

2. **Representations**

We are entering into this Agreement on the basis that you are representing that:

- 2.1 You are properly constituted and enrolled by ENTRUST as an Environmental Body (EB), have the power and authority to enter into and complete this Agreement and that you accept that the terms of this Agreement will be legally binding on you and enforceable in accordance with its terms.
- 2.2 All information given in support of your application was true and accurate and not misleading at the time it was given.

3. **Funding Conditions**

We will release funds on condition that (and that you warrant that) the following conditions have been and will at all times continue to be met:

- 3.1 All requisite approvals, consents and licenses relating to the project or projects to which you will apply our funding payments are in place.
- 3.2 The projects and the project activities, where described in your application, have not and will not be changed or varied without our written consent.
- 3.3 If required by us as a Condition of Funding you have granted or obtained for our benefit in the case of default a security over assets or property that may be created or benefit by project funding, in a form and substance satisfactory to us.
- 3.4 Project approval in respect of the projects to which you propose to allocate funds has been received from ENTRUST and copied to us.
- 3.5 You have provided evidence that you have adequate indemnity insurance up to the amount of our total contribution with our and the LO's interest noted on the policy to cover us and the LO in respect of any default event specified in this Agreement.
- 3.6 Funding payments will be applied only on or towards the expense and cost of the projects described in your application to us for funding subject to it being permissible that you expend on you own internal administrative costs and overheads such proportion of the total funding payment as is reasonable in the light of the degree of involvement/supervision you have to exercise in relation to the expenditure of the funding payment, up to the ENTRUST guidance limit of 8%.
- 3.7 You will at all times keep and make available to us on demand proper and full books of record and account providing such information financial and otherwise as to the allocation and expenditure of funds as is sufficient to allow us to establish where and when funds have been applied and in what amounts, by reference to ENTRUST scheme numbers in every case.

- 3.8 You will at all times on request permit us to inspect the project or projects including all relevant books, valuations, accounting records and other material relating to the project activities and you will provide us with advice on reasonable demand on the current status and progress of the project.
- 3.9 Where funding has been agreed by reference to scheduled payments that schedule forms part of this Agreement. Funding for the next phase will be released at our discretion.
- 3.10 Where funding has not been agreed by reference to scheduled payments then any request for funding shall be made as funds are required and any approval by us of such requests shall be deemed to be entirely subject to these terms and conditions which shall apply in their entirety to your use of all and any resultant funding,
- 3.11 Where the project falls within categories (d) and/or (e) of paragraph 33 (2) the Regulations, you undertake to use your best endeavours to ensure the project facilities remain in public use for at least the foreseeable future.
- 3.12 To ensure that project activities shall comply with the Regulations, you will comply with such directions and requirements as are requisite in the context of and by reference to the Regulations as we may from time to time specify.
- 3.13 Project activities must be started within 2 years of this Agreement, unless an extension of time is agreed between us in writing.
- 3.14 You will procure that an independent sponsor pays the LO's 10% shortfall resulting from our donation before any funding payments are made under this Agreement.
- 3.15 You will provide us on demand with information sufficient to satisfy us that you have been and will be complying with each and every aspect of the Regulations including expending each funding payment or any part of it and any income derived from it on approved projects that further your approved objects.
- 3.16 If any funds are directed towards research projects or if any projects give rise to information of use or application in any commercial respect then such research/information will be disseminated/published/made available broadly and publicly by you and you shall notify us of such research/information at the time it is so disseminated/published/made available.
- 3.17 Without prejudice to the requirement on you to spend or use or apply each funding payment or any part of it on approved projects our donation is paid to you on strict condition that all or any part of it or any income derived from it is spent by you only in the course or furtherance of your approved objects.

4. **Default**

- 4.1 A default has occurred and / or you are in breach of this Agreement inter alia but without limitation if:
- 4.1.1 Your application was made fraudulently recklessly or negligently or you do not comply with any of its terms.
 - 4.1.2 Any event occurs which, in our or the LO's discretion, will render it unlikely that the project activities will be completed by the agreed completion date or at all including any insolvency event occurring in relation to you.
 - 4.1.3 Any event of force majeure occurring in respect of you, us, the LO or the project activities.
 - 4.1.4 You apply funding otherwise than towards the project activities as communicated to us in your application
 - 4.1.5 The LO is obliged through or as a result of your failure to abide by the Regulations to pay to Customs and Excise the value of all or any part of any funding payment.
 - 4.1.6 Your ENTRUST enrolment as an EB is revoked or the ENTRUST project approval to the project is revoked or (without prejudice to the requirement on you only to spend or use or apply the funding payment or any part of it on any projects identified in your application) where all or any part of any funding payment and/or any income derived from it is used or applied towards any purpose which is not the course of furtherance of your approved objects.
 - 4.1.7 You fail to comply with any aspect of the Regulations (including but not limited to failure to provide ENTRUST with audited accounts and with notification within the requisite timescale of all contributions received and payments made to projects in your portfolio or other approved projects and to comply with the rules on the open and fair tendering of contracts).
 - 4.1.8 Any external person, organisation or company exercises or purports to exercise undue control over the use or application of any funds received by you from any source.
 - 4.1.9 You seek to employ engage or appoint any person or company to undertake or provide any remunerated work or service in connection with project activities or the allocation/expenditure of funds who is a Connected person as defined in the Taxes Act 1988 Section 839, (save that for the purposes of the definition in Section 839 as applied to this sub-clause a Connected person shall additionally include any of your employees).
 - 4.1.10 If a Distributive EB, you fail to put in place a funding agreement with those third parties to whom you allocate funds which: is substantially in the form of this Agreement; provides us and the LO with each and every one of the remedies we and the LO have under this Agreement; and allows us and the LO to enforce those remedies if necessary directly against any of those third parties which are in default.

- 4.1.11 Any member of your Board or senior management at any time becomes insolvent or (if a Director or Trustee) becomes ineligible or disentitled (or has at any time been ineligible or disentitled) in law to continue to act as a Director or Trustee of a Limited Company or Trust.
- 4.1.12 You break any one or more of the Funding conditions set out in Clause 3.
- 4.1.13 Following any investigation into your affairs or the affairs of any member of your Board by ENTRUST, an adverse report is received.
- 4.1.14 You fail to allocate or direct the funds to the Project within two years of the date of release of the funds in question to you.
- 4.2 You must notify us immediately if any such default occurs or appears likely to occur.
- 4.3 If any such default occurs which cannot be remedied or which you fail to remedy within thirty days of our requesting you to do so in writing, we (for the purposes of clause 4.3.1) and we and the LO (for the purposes of clause 4.3.2) are entitled (without payment of compensation or incurring any liability to you) to;
 - 4.3.1 suspend or cancel all further provision of funding or make all further provision of funding subject to conditions which we specify and are in accordance with the Regulations and/or
 - 4.3.2 demand immediate repayment of any part of the funding already made, and you will in any event indemnify us and the LO fully against any costs, losses or expenses including without limitation interest costs or losses incurred in relation to the eventuality specified in clause 4.1.4 and any consequential loss that we or the LO may incur or suffer in relation to the circumstances giving rise to your obligation to repay

5. **General**

- 5.1 Your part of this Agreement is personal to you and may not be assigned without our written approval.
- 5.2 This Agreement is governed by English law.
- 5.3 Notices required to be given under this Agreement shall be delivered by hand, post, facsimile or e-mail at our address notified to you and shall be deemed to have been delivered 24 hours after posting. Where information or payments are to be provided by you, these shall be sent by recorded delivery.
- 5.4 Liability under these conditions is joint and several, where you comprise more than one person.
- 5.5 Both parties will act in good faith towards each other in relation to all matters arising under this Agreement and without prejudice to your obligations set out in clause 4 above you will inform us fully as soon as possible of any circumstances which might prejudice our or the LO's position under the Regulations.

- 5.6 Immediately on revocation of your enrolment as an EB or your ceasing to operate as an EB for any reason you will return us the remaining/outstanding proportion of the funds or at our total discretion direct the remaining/unspent funds to another EB nominated by us.
- 5.7 Without prejudice to your liability to indemnify us under condition 4.3.2 you shall maintain insurance cover with the insurance policy effecting such cover having our and the LO's interest noted on it, to cover any liability that arises under condition 4.3.2
- 5.8 Any correspondence lying behind this Agreement will be deemed to be incorporated into it unless specifically stated otherwise within this Agreement.
- 5.9 No failure/delay by us (or the LO) in enforcing any of our (or the LO's) rights under this agreement shall be deemed to be a waiver of that right and no waiver of a breach of any provision shall be deemed to be a waiver of any further or future breach of the same or any other provision.
- 5.10 If any provision of this Agreement is held by any Court or any competent authority to be invalid or unenforceable in any respect the other provisions of the Agreement shall continue in full force and effect

In consideration of a) our receiving your application and entering into this agreement and b) (subject always to the terms and conditions set out above) making funding payments, you accept and agree to abide by the Terms and Conditions set out above in each and every particular

Signed: _____

Name: _____

Date:

For and on behalf of
Insert your groups name here:

Signed: _____

Name: _____

Date:

For and on behalf of VIRIDOR CREDITS – CARADON LIMITED

SCHEDULE
PROJECT TIMELINE

<u>QUARTER</u>	<u>MILESTONE</u>	<u>AMOUNT</u>
TOTAL PROJECT COST		£

Note: The above schedule should represent the total project spend detailed on your application form. Should the total vary by 10% or more from the application form please use the space below to explain the reasons for the difference.