

COMMUNITY ORCHARDS AGREEMENT (the “Agreement”)

Organisation (the “Recipient”): Ilmington Parish Council

Contact name: Martin Underwood

Postal address:

Email address: martin.underwood@ilmington-pc.gov.uk

Project title: Fruitful Pursuits Community Orchard Project

Our reference: CLHF – Lot 1 Orchards FP42

On behalf of the Recipient, I accept this Agreement and agree to the Conditions on which it is made.

Print name:

Signature:

Date:

CONDITIONS OF THE AGREEMENT (the “Condition(s)”)

1. The Council received funding from the Department for Environment, Food & Rural Affairs from the Coronation Living Heritage Fund (“CLHF”) to support local tree planting projects.
2. On the condition that the Recipient accepts and complies with these Conditions, the Council agrees to procure and plant the Trees set out in Schedule 1 of this Agreement in the quantity and Location(s) set out in Schedule 1 of this Agreement.
3. The Council will liaise with Recipient to confirm the Planting Date. Either party may request to the other party to change the Planting Date, whereby the other party must provide in writing its acceptance or rejection to the request to amend the Planting Date (such acceptance not to be unreasonably withheld or delayed).
4. Prior to the Planting Date, the Recipient shall provide to the Council all information reasonably requested by the Council within the timescales set out by the Council.
5. On the Planting Date, the Recipient shall allow the Council all reasonable access to the Location(s) for the Council to successfully plant the Trees at the Location(s).
6. Title and risk in the Trees passes to the Recipient immediately on Planting Completion.
7. The Trees are intended specifically for the Recipient and the Recipient shall not assign, transfer, sell, lease or fell the whole or any part of the Trees or the application of these Conditions without the prior written consent of the Council.

8. The Recipient shall immediately notify the Council of any change or proposal to change the legal status of the Recipient.
9. The Council shall meet the biosecure procurement requirement by sourcing Trees from suppliers who can provide the Recipient with evidence that they meet the requirements set out in the Plant Health Management Standard.
10. The Council shall use all reasonable endeavours to ensure that the Trees are suitable for planting. The Council does not warrant that the Trees will be free from defects (for the avoidance of doubt this includes disease), It shall be the responsibility of the Recipient to check the Trees for any defects, and if any defects are found by the Recipient, then the Recipient shall bear any costs required to correct the defects.
11. The Council shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the Trees.
12. The Recipient confirms:
 - a) that they have full capacity and authority to enter into the Agreement and can execute their obligations within the Agreement (if the Recipient is a tenant they will need to provide the Council with confirmation of the landlord's consent and if Recipient is not the sole owner of land, the Recipient will need to provide the Council with confirmation of all other landowners' consent);
 - b) that they understand that any work undertaken prior to the Planting Date will not be funded;
 - c) there shall be no attempt to commercially exploit any woodlands;
 - d) that there are no legal or other restrictions affecting the Location which prevent the completion of the tree planting;
13. The Council shall obtain and maintain in force all licences, permissions, authorisations, consents and permits required to give effect to this Agreement.
14. The Recipient shall obtain and maintain in force all necessary licences, permissions, authorisations, consents and permits required to give effect to this Agreement.
15. No person other than the Recipient and the Council has rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of these Conditions.
16. Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individual(s) who enter into and sign the Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under these Conditions.
17. These Conditions are intended to be legally binding and shall be subject to English law.
18. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
19. No omission from, addition to or variation from these Conditions will be valid unless agreed in writing by the Council.

Reporting and ongoing obligations

20. The Recipient shall comply with all reasonable requests from the Council for information relating to the status of the Trees in such formats as the Council may reasonably require from time to time, including any significant events (such as an open day).
21. The Council shall conduct visits to the Location(s) within the first year after the Planting Completion date to observe the progress of the Trees and the Recipient shall allow the Council all reasonable access to the Location(s).
22. Upon Planting Completion, the Recipient shall be responsible for the management and maintenance of the Trees.
23. From Planting Completion, the Recipient must maintain the Trees for at least 5 (five) years to ensure the successful establishment of the Trees.
24. The Recipient shall be responsible for the replacement of any Trees planted by the Council after Planting Completion.
25. The Recipient shall complete the Management and Assessment Form set out in Schedule 2 of this Agreement three to six months after Planting Completion. The Recipient shall continue to complete the Management and Assessment Form yearly from the date of Planting Completion for five (5) years.

Compliance

26. The Recipient shall comply with all statutes, orders, regulations or bye-laws applicable to the performance of its functions.
27. The Recipient will provide all necessary assistance and cooperation which is reasonably requested by the Council for the purposes of complying with its obligations under the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR"). If Council requires the Recipient to supply information pursuant to a FOIA/EIR request, the Recipient will supply all such information which is within its possession or control within two (2) working days (or such other period as is reasonably required).
28. The Recipient shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 or any other applicable equality legislation relating to the provision of services or employment. The Recipient shall take all reasonable steps to secure the observance of the provisions of employment legislation by its employees, volunteers, agents or sub-contractors.
29. The Recipient shall comply in all respects with the provisions of the Data Protection Act 2018 and shall indemnify the Council against all actions, costs, claims, proceedings or demands that may be brought or made against the Council for breach of statutory duty under the Act which arises from the use disclosure or transfer of personal data by the Recipient or its employees, volunteers, agents or sub-contractors.
30. The Recipient shall provide all reasonable assistance to the Council in meeting its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
31. The Recipient shall provide all reasonable assistance to the Council in meeting its obligations under the Subsidy Control Act 2022.

Liability

32. The Council accepts no liability for any consequences, whether direct or indirect, that may come about from this Agreement.
33. The Recipient shall indemnify and keep indemnified the Council and its employees and agents against any liability, claim, proceedings or expenses in respect of damage to any property or personal injury or death of any person which arises out of the act, default or negligence of the Recipient or its employees, volunteers, agents or sub-contractors. However this indemnity shall not apply in any case where any loss of property or death or injury to any person is caused by the negligence of the Council or its employees or agents.

Publicity

34. The Recipient shall, wherever reasonably possible, acknowledge the support of the Council on behalf of Department for Environment, Food & Rural Affairs' Coronation Living Heritage Fund in any publicity referring to the Trees. However, any publicity referring to the Council, including press releases and use of the Council's logo, must be approved by the Council.
35. The Council reserves the right to use all data provided by the Recipient for publicity or promotional purposes.

Termination

36. The Council reserves the right to terminate this agreement by giving the Recipient one (1) months' written notice.
37. Without prejudice to the Council's other rights and remedies, in the event that any of the following circumstances occur:
 - a. The Recipient fails to comply with these Conditions, or any other guidance issued by the Council in relation to the Agreement;
 - b. The Recipient or any of its employees, volunteers, subcontractors or agents commits any offence under the Bribery Act 2010 or gives any fee or reward the receipt of which is an offence under sub-section (3) of Section 117 of the Local Government Act 1972;
 - c. any member of the governing body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time, directly or indirectly to the detriment of the Project, or (b) taken any actions or made any statements which, in the reasonable opinion of the Council, bring or are likely to bring the Council's name or reputation into disrepute;
 - d. in the reasonable opinion of the Council, the Recipient has provided the Council with materially misleading or inaccurate information;
 - e. the Recipient ceases to operate for any reason, becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due,

the Council, at its reasonable discretion, shall be entitled to terminate this Agreement.

Defined Terms

Term	Definition
Council	Warwickshire County Council of Shire Hall, Market Place, Warwick, CV34 4RL.
Location(s)	Means the sites set out in Schedule 1 Annex 1.
Plant Health Management Standard	Means the Plant Health Management Standard requirements which can be found at the following link: https://planthealthy.org.uk/resource-topics/sector-guidance-documents .
Planting Completion	Means the date that the Council complete the planting of the Trees in accordance with Schedule 1 of this Agreement.
Planting Date	Means the date agreed in writing for the Council to plant the Trees at the Location(s).
Trees	Means the Trees set out in Schedule 1.

Schedule 1

Details of the project

The Council will plant the following trees at the Location set out in Annex 1:

1.

(the “**Trees**”)

To be confirmed

Annex 1

The Council shall plant the Trees at the following sites:

1.

(the “**Location(s)**”)



**Schedule 2
Management and Assessment Form**

Community Orchards Management Checklist and Assessment

Project Details

Name of Orchard	
Location	ilmington, Mickleton Road Rec field, CV36 4JQ
Grid reference / What3Words	SP 20980 43992 / locator.glades.wolves
Site Area (ha)	0.226ha
District/Borough	SDC
Name of Landowner	Ilmington Parish Council
Community Group/Rep. submitting application	Ilmington Parish Council
Partner Organisations	
Date Orchard Planted	
Date of WCC review	

PART 1: Community Orchard Details

Orchard details		Reviewer's comments
No. of trees planted		
Tree species:		
Tree spacing:		
Vehicle access?		
Has fencing been installed? If Yes, please confirm length (m) & current condition of fencing		
Any watering details/comments		

PART 2: Roles & Responsibilities

Roles & Responsibilities		Reviewer's comments
Landowner		
Community Group		
Advisors		

PART 3: Community Orchard Management & Engagement

Management / Engagement Details		Reviewer's comments
Summary description of management carried out since orchard planted:		
Details of any events / Community Engagement at Community Orchard: Any future events planned?		
Community Group(s) involved:		
No. of volunteers involved in Orchard:		
Orchard experience gained:		
Benefits to local community since Orchard planted: <i>Gardening groups /schools/fruit harvested</i>		
Any issues or difficulties encountered: <i>Vandalism, lack of community support, disease, weather..</i>		

PART 4: Site Visit – to be carried out by WCC Nat Cap Team.

Internal Site Visit Results	Reviewer's comments
Officer Responsible for Survey	
Survey dates	
Conditions and Limitations <i>e.g. weather, habitat condition and management etc and if these placed any limitations on the survey results?</i>	

Condition of fruit trees:	
Any tree losses? <i>Include no., species & reason for losses. Will these trees be replaced?</i>	
Any evidence of tree damage – deer / squirrels / vandalism?	
Photographs taken?	

PART 5: Comments and overall assessment

Reviewer Name:	
Overall Assessment comments:	
Assessment Result	
Reviewed Date:	