

Dated

2021

NORTH DEVON DISTRICT COUNCIL

and

TORRIDGE DISTRICT COUNCIL

AGREEMENT FOR A JOINT PLANNING POLICY COMMITTEE

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THIS DEED is dated

Between

The parties to this Agreement are:

- (1) NORTH DEVON DISTRICT COUNCIL of Lynton House, Commercial Road, Barnstaple, Devon EX31 1DG (**NDDC**); and
- (2) TORRIDGE DISTRICT COUNCIL of Riverbank House, Bideford, Devon EX39 2QG (**TDC**).

Background

- (A) NDDC and TDC (referred to collectively in this Agreement as the **Partner Authorities**) are local authorities constituted by the Local Government Act 1972 (**1972 Act**).
- (B) The Partner Authorities have agreed to establish and to participate in a joint committee (**Joint Committee**) to facilitate a partnership to have oversight of the preparation, review and approval of the Development Plan Documents and perform other Agreed Functions in order to facilitate efficient joint working on planning matters that affect the Partner Authorities (**Partnership**).
- (C) The Partner Authorities have entered into this Agreement in reliance on the exclusive rights given to local authorities to undertake administrative arrangements of this nature in section 101, 102, 112 and 113 of the 1972 Act and the regulations made under the 1972 Act; together with the general power within section 1 of the Localism Act 2011.

Agreed terms

1. Definitions

- 1.1 In this Agreement the following terms shall have the following meanings:

Agreed Functions: those functions set out at Schedule 2 which have been delegated to the Joint Committee in the manner described in Schedule 1.

Chief Executive: an officer designated by a Partner Authority as the Partner Authority's head of paid service in accordance with section 4 of the Local Government Act 1989.

Commencement Date: the date of this Agreement.

Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures: as set out in the Data Protection Legislation in force at the time.

Data Protection Legislation: (i) the Data Protection Act 2018; (ii) the General Data Protection Regulation (GDPR) as enacted into English law and as revised and superseded from time to time; (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (iv) any other laws and regulations relating to the processing of personal data and privacy which

apply to a party and, if applicable, the guidance and codes of practice issued by the relevant data protection or supervisory authority.

EIR: Environmental Information Regulations 2004.

FOIA: Freedom of Information Act 2000.

Force Majeure Event: any cause affecting the performance by a party of its obligations under this agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to either party, either party's personnel or any other failure in either party's supply chain.

Information: has the meaning given under section 84 of FOIA.

Intellectual Property Rights: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Lead Authority: where applicable, the Partner Authority named as such for a Support Service in Schedule 3.

Non-Restricted Items: Items not including the disclosure of exempt information as defined in Schedule 12A of the Local Government Act 1972

Partnership Leader: the officer(s) with responsibility for managing the Agreed Functions on behalf of each of the Partner Authorities.

Permitted Recipients: The parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement and any other permitted recipient as agreed by the parties.

Personal Data: shall have the same meaning as set out in the Data Protection Legislation.

Restricted Items: Items including the disclosure of exempt information as defined in Schedule 12A of the Local Government Act 1972

Request for Information: a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIR.

Section 151 Officer: the officer designated by a local authority as the person responsible for the proper administration of its financial affairs, as required by section 151 of the Local Government Act 1972.

Support Services: those services, detailed in Schedule 3, or any additional support

services added in accordance with clause 3.2, which are required to assist the Joint Committee in the discharge of the Agreed Functions.

Terms of Reference of the Joint Committee: the terms of reference set out at Schedule 1.

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules.
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 A reference to writing or written includes faxes and e-mail.
- 1.8 Any obligation in this agreement not to do something includes an obligation not to agree or allow that thing to be done.
- 1.9 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
- 1.10 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.

2. The Partnership

- 2.1 In exercise of their powers under sections 101(5) and 102 of the 1972 Act, sections 19 and 20 of the Local Government Act 2000, and all other enabling powers, the Partner Authorities agree to work together in the provision of Agreed Functions to be delivered through a Joint Committee which shall be constituted and conduct its business in accordance with this Agreement, including the Terms of Reference set out in Schedule 1 with effect from the Commencement Date.
- 2.2 The Partner Authorities shall each delegate and empower the Joint Committee to discharge on its behalf the Agreed Functions as set out in Schedule 2 and empowers the Joint Committee to arrange for the discharge of the Agreed Functions or any part or parts of them by any sub-committee or by any officer of the Partner Authorities so appointed and section 101(2) of the 1972 Act shall apply in relation to the Agreed Functions as it applies in relation to the functions of the Partner Authorities.

3. Support Services

- 3.1 Support Services shall be provided by the Partner Authorities as may be necessary to support the Joint Committee in the discharge of the Agreed Functions.
- 3.2 If either Partner Authority believes that additional Support Services may be required for the effective discharge of the Agreed Functions it shall consult the other Partner Authority to reach agreement as to the appropriate way of providing the additional Support Services. If the Partner Authorities are unable to agree the appropriate way of providing the additional Support Services the matter shall be dealt with in accordance with the dispute resolution procedure set out at clause 11.

4. Costs and liabilities in respect of the Joint Committee

- 4.1 All losses, claims, expenses, actions, demands, costs and liabilities incurred by the Joint Committee and in fulfilling obligations under this Agreement shall be shared by the Partner Authorities on such terms as may be agreed from time to time between the Partner Authorities.
- 4.2 Each Partner Authority shall (and hereby undertakes with the other Partner Authority to) indemnify the other Partner Authority against, and/or contribute to and pay a share of, all or any liabilities, claims, costs and/or expenses of or incurred by that Partner Authority arising out of, or in connection with, or in the course of, or as a result of, it being a member of the Joint Committee and fulfilling its obligations under this Agreement with the intent that the Partner Authority being indemnified and the other Partner Authority shall be jointly liable for all such liability to claims, costs and/or expenses unless otherwise agreed.
- 4.3 This clause 4 shall be subject to such indemnity, on the part of the Partner Authorities, not extending to liabilities or claims arising or costs and/or expenses incurred by reason or in consequence of any of the following on the part of the Partner Authority seeking to be indemnified:
 - 4.3.1 breach by the Partner Authority of its obligations under this Agreement;
 - 4.3.2 gross negligence;
 - 4.3.3 gross misconduct;
 - 4.3.4 persistent breach of law or duty (that is to say the Partner Authority persisted in the breach of law or duty after the same was drawn to its attention);
 - 4.3.5 any act or omission known or that should have been known to the relevant Partner Authority to be contrary to proper practice as a local authority or local government law; or
 - 4.3.6 substantial or persistent failure (after reasonable notice) to redress performance of the duties of the relevant Partner Authority to comply with the requirements or the standards of, or set out in, this Agreement.

4.4 For the avoidance of doubt such indemnity as is referred to in this clause 4 shall include, but not be limited to, matters relating to the employment and transfer of staff, losses, costs, expenses or liabilities arising from contracts with third parties and in relation to assets.

4.5 This clause 4 shall survive the expiry or determination of this Agreement.

5. Insurance

5.1 Each Partner Authority shall ensure that:

5.1.1 it maintains throughout the duration of this Agreement (or procures the taking out and maintenance of) adequate insurance to the levels set out in clause 5.2 and such other insurances which may be required by legislation;

5.1.2 the insurance obtained is effective no later than the date on which the relevant risk commences;

5.1.3 it is responsible for meeting, and promptly pays all costs of, all insurance premiums for the insurances referred to in clause 5.2; and

5.1.4 upon written request it provides to the other Partner Authority making the written request:

5.1.4.1 copies of all insurance policies required under this clause 5;

5.1.4.2 evidence that all of the premiums payable under such insurance policies have been paid in full; and

5.1.4.3 evidence that the insurances remain in full force and effect.

5.2 Each Partner Authority shall ensure that at all times an adequate level of insurance is maintained by it from the Commencement Date and throughout the duration of this Agreement in respect of the provision of the Agreed Functions.

5.3 Each Partner Authority warrants to the other that, as at the date of this Agreement:

5.3.1 it has provided a copy of this Agreement to its insurer; and

5.3.2 upon receipt of a notice from an insurer to a Partner Authority that the terms of the insurances required under this clause 5 have changed or that the insurer withdraws its insurance that Partner Authority shall promptly notify the other and use its best endeavours to forthwith obtain replacement insurance at the levels as required under this clause 5.

6. Financial arrangements for the Joint Committee

6.1 The financial arrangements for the Joint Committee shall be as provided at Schedule 4 of this Agreement.

6.2 If any Partner Authority disagrees with the amount of their contribution payable in accordance with Schedule 4 then they may pursue the dispute

resolution procedure set out in clause 11 or may terminate their involvement in the Joint Committee in accordance with clause 10.

- 6.3 The section 151 officer of each Partner Authority, and other officers authorised by the section 151 officer, shall have access at all reasonable times, and with due notice, to the relevant financial records of the Partner Authorities and shall be entitled to seek explanations concerning queries relating thereto.
- 6.4 In addition to clause 6.3, for the purposes of carrying out an audit appropriately authorised staff of a Partner Authority, or third party organisations appointed by a Partner Authority for this purpose, may access all records, assets, personnel and premises, including those of partner organisations and shall have the authority to obtain such information and explanations as they consider necessary to fulfil their auditing responsibilities.

7. Duration of the Agreement

This Agreement shall come into force on the Commencement Date and shall continue until terminated in accordance with the provisions of this Agreement.

8. Variations to this Agreement

- 8.1 Any of the Partner Authorities may request a variation to this Agreement by making a request in writing to the Lead Authority for governance and secretarial Support Services.
- 8.2 The Lead Authority for governance and secretarial Support Services shall circulate the request to each of the Partner Authorities within 10 Working Days of receipt of the request for consideration and approval by the Partner Authorities.
- 8.3 If all of the Partner Authorities approve the variation then the Lead Authority for governance and secretarial Support Services shall arrange for the preparation of an appropriate Deed of Variation to this Agreement to be prepared for execution by all of the Partner Authorities and such change shall only take effect upon completion of that Deed of Variation and the costs associated with the preparation of such a Deed of Variation shall be shared equally between the Partner Authorities.
- 8.4 If one of the Partner Authorities does not approve the change then the change to this Agreement shall not occur.

9. Withdrawal from the Joint Committee

- 9.1 Any Partner Authority which wishes to withdraw from the Joint Committee shall give not less than 6 months' notice to the other Partner Authority, including the Lead Authority for governance and secretarial Support Services, of its intention to do so. The relevant Lead Authority for governance and secretarial Support Services shall consult the other Partner Authority they are serving notice on to give due consideration to:
- 9.1.1 any loss of funding which may arise from such withdrawal to include any non-payment, clawback or repayment of such funding; and

9.1.2 any other loss, liability, damage, claim or expense

which would be incurred by the Partner Authority upon which notice has been served by reason of such withdrawal from the Joint Committee.

9.2 The Partner Authority wishing to withdraw from the Joint Committee undertakes, as a condition of such withdrawal, to make, prior to withdrawal, such reasonable payment or payments which fairly reflect the actual losses caused by or anticipated as a result of the withdrawal as shall be determined by the other Partner Authority pursuant to clauses 4, 6 and 9.1 above and no notice under this clause 9 shall take effect unless and until such payment has been made.

9.3 The Joint Committee reserves the right to recover from the other party to this Agreement the costs of any claims, costs, expenses, losses or liabilities of any nature or which have been caused by any act or omission of that party and which are discovered after that party's withdrawal from this Agreement.

9.4 Where a party's withdrawal brings about a decision to terminate this Agreement, the provisions of clause 10 shall apply.

10. Termination of this Agreement

10.1 The Partner Authorities agree that this Agreement may be determined upon terms agreed by both Partner Authorities.

10.2 In the event of termination of this Agreement:

10.2.1 any Partner Authority shall supply to the other Partner Authority, when requested, any information which the other Partner Authority requires for the continued provision by that other party of any of the Agreed Functions;

10.2.2 without prejudice to clause 17 below, any Intellectual Property Rights created under this Agreement shall be owned by the Partner Authorities in equal proportions; and

10.2.3 each of the Partner Authorities shall undertake to pay such reasonable payment or payments which fairly reflect the obligations of that Partner Authority pursuant to this Agreement on the basis set out in clauses 4, 6 and 9.

10.3 It shall be the duty of both of the parties to try to minimise any losses arising from the determination of this Agreement.

11. Internal Dispute Resolution

11.1 The Partner Authorities (and where the context requires, the Chief Executives of the Partner Authorities) undertake and agree to pursue a positive approach towards dispute resolution which seeks (in the context of this joint working arrangement) to identify a solution at the lowest operational level that is appropriate to the subject of the dispute and which avoids legal proceedings and maintains a strong working relationship between the parties.

11.2 Any dispute or difference shall, in the first instance, be referred to the relevant Partnership Leader to resolve in liaison with both Partner

Authorities. In the event that such matters cannot be resolved within 10 Working Days it shall be referred to the Chief Executives and, in default of agreement, it shall be referred to the Joint Committee for determination.

- 11.3 In the event of any dispute or difference between the Partner Authorities relating to this Agreement which it has not been possible to resolve through the decision making processes of the Joint Committee (whether this be a matter of interpretation or otherwise) the matter shall be referred to arbitration in accordance with clause 12.

12. Arbitration

If at any time any dispute or difference shall arise between the Partner Authorities, or any of them, which they are not able to resolve in accordance with this Agreement the same shall be referred to and settled by a single arbitrator to be appointed by agreement by the Partner Authorities; or in default of agreement, nominated by application of the Partner Authorities by application of either of the Partner Authorities by the Secretary of State where the dispute or difference relates to costs and expenses arising under this Agreement, or by the President of the Law Society of England and Wales in respect of any other matter.

13. Notices

- 13.1 Any demand, notice or other communication given in connection with or required by this Agreement shall be made in writing and shall be delivered to, or sent to the recipient by:

13.1.1 Hand delivering to the address set out at the beginning of this Agreement (or such other address as may be notified in writing from time to time);

13.1.2 pre-paid first class post to the address set out at the beginning of this Agreement (or such other address as may be notified in writing from time to time);

13.1.3 by e-mail to the address as may be notified in writing from time to time.

- 13.2 Any such demand, notice or other communication shall be deemed to have been duly served:

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

13.2.2 if given or made by pre-paid first class post, two Working Days after being posted;

13.2.3 if sent by facsimile, at the time of transmission provided that a confirmatory copy is, on the same day that the facsimile is transmitted, sent by pre-paid first class post in the manner provided for in clause 13.1; or

13.2.4 if sent by e-mail, at the time of transmission

provided, in each case, that if the time of such deemed service is either after 4.00pm on a Working Day or on a day other than a Working Day, service shall be deemed to occur instead at 10.00am on the next Working Day.

14. Freedom of Information

- 14.1 The Partner Authorities acknowledge that each is subject to the requirements of the FOIA and the EIR.
- 14.2 In accordance with clause 14.1 the Partner Authorities shall provide all necessary assistance and cooperation as reasonably requested by one another to enable them to comply with their obligations under the FOIA and EIR.
- 14.3 The Partner Authorities acknowledge that one or other of them may be required under the FOIA or EIR to disclose Information (including Information that may be deemed to be commercially sensitive) without consulting or obtaining consent from the other. The Partner Authorities shall take reasonable steps to notify one another of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for them to do so but (notwithstanding any other provision in this agreement) the Partner Authority that received the Request for Information shall be responsible for determining in its absolute discretion whether any commercially sensitive information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIR.

15. Data Protection

- 15.1 This clause sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the **Data Discloser**) may disclose to the other party (the **Data Recipient**) any Personal Data collected by the Data Discloser for the Agreed Functions.
- 15.2 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this agreement with immediate effect.
- 15.3 Particular obligations relating to data sharing. Each party shall:
 - 15.3.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of Personal Data to the Permitted Recipients for the Agreed Functions;
 - 15.3.2 give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
 - 15.3.3 process Personal Data only for the Agreed Functions;
 - 15.3.4 not disclose or allow access to Personal Data to anyone other than the Permitted Recipients;

- 15.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- 15.3.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and
- 15.3.7 not transfer any Personal Data outside the UK unless the transferor:
 - 15.3.7.1 complies with the provisions of Articles 26 of the UK GDPR (in the event the third party is a joint controller); and
 - 15.3.7.2 ensures that (i) the transfer is to a country approved by the Information Commissioner as providing adequate protection pursuant to Article 45 UK GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 UK GDPR; or (iii) one of the derogations for specific situations in Article 49 UK GDPR applies to the transfer.
- 15.4 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
 - 15.4.1 consult with the other party about any notices given to data subjects in relation to Personal Data;
 - 15.4.2 promptly inform the other party about the receipt of any data subject access request;
 - 15.4.3 provide the other party with reasonable assistance in complying with any data subject access request;
 - 15.4.4 not disclose or release any Personal Data in response to a data subject access request without first consulting the other party wherever possible;
 - 15.4.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 15.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
 - 15.4.7 at the written direction of the Data Discloser, delete or return any Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data;

- 15.4.8 use compatible technology for the processing of Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
 - 15.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 15.4 and allow for audits by the other party or the other party's designated auditor; and
 - 15.4.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.
- 15.5 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

16. Audit

- 16.1 Any accounts and/or documents relating to any Agreed Function and this Agreement shall be the subject of audit by any external auditor appointed by any of the Partner Authorities and shall be open to inspection by any external auditor appointed by the Audit Commission.
- 16.2 Any increased cost in undertaking any audit relating to the Agreed Functions and this Agreement shall be shared pro rata between the Partner Authorities on such terms as may be agreed by the Partner Authorities.

17. Intellectual Property

- 17.1 The Partner Authorities intend that, notwithstanding any secondment, any Intellectual Property Rights created in the course of carrying out any of the Agreed Functions shall vest in the Partner Authority whose employee created them (or in the case of any Intellectual Property Rights created jointly by employees of all of the Partner Authorities, in the party that is the agreed lead party for that part of the Agreed Function that the Intellectual Property Rights relates to).
- 17.2 Where any Intellectual Property Rights vest in either Partner Authority in accordance with the intention set out in clause 17.1 above, that Partner Authority shall grant an irrevocable licence to the other Partner Authority to use those Intellectual Property Rights for the purposes of the Agreed Function.

18. Force Majeure

All parties shall be released from their respective obligations in the event that a Force Majeure Event renders the performance of this Agreement not reasonably practicable whereupon all money due to any party under this Agreement shall be paid immediately and clause 8 shall apply as if both Partner Authorities in membership of the Joint Committee had agreed to determine this Agreement.

19. Severability

19.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

19.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. Successors

This Agreement shall be binding upon, and shall endure to the benefit of, each party's successors and permitted assigns.

21. Relationship of the parties

Each of the parties is an independent local authority and nothing contained in this Agreement shall be construed to imply that there is any relationship between the parties of a legal partnership or of principal/agent or of employer/employee. Except to the extent expressly permitted by the terms of this Agreement or where otherwise expressly authorised in writing, no party shall have any right or authority to act on behalf of another party or to bind another party by contract or otherwise.

22. Third party rights

The parties agree that they do not intend that any third party which may benefit from this Agreement shall have any rights of enforcement under the terms of the Contracts (Rights of Third Parties) Act 1999.

23. Entire agreement

23.1 This Agreement, the schedules and the documents annexed to it or otherwise referred to in it constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

23.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

24. Governing law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a **DEED** by the
affixing of the **COMMON SEAL** of
NORTH DEVON DISTRICT
COUNCIL

in the presence of:

.....

Authorised Signatory

EXECUTED as a **DEED** by the
affixing of the **COMMON SEAL** of
TORRIDGE DISTRICT COUNCIL

in the presence of:

.....

Authorised Signatory

SCHEDULE 1
Terms of Reference of the Joint Committee

1. Each of the Partner Authorities shall appoint seven members (being elected members of that Partner Authority) as its nominated members of the Joint Committee. The members appointed shall have full voting rights. The members appointed must include:
 - 1.1 the Leader of each Partner Authority; and
 - 1.2 Lead Members for Economy, Environment, Climate, Planning, Housing and Community or such other members from TDC as TDC shall consider appropriate with the equivalent or such other members from NDDC as NDDC shall consider appropriate.
2. Each Partner Authority may nominate one or more substitute members to attend any meeting in place of an appointed member from that Partner Authority and notification being given to the Lead Authority responsible for governance and secretarial Support Services, before the start of the meeting. The member appointed as a substitute shall have full voting rights where the member for whom they are substituting does not attend. If all of a Partner Authority's nominated members attend a meeting of the Joint Committee, any named substitute may also attend as an observer but shall not be entitled to vote.
3. Each member of the Joint Committee shall comply with the Code of Conduct of their Partner Authority when acting as a member of the Joint Committee.
4. Each of the Partner Authorities may remove any of its nominated members or substitute members of the Joint Committee and appoint a different member or substitute to the Joint Committee by giving written notice to the Lead Authority for governance and secretarial Support Services.
5. Each Partner Authority shall have seven votes. These shall be exercised by the nominated members who are elected members of the Partner Authority. In the absence of a Partner Authority's nominated member, a vote may be exercised by the named substitute who is an elected member of the Partner Authority.
6. Each member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Partner Authority but a member shall cease to be a member of the Joint Committee if he or she ceases to be a member of the Partner Authority appointing him or her as a member of the Joint Committee.
7. Any casual vacancies howsoever arising shall be filled by the Partner Authority from which the vacancy arises by notice in writing sent to the Lead Authority for governance and secretarial Support Services.
8. Meetings of the Joint Committee shall be held at the offices of the member appointed as chairperson, unless otherwise agreed by the Joint Committee.

9. The Partner Authority hosting the first meeting shall appoint one of its nominated members as chairperson and that member shall remain chairperson until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a member of the Joint Committee. On the expiry of the first chairperson's term of office as chairperson, the Partner Authority which did not appoint the first chairperson shall appoint one of its nominated members as chairperson for a period of one year from the time of his or her appointment. The same procedure shall be followed for the appointment of chairperson in subsequent years.
10. The Partner Authority which has not appointed the chairperson of the Joint Committee in any year shall appoint one of its nominated members as vice chairperson.
11. The Joint Committee shall meet once every quarter unless otherwise determined by the Joint Committee.
12. The Lead Authority for governance and secretarial Support Services may call additional meetings by providing at least five clear days' notice to members of the Joint Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings of the Joint Committee. The Lead Authority for governance and secretarial Support Services must call a meeting of the Joint Committee if at least five members of the Joint Committee from each Partner Authority requests it or if the Chief Executive of both Partner Authorities requests it.
13. Meetings shall be notified to members of the Joint Committee by the Lead Authority for governance and secretarial Support Services.
14. The Lead Authority for governance and secretarial Support Services shall publish the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
15. The Lead Authority for governance and secretarial Support Services shall send, electronically, to all members and relevant officers of each Partner Authority, the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
16. The Lead Authority for governance and secretarial Support Services shall arrange for written minutes to be taken of each meeting of the Joint Committee and shall arrange for an officer to present them to the Joint Committee at its next meeting for approval as a correct record. If the Joint Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the chairperson and vice chairperson.
17. Meetings of the Joint Committee will commence at 10.00am unless otherwise agreed by the Joint Committee. Meetings of the Joint Committee shall end no later than 1.00pm unless otherwise agreed by the Joint Committee.

18. A meeting of the Joint Committee shall require a quorum of seven members with a minimum of three members, who are entitled to attend and vote, coming from one Partner Authority with the remainder, to make the meeting at least quorate, from the other Partner Authority. If there is a quorum of members present but neither the chair nor the vice-chair is present, the members present shall designate one member to preside as chair for that meeting.
19. Subject to the provisions of any enactment, all questions coming or arising before the Joint Committee shall be decided by a majority of the Partner Authority members of the Joint Committee immediately present and voting thereon. Subject to the provisions of any enactment, in the case of an equality of votes the chairperson shall have a second or casting vote but, before exercising this, the chairperson shall consider whether it is appropriate to defer the matter to the next meeting of the Joint Committee.
20. Any member of the Joint Committee may request the Joint Committee to record the votes of individual members of the Joint Committee on a matter for decision.
21. A member, when speaking, shall address the chairperson. If two or more members wish to speak, the chairperson shall call on one to speak. While a member is speaking all other members shall remain silent.
22. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
23. Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing the chairperson may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Joint Committee's business.
24. If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
25. The order of business shall be indicated in the agenda for the meeting.
26. When a motion is under debate by the Joint Committee no other motion shall be moved except the following:
 - 26.1 to amend the motion;
 - 26.2 to adjourn the meeting;
 - 26.3 to adjourn the debate;
 - 26.4 to proceed to the next business;
 - 26.5 that the question may now be put;
 - 26.6 that a member shall not be further heard;

- 26.7 by the chairperson, that a member leave the meeting;
- 26.8 a motion under section 100(A)(4) of the Local Government Act 1972 to exclude the public; or
- 26.9 to postpone consideration on an item.
- 27. A member may move without comment at the conclusion of a speech of another member, "That the Committee proceed to the next business", "That the question may now be put", "That the debate is now adjourned", or "That the Committee now adjourn", on the seconding of which the chair shall proceed as follows:
 - 27.1 on a motion to proceed to next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed to put to the vote, the motion to proceed to next business;
 - 27.2 on a motion that the question may now be put: unless in his/her opinion the matter before the meeting has been insufficiently discussed he/she shall first put to the vote the motion that the question may now be put; or
 - 27.3 on a motion to adjourn the debate or meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.

The ruling of the chair shall not be open for discussion.

- 28. Any member of the Partner Authorities who is not a member of the Joint Committee is entitled to attend the Joint Committee and make representations in respect of Non-Restricted and Restricted Items by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business), and comments will be recorded only on the direction of the chairperson.
- 29. The following elected representatives are entitled to attend the Joint Committee and make representations in respect of Non-Restricted Items to the Joint Committee by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business) and comments will be recorded only on the direction of the chairperson:
 - 29.1 Members of parish councils within the districts of the Partner Authorities;
 - 29.2 Members of Devon County Council; and
 - 29.3 Members of Parliament for the residents of the Partner Authorities.
- 30. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 32.
- 31. Members of the public wishing to address the Joint Committee (or a sub-committee of the Joint Committee) on Non-Restricted Items contained within the agenda for the meeting shall be given the opportunity to do so subject to:
 - 31.1 the opportunity being extended to one or more person(s) at the discretion of the chairperson to speak in support of each agenda item and one or more

- person(s) at the discretion of the chairperson to speak against each agenda item when called to do so by the chairperson;
- 31.2 an indication of the desire to speak on the agenda item being made by the person in writing not less than two days before the scheduled Committee Meeting. The written request must be sent by e-mail to memberservices@northdevon.gov.uk or such other address as provided by the Lead Authority for governance and secretarial support;
 - 31.3 each person addressing the Joint Committee or sub-committee of the Joint Committee being limited to three minutes' speech;
 - 31.4 in the event of the person having registered to speak on an agenda item not wishing to take up their right to speak on the agenda item because it was deferred, that person will automatically be given the right to speak on the agenda item at the next meeting of the Joint Committee or sub-committee of the Joint Committee; and
 - 31.5 the chairperson of the meeting having discretion to rule that a person wishing to address the meeting shall not be heard if, in the chairperson's view, that issue or the organisation or the person wishing to make the representation on that issue has received an adequate hearing.
- 32. In accordance with the requirements of the 1972 Act, the public or press must be excluded from a meeting by resolution of the Joint Committee during an item of business if that item includes:
 - 32.1 confidential information, as defined in section 100A(3) of the 1972 Act; or
 - 32.2 exempt information, as defined in section 100I of the 1972 Act.
 - 33. The Joint Committee may delegate a function to an officer.
 - 34. The Joint Committee may appoint such task teams or working groups as they consider appropriate in order to consider and report to the Joint Committee on specific matters.
 - 35. Any contractual arrangements that relate to an Agreed Function will be undertaken by one of the Partner Authorities and that Partner Authority shall apply its own financial regulations and contract procedure rules to such an arrangement. The Partnership Leader of the Partner Authority that is incurring the expenditure will normally determine which of the Partner Authority's financial regulations and contract procedure rules will apply and, in the event of any dispute or uncertainty, the matter should be referred to the Chief Executives for determination.
 - 36. The Lead Authority responsible for governance and secretarial Support Services shall provide administrative support services to the Joint Committee on such terms as may be agreed from time to time between the Partner Authorities. The Partner Authorities shall make available committee officers to provide administrative services at the meetings of the Joint Committee as appropriate and in consideration of where the meetings are being held.

37. The Lead Authority for legal Support Services shall provide the Joint Committee with legal advice and support on such terms as may be agreed from time to time between the Partner Authorities.
38. The Lead Authority for financial Support Services shall provide the Joint Committee with financial advice and support on such terms as may be agreed from time to time between the Partner Authorities.

SCHEDULE 2

Agreed Functions

1. The Joint Committee shall be responsible for and shall have delegated to it the following functions of the Partner Authorities:
 - 1.1 The preparation, review and/or approval of
 - 1.1.1 Development Plan Documents;
 - 1.1.2 Supplementary Planning Documents;
 - 1.1.3 Joint documents that supplement/complement the Development Plan Documents (Namely, Local Development Schemes, Statements of Community Involvement, Authority Monitoring Reports and Infrastructure Funding Statements);
 - 1.1.4 The outcomes from policy performance monitoring and the need to undertake any resultant actions, on such matters as the maintenance of housing delivery rates and a joint five year land supply to required levels;
 - 1.1.5 Proposals for delivery of key infrastructure (e.g. flood defences, link road improvements, health infrastructure) where there are clear cross boundary implications; and
 - 1.1.6 Responses to consultations from the government, other authorities, external agencies and other bodies, including transportation related consultations, where they would have a significant impact on the delivery of the Local Plan or on the Districts' environment.
 - 1.2 The consideration and noting of associated evidence documents (for example, Sustainability Appraisals and Habitat Regulations Assessments)
 - 1.3 Such other functions related to the above listed Agreed Functions which it is agreed between the Partner Authorities should be included as an Agreed Function.
2. The delegated powers referred to above in paragraph 1.1 shall be limited to the preparation of agreed Development Plan Documents but shall not include the final adoption of such Development Plan Documents which shall be reserved to the respective Partner Authorities and referred back as a recommendation by the Joint Committee for a decision as to adoption by the respective Partner Authorities. The Joint Committee shall take account any reservations or objections subsequently received from either Partner Authority before referring the Development Plan Documents back for adoption.
3. The Joint Committee shall act in the manner laid down in the Terms of Reference of the Joint Committee as set out in Schedule 1.
4. The Joint Committee shall act as the ultimate arbiter in the case of unresolved disputes between the Partner Authorities unless such matters are referred to arbitration pursuant to clause 12.

5. It has been agreed that the Agreed Functions as referred to in paragraph 1 should be delivered in the manner laid down in this Agreement.

SCHEDULE 3
Support Services

1. To enable the Partnership to function effectively the Joint Committee shall require the following key Support Services from the Partner Authorities:
 - 1.1 legal support and advice; and
 - 1.2 governance and secretarial support.
2. Each Support Service shall, from the Commencement Date, be provided by the following identified Lead Authority, which may be varied during the term of this Agreement by written agreement between the Partner Authorities:

Support Service	Lead Authority
Legal support and advice	TDC
Governance and secretarial support	NDDC

SCHEDULE 4

Financial Arrangements

1. Joint Committee costs

Annual costs relating to the Joint Committee shall be shared in equal proportions between the Partner Authorities, this shall include (but shall not be limited to):

- 1.1 administrative costs of the Joint Committee;
- 1.2 costs of room booking, refreshments and any Joint Committee events (e.g. training).
- 1.3 any other incidental expenses of the Joint Committee or Joint Committee members.