

ENVIRONMENT AGENCY (1)

HUNTINGDONSHIRE DISTRICT COUNCIL (2)

THE MIDDLE LEVEL COMMISSIONERS (3)

NATURAL ENGLAND (4)

AND

THE WILDLIFE TRUST FOR BEDFORDSHIRE, CAMBRIDGESHIRE, NORTHAMPTON
AND PETERBOROUGH (5)

COLLABORATION AGREEMENT

CONTENTS

Clause	Page
1. INTERPRETATION	1
2. TERMINATION OF THE MEMORANDUM	2
3. SCOPE OF AGREEMENT	2
4. STEERING COMMITTEE	2
5. DECISIONS OF THE STEERING COMMITTEE	4
6. WORKING GROUP FORMATION	4
7. PROJECT MANAGER.....	5
8. PROJECT MANAGEMENT COSTS.....	6
9. PROVISION OF SERVICES.....	7
10. FULL DISCLOSURE	8
11. NEW PARTIES.....	8
12. TERMINATION	8
13. PUBLICITY	9
14. CONFIDENTIALITY	9
15. INTELLECTUAL PROPERTY	10
16. THIRD PARTY RIGHTS	12
17. RELATIONSHIP OF PARTIES	12
18. NO CONSEQUENTIAL LOSS	12
19. NO CONFLICTS	12
20. GENERAL	13
21. NOTICES	13
22. ASSIGNMENT	13
23. GOVERNING LAW AND JURISDICTION	13
24. THE PARTIES' STATUTORY ROLE	14
25. AUDIT.....	14

THIS AGREEMENT is made on 2009

BETWEEN:

- (1) Environment Agency, [a public body created by statute], having its administrative offices at Rio House, Waterside Drive, Aztec, West Almondsbury, Bristol, BS32 4UD;
- (2) Huntingdonshire District Council, [a non-metropolitan district local government authority in England], having its administrative offices at Pathfinder House, St Mary's Street, Huntingdon, Cambridgeshire, PE29 3TN;
- (3) The Middle Level Commissioners, [a public body created by statute], having its administrative offices at Middle Level Offices, Dartford Road, March, Cambridgeshire, PE15 8AF;
- (4) Natural England, [a non-departmental public body created by statute], having its administrative offices at 1 High Street, East Parade, Sheffield, S1 2ET; and
- (5) The Wildlife Trust for Bedfordshire, Cambridgeshire, Northamptonshire and Peterborough, a registered charity and company limited by guarantee, having its registered offices at The Manor House, Broad Street, Great Cambourne, Cambridge, CB23 6DH (charity number 1000412) (company number 02534145) (the "**Trust**").

The above are referred to in this Agreement collectively as the "**Parties**" or individually as a "**Party**".

RECITALS

- (A) The Parties entered into a Memorandum of Agreement dated 27 March 2007 (the "**Memorandum**"). This Agreement substitutes the Memorandum in its entirety.
- (B) The Parties wish to continue to work together to manage the Great Fen Project as described in the attached Schedule 1 to this Agreement (the "**Project**")¹. [This needs to be seen and agreed]
- (C) The Parties wish to enter into this Agreement to regulate their respective responsibilities towards the management of the Project.

IT HAS BEEN AGREED AS FOLLOWS:

1. **INTERPRETATION**

In this Agreement, a reference to:

- 1.1 "**New IP Rights**" means any Intellectual Property Rights created in the course of the Project's development or in furtherance of the Project;
 - 1.2 "**Intellectual Property Rights**" means patents, patentable inventions, trade marks, logos, trade names, service marks, registered and unregistered designs, copyrights, domain names, database rights and confidential information including know-how and trade
-

secrets and any rights therein, in each case whether registered or not, and including pending applications for registration of such rights, the right to apply for registration or extension of such rights, rights in goodwill and the right to bring an action for passing off or unfair competition;

- 1.3 a person includes a reference to a corporation, body corporate, association or partnership;
- 1.4 the singular includes the plural and vice versa;
- 1.5 a clause, unless the context otherwise requires, is a reference to a clause of this Agreement; and
- 1.6 "Affiliate" with reference to any Party, means a person which, directly or indirectly, controls or is controlled by or is under common control with such person. For this purpose, "control" means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and
- 1.7 the Schedules form part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement and references to this Agreement include the Schedules.

2. **TERMINATION OF THE MEMORANDUM**

With effect from the date of this Agreement, the Memorandum be and is hereby terminated.

3. **SCOPE OF AGREEMENT**

- 3.1 The Parties wish to continue to work together to develop, promote, manage and secure funding for the Project as described in Schedule 1 to this Agreement and on the terms set out herein.
- 3.2 The Parties, in consideration of developing, promoting, managing and funding the Project, will exercise good faith and mutual co-operation towards each other in relation to the Project and shall work diligently and use reasonable efforts to achieve the Project.

4. **STEERING COMMITTEE**

- 4.1 The Parties shall appoint a steering committee to supervise and manage the Project and to co-ordinate the activities of the Parties and the Project Manager with respect to all matters relating to the Project (the "**Steering Committee**").
- 4.2 The Parties agree to be bound by the decisions of the Steering Committee on the terms set out herein in so far as those decisions relate to the Great Fen Project.
- 4.3 The Steering Committee shall meet at least six times annually (each a "**Steering Committee Meeting**").
- 4.4 The Parties agree to make available at their own expense the services of individuals to represent a Party on the Steering Committee and to perform the services required by the Steering Committee in furtherance of the Project.

- 4.5 Each Party will appoint two representatives (the "**Representative**" or "**Representatives**") to the Steering Committee, who (so far as it is reasonably practicable) shall each be authorised to bind the Party appointing such Representative in relation to matters concerning the Project and who shall, subject to this clause 4.5 and clauses 4.6 and 4.7, attend all Steering Committee Meetings. A Party may, from time to time, substitute either or both of its Representatives by written notice delivered to all other Parties.
- 4.6 Each Party hereby appoints the individuals named respectively in Schedule 2 as their first Representatives to the Steering Committee. If a Representative is unavailable to attend a Steering Committee Meeting, he may appoint an alternate to attend in his place by notice delivered to all other Parties in advance of such meeting. Such alternate shall have the same rights and powers as the Representative who has appointed him.
- 4.7 Attendance at Steering Committee Meetings may be in person or by telephone or similar form of communications equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person participating in this way is deemed to be present in person at the meeting and is counted in a quorum and entitled to vote. All business transacted in this way is deemed to be validly and effectively transacted at a meeting of the Steering Committee. The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chair of the meeting then is.
- 4.8 Steering Committee Meetings shall be properly convened and held at such times as may be determined by the Steering Committee and in any event not less than six times annually at such place as the Steering Committee may from time to time determine. No Steering Committee Meeting shall normally be convened on less than twenty eight days' notice, but extraordinary Steering Committee Meetings may be convened by giving not less than 48 hours' notice if the interests of the Project would in the opinion of a Representative be likely to be adversely affected to a material extent if the matters to be addressed at such Steering Committee Meeting were not dealt with as a matter of urgency.
- 4.9 Each notice convening a Steering Committee Meeting shall contain an agenda specifying in reasonable detail all the matters to be discussed at the meeting and shall, where appropriate, be accompanied by any relevant paper for discussion at the meeting.
- 4.10 No business shall be transacted at any Steering Committee Meeting unless a quorum is present. Subject to clauses 4.6 and 4.7, a quorum shall be present where each Party is represented at the commencement of and throughout such Steering Committee Meeting.
- 4.11 If a quorum is not present within half an hour from the time appointed for the meeting, or if during the meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day seven days later at the same time and place unless otherwise agreed by the Steering Committee. If at an adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall stand adjourned to the same day seven days later at the same time and place unless otherwise agreed by the Steering Committee. If a quorum is not present at a meeting within 3 months of the date of the first adjourned meeting this Agreement shall terminate in accordance with the

provisions of clause 12.3. Notice of a meeting adjourned for absence of a quorum shall be given to all Representatives.

- 4.12 The Representatives shall as soon as reasonably practicable following the date of this Agreement appoint from amongst their number a Representative who shall act as Chair of the activities of the Steering Committee (the "**Chair**") or unanimously elect a Chair who is not a representative. The Representatives shall from then on appoint a Chair each year on the anniversary of the Chair's first appointment until termination of this Agreement.
- 4.13 The Steering Committee shall, from time to time, appoint an individual of its choosing for the purpose of administering the Steering Committee (the "**Project Secretary**"). The Project Secretary may be appointed from among the Representatives.
- 4.14 The Project Secretary shall:
 - 4.14.1 take and keep minutes of all decisions made at each Steering Committee Meeting and, after each meeting, promptly provide copies of such minutes to all Parties; and
 - 4.14.2 perform the matters assigned to him or her by the Steering Committee from time to time.

5. **DECISIONS OF THE STEERING COMMITTEE**

- 5.1 Except as expressly contemplated to the contrary in this Agreement, decisions taken by the Steering Committee will be taken on the basis of each Party having one vote notwithstanding the number of Representatives present at a Steering Committee Meeting in respect of a Party.
- 5.2 Subject to clauses 5.4 below, all decisions of the Steering Committee put to the vote shall be approved if supported unanimously by the Parties present at the meeting.
- 5.3 The scope of this Agreement and the authority conferred on the Steering Committee by this Agreement shall not extend to any decision relating to the acquisition (by way of freehold, leasehold or otherwise) or disposal (by way of sale, transfer, assignment, lease, tenancy, charge, mortgage or holding on trust) of land by a Party.
- 5.4 The Middle Level Commissioners shall not be entitled to vote on any proposed resolution or decision of the Steering Committee where such resolution or decision would result directly in expenditure being incurred by a Party in relation to the Project.

6. **WORKING GROUP FORMATION**

- 6.1 The Steering Committee shall be entitled to appoint a working group or groups consisting of one or more Parties and may delegate any aspect of the Project to any such working group provided that the constitution of any such working group shall include the Project Manager or his designated representative. Any such delegation may be made subject to any conditions the Steering Committee may impose. A working group shall otherwise co-ordinate its affairs in such manner as it thinks fit, save that it shall have no authority to commit any Party or the Steering Committee to enter into any legal

commitment and/or incur any cost expense or liability on its behalf without the express prior unanimous approval of the Steering Committee.

- 6.2 Any working group formed under clause 6.1 will regularly report back to the Steering Committee or at such intervals as the Steering Committee may direct.
- 6.3 The Steering Committee will constitute a forum to engage with stakeholders and interested parties in an advisory capacity.

7. **PROJECT MANAGER**

- 7.1 At the date of the agreement the Trust employs a Project Manager to manage the project (“the Project Manager”). For the avoidance of doubt the Trust is the employer of the Project Manager and is responsible for his/hers day to day management, health and safety, any insurance that is legally required, and ensuring payment of the Project Manager’s salary, expenses, costs, disbursements, income or other taxes, pensions, national insurance contributions and dues of any kind arising out of the employment or other engagement of the Project Manager.
- 7.2 The Steering Group may elect that a Party employ the Project Manager upon the same terms as clause 7.1 above and 7.5 below.
- 7.3 Entirely at its own discretion the employing organisation shall be entitled to replace the Project Manager at any time during the term of this Agreement so long as it bears any additional Project Management Costs or Project Costs and/or Obligation (detailed in clause 8 below) that the replacement of the Project Manager causes unless otherwise agreed by Steering Committee.
- 7.4 The Steering Committee will procure that Project Manager shall:
 - 7.4.1 lead the day to day management of the Project, including but not limited to the financial management of the Project;
 - 7.4.2 deliver to the Steering Committee, at such intervals as the Steering Committee may determine, such financial or management accounting information relating to the affairs of the Project as the Steering Committee may require; and
 - 7.4.3 such other information or reports as the Steering Committee may request from time to time.
- 7.5 The Trust (or such other party in accordance with Clause 7.2) shall procure that the Project Manager performs the matters assigned to him by the Steering Committee from time to time.
- 7.6 The Project Manager shall report regularly to the Steering Committee with updates on the Project at such times and in such manner as the Steering Committee may decide from time to time.

7.7 The Project Manager shall have no authority to commit any Party to enter into any legal commitment on his/her behalf without the express unanimous approval of the Steering Committee.

8. **PROJECT MANAGEMENT COSTS**

8.1 Subject to clause 8.5 and 8.8, all costs, fees and expenses properly incurred in accordance with the terms of this Agreement by the Steering Committee, or any of its member organisations, or any working group (including, without limitation, the Project Manager's salary, and all costs, fees and expenses related to any independent provider of professional or other services to the Steering Committee or any working group, but specifically excluding any payment for personal injury, unfair dismissal, wrongful dismissal or any claim relating to discrimination of any kind and any claim relating to the Project Manager terms of employment) in connection with the management of the Project ("**Project Management Costs**") will be shared equally by the Parties (other than the Middle Level Commission).

8.2 Each Party (other than the Middle Level Commissioners) hereby agrees, by way of an initial contribution towards the Project Management Costs, to commit £20,000 each, which amount shall be paid within 28 days of the date of this Agreement to the Trust and held on trust by it for the sole purpose of such contribution being applied to discharge the Project Management Costs.

8.3 In the event of the cessation of the employment of the Project Manager necessitating a payment by the Trust over and above a final salary payment (the "Severance Package") then if such cessation is as a result of the termination of this Agreement (howsoever determined) or as a result of any decision of the Steering Committee then the costs of the Severance package will be regarded as Project

Management Costs with (in the case of a Project Manager who was an employee of the Trust prior to 1st April 2001) a contribution from the Trust commensurate with its legal obligations as an employer for the period prior to 1st April 2001.

8.4 Within 30 days of the commencement of each financial year, each shall contribute £20,000, or such other amount as the Steering Committee may unanimously agree from time to time, towards Project Management Costs, which amount shall be paid to the Trust and held by it on the basis stated in clause 8.2. For the purposes of this clause 8.2 and 8.4, unanimity shall be construed to exclude the Middle Level Commissioners who shall not be entitled to exercise any vote in relation to the matters contemplated by this clause 8.4.

8.5 All Project Management Costs shall be subject to an annual budget which shall require the approval of the Steering Committee in accordance with clause 4.

8.6 The Parties acknowledge that in addition to the contributions contemplated in clauses 8.2 and 8.4, further funds may be necessary from time to time to fund Project costs and each Party may commit and pay such further funds from time to time as the Steering Committee may unanimously agree and as may be required to discharge the additional Project costs.

- 8.7 None of the Parties, Representatives, the Steering Committee or any working group formed shall bind or otherwise commit the credit or capital of another Party or otherwise be obliged to provide security or guarantees in relation to the Project (including Project costs).
- 8.8 The Middle Level Commissioners shall be under no obligation to make any contribution towards the Project Management Costs as contemplated in this clause 8.8.
- 8.9 In the event that unanimity of the Steering Committee cannot be obtained as to decisions in relation to Clauses 8.3 and 8.4 then this Agreement shall automatically terminate.
- 8.10 In the event that the Trust, with the prior unanimous approval of the Steering Committee, enters into a contract, agreement or ongoing obligation for the furtherance of the Project (an "Obligation") and where ongoing costs of such Obligation are being borne as part of the Project Management Costs, then:
- 8.10.1 the other Parties (other than the Middle Level Commissioners) covenant with the Trust to indemnify it against any ongoing liability in such Obligation; and
- 8.10.2 such indemnity shall continue, following the termination of this Agreement
- in each case, any contribution required under this clause shall be borne by the relevant Party in the same shares as their initial contribution to the Project Management Costs for such Obligation.
- 8.10 The Trust shall keep and maintain full and accurate records and all receipts showing how the Parties' contributions to the Project have been paid on the Project Management Costs describing such items in sufficient detail to enable the Parties to identify them.
- 8.11 Where any item referred to in clause 8.10 is purchased partly with the Parties' contributions and partly with money from other sources, the records shall clearly indicate the proportion of the purchase price of that item which is attributable to the Parties' Contributions.
- 8.12 The Trust shall preserve all the records referred to in this clause 8.10 & 8.11 for until such time as the all of the Parties notify the Trust that such records (or any of them) can be destroyed, or for five years after the agreement comes to an end.

9. **PROVISION OF SERVICES**

- 9.1 The Parties acknowledge that their respective participation in the Project arises from the unique contribution a Party is able to make to facilitate successful delivery of the Project.
- 9.2 Subject to a Party's statutory duties and due process, each of the Parties accordingly agree in good faith to contribute or procure the contribution of such services or assistance that are within its power or control as may be necessary or desirable to promote the success of the Project and, if requested by the Steering Committee, to bring to bear such powers and authority as may be reasonable to promote the success of the Project.

- 9.3 No Party shall be obliged to second personnel to the Project other than on terms as may be agreed by a seconding Party and the Party requesting the support of a secondee.

10. **FULL DISCLOSURE**

Each Party intends, in good faith, to disclose to the other, information it may have which is material in connection with the Project, but no Party shall be responsible to the other, whether through negligence or for any other reason of any nature whatsoever, except fraud, for any failure to disclose any such information, or for any mistake, misrepresentation or omission in such information.

11. **NEW PARTIES**

- 11.1 Subject to the prior unanimous approval of the Steering Committee, the Parties may include additional third parties in the co-ordination of the Project under the terms herein ("**New Parties**").
- 11.2 The Steering Committee will procure that any New Party undertakes in writing in an addendum to the Agreement to be bound by the terms of this Agreement to the same extent as the Parties hereto and meet the associated legal costs

12. **TERMINATION**

- 12.1 The Parties may, by a vote of the Steering Committee in accordance with clause 5.2, terminate the involvement of any Party in this Agreement where such Party is in material or continuous breach of any of the provisions of this Agreement by giving 28 days' prior written notice to such Party. For the purposes of this clause 12.1, the Party being the subject of a vote (the "**Breaching Party**") contemplated by this clause shall not be entitled to vote on any such decision and the requirements of clause 5.2 shall be construed so as to exclude the Breaching Party.
- 12.2 The Parties may by a unanimous vote of the Steering Committee terminate this Agreement.
- 12.3 This Agreement shall terminate upon the date which is the earlier of:
- 12.3.1 termination of this Agreement by all Parties in accordance with Clause 12.2;
 - 12.3.2 the expiry of 5 years from the date of this Agreement (or such longer period as may be determined by the unanimous agreement of the Steering Committee).
 - 12.3.3 termination of this Agreement in accordance with Clause 4.11.
 - 12.3.4 a lack of a unanimous decision in accordance with Clause 8.8.
- 12.4 Save and except as otherwise provided herein, the provisions of Clauses 10, 13, 14, and 17 to 23 shall survive the termination of this Agreement, provided, however, that termination hereunder shall not relieve any Party of liabilities accrued under this Agreement prior to the date of termination, including any liability pursuant to Clause 8.9.
- 12.5 On termination of the Agreement, a statement shall be drawn up of the remaining funds held by the Trust pursuant to this Agreement, together with any outstanding liability of

the Trust in relation to the Project Management Costs and once such statement has been agreed between the Parties, the Trust shall reimburse the remaining monies to the contributing Parties, pro rata to their initial contributions.

- 12.6 Without prejudice to the rights and obligations of the other Parties to each other under this Agreement which shall continue, any Party (“the Withdrawing Party”) may withdraw from this Agreement by giving 3 months’ notice of termination to the Steering Committee together with a full explanation for the reasons for the termination. The remaining Parties will consider the impact of the withdrawal of the Withdrawing Party and decide upon appropriate action to maintain implementation of the Project. The remaining Parties will not be required to take on the responsibility or financial liability of the Withdrawing Party however should the remaining Parties choose to increase their contribution, financial or otherwise, then this will be reflected in an Addendum to the Agreement, signed by all the remaining Parties.

For the avoidance of doubt:

- 12.6.1 the provisions of clause 12.4 will apply to the Withdrawing Party as if the agreement had been terminated in accordance with clause 12.3; and
- 12.6.2 the Withdrawing Party will not be entitled to a return of any contribution made in accordance with clause 8 for the financial year in which they serve notice of their withdrawal.

13. **PUBLICITY**

- 13.1 Each Party agrees to be bound by a press and publicity protocol determined by the Steering Committee from time to time relating to the Project, the terms of this Agreement or activities under this Agreement, including the progress of the Project and any discussions with the other Parties, or others in connection with the Project. The Steering Committee may review the press and publicity protocol from time to time but shall do so at least annually.
- 13.2 Nothing in this Agreement shall restrict a Party from making any statement of disclosure that may be required by law or any applicable regulatory authority or stock exchange, or as may be required for tax or accounting purposes, provided that, such Party shall notify the other Parties in advance about the nature, content and timing of the disclosure.

14. **CONFIDENTIALITY**

14.1 **General**

Subject to clause 14.2, each Party shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which relates to:

- 14.1.1 the provisions of this Agreement;
- 14.1.2 the negotiations relating to this Agreement (or any other document referred to herein);
- 14.1.3 the subject matter of this Agreement (or any other document referred to herein);
or
- 14.1.4 the other Parties.

14.2 PERMITTED DISCLOSURES

A Party may disclose information which would otherwise be confidential if and to the extent that it is:

- 14.2.1 required by the law of any relevant jurisdiction;
- 14.2.2 required by any securities exchange or regulatory or governmental body to which a Party (or any of its Affiliates) is subject or submits, wherever situated, whether or not the requirement for information has the force of law;
- 14.2.3 disclosed on a strictly confidential basis to the professional legal advisers, auditors and bankers of that Party including without limitation their agents and professional advisers;
- 14.2.4 disclosed on a strictly confidential basis to elected members, Board Members or officers of that Party or to elected members/officers of its Affiliates;
- 14.2.5 the information has come into the public domain through no fault of that Party;
- 14.2.6 the other Parties have given their prior written approval to the disclosure, such approval not to be unreasonably withheld or delayed;
- 14.2.7 required to enable that Party to enforce its rights under this Agreement; or
- 14.2.8 required to enable the registration of any interest in land at the Land Registry, provided that exempt information applications shall be made wherever practicable.

15. INTELLECTUAL PROPERTY

- 15.1 The Parties own the New IP Rights jointly in equal shares.
- 15.2 The Parties as joint owners shall:
 - 15.2.1 each be free to use of any New IP Rights for its statutory, teaching, research or other business purposes and shall be permitted to develop them further for such purposes, which shall not include commercial purposes, and to sub-licence them to others on a non-exclusive basis for those purposes. Any use or sub-licensing of the New IP Rights by the owning Parties for commercial purposes shall be subject to the separate agreement between the owning Parties which if

agreed shall be on fair, reasonable and non-discriminatory terms and subject to reasonable revenue sharing arrangements;

- 15.2.2 agree between them whether applications for protection of Intellectual Property Rights shall be filed and the sharing between them of the costs of the processing of all applications for such protection for the New IP Rights; and
- 15.2.3 share between them all income generated from the commercial exploitation of the New IP Rights, after deduction of any costs incurred for protection or use of the New IP Rights in equal shares.
- 15.3 The Parties shall do all things reasonably necessary to vest ownership of the New IP Rights in the owners in the manner set out in this clause 15.
- 15.4 All Intellectual Property Rights which a Party introduces to or utilises in connection with the Project for the purposes of the Project whether such Intellectual Property Rights owned by or licensed to that Party (“**Background Rights**”) will remain the property of the owner of those rights. Each Party grants to each other Party subject to clause 15.6 a perpetual, royalty-free and charge-free (except where it is not able to do so and makes such declaration in accordance with clause 15.5, worldwide non-exclusive and non-transferable licence to use such Background Rights only insofar as is necessary for the purposes of the Project, the carrying out of this Agreement, and the use of the New IP Rights in accordance with this clause 15.
- 15.5 Without prejudice to the generality of clause 15.4, a Party may charge a reasonable royalty and/or impose restrictions for use of Background Rights only where that Party is itself subject to such obligations to a third party and only where the Parties have agreed in writing in advance of provision of those Background Rights a fair, reasonable and non-discriminatory fee for the use of them.
- 15.6 At the termination of this Agreement or should the relevant party withdraw from this Agreement each Party shall return all property in which Background Rights subsist to the Party introducing them to the Project. No such property or copies of it shall be retained other than where ongoing possession is required in order to use the New IP Rights as permitted by this Agreement.
- 15.7 Each Party warrants to each other Party and will warrant at the time of each such provision that to the best of its knowledge, information and belief at the time of provision none of the Intellectual Property Rights, the Background Rights and New IP Rights provided by that Party will be in breach of any third party’s Intellectual Property

Rights and it shall indemnify the other Parties against any loss, liability or costs arising from third party claims in respect of any such breach whether actual or alleged.

15.8 The Parties shall procure from its employees, agents and contractors that the other Parties have the benefit of the licence in respect of all relevant Intellectual Property Rights in accordance with this Condition 15.

15.9 For the avoidance of doubt no steps taken to protect the New IP Rights shall amend a Party's rights to use the same as set out in this Agreement.

16. **THIRD PARTY RIGHTS**

A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

17. **RELATIONSHIP OF PARTIES**

17.1 Except to the extent expressly stated to the contrary, no Party to this Agreement is (and this Agreement shall not constitute any Party) the partner or agent of any other, and no Party is authorised to bind any other Party or incur liabilities on its behalf.

17.2 This Agreement is not intended to and shall not be construed as creating any joint venture, partnership or other form of business association between the Parties nor shall anything in this Agreement be construed as providing for the share of profits or losses arising out of the efforts of the Parties.

18. **NO CONSEQUENTIAL LOSS**

No Party shall be liable to any other for any loss of profits, loss of goodwill or any other indirect, consequential or special loss or damage of any nature whatsoever and each Party hereby releases the others from any such liability.

19. **NO CONFLICTS**

19.1 The Parties acknowledge that:

19.1.1 Clifford Chance LLP has advised the Trust in connection with the drafting, negotiation and preparation of this Agreement;

19.1.2 Clifford Chance LLP and the individual lawyers involved in connection with the drafting, negotiation and preparation of this Agreement shall remain free to act in relation to the Project and on behalf of any project vehicle established in connection with the Project notwithstanding such involvement; and

19.1.3 Clifford Chance LLP is under no obligation to disclose to any Party any confidential information obtained from or disclosed by the Trust in connection with the drafting, negotiation or preparation of this Agreement.

20. **GENERAL**

- 20.1 This Agreement constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any previous agreement between or representation by any Party to another concerning the subject matter.
- 20.2 Each Party warrants and represents to the other Parties that it has the necessary capacity and authority to enter into this Agreement.
- 20.3 No variation of any of the terms of this Agreement shall be effective unless it is made or confirmed in writing and signed by or on behalf of each of the Parties.
- 20.4 No delay or forbearance of any Party in exercising any right under this Agreement shall affect the ability of that Party subsequently to exercise the right or to pursue any remedy, nor shall that delay or forbearance constitute a waiver of any other right.
- 20.5 This Agreement may be executed in any number of counterparts, each of which is an original and all of which together evidence the same agreement.

21. **NOTICES**

- 21.1 Any notice to be given under this Agreement shall be in English and made in writing.
- 21.2 A notice may be delivered personally to a Party's Representative, sent by pre-paid letter or delivered by courier, as per the relevant contact details in Schedule 2, or as per any contact details notified to the Parties from time to time in writing and any such notice should be marked for the personal attention of the Party's Representative.
- 21.3 A notice shall be deemed to have been received:
 - 21.3.1 if personally delivered, or delivered by courier, at the time of delivery to the recipient;
 - 21.3.2 if mailed, three working days, after the envelope containing the notice was delivered into the custody of the postal authorities;

except where, in the case of personal delivery or courier delivery, delivery occurs after 4 p.m. on a working day or on a day which is not a working day in the place of receipt, service shall be deemed to occur at 9 a.m. on the next following working day in that place, and for this purpose "working day" means a day on which the banks in that place are open for business in the ordinary course, other than Saturdays and Sundays.

22. **ASSIGNMENT**

No Party may assign any part of its rights or obligations under this Agreement.

23. **GOVERNING LAW AND JURISDICTION**

- 23.1 This Agreement shall be governed by and interpreted according to the laws of England and Wales.
- 23.2 The courts of England shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection

with this Agreement (respectively, "**Proceedings**" and "**Disputes**") and, for such purposes, each Party irrevocably submits to the jurisdiction of the courts of England.

23.3 Each Party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

24. THE PARTIES' STATUTORY ROLE

24.1 Nothing in this Agreement shall prejudice or affect the Environment Agency's and/or Natural England's and/or Huntingdonshire District Council's exercise of its functions, duties, powers, rights, jurisdictions and obligations conferred, arising or imposed under any legislative provision, enactment, byelaw or regulation whatsoever.

24.2 Nothing in this Agreement shall operate as a statutory approval consent or licence from the Environment Agency and/or Natural England as may be required to effect the terms of this Agreement or achieve the objectives of the Project.

25. AUDIT

25.1 For the purposes of the relevant Party's audit only the Trust shall permit the Parties, the National Audit Office and/or anyone acting on behalf of any of them to have access at reasonable times to and take such copies as they think fit of any of the Trust's documents (whether in written or electronic format) (including, without limitation, accounts) that relate to the Project save where the documents are exchanges between the Trust and its professional advisers.

IN WITNESS WHEREOF, the Parties have entered into this Agreement on the date first written above.

EXECUTED by the Parties

Signed by [*insert name*])
a duly authorised)
representative of/for and)
on behalf of The Environment Agency:)

_____ Signature

Signed by [*insert name*])
a duly authorised)
representative of/for and)
on behalf of Huntingdonshire District Council:)

_____ Signature

Signed by [*insert name*])
a duly authorised)
representative of/for and)
on behalf of The Middle Level Commissioners:)

_____ Signature

Signed by [*insert name*])
a duly authorised)
representative of/for and)
on behalf of Natural England:)

_____ Signature

Signed by [*insert name*])
a duly authorised)
representative of/for and)
on behalf of The Wildlife Trust for)
Bedfordshire, Cambridgeshire, Northampton)
and Peterborough:)

_____ Signature

SCHEDULE 1

The Great Fen Project

The Great Fen Project was initiated in 2001 to reverse the historic loss of wildlife habitat in the Fens and particularly to halt the deterioration of the Woodwalton Fen National Nature Reserve (NNR) due to flooding and Holme Fen NNR due to over drainage. Detailed research concluded that acquiring and restoring a 3,700 ha wildlife habitat was most environmentally resilient and sustainable way of protecting the fragile wetland flora and fauna within these reserves and creating an inspirational place to visit.

The Great Fen Project will also create major access and tourism opportunities that will stimulate diversification in the economy, benefiting the communities in and around the project area.

The Project encompasses an area of 3700 hectares to the east of the East Coast mainline railway, south of Peterborough (outlined on accompanying map). It lies entirely within the district of Huntingdonshire in Cambridgeshire. Within the core project area there are two National Nature Reserves. Woodwalton Fen and Holme Fen NNRs contain many species and habitats of conservation interest. Both are protected under UK legislation as Sites of Special Scientific interest. Woodwalton Fen is also recognised as internationally important for wildlife.

The Fens have been comprehensively drained and are now dominated by arable agriculture. Farming remains an important sector in the Cambridgeshire rural economy but the almost wholesale conversion of the fens to agriculture has created issues that need addressing. Over 99% of the original fen wetland habitats have been lost and remaining sites are small and in danger of long term decline due to a range of factors such as,

- immediate external impacts e.g. drainage and chemical spray drift,
- management of water levels for farming,
- habitat fragmentation which limits the mobility of wide-ranging species and threatens genetic integrity
- Effects of climate change which may cause changes to habitats and species which are unlikely to sustain their present levels in small and fragmented sites.

Woodwalton Fen is used as a flood storage facility for the Middle Level system. The occasional flooding it receives is now thought to be having a long-term detrimental impact on the site and must therefore be addressed. Conversely, Holme Fen is very dry because drains that serve farmland to the west flow through the reserve to a drainage pump in the east. Consequently the most south-easterly raised bog in England at Holme Fen is drying out and in danger of eradication.

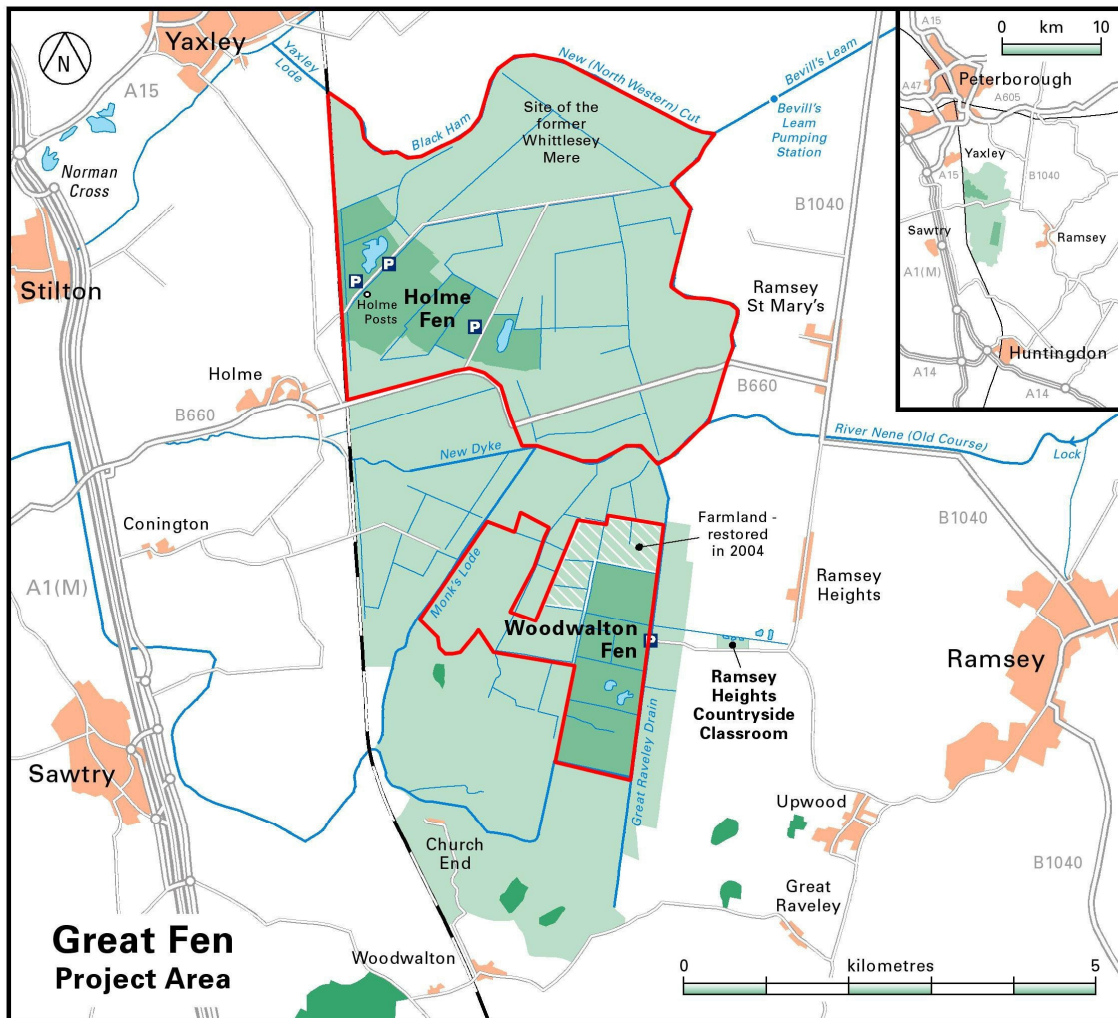
Small sites that are widely separated from comparable neighbours cannot conserve species and habitats as well as larger sites can. There is general agreement that climate change will exacerbate this problem, as species may need to adapt to changes by moving to areas of suitable climate to survive.

In addition to wildlife impacts, the fens landscape provides little opportunity for outdoor recreation and access via footpaths is more limited here than elsewhere. The number of people living in the area is increasing year on year, placing more pressure on existing facilities.

Peterborough continues to expand, including a new township at Hampton, bringing the city to the doorstep of the Great Fen project area and in Huntingdonshire developments at Yaxley and Huntingdon are also close by. The Great Fen Project will address these issues by enlarging and connecting the nature reserves, restoring habitats and creating new access to the countryside for all to enjoy.

It will also be an important stepping stone to enable linkages to other initiatives in the area such as the South Peterborough Green Parks. Together these will form one of the most important integrated landscape-scale initiatives anywhere in Europe.

Arable farming relies on the fertile, peaty soils found in the Fens for growing profitable crops such as sugar beet and potatoes. This type of farming depletes the peat resource and once the peat has been completely lost only combinable crops (such as wheat and barley) will be able to be grown. Current estimates suggest much of the peat in the Great Fen area could be exhausted within 100 years. The Great Fen Project will halt this depletion and offers the opportunity for sustainable social and economic development, combining nature conservation, public access and potential economic activities such as reed cutting or livestock management. Beyond the boundaries of the Great Fen there will be opportunities to meet the needs of the project and its visitors, extending the economic benefits across a wider area.



SCHEDULE 2

Party Contact Details and Steering Committee Representatives

Party	Steering Committee Representatives	Address	Telephone / Facsimile	E-mail Address
The Environment Agency	[name 1] and [name 2]	[Rio House, Waterside Drive, Aztec, West Almondsbury, Bristol, BS32 4UD]	Tel: [•] Fax: [•]	[•]
Huntingdonshire District Council	[name 1] and [name 2]	[Pathfinder House, St Mary's Street, Huntingdon, Cambridgeshire, PE29 3TN]	Tel: [•] Fax: [•]	[•]
The Middle Level Commissioners	[name 1] and [name 2]	[Middle Level Offices, Dartford Road, March, Cambridgeshire, PE15 8AF]	Tel: [•] Fax: [•]	[•]
Natural England	[name 1] and [name 2]	[1 High Street, East Parade, Sheffield, S1 2ET]	Tel: [•] Fax: [•]	[•]
The Trust	[Nicholas Hammond] and [name 2]	[The Manor House, Broad Street, Great Cambourne, Cambridge, CB23 6DH]	Tel: [•] Fax: [•]	[•]