

Department for Environment Food and Rural Affairs

Local Authority Air Quality Grant Programme 2011/12

Grant Agreement

GRANT OFFER ACCEPTANCE FORM

[insert project name]

Acceptance of grant offer

We **[insert here local authority/ies name]** have read and understand this offer and all the terms and conditions of this offer, and we hereby formally accept.

Signed on behalf of the Local Authority(ies)

Position

Name

Date

Signed on behalf of the Authority

Name

Position

Date

FOR OFFICIAL USE ONLY:

I certify that I am satisfied with plans for the projects and payment should be made against the:

	Amount	Processed
[insert name]		

Name of official:

Date:

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GRANT TERMS AND CONDITIONS

THIS AGREEMENT IS MADE ON THE [] DAY OF [] 2011

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR THE DEPARTMENT OF THE ENVIRONMENT, FOOD AND RURAL AFFAIRS** of Nobel House, 17 Smith Square, London, SW1P 3JR (hereinafter referred to as “**the Authority**”); and
- (2) [insert full name of grant recipient] of [insert full address but if registered company please insert the following – (registered in England and Wales under number [insert company number])] whose registered office is situated at [] (the “**Grant Recipient**”)

WHEREAS the Authority has agreed to provide the Grant to the Grant Recipient for the Approved Project and upon the terms and conditions set out below:

NOW IT IS HEREBY AGREED as follows:

1. INTRODUCTION

- 1.1 This Agreement sets out the terms and conditions on which the Grant is made by the Authority to the Grant Recipient.
- 1.2 This Agreement may be amended from time to time only by the written agreement of both parties.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement the following terms shall have the following meanings:
 - “Agreement” means this written agreement between the Authority and the Grant Recipient consisting of these clause and any attached schedules.
 - “Approved Project” means the project described in Schedule 1.
 - “Commencement Date” means [insert start date].
 - “Confidential Information” means all personal data and sensitive personal data within the meaning of the DPA and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel, and suppliers of the Authority or the Grant Recipient (as the case may be), including all Intellectual Property Rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably be considered to be confidential.
 - “DPA” means the Data Protection Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
 - “EIR” means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
 - “Financial Irregularity” means any fraud or other impropriety, mismanagement or use of the Grant for purposes other than an Approved Project.
 - “FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“Governing Body” means the governing body of the Grant Recipient including its directors or trustees.

“Grant” means the sum of £ [insert amount] to be paid to the Grant Recipient in accordance with this Agreement.

“Grant Period” means the period for which the Grant is awarded starting on the Commencement Date and ending on [insert date by which the grant must be spent ie proposed project end date as to be set out in Schedule 1].

“HMG Security Policy Framework” means the Cabinet Office Security Policy Framework (available from the Cabinet Office Security Policy Division) as updated from time to time.

“Intellectual Property Rights” means patents, utility models, inventions, trademarks, service copyrights and design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“Know-How” means information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Prohibited Act: means:

(a) offering, giving or agreeing to give to any servant of the Authority any gift or consideration of any kind as an inducement or reward for:

(i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Authority; or

(ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Authority;

(b) entering into this Agreement or any other contract with the Authority where a commission has been paid or has been agreed to be paid by the Grant Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Authority;

(c) committing any offence:

(i) under the Prevention of Corruption Acts 1889 to 1916;

(ii) under legislation creating offences in respect of fraudulent acts; or

(iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Authority; or

(d) defrauding or attempting to defraud or conspiring to defraud the Authority.

“Project Plan” means a detailed plan showing the activities to be undertaken on the Approved Project including but not limited to information on the timing of in terms of start and end dates within the Grant Period, the milestones and due dates for any deliverables, detail on the measurement and monitoring of the success of the Approved Project and plans for dissemination of the outputs and findings.

“Sound Operational Principles” means adherence to any statutory, professional and sectoral guidance regarding the operation of an organisation including but not limited to structures for ensuring good governance, accountability and financial management.

“Staff” means all persons employed by the Grant Recipient to perform its obligations under the Agreement together with the Grant Recipient’s servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the Agreement

“Sub-Contractor” means a third party directly or indirectly contracted to the Grant Recipient whose (irrespective of whether such person is an agent or company within the same group of companies as the Grant Recipient) services and/or goods are used by the Grant Recipient (either directly or indirectly) in connection with the provision of the Approved Project, and “Sub-Contract” shall be construed accordingly..

2.2 The headings are inserted for convenience only and shall not affect the interpretation of the Agreement.

2.3 Reference to any legislative and statutory requirement or similar instrument shall be deemed to include reference to any subsequent amendment to them.

2.4 References to any person shall, as the context may require, be construed as a reference to any individual, firm, company, corporation, government department, agency or any association or partnership (whether or not having a separate legal personality).

2.5 Unless the context requires otherwise, the singular shall include the plural and vice versa, and the masculine shall include the feminine and vice versa.

3. PURPOSE OF GRANT

3.1 The Grant Recipient shall use the Grant only for the delivery of the Approved Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Authority.

3.2 The Grant Recipient shall not make any significant change to the Approved Project without the Authority's prior written agreement. The Grant Recipient shall inform the Authority immediately of any likely delays of more than three (3) months to the Approved Project and of any significant changes to the scope of the Approved Project.

3.3 Where the Grant Recipient intends to apply to a third party for other funding for the Approved Project, it will notify the Authority in advance of its intention to do so and, where such funding is obtained, it will provide the Authority with details of the amount and purpose of that funding. The Grant Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Approved Project or any related administration costs that the Authority is funding in full under this Agreement.

4. PAYMENT OF GRANT

4.1 Subject to clause 10, the Authority shall pay the Grant in full to the Grant Recipient in accordance with Schedule 3 once a Project Plan written by the Grant Recipient has been approved by the Authority, inserted into Schedule 1 of the Agreement and the Agreement has been signed.

4.2 The amount of the Grant shall not be increased in the event of any overspend by the Grant Recipient in its delivery of the Approved Project.

4.3 The Grant Recipient shall promptly repay to the Authority any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Grant Recipient.

4.4 Onward payment of the Grant and the use of Sub-Contractors shall not relieve the Grant Recipient of any of its obligations under this Agreement, including the obligation to repay the Grant.

4.5 The Grant offer has been made on the basis that the costs presented to the Authority take account of all VAT liabilities. If it is later found that the project costs increase because an error has been made about whether VAT can be recovered, the Authority shall be under no obligation to increase the Grant to pay any VAT liability of the Grant Recipient.

4.6 The Grant Recipient shall not charge VAT on expenses which are not chargeable to VAT.

4.7 The Grant Recipient shall submit a claim for payment of the Grant to the Authority for its approval, at such periods as are either specified in Schedule 3 or otherwise required by the Authority. Each and every claim for payment of the Grant submitted by the Grant Recipient to the Authority shall include all such records and information as the Authority may specify or, if not specified, all such records and information as the Authority may reasonably require including details and evidence of expenses incurred and programme of work undertaken, and such other information as are necessary to enable verify the information and the amounts referred to in the claim for payment. The Grant Recipient must include the relevant purchase order number on all invoices.

5. USE OF GRANT

5.1 The Grant shall be used by the Grant Recipient for the delivery of the Approved Project in accordance with the agreed budget set out in Annex D. For the avoidance of doubt, the

- amount of the Grant that the Grant Recipient may spend on any item of expenditure listed in column 1 of Annex D. shall not exceed the corresponding sum of money listed in column 2 without the prior written agreement of the Authority.
- 5.2 Where the Grant Recipient has obtained funding from a third party in relation to its delivery of the Approved Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the budget in Annex D together with a clear description of what that funding shall be used for.
- 5.3 The Grant Recipient must ensure that the Grant is spent on the Approved Project and shall not use the Grant for expenditure on any of the following activities:
- a) Expenditure of a party political or exclusively religious nature;
 - b) Expenditure commitments of the Grant Recipient entered into before the Commencement Date;
 - c) VAT that is recoverable by or on behalf of the Grant Recipient or that which becomes recoverable during the Grant Period other than for timing mismatch between payment and recovery;
 - d) Contingencies;
 - e) Dividends declared;
 - f) Depreciation and amortisation of assets to the extent that the costs of the assets have been funded by grant;
 - g) Payment for unfunded pensions;
 - h) Motoring and other fines;
 - i) Late payment charges for credit or charge cards (unless incurred as a result of late reimbursement);
 - j) Activities funded from other sources;
 - k) Activities not set out in the Approved Project;
 - l) Activities for which funding would more properly be provided by some other agency or department and in particular services that others have a statutory duty to provide;
 - m) Expenditure supported from other sources to the extent that the combined Grant and other support total more than 100% of the Approved Project;
 - n) Any liability arising out of negligence on the part of the Grant Recipient or its representatives, Sub-Contractors, and agents;
 - o) Payments arising from a contractual commitment by single tender action with a former director of the Grant Recipient or former member of its staff without written approval from Defra;
 - p) Any profit element. No profit, dividends, bonuses and/or any similar or equivalent benefit will be paid to the owners, members and directors of the Grant Recipient or any other organisation or persons;
 - q) Interest charges;
 - r) Criminal fines and damages imposed or awarded by courts;
 - s) Corporation tax;
 - t) Purchase of land or the purchase and/ or construction of buildings;
 - u) Penalties/civil damages arising from civil/criminal legal proceedings taken against the Grant Recipient or civil proceedings started by the Grant Recipient, whether or not the Grant Recipient is successful or acquitted, even if the proceedings were in pursuance of, or in consequence of the Approved Project.
- 5.4 The Grant Recipient shall not spend any part of the Grant on the delivery of the Approved Project after the Grant Period without prior written approval from the Authority. .
- 5.5 Should any part of the Grant remain unspent at the end of the Grant Period, the Grant Recipient shall ensure that any unspent monies are returned to the Authority unless otherwise agreed in writing by the Authority.
- 5.6 Any liabilities arising at the end of the Approved Project including any redundancy liabilities for staff employed by the Grant Recipient to deliver the Approved Project must be managed and paid for by the Grant Recipient using the Grant or other resources of the Grant Recipient. There will be no additional funding available from the Authority for this purpose.
- 6. MONITORING AND REPORTING**
- 6.1 The Grant Recipient shall closely monitor the delivery and success of the Approved Project throughout the Grant Period to ensure that the aims and objectives of the Approved Project are being met and that this Agreement is being adhered to.

- 6.2 The Grant Recipient shall provide the Authority with a financial report and an operational report on its use of the Grant and delivery of the Approved Project when requested to do so by the Authority and within thirty (30) days of the request being made and in such formats as the Authority may reasonably require.
- 6.3 Where the Grant Recipient has obtained funding from a third party for its delivery of part of the Approved Project, the Grant Recipient shall include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 6.4 The Grant Recipient shall on request provide the Authority with such further information, explanations and documents as the Authority may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 6.5 The Grant Recipient shall permit any person authorised by the Authority such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Grant Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 6.6 The Grant Recipient shall permit any person authorised by the Authority for the purpose to visit the Grant Recipient to monitor the delivery of the Approved Project.
- 6.7 The Grant Recipient shall provide the Authority with a final report on completion of the Grant Period which shall confirm whether the Approved Project has been successfully and properly completed. The Grant Recipient should provide in the final report as requested by the Authority, details of the finances and work programme undertaken to evaluate and summarise the work undertaken on the Approved Project.

7. ACCOUNTS AND RECORDS

- 7.1 The Grant Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.
- 7.2 The Grant Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six (6) years following receipt of any Grant monies to which they relate. The Authority shall have the right to review, at the Authority's reasonable request, the Grant Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 7.3 The Grant Recipient shall provide the Authority with a copy of its annual accounts within six (6) months (or such lesser period as the Authority may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 7.4 The Grant Recipient shall comply and facilitate the Authority's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Authority.

8. FINANCIAL IRREGULARITY

- 8.1 The Grant Recipient shall conduct its business in accordance with Sound Operational Principles and shall take any steps required by the Authority to ensure that any persons to whom it pays the Grant also operate on such terms.
- 8.2 The Grant Recipient shall ensure that it has such procedures in place as are required by law to identify any Financial Irregularity or other impropriety in connection with the administration of the Grant.
- 8.3 The Grant Recipient shall notify the Authority immediately of any actual or suspected Financial Irregularity (or any circumstances which are likely in the Grant Recipient's opinion to result in Financial Irregularity), and indicate the steps that are being taken to address this.

9. CONFLICT OF INETREST

The Grant Recipient shall put adequate procedures in place to ensure that there is no actual or perceived risk of bias or other conflict of interest that might call into question:

- (a) the Grant Recipient's eligibility to receive the Grant, or
- (b) where the Grant Recipient is responsible for further distribution of the Grant to third parties, its impartiality when administering the Grant.

10. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

10.1 The Authority's intention is that the Grant will be paid to the Grant Recipient in full. However, without prejudice to the Authority's other rights and remedies, the Authority may at its discretion reduce, withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

- (a) the Grant Recipient uses the Grant for purposes other than those for which they have been awarded;
- (b) the delivery of the Approved Project does not start within 3 months of the Commencement Date and the Grant Recipient has failed to provide the Authority with a reasonable explanation for the delay;
- (c) the Authority considers that the Grant Recipient has not made satisfactory progress with the delivery of the Approved Project;
- (d) the Grant Recipient is, in the reasonable opinion of the Authority, delivering the Approved Project in a negligent manner;
- (e) the Grant Recipient obtains duplicate funding from a third party for the Approved Project;
- (f) the Grant Recipient obtains funding from a third party which, in the reasonable opinion of the Authority, undertakes activities that are likely to bring the reputation of the Approved Project and/or the Authority into disrepute;
- (g) the Grant Recipient provides the Authority with any materially misleading or inaccurate information;
- (h) the Grant Recipient commits or committed a Prohibited Act;
- (i) the Grant Recipient incurs expenditure on activities that breach European state aid or public procurement rules;
- (i) any member of the Governing Body, employee or volunteer of the Grant Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Approved Project or (b) taken any actions which, in the reasonable opinion of the Authority, bring or are likely to bring the Authority's name or reputation into disrepute;
- (j) the Grant Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (k) the Grant Recipient 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; or
- (l) the Grant Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within thirty (30) days of receiving written notice detailing the failure.
- (m) the Authority exercises its rights of termination or discontinuance pursuant to clause 22.

10.2 Wherever under the Agreement any sum of money is recoverable from or payable by the Grant Recipient (including any sum that the Grant Recipient is liable to pay to the Authority in respect of any breach of the Agreement), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Grant Recipient under the Agreement or under any other agreement or contract with the Authority.

- 10.3 The Grant Recipient shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 10.4 Should the Grant Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Approved Project or compliance with this Agreement, it will notify the Authority as soon as possible so that, if possible, and without creating any legal obligation, the Authority will have an opportunity to provide assistance in resolving the problem or to take action to protect the Authority and the Grant monies.

11. CONFIDENTIALITY

- 11.1 Except to the extent set out in this clause or where disclosure or publication is expressly permitted elsewhere in this Agreement, the Grant Recipient shall treat all Confidential Information belonging to the Authority as confidential and shall not disclose any Confidential Information belonging to the Authority to any other person without the prior written consent of the Authority, except to such persons and to such extent as may be necessary for the performance of the Grant Recipient's obligations under the Agreement
- 11.2 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, the Authority shall treat all Confidential Information belonging to the Grant Recipient as confidential and shall not disclose any Confidential Information belonging to the Grant Recipient to any other person without the prior written consent of the Grant Recipient, except to such persons and to such extent as may be necessary for the performance of the Authority's obligations under the Agreement.
- 11.3 The Grant Recipient hereby gives its consent for the Authority to publish the Agreement in its entirety (but with any information which is Confidential Information belonging to the Authority redacted), including from time to time agreed changes to the Agreement, to the general public.
- 11.4 Where required by the Authority, the Grant Recipient shall ensure that Staff, professional advisors and consultants sign a non disclosure agreement prior to commencing any work in connection with the Agreement in substantially the form attached at Schedule 5 hereto. The Grant Recipient shall maintain a list of the non-disclosure agreements completed in accordance with this clause 11.4. Where requested by the Authority, the Grant Recipient shall provide the Authority with a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Grant Recipient shall ensure that its Staff, professional advisors and consultants are aware of the Grant Recipient's confidentiality obligations under the Agreement.
- 11.5 The Grant Recipient may only disclose the Authority's Confidential Information to the Staff who are directly involved in the performance of the Approved Project and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- 11.6 The Grant Recipient shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Agreement.
- 11.7 Clauses 11.1 and 11.2 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations;
 - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - (c) such information was obtained from a third party without obligation of confidentiality;
 - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
 - (e) it is independently developed without access to the other Party's Confidential Information.

- 11.8 Nothing in clauses 11.1 and 11.2 shall prevent the Authority disclosing any Confidential Information obtained from the Grant Recipient:
- (a) for the purpose of the examination and certification of the Authority's accounts; or
 - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - (c) to any government department or any other Contracting Authority and the Grant Recipient hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or
 - (d) to any consultant, contractor or other person engaged by the Authority,
- provided that in disclosing information under sub-paragraphs (c) and (d) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 11.9 Nothing in clauses 11.1 to 11.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Agreement in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- 11.10 The Authority shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Grant Recipient's Confidential Information is disclosed pursuant to clause 11.6 is made aware of the Authority's obligations of confidentiality.
- 11.11 In the event that the Grant Recipient fails to comply with clauses 11.1 to 11.6, the Authority reserves the right to terminate the Agreement with immediate effect by notice in writing.
- 11.12 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the G&S under the Agreement, the Grant Recipient undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- 11.13 The Grant Recipient will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the G&S under the Agreement and will keep a record of such breaches. The Grant Recipient will use its best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Grant Recipient's obligations under clauses 11.1 to 11.6. The Grant Recipient will co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
- 11.14 The Grant Recipient shall, at its own expense, alter any security systems at any time during the Grant Period at the Authority's request if the Authority reasonably believes the Grant Recipient has failed to comply with clause 11.12.

12. FREEDOM OF INFORMATION

- 12.1 The Grant Recipient acknowledges that the Authority is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the Authority (at the Grant Recipient's expense) to enable the Authority to comply with these information disclosure requirements.
- 12.2 The Grant Recipient shall:
- (a) transfer the request for information to the Authority as soon as practicable after receipt and in any event within two (2) working days of receiving a request for information;
 - (b) provide the Authority with a copy of all information in its possession or power in the form that the Authority requires within five (5) working days (or such other period as the Authority may specify) of the Authority requesting that information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 12.3 The Authority shall be responsible for determining at its absolute discretion whether the information:
- (a) is exempt from disclosure in accordance with the provisions of the Freedom of Information Act or the Environmental Information Regulations;
 - (b) is to be disclosed in response to a request for information.
- 12.4 In no event shall the Grant Recipient respond directly to a request for information unless expressly authorised to do so by the Authority.
- 12.5 The Grant Recipient acknowledges that (notwithstanding the provisions of clause 11 (Confidentiality)) the Authority may, acting in accordance with the Codes of Practice under the FOIA or the EIR 2004 to disclose information:
- (a) without consulting with the Grant Recipient; or
 - (b) following consultation with the Grant Recipient and having taken its views into account,
- provided always that where clause 12.5(a) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Grant Recipient advanced notice, or failing that, to draw the disclosure to the Grant Recipient's attention after any such disclosure.
- 12.6 The Grant Recipient shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

13. DATA PROTECTION

- 13.1 The Grant Recipient shall (and shall procure that all of its staff) comply with any notification requirements under the DPA and both parties will duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 13.2 The provision of clause 13.1 shall apply during the Grant Period and indefinitely after its expiry.

14. INTELLECTUAL PROPERTY RIGHTS

- 14.1 The Grant Recipient shall make all reasonable enquiries concerning Intellectual Property Rights and shall ensure that there are no such rights which are required in connection with its work on the Approved Project other than those which it owns or which it has permission to use. Where it is necessary to obtain permission to use a third party's Intellectual Property Rights in order to complete the Approved Project the Grant Recipient shall:
- a) obtain the necessary permission;
 - b) notify the Authority where it has been unable to obtain the relevant permission; and
 - c) where the Grant Recipient has or obtains the relevant rights, ensure that it understands the scope of the permission(s) it has and that they subsist throughout the Grant Period.
- 14.2 Subject to any prior rights and to the rights of third parties, the Grant Recipient hereby assigns copyright to the Crown and all other Intellectual Property Rights to the Authority, in all reports, documents and things produced in relation to the Approved Project. Without prejudice to the generality of the foregoing, any Intellectual Property Rights in or over any Know-How or any other material which may be supplied to the Grant Recipient by the Authority or any other

government department in relation to the Approved Project shall remain vested in the Authority or government department (as the case may be) and, for the avoidance of doubt, such supply shall entitle the Grant Recipient only to use such rights to the extent necessary to perform the Approved Project and shall not constitute an assignment of such intellectual property to the Grant Recipient or any other person.

- 14.3 The information collected pursuant to the Approved Project (excluding any information which in the reasonable opinion of the Authority is confidential to the Grant Recipient or which has been communicated to the Grant Recipient under a condition that it shall be confidential to the Grant Recipient) shall be the property of the Crown and/or the Authority and all original documents in whatever form which contain that information, including any computer tape or disk, any voice recording and any special computer programme written to give access to the information, shall on request be deposited with the Authority.
- 14.4 The Grant Recipient shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Approved Project, grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign.
- 14.5 The Grant Recipient warrants that the terms of any Sub-Contract shall enable it to comply with clause 14.4.
- 14.6 The Authority grants to the Grant Recipient a revocable, royalty-free, worldwide, non-exclusive licence (with a right to sub-license, transfer, novate or assign) to use any Intellectual Property Rights that the Grant Recipient develops in performance of the Approved Project.
- 14.7 The Authority may assign any Intellectual Property Rights that have been developed in performance of the Approved Project to the Grant Recipient. Such assignment shall be at the absolute discretion of the Authority and shall be conditional on the Grant Recipient granting to the Authority an irrevocable, royalty-free, worldwide, non-exclusive licence (with a right to sub-license) to use such Intellectual Property Rights for any purpose.

15. WARRANTIES

The Grant Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Approved Project (assuming due receipt of the Grant);
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Authority immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Approved Project;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Grant Recipient which has been disclosed to the Authority is to the best of its knowledge and belief, true and accurate;
- (h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- (i) it is not aware of anything in its own affairs, which it has not disclosed to the Authority or any of the Authority's advisers, which might reasonably have influenced the decision of the Authority to make the Grant on the terms contained in this Agreement; and

(j) since the date of its last accounts there has been no material change in its financial position or prospects.

16. INSURANCE AND INDEMNITY

- 16.1 The Grant Recipient shall, with effect from the Commencement Date, ensure that it holds all appropriate forms of insurance necessary for the normal execution of its activities and any such extension of cover as may be necessary for the activities or risks associated with the activities for which the Authority provides the Grant. The Grant Recipient shall make its insurance cover available to the Authority on request.
- 16.2 The Authority accepts no liability for any consequences, whether direct or indirect, that may come about from the Grant Recipient running the Approved Project, the use of the Grant or from withdrawal of the Grant. The Grant Recipient shall indemnify and hold harmless the Authority, its employees, agents, officers or Sub-Contractors 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 Grant Recipient in relation to the Approved Project, the non-fulfilment of obligations of the Grant Recipient under this Agreement or its obligations to third parties.
- 16.3 Subject to clause 16.2, the Authority's liability under this Agreement is limited to the payment of the Grant.

17. PROCUREMENT AND STATE AIDS

- 17.1 Where the Grant Recipient seeks to procure the supply of any goods, works or services from a third party it shall ensure that contracts or further distribution of the Grant are procured on a basis that complies in all material aspects with all relevant European and UK Legislation on public procurement, including without limitation the Public Contracts Regulations 2006 as applicable.
- 17.2 Where the Grant Recipient reasonably considers that there is an objective justification for not complying with clause 17.1 and seeks to rely on such a justification it shall record this in writing and make this available to the Authority on request.
- 17.3 The Grant Recipient shall not carry out any activities that could be constituted as state-aided, and nor shall it pay illegal state aid to any organisation or individual.

18. PUBLICITY

- 18.1 The Grant Recipient shall acknowledge the support of the Authority in any materials that refer to the Approved Project and in any written or spoken public presentations about the Approved Project. Such acknowledgements (where appropriate or as requested by the Authority) shall include the Authority's name and logo (or any future name or logo adopted by the Authority) using the templates provided by the Authority from time to time.
- 18.2 In using the Authority's name and logo, the Grant Recipient shall comply with all reasonable branding guidelines issued by the Authority from time to time.
- 18.3 The Grant Recipient agrees to participate in and co-operate with promotional activities relating to the Approved Project that may be instigated and/or organised by the Authority.
- 18.4 The Authority may acknowledge the Grant Recipient's involvement in the Approved Project as appropriate without prior notice.
- 18.5 The Grant Recipient shall comply with all reasonable requests from the Authority to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Authority in its promotional and fundraising activities relating to the Approved Project.

19. ENVIRONMENTAL REQUIREMENTS

- 19.1 The Grant Recipient shall perform the Approved Project in accordance with the Authority'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.

- 19.2 The Grant Recipient shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the Approved Project or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.
- 19.3 The Grant Recipient shall take all possible precautions to ensure that any equipment and materials used in the provision of the Approved Project do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Authority shall be notified in advance of their use. The Grant Recipient shall endeavour to reduce fuel emissions wherever possible.
- 19.4 In accordance with the Authority's commitments under the Sustainable Operations on the Government Estate (SOG E) targets, the Grant Recipient shall in its delivery of the Approved Project assist the Authority in its delivery of the departmental sustainable operations targets by conserving energy and water, reducing carbon emissions and waste, respecting biodiversity, and increasing recycling where appropriate.

20. GENERAL

The Grant Recipient shall use its reasonable endeavours to ensure that in carrying out the Approved Project it and anyone acting on its behalf complies with the law which applies in England. If the Grant will be distributed outside the United Kingdom and/or the European Union the Grant Recipient shall use its reasonable endeavours to ensure that:

- (a) such funding does not contravene the laws of any other country: and
- (b) such funding is not used to support activities which could bring the Authority's name into disrepute.

21. DURATION

Except where otherwise specified, the terms of this Agreement shall apply from the Commencement Date until the expiry of the Grant Period at which point any Grant monies which remain unspent by the Grant Recipient shall be returned to the Authority. For the avoidance of doubt this clause does not release the Grant Recipient from any ongoing obligations under this Agreement.

22. TERMINATION

- 22.1 The Authority may terminate this Agreement and any Grant payments on giving the Grant Recipient thirty (30) days written notice for other reason. If the Authority exercises its right to terminate under this clause, any Grant monies which remain unspent by the Grant Recipient shall be returned to the Authority.
- 22.2 The Authority shall be entitled to discontinue the Grant on satisfactory completion of the Approved Project for which the Grant is provided or at the end of the Grant Period, whichever is earlier. If the Authority exercises its right to discontinue under this clause, any Grant monies which remain unspent by the Grant Recipient shall be returned to the Authority.

23. ASSIGNMENT

The Grant Recipient may not, without the prior written consent of the Authority, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Approved Project, transfer or pay to any other person any part of the Grant.

24. WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

25. NOTICES

- 25.1 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be

deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

25.2 The authorised representative of the parties for this purpose (which may be amended in writing) shall be as follows:

Authority: [insert post-title and contact details]

Grant Recipient: [insert post-title and contact details]

26. DISPUTE RESOLUTION

26.1 The parties shall in good faith attempt to resolve any dispute which arises out of or in relation to the Grant within fourteen (14) days.

26.2 If the parties are unable to resolve the dispute in the way set out in clause 26.1 they shall consider and use a process of alternative dispute resolution which is appropriate for the dispute and to which they both agree.

26.3 If the parties agree that mediation is the appropriate means of resolving their dispute they shall follow the procedure set out below:

(a) A neutral person ("the Mediator") shall be chosen by agreement between the relevant parties. Alternatively, any party may within fourteen (14) days from the date of the proposal to appoint a mediator, or within fourteen (14) days of notice to any party that the chosen mediator is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a mediator.

(b) The parties shall within fourteen (14) days of the appointment of the mediator meet with him/her to agree a timetable and suitable procedure for mediation.

(c) Unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the parties in any future proceedings.

(d) If the parties reach agreement on the resolution of the dispute, that agreement shall be recorded in writing and shall be binding upon the parties;

(e) If the parties are unable to agree, either party may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant parties.

(f) For a period of sixty (60) days from the date of the appointment of the Mediator, or such other period as the parties may agree, neither party may commence any proceedings in relation to the matters referred to the Mediator.

27. NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between the Authority and the Grant Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

28. JOINT AND SEVERAL LIABILITY

Where the Grant Recipient is neither a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Grant Recipient shall be jointly and severally liable for the Grant Recipient's obligations and liabilities arising under this Agreement.

29. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

30. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts. This does not limit the Authority's right to commence legal proceedings in any other court of competent jurisdiction, including concurrent proceedings.

**SCHEDULE 1
THE APPROVED PROJECT**

[Insert information about the project here from application form]

- Aims and objectives
- Proposed project
- Benefits and outputs
- Contribution to national effort
- Previous work
- Monitoring success
- Dissemination

[Project Plan]

- Spend profile
- Milestones and deliverables

**SCHEDULE 2
PAYMENT SCHEDULE**

The Authority agrees, subject to the Grant Recipient's compliance with this Agreement to make the following payments for the Approved Project against proper invoices duly received by the Authority.

Amount of Grant Payable	Date of Payment

**SCHEDULE 3
BREAKDOWN OF GRANT**

Item of Expenditure	Budget (in UK Sterling)
Labour	
Capital	
Consumables	
Other	