

Dated

2025

- (1) East Suffolk Council**
- (2) Mid Suffolk District Council**
- (3) Tendring District Council**
- (4) Freeport East Limited**

Freeport East – Retained Business Rates Agreement

Contents

1	Definitions and Interpretation	2
2	Commencement and duration	8
3	Accountable Body's obligations	8
4	Billing Authorities' obligations	9
5	Retained Rates Account	11
6	FEL's Obligations	11
7	Pooling and allocation of Retained NNDR	12
8	Decisions relating to the utilisation of Freeport Free Cashflow	12
9	Forward Funding	12
10	Further Agreements	12
11	Costs	12
12	Review and monitoring	12
13	Dispute resolution	13
14	Changes to the Accountable Body and/or a Billing Authority	14
15	Freedom of information	15
16	Data processing	15
17	Confidentiality	15
18	Audit	16
19	Termination	17
20	Consequences of termination or expiry	17
21	Nature of obligations	18
22	Good Faith and Cooperation	18
23	Equality and Human Rights	19
24	Waiver	19
25	Rights and remedies	19
26	Severance	19

27	No partnership or agency	19
28	Third party rights	20
29	Assignment and other dealings	20
30	Notices	20
31	Entire agreement	21
32	Variation	21
33	Counterparts	21
34	Governing Law	21
35	Jurisdiction	22
Schedule 1	Baseline Business Rates Income	25
Schedule 2	Allocations of Retained NNDR for Freeport East delivery	26
Schedule 3	Authorised Representatives	31
Schedule 4	Investment Strategy	32
Schedule 5	Freeport Forecast Free Cashflow Allocation Statement	33
Schedule 6	Freeport Reconciliation Free Cashflow Allocation Statement	35

Date:

Parties

- (1) **East Suffolk Council** of East Suffolk House, Station Road, Melton, Woodbridge, IP12 1RT (**ESC**);
- (2) **Mid Suffolk District Council** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX (**MSDC**);
- (3) **Tendring District Council** of Town Hall, Clacton-on-Sea, Essex, CO15 1SE (**TDC**),
each a **Billing Authority** and together the **Billing Authorities**; and
- (4) **Freeport East Limited** a company incorporate in England and Wales (registered with company number 14525587) and whose registered office is at Freeport East Harwich International Station, Parkeston Quay, Harwich, Essex, CO12 4SR (**FEL**).

Introduction

- A The freeport model designed by the UK Government provides that all growth in business rates income on designated tax sites above a specified baseline figure throughout the Benefit Window (as defined below) is to be collected locally and then utilised to support the aims of the relevant freeport. The freeport model secures greater funds than would otherwise be achieved for regional growth and investment under governance mechanisms that are locally led.
- B The Billing Authorities, the Accountable Body (as defined below), FEL, and the Department for Levelling Up, Housing and Communities (as it was known at the relevant time) are parties to a Memorandum of Understanding relating to Freeport East dated [DATE]. This Memorandum of Understanding sets out the overarching principles applicable to the retention and use by the Billing Authorities of business rates generated through eligible business activities and operations on the three Freeport East tax sites (located at Felixstowe, Harwich and Gateway 14, Stowmarket).
- C Baseline business rate income for each of the three tax site locations is as set out in Paragraph 3 of Schedule 1 to the Non-Domestic Rating (Designated Areas) Regulations 2023 (and included at Schedule 1 (*Baseline Business Rates Income*) of this Agreement). All business rate income over and above the specified baseline for the relevant tax site in each year of the Benefit Window shall accrue for the purposes of Freeport East and be subject to the terms of this Agreement.
- D In accordance with the requirements of the MoU (as defined below) the FEL Governing Board has developed and agreed the Investment Strategy (as defined below) which is the overarching document governing the use of Retained NNDR (as defined below) in order to pursue the UK Government freeport policy in relation to Freeport East.
- E This Agreement is intended to put into legal effect the relevant parts of the Investment Strategy and document the underlying mechanisms to support its implementation. It sets out the relationships and obligations between the Billing Authorities, FEL and the Accountable Body regarding the collection, pooling and initial allocation of Retained NNDR, it does not relate to how decisions regarding the distribution of Retained NNDR are made. The parties have agreed to enter into this Agreement to record how Retained NNDR will be collected and pooled throughout the Benefit Window.

Agreed terms

1 Definitions and Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions

Accountable Body	ESC or any such body that becomes the accountable body to the UK Government from time to time in respect of the use by Freeport East of public funds.
Accountable Body's Costs	the Accountable Body's administration costs allocated for the relevant financial year based on an annual budget approved by the FEL Governing Board and members of FEL.
ADR notice	has the meaning given in clause 13 (<i>Dispute resolution</i>).
Agreement	this agreement including its Schedules.
Audit & Finance Committee	FEL's audit & finance committee established in accordance with FEL's articles of association.
Authorised Representatives	the persons respectively designated as such by the parties, the first such persons being set out in Schedule 3 (<i>Authorised Representatives</i>), which for each Billing Authority shall be their Section 151 Officer or, in their absence, a delegated Officer.
Baseline Amount	the baseline business rate income to be applied from 1 April 2023 for each of the Tax Sites as set out in paragraph 3 of Schedule 1 to the Non-Domestic Rating (Designated Areas) Regulations 2023 and included at Schedule 1 (<i>Baseline Business Rates Income</i>) as such baseline amounts may be amended by from time to time.
Benefit Window	the period during which the UK Government has guaranteed that NNDR relating to eligible businesses operating on the Tax Sites will be reimbursed to the Billing Authorities commencing on 1 April 2023 and ending on the Benefit Window Expiry Date.
Benefit Window Expiry Date	31 March 2048 or such other date as may be specified by the UK Government from time to time. [This definition (which is also relevant for the Term of the agreement) provides some flexibility for potential (further) changes to the relevant period that may be made by the government.]
Commencement Date	1 April 2023.
Confidential Information	means in relation to any party information of a confidential or proprietary nature (whether in oral, written or electronic form)

belonging or relating to that party, its business affairs or activities which:

- (a) that party has marked as confidential or proprietary;
- (b) that party, orally or in writing has advised the other party (to whom it has disclosed such information) is of a confidential nature; or
- (c) due to its character or nature, a reasonable person in a like position and under like circumstances would treat as confidential.

Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and/or codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
Deed of Novation	a deed of novation to novate the rights and obligations of the outgoing Accountable Body and/or outgoing Billing Authority under this agreement to the incoming Accountable Body and/or incoming Billing Authority which shall be on such terms as to be agreed between the parties to this agreement and the incoming Accountable Body and/or incoming Billing Authority at the relevant time.
Dispute	has the meaning given in clause 13 (<i>Dispute resolution</i>).
Dispute Notice	has the meaning given in clause 13 (<i>Dispute resolution</i>).
EIRs	the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
FEL Governing Board	the board of directors of FEL from time to time that comprises representatives of the members of FEL, FEL's Chief Executive Officer, and FEL's Independent Chair.
FEL's Operating Costs	FEL's operational costs allocated for the relevant financial year based on an annual budget approved by the FEL Governing Board and members of FEL.
FOIA	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
Forward Funding	the sum of £160,000 provided by each of the Local Authority Founding Members to forward fund Pot C in the financial years 2022/2023 and 2023/2024 which is to be repaid to each of the

Local Authority Founding Members out of Retained NNDR in accordance with the terms of this Agreement.

Freeport Cashflow	Free	shall have the meaning given in paragraph 2.1 of Schedule 2 (<i>Allocations of Retained NNDR for Freeport East Delivery</i>).
Freeport Forecast Free Cashflow Allocation Statement		a statement that integrates relevant data including forecasts of Retained NNDR income, relevant Freeport delivery costs, prior commitments against Retained NNDR allocations, Intention to Fund positions for each Tax Site and the subsequent forecast allocations to each of Pot A, Pot B and Pot C for the forthcoming financial year in the form or substantially in the form set out at Schedule 5 (<i>Freeport Forecast Free Cashflow Allocation Statement</i>).
Full Case	Business	the full business case for Freeport East to operate a freeport in the East Anglia area as approved by MHCLG on [DATE].
Held Funds		Retained NNDR held in the Retained Rates Account by the Accountable Body and managed as part of the Accountable Body's treasury management.
Information		has, for the purposes of clause 15 (<i>Freedom of information</i>), the meaning given under section 84 of the FOIA.
Investment Strategy		the document which sets out, amongst other matters, the approach to the pooling, management, allocation and use of Retained NNDR in accordance with the provisions of the MoU as such policy may be agreed and/or updated by FEL and the FEL Governing Board from time to time and notified to the parties. Key elements of the relevant strategy as at the date of this Agreement are set out in Schedule 2 (<i>Allocations of Retained NNDR for Freeport East Delivery</i>) and the version in effect as at the date of this Agreement is attached at Schedule 4 (<i>Investment Strategy</i>).
Intention to Fund		a share of FEL's Operating Costs and/or the Accountable Body's Costs for the relevant financial year recorded against a Tax Site to enable repayment of those costs from Retained NNDR generated by the relevant Tax Site in future financial years.
Law		the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or codes which apply to the subject matter of this Agreement.
Local Authority Founding Members		<p>(a) the Billing Authorities;</p> <p>(b) Suffolk County Council; and</p> <p>(c) Essex County Council.</p>
MHCLG		the Ministry of Housing, Communities and Local Government (previously known as the Department for Levelling Up,

Housing and Communities) and any other successor central government department which assumes some or all of the functions formerly exercised by the Ministry of Housing, Communities and Local Government upon an amalgamation or merger of or transfer of engagements or otherwise. References to MHCLG shall include the Department for Levelling Up, Housing and Communities.

MoU	the Memorandum of Understanding entered into between the Secretary of State for Levelling Up, Housing and Communities, the Accountable Body, the Billing Authorities and FEL dated [DATE] relating to the use of public funding provided by MHCLG to the Accountable Body for Freeport East and outlining other support that may be made available to Freeport East by the UK Government.
MoU Sanctions	any sanction imposed on the Accountable Body or other relevant party by MHCLG (or other central government department) pursuant to the MoU (as such sanctions are detailed in section 7.3 of the MoU).
NNDR	national non-domestic rates (otherwise known as business rates) payable by occupiers of non-domestic properties to the Billing Authorities under the Local Government and Finance Act 1988.
Permitted Purpose	has the meaning given in clause 17.2 (<i>Confidentiality</i>).
Pot A	has the meaning given in the Investment Strategy.
Pot B	has the meaning given in the Investment Strategy.
Pot C	has the meaning given in the Investment Strategy.
Receiving Party	has the meaning given in clause 15.1 (<i>Freedom of information</i>).
Freeport Reconciliation Free Cashflow Allocation Statement	the outturn statement against all those items reflected in the Freeport Forecast Free Cashflow Allocation Statement that allows for an annual reconciliation of allocations to Pot A, Pot B and Pot C.
Representatives	means, in relation to party, its employees, officers, elected members (where relevant), representatives and advisors.
Request for Information	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.

Retained NNDR	the aggregate of all NNDR above the relevant Baseline Amount for each Tax Site received and/or receivable by the relevant Billing Authority.
Retained Rates Account	the bank account established by the Accountable Body in accordance with clause 5 (<i>Retained Rates Account</i>).
Senior Officers	has the meaning given in clause 13 (<i>Dispute resolution</i>).
Single Freeport Retained NNDR Model	<p>the model based on forecast and actual Retained NNDR data collected across all Tax Sites which is used to:</p> <ul style="list-style-type: none"> (a) forecast future Retained NNDR income; (b) model forecast and outturn expenditure and commitments over the Term; (c) inform the long term management of Retained NNDR; (d) assist with decisions taken in respect of the allocation of Retained NNDR; and (e) assist with the ongoing monitoring and evaluation of Retained NNDR.
Successor Body	upon an amalgamation or merger of or transfer of engagements or otherwise, any local authority which assumes some or all of the functions exercised by another local authority.
Tax Sites	the Freeport East tax sites designated as special areas by the Designation of Freeport Tax Sites (Freeport East) Regulations 2021 (<i>SI 2021/1389</i>) and designated areas by the Non-Domestic Rating (Designated Areas) Regulations 2023 (<i>SI 2023/175</i>).
Term	<p>the period commencing on the Commencement Date and ending on the earlier of:</p> <ul style="list-style-type: none"> (a) the second anniversary of the Benefit Window Expiry Date; and (b) the termination of this Agreement in accordance with its terms. <p>[DN – provided the agreement is not terminated earlier, the Term provides for 2 years after the 25 year period that Retained NNDR will be reimbursed to the Billing Authorities. This is to allow sufficient time for payments to be finalised following the end of the year to which they relate.]</p>
Termination Date	the date of expiry or termination of this Agreement.

- UK GDPR** has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- Working Day** Monday to Friday, excluding any public holidays in England and Wales.
- Working Hours** the period from 9.00am to 5.00pm on any Working Day.
- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
 - 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - 1.4 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.
 - 1.5 A reference to a **company** includes any company, corporation or other body corporate, wherever and however incorporated or established.
 - 1.6 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
 - 1.7 Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.
 - 1.8 Unless expressly provided otherwise in this Agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted and includes all subordinate legislation made under it, in each case from time to time.
 - 1.9 A reference to **writing** or **written** excludes fax but includes email.
 - 1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
 - 1.11 A reference to this Agreement or to any other agreement or document is a reference to this Agreement or such other agreement or document as varied from time to time.
 - 1.12 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
 - 1.13 Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
 - 1.14 Except as may be expressly provided otherwise in this Agreement or by Law, where a party is required to make any payment pursuant to this Agreement, then such payment shall be made by that party in the timescale (if any) stipulated in full on demand and without set-off, counterclaim or other deduction.

- 1.15 Subject to clause 13.3, if there is any conflict, inconsistency or ambiguity between the provisions set out in Schedule 2 (*Allocations of Retained NNDR for Freeport East Delivery*) and the Investment Strategy, the terms of the Investment Strategy shall take precedence and prevail.

2 Commencement and duration

This Agreement commences on the Commencement Date and continues for the Term.

3 Accountable Body's obligations

3.1 The Accountable Body shall:

- 3.1.1 unless directed otherwise by the FEL Governing Board, pool and manage all Retained NNDR collected or received directly or received from the other Billing Authorities in accordance with the terms of this Agreement;
- 3.1.2 only distribute Retained NNDR in accordance with the terms of this Agreement or as may be directed by a decision of the FEL Governing Board and ensure that any such distribution is compliant with the requirements of the Subsidy Control Act 2022;
- 3.1.3 establish and maintain detailed records relating to all costs incurred in connection with the discharge of its duties as Accountable Body under this Agreement, the MoU or otherwise in connection with Freeport East;
- 3.1.4 be responsible for reporting and accounting to MHCLG in respect of the management and expenditure of Retained NNDR;
- 3.1.5 where a Local Authority Founding Member is eligible to receive funding from Pot A in accordance with the Investment Strategy, transfer to that Local Authority Founding Member the relevant amount of Pot A funding associated with the relevant financial year within [30] days of receipt of the Freeport Reconciliation Free Cashflow Allocation Statement;
- 3.1.6 unless directed otherwise by the FEL Governing Board, enter into appropriate grant funding agreements for the distribution of Freeport Free Cashflow and ensure that such agreements provide:
 - (a) the Accountable Body and the FEL Governing Board with sufficient oversight, assurance and remedies to ensure funding is delivered appropriately and that the desired outcomes for such funding are achieved;
 - (b) the requisite degree of monitoring and evaluation data and information as may be reasonably required by FEL to satisfy FEL's interest in driving the success of Freeport East and meet its reporting obligations to MHCLG (as set out in the MoU);
 - (c) for compliance with applicable Laws, including but not limited to procurement law and planning law; and

- 3.1.7 so far as it is reasonably practicable to do so in the circumstances, consult with the FEL Governing Board prior to exercising any rights or remedies arising under any grant funding agreements entered into pursuant to clause 3.1.6, including but not limited to exercising any right to withhold, withdraw or clawback funding, and have reasonable regard to any recommendations of the FEL Governing Board in the exercise of the Accountable Body's rights and remedies.

4 **Billing Authorities' obligations**

4.1 Each Billing Authority shall:

- 4.1.1 comply with all relevant obligations in respect of the billing and collection of NNDR and granting of relief from NNDR to eligible businesses on their Tax Sites, as appropriate, including but not limited to compliance with the requirements of the Subsidy Control Act 2022 and the English Freeports Subsidy Scheme;
- 4.1.2 share with the Accountable Body and FEL all templates, processes, criteria and other documentation governing the assessment and granting of NNDR relief so as to enable full consistency in approach amongst the parties;
- 4.1.3 annually, on or before 31 January (or such other date as may be required by MHCLG) in each year of the Benefit Window, submit to MHCLG, the Accountable Body and FEL its forecast Retained NNDR relevant to its Tax Sites for the upcoming financial year, utilising the NNDR1 form (as such form may be updated or replaced from time to time) clearly identifying funds received and/or expected to be received:
- (a) by way of grant under section 31 of the Local Government Act 2003; and
 - (b) directly from businesses through their NNDR payments;
- 4.1.4 annually, [on or before 31 August in each year] of the Benefit Window, submit to MHCLG, the Accountable Body and FEL its report on the outturn Retained NNDR relevant to its Tax Site for the previous financial year utilising the NNDR3 form (as such form may be updated or replaced from time to time) clearly identifying funds received and/or expected to be received:
- (a) by way of grant under section 31 of the Local Government Act 2003; and
 - (b) directly from businesses through their NNDR payments;
- 4.1.5 submit to the Accountable Body and FEL copies of any post-NNDR3 submission at the same time as any such form is submitted to MHCLG;
- 4.1.6 transfer to the Accountable Body all Retained NNDR within 30 days of receipt;

- 4.1.7 where it fails to make any payment due to the Accountable Body pursuant to clause 4.1.6 within the relevant 30 day period required by that clause, pay interest on the overdue sum. Interest under this clause shall be payable from the date on which the relevant Billing Authority receives the relevant payment until payment of the overdue sum is made to the Accountable Body and shall accrue each day at a rate which is equal to the yearly rate of interest payable in accordance with the Accountable Body's treasury management policy (as such rate shall be notified by the Accountable Body to the other parties from time to time);
 - 4.1.8 in order to support effective forecasting, provide the Accountable Body and FEL with copies of any correspondence with the Valuation Office in relation to the rateable value of any premises located within a Tax Site and provide, within 30 days of receipt, any final rateable value information received from the Valuation Office;
 - 4.1.9 provide the Accountable Body in a timely manner with all information reasonably requested by the Accountable Body to enable the Accountable Body to meet its reporting requirements to Government and in accordance with the MoU;
 - 4.1.10 annually, on or before 31 January in each year of the Benefit Window, provide the Accountable Body and FEL with an updated forecast of business rates income expected to be received by the relevant Billing Authority in their Tax Sites for the remaining period of the Benefit Window; and¹
 - 4.1.11 provide any and all other reasonable assistance, as may be requested by FEL, to support FEL in the development and maintenance of the Single Freeport Retained NNDR Model.
- 4.2 Where an NNDR3 highlights a variance in the forecast Retained NNDR set out in the NNDR1 as part of the process set out in clause 4.1, or where there is a difference between the Freeport Reconciliation Free Cashflow Allocation Statement and the Freeport Forecast Free Cashflow Allocation Statement, a reconciliation shall be undertaken and further payments either:
- 4.2.1 from the Accountable Body to the relevant Billing Authority; or
 - 4.2.2 from the relevant Billing Authority to the Accountable Body,
- shall be made, where required, to effect such reconciliation. Any payments made pursuant to this clause shall be made within 30 days of the date the relevant amount has been agreed between the parties.
- 4.3 The Accountable Body shall pool all Retained NNDR received pursuant to this clause 4 and shall hold all sums in accordance with clause 5 (*Retained Rates Account*).

¹ These forecasts will be used to inform and keep up to date a single harmonised financial model across all Freeport East tax sites that enables consistent matching of income and expenditure and commitments.

5 Retained Rates Account

5.1 the Accountable Body shall:

- 5.1.1 establish and maintain a bank account being the Retained Rates Account and shall manage and operate that account on behalf of Freeport East throughout the Term;
- 5.1.2 provide the other parties with the details of the Retained Rates Account and promptly notify them of any changes to the account that may be made from time to time;
- 5.1.3 hold all pooled Retained NNDR in the Retained Rates Account on behalf of Freeport East;
- 5.1.4 seek a return on any Held Funds in the Retained Rates Account in line with its treasury management policy. Any returns received by the Accountable Body pursuant to this clause shall also be held within the Retained Rates Account;
- 5.1.5 refrain from making any payment out of the Retained Rates Account which is not permitted by this Agreement except with the prior written consent of the other parties or as may be directed by the FEL Governing Board;
- 5.1.6 establish and maintain detailed and up to date records of all funds held in the Retained Rates Account, including but not limited to details of all payments in and out of the account and the allocation of such funds in accordance with the provisions of Schedule 2 (*Allocation of Retained NNDR for Freeport East Delivery*);
- 5.1.7 permit the other parties to audit the Retained Rates Account in accordance with clause 18 (*Audit*); and
- 5.1.8 regularly monitor the Retained Rates Account and report to the Audit & Finance Committee at least annually in accordance with the reporting protocol agreed between the Accountable Body and the Audit & Finance Committee.

6 FEL's Obligations

6.1 FEL shall:

- 6.1.1 notify to the parties of any updates to the Investment Strategy within 30 days of such an update being approved by the FEL Governing Board;
- 6.1.2 develop, adopt and maintain the Single Freeport Retained NNDR Model and share the model with the parties upon request;
- 6.1.3 provide the Freeport Forecast Free Cashflow Allocation Statement to the other parties on an annual basis within [xx] Business Days of receiving the NNDR1 data in para 4.1.3; and

- 6.1.4 provide the Freeport Reconciliation Free Cashflow Allocation Statement to the other parties on an annual basis within [xx] Business Days of receipt of all NNDR3 information from the Billing Authorities.

7 Pooling and allocation of Retained NNDR

Subject to any alternative approach as may be determined by the FEL Governing Board and notified to the parties from time to time, Retained NNDR shall be pooled and allocated in accordance with the Investment Strategy.

8 Decisions relating to the utilisation of Freeport Free Cashflow

All decisions relating to the utilisation and distribution of Freeport Free Cashflow shall be taken by FEL Governing Board in accordance with the terms of the MoU and FEL's articles of association and members' agreement.

9 Forward Funding

Subject to any alternative approach as may be determined by the FEL Governing Board and notified to the parties from time to time, the Forward Funding shall be repaid to the Local Authority Founding Members in accordance with the Investment Strategy.

10 Further Agreements

10.1 Notwithstanding any other provision of this Agreement if, during the Term, MHCLG requires in writing that all or any of the parties are to enter into a new agreement as to the use of Retained NNDR, the parties will use their reasonable endeavours to reach such an agreement for the remainder of the Term within such timeframes as MHCLG requires.

10.2 Any Dispute as to a further agreement in accordance with clause 10.1, shall be resolved in accordance with the clause 13 (*Dispute resolution*).

11 Costs

11.1 Except as expressly provided in this Agreement, each party shall pay its own costs incurred in connection with the negotiation, preparation and execution of this Agreement.

11.2 FEL's Operating Costs and the Accountable Body's Costs shall be managed and reimbursed to the relevant party, as applicable, in accordance with the Investment Strategy.

Contract management

12 Review and monitoring

12.1 Each party shall nominate an Authorised Representative who will have authority to act on its behalf and contractually bind it in respect of all matters relating to the performance of this Agreement. The first Authorised Representatives are listed in Schedule 3 (*Authorised Representatives*).

12.2 Each party shall use reasonable endeavours to ensure that the same person acts as its Authorised Representative throughout the Term, but may, following

reasonable notice to the other parties, replace that person from time to time where reasonably necessary in the interests of its activities and functions.

- 12.3 The Authorised Representatives shall meet on an **annual basis** to monitor and review the performance of this Agreement. Such meetings shall be minuted by the Accountable Body's Authorised Representative and copies of those minutes shall be circulated to and approved by all parties.
- 12.4 The parties acknowledge that the Audit & Finance Committee has a responsibility to review the progress of all funding agreements relating to the distribution and use of Retained NNDR. The Accountable Body shall provide the Audit & Finance Committee with reports in respect of all funding agreements on a quarterly basis no less than 5 Business Days in advance of any scheduled Audit & Finance Committee meetings held at such intervals along with such other information as the committee may reasonably request from the Accountable Body in order for the committee to carry out any such reviews and to be able to assess, understand and advise the FEL Governing Board in respect of any funding agreements, including where appropriate any identified risks.
- 12.5 The parties agree to use their reasonable endeavours to provide such information and support to the Accountable Body and FEL as the Accountable Body and FEL may reasonably require in order to meet MHCLG's reporting requirements (as set out in the MoU or otherwise required from time to time by MHCLG).

13 **Dispute resolution**

- 13.1 Subject to clause 13.3, if a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause 13:
 - 13.1.1 in all cases the disputing parties and their Authorised Representatives shall endeavour to resolve the matter themselves within a reasonable period;
 - 13.1.2 where the subject matter of any Dispute has not been resolved within a reasonable period, either disputing party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents;
 - 13.1.3 the disputing parties shall each nominate a senior officer who has the authority of that disputing party to resolve the disputing matter on its behalf (together the **Senior Officers**). The Senior Officers shall attempt in good faith to resolve the dispute;
 - 13.1.4 if the Senior Officers are for any reason unable to resolve the Dispute within 10 Working Days of it being referred to them (or such longer period as the disputing parties may agree), the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 15 Working Days of referral of the Dispute Notice, the mediator will be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute,

referring the Dispute to mediation. A copy of the ADR notice should be sent to CEDR; and

13.1.5 unless otherwise agreed between the parties, the mediation will start not later than 20 Working Days after the date of the ADR notice.

13.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings.

13.3 This clause 13 shall not apply to any dispute relating to the interpretation and application by the parties of the Investment Strategy. Any such dispute shall be submitted in writing to the FEL Governing Board for determination and resolution. The written decision of the FEL Governing Board on any matters referred to them pursuant to this clause shall be final and binding on the parties in absence of manifest error or fraud.

14 Changes to the Accountable Body and/or a Billing Authority

14.1 This clause 14 shall:

14.1.1 apply where there is a change in the Accountable Body and/or Billing Authority; and

14.1.2 shall only apply in so far as is necessary to effect an orderly change in Accountable Body and/or Billing Authority to a Successor Body and to the extent consistent with any legislation effecting such a change.

14.2 Subject to clause 14.1:

14.2.1 where there is a change in Accountable Body:

(a) the parties shall enter into and shall procure that the incoming Accountable Body enters into a Deed of Novation; and

(b) the outgoing Accountable Body shall, on or before the effective date of the Deed of Novation, transfer to the incoming Accountable Body all:

(i) Held Funds; and

(ii) relevant records relating to Retained NNDR held by the outgoing Accountable Body.

14.2.2 where there is a change in Billing Authority:

(a) the parties shall enter into and shall procure that the incoming Billing Authority enters into a Deed of Novation; and

(b) the outgoing Billing Authority shall ensure that:

(i) any payments due (or which become due after the effective date of the Deed of Novation); and

- (ii) any outstanding obligations of the outgoing Billing Authority at the effective date of the Deed of Novation,

pursuant to clause 4 (*Billing Authorities' obligations*) are made to the Accountable Body and/or discharged (and continue to be made and/or discharged) in accordance with that clause.

Information

15 Freedom of information

- 15.1 The parties acknowledge that they are each subject to the requirements of the FOIA and the EIRs. Where one party receives a Request for Information (**Receiving Party**) the other parties shall:
 - 15.1.1 provide all necessary assistance and cooperation as reasonably requested by the Receiving Party to enable the Receiving Party to comply with its obligations under the FOIA and EIRs;
 - 15.1.2 provide the Receiving Party with a copy of all Information belonging to the Receiving Party requested in the Request for Information which is in its possession or control in the form that the Receiving Party requires within 5 Working Days (or such other period as the Receiving Party may reasonably specify) of the Receiving Party's request for such Information; and
 - 15.1.3 not respond directly to a Request for Information unless authorised in writing to do so by the Receiving Party.
- 15.2 Notwithstanding any other term of this Agreement, each party consents to the publication of this Agreement in its entirety (including variations), subject only to the redaction of information that the parties determine, by agreement, is exempt from disclosure in accordance with the provisions of the FOIA and EIRs.

16 Data processing

- 16.1 The parties will comply with all applicable requirements of the Data Protection Legislation in the performance of their obligations under this Agreement.
- 16.2 This clause 16 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

17 Confidentiality

- 17.1 The provisions of this clause 17 do not apply to any Confidential Information which:
 - 17.1.1 is or becomes available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause 17);
 - 17.1.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;

- 17.1.3 was, is, or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
- 17.1.4 the parties agree in writing is not confidential or may be disclosed;
- 17.1.5 which is disclosed by a party on a confidential basis to any central government or regulatory body.
- 17.2 Each party shall keep the other parties' Confidential Information secret and confidential and shall not:
 - 17.2.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement (**Permitted Purpose**); or
 - 17.2.2 disclose such Confidential information in whole or in part to any third party, except as expressly permitted by this clause 17.
- 17.3 A party may disclose another party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
 - 17.3.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - 17.3.2 it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause 17 as if they were a party to this Agreement,and at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this clause 17.3.
- 17.4 A party may disclose Confidential Information to the extent that such Confidential Information is required to be disclosed by Law (including under the FOIA or EIRs), by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other parties as much notice of the disclosure as possible.
- 17.5 The provisions of this clause 17 shall survive for a period of 7 years from the Termination Date.

18 **Audit**

- 18.1 During the Term and for a period of 7 years after the Termination Date, each party shall allow the other parties (acting by themselves or through their Representatives) to access any of their relevant records as may reasonably be required to:
 - 18.1.1 fulfil any legally enforceable request by any regulatory body; and

- 18.1.2 verify that all obligations of the relevant party are being performed in accordance with this Agreement.
- 18.2 Except where an audit is imposed on a party by a regulatory body or where a party has reasonable grounds for believing that another party has not complied with its obligations under this Agreement, a party may not conduct an audit under this clause 18 more than once in any calendar year.
- 18.3 Each party shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the relevant other party.
- 18.4 Subject to each party's obligations of confidentiality, each party shall on reasonable notice provide the other parties and any relevant regulatory body (and/or their agents or Representatives) with all reasonable co-operation and assistance in relation to each audit, including all information requested by the above persons within the permitted scope of the audit.
- 18.5 Each party shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention or, where possible, a regulatory body's intention, to conduct an audit in accordance with this clause 18.
- 18.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 18.
- 18.7 If an audit identifies that:
 - 18.7.1 there has been an overpayment of Retained NNDR by one party to another, the party in receipt of the overpayment shall pay to the party that made the overpayment the amount overpaid within 20 days from the date of receipt of a notice to do so; and
 - 18.7.2 a party has underpaid any Retained NNDR to another party, the party that made the underpayment shall pay such amounts to remedy the underpayment to the party which received the underpayment within 20 days from the date of receipt of a notice to do so.

Termination

19 Termination

- 19.1 This Agreement may be terminated by mutual agreement of the parties.
- 19.2 A party may exit this Agreement with the prior written consent of the other parties.

20 Consequences of termination or expiry

- 20.1 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry, including:
 - 20.1.1 clause 4 (*Billing Authorities' obligations*);
 - 20.1.2 clause 15 (*Changes to the Accountable Body and/or a Billing Authority*);

- 20.1.3 clause 15 (*Freedom of Information*);
 - 20.1.4 clause 16 (*Data Processing*);
 - 20.1.5 clause 17 (*Confidentiality*);
 - 20.1.6 clause 18 (*Audit*);
 - 20.1.7 this clause 20 (*Consequences of termination*);
 - 20.1.8 clause 21 (*Nature of obligations*);
 - 20.1.9 clause 34 (*Governing law*); and
 - 20.1.10 clause 35 (*Jurisdiction*),
- shall remain in full force and effect.

- 20.2 Should there be any Held Funds at the Termination Date, as soon as is reasonably practicable but in any event no later than 3 months following the Termination Date, the Billing Authorities (or their Authorised Representatives) shall meet and shall use their reasonable endeavours to reach agreement to determine how such Held Funds are to be utilised and/or reimbursed to the Billing Authorities. Any Dispute arising out of discussions held pursuant to this clause 20.2 shall be resolved in accordance with the clause 13 (*Dispute resolution*).
- 20.3 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the Termination Date.

General provisions

21 Nature of obligations

- 21.1 The Accountable Body and each Billing Authority shall at all times be bound by their statutory obligations (whether in any statute or secondary legislation or otherwise).
- 21.2 In the event of any discrepancy or conflict between the statutory obligations of the Accountable Body or a Billing Authority (on the one hand) and its obligations arising pursuant to this Agreement (on the other hand), the Accountable Body's or relevant Billing Authority's statutory obligations shall not be fettered and shall prevail and the exercise by the Accountable Body or relevant Billing Authority (as applicable) of any of its statutory functions shall not be treated as a breach of this Agreement.

22 Good Faith and Cooperation

- 22.1 Each party shall:
 - 22.1.1 act in good faith towards the other parties;

- 22.1.2 comply with reasonable requests submitted by the other parties from time to time in relation to Freeport East; and
- 22.1.3 not do anything intentionally that will put another party in breach of their obligations under this Agreement.

23 Equality and Human Rights

- 23.1 The parties shall perform their obligations under this Agreement in accordance with:
 - 23.1.1 all applicable equality Law, including the Equality Act 2010, (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - 23.1.2 any applicable equality and diversity policy of the parties from time to time; and
 - 23.1.3 take all necessary steps, and inform each other of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

24 Waiver

- 24.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 24.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

25 Rights and remedies

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by Law.

26 Severance

- 26.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 26.2 If any provision or part-provision of this Agreement is deemed deleted under clause 26.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

27 No partnership or agency

- 27.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

- 27.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

28 Third party rights

- 28.1 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 28.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

29 Assignment and other dealings

- 29.1 Subject to clause 29.2, no party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed).
- 29.2 Each party may assign their rights under this Agreement to a Successor Body.

30 Notices

- 30.1 Any notice given to a party under or in connection with this Agreement shall be in writing marked for the attention of the relevant party's Authorised Representative and shall be:
- 30.1.1 delivered by hand or by pre-paid first-class post or other next Working Day delivery service at its principal office address; or
- 30.1.2 sent by email to the following addresses (or an address substituted in writing by the party to be served):
- (a) ESC: [ADDRESS].
 - (b) MSDC: [ADDRESS].
 - (c) TDC: [ADDRESS].
 - (d) FEL: [ADDRESS].
- 30.2 Any notice shall be deemed to have been received:
- 30.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 30.2.2 if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00am on the second Working Day after posting; or
- 30.2.3 if sent by email, at the time of transmission, or if this time falls outside Working Hours in the place of receipt, when Working Hours in the place of receipt resume.

- 30.3 This clause 30 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

31 Entire agreement

- 31.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
- 31.2 Each party acknowledges that in entering into this Agreement it does not rely on, and 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.
- 31.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

32 Variation

- 32.1 Subject to clause 32.2, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their Authorised Representatives).
- 32.2 The parties agree that the Investment Strategy (the version of which in effect at the date of this Agreement is attached at Schedule 4 (*Investment Strategy*)) shall be as agreed and/or updated by FEL and the FEL Governing Board from time to time and notified to the parties. Where the FEL Governing Board agree any material amendments to the Investment Strategy, the parties shall work together and in good faith to agree such changes to Schedule 2 (*Allocations of Retained NNDR for Freeport East delivery*) as are necessary to reflect the amended Investment Strategy. In the event of any dispute between the parties relating to variations to Schedule 2 or Schedule 4, the parties shall follow the procedure set out in clause 13 (*Dispute resolution*).

33 Counterparts

- 33.1 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original of this Agreement, but all the counterparts shall together constitute the one agreement.
- 33.2 Transmission of an executed counterpart of this Agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) takes effect as the transmission of an executed "wet-ink" counterpart of this Agreement. If this method of transmission is adopted, without prejudice to the validity of the agreement thus made, each party shall on request provide the others with the "wet ink" hard copy originals of their counterpart.

34 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.

35 **Jurisdiction**

Each party irrevocably agrees 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 Agreement or its subject matter or formation (including non-contractual Disputes or claims).

This Agreement has been entered into as a deed and delivered on the date stated at the beginning of it.

Executed as a deed (but not delivered until the date specified above) by affixing the common seal **of EAST SUFFOLK COUNCIL** in the presence of:

Signature

.....

Name

.....

Title

.....

The COMMON SEAL of
MID SUFFOLK DISTRICT COUNCIL
was hereunto affixed in the
presence of:

.....

Authorised Officer

The **COMMON SEAL** of

TENDRING DISTRICT COUNCIL

was hereunto affixed in the
presence of:

.....

Proper Officer

Executed as a deed by **FREEPORT EAST
LIMITED** acting by

[]

a director, and

Director

[]

a director/company secretary.

Director/Company Secretary

Schedule 1 Baseline Business Rates Income

1. Baseline Business Rates income for each of the Tax Sites

Tax Site	Billing Authority	Baseline business rate income to be applied from 1 April 2023 (Baseline Amount)
Harwich	TDC	£841,447
Gateway 14	MSDC	£0
Felixstowe	ESC	£774,808

1.1 If in any financial year the amount of **aggregate NNDR** income for a Tax Site is lower than the relevant Baseline Amount stated in the above table then the Retained NNDR for the relevant Tax Site shall be taken as zero for the purposes of this Agreement.

1.2 In this Schedule 1 the **aggregate NNDR** shall be taken to include:

1.2.1 the total NNDR received by the relevant Billing Authority in respect of all hereditaments which are:

- (a) wholly within; and
- (b) partially within,
the relevant Tax Site; and

1.2.2 all sums received by the relevant Billing Authority by way of grant under section 31 of the Local Government Act 2003 in respect of NNDR relief granted by that Billing Authority to hereditaments wholly or partially present on the relevant Tax Site.

Schedule 2 Allocations of Retained NNDR for Freeport East delivery

The Retained NNDR shall be allocated, managed and pooled in accordance with the Investment Strategy. Key elements of the Investment Strategy [approved and adopted by the FEL Governing Board][adopted by the Freeport] as at the date of this Agreement are set out within this Schedule 2.

1. Primary Allocations for Freeport East delivery

1.1 For each financial year throughout the Term, primary allocations of Retained NNDR shall be accounted for in that financial year and made prior to further expenditure of Retained NNDR being considered or committed by the FEL Governing Board. These primary allocations shall include (items appearing higher in the following list shall be given a higher priority and take precedence over items appearing lower in the list):

- 1.1.1 FEL's Delivery Costs;
- 1.1.2 to cover any financial liabilities (incurred by the Accountable Body or other relevant party) associated with MoU Sanctions;
- 1.1.3 the Accountable Body's Costs; and
- 1.1.4 subject to paragraph 1.2, to cover repayment of the Forward Funding.

1.2 Repayment of the Forward Funding shall only be made from the financial year 2028/2029 onwards and:

- 1.2.1 after the other primary allocations listed in paragraph 1.1 have been adequately met;
- 1.2.2 when the respective Tax Site in the relevant Local Authority Founding Member's district has created sufficient contributions of Retained NNDR to support such repayment; and
- 1.2.3 there is no outstanding Intention to Fund recorded against the respective Tax Site,

and provided that the relevant Billing Authority has not, by notifying FEL and the Accountable Body in writing, deferred their right to repayment of the Forward Funding to a future financial year or waived their right to receive repayment of the Forward Funding.

2. Freeport Free Cashflow and Secondary Allocations in Pot A, Pot B and Pot C.

2.1 In each financial year, once the primary allocations under paragraph 1 have been met any remaining Retained NNDR shall be allocated across three pots:

- 2.1.1 **Pot A** - to partially cover "lost income" for the Local Authority Founding Members when compared to a counterfactual of "no freeport development" and to support local services to support businesses;

- 2.1.2 **Pot B** – to support development of the Tax Sites in line with the vision and objectives of Freeport East in order to attract earlier, higher value and higher business rate income investments; and
- 2.1.3 **Pot C** – to support the overall Freeport East geography to meet the vision of the freeport initiative,

(collectively referred to as **Freeport Free Cashflow**).

2.2 The parties acknowledge and agree that on a yearly basis the allocations to Pot A, Pot B and Pot C will vary according to need and profiling of spend, but across the duration of the Benefit Window shall be managed in accordance with the Investment Strategy. The specific allocations to each of Pot A, Pot B and Pot C shall be determined annually from the Freeport Forecast Free Cashflow Account Statement and the Freeport Reconciliation Free Cashflow Account Statement.

2.3 The parties acknowledge and agree that, unless agreed otherwise by the FEL Governing Board, any and all interest:

2.3.1 paid by a Billing Authority pursuant to clause 4.1.7; and

2.3.2 accrued in relation to funds held in the Retained Rates Account pursuant to clause 5.1.4,

shall be allocated to Pot C and shall be considered additional to any other funds allocated to Pot C based on the relevant percentage allocations set out in the [Investment Strategy OR in this Schedule 2];

Pot A

2.4 Pot A shall only be distributed to the relevant Billing Authority from Retained NNDR that is generated and originates from the Tax Site location (or locations) that fall within that relevant Billing Authority's jurisdiction.

2.5 A Billing Authority's Tax Site locations must have contributed sufficient Retained NNDR before Pot A income can be received by that Billing Authority and such income must be sufficient to cover liabilities associated with Freeport Delivery Costs (including the repayment of any outstanding Intention to Fund recorded against the respective Tax Site) before any distribution of income under Pot A can be made.

2.6 Over the course of the Benefit Window, Pot A shall be the lower of:

2.6.1 20% of total Retained NNDR from the relevant Billing Authority's Tax Sites; and

2.6.2 the value of the reasonable counterfactual for local authority income that would have arisen from the relevant Tax Site under the no-freeport scenario as set out in the following table:

Tax Site	Billing Authority	Counterfactual Income over 25 years

Harwich	Tendring District Council	£1,000,000
Gateway 14	Mid Suffolk District Council	£25,500,000
Felixstowe	East Suffolk District Council	£2,750,000

- 2.7 Where funds are distributed from Pot A, those funds shall be split on an 80/20 basis between the district level Billing Authority and the county level authority, as follows:

Tax Site	Billing Authority proportion of Pot A	County Council proportion of Pot A
Harwich	80% Tendring District Council	20% Essex County Council
Gateway 14	80% Mid Suffolk District Council	20% Suffolk County Council
Felixstowe	80% East Suffolk District Council	20% Suffolk County Council

- 2.8 Pot A funds shall be profiled to reflect a gradual increase over time, rather than applying a fixed rate of total Retained NNDR from year one onwards. This should permit funds to flow into Pot B and Pot C faster in earlier years of the Benefit Window. For the Felixstowe and Harwich Tax Sites no Pot A funds will be distributed in the first 10 years of the Benefit Window in respect of either Tax Site. Where Pot A funds are deferred in the first 10 years of the Benefit Window pursuant to this paragraph 2.8 such funds shall be wholly disbursed within the following 5-10 years (to ensure funds are disbursed before the end of year 20).

- 2.9 In respect of Gateway 14, the Suffolk County Council proportion shown in the table above at paragraph 2.7 shall be allocated from year 6 of the Benefit Window onwards.

- 2.10 The Mid Suffolk District Council proportion shall follow a formula in the first 10 years of the Benefit Window where their allocation will be the lower of 16% of the Freeport Free Cashflow generated by the Gateway 14 Tax Site and the figures set out in the table below:

Year	Year	Maximum Pot A allocation to Mid Suffolk District Council
1	2023-24	Zero
2	2024-25	£277k
3	2025-26	£277k

4	2026-27	£422k
5	2027-28	£734k
6	2028-29	£808k
7	2029-30	£650k
8	2030-31	£650k
9	2031-32	£650k
10	2032-33	£650k

- 2.11 A Billing Authority may, by notifying FEL and the Accountable Body in writing, waive or defer any proportion of their Pot A allocation. Where a Billing Authority waives a proportion of their Pot A allocation, that allocation shall be made available for use under other areas of spending (as may be determined by a decision of the FEL Governing Board).
- 2.12 Where funds under Pot A are distributed to the relevant Local Authority Founding Member, it is expected that these funds will be utilised by the relevant authority to support the overall vision of Freeport East and be identifiable as such.

Pot B

- 2.13 Pot B shall be a pooled fund that can be utilised across all Tax Sites providing funds to expedite the increase in the attraction of individual Tax Sites to inward investment in line with the Freeport East objectives, including the sectoral targets for individual Tax Sites that are set out in the Full Business Case.
- 2.14 Across the duration of the Benefit Window the Pot B allocation for each Billing Authority shall be up to 35% of the Retained NNDR for the relevant Tax Site.

Therefore, the total funding for Pot B across the duration of the Benefit Window = (.35 x Retained NNDR generated by the Harwich tax Site) + (.35 x Retained NNDR generated by the Gateway 14 Tax Site) + (.35 x Retained NNDR generated by the Felixstowe Tax Site).

Pot C

- 2.15 Pot C shall be a wholly pooled fund that reflects Retained NNDR from all the Tax Sites. Pot C can be utilised anywhere across the Freeport East geography and wider travel to work area.
- 2.16 Pot C shall be at least 45% of the Retained NNDR generated by each Tax Site location.

Pot C Sub-Allocation – Enterprise Zone funds on Gateway 14

- 2.17 The parties acknowledge and agree that a proportion of the Gateway 14 Tax Site was originally identified as an Enterprise Zone. As such, 10% of the Freeport Free Cashflow under Pot C that accrues from that area or plot of the Tax Site that was also designated as an Enterprise Zone site shall be allocated to Suffolk County Council for delivery of the Investment Fund.

Schedule 3 Authorised Representatives

1. Authorised Representatives
 - 1.1 ESC's initial Authorised Representative: [INSERT DETAILS].
 - 1.2 MSDC's initial Authorised Representative: [INSERT DETAILS].
 - 1.3 TDC's initial Authorised Representative: [INSERT DETAILS].
 - 1.4 FEL's initial Authorised Representative: [INSERT DETAILS].

Schedule 4 Investment Strategy

[TO BE INSERTED]

Schedule 5 Freeport Forecast Free Cashflow Allocation Statement

Ref	Item (each a Forecast for the relevant year)	Note	£
1	Freeport Delivery Costs		
2	Accountable Body Delivery Costs		
3	<i>Total Delivery Costs</i>		
4	Felixstowe Tax Site NNDR (from s31 grant)		
5	Felixstowe Tax Site NNDR (direct from business rate payers)		
6	Gateway 14 Tax Site NNDR (from s31 grant)		
7	Gateway 14 Tax Site NNDR (direct from business rate payers)		
8	Harwich Tax Site NNDR (from s31 grant)		
9	Harwich Tax Site NNDR (direct from business rate payers)		
10	<i>Total forecast NNDR in relevant year</i>		
11	Felixstowe Tax Site contribution to delivery costs		
12	Gateway 14 Tax Site contribution to delivery costs		
13	Harwich tax Site contribution to delivery costs		
14	Felixstowe Tax Site Free Cash Flow		
15	Gateway 14 Tax Site Free Cash Flow		
	Harwich Tax Site Free Cash Flow		
	Felixstowe Tax Site – O/S Balance of “Intention to Fund”	Cumulative	
	Gateway 14 Tax Site – O/S Balance of “Intention to Fund”		
	Harwich Tax Site – O/S Balance of “Intention to Fund”		
	Felixstowe Tax Site – Pot A Allocation		
	Felixstowe Tax Site – Pot B Allocation		

Felixstowe Tax Site – Pot C Allocation

Gateway 14 Tax Site – Pot A Allocation

Gateway 14 Tax Site – Pot B Allocation

Gateway 14 Tax Site – Pot C Allocation

Harwich Tax Site – Pot A Allocation

Harwich Tax Site – Pot B Allocation

Harwich Tax Site – Pot C Allocation

Total Pot C Allocation

O/S Balance Forward Funding – MSDC	160,000
O/S Balance Forward Funding – SCC	160,000
O/S Balance Forward Funding – ESC	160,000
O/S Balance Forward Funding – ECC	160,000
O/S Balance Forward Funding – TDC	160,000

Schedule 6 Freeport Reconciliation Free Cashflow Allocation Statement

[as above][similar template but may also require some further lines to reflect any reconciliation transfers that may be due – alternatively AB can calculate those off the back of the Statement although it would probably be transparent to include it in the Statement itself]