

ANNEXURE C

AGRO ENERGY GRANT AGREEMENT: TERMS AND CONDITIONS FOR THE CONDITIONAL GRANT SUPPORT

This document sets out the Terms and Conditions of the Department of Agriculture, Land Reform and Rural Development (“DALRRD”) Agro Energy Conditional Grant Funding component that shall be blended with the Loan Facility from the Land Bank.

These Terms and Conditions shall be read in conjunction with the Loan Facility Agreement to be entered into between the Land Bank and the Successful Applicant, together with the offer letter and all other annexures applicable to the Loan Facility Agreement.

The blending of the DALRRD Agro Energy Conditional Grant Funding and the Land Bank’s Loan Facility is herein referred to as the “Blended Funding”. The Successful Applicant is a company, close corporation, trust or a natural person whose loan application has been approved by the Land Bank and accordingly, qualifies for the Blended Funding.

COMPLIANCE: The Successful Applicant is required to comply with all Applicable Laws as broadly defined in the loan facility agreement. In this regard, it will be the Successful Applicant’s sole responsibility to establish which legislation applies to his enterprise or business and to conduct, control, manage, and monitor the business in compliance with all such applicable legislation. The applicable legislation will include without limitation to:

- Financial Intelligence Centre Act 38 of 2001;
- National Environmental Management Act 107 of 1998;
- Labour Relations Act 66 of 1995;
- National Water Act 36 of 1998;
- Skills Development Act 97 of 1998;
- Basic Conditions of Employment Act 75 of 1997;
- Unemployment Insurance Act 63 of 2001;
- Income Tax Act 58 of 1962;
- Employment Equity Act 55 of 1998;
- Compensation for Occupational Injuries and Diseases Act 130 of 1993;



- Occupational Health and Safety Act 85 of 1993;
- Value Added Tax Act 89 of 1991; and
- All legislation applicable to the agricultural and forestry sectors.

DISCLOSURE: The Successful Applicant is required to disclose if he/she/it, or any of their immediate relatives or its related or interrelated entity(ies) (including trusts) had previously applied for any pending Government funding or have received any Government support for agricultural and/or land development and/or have received land from Government in terms of any Government programme.

INTENDED USE: The DALRRD Agro Energy Conditional Grant Funding will be used solely for its intended purpose as stipulated in the Agro Energy Concept and Criteria Document and in accordance with the approval granted by the Land Bank.

INSURANCE: The Successful Applicant is encouraged to maintain insurance on the alternative energy equipment and asset that is financed. If the Successful Applicant is unable to purchase insurance, then the said Applicant will be required to make provision for other mitigation measures as may be determined by the Land Bank providing the loan funding and must be obtained as prescribed as such by Land Bank.

MONITORING, REVIEW, AND EVALUATION: DALRRD and/or the Land Bank reserve the right to monitor and review the use of the DALRRD Agro Energy Conditional Grant Funding and the performance of the business of the Successful Applicant in line with the approved business plan. This may include onsite visits to assess the business' governance, management and operations, and review relevant financial and other records. Refusal by the Successful Applicant to allow DALRRD and/or the Land Bank or their agents to conduct onsite monitoring shall constitute a breach under these Terms and Conditions and under the Loan Facility Agreement.

OWN CONTRIBUTION: The Successful Applicant is required to demonstrate:

- significant own financial contribution to the enterprise supported (relative to their means and/or project size); or
- that the majority of their personal income will be derived from the enterprise operations funded by the DALRRD Agro Energy Conditional Grant;
- full time involvement in the enterprise/business funded notwithstanding that a suitably qualified person to manage the enterprise has been appointed or will be appointed.



PARTICIPATION IN THE BUSINESS: The Successful Applicant must have full time involvement in the business for at least 10 years following the disbursement of the Agro Energy conditional grant funding notwithstanding that a suitably qualified person to manage the enterprise has been appointed or will be appointed.

PERSONAL GUARANTEE: The Successful Applicant hereby irrevocably, unequivocally and unconditionally confirms and agrees that he/she/it will be personally liable for the reimbursement to DALRRD of the Agro Energy conditional grant amount for any non-adherence to these Terms and Conditions. For the avoidance of any doubts, the officials who by law are empowered to represent Successful Applicants that are juristic persons such as, but without limitation to, companies, close corporations, trusts, communal property associations and co-operatives shall and hereby assume personal liability for such reimbursement on behalf of companies, close corporation, trusts, communal property associations and co-operatives.

RECORD KEEPING: The Successful Applicant is required to maintain complete and accurate records (production and financial records) in accordance with all applicable legislation. The Successful Applicant will retain such records for the duration of the Blended Funding. At the request of DALRRD, the Successful Applicant will be required to make such records and reports available to enable DALRRD and/or the Land Bank to monitor and evaluate the impact of the Blended Funding on the agricultural sector.

SELLING OF ASSETS: The Successful Applicant shall not, of its own accord, transfer the assets funded by Agro Energy Funding within a period of ten (10) years from the date of first disbursement of the Agro Energy Funding. Should circumstances beyond the control of the Successful Applicant intervene within the aforesaid period of ten (10) years, the Successful Applicant may request DALRRD and the Land Bank to give written consents for the disposal of an asset.

Subject to the Land Bank's rights against the asset(s) of the business, the DALRRD Agro Energy Conditional Grant Funding will be recovered at the point of sale (forced or private treaty), and proceeds shall be paid to the Agro Energy Grant Fund Facility Account held by the Land Bank. For the avoidance of doubt, it is recorded that the Land Bank may register first ranking bonds over the movable assets of a Successful Applicant. On enforcement, the realisation proceeds shall first settle the Land Bank's exposure, including but without limitation, to outstanding loan capital and interest, fees (including legal fees) and expenses, to the extent that such outstanding loan capital and interest, fees and expenses, and any other related exposure are concomitant with the Agro Energy Fund only. The balance of the

sale proceeds shall be for the account of DALRRD and be paid to the Agro Energy Grant Fund Facility Account held by the Land Bank. Any surplus funds after payment to the Land Bank and DALRRD shall be for the benefit of the Successful Applicant.

TRAINING AND CAPACITY BUILDING: The Successful Applicant will be required to undergo a skill needs assessments/audit and where necessary will be obliged to avail himself/herself for such exercise including for training, mentorship and capacity building where applicable and deemed necessary by the Land Bank. Without derogating from the obligation to comply with applicable laws contemplated above, the Successful Applicant is required to comply with the Skills Development Act by contributing to the skills development levy if the total salaries are within the South African Revenue Services' thresholds. Skilling and capacity development of all personnel employed is mandatory.

TERMINATION: DALRRD may, in its sole and absolute discretion but subject always to the rights and interests of the Land Bank, modify, suspend, or discontinue any payment of the Agro Energy Conditional Grant Funds or terminate any Agro Energy Conditional Grant Fund Agreement that may have been concluded between it and the Successful Applicant if, amongst others:

- (a) it is not reasonably satisfied with the progress made on the business;
- (b) there are changes to the business ownership/leadership/management effected without prior written approval of DALRRD;
- (c) any other factor exists that DALRRD reasonably believes may threaten the success of the business as per business plan;
- (d) there is a change in control (other than registered ownership) of the business which has been effected without prior approval of the Land Bank and DALRRD; or
- (e) the Successful Applicant fails to comply with the applicable legislation, including but without limitation to tax, labour, regulatory, company or any regulation.

By signing this document, the Successful Applicant binds himself/herself/itself to these Terms and Conditions as set out herein and acknowledges that failure to comply and adhere to any of these Terms and Conditions shall constitute a breach, which breach shall entitle the DALRRD to terminate the DALRRD Agro Energy Conditional Grant Fund and recover any grant amount already disbursed to the Successful Applicant.

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Signed on this day

Place

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Signature (*successful applicant*)

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Print Name and Surname

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Witness

.....
Witness