

Particulars of a charge

4567

Particulars of a charge

Trustee statement ①

1

Signature

Signature

X

Darwins

X

This form must be signed by a person with an interest in the charge



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 680007

Charge code: 0068 0007 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st January 2014 and created by BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th February 2014

Given at Companies House, Cardiff on 11th February 2014



Companies House



DX

CREDITS

DATED 31 January 2014

BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST

- to -

VIRIDOR CREDITS ENVIRONMENTAL COMPANY

LEGAL CHARGE

- of -

Meadow Farm

Pawlett

Blackthorn

Bicester

We hereby certify this to be a true
and complete copy of the original
of which it purports to be a copy
Darbys Solicitors LLP

Date 07/02/2014 Darbys

LEGAL CHARGE dated 31 January 2014

BETWEEN

- (1) **BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST** a Company Limited by guarantee incorporated and registered in England and Wales with Company Number 0680007 whose registered office is at The Lodge, 1 Armstrong Road, Littlemore, Oxford, OX4 4XT ("the Company")

And

- (2) **VIRIDOR CREDITS ENVIRONMENTAL COMPANY** a Registered Charity under Number 4293742 whose registered office is at Aintree House, Blackbrook Park Avenue, Taunton, TA1 2PX ("Viridor Credits")

BACKGROUND

- (A) Viridor Credits is an Environmental Body registered with ENTRUST under number 331293
- (B) Viridor Credits has the power to spend qualifying contributions which it receives from the Landfill Communities Fund under the LCF Regulations including asset requirements, Section 32 (1) (b) of the Landfill Tax Regulations
- (C) Viridor Credits has agreed pursuant to the Funding Agreement to provide the Company with funding on a secured basis, for the project
- (D) The Company are the owners of the Property
- (E) This legal mortgage provides security which the Company has agreed to give Viridor Credits for the LCF funding.

Assets Guidance

ENTRUST, as the Landfill Communities Fund scheme Regulator, requires Environmental Bodies such as Viridor Credits to ensure compliance with the Regulations which includes, the protection of Landfill Communities Fund funded assets, the monitoring of Assets for given time periods based upon value and the management of assets covering sale or disposal. A copy of the ENTRUST Guidance is Annexed to this Deed in Schedule II

1. Introduction

“ENTRUST”	means the Environmental Trust Scheme Regulatory Body Limited (Company No 3221000) being the Regulator of an Environmental Body under Section 33 of the Regulations
“Environmental Body”	means an approved body defined under Section 33 of the Regulations and registered with ENTRUST
“Funds”	means the sum of £51,000 provided by Viridor Credits to the Company in connection with the Project which are deemed to be assets within the Regulations and subject to the Funding Agreement Conditions
“Funding Agreement”	means the terms and conditions attached to the Funding Agreement dated 2 December 2013 and a copy of which is annexed to this Deed in Schedule 1
“Fund Period”	means the period starting on the date of this Legal Charge and ending on the date the Funds have been repaid, or no further liability arises under the Funding Agreement and or the Regulations
“Landfill Communities Fund” “LCF”	means those qualifying contributions made under Section 33 of the Regulations which are received by “Viridor Credits”
“Project”	means the land purchase at Meadow Farm, Blackthorn
“the Property”	means all that freehold land known as Meadow Farm, Blackthorn, Bicester, OX25 1TW as the same is as registered at HM Land Registry with Title Absolute under title number ON154546
“Regulations”	means the Landfill Tax Regulations 1996 as amended, varied or revised from time to time
“Income”	relates to Section 30 (1) of the Regulations which expressly provides that income includes interest and also a proportion of any income derived from the sale or disposal of an asset that is equal to the proportion of the LCF monies that were used to purchase the asset see Schedule II

1.2 All Parties agree that this Legal Charge is to ensure compliance with the LCF Regulations and is designed to ensure the Project remains in compliance in terms of the management of LCF funded Assets only

1.3 In this Legal Charge where the context so admits the expressions the Company and "Viridor Credits" include their respective successors in title and assigns

1.4 It is a condition of the Funding Agreement that the Company grants a Legal Charge on the Property on the terms set out in this Deed

2. Payment of the LCF Funds

"Viridor Credits" shall pay the LCF Funds to the Company in accordance with the Regulations and Funding Agreement for the purpose of the Project

3. Repayment of the Funds by

3.1 If the Company shall at any time prior to the expiration of the Fund Period be in breach of the Regulations or the Funding Agreement the Funds (or so much of it as shall at that time have been paid by Viridor Credits to the Company) shall be repayable to Viridor Credits forthwith upon receipt of a written demand from Viridor Credits and Viridor Credits shall be entitled to exercise the powers of sale and appointing a receiver on the date of service of such notice if the LCF Funds have not been repaid

3.2 Interest shall be payable by the Company to Viridor Credits on the Funds (or so much of it as shall at that time have been paid by Viridor Credits to the Company) from the date of the notice referred to in Clause 3.1 until the actual date of repayment at a rate equal to 4% per year above the Bank of England bank rate from time to time (as well after as before any judgment)

4. Legal Charge

The Company charges with full title guarantee by way of legal mortgage the Property and all Income with the repayment to Viridor Credits of the LCF Funds in accordance with the terms of this Deed.

5. Appointment of a Receiver

- 5 1 At any time after the money secured by this Deed shall have become payable, due to a breach in compliance within the Fund Period, Viridor Credits may from time to time appoint any person or persons to be the receiver or receivers of the whole or any part of the Property and may from time to time remove any receiver so appointed and appoint another in his place This is to enable Viridor Credits to fulfil its obligations to manage LCF Assets and recover the LCF Funds
- 5 2 Any receiver appointed by Viridor Credits may if so directed in writing by Viridor Credits in his absolute discretion have power to
- 5 2 1 enter upon and take possession of the Property or any part of it and complete any buildings on it which may be unfinished
- 5 2 2 enter upon and take possession of the whole or any part of the Property and commence or continue construction of any building or buildings whether or not in accordance with the Works then being carried on at the Property
- 5 2 3 borrow or raise or secure the payment of money (whether or not in priority to the monies secured by this Deed) in such manner as the receiver shall in his absolute discretion think fit
- 5 2 4 obtain all necessary planning permission bye-law consents and any other permissions consents or licences as may be necessary to deal with the Property as he thinks fit
- 5 2 5 enter into any agreement deed or bond as may be necessary to deal with the Property and to do acts and things incidental thereto
- 5 2 6 manage any building or carry on any business carried on at the Property as agents for the Company in such manner as he may think fit
- 5 2 7 employ solicitors architects surveyors estate agents builders and workers and others and purchase all proper material as he shall deem necessary

5 2.8 sell transfer convert into money and realise the whole or any part of the Property in the name of and on behalf of

5 2.9 grant any lease or tenancy of the whole or any part of the Property at any or no rent and with or without any premium and generally on such terms as he may think fit and accept the surrender of any lease or tenancy and give a receipt for any premium payable on any such grant or surrender and vary the terms of any lease or tenancy of the Property or of any lease or tenancy under which the Property or any part thereof is held

5 2.10 make any change or arrangement as to boundaries with the adjoining owners and neighbours

5 2.11 compromise any claim or claims of or against the Property or arising out of the Property

5 2.12 effect indemnity insurance and other like insurance and obtain Bonds

5.2.13 do all such other acts and things as may be considered to be incidental or conducive which he lawfully may or can do as agent for

5 2.14 in addition to the foregoing powers to do any act or thing which the Receiver appointed under Section 109 of the Law of Property Act 1925 would have power to do

PROVIDED THAT the receiver shall not have power to do anything which is outside the power of

5 3 All monies expended by the receiver shall on demand be repaid by the Company with interest at 4% per year above the Bank of England base rate from time to time from the respective times at which such money shall have been expended until the date of repayment and until repayment such monies and interest shall be charged on the Property

5 4 Any receiver appointed by Viridor Credits shall so far as the law allows be deemed to be the agent of the Company for all purposes who shall solely be

responsible for his acts and Viridor Credits shall not be under any liability for his remuneration or otherwise.

- 5 5 Viridor Credits shall itself be entitled to do any of the acts and things capable of being done by a receiver in accordance with Clause 5.2 at any time after the moneys hereby secured shall have become repayable without appointing a receiver for that purpose

6. Power of Attorney

The Company hereby irrevocably appoints Viridor Credits and any receiver appointed in accordance with Clause 5 its Attorney for all or any of the purposes of these presents and subject to the proviso to Clause 5.2 the Company hereby ratifies and confirms and agrees to ratify and confirm whatsoever Viridor Credits or any such receiver shall do or purport to do by virtue of this clause

7. Registration

By executing this deed the Company applies for the following restriction to be entered in the Proprietorship Register of the title to the Property at HM Land Registry "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any Legal Charge registered after the date of this Legal Charge is to be completed by registration without a written consent signed by the proprietor for the time being of the Charge dated **31 January** 2014 in favour of Viridor Credits referred to in the Charges Register, or if appropriate signed on such proprietors behalf by its secretary or conveyancer"

8. Charities Act 2011

- 8.1 The land charged is held by Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust, a non-exempt charity and this charge is not one falling within section 124(9) of the Charities Act 2011, so that the restrictions imposed by section 124 of that Act apply
- 8 2 The restrictions on disposition imposed by sections 117 to 121 of the Charities Act 2011 also apply to the land (subject to section 117(3) of that Act).

8 3 The directors of the charity, being the persons who have the general control and management of its administration certify that

- (a) they have power under the provisions establishing the charity and regulating its purposes and administration to effect this charge, and
- (b) they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011

9. Execution

This Legal Charge was executed as a deed but not delivered until the date hereinbefore written

SIGNED as a DEED by

BERKSHIRE, BUCKINGHAMSHIRE

AND OXFORDSHIRE WILDLIFE TRUST

Print

Director

Print

Director/Secretary

Name _____

Print _____

For and On Behalf of Viridor Credits

Environmental Company

Schedule 1

Funding Agreement

FUNDING AGREEMENT - TERMS AND CONDITIONS

THIS AGREEMENT is made on the 2nd day of December 2013

BETWEEN

VIRIDOR CREDITS ENVIRONMENTAL COMPANY a Registered Charity Number **1096538** (Company Number 4293742) whose registered office is at Aintree House, Blackbrook Park Avenue, Taunton, Somerset TA1 2PX ("VC")

AND

Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust, The Lodge, 1 Armstrong Road, Littlemore, Oxford, OX4 4X1 ("The Recipient")

WHEREAS

- a) VC is an Environmental Body registered with ENTRUST under number 331293
- b) VC is allocated Landfill Tax Credits from the LO to spend on approved objects under s 33 of the Regulations
- c) VC and the Applicant wish to record the conditions on which VC has agreed to contribute sums to the Applicant

IT IS HEREBY AGREED AS FOLLOWS**1. Definitions**

In this funding agreement the following words are defined as follows -

"Agreement"	this agreement between the parties
"Application Form"	means VC's standard application form as completed by the Applicant relating to the Project which forms part of this Agreement
"ENTRUST"	means the Environmental Trust Scheme Regulatory Body Limited (Company Number 3221000) being the regulator of EB's under the Regulations or its successor from time to time
"Environmental Body"	means an 'approved body' as defined in s33 of the Regulations and registered with ENTRUST
"Expiry Date"	means the earlier of the date on which the Project is completed or two years from the date of the offer letter
"Force Majeure"	Force Majeure means including but not limited to the following <ul style="list-style-type: none"> (a) Acts of God, flood, earthquake, windstorm or other natural disaster, (b) epidemic or pandemic (c) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions

FUNDING AGREEMENT - TERMS AND CONDITIONS

- (d) terrorist attack, civil war, civil commotion or riots,
- (e) nuclear, chemical or biological contamination or sonic boom,
- (f) compliance with any law or governmental order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition,
- (g) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party) or accidental damage,
- (h) extreme adverse weather conditions,
- (i) interruption or failure of utility service, including but not limited to electric power, gas or water,
- (j) any labour dispute, including but not limited to strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as such party),
- (k) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause), and
- (l) collapse of building structures, failure of plant machinery, machinery, computers or vehicles
- (m) any other reason beyond the reasonable control of the parties to this Agreement, **provided that** the event was not due to the fault or negligence of the affected party or requested, promoted or caused by it, and/or where such party has taken any reasonable precautions against such event of Force Majeure and any reasonable alternative measures of performing its obligations

"Funds/Funding"	all or any part of the monies, payments or donation paid to the Project by VC under this Agreement.
"Income"	has the meaning ascribed to it by Section 30 of the Regulations For the avoidance of doubt, 'income' includes not just income realised on disposal of an asset but also income generated by the asset, proportional to the Funding provided
"Interest"	the interest rate set at the level of the Bank of England's base-rate from time to time in force
"HMRC"	Her Majesty's Revenue & Customs
"Landfill Tax Credits"	means those 'qualifying contributions' as defined in s 33 of the Regulations which are passed to VC by the LO for approved objects under the Regulations

FUNDING AGREEMENT - TERMS AND CONDITIONS

Legal Charge"	means a legal charge in the form attached or substantially the form attached as a separate document
'LO"	Viridor Waste Management Limited (Company No 00575069) whose registered office is at Peninsula House, Rydon Lane, Exeter Devon, EX2 7HR or any other landfill operator which provides Landfill Tax Credits
'Project"	the Applicant's project and objectives approved by VC in relation to this agreement
"Project Activities"	the activities which are necessary or prudent to carry out in order to complete the Project
"Property"	means any property in relation to the Project which receives LCF monies
"Public Use"	means a minimum required access for the public for at least two days per week or 4 evenings per week or 104 days per year
"Regulations"	the Landfill Tax Regulations 1996 as amended varied or re-enacted from time to time

2. Representations

The Applicant represents that

- 2.1 The Applicant has the power and authority to enter into and complete this Agreement and accepts that the terms of this Agreement will be legally binding and enforceable on the Applicant
- 2.2 All information given in the Application Form and in all correspondence and documents supporting the application is true and accurate and not misleading at the time of this Agreement
- 2.3 The Applicant has secured from an independent third party 10% of the total cost of the Project, including the Entrust levy, which will be applied to the Project or Project Activities
- 2.4 The Applicant is a not-for-profit organisation and will not materially increase any fees/operating costs charged by it or overheads deducted/paid by it in respect of the Project in connection with the provision of Funds under this Agreement

3 Funding Conditions

VC will release Funds strictly subject to the following conditions

- 3.1 All requisite approvals, consents and licenses relating to the Project and Project Activities to which the Applicant will apply the Funding payments are in place

FUNDING AGREEMENT - TERMS AND CONDITIONS

- 3 2 The Project and the Project Activities, as described in the Application, will not be changed or varied without the written consent of VC
- 3 3 The Applicant will at all times keep and make available to VC on demand such information financial and otherwise relating to the allocation and expenditure of Funds as reasonably requested by VC
- 3 4 The Applicant will at all times on request permit VC to inspect the Project including the inspection of all relevant books, valuations, accounting records and other material relating to the Project and will provide VC with information on demand on the current status and progress of the Project
- 3 5 The Applicant will report to VC on the progress of the Project and Project Activities as requested by VC. For the avoidance of doubt this will be required no less frequently than once a quarter
- 3 6 In reporting any information to VC concerning the Project, the Applicant will quote the unique VC reference number as well as the ENTRUST reference number provided for the Project at all times
- 3 7 The Applicant will comply with such directions and requirements as VC may from time to time specify in order to comply with the Regulations and the guidance of ENTRUST
- 3 8 The Applicant must notify VC where it becomes apparent that the Project will not proceed or complete and in such cases the Applicant will cease to incur further expenditure and cease sending invoices to VC
- 3 9 Project Activities must be started within one year of this Agreement, unless an extension of time is agreed between the parties to this Agreement in writing
- 3 10 The Project must be completed by the Expiry Date
- 3 11 Funding will only continue for as long as VC continues to be enrolled as an EB
- 3 12 The Applicant will provide VC on demand with information sufficient to satisfy VC that it has been and will be complying with each and every aspect of the Regulations
- 3 13 The Funding will not be increased in the event of any overspend by the Applicant on the Project. Any variation in the level of support would have to be the subject of a re-assessment by VC and/or a revised application
- 3 14 The Applicant will notify VC as soon as possible in the event that it anticipates that the Project will realise a distributable financial profit
- 3 15 In the event the Project realises a financial profit the profit will be reinvested in the Project or repaid to VC as agreed between the parties. Any reinvestment of the profit must be made in accordance with the Regulations and VC's objectives
- 3 16 The Applicant undertakes to VC that the Funding will only support actual expenditure on the items identified in the Application (which will form part of this agreement) and

FUNDING AGREEMENT - TERMS AND CONDITIONS

for which ENTRUST approval has been gained and that Funding will not be spent on the Applicant's general operating costs

- 3 17 The Applicant will keep full and proper records of any Income derived resulting from the Project and will provide these records to VC or ENTRUST or such third party as VC may nominate promptly on request

4. Title to Assets

- 4 1 The Applicant will provide to VC on demand proof of title (in a manner and form reasonably requested by VC) of the Property and/or any asset which is purchased, or of other land upon which Funding is spent
- 4 2 The Applicant consents to VC investigating the title of the Applicant's Property and/or any asset which is purchased or of other land upon which Funding is spent
- 4 3 If the Project is concerned with the purchase of the Property, or Project Activities on which Property or land Funding is spent, or development or reclamation or remediation of the Property to which the Applicant possesses title, the Applicant will enter into a Legal Charge of the Property with VC
- 4 4 Where the Property is unregistered the Applicant will consent to registering a caution against first registration with HM Land Registry in favour of VC
- 4 5 The Applicant will register a restriction on the registered title of the Property or land asset, or in the case of unregistered land, a caution against first registration will be registered with the Land Registry preventing any disposition of the land without VC's consent in the following form or substantially the following form provided always the restriction complies with HM Land Registry guidance

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without the prior written consent signed by the proprietor for the time being of the charge dated [] in favour of **VIRIDOR CREDITS ENVIRONMENTAL COMPANY** referred to in the charges register or their conveyance "

A copy of this restriction will be forwarded to VC before final funding payments will be made

5 Valuation

- 5 1 If the Project involves the purchase of Property or Project Activities on or development and/or the reclamation of and/or remediation of the Property the Applicant -
- 5 1 1 Will permit the Property to be valued before, during and after the carrying out of the Project upon reasonable request and notice by VC by the local District Valuation Office or a qualified valuer (the "Valuer") as determined by VC,
- 5 1 2 Hereby undertakes and agrees to refund to VC upon disposal -

FUNDING AGREEMENT - TERMS AND CONDITIONS

- 5 1 2 1 the whole or part of the difference ("the Difference") between any increase in the valuation of the Property prior to and after completing the Project, and
- 5 1 2 2 the amount of Interest on such sum as is required to be included on VC's asset register in accordance with the ENTRUST guidance in force from time to time,
- 5 1 2 3 the reasonable costs of the valuer

- 5 2 A disposal occurs under clause 5 1 if the Property is sold, transferred, gifted, leased, assigned, or sub-let

6. Public Use

- 6 1 Where the Project falls within category (d) of Regulation 33 (2) of the Regulations the Property or land affected by the Project Activities must be used for Public Use
- 6 2 Where the Project falls within category (e) of Regulation 33 (2) of the Regulations the Property or land affected by the Project Activities must be advertised for Public Use
- 6 3 If the Applicant disposes of or transfers the Property or Project, the Applicant will ensure that any successors in title to the Property or Project will covenant in the transfer or disposal documentation or agreement (enforceable by and expressed to be enforceable by VC and its successors in title in their own right) to comply with the Applicant's obligations under this Agreement
- 6 4 The restrictions set out in clauses 6 1 to 6 3 above will only apply for such period as VC will be required to keep the Property on its asset register, in accordance with guidance issued by ENTRUST (or any successor) from time to time
- 6 5 If the Project involves research and/or development, whether exclusively or otherwise, the Applicant undertakes to ensure that the said research and/or development will be made publicly available and to such persons as VC will from time to time require

7. Default

- 7 1 A default has occurred and the Applicant is deemed to be in breach of this Agreement if
 - 7 1 1 The Applicant breaches the terms of this Agreement and/or fails to comply with any aspect of the Regulations
 - 7 1 2 The Applicant has fraudulently recklessly or negligently or otherwise misrepresented any information supplied in the Application or this Agreement
 - 7 1 3 Any event occurs which, in VC's opinion will render it unlikely that the Project will be completed by the agreed completion date and within the agreed Funding budget
 - 7 1 4 The Applicant being an organisation is involved in the following processes
 - (i) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Applicant or

FUNDING AGREEMENT - TERMS AND CONDITIONS

- (ii) the making of an application for an administration order or the making of an administration order in relation to the Applicant, or
 - (iii) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Applicant, or
 - (iv) the appointment of a receiver or manager or an administrative receiver in relation to any property or Income of the Applicant, or
 - (v) the commencement of a voluntary winding-up in respect of the Applicant, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies, or
 - (vi) the making of a petition for a winding-up order or a winding-up order in respect of the Applicant, or
 - (vii) the striking-off of the Applicant from the Register of Companies or the making of an application for the Applicant to be struck-off, or
 - (viii) the Applicant otherwise ceasing to exist
- 7.1.5 Any event of Force Majeure occurs which prevents the Applicant from carrying out its obligations under this Agreement
- 7.1.6 The Applicant applies all or any part of the Funding towards any activity or purpose that is not covered as part of the Project Activities used to perform the Project
- 7.1.7 The LO is obliged through or as a result of the Applicant's failure to abide by the Regulations or as a result of any action or omission by the Applicant to repay to HMRC all or any part of any Funding payment
- 7.1.8 The Applicant fails to comply with any aspect of the Regulations
- 7.1.9 Without prejudice to the requirement on the Applicant to only spend or use or apply the Funding payment or any part of it on the Project or Project Activities identified in the Application Form, 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 the Project
- 7.1.10 The Applicant fails to direct VC to apply the Funds to the Project within two years of the date of this Agreement
- 7.2 The Applicant must notify VC immediately if any such default occurs or appears likely to occur
- 7.3 If any such default occurs which cannot be remedied or which in the case of a breach that is capable of being remedied the Applicant fails to remedy within thirty days of written notice by VC requesting the breach be remedied VC is entitled (without payment of compensation or incurring any liability to the Applicant) to

FUNDING AGREEMENT - TERMS AND CONDITIONS

7.3.1 suspend or cancel all further provision of Funding or make all further provision of Funding subject to conditions which VC specify and which are in accordance with the Regulations and/or

7.3.2 demand immediate repayment of any part of the Funding already made and the Applicant will indemnify VC fully against any costs, losses or expenses (including Interest and legal fees) incurred in relation to recovering such repayment

8. Termination

8.1 VC will have the right at all times by giving notice to the Applicant to terminate this Agreement immediately if -

8.1.1 in accordance with clause 7 the Applicant is in default,

8.1.2 it will appear to VC that the Project for which the Funding is intended is unlikely to be carried out in accordance with the Agreement,

8.1.3 there is a change in the ownership, constitution or structure of management of the Applicant,

8.1.4 it will appear to VC that any information provided to it is fraudulent, negligent, incorrect or is misleading in any material way,

8.1.7 there is a change in the Regulations which VC consider will negate the intent and purpose of its having entered in to this Agreement

8.2 Upon termination for whatever reason, VC will, without limitation to any other remedy which may be available to it, be entitled to withhold any of the Funding not yet contributed and will be entitled to recover any of the Funding contributed to date and any losses or costs, legal costs and Interest incurred consequential to recovery of the Funds

8.3 In the event of some or all of the Funding becoming repayable, then the Applicant will also pay Interest on the amount of the Funding to be repaid, such interest to be calculated from the date that part of the Funding was advanced to the Applicant until the date of repayment, provided always that VC will not recover more than the value of the Property (less reasonable costs of any agents) VC will be entitled to arrange for the Property to be valued and the Applicant will provide VC and any other valuer such assistance as may be reasonably required

9. Liability and Indemnity

9.1 Save in the case of death or personal injury caused by VC's negligence, or where exclusion or limitation of liability by VC is otherwise prohibited by law

9.1.1 VC will not be liable for any damage, injury or loss of any kind whatsoever (including, without limitation, any loss of profits or any other consequential or indirect loss) to any property or persons in respect of any act or default by VC and/or the Applicant pursuant to this Agreement,

FUNDING AGREEMENT - TERMS AND CONDITIONS

9 1 2 in the event that VC is found liable notwithstanding this clause 9 1, then VC's liability in respect of this clause 9 1 will be further limited in aggregate to the total sum of the Funding

9 2 The Applicant will indemnify and keep VC and its employees indemnified in respect of any loss, damage, liability, interest or cost (including legal and such other costs and expenses) incurred both during and after the end of this Agreement which VC may suffer by reason of any breach or non-performance by the Applicant or by the enforcement by VC of any or all of the Applicant's obligations under the Regulations, this Agreement or any arrangement entered into pursuant to the Project including, without limitation, any act, neglect or default of the Applicant's employees or agents

9 3 The Applicant will be responsible for paying VC's reasonable legal and other costs in entering into any form of security pursuant to this clause

10. Insurance

10 1 The Applicant will maintain at its own cost where appropriate a comprehensive policy of insurance ("the Policy") to cover the Property and any assets purchased using Funding given under this agreement

10 2 The Applicant will ensure that all premiums are duly paid on time and that the Policy entered into are in full force and effect at all times and not voidable on account of any act, omission, default or otherwise

10 3 The Applicant will provide VC with a copy of the Policy (and other ancillary paperwork) on request from VC

10 4 Without prejudice to the Applicant's liability to indemnify VC under Clause 9 the Applicant will ensure that the interest of VC is noted on the Policy and that any liability that arises under Clause 9 is covered

11. General

11 1 The Applicant's part of this Agreement is personal to it and may not be assigned without VC's prior written approval

11 2 This Agreement is governed by English law

11 3 Notices required to be given under this Agreement will be delivered by hand, post, facsimile or e-mail to the parties addresses as set out above in the recitals and will be deemed to have been delivered 24 hours after posting

11 4 Liability under these conditions is joint and several, where the Applicant comprises more than one person

11 5 Both parties will act in good faith towards each other in relation to all matters arising under this Agreement and without prejudice to the Applicant's obligations set out in this Agreement it will inform VC fully as soon as possible of any circumstances which might prejudice VC's position under the Regulations

FUNDING AGREEMENT - TERMS AND CONDITIONS

- 11.6 No failure/delay by VC in enforcing any of VC's rights under this agreement will be deemed to be a waiver of that right and no waiver of a breach of any provision will be deemed to be a waiver of any further or future breach of the same or any other provision
- 11.7 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 will continue in full force and effect
- 12. Entire Agreement**
- 12.1 This Agreement and any documents annexed to it constitute the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter
- 12.2 The Applicant acknowledges and agrees that in entering into this contract, it does not rely on and will have no remedy in respect of any statement, representation, warranty, collateral agreement or other assurance (whether made negligently or innocently) of any person (whether party to this contract or not) other than as expressly set out in this Agreement or the documents annexed to it. Nothing in this clause will, however, operate to limit or exclude any liability for fraud

This Agreement has been entered into on the date stated at the beginning of it

Signed *George M. M. M. M.*

Name *George M. M. M. M.*
For and on behalf of [*BISCONT*]

Date *1.11.13*
]

Signed *Lisa Nelson*

Name *Lisa Nelson*
For and on behalf of *VIRIDOR CREDITS ENVIRONMENTAL COMPANY*

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For office info only: Project Ref No. 5542

Project Reference Name: Meadow Farm, Blackthorn - Land Acquisition

Panel VC - Oxfordshire

Schedule II

ENTRUST Guidance and The Regulations

The Landfill Tax Regulations

Landfill Operators can only give contributions to enrolled Environmental Bodies (EBs) and these funds have to be spent in accordance with the Landfill Tax Regulations. The Regulations specify the criteria that organisations wishing to receive Landfill Communities Fund (LCF) monies must comply with.

11.1 The Asset Regulations

With regard to asset requirements, **Regulation 32 (1) (b)** provides as follows:

32 (1): A payment is a qualifying contribution if –

(b) It is made subject to a condition that the body shall spend the sum paid or any income derived from it or both only in the course or furtherance of its approved objects

which means that any LCF monies and income derived from LCF monies can only be spent on approved objects.

11.2 What is an asset?

ENTRUST considers an asset to be any item of economic value to an organisation or individual, especially that which could be converted to 'income'. Examples are:

- Tangible Fixed Assets e.g. land, buildings and machinery
- Intangible Fixed Assets e.g. Intellectual Property Rights
- Current Assets e.g. cash, investments and securities

11.3 Protecting the Asset

- 11.3.1 All LCF monies spent by an EB, which create an asset (whether funding the purchase outright or merely a proportion of the purchase), should be protected. EBs should ensure that LCF Funds held by them or spent on a compliant project or activity can be accounted for.

- 11 3 2 With regard to current assets, the value of the capital should be preserved Any income earned has to be treated as a qualifying contribution and must therefore be reinvested into LCF approved projects
- 11 3 3 Whatever arrangement EBs have for the recording and depreciation of assets, EBs should maintain an inventory of all assets purchased in whole or in part with LCF funds EBs must ensure that project budgets are resourced to meet costs associated with asset management while the asset remains on the asset register Please see section 12 1 below with regard to life/timescales of assets
- 11 3 4 The EB, in whose name a project is registered, would be expected to record assets purchased in whole or in part with LCF Funds by way of a formal asset register

11.4 Sale or Disposal of an Asset

With regards to the sale of assets, **Regulation 30 (1)** provides as follows

30 (1) income includes interest, or

(a) the proportion of any proceeds attributable to the initial acquisition and disposal of an asset (or part of an asset) purchased with a qualifying contribution (or part of a qualifying contribution), or

(b) the proportion of any proceeds attributable to any subsequent acquisition and disposal of an asset (or part of an asset) purchased with the proceeds (or part of the proceeds) of –

(i) the initial acquisition and disposal representing the original qualifying contributions, or

(ii) any subsequent acquisition and disposal representing the original qualifying contributions, through any number of transactions

- 11 4 1 If an EB contributes (in whole or in part) to the purchase or improvement of an asset held by a non-EB, it should make its contribution conditional on a repayment of a proportion of any sale value equal to the proportion of its contribution to the purchase price where the asset is sold or ceases to comply with the Regulations as outlined above

11 4 2 Where an EB seeks to dispose of an asset, it should consult the original funding agreement to ascertain whether it contains any clauses about disposal of assets or use of derived income from such disposals

11 4 3 Sale of an LCF purchased asset must result in the LCF derived income (equal to the proportion of the contribution from LCF Funds) being paid back to an EB and used to fund compliant activity This applies whatever time might have elapsed between the acquisition of the asset and its disposal and whether or not the project is active or completed

14 4 4 Where an asset is returned to an EB following the completion of a project, the asset may either be retained for use on other LCF projects or sold, any proceeds being used on LCF approved projects

12. Timescales for Asset Management

12.1 The following timescale guidance has been drawn up for asset retention depending on the type of the asset or the value Note This guidance is retrospective and replaces all previous guidance including that relating to an asset being written down over 7 years (the '7 year rule')

12.2 Land and Buildings

Keep on asset register in perpetuity, your EBs and the LCF interest must be recorded on title deed,

- at final payment and annual thereafter, obtain written confirmation that the asset remains in compliance use, and
- inspect every three years to confirm compliance.

14. Ownership of Assets

Where an asset is solely required for a project, ENTRUST recommend the asset does not appear in the EBs balance sheet, rather a legally binding retention of interest is adopted to ensure that the asset still remains within the LCF