

**DATED** \_\_\_\_\_ **2020**

**Draft: 15/10/2020**

- (1) CONWY COUNTY BOROUGH COUNCIL**
- (2) DENBIGHSHIRE COUNTY COUNCIL**
- (3) FLINTSHIRE COUNTY COUNCIL**
- (4) GWYNEDD COUNCIL**
- (5) THE ISLE OF ANGLESEY COUNTY COUNCIL**
- (6) WREXHAM COUNTY BOROUGH COUNCIL**
- (7) BANGOR UNIVERSITY**
- (8) GLYNDWR UNIVERSITY**
- (9) COLEG CAMBRIA**
- (10) GRWP LLANDRILLO MENAI**

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**GOVERNANCE AGREEMENT 2  
IN RELATION TO THE DELIVERY OF THE  
GROWTH DEAL**

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THIS AGREEMENT is made on

2020

**BETWEEN:-**

- (1) **CONWY COUNTY BOROUGH COUNCIL** of PO Box 1, Conwy, LL30 9GN ("**Conwy Council**");
- (2) **DENBIGHSHIRE COUNTY COUNCIL** of PO Box 62, Ruthin, LL15 9AZ ("**Denbighshire Council**");
- (3) **FLINTSHIRE COUNTY COUNCIL** of County Hall, Mold, Flintshire, CH7 6NB ("**Flintshire Council**");
- (4) **GWYNEDD COUNCIL** of Gwynedd Council, Shirehall Street, Caernarfon, LL55 1SH ("**Gwynedd Council**");
- (5) **THE ISLE OF ANGLESEY COUNTY COUNCIL** of Council Offices, Llangefni, Anglesey, LL77 7TW ("**Isle of Anglesey Council**");
- (6) **WREXHAM COUNTY BOROUGH COUNCIL** of The Guildhall, Wrexham, LL11 1AY ("**Wrexham Council**");
- (7) **BANGOR UNIVERSITY** of Bangor, Gwynedd, LL57 2DG;
- (8) **GLYNDWR UNIVERSITY** of Mold Road, Wrexham, LL11 2AW;
- (9) **COLEG CAMBRIA** of Kelsterton Road, Connah's Quay, Deeside, Flintshire, CH5 4BR; and
- (10) **GRWP LLANDRILLO MENAI** of Llandudno Road, Colwyn Bay, LL28 4HZ;

(together referred to as the "**Parties**" and individually as a "**Party**").

**WHEREAS:-**

- (A) The GA1 Parties entered into the first governance agreement on 18 December 2018 ("**GA1**") to set up the Joint Committee and define their respective roles and responsibilities in relation to the Growth Deal up to the point when the Growth Deal is to be entered into by the Councils, the UK Government and the Welsh Government.
- (B) [The Growth Deal has now been signed on or about the date of this Agreement and the Parties wish to enter into this agreement, the second governance agreement (this "**Agreement**"),<sup>1</sup> to regulate their respective roles and obligations in relation to the implementation of the Growth Deal and delivery of the Growth Vision including (amongst other matters) the process and governance arrangements for the approval of investments and expenditure under the Growth Deal via Approved Projects. It is acknowledged and agreed by the Parties that, in signing this Agreement, the GA1 been brought to an end and has been superseded and replaced by this Agreement. References to this "**Agreement**" and "**GA2**" shall mean the same.
- (C) The Parties have established the Joint Committee as the entity that will ultimately be responsible for overseeing the implementation of the Growth Deal and the delivery of the Growth Vision. The Joint Committee consists of the Councils as the formal members of the Joint Committee supported by the Advisers. The Councils are each a Party to this Agreement, have voting rights and obligations to financially contribute to the Joint Committee as more particularly set out in this Agreement. The Advisers, save for the Business Delivery Board, are each a Party to this Agreement and have obligations to financially contribute to the Joint Committee. The Advisers, save for the Business Delivery Board, shall advise the Councils but will not have formal voting rights in relation to any Joint Committee Matter put before the Joint Committee but will, alongside the Councils, be required to decide upon any "Reserved Matters" as more particularly set out in this Agreement.
- (D) The Parties have agreed to appoint Gwynedd Council to act as the Host Authority for and on behalf of the Parties and to discharge the Joint Committee's obligations in relation to the implementation of

<sup>1</sup> PM: To be updated to reflect Final Deal Terms.

the Growth Deal and delivery of the Growth Vision pursuant to and in accordance with this Agreement.

- (F) The Business Delivery Board is an unincorporated volunteer group of business sector experts in the region that has been established as a sub-group to the Joint Committee. Consequently, the Parties wish to invite the Chair of the Business Delivery Board to be an "Adviser" to the Joint Committee but, it is acknowledged and agreed that, the Chair and/or the Business Delivery Board will not be a signatory to this Agreement, is not a Party to this Agreement, and has no voting rights in relation to any Joint Committee Matter or any Reserved Matter or any obligations to make any financial contribution to the Joint Committee. The Business Delivery Board's draft terms of reference are set out in Part 5 of Schedule 2 (Terms of Reference) of this Agreement which shall be reviewed and approved by the Joint Committee as a Joint Committee Matter.
- (G) By entering into this Agreement, the Parties also confirm and accept the change of name of the Portfolio Management Office to the Portfolio Management Office to reflect its terms of reference and remit.
- (H) The Councils wish to enter into this Agreement and deliver the Growth Deal pursuant to the powers conferred on them by sections 101, 102, 111 and 113 of the Local Government Act 1972, section 1 of the Local Authority (Goods & Services) Act 1970, section 25 of the Local Government (Wales) Act 1994, section 2, 19 and 20 of the Local Government Act 2000, section 9 of the Local Government Wales Measure 2009 and all other enabling powers now vested in the Councils.<sup>2</sup>

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement and the recitals, unless, the context otherwise requires the following terms shall have the meaning given to them below:-

<b>"Accounting Period"</b>	means those periods set out in paragraph 1 of Schedule 7 (Accounting Periods) as may be amended from time to time in accordance with the terms of this Agreement
<b>"Advisers"</b>	means the representatives of the bodies and individuals listed below plus, subject to Clause 9.2.4 (Role of the Advisers), any further individuals and/or bodies whom the Joint Committee chooses to invite in that capacity from time to time:-  (a) Bangor University;  (b) Coleg Cambria;  (c) Grwp Llandrillo Menai;  (d) Glyndwr University; and  (e) Chair of the Business Delivery Board acting on behalf of the Business Delivery Board
<b>"Adviser Led Project"</b>	means Approved Project lead by a Project Sponsor who is an Adviser (and not a Council)
<b>"Advisers' Contribution"</b>	has the meaning given in Clause 15.5.1(a)(iv) (Funding)
<b>"Advisers' Individual Contribution"</b>	has the meaning given in Clause 15.5.6(b) (Advisors' Contribution)

<sup>2</sup> PM: Parties to please consider and satisfy themselves as to the powers that they have to enter into this Agreement. Please confirm or raise any queries if any concerns.

<b>"Annual Budget"</b>	means the annual budget of the Host Authority held for and on behalf of the Joint Committee as set out in Clause 15.4 (Annual Budget) which includes payment of any Joint Committee Costs in accordance with this Agreement
<b>"Annual Budget Contributions"</b>	has the meaning given in Clause 15.4.2 (Annual Budget)
<b>"Approved Projects"</b>	means any project contained within a Project Business Case approved for investment by the Joint Committee in accordance with Clause 14 (Approval Process)
<b>"Back-to-Back Agreement"</b>	has the meaning given in Clause 15.5.4(f) (Councils' Contribution and Advisors' Contribution)
<b>"Business Day"</b>	means any day other than a Saturday or Sunday or a public or bank holiday in England and/or Wales
<b>"CEDR"</b>	means the Centre for Dispute Resolution
<b>"Commencement Date"</b>	means the date of this Agreement
<b>"Confidential Information"</b>	all know-how and other information whether commercial, financial, technical or otherwise relating to the business, affairs or methods of all or any Party, which is contained in or discernible in any form whatsoever (including without limitation software, data, drawings, films, documents and computer-readable media) whether or not marked or designated as confidential or proprietary or which is disclosed orally or by demonstration and which is described at the time of disclosure as confidential or is clearly so from its content or the context of disclosure
<b>"Conflicts Policy"</b>	has the meaning given in Clause 3.5.12(a) (Conflicts Policy);
<b>"Council Matter"</b>	has the meaning given in Clause 5.2 (Council Matter);
<b>"Councils"</b>	means the following:- <ul style="list-style-type: none"> <li>(a) Conwy Council;</li> <li>(b) Denbighshire Council;</li> <li>(c) Flintshire Council;</li> <li>(d) Gwynedd Council;</li> <li>(e) Isle of Anglesey Council; and</li> <li>(f) Wrexham Council</li> </ul>
<b>"Councils' Contribution"</b>	Has the meaning given in Clause 15.5.1(a)(iii) (Funding);

<b>"Councils' Supplementary Payments"</b>	means the annual payment of £40,000 (forty thousand pounds each) provided by each Council on an ongoing basis to the Joint Committee to partly fund the Annual Budget of the Joint Committee. For the avoidance of doubt, such annual payment is in addition to any Annual Budget Contribution and the Councils' Contribution to be provided pursuant to this Agreement and is to be disregarded for the purposes of calculating each Party's liability under the definition of "Proportionate Basis" and "Population Basis".
<b>"Decision Period"</b>	means the period of twenty (20) Business Days from the date of the Liability Report or such other longer time as is unanimously agreed by all the Joint Committee
<b>"Delegations Policy"</b>	means the allocation of delegation set out in Schedule 1
<b>"Data Protection Legislation"</b>	means the Data Protection Act 2018 and General Data Protection Regulations
<b>"Defaulter Exit Date"</b>	means, where the material breach is not capable of remedy, the day after the date that the notice served pursuant to Clause 2.3 is deemed to be served or, where the material breach is capable of remedy, the day after the last day that the breach can be remedied and it has not been remedied in that period as set out in the notice;
<b>"Executive Support Group"</b>	means the team established by the Partners to support the Joint Committee and to give direction and advice to the Portfolio Management Office on the implementation of the Joint Committee's decisions as more particularly set out in Clause 10 (Executive Support Group) and Part 2 of Schedule 3 (Executive Support Group's Terms of Reference)
<b>"GA1 Parties"</b>	means all the Councils and Advisers (a), (b), (c) and (d) only
<b>"GA Code of Conduct"</b>	means the code of conduct for the Advisers set out in Schedule 7
<b>"Gateway Review"</b>	means an independent assessment of programs and projects to assess the progress and likelihood of successful delivery anticipated to be on an annual basis
<b>"Grant Offer Letter"</b>	means the letter from the Welsh Government and the UK Government to the Parties which confirms the terms and conditions of the Growth Deal and the funding to be provided and is appended to this Agreement at Schedule 12 (Grant Offer Letter)
<b>"Growth Deal" or "North Wales Growth Deal"</b>	means the agreement between the Welsh Government, the UK Government and the Parties to work together for the people and businesses of North Wales, and deliver local projects which will increase opportunity and prosperity in communities across the region as more particularly set out in the Grant Offer Letter on or about the date of this Agreement in which sets out the terms of the "North Wales Growth Deal"
<b>"Growth Deal Contribution"</b>	means the HMT Contribution and the WG Contribution

<b>"Growth Vision"</b>	means the strategy for economic growth and development within the North Wales Region agreed jointly by the Parties and appended to this Agreement at Schedule 9
<b>"Host Authority"</b>	means the Council appointed under Clause 6 (Host Authority) who shall be responsible for receiving and allocating funds for and on behalf of the Parties for Approved Projects under the Growth Deal and whose duties are set out under Clause 7 (Duties of the Host Authority) and references to Host Authority and Host Authority shall mean the same
<b>"HMT"</b>	means Her Majesty's Treasury, a ministerial department of the UK Government
<b>"HMT Contribution"</b>	means as defined in Clause <b>15.5.1(a)(i)</b> (Funding)
<b>"HMT Funding Conditions"</b>	means as defined in Clause <b>15.5.2(a)(ii)</b> (HMT Contribution)
<b>"Implementation Plan"</b>	means the implementation plan that sets out, amongst other things, the indicative process and timeline for the procurement and implementation of the Growth Deal and is attached to the [Grant Offer Letter] which is attached at Schedule 12 (Grant Offer Letter) of this Agreement. For the avoidance of doubt, this is a live document that forms part of Schedule 12 for information only to confirm the position as at the Commencement Date but will be updated from time to time by the Parties in accordance with the terms of the Grant Offer Letter
<b>"Intellectual Property"</b>	any and all patents, trademarks, trade names, copyright, moral rights, rights in design, rights in databases, know-how and all or other intellectual property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating to them and the right to apply for registration of them
<b>"Internal Costs"</b>	means as defined in paragraph 1.1 of Schedule 5 (Heads of Expenditure)
<b>"IP Material"</b>	the Intellectual Property in the Material
<b>"Integrated Assurance and Approval Plan"</b>	means the document to be submitted to WG as part of the Joint Committee's reporting and approval process with WG in relation to the Growth Deal
<b>"JC Unresolved Matter"</b>	means as defined in Clause 9.6.5 (Joint Committee)
<b>"Joint Committee"</b>	means the joint committee established by the GA1 Parties pursuant to the terms of the GA1 and expanded under this Agreement to include the Councils and the Advisers and reference to the North Wales Economic Ambition Board, NWEAB, the Economic Ambition Board and/or EAB shall mean the same



<b>"Joint Committee Costs"</b>	means as defined in paragraph 1.2 of Schedule 5 (Heads of Expenditure) and excluding any Internal Costs (save for the Internal Costs of the Host Authority in carrying out the duties of the Host Authority which shall be accounted for as Joint Committee Costs)
<b>"Joint Committee Matter"</b>	shall have the meaning given to it in Clause 5.1.2
<b>"Joint Committee Meeting"</b>	means a meeting of the Joint Committee duly convened in accordance with Clause 9 (Joint Committee)
<b>"Liability Report"</b>	means a report prepared by the Host Authority (or such other Council nominated under Clause 19.3 (Withdrawal)) acting reasonably setting out the financial and resource commitments of the relevant Party under Clause 19 (Withdrawal) or 20 (Consequences of Termination) including the items set out in Schedule 7 (Liability Report)
<b>"Loan Funds"</b>	has the meaning given in Clause 15.5.4(a)(i)
<b>"Local Authority"</b>	a principal council (as defined in section 270 of the Local Government Act 1972) or any body of government in Wales established as a successor of a principal council
<b>"Lock In Period"</b>	means six (6) years from the date of this agreement;
<b>"Material"</b>	all data, text, graphics, images and other materials or documents created, used or supplied by a Party in connection with this Agreement unless before the first use or supply, the Party notifies the other Parties that the data, text supplied is not to be covered by this definition
<b>"Member's Code of Conduct"</b>	means, in respect of any Council, the respective code of conduct for that Council which their members are bound to comply with;
<b>"Monitoring Officer"</b>	means as defined in Clause 7.1.6 (Duties of the Host Authority)
<b>"NNDR"</b>	means the National Non Domestic Rates
<b>"Overarching Business Plan" or "OBP"</b>	means the overarching business plan approved and adopted by the Parties at the Commencement Date to regulate the implementation of the Growth Deal and the Growth Vision
<b>"Personal Data"</b>	means the personal data as defined in the Data Protection Legislation
<b>"Population Basis"</b>	means the relevant proportion for each Council ("A%") by reference to their respective fractional contribution as set out in Clause 15.5.4(g) (Council's Contribution) which applies in relation to the Council's Contribution only;

<b>"Portfolio Business Case"</b>	means a detailed business case for a portfolio of Programmes and Projects which is subject to approval by the UK and Welsh Governments and provides detail to the UK and Welsh Governments as to how the Joint Committee intends to deliver the Growth Deal
<b>"Portfolio Management Office"</b>	means the team lead by the Programme Director established by the Joint Committee to assist the Joint Committee to implement the Growth Deal and Growth Vision, to liaise with the Executive Support Group as more particularly set out in Part 2 (Portfolio Management Office) and Part 3 of Schedule 2 (Portfolio Management Office's Terms of Reference)
<b>"Programme"</b>	means the five key programmes as more particularly set out in the Growth Deal: <ul style="list-style-type: none"> <li>• innovation in high value manufacturing</li> <li>• low carbon energy</li> <li>• agrifood and tourism</li> <li>• digital connectivity</li> <li>• land and property</li> </ul>
<b>"Programme Business Case"</b>	means a detailed business case for the development and implementation of a Programme which is subject to approval by the UK and Welsh Governments
<b>"Programme Director"</b>	means the officer appointed as the programme director of the Growth Deal and Growth Vision
<b>"Programme Director Matter"</b>	shall have the meaning given to it in Clause 5.1.1
<b>"Project Business Case"</b>	means a detailed business case for the development and implementation of a Project which, once approved by the Joint Committee in accordance with Clause 14 (Approval Process), will result in that Project being an Approved Project and the Project Business Case shall regulate the investment into and delivery of that Approved Project
<b>"Project Sponsor"</b>	means an Adviser or third party or, in the case of a Regional Project, the Host Authority (or another Council) acting on behalf of the Joint Committee leading the delivery of an Approved Project
<b>"Proportionate Basis"</b>	means the relevant proportion for each Party by reference to their respective fractional contribution as set out as follows:

<b>Parties</b>	<b>Proportion of Contribution</b>
Conwy Council	1/8
Denbighshire Council	1/8
Flintshire Council	1/8
Gwynedd Council	1/8

The Isle of Anglesey Council	1/8
Wrexham Council	1/8
Bangor University	1/16
Wrexham University	1/16
Coleg Cambria	1/16
GRWP Llandrillo Menai	1/16

<b>"Quarter Period"</b>	means those periods set out in paragraph 2 of Schedule 7 (Accounting Periods) as may be amended from time to time in accordance with the terms of this Agreement
<b>"Quarterly Report"</b>	means as defined in Clause 13.5.1 (Progress Monitoring)
<b>"Regional Project"</b>	means an Approved Project led by Host Authority on behalf of the Joint Committee for the benefit of the region
<b>"Reserved Matter"</b>	shall have the meaning given to it in Clause 5.1.3
<b>"s151 Officer"</b>	means as defined in Clause 7.1.6 (Duties of the Host Authority)
<b>"Translation Costs"</b>	means translation costs incurred by the Host Authority in complying with any applicable legislation relating to its obligations under this Agreement
<b>"UKG"</b>	UK Government
<b>"WG"</b>	Welsh Government
<b>"WG Contribution"</b>	means as defined in Clause 15.5.1(a)(ii) (Funding)
<b>"WG Funding Conditions"</b>	means as defined in Clause 15.5.3 (WG Contribution)
<b>"Withdrawal Notice"</b>	means as defined in Clause 19.3

## 1.2 Interpretation

In this Agreement, except where the context otherwise requires:-

- 1.2.1 the singular includes the plural and vice versa;
- 1.2.2 a reference to any Clause, paragraph, Schedule or recital is, except where expressly stated to the contrary, a reference to such Clause, paragraph, schedule or recital of and to this Agreement;
- 1.2.3 any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;
- 1.2.4 any reference to legislation shall be construed as a reference to any legislation as amended, replaced, consolidated or re-enacted;

- 1.2.5 a reference to a public organisation (to include, for the avoidance of doubt, any Council) shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both functions and responsibilities of such public organisation;
- 1.2.6 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
- 1.2.7 the clause, paragraph and Schedule headings and captions in the body of this Agreement do not form part of this Agreement and shall not be taken into account in its construction or interpretation;
- 1.2.8 words preceding "**include**", "**includes**", "**including**" and "**included**" shall be construed without limitation by the words which follow those words;
- 1.2.9 words importing the masculine shall be construed as including the feminine or the neuter or vice versa; and
- 1.2.10 any reference to the title of an officer of any of the Councils shall include any person holding such office from time to time by the same or any title substituted thereafter or such other officer of the relevant Council as that Council may from time to time appoint to carry out the duties of the officer referred to.

### 1.3 Schedules

- 1.3.1 The Schedules to this Agreement form part of this Agreement.
- 1.3.2 In the event of any discrepancy between the Clauses and the Schedules, the Clauses shall take priority.
- 1.3.3 In the event of any discrepancy between the Schedules, Schedule 1 (Delegations Policy) shall priority over all other Schedules.

## 2. COMMENCEMENT, DURATION AND TERMINATION

### 2.1 Commencement

This Agreement shall take effect on the Commencement Date.

### 2.2 Duration of the Agreement

This Agreement shall continue in full force and effect from the Commencement Date until the earlier of:

- (a) all the Parties agree in writing to its termination and the consequences of such termination; or
- (b) there is only one remaining Council who has not withdrawn from this Agreement in accordance with Clause 19 (Withdrawal).

### 2.3 Termination

- 2.3.1 Without prejudice to any other rights or remedies, this Agreement may be terminated in relation to any Party ("**Defaulter**") by the other Parties ("**Non-Defaulting Parties**") acting unanimously in giving written notice to the Defaulter effective on receipt where the Defaulter materially breaches any of the provisions of this Agreement and in the case of a breach capable of remedy fails to remedy the same within thirty (30) Business Days (or such other period as agreed by the Non-Defaulting Parties) of being notified of each breach in writing by the Non-Defaulting Parties and being required to remedy the same. The decision to give written notice to the Defaulter shall be a Reserved Matter.

2.3.2 Subject always to the provisions set out in Clause 20 (Consequences of Termination), where notice is given under Clause 2.3.1 above and the material breach is not capable of remedy or, in the case of a breach capable of remedy, the Defaulter fails to remedy such breach within the time period set out in the notice above, Clause 20 (Consequences of Termination) of this Agreement shall apply and the Defaulter shall be deemed to have withdrawn from its role as a Council member of the Joint Committee or Adviser for the Joint Committee (as applicable) and a Party to this Agreement as at the Defaulter Exit Date.

### 3. **PRINCIPLES AND KEY OBJECTIVES**

3.1 The Parties intend this Agreement to be legally binding.

3.2 The Parties agree to work together to discharge the Parties' obligations in relation to the implementation of the Growth Deal and the Growth Vision pursuant to and in accordance with this Agreement.

3.3 The Parties agree and acknowledge that the Growth Deal and Growth Vision shall be delivered in accordance with the:-

- (a) Implementation Plan;
- (b) OBP;
- (c) any Portfolio Business Case;
- (d) any Programme Business Case; and
- (e) the Project Business Cases.

#### 3.4 **Objectives**

The Parties acknowledge and agree that the North Wales Growth Vision objectives are:-

- 3.4.1 to improve the economic, social, environmental and cultural well-being of the North Wales Region;
- 3.4.2 to support and retain young people in the communities situated in the North Wales Region;
- 3.4.3 to address worklessness and inactivity across the North Wales Region; and
- 3.4.4 to support and enable private sector investment in the North Wales Region, to boost economic productivity and to improve the economic and employment performance of the North Wales Region.

#### 3.5 **Principles**

Without prejudice to the terms of this Agreement, the Parties agree that they will conduct their relationship in accordance with the following principles:-

##### 3.5.1 **Openness and Trust**

In relation to this Agreement the Parties will be open and trusting in their dealings with each other, make information and analysis available to each other, discuss and develop ideas openly and contribute fully to all aspects of making the joint working successful. Whilst respecting the mutual need for commercial confidentiality, the Parties will willingly embrace a commitment to transparency in their dealings and in particular a need to comply with statutory access to information requirements including the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 and supporting codes of practice. The Parties will be aware of the need for and respect matters of commercial confidentiality and potential sensitivity;

### 3.5.2 **Commitment and Drive**

The Parties will be fully committed to working jointly, will seek to fully motivate employees and will address the challenges of delivering the Growth Deal with enthusiasm and a determination to succeed;

### 3.5.3 **Skills and Creativity**

The Parties recognise that each brings complimentary skills and knowledge which they will apply creatively to achieving the Parties' objectives, continuity, resolution of difficulties and the development of the joint working relationship and the personnel working within it. It is recognised that this will involve the appreciation and adoption of common values;

### 3.5.4 **Effective Relationships**

The roles and responsibilities of each Party will be clear with relationships developed at the appropriate levels within each organisation with direct and easy access to each other's representatives;

### 3.5.5 **Developing and Adaptive**

The Parties recognise that they are engaged in what could be a long term business relationship which needs to develop and adapt and will use reasonable endeavours to develop and maintain an effective joint process to ensure that the relationship develops appropriately and in line with these principles and objectives;

### 3.5.6 **Reputation and Standing**

The Parties agree that, in relation to this Agreement and the Growth Deal generally, they shall pay the utmost regard to the standing and reputation of one another, and act with regard to each Party's own employer and member codes of conduct and shall not do or fail to do anything which may bring the standing or reputation of any other Party into disrepute or attract adverse publicity to any other Party.

### 3.5.7 **Act in the Public Interest**

The Parties acknowledge and agree that the Joint Committee is a public body administering and directing public resource and finance in the public interest. The Parties and each representatives of the Parties has a duty to accordingly act in accordance with that fundamental duty – to act solely in the public interest.

### 3.5.8 **Reasonableness of Decision Making**

The Parties agree that all decisions made in relation to this Agreement and the Growth Deal generally shall be made by them acting reasonably and in good faith;

### 3.5.9 **Necessary Consents**

Each Party hereby represents to the other Parties that it has obtained all necessary consents sufficient to ensure the delegation of functions and responsibilities provided for by this Agreement; and

### 3.5.10 **Members, Officers, Directors and Employees Commitments**

Each Party shall use its reasonable endeavours to procure that their respective members, officers, directors and employees who are involved in the Growth Deal shall at all times act in the best interests of the Growth Deal, and act with regard to each Party's own employer

and member codes of conduct, devote sufficient resources to deliver the Growth Deal and respond in a timely manner to all relevant requests from the other Parties.

### 3.5.11 Code of Conduct

- (a) The Councils agree, in relation to this Agreement, the implementation of the Growth Deal and the delivery of Growth Vision that their members conduct will be governed by their respective Council Codes of Conduct for Members as amended from time to time when acting as a Member of the Joint Committee.
- (b) The Advisers agree, in relation to this Agreement, the implementation of the Growth Deal and the delivery of the Growth Vision that they shall act in accordance with the GA Code of Conduct when acting as an Adviser of the Joint Committee.
- (c) In all other respects, any representatives in any other group or sub-group including but not limited to the Executive Support Group and the Portfolio Management Group shall follow the Conflicts Policy only.

### 3.5.12 Conflicts Policy

- (a) The Parties agree and shall comply with the conflicts of interest policy ("**Conflicts Policy**") of NWEAB which is attached at Schedule 11 (Conflicts Policy) which sets out the guidelines and procedures for identifying, monitoring and managing actual and potential conflicts of interest.
- (b) The Conflicts Policy is intended to complement, and work alongside, the Codes of Conduct. However, please report any discrepancy immediately to the NWEAB's Monitoring Officer in accordance with Schedule 11 (Conflicts Policy).
- (c) It is acknowledged and agreed that:
  - (i) in the event of any discrepancy between the relevant Council Code of Conduct and the Conflicts Policy, the relevant Council Code of Conduct shall take precedence; and
  - (ii) in the event of any discrepancy between the GA Code of Conduct and the Conflicts Policy, the Conflicts Policy shall take precedence.

## 4. GOVERNANCE

4.1 The Parties acknowledge and agree that this Agreement contains the key governance provisions to be followed by the Parties in relation to implementation of the Growth Deal and the delivery of the Growth Vision to include (but not limited to) the following key principles:

- 4.1.1 the Parties have formed the Joint Committee as more particularly detailed in Clause 9 (Joint Committee) and appointed the Host Authority as set out in Clause 6 and 7 of this Agreement;
- 4.1.2 the Joint Committee and the Host Authority are supported by the Executive Support Group (Clause 10) and the Portfolio Management Office (Clause 11), the Transport Sub-Committee and any other sub-committees or sub-groups established by the Joint Committee pursuant to Clause 9.9.1 (Sub-Committees and Sub-Groups) and the Programme Director is responsible for the management of the Portfolio Management Office and reports directly to the Joint Committee; and
- 4.1.3 Clause 5 (Decision Making) details the key decision making powers of the Joint Committee and Clause 12 (Scrutiny) contains key scrutiny provisions.

## 5. **DECISION MAKING**

5.1 In terms of the need for decisions and other actions to be taken and carried out during the term of this Agreement, the Parties have identified the following three categories together with the means by which they will be taken:-

5.1.1 "**Programme Director Matter**" - being a matter which it is expected that the Programme Director will be able to make a decision upon and have the power to bind the Parties and the Joint Committee in doing so;

5.1.2 "**Joint Committee Matter**" – being a matter which it is expected that the Council representative (or appropriate deputy) of each Council appointed pursuant to this Agreement (but not the Adviser representatives) upon which it will be able to make a decision upon and have the power to bind the Parties and the Joint Committee in doing so; and

5.1.3 "**Reserved Matter**" – being a matter which, subject to Clause 5.2 (Council Matter), will have to be referred to each Party for a decision and, for the avoidance of doubt, that matter requiring a decision will not be dealt with by the Joint Committee until the decision shall have been agreed unanimously by all of the Parties and such decision (once reached) shall bind the Parties and the Joint Committee in doing so,

and in each case, such matters are identified in Schedule 1 (Delegations Policy).

### 5.2 **Council Matter**

5.2.1 Notwithstanding the provisions set out in Clause 5.1 (Decision Making) and elsewhere in this Agreement, it is acknowledged and agreed that any decision in relation to a Council Matter will be a matter for the Councils only (and not the Advisers) and, for the avoidance of doubt, a Council Matter shall not be dealt with by the Joint Committee until the decision shall have been agreed unanimously by all of the Councils and such decision (once reached) shall bind the Parties and the Joint Committee in doing so.

5.2.2 A "**Council Matter**" means:

- (a) any change to the Councils' Supplementary Payments; and/or
- (b) a decision pursuant to Clause 9.1.3 (Corporate Joint Committee).

## 6. **THE HOST AUTHORITY**

6.1 The Parties (acting severally) have agreed, with effect from the Commencement Date, that Gwynedd Council will act as the Host Authority responsible for discharging the Parties' obligations in relation to the Growth Deal and otherwise supporting the Joint Committee pursuant to and in accordance with this Agreement for and on behalf of the Parties and Gwynedd Council agrees to act in that capacity subject to and in accordance with the terms and conditions of this Agreement.

6.2 Gwynedd Council may in its absolute discretion elect to withdraw from its role as Host Authority to the Joint Committee (but remain as a Council member of the Joint Committee and a Party to this Agreement) by giving written notice of such intent to each Party that it wishes to withdraw from its role as Host Authority commencing three months from the date the notice is deemed to be served.

6.3 Where the Host Authority defaults and the Agreement is terminated in respect of it pursuant to Clause 2.3 (Termination) or the Host Authority withdraws pursuant to Clause 6.2 (The Host Authority) above or withdraws from the Agreement pursuant to Clause 19 (Withdrawal), then the replacement Host Authority will be appointed by the Joint Committee and the withdrawing or, as applicable, defaulting Host Authority will not have the right to vote in regard to any such appointment.

6.4 Where a replacement Host Authority is appointed pursuant to Clause 6.3 above, any reference to Gwynedd Council (in its capacity as the initial Host Authority) shall be read with reference to the



replacement Host Authority and Gwynedd Council shall use its reasonable endeavours to ensure the smooth hand over of all key information and documentation relating to the Growth Deal to the replacement Host Authority including (but not limited to) facilitating the novation/assignment of the Grant Offer Letter to the new replacement Host Authority where required by the Joint Committee.

6.5 The Host Authority shall act as the Host Authority and shall receive:-

6.5.1 any Growth Deal Contribution received for and on behalf of the Parties;

6.5.2 the Councils' Contribution;

6.5.3 the Advisers' Contributions;

6.5.4 the Annual Budget Contributions;

6.5.5 the Councils' Supplementary Contributions; and

6.5.6 any other funding that may be received from time to time in relation to the Growth Deal,

and shall hold and manage such funds in accordance with the terms of this Agreement.

## 7. DUTIES OF THE HOST AUTHORITY

7.1 For the duration of this Agreement, the Host Authority shall:-

7.1.1 act diligently and in good faith in all its dealings with the other Parties and it shall use its reasonable endeavours to discharge the Parties' obligations in relation to the implementation of the Growth Deal and delivery of the Growth Vision pursuant to and in accordance with this Agreement and all applicable legislation including but not limited to:-

(a) the Well-being of Future Generations (Wales) Act 2015;

(b) Welsh Language (Wales) Measure 2011;

(c) any compliance notice issued under the Welsh Language (Wales) Measure 2011 in respect of the Joint Committee (if applicable); and

(d) the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (as amended);

7.1.2 act as the Host Authority and primary interface (on behalf of itself and the other Parties) with the WG, the UKG and the European Regional Development Fund and any other body necessary to discharge the Parties' obligations in relation to the implementation of the Growth Deal and delivery of the Growth Vision;

7.1.3 act as the Host Authority to hold any funds received directly from WG, UKG, the European Regional Development Fund (if any), the Parties and/or any other sources (if any) in relation to the Growth Deal and only to use and release such funds as agreed in accordance with the terms of such funding and this Agreement;

7.1.4 act as the Host Authority to hold land and/ or any other assets procured under any Approved Project on trust for the Parties pursuant to the terms of the relevant Project Business Case and such Project Business Case shall detail the purchase, leasing or otherwise of any assets as well as the disposal of the same.

7.1.5 without assuming responsibility for the delivery of any specific Growth Deal project and within the limitation of the funding provided to it (as part of the Joint Committee Costs), provide the support services required to facilitate the work of the Joint Committee (and its sub committees and groups established pursuant to Clauses 9.7.4 and 9.8), including, but not limited to, financial, human resources, legal, ICT, estates, information management,

internal audit and procurement services. For the avoidance of doubt, the provisions of this Clause 7.1.5 shall not serve to fetter the ability of the Host Authority to enter into arrangements with any of the other Parties to provide the aforementioned services on its behalf.

- 7.1.6 without assuming responsibility for the delivery of any specific Growth Deal project, provide for the Host Authority's Chief Finance Officer ("**s151 Officer**") and Monitoring Officer (or their nominated deputies) (the "**Monitoring Officer**") to act, respectively, as the s151 Officer and Monitoring Officer to the Joint Committee; and
- 7.1.7 without limitation to its roles under the preceding provision of this Clause 7.1.7, have responsibility for, but not limited to administering the financial affairs of the Joint Committee (and its sub committees and groups established pursuant to 9.7.4 and 9.8), including accounting for VAT, keeping financial records, ensuring that the annual accounts of the Joint Committee are prepared in accordance with the Code of Practice on Local Authority Accounting and making arrangements for the external audit of the Joint Committee.
- 7.1.8 employ the Portfolio Management Office as set out in Clause 11 (Portfolio Management Office).

## 8. **DUTIES OF THE OTHER PARTIES**

- 8.1 For the duration of this Agreement, the other Parties shall act diligently and in good faith in all their dealings with the Host Authority and shall use their respective reasonable endeavours to assist the Host Authority to discharge the Parties' obligations in relation to the implementation of the Growth Deal and delivery of the Growth Vision pursuant to and in accordance with this Agreement and all applicable legislation including but not limited to:-
  - 8.1.1 the Well-being of Future Generations (Wales) Act 2015;
  - 8.1.2 Welsh Language (Wales) Measure 2011;
  - 8.1.3 any compliance notice issued under the Welsh Language (Wales) Measure 2011 to any individual Party; and
  - 8.1.4 the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (as amended);
- 8.2 It is acknowledged and agreed that the obligations and liabilities of each Party shall bind any successor entity in the event of any Council or Adviser re-organisation.

## 9. **JOINT COMMITTEE**

### 9.1 **Establishment of the Joint Committee**

- 9.1.1 The Councils have established the Joint Committee in accordance with this Agreement for the purposes of:-
  - (a) co-ordinating the planning and delivery of the Growth Deal and the Growth Vision;
  - (b) providing direction for key strategies in support of paragraph (a) uwchben, in particular transport, skills and employment, economic development and land use planning;
  - (c) uniting the Parties, other public sector bodies, charities and businesses around common purpose in support of (a) uwchben;
  - (d) providing direction to any sub-committees or sub-groups that the Joint Committee chooses to appoint including the commissioning of specific tasks or projects;

- (e) proposing new projects to be considered by NWEAB as part of the Growth Deal to be developed by way of a Project Business Case in accordance with the Overarching Business Plan and this Agreement;
- (f) deliberating on such projects to assess whether further due diligence is warranted and reaching agreement on the costs that should be incurred undertaking further appraisal work;
- (g) finalising and approving any Project Business Cases pursuant to Clause 13;
- (h) reviewing the OBP (and updating if required) in accordance with Clause 13 (Business Case);
- (i) taking all necessary decisions to pursue the aims and objectives of the Growth Vision; and
- (j) carrying out the functions set out in Part 1 of Schedule 2 (Joint Committee Terms of Reference).

9.1.2 The Joint Committee shall not have power to approve any Reserved Matter.

9.1.3 The Parties acknowledge the inclusion of a corporate joint committee in the Local Government and Elections Bill introduced on the 18<sup>th</sup> of November 2019 and that the Parties may, where not mandated by legislation chose to undertake or procure the undertaking of a detailed review to establish the full consequences of such corporate joint committee for the Joint Committee including (but not limited to) the obligations and liabilities of the Joint Committee and/or the Councils and/or the Advisers under this Agreement, the Growth Vision, the Growth Deal and any other relevant documentation. Any decision to change to a corporate joint committee shall be a "Council Matter".

## 9.2 **Role of the Advisers**

9.2.1 The Councils have invited the Advisers to support the Joint Committee to plan and deliver the Growth Deal and the Growth Vision and discharge all related obligations and liabilities as more particularly set out in this Agreement.

9.2.2 It is acknowledged and agreed that the Advisers, save for the Business Delivery Board and such other Adviser appointed by the Joint Committee in accordance with this Agreement:

- (a) are each a Party to this Agreement;
- (b) are an Adviser to (but not a formal executive member) of the Joint Committee;
- (c) have the right to attend and speak at meetings of the Joint Committee but will not have formal voting rights in relation to any Joint Committee Matter put before the Joint Committee;
- (d) will, alongside the Councils, be required to decide upon any "Reserved Matters"; and
- (e) have agreed to financially contribute to the Joint Committee,

each as more particularly set out in this Agreement.

9.2.3 It is acknowledged and agreed that only Clauses 9.2.2(b) and 9.2.2(c) apply to the non-signatory Advisers

9.2.4 The Joint Committee may invite, subject to any reasonable requirements, (and later remove) further bodies or organisations to become non signatory Advisers (but not a Party to the Agreement) Any decision to appoint or later remove further bodies or organisations

as a signatory Adviser who is or will be a Party to the Agreement to provide financial support to the Joint Committee shall be a Reserved Matter.

### 9.3 **Appointment of the Programme Director**

- 9.3.1 The Programme Director has been appointed by the Joint Committee to, amongst other matters:
- (a) support the Joint Committee to fulfil its obligations and liabilities under this Agreement;
  - (b) Lead the Portfolio Management Office;
  - (c) support the Executive Support Group;
  - (d) attend meetings of the Joint Committee and Executive Support Group;
  - (e) make Programme Director Matter decisions as set out in Schedule 1 (Decision Matrix); and
  - (f) report directly to the Joint Committee.
- 9.3.2 The Programme Director shall be employed by the Host Authority on behalf of the Joint Committee and any cost or liability of such employment shall be accounted for as Joint Committee Costs and recoverable by the Host Authority from the Joint Committee.

### 9.4 **Appointment of Representatives to the Joint Committee**

- 9.4.1 Each Party shall appoint one (1) representative to the Joint Committee. The Councils shall be represented by the Leader for the time being of each Council, and the Advisers shall be represented by the Chief Executive or equivalent of each Adviser, or such other person of sufficient status and authority as the Adviser shall notify to the Host Authority.
- 9.4.2 Each Party shall be entitled from time to time to appoint a named deputy for its representative and shall inform the Host Authority Monitoring Officer within one (1) calendar month of the Commencement Date of the details of its deputy. Any deputies may attend meetings of the Joint Committee but, in the case of a Council deputy, shall only be entitled to speak and vote at such meetings in the absence of his or her corresponding principal and, in the case of an Adviser deputy, shall only be entitled to speak at such meetings in the absence of his or her corresponding principal. Deputies must be of sufficient status and authority to undertake the role.
- 9.4.3 The Parties may, at their discretion, replace their representatives (and their respective deputies) provided that such replacement shall be on the same basis as the original appointed and provided further that no representative shall be removed or replaced by any Party without that Party giving prior written notice as soon as reasonably practicable .
- 9.4.4 The chairperson of the Joint Committee shall be a representative of a Council appointed to the Joint Committee and shall be appointed on an annual basis from a Council member by the Joint Committee at the Annual General Meeting. The chairperson shall not have a casting vote.
- 9.4.5 The vice chairperson of the Joint Committee shall be a representative of a Council appointed to the Joint Committee and shall be appointed on an annual basis from a council member by the Joint Committee at the Annual General Meeting. The vice chairperson shall not have a casting vote and his/her role shall be to perform the role of the chairperson when the chairperson is not in attendance.
- 9.4.6 Each Party may, at their discretion, replace their representative (and their respective deputies) appointed to the Joint Committee, provided that:-

- (a) at all times, they have a representative appointed to the Joint Committee in accordance with the roles identified in Part 1 of Schedule 2 (Joint Committee Terms of Reference);
- (b) any such replacement shall have no lesser status or authority than that set out in Part 1 of Schedule 2 (Joint Committee Terms of Reference) unless otherwise agreed by the Parties; and
- (c) the details of any such representative shall be notified to the other Parties in writing, to replace the relevant details set out in 9.4.1 and 9.4.4 above

## 9.5 Joint Committee Meetings

- 9.5.1 Unless the Joint Committee decides otherwise (e.g. if a meeting is deemed not to be required), the Joint Committee shall meet either on a bi-monthly basis or as and when required in accordance with the timetable for the delivery of the Growth Deal or the Growth Vision. Ordinary Meetings shall be convened in accordance with a "Calendar of Meetings" to be approved by the Joint Committee and upon giving the requisite statutory notice (to be issued through the Host Authority) to deliberate on the Joint Committee Matters referred to in Schedule 1 (Delegations Policy) and the Head of Democratic Services of the Host Authority shall be the "Proper Officer" for convening the meetings.
- 9.5.2 The expectation is that all of the Councils and Advisers attend all meetings of the Joint Committee where possible.
- 9.5.3 Any Council and/or Adviser may by written request made to the Host Authority no later than 15 (fifteen) clear working days prior to the date of the meeting to the Host Authority request that a matter be considered at the next meeting of the Joint Committee. Such request shall include a summary of the matter and the decision, if any sought.
- 9.5.4 The Host Authority shall ensure that all agendas and relevant information and reports in relation to a Joint Committee meeting are circulated in a timely manner and in any event in accordance with legislative requirements.
- 9.5.5 Any representative may, where he or she views that a matter requires urgent consideration, request to the Chairperson at the start of a Joint Committee meeting that such urgent item is added to the agenda, but its inclusion will be a matter for the Chairperson to decide in accordance with legislative requirements

## 9.6 Joint Committee Decisions

- 9.6.1 The quorum necessary for a Joint Committee meeting shall be a representative or deputy from at least 4 (four) Councils.
- 9.6.2 At meetings of the Joint Committee each representative or appropriate deputy (in the absence of the relevant representative) from each Council only shall have 1 (one) vote.
- 9.6.3 At meetings of the Joint Committee, each representative or appropriate deputy (in the absence of the relevant representative) from each Adviser shall have the right to advise the Joint Committee on decisions and their views shall be recorded by the Joint Committee. Whilst it is not intended that the Advisers shall have formal voting rights, the Joint Committee shall give consideration to any views or representations made by the Advisers and where Advisers do not agree with a proposed decision the Joint Committee shall consider (acting in good faith) declaring a matter a JC Unresolved Matter (as more particularly set out in Clause 9.6.5 below).
- 9.6.4 Decisions at a meeting of the Joint Committee require a simple majority vote of the representatives (or deputies as applicable) from the Councils in attendance, provided that if:-

- (a) the votes are tied (ie a deadlock); or
  - (b) two or more of the Councils and/or Advisers make such a request at the meeting,
- that decision shall be declared a JC Unresolved Matter to be dealt with in accordance with Clause 9.6.5.

9.6.5 If, at a meeting of the Joint Committee, a matter is not determined, that matter ("**JC Unresolved Matter**") shall be deferred for consideration at the next ordinary meeting of the Joint Committee meeting or such sooner time as shall be agreed. If at the reconvened Joint Committee meeting any decisions relating to a JC Unresolved Matter shall require a simply majority vote of the representatives (or deputies as applicable) from the Councils only in attendance, provided that if the votes are tied (ie a deadlock) the JC Unresolved Matter shall not be agreed and shall not be implemented by the Joint Committee. For the avoidance of doubt, the Advisers shall have no right to declare that a JC Unresolved Matter remains a JC Unresolved Matter at the reconvened Joint Committee meeting.

9.6.6 The Host Authority will publish a notice of the decisions of the Joint Committee and its sub-committees in accordance with the requirements of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) (Amendment) Regulations 2002/1385/ and shall serve a copy of the said notice on the Head of Democratic Services of each of the Council and the Advisers to the Joint Committee within the time table set out in its standing orders,

## 9.7 **Joint Committee Procedures**

9.7.1 Each Party shall provide all information reasonably required upon request by the Joint Committee to the Programme Director and shall comply with any decisions of the Joint Committee to request such information.

9.7.2 Each Party shall consult with the other Parties to ensure the diligent progress of the day to day matters relating to the discharge of the Parties' obligations in relation to the delivery of the Growth Deal.

9.7.3 Where a Party wishes to provide any information and/or serve a notice or demand on the Joint Committee, this should be served on the Programme Director in accordance with Clause 27 (Notices) and Schedule 3 (Parties' Details). The Programme Director shall keep a record of all information, notices and demands received and shall update each representative promptly.

9.7.4 The Parties acknowledge and agree that the Joint Committee shall save as varied by this Agreement adopt (as applicable) the Host Authority's prevailing Executive standing orders, contract standing orders, financial procedure rules, and such other applicable policies and procedures for and behalf of the Parties in the discharge of its obligations under this Agreement and that the Host Authority's s151 Officer and Monitoring Officer (or their nominated deputies) shall, respectively, act as the s151 officer and Monitoring Officer to the Joint Committee.

9.7.5 The Advisers acknowledge and agree that their representative or deputy shall comply with the terms of the GA Code of Conduct and the Councils acknowledge and agree that their representative or deputy shall comply with the respective Members Code of Conduct of the Council that they represent.

## 9.8 **Joint Committee may Delegate**

9.8.1 The Joint Committee may delegate any of the powers which are conferred on them under this Agreement as "Joint Committee Matters" or forming part of their terms of reference pursuant to Part 1 (Joint Committee Terms of Reference):-

- (a) to a sub-committee or an officer of one of the councils; and/or

(b) to the Programme Director;

to such an extent, in relation to such matters referred to in this Clause 9.8.1 and on such terms and conditions as they think fit from time to time (subject to any restrictions that may be imposed upon such delegation by the Joint Committee).

9.8.2 The Joint Committee may allow that such delegation shall automatically authorise further delegation of the Joint Committee's powers by any person to whom they are delegated provided that the Joint Committee specifically states this within such delegation authority.

9.8.3 The Joint Committee may revoke any delegation in whole or part, or alter its terms and conditions at any time.

## 9.9 **Sub-Committees and Sub-Groups**

9.9.1 The Joint Committee may create sub-committees, sub-groups, project management bodies or special purpose vehicles (subject to the need to obtain approval for a local authority trading company established under the Local Government Act 2003 as a Reserved Matter) as it sees fit from time to time in order to support and deliver its Terms of Reference contained within Part 1 of Schedule 2 (Terms of Reference).

9.9.2 Sub-committees to which the Joint Committee delegates any of its powers must follow procedures which are based as far as they are applicable on those provisions of this Agreement which govern the taking of decisions by the Joint Committee.

9.9.3 The Joint Committee shall establish the membership, rules of procedure or terms of reference for all or any such sub-committees or sub-groups or project management bodies to, amongst other matters, clarify their respective role and scope of any delegation which shall be approved by the Joint Committee

9.9.4 Pursuant to and in accordance with the GA1, the Joint Committee established a Transport Sub-Committee and the terms of reference for the Transport Sub-Committee, subject to the Joint Committee powers to vary and or revoke such delegation in accordance with Clause 9.8 uwchben, are set out in Part 4 of Schedule 2.

9.9.5 It is acknowledged and agreed by the Parties that the sub-committees or groups referred to in this Agreement:

(a) shall undertake a number of functions including but not limited to programme and project management, scrutiny, challenge and/or consultation services pursuant to their terms of reference; and

(b) shall not have any delegated decision making powers (unless otherwise expressly granted by the Joint Committee).

## 10. **EXECUTIVE SUPPORT GROUP**

### 10.1 **Establishment of the Executive Support Group**

10.1.1 Pursuant to and in accordance with the GA1, the Parties established the Executive Support Group to support the Joint Committee and to give direction and advice to the Portfolio Management Office on the implementation of the Joint Committee's decisions as more particularly set out in Part 2 of Schedule 2 (Executive Support Group's Terms of Reference).

10.1.2 The Programme Director has been appointed by the Joint Committee and is responsible for advising the Executive Support Group and leading the Portfolio Management Office to support the Joint Committee to fulfil its obligations and liabilities under this Agreement. The Programme Director shall report directly to the Joint Committee.

## 10.2 **Appointment of Representatives to the Executive Support Group**

- 10.2.1 In accordance with the Executive Support Group's terms of reference each Party shall appoint one senior officer representative to the Executive Support Group. The chairperson shall be such representative as the Joint Committee may determine from time to time who will be responsible for leading the Executive Support Group. The chairperson shall be re-appointed every two years.
- 10.2.2 Each Party shall be entitled from time to time to appoint a deputy for its senior officer and such deputy (in each case) shall be entitled to attend meetings of the Executive Support Group in place of its senior officer.
- 10.2.3 The Parties shall, at their discretion, replace their representatives (and their respective deputies) appointed to the Executive Support Group provided that such replacement shall be on the same basis as the original appointed and provided further that no senior officer of the Executive Support Group shall be removed or replaced by any Party without that Party giving prior written notice as soon as reasonably practicable and in any event within ten (10) Business Days of its intention to remove or replace that representative.
- 10.2.4 For the avoidance of any doubt, the Internal Costs incurred by the Councils and the Advisers providing such representatives shall be accounted for as follows:
- (a) in relation to the Programme Director, Clause 9.3.2 (Appointment of the Programme Director) shall apply;
  - (b) each senior office representative (and deputy) shall be employed by their own Council or Adviser (as appropriate), in all other cases, Clause 15.2 (Internal Costs) shall apply.
  - (c) in relation to the s151 Officer and Monitoring Officer, the Internal Costs shall be accounted for as Joint Committee Costs and recoverable by the Host Authority from the Joint Committee; and
  - (d) in relation to the other representatives, it is anticipated that these shall be accounted for by the entities themselves unless the cost of these are agreed with and charged to the Host Authority and/or the Joint Committee and, in such circumstances, shall be accounted for as Joint Committee Costs.

## 10.3 **Executive Support Group Meetings**

- 10.3.1 The Executive Support Group shall meet as and when required in accordance with the timetable for the Growth Deal and the Growth Vision and the requirements of the Joint Committee meeting cycle, Executive Support Group Decisions
- 10.3.2 The Executive Support Group shall not have any decision making powers pursuant to this Agreement.

## 11. **PORTFOLIO MANAGEMENT OFFICE**

### 11.1 **Establishment of the Portfolio Management Office**

- 11.1.1 Pursuant to and in accordance with the GA1, the Joint Committee established the Portfolio Management Office to assist the Joint Committee to implement the Growth Deal and Growth Vision, to liaise and take direction from the Executive Support Group and to undertake the day-to-day management of the Joint Committee's functions as more particularly set out in Part 3 of Schedule 2 (Portfolio Management Office's Terms of Reference). By entering into this Agreement, the Parties also confirm and accept the change of name of the Portfolio Management Office to the Portfolio Management Office to reflect its terms of reference and remit.



11.1.2 The Programme Director has been appointed by the Joint Committee and is responsible for leading the Portfolio Management Office to support the Joint Committee to fulfil its obligations and liabilities under this Agreement. The Programme Director shall report directly to the Joint Committee.

## 11.2 **Appointment of individuals to the Portfolio Management Office**

11.2.1 The Portfolio Management Office shall consist of the Programme Director and such other posts as the Joint Committee may approve from time to time

11.2.2 The Host Authority, acting on the instructions of the Joint Committee or the Programme Director (following any decision made by the Joint Committee about the same), shall employ each of the officers and any other individuals agreed pursuant to Clause 11.2 (Portfolio Management Office) making up the Portfolio Management Office and any cost or liability of such employment shall be accounted for as Joint Committee Costs and recoverable by the Host Authority from the Joint Committee.

11.2.3 All Staff employed in the Portfolio Management Office shall be appointed on the terms and conditions of employment including, for the avoidance of doubt the pay and grading of the Host Authority.

## 11.3 **Programme Director and Portfolio Management Office Decision Making**

11.3.1 The Programme Director shall decide the Programme Director Matters as set out in Schedule 1 but may, where appropriate delegate such decisions to staff where that is appropriate having regard to their role and seniority.

## 12. **AUDIT AND SCRUTINY**

12.1 The Host Authority shall be responsible for providing internal audit services to the Joint Committee and audit reports in relation to the Joint Committee shall be considered by its audit committee in accordance with its usual rules and practices. It will make its recommendations to the Joint Committee or Programme Director as it deems appropriate. The Programme Director shall be notified in writing of an intention to report anything the Audit Committee. For the avoidance of doubt an annual internal audit report shall be submitted by the Host Authority Audit Manager to the Joint Committee.

12.2 The Joint Committee and its Sub-Committee shall be subject to over view and by any of the Councils relevant scrutiny committees only which shall take place in accordance with the Scrutiny Protocol set out in Schedule 3 (Scrutiny Protocol).

12.3 If a decision is called in by one or more of the Councils, it is acknowledged and agreed that the implementation of such a decision shall, save in the case of matters determined to be Urgent Matters in accordance with the Scrutiny Protocol, be suspended by the Joint Committee until the outcome of the call in has been communicated to the Joint Committee and considered by it in accordance with the Scrutiny Protocol.

## 13. **BUSINESS PLAN**

### 13.1 **OBP**

13.1.1 The decision to approve and adopt the OBP is a "Reserved Matter".

13.1.2 The Parties have prepared and adopted on the date of this Agreement a 5 (five) year overarching business plan (the "**OBP**") which, amongst other matters, sets out the Parties' objectives and priorities for the delivery of the Growth Deal and is attached at Schedule 10 (OBP) to this Agreement.

## 13.2 Updated OBP

- 13.2.1 The OBP may be reviewed at any time by the Joint Committee if required pursuant to Clause 13.4 (Project Business Case) or shall be reviewed, as a minimum, on an annual basis (and updated only if necessary) no earlier than three (3) months and no later than one (1) month before the end of the relevant Accounting Period pursuant to this Clause.
- 13.2.2 Following such review and only where amendments are required, the Portfolio Management Office shall, in conjunction with the Executive Support Group, prepare, finalise, agree (acting in the best interests of the Joint Committee) and recommend for adoption to the Joint Committee a draft updated OBP for the proceeding five years to incorporate any proposed amendments provided always that the OBP shall remain consistent with the Portfolio, Programme or any Project Business Cases of any of the Approved Projects.
- 13.2.3 The decision to approve and adopt any updated OBP shall be a "Joint Committee Matter" save to the extent that any such update amounts to a material change to the prevailing OBP which may include (but is not limited to) a material impact on the parties or a material change in the content of the Portfolio, Programme or any Project Business Cases of any of the Approved Projects and, in which case, the decision to approve and adopt such updated OBP shall be a "Reserved Matter".
- 13.2.4 The Joint Committee (or, where any update amounts to a material change, each of the Party's (as applicable)) shall use its reasonable endeavours to seek to agree such draft OBP and to adopt it as the formal OBP within 60 (sixty) Business Days of the date it is first circulated to the Joint Committee or such other date as agreed by the Joint Committee.
- 13.2.5 The updated OBP agreed pursuant to Clause 13.2.4 (with such amendments thereto as may be agreed by the Joint Committee or as a "Reserved Matter" (as applicable)) shall replace the then current OBP as the formal OBP upon the later of:
- (a) the expiry of the then current OBP; and
  - (b) the date of the Joint Committee's approval to it in accordance with Clause 9 (Joint Committee) or, as applicable, the date the updated OBP is approved by the Parties as a "Reserved Matter".
- 13.2.6 Until such time as it is replaced in accordance with Clause 13.2.4, the OBP that has most recently been adopted as the formal OBP shall continue to be the formal binding OBP.
- 13.2.7 Where the draft OBP circulated under Clause 13.2.2 has not been approved by the Joint Committee or, where any update amounts to a material change, each of the Party's (as applicable), by the date six (6) calendar months following the date it is first circulated to the Joint Committee, the matter shall be deemed to be a JC Unresolved Matter and Clause 9.6.5 (Joint Committee) shall apply or where such approval is to be granted as a "Reserved Matter", the OBP shall be deemed not to have been approved following such six (6) calendar month period.

## 13.3 Portfolio and Programme Business Cases Programme Business Cases

- 13.3.1 The Joint Committee anticipates discharging the obligations of the Parties in relation to the Growth Deal through five Programmes which will each contain a number of Projects. The Programmes will each have a Programme Business Case and the Projects will each have a Project Business Case.
- 13.3.2 The Portfolio Business Case covers the whole of the Growth Deal and is supported by each of the five (5) Programme Business Cases which are all subject to approval by the UK and Welsh Governments and the Joint Committee and provide detail to the UK and Welsh Governments as to how the Joint Committee intends to deliver the Growth Deal.

- 13.3.3 A Programme Business Case shall, amongst other matters, address the following:
- (a) how the Programme contributes to the overall portfolio spending objectives and the OBP;
  - (b) how the Programme aligns to the Growth Vision and other relevant regional, Welsh Government and UK Government strategies;
  - (c) specific details regarding the economic impact of the Programme; and
  - (d) specific details regarding the financial implications of the Programme.
- 13.3.4 The OBP and the Project Business Plans are developed and approved by the Joint Committee pursuant to this Agreement. The OBP being the overarching plan for the NWEAB (taking into account the Portfolio and Programme Business Cases) and the Project Business Plans drilling down into the detail of each proposed Project to be developed and approved pursuant to this Agreement.

#### 13.4 **Project Business Cases**

- 13.4.1 The Project Business Case shall align itself with the OBP and the relevant Programme Business Case and remain consistent with the Growth Deal and Growth Vision and the terms of this Agreement.
- 13.4.2 It is acknowledged and agreed that draft Project Business Cases have been commenced for a number of Projects and these shall continue to be developed by the Portfolio Management Office in conjunction with the Executive Support Group for approval by the Joint Committee by the deadlines to be set by the Joint Committee.
- 13.4.3 The approval of a Project Business Case is a Joint Committee Matter pursuant to Clause 14 (Approval Process). Once a Project's Project Business Case is approved by the Joint Committee pursuant to Clause 14 (Approval Process), the Project will be an "Approved Project".
- 13.4.4 The Project Business Case shall include, amongst other matters, the items contained within Clause 15.5.4(f) (Councils' Contribution and Advisers' Contribution)

#### 13.5 **Progress Monitoring**

- 13.5.1 The Portfolio Management Office, in conjunction with the Executive Support Group, shall prepare (or procure the preparation of) a short form quarterly report which shall review progress made in the preceding Quarter as against the OBP and any Project Business Case (the "**Quarterly Report**") and shall be circulated to the Joint Committee and each Party within 1 (one) calendar month following the end of the preceding Quarter.
- 13.5.2 The Quarterly Report shall be regularly reviewed at the Joint Committee Meetings.
- 13.5.3 If, at any Joint Committee Meeting, any of the Councils and/or the Advisers believe that there has been a material failure of the Councils and/or the Advisers and/or the Joint Committee to comply with the OBP and/or a Project Business Case, the Joint Committee shall discuss appropriate action to immediately rectify the relevant failure and/or mitigate the effects of such failure as far as possible.

#### 14. **APPROVAL PROCESS**

- 14.1 The Joint Committee will be responsible for managing the list of Projects (current and new) to be considered and developed to deliver the Growth Deal as more particularly set out in the OBP and following evaluation shall give initial approval to the Project Sponsor to undertake further due diligence and commence the development of a Project Business Case for the Project.

- 14.2 Following such initial approval, there is a three stage process to be followed for a Project to become an "Approved Project" and receive Growth Deal Contributions as set out below:
- 14.2.1 the Project Business Case of a potential Project will be developed by the Project Sponsor for that Project following the Five Case Business Model in line with the Green Book Guidance developed by WG and HMT working in conjunction with the Portfolio Management Office and with advice from external advisers (where required);
  - 14.2.2 the Project Business Case will be subject to external gateway review(s) at agreed points during its development in line with the Integrated Assurance and Approval Plan; and
  - 14.2.3 the Project Business Case will be assessed and approved by the Joint Committee as a Joint Committee Matter as more particularly set out in Clause 13.4 (Project Business Cases) and following such approval will be an "Approved Project";
- 14.3 It is acknowledged and agreed that, as part of the development and approval of a Project Business Case, a Back-to-Back Agreement (and any other related documentation as requested by the Joint Committee to form part of the Project Business Case for a particular Project) shall be in agreed form prior to approval as a Joint Committee Matter.
- 14.4 Following such approval, the Project Sponsor shall then be responsible for delivering the Approved Project pursuant to the terms of the Project Business Case and the Back-to-Back Agreement (or any other related documentation).

## 15. **COMMITMENT OF THE PARTIES AND CONTRIBUTIONS**

### 15.1 **General**

Subject to 19.11.3 (Withdrawal), the Parties agree and undertake to commit to the Growth Deal in accordance with the terms of this Agreement and not to commission and/or undertake any procurement and/or project that seeks or would procure the delivery of all or any part of the Growth Deal or Growth Vision outside the terms of this Agreement.

### 15.2 **Internal Costs**

- 15.2.1 Subject to Clause 15.2.2, the Internal Costs incurred by each Party (including the Host Authority) shall be borne by the Party providing that internal resource.
- 15.2.2 The Parties hereby agree that if one of the Parties believes it is likely to incur disproportionate Internal Costs that matter shall be referred to the Joint Committee for a decision as to whether such costs will be disproportionate and whether any contributions should be made to this cost by the other Parties.

### 15.3 **Joint Committee Costs**

- 15.3.1 Any Joint Committee Costs incurred by the Joint Committee shall be shared on a Proportionate Basis between the Parties pursuant to this Agreement. They will form part of the Annual Budget referred to in Clause 15.4 below.
- 15.3.2 Each Party shall be required to prepare accounts including details of any approved Internal Costs or Joint Committee Costs incurred pursuant to Schedule 5 (Heads of Expenditure) (the "**Accounts**") in respect of each Accounting Period and for such further and/or other accounting periods as the Joint Committee shall determine and which shall be incorporated into Schedule 6 (Accounting Periods). For the avoidance of doubt, such Accounts shall not include any revenue costs or capital investment requirements in relation to the development of any business case by a Project Sponsor of any Adviser Led Project or the implementation of any proposed project by a Project Sponsor of any Adviser Led Project and shall solely relate to the operational and management costs of the Joint Committee.

- 15.3.3 Each Party shall:-
- (a) in the Accounts make true and complete entries of all relevant payments made by it during the previous Accounting Period;
  - (b) within one (1) month of the end of each Accounting Period, each Party shall provide to the Host Authority unaudited Accounts for such Accounting Period together with certification that such Accounts comply with this Clause 15 (Commitment of the Parties and Contributions);
  - (c) nominate an individual to be responsible for ensuring that Party's own compliance with this Clause 15 (Commitment of the Parties and Contributions) and the name, address and telephone number of each individual nominated pursuant to this Clause 15 (Commitment of the Parties and Contributions) shall be notified to the other Parties in accordance with Clause 27 (Notices); and
  - (d) if an individual nominated by a Party pursuant to Clause 15 (Commitment of the Parties and Contributions) changes, that Party shall notify the other Parties forthwith of the replacement nominees.

15.3.4 The Host Authority shall:-

- (a) within ten (10) Business Days of receipt of the Accounts submitted by the other Parties in accordance with Clause 15.3.3(b) prepare a reconciliation statement identifying the payments made by each Party and the balance due from or owing to each; and
- (b) within twenty (20) Business Days of the preparation of the reconciliation statement send out a copy of the reconciliation statement together with either a balancing invoice or, subject to Clause 15.3.4(b) credit payments to each Party.

15.3.5 The Host Authority shall not be obliged to make any payments due under this Agreement until the Host Authority is in receipt of funds from the Parties pursuant to this Clause 15.3.

15.3.6 A Party receiving an invoice for payment shall pay it in full within twenty (20) Business Days. Any error in a balancing invoice must be notified to the Host Authority within five (5) Business Days of such balancing invoice being sent out. An amended balancing invoice will be issued by the Host Authority and the Party receiving such an invoice shall pay it in full within twenty (20) Business Days.

15.3.7 The Parties hereby agree that if one of the Parties carries out any work or incurs any cost or expenses to carry out any work or to incur any cost or expense that is not within the budget or scope of work set out in this Agreement or agreed in advance by the Joint Committee, that matter shall be referred by the Executive Support Group to the Joint Committee for a decision as to whether such work, cost or expense is part of the Growth Deal or whether such work, cost or expense should be the entire responsibility of the Party so carrying it out or requesting it (as the case may be).

## 15.4 Annual Budget

15.4.1 The Annual Budget shall consist of the following:

- (a) the Annual Budget Contributions;
- (b) the Councils' Supplementary Contributions; and
- (c) any additional costs secured through the wider investment fund or other sources (if any); and
- (d) any accumulated reserves.

- 15.4.2 The annual budget contributions are as follows:
- (a) £50,000 per Accounting Period from each Council; and
  - (b) £25,000 per Accounting Period from each Adviser (save for the Chair of the Business Delivery Board who makes no Annual Budget Contribution),
- together the "**Annual Budget Contributions**" and which are subject to indexation at the start of each Accounting Period in accordance with Clause 15.4.3.
- 15.4.3 It is acknowledged and agreed that the Annual Budget Contributions will be subject to the following variations at the start of each Accounting Period to reflect the actual increase in costs over the Annual Budget for the immediately preceding Accounting Period as a consequence of increases in the following:
- (a) increases in salaries occasioned by the local government national awarding bodies; and
  - (b) increases in Employers Contribution to the local Government Pension Scheme and National Insurance Contributions.<sup>3</sup>
- 15.4.4 The Parties shall provide their share of the Annual Budget Contributions to the Host Authority, in relation to the initial Accounting Period, within 10 (ten) Business Days of the Commencement Date and, in all other cases, within 10 (ten) Business Days of the commencement of the relevant Accounting Period.
- 15.4.5 The Councils' Supplementary Payment will continue to be paid at the start of each Accounting Period on receipt of an invoice from the Host Authority.
- 15.4.6 The Host Authority shall hold and account for the Annual Budget on behalf of the Joint Committee and the Parties.
- 15.4.7 Where the actual aggregate Joint Committee Costs are likely to exceed the Annual Budget at any time,
- (a) any increase to the Annual Budget Contributions shall be a Reserved Matter for the Parties; and
  - (b) any changes to the Councils' Supplementary Contribution shall be a Council Matter for the Councils only.

## 15.5 Funding

### 15.5.1 Total funding

- (a) It is acknowledged and agreed by the Parties that the following confirmed funds are available to facilitate the implementation of the Growth Deal:
  - (i) £120,000,000 (one hundred and twenty million pounds) from UKG (the "**HMT Contribution**"); and
  - (ii) £120,000,000 (one hundred and twenty million pounds) from WG (the "**WG Contribution**"),the HMT Contribution and the WG Contribution together being the "**Growth Deal Contributions**"; and

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<sup>3</sup> PM: I have included the indexation as required - for finance team to please be comfortable that this is clear and not subject to any later debate as to what indexes/changes these relate to.

- (iii) £9,960,300 (nine million, nine hundred and sixty thousand and three hundred pounds) in aggregate from the Councils (the "**Councils' Contribution**");
- (iv) between £3,180,000 (three million one hundred and eighty thousand pounds) and to £4,530,000 (four million five hundred and thirty thousand pounds) in aggregate from the Advisors (the "**Advisors' Contribution**"); and
- (v) each Parties' contribution towards the Annual Budget pursuant to Clause 15.4.

#### 15.5.2 HMT Contribution

- (a) It is acknowledged and agreed by the Parties that:
  - (i) HMT's contribution shall be provided to the Host Authority for and on behalf of the Joint Committee as a fixed flat rate of £8,000,000 (eight million pounds) per Accounting Period commencing [on 1 April 2021]<sup>4</sup> for a period of 15 (fifteen) years; and
  - (ii) HMT Contribution is subject to the following funding conditions:-
    - (1) [x]<sup>5</sup>
 together the "**HMT Funding Conditions**".
- (b) Each Party acknowledges and agrees that it accepts the HMT Funding Conditions and that it shall be bound by those conditions and shall not through any act or omission place any other Party including, but not limited to, the Host Authority in breach of any of those conditions.

#### 15.5.3 WG Contribution

- (a) It is acknowledged and agreed by the Parties that:
  - (i) WG's contribution shall be provided to the Host Authority for and on behalf of the Joint Committee as a fixed flat rate of £8,000,000 (eight million pounds) per Accounting Period commencing [on 1 April 2021] for a period of 15 (fifteen) years; and
  - (ii) HMT Contribution is subject to the following funding conditions:-
    - (1) [x]
 together the "**WG Funding Conditions**".
- (b) Each Party acknowledges and agrees that it accepts the WG Funding Conditions and that it shall be bound by those conditions and shall not through any act or omission place any other Party including, but not limited to, the Host Authority in breach of any of those conditions.

#### 15.5.4 Councils' Contribution and Advisors' Contribution

- (a) It is acknowledged and agreed that:

<sup>4</sup> PM: The aspiration is to obtain the first drawdown in March 2021 but this remains subject to further WG/UKG approval.

<sup>5</sup> PM: Funding conditions to be completed once draft letter from WG/UKG received.

- (i) in order to facilitate cash-flow for project expenditure against an estimated 6 (six) year delivery profile compared to a 15 (fifteen) year funding profile in relation to the Growth Deal Contributions; and
  - (ii) subject to Clauses 15.5.4(b) and 15.5.4(c), the Host Authority shall use reasonable endeavours, on behalf of the Joint Committee, to provide additional funding for Approved Projects as set out in each Project Base Case which may be obtained from the Public Works Loan Board, other funders or self-borrowed or otherwise (the "Loan Funds"<sup>6</sup>).
- (b) The Parties shall be responsible for the repayment of any and all capital (if any)<sup>7</sup>, interest, any changes in interest rates (or in the case of a self-borrowed scenario any foregone interest) (with interest rates to be set and managed by the Host Authority) and any other costs or liabilities incurred by the Host Authority in providing the Loan Funds by way of the Council's Contribution and the Advisors' Contribution as more particularly set out in Clauses 15.5.5 (Councils' Contribution) and 15.5.6 (Advisors' Contribution) below and each relevant Project Base Case;
- (c) Due diligence will assess all assumptions and liability including whether NNDR funding is available or whether additional funding is required as a result of state aid implications or otherwise and this will need to be recognised within the Project Base Case subject always to the maximum aggregate amounts contained within Clause 15.5.1 (Total Funding) and any increase shall be a Reserved Matter.
- (d) Where any capital is to be repaid, the Project Sponsor shall be responsible for procuring repayment of such capital from its third party contractors and to repay that the Host Authority in accordance with the Project Base Case. For the avoidance of doubt, any such capital repayment shall not count towards the Project Sponsor's maximum contribution to be made by way of the Councils' Contribution or Advisors' Contribution (as applicable).
- (e) The proportion of Growth Deal Contributions, Loan Funds and Councils' Contribution or Advisors' Contribution (as relevant) will be agreed as part of the Project Base Case for a particular Project to be approved by the Joint Committee in accordance with this Agreement subject always to the maximum aggregate amounts contained within Clause 15.5.1 (Total Funding).
- (f) Subject to Clause 15.5.4(g), a back-to-back agreement will be entered into between the Host Authority (acting on behalf of the Joint Committee) and the Project Sponsor of an Approved Project to confirm, amongst other things,
- (i) the payment of any Growth Deal Contributions and Loan Funds to the Project Sponsor;
  - (ii) the repayment obligations of the Project Sponsor;
  - (iii) transfer of responsibility to the Project Sponsor to deliver the Project;
  - (iv) clawback provision to clawback the Growth Deal Contributions and the Loan Sums from the Project Sponsor in the event of a default; and
  - (v) approval of any related party documentation to be entered into by the Project Sponsor and any third parties to deliver the Approved Project.

the "**Back-to-Back Agreement**"

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<sup>7</sup> PM: Approach to £17m funding gap to be confirmed – presumably the capital and interest will be repayable?



- (g) The Back-to-Back Agreement (and any other related documentation) shall also be agreed and form part of the Project Base Case for a Project to be approved by the Joint Committee provided that in the case of the Back-to-Back Agreement (and any other related documentation) this shall first be agreed by the Project Sponsor before it is put before Joint Committee as a Joint Committee Decision.

#### 15.5.5 Councils' Contribution

- (a) The Councils' Contribution shall be used to finance the Regional Projects only unless otherwise agreed by the Joint Committee such provisions shall be reflected within the terms of the OBP and/or the relevant Business Cases to include, amongst other matters, the estimated annual spend profile for each Council.
- (b) Subject always to the maximum aggregate amounts contained within Clause 15.5.1(a)(iii) (Total Funding) and the obligation to contribute to the Annual Budget pursuant to Clause 15.4 (Annual Budget), each Council shall contribute to the aggregate Councils' Contribution required on each Regional Project on a population basis pursuant to the following formula:

$$A \% = B \times 100$$

with A% being a Councils' "Population Basis"

- (c) This is calculated as follows:

B	$B = \frac{\text{Current Population}}{\text{Total Population}}$
Current Population	<p>Current Population = means for each Accounting Period the mid-year estimated population figure for a particular Council taken from StatsWales for the preceding Accounting Period.</p> <p>StatsWales is the Welsh Government's official body responsible for publishing official statistics) at the following link:  <a href="https://statswales.gov.wales/Catalogue/Population-and-Migration/Population/Estimates/Local-Authority/populationestimates-by-localauthority-year">https://statswales.gov.wales/Catalogue/Population-and-Migration/Population/Estimates/Local-Authority/populationestimates-by-localauthority-year</a></p> <p>Where the Current Population is no longer available from StatsWales at any point, the last mid-year figures shall be used save where otherwise agreed by the Councils as a Joint Committee Decision.</p>
Total Population	Total Population = means for each Accounting Period the aggregate mid-year estimated population figure of the six Councils taken from StatsWales for the preceding Accounting Period.

- (d)
- (e) Subsubject to
- (f) Each Council's Population Basis shall be re-calculated on an annual basis at the beginning of each Accounting Period pursuant to this Clause 15.5.5 (Councils' Contribution).

### 15.5.6 Advisors' Contribution

- (a) Subject to Clause 15.5.6(b) (Advisors' Contribution), the Advisors' Contribution shall be used to finance Adviser Led Projects only unless otherwise agreed by the Parties as a Reserved Matter and such provisions shall be reflected within the terms of the OBP and/or the relevant Project Business Case to include, amongst other matters, the estimated annual spend profile for each Adviser.
- (b) Subject always to the obligation to contribute to the Annual Budget pursuant to Clause 15.4 (Annual Budget), each Adviser shall only be required to provide an Adviser Contribution for an Approved Project(s) in which that that Adviser is acting as the Project Sponsor up to a maximum aggregate contribution below (each maximum aggregate contributions being an "**Advisors' Individual Contribution**" for that Adviser respectively):

Advisor	Minimum aggregate contribution	Maximum aggregate contribution
Bangor University	£1,399,950 (one million three hundred and ninety nine thousand, nine hundred and fifty pounds)	£1,990,050 (one million ninety nine thousand and fifty pounds)
Glyndwr University	£510,000 (five hundred and ten thousand pounds)	£730,050 (seven hundred and thirty thousand and fifty pounds)
Coleg Cambria	£520,050 (five hundred and twenty thousand and fifty pounds)	£739,950 (seven hundred and thirty nine thousand, nine hundred and fifty pounds)
GRWP Llandrillo Menai	£750,000 (seven hundred and fifty thousand pounds)	£1,069,950 (one million, sixty nine thousand, nine hundred and fifty pounds)

- (c) Subject to Clause 15.5.6(d), the Advisor's Individual Contributions shall be as set out in table above in the column entitled the "Maximum aggregate contribution" (column 3).
- (d) It is acknowledged and agreed that there is an aspiration to receive the first tranche of Growth Deal Contributions in March 2021 equating to £[x] and where this is received, the Advisor's Individual Contributions shall be decreased to the the "Minimum aggregate contribution" as set out in the table above (column 2).
- (e) The contribution relates to the overall sums received by a Project Sponsor on a Project (Growth Funds and Loan Funds).<sup>8</sup>

### 15.5.7 Audit

Each Party shall permit all records referred to in this Agreement to be examined and copied from time to time by the Host Authority, or any representatives of the Host Authority or any other representatives who reasonably require access to the same in order to undertake any audit of the funds received and spent pursuant to this Agreement.

<sup>8</sup> Can the finance team please expand this and explain how this is calculated and presumably whether it needs to be replicated in relation to the Councils' Contribution.

#### 15.5.8 Retention of Records

The accounts referred to in this Clause 15.5.8 (Commitment of the Parties and Contributions) shall be retained for a period of at least ten (10) years after delivery of the Growth Deal pursuant to this Agreement.

#### 16. NOT USED

#### 17. MITIGATION

Each Party shall at all time take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party(ies) pursuant to this Agreement.

#### 18. LIABILITY OF THE PARTIES

18.1 The Host Authority shall indemnify and keep indemnified each of the other Parties to this Agreement against any reasonable losses, claims, expenses, actions, demands, costs and liability suffered by that Party to the extent arising directly from any wilful default or wilful breach by the Host Authority of its obligations under this Agreement (and wilful in this context shall, for the avoidance of doubt, not include matters which are outside the reasonable control of the Host Authority or matters arising from any negligent act or omission in relation to such obligations).

18.2 No claim shall be made against the Host Authority to recover any loss or damage which may be incurred by reason of or arising out of the carrying out by the Host Authority of its obligations under this Agreement unless and to the extent such loss or damage arises from a wilful default or wilful breach by the Host Authority under Clause 18 (Liability of Parties).

18.3 Each of the other Parties (acting severally) shall indemnify and keep indemnified the Host Authority against any reasonable losses, claims, expenses, actions, demands, costs and liabilities which the Host Authority may incur by reason of or arising directly out of the carrying out by the Host Authority of its obligations under this Agreement for that Party or arising directly from any wilful default or wilful breach by a Party of its obligations under this Agreement (and wilful in this context shall, for the avoidance of doubt, not include matters which are outside the reasonable control of that Party or matters arising from any negligent act or omission in relation to such obligations) unless and to the extent that the same result from any wilful breach by the Host Authority of any such obligations.

18.4 The Parties agree and acknowledge that the amount to be paid to the Host Authority by any of the other Parties under Clause 18 (Liability of Parties) shall be borne by each of the Parties to the extent of its responsibility, however in the event that the responsibility is a shared one between the Parties (so that it is not reasonably practicable to ascertain the exact responsibility between the Parties) then the amount to be paid shall be divided between the Parties on a Proportionate Basis.

18.5 In the event of a claim under this Clause 18 (Liability of Parties) in which it is not reasonably practicable to determine the extent of responsibility as between the Parties (including the Host Authority), then the amount shall be divided amongst the Councils (including the Host Authority) on a Proportionate Basis. For the avoidance of doubt, any claim arising otherwise than through the wilful default or wilful breach by the Host Authority or the other Parties shall be divided amongst the Parties (including the Host Authority) on a Proportionate Basis.

18.6 A Party who receives a claim for losses, expenses, actions, demands, costs and liabilities shall notify and provide details of such claim as soon as is reasonably practicable to the other Parties .

18.7 No Party shall be indemnified in accordance with this Clause 18 (Liability of Parties) unless it has given notice in accordance with Clause 18.6 (Liability of Parties) to the other Party against whom it will be enforcing its right to an indemnity under this Agreement.

18.8 Each Party ("**Indemnifier**") shall not be responsible or be obliged to indemnify the other Parties (including the Host Authority) ("**Beneficiary**") to the extent that any insurances maintained by the Beneficiary at the relevant time provide an indemnity against the loss giving rise to such claim and to the extent that the Beneficiary recovers under such policy of insurance (save that the Indemnifier

shall be responsible for the deductible under any such policy of insurance and any amount over the maximum amount insured under such policy of insurance).

## 19. WITHDRAWAL

- 19.1 Subject to Clause 19.2 (Withdrawal), any Party (including the Host Authority) may at any time during this Agreement, withdraw from this Agreement in accordance with this Clause 19 (Withdrawal).<sup>9</sup>
- 19.2 No Party may withdraw from this Agreement during the Lock In Period and, following such Lock In Period, the provisions of this Clause 19 shall apply.
- 19.3 Save where Clause 19.6 applies, if a Party wishes to withdraw from the Growth Deal and this Agreement, it shall provide at least twelve (12) months written notice of its intention to withdraw to all the other Parties ("**Withdrawal Notice**").
- 19.4 No sooner than nine (9) months after the date of the Withdrawal Notice and no later than ten (10) months after the date of the Withdrawal Notice, the Host Authority (or such other Council as nominated by the Joint Committee in the event that the Host Authority issues the Withdrawal Notice) shall provide to all the Parties a Liability Report which shall be discussed by the Joint Committee at its next meeting or a specially convened meeting if the next meeting falls more than two (2) weeks after the issue of the Liability Report. For the avoidance of doubt, no formal decision is required by the Joint Committee in relation to the Liability Report.
- 19.5 It is acknowledged and agreed that:
- 19.5.1 the Liability Report shall contain, as a minimum, the withdrawing Party's committed costs and liabilities up to and including the expiry date of the Growth Deal anticipated to be 15 years and the withdrawing Party's committed costs and liabilities on all current projects which shall include any Council or Adviser Contributions that the withdrawing Party has committed to but not yet provided (whether that occurs before or after the Party formally withdraws from the Growth Deal and this Agreement pursuant to this Clause 19 (Withdrawal)); and
- 19.5.2 in relation to row 1 of the Liability Report in Schedule 8 (Liability Report), the withdrawing Party shall be liable to pay its committed contribution and liabilities;
- (a) up to the expiry date of the Growth Deal anticipated to be 15 years; and
- (b) on all current projects.
- 19.6 Within the Decision Period each Party which has issued a Withdrawal Notice to the Programme Director shall indicate either:-
- 19.6.1 that it withdraws from the Growth Deal and this Agreement; or
- 19.6.2 that it wishes to continue as a party to the Growth Deal and this Agreement.
- 19.7 Where further Parties (in addition to the Party issuing the Withdrawal Notice) indicate their wish to withdraw from the Growth Deal and this Agreement, then the provisions of Clause 19.3 (Withdrawal) shall apply to such Parties and a new Liability Report shall be prepared in respect of each of these Parties that have indicated their intention to withdraw and the provisions of Clause 19.6 (Withdrawal) shall apply.
- 19.8 Where a Party does not indicate its intentions as required by Clause 19.6 (Withdrawal) then it shall at the expiry of the Decision Period be taken to have indicated that they wish to continue as a Party to the Growth Deal and this Agreement.

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<sup>9</sup> PM: To be considered whether any additional rights to withdraw are required here.

- 19.9 Any Party serving a Withdrawal Notice pursuant to Clause 19.3 or indicates that it withdraws from the Growth Deal and this Agreement pursuant to Clause 19.6 shall have the right to retract such Withdrawal Notice or indication that it withdraws at any point prior to the date of its withdrawal.
- 19.10 Where a Party indicates that it wishes to withdraw from the Growth Deal and this Agreement, then:-
- 19.10.1 the Party who shall have indicated its wish to withdraw shall pay all amounts due to be paid by it in accordance with the Liability Report and comply with its obligations under this Agreement up to the date of its withdrawal including making any payments of any expenditure referred to in Schedule 5 (Heads of Expenditure) as at that date;
  - 19.10.2 the Party who shall have indicated its wish to withdraw shall be responsible for a proportion of any third party costs (which have been substantiated by the Joint Committee); and
  - 19.10.3 if in the event of such a withdrawal the discharge of the Party's obligations in relation to the Growth Deal is delayed then the Party who shall have indicated its wish to withdraw may be responsible for a proportion of the costs of delay to the other Parties or any costs or fines which may directly result. Such proportion will be decided by the Joint Committee and the withdrawing Party shall not be entitled to vote in this decision.
- 19.11 Where a Party withdraws from the Growth Deal and this Agreement in accordance with this Clause 19 (Withdrawal):
- 19.11.1 any capital asset acquired and/or secured and/or owned and provided by such withdrawing Party for the purposes of the Growth Deal will remain in the ownership of the withdrawing Party and the withdrawing Party will reimburse the remaining Parties their respective contributions (if any) together with any reasonable costs incurred as a result of the withdrawal or default;
  - 19.11.2 the other Parties may elect to continue or discontinue with any procurement and/or project forming part of the Growth Deal in the administrative area of the withdrawing Party;
  - 19.11.3 subject to approval of the Joint Committee, the withdrawing Party may elect to independently pursue the procurement of any project within its administrative area or project in which it is acting as Project Sponsor and which was identified as part of the Growth Deal provided that it does so at its own cost without any access to any of the funding provided for pursuant to this Agreement including (but not limited to the Growth Deal Contribution);
  - 19.11.4 unless agreed otherwise by the remaining Parties, the Party who shall have indicated its wish to withdraw from the Growth Deal shall not remove its appointees to the Joint Committee for a period of not less than three (3) months commencing on the date of such Party's withdrawal, provided that the costs associated with those appointees to the Joint Committee shall be borne by the remaining Parties on a Proportionate Basis; and
  - 19.11.5 save for the obligations set out in Clause 15 (Commitments of the Parties and Contributions), Clause 18 (Liability of the Parties), this Clause 19 (Withdrawal) and Clause 22 (Confidentiality and Announcements), the withdrawing Party shall be released from its respective obligations described in this Agreement from the date of withdrawal;
  - 19.11.6 where the withdrawing Party or Parties is/are a Council, the remaining Parties agree that the quorum necessary for any subsequent Joint Committee meetings pursuant to Clause 9.6.1 (Joint Committee Decisions) of this Agreement shall be permanently reduced by the number of Party/ Parties that is/are a Council that has/have withdrawn.

## 20. CONSEQUENCES OF TERMINATION

- 20.1 If the Agreement is terminated in accordance with Clause 2.3 (Termination), save for the obligations set out in Clause 15 (Commitment of the Parties and Contributions), Clause 18 (Liability of the Parties), Clause 19 (Withdrawal), this Clause 20 (Consequences of Termination) and Clause 22

(Confidentiality and Announcements), the Parties shall be released from their respective obligations described in this Agreement.

20.2 Where this Agreement is terminated in respect of that Party in accordance with Clause 2.3 (Termination):

20.2.1 any capital asset acquired and/or secured and/or owned and provided by such Defaulter for the purposes of the Growth Deal will remain in the ownership of the Defaulter and the Defaulter will reimburse the remaining Parties their respective contributions (if any) together with any reasonable costs incurred as a result of the withdrawal or default;

20.2.2 the other Parties may elect to continue or discontinue with any procurement and/or project forming part of the Growth Deal;

20.2.3 subject to the approval of the Joint Committee, the withdrawing Party may elect to independently pursue the procurement of any project within its administrative area or project in which it is acting as Project Sponsor and which was identified as part of the Growth Deal provided that it does so at its own cost without any access to any of the funding provided for pursuant to this Agreement including (but not limited to the Growth Deal Contribution); and

20.2.4 where this Agreement is terminated and the terminated Party/Parties is/are a Council, the remaining Parties agree that the quorum necessary for any subsequent Joint Committee meetings pursuant to Clause 9.6.1 (Joint Committee Decisions) of this Agreement shall be permanently reduced by the number of Party/ Parties that is is/are a Council and whose involvement in this Agreement has been terminated..

20.3 The Parties acknowledge and agree that:-

20.3.1 the Growth Deal has been modelled on the basis of participation by all the Parties and that there are considerable economic benefits to be achieved as a result of such joint working; and

20.3.2 accordingly, in the event that this Agreement is terminated in relation to any Party pursuant to Clause 2.3 (Termination) such Defaulter shall be liable to the Non-Defaulting Party or Parties for their reasonable and properly incurred costs in relation to the Growth Deal as set out in Clause 19.5 (Withdrawal) and Schedule 8 (Liability Report).

## 21. **INTELLECTUAL PROPERTY**

21.1 Each Party will retain all Intellectual Property in its Material.

21.2 Each Party will grant all of the other Parties a non-exclusive, perpetual, non-transferable and royalty free licence to use, modify, amend and develop its IP Material for the discharge of the Parties' obligations in relation to the Growth Deal and any other purpose resulting from the Growth Deal whether or not the party granting the licence remains a party to this Agreement.

21.3 Without prejudice to Clause 21.1 (Intellectual Property), if more than one Party owns or has a legal or beneficial right or interest in any aspect of the IP Material for any reason (including without limitation that no one Party can demonstrate that it independently supplied or created the relevant IP Material without the help of one or more of the other Parties), each of the Parties who contributed to the relevant IP Material will grant to all other Parties to this Agreement a non-exclusive, perpetual, non-transferable and royalty free licence to use and exploit such IP Material as if all the other Parties were the sole owner under the Copyright Design and Patents Act 1988 or any other relevant statute or rule of law.

21.4 For the avoidance of doubt, any entity or person who is at the date of this Agreement a Party to this Agreement and who has licensed any Intellectual Property under this Agreement will have a non-exclusive, perpetual right to continue to use the licensed Intellectual Property in respect of the Growth Deal.

21.5 Each Party warrants that it has or will have the necessary rights to grant the licences set out in Clause 21.2 (Intellectual Property) and 21.3 (Intellectual Property) in respect of the IP Material to be licensed.

21.6 Each Party agrees to execute such further documents and take such actions or do such things as may be reasonably requested by any other Parties (and at the expense of the Party(ies) making the request) to give full effect to the terms of this Agreement.

## 22. **CONFIDENTIALITY AND ANNOUNCEMENTS**

22.1 Each Party ("**Covenanter**") shall, both during the currency of this Agreement and at all times following its termination or expiry, keep private and confidential and shall not use or disclose (whether for its own benefit or that of any third party) any Confidential Information about the business of and/or belonging to any other Party or third party which has come to its attention as a result of or in connection with this Agreement.

22.2 The obligation set out in Clause 22 (Confidentiality and Announcements) shall not relate to information which:-

22.2.1 comes into the public domain or is subsequently disclosed to the public (other than through default on the part of the Covenanter or any other person to whom the Covenanter is permitted to disclose such information under this Agreement);

22.2.2 is required to be disclosed by law;

22.2.3 was already in the possession of the Covenanter (without restrictions as to its use) on the date of receipt;

22.2.4 is required or recommended by the rules of any governmental or regulatory authority including any guidance from time to time as to openness and disclosure of information by public bodies; or

22.2.5 is necessary to be disclosed to provide relevant information to any insurer or insurance broker in connection with obtaining any insurance required by this Agreement.

22.3 Where disclosure is permitted under Clause 22.2.3 (Confidentiality and Announcements) or 22.2.4 (Confidentiality and Announcements), the recipient of the information shall be subject to a similar obligation of confidentiality as that contained in this Clause 22 (Confidentiality and Announcements) and the disclosing Party shall make this known to the recipient of the information.

22.4 No Party shall make any public statement or issue any press release or publish any other public document relating, connected with or arising out of this Agreement or any other agreement relating to the Growth Deal without the prior written consent of the other Parties.

## 23. **CONTRACTS (THIRD PARTY RIGHTS)**

The Parties as parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

## 24. **DISPUTE RESOLUTION**

24.1 Any dispute arising in relation to any aspect of this Agreement shall be resolved in accordance with this Clause 24 (Dispute Resolution). The Parties undertake and agree to pursue a positive approach towards dispute resolution which seeks (in the context of this joint working) to identify a solution which avoids legal proceedings and maintains a strong working relationship between the Parties.

24.2 In the event of any dispute or difference between the Parties relating to this Agreement (whether this may be a matter of contractual interpretation or otherwise) then save in relation to disputes or disagreements relating to a Reserved Matter, the matter shall be dealt with by referral in the first

instance to the Joint Committee who shall consider any such dispute or disagreement at the next scheduled meeting of the Joint Committee and attempt to resolve the disputed matter in good faith.

- 24.3 In relation to a dispute or disagreement relating to a Reserved Matter, or if the Joint Committee fails to resolve a dispute or disagreement within five (5) Business Days of meeting pursuant to Clause 24.2 (Dispute Resolution), then the Parties in dispute or the Joint Committee (as the case may be) may refer the matter for resolution to:-
- 24.3.1 the Chief Executive, Managing Director, Council Leader (or other relevant head of organisation) of the relevant Parties;
  - 24.3.2 mediation by such party as the relevant Parties may agree; or
  - 24.3.3 the exclusive jurisdiction of the Courts of England and Wales.
- 24.4 Any dispute and/or disagreement to be determined by the relevant heads of organisations, mediation or the Courts of England and Wales (as the case may be) under this Agreement shall be promptly referred for determination to them.
- 24.5 The Parties shall on request promptly supply to the relevant heads of organisations or mediator or the Courts of England and Wales (as the case may be) all such assistance, documents and information as may be required for the purpose of determination.
- 24.6 If a mediator is appointed to determine a dispute pursuant to Clause 24.3 (Dispute Resolution), then the mediator shall be deemed to act as an expert and not as an arbitrator and his determination shall (in the absence of manifest error) be conclusive and binding upon the Parties.
- 24.7 The costs of the resolution of any dispute and/or disagreement between the Parties under this Agreement shall be borne by the relevant Parties on a Proportionate Basis to the dispute in question save as may be otherwise directed by the relevant heads of organisations, the mediator or the Courts of England and Wales (as the case may be).

## 25. **DATA PROTECTION**

- 25.1 In relation to all Personal Data, each Party shall at all times comply with the GDPR, (as a data controller if necessary) which includes (but is not limited to) maintaining a valid and up to date registration or notification under the GDPR covering the data processing activities to be performed in connection with the Growth Deal.
- 25.2 Each Party:-
- 25.2.1 shall process Personal Data belonging to any other Party only on the instructions of that Party (subject to compliance with applicable law);
  - 25.2.2 shall only undertake processing of Personal Data reasonably required in connection with the Growth Deal and shall not transfer any Personal Data to any country or territory outside the European Economic Area; and
  - 25.2.3 shall use its reasonable endeavours to procure that all relevant sub-contractors and third parties comply with this Clause 25.2 (Data Protection). For the avoidance of doubt a relevant sub-contractor is one which processes Personal Data belonging to the one or any of the Parties.
- 25.3 The Parties shall not disclose Personal Data to any third parties other than:-
- 25.3.1 to employees and sub-contractors and third parties to whom such disclosure is reasonably necessary in order for the Parties to discharge the Parties' obligations in relation to the Growth Deal; or



- 25.3.2 to the extent required under a court order or to comply with any applicable laws including (but not limited to) any statute, bye law, European Directive or regulation,  
provided that any disclosure to any sub-contractor or any third parties under Clause 25.3.1 (Data Protection) shall be made subject to written terms substantially the same as, and no less stringent than, the terms contained in this Clause 25 (Data Protection) and that the Parties shall give notice in writing to all other Parties of any disclosure of Personal Data belonging to them which they or a sub-contractor or third parties are required to make under Clause 25.3.2 (Data Protection) immediately they are aware of such a requirement;
- 25.3.3 the Parties shall bring into effect and maintain and shall use its reasonable endeavours to ensure that all relevant sub-contractors and any third parties have in effect and maintain all reasonable technical and organisational measures necessary to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including but not limited to taking reasonable steps to ensure the reliability and probity of any employee or agent of a relevant sub contractor or any third parties having access to the Personal Data; or
- 25.3.4 any Party may, at reasonable intervals, request a written description of the technical and organisational methods employed by any other Party and the relevant sub-contractors referred to in Clause 25.2.3 (Data Protection) Within five (5) Business Days of such a request, the Party requested to do so shall supply written particulars of all such measures as it is maintaining detailed to a reasonable level such that the requesting Party can determine whether or not, in connection with the Personal Data, it is compliant with the DPA. All Parties shall use its reasonable endeavours to ensure that the sub-contractors and any third parties also comply with such request from any other Party.
- 25.4 All Parties shall ensure that any Personal Data they obtain and provide to any other Party has been lawfully obtained and complies with the DPA and that the use thereof in accordance with this Agreement shall not breach any of the provisions of the DPA.
- 25.5 If:-
- 25.5.1 under the DPA any Party is required to provide information to a data subject (as defined in the DPA) in relation to Personal Data when such data is in the possession or under control of any other Party; and
- 25.5.2 the required Party informs the controlling Party in writing that this is the case,  
then the controlling Party shall guarantee reasonable and prompt co-operation to the required Party in meeting its obligations under the DPA including making copies of the relevant Personal Data to the extent the same are in its possession.
- 25.6 Each Party shall provide the other as soon as reasonably practicable, with such information in relation to Personal Data and their processing as the other Party may reasonably request in writing and the party asked to provide the relevant data may reasonably be able to provide in order for the other Party to:-
- 25.6.1 comply with its obligations under this Clause and the DPA; and
- 25.6.2 assess whether the processing of the relevant Personal Data in connection with this Agreement is breaching or may breach the DPA in a manner which is material and not effectively sanctioned by any guidance statement issued by the Information Commissioner.
- 25.7 The Parties shall each take reasonable precautions (having regard to the nature of their respective obligations under this Agreement) to preserve the integrity of any Personal Data.
- 25.8 The Parties shall work together to create and agree an information sharing protocol specifically in relation to their joint working on the Growth Deal and shall continually review any existing information sharing protocols being used in relation to the Growth Deal to ensure they remain relevant to the

Growth Deal and to identify which Personal Data needs to be processed and on what basis to ensure compliance with this Clause 25 (Data Protection).

## 26. **FREEDOM OF INFORMATION AND ENVIRONMENT INFORMATION**

26.1 Each Party acknowledges that the Parties are subject to the requirements of the Freedom of Information Act 2000 ("**FOIA**") and the Environmental Information Regulations 2004 ("**EIR**") and the Parties shall comply with the Host Authority's policy on FOIA in respect of these information disclosure obligations to the extent they relate to the Growth Deal.

26.2 Where a Party (the "**Receiving Party**") receives a request for information under either the FOIA or the EIR in relation to information which it is holding on behalf of any of the other Parties in relation to the Growth Deal, it shall:-

26.2.1 transfer the request for information to the Host Authority as soon as practicable after receipt and in any event within two (2) Business Days of receiving a request for information;

26.2.2 provide the Host Authority with a copy of all information in its possession or power in the form the Host Authority reasonably requires within ten (10) Business Days (or such longer period as the Host Authority may specify) of the Host Authority requesting that information; and

26.2.3 provide all necessary assistance as reasonably requested by the Host Authority to enable the Host Authority to respond to a request for information within the time for compliance set out in the FOIA or the EIR.

26.3 The Parties acknowledge and agree that the Host Authority shall be responsible for co-ordinating any response on behalf of the relevant Parties to the extent they relate to the Growth Deal and all costs incurred shall be accounted for as Joint Committee Costs.

26.4 The Host Authority shall be responsible for determining in their absolute discretion whether any information requested under the FOIA or the EIR:-

26.4.1 is exempt from disclosure under the FOIA or the EIR; and

26.4.2 is to be disclosed in response to a request for information.

26.5 Each Party acknowledges that the Host Authority may be obliged under the FOIA or the EIR to require the Receiving Party to disclose and, acting upon the instructions of the Host Authority, the Receiving Party shall disclose information:-

26.5.1 without consulting with the other Parties where it has not been practicable to achieve such consultation; or

26.5.2 following consultation with the other Parties and having taken their views into account.

## 27. **NOTICES**

27.1 Any notice or demand in connection with this Agreement to any Party shall be in writing and may be delivered by hand, prepaid first class post, special delivery post or email, addressed to the recipient at the address as the case may be set out in Schedule 3 (Parties' Details) or such other recipient address as may be notified in writing from time to time by any of the Parties to all the other Parties.

27.2 Any notice or demand in connection with this Agreement to the Joint Committee shall be in writing and may be delivered by hand, prepaid first class post, special delivery post or email, addressed to the Programme Director with copies sent to the Chief Executive of Gwynedd Council, Iwan Evans and Hedd Vaughan-Evans.

27.3 Iwan Evans, the Monitoring Officer and Hedd Vaughan-Evans (Operations Manager) are at the same address as the Chief Executive which is the address as the case may be as set out in Schedule 3

(Parties' Details) or such other recipient address as may be notified in writing from time to time by the Host Authority to all the Parties and their email addresses are [iwangdevans@gwynedd.llyw.cymru](mailto:iwangdevans@gwynedd.llyw.cymru) and [HeddVaughanEvans@buegogleddcymru.co.uk](mailto:HeddVaughanEvans@buegogleddcymru.co.uk) respectively.

27.4 The notice or demand shall be deemed to have been duly served:-

27.4.1 if delivered by hand, when left at the proper address for service;

27.4.2 if given or made by prepaid first class post or special delivery post, forty-eight (48) hours after being posted (excluding days other than Business Days); or

27.4.3 if given or made by email, at the time of transmission,

provided that, where in the case of delivery by hand or email such delivery or transmission occurs either after 4.00pm on a Business Day or on a day other than a Business Day service shall be deemed to occur at 9.00am on the next following Business Day.

27.5 For the avoidance of doubt, where proceedings to which the Civil Procedure Rules apply have been issued, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

## 28. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with the laws of England and Wales. Subject to Clause 24 (Dispute Resolution), the English and Welsh Courts shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement.

## 29. **ASSIGNMENT**

The rights and obligations of the Parties under this Agreement shall not be assigned, novated or otherwise transferred without the consent of the other Parties.

## 30. **WAIVER**

30.1 No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or some other right, power or remedy unless a waiver is given in writing by that Party.

30.2 Each Party shall pay their own costs incurred in connection with the preparation, execution, completion and implementation of this Agreement.

## 31. **ENTIRE AGREEMENT**

This Agreement contains all the terms which the parties have agreed in relation to the subject of this Agreement and supersedes any prior written or oral agreements, representations or understandings between the Parties relating to such subject matter. No Party has been induced to enter into this Agreement or any of these documents by statement or promise which they do not contain, save that this Clause shall not exclude any liability which one Party would otherwise have to the other in respect of any statements made fraudulently by that Party.

## 32. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which so executed shall be an original but together shall constitute one and the same instrument. A complete signed copy of this Agreement delivered by e-mail in a pdf format from each Party shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Each Party shall hold its signed copy to order of the Host Authority and the Agreement shall be dated on the date that the Host Authority dates its copy of the Agreement.

33. **RELATIONSHIP OF PARTIES**

Each Party is an independent body and nothing contained in this Agreement shall be construed to imply that there is any relationship between the Parties of partnership or (except as expressly provided in this Agreement) of principal/agent or of employer/employee. No Party shall have the right to act on behalf of another nor to bind the other by contract or otherwise except to the extent expressly permitted by the terms of this Agreement. In particular for the avoidance of doubt, none of the provisions relating to the principles of working in partnership shall be taken to establish any partnership as defined by The Partnership Act 1890.

34. **STATUTORY RESPONSIBILITIES**

Notwithstanding anything apparently to the contrary in this Agreement, in carrying out their statutory duties, the discretion of any Party shall not be fettered or otherwise affected by the terms of this Agreement.

**SCHEDULE 1**  
**DELEGATIONS POLICY**

DECISION	PROGRAMME DIRECTOR MATTER	JOINT COMMITTEE MATTER	RESERVED MATTER
<b>KEY THEMES</b>			
1. Approval and adoption of OBP			<b>Yes</b>
2. Approval and adoption of any updated OBP save to the extent any such update amounts to a material change to the prevailing OBP or a material change in the content of the Portfolio Programme or any Project Business Case of any of the Approved Projects (in which case the decision to approve and adopt such updated OBP shall be a Reserved Matter)  For the avoidance of doubt, a material change is a change which (includes but is not limited to) any change already captured as a "Reserved Matter" in this Agreement.		Yes	
3. Approval and adoption of Programme and Portfolio Business Cases including any updates in accordance with Clause 13 (Business Plan)		Yes	
4. Approval and adoption of the Project Business Cases in accordance with Clause 13 (Business Plan)		Yes	

DECISION	PROGRAMME DIRECTOR MATTER	JOINT COMMITTEE MATTER	RESERVED MATTER
5. Subject to 2 above, varying the Programmes to be delivered.		Yes	
<b>FUNDING AND EXPENDITURE</b>			
6. Agreeing any increase in the Councils' Contribution or the Advisers' Contribution or any Adviser's Individual Contribution			<b>Yes</b>
7. Approval of any disproportionate Internal Costs pursuant to Clause <b>15.2.2</b> (Commitment of the Parties and Contributions)		Yes	
8. Approval of expenditure within the approved Annual Budget of the Host Authority held on behalf of the Joint Committee set out in Clause <b>15.4</b> (Annual Budget)	Yes		
9. Save where provided for in Clause <b>15.4.3</b> where increases subject to index rate shall not require any formal approval (Annual Budget Annual Increases), approval of any further increase to the Annual Budget Contributions shall be a Reserved Matter for the Parties			<b>Yes</b>
10. any changes to the Councils' Supplementary Contribution shall be a <b>Council Matter</b> for the Councils only			<b>Yes – Council Matter only</b>
11. a decision pursuant to Clause 9.1.3 (Corporate Joint Committee) shall be			<b>Yes – Council Matter only</b>

DECISION	PROGRAMME DIRECTOR MATTER	JOINT COMMITTEE MATTER	RESERVED MATTER
a <b>Council Matter</b> for the Councils only			
12. Transfer of funds allocated from one Project to another		Yes	
13. The Host Authority entering into (or agreeing to enter into) any borrowing arrangement on behalf of the Joint Committee and/or giving any security in respect of any such borrowing		Yes	
14. Accepting terms and conditions in relation to any third party funding for the Growth Deal or Growth Vision		Yes	
15. Agreeing the form of the Gateway Reviews	Yes		
16. Agreeing any Welsh Government or UK Government Funding Conditions		Yes	
<b>GENERAL</b>			
17. Approval of the draft Business Delivery Board's terms of reference which are attached at Part 5 of Schedule 2		Yes	
18. Replacement of the Host Authority pursuant to Clause 6.3 (The Host Authority)		Yes	
19. Issue of written notice to a Defaulter to remedy a breach or be treated as			<b>Yes<sup>10</sup></b>

<sup>10</sup> NWEAB TO CONFIRM

DECISION	PROGRAMME DIRECTOR MATTER	JOINT COMMITTEE MATTER	RESERVED MATTER
having withdrawn from the Joint Committee pursuant to Clause 2.3 (Termination)			
20. Any decision to appoint or later remove further bodies or organisations as a signatory Adviser who is or will be a Party to the Agreement to provide financial support to the Joint Committee shall be a Reserved Matter.			<b>Yes</b>
21. Establishment of a sub-committee, sub-group or project management body pursuant to this Agreement and determining their terms of reference and scope of delegation.		Yes	
22. Making any variations to or waiving any rights to or terminating any contracts signed by Parties / the Host Authority (other than this Agreement) which are material to the Growth Deal.		Yes	
23. Amendments to the terms of this Agreement			<b>Yes</b>
24. Approval of the Staffing Structure of the Portfolio Management Office		Yes	
25. The engagement and dismissal (and setting terms engagement of) of members of staff of the Portfolio Management Office other than the Programme Director	Yes		
26. The engagement and dismissal (and setting		Yes	



DECISION	PROGRAMME DIRECTOR MATTER	JOINT COMMITTEE MATTER	RESERVED MATTER
terms engagement of) of the Programme Director.			
27. Commencing any claim, proceedings or other litigation brought by or settling or defending any claim, proceedings or other litigation brought against the Joint Committee or individual Party in relation to the Growth Deal, except in relation to debt collection in the ordinary course of business.		Yes	
28. Making any announcements or releases of whatever nature in relation to the Joint Committee and the Growth Deal	Yes		
29. Approval of the Business Case for creation of a local authority trading company under Local Government Act 2003			Yes
30. Any decision to convert to a Corporate Joint Committee			Yes
31. Subject to the terms of this Agreement, any other matters not covered in Schedule 1 (Delegations Policy) which facilitate, or are conducive or incidental to, the discharge of the Joint Committees Terms of Reference		Yes	

## **SCHEDULE 2**

### **TERMS OF REFERENCE**

#### **PART 1**

#### **JOINT COMMITTEE TERMS OF REFERENCE**

##### **1. AIMS/PURPOSE**

- 1.1 The Joint Committee will be the key body to oversee the Growth Deal and to represent the interests of the Parties and its stakeholders and, subject to this Agreement will take all necessary decisions to facilitate and implement its delivery. The Joint Committee will also be responsible for monitoring programme progress and managing the political dimensions of the Growth Deal.
- 1.2 The Joint Committee will also oversee the Growth Vision and, subject to this agreement will take all necessary decisions to facilitate and implement its delivery.
- 1.3 The Joint Committee will carry out the following functions:-
  - 1.3.1 determine the form of and number of fund(s) to deliver the Growth Deal;
  - 1.3.2 approve Project Business Cases to deliver the Growth Deal in accordance with the OBP;
  - 1.3.3 provide strategic direction to the Executive Support Group (to include approval of remit for the Executive Support Group and approval of any resourcing issues);
  - 1.3.4 act as a representative for each of the Parties to ensure consistency with individual objectives and visions;
  - 1.3.5 monitor performance, management and working arrangements (to include the necessary audit and assurance checks);
  - 1.3.6 ensure that sufficient resources are committed to the Growth Deal;
  - 1.3.7 arbitrate on any conflicts within the programme or negotiate a solution to any problems between the programme and external bodies;
  - 1.3.8 communicate and provide progress on strategic issues within the Growth Deal;
  - 1.3.9 promote partnership working between the Parties;
  - 1.3.10 publish annual governance statement and Annual Accounts;
  - 1.3.11 liaise with other Growth Deal or City Deal partners across the United Kingdom to share best practice and ensure a co-ordinated strategic approach;
  - 1.3.12 provide the Parties with annual progress reports; and
  - 1.3.13 update the Delegations Policy from time to time.

##### **2. TERMS**

- 2.1 At the start of the Growth Deal, to:-
  - 2.1.1 finalise any Business Cases pursuant to Clause 13; and
  - 2.1.2 agree the detail of the decision-making process and assessments prior to the Joint Committee considering individual projects.

- 2.2 During the planning and development stages, to:-
- 2.2.1 review project status against the approved plans;
  - 2.2.2 monitor the management of project budget, risks and quality;
  - 2.2.3 promote and support the project among relevant stakeholders and where appropriate obtain their consent;
  - 2.2.4 seek to resolve disputes where these cannot be resolved satisfactorily through other means; and
  - 2.2.5 ensure that the proposals are affordable and deliver maximum value for money for the public sector.

## PART 2

### EXECUTIVE SUPPORT GROUP'S TERMS OF REFERENCE

#### 1. STATUS

- 1.1 The Group is a professional executive which supports and advises, and enacts the decisions of, the North Wales Economic Ambition Board.
- 1.2 The Group does not have any formal decision-making powers and will advise those officers of the Board, who have delegated powers, in the exercise of their powers.

#### 2. PURPOSE OF GROUP

- 2.1 To (a) co-ordinate professional advice to the North Wales Economic Ambition Board (hereafter referred to as 'the Board'); (b) to enact the decisions of the Board; (c) to oversee the deployment and management of the resources of the Board and (d) to be responsible for the performance management of the work-streams, programmes and projects of the Board.
- 2.2 The Group has the following specific roles and responsibilities:-

##### **Strategic**

- 2.2.1 to provide strategic advice on the development of the Growth Vision;
- 2.2.2 to provide professional advice to the Board in the specific fields of transport, skills and employment, economic development, housing, land use planning, and digital;
- 2.2.3 to provide advice on the development of a regional strategy for place regeneration.

##### **Programme and Project Management**

Act as the Portfolio Board to oversee the development, co-ordination and delivery of the Programmes and projects within the Growth Deal and to oversee the development, co-ordination and delivery of other projects commissioned by the Board to deliver the Growth Vision.

##### **Performance Management**

- 2.2.4 to oversee the management and reporting of performance for the programmes and projects of the Board; and
- 2.2.5 to maintain and manage performance management and risk management reporting systems.

##### **Administration and Communications**

- 2.2.6 to support the governance structure and ensure its efficient operation;
- 2.2.7 to oversee a communications strategy; and
- 2.2.8 to act as a "clearing house" for reports to the Board.

#### 3. MEMBERSHIP

- 3.1 The chairperson of the Joint Committee or appropriate deputy
- 3.2 Programme Director
- 3.3 The s.151 and Monitoring Officers from the Host Authority

3.4 A senior officer from the following:-

- 3.4.1 Gwynedd Council;
- 3.4.2 Anglesey Council;
- 3.4.3 Conwy Council;
- 3.4.4 Denbighshire Council;
- 3.4.5 Flintshire Council;
- 3.4.6 Wrexham Council;
- 3.4.7 Bangor University;
- 3.4.8 Glyndwr University;
- 3.4.9 Coleg Cambria;
- 3.4.10 Grwp Llandrillo-Menai;
- 3.4.11 Business Delivery Board.

4. **MEETING SCHEDULES**

- 4.1 Meetings will be held on the second Friday of every month or as otherwise agreed by the Executive Group in order to facilitate its functions.
- 4.2 However, extraordinary meetings will be convened where deemed necessary.

5. **SECRETARIAT**

Secretariat for the Group will be provided by the Portfolio Management Office.

## PART 3

### PORTFOLIO MANAGEMENT OFFICES TERMS OF REFERENCE

1. To provide a professional support team lead by the programme director for the successful delivery of the agreed economic ambition board programme for achieving economic growth and unlocking government funding
2. To provide professional advice and direction to the economic ambition board on key strategies in support of the above, in particular transport, skills and employment, economic development and sector growth, digital infrastructure, and land use planning;
3. To support the development and delivery of north wales growth vision, providing advice and direction for the board to maximise the potential to deliver sustainable and inclusive economic growth in north wales;
4. To co-ordinate the development and delivery of the growth deal for north wales and the
5. To work closely with the business sectors in the region in order to identify opportunities to secure economic growth;
6. To work in collaboration and in partnership with key officers from the uk government and the welsh government to deliver the priorities of the economic ambition board;
7. To lead the procurement of goods, works and services subject to approval by the Joint Committee as more particularly set out in paragraph 3 of part 1 of this Schedule.
8. To be responsible for resource management to include (but not limited to):
  - (a) to maintain an annual budget for the Board;
  - (b) to oversee deployment of the budget;
  - (c) to ensure value for money in the use of the budget; and
  - (d) to make appointments and enter into contracts with the approval of the Board and within the approved budget, and in accordance with the policies of the Host Authority

## PART 4

### SUB-COMMITTEE TERMS OF REFERENCE

#### TERMS OF REFERENCE

#### TRANSPORT DELIVERY SUB-BOARD

The North Wales Economic Ambition Board (“EAB”) appoints a Transport Delivery Board to discharge the functions set out below.

The Sub-Board will be a Sub-Committee appointed under Section 102 of the Local Government Act 1972 and Section 20 of The Local Government Act 2000 and Regulation made thereunder

The Sub- Board shall comprise of 6 Councillors, one from each Partner Council who will be Executive Members.

Observers may be invited to attend based on their knowledge and potential contribution to the areas of responsibility.

#### ROLE:

- The to plan and co-ordinate a joined-up and integrated strategic transportation service in North Wales;
- to plan, co-ordinate and advise on regional responses to the Welsh Government Improving Public Transport proposals.
- to plan and co-ordinate the delivery of strategic transportation interventions, including Growth Bid and transport decarbonisation projects;
- to report to the NWEAB on progress, performance, outcomes and funding issues. Delivery Sub-Board will be a Sub-Committee of the North Wales Economic Ambition Board.

#### PURPOSE:

To respond to and implement the briefs and commissions as instructed and agreed by the Economic Ambition Board.

The Sub-Board have the following generic roles and responsibilities within their Role:

##### **Strategic**

- to co-ordinate Local Authority and other partner activity so that a strategic regional approach takes place in the relevant policy area;
  - to provide relevant strategic advice to the Board;
  - to support the Board to influence national policies and funding programmes;
- to enact the decisions of the Economic Ambition Board. The Economic Ambition Board will provide direction and commission the Delivery Sub-Boards to undertake key tasks.

##### **Programme & Project Management**

- to co-ordinate the planning, development and delivery of relevant Programme(s) commissioned by the Economic Ambition Board;
- to co-ordinate the planning, development and delivery of relevant Projects commissioned by the Economic Ambition Board, specifically the Projects included in the Growth Deal “Bid”. This will include the development of individual Outline Business Case and 5 Case Business Models for each Project;
- to monitor and review progress and impact of relevant Programme(s) and related Projects, and to put forward any recommendations to the Board.

### **Resource Management**

- To oversee the deployment of the relevant budget and to ensure value for money in the use of the budget.
- To report to the EAB on the budget and to seek approval from the EAB for any variations in the budget.

### **Performance Management**

- To co-ordinate the reporting of performance of the relevant Programme(s) and Projects to the Board;
- To maintain and manage performance and risk management reporting system.

### **Sub-Committee Powers**

None delegated.

## **RELATIONSHIP WITH EAB**

- The Chair of each Delivery Sub-Board will be invited to some meetings of the Economic Ambition Board to report on progress, performance and outcomes.
- The Economic Ambition Board will create a Portfolio Lead for each of the Delivery Sub-Board themes. They will be Observers in meeting of the Sub-Board, and will ensure a direct link with the Economic Ambition Board.

## **PROCEDURE AND GOVERNANCE**

- A Lead Officer for each of the Delivery Sub-Board will be appointed.
- Decisions will normally be reached by achieving consensus and then a formal vote amongst the 6 local authority members requiring a simple majority.
- In the event that a vote is deadlocked the issue will be referred to the EAB for decision.
- In all other respects the Sub-Board will apply the rules and procedures which apply to the EAB as set out in GA1 or any subsequent superseding agreement.



## SCHEDULE 2

### PART 5

#### Business Delivery Board's Terms of Reference

### **BUSINESS DELIVERY BOARD**

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#### **1. Role and Remit**

- 1.1. The Business Delivery Board will act as the voice of the business and employers in the region, working closely with organisations such as the North Wales & Mersey Dee Business Council (the umbrella body for Business representative organisations). It will focus on the delivery of the Growth Vision for the region.
- 1.2. It will have a key role in challenging and advising the North Wales Economic Ambition Board on matters relating to the Growth Vision and Growth Deal.
- 1.3. The Board will highlight the barriers to growth, as well as bring forward ideas and proposals. It will be expected that the North Wales Economic Ambition Board will consider ways in which such proposals can be delivered.
- 1.4. The Board is a key part of the Growth Deal governance apparatus and performs an important two-fold role:
  - To ensure the voice and wishes of business shape and influence the Growth Vision for North Wales and the Growth Deal package and delivery;
  - To ensure that opportunities galvanised and catalysed by the development of the Growth Deal can be accessed and led by businesses.
- 1.5. The Board is committed to optimising the opportunities within the Growth Deal, and promoting investment leverage from companies, enterprises and businesses.
- 1.6. The Board will consist of a Chair and between 9-12 members. Its membership will include representatives and sector experts from key businesses from the growth and foundation economic sectors across the region. There is an expectation that the Board Members will include senior decision makers from representative organisations.
- 1.7. Its programme of work (which will be set out in an annual business plan) will demonstrate clearly the private sector opportunities stemming from the delivery of the Growth Vision and Growth Deal. The annual business plan and proposals brought forward by the Board will be formally considered by the North Wales Economic Ambition Board for incorporation within its work programme.
- 1.8. It will strengthen the profile of the business voice and input into the Growth Deal, in order that whilst it is politically-led, it is business and industry driven and delivered.
- 1.9. The Board will ensure that investment in growth is informed and shaped by business for business.
- 1.10. The Chair of the Board will be an Adviser of the North Wales Economic Ambition Board and, in partnership with the North Wales Economic Ambition Board will play a key role in providing

leadership and key relations with Welsh Government and the UK Government. The post of Chair will be advertised and publicly appointed.

1.11. The constitution and role of the Board within the governance of the Growth Deal and its inter-relationship with the Joint Committee will be encapsulated in Governance Agreement 2. The Board must be flexible to change their constitution and role as they fit in order to be as independent as possible. The constitution and role of the Board and any amendments will be agreed with the North Wales Economic Ambition Board.

1.12. The North Wales Economic Ambition Board will fully consider and take into account any advice or challenge from the Business Delivery Board. Any formal recommendations made by the Business Delivery Board to the North Wales Economic Ambition Board will be presented in a written report to them which will be considered at a meeting of the Board and the response and reasons will be recorded and communicated.

## **2. Key Responsibilities**

2.1. The Business Delivery Board will be responsible for:

- Reviewing and shaping the Growth Vision for North Wales;
- Provide review and challenge to the portfolio of projects proposed within the Growth Deal, and consider and challenge the Full Business Cases for individual projects maximising the impact of the Growth Deal for the region, securing additional direct and indirect private sector investment for the Deal.;
- Focus on the delivery of projects commissioned by the North Wales Economic Ambition Board, and ensure that opportunities catalysed by the Growth Deal can be accessed and led by businesses;
- Provide an advocacy role, promoting the region as a prime investor and visitor location and working with partners to increase the value and quality for inward investment;
- Provide advice on proposed intervention from other key stakeholders, including Welsh Government.

2.2. It will work closely and in partnership with the North Wales Economic Ambition Board.

## **3. The Chair of the Board**

3.1. The Chair will be appointed on a two-year fixed term basis, with the maximum number of terms limited to two.

3.2. The time commitment, whilst flexible, is assumed to be an average of 1 day a week, though the level of commitment will fluctuate across the term.

3.3. The role will be remunerated at a level which reflects the significance of the role.

3.4. The Chair will be responsible for:

- Leading the Board, ensuring it fulfils its responsibilities;
- Chair meetings of the Board, collecting views expressed by each stakeholder group and where necessary arriving at a consensus;
- Communicating and representing the recommendations of the Board on the North Wales Economic Ambition Board;

- Being a “business” figurehead and champion of the region both nationally and internationally.

The Chair should have the following background and experience:

- Be a member of the private sector business community;
- Have extensive senior leadership experience;
- Have a wide network of public, private and government contacts which extends beyond the region.

3.5. Strategic, research, policy and media support will be provided to the Chair and the Business Delivery Board by the Portfolio Management Office (once fully established).

3.6. Both the UK Government and Welsh Government will need to approve the appointment of the Chair. The process will be overseen by the North Wales Economic Ambition Board. Subject to the approval of both the UK and Welsh Governments the Chair will be appointed by the North Wales Economic Ambition Board.

3.7. The Chair will be appointed in accordance with the acknowledged standards for public appointments, including an open advert.

#### **4. Selecting the Business Delivery Board Members**

4.1. The selection process must be open and transparent, accompanied by the selection criteria listed below.

4.2. The Appointment Panel will consist of the Chair and Vice-Chair of the North Wales Economic Ambition Board and the Chair of the Business Delivery Board. The Panel will put forward recommendations to the Economic Ambition Board for approval of the most suitable candidates to appoint.

4.3. The Board Membership role will be advertised publicly to encourage a diverse range of applications. The collective set of skills and experience of the Board will be a key consideration. There will be an application process which will allow for proposed members to be nominated.

4.4. Collectively, the Board should have the following knowledge and skills:

- Understanding of the economy of North Wales and an appreciation of opportunities in the growth and foundation economic sectors across the region;
- A wide network of contacts across the UK and internationally;
- Experience of analysing and assessing commercial, technical and financial information in order to provide quality advice to decision makers;
- Experience of providing impartial advice on projects and initiatives, particularly in relation to their viability and impact on economy and employment issues.

4.5. The process will be undertaken in consultation with both Governments.

4.6. In appointing members consideration will be given to establishing a membership which as far as possible is balanced overall so that it reflects and represents the whole of the geographical area of North Wales its business sectors and communities and this will need to be taken into account during the appointment process.

**5. Conflict of Interest**

- 5.1. To allow the Business Delivery Board to undertake all its function, a clear distinction will be drawn between those involved in specific project development and those preparing recommendations on those projects to the North Wales Economic Ambition Board. A robust system of declaration of conflict of interest will be put in place. In addition, Advisors to the Economic Ambition Board are governed by a GA Code of Conduct and the Conflicts Policy in relation to personal interests. Members appointed to the Business Delivery Board will be expected to comply with the same provisions.

**6. GA2**

- 6.1 As part of each party's appointment to the Business Delivery Board they will each acknowledge and accept the terms of the GA2 and will be expected to comply with the same to include (but not limited to) Clause 22 (Confidentiality and Announcements).

## **SCHEDULE 3**

### **SCRUTINY PROTOCOL**

#### **1. Communication and Awareness Raising**

- 1.1 The Portfolio Management Office will prepare a quarterly report on the work of the Economic Ambition Board which shall include:
- Progress on implementation of the OBP including individual Programmes and Projects.
  - The Financial Performance of the Board
  - Forthcoming developments.
- 1.2 The report shall be sent to each Partner Organisation and shall be in a format which will facilitate its submission into the Partners Scrutiny or other governance arrangements as the Partners determine.
- 1.3 An Officer of the Portfolio Management Office will be available to attend at a relevant meeting provided, in the absence of special circumstances or call in of a decision no single Partner may require an officer to attend more than two of their meetings per annum.

#### **2. Call in**

- 2.1 All decisions of the EAB or its Sub-Boards ("Decision Body") will be recorded and published on a statement of decisions prepared in compliance with Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 That notice will also be sent to the head of Democratic Services of the Councils to be dealt with in accordance with the governance arrangements of their respective Councils in relation to Scrutiny.
- 2.2 Notwithstanding any provision in the Constitution of any Council no decision of a Decision Body may be called by any Council at the expiry of 5 clear working days (which shall be taken to expire at 17:00 on the final day) following the date of publication of the statement of decision.
- 2.3 In the event that a request for call in of a decision is served in compliance with that Councils Constitution a copy of that notice or notices shall be sent to the following as soon as reasonably practicable thereafter:
1. Monitoring Officer of each of the Other Councils
  2. Programme Director
  3. Board representative of the other Partners
- 2.4 The Council will arrange for the matter to be considered at a meeting of the relevant Scrutiny Committee to be held no later than 15 clear working days from the date of the notice of Call in being accepted by that Council.
- 2.5 No decision of a Decision Body may be called in more than once by any Council and re-consideration of a decision shall not be subject to Call In by any Council.
- 2.6 Representatives of the Joint Committee and of the Portfolio Management Office shall be invited to attend and speak at the meeting of a Scrutiny Committee which considers the request for call in.
- 2.7 If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns to the decision maker they shall then reconsider within a further 15 clear working days, amending the decision or not, before adopting a final decision.

- 2.8 Notice of the recommendations of the meeting shall be served in writing on the Programme Director, Monitoring Officer and Chief Finance Officer of the Joint Committee no later than 5 clear working days after the date of the meeting.
- 2.9 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the work of a Decision Body or other public interests. The decision of whether a matter is urgent will be taken by resolution of the Decision Body setting out the grounds for the decision. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making body, the decision is an urgent one, and therefore not subject to call-in and the grounds for that decision.

## SCHEDULE 4

### PARTIES' DETAILS

Recipient's name	Address	Email
Conwy Council:- [Chief Executive]	PO Box 1, Conwy, LL30 9GN	Iwan.davies@conwy.gov.uk
Denbighshire Council:- [Chief Executive]	PO Box 62, Ruthin, LL15 9AZ	Judith.greenhalgh@denbighshire.gov.uk
Flintshire Council:- [Chief Executive]	County Hall, Mold CH7 6NB	Chief.executive@flintshire.gov.uk
Gwynedd Council:- [Chief Executive]	Gwynedd Council Shirehall Street Caernarfon LL55 1SH	dilwynowenwilliams@gwynedd.llyw.cymru
Isle of Anglesey Council:- [Chief Executive]	Council Offices Llangefni Anglesey LL77 7TW	AnnwenMorgan2@ynysmon.gov.uk
Wrexham Council: [Chief Executive]	The Guildhall Wrexham LL11 1AY	Ian.bancroft@wrexham.gov.uk
Bangor University:- [Vice Chancellor]	College Road, Bangor, Gwynedd LL57 2DG	vc@bangor.ac.uk
Glyndwr University:- [Vice Chancellor]	Glyndŵr University Mold Road Wrexham LL11 2AW	Maria.Hinfelaar@glyndwr.ac.uk
Coleg Cambria:- [Chief Executive]	Kelsterton Road Connah's Quay Deeside Flintshire CH5 4BR	Yana.williams@cambria.ac.uk

<b>Recipient's name</b>	<b>Address</b>	<b>Email</b>
GRWP Llandrillo Menai:- [Chief Executive]	Llandudno Road, Colwyn Bay, LL28 4HZ	dafydd.evans@gllm.ac.uk
Business Delivery Board	Conwy Business Centre Llandudno Junction Conwy  LL31 9XX	AlwenWilliams@buegogleddcymru.co.uk – to be updated when Chair of the Business Delivery Board is appointed
Programme Director	Conwy Business Centre Llandudno Junction Conwy  LL31 9XX	AlwenWilliams@buegogleddcymru.co.uk



## SCHEDULE 5

### HEADS OF EXPENDITURE

1. The following is a non-exhaustive list of the heads of expenditure that may be incurred by the Parties in the Growth Deal:-
  - 1.1 "**Internal Costs**" means the costs associated with each Party providing internal resources in relation to the Growth Deal which includes but is not limited to:-
    - 1.1.1 staffing costs and associated overheads;
    - 1.1.2 project management / technical & admin support;
    - 1.1.3 communications; and
    - 1.1.4 (where applicable) costs incurred in respect of managing FOIA requests pursuant to Clause 26 (Freedom of Information and Environmental Information).
  - 1.2 "**Joint Committee Costs**" means the operational and management costs of the Joint Committee, (and its sub committees and groups created pursuant to Clauses 9.8 and 9.9) which includes but is not limited to:-
    - 1.2.1 staffing costs and associated overheads including but not limited to the costs and liabilities of the appointment and any termination of appointment of the Programme Director and each individual within the Portfolio Management Office;
    - 1.2.2 project management / technical & admin support;
    - 1.2.3 communications;
    - 1.2.4 Translation costs;
    - 1.2.5 the costs incurred by the Host Authority in carrying out the duties of the Host Authority pursuant to Clauses 6 and 7;
    - 1.2.6 the costs incurred by the Joint Committee and/or the Host Authority in developing the Portfolio Business Cases and the Project Business Cases for the Regional Project including but not limited to external professional advice; and
    - 1.2.7 without double counting, any other external professional advice.
  - 1.3 For the avoidance of doubt, Internal Costs and Joint Committee Costs do not include any revenue costs or capital investment relating to the implementation of any project pursuant to the Growth Deal.

## **SCHEDULE 6**

### **ACCOUNTING PERIODS**

1. The initial Accounting Period shall be the date of this Agreement until 31 March and thereafter shall be:-

1 April to 31 March

2. Each Quarter shall be shall be the date of this Agreement until 31 March and thereafter shall be:-

- 1 April to 30 June;
- 1 July to 30 September;
- 1 October 31 December; and
- 1 January to 31 March.

## SCHEDULE 7

### CODE OF CONDUCT FOR NWEAB ADVISERS

1. You must in all matters consider whether you have a personal interest and whether this code of conduct requires you to disclose that interest.
2. You must regard yourself as having a personal interest in any business of the North Wales Economic Ambition Board if:-
  - 2.1 it is likely to affect the well-being or financial position of such persons below to a greater extent than other tax payers in North Wales:-
    - 2.1.1 you;
    - 2.1.2 anyone with whom you live; or
    - 2.1.3 anyone with whom you have close personal association;
  - 2.2 it relates to or is likely to affect any of the following:-
    - 2.2.1 any employment or business of such a person;
    - 2.2.2 any person who employs or has appointed such a person, any firm in which such a person is a partner or any company for which such a person is a remunerated director;
    - 2.2.3 any corporate body which has a place of business or land in North Wales, and in which any such persons has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
    - 2.2.4 any contract for goods, services or works made between the NWEAB:-
      - (a) any such person;
      - (b) a firm in which such a person is a partner;
      - (c) a company of which such a person is a remunerated director; or
      - (d) a body of the description specified in sub-paragraph (iii) above;
    - 2.2.5 any land in North Wales:-
      - (a) in which such a person has a beneficial interest; or
      - (b) which such a person has a licence (alone or jointly with others) to occupy for 28 days or more;
    - 2.2.6 any land where the landlord is the NWEAB and the tenant is:
      - (a) a firm in which such a person is a partner;
      - (b) a company of which such a person is a remunerated director; or
      - (c) a body of the description specified in sub-paragraph 2.2.3 uwchben;
    - 2.2.7 any of the following bodies in which such a person is a member or holds a position of general control or management:-
      - (a) a public authority or body exercising functions of a public nature;

- (b) a company, industrial and provident society, charity, or body directed to charitable purposes;
- (c) a body whose principal purposes include the influence of public opinion or policy;
- (d) a trade union or professional association; or
- (e) a private club, society or association operating within North Wales.

### **Declaration of Personal Interests**

3. Where you have a personal interest in any business of the NWEAB and you attend a meeting at which that business is considered, you must declare the existence and nature of that interest before or at the commencement of that item, or when the interest becomes apparent.
4. Where you have a personal interest in any business of NWEAB and you write or speak to an officer or member of the NWEAB then you must:-
  - 4.1 include details of that interest in the written communication; or
  - 4.2 declare the interest at the commencement, or when it becomes apparent to you that you have such an interest.
5. You must, in respect of a personal interest not previously declared, before or immediately after the close of a meeting where the declaration is made, give written notification to the NWEAB's monitoring officer on the prescribed form, containing:-
  - 5.1 details of the personal interest;
  - 5.2 details of the business to which the personal interest relates; and
  - 5.3 your signature.
6. A personal interest is also a prejudicial interest if it is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest except as set out in paragraph 7 islaw.
7. You will not be regarded as having a prejudicial interest in any business where:
  - 7.1 that business is not the determination of any approval, consent, licence, permission or registration; or
  - 7.2 that business relates to:-
    - 7.2.1 another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
    - 7.2.2 a body to which you have been elected, appointed or nominated by the NWEAB;
    - 7.2.3 your role as a school governor (where you are not appointed or nominated by an authority which is a member of NWEAB) unless it relates particularly to the school of which you are a governor;
    - 7.2.4 your role as a member of a Local Health Board where you have not been appointed or nominated by an authority which is a member of the NWEAB; or
    - 7.2.5 save that an interest shall not be considered as being personal and prejudicial where it relates to or is likely to affect the Party which has appointed the Adviser to the Joint Committee;

- 7.3 that business relates to:-
- 7.3.1 the housing functions of an authority which is a member of the NWEAB where you hold a tenancy or lease with that authority, provided that you do not have arrears of rent of more than two months, and provided that those functions do not relate particularly to your tenancy or lease; or
  - 7.3.2 the functions of an authority which is a member of the NWEAB in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends.
- 7.4 It relates to or is likely to affect an Adviser which has appointed you as its representative to the Joint Committee.

### **Overview and Scrutiny Committees**

8. You also have a prejudicial interest in any business before an overview and scrutiny committee of the NWEAB (or of a sub-committee of such a committee) where:-
- 8.1 that business relates to a decision made (whether implemented or not) or action taken by the NWEAB or another of its committees, sub-committees, joint committees or joint sub-committees; and
  - 8.2 at the time the decision was made or action was taken, you were an adviser to the NWEAB, committee, sub-committee, joint-committee or joint sub-committee AND you were present when that decision was made or action was taken.

### **Participation in Relation to Disclosed Interests**

9. Where you have a prejudicial interest in any business of the NWEAB, unless you have obtained a dispensation from the Host Authority's Standards Committee, you must:-
- 9.1 withdraw from the room, chamber or place where a meeting considering the business is being held:-
    - 9.1.1 where 9.1.2 below applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
    - 9.1.2 in any other case, whenever it becomes apparent that that business is being considered at that meeting;
  - 9.2 not exercise NWEAB functions in relation to that business;
  - 9.3 not seek to influence a decision about that business;
  - 9.4 not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business unless the public has a right to do so; and
  - 9.5 not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent unless the public has a right to do so.
10. Where you have a prejudicial interest in any business of NWEAB you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

11. Paragraph 12 does not prevent you attending and participating in a meeting if:-
  - 11.1 you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers;
  - 11.2 you are attending only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise; or
  - 11.3 you have the benefit of a dispensation provided that you:-
    - 11.3.1 state at the meeting that you are relying on the dispensation; and
    - 11.3.2 before or immediately after the close of the meeting give written notification to your authority containing:-
      - (a) details of the prejudicial interest;
      - (b) details of the business to which the prejudicial interest relates;
      - (c) details of, and the date on which, the dispensation was granted; and
      - (d) your signature.
12. Where you have a prejudicial interest and are making written or oral representations to the NWEAB in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to the NWEAB within 14 days of making the representation.

## SCHEDULE 8

### LIABILITY REPORT

The Liability Report shall include (but shall not be limited to) irrecoverable expenditure incurred and committed in relation to the following:

	<b><u>Amount</u> (all figures in round pounds)</b>
Any committed costs including but not limited to those set out in Clause 19.5 (Withdrawal)	
Procurement Costs	
Costs associated with delays and having to revisit any procurements (including but not limited to the cost of legal, financial and technical advice)	
Land costs – costs associated with identifying and procuring land	
Staff costs (and associated overheads) in progressing the scheme:-  a) Consultancy / Advisers fees  b) Internal Project Management and monitoring  c) Internal Professional advice	
All other reasonable and properly incurred costs and losses (to include the cost of preparing the Liability Report)	
Any costs, claims and damages arising from any third parties in respect of any costs relating to any delay or arising from the termination	

Certified Correct \_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Date)

**SCHEDULE 9**  
**GROWTH VISION**



**SCHEDULE 10**  
**OVERARCHING BUSINESS PLAN**

**SCHEDULE 11  
CONFLICTS POLICY**

**CONFLICTS POLICY**

**DATED**

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**NORTH WALES ECONOMIC AMBITION BOARD**

**CONFLICTS OF INTEREST POLICY**

## 1. Introduction

- 1.1 This is the conflicts of interest policy ("**Conflicts Policy**") of the North Wales Economic Ambition Board ("**NWEAB**") which sets out the guidelines and procedures for identifying, monitoring and managing actual and potential conflicts of interest.
- 1.2 The Conflicts Policy seeks to highlight both:
- (a) Personal Interests (defined in paragraph 3); and
  - (b) Organisational Interests which relates to specific conflicts arising as a result of a person's duty to act in the best interests of both the NWEAB and its employer/organising body (defined in paragraph 4);
- together "**Interests**".
- 1.3 The Conflicts Policy applies to the members and advisers of the **NWEAB Bodies** as listed in Schedule 1 of this Conflicts Policy each individually a "**Person**".
- 1.4 The Conflicts Policy:
- (a) forms part of the conditions of appointment of each Person to an NWEAB Body (both present and future appointments);
  - (b) is deemed to be accepted by each and everyone acting in each role;
  - (c) is in force as at the date on the front page of this Conflicts Policy or, if earlier, the Commencement Date of the GA2; and
- 1.5 It is intended that the Conflicts Policy will be attached as a Schedule to the second Governance Agreement ("**GA2**") to be put in place between the Parties.

## 2. The purpose of this policy

- 2.1 The NWEAB is a Local Authority Joint Committee formed as part of a partnership between the North Wales Local Authorities (the Councils) and other bodies (the Advisers) listed in Schedule 1 of this Conflicts Policy.
- 2.2 It's governance principles and arrangements are set out in the first Governance Agreement ("**GA1**") which will be updated and superseded by the GA2 around the time the Growth Deal is signed which is schedule to be at end of 2020.
- 2.3 It is a public body administering and directing public resource and finance in the public interest. It adopts and promotes the highest standards of probity and accountability in its activities. The Councillors are governed by their Local Code of Conduct for Members of Local Authorities which includes, amongst other things, the management of Personal Interests and, in the case of Advisers to the Joint Committee acting in that role, a voluntary Code of Conduct relating to Personal Interests incorporated into GA1 and will be incorporated into GA2. Local Authority Officers are governed by their Code of Conduct which will generally apply to their conduct. The Conflicts Policy regulates each Person's role within NWEAB Bodies and is

intended to complement, and work alongside, these Codes of Conduct. In the event of any discrepancy, please report this immediately to the NWEAB's Monitoring Officer.

- 2.4 Conflicts of interest can inhibit open discussions and may result in a Person taking irrelevant considerations into account or making decisions that are not in the public's best interests. They can also damage the reputation of the NWEAB if it appears that a Person is influenced by personal interests or loyalties and in some circumstance create a risk of legal challenge to a decision. All Persons must therefore be alert to the possibility that they, or any member of a NEWAB body could be affected by a conflict of interest.
- 2.5 The NWEAB has recognised that the partnering and joint working approach to working with various sectors of the North Wales Economy mean that there will be occasions where members or participants in meetings, consultations and advisory capacities will have their own commercial or business Interests in the matter under consideration. This may mean that their ability to act in the public interest or the perception of their ability to act in the public interest will be undermined to the detriment of the NWEAB.
- 2.6 The procedures in this policy will enable the identification and management of conflicts of Interest.
- 2.7 This Conflicts Policy:-
- (a) aims to assist you in identifying and recognising conflicts of interest that may arise due to your role on an NWEAB body; and
  - (b) sets out the NWEAB'S expectations and requirements as to how such conflicts should be managed, in order to ensure that that conflicts do not prevent them from making decisions in the public interest and protect both the NWEAB and the NWEAB Team from any appearance of impropriety in cases where conflicts of interest arise.
- 2.8 It is your responsibility to ensure that you have read, understand and are able to comply with this Conflicts Policy.

### **3. Identifying a Personal Interest**

You must regard yourself as having an Personal Interest in any business of the North Wales Economic Ambition Board in which you are participating as a member of a NWEAB Body or advising that Body if:-

- 3.1 it does or is likely to directly or indirectly affect the well-being or financial position of such individuals below to a greater extent than other tax payers in North Wales:-
- (a) you;
  - (b) anyone with whom you live; or
  - (c) anyone with whom you have a "close personal association";
- 3.2 directly or indirectly relates to or is likely to directly or indirectly affect any of the following:-
- (a) any employment or business of such an individual;

- (b) anyone who employs or has appointed such an individual, any firm in which such an individual is a partner or any company for which such an individual is a remunerated director;
- (c) any corporate body which has a place of business or land in North Wales, and in which any such persons has a beneficial Interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (d) any contract for goods, services or works made between the NWEAB:-
  - (i) any such person;
  - (ii) a firm in which such an individual is a partner;
  - (iii) a company of which such an individual is a remunerated director; or
  - (iv) a body of the description specified in sub-paragraph 2.2.3 above;
- (e) any land in North Wales:-
  - (i) in which such an individual has a beneficial interest; or
  - (ii) which such an individual has a licence (alone or jointly with others) to occupy for 28 days or more;
- (f) any land where the landlord is the NWEAB and the tenant is:
  - (i) a firm in which such an individual is a partner;
  - (ii) a company of which such an individual is a remunerated director; or
  - (iii) a body of the description specified in sub-paragraph 2.2.3 above;
- (g) any of the following bodies in which such an individual is a member or holds a position of general control or management:-
  - (i) a company, industrial and provident society, charity, or body directed to charitable purposes;
  - (ii) a body whose principal purposes include the influence of public opinion or policy;
  - (iii) a trade union or professional association; or
  - (iv) a private club, society or association operating within North Wales,
 each one being a "**Personal Interest**".

"Close Personal Association" shall be interpreted in accordance with the provision of the Local Authorities (Model Code of Conduct) (Wales) Order 2008. If in doubt whether an individual is connected, each person should seek advice from the NWEAB's Monitoring Officer.

#### 4. Identifying an Organisational Interest

- 4.1 It is envisaged that, in carrying out your roles for the NWEAB and your employer or organisation that situations may arise where your duty to act in accordance with the General

Principles of NEWAB as set out in GA2 and the public interest does or is likely to come directly or indirectly into conflict with your duty to act in the best interests of your organisation.

4.2 Such conflict matters can arise in a wide range of circumstances including but not limited to where decisions are made around, reporting, contractual discussion and investment requests.

4.3 Examples of such a conflict are set out below:-

*Example 1*

(a) *You will have an Organisational Interest in any business before a Programme Board of which you are a member or advising where that business involves the review or scrutiny of the performance of your organisation specifically in delivering a project or an aspect of a project which it has either by grant or contract committed to provide.*

(b) *You will have an Organisational Interest in any business before any EAB body where your organisation is a bidder for a contract whose bid is being evaluated or awarded by that body*

4.4 Whilst the above is a fairly obvious example of a conflict of interest there may be situations where the conflict is less 'clear cut'. It is your responsibility for identifying where such Interests have arisen or may potentially arise.

4.5 Should you feel that you are unable to determine whether a matter in question involves a Personal or Organisational Interest you should refer the matter to the NWEAB's Monitoring Officer.

## 5. Procedure for assessing whether an Interest is a Conflict of Interest

In order to determine whether an Interest is a "**Conflict of Interest**", the following steps shall be followed:

### 5.1 Step One – Exclusions

Do any of the Exclusions apply? It is acknowledged and agreed that where you have a Personal or Organisational Interest in any business of the North Wales Economic Ambition Board, this is not a Conflict of Interest where that business:

(a) involves your attending or making submissions to any body or meeting where you are not the decision maker or adviser but are attending by invitation to represent your organisation or making submissions or otherwise participating in any process on behalf of your organisation; and/or

(b) where the nature of the Conflict of Interest is such that it is common to the majority of the business or other sector representatives of which you are part, each one an "**Exclusion**".

## 5.2 Step Two - Objective Test

- (a) If none of the Exclusions above apply, you should consider whether the Interest in question is one which is likely to significantly impair your decision making. To do so you should consider the following "Objective Test":-

*'Would an ordinary member of the public, with knowledge of the relevant facts, reasonably conclude that the Interest is so significant that it is likely to prejudice your discussion or decision making?'*

- (b) If the answer to the above is yes, you must promptly declare such Conflict of Interest to the Monitoring Officer and, in addition, declare such Conflict of Interest at each board meeting that such matter is discussed. Please see paragraph 7 in relation to the additional implications of having a Conflict of Interest.
- (c) Where you have a Personal or Organisational Interest but the Objective Test has not been satisfied or you are not certain that the Objective Test has been satisfied, you must promptly declare such Conflict of Interest to the Monitoring Officer and, in addition, declare such Conflict of Interest at each meeting that such matter is discussed. You shall provide reasons as why they consider that the Objective Test has not been satisfied. The Monitoring Officer shall be responsible for determining whether or not such interest is one which may materially prejudice the person's input into the matter.

## 5.3 Step Three - Monitor

Should any additional grounds arise that change the nature or extent of the conflict, you shall endeavour to either withdraw from the discussions relating to the conflict matter entirely and/or make a further disclosure to the board in line with step three above (as appropriate).

## 6. Process for declaring conflicts

- 6.1 The first item on the agenda of each meeting will be a standing item requiring all Persons attending the meeting to declare any Interests and whether or not such they consider such Interest to be an actual or potential Conflict of Interest.
- 6.2 If a Person considers that they have an actual or potential Conflict of Interest, they must inform the chair as soon as possible and always before any discussion of the relevant matter. The declaration must specify the nature and extent of any Interest that gives rise to a Conflict of Interest.
- 6.3 If a Party is uncertain whether or not they are conflicted, they must err on the side of caution and transparency and declare the Interest and paragraph 5 above shall apply.
- 6.4 All Conflicts of Interest that have been declared must be recorded in the minutes of the meeting in which they were declared or, if not declared in a meeting, in the minutes of the next meeting.

6.5 If a Person has an Interest in a transaction or arrangement that has already been entered into by the NWEAB but has not declared that Interest, they must declare the nature and extent of that Interest as soon as is reasonably practicable.

## **7. Implications of a conflict**

7.1 If you decide you have a Conflict of Interest and it meets the Objective Test you must:

- (a) not make any written or oral representations (whether in person or via any form of electronic communication or otherwise) in respect of that business;
- (b) ensure that you do not participate in, or influence in any way, any discussions relating to the relevant conflict matter;
- (c) excuse yourself from the part of the meeting in which the conflict matter is discussed and again during any vote of such matter; and
- (d) your will not count towards the quorum for such vote and will not be entitled to vote on such matter.

7.2 The minutes of the relevant meeting must include a record of the nature and extent of the conflict, an outline of the discussion and the actions taken to manage the conflict.

7.3 In all instances the advice of the Monitoring Officer must be sought.

## **8. Declaration and Register of Interests by prospective Parties**

8.1 Each Person within the NWEAB Team has a personal responsibility to declare any Interest that might reasonably be regarded as potentially giving rise to a conflict.

8.2 Before a prospective Party is appointed to the NWEAB Team they may be asked to identify potential Conflicts of Interests.

8.3 If the Parties consider it likely that the prospective Party will be subject to serious or frequent Conflicts of Interest, the Parties should consider whether it is appropriate to proceed with the appointment.

8.4 If a Person joins the NWEAB Team it must confirm that it is accepts and will comply with (and ensure that its representatives shall) shall comply with this Conflicts Policy.

8.5 The Monitoring Officer of the NWEAB will be responsible for maintaining the register of Interests, and will record in the register all conflicts, Interests, gifts and hospitality declared by each Person; and

## **9. Monitoring, enforcing and reviewing this Conflicts Policy**

Any Person who becomes aware of a breach of this Conflicts Policy must report it to the Monitoring Officer as soon as possible who will determine what steps are required in response.



## SCHEDULE 1

### LIST OF THE COUNCILS AND ADVISERS OF THE NWEAB

**"Councils"**

means the following:-

- (a) Conwy Council;
- (b) Denbighshire Council;
- (c) Flintshire Council;
- (d) Gwynedd Council;
- (e) Isle of Anglesey Council; and
- (f) Wrexham Council

**"Advisers"**

means the bodies and individuals listed below plus any further individuals and/or bodies whom the Joint Committee chooses to invite in that capacity from time to time:-

- (a) Bangor University;
- (b) Coleg Cambria;
- (c) Grwp Llandrillo Menai;
- (d) Wrexham Glyndwr University; and
- (e) Business Delivery Board.

**"NWEAB Bodies"**

means the bodies and individuals listed below plus any further bodies whom the Joint Committee determines the Policy should apply to :-

- (a) Executive Support Group
- (b) Programme Board
- (c) Project Board;

**SCHEDULE 12**  
**GRANT OFFER LETTER**

**FEL Y TYSTIWDYD**, mae'r Cytundeb hwn wedi'i gyflawni fel Gweithred ar y dyddiad a ysgrifennwyd ar ddechrau'r Cytundeb hwn yng ngŵydd y rheini sydd wedi'u nodi.

**AS WITNESSED** this Agreement has been executed as a Deed on the date written at the beginning of this Agreement in the presence of those stated.

Gosodwyd Sêl Gyffredin **CYNGOR** )  
**BWRDEISTREF SIROL CONWY** )  
at hynny yng ngŵydd: - )  
The Common Seal of **CONWY COUNTY** )  
**BOROUGH COUNCIL** was )  
hereunto affixed in the presence of: - )

Gosodwyd Sêl Gyffredin )  
**CYNGOR SIR DDINBYCH** )  
at hynny yng ngŵydd:- )  
The Common Seal of **DENBIGHSHIRE** )  
**COUNTY COUNCIL** was )  
hereunto affixed in the presence of:- )

Gosodwyd Sêl Gyffredin )  
**CYNGOR SIR Y FFLINT** )  
at hynny yng ngŵydd:- )  
The Common Seal of **FLINTSHIRE** )  
**COUNTY COUNCIL** was )  
hereunto affixed in the presence of:- )

Gosodwyd Sêl Gyffredin )  
**CYNGOR GWYNEDD** )  
at hynny yng ngŵydd:- )  
The Common Seal of **GWYNEDD** )  
**COUNCIL** was )  
hereunto affixed in the presence of:- )

Gosodwyd Sêl Gyffredin )  
**CYNGOR SIR YNYS MÔN** )  
at hynny yng ngŵydd:- )  
The Common Seal of **THE ISLE OF** )  
**ANGLESEY COUNTY COUNCIL** was )  
hereunto affixed in the presence of:- )

Gosodwyd Sêl Gyffredin **CYNGOR** )  
**BWRDEISTREF SIROL WRECSAM** )  
at hynny yng ngŵydd:- )  
The Common Seal of **WREXHAM** )  
**COUNTY BOROUGH COUNCIL** was )  
hereunto affixed in the presence of:- )

Gosodwyd Sêl Gyffredin

**PRIFYSGOL BANGOR** drwy hyn yn unol â'i (1).....  
Herthyglau  
cwmni:- (AELOD O'R CYNGOR/MEMBER OF  
COUNCIL)

The Common Seal of the **BANGOR  
UNIVERSITY**

was hereby affixed in accordance with its .....  
Articles of (PRINTIWCH ENW/PRINT NAME)

Association

(2).....  
(AELOD O'R CYNGOR/MEMBER OF  
COUNCIL)

.....  
(PRINTIWCH ENW/PRINT NAME)

(3).....  
(COFRESTRYDD/ YSGRIFENNYDD)  
(REGISTRAR/SECRETARY)

.....  
(PRINTIWCH ENW/PRINT NAME)

ym mhresenoldeb  
In the presence of .....)  
Enw Tyst  
Witness name .....)  
Llofnod Tyst  
Witness signature .....)  
Cyferiad Tyst

Arwyddwyd fel gweithred ar ran )  
**PRIFYSGOL GLYNDWR** )  
at hynny yng ngŵydd:- )  
The Common Seal of )  
**GLYNDWR UNIVERSITY** was )  
hereunto affixed in the presence of:- )

Arwyddwyd fel gweithred ar ran )  
**COLEG CAMBRIA** )  
Signed as a deed on behalf of )  
**COLEG CAMBRIA** by:- )  
In the presence of )  
Witness name )  
Witness signature )  
Witness address )

Arwyddwyd fel gweithred ar ran )  
**GRWP LLANMDRILLO MENAI** )  
Signed as a deed on behalf of **GRWP** )  
**LLANDRILLO MENAI** by:- )  
In the presence of )  
Witness name )  
Witness signature )  
Witness address )