energetik shall submit to the Recipient (and the Recipient shall forward to the Agent) a request which shall be in form and substance substantially similar to the template set out in Schedule 3 *mutatis mutandis* (a "**Construction Utilisation Request**") and accompanied by:

- (a) a utilisation spreadsheet as required under paragraph 3.5 of the template Funding Request;
- (b) evidence satisfactory to the Agent that the relevant stage of completion or milestone under the Construction Contracts has been met;
- (c) invoices or other evidence satisfactory to the Agent that the relevant Construction Costs have become due and payable;
- (d) a certificate from the Recipient confirming that the relevant Construction Costs are Eligible Costs;
- (e) a certificate from the Recipient's technical advisor or engineer appointed pursuant to the Construction Contracts confirming that the Completion Date is reasonably likely to occur before the Longstop Date; and
- (f) a certificate from the Recipient confirming that, to the best of its knowledge and belief, no Material Adverse Change has occurred.

5.2.6 Unless otherwise agreed by the Agent, no more than one Funding Request (or Construction Utilisation Request) may be submitted by the Recipient in any month.

5.2.7 It shall be a Repayment Event for the purposes of Clause 13 (Repayment Events) for the Recipient to spend or on-fund any amount in contravention of Clause 5.2.5.

5.3 Advance of Funds

5.3.1 If the conditions set out in this Agreement have been met, the Agent is authorised to make the amount of the Funding Request available through requesting the Account Trustee to make a withdrawal from the Trust Account and make payment to the Recipient's Bank Account.

5.3.2 The Provider shall have no liability to the Recipient for any losses caused by any delay in making the Grant available howsoever arising.

5.4 Expiry of offer

The offer of the Grant shall expire at the end of the Availability Period if funds have not been fully advanced prior to that date.

Section 4 – Additional payment obligations

6 TAX INDEMNITIES

6.1 Tax indemnity

- 6.1.1 The Recipient shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which the Protected Party determines will be or has been (directly or indirectly) suffered by for or on account of Tax by that Protected Party in respect of a Grant Document (other than Tax imposed on its overall net income).
- 6.1.2 A Protected Party making, or intending to make, a claim under this Clause 6.1 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Recipient.
- 6.1.3 A Protected Party shall, on receiving a payment from a Recipient under this Clause 6.1, notify the Agent.

6.2 Stamp taxes

The Recipient shall pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Grant Document.

6.3 VAT

- 6.3.1 All amounts expressed to be payable under a Grant Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to Clause 6.3.2 below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Grant Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- 6.3.2 If VAT is or becomes chargeable on any supply made by any Finance Party (the **Supplier**) to any other Finance Party (the **FP Recipient**) under a Grant Document, and any Party other than the FP Recipient (the **Relevant Party**) is required by the terms of any Grant Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the FP Recipient in respect of that consideration):
 - (a) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The FP Recipient must (where this Clause 6.3.2(a) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the FP Recipient receives from the relevant tax authority which the FP Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (b) (where the FP Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the FP Recipient, pay to the FP Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the FP Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

- 6.3.3 Where a Grant Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- 6.3.4 Any reference in this Clause 6.3 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term **representative member** to have the same meaning as in the Value Added Tax Act 1994).
- 6.3.5 In relation to any supply made by a Finance Party to any Party under a Grant Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

7 OTHER INDEMNITIES

7.1 Other indemnities

The Recipient shall within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- 7.1.1 the occurrence of any Repayment Event;
- 7.1.2 a failure by the Recipient to pay any amount due under a Grant Document on its due date;
- 7.1.3 funding, or making arrangements to fund, its participation in the Grant requested by the Recipient in the Funding Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);
- 7.1.4 any breach by the Recipient of Data Protection Legislation; or
- 7.1.5 any other cost, loss or liability incurred as a result of the Recipient's or any approved Investment Vehicle's actions or omissions or in respect of the Project.

7.2 Indemnity to the Agent

The Recipient shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

- 7.2.1 investigating any event which it reasonably believes is a Default;
- 7.2.2 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- 7.2.3 instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

7.3 Indemnity to the Account Trustee

The Recipient shall promptly indemnify the Account Trustee against any cost, loss or liability incurred by the Account Trustee (acting reasonably) as a result of:

7.3.1 any default by the Recipient in the performance of any of the obligations expressed to be assumed by it in the Grant Documents;

7.3.2 acting or relying on any notice, request or instruction given to it by the Agent or the Provider which it reasonably believes to be genuine, correct and appropriately authorised.

8 COSTS AND EXPENSES

8.1 Amendment costs

If the Recipient requests an amendment, waiver or consent the Recipient shall, within three Business Days of demand, reimburse each Finance Party for the amount of all costs and expenses (including legal fees) reasonably incurred by each Finance Party in responding to, evaluating, negotiating or complying with that request or requirement.

8.2 Enforcement costs

The Recipient shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Grant Document.

Section 5 - Representations, undertakings and events of default

9 REPRESENTATIONS

The Recipient makes the representations and warranties set out in this Clause 9 to each Finance Party on the date of this Agreement.

9.1 Status

9.1.1 It is an Authority established pursuant to the relevant legislation, duly incorporated and validly existing under the laws of England and Wales.

9.1.2 Any Investment Vehicle established to undertake the Project as described in the Application and approved by the Provider at the date of this Agreement has been established pursuant to the relevant legislation, duly incorporated and validly existing under the laws of England and Wales.

9.1.3 It and each of its Subsidiaries responsible for any part in delivering the Project (all of whom have been disclosed in the Application) has the power to own its assets and carry on its business as it is being conducted.

9.2 Binding obligations

The obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations.

9.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Grant Documents and the Project do not and will not conflict with:

9.3.1 any law or regulation applicable to it;

9.3.2 its or any of its Subsidiaries' constitutional documents;

9.3.3 any agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets; or

9.3.4 any applicable Subsidy Control Law or Procurement Regulations.

9.4 Power and authority

Following 31.7.2021, it will have the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Grant Documents to which it is a party, the transactions contemplated by those Grant Documents and the Project.

9.5 Validity and admissibility in evidence

9.5.1 Following 31.7.2021, all Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Grant Documents to which it is a party;
- (b) to make the Grant Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and
- (c) in respect of the Project,

will have been obtained or effected and be in full force and effect.

9.5.2 No filing or stamp taxes

It is not necessary that the Grant Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Grant Documents or the transactions contemplated by the Grant Documents.

9.6 No default

9.6.1 No Repayment Event is continuing or might reasonably be expected to result from the making of any Funding.

9.6.2 No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

9.7 No misleading information

9.7.1 Any factual information provided by it (or any member of the Group, or any person on behalf of any member of the Group, if applicable) in connection with any Grant Document (including, without limitation, the Application) was, to the best of its knowledge and belief, after due and careful consideration and enquiry, true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

9.7.2 All financial projections contained in the Application or otherwise provided by the Recipient (or any member of the Group, or any person on behalf of any member of the Group, if applicable) in connection with any Grant Document have been prepared in good faith and on the basis of assumptions believed by it to be fair and reasonable as at the date they were prepared and supplied.

9.7.3 Nothing has occurred or been omitted from the Application and no information has been given or withheld and no circumstances have changed that results in the information contained in the Application or provided in connection with this Agreement being untrue or misleading in any material respect.

9.8 Mandatory Requirements Confirmation

The Mandatory Requirements are, or will be at the relevant time, satisfied and will remain satisfied.

9.9 Financial statements and material adverse change

9.9.1 The Recipient's (and where applicable, any approved Investment Vehicle's) Original Financial Statements were prepared in accordance with GAAP consistently applied.

9.9.2 The Recipient's (and where applicable, any approved Investment Vehicle's) Original Financial Statements fairly represent the financial condition of the Recipient (or Investment Vehicle (as applicable)) as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Recipient).

9.9.3 There has been no material adverse change in its (and, where applicable, any approved Investment Vehicle's) business circumstances or financial condition (or the business or consolidated financial condition of the Group), since the date of the Application and it is not aware of any circumstances which have occurred since the date of the Application which might have a Material Adverse Effect.

9.10 No breach of laws

It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

9.11 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

9.12 Anti-corruption law

It has (and where applicable, each member of the Group has) conducted its businesses in compliance with applicable anti-corruption and anti-bribery laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

9.13 The Project

9.13.1 Its role in the Project is as described in the Application and summarised in Schedule 1 (*Project Description*).

9.13.2 No change has occurred to the Project which has a Material Adverse Effect.

9.14 Approved Purpose

The Grant will be used for the Approved Purpose only and not used for any Prohibited Use.

9.15 Subsidy Control

9.15.1 To the best of the Recipient's knowledge and belief, the Grant does not breach any Subsidy Control Law.

9.15.2 The Grant will only be used in compliance with Schedule 5 (*Subsidy Control*), and the Recipient represents that the Recipient complies with all conditions in that Schedule and has taken legal advice in respect of such compliance.

- 9.15.3 To the best of the Recipient's knowledge and belief, the factual position on which any Subsidy Control certification has been given has not changed.

9.16 No Security

No Security exists over any part the Project.

9.17 Repetition

- 9.17.1 The representations set out in this Clause 9 (*Representations*) are deemed to be made by the Recipient at the date of this Agreement and repeated on the date of each Funding Request and, at the date of each Funding Date, in each case, by reference to the facts and circumstances then existing and, subject to Clauses 9.17.2 and 9.17.3, thereafter on 30 June and 31 December in each year until the first anniversary of the Completion Date.
- 9.17.2 The representations set out in Clauses 9.7 (*No misleading information*), 9.8 (*Mandatory Requirements Confirmation*) and 9.10 (*No breach of laws*) are deemed to be repeated on 30 June and 31 December in each calendar year up to and including 31 December 2032.
- 9.17.3 The representations set out in Clauses 9.14 (*Approved Purpose*) and 9.15 (*Subsidy Control*) are deemed to be repeated on 30 June and 31 December in each calendar year until 30 April 2033.

10 INFORMATION UNDERTAKINGS

- 10.1 The undertakings in this Clause 10 remain in force from the date of this Agreement until the first anniversary of the Completion Date except the undertakings given in Clause 10.4 (*Budget*) which shall remain in force up to and including 31 December 2032 and the undertakings given in Clause 10.6 (*Supply chain reporting*), clause 10.8 (*Information: additional*), clause 10.9 (*Notification of default*) and clause 10.11 (*Access*) which shall remain in force until 30 April 2033.

10.2 Financial statements

As soon as the same become available, but in any event within 180 days after the end of each financial year, the Recipient shall notify the Agent of a website address where its audited consolidated financial statements for that financial year and the audited financial statements of any approved Investment Vehicle for that financial year can be accessed (or, if such financial statements are not publicly accessible, shall supply the Agent with sufficient physical copies for all the Finance Parties).

10.3 Requirements as to financial statements

- 10.3.1 Each set of financial statements delivered by the Recipient pursuant to Clause 10.2 (*Financial statements*) shall be certified by an authorised officer of the Recipient (or, if applicable, for financial statements for an approved Investment Vehicle, a director of that Investment Vehicle) as fairly representing its financial condition as at the date as at which those financial statements were drawn up.
- 10.3.2 The Recipient shall procure that each set of financial statements delivered pursuant to Clause 10.2 (*Financial statements*) is prepared using GAAP.

10.4 Budget

- 10.4.1 The Recipient shall supply to the Agent in sufficient copies for all the Providers, as soon as the same become available but in any event within 60 days before the start of each financial year, an annual budget in respect of the Project for that financial year.

10.4.2 The Recipient shall ensure that the Project's budget for each financial year is in a form reasonably acceptable to the Agent and includes a projected consolidated profit and loss, balance sheet and cashflow statement for the Project and any approved Investment Vehicle for that financial year and;

- (a) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements under Clause 10.2 (*Financial statements*); and
- (b) has been approved by the appropriate officers of the Recipient and if applicable the board of directors of any approved Investment Vehicle.

10.4.3 If the budget is updated or changed, the Recipient shall, within not more than 10 days of the update or change being made, deliver to the Agent, in sufficient copies for each of the Providers, such updated or changed budget together with a written explanation of the main changes in that budget.

10.5 Monitoring reports

10.5.1 On or before the date falling 5 Business Days after the first day of each calendar month during the commercialisation and construction phases of the Project the Recipient shall supply to the Agent the information set out in Part 1 (*Construction*) of Schedule 4 (*Project Monitoring Reports*) in respect of the previous calendar month.

10.5.2 During the operational phase of the Project up to and including April 2033, the Recipient shall supply to the Agent the information set out in Part 2 (*Operations*) of Schedule 4 (*Project Monitoring Reports*) in respect of the previous month or financial quarter year (as applicable).

10.5.3 The Agent may from time to time give written notice to the Recipient that the Agent (and/or the Provider) require amendments to the form and/or substance of the information set out in Part 1 (*Construction*) of Schedule 4 (*Project Monitoring Reports*) and/or Part 2 (*Operations*) of Schedule 4 (*Project Monitoring Reports*) and with effect of receipt of such notice the Recipient shall provide, or procure the provision of, such information in the updated form but without requiring the Recipient to incur material additional cost to provide or procure such information.

10.5.4 Not used.

10.5.5 During the operational phase of the Project the Recipient shall provide an annual report summarising (a) the previous year's repairs and maintenance undertaken, plant performance and efficiency and availability and reliability factors; and (b) any proposed major repairs or replacements planned in the coming year.

10.6 Supply chain reporting

Not used.

10.7 Project monitoring

Not used.

10.8 Information: additional

The Recipient shall supply to the Agent (in sufficient copies for all the Providers, if the Agent so requests):

10.8.1 in relation to the Project only, all documents dispatched by the Recipient to its stakeholders (or any class of them) or its creditors generally at the same time as they

are dispatched (and any information in such papers that does not relate to the Project may be redacted);

- 10.8.2 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- 10.8.3 promptly after becoming aware of the same, details of any other State Subsidy being received in respect of the Project by the Recipient or any approved Investment Vehicle;
- 10.8.4 within 5 Business Days of the Completion Date occurring, notice of the occurrence of the Completion Date and a statement of the total Eligible Costs of the Project;
- 10.8.5 within 5 Business Days following:
 - (a) any event or circumstance which has a Material Adverse Effect on the Project; or
 - (b) the Recipient becoming aware that such an event or circumstance is anticipated; or
 - (c) the Recipient becoming aware of any breach of Subsidy Control Law,an exception report in form and substance satisfactory to the Agent;
- 10.8.6 within 5 Business Days of becoming aware at any time that Eligible Costs actually incurred have exceeded the Projected Costs, an updated statement of the total anticipated Eligible Costs of the Project; and
- 10.8.7 promptly, such further information regarding: (i) the financial condition, business and operations of any member of the Group or any approved Investment Vehicle; or (ii) the Project as any Finance Party (through the Agent) may reasonably request.

10.9 Notification of default

- 10.9.1 The Recipient shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- 10.9.2 Promptly upon a request by the Agent, the Recipient shall supply to the Agent a certificate signed by two of its senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

10.10 Record keeping

The Recipient shall maintain records of all expenditure incurred in relation to the Project until the end of April 2033 and make such records available to the Finance Parties.

10.11 Access

- 10.11.1 The Recipient shall ensure that the Providers have audit rights over the Project as required by the National Audit Office and other government audit functions or audit functions appointed by the Provider.
- 10.11.2 The Recipient shall, in a full and timely manner, provide evidence or information required by the Agent, the Provider, Parliament or any Parliamentary Committee, the National Audit Office, the European Commission or any other public body entitled by law to that information (acknowledging that those bodies may share that information with each other and with their agents, and may publish information relating to the Grant and the Project); and co-operate with the Finance Parties in relation to disclosure of any information

required by law (including under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004).

10.11.3 Except where to do so would constitute a breach of Data Protection Legislation, the Recipient shall as soon as reasonably practicable following a request provide any information reasonably requested by the Finance Parties for the purpose of evaluating the performance of the Heat Networks Investment Project and, if so requested, participate and co-operate in evaluation surveys and case studies but without being required to incur any material additional cost.

11 GENERAL UNDERTAKINGS

Except as otherwise explicitly provided in this Agreement or the "Continuing Obligations" agreement as scheduled hereto, the undertakings in this Clause 11 remain in force from the date of this Agreement until the first anniversary of the Completion Date, except the undertakings given in Clauses 11.2 (*Compliance with laws*), 11.5 (*Use of Grant Proceeds*) and 11.8 (Conditions Subsequent) which shall remain in force until 30 April 2033.

11.1 Authorisations

The Recipient shall promptly:

11.1.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

11.1.2 supply certified copies to the Agent of,

any Authorisation required under any law or regulation to enable it to perform its obligations under the Grant Documents and to ensure the legality, validity or admissibility in evidence in its jurisdiction of incorporation of any Grant Document.

11.2 Compliance with laws

11.2.1 The Recipient shall comply, and ensure the Project complies, in all respects with all laws and regulations to which it or the Project may be subject (including, without limitation, Data Protection Legislation, Procurement Regulations and all applicable Subsidy Control Law).

11.2.2 The Recipient will maintain appropriate records of compliance with Subsidy Control Law and will take all reasonable steps to assist the Provider to comply with Subsidy Control Law requirements and respond to any investigation(s) instigated by the European Commission (or its successor body in the UK but only in so far as applicable to Subsidy Control Law) into the Grant or any equivalent regulatory body as the case may be.

11.3 Disposals

11.3.1 The Recipient, and/or, where relevant, any approved Investment Vehicle, shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of its interest in the Project (or in any entity, including any approved Investment Vehicle, which owns, directly or indirectly, an interest in the Project) without the prior written consent of the Provider (such consent not to be unreasonably withheld or delayed and which may be given subject to the imposition of any reasonable conditions).

11.3.2 The Recipient, and/or, where relevant, any approved Investment Vehicle, shall not resign from its position as operator of the Project or sub-contract, assign or invoke its rights or obligations as operator without the prior written consent of the Provider (such consent not to be unreasonably withheld or delayed).

11.4 Additional funding

The Recipient may not (and shall ensure that any approved Investment Vehicle does not) incur or accept any additional funding for the Project, whether by way of Financial Indebtedness, grant or otherwise and whether from a public or private sector provider, without the prior written consent of the Provider (in the case of funding from a private sector provider, such consent not to be unreasonably withheld or delayed). The Parties note that funding from MEEF and PWLB is agreed.

11.5 Use of Grant Proceeds

11.5.1 The Recipient shall ensure that the Grant is used for the Approved Purpose only and not for any other purpose (including, without limitation, any Prohibited Use) and any Funding Request or its utilisation is compliant with applicable Subsidy Control Law.

11.5.2 The Recipient may not use the Grant to fund an equity investment in, or make a loan or grant to, any other entity (an **Onward Investment**) without the prior written approval of the Provider (including, without limitation, approval of the terms of the relevant documentation) other than, if applicable, by way of any loan or grant to, or equity investment in, such entity and on such commercial and legal terms as are in each case expressly identified in the Application, and which have been approved by the Provider as part of the Application or subsequently notified to and approved by the Provider (in its sole and absolute discretion) pursuant to this Clause 11.5.2.

11.5.3 The terms of any Onward Investment approved permitted in accordance with Clause 11.5.2 above must:

- (a) be legally binding on all parties thereto when entered into;
- (b) require the recipient to repay the Onward Investment if the Grant becomes repayable under the terms of this Agreement; and
- (c) require the recipient to provide such information as the Providers may require in relation to the Project, including without limitation the information set out in Clause 9.17.1 (*Information Undertakings*);
- (d) comply with all applicable Subsidy Control Law and oblige the recipient to comply with Subsidy Control Law; and
- (e) be on arm's length terms and consistent with market practice.

11.5.4 Notwithstanding any approval the Providers may give pursuant to 11.5.2 above, the Recipient is responsible for ensuring that the approved Investment Vehicle complies with the terms of this Agreement as they apply to the Project.

11.6 Reclaiming costs and expenses

The Recipient may not claim funding or reimbursement for costs or expenses discharged using the Grant:

11.6.1 from other funding providers; or

11.6.2 pursuant to any other facility or other agreement or memorandum of understanding relating to the Heat Networks Investment Project.

11.7 Quality of service

The Recipient shall ensure that the Project is a member of the Heat Trust or puts in place equivalent customer protection standards, where applicable, before the heat network is operational.

11.8 Conditions Subsequent

The Recipient shall ensure that it complies with all conditions listed in Part 3 (*Conditions Subsequent*) of Schedule 2 (*Conditions Precedent*), in each case on an ongoing basis and to the satisfaction of the Agent.

12 EARLY REPAYMENT OF UNSPENT BUDGET

- 12.1 If, at any time prior to or following the Completion Date, the total Eligible Costs of the Project as notified pursuant to Clause 10.8.6 (*Information: additional*) are less than the Projected Costs, the Recipient shall repay the Grant in an amount equal to the difference in the Projected Costs within 10 Business Days of the date of notification or the Completion Date (as the case may be) before any other amounts are paid to any of the Recipient's other funding providers.

12.2 Project failure prior to construction

12.2.1 Where the Grant relates to the commercialisation phase and the Project does not progress to construction, the Recipient shall not be obliged to repay the Grant where it can reasonably demonstrate that the reasons for the Project stalling or terminating are outside its reasonable control.

12.2.2 In its sole and absolute discretion, the Provider shall be entitled to demand:

- (a) that 50% (fifty percent) of the spent Grant is repaid if it is not satisfied (acting reasonably) that the failure of the Project to proceed is outside the Recipient's control;
- (b) that all of the spent Grant is repaid if the Recipient's conduct amounts to gross negligence or dishonesty or wilful misconduct; and
- (c) that, where the circumstances set out in either (a) or (b) above apply, all of the unspent Grant shall be repaid.

13 REPAYMENT EVENTS

Each of the events or circumstances set out in this clause 13 is a Repayment Event (save for clause 13.19 (*Acceleration*) and clause 13.20 (*Remedial Plan*)).

13.1 Non-payment

The Recipient does not pay on the due date any amount payable pursuant to a Grant Document at the place and in the currency in which it is expressed to be payable unless its failure to pay is caused by administrative or technical error and payment is made within 3 Business Days of its due date.

13.2 Approved Purpose and compliance with laws

The Recipient does not comply with Clauses 11.2 (*Compliance with laws*) or 11.5 (*Use of Grant Proceeds*).

13.3 Other obligations

13.3.1 The Recipient does not seek the Provider's consent to any Onward Investment or fails to comply with any material provision of the Grant Documents (other than those referred to in Clause 13.1 (*Non-payment*) or 13.2 (*Approved Purpose and compliance with laws*)).

13.3.2 The Recipient breaches the Code of Conduct for Grant Recipients published on the Provider's website (the **Code of Conduct**) and/or fails to report an actual or suspected breach of the Code of Conduct.

13.3.3 The Recipient fails to obtain the Provider's approval (which it may give (with or without conditions) or refuse, in its absolute discretion) prior to any Change of Control prior to the first anniversary of the Completion Date.

13.3.4 No Repayment Event under Clauses 13.3.1 to 13.3.3 above will occur if the failure to comply is capable of remedy and is remedied to the satisfaction of the Provider within 5 Business Days of the earlier of (A) the Agent giving notice to the Recipient and (B) the Recipient becoming aware of the failure to comply.

13.4 Misrepresentation and Fraud

13.4.1 Any representation or statement made or deemed to be made by the Recipient in the Grant Documents or any other document delivered by or on behalf of the Recipient under or in connection with any Grant Document (including, without limitation, the Application) is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

13.4.2 The Recipient (or any person on its behalf) has committed fraud in relation to its Application or the Grant Documents including without limitation in respect of any information, reports, data, calculations, notifications or certifications provided to the Agent or the Provider whether in connection with fulfilling the reporting requirements under this Agreement, following a request for information made by the Agent, the Recipient seeking any consents or waivers or amendments to the Grant Documents, or the Recipient making any claim under the Insurances or otherwise.

13.5 Non-payment of other amounts due from central government

Any amount due from any member of the Group or any Investment Vehicle to the Provider or a Central Government Body is not paid when due.

13.6 Insolvency

13.6.1 A member of the Group or any approved Investment Vehicle:

- (a) is unable or admits inability to pay its debts as they fall due;
- (b) suspends making payments on any of its debts; or
- (c) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.

13.6.2 The value of the assets of any member of the Group or any approved Investment Vehicle is less than its liabilities (taking into account contingent and prospective liabilities).

13.6.3 A moratorium is declared in respect of any indebtedness of any member of the Group or any approved Investment Vehicle.

13.7 Insolvency proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

13.7.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group or any approved Investment Vehicle;

13.7.2 a composition, compromise, assignment or arrangement with any creditor of any member of the Group or any approved Investment Vehicle;

13.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any approved Investment Vehicle or any of its assets; or

13.7.4 enforcement of any Security over any assets of any member of the Group or any approved Investment Vehicle,

or any analogous procedure or step is taken in any jurisdiction.

This Clause 13.7 shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 21 days of commencement or is being contested in good faith and with due diligence.

13.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a member of the Group or any approved Investment Vehicle and is not discharged within 21 days.

13.9 Cessation of Business

Any member of the Group or any approved Investment Vehicle suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

13.10 Unlawfulness

It is or becomes unlawful for the Recipient to perform any of its obligations under the Grant Documents.

13.11 Repudiation

The Recipient repudiates a Grant Document or evidences an intention to repudiate a Grant Document.

13.12 Material adverse change

13.12.1 A change to the business or function of any member of the Group or any approved Investment Vehicle or a change to the characteristics of the Project which the Provider reasonably considers would have made a material difference to the Provider's assessment of the Application or the terms on which the Provider was willing to provide the Grant.

13.12.2 Any event or circumstance (or combination thereof) occurs in the period up to the first anniversary of the Completion Date will have a Material Adverse Effect.

13.12.3 Any repayment event or event of default (howsoever described) occurs under any funding arrangements between the Recipient (as borrower or recipient) and the public works loan board in relation to the Project.

13.13 Exclusion

Any of the grounds for mandatory or discretionary exclusion in Regulation 57 of the Public Contracts Regulations 2015 arise, at any time, in relation to any member of the Group or any Investment Vehicle.

13.14 Overpayment or Error

13.14.1 The proceeds of the Grant not yet spent by the Recipient are greater than the amount of anticipated Eligible Costs not yet discharged.

13.14.2 Any amount of the Grant has been paid in error.

13.15 Construction delay

13.15.1 The Project has not commenced construction works by the Construction Start Date and the Recipient has failed to provide the Provider with a satisfactory reason for the delay or has failed to agree any revised construction start date and programme with the Provider.

13.15.2 The Completion Date has not occurred by the Longstop Date or in the Provider's opinion (acting reasonably) there is no reasonable prospect of the Completion Date occurring by the Longstop Date.

13.16 Corruption

The Provider has reasonable grounds to believe that the Recipient or any approved Investment Vehicle (or any person on its or their behalf) has failed to comply with applicable anti-bribery or anti-corruptions laws.

13.17 Subsidy Control and breach of law

13.17.1 The Provider is required to cease providing the Grant or to recover all, or any proportion, of the Grant together with interest by virtue of a decision of the courts or any body appointed to oversee the granting of State Subsidies in the United Kingdom, or as a requirement of any applicable law.

13.17.2 There are reasonable grounds to consider, in the opinion of the Provider, that the advance of the Grant, or the Recipient's use of the proceeds of the Grant, contravenes any requirement of law, in particular (but without limitation) any Subsidy Control Law.

13.18 Total destruction of Project

All or a material part of the Project is damaged or destroyed where, in the opinion of the Provider, any insurance proceeds will be insufficient to make good the damage or destruction, repair or restoration is likely to take longer than 2 years to be completed, or the level of revenue the reinstated project is expected to generate is likely to be materially adversely affected.

13.19 Acceleration

Without prejudice to Clause 13.20 (*Remedial Plan*), on and at any time after the occurrence of a Repayment Event, the Agent may, and shall if so directed by the Provider, by notice to the Recipient:

13.19.1 cancel the offer of the Grant whereupon it shall immediately be cancelled and reduced to zero;

13.19.2 declare that all or part of the Grant, together with accrued interest (if applicable) and all other amounts accrued or outstanding under the Grant Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

13.19.3 declare that all or part of the Grant be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Provider,

save that in the case of a Repayment Event under Clause 13.15 (*Construction delay*), only the Relevant Proportion of the Grant may be declared immediately due and payable or payable on demand.

13.20 Remedial Plan

13.21 Without prejudice to clause 13.19 (*Acceleration*), on and at any time after the occurrence of a Repayment Event which is continuing the Agent may, and shall if so directed by the Provider,

request the Recipient to submit a remedial action plan setting out the steps the Recipient proposes to take to cure the breach or circumstances giving rise to the Repayment Event and prevent any reoccurrence. The Provider is not obliged to accept the remedial action plan, but where agreed the Recipient shall use its best endeavours to implement the agreed steps.

Section 6 – Changes to Parties

14 CHANGES TO THE PARTIES

14.1 Assignments and transfers by the Providers

Subject to this Clause 14, the Provider (the **Existing Provider**) may:

14.1.1 assign any of its rights; or

14.1.2 transfer by novation any of its rights and obligations,
to another party (the **New Provider**) in its absolute discretion.

14.2 Conditions of assignment or transfer

14.2.1 The consent of the Recipient is not required for an assignment or transfer by an Existing Provider.

14.2.2 An assignment will only be effective on:

- (a) receipt by the Agent of written confirmation from the New Provider (in form and substance satisfactory to the Agent) that the New Provider will assume the same obligations to the other Finance Parties as it would have been under if it was a Provider; and
- (b) performance by the Agent of all necessary **know your customer** or other similar checks under all applicable laws and regulations in relation to such assignment to a New Provider, the completion of which the Agent shall promptly notify to the Existing Provider and the New Provider.

14.3 Assignments and transfer by the Recipient

The Recipient may not assign any of its rights or transfer any of its rights or obligations under the Grant Documents without the prior written consent of the Provider.

Section 7 – The Finance Parties

15 ROLE OF THE AGENT AND ACCOUNT TRUSTEE

15.1 Appointment of the Agent

15.1.1 The Provider appoints the Agent to act as its agent under and in connection with the Grant Documents.

15.1.2 The Provider authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Grant Documents together with any other incidental rights, powers, authorities and discretions.

15.1.3 The terms of the Agent's appointment shall be governed by the Agency Protocol, which shall be incorporated in this Agreement by reference. The Agency Protocol may be amended from time to time by agreement between the Agent and the Provider, provided

that the Recipient's consent shall be required to any amendment which adversely affects the Recipient's obligations or liabilities to, or rights against, the Agent.

- 15.1.4 As between the Recipient and the Provider, the Recipient acknowledges and agrees that the Provider may appoint a replacement Agent without the consent of the Recipient.

15.2 Miscellaneous agency provisions

- 15.2.1 The Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- 15.2.2 Unless a Grant Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- 15.2.3 Notwithstanding any other provision of any Grant Document to the contrary, the Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

15.3 Exclusion of liability

- 15.3.1 Without limiting Clause 15.3.3 below, no Finance Party will be liable to the Recipient for:

- (a) any consequences, whether direct or indirect, that may come about from the use of the Grant or from withdrawal, withholding or suspension of the Grant or any demand for its repayment;
- (b) any injury, damages, costs, expenses or losses to any person if and to the extent caused by that person's negligence or wilful misconduct or breach of their obligations under this Agreement;
- (c) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Grant Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Grant Document, other than by reason of its gross negligence or wilful misconduct; or
- (d) without prejudice to the generality of Clauses 15.3.1(a) to 15.3.1(c) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever but not including any claim based on the fraud of the Finance Party) arising as a result of:

- (i) any act, event or circumstance not reasonably within its control; or
- (ii) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- 15.3.2 The Recipient may not take any proceedings against any officer, employee or agent of any Finance Party in respect of any claim it might have against that Finance Party in respect of any act or omission of any kind by that officer, employee or agent in relation to any Grant Document and any officer, employee or agent of any Finance Party may rely on this Clause notwithstanding Clause 1.4 (*Third party rights*).

15.3.3 The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Grant Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

15.3.4 Without prejudice to any provision of any Grant Document excluding or limiting any Finance Party's liability, any liability of a Finance Party to the Recipient arising under or in connection with any Grant Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Finance Party or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Finance Party at any time which increase the amount of that loss. In no event shall a Finance Party be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Finance Party has been advised of the possibility of such loss or damages.

15.4 Designation of Trust Account

The Account Trustee will open, maintain and operate the Trust Account with the Account Bank in accordance with the Trust Account Deed.

15.5 Trust account operation

15.5.1 The terms and conditions and operating procedures for the Trust Account are set out in the Trust Account Deed and the account mandate documentation in relation to the Trust Account, which shall be incorporated in this Agreement by reference. The Trust Account Deed may be amended from time to time by agreement between the Account Trustee, the Agent and the Provider.

15.5.2 The Recipient has no signing rights in relation to the Trust Account.

15.5.3 The Recipient must ensure that any amount payable by it under this Agreement is paid into an account as directed by the Agent.

15.5.4 Except as provided in this Agreement, the Recipient may make a Funding Request and the Account Trustee shall instruct payment from the Trust Account to the Recipient's Bank Account to be applied for the Approved Purpose in relation to the Project.

15.5.5 No payments to, or withdrawals from the Trust Account shall be made except as expressly permitted by this Agreement.

15.5.6 The Recipient acknowledges that the Provider shall be permitted from time to time to replace the Account Trustee without the consent of the Recipient.

15.5.7 At any time when a Default is continuing the Agent may:

- (a) notify the Account Trustee that the Trust Account should be suspended; and
- (b) instruct the Account Trustee to effect withdrawals from, and apply amounts standing to the credit of, the Trust Account in or towards the payment of amounts due and payable under the Grant Documents.

15.6 Miscellaneous Trust Account provisions

15.6.1 The Account Trustee shall ensure that the Trust Account does not go into overdraft.

15.6.2 The moneys standing to the credit of the Trust Account may be applied by the Agent in payment of any amount due but unpaid to a Finance Party under the Grant Documents.

15.6.3 No Finance Party is responsible or liable to the Recipient for:

- (a) any liability incurred by the Recipient in relation to the operation of the Trust Account in good faith by the Account Trustee; or
- (b) any withdrawal wrongly made, if made in good faith.

15.6.4 The Recipient must, within five Business Days of any request by the Agent, supply the Agent with the following information in relation to any payment paid by the Recipient into the Trust Account:

- (a) the date of payment;
- (b) the payer; and
- (c) the purpose of the payment.

16 CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

Section 8 – Administration

17 PAYMENT MECHANICS

17.1 Payments to the Account Trustee

17.1.1 On each date on which the Provider is required to make a payment under a Grant Document, the Provider shall make the same available to the Agent (unless a contrary indication appears in a Grant Document) for value on the due date in sterling.

17.1.2 Payment shall be made to such account in London and with such bank as the Agent (on behalf of the Account Trustee), in each case, specifies.

17.2 Partial payments

17.2.1 If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Recipient under the Grant Documents, the Agent shall apply that payment towards the obligations of the Recipient under the Grant Documents in the following order:

- (a) **first**, in or towards payment pro rata of any unpaid amount owing to the Agent under the Grant Documents;
- (b) **secondly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
- (c) **thirdly**, in or towards payment pro rata of any other sum due but unpaid under the Grant Documents.

17.2.2 The Agent shall, if so directed by the Provider, vary the order set out in Clauses 17.2.1(b) and 17.2.1(c) above.

17.2.3 Clauses 17.2.1 and 17.2.2 above will override any appropriation made by the Recipient.

17.3 No set-off

All payments to be made by the Recipient under the Grant Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

17.4 Business Days

Any payment under the Grant Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

18 SET-OFF

A Finance Party may set off any matured obligation due from the Recipient under the Grant Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Recipient, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

19 NOTICES

19.1 Communications in writing

Any communication to be made under or in connection with the Grant Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

19.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Grant Documents is:

19.2.1 in the case of the Recipient, that identified with its name below (which is, as at the date hereof, set out on the signature page hereto);

19.2.2 in the case of the Provider, that notified in writing to the Agent on or prior to the date on which it becomes a Party (which is, as at the date hereof, set out on the signature page hereto); and

19.2.3 in the case of the Agent and the Account Trustee, that identified with its name below (if any) (which is, as at the date hereof, set out on the signature page hereto),

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

19.3 Delivery

19.3.1 Any communication or document made or delivered by one person to another under or in connection with the Grant Documents will only be effective:

(a) if by way of fax, when received in legible form; or

- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 19.2 (*Addresses*), if addressed to that department or officer.

19.3.2 Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

19.3.3 All notices from or to the Recipient shall be sent through the Agent.

19.3.4 Any communication or document which becomes effective, in accordance with Clauses 19.3.1 to 19.3.3 above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

19.4 Notification of address and fax number

Promptly upon changing its address or fax number, the Agent shall notify the other Parties.

19.5 Electronic communication

19.5.1 Any communication to be made between any two Parties under or in connection with the Grant Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

19.5.2 Any such electronic communication as specified in Clause 19.5.1 above to be made between the Recipient and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.

19.5.3 Any such electronic communication as specified in Clause 19.5.1 above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.

19.5.4 Any electronic communication which becomes effective, in accordance with Clause 19.5.3 above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

19.5.5 Any reference in a Grant Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 19.5.

20 CALCULATIONS AND CERTIFICATES

20.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Grant Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

20.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Grant Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

21 PARTIAL INVALIDITY

If, at any time, any provision of a Grant Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22 REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Grant Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Grant Documents. No election to affirm any Grant Document on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Grant Document are cumulative and not exclusive of any rights or remedies provided by law.

23 AMENDMENTS AND WAIVERS

23.1 Required consents

Subject to Clause 23.2 (*Exceptions*) any term of the Grant Documents may be amended or waived only with the consent of the Provider and the Recipient and any such amendment or waiver will be binding on all Parties.

23.2 Exceptions

An amendment or waiver which relates to the rights or obligations of the Agent or the Account Trustee may not be effected without the consent of the Agent or the Account Trustee, as the case may be.

24 CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY

24.1 Definitions

For the purposes of this Clause 24 (*Confidentiality, transparency and publicity*):

Confidential Information

means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party (including information provided prior to the date of this Agreement) and which (i) is known by the receiving Party to be confidential; (ii) is marked as

or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

FOIA

means the Freedom of Information Act 2000

Information

has the meaning given under section 84 of the FOIA (and includes information provided prior to the date of this Agreement);

Request for Information

has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term **Request** shall apply); and

Staff

means all directors, officers, employees, agents, consultants and contractors of the relevant Party and/or of any sub-contractor of the relevant Party engaged in the performance of the Relevant Party's obligations under the Agreement.

24.2 Confidentiality

24.2.1 Subject to Clause 24.2.2, each Party shall:

- (a) treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
- (b) not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

24.2.2 Notwithstanding clause 24.2.1, a Party may disclose Information, including Confidential Information which it receives from the other Party:

- (a) where such Information was received prior to the date of the Application;
- (b) where such Information is aggregated with information relating to three or more other Projects;
- (c) where disclosure is required by applicable law or by a court of competent jurisdiction;
- (d) to its auditors or for the purposes of regulatory requirements;
- (e) on a confidential basis, to its professional advisers and prospective funders;
- (f) to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- (g) where the receiving Party is the Agent or the Recipient, to the Staff on a need to know basis to enable performance of their obligations under the Agreement provided that the Agent or Recipient (as applicable) shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 24.2.2(g) shall observe their confidentiality obligations under the Agreement;

- (h) on a confidential basis to the employees, agents, consultants and contractors of that Provider;
- (i) on a confidential basis to any Central Government Body, any successor body to a Central Government Body or any company to which the Provider transfers or proposes to transfer all or any part of its business;
- (j) to the extent that the Party (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (k) in accordance with clause 24.5 (*Freedom of Information Act*),

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Provider under this clause 24.2.

24.3 Publication of the Agreement

The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA or Environmental Information Regulations 2004, the content of the Agreement is not Confidential Information and the Agent and the Recipient hereby give their consent for the Provider to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA or Environmental Information Regulations 2004 redacted) including any changes to the Agreement agreed from time to time. The Provider may consult with the Agent or Recipient (or both) to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA or Environmental Information Regulations 2004.

24.4 Other publicity

Neither the Agent or the Recipient shall, and each of the Agent and the Recipient shall take reasonable steps to ensure that their Staff shall not, make any press announcement or publicise the Agreement, any part of the Agreement or their involvement with the Heat Networks Investment Project in any way, except with the prior written consent of the Provider.

24.5 Freedom of Information Act

24.5.1 Each Party acknowledges that the Recipient and the Provider are subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Provider or the Recipient to enable it to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
- (b) transfer to the Provider or the Recipient all Requests for Information relating to this Agreement that it receives as soon as practicable and in (in the case of the Recipient) any event within 2 Business Days of receipt;
- (c) provide the Provider or the Recipient with a copy of all Information belonging to the Provider or the Recipient (as applicable) requested in the Request for Information which is in its possession or control in the form that the Provider or the Recipient (as applicable) requires within 5 Working Days in the case of the Recipient (or such other period as the Provider may reasonably specify) of the Provider's or the Recipient's (as applicable) request for such Information; and
- (d) not respond directly to a Request for Information unless authorised in writing to do so by the Recipient or the Provider (as applicable). If such authorisation has not been received in a timely fashion, the relevant party may respond to such Request

for Information if it believes (acting reasonably) that not responding at that time would result in a breach of the FOIA or the Environmental Information Regulations 2004.

24.5.2 The Parties acknowledge that the Provider and the Recipient may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Parties or the Grant Documents (including commercially sensitive information) without consulting or obtaining consent from the other Parties. In these circumstances the Provider shall or the Recipient (as applicable), in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the other Parties advance notice, or failing that, to draw the disclosure to the other Parties' attention after any such disclosure.

24.5.3 Notwithstanding any other provision in the Agreement, the Provider or the Recipient (as applicable) shall be responsible for determining in its absolute discretion whether any Information relating to the Agent, the Recipient or the Grant Documents is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

25 INTELLECTUAL PROPERTY RIGHTS

25.1 Intellectual Property in all IPR Material will be the Property of the Recipient. Other than as expressly set out in this Agreement, neither Party will have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

25.2 The Recipient grants to the Provider a non-exclusive irrevocable and royalty-free, sub-licensable, worldwide licence to use all the IPR Material for the purpose of supporting other projects.

25.3 Ownership of Third Party software or other IPR necessary to deliver the Project will remain with the relevant Third Party.

25.4 The Recipient must ensure that they have obtained the relevant agreement from the Third Party proprietor before any additions or variations are made to the standard 'off-the-shelf' versions of any Third Party software and other IPR. The Recipient will be responsible for obtaining and maintaining all appropriate licences to use the Third Party software.

26 ENVIRONMENTAL REQUIREMENTS

26.1 The Recipient shall ensure that the Project is undertaken in accordance with the Provider's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

26.2 The Recipient shall pay due regard to the use of recycled products, so long as they are not detrimental to the performance of the Project or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.

26.3 The Recipient shall take all possible precautions to ensure that any equipment and materials used in the construction and operation of the Project do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Provider shall be notified in advance of their use. The Recipient shall endeavour to reduce fuel emissions wherever possible.

27 INSURANCE

- 27.1 The Recipient shall ensure that it has and maintains (or procures that any approved Investment Vehicle has and maintains) adequate insurance cover with an insurer of good repute to cover claims or demands that might be brought against it (or any approved Investment Vehicle) by any person suffering any injury, damage or loss in connection with the Project, or any physical damage to the assets or equipment comprising the Project for their full reinstatement value.
- 27.2 The Recipient will upon request produce to the Provider its policy or policies of insurance, or where this is not possible, a certificate of insurance issued by the Recipient's (or, where applicable, approved Investment Vehicle's) insurance broker confirming the insurances are in full force and effect together with confirmation that all premiums have been paid.

28 COUNTERPARTS

Each Grant Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Grant Document.

29 DISPUTE RESOLUTION

- 29.1 The Parties will use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of this Agreement.
- 29.2 All disputes and complaints (except for those which relate to the Provider's right to withhold funds, exercise any Acceleration rights or terminate the Agreement) shall be referred in the first instance to the Parties' Representatives.
- 29.3 If the dispute cannot be resolved between the Parties' Representatives within a maximum of 30 days, then the matter will be escalated to formal meeting between the Grant Manager and the Recipient's chief executive (or equivalent).
- 29.4 Where no resolution is agreed by the Parties within the period set out under Clause 29.3, the matter shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this Clause 29, and:
- (a) the number of arbitrators shall be one;
 - (b) the place of arbitration shall be London;
 - (c) the language to be used in the arbitral proceedings shall be English; and
 - (d) the provisions of the Agreement are governed by the laws of England.

30 CONTINUING OBLIGATIONS

- 30.1 Certain obligations set out in this Agreement are continuing and shall survive and remain binding on the Recipient until 30 April 2033. The Recipient shall deliver to the Provider an executed original of the deed of agreement set out in Schedule 6 (Continuing Obligations) where such obligations are set out.

31 NON-BINDING NATURE OF DOCUMENT

Nothing in this Agreement is intended to create legally binding relations between the Recipient and the Provider or between the Recipient and the Agent, with the exception of Clauses 11.5.2 and 11.5.3 (*Use of Grant Proceeds*) and Clause 13.17 (*Subsidy Control and breach of law*) which are legally binding on the Parties. This Agreement is legally binding as between the Provider and the Agent, in so far as it contains rights and obligations between those parties. The provisions of

this Agreement that are legally binding are governed by the laws of England and subject to the exclusive jurisdiction of the English courts.


This Agreement has been entered into on the date stated at the beginning of this Agreement.

Signature page to the Local Authority Grant Funding Agreement between The Mayor And Burgesses Of The London Borough Of Enfield as Recipient; The Secretary of State for Business, Energy and Industrial Strategy, as Original Provider; and Triple Point Investment Management LLP, as Agent and Account Trustee.

The Recipient

Executed as a Deed

The Common Seal of The Mayor and Burgesses of the London Borough of Enfield was hereunto affixed in the presence of:-


.....



DUNCAN CREEVY

Authorised signatory

Address: Civic Centre, Silver Street, Enfield Council, Enfield, EN1 3XY

FAO (Department or Officer): Jeremy Chambers, Director of Law & Governance

Fax number: N/A

Email: Jeremy.chambers@enfield.gov.uk

The Provider

Executed as a deed by

**The Secretary of State for Business,
Energy and Industrial Strategy**

)

David Capper, Authorised Signatory

DocuSigned by:
David Capper
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in the presence of

)

Witness signature

Witness name: Penny Pereira

Witness address 47 Lewisham Park, SE13 6QZ

Witness occupation Manager

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Penny Pereira
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Address: Department of Business, Energy and Industrial Strategy,
1 Victoria Street, London, SW1H 0ET

FAO (Department or Officer): Daniel Osgood / HNIP team

The Agent

Executed as a Deed)
by **Triple Point Investment**)
Management LLP)
acting by two designated members)

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Claire Ainsworth

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Claire Ainsworth
(Designated Member) in their capacity as a
director of Triple Point Holdings Limited, itself
a designated member of Triple Point
Investment Management LLP

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Michael Bayer

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Michael Bayer
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FAO (Department or Officer): Ken Hunnisett

The Account Trustee

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Management LLP)
acting by two designated members)

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FAO (Department or Officer): Ken Hunnisett

SCHEDULE 1**Project Description****CONTAINS SOME COMMERCIAL SENSITIVE INFORMATION****1.1 Project definitions**

Applicant Guidance	means the guidance issued to applicants, including any amendments from time to time) explaining the rules of the Heat Networks Investment Project and project and applicant eligibility for funding: https://www.gov.uk/government/publications/apply-for-heat-networks-investment-project-hnip-funding
Application	means the Recipient's final, submitted application for funding, together with any responses to clarifications during the assessment and award process, dated 02/10/2020.
Authority	means a London Borough Council
Availability Period	means the period commencing on the date of this Agreement to and including the last Business Day occurring before 31 March 2021
Recipient's Bank Account	Bank name – HSBC Bank Address - 1 The Town, Enfield, Middlesex. EN2 6LD Account Name – London Borough of Enfield Account Number – 81228307 Sort Code – 40-20-23 BIC – MIDLGB22 IBAN – GB88MIDL40202381228307
Maximum Grant	means £12,000,000
Conditions Satisfaction Date	19 March 2021
Construction Budget	means £48,646,000. as set out in the "Capex" line item in paragraph 1.2 below.
Start on site [date]	as set out in paragraph 1.2 below.

"Construction Start Date"		
Excluded Costs	means the following costs (except to the extent that a qualification set out below in the second column applies):	
	Costs	Qualifications
	(a) costs incurred by the Recipient before the date of the Application	None
	(b) costs met or subsidised by any other public funding or subsidy, including any other Loan or Grant made under the Heat Networks Investment Project	None
	(c) costs relating to the construction of heat sources where the primary function of the heat source is not to supply the heat network (costs falling under this exclusion encompass: costs incurred in the construction of an energy from waste facility; and construction of manufacturing, industrial or other pieces of infrastructure from which heat is to be recovered)	None
	(d) costs relating to secondary distribution systems in buildings	<p>the exclusion in paragraph (d) does not apply (subject to the restriction on Eligible Costs below) to the Recipient's costs (where forming part of the Recipient's Application and permitted by Subsidy Control Law) in:</p> <p>a) installing a secondary distribution system (such as a communal heating system) within the premises of an anchor load customer; and</p> <p>b) connecting that secondary distribution system to the heat network;</p> <p>where this qualification applies, the investment costs (for the purpose of Subsidy Control Law) are limited to such costs as the Recipient can demonstrate (to the Provider's</p>

		satisfaction) exceed any costs in replacing an existing system or in upgrading that system to comply with buildings and/or planning regulations.
	(e) costs relating to tertiary systems	<p>the exclusion in paragraph (e) does not apply (subject to the restriction on Eligible Costs below) to the Recipient's costs (where forming part of the Recipient's Application and permitted by Subsidy Control Law) in installing a tertiary system and connecting it to the heat network, where all of the following conditions are met:</p> <p>a) the tertiary system is a wet system which is being installed for the first time to replace a heating or cooling system of another kind (such as to replace electric space heating);</p> <p>b) that system is situated in a property which is:</p> <ul style="list-style-type: none"> • part of an anchor load; and • an existing building which is (and remains) publicly owned and in exclusive use as a domestic dwelling(s); <p>c) the end users of that tertiary system are (and remain) domestic customers;</p> <p>where this qualification applies, the investment costs (for the purpose of Subsidy Control Law) are limited to such costs as the Recipient can demonstrate (to the Provider's satisfaction) exceed costs for like-for-like replacement of the existing heating system (such as where the existing heating system is electric space heating the Eligible Costs are limited to the difference in cost between installing a replacement electric space heating system and installing the tertiary wet system, assuming that the cost of installation of the tertiary wet system is more expensive).</p>

Mandatory Requirements	<p>means the Heat Networks Investment Project mandatory eligibility criteria, as explained in the Applicant Guidance including, in particular:</p> <ul style="list-style-type: none"> a) the standards set out in (or standards equivalent to those set out in) <i>"Heat Networks: Code of Practice for the UK"</i>, published by the Chartered Institute of Building Services Engineers in collaboration with the Association for Decentralised Energy (CP1) must be used in the construction of the Project; b) the Project must comply with the requirements of the Heat Network Metering and Billing Regulations 2014 (as amended from time to time); c) the Project must avoid customer detriment to residential or micro-business consumers, and (where applicable) must either register the Project with the Heat Trust and comply with Heat Trust standards or must comply with at least equivalent standards; and d) over the first 15 years operation, the Project must deliver carbon savings (compared to the counter-factual set out in the Application) substantially in line with those projected in the Application.
Original Financial Statements	means in relation to the Recipient and, if applicable, any Investment Vehicle, its audited consolidated financial statements for the financial year ended 2019 (or 2020 if available)
Project	means the Enfield District Heating Networks Project (North and West Extensions), as more particularly described in the Application Form
Relevant Funding	means "fiscal" funding
Relevant Proportion	means only that portion of the Grant which has not been spent by the Recipient

1.2 General

The Project is described by the key information set out in the table below and within the latest version of the Application provided by the Recipient. If the information in the table below differs from the information within the latest version of the Application the table below prevails.

General	
Project name	North and west strategic extensions to Meridian Water Heat Network
Project location	Edmonton EcoPark
Type of project (new / existing)	Existing
Narrative describing project including scope of works [300 words max]	
<p>To extend Energetik's Meridian Water heat network north and west with a total of ca. 18km of new pipe network which will provide over 100GWh of new heat demand, saving over 22,000 tonnes of carbon per annum. Energetik has identified and engaged with developers bringing four large scale developments forward, totalling a combined ca. 4,750 properties. Planning policy at local, regional and national level requires connection to heat networks where possible, and Energetik are keen and willing to connect to these developments in order to generate additional carbon savings in Enfield. A commitment is required now so as not miss the opportunity to connect and serve these significant developments in the Borough.</p> <p>In addition, extending to these four developments allows two significant existing developments to be connected to the Meridian Water Heat Network that are along the route of its extension, the North Middlesex Hospital and the Civic Centre. These two developments alone would save 5,000 tonnes of carbon per year when connected to the heat network and the heat network is connected to the NLWA energy from waste facility.</p> <p>A 20MW strategic connection to the London Boroughs of Haringey and Hackney is facilitated to allow these boroughs to benefit from energy from waste heat with heat being transferred from Energetik to the boroughs at cost without profit.</p> <p>Further, it has always been Energetik's goal to connect its 'satellite' schemes at Arnos Grove, Ponders End and Oakwood to the Meridian Water heat network, in order to decarbonise them by taking them off gas supply, and at the same time install infrastructure that can serve other developments along the routes, which includes care homes and up to 6,000 Council homes.</p>	
Commercial structure narrative including ownership structure % (i.e. public/private) [300 words max]	<p>Energetik is Enfield Council's 100% owned heat company and the delivery vehicle for its heat networks. Energetik are building and will own and operate the heat production plant, the heat network infrastructure and will be the supplier of heat to its customers.</p> <p>Enfield council has taken this decision in order to control the quality of its heat networks and ultimately the service that its customers receive. Furthermore, by delivering the heat networks via Energetik, the benefits derived as a</p>

		<p>result stay within the borough, therefore adding additional value to the council and Enfield residents.</p> <p>Whilst Energetik will be the owner/operator of the network and infrastructure assets, it will sub-contract the design, build and operation to industry experts. The design to planning part of the project has been let to Vital Energi, and was secured under an OJEU compliant procurement process for the design, build and operation (DBO) of Energetik's networks. The DBO contractor will retain overall network operation and maintenance responsibility, to ensure that the right quality is delivered from the outset. Energetik will supply heat to directly to end customers as the energy services company (ESCo). To do this, the company has procured a sub-contractor to undertake its customer service, metering and billing functions. They are already operational on Energetik's satellite scheme.</p> <p>Energetik will contract directly with developers via connection and supply agreements which will govern the heat supply obligations for all parties.</p>
Forecast Costs		
Commercialisation costs [£]		£0
Capex [£]		£48,646,000
Repex [£]		£15,476,200
Opex (aggregated figure over 15 years) [£]		£12,427
Quality of service to customers		
Heat Trust membership expected when the Project is operational (yes/no)	Yes	
Long term carbon savings		
Narrative on carbon savings of future heat source options and phasing/expansion plans (As per section 7.4 of the full application guidance)		
<p>The Meridian Water Heat Network will operate on CHP and gas boilers until connection to the EFW in 2026. The heat supply agreement with the NLWA permits sufficient heat supply to meet Energetik's business plan with a supply capacity of 35MW. From 2026 it is forecast that at least 95% of the heat delivered to customers will be generated via the EFW, providing an 93% carbon reduction compared with the counterfactual.</p> <p>The Arnos Grove Heat Network is operating with CHP with gas boiler backup but this will be connected to the Meridian Water Heat Network via this Project, and so from 2026 it is forecast that at least 95% of the heat delivered to customers will be generated via the EFW, providing an 93% carbon reduction compared with the counterfactual.</p> <p>The Ponders End Heat Network and the Oakwood Heat Network will operate CHP with gas boiler backup from 2021, but this will be connected to the Meridian Water Heat Network via this Project, and so from 2026 it is forecast that at least 95% of the heat delivered to customers will be generated via the EFW, providing an 93% carbon reduction compared with the counterfactual</p> <p>Energetik has designed its Meridian Water Heat Network with capacity to serve at least 30,000 homes, and this Project will ensure that this additional number of connected homes is more attainable in addition to the 10,000 homes forecast at Meridian Water.</p>		

HNIP capital funding spend characteristics	
Type of funding to be provided by BEIS to the Recipient by year (loan/grant, fiscal/non-fiscal by year) subject always to the terms and requirements of this Agreement	Single-drawdown fiscal grant of £12,000,000 to be advanced as per Clauses 4 and 5 of this Agreement.
Expected loan repayment start date	N/A
Key Milestones	
Commercialisation phase	
Start of commercialisation phase [date]	N/A
Contract let dates for main Project delivery items i.e. key project delivery contractors, long lead items, etc. [for each key project delivery contract]	N/A
Licences & permits	
Planning permission [date]	By 31 st March 2022
Highway licenses (e.g. section 50, parking restriction permit, traffic arrangement, etc.) if applicable [dates]	Before installation of the relevant part of the network between 1 st April 2022 – 31 st March 2024
Environmental permits (e.g. Environmental Agency, Canal and River Trust, Coal Authority, etc.) if applicable [dates]	Before installation of the relevant part of the network between 1 st April 2022 – 31 st March 2024

Construction phase	
Start of construction contract [date] (“ Construction Start Date ”)	31/03/2022
Start on site [date]	1 st April 2022
Completion of energy centre(s) and heat source(s) [date for each energy centre/heat source]	31/12/2022
Completion of distribution network(s) [date for each network]	31/03/2024
Start of commissioning [date]	Phased from 30/06/23 – 31/03/24
Handover to operator [date]	31/03/2024
Operation and maintenance phase	
Heat supply on date [date for each customer]	Colosseum Retail Park – 30/06/23 Haringey – 31/03/26 North Middlesex Hospital – 31/03/25
Cooling supply on date [date for each customer]	N/A
Power supply on date [date for each customer]	N/A
End of defects liability period (final capex position) [date for each key project delivery contract]	31/03/25
Lifecycle works, expansions and upgrades	

Heat, cooling and/or power source(s) / energy centre(s) replacement, upgrade and/or addition (if planned) [date]	N/A
Heat/cooling/power distribution network replacement, upgrade and/or extension (if planned) [date]	N/A
Inter-connection to other heat, cooling and/or power distribution network (if planned) [date]	N/A
Customers	
Peak heat demand [kW]	60,000
Peak cooling demand [kW]	N/A
Peak power demand [kW]	N/A
Customer 1	Haringey / Hackney bulk supply
Customer 2	North Middlesex Hospital
Customer 3	Colosseum Retail Park
Customer 1	
Document name	Connection Agreement
Commercial/bulk customer name or retail/individual customer type/group	Haringey / Hackney bulk supply
Heat load type (i.e. bulk/commercial, individual/retail)	Commercial - (B1 - Business)
Number of individual customers (if applicable)	1
Contract start [date]	2026
Contract end [date]	
Heat demand at point of customer interface [kWh per year]	34,000,000
Cooling demand at point of customer interface [kWh per year]	N/A
Power demand at point of customer interface [kWh per year]	N/A
Price formula – Standing charge (Heat)	N/A
Price formula – Standing charge (Cooling)	N/A
Price formula – Standing charge (Power)	N/A
Price formula – Variable charge (Heat)	NLWA Heat Supply Agreement

Price formula – Variable charge (Cooling)	N/A
Price formula – Variable charge (Power)	N/A
Price formula – Any other charges	N/A
Indexing arrangements	NLWA Heat Supply Agreement
Customer 2	
Document name	Connection Agreement
Commercial/bulk customer name or retail/individual customer type/group	North Middlesex Hospital
Heat load type (i.e. bulk/commercial, individual/retail)	Public Sector - (C2 - Schools, Hositals, Care Homes etc.)
Number of individual customers (if applicable)	1
Contract start [date]	2025
Contract end [date]	Not defined
Heat demand at point of customer interface [kWh per year]	14,000,000
Cooling demand at point of customer interface [kWh per year]	N/A
Power demand at point of customer interface [kWh per year]	N/A
Price formula – Standing charge (Heat)	To be defined
Price formula – Standing charge (Cooling)	N/A
Price formula – Standing charge (Power)	N/A
Price formula – Variable charge (Heat)	3 p/kWh
Price formula – Variable charge (Cooling)	N/A
Price formula – Variable charge (Power)	N/A
Price formula – Any other charges	N/A
Indexing arrangements	ONS CPI
Customer 3	
Document name	Connection Agreement
Commercial/bulk customer name or retail/individual customer type/group	Colosseum Retail Park
Heat load type (i.e. bulk/commercial, individual/retail)	Residential - (C4 - Multiple Tenancy Dwelling)
Number of individual customers (if applicable)	1700
Contract start [date]	30/06/23
Contract end [date]	40 year break clause
Heat demand at point of customer interface [kWh per year]	5,780,000

Cooling demand at point of customer interface [kWh per year]	N/A
Power demand at point of customer interface [kWh per year]	N/A
Price formula – Standing charge (Heat)	100.6 p/day per dwelling
Price formula – Standing charge (Cooling)	N/A
Price formula – Standing charge (Power)	N/A
Price formula – Variable charge (Heat)	4.1 p/kWh
Price formula – Variable charge (Cooling)	N/A
Price formula – Variable charge (Power)	N/A
Price formula – Any other charges	N/A
Indexing arrangements	ONS CPI
Capital funding structure	
Capital structure description [200 words max]	
Energetik receives funding via an equity investment and/or an onlending agreement from the London Borough of Enfield. The London Borough of Enfield receives low cost funding on behalf of Energetik in the form of grants and loans. Grants are passed on to Energetik as an equity investment and loans are passed on to Energetik at an onlending rate that ensures Energetik is state aid compliant	
Capital funding source 1	
Provider name	HNIP
Type of facility	Grant & Loan
Amount [£]	£12,000,000 and £11,859,000
Conditions	Max 50% with match funding
Use(s)	For the Project
Agreement date [date]	Forecast by 19/03/21
Capital funding source 2	
Provider name	Local Authority Public Works Loan Board (PWLb)
Type of facility	Loan
Amount [£]	£24,787,000
Conditions	Standard PWLB
Use(s)	For the Project
Agreement date [date]	Forecast by 30/06/21
Capital funding source 3	
Provider name	N/A
Type of facility	N/A

Amount [£]	N/A
Conditions	N/A
Use(s)	N/A
Agreement date [date]	N/A

Key project delivery contracts (construction, operation and maintenance)	
Description of procurement route of contractors/partners (i.e. negotiated contract; design, build, maintain and operate; etc.)	4) Integrated Design, Build Operations and Maintenance (DBOM) contract. Vital Energi have been procured by Energetik (executed 29 March 2019) via a full OJEU tender process to design, build operate and maintain the energy centre and heat network. Following a successful tender and evaluation process, Vital Energi were awarded the DBOM contract
Key project delivery contract 1	
Provider	Vital Energi
Scope of contract [100 words max]	To design, build and operate Energetik's MWHN and extend Energetik's three existing heat networks (Satellite Schemes)
Value of contract [£]	Forecast in excess of £50,000,000
Contract start and end [date]	29th March 2017 – 29th March 2032

Energy sources	
Technology 1	
Technology type	Heating
Technology (inc. fuel)	Heat from EfW [Industrial Heat]
Thermal capacity [kW]	35,000
Cooling capacity [kW]	N/A
Electrical capacity [kW]	N/A
Installation date [date]	2026
Number of years until technology is replaced (UEL)	60
Technology 2	
Technology type	Heating

Technology (inc. fuel)	Boiler - Type 1 [Natural Gas]
Thermal capacity [kW]	20,000
Cooling capacity [kW]	N/A
Electrical capacity [kW]	N/A
Installation date [date]	
Number of years until technology is replaced (UEL)	25
Technology 3	
Technology type	N/A
Technology (inc. fuel)	N/A
Thermal capacity [kW]	N/A
Cooling capacity [kW]	N/A
Electrical capacity [kW]	N/A
Installation date [date]	N/A
Number of years until technology is replaced (UEL)	N/A

Heat distribution network	
Type of network	Heating
Existing heat distribution network	
Existing length of heat distribution network [km]	8.5
Existing heat distribution network hot water/steam flow/return temperature [Celsius degree]	90/55
Existing primary heat system/network heat losses [% of energy supplied to network]	Forecast at 5%
Existing secondary heat systems/network heat losses [% of energy supplied to network]	Forecast at 18%
New heat distribution network	
New length of heat distribution network [km]	18.43
New heat distribution network hot water/steam flow/return temperature [Celsius degree]	90/55
New primary heat system/network heat losses [% of energy supplied to network]	Forecast at 5%
New secondary heat systems/network heat losses [% of energy supplied to network]	Forecast at 18%
Cooling distribution network	
Existing cooling distribution network	
Existing length of cooling distribution network [m]	N/A
Existing cooling distribution network water flow/return temperature [Celsius degree]	N/A

Existing primary cooling system/network heat losses [% of energy supplied to network]	N/A
Existing secondary cooling systems/network heat losses [% of energy supplied to network]	N/A
New cooling distribution network	
New length of cooling distribution network [km]	N/A
New cooling distribution network hot water/steam flow/return temperature [Celsius degree]	N/A
New primary cooling system/network heat losses [% of energy supplied to network]	N/A
New secondary systems/network heat losses [% of energy supplied to network]	N/A
Private wire	
Private wire 1	
From power source [power source name]	N/A
To customer [customer name]	N/A
	N/A
	N/A
Trench length [km]	N/A
Capacity [kW]	N/A

SCHEDULE 2

Conditions Precedent

PART 1 – CONDITIONS TO AWARD

1. Corporate Authorisations and structure

- 1.1. Certified copies of the constitutional documents of the Recipient and Energetik (or confirmation that they have not changed since they were provided in relation to the 2020 Funding Agreements).
- 1.2. Certified copies of all relevant approvals of the Recipient (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent):
 - 1.2.1. approving the terms of and the entry into, and the transactions to be entered into by the Recipient and Energetik in relation to the Project contemplated by, the Grant Documents and resolving that it execute, deliver and perform the Grant Documents, including approving the Project and the Project IRR;
 - 1.2.2. authorising a specified person or persons to execute the Grant Documents on its behalf; and
 - 1.2.3. authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Grant Documents; and
 - 1.2.4. confirming that the Project should proceed.
- 1.3. A specimen of the signature of each person who is an authorised signatory referred to in paragraph 1.2.3 (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 1.4. All relevant “know your customer” requirements required by the Provider and the Agent, including if relevant a group structure chart and any other applicable documentation to diligence the structure of the group and the source of any funds.
- 1.5. Receipt of evidence (to the satisfaction of the Provider) that Energetik has been incorporated.
- 1.6. Receipt of evidence (to the satisfaction of the Provider) that the ownership and governance of Energetik is in accordance with the Application.

2. Project-specific conditions

- 2.1. Submission of the relevant form containing evidence (to the satisfaction of the Provider) of all sources of funding for the Project, other than from the Provider (such evidence to be deemed to be part of the Application) (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 2.2. Evidence (to the satisfaction of the Provider) of cost inputs to the FEAM sufficient to demonstrate or allow testing of the reasonableness of the predicted overall costs of the Project.
- 2.3. Review of Project by the Provider to confirm continued eligibility for the offered Grant, amount and terms.
- 2.4. All Grant Documents have been executed by the Recipient.

3. No Default / other

- 3.1. Recipient confirmation (to the satisfaction of the Provider) that no Default under this Agreement is continuing or would result from the proposed Grant.
- 3.2. Recipient confirmation (to the satisfaction of the Provider) that all representations in this Agreement are true and correct.

3.3. Any other evidence as may be required by the Provider, in relation to the Project and/or to demonstrate compliance with this Agreement.

PART 2 – CONDITIONS OF GRANT

1. Recipient of confirmation (to the satisfaction of the Provider) that, on the proposed day of disbursing any Grant amounts from the Trust Account, all conditions set out in Part 1 above have been discharged and remain true, complete and correct and in full force and effect, and do not require updating to take account of any events or circumstances that have taken place since such evidence or documentation was first provided.
2. The Funding Request has been submitted not earlier than 6.4.2020 and not later than 19.3.2021.

3. Corporate Authorisations and structure

- 3.1. Certified copies of all relevant approvals of the Recipient and Energetik (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent):
 - 3.1.1. approving the entry into, and the transactions contemplated by, any documents to be entered into by Energetik in relation to the Project (including the Construction Contracts) in accordance with the Application and resolving that it execute, deliver and perform such documents to which it is a party;
 - 3.1.2. authorising a specified person or persons to execute the documents to which it is a party on its behalf; and
 - 3.1.3. authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the documents to which it is a party.
- 3.2. A certified copy of a written resolution of the Recipient (as shareholder of Energetik) approving the transactions contemplated by the documents to be signed by Energetik (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 3.3. A specimen of the signature of each person who is an authorised signatory referred to in paragraph 3.1.3 (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 3.4. All relevant "know your customer" requirements required by the Provider and the Agent, including if relevant a group structure chart and any other applicable documentation to diligence the structure of the group and the source of any funds.

4. Project-specific conditions

- 4.1. Evidence and approval by the Provider of the structure and terms of any funding being provided to Energetik (including on-funding of the Grant to Energetik) (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 4.2. Evidence (to the satisfaction of the Provider) that any significant Project Agreements entered into are, or that are to be entered into will be, consistent with the Application and the Mandatory Requirements.
- 4.3. Receipt of evidence (to the satisfaction of the Provider) that all relevant Project Agreements entered into are, or that are to be entered into will be, in the name of, or have been novated to, Energetik (including signed copies of the D&B and O&M agreement(s)).
- 4.4. Evidence (to the satisfaction of the Provider) that any agreements for the sale of heat by the Project entered into by Energetik, including connection fees and heat tariffs, are or will be consistent with the Application and the Mandatory Requirements.
- 4.5. Evidence (to the satisfaction of the Provider) that all necessary permissions have been obtained for all works taking place on or under public highways consistent with the

Application and the Mandatory Requirements (to the extent applicable at the time of this Agreement).

- 4.6. Receipt of confirmation from the Recipient that there have been no material changes to the Project cost forecasts compared with those set out in the Application or, otherwise, provision of an updated financial model.
- 4.7. Receipt and approval by the Provider of a quantitative sensitivity analysis, to include all parameters listed in the Application and Applicant Guidance.
- 4.8. Entry into a "match funding agreement" with MEEF, to regulate intercreditor position (only applicable if MEEF is a lender or investor in relation to the Project).
- 4.9. Receipt of evidence (to the satisfaction of the Provider) of commitment to spend the Grant over the following 12 months.
- 4.10. Recipient to provide (to the satisfaction of the Provider) evidence of the funding arrangement (working capital facility) between the Recipient and Energetik (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 4.11. Recipient to provide (to the satisfaction of the Provider) confirmation of connection charges and the accompanying contractual commitments with the developers.
- 4.12. Recipient to provide (to the satisfaction of the Provider) (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent):
 - 4.12.1. Final approval of the PWLB funding, including any funding shortfalls.
 - 4.12.2. Confirmation of the terms of the PWLB funding and evidence of their inclusion in the financial model.
 - 4.12.3. Council approval of the IRR achieved by the Project.
- 4.13. Recipient to provide (to the satisfaction of the provider) evidence of the arrangement between the Recipient and Energetik for the payment and/or relief of business rates.
- 4.14. Recipient to provide (to the satisfaction of the Provider) confirmation that the proposed Haringey district heating scheme has a neutral impact on the Project's model.
- 4.15. Recipient to provide evidence (to the satisfaction of the Provider) that all necessary property rights have been granted for the pipe route consistent with the Application and the Mandatory Requirements (to the extent applicable at the time of this Agreement).
- 4.16. Recipient to provide evidence (to the satisfaction of the Provider) that any necessary planning consents have been granted for the pipe route consistent with the Application and the Mandatory Requirements (to the extent applicable at the time of this Agreement).
- 4.17. Recipient to provide (to the satisfaction of the Provider) the bulk heat purchase agreement with the North London Waste Authority in executed or settled form and consistent with the Application and the Mandatory Requirements.
- 4.18. Recipient to provide (to the satisfaction of the Provider) information on the RIBA stage 3 design for the network extension pipe route relevant to this Project when the DBO&M has completed the detailed route proving work (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).
- 4.19. Provision by the Recipient (to the satisfaction of the Provider) of revised CAPEX, REPEX and OPEX budgets before construction funding is agreed (except to the extent not achievable at this time and subject to an equivalent Condition Subsequent).

5. No Default / other

- 5.1. Recipient confirmation (to the satisfaction of the Provider) that no Default under this Agreement is continuing or would result from the proposed Grant.

- 5.2. Recipient confirmation (to the satisfaction of the Provider) that all representations in this Agreement are true and correct.
- 5.3. Any other evidence as may be required by the Provider, in relation to the Project and/or to demonstrate compliance with this Agreement.
- 5.4. There is no default or accelerated repayment event (howsoever defined) outstanding under any 2020 Funding Agreement.

PART 3 – CONDITIONS SUBSEQUENT

- 1.1. Ensure compliance with the requirements of the Electricity Act 1989, including that any electricity supplies made by the Project are licensed under that Act or are exempt from the requirement to hold a licence under the Electricity Act (Class Exemption from the Requirement for a Licence) Order 2001.
- 1.2. Ensure that all Project Agreements entered into are consistent with the Application and the Mandatory Requirements.
- 1.3. Ensure that all agreements for the sale of heat by the Project (including connection fees and heat tariffs) are consistent with the Application and the Mandatory Requirements.
- 1.4. Ensure that all property rights necessary for the construction and operation of the energy distribution network and/or the energy centre have been obtained, prior to commencement of relevant construction works, on terms that are consistent with the Application and the Mandatory Requirements (and in any case not later than 30.4.2022).
- 1.5. Ensure that all planning permissions and other consents and authorisations required for the construction and operation of the energy distribution network and the energy centre have been obtained, prior to commencement of relevant works, on terms that are consistent with the Application and the Mandatory Requirements and that such permissions, consents and authorisations are complied with (and in any case not later than 30.4.2022).
- 1.6. Ensure that all relevant agreements and approvals are obtained, maintained and are complied with for the connection and supply of all relevant utilities including gas, electricity, water and telecoms) to the Project (and, where relevant, for the export of electricity from the Project) on terms that are consistent with the Application and the Mandatory Requirements.
- 1.7. Ensure that all agreements for the purchase of heat by the Project (including in respect of fees and tariffs payable) are consistent with the Application and the Mandatory Requirements.
- 1.8. Any documents that were accepted by the Provider in “settled form” (or any other form which was not fully signed, dated and effective) for the purposes of Parts 1-2 above, must be delivered in fully signed, dated and effective form within a reasonable period of time for such document (and must be in the form approved by the Provider before such document was signed).
- 1.9. No later than 31.7.2021, evidence (to the satisfaction of the Provider) of:
 - 1.9.1.all necessary approvals for entry into the Project and this Agreement, from the Recipient and Energetik.
 - 1.9.2.any relevant specimen signatures;
 - 1.9.3.the structure and terms of any funding being provided to Energetik;
 - 1.9.4.the funding arrangement (working capital facility) between the Recipient and Energetik;
 - 1.9.5. all sources of funding for the Project, other than from the Provider (such evidence to be deemed to be part of the Application);
 - 1.9.6.final approval of the PWLB funding, including any funding shortfalls;
 - 1.9.7.confirmation of the terms of the PWLB funding and evidence of their inclusion in the financial model; and
 - 1.9.8.Recipient approval of the IRR achieved by the Project.

- 1.10. No later than 31.12.2021, evidence (to the satisfaction of the Provider) of:
 - 1.10.1. RIBA stage 3 design for the network extension pipe route relevant to this Project when the DBO&M has completed the detailed route proving work; and
 - 1.10.2. revised CAPEX, REPEX and OPEX budgets before construction funding is agreed.
- 1.11. No later than 31.3.2022, evidence (to the satisfaction of the Provider) that the Grant has been spent.

SCHEDULE 3

Funding Request

Funding Request – GFA – Construction Funding

From: [Recipient]

To: Triple Point Investment Management LLP (as Agent)

Dated:

Dear Sirs

[Recipient] – [] [Grant Funding Agreement dated [] (the “Agreement”)]

1 We refer to the Agreement. This is a Funding Request. Terms defined in the Agreement have the same meaning in this Funding Request unless given a different meaning in this Funding Request.

2 We wish to request the Grant on the following terms:

Proposed Funding Date: [] (or, if that is not a Business Day, the next Business Day)

Amount: []

3 We confirm that:

3.1 the Grant requested will be used only for an Approved Purpose;

3.2 to the best of our knowledge and belief:

- (a) each condition specified in Clause 4.1 (*Initial conditions precedent*) and Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Funding Request and the Agent has received all of the documents and evidence listed in Schedule 2 (*Conditions Precedent*) which relate to this Funding Request;
- (b) the relevant representations given in Clause 9 (*Representations*) of the Agreement are true and correct in all respects;
- (c) no Default is continuing or would result from the proposed Grant;
- (d) all undertakings set out in this Agreement have been complied with as at the date hereof (including without limitation those set out at Clauses 10 (*Information Undertakings*) and 11 (*General Undertakings*));
- (e) no Material Adverse Change has occurred;
- (f) the Project complies with Subsidy Control Law;
- (g) all costs detailed in this Funding Request are either Relevant Eligible Costs or Future Eligible Costs (each as defined in clause 5.2.2 of the Agreement);
- (h) there is no default or accelerated repayment event (howsoever defined) outstanding under any 2020 Funding Agreement; and

- (i) the Completion Date is reasonably likely to occur before the Longstop Date, as confirmed by the certificate appended at Annex 1;
- 3.3 [the following milestone has been reached: [INSERT DETAILS AS APPLICABLE / IF ANY], as confirmed by the evidence set out in Annex 2;]
- 3.4 the Construction Costs detailed in this Funding Request:
 - (a) [have become due and payable[, as evidenced by the invoices appended at Annex 2];]
 - (b) are in accordance with the Construction Budget;
 - (c) need to be paid in order for the Project to proceed and cannot be (and will not be) funded or reimbursed from other sources (including any other facility agreement or memorandum of understanding relating to the Heat Networks Investment Project).
- 3.5 [the amount of this Funding Request and all previous Funding Requests are set out accurately in the utilisation spreadsheet set out in Annex 3.]
- 4 The proceeds of this Grant should be credited to the bank account as set out in Schedule 1 of the Agreement[, or such other bank account as noted here and agreed to by the Agent in advance [*insert bank account details if required*]].
- 5 Further to clause 5.2.1 of the Agreement:
 - 5.1 the purpose of the proposed Grant is to [insert details / attach evidence if needed];
 - 5.2 the total anticipated Eligible Costs of the Project as at today's date are: [insert details / attach evidence if needed.]
- 6 [delete if n/a] Further to clause 5.2.2(a) of the Agreement:
 - 6.1 we note that this Funding Request relates to Relevant Eligible Costs;
 - 6.2 the details of such Relevant Eligible Costs are as evidenced by the documentation appended at Annex 2 (append invoices or other evidence of the total costs and expenses of the Project, including a breakdown of which costs and expenses constitute Eligible Costs and specifying details of the Relevant Eligible Costs to be funded using the Grant);
- 7 [delete if n/a] Further to clause 5.2.2(b) of the Agreement:
 - 7.1 we note that this Funding Request relates to Future Eligible Costs;
 - 7.2 the details of such Future Eligible Costs are as evidenced by the documentation appended at Annex 2 (append invoices or other evidence of the total costs and expenses of the Project, including a breakdown of which costs and expenses constitute Eligible Costs and specifying details of the Future Eligible Costs to be funded using the Grant); and
 - 7.3 the Recipient will comply with the provisions of clause 5.2.3 of the Agreement, in relation to such Future Eligible Costs.
- 8 [delete if n/a] Further to clause 5.2.4 of the Agreement:
 - 8.1 we note that this Funding Request relates to Future Eligible Costs;

- 8.2 the details of such Future Eligible Costs are as evidenced by the documentation appended at Annex 2 (append invoices or other evidence of the total costs and expenses of the Project, including a breakdown of which costs and expenses constitute Eligible Costs and specifying details of the Future Eligible Costs to be funded using the Grant); and
- 8.3 the Recipient will comply with the provisions of clause 5.2.4 of the Agreement, in relation to such Future Eligible Costs.
- 9 This Funding Request is irrevocable.

Yours faithfully

.....

authorised signatory for

[Recipient]

Annex 1 – Engineers confirmation on progress towards Completion Date

[COMPLETION DATE CERTIFICATE]

From: [Recipient's engineer/technical advisor]

To: [Agent]

Dated:

Dear Sirs

[Recipient] – [] Grant Funding Agreement, dated [] (the "**Agreement**")

- 1 We refer to the Agreement. Terms defined in the Agreement have the same meaning in this certificate unless given a different meaning in this certificate.
- 2 We confirm that:
 - (a) milestone [INSERT IF ANY] has been reached;
 - (b) to the best of our knowledge and belief, based on progress to date, the Completion Date is reasonably likely to occur before the Longstop Date.

Yours faithfully

.....
authorised signatory for

[name of relevant engineer/technical advisor]

Annex 2 – Invoices or other evidence supporting milestone

Annex 3 – Utilisation spreadsheet

SCHEDULE 4

Project Monitoring Reports

The Recipient must report in accordance with the HNIP Monitoring & Reporting Guidance, as published from time to time on the Department for Business, Energy and Industrial Strategy website:

<https://www.gov.uk/government/publications/hnip-monitoring-and-reporting-guidance-and-templates>

This includes:

1 CONSTRUCTION

MONTHLY REPORT (CONSTRUCTION)

<https://www.gov.uk/government/publications/hnip-monitoring-and-reporting-guidance-and-templates> to be submitted to the Agent on the 5th Business Day of each calendar month, and sent to: reporting@tp-heatnetworks.org or such other address as indicated by the Agent and to include invoices or other evidence of the total costs and expenses of the Project incurred by the Recipient prior to the date of delivery of such invoices or other evidence, including a breakdown of which costs and expenses constitute Eligible Costs and specifying which Future Eligible Costs were funded using the Grant (noting the terms of Clause 5.2).

2 OPERATIONS

"MONTHLY / QUARTERLY REPORT (OPERATIONS)"

<https://www.gov.uk/government/publications/hnip-monitoring-and-reporting-guidance-and-templates> to be submitted to the Agent monthly in the agreed short form, and quarterly in the agreed long form, and sent to: reporting@tp-heatnetworks.org or such other address as indicated by the Agent.

In each case, the Agent may, in its discretion, require such additional information to be reported on as it considers appropriate for the purpose of proper management of this Agreement or of the Heat Networks Investment Programme or as required by the Department of Business, Energy and Industrial Strategy.

SCHEDULE 5

Subsidy Control

The Recipient shall comply with all relevant Subsidy Control Law.

The Parties agree to update this Schedule 5 when reasonably requested by the Provider, to reflect the requirements of all relevant Subsidy Control Law.

Such update shall set out a level of detail commensurate with the granularity set out in schedule 5 of the 2020 Grant Agreement.

SCHEDULE 6

Continuing Obligations

DEED OF AGREEMENT

between

SECRETARY OF STATE FOR BUSINESS ENERGY AND INDUSTRIAL STRATEGY

and

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ENFIELD

**relating to a Grant Agreement
(Enfield District Heating Networks Project
(North and West Extensions))**

THIS DEED OF AGREEMENT ("Deed") is dated

and made between:

- (1) **SECRETARY OF STATE FOR BUSINESS ENERGY AND INDUSTRIAL STRATEGY**
("Original Provider"); and
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ENFIELD**, a local authority having its registered address at Civic Centre, Silver Street, London, United Kingdom, EN1 3XD (the "**Recipient**").

Background:

- (A) The parties entered into a grant agreement dated on or about the date hereof, pursuant to which the Original Provider made available a grant to the Recipient (the "**Grant Agreement**").
- (B) As a condition of the Original Provider agreeing to make certain grants available to the Recipient pursuant to the Grant Agreement the Recipient agreed to enter into this Deed so that certain obligations on the Recipient under the Grant Agreement expressed to survive termination would continue to be performed by the Recipient notwithstanding that all grants and amounts outstanding under the Grant Agreement have been fully repaid and the Recipient is fully released from all its covenants, liabilities and obligations under the Grant Agreement.

IT IS HEREBY AGREED as follows:

1 INTERPRETATION

In this Deed words and expressions defined in and rules of interpretation set out in the Grant Agreement shall have the same meaning and effect when used in this Deed except where the context requires otherwise.

2 EFFECTIVE DATE AND TERM

This Deed shall have effect from the date hereof and shall cease to have effect at 23:59 hours on 30 April 2033 ("**Expiry Date**").

3 ONGOING OBLIGATIONS

In accordance with the terms of this Deed, the following clauses of the Grant Agreement shall survive termination of the Grant Agreement and shall remain in force until the Expiry Date (except for the undertakings given in Clause 10.4 (Budget) which shall remain in force up to and including 31 December 2032):

- (a) Clause 9.8 (Mandatory Requirements Confirmation);
- (b) Clause 10.5 (Monitoring reports);
- (c) Clause 10.8 (Information: additional);
- (d) Clause 10.9 (Notification of default);
- (e) Clause 10.10 (Record keeping);
- (f) Clause 10.11 (Access);

- (g) Clause 11.2 (Compliance with laws);
- (h) Clause 11.5 (Use of Grant Proceeds); and
- (i) Clause 11.8 (Conditions Subsequent) and the related Part 3 of Schedule 2.

4 EFFECT OF THIS DEED ON THE GRANT AGREEMENT

The parties agree that the clauses in the Grant Agreement expressed as surviving termination shall remain in full force and effect in accordance with the terms of the Grant Agreement, and with effect from and including the date hereof until the Expiry Date, all references in the Grant Agreement to the "Agreement", "herein", "hereof", "hereunder" and other similar expressions shall, unless the context requires otherwise, be read and construed as a reference to the Grant Agreement as supplemented by this Deed.

5 RIGHTS OF THE ORIGINAL PROVIDER

Without prejudice to:

- (a) any other express right of the Original Provider pursuant to the Grant Agreement;
- (b) any remedy that the Original Provider may have at law, in equity or in statute including the right to seek injunctive relief or a decree of specific performance or other discretionary remedies of the court,
- (c) in respect of any breach by the Recipient of this Deed, the Original Provider shall have the right to instruct a third party to carry out any rectification of such failure and to seek reimbursement from the Recipient as a debt due immediately upon demand for such costs incurred in doing so.

6 GOVERNING LAW AND JURISDICTION

- 6.1 This Deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 6.2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Provider to take proceedings against the Recipient in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

7 THIRD PARTY RIGHTS

No person who is not a party to this Deed shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

8 COSTS

Each party shall bear their own costs in connection with the execution of this Deed.

9 FURTHER ASSURANCE

The Recipient shall, at its own cost, at the request of the Original Provider, promptly execute and deliver such documents and perform all such acts as may be reasonably required to give full effect to the terms of this Deed.

10 COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by **SECRETARY OF
STATE FOR BUSINESS ENERGY AND
INDUSTRIAL STRATEGY** acting by

.....
Authorised signatory

in the presence of:

Name of Witness:

Signature of Witness:

Address of Witness:

Occupation of Witness:

*The Common Seal of The Mayor and Burgesses of the
London Borough of Enfield was hereunto
affixed in the presence of:-*

.....
Authorised signatory

SCHEDULE 7
Grant Funding Letter



1 King William Street
London, EC4N 3AF

T +44 (0)20 7201 8989

www.tp-heatnetworks.org

17 February 2021

Mr Ian Guest
Technical Director, Energetik
London Borough of Enfield Council
Civic Centre
Silver Street
Enfield
EN1 3XA

Dear Ian

Heat Networks Investment Project: Application Reference HNIP_APP_0110

Thank you for applying to the Heat Network Investment Project (HNIP).

We have considered your application for funding for the North and West Extensions to the Meridian Water Heat Network in Round 7 of the HNIP scheme and I am delighted to inform you that we are minded, subject to cross-government approval to offer support under the scheme, as follows:

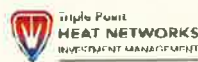
	FYE 2021 (£000)	Total (£000)
Grant for construction	12,000.00	12,000.00
Corporate Loan for construction	11,859.00	11,859.00
Total	23,859.00	23,859.00

You will notice that the amounts in the table above differ from those which you applied for.

By our calculations, the aggregate intervention is nevertheless sufficient to meet your target project internal rate of return.

Given the relatively modest amount of time available to us we plan to begin the process of seeking the requisite section 31 approvals of this award immediately and as such I would be grateful if you could let me know by return if you know now that you would be unwilling to accept funding in these amounts.

An element of the offer is intended to be by way of a corporate loan which currently carries an interest rate of 0.01% per annum albeit this may be subject to change over time. The interest



AECOM

ENERGETIK



eculy

Gembris

London Heat Network

