

**DATED**

**2020**

**(1) THE WELSH MINISTERS**

**(2) CARMARTHENSHIRE COUNTY COUNCIL**

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**AGREEMENT RELATING TO RURAL EMPLOYMENT PREMISES**

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**THIS AGREEMENT** is made the                      day of                      2020

**BETWEEN:**

- (1) **THE WELSH MINISTERS** whose principal place of business is at Crown Building Cathays Park, Cardiff CF10 3NQ (hereinafter called "the Ministers" which expression shall include their successors in title and to their functions and powers) and
- (2) **CARMARTHENSHIRE COUNTY COUNCIL** of County Hall Carmarthen SA31 1JP (hereinafter called "the Council" which expression shall include its successors in title and to its functions and powers) hereinafter collectively called "the Parties"

**RECITALS**

**WHEREAS:**

- (A) The Council is a Principal Council within the meaning of Section 270 of the Local Government Act 1972
- (B) As of the 1st April 2006 the functions specified in the Welsh Development Agency Act 1975 ( the WDA Act) were conferred upon the Ministers in accordance with the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 ("the Order") and the Government of Wales Act 2006
- (C) By Section 1(3)(f) of the WDA Act as amended by the Order the Ministers have amongst others the function "to provide sites premises services and facilities for business"
- (D) By Section 1(2)a of the WDA Act as amended by the Order one of the purposes for which the Ministers may exercise their functions is "to further the economic and service development of Wales or any part of Wales and in that connection to provide maintain and safeguard employment"

**NOW THIS AGREEMENT WITNESSETH** as follows:

**1. DEFINITIONS**

In this Agreement and in the Recitals and Schedules the following words and expressions unless the context otherwise requires shall have the following meanings that is to say:

- 1.1 "the Act" means The Welsh Development Agency Act 1975 as amended by the Government of Wales Act 2006
- 1.2 "Additional Land and Interests" means any land or interests other than those of or under the control of the Council or the Ministers which need to be acquired to enable a Scheme of Development to proceed
- 1.3 "Council's Land" means the land within all Sites in the ownership of the Council.
- 1.4 "CPO Valuation" means the compensation payable by an acquiring authority exercising powers of compulsory purchase under Section 21A of the Act to secure the carrying out of a Scheme of Development and assuming:
- (a) that outline planning permission has been granted for the Scheme of Development
  - (b) that a General Vesting Declaration executed by the acquiring authority under the Compulsory Purchase (General Vesting Declarations) Act 1991 vested the land in the acquiring authority
- 1.6 "Development Expenditure" means all costs incurred up to 31/03/21 by the Ministers and the Council respectively such costs to be agreed between the Ministers and the Council in accordance with clause 17.1 together with those items of expenditure made after 01/04/21 which shall be taken into account in calculating the respective financial contributions of the Parties and includes reasonable expenditure

properly incurred by the Parties for the following purposes:

- (a) in acquiring Additional Land and Interests together with the reasonable costs incurred in acquiring including professional and other fees Land Registry fees and Stamp Duty
- (b) option fees or premiums together with the reasonable costs incurred
- (c) the audited reasonable costs of the Council in appointing the an accountants
- (d) Disposals including professional fees (which may include any professional fees of the Ministers or the Council)
- (e) Reclamation Works, Infrastructure Works, Environmental Works and any other Works
- (f) employing consultants appointed pursuant to this Agreement provided that in the case of appointment by the Council of its in-house specialist officers the Council shall have first provided the Ministers with a detailed breakdown of time costs and/or fee charges incurred by such persons
- (g) all costs and expenses of obtaining Compulsory Purchase Orders made pursuant to this Agreement together with all fees and/or administration costs charged or incurred by the Ministers and the Council
- (h) costs of obtaining Planning Permission and Necessary Consents
- (i) costs of settlement or awards to third Parties made by an arbitrator the Lands Tribunal or the Courts including for the

avoidance of doubt settlements of claims under Part 1 of the Town and Country Planning Act 1973

- (j) marketing of the Sites or part of them for Disposal
- (k) maintenance and security of completed Works from the end of the contractors maintenance period to the earlier of Disposal or adoption of part
- (l) insurance of the Works and the cost of any other insurance effected with the agreement of both Parties
- (m) commuted sums paid as capital sums from either party (but excluding sums paid under 17.4.1)
- (n) cost of estate management and security of the Sites except in so far as it may be in current use by the Council for a statutory purpose not forming part of the implementation of this Agreement
- (o) ecological and environmental measures and management of the Sites
- (p) the cost of maintenance repair security and upkeep of all listed buildings within the Sites together with the cost of compliance with any requirements or recommendations of CADW or of any other competent authority
- (q) in complying with the conditions attached to the Planning Permission or any Necessary Consent
- (r) costs incurred in securing the applications referred to in clause 10.8

- (s) fees charged by the district auditor or the Council's external auditor in certifying the final accounts each year
- (t) the costs of pursuing and enforcing any claim and taking or defending any proceedings which the Parties agree to take and defend in particular for the purpose of establishing defending or preserving any rights amenities or facilities used or enjoyed for the Site
- (u) the proportion of the costs of provision of services to the common parts of any Scheme of Development (pursuant to the provisions of any Lease or transfer of a plot to a developer occupier of that plot) which are not recoverable from the developers or owners of any plots that have been Disposed of
- (v) and such other items of expenditure as may be agreed between the Parties (after discussion by the Project Coordination Group) to be Development Expenditure

and for the avoidance of doubt where Development Expenditure is incurred by the Council using funds provided for that purpose by the Ministers that expenditure shall be treated as a contribution to Development Expenditure solely by the Ministers and vice versa

#### 1.7 "Development Strategy"

means the Development Strategy attached at Annexure 1 agreed by the Parties in accordance with Clause 8.5 and to be used as a development strategy for identifying Sites and Works as varied by agreement between the Parties from time to time

1.8	"Development Works"	means the conversion or refurbishment of existing buildings construction of new build units on the Sites.
1.9	"Disposal"	means the creation grant surrender or transfer of any legal or equitable estate interest or right in the Sites including (but not limited to) any licence or right of occupation whether temporary or otherwise and which in any case does not prejudice the Overall Objective or development of a Site PROVIDED ALWAYS that parts of a Site once identified for development as part of the Public Realm for retention under the control and management of the Council another public authority or by a body having charitable status or as infrastructure to be adopted by the appropriate authority or undertaker for future maintenance shall not at any time thereafter (unless otherwise agreed in writing between the Parties) be or become the subject of a Disposal under the provisions of this Agreement shall be construed accordingly
1.10	"Duty of Care Deed"	means a collateral warranty from a consultant or contractor in respect of a Scheme of Development in such reasonable terms as are agreed between the Parties
1.11	"Environmental Works"	means works for the improvement development or redevelopment of the environment (having regard to existing amenity) and not otherwise comprising Infrastructure Works or Reclamation, and including all ecological and environmental works or measures
1.12	"Financial Year"	means a period starting on 1st April in any year and ending on 31st March the following year
1.13	"Implementation Action Plan"	means the document to be prepared pursuant to clause 8.2

- 1.14 "Infrastructure Works" means works required to service a Scheme of Development (including works on adjoining or adjacent land) including (but without limitation) the provision of roads rail links car parks bus stations footpaths cycleways gas electricity water drainage sewerage effluent treatment and disposal landscaping telecommunications and other civil works supplies or services to enable or facilitate development or to improve the potential for development but not including the development of complete buildings for occupation and use and "Infrastructure Works" shall be construed accordingly
- 1.15 "Ministers Land" means the land within all Sites in the ownership of the Ministers.
- 1.16 "Necessary Consents" means those permissions consents approvals licences certificates and permits in legally effectual form as may be necessary to carry out a Scheme of Development and to use and enjoy (if applicable) such Scheme of Development as intended by the Parties including
1. Planning permission and approval of reserved matters
  2. Building regulations consents
  3. The requirements of all competent authorities
  4. Agreements under Section 106 Town and Country Planning Act 1990 Section 38 Highways Act 1980 and other similar statutory provisions
- 1.17 "Market Value" means the best price or rent or both (as the case may be and in any case exclusive of VAT) which might reasonably be expected to be obtained for the interest being valued in the open market by private treaty at the date on which such interest is to be valued such valuation to be undertaken on the basis of the RICS Appraisal and Valuation



		Standards current at the date on which such interest is to be valued
1.18	"Overall Objective"	means the common objective of the Parties as set out in Clause 3
1.20	"Planning Permission"	means any permission granted in relation to the Sites
1.21	"Prescribed Rate"	means a rate of interest of four per centum per annum above the base rate for the time being of National Westminster Bank plc calculated on a daily basis
1.22	"Project Coordination Group"	means the group of officers of the Ministers and the Council appointed pursuant to the Management Arrangements set out in Annexure 2
1.23	"Project Team"	means the team or teams appointed by the Parties pursuant to the Management Arrangements in Annexure 2
1.24	"Public Realm Works"	includes without prejudice to the generality of the expression public car parks bus stations landscaped areas public highways and footways service roads and designated public open space except where the Parties agree that such use is temporary pending redevelopment of the relevant area
1.25	"Receipts"	means in respect of this Agreement and each Disposal the aggregate of all sums whether of a capital nature or otherwise received by or on behalf of the Council and the Ministers (or either of them as the case may be) in respect of or relating to or arising therefrom including without prejudice to the generality of the foregoing the gross amount of rents less the reasonable associated costs of collection from the use and enjoyment of land together with any proceeds of any policy of insurance relating to a Scheme of Development to which either the Ministers or the Council may become entitled except

where such proceeds are expended on reinstatement within a reasonable period

1.26 "Reclamation Works"

means works required to bring land within a Scheme of Development into use including (but without limitation) site investigation site clearance demolition of buildings and structures landscaping earthworks ground stabilisation and refurbishment of structures and buildings decontamination surface water drainage diversion of roads and services and the treatment of shafts and adits and "Reclamation Works" shall be construed accordingly

1.27 "Scheme of Development"

means the acquisitions of Additional Land and Interests acquired pursuant to the terms of this Agreement Infrastructure Works Reclamation Works Environmental Works Public Realm Works Development Works and any other Works to be carried out on a Site or in order to service a Site or to satisfy the conditions attached to the Planning Permission

1.28 "Site"

means a site added to this Agreement in accordance with clause 8.3 for the purpose of delivering the Overall Objective.

1.29 "Sites"

means all sites added to this Agreement for the purpose of delivering the Overall Objective.

1.30 "Today"

the date of this Agreement

1.31 "Value Added Tax" or "VAT"

means the tax imposed on the supply of goods and services by the Value Added Tax Act 1983 and shall include any tax based on the value of goods and/or services or on sales or on turnover which may replace the same and in the context of Value Added Tax reference to an amount being recoverable or recovered means a recovery by repayment or credit (against other money due) from or by H M Customs and Excise or

such other governmental body as shall be appropriate

- 1.32 "Works" means the works and operations carried out and performed to implement a Scheme of Development including Infrastructure Works Reclamation Works, Public Realm Works Development Works and Environmental Works

## 2. **INTERPRETATION**

In this Agreement where the context so admits:

- 2.1 any reference to an Act of Parliament includes any modification extension replacement or re-enactment thereof for the time being in force and also all instruments orders plans regulations permissions and directions for the time being made issued or given thereunder or deriving validity therefrom
- 2.2 words importing gender include every gender
- 2.3 the singular number includes the plural and vice versa and reference to natural persons includes bodies corporate and vice versa
- 2.4 the Clause and Schedule headings are for convenience only and shall be ignored for the purposes of construction
- 2.5 references to Recitals Clauses Schedules paragraphs sub-paragraphs and annexures are (unless otherwise stated) to the Clauses schedules paragraphs sub-paragraphs and annexures of this Agreement
- 2.6 an obligation not to do or omit to do something shall be deemed to include an obligation not to permit or (so far as is reasonably practicable) suffer that thing to be done or omitted to be done
- 2.7 an obligation to do something shall include an obligation to procure that it is done
- 2.8 all approvals consents agreements certificates and notifications required pursuant to this Agreement shall be in writing
- 2.9 references to land or other property include each and every part thereof and any buildings structures alterations additions improvements or other developments thereon
- 2.10 where approval or consent is not to be unreasonably withheld it shall not be unreasonably delayed

- 2.11 references to a "Party" shall include a reference to either of the Parties to this Agreement and references to "Parties" shall be a reference to both of them

### **3. OVERALL OBJECTIVE**

- 3.1 The Parties agree with each other to enter into an enterprise established for the objectives set out in Clause 3.2 and in accordance with the provisions of this Agreement

- 3.2 The Overall Objective of this Agreement is the promotion of economic development by making employment space available for occupation by SMEs generally in accordance with the principles set out in the Development Strategy as interpreted by this Agreement by the following means:-

3.2.1 to identify Sites and acquire required Additional Land and Interests

3.2.2 to implement a Scheme of Development for each Site by: -

3.2.2.1 preparing overall detailed development briefs of both Sites and Premises in terms of building size specification and use

3.2.2.2 preparing each Site for immediate development

3.2.2.3 by converting or refurbishing existing buildings or the construction of new build units ("Premises") for letting on each Site.

- 3.2.3 to identify Sites for development by the private sector and to award property development grants to facilitate building or refurbishing speculative Premises on such Sites for letting.

### **4. RELATIONSHIP OF THE PARTIES**

- 4.1 Whilst both Parties are responsible for achieving the Overall Objective the Council shall be responsible for taking the lead role in co-ordinating actions taken in accordance with the terms of this Agreement (save for as provided in clause 8.3) but that the lead officer (from either party) in relation to a specific Scheme of Development and/or roles shall be as detailed on the Implementation Action Plan or as agreed between the Parties

- 4.2 There will be no sharing of profits or sharing of losses and no partnership is created or intended to be created between the Parties

- 4.3 This Agreement shall be personal to the Parties and shall not be capable of assignment either wholly or in part and it is not intended by either Party that any other person should be entitled to enforce this Agreement whether by virtue of the Contracts (Third Parties) Act 1999 or otherwise and such right to do so is hereby excluded except where a statutory provision states otherwise

- 4.4 No Party is nor shall at any time hold itself out as agent for the other or pledge the credit of the other for any purpose
- 4.5 Subject to the specific provisions of clauses 4.1 and 11 the Parties shall agree from time to time who shall be responsible for carrying out any Scheme of Development (or part thereof) in accordance with the terms and conditions set out in this Agreement and within the funding made available by the Ministers and the Council
- 4.6 Where the Ministers or the Council is responsible for carrying out or procuring the carrying out of a Scheme of Development it shall use its best endeavours to ensure that such Scheme of Development is carried out with all due skill care and diligence prudently and properly and in accordance with the terms of this Agreement
- 4.7 Neither Party shall knowingly take action or steps in relation to the Council's Land or the Ministers Land (as the case may be) which might prejudice the Overall Objective

## **5. DURATION OF AGREEMENT**

- 5.1 This Agreement shall continue for a period expiring on 31/03/2026 or until the Overall Objective has been achieved or until either Party decides after a period of 3 years from Today that the Overall Objective cannot be achieved subject as follows:
- 5.1.1 that a Scheme of Development having already commenced shall continue to be subject to the provisions of this Agreement until completed
- 5.1.2 all sums due to either the Ministers or the Council under this Agreement have been paid
- 5.1.3 to the provisions of Clause 20 (Default)
- 5.1.4 Notwithstanding the provisions of Clause 5.1 the Parties may agree to extend this Agreement beyond the said period by 3 years either on the same terms or on such other terms as may be agreed
- 5.2
- 5.2.1 In the event of the termination or expiry of this Agreement without the Disposal of the whole of the interests of both Parties in the Sites the Parties shall together place any such remaining interest ("the Unsold Land") at the date of termination or expiry of this Agreement and in its existing state for sale on the open market at the best price reasonably obtainable in accordance with a programme and method of Disposal and parcelling of the Unsold Land agreed by the Parties so as to achieve the best price reasonably obtainable and the

Parties shall give consideration to the obtaining of any necessary planning permission for alternative use for all or any part of the Unsold Land prior to such programme of disposal so as to achieve the best price reasonably obtainable as aforesaid

- 5.2.2 If the Parties are unable to agree on the programme of Disposal within a reasonable time then the whole of the Unsold Land is to be sold at auction in a single parcel
- 5.2.3 It is expressly agreed between the Parties that either Party can offer to acquire the Unsold Land from the Parties by negotiation or in the event that such negotiations fail by bidding at auction if that method of disposal is used
- 5.2.4 The Parties shall give consideration to whether any Disposal of the Unsold Land should be made the subject of provisions for future additional consideration or overage payments to be made by the purchaser upon the grant of a planning permission for development for any use other than B1 B2 or ancillary B8 of the Town & Country Planning (Use Classes Order) 1982 where there is a reasonable prospect of the obtaining of such permission within a reasonable period of completion of the Disposal
- 5.2.5 Subject to the above any differences or disputes which arise between the Parties as to the operation of the sub clause 5.2 shall be dealt with under clause 22 of this Agreement

## **6. THE PROJECT COORDINATION GROUP**

- 6.1 With a view to ensuring the proper implementation of the Overall Objective the Parties shall establish such body or forum to be called the Project Coordination Group to discuss and evaluate matters relating to this Agreement and shall regulate the proceedings of the Project Coordination Group as may be agreed by the Parties from time to time but in default of such agreement as is provided in the Management Arrangements attached at Annexure 2
- 6.2 The Ministers and the Council will procure that officers appointed to the Project Coordination Group or Project Teams appointed by it shall devote such specific amounts of time to the functions of the Project Coordination Group as prove to be reasonably requisite to discharge those functions
- 6.3 The salaries and overhead costs of officers of the Ministers and the Council appointed to the Project Coordination Group or Project Teams appointed by it from time to time shall not count as Development Expenditure

## **7. PLANNING PERMISSION**

- 7.1 The Parties shall, with the assistance of consultants, procure the drawing up of a detailed master plan for each Site or any part or parts of the Site for any Scheme of Development where a Scheme of Development is proposed by the Parties.
- 7.2 The Parties shall seek to agree such master plan with a view to a Party making an application for new planning permission to reflect the revised views of the Parties.

## **8. IMPLEMENTATION ACTION PLAN**

- 8.1 The Development Strategy outlines the visions and proposals for the Sites as interpreted in this Agreement and shall guide and influence every Scheme of Development carried out pursuant to this Agreement
- 8.2 The aspirations and objectives of the Development Strategy will be delivered by the actions set out in the Implementation Action Plan and the Parties via the Project Coordination Group will prepare (as soon as reasonably practicable after the date of this Agreement) and regularly review and where appropriate revise the same
- 8.3 The Implementation Action Plan will list all agreed Sites which party shall be responsible for taking the lead role in co-ordinating actions for each Site and form the basis of future investment decisions
- 8.4 The Project Coordination Group shall use its best endeavours to agree such alterations variations or supplements to it (if any) (including revision to or modification of the Implementation Action Plan) as may be necessary to ensure the successful achievement of the Development Strategy (as interpreted in this Agreement) and the successful completion of a Scheme or Schemes of Development and the Project Coordination Group shall submit the revised Implementation Action Plan to the Parties for their approval (acting reasonably) by the 1st day of April in each year (unless agreed otherwise by the Parties) of the duration of this Agreement
- 8.5 Whilst it is acknowledged by the Parties that the Development Strategy is agreed by the Council and the Ministers it is hereby agreed and declared that for the purposes of this Agreement that the Parties may at any time after the date hereof agree in writing to amend it.
- 8.6 The Development Strategy and its delivery shall take account of and be compliant with the Ministers policies and legislative requirements in respect of its sustainable development and climate change strategy obligations including the Wellbeing of Future Generations (Wales Act) 2015, the Environment (Wales) Act 2016 and the Climate Change Strategy for Wales including any other policies and legislation that come in to force at any time.

**9. TITLE TO THE COUNCIL'S LAND AND MINISTERS LAND**

- 9.1 The Council hereby warrants and represents to the Ministers that the Council has a good and marketable freehold title to the Council's Land and any Additional Land and Interests it acquires.
- 9.2 If the Ministers have acquired land as Additional Land and Interests ( the Ministers Land) the Ministers will warrant and represent to the Council that the Ministers have good and marketable freehold title to the Ministers Land
- 9.3 The Council and the Ministers hereby apply jointly for an Unilateral Notice of this Agreement to be registered and for restrictions to be noted at HM Land Registry in respect of the Council's Land and any Additional Land and Interests acquired by either Party providing that except under an order of the registrar or the court no disposition by the Council or the Ministers (as the case may be) is to be registered without the consent of the other pursuant to this Agreement such applications to be made:
- 9.3.1 As soon as practicable after Today and
- 9.3.2 In the case of Additional Land and Interests acquired for the purposes of a Scheme of Development upon registration of the transfer to the Council or the Ministers (as the case may be) and
- 9.3.3 When land owned by the Council or the Ministers becomes Council's Land or Ministers Land as soon as practicable after that event

such restrictions to be in the following form:-

(i)"no disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before this entry of this restriction is to be registered without a certificate signed by the Welsh Ministers or its conveyancer that the provision of an Agreement made between (1) The Welsh Ministers and (2) Carmarthenshire County Council dated [ ] 2020 have been complied with"

(ii) "no disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate signed by the Council or its conveyancer that the provisions of an Agreement made between (1) The Welsh Ministers and (2) Carmarthenshire County Council dated [ ] 2020 have been complied with"

- 9.4 The Council and the Ministers will not agree or complete a Disposal of their respective interests in Council's Land or the Ministers Land without the other's consent during the subsistence of this Agreement



- 9.5 The Ministers and the Council shall give prompt consent to any Disposal and promptly provide a proper release from the restrictions in this clause 9 of any part of the Sites required for the purposes of this Agreement and upon request by the Council that the Ministers shall release from such restrictions any land which becomes part of the Public Realm

**10. PURCHASE OF ADDITIONAL LAND AND INTERESTS**

- 10.1 The Parties shall from time to time review the need for any Additional Land and Interests for a relevant Scheme of Development and after discussion by the Project Coordination Group will agree the identity of the acquiring party and the identity of those Additional Land and Interests to be acquired varied or extinguished and use all reasonable endeavours to agree the acquisition interest and the budget limits
- 10.2 The acquiring party shall use all reasonable endeavours (including compulsory purchase powers where appropriate) to acquire vary or extinguish (as appropriate) Additional Land and Interests agreed as aforesaid all in accordance with the agreed costs limits and the acquiring party shall use all reasonable endeavours to keep the non acquiring party fully informed from time to time If the acquiring party is unable to acquire vary or extinguish (as the case may be) any Additional Land and Interests within the agreed costs limits and/or within a reasonable period of time the acquiring party shall subject to compliance with its statutory duties consider the use of its compulsory purchase powers to make a compulsory purchase for such purpose (unless the acquiring party is satisfied that in all the circumstances prevailing at that time it is unlikely that the use of such powers would succeed) ("a Compulsory Purchase Order")
- 10.3 The acquiring party shall appoint such professionals and consultants as the Parties agree (in the forum of the Project Coordination Group) in connection with its obligations under this clause 10
- 10.4 The non acquiring party shall give all reasonable assistance to the acquiring party in the preparation of evidence for any public inquiry and in any related negotiations with objectors to a Compulsory Purchase Order or any relevant Consent and any costs and expenses reasonably incurred by the non acquiring party shall comprise Development Expenditure
- 10.5 The acquiring party shall seek to negotiate and pursue diligently negotiations with objectors to a Compulsory Purchase Order with a view to securing their agreement to the withdrawal of their objections and the acquiring party shall keep the non-acquiring party fully informed from time to time
- 10.6 Such acquisitions and variations of Additional Land and Interests shall be completed in the name of the acquiring party on behalf of the Ministers and the Council for the purposes of this Agreement provided that any Additional Land and

Interests identified and acquired for the construction of highways to be adopted shall be dedicated to the use of the public by the Ministers to the Council to the intent that such land shall become a highway maintainable at the public expense

10.7 To the extent the Parties are able or entitled the Council and the Ministers shall as soon as practicable after the date of this Agreement enter into deeds releasing all incumbrances (including easements restrictive covenants or other matters enjoyed by one Party in respect of the land in its title over the other Parties' land or Additional Land and Interests and as when acquired so as to ensure that such incumbrances do not obstruct or prevent the achievement of the Overall Objective)

10.8 The Council shall where necessary make the requisite application and use reasonable endeavours to obtain the making of orders:-

10.8.1 for closure of any public highway in so far as it affects any Site.

10.8.2 to divert any public rights of way cycleway or bridlepath in so far as they affect any Site.

## **11. SPECIFIC OBLIGATIONS**

11.1 The obligations of the Parties contained in this Agreement are expressly subject in the case of the Ministers to formal financial approval from the relevant Minister and in the case of the Council to formal approval in accordance with its constitution of the Council for any expenditure to be incurred and for any other purpose

## **12. APPOINTMENT OF CONSULTANTS OR CONTRACTORS**

12.1 As to the attainment of the Overall Objective subject always to the specific provisions of clauses 10 and 11 the Parties shall (at all times having regard to the funding available and to a respective Party's ability to implement) comply with the provisions of this clause 12 in appointing consultants and/or contractors in respect of a Scheme of Development

12.2 the Parties shall agree which Party should properly be the employer and appoint such planners architects engineers and other specialist persons to carry out or advise on the attainment of the Overall Objective or in relation to a Scheme of Development or enter into a construction or other contract for Works as shall be decided upon by the Project Coordination Group

12.3 The terms of any such appointment or contract shall be decided upon by the Project Coordination Group but within the parameters as shall from time to time be determined by the Parties and shall in any event (unless otherwise agreed by the Parties) provide for any consultant or contractor appointed in relation to a

contract for Works to enter into a Duty of Care Deed in favour of the Council or the Ministers as well as purchasers lessees and funders of any part of the Site or for appropriate provision to be made to incorporate the provisions of the Contracts (Right of Third Parties) Act 1999 conferring suitable rights of enforcement

- 12.4 the contracting Party shall (unless otherwise agreed by the Parties) procure the completion of a Duty of Care Deed in favour of the other Party on appointment of a consultant or contractor appointed in relation to a Contract for Works pursuant to this clause 12
- 12.5 From the date hereof neither Party shall enter into a construction Contract for Works or any other contract nor appoint a consultant (other than pursuant to the Council's obligations under clause 10) in respect of the Scheme of Development without having first agreed the identity of the appointee or the terms of any such contract with the other (such agreement not to be unreasonably withheld)
- 12.6 The contracting Party shall ensure:
  - 12.6.1 that all construction Contracts for Works or any other contracts including appointment of consultants in respect of the Scheme of Development are entered into bona fide at arms length with third Parties in the open market in accordance with each party's compliance procedures and are on the best terms reasonably obtainable in the open market and
  - 12.6.2 where appropriate that all construction contracts for Works or any other contract including appointments of consultants in respect of the Scheme of Development are put to competitive tender and otherwise let fully in accordance with the constitutions standing orders regulatory and European Community provisions and all statutory procedures applicable to such contracts let by the Council or the Ministers as the case may be or such alternative procedures as the Parties may from time to time agree after discussion by the Project Co-ordination Group
  - 12.6.3 that the chosen contractor or consultant shall have relevant experience in carrying out contracts of the nature to be carried out in connection with the relevant Scheme of Development
  - 12.6.4 that the chosen contractor or consultant shall exercise the reasonable skill care and diligence to be expected of a competent and qualified contractor or consultant in the field of expertise in respect of which the appointment is made
- 12.7 The contracting Party shall adopt such measures as are available to it under the relevant construction contracts for Works or other contract or appointment in respect of the Scheme of Development to procure the performance by the contractor or consultant of its contractual obligations and shall not without the consent of the other Party expressly or impliedly waive or release or vary any

such obligations which would or might adversely affect the carrying out of any works or any part thereof in accordance with the terms of this Agreement

- 12.8 If either Party enters into a construction contract for Works or other contract including appointment of consultant in respect of the Scheme of Development it shall not do or omit any act or thing which would immediately or upon the expiry of notice entitle any contractor or consultant to regard as terminated any such contract or appointment and shall not terminate any such contract or appointment without having agreed such termination with the other Party
- 12.9 Where either Party enters into a construction Contract for Works or other contract or appoints a consultant in respect of the Scheme of Development it shall advise the other of the identity of the officer responsible for the management and implementation of that contract on behalf of that Party as the client
- 12.10 The Ministers (or where appropriate the Council) shall ensure that in designing the constructing Infrastructure Works and Public Realm Works all such Works where it is possible to do so shall be designed constructed to a standard that will ensure their future adoption for maintenance by the body or undertaker appropriate to the type of Works being constructed

### 13. **WORKS**

- 13.1 Where the Parties agree to undertake Works on a Site or any part of a Site the provisions of this Agreement shall apply to any such Scheme of Development and the Parties also specifically agree that:
- 13.1.1 No such Works shall be unilaterally undertaken by either Party nor shall any Works take place without the agreement of both Parties
- 13.1.2 The design and detail of any such Works shall be generally in accordance with the principles set out in the Development Strategy as interpreted by this Agreement and agreed by the Parties
- 13.1.3 The identity of any contractors and consultants and their terms of appointment shall be agreed by the Parties
- 13.1.4 The Parties shall agree which of the Parties should procure the Works
- 13.1.5 All construction contracts or any other contracts including the appointment of consultants in respect of the Works shall be undertaken in accordance with clause 12

#### **14. DEVELOPMENT BUDGET**

- 14.1 Unless otherwise agreed the Parties shall when appropriate in the context of the Implementation Action Plan identify potential funds or sources of funding to pay for the anticipated programme of expenditure
- 14.2 As soon as the funding has been secured the Parties shall prepare and agree an overall budget for the future expenditure to be incurred in connection with this Agreement
- 14.3 The Parties shall from time to time as necessary formulate proposals for an overall budget for the expenditure to be incurred in connection with this Agreement during the foreseeable future and in any event for the next following Financial Year taking into account the sources of finance available or likely to be available to each of the Parties during that period

#### **15. FINANCIAL ARRANGEMENTS - GENERAL**

- 15.1 The Council shall arrange for separate management accounts to be kept for the activities undertaken by the Parties under this Agreement showing all Development Expenditure and income and Receipts and shall ensure that entries are made therein of all such matters transactions and things which are usually entered in management accounts kept by persons engaged in concerns of a similar nature so as to enable the preparation from time to time of proper accounts and the Ministers and any accountants appointed by them for this purpose shall have access to examine and copy the same at all reasonable times on demand
- 15.2 The Council shall submit to the Ministers for approval on an annual basis management accounts referred to in 15.1 above.
- 15.3 The management accounts referred to in 15.1 shall be independently audited each financial year (unless agreed otherwise by the Parties) by auditors appointed jointly by the Parties and the costs of such appointment shall be Development Expenditure. Such accounts are to be prepared within six months of the end of each financial year ( or such later date as the Parties may agree) and shall be handed to the Ministers immediately following preparation
- 15.4 All management accounts and Development Expenditure Income and Receipts and other financial matters and all records which relate to those matters shall be subject to inspection at all reasonable times by the Ministers or their accountants internal auditors and external statutory auditors.
- 15.5 Each Party shall respond promptly to all reasonable requests by the other or by accountants appointed by the other for the purpose in Clause 15.4 for further information and/or explanation of items in any accounts Scheme of Development

or Disposal and each Party may if reasonable to do so require the other to have an unverified account verified by suitably qualified accountants

- 15.6 In the event of any dispute between the Parties regarding any items of Development Expenditure or any debits or any receipts or accounts valuations or audits thereof either Party may refer such dispute in accordance with the provisions of Clause 22
- 15.7 The accounts referred to in this Clause 15 are purely for purposes of this Agreement and the Ministers and the Council may draw up their own accounts on the basis that each Party is dealing on its own account in its participation in this Agreement and the provisions of this Clause 15 being entirely without prejudice to the statutory obligations of the Council and the Ministers to provide annual accounts
- 15.8 All books of account (and all letters vouchers receipts invoices demands papers and documents) in respect of or relating to a Scheme of Development or Disposal kept by the Council pursuant to clause 15.1 shall be kept at the Council's offices in Carmarthen and kept by the Ministers pursuant to clause 15.1 shall be kept at the Ministers offices at Penllergaer (or such other office as the Ministers by notify from time to time) and the Ministers the Council their accountants internal auditors and external auditors shall have access to examine and copy the same at all reasonable times on demand

## **16. SOURCES OF FINANCE AND GRANT AID**

- 16.1 The Parties shall be responsible for providing finance either from their own resources and/or for procuring finance from third Parties for all purposes in connection with this Agreement
- 16.2 It is hereby agreed and acknowledged by both Parties that the entering into this Agreement does not imply that finance is available to achieve the Overall Objective
- 16.3 Expenditure funded by grant aid to the Council from the Ministers or any other grant aid from a third Party which is received shall be treated as Development Expenditure contributed by the Party receiving the grant subject to sub clauses 16.4 and 16.5 below
- 16.4 Funds received by either Party by way of grant for which both Parties are eligible from the European Community or elsewhere shall be applied to reduce the Development Expenditure of the Party receiving the grant
- 16.5 Where any payments (including grants of any nature) are made by the Ministers to the Council towards the Scheme of Development such payments shall count as Development Expenditure of the Ministers and vice versa

- 16.6 If the Council receives from any Party other than the Ministers funds by way of reimbursement of expenditure incurred in connection with a Scheme of Development where such expenditure has already been reimbursed by the Ministers the Council shall forthwith upon receipt of funds from such other Party repay the appropriate sum to the Ministers and such sum shall not count as Development Expenditure incurred by either Party

Where there is any doubt as to how funds provided to the Council by the Ministers are to be treated for the purposes of this clause 16 the Parties must agree prior to incurring Development Expenditure how such funds are to be treated and any dispute shall be dealt with under clause 22.

## 17. **FINANCE - DISTRIBUTION OF RECEIPTS**

- 17.1 The Parties will agree by 30/06/22 the percentages of the aggregated amount of Development Expenditure incurred or committed by the Ministers and the Council respectively up to 31/03/22 and that for all purposes of this Agreement such percentage shares ('the Percentage') shall apply as at the date of this Agreement until recalculated pursuant to the provisions of this clause
- 17.2 Either Party can require ( by notice in writing to the other)the Percentage to be re-determined by calculating the Development Expenditure incurred by the Parties up to the date of such notice and thereafter the Percentage of the aggregated amount of Development Expenditure incurred by the Ministers and the Council respectively in respect of all Schemes of Development will be substituted for the Percentage referred to in 17.1 and shall apply until re-determined again from time to time or until a final calculation is carried out under this Clause 17.2
- 17.3 All Receipts shall be retained by the Parties to pay Development Expenditure which the Parties from time to time agree to incur during the period set out in clause 5.1 and any such Receipts used for incurring Development Expenditure shall be deemed to be the Development Expenditure of the Parties in the Percentage shares of the Receipts to which they were then entitled and in particular:-
- 17.4
- 17.4.1 the Council shall maintain sufficient Receipts in an interest paying bank account (which shall be separately identified in the Council's accounting system) to generate interest which is sufficient to discharge the part of Development Expenditure identified in this agreement and any surplus Receipts (or surplus interest thereon) shall be distributed as a Receipt unless the parties agree to use the same for the purpose of discharging other Development Expenditure; and

17.4.2 any interest used to pay the Development Expenditure identified in clause 1.6 shall be deemed to have been contributed by the parties as their Development Expenditure in the Percentage shares Receipts to which they were then entitled.

17.5 Any interest received by the Parties shall be treated as a Receipt and where a substantial Receipt arises during a Financial Year the Parties may agree an interim distribution which shall be taken into account in calculating the amounts next payable pursuant to this clause 17 following the end of the Financial Year such payment to be effected within 30 days of agreement between the parties as to any such distribution agreed

17.6

17.6.1 On the earlier of the date of the expiry of the period set out in clause 5.1 and the date when all planned Development Expenditure has been incurred by the Parties in respect of this Joint Venture Agreement or when the parties are unable to agree on the incurring of further Development Expenditure the Parties shall proceed to carry out a final calculation of the Development Expenditure incurred by each of the Parties and the percentage of the amount of Development Expenditure incurred and the Percentage so calculated shall be applied to the distribution of the balance of any monies held by the Parties

17.6.2 If the calculation carried out under the preceding paragraph shows that the distribution of any Receipts already made is not in accordance with the final Percentage the difference shall be paid by the Party in whose favour the difference arose to the other Party

17.7 The Parties shall pay to the other such sums as are necessary to provide each Party with the correct Share of Receipts (after payment of all Development Expenditure and revenue expenditure) within 2 calendar months of the date set out in clause 17.6.1 above and if payment is not made within that period the payer shall in addition pay to the payee interest on the sum due at the Prescribed Rate from the due date to the date of actual payment

17.8 It is **HEREBY AGREED** that neither party shall have a right to share in Receipts which are nominal or acknowledgement rent paid under the terms of a lease for a term in excess of twenty five (25) years granted in order to ensure control of the future use or development of land

17.9 If any sums due from one party to the other under this Agreement are not paid on the due date for payment then the paying party is to pay interest on those sums, both after as well as before judgement, of 4% per annum above the base lending rate of National Westminster Bank or if such other comparable rate of interest as the non paying party shall reasonably determine for the period from and including the due date for payment to and including the date of actual payment



17.10 All receipts held shall be deemed to earn interest in the levels the party receiving the receipt (whether or not held on an interest bearing account) from the date of receipt until the date of actual distribution of such receipt (such interest to be calculated at the Accumulation Rate) and clause 17.5 shall apply to such deemed interest as if it had been actually received.

## **18. VALUE ADDED TAX**

18.1 The sums payable under this Agreement and all other supplies made under or in connection with this Agreement are exclusive of VAT and:

18.1.1 If any such sums or supply gives rise automatically to a charge to VAT or

18.1.2 If any such sum or supply gives rise to a charge to VAT at the election of a Party and that Party so elects

then in any such case VAT shall be paid in addition thereto

18.2 Any VAT correctly chargeable in respect of any supply made by either Party to the other pursuant to the terms of this Agreement shall be paid forthwith by the Party receiving the supply to the Party making the supply upon receipt of a valid VAT invoice issued by the Party making the supply to the Party receiving that supply

18.3 Subject to the prior agreement of the Parties neither Party shall issue a VAT invoice such that a tax point for VAT purposes is created to a date earlier than would be the case had such VAT invoice not been issued

18.4 In the event that either Party shall have issued a VAT invoice to the other for a supply made pursuant to the terms of this Agreement but the amount of VAT charged thereby proves to be inadequate the Party that issued such VAT invoice shall issue a further VAT invoice in relation to the balance of VAT

18.5 In the event that either Party shall have issued a VAT invoice to the other for a supply made pursuant to the terms of this Agreement but the amount of VAT charged thereby is excessive (or no VAT should have been charged) the Party that issued such VAT invoice shall issue a VAT credit note in relation to the VAT so overcharged

18.6 Both the Council and the Ministers shall (if they have not done so already) forthwith elect to waive the exemption to charge VAT in relation to the Council's Land the Ministers Land and any Additional Land and Interests which become vested in either of them from time to time.

18.7 Both the Council and the Ministers agree that neither will whether by omission or otherwise take any step which may affect or prejudice the other's ability to recover VAT incurred on Development Expenditure pursuant to this Agreement

## 19. **DISPOSAL AND MARKETING**

- 19.1 The Parties shall prepare and agree a marketing strategy and programme specifically for letting Premises on the Sites and in relation to any other Scheme of Development involving a Disposal
- 19.2 The Parties shall implement the marketing strategy once approved pursuant to clause 19.1 and shall actively seek to promote and market the Premises (or other relevant land) in accordance with such marketing strategy and the Overall Objective
- 19.3 The Parties shall make arrangements for collecting and recording information relating to the promotion and marketing of the Premises (or other relevant land) and the implementation of the agreed marketing strategy and the programme and shall provide such information in a form to be agreed by the Parties and at such intervals as the Parties shall agree
- 19.4 The Parties will agree who shall initiate and implement detailed negotiations with interested Parties and structure proposed Disposals in a manner consistent with the Overall Objective and shall keep the other informed of the progress of any such negotiations and the terms and details of any proposed Disposal in accordance with a protocol to be agreed between the Parties following the date of this Agreement which protocol shall describe fully the details of the consultation processes the documentation of information and confidentiality
- 19.5 Neither Party shall initiate or take any steps in relation to the marketing of the Premises (or other relevant land) or enter into any negotiations for the sale or letting of the Premises (or other relevant land) or any part thereof without the prior approval of the other
- 19.6 Unless otherwise agreed by the Parties every Disposal shall be in general conformity with the Overall Objective and the Development Strategy
- 19.7 Disposals shall be in accordance with the provisions of the Council's Constitution in force from time to time and relating to the disposal of land and any relevant Welsh Government Guidelines and the Ministers internal procedures relating to the disposal of land in force from time to time
- 19.8 With reference to Clause 19.7 any Disposals of Sites (or part thereof) will require the purchaser to construct buildings to the Welsh Government Sustainable Buildings Standards and also to comply with the requirements of Clause 8.5 and documentation evidencing such Disposals shall be in accordance with the Ministers standard provisions relating thereto.
- 19.9 Each Disposal and the terms thereof shall be approved by the Parties after consideration by the Project Coordination Group (in such cases as may be

required by the Ministers ) and the Parties shall not unreasonably withhold or delay their approval to a proposed Disposal and shall implement all regular or special internal procedures for or relating to the Disposal of land as quickly as possible so as to expedite decisions as to the approval or otherwise of Disposals

19.10 Neither Party shall make a Disposal by way of a lease or licence without first providing the other with full particulars and securing the approval of the other to the terms including any premium and rent reserved of any such lease (which approval shall not be unreasonably withheld having regard to the obligations of the Parties under this Agreement) and the following provisions shall apply to the rent received

19.10.1 the rent shall be treated as a Receipt in the year in which it is received

19.10.2 should the provisions of the said lease be amended or a surrender of the lease accepted so that there accrues a Receipt of a capital nature the provisions of Clause 17 shall apply to that Receipt

and it is hereby further agreed between the parties that any such lease shall contain appropriate service charge provisions the revenue of which shall be utilised for maintenance costs of the common parts of the relevant Scheme of Development PROVIDED THAT if the terms of a lease submitted under this Sub Clause is not approved or disapproved within 28 days then there will be deemed to be approval to the terms thereof

19.11 Unless otherwise agreed (such agreement not to be unreasonably withheld) the letting Party shall use all reasonable endeavours to secure sales or lettings at the best prices or rents then reasonably obtainable in the open market as appropriate having regard to market conditions and in the case of a sale or letting at less than the best prices or rents as aforesaid the Parties shall proceed with all due diligence to seek any necessary consents of the National Assembly for Wales to such proposed sales or lettings by these in accordance with the provisions of Section 123 of the Local Government Act 1972 and Section 21A of the Acts or otherwise.

19.12 Any dispute or difference between the Parties relating to the apportionment of rent or the terms of any proposed lease under Clause 19.10 shall be settled in accordance with Clause 22

19.13 The Parties will consult together as to the best and most efficient and legally effective way of structuring a Disposal and will take whatever steps necessary to achieve that structure including where appropriate the Transfer of the whole or part of the Council's Land or the Ministers Land (as the case may be) to the other

## **20. DEFAULT**

- 20.1 In the event of a substantial breach of any material obligation hereunder where such breach is incapable of remedy or has not been remedied within such period (being not less than 3 months) as the Party to whom the obligation is owed considers reasonable after notice to the Party in default of any matters required to be remedied this Agreement may be determined by the Party not in default at any time thereafter in giving not less than 28 days notice to that effect to the other Party whereupon at the expiry of such notice this Agreement shall be terminated (but without prejudice to any right of action of any Party against the other in respect of that or any antecedent breach) and PROVIDED ALWAYS THAT the provisions of clauses 5.3, 15 and 17 shall remain in full force and effect and shall bind both Parties notwithstanding termination of this Agreement

## **21. PUBLIC ACCESS TO INFORMATION**

- 21.1 The terms of this Agreement shall be available to members of the public on request save for such parts thereof as constitute such information as would be "exempt information" as defined in Section 100 I and Schedule 12A of the Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007
- 21.2 Any statement to the media regarding the terms of this Agreement or matters arising out of this Agreement or relating to it shall either be agreed between the Parties or made by one Party after submitting the proposed statement to the other Party and taking into account such comments as the other Party may make within a reasonable time having regard to all the circumstances surrounding the statement in accordance with the PR Protocol that exists between the Ministers and the Council
- 21.3 The Parties agree with each other that they will treat all information contained in or negotiations about or in any way relating to this Agreement or any Disposal and which might fairly be considered to be of a confidential nature as private and confidential and will safe guard it accordingly and neither Party will without the prior consent in writing of the other disclose any of such information to any person other than their respective officers, employees, counsellors and advisers who are required in the course of their duties to receive and consider such information and who shall be informed by the Parties of the confidential nature of the information.

## **22. DISPUTES**

- 22.1 In the event that any Party considers there to be a dispute with the other Party arising out of this Agreement it shall ,as soon as reasonably practicable, notify the other Party in writing, clearly setting out the nature and extent of the dispute. The Parties shall use all reasonable endeavours to negotiate in good faith

and settle any dispute as soon as practicable. Such negotiations shall take place in the first instance at an operational level within each of the Parties concerned. In the event that any dispute is not resolved at that level the matter shall be escalated by each Party to an appropriate senior level within its respective organisation for further such negotiations.

- 22.2 If, following escalation pursuant to clause 22.1, of this Agreement the dispute has not been settled within 21 days of the date of the notice referred to in clause 22.1 (or sooner if the nature of the dispute so requires) , the Parties shall discuss , in relation to the dispute in question ,the relative advantages and disadvantages of any appropriate methods of dispute resolution (other than litigation through the courts) with a view to agreeing the most appropriate method of dispute resolution and the rules and procedures which shall apply thereto no later than 28 days of the date of such notice (or sooner if the nature of the dispute so requires. )
- 22.3 Nothing in this clause shall prevent any Party at any time from referring any dispute to the courts of England and Wales, save only where the parties have agreed an appropriate method of dispute resolution and the rules and procedure applying thereto in accordance with Clause 22.2 and the agreed process has commenced, . For the avoidance of doubt, this clause shall not prevent any of the Parties from so referring any dispute if the agreed process has been applied but the dispute has not been resolved.

## 23. **ACKNOWLEDGEMENT**

The Council acknowledges that the Ministers have a range of functions which will continue to accrue and be amended and that decisions in relation to each such function are obliged to be taken in the light of all relevant and to the exclusion of all irrelevant considerations. The Council agrees that nothing contained or implied in, or arising under or in connection with, this Agreement shall in any way prejudice, fetter or affect the functions of the Ministers or any of them nor oblige the Ministers or any of them to exercise, or refrain from exercising, any of their functions in any particular way.

## 24. **PARTIES STATUTORY POWERS**

- 24.1 Nothing herein contained or implied shall prejudice or affect any of the statutory rights powers or duties for the time being vested in the Ministers and all such rights powers or duties shall be enforceable and exercisable by the Ministers as fully and freely as if this Agreement had not been executed
- 24.2 Nothing herein contained or implied shall prejudice or affect any of the statutory rights powers duties or obligations of the Council as a local authority or local planning authority and the rights powers obligations and duties of the Council under all public or private statutes bylaws orders and regulations may be as fully and effectively exercised as if the Council was not a Party to this Agreement

24.3 Nothing in this Agreement shall prejudice the powers duties and obligations of the Council under the Planning Acts 1990 (as defined in Section 336(1) of the Town and Country Planning Act 1990) and/ or the Ministers under the Acts

**25. COSTS**

Each Party shall bear the fees and disbursements of its own professional advisers in connection with the negotiations and preparation of this Agreement or any addition or amendment thereto

**26. VARIATION**

No variation of this Agreement shall be effective unless it is in writing and signed by the Ministers and the Council

**27. SEVERABILITY**

If at any time any provision of this Agreement shall become or be held to be of no effect or unenforceable whether by operation of law or by reason of uncertainty or otherwise it shall not affect the validity of the remainder of this Agreement which shall remain in full force and effect

**28. WAIVER**

The failure of either Party at any time or times to require performance by the other Party of any provision of this Agreement shall in no way affect the right of such Party to require performance of that or any provision and any waiver by either Party of any breach of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision a waiver of the provision itself or a waiver of any other right under this Agreement

**29. NOTICES**

29.1 Section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962) shall apply to any notices to be served under or by virtue of this Agreement except that Section 196 shall be deemed to be amended as follows:

29.1.1 any notice or document shall also be sufficiently served on a Party if sent:

in the case of the Ministers to [insert title i.e. head of property/senior surveyor ] Department for Economy and Transport Welsh Government Llys Y Ddraig Penllergaer Business Park Swansea SA4 9NX and marked for the attention of the Senior Property Surveyor with a copy sent c/o The Director for Legal Services, Crown Building, Cathys Park Cardiff, CF10 3NQ

in the case of the Council to [insert title/name] County Hall Carmarthen SA31 1JP with a copy sent to [ ]

or as otherwise specified by the relevant party by notice in writing to each other party.

- 29.1.2 any notice or document shall also be sufficiently served if sent by pre paid first class post or recorded delivery or next working day delivery or by hand to the Party to be served (or its solicitors where Sub Clause 29.1.2 above applies) and that service shall be deemed to be made on the day of transmission if transmitted before 4 pm on a working day but otherwise on the next following working day

### 30. **CONTRACTS RIGHTS OF THIRD PARTIES**

The 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.

**IN WITNESS** whereof the respective Common Seals of the Parties have been hereunto affixed the day and year first before written

## **ANNEXURE 1**

### **Development Strategy**



**ANNEXURE 2**  
Terms of Reference  
Rural Employment Space Joint Venture  
**Project Coordination Group**

**Parties:** (1) Carmarthenshire County Council ("the Council")  
(2) Welsh Ministers ("the Ministers")

**A. Management Arrangements**

1. The Council and the Ministers shall forthwith appoint the members of the Project Coordination Group from officers of the Council and officials of the Ministers ("the Members").
2. The Parties shall nominate a person from time to time who shall be an officer of the Council to deal with all administrative matters relating to the Project Coordination Group (the Board Chair) and also a substitute for the Board Chair who shall be an official of the Ministers to deal with matters in the event of the Board Chair being unavailable to do so.
3. The Parties may convene meetings of the Project Coordination Group as frequently as necessary. The relevant Members shall report on the activities of the Project Coordination Group and on any matters requiring decision or approval by the Parties. Subject to agreement by the Parties, the Project Coordination Group may be assisted by such consultants as may be required to carry out the Overall Objective.
4. The Project Coordination Group may appoint Project Teams in respect of particular aspects of a Scheme of Development. Such Project Teams shall report to the Project Coordination Group as required from time to time by the Team Leader, who shall also direct the activities of the Project Teams within the terms of the JVA and the specific instructions of the Parties.
5. The Project Coordination Group shall consider and make recommendations to the Parties on the operation and implementation of the JVA, including:-
  - 5.1 The preparation of a revised Development Strategy for approval by the Parties.
  - 5.2 The preparation of an Implementation Action Plan (which is to set out actions to achieve the aspirations and objectives of the Development Strategy) and regularly review and where appropriate revise the same.
  - 5.3 The identification of works required to prepare sites for letting.
  - 5.4 The appointment of contractors or consultants.
  - 5.5 The programme for the letting of sites.
  - 5.6 Progress updates.

5.7 Review accounts prepared under the requirements of the JVA.

6. The obligations of the Parties contained in the JVA are expressly subject in the case of the Ministers to formal financial approval from the relevant Minister and in the case of the Council to formal approval in accordance with its constitution for any expenditure to be incurred and for any other purpose.

**EXECUTED AS A DEED** by applying  
the Seal of the Welsh Ministers

The application of the Seal of the Welsh Ministers is **AUTHENTICATED** by [ ] who is duly authorised for that purpose by the Director of Legal Services by authority of the Welsh Ministers under Section 90(2) of the Government of Wales Act 2006

Signed .....

Name .....

Job Title .....

**EXECUTED** as a Deed (but not delivered until the date hereof) by **CARMARTHENSHIRE COUNTY COUNCIL** by affixing its common seal in the presence of:

Authorised Signatory