

## FULL FIBRE LIMITED

### The Fibre Heroes Community Investment Fund

#### Terms and Conditions

#### INTRODUCTION

These terms and conditions (the **Terms**) have been issued by Full Fibre Limited (**Full Fibre, we, us or our**) (a company registered in England and Wales under company number 11090610 with its registered office at Suite 2, Pynes Hill Court, Pynes Hill, Exeter EX2 5AZ) and relate to the Fibre Heroes Community Investment Fund (the **Fund**) maintained by Full Fibre.

The Fund currently has a maximum of £20,000 available for Grants (although Full Fibre may amend this amount as it thinks fit from time to time). That money will continue to be available until 31 December 2023 (or such other date as Full Fibre may notify) or until all the funds have been fully utilised, if earlier.

The objective of the Fund is to provide monies to small charities and other organisations (each a **Recipient, you or your**) which operate in areas where Full Fibre is installing, or has installed, its fibre optic network in order to assist with the funding of their community projects, subject to the Recipient satisfying Full Fibre's funding criteria and these Terms.

Full Fibre is keen to support any community projects of real and practical benefit to their local communities although Full Fibre recognises that a limited amount of funds is available for this purpose. The types of funding which Full Fibre may (and may not) support are set out in clause 3 below. Full Fibre will review these funding priorities on a regular basis.

The purpose of these Terms is to set out the principles and procedures that guide Full Fibre when making grants to further the objectives of the Fund, and to provide information about the Grant-making process to anyone applying, or who would like to apply, to Full Fibre for a Grant.

#### 1. Definitions and Interpretation

1.1 In these Terms and in addition to the definitions above, the following definitions apply:-

<b>Application</b>	means an application for a Grant made pursuant to clause 4;
<b>Business Day</b>	means a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for general banking business;
<b>Confidential Information</b>	means all information or data (whether oral, visual or recorded in writing, in any other medium or by any other method) obtained by or disclosed to one party from or by the other party pursuant to or in connection with these Terms or the Fund (including, without limitation, any information relating to a party's operations, processes,

services, materials, data, plans, ideas, intentions, proposals, market opportunities, business affairs, terms of business, research, know-how, design rights, trade secrets, software, finances, members, customers, employees and agents);

**Data Protection Legislation**

means all applicable data protection and privacy legislation in force from time to time in the United Kingdom (including, without limitation, the General Data Protection Regulation ((EU) 2016/679) to the extent applicable in the United Kingdom, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and the guidance and codes of practice issued by the Information Commissioner or other relevant supervisory authority and applicable to either party from time to time);

**Grant**

means the grant of any sum of money by Full Fibre to a Recipient from the Fund pursuant to these Terms; and

**Project**

means the community project described in an Application for which the relevant Recipient is applying for a Grant to fund (in whole or part).

1.2 In these Terms, unless the context otherwise requires:-

- 1.2.1 clause headings shall not affect the interpretation of these Terms; and reference to a clause is to a clause of these Terms;
- 1.2.2 words in the singular shall include the plural and vice versa; and a reference to one gender shall include the other genders;
- 1.2.3 reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; and shall include all subordinate legislation made from time to time under that statute or statutory provision (as amended, extended or re-enacted); and
- 1.2.4 reference to either party shall (where applicable) include that party's respective successors, personal representatives and permitted assignees and transferees (subject to clause 17.1).

**2. Who Can Apply for a Grant**

2.1 Full Fibre welcomes Applications that support its funding priorities from non-profit-making organisations (including organisations which are registered charities or otherwise qualify as charities under the law of England and Wales, and social enterprises) which:-

- 2.1.1 have their registered office or principal place of business, or conduct a substantial part of their activities, in those areas where Full Fibre has installed, is in the course of installing, or is proposing to install its fibre optic network; and a list of those areas (as updated from time to time) is available *here*; and

2.1.2 have a turnover of not more than £1 million in any financial year.

2.2 Full Fibre will not award Grants to a Recipient who is an individual, or is established outside the United Kingdom, or which has:

2.2.1 previously submitted an application to Full Fibre which did not meet Full Fibre's acceptance criteria or due diligence checks and the issues identified at that time have not been addressed; or

2.2.2 previously received a Grant from Full Fibre at any time during the immediately preceding twelve months.

### **3 What We Will Fund**

3.1 Full Fibre usually make Grants of £250, up to £1,000 and over £1,000 subject to the Recipient satisfying the criteria relevant to the different levels of Grant.

3.2 Any Grant awarded must be used to cover the following types of expenditure:

3.2.1 capital expenditure;

3.2.2 salary costs;

3.2.3 contributions to the cost of overheads; and

3.2.4 any other Project costs,

Provided that the Recipient is able to demonstrate that the expenditure in each case is essential for, and directly connected to, carrying out the Project that Full Fibre has agreed to fund, and that any assets acquired using Grant monies will be used for similar purposes after the end of the Project or proposed activities.

3.3 Full Fibre will not make Grants which are proposed to be used:-

3.3.1 for political purposes;

3.3.2 to promote particular religious or similar beliefs (although Grants may be made (at Full Fibre's absolute discretion) for Projects sponsored by religious organisations or in which such organisations have some involvement);

3.3.3 for Projects which have already been completed;

3.3.4 for Projects which the Recipient or any third party (such as the Government or a local authority) is legally responsible for carrying out or operating; or

3.3.5 for Projects which Full Fibre considers (in its absolute discretion) likely to damage Full Fibre's reputation or other interests.

3.4 Full Fibre may award Grants to fund up to 100% of the cost of a Project. However, Full Fibre:

- 3.4.1 will consider funding part of the cost of a Project where the total cost is shared with one or more other funders; and
  - 3.4.2 encourages Recipients to seek additional sources of funding for their Project.
- 3.5 If a Grant covers part of the cost of a Project, Full Fibre may require the Recipient to provide details of the other funders and the funding that they have secured or applied for (including any loans or other commercial funding).

#### **4 How to Apply for a Grant**

- 4.1 All Applications must be made in writing and must explain in detail how any Grant awarded will be used and put forward a strong supporting case. In particular, an Application must:
- 4.1.1 identify the nature of the Project and its location;
  - 4.1.2 indicate the number of residents in a particular area likely to benefit from the Project;
  - 4.1.3 demonstrate how the activities funded by the Grant will benefit the intended beneficiaries and comply with Full Fibre's funding priorities;
  - 4.1.4 provide a budget for the proposed activities;
  - 4.1.5 set out how the Grant will be used, managed and promoted and how Full Fibre would be involved in any promotion of the Project;
  - 4.1.6 give details (including contact details) of the key individuals who will be responsible for the management of the Grant and delivering the Project and proposed activities; and
  - 4.1.7 give details of any other funding that has been awarded or that is being sought for the Project to be funded by the Grant.
- 4.2 Within five Business Days of being requested, the Recipient shall provide to Full Fibre any or all of the following:-
- 4.2.1 a complete, up-to-date copy of the Recipient's governing or constitutional documents;
  - 4.2.2 the Recipient's most recent accounts;
  - 4.2.3 evidence that the Recipient has a bank account with at least two unrelated signatories;
  - 4.2.4 if the Recipient is a UK charity, its registered charity number or, if not required to register with the Charity Commission (because it is either an exempt or excepted charity, or has income below the registration threshold), other evidence satisfactory to Full Fibre of its charitable status (such as an HMRC reference number); and/or
  - 4.2.5 if the Recipient is a non-charitable organisation, evidence satisfactory to Full Fibre that the Project would qualify as being charitable for the public benefit if undertaken by an organisation that is registered as a charity in England and Wales.
- 4.3 A Recipient shall not amend an Application (or the terms of the Project to which it relates) once an Application has been submitted to Full Fibre. If the Recipient wishes to make any such changes, it must withdraw that Application (by notice in writing to Full Fibre) and make a fresh Application. However,

should any details in an Application change or no longer be accurate, the Recipient shall notify Full Fibre in writing immediately.

## **5 Grant Decisions**

5.1 Full Fibre may take up to twenty-eight days to consider an Application and to decide whether to award a Grant.

5.2 When considering an Application, Full Fibre will undertake any due diligence checks on the Recipient and the Project it considers necessary in line with its assessment of any risks associated with the Recipient and the Project. Such checks may include requesting details of, and taking reasonable steps to verify and scrutinise, any of the following

5.2.1 the Recipient's aims and values;

5.2.2 the Recipient's governing or constitutional documents, and governance and operational structures and practices;

5.2.3 if applicable, the Recipient's status as a charity, including (where it is required to do so) evidence that the Recipient is registered as a charity;

5.2.4 the Recipient's latest accounts and financial position, and internal financial controls;

5.2.5 the identity of the Recipient's directors, trustees, executive committee or other key personnel and whether they are authorised to act in that capacity;

5.2.6 the Recipient's relevant operational policies and procedures;

5.2.7 any external risk factors that might affect the Application; and

5.2.8 in cases where the Recipient will or may receive support from another funder, or works with a partner, any further information in respect of that funder or partner that Full Fibre may consider necessary.

Full Fibre may keep a written record of any due diligence that it undertakes.

5.3 Full Fibre will inform each Recipient in writing of its decision whether to award a Grant.

5.4 If Full Fibre decides to award a Grant, any such Grant will be awarded on the terms, and subject to the conditions, of these Terms; and by submitting an Application, each Recipient is deemed to agree to these Terms. In addition, Full Fibre may subject the award of the Grant to such further terms, conditions and requirements as it thinks fit. In that event, Full Fibre will set out the additional terms, conditions and requirements that are attached to the Grant in a grant letter which the Recipient will sign to confirm their acceptance of such terms, conditions and requirements; and reference in these Terms to the **Terms** shall be deemed to include such further terms, conditions and requirements.

5.5 If Full Fibre decides not to award a Grant, it is not obliged to give the Recipient reasons for its decision. However, if so requested by the Recipient and if reasonably practicable to do so, Full Fibre will endeavour to give the Recipient such written feedback on the reasons for its decision as it considers appropriate.

5.6 Full Fibre's decision whether to award a Grant is final.

- 5.7 Subject to this clause 5 and clause 11, Full Fibre shall pay the Grant in pounds in a single lump sum and in immediately available cleared funds to the Recipient at such bank account as the Recipient may notify to Full Fibre in its Application.
- 5.8 Full Fibre shall use its reasonable endeavours to pay the Grant within six weeks after notifying the Recipient of its decision to award the Grant provided that no Grant shall be paid unless and until Full Fibre is satisfied that such payment will be used for proper expenditure in accordance with clause 6. The date on which Full Fibre pays the Grant (or the first part of the Grant) to a Recipient will be treated as the date of the Grant for the purposes of these Terms.
- 5.9 The amount of the Grant shall not be increased in the event of any overspend by the Recipient. Over and above the aggregate amount of the Grant, there will be no additional funding available from Full Fibre or commitment on the part of Full Fibre to provide any such funding.
- 5.10 The Recipient shall promptly repay to Full Fibre any money incorrectly paid to it, whether as a result of an administrative error or otherwise (including, without limitation, in situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all or any conditions attaching to the Grant have been complied with by the Recipient).
- 5.11 The Recipient shall not transfer any part of the Grant to any third party (whether by way of donation, further grant or otherwise) except a party to whom the Recipient has incurred costs, expenses or other liabilities in the ordinary course of the Project or proposed activities (as described in the Application) or except with the prior written consent of Full Fibre.
- 5.12 No Grants will be awarded in excess of the aggregate amounts available under the Fund from time to time.

## **6 Use of Grant**

- 6.1 The Recipient shall use all the Grant only:-
- 6.1.1 in accordance with these Terms (including any further terms, conditions or requirements notified by Full Fibre to the Recipient pursuant to clause 5.4); and
  - 6.1.2 otherwise for the general purposes of the Project as outlined in the Application and agreed with Full Fibre.
- 6.2 The Recipient shall ensure that none of its officers, employees, workers, agents, consultants, contractors, representatives or advisers, nor any of their respective connected persons, shall derive any personal benefit of any nature whatsoever from any Grant. For this purpose, a person is regarded as **connected** if they are members of the same family as, or are in a business partnership with, any such personnel or are a company, business, trust or organisation in which any such personnel has an interest as a beneficiary or through ownership, control or influence.
- 6.3 Except with Full Fibre's prior written consent, the Recipient shall not make any material changes to the Project or the proposed activities that have been agreed, or use the Grant:-
- 6.3.1 for any purpose other than those agreed purposes;
  - 6.3.2 to discharge any costs or liabilities other than its eligible expenditure within clause 3;

- 6.3.3 to make any payment to its shareholders, members or holding company, its subsidiaries (or subsidiaries of its holding company), directors, officers, employees, consultants, sub-contractors, professional advisers or agents except in order to discharge costs, expenses or other liabilities incurred by the Recipient in the ordinary course of the Project or the proposed activities (as described in the Application); or
- 6.3.4 to discharge any spending commitments of the Recipient entered into before the date of the Grant.

## 7 Marketing and Publicity

- 7.1 For the purposes of this clause, **Publicity Materials** means marketing information on websites (including website banners), or in the form of public announcements, advertisements, press or media releases, brochures, prospectuses, posters or other publicity or marketing material, or in newsletters, e-mails or on social media (as applicable).
- 7.2 Full Fibre shall be entitled to market and promote the Fund in such manner as it shall think fit. For such purpose and without further notice to, consultation with or permission from, the Recipient, in the event that Full Fibre awards a Grant to a Recipient in respect of a Project, Full Fibre shall be entitled to refer to the Recipient and the Project for marketing or promotional purposes (in such terms and form as Full Fibre shall reasonably think fit) in Publicity Materials issued by Full Fibre, whether in relation to the Fund or otherwise, and to do all things reasonably necessary to expedite and assist such marketing activities.
- 7.3 In undertaking any marketing activities pursuant to clause 7.2, Full Fibre shall:-
  - 7.3.1 be entitled to use or display the name, brand, logo or other intellectual property rights of the Recipient;
  - 7.3.2 use its reasonable endeavours to ensure that all references to the Recipient and the Project in any Publicity Materials are complete, accurate and up-to-date and do not misrepresent the relationship between the parties;
  - 7.3.3 use its reasonable endeavours to ensure that any Publicity Materials issued by Full Fibre are co-ordinated with the marketing and other activities of the Recipient as far as reasonably practicable;
  - 7.3.4 comply with Full Fibre's brand guidelines (as notified by Full Fibre to the Recipient in writing from time to time, whether via Full Fibre's website or otherwise); and
  - 7.3.5 not use any Personal Data of the Recipient except in accordance with clause 13.
- 7.4 The Recipient shall provide Full Fibre with such support as Full Fibre may reasonably request for the purposes of its marketing activities pursuant to clause 7.2 and to assist in its administration and promotion of the Fund; and without limitation to the foregoing, the Recipient shall:-
  - 7.4.1 provide such photographs, reports, statistics, case studies, documents, information, items and materials as Full Fibre may reasonably request (**Recipient Material**) for inclusion in Full Fibre's Publicity Materials;
  - 7.4.2 permit Full Fibre to use, copy, edit, modify, amend and adapt any such Recipient Material for inclusion in Full Fibre's Marketing Materials as Full Fibre shall reasonably think fit; and
  - 7.4.3 facilitate visits by Full Fibre's officers, employees, agents or other representatives to the Project site.
- 7.5 The Recipient shall acknowledge the Grant, and Full Fibre and the Fund as the sources of the Grant, in its

annual report and accounts and in any materials, presentations or information issued with respect to the Project and its general activities, in each case in accordance with this clause 7.

- 7.6 The Recipient shall use all reasonable endeavours to promote and market any Project for which a Grant has been awarded, Full Fibre and the Fund (as agreed with Full Fibre from time to time) within the local community in any location where Full Fibre has, is building, or is proposing to build, its fibre optic network; and for such purpose (subject to clause 7.7), the Recipient shall be entitled to issue Publicity Materials in respect of the Project, Full Fibre and the Fund for marketing or promotional purposes.
- 7.7 With respect to any materials issued by the Recipient pursuant to clause 7.5 and any Publicity Materials issued pursuant to clause 7.6, the Recipient undertakes to ensure that such materials and Publicity Materials:
- 7.7.1 are co-ordinated (to the extent reasonably practicable) with, and approved prior to release by, Full Fibre;
  - 7.7.2 comply with Full Fibre's brand guidelines as referred to in clause 7.3.4, and that all references to Full Fibre and the Fund in such materials and Publicity Materials are complete, accurate and up-to-date and do not misrepresent the relationship between the parties; and
  - 7.7.3 do not use or display Full Fibre's name, brand, logo, trademarks or other intellectual property rights, or refer to Full Fibre, except in compliance with those brand guidelines.
- 7.8 Full Fibre hereby grants to the Recipient a non-exclusive, non-transferable and royalty-free licence (with no right to sub-licence) for the duration of these Terms to use and copy the name, brand, logo and trademarks of Full Fibre as required for the sole purpose of marketing the Project, Full Fibre and the Fund pursuant to this clause; and hereby warrants that, so far as it is aware, the use of such intellectual property rights by the Recipient shall not infringe the rights (including any intellectual property rights) of any third party. On the expiry or other termination of these Terms, such licence shall terminate and the Recipient shall have no continuing rights in respect of any of Full Fibre's intellectual property rights (but this provision shall otherwise survive termination of these Terms).
- 7.9 The Recipient hereby grants to Full Fibre a worldwide, non-exclusive, non-transferable and royalty-free, licence (with the right to sub-licence) for the duration of these Terms and for a period of two years following their termination, to use and copy the Recipient Material and the Recipient's name, brand, logo and other intellectual property rights as required for the sole purpose of marketing Full Fibre, the Fund and the Project pursuant to this clause; and hereby warrants that the use of such intellectual property rights by Full Fibre shall not infringe the rights (including any intellectual property rights) of any third party. On the expiry or other termination of such two-year period, such licence shall terminate and Full Fibre shall have no continuing rights in respect of any of the Recipient's intellectual property rights (but this provision shall otherwise survive termination of these Terms).
- 7.10 With regard to the Recipient Material (and without limitation to clause 13.3), the Recipient further warrants that any person appearing in a photograph or other visual image forming part of, or otherwise identified in, the Recipient Material has consented to its use by Full Fibre pursuant to this clause (or, in the event that such person is under 18 years of age, such consent has been provided on their behalf by a parent, guardian or other person entitled to give it).
- 7.11 Full Fibre is entitled to audit references to Full Fibre and the Fund in any Publicity Materials produced by or for the Recipient and to require the Recipient to retract, amend or correct any inaccurate or misleading



references to Full Fibre or the Fund.

- 7.12 This clause 7 shall apply for the duration of these Terms and shall survive their termination without limit in time.

## **8 Reporting Requirements and Monitoring**

- 8.1 Full Fibre shall be entitled (but not obliged) to monitor the use of the Grant and to verify that it is used for the purposes that have been agreed and in accordance with these Terms.

- 8.2 The monitoring arrangements may vary according to the nature of the Grant, but Full Fibre will endeavour to ensure that those arrangements are appropriate and proportionate. Such arrangements may include requiring the Recipient to provide, within five Business Days of the request, any of the following:

8.2.1 copies of formal records such as receipts, invoices, quotations, estimates, bank statements and management accounts to show that funds have been used for the purposes which have been agreed and in accordance with the Terms;

8.2.2 regular written or verbal updates showing progress to date, summarising key achievements or problems encountered, indicating whether targets have been met and giving reasons for any delay in implementing the Project or activities funded by the Grant;

8.2.3 a final written report on completion of the Project or the activities funded by the Grant, showing how funds have been spent, evaluating where the activities have been successful and identifying lessons to be learnt; and

8.2.4 information about any proposed changes to the proposed Project or activities.

- 8.3 If appropriate, Full Fibre may also visit Grant-funded activities and interview individuals involved in running the Project or those activities.

- 8.4 Specific monitoring requirements may be set out in any terms, conditions or requirements notified to the Recipient by Full Fibre pursuant to clause 5.4. In addition, Full Fibre may take any additional steps to monitor the use of Grant funds that it considers appropriate.

- 8.5 Full Fibre may use any reports provided by the Recipient in respect of the Project for its own internal and external reporting purposes and to publicise the activities of, and support provided by, Full Fibre or the Fund in accordance with clause 7.

## **9 Recipient Undertakings**

- 9.1 For six years from the date of the Grant, the Recipient shall keep and maintain separate, accurate and up-to-date accounts and records of, and any other relevant documents relating to, the receipt and expenditure of the Grant (including, without limitation, those types of records referred to in clause 8.2.1); and shall keep and maintain such further financial and other records as Full Fibre may require.

- 9.2 The Recipient shall, promptly upon request, permit and enable Full Fibre or its authorised representatives to review, audit and take copies of the information referred to in clause 9.1, and reasonable access to its premises, facilities, employees, agents and records for the purpose of assessing and verifying the Recipient's compliance with these Terms.

- 9.3 The Recipient shall provide to Full Fibre:-
- 9.3.1 within six months after the end of its current financial year, its annual accounts (or such other financial information in respect of such period as Full Fibre may specify in writing); and
  - 9.3.2 promptly upon request such financial or other information as Full Fibre may, from time to time, require in order to verify that the Grant has been used properly in accordance with these Terms.
- 9.4 Where the Recipient intends to apply to a third party for further funding for the Project, it will notify Full Fibre in advance of its intention to do so and, where such funding is obtained, it will provide Full Fibre with details of the amount and purpose of that further funding.
- 9.5 Promptly after becoming aware of them, the Recipient shall notify Full Fibre of:-
- 9.5.1 any changes in the information submitted by or on behalf of the Recipient as part of its Application; and
  - 9.5.2 any event or potential event within clause 11 and, without limitation to Full Fibre's rights and remedies under clauses 11.1 and 12.2, any steps being taken to remedy it.

## **10 Representations and Warranties**

- 10.1 The Recipient hereby represents, warrants and undertakes that:-
- 10.1.1 the Recipient has full power and authority to enter into these Terms and to perform its obligations under these Terms or in connection with the Grant; and has obtained, and will maintain and comply with, all approvals, consents, licences and permits required for the purpose;
  - 10.1.2 on submission of an Application, these Terms will constitute a binding commitment on the part of the Recipient;
  - 10.1.3 the Recipient is eligible for a Grant under and in accordance with these Terms;
  - 10.1.4 the Recipient will at all times comply with these Terms and with all applicable legal requirements, and shall notify Full Fibre immediately of any material breach of any of them;
  - 10.1.5 to the best of its knowledge and belief (having made all reasonable enquiries), all information submitted by or on behalf of the Recipient as part of its Application, and all other financial and other information concerning the Recipient provided to Full Fibre from time to time, are true, complete and accurate in all material respects;
  - 10.1.6 assuming due receipt of the Grant, the Recipient has all the necessary resources and expertise to carry out and complete the Project; and
  - 10.1.7 the Recipient is not aware of any matter in its own affairs which it has not disclosed to Full Fibre which might reasonably have influenced the decision of Full Fibre to award the Grant pursuant to these Terms; and since the date of its last accounts, there has been no material change in its financial position, business or other activities, or prospects.

## **11 Withdrawal, Suspension and Repayment of Grant**

- 11.1 Full Fibre may, at any time by notice to the Recipient, withhold, suspend or cancel the payment of the Grant (or any part of it) or require repayment of all or part of the Grant previously paid in the event that:-
- 11.1.1 the Recipient uses the Grant for purposes other than the purposes set out in its Application or otherwise agreed with Full Fibre;
  - 11.1.2 the Project or purpose for which the Grant was awarded does not proceed at all, or the Recipient has not used any part of the Grant for any of the agreed purposes within three months of its payment, or provided Full Fibre with a reasonable explanation for the delay;
  - 11.1.3 part of the Grant remains unused when the Project which the Grant was intended to fund has been completed;
  - 11.1.4 the Recipient obtains funding from a third party which, in Full Fibre's reasonable opinion, undertakes activities that bring, or are likely to bring, Full Fibre into disrepute;
  - 11.1.5 the Recipient provides, or is found to have provided, Full Fibre with any materially misleading or inaccurate information;
  - 11.1.6 the Recipient fails to obtain any approvals, consents, licences and permits necessary for the commencement or conduct of the Project within the timescales set out in its Application or otherwise agreed with Full Fibre;
  - 11.1.7 the Recipient repudiates or evidences an intention to repudiate these Terms; or is in persistent or material breach of these Terms, or fails to comply with any applicable laws or regulatory requirements, and (if capable of remedy) fails to remedy any such failure within ten Business Days of Full Fibre notifying the Recipient of the default and the remedy required; or any representation, warranty or statement contained in clause 10 is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made or deemed made;
  - 11.1.8 the Recipient becomes insolvent or unable to pay its debts as they fall due for payment, or an order is made, a resolution is passed, a petition is presented or other proceedings are taken (which, in the case of such petition or other proceedings are not dismissed within seven days) for the winding up of the Recipient (whether compulsory or voluntary but other than voluntary for the purpose of a solvent amalgamation or reconstruction upon terms approved by Full Fibre), or a liquidator, administrator, administrative receiver, receiver or similar officer is appointed in respect of the Recipient or the whole or any part of its assets or business, or the Recipient compounds or enters into a scheme of arrangement or general assignment for the benefit of, or makes a composition with, its creditors or takes or suffers any similar or analogous action in consequence of debt in any jurisdiction; or
  - 11.1.9 the Recipient suspends or ceases to carry on all or a material part of its business or other activities as described in its Application or threatens to do so.

## **12 Confidentiality**

- 12.1 Each party will keep confidential, and neither party will disclose, any and all Confidential Information of the other party which is disclosed to or obtained by it under, as a result of or in connection with these Terms and will not use such Confidential Information or divulge it to any employee, officer, agent or third party except for the purposes of exercising its rights, or performing its obligations, under these Terms. A party in receipt of the Confidential Information of the other party must ensure that its employees, officers

and agents and any relevant third parties are aware of the confidential nature of the Confidential Information and comply with the provisions of this clause 12 as if named as a party.

- 12.2 Notwithstanding clause 12.1, Full Fibre may disclose to any actual or proposed assignee, transferee, delegate, sub-contractor or chargee of its rights or obligations under these Terms any information in its possession that relates to the Fund, the Recipient, the Project, the Grant or these Terms as Full Fibre (in its absolute discretion) considers necessary or appropriate for the purpose of arranging any such assignment, transfer, delegation, sub-contract or charge.
- 12.3 The obligations of confidentiality under this clause 12 do not apply to any information or material which the receiving party can prove:-
- 12.3.1 was already known to it or in its possession before it received it from the disclosing party;
  - 12.3.2 was disclosed to it lawfully and without restriction as to its disclosure by a third party who did not obtain it (whether directly or indirectly) from the disclosing party and did not breach any confidentiality obligations by making such disclosure to it;
  - 12.3.3 was in the public domain at the time of receiving it or has subsequently entered the public domain other than because of a breach of this clause **Error! Reference source not found.** or of any obligation of confidentiality owed by the receiving party or by any of its employees or agents to the disclosing party; or
  - 12.3.4 is required to be disclosed by applicable law or by order or regulation of a court or regulatory body of competent jurisdiction.
- 12.4 This clause 12 shall apply for the duration of these Terms and shall survive their termination without limit in time.

### 13 **Protection of Personal Data**

- 13.1 Each party shall comply with all applicable requirements of the Data Protection Legislation provided that this clause is in addition to, and does not relieve, remove or replace, that party's obligations under the Data Protection Legislation.
- 13.2 Where Full Fibre processes Personal Data (which means any data relating to a living individual who is or can be identified either from that data alone or from that data in conjunction with other information that is in, or is likely to come into, the possession of another party) for the Recipient in performing its obligations under these Terms, Full Fibre shall:-
- 13.2.1 only process such Personal Data as is necessary to ensure compliance with the Data Protection Legislation and to perform its obligations and exercise its rights under these Terms; and shall process Personal Data of or belonging or relating to the Recipient or any of its personnel in accordance with the Recipient's written instructions (as notified to Full Fibre from time to time) as to the scope, nature and purpose of the processing by Full Fibre, the duration of the processing and the types of Personal Data and categories of data subject; and shall immediately notify the Recipient if, in the reasonable opinion of Full Fibre, any such instruction infringes the Data Protection Legislation;
  - 13.2.2 ensure that it has in place technical and organisational measures to guard against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data which are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and to the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures to include, where appropriate, pseudonymising and encrypting

Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 13.2.3 ensure that all Full Fibre's staff who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- 13.2.4 not transfer any Personal Data outside of the United Kingdom unless the following conditions are fulfilled:
  - (a) the Recipient or Full Fibre has provided appropriate safeguards in relation to the transfer;
  - (b) the data subject has enforceable rights and effective legal remedies;
  - (c) Full Fibre complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (d) Full Fibre complies with reasonable instructions notified to it in advance by the Recipient in respect of the processing of the Personal Data;
- 13.2.5 promptly assist the Recipient in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with relevant supervisory authorities; and not knowingly or negligently do or omit to do anything which places the Recipient in breach of the Recipient's obligations in respect of Personal Data;
- 13.2.6 notify the Recipient promptly on becoming aware of a breach of the Data Protection Legislation; and
- 13.2.7 delete or return to the Recipient Personal Data (and copies thereof) promptly upon the expiry or other termination of these Terms unless required by the Data Protection Legislation to store the Personal Data.

13.3 With regard to any Personal Data processed by Full Fibre on behalf of the Recipient pursuant to these Terms, the Recipient shall ensure that it holds all necessary consents and notices to enable the lawful processing of such Personal Data for the purposes of these Terms.

#### 14 **Limitation of Liability**

- 14.1 Full Fibre's liability under these Terms is limited to the payment of any Grant it decides to award pursuant to these Terms. Without limitation, Full Fibre shall not be liable for any consequences (whether direct or indirect) of or from the use or withdrawal of the Grant and shall not assume any obligations, liability or responsibility for the conduct of the Project (which shall remain the sole and exclusive responsibility of the Recipient).
- 14.2 The Recipient shall indemnify and hold harmless Full Fibre and all its officers, employees, agents or other representatives with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Grant or its use, the conduct of the Project, or the breach of any obligations of the Recipient under these Terms or to third parties.
- 14.3 Nothing in these Terms shall limit or exclude any liability which cannot be excluded or limited by law.

## 15 Term

- 15.1 Subject to clause 15.2, these Terms take effect on and from the date on which Full Fibre receives the Recipient's Application and shall continue for so long as any Grant monies remain unspent by the Recipient.
- 15.2 Full Fibre may terminate these Terms and its liability to make any Grant payments:-
- 15.2.1 at any time on giving the Recipient not less than thirty days' prior written notice; or
- 15.2.2 immediately on notice upon the occurrence of any of the events listed in clause 11.1.
- 15.3 The expiry or termination of these Terms pursuant to this clause 15 shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of expiry or termination (including the right to claim damages in respect of any breach of these Terms which existed at or before the date of expiry or termination), or the continuing rights of either party under any provision of these Terms that, either expressly or by necessary implication, survives the expiry or termination of these Terms.

## 16 Notices

- 16.1 Any notice, demand or other communication given by either party under or in connection with these Terms shall be in writing, delivered by hand or sent by pre-paid registered post or other next Business Day delivery service, or by electronic mail, to:-
- 16.1.1 Full Fibre at Suite 2, Pynes Hill Court, Pynes Hill, Exeter EX2 5AZ (marked for the attention of the Community and Events Executive); E-mail address: [community@fullfibre.co](mailto:community@fullfibre.co); and
- 16.1.2 the Recipient at the postal address and e-mail address set out in its Application, or in each case to such other postal or e-mail address as one party may notify in writing to the other from time to time in accordance with this clause.
- 16.2 Any notice, demand or other communication delivered in accordance with clause 16.1 shall be deemed to have been received:-
- 16.2.1 if delivered by hand, at the time of delivery at the relevant address;
- 16.2.2 if posted by pre-paid registered post or other next Business Day delivery service, on the second Business Day after posting; and
- 16.2.3 if sent by electronic mail, at the time of transmission or, if there is evidence of disruption or non-delivery, when received in legible form, provided that if such delivery takes place on a day which is not a Business Day, or after 5.00pm on a Business Day, it shall be deemed to occur on the next Business Day.
- 16.3 This clause does not apply to the service of any legal, arbitration or other dispute resolution proceedings, service of which will accord with the rules regulating such proceedings.

## 17 General

- 17.1 *Assignment and Transfer:* The Recipient shall not assign, transfer, delegate, sub-contract, mortgage, charge, or otherwise deal with any of its rights or obligations under these Terms without the prior written consent of Full Fibre. Full Fibre may, without the consent of the Recipient, assign, transfer, delegate, sub-contract, mortgage, charge, or otherwise deal with any of its rights or obligations under these Terms (whether by novation or otherwise). These Terms shall be binding on, and enure to the benefit of, the

parties to these Terms and (where applicable) their respective successors and permitted assignees and transferees.

- 17.2 *Entire Agreement:* These Terms and any further grant letter provided by Full Fibre pursuant to clause 5.4 (but not, for the avoidance of doubt, the Application except to the extent expressly referred to in these Terms) constitute the entire agreement between the parties with respect of its subject matter and supersede and replace all prior written or oral agreements, promises, representations, warranties, understandings or correspondence between them relating to such subject-matter. Nothing in this clause shall limit or exclude any liability for fraud, fraudulent misrepresentation or fraudulent misstatement.
- 17.3 *Variations:* These Terms will be reviewed by Full Fibre on a regular basis and Full Fibre may vary these Terms from time to time provided that no such variations shall affect any Grant awarded prior to the date of such variation. The terms applying to any Grant previously awarded shall not be varied except as agreed in writing and signed by or on behalf of both parties.
- 17.4 *Invalidity:* If any provision of these Terms is or becomes invalid, illegal, void or unenforceable, the provision shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall, to the extent required, be deemed deleted. Any such modification to, or deletion of, a provision shall not modify, or affect the validity and enforceability of, the remainder of the Terms.
- 17.5 *Waivers:* No failure or delay by either party in exercising any right or remedy provided under these Terms or any applicable laws shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under these Terms is only effective if notified in writing to the other party.
- 17.6 *Parties' Relationship:* These Terms shall not constitute or imply any partnership, joint venture, agency, or fiduciary, employment or other relationship between the parties other than the contractual relationship expressly provided for in these Terms. Neither party shall have, nor represent that it has, any authority to make any commitments on the other party's behalf.
- 17.7 *Third Party Rights:* A person who is not party to these Terms shall have no rights, entitlements or benefits under it and shall not be entitled to enforce any of its provisions without Full Fibre's prior written consent.
- 17.8 *Further Assurance:* Each party shall, at the reasonable request and expense of the other party, execute and do any deeds and other things reasonably necessary in order to implement, evidence and confirm the provisions and the intended purpose of, these Terms and to confer on the other party the full benefit of all the provisions of these Terms.
- 17.9 *Joint and Several:* If the Recipient comprises two or more parties, then all obligations, liabilities, covenants, agreements and undertakings expressed or implied on the part of the Recipient in these Terms shall be deemed to be joint and several obligations, liabilities, covenants, agreements and undertakings by such parties; and where the context permits, references to the **Recipient** shall mean and include any one or more of such parties as well as such parties jointly.

## **18 Governing Law and Jurisdiction**

- 18.1 These Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or their subject matter or formation (a **Claim**) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 18.2 Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales with respect to any Claims.