

DATED _____

EXECUTION VERSION

**(1) CYNGOR GWYNEDD
(ACTING ON THE BEHALF OF THE NORTH WALES ECONOMIC AMBITION BOARD)**

(2) NORTH WALES CORPORATE JOINT COMMITTEE

(3) THE WELSH MINISTERS

NOVATION AGREEMENT

NOVATION OF FUNDING AGREEMENTS

relating to

NORTH WALES GROWTH DEAL

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THIS DEED is made on

BETWEEN:

- (1) **CYNGOR GWYNEDD** of Shirehall Street, Caernarfon, LL51SH (the "**Council**") acting on the behalf of the North Wales Economic Ambition Board; and
- (2) **NORTH WALES CORPORATE JOINT COMMITTEE** of Sarn Mynach, Llandudno Junction, LL31 9RZ (the "**CJC**"); and
- (3) **THE WELSH MINISTERS** of Cathays Park, Cardiff, CF10 3NQ (the "**Remaining Party**"),

each of the Council, CJC and Remaining Party being a "**party**" and together the Council, the CJC and the Remaining Party are the "**parties**".

BACKGROUND:

- (A) The North Wales Economic Ambition Board ("**NWEAB**"), comprising the six local authorities ("Council Partners"), two Universities and two Further Education Colleges ("Education Advisers").
- (B) The Council Partners and Education Advisers entered into a joint working agreement on 18 December 2018 Governance Agreement 1 ("**GA1**") as amended on 17 December 2020 by "**GA2**" to formalise their respective roles and responsibilities in relation to the North Wales Growth Deal ("**GD**").
- (C) GA1 & 2, amongst other matters, established a Joint Committee and appointed the Council to act as the Accountable Body for and on behalf of the Council Partners and Education Advisers to discharge their obligations in relation to the GD.
- (D) In 2021, the Senedd Cymru passed the following legislation (amongst others):
 - i. Local Government and Elections (Wales) Act 2021, Part 5 (Collaborative Working by Principal Councils) of which provides the Welsh Ministers with the ability to establish a Corporate Joint Committee; and
 - ii. The North Wales Corporate Joint Committee Regulations 2021, Part 1 (Establishment and area) of which establishes a body corporate to be known as the North Wales Corporate Joint Committee for the region ("**CJC**").
- (E) Further to Funding Agreements the CJC will amongst other things deliver the GD as part of its functions.
- (F) The Council wishes to novate its rights and obligations under the Funding Agreements (as defined below) to the CJC, in accordance with this Deed.
- (G) The Council wishes to be released and discharged from its obligations and liabilities under the Funding Agreements.
- (H) The Remaining Party agrees to release and discharge the Council from its obligations and liabilities under the Funding Agreements on the basis that, among other things, the CJC assumes the obligations and liabilities of the Council under the Funding Agreements, in accordance with this Deed.

IT IS AGREED:

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Deed:

"Business Day"	means a day other than a Saturday, Sunday or public holiday in Wales;
"Funding"	means any Funding issued or committed by the Remaining Party to the Council pursuant to the terms of any Funding Agreement before the Novation Date;
"Funding Agreements"	means the agreements listed in Schedule 1 (Funding Agreements) to this Deed; and
"Novation Date"	means 00.01 on 1 April 2025 or such later date(s) as may be agreed by the parties from time to time.

1.2 In this Deed:

- 1.2.1 a reference to this Deed includes its schedules, appendices and annexes (if any);
- 1.2.2 a reference to a party includes that party's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a gender includes each other gender;
- 1.2.5 words in the singular include the plural and vice versa;
- 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 the table of contents, background section and any clause, schedule or other headings in this Deed are included for convenience only and shall have no effect on the interpretation of this Deed;
- 1.2.8 a reference to any legislation or legislative provision is a reference to it as amended, extended, re-enacted or consolidated from time to time; and
- 1.2.9 references to the "Council" in this Deed shall mean the Council acting on behalf of the 'Joint Committee' (as such term is defined in the GA2) for NWEAB, NWEAB collectively and/or each Council Partner and Education Advisor individually (as the context requires). The Remaining Party is not obliged to verify the basis on which the Council enters into or acts under the terms of this Deed.

2. **NOVATION**

The parties agree that on and from the Novation Date:

- 2.1 the Council, novates all of its rights and obligations under and in connection with the Funding Agreements to the CJC;
- 2.2 the CJC undertakes to be bound by and to perform all the Funding Agreements and be bound by their terms in every way as if the CJC was the original party to them in place of the Council and whether any obligations, liabilities or otherwise arose before, on or after the Novation Date;
- 2.3 the Remaining Party will perform the Funding Agreements and be bound by their terms in every way as if the CJC was the original party to them in place of the Council;

- 2.4 in consideration of the Council agreeing to novate to the CJC its rights and obligations under the Funding Agreements, the Council and the Remaining Party release each other from all obligations to the other under the Funding Agreements whether present or future, actual or contingent;
- 2.5 in consideration of the Council agreeing to novate to the CJC its rights and obligations (including in respect of the Funding) under the Funding Agreements, the Council undertakes to the CJC and to the Remaining Party that it has made (or will make) all necessary arrangements, accounting or otherwise, to effect the transfer of all Funding to the CJC on the Novation Date. Any such payment, transfer, accounting process howsoever made will not be subject to deduction, counterclaim or set-off, or otherwise affected by any claim or dispute relating to any other matter between the Council and the CJC;
- 2.6 the Council and the CJC represent and warrant to the Remaining Party that they have made all other necessary or desirable arrangements between themselves and any other party as required in order to effect the transfer of any relevant Funding from the Council to the CJC.

3. WARRANTIES AND REPRESENTATIONS

On the date of this deed and on the Novation Date:

- 3.1 the CJC represents and warrants to the Remaining Party that:
- 3.1.1 it has been duly constituted and founded by statute in accordance with the laws of England and Wales, is validly existing under those laws and has the power and authority to own its property and assets and carry on its business as it is being conducted;
 - 3.1.2 it has the power and authority to enter into, deliver and perform, and has taken all necessary action to authorise the entry into, delivery and performance of this deed and the Funding Agreements and the transactions contemplated by them;
 - 3.1.3 it has received such information and made such arrangements and taken such actions as it deems appropriate under the circumstances to make an informed decision regarding the execution of this Deed and the assumptions of any other responsibilities, obligations or otherwise in relation to the GD generally.
- 3.2 the Council represents and warrants to the Remaining Party that:
- 3.2.1 it has been duly constituted and founded by statute in accordance with the laws of England and Wales, is validly existing under those laws and has the power and authority to own its property and assets and carry on its business as it is being conducted;
 - 3.2.2 it has the power and authority to enter into, deliver and perform, and has taken all necessary action to authorise the entry into, delivery and performance of this deed and the Funding Agreements and the transactions contemplated by them;
 - 3.2.3 it has received such information and made such arrangements and taken such actions as it deems appropriate under the circumstances to make an informed decision regarding the execution of this Deed and the transfer of any funding, responsibilities, obligations or otherwise in relation to the GD generally.

4. AMENDMENTS TO CERTAIN FUNDING AGREEMENTS

- 4.1 The CJC hereby confirms to the Remaining Party that from and including the Novation Date, the Portfolio Director is:

Alwen Williams
Interim Chief Executive
North Wales Corporate Joint Committee

4.2 Each of the CJC and the Remaining Party agrees and acknowledges that from and including the Novation Date any notices or other communications under or in relation to any of the Funding Agreements shall be sent to the address specified on the execution pages of this Deed (or to any substitute address or email address notified in writing by the relevant party for this purpose) and marked for the attention of the specified department/individual, if applicable.

5. INDEMNITIES

5.1 Subject to clause 5.2, the CJC shall indemnify and keep indemnified the Council from and against all losses, claims, damages, liabilities, costs and expenses (including legal and other professional fees) suffered or incurred by the Council as a result of or in connection with any action, demand, claim or proceeding arising out of or in connection with the Funding Agreements howsoever caused (whether arising prior to, on or after the Novation Date).

5.2 The indemnity in clause 5.1 shall apply only if:

5.2.1 the indemnified party notifies the indemnifying party in writing promptly upon becoming aware of any matter or circumstance which might give rise to a claim by the indemnified party under clause 5.1 ("**Claim**"), such notice to include reasonable details of such matter or circumstance;

5.2.2 the indemnified party neither makes any admission of liability, communication or payment to, or agrees any settlement or compromise with, any third party in relation to the Claim, without the prior written consent of the indemnifying party (such consent not to be unreasonably withheld or delayed);

5.2.3 the indemnifying party is granted, at its expense, the sole control over any defence and settlement of the Claim; and

5.2.4 the indemnified party provides, at the indemnifying party's expense, such reasonable internal assistance as the indemnifying party may request.

6. COUNTERPARTS

6.1 This Deed may be signed in any number of separate counterparts, each of which when signed and dated shall be an original, and such counterparts taken together shall constitute one and the same agreement.

7. NOTICES

7.1 Notices under this Deed shall be in writing and sent to a party's address as set out on the execution pages of this Deed and marked for the attention of the specified department/individual, if applicable. Notices may be given, and shall be deemed received:

7.1.1 by first-class post: two Business Days after posting;

7.1.2 by hand: on delivery; and

7.1.3 by email,

in each case or such other recipient and/or address as may be notified in writing from time to time by any party to each of the other parties (as applicable) in accordance with this clause.

7.2 The email shall contain text in the subject line to identify it as a notice under this Deed and the notice shall be deemed to have been duly served on receipt of reply or acknowledgment by the recipient or on receipt of a read receipt or 24 (twenty four) hours from delivery if sent to the correct email address and no notice of delivery failure is received provided that in any scenario where such email transmission occurs either after 4.00pm on a Business Day or on a day other than a Business Day transmission shall be deemed to occur at 9.00am on the next Business Day.

8. **FURTHER ASSURANCE**

Each of the parties shall (with each party responsible for its own costs and expenses) perform all acts and sign, execute and deliver all deeds and documents, as may be required by such other party for the purpose of giving full effect to this Deed.

9. **VARIATION**

No variation of this Deed shall be valid or effective unless it is in writing, refers to this Deed and is duly signed or executed (as the case may be) by, or on behalf of, each party. For the avoidance of doubt, any variation of the Funding Agreements will be subject to any variation provisions contained therein.

10. **SEVERANCE**

If any provision of this Deed (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Deed shall not be affected.

11. **ASSIGNMENT OR TRANSFER**

Neither the Council nor the CJC may assign or transfer any of its rights, benefits or obligations under this Deed without the prior written consent of the Remaining Party.

12. **WAIVER**

No failure, delay or omission by a party in exercising any right, power or remedy provided by law or under this Deed shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy. No single or partial exercise of any right, power or remedy provided by law or under this Deed shall prevent any future exercise of it or the exercise of any other right, power or remedy.

13. **THIRD PARTY RIGHTS**

A person who is not a party to this Deed may not enforce any term of this Deed under the Contracts (Rights of Third Parties) Act 1999.

14. **GOVERNING LAW**

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

15. **JURISDICTION**

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Deed, its subject matter or formation (including non-contractual disputes or claims).

**SCHEDULE 1
FUNDING AGREEMENTS**

1. Award of Funding for NW Growth Deal dated 22 February 2021 for the period 1 April 2020 to 31 March 2021 (“**AFL 1**”)
2. Award of Funding for NW Growth Deal dated 23 March 2022 for the period 1 April 2021 to 31 March 2022 (“**AFL 2**”)
3. Award of Funding for the NW Growth Deal dated 20 March 2023 for the period 1 April 2022 to 31 March 2023 (“**AFL 3**”)
4. Award of Funding for the NW Growth Deal dated 7 February 2023 for the period 1 April 2023 to 31 March 2024 (“**AFL 4**”)
5. Award of funding by WG dated 28 July 2022 for the period 1 September 2022 to 30 November 2024 in relation to a project management team for delivering Local Area Energy Planning in the North Wales region.
6. Letter of variation dated 21 March 2024 to the award letter dated 28 July 2022 in relation to a project management team for delivering Local Area Energy Planning in the North Wales region, to extend the contracts of the project management team from November 2024 to end of March 2025.
7. Award of funding by WG dated 10 February 2023 for the period 1 January 2023 to 31 March 2024 to provide technical support for the delivering the Local Area Energy Planning in the North Wales Region.
8. Letter of variation dated 26 July 2023 relating to variation of the award of funding dated 10 February 2023 to provide technical support for Local Area Energy Planning in the North Wales Region with effect from 26 July 2023.
9. Award of funding dated 15 December 2023 for the period 15 December 2023 to 30 April 2025 in relation to the CJC to develop Regional Transport Plan for the Financial year 2023-24 and 2024-25.

EXECUTED AS A DEED BY THE PARTIES ON THE DATE STATED AT THE BEGINNING OF THIS DEED

EXECUTED AS A DEED (but not delivered)
until the date hereof) by affixing THE COMMON)
SEAL OF CYNGOR GWYNEDD (acting on behalf)
of the North Wales Economic Ambition Board))
)

in the presence of :-

Authorised Signatory

Name printed:

Address: Council Offices, Shirehall Street, Caernarfon, LL55 1SH

E-mail: Iwangdevans@gwynedd.llyw.cymru

Attention: Iwan Evans, Monitoring Officer, Cyngor Gwynedd

EXECUTED AS A DEED (but not delivered)
until the date hereof) by affixing THE COMMON)
SEAL OF THE NORTH WALES CORPORATE)
JOINT COMMITTEE)
)

in the presence of:-

Authorised Signatory

Name printed:

Address: Sarn Mynach, Llandudno Junction, LL31 9RZ

E-mail: AlwenWilliams@uchelgaisgogledd.cymru

Attention: Alwen Williams, Interim Chief Executive, North Wales Corporate Joint Committee

EXECUTED AS A DEED (but not delivered)
until the date hereof) 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.)

Signature: _____

Name: _____

Job Title: _____

Address: Cathays Park, Cardiff, CF10 3NQ

E-mail: Reg.Kilpatrick@gov.wales

Attention: Reg Kilpatrick, Director, Local Government Directorate, Welsh Government