

HS2 Woodland Fund: Terms and Conditions

This grant agreement is made between:

- (1) You, the grant recipient (as identified in the Agreement Document); and
- (2) High Speed Two (HS2) Limited, of 2 Snowhill, Queensway, Birmingham, B4 6GA. (HS2 Ltd)

BACKGROUND

- (A) HS2 Ltd has funded the Scheme.
- (B) HS2 Ltd has agreed to pay you a Grant subject to the terms and conditions of funding set out below and in the Agreement Document.
- (C) The Grant is paid for restoring Plantations on Ancient Woodland Sites (**PAWS**) or planting new native woodland.
- (D) These terms and conditions of funding apply to the Scheme and should be read in conjunction with the Agreement Document and Agreement Map, which are personal to you. These documents together form the Agreement between you and HS2 Limited.

1 DEFINITIONS AND INTERPRETATION

In the Agreement the following terms shall have the following meanings:

Agreement: the agreement between you and HS2 Ltd, which consists of these terms and conditions of funding, the Agreement Document, Agreement Map, HS2 Woodland Fund Claim Form and the HS2 Woodland Fund Agreement Declaration Form.

Agreement Document or HS2 Woodland Fund Agreement Document: the documents accompanying these terms and conditions of funding and sent to you with the offer letter, which gives details of the Grant to be paid to you. If you do not yet have clearance to plant under the EIA Regulations this offer will be made 'in principle' and you will need to obtain clearance to plant before you can plant the trees and the offer is confirmed.

Agreement Map or HS2 Woodland Fund Agreement Map: for PAWs restoration the agreement map is the final PAWs Restoration Work Area Map accompanying these terms and conditions of funding, for woodland creation it is the final Concept Map and Planting Map accompanying these terms and conditions of funding and sent to you with the offer letter.

Authorised Representative: Forestry Commission England or such other person or persons appointed from time to time by HS2 Ltd and notified to you within thirty days of such appointment, to administer the HS2 Woodland Fund, and where such

appointment is terminated or ceases and no new appointment is made or until a new appointment is made, shall mean HS2 Ltd.

Capital Item: are the capital items required to plant or restore the woodland supported under the HS2 Woodland Fund. The full list of available capital items is set out on the HS2 Woodland Fund webpage currently hosted by the Forestry Commission. The work required for each capital item is set out in the specification documents published on the HS2 Woodland Fund webpage currently hosted by the Forestry Commission.

Commencement Date: the date of your written acceptance of the Grant offer.

Concept Map (woodland creation): a map to show the design of the woodland including the location of proposed capital items, areas of open space, fence lines, map number, and a central OS 6 figure grid reference.

Change in Management Control: as defined in clause 4.1.

Data: as defined in clause 12.6.

EIA Regulations: The Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999. These apply to afforestation and deforestation proposals.

Financial Year: the annual period commencing 6 April and ending on 5 April over which Budget estimates are made by the British Government and which functions as the income-tax year.

Grant: the Grant which is payable to you under this Agreement (as set out in the Agreement Document).

HS2 Woodland Fund Agreement Declaration Form: the HS2 Woodland Fund Agreement Declaration Form executed by you accepting the HS2 Woodland Fund grant offer as set out in the offer letter.

HS2 Woodland Fund: the voluntary scheme to support landowners and managers to undertake new native woodland creation, particularly to increase connectivity to existing woodlands and to undertake restoration of plantations on ancient woodland sites within 25 miles of HS2 Ltd.'s proposed high speed rail line from London to the West Midlands (also known as HS2 Phase One). Applications of high biodiversity value outside the 25 mile radius of the HS2 Phase One route may be considered for funding at the discretion of HS2 Ltd.

HS2 Woodland Fund Claim Form: the template document enclosed with the offer letter
Land: all units of land which are proposed for tree planting or PAWS restoration and under which claims will be made under this Agreement.

Maintenance Period: the period of time over which the trees planted under this agreement must be maintained to ensure successful tree establishment. Under the HS2 Woodland Fund the maintenance period begins when payment is made for tree planting, the maintenance period lasts for five years. This increases to ten years where the agreement includes Woodland Creation Maintenance Payments.

Natural Regeneration: the process by which woodlands are restocked by trees that develop from seeds that fall and germinate in situ.

Novation: as defined in clause 4.3.1.

Novation Agreement: an agreement in the form annexed to this Agreement pursuant to which you agree to Novate this Agreement to a Successor.

PAWS Restoration Work Area Map: a map to show the area of planned activity including the location of capital items, areas of open space, fence lines, map number, and a central OS 6 figure grid reference.

Planting Map: a map to show the location of the different species to be planted.

Succession: the transfer of the legal interest in the whole of the Land subject to the Grant, held by you at the date of the Agreement, from you to a Successor.

Successor: a third party who obtains the legal interest in the whole of the Land subject to the Grant, held by you at the date of the Agreement, from you.

Scheme: the HS2 Woodland Fund.

Tree establishment: the Authorised Representative will determine this through an inspection where the Authorised Representative will be looking for evidence that the minimum stocking density stated in your agreement has been achieved, the trees are alive growing freely, out-competing other plant species and not subject to restraint by other environmental factors, including browsing by deer or livestock.

Woodland Condition Assessment: a survey to help woodland managers rapidly assess the ecological condition of their woodland.

Woodland Creation Maintenance Payment(s): a maintenance payment, in respect of newly created woodland only, of £200 per hectare per annum pursuant to clause 5.4 of these terms and conditions of funding.

Working Day: any day other than a Saturday, a Sunday or a public holiday in England.

- 1.1 References to **clauses** are to the clauses of these terms and conditions of funding. Clause headings shall not affect the interpretation of these terms and conditions of funding.
- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.
- 1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

- 1.5 A reference to a public organisation includes a reference to any successor of that public organisation.
- 1.6 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2 DECLARATIONS

2.1 You confirm that:

- (a) the declarations made in your application for the Grant remain true and accurate to the best of your knowledge and belief;
- (b) you have full capacity and authority to enter into the Agreement (if you are a tenant you will need to provide us with confirmation of the landlord's consent);
- (c) you are not aware of any circumstances which would prevent you from fulfilling your obligations under the Agreement;
- (d) if there are any changes to your circumstances which could affect your eligibility or suitability for the Grant or your ability to fulfil your obligations under the Agreement, you will notify the Authorised Representative in writing without delay;
- (e) you have not received and will not receive any duplicate funding or allowances from other public sources in respect of the same obligations you are required to undertake under the Agreement;
- (f) your obligations under the Agreement do not duplicate and will not duplicate any other legal obligations you would otherwise be required to undertake;
- (g) you will at all times comply with all relevant domestic and EU legislation in the performance of your obligations under the Agreement;
- (h) you agree that trees planted with support under this grant will be maintained throughout the Maintenance Period to ensure successful establishment of the woodland to secure the minimum stocking density set out the in the Agreement Document;
- (i) you understand that if the trees are not established successfully by end of the Maintenance Period the grant support will be reclaimed. You understand that conversion to another land use after planting may be subject to the Environment Impact Assessment Regulations (Forestry) (England and Wales) Regulations 1999 as deforestation and that the current policy in England is that conversion of forest to other land uses shall not occur except in exceptional circumstances;
- (j) where an offer of grant for afforestation is made 'in principle' you understand that you must secure the criterion in 2.2 j before proceeding with the planting;
- (k) where an Agreement includes woodland creation, planting will take place in accordance with the Planting Map.

2.2 You confirm that the following eligibility criteria apply:

- (a) Woodland creation: when connecting or extending existing woodland the minimum application area is 1 hectare with a minimum single contiguous block size of 0.1 hectares. Standalone woodland the minimum application area is 5 hectares with a minimum single contiguous block size of 5 hectares. This is the total gross area of proposed woodland creation and may include up to a total of 20% of designed open space and land left unplanted to be managed for environmental objectives.
- (b) PAWS restoration: The minimum application area is 0.5 hectares with a minimum felling coupe size of 0.1 hectare.
- (c) the species mix must consist entirely of native broadleaves and shrubs with up to 20% honorary broadleaves, 20% woody shrubs and no single species to be more than 75% of the planted area.
- (d) the overall suitability score for the chosen species is 'very suitable' or 'suitable' as assessed by the Ecological Site Classification decision support system, which is available at www.forestry.gov.uk/ESC or from Forestry Commission England upon request;
- (e) for your proposal to qualify for this grant you must plant the minimum stocking density stated in the Agreement Document over the net planted area. If Natural Regeneration is used for PAWs restoration restocking will be required if the natural regeneration fails;
- (f) the planting will not be managed as Short Rotation Coppice (trees - usually willow or poplar - typically grown as an energy crop) or for growing Christmas trees and fast growing species such as Eucalypts grown for energy production are not eligible for funding;
- (g) where the land is subject to an existing grant agreement this must have been declared on the application form.
- (h) your proposal to plant trees is not a requirement to mitigate the impacts of other developments under a planning consent;
- (i) the land in respect of which the Grant is to be paid is eligible land and that there are no legal or other restrictions affecting the eligible land which prevent the completion of the approved activities, and.
- (j) you have confirmation that under the EIA Regulations, Forestry Commission England has given either a screening decision that the proposal does not require an EIA, or consent in the event an EIA was needed.

3 TERM

3.1 The Agreement shall commence on the Commencement Date and, subject to any earlier termination in accordance with clause 14, it shall, in the case where there is no Woodland Creation Maintenance Payments, continue in force for five years after the date the Grant is paid and in the case where Woodland Creation Maintenance

Payments are to be made shall continue in force for until the final Woodland Creation Maintenance Payment is made.

- 3.2 Where the Grant is paid in instalments, e.g., to support phased planting, the Agreement shall continue in force for five years after the date the last instalment is paid.
- 3.3 The parties may agree to delay the planting by amending the planting season stated in the Agreement Document. The planting season can be changed by 1 year but will not be extended beyond March 2020. The party requesting the extension must make their request in writing, no less than one month before the end of the planting season. Neither party shall be under any obligation to agree to an extension requested by the other party. The extension shall take effect once it has been confirmed in writing by HS2 Ltd (or its Authorised Representatives).

4 TRANSFERS OR ACQUISITIONS OF LAND

- 4.1 You must notify the Authorised Representative if there is a affecting any part of the Land which could prejudice the carrying out of these terms and conditions, including (without limitation) changes to any lease or tenancy, grant of a new leasehold interest over all or part of the Land, permanent boundary changes, grant of a licence or any contractual interest in the Land, acquisition of any new land or a Succession (Change in Management Control) no later than 3 months (three months) after the Change in Management Control takes place.
- 4.2 You acknowledge and accept that any Change in Management Control may have consequences for the Agreement. HS2 Ltd may at its sole discretion:
 - 4.2.1 elect to recover all or part of the Grant and any other sums actually received by you and terminate this Agreement in accordance with clause 14(b) at any time following a Change in Management Control occurring; and/or
 - 4.2.2 withhold payment of any sums that become due to you under these terms and conditions on or after a Change in Management control takes place.
- 4.3 Without prejudice to the generality of clause 4.2:
 - 4.3.1 with the agreement of HS2 Ltd and/or its Authorised Representative at their sole discretion, you may novate this Agreement to a Successor, on the terms of the Novation Agreement (Novation), within 12 months (twelve months) of completion of a Succession, such Novation at all times to be subject to clause 4.5; and
 - 4.3.2 you acknowledge and accept that if a Succession occurs and a Novation Agreement completed by you and the Successor is not received by the Authorised Representative on or before 12 months after the Succession for any reason, HS2 Ltd may exercise its discretion to recover the full amount of the Grant and any other sums actually received by you pursuant to this Agreement and terminate this Agreement in accordance with clause 14(c).
- 4.4 The terms of the Novation Agreement may be amended by HS2 Ltd at any time prior to execution of that agreement.

4.5 From and including the date of the Novation you agree that:

4.5.1 you shall not be entitled to any further sums under the terms of this Agreement;
and

4.5.2 if a breach of any term of this Agreement occurs, HS2 may exercise its discretion to recover from you the full amount of the Grant and any additional sums actually received by you pursuant to the terms of this Agreement and terminate this Agreement in accordance with clause 14(b).

5 AMOUNT OF GRANT

5.1 Only land in England is eligible for this Grant.

5.2 HS2 Ltd will only pay the reasonable costs in relation to the Capital Items for planting or restoring the woodland. The amount of the Grant will be set out in the Agreement Document. The award of the Grant for installing leaky woody dams will be at HS2 Ltd's discretion and will require supporting evidence that the dam is required, for example that the Land is within a priority catchment for flood risk management. Under no circumstances will HS2 Ltd be liable to pay to you any more than the total amount of the Grant

5.3 The total payment in relation to Capital Items for Woodland Creation is capped at £8,500 per hectare based on the gross area for woodland creation and for PAWS restoration is capped at £4,000 per hectare based on the net area of planting for PAWS restoration. The cap for PAWS restoration does not include any Capital Items for preparation or protection measures. The area of restoration and extent of Capital Items is set out in the Agreement Document.

5.4 In addition to the reasonable costs for Capital Items available for the planting and protection of newly created woodland a woodland creation maintenance payment of £200 per hectare per annum is available for ten years following completion of planting. Where such Woodland Creation Maintenance Payment forms part of the Grant, irrespective of any other eligibility requirements, to be entitled to any payment of the Woodland Creation Maintenance Payment, completion of planting must have occurred within the relevant planting seasons specified in the Agreement Document as extended pursuant to Clause 3.3 of these terms and conditions of funding Provided that the trees have been planted in accordance with the Agreement this Woodland Creation Maintenance Payment is to be paid in two instalments with a payment made in the fifth year following the completion of planting and the tenth year following completion of planting.

6 PAYMENT

6.1 In order to claim payment of the Grant or any element of the Grant that you are entitled to in accordance with this Agreement you must submit a completed HS2 Woodland Fund Claim Form to the Authorised Representative. Only one claim per Financial Year can be made. If you claimed Basic Payment Scheme (BPS) on the Land

your claim must include confirmation you have notified the Rural Payments Agency (RPA) of the tree planting by submitting an RLE₁ form (<https://www.gov.uk/government/publications/tell-the-rural-payments-agency-about-land-changes-and-entitlement-transfers>) and that you will update the land use code in your next BPS application (for current land use codes see here: <https://www.gov.uk/guidance/rural-payments-service-land-use-codes>).

- 6.2 The Authorised Representative will endeavour to pay the Grant or such element of it to you within 30 Working Days of receiving a completed HS2 Woodland Fund Claim Form provided always that the documents submitted are satisfactory and accepted by the Authorised Representative for payment. Claims for payment may require an inspection before payment.
- 6.3 You must submit an HS2 Woodland Fund Claim Form to the Authorised Representative within the Financial Year that you become entitled to claim payment for the Grant or an element of the Grant under this Agreement. If you fail to do so, you will lose the right to claim payment of the Grant or that element of the Grant.

7 REPAYMENT

- 7.1 If you breach the terms of the Agreement or if there is a change in circumstances affecting your eligibility to receive the Grant, HS2 Ltd reserves the right to withhold or require repayment of the Grant, in full or in part.
- 7.2 If any sum becomes repayable under the Agreement, it shall be treated as a debt owing by you to HS2 Ltd until such time as the outstanding amount is repaid. A recovery order will be issued to you specifying the amount to be repaid and the date by which repayment must be made.
- 7.3 If you fail to make a repayment within 60 days of the date of the relevant recovery order, HS2 Ltd reserves the right to charge interest on the outstanding debt at a daily rate equivalent to the Bank of England base rate plus 1%.
- 7.4 Where any sum is repayable under the Agreement and you have failed to repay the outstanding amount within the period specified in the recovery order, HS2 Ltd reserves the right to deduct the outstanding debt from future payments due to you under this Agreement and any other agreement HS2 Ltd may have with you.

8 ACCESS TO DOCUMENTS AND INFORMATION

You agree that you shall, upon request, supply any documents, information, data, reports or written or verbal explanations which may be required by HS2 Ltd (or Authorised Representative) or any other UK public body in connection with this Agreement.

9 SITE VISITS

HS2 Ltd and/or its Authorised Representative shall be entitled to inspect your land or premises, at all reasonable times and on reasonable notice (maximum of 48 hours' notice), throughout the Agreement and Maintenance Period for the purpose of ensuring that the terms and conditions of funding of this Agreement have been complied with.

10 MAINTENANCE OF ACCOUNTS AND RECORDS

- 10.1 You shall keep accurate and up-to-date accounts and records of the receipt and expenditure of the Grant and evidence of your compliance with this Agreement.
- 10.2 You 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 three years from termination or expiry of this Agreement. HS2 Ltd and/or its Authorised Representative shall have the right to review your accounts and records relating to the Grant and to take copies of such accounts and records.

11 INTELLECTUAL PROPERTY RIGHTS

All rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, know-how and any other intellectual property rights whatsoever owned by or licensed to either you or HS2 Ltd (or its Authorised Representative) before the Commencement Date or developed by either party or the Authorised Representative under the Agreement, shall remain the property of that party.

12 DATA AND INFORMATION

- 12.1 The parties shall comply with all relevant UK and EU data protection legislation in delivering their obligations under the Agreement.
- 12.2 You acknowledge that HS2 Ltd is and its Authorised Representative may be subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs).
- 12.3 You agree to provide all necessary assistance and cooperation which is reasonably requested by HS2 Ltd and/or its Authorised Representative for the purposes of complying with its/their obligations under the FOIA and EIRs. If you are required to supply information pursuant to a FOIA/EIR request, you shall supply all such information which is within your possession or control within 5 Working Days (or such other period as the HS2 Ltd and/or its Authorised Representative shall reasonably require).

12.4 If you receive a FOIA/EIR request from a member of the public, you shall not respond to the request but shall forward the request to the Authorised Representative and HS2 Ltd within two Working Days of receipt.

12.5 HS2 Ltd shall determine in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of FOIA and/or the EIRs.

13 LIMITATION OF LIABILITY

13.1 Neither party excludes or limits its liability for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation, or any other liability which cannot be limited or excluded by law.

13.2 HS2 Ltd accepts no liability for any consequences, whether direct or indirect, arising from the Agreement or your use of the Grant.

13.3 Subject to clause 13.1 and 13.2, HS2 Ltd's total aggregate liability in connection with the Agreement shall not exceed the amount of the Grant.

13.4 You shall indemnify HS2 Ltd and its Authorised Representative against all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising as a result of your actions or omissions in connection with the Agreement.

14 TERMINATION

14.1 HS2 Ltd reserves the right to terminate the Agreement on written notice to you if:

- (a) you have breached the terms of the Agreement or there is a change in circumstances affecting your eligibility to receive the Grant;
- (b) there has been a Change in Management Control;
- (c) the circumstances in clause 4.3.2 apply; or
- (d) you have failed to repay any sum which has become recoverable under the Agreement.

14.2 You may terminate the Agreement at any time prior to receiving payment by giving written notice to the Authorised Representative.

15 CONSEQUENCES OF EXPIRY OR TERMINATION

15.1 Expiry or termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of expiry or termination which existed at or before the date of expiry or termination.

15.2 Expiry or termination of the Agreement shall not affect the continuing rights and obligations of the parties under clauses 7 (Repayment), 8 (Access to Documents and Information), 9 (Site Visits), 10 (Maintenance of Accounts and Records), 11 (Intellectual Property Rights), 12 (Data and Information), 13 (Limitation of Liability), 15 (Consequences of Expiry or Termination), 17 (Severability), 19 (Waiver), 20 (Notices), 21 (Dispute Resolution), 24 (Third Party Rights), 25 (Governing Law) or any other provision in the Agreement which is expressly stated to survive expiry or termination of

the Agreement or which is required to give effect to such termination or expiry or the consequences of such termination or expiry.

16 VARIATION

HS2 Ltd reserves the right to vary these terms and conditions of funding at any time. Any variation will be effected in writing and notified to you in advance. HS2 Ltd shall endeavour to give such notice as is reasonable and proportionate, having regard to the nature of the variation and its consequences for you.

17 SEVERABILITY

If any term, condition or provision of the Agreement is held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in the Agreement.

18 FORCE MAJEURE

- 18.1 If you are prevented from complying with your obligations under the Agreement due to force majeure or exceptional circumstances, the Authorised Representative must be notified in writing, within 15 Working Days from the date on which you (or any person authorised to act on your behalf) are in a position to do so.
- 18.2 Force majeure or exceptional circumstances may include:
- (a) your death or long-term professional incapacity;
 - (b) a severe natural disaster gravely affecting the Land;
 - (c) the accidental destruction of livestock buildings on the Land;
 - (d) an epizootic or a plant disease affecting part or all of your crops, trees or livestock; or
 - (e) expropriation of all or a large part of the Land (provided that the expropriation could not have been anticipated at the time the application for funding was made).
- 18.3 The Authorised Representative will consider the facts on a case-by-case basis in deciding whether or not you are relieved of all or part of your obligations under the Agreement and whether all or part of the Grant should be suspended or repaid.

19 WAIVER

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

20 NOTICES

- 20.1 All notices in relation to the 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) using the contact details set out in the Agreement Document (or any updated address which is subsequently notified by one party to the other). It is your responsibility to notify HS2 Ltd and the Authorised Representative of any change to your contact details.
- 20.2 If personally delivered or if e-mailed all such notices 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 notices shall be deemed to have been given and received on the second Working Day following such mailing.

21 DISPUTE RESOLUTION

- 21.1 Any dispute arising between the parties or any complaint or appeal by you concerning HS2 Ltd's and/or the Authorised Representative's actions in connection with the Agreement shall, until March 2020 be resolved according to the Forestry Commission's complaint procedure which is set out here: <http://www.forestry.gov.uk/forestry/inf-d6df1br>. Information on this process can also be obtained from: The Executive Office, England National Office, 620 Bristol Business Park, Coldharbour Lane, Bristol, BS16 1EJ. Tel: 0300 067 4000 or by email at fe.england@forestry.gsi.gov.uk.
- 21.2 From April 2020 onward complaints will be managed according to the HS2 Ltd Complaints Procedure applicable at that time in respect of this Agreement and which can be found at: <https://www.gov.uk/government/organisations/high-speed-two-limited/about/complaints-procedure>. HS2 Ltd reserves the right to revise the complaints procedure at any time.

22 NO PARTNERSHIP OR AGENCY

The Agreement shall not create any partnership or joint venture between HS2 Ltd the Authorised Representative and you, 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.

23 STATE AID

You understand and acknowledge that the Grant is *De Minimis* state aid. The amount of *De Minimis* state aid you are entitled to receive is capped at €200,000 over any three consecutive Financial Years (using the Euro-Sterling exchange rate as at the Commencement Date). You confirm that you have not received more than €200,000 in *De Minimis* state aid in the last three consecutive financial years and that receiving the

Grant will not cause you to exceed this threshold. Further information about the state aid rules is available at <https://www.gov.uk/guidance/state-aid>.

24 THIRD PARTY RIGHTS

This Agreement does not and is not intended to confer any contractual benefit on any person who is not a party to the Agreement.

25 GOVERNING LAW

The Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

Annex 1

Novation Agreement

HS2 Woodland Fund Novation Agreement

This Agreement is dated _____* and is made between the following parties:

**(to be completed by the Forestry Commission only, please leave blank)*

1. [FULL NAME] of [ADDRESS]* ("Original Occupier")

**(if the Original Occupier is more than one person, please include full name and address of each person. For companies, please include company registered number and registered office address.)*

2. [FULL NAME] of [ADDRESS]* ("Successor").

**(if the Successor is more than one person, please include full name and address of each person. For companies, please include company registered number and registered office address.)*

3. High Speed Two (HS2) Limited (Company Reference Number: 06791686) of 2 Snowhill, Snow Hill Queensway, Birmingham, B4 6GA ("HS2")

WHEREAS

1. This Agreement is supplemental to the HS2 Woodland Fund Terms and Conditions, Reference Number: _____* ("Terms and Conditions") to which the Original Occupier and HS2 are party.

**(Reference Number of Scheme to be included as per the Successor Form)*

2. This Agreement relates to the whole of the land subject to the Terms and Conditions ("the Land").

3. The legal interest in the Land ("the Interest") has transferred from the Original Occupier to the Successor.

4. Following transfer of the Interest, the Successor, the Original Occupier and HS2 have agreed that the Successor should undertake to perform the Terms and Conditions in place of the Original Occupier in respect of the Land pursuant to this Agreement.

TRANSFER

1. In consideration of the mutual promises and undertakings described herein, with effect from and including the date of this Agreement (“the Effective Date”) the Original Occupier hereby novates the Terms and Conditions to the Successor and the Successor and HS2 accept such novation on the terms of this Agreement.
2. The Successor undertakes to HS2, and HS2 undertakes to the Successor, to perform the Terms and Conditions and be bound by them in every way as if the Successor had been, from and including the Effective Date, a party to the Terms and Conditions in place of the Original Occupier. HS2 agrees to accept the performance and observance of the Terms and Conditions by the Successor in lieu of performance and observance by the Original Occupier.
3. The Original Occupier warrants to the Successor that the Original Occupier has duly performed and observed its obligations pursuant to the Terms and Conditions up to the Effective Date.
4. The Original Occupier hereby acknowledges that:
 1. all sums properly due to them under the Terms and Conditions up to the Effective Date have been paid by HS2; and
 2. they shall no longer be entitled to any sums under the Terms and Conditions.
5. All references to the Original Occupier in the Terms and Conditions shall be read and construed as references to the Successor from and including the Effective Date.
6. Subject to clause 8, HS2 hereby releases the Original Occupier and the Original Occupier hereby releases HS2 from its future obligations under the Terms and Conditions from and including the Effective Date.
7. The Successor agrees that it will accept responsibility to HS2 for any and all work and maintenance performed in respect of the Land on or after the Effective Date (“Post Novation Work”) and that it will receive and accept liability for all claims and demands arising out of Post Novation Work.
8. Notwithstanding clause 6, nothing in this Agreement shall affect or prejudice:
 1. any claim or demand HS2 might have against the Original Occupier relating to matters occurring before the Effective Date; and/or
 2. HS2’s right to reclaim any and all sums actually received by the Original Occupier prior to the Effective Date pursuant to the Terms and Conditions in circumstances where a breach of the Terms and Conditions occurs from and including the Effective Date and by signing this Agreement the Original Occupier hereby agrees to be bound by this term from the Effective Date.
9. The Terms and Conditions shall in all other respects continue on its existing terms.
10. In the event of :

1. the Successor; and/or
2. the Original Occupier,

being more than one person, each person shall be jointly and severally liable for that party's obligations under this Agreement. For the avoidance of doubt a person includes a natural person, corporate or unincorporated body.

11. With the exception of the Department for Transport, who may enforce HS2's rights pursuant to this Agreement, a person or organisation who is not a party shall not be entitled to enforce any of the terms of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

12. This Agreement and any matters in connection with it shall be governed by the law of England and shall be subject to the exclusive jurisdiction of the English courts.

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

Signed by the Original Occupier*:

Signed by the Successor*:

**(in the event of the Successor and/or Original Occupier being more than one person, please ensure that additional signature blocks are added so that both can sign this Agreement.)*

Signed by the Forestry Commission,
for and on behalf High Speed Two (HS2) Limited:
