

# **Appendix 1**

DATED \_\_\_\_\_ 2019

BRECKLAND DISTRICT COUNCIL

and

EAST CAMBRIDGESHIRE DISTRICT COUNCIL

and

FENLAND DISTRICT COUNCIL

and

WEST SUFFOLK COUNCIL

and

EAST SUFFOLK COUNCIL

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**AGREEMENT FOR THE RECONSTITUTION  
OF THE ANGLIA REVENUES PARTNERSHIP**

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**THIS AGREEMENT** is made the                      day of                      2019

**BETWEEN**

- (1) **BRECKLAND DISTRICT COUNCIL** of Elizabeth House Walpole Loke Dereham Norfolk NR19 1EE ("**Breckland**") of the first part
- (2) **EAST CAMBRIDGESHIRE DISTRICT COUNCIL** of The Grange Nutholt Lane Ely Cambridgeshire CB7 4EE ("**East Cambridgeshire**") of the second part and
- (3) **FENLAND DISTRICT COUNCIL** of Fenland Hall County Road March PE15 8NQ ("**Fenland**") of the third part
- (4) **WEST SUFFOLK COUNCIL** of West Suffolk House Western Way Bury St Edmunds Suffolk IP33 3YU ("**West Suffolk** of the fourth part
- (5) **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Woodbridge Suffolk IP12 1RTU ("**East Suffolk**") of the fifth part

**Together referred to as the 'Five Councils'**

**RECITALS**

- (i) The parties hereto have entered into this Agreement having recognised that significant efficiency and financial gains can be made by working together to deliver revenues and benefits services in partnership thereby enabling them to secure administrative advantages and economies of scale and to provide a robust and flexible service to their councils.
- (ii) On the 01 April 2015 Breckland District Council, Fenland District Council, East Cambridgeshire District Council, Forest Heath District Council, St Edmundsbury Borough Council, Suffolk Coastal District Council and Waveney District Council (then referred to as the Seven Authorities) being duly empowered to do so under their constitutional arrangements and by law in force at the time agreed to form a joint committee ("**the 2015 Joint Committee**") pursuant to Section 101 (5) and Section 102 of the LGA 1972, Section 20 of the LGA 2000 and the 2000 Regulations and 2012 Regulations.

- (iii) On the 01 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were abolished and a new non-metropolitan district council, West Suffolk Council, was created by virtue of the West Suffolk (Local Government Changes) Order 2018.
- (iv) On the 01 April 2019 Suffolk Coastal District Council and Waveney District Council were abolished and a new non-metropolitan district council, East Suffolk Council, was created by virtue of the East Suffolk (Local Government Changes) Order 2018.
- (v) On the 01 April 2019 the functions of the abolished councils referred to in recitals (iii) and (iv) above became the functions of the new district councils by virtue of the Local Government (Boundary Changes) Regulations 2018 and the Seven Councils referred to in all arrangements for the creation of the 2015 Joint Committee will mean the Five Councils referred to in this Agreement.
- (vi) The 2015 Joint Committee was created for the purpose of:
  - (a) Jointly managing the administration and performance of the Five Councils' respective statutory functions relating to the collection of council tax and non-domestic rates and the payment of housing and other relevant benefits;
  - (b) To establish a joint operational unit known as the Anglia Revenues Partnership ("ARP") under the control and management of the 2015 Joint Committee to provide the Five Councils with such services ("the JC Services);
  - (c) To enter into a Reconstitution Agreement to regulate the constitution and proceedings of the 2015 Joint Committee and the relationships between the Five Councils and between each of the Five Councils and the 2015 Joint Committee and the future operation and funding of the ARP and making provision for:-
    1. the constitution, meetings, officers and funding of the 2015 Joint Committee;
    2. the transfer to the control and management of the 2015 Joint Committee the existing ARP.

- (vii) This Reconstitution Agreement will for all intents and purposes replace the Reconstitution Agreement made between the Seven Councils on the 10 September 2015 subject to the 2015 Joint Committee which will continue to remain in effect from 00.01 hours on the 01 April 2015.
- (viii) The Five Councils have pursuant to Section 95 of the LGA 2003 formed a wholly owned company limited by shares registered under the Companies Acts (“ARP Trading Limited”) for the purpose of them being in a position to jointly trade commercially in their functional activities in respect of the JC Services.
- (ix) The Five Councils have mutually exchanged information concerning their performance of their statutory functions within the definition of the JC Services (including financial reports and audit reports in respect of the previous two Financial Years together with other independent reports and assessments relevant to such performance).

**NOW THIS AGREEMENT WITNESSES:**

**1. INTERPRETATION**

1.1 In this Agreement:

**“Accountancy Protocol”**

means the Budget Policies and Procedures at Schedule 3 of this Agreement

**“Action Plan”**

means a written plan agreed by the Five Councils under Clause 10.3;

**“ADR Notice”**

means a notice given pursuant to Clause 22.2;

**“Alternative Business Structure”**

means for the purposes of this Agreement, further Joint Committee partnership; limited company; **Arms Length Management Organisations; or such business vehicles that may be available for the running and management of local authority services.**

**“ARP”**

means the operational unit entitled the Anglia Revenues Partnership controlled and managed by the 2015 Joint Committee pursuant to this Agreement;

**“ARP Management Team”**

means the working group of senior employees of the ARP established by the 2015 Joint Committee pursuant to Clause 5.1;

**“ARP Trading Limited”**

means the company limited by shares of which the Five Councils are equal shareholders pursuant to Section 95 of the LGA 2003;

**“The Chair”**

means the person who is the Chair of the 2015 Joint Committee from time to time elected under Clause 3.13;

**“Commencement Date”**

means the 1st April 2019 when West Suffolk and East Suffolk Councils were created;

**“DPA and GDPR”**

means the Data Protection Act 2018 and the General Data Protection Regulation;

**“DWP”**

means the Department of Works and Pensions

**“Employment Costs”**

means all salaries, wages, sick pay, holiday pay, pension contributions, bonuses, commission, maternity, paternity and adoption pay, redundancy pay, expenses (including, but not limited to travel and subsistence allowances and disturbance pay), **tribunal awards or pre dispute resolution settlements** income and other taxes, national insurance contributions and levies of any kind for which an employer is accountable and all other normal employment costs;

**“Financial Year”**

means a period of one year commencing on 1<sup>st</sup> April in any year and ending on 31<sup>st</sup> March in the next following year;

**“FOIA”**

means the Freedom of Information Act 2000

**“Five Councils”**

means together the parties hereto;

**“JC Member”**

means a member of the 2015 Joint Committee appointed in accordance with Clause 3.1;

**“JC Services”**

means the functions and services listed respectively in Part I and Part II of Schedule 1 of this Agreement;

**“LGA 1972”**

means the Local Government Act 1972 (as amended);

**“LGA 2000”**

means the Local Government Act 2000 (as amended);

**“LGA 2003”**

means the Local Government Act 2003 (as amended);

**“2015 Joint Committee”**

means the joint committee formed by the Seven Councils and now the Five Councils pursuant to the resolutions of the Five Councils to that effect pursuant to the terms of this Agreement;

**“Operational Improvement Board”**

means the working group of senior employees from ARP and the Five Councils established by the 2015 Joint Committee pursuant to Clause 5.4;

**“Review Report”**

means a report referred to in Clause 11.1;

**“Secretary”**

means the Secretary of the 2015 Joint Committee for the time being appointed pursuant to Clause 3.21;

**“Service Delivery Plan”**

means the document agreed by the 2015 Joint Committee on an annual basis regarding service standards;

**“Statement of Intent”**

means the Statement produced under Clause 10.4.1 setting out the reasons of the Council producing it for intending to serve a notice of withdrawal under Clause 10.3;

**“Support Services”**



means any service required to support the operations of the ARP including but not limited to human resources finance ICT internal audit procurement and legal;

**“2000 Regulations”**

means the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000 No. 2851) as amended by the Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 (S.I. 2001 No.3961);

**“2012 Regulations”**

means the Local Authorities (Arrangements for the Discharge of Functions (England) Regulations 2012 (SI 2012 No. 1019);

**“Treasurer”**

means the officer appointed as the Chief Financial Officer of the 2015 Joint Committee pursuant to Clause 3.22;

**“TUPE”**

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended;

**“Value for Money Objectives”**

means the responsibility incumbent upon all councils to ensure that taxpayers’ money is spent responsibly balancing the need for high quality service delivery with the need to reduce costs;

**“Vice-Chair”**

means the person who is the Vice-Chair of the 2015 Joint Committee elected from time to time under Clause 3.13;

**“Working Days”**

means Monday to Friday (9am – 5pm Monday to Thursday and 9am to 4.30pm Friday), with the exception of public holidays in England.

- 1.2 In this Agreement (unless the context requires otherwise):
  - 1.2.1 references to Clauses Schedules and Paragraphs are to the clauses Schedules and paragraphs of this Agreement. Any reference to a sub-clause or a sub-paragraph is to the relevant sub-clause or sub-paragraph of the Clause or Schedule in which it appears;
  - 1.2.2 the table of contents and headings are not part of this Agreement and are not to be taken into account in the interpretation of this Agreement;
  - 1.2.3 the use of the masculine gender alone includes the feminine and neuter genders and the singular includes the plural and vice versa;
  - 1.2.4 references to legislation (including subsidiary legislation) determinations and directions include all amendments replacements or re-enactments thereof and all regulations determinations directions and statutory guidance made or given under them save that the treatment under this Agreement of any such amendment or modification that imposes any new or extended obligation or liability adversely affecting the parties or any of them shall be determined by the 2015 Joint Committee after consultation with the Five Councils;
  - 1.2.5 any reference to a requirement for “consent” or “approval” shall be taken to be the prior written consent or approval of the relevant person or body;
  - 1.2.6 the terms “including” and “in particular” are illustrative only and are not intended and shall not limit the meaning of the relevant words that precede them;
  - 1.2.7 the term “persons” means individuals, companies, industrial and provident societies, limited liability partnerships, statutory bodies, or other bodies with a legal personality and includes H.M. Government, Government Departments, and the European Union and its constituent parts.
- 1.3 The Schedules to this Agreement are to have effect as if set out in full in the body of this Agreement and references to this Agreement include the Schedules.

## **2. THE 2015 JOINT COMMITTEE**

- 2.1 Each of the Five Councils agree that the 2015 Joint Committee shall have all the powers of Breckland, East Cambridgeshire, Fenland, West Suffolk and East Suffolk (with effect from the Commencement Date) over the finances made available by Her Majesty's Government the European Union and other sources of finance to each of the Five Councils in relation to or in respect of the establishment, maintenance and development of the JC Services.
- 2.2 Each of the Five Councils hereby warrants that it shall not do nor omit to neither do nor permit to be done anything that prevents or inhibits or seeks to prevent or inhibit the 2015 Joint Committee from carrying out all or any of the JC Services.
- 2.3 Each of the Five Councils shall at all times co-operate with each other and shall work within the spirit of openness, honesty, trust, and with a co-operative approach in respect of each of the others of the Five Councils and with the 2015 Joint Committee.
- 2.4 Each of the Five Councils hereby agrees that it will make to the Treasurer of the 2015 Joint Committee such payments as are provided by this Agreement in full in accordance with the terms of this Agreement and shall meet such liabilities and carry out such obligations in respect of the establishment, maintenance and proceedings of the 2015 Joint Committee and of the operation of the ARP as may be provided by this Agreement or may be determined in accordance with the terms of this Agreement.
- 2.5 The 2015 Joint Committee and the Five Councils shall keep under review (having regard to each of the Five Councils' Value for Money Objectives) whether the performance of the JC Services should continue to be managed through the 2015 Joint Committee and may decide to consider and agree alternative mechanisms for the performance of the JC Services.
- 2.6 Where any of the Five Councils considers that its Value for Money Objectives require it to do so it shall have the right (after consultation with the others of the Five Councils and the 2015 Joint Committee) to make other arrangements for the performance of any of its statutory functions within the JC Services provided that to do so shall not be inconsistent with its obligations under this Agreement.

### **3. THE 2015 JOINT COMMITTEE, ITS ROLE, MEMBERSHIP, MEETINGS AND OFFICERS**

#### **Joint Committee Members**

- 3.1 Subject to Clause 3.2 each of the Five Councils shall appoint one of its members for the time being to be a member of the 2015 Joint Committee. In addition each of the Five Councils shall appoint two substitutes, who may attend meetings of the 2015 Joint Committee in the absence of their Council's JC Members.
- 3.2 All such appointments (whether made under Clause 3.1 or 3.4) shall be made in accordance with the relevant statutory provisions of Sections 101 and 102 of the LGA 1972 and of the 2000 Regulations or 2012 Regulations, as they may from time to time be applicable to each of the Five Councils.
- 3.3 Each JC Member shall remain in office until removed or replaced by his or her appointing Council or until ceasing to be a member of his or her appointing Council (or of the executive if Regulation 12 of the 2012 Regulations is applicable to his or her appointment).
- 3.4 Each of the Five Councils may remove and replace its JC Members at any time by giving notice of such removal or replacement to the 2015 Joint Committee by sending such notice to the Secretary within 5 days of effecting such removal or replacement.
- 3.5 The proceedings of the 2015 Joint Committee shall not be invalidated by any vacancy or by any defect or purported defect in the appointment of any JC Member.

#### **Meetings of the 2015 Joint Committee**

- 3.6 Part I of Schedule 12 of the LGA 1972 and the provisions of Clauses 3.7 to 3.17 shall apply to meetings of the 2015 Joint Committee.
- 3.7 Meetings of the 2015 Joint Committee shall normally be held once each quarter, subject to the need exceptionally to call additional meetings. The Chair shall

decide the venue, date and time of all meetings of the 2015 Joint Committee. Wherever practicable, at least ten Working Days notice of such meetings shall be given to each JC Member, the Secretary, the Treasurer, the Monitoring Officer and to each of the Five Councils.

- 3.8 Any JC Member may requisition a meeting of the 2015 Joint Committee by giving notice of such requisition to the Chair and to the Secretary. Immediately upon receipt of such requisition, the Chair shall call a meeting of the 2015 Joint Committee in accordance with Clause 3.7.
- 3.9 The standing orders applicable to council meetings of Breckland shall apply to meetings of the 2015 Joint Committee except in so far as the 2015 Joint Committee may agree amendments thereto or may adopt its own standing orders. All recommendations taken to the 2015 Joint Committee shall be voted upon and the majority shall prevail. Please refer to Clause 3.17 should an equality of votes arise.
- 3.10 No business may be transacted at a meeting of the 2015 Joint Committee unless a quorum is present. The quorum for a meeting of the 2015 Joint Committee shall be four JC Members or their substitute present in person. In the unlikely event that a JC Member or one of their substitutes is unable to attend a meeting of the 2015 Joint Committee a proxy arrangement may be agreed between the affected party and the remaining parties to this Agreement and a named member of the affected party may attend as such proxy. A substitute member or proxy member will count towards a quorum but will be unable to chair the meeting nor to vote on any issues. If the meeting is quorate but, upon considering an item brought to the Joint Committee the Chair determines (in consultation with the other Joint Committee members present) that it would be appropriate for all five JC Members (or their substitute) to be present, the item shall be deferred until the next meeting of the 2015 Joint Committee and a request shall be made for all five JC Members to be present or represented at that meeting.
- 3.11 If a quorum is not present within fifteen minutes of the time set for the commencement of a meeting of the 2015 Joint Committee (or a quorum ceases to be present during a meeting) the meeting shall be adjourned to the same day time

and venue seven days later or to such other date time and venue as the Chair (or other person who is chairing the meeting) shall determine.

- 3.12 One of the meetings of the 2015 Joint Committee referred to in Clause 3.7 shall be held during May or June of each calendar year and shall be the annual meeting of the 2015 Joint Committee at which the election of the Chair and Vice-Chair of the 2015 Joint Committee shall take place together with such other business as may be appropriate in the opinion of the outgoing Chair.

### **Chair and Vice-Chair**

- 3.13 The 2015 Joint Committee shall at each annual meeting elect a new Chair and a new Vice-Chair to hold office for the next ensuing year. The persons eligible to be elected as Chair shall not be the appointees of a Council whose appointee held that position in any of the four previous years. The persons eligible to be elected as Vice-Chair shall not be the appointees of a Council whose appointee held that position in the previous year. The Chair and Vice-Chair shall not be appointees of the same Council.
- 3.14 The Chair or Vice-Chair may be removed by a majority vote of all JC Members present at a meeting of the 2015 Joint Committee subject to the Chair or the Vice Chair being given the opportunity to address the meeting before the vote is taken to put his or her case why he or she should not be removed.
- 3.15 If the Chair or the Vice-Chair is removed by a vote of the 2015 Joint Committee or resigns or is otherwise unable to continue as Chair or Vice Chair he or she may be replaced by the election of a JC Member as Chair or Vice-Chair as the case may be who is the appointee of the same Council as the outgoing Chair or Vice-Chair.
- 3.16 The Chair shall preside at all meetings of the 2015 Joint Committee. If the Chair is not present within five minutes of the time for the commencement of a meeting, or being present does not wish to preside, or is unable to do so then the Vice-Chair shall preside at that meeting. If (in the event of the absence or non-availability of the Chair) the Vice-Chair is not present within five minutes of the time for the commencement of the meeting or does not wish to preside or is unable to do so, the meeting shall appoint a JC Member to chair the meeting.

- 3.17 In the event of an equality of votes the person chairing a meeting of the 2015 Joint Committee shall have a second or casting vote.

### **Responsibilities of the Chair and Vice-Chair**

- 3.18 The responsibilities of the Chair are as follows: -
- 3.18.1 to act as an ambassador for the 2015 Joint Committee and to represent the views of the 2015 Joint Committee to the general public and other organisations;
  - 3.18.2 to seek to ensure that the meetings of the 2015 Joint Committee are conducted efficiently;
  - 3.18.3 to give all JC Members and/or their substitutes/proxy an opportunity to express their views;
  - 3.18.4 to establish a constructive working relationship with, and to provide support for, any sub-committees or officers of the 2015 Joint Committee or of the ARP to whom the 2015 Joint Committee have delegated any of its powers and functions;
  - 3.18.5 to encourage the 2015 Joint Committee to delegate sufficient authority to officers of the 2015 Joint Committee or of the ARP to enable the statutory functions within the provision of the JC Services to be carried out efficiently between meetings of the 2015 Joint Committee;
  - 3.18.6 to ensure that the 2015 Joint Committee monitors and controls the use of delegated powers.
- 3.19 The role of the Vice-Chair is to deputise for the Chair during any period of the Chair's absence and during that period his or her responsibilities shall be the same as those of the Chair.
- 3.20 Except as provided by this Agreement neither the Chair nor the Vice-Chair has any authority or powers beyond those of any other JC Member.

### **Officers of the 2015 Joint Committee**

#### **(i) Secretary**

- 3.21 The Secretary of the 2015 Joint Committee shall be the officer for the time being designated by the 2015 Joint Committee. The Secretary shall be responsible for the recording of the minutes of all meetings of the 2015 Joint Committee and for

the circulation of draft minutes to each JC Member within five days of each meeting and responsible for the sending out of all notices and agendas of meetings. Minutes and records of the meetings of the 2015 Joint Committee shall be maintained by the Secretary in accordance with the requirements of the LGA 1972.

**(ii) Treasurer**

- 3.22 The Treasurer of the 2015 Joint Committee shall be appointed by the 2015 Joint Committee at each annual meeting for the next ensuing year from the Five Councils. The Treasurer as the Chief Financial Officer of the 2015 Joint Committee shall perform the functions of the relevant officer responsible for the administration of the financial affairs of the 2015 Joint Committee under Section 151 of the LGA 1972, Part VIII of the Local Government Finance Act 1988 and the Local Government (Accounts and Audit) Regulations 2003.

The Treasurer shall also perform the role of the accounting officer in respect of all funds held on account for or paid to the Five Councils or any of them by Her Majesty's Government the European Union or other sources of finance for any purposes of the JC Services and to make or provide all appropriate banking and accounting arrangements and services required for the due and proper receipt, holding and application of such funds in accordance with the requirements of Her Majesty's Government and in accordance with best practice.

**(iv) Legal Advice and Services in Respect of the Constitution and Governance of the 2015 Joint Committee**

- 3.23 Legal advice and services as detailed in Schedule 4 of this Agreement should be sought from the Head of Legal Services or equivalent for the time being of one of the Five Councils or, where the ARP Management Team considers it appropriate, and on the advice of a Head of Legal Services or equivalent of the Five Councils, from external legal sources on specialist matters, or in the event that a conflict of interest may arise or has arisen. Where the use of legal advice and services from an external source is required, the 2015 Joint Committee shall be required to approve the use of such external legal sources and their proposed fees for providing such legal advice and services. The precise manner in which such advice and services will be provided shall be the subject of a separate agreement between the Five Councils.



### **The Role of the 2015 Joint Committee**

- 3.24 The Role of the 2015 Joint Committee is to discharge the Five Council's statutory functions in respect of the JC Services including to: -
- 3.24.1 approve the Service Delivery Plan for each Financial Year including the approval of staffing requirements to be met by the Five Councils;
  - 3.24.2 approve the annual budget for the 2015 Joint Committee and the ARP;
  - 3.24.3 approve the annual report of the 2015 Joint Committee and the ARP;
  - 3.24.4 monitor expenditure and income of the 2015 Joint Committee and the ARP against the agreed annual budget;
  - 3.24.5 set progress and performance targets for the JC Services, approve the Service Delivery Plan for the performance of such Services and monitor and review the performance of such Services against such targets and delivery plan;
  - 3.24.6 recommend to the Five Councils any amendment of the terms of reference of the 2015 Joint Committee or of this Agreement;
  - 3.24.7 regularly review and update the ARP Health and Safety Policy having particular regard to any amendments required by reason of a change of law which Policy the Five Councils shall have developed as soon as is practicable following the entering into of this Agreement;
  - 3.24.8 appoint one or more sub-committees of the 2015 Joint Committee (in accordance with Regulation 11(4) of the 2000 Regulations) as it may consider to be required and to delegate specific functions to such sub-committees. Any sub-committee shall comprise a majority of JC Members (one of whom shall chair the sub-committee) but may include non-JC Members (namely from the membership of the Five Councils) and the 2015 Joint Committee shall determine terms of reference of each sub-committee the term of office of each sub-committee member and the quorum for meetings of each sub-committee and the financial limits within which it shall operate;
  - 3.24.9 delegate specific functions to officers of the 2015 Joint Committee or of the ARP in accordance with the provisions of Section 101 of the LGA 1972 and Regulation 11(4) of the 2000 Regulations.

#### **4. HEALTH AND SAFETY POLICY**

- 4.1 The Five Councils shall through the 2015 Joint Committee regularly review and update an ARP Health and Safety Policy having particular regard to any amendments required by reason of a change of law.

#### **5. ARP MANAGEMENT TEAM AND OPERATIONAL IMPROVEMENT BOARD**

##### **ARP Management Team**

- 5.1 The 2015 Joint Committee has established a working group of ARP senior employees to be known as the ARP Management Team.

- 5.2 The members of the ARP Management Team shall continue to comprise the following officers of the ARP: -

The Head of ARP

The Strategic Manager (Billing and Benefits)

The Strategic Manager (Revenues)

The Strategic Manager (Support)

and such other officers of ARP as the 2015 Joint Committee may decide.

- 5.3 The responsibilities of the ARP Management Team shall be to: -

- 5.3.1 manage the performance of the JC Services so as to ensure, so far as is possible and practicable, the delivery of such Services in accordance with the Service Delivery Plan and the progress and performance targets for the JC Services set by the 2015 Joint Committee pursuant to Clause 3.25.5;

- 5.3.2 review the JC Services following a subsidy reclaim made by the DWP and in the event of such reclaim from the DWP or equivalent body to review the matter to which the reclaim relates and determine whether in the circumstances of the case the payment of the reclaimed amount shall be shared in accordance with the agreed percentages payable by the Five Councils for the period of subsidy reclaim;

- 5.3.3 report to the 2015 Joint Committee meetings on the progress and performance of the services provided by the ARP in connection with the provision of the JC

Services against the Service Delivery Plan and the progress and performance targets set by the 2015 Joint Committee pursuant to Clause 3.25.5;

- 5.3.4 strive to ensure that the services provided by the ARP are delivered equitably between the Five Councils, so far as may be practicable;
- 5.3.5 prepare and submit to the 2015 Joint Committee for its approval on or before 31<sup>st</sup> December in each year an annual budget, and annual Service Delivery Plan for the next Financial Year;
- 5.3.6 report to the 2015 Joint Committee on the income and expenditure of the ARP against the approved budget;
- 5.3.7 seek to ensure so far as is practicable that the JC Services are provided within the budget (to include the allocation of new burdens funding) approved by the 2015 Joint Committee and to notify the 2015 Joint Committee of any material divergence from the annual budget and the reasons therefore;
- 5.3.8 recommend to the 2015 Joint Committee the resources (including staffing resources) required to provide the JC Services to the requisite performance standards and any changes required in such resources to maintain such performance standards;
- 5.3.9 make appropriate recommendations to the 2015 Joint Committee on any matter of relevance to the business of the 2015 Joint Committee and of the ARP.

#### **Operational Improvement Board**

- 5.4 The 2015 Joint Committee has established an Operational Improvement Board.
- 5.5 The members of the Operational Improvement Board shall continue to be a working group of senior employees from ARP and the Five Councils as established by the 2015 Joint Committee.
- 5.6 The Operational Improvement Board shall meet monthly and report to the 2015 Joint Committee.
- 5.7 The responsibilities of the Operational Improvement Board shall be to:-
  - 5.7.1 clarify service standards/levels provided by the ARP on behalf of each of the Five Councils in particular:-
    - 5.7.1.1 interface with client services;

- 5.7.1.2 performance management requirements;  
and ensure a clear relationship between the ARP and client services in terms of areas of responsibility and fairness of cost/benefit arising;
- 5.7.2 shape future services both for each of the Five Councils and the ARP by identifying issues and prioritisation of them by the ARP management;
- 5.7.3 provide a basis to resolve problems and improve service incrementally over time;
- 5.7.4 where no Support Service arrangements have been agreed, or where it is deemed time to review the existing Support Service arrangements, decide how on going Support Service arrangement should be provided for ARP and
- 5.7.5 receive reports on specific employee Employments Costs.
- 5.7.6 consider and agree any future spending in respect of additional funding

## **6. FINANCE, BUDGETING AND AUDIT**

### **Finance – Budgets**

- 6.1 The budget for the provision of the JC Services on behalf of the Five Councils for the Financial Year 2019/20 set out in Schedule 2 has been approved by the Five Councils.
- 6.2 A draft budget for each Financial Year subsequent to 2019/20 shall be prepared by the ARP Management Team in collaboration with the Heads of Finance and Chief Finance Officers (or equivalent) of the Five Councils respectively and submitted to the Treasurer for consideration. The draft budget shall be based upon the budget for the previous Financial Year updated for any anticipated changes considered necessary and shall take account of the information in Schedule 3, paragraph 2.1
- 6.3 The draft budget shall also have appended to it a Schedule detailing the payments estimated to be required to be made by each of the Five Councils during the relevant Financial Year.
- 6.4 After being considered by the Treasurer, the draft budget shall be submitted to the 2015 Joint Committee for approval and thereafter submitted to each of the Five Councils so as to be received by them by no later than 31<sup>st</sup> December in each year.

- 6.5 Any comments of the Five Councils on the draft budget shall be submitted to the ARP Management Team who shall report to the 2015 Joint Committee the comments of each of the Five Councils and the effect thereof and the 2015 Joint Committee shall, having taken such comments and the report of the ARP Management Team into consideration, decide whether or not to approve the draft budget whether in the original or an amended form.
- 6.6 If the 2015 Joint Committee approves the draft budget (whether or not as amended) it shall become the approved budget for the relevant Financial Year and a copy of the approved budget shall be submitted to each of the Five Councils.
- 6.7 If the 2015 Joint Committee fails to approve a budget for the relevant Financial Year the process referred to in Clauses 6.2 to 6.6 shall be repeated in an attempt to secure an approved budget as soon as possible and in the meantime the JC Services shall be provided on the basis of the approved budget for the previous Financial Year with such amendment as the 2015 Joint Committee may determine.
- 6.8 In the event that the budget for the current Financial Year requires amendment to meet any overspend or increase in the costs of the provision of the JC Services by the ARP for that year, the ARP Management Team shall report thereon to the 2015 Joint Committee. If the 2015 Joint Committee agrees that the budget requires amendment it shall notify the Five Councils thereof and of the proposed amendments to the budget and of any increased payments it proposes that should be required from the Five Councils. The 2015 Joint Committee shall consider any comments on the proposals and determine whether or not and how the budget shall be amended and the amount of any additional payment required to be made by each of the Five Councils to meet the overspend or increase in the ARP's costs.
- 6.9 The ARP Management Team shall report as soon as practicable to the 2015 Joint Committee on any deficit or surplus arising during the current or immediately preceding Financial Year as compared with the approved budget. Any such deficit shall be met or any such surplus shall be dispersed by reference to the Accountancy Protocol.

#### **Payments to be made by the Five Councils**

- 6.10 The Five Councils shall in each Financial Year each pay to the funds of the 2015 Joint Committee sums in respect of the expenses of the 2015 Joint Committee and the costs of provision of the JC Services on behalf of each of them by the ARP.
- 6.11 The budget for the Financial Year 2015/16 set out in Schedule 2 and referred to in Schedule 3 formed the baseline position from which all further adjustments to the budget would be calculated. For each Financial Year subsequent to 2015/16 the cost of any increases or savings from any decreases in the ARP budget are allocated to each of the Five Councils in line with the agreed percentages set out in Paragraph 5.1 of the Accountancy Protocol. The agreed ARP percentage figures will be reviewed annually as set out in Paragraph 5.2 of the Accountancy Protocol.

#### **One-off Costs**

- 6.12 The One-off Costs shall be paid by each of the Five Councils in accordance with the percentages provided by Clause 6.11 upon receipt of an invoice from the Treasurer.
- 6.13 Each of the Five Councils shall pay the sums and percentages provided by Clauses 6.10 and 6.11 to the Treasurer for the credit of the funds of the 2015 Joint Committee in each Financial Year during which this Agreement remains in force.

#### **Accounts and Audit**

- 6.14 The Treasurer shall maintain the accounts of the 2015 Joint Committee and the ARP in accordance with the requirements of the Accounts and Audit (England) Regulations 2015 and the Local Authority Accountancy Act 2014 and with the requirements of the Department of Social Security, H.M. Treasury, H.M. Revenue and Customs, and all other applicable requirements.
- 6.15 Independent and objective internal audits of the JC Services shall be undertaken by the Five Councils either independently or in accordance with the provisions and schedules contained within Service Level Agreements outside this Agreement.

## **7. EMPLOYEES OF THE ARP**

- 7.1 The Five Councils shall ensure that sufficient and appropriate employees shall be made available to undertake and manage the activities necessary or expedient for the proper and adequate provision of the JC Services as approved in the annual staffing establishment by the 2105 Joint Committee on behalf of the Five Councils. A draft staffing establishment for each Financial Year subsequent to the establishment of the ARP shall be prepared by the ARP Management Team in collaboration with the Heads of Human Resources (or equivalent) of the Five Councils respectively and submitted to the Treasurer for consideration. The draft establishment budget shall be based upon the establishment for the previous Financial Year updated for any anticipated changes considered necessary.
- 7.2 Any employee allocated by any of the Five Councils, as the case may be, to carry out any activities necessary or expedient for the provision of the JC Services shall be required to report to the 2015 Joint Committee unless his or her terms of employment require otherwise and subject to the obligations of the council as his or her employer.
- 7.3 Each of the Five Councils warrant and represent that:
- 7.3.1 it shall (subject to Clause 7.5 and without prejudice to the indemnities in Clause 7.3.5) continue to pay all Employment Costs for each of its employees allocated to carry out work in respect of the 2015 Joint Committee and the provision of the JC Services (to be covered by the payment detailed in Clauses 6.10 and 6.11);
- 7.3.2 the allocation of such of its employees to carry out work in respect of the 2015 Joint Committee and the provision of the JC Services does not breach the terms of their contracts of employment;
- 7.3.3 it shall use reasonable endeavours to ensure that its employees so allocated shall perform their duties with the skill care and diligence to be expected of a competent employee engaged in the performance of those duties having regard to the grade and experience of such employees;
- 7.3.4 it shall use reasonable endeavours to ensure that nothing is done by it or by its employees or agents which results in a breach of the contract of employment of

- any member of the ARP employees or of any employee of another council so allocated;
- 7.3.5 it shall indemnify the others of the Five Councils against all claims by or in respect of its employees allocated to the 2015 Joint Committee or the ARP in respect of the delivery of Support Services in the provision of the JC Services caused by the fault negligence or omission of that Council or its employees or agents in respect of the provision of the JC Services and take disciplinary action against such employees, if the employing Council deems appropriate; and
- 7.3.6 (in respect of issues arising under 7.3.5) it shall be responsible for all claims by or in respect of its employees allocated to the 2015 Joint Committee or the ARP in respect of the provision of the JC Services caused by the fault negligence or omission of that Council or its employees or agents towards those employees.
- 7.4 The Five Councils agree to indemnify each other against all costs in relation to pensions and pensions' contributions in respect of any employees transferred/working within ARP in accordance with the percentages in Paragraph 5.1 as may be amended by Paragraph 5.2 of the Accountancy Protocol (Schedule 3).
- 7.5 Each of the Five Councils shall where relevant cooperate and give assistance to and act in good faith towards each other in order to enable each of the others of these Councils to comply with their legal obligations in respect of their own employees.
- 7.6 In the event that an employee of the 2015 Joint Committee is to be offered early retirement, redundancy or termination with associated payments, then such an offer to a specific employee will be reported to the next available Operational Improvement Board meeting.
- 7.7 In the event that: -
- 7.7.1 the 2015 Joint Committee is dissolved pursuant to Clause 10.2 because of a decision by any or all of the Five Councils to withdraw from the 2015 Joint Committee; or
- 7.7.2 such Council no longer requires any part or element of the JC Services to be performed on its behalf by the ARP; and



7.7.3 TUPE does not apply to transfer the contracts of employment of all or any of the relevant employees of the others of the Five Councils carrying out work in connection with the performance of the JC Services on behalf of that Council or to any new contractor engaged by that Council

then that Council shall indemnify the others of the Five Councils against all contractual and statutory redundancy payments and notice payments made to employees dismissed by those others of the Five Councils for the reasons of redundancy arising from such withdrawal of that Council from the 2015 Joint Committee or the cessation of the performance of all or any of the JC Services by ARP on its behalf.

7.8 The Employment Costs incurred by any of the Five Councils in respect of any of its employees allocated to the 2015 Joint Committee or the ARP, other than the costs covered by the indemnities in Clauses 7.3.5, 7.5, and 7.6, shall be a charge against the accounts of the 2015 Joint Committee.

7.9 In the event that all Five Councils wish to consider dissolution and transfer to an Alternative Business Structure, all Five Councils agree:

7.9.1 that all Five Councils shall jointly instruct a pensions expert to undertake an actuarial and valuations assessment of the 2015 Joint Committee employee pensions contributions and liability, being both current and inherited liability ("Pensions Valuation Report") as at an agreed date, prior to dissolution; and

7.9.2 that full disclosure of the information submitted by or on behalf of the Five Councils in respect of Clause 7.9.1 shall be available to all Five Councils, together with any drafts and final copies of the most recent Pensions Valuation Report; and

7.9.3 that upon receipt of the most recent Pensions Valuation Report, each Council shall be liable for a proportion that directly relates to the caseload undertaken at the time of the dissolution, as calculated under Paragraph 5.1 or as may be amended by Paragraph 5.2 of the Accountancy Protocol and to the extent that it is necessary to indemnify the others of the Five Councils of any outstanding liability; and

7.9.4 that all Five Councils must then consider whether to transfer the 2015 Joint Committee employee pensions and liability detailed in the most recent Pensions Valuation Report to the Alternative Business Structure.

## **8. ARP PREMISES, ASSETS, CONTRACTS AND INTELLECTUAL PROPERTY**

### **Premises**

8. The costs of the premises at Breckland House, Thetford occupied and used by the 2015 Joint Committee or by the ARP for the provision of the JC Services shall be charged to the accounts of the 2015 Joint Committee in accordance with Clause 2.1 of Schedule 3

### **Assets**

8.1 Any assets allocated for use by the ARP for the provision of the JC Services shall remain the property of the Council who owned it prior to the formation of the 2015 Joint Committee.

8.2 Any jointly used new assets procured by one of the Five Councils (as determined by the 2015 Joint Committee) on behalf of and at the cost of the 2015 Joint Committee (subject to the standing orders of the procuring Council and any applicable procurement legislation) shall be owned by the Five Councils in proportion to the percentages determined under Paragraph 5.1 or as may be amended by Paragraph 5.2 of the Accountancy Protocol.

8.3 The 2015 Joint Committee shall be responsible for the security, maintenance and repair of all assets used by it and the ARP for the provision of the JC Services.

8.4 A register of assets shall be maintained by the Treasurer showing the ownership, the date of its allocation to, or purchase for, the purposes of the 2015 Joint Committee for use by the ARP and the date of disposal of all assets allocated to or used by the 2015 Joint Committee formerly used by the ARP.

### **Contracts**

- 8.5 All contracts (whether for goods, equipment, supplies, services or use of intellectual property rights) entered into on behalf of the 2015 Joint Committee or its predecessor for use by the ARP shall (subject to the provision of any necessary licence or approval of the other contracting party) be continued in effect.
- 8.6 Any new contracts required for the purposes of the 2015 Joint Committee for the benefit of the ARP for the provision of the JC Services shall be procured by one of the Five Councils (as determined by the Operational Improvement Board) on behalf of the 2015 Joint Committee in accordance with the acquiring Council's standing orders and any applicable procurement legislation and the procuring Council shall remain contractually liable for any rights obligations and liabilities arising under the contracts and shall act in that regard in the best interests of the Five Councils and the 2015 Joint Committee and account for any monies received to the 2015 Joint Committee and be entitled to seek recompense from the funds of the 2015 Joint Committee for any expenditure properly and reasonably incurred in that respect.

### **Intellectual Property**

- 8.7 Each of the Five Councils shall grant to each of the others of the Five Councils a royalty free licence to copy and use through the 2015 Joint Committee all materials relevant to the JC Services in which it has intellectual property rights for use by or for the 2015 Joint Committee and the ARP only. The Council owning such intellectual property rights shall indemnify the others of the Five Councils in respect of any claim for infringement of the intellectual property rights of a third party and shall notify the others of the Five Councils and the 2015 Joint Committee as soon as it receives notice of any such claim.

## **9. INDEMNITIES INSURANCE AND LIABILITIES AND CONDUCT OF CLAIMS**

### **Indemnities**

- 9.1 Save as provided under Clause 5.3.2 (*subsidy reclaims*) and Clauses 7.3.5 and 7.3.6 (*employee fault negligence or omission*) each of the Five Councils shall indemnify the others of them and their employees and agents against all claims

demands actions costs and expenses (including legal expenses on an indemnity basis) which such other of the Five Councils or its employees or agents may incur as a result of any act omission or default of the others of the Five Councils as the case may be or of their employees or agents in respect of this Agreement and:

- 9.1.1 breach of contract;
  - 9.1.2 damage to real and personal property; or
  - 9.1.3 injury to persons including injury resulting in death.
- 9.2 Save as provided by Clauses 7.3.5 and 7.3.6, (*employee fault negligence or omission*) each of the Five Councils shall indemnify the others of them from and against any damages or awards paid to any of its employees or his or her personal representatives or payment made in settlement of any claims made by an employee or his or her personal representative arising from a breach by that Council of this Agreement or from negligence of that Council or its employees or agents (including legal expenses on an indemnity basis).
- 9.3 Save as provided under Clause 5.3.2 (*subsidy reclaims*) and Clauses 7.3.5 and 7.3.6 (*employee fault negligence or omission*) each of the Five Councils shall release and indemnify the others of the Five Councils and their members and officers from and against all liability for any of the following which arise out of or in consequence of the obligations under this Agreement, including but not limited to:
- 9.3.1 breach by that Council of its supply contracts for goods or materials or equipment made or to be made available to the 2015 Joint Committee for the purposes of the JC Services; or
  - 9.3.2 breach by that Council of the terms of any other of the Five Councils' supply contracts for such goods or materials or equipment.
- 9.4 Where one of the Five Councils enters into such a supply contract as is referred to in Clause 9.3.1 then the others of the Five Councils shall release and indemnify the contracting Council in respect of any breach by those others of the Five Councils (or of their officers or agents) of the obligations under such a supply contract arising from or in consequence of any non-performance or part performance acts defaults omissions breaches and negligence of any obligation under that supply contract.

- 9.5 A Council shall not be responsible or obliged to indemnify any other or others of the Five Councils for:
- 9.5.1 any liability under Clause 9.3 which arises as a direct result of one of the Five Councils acting on the instructions of any other or others of the Five Councils (to the extent that the other Council is or other Councils are entitled to give such instructions); or
- 9.5.2 any injury loss damage cost and expense caused by the negligence wilful misconduct or a breach of this Agreement by any other or others of the Five Councils or an agent contractor or employee of any other or others of the Five Councils.
- 9.6 None of the Five Councils shall be liable in tort to any other or others of the Five Councils for any negligent act or omission of that other Council or those other Councils relating to this Agreement and the only remedy of such other Council or Councils is under this Agreement. Each of the Five Councils shall use reasonable endeavours to procure that no agent, contractor or employee of it brings a claim in tort or otherwise against any of the others of the Five Councils.
- 9.7 Any indemnity under any provision of this Agreement shall be without prejudice to any indemnity by the same Council under any other provision of this Agreement.
- 9.8 None of the indemnities under this Agreement shall apply and there shall be no right to claim damages for breach of this Agreement in tort or on any other basis whatsoever to the extent that any loss claimed is for loss of profits, loss of use, loss of production, loss of business or loss of business opportunity or is a claim for consequential or for indirect loss of any nature allegedly suffered by any Council.

### **Insurance and Liabilities**

- 9.9 Each of the Five Councils shall take out and maintain with a well established insurance provider or underwriter of repute for so long as may be necessary the following insurances in respect of their own employees premises and assets allocated to the 2015 Joint Committee for the use of the ARP: -
- 9.9.1 public liability insurance for a value of not less than £10 million for each and every claim;

- 9.9.2 employer's liability insurance for a value of not less than £10 million for each and every claim;
- 9.9.3 buildings and/or contents insurance;
- 9.9.4 any other insurances required by law or agreed by the 2015 Joint Committee to be appropriate.
- 9.10 In respect of any assets owned by any of the Five Councils and allocated to the 2015 Joint Committee for use by the ARP, the Council nominated by the Joint Committee shall take out and maintain the insurances referred to in Clause 9.9.
- 9.11 Any new assets or any accommodation or premises leased or acquired pursuant to Clauses 8.2 or 8.3 shall be insured by the Council nominated by the 2015 Joint Committee to acquire or lease such assets accommodation or premises on behalf of the 2015 Joint Committee for the purposes of the ARP.
- 9.12 In relation to the insurances referred to in Clauses 9.9, 9.10 and 9.11: -
- 9.12.1 the interests of the others of the Five Councils shall be noted on the policies;
- 9.12.2 none of the Five Councils shall take any action or fail to take any action nor allow anything to occur which would entitle an insurer to refuse a claim under any of the insurance policies or which may render such a claim wholly or partially repayable;
- 9.12.3 each of the Five Councils shall provide to the others of the Five Councils copies of insurance policies referred to in Clauses 9.9, 9.10 and 9.11 and evidence of the payment of the premiums and that the insurances are in full force and effect.
- 9.13 In the event of a default by the responsible Council in taking out and maintaining any requisite insurance one of the others of the Five Councils may pay the premium or take out the requisite insurances and recover its costs from the responsible Council as a debt.
- 9.14 Other than in respect of the insurances referred to in Clauses 9.9.1 and 9.9.2 a Council responsible for taking out or maintaining insurances may (subject to the prior agreement of the 2015 Joint Committee) decide to self insure in respect of any risks or interest as defined and agreed by the 2015 Joint Committee and to accept and meet liability thereof as if it were an insurer of such risks or interest.

## **Conduct of Claims**

- 9.15 The conduct by one of the Five Councils of claims made by a third person against it in relation to a matter related to this Agreement in connection with a potential liability described in Clauses 9.1 to 9.8 shall be dealt with under the procedures set out in Schedule 4 of this Agreement.

## **10. COMMENCEMENT AND TERMINATION**

### **Commencement of the Agreement**

- 10.1 This Agreement shall come into at the date at the beginning of this Agreement and shall replace the Reconstitution Agreement dated 10 September 2015 subject to Clause 2 of that Agreement which shall continue to be in force.

### **Withdrawal of a Party from this Agreement**

- 10.2 Subject to the requirements of Clause 10.3 any of the Five Councils may withdraw from the 2015 Joint Committee on giving two years notice to the others of the Five Councils, in accordance with Clause 25. On the effective date of any such withdrawal, being two years after the date of service of the notice set out in Clause 25, this Agreement shall terminate and the 2015 Joint Committee shall be dissolved (save that any of the remaining Councils may enter into a new joint arrangement on such terms as the remaining Councils may agree).
- 10.3 Before serving a notice under Clause 10.2 the Council wishing to withdraw from the 2015 Joint Committee must have:-
- 10.3.1 served a Statement of Intent on the others of the Five Councils setting out the reasons underlying their intention to leave the 2015 Joint Committee and
- 10.3.2 discussed the Statement of Intent with the others of the Five Councils with a view to agreeing an Action Plan at a meeting of the 2015 Joint Committee that shall be convened to take place within 28 days of the date of service deemed under Clause 25 but
- 10.4 failed to agree an Action Plan to address the concerns expressed or improved outcomes cited following discussion to deal with these.

- 10.5 Where an Action Plan is agreed the Five Councils will ensure that it is carried out.
- 10.6 Where an Action Plan is not agreed, then the Treasurer shall agree the appointment of an independent actuary to value assets, for the purposes of redistribution/sale or repayment to the Council leaving the 2015 Joint Committee, in accordance with the percentages set out in Paragraph 5.1 or as may be amended by Paragraph 5.2 of the Accountancy Protocol, and the Provisions on Termination set out under Clause 10.7 shall be applied.

#### **New Member**

- 10.7 If at any time it is agreed by the Five Councils that one or more other local authorities shall join in or benefit from the activities of the 2015 Joint Committee this Agreement shall be terminated and the 2015 Joint Committee shall be dissolved on such date as may be agreed by the Five Councils and a new joint committee arrangement entered into on such terms as the Five Councils and such one or more other local authorities may agree.

#### **Provisions on Termination**

- 10.8 From receipt of a notice of withdrawal given under the provisions of Clause 10.2 until the date of termination of this Agreement and without prejudice to any other rights or remedies that the Five Councils have against each other under the terms of this Agreement:
- 10.8.1 each of the Five Councils shall continue to make the payments provided for in this Agreement in respect of the maintenance of the ARP and the costs of the ARP's provision of the JC Services in respect of that Council until date of termination. This shall be subject to any redistribution/sale or repayment to the Council in relation to the ARP assets, in the agreed proportions set out under Paragraph 5.1 as may be amended by Paragraph 5.2 of the Accountancy Protocol, such assets to be valued in accordance with Clause 10.5;
- 10.8.2 each of the Five Councils shall co-operate with each other to ensure a smooth and timely handover of the JC Services to each of those Councils or to any contractor or contractors appointed by them or any of them or to any successor to the ARP and



- 10.8.3 each of the Five Councils shall act in good faith and use reasonable endeavours to minimise loss or harm to the others of the Five Councils arising from such a termination of this Agreement.

**Provisions when dissolving ARP and transferring to an Alternative Business Structure**

- 10.9 In the event that the Five Councils resolve that they wish to dissolve ARP and move to an Alternative Business Structure, the Treasurer shall agree the appointment of an independent actuary and pensions expert, for the purposes of valuing assets and liabilities, including, although not limited to those detailed under Clause 7.11 and that, subject to Clause 8.5 shall be apportioned in accordance with the percentages calculated under Paragraph 5.2 of the Accountancy Protocol.

**11. REVIEW OF AGREEMENT**

- 11.1 At any time any one or more of the Five Councils may seek a review of this Agreement and the operation of the ARP and its performance of the JC Services by submitting a report detailing the reason for the review (Review Report) to each of the other of the Five Councils and the 2015 Joint Committee.
- 11.2 Upon receiving the Review Report the 2015 Joint Committee shall advise the OIB and task it with conducting the review.
- 11.3 On production of the Review Report the Five Councils will have 8 weeks in which to submit their comments to the OIB in order to allow time for committee/member briefing cycles.
- 11.4 On receipt of comments from each of the Five Councils within the timescale referred to in Clause 11.3 (or any extension thereof agreed by the OIB) the OIB shall meet to consider the content and recommendations of the Review Report in the light of the comments received from the Five Councils and submit to the Five Councils and the 2015 Joint Committee the revisions and amendments (if any) it proposes be made to this Agreement and this Agreement shall be amended (or if not amended shall be deemed to have been amended) to accord with the proposals of the Review Report (as revised and amended by the OIB) with effect

from such date as determined by the OIB. The outcome of the review shall be reported to the next meeting of the 2015 Joint Committee.

## **12. EQUAL OPPORTUNITIES**

- 12.1 The Five Councils shall work together through the 2015 Joint Committee to deliver the provision of the JC Services to a high standard of quality in a manner which is fair and equitable to all sectors of the communities of the Five Councils and their employees allocated to ARP and to this end each of the Five Councils shall agree:
- 
- 12.1.1 to adopt policies to comply with their statutory obligations under the Equality Act 2010 and any modification or re-enactment thereof and will not treat any person less favourably than any others because of that person's gender, sex or sexual orientation, marital or other status, race, nationality, ethnic origin, disability or age and will comply with all relevant codes of practice;
- 12.1.2 if found guilty of unlawful discrimination which relates to the ARP, to take steps to avoid a repetition of such unlawful discrimination and provide details of such steps to the others of the Five Councils; and
- 12.1.3 as far as possible to observe all relevant codes of practice for equal opportunities in employment especially in relation to the employees allocated to the ARP.

## **13. CONFIDENTIALITY**

- 13.1 Each of the Five Councils agrees that (except as required by law) it will:
- 13.1.1 keep confidential and not divulge to any person any agreed confidential, technical or commercial information concerning the business accounts finance technology expertise contractual arrangements or other dealings transactions or affairs of the others of the Five Councils; and
- 13.1.2 not use any such information for its own purposes (except as contemplated in this Agreement).
- 13.2 Each of the Five Councils agrees to use its reasonable endeavours to prevent the publication or disclosure of any such confidential information.

- 13.3 Clauses 13.1 and 13.2 do not apply to any confidential information (as agreed by the Five Councils) used, divulged or communicated:
- 13.3.1 pursuant to a contract for the supply of goods or services;
  - 13.3.2 pursuant to the procurement of goods and services in accordance with Clauses 8.2 and 8.6;
  - 13.3.3 pursuant to this Agreement;
  - 13.3.4 on the instructions of any other or others of the Five Councils;
  - 13.3.5 to its employees and professional advisers on terms that this information is confidential to them; or
  - 13.3.6 under any Court order or where there is statutory obligation to disclose it.
- 13.4 Each of the Five Councils undertake that they will not without the consent of the others of the Five Councils make any press or other announcement concerning any aspect of this Agreement or make any use of the names of the others of the Five Councils in consequence of this Agreement.

#### **14. DATA PROTECTION AND FREEDOM OF INFORMATION**

- 14.1 Each of the Five Councils agrees that in relation to any personal data (as defined in the DPA and GDPR) it holds in relation to this Agreement it will comply as a data controller if necessary with the DPA and GDPR including:
- 14.1.1 the seven data protection principles listed in Article 7 to the GDPR;
  - 14.1.2 (subject to any exemptions) requests from data subjects for access to data held by it; and
  - 14.1.3 the requirements relating to notification to the Information Commissioner by data controllers under Article 33 of the GDPR.
- 14.2 Each of the Five Councils agrees that if it acquires personal data from any other party in connection with this Agreement it will:
- 14.2.1 maintain a valid and up to date registration or notification under the DPA which covers all processing of such data which it undertakes;

- 14.2.2 only undertake processing of such personal data where it is reasonably required in connection with the performance of its obligations under this Agreement;
- 14.2.3 not disclose such personal data to any third party other than:
  - 14.2.3.1 disclosure on terms substantially the same as and no less stringent than those required by this Clause, to its employees agents and contractors to whom such disclosure is reasonably necessary in connection with the performance of its obligations under this Agreement; or
  - 14.2.3.2 as required by court order; or
  - 14.2.3.3 as may be required under relevant exemption under the DPA & GDPR.
- 14.2.4 bring into effect and maintain all technical and organisational measures to prevent unauthorised or unlawful processing of personal data and accidental loss or destruction of or damage to personal data including taking reasonable steps to ensure the reliability of employees having access to the personal data; and
- 14.2.5 (save as under any relevant exemption, where exemptions under the DPA & GDPR apply to obtaining consent) obtain the consent of data subjects to the disclosure of any personal data disclosed under this Agreement.
- 14.3 Nothing in this Agreement requires any of the Five Councils to disclose any information to another party if that Council considers that to do so would be in breach of the DPA and GDPR.
- 14.4 In the event that any of the Five Councils receives a request for information under the FOIA (relating to the JC Services provided by the ARP to the Council) then the Five Councils agree that the ARP shall provide all the necessary assistance as reasonably requested by the Council to enable the Council to respond to the request for information within the time for compliance set out in Section 10 of the FOIA.
- 14.5 The Council in receipt of the request for information shall be responsible for determining at its absolute discretion whether the information requested is exempt from disclosure in accordance with the provisions of the FOIA or may be disclosed.

## **15. WAIVER AND SEVERABILITY**

- 15.1 A failure or delay by any of the Five Councils in exercising any rights, powers or privileges under this Agreement will not operate as a waiver of them. The single or partial exercise of any right power or privilege does not prevent any other exercise of it or the exercise of any other right power or privilege (whether arising out of the same factual situation or otherwise). Any waiver of a breach of this Agreement is not to be effective unless given in writing signed by the Council waiving its entitlement. No waiver is to be deemed a waiver of any subsequent breach or default nor is it to affect the other terms of this Agreement.
- 15.2 The receipt of money does not prevent the Council receiving it questioning the correctness of the amount or any other statement in respect of money.
- 15.3 If any term of this Agreement is illegal void or unenforceable the remainder of this Agreement will continue in force as though that term had not been included in it.

## **16. ENTIRE AGREEMENT**

- 16.1 This Agreement sets out the whole agreement between the Five Councils in relation to the transaction it provides for.
- 16.2 Each of the Five Councils warrants that it has not entered into this Agreement on the basis of any representation made by any one or more of the others of the Five Councils except to the extent that such representation is expressly included in it (but nothing in this Clause 16 excludes any liability for fraudulent misrepresentation).

## **17. EXTENT OF OBLIGATIONS AND FURTHER ASSURANCE**

- 17.1 Nothing in this Agreement is to require any of the Five Councils to act in any way that is inconsistent with its obligations or duties as a local authority.
- 17.2 Each of the Five Councils undertakes (subject to Clause 17.1) to do all things and execute all further documents that may reasonably be required by one or all of the others of the Five Councils to give effect to this Agreement.

## **18. NO PARTNERSHIP OR AGENCY**

- 18.1 Nothing in this Agreement is to constitute or be deemed a partnership within the meaning of the Partnership Act 1890 the Limited Partnerships Act 1907 the Limited Liability Partnerships Act 2000 or any other legislation concerning partnerships or limited liability partnerships.
- 18.2 None of the Five Councils shall hold itself out as the agent of any one or more of the others of the Five Councils or to have any authority to bind any one or more of the others of the Five Councils except to the extent that this Agreement expressly provides otherwise.

## **19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

## **20. VARIATIONS**

- 20.1 Except as provided by Clause 11.4 no person has authority on behalf of any of the Five Councils to agree to any variation to this Agreement except where the amendment is agreed to in writing by each of the Five Councils.
- 20.2 No consents to any variation to this Agreement are required from any person other than the 2015 Joint Committee (acting pursuant to Clause 11.4) or all of the Five Councils as detailed under Clause 20.1.

## **21. PREVENTION OF CORRUPTION/BRIBERY**

- 21.1 Where any of the Five Councils or any person employed by or acting on behalf of any of the Five Councils (whether with or without that Council's knowledge) has offered or given or agreed to give to any person or received or agreed to receive from any person any gift or consideration of any kind as an inducement or reward for:

- 21.1.1 doing or not doing or having done or not having done any action in relation to the obtaining or execution of this Agreement or any other contract with that Council;  
or
- 21.1.2 showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with that Council; or
- 21.1.3 where in relation to any contract with such a Council the Council or any person employed by that Council or acting on that Council's behalf has:
  - 21.1.3.1 committed any offence under the Bribery Act 2010 or legislation revoking or amending the same; or
  - 21.1.3.2 given any fee or reward the receipt of which is an offence under the LGA 1972 or Bribery Act 2010;

then the others of the Five Councils, if they all agree in writing so to do, may withdraw from this Agreement pursuant to Clauses 10.3. to 10.6 and recover from the aforesaid Council the amount of any loss they may suffer as a result of such termination of this Agreement.

## **22. MEDIATION AND ARBITRATION**

- 22.1 If any dispute arises out of this Agreement the Five Councils shall attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure (“**the Model Procedure**”).
- 22.2 To initiate mediation, the Chief Executive of any of the Five Councils seeking such mediation shall give notice in writing (“**ADR Notice**”) to the others of the Five Councils requesting mediation in accordance with Clause 22.1 and shall notify CEDR of the dispute.
- 22.3 If the Five Councils cannot agree the identity of the mediator within 10 Working Days of the date of the ADR Notice the mediator is to be appointed by CEDR.
- 22.4 The mediation will start not later than 20 Working Days after the date of the ADR Notice.

- 22.5 None of the Five Councils may commence any court proceedings or arbitration in relation to any dispute arising out of this Agreement until they have attempted to settle it by mediation and that mediation has terminated.
- 22.6 If the dispute has not been settled by the mediation within 35 Working Days from the date of the ADR Notice the dispute shall be referred to arbitration under the Arbitration Acts 1950 to 1996 by a single arbitrator appointed by agreement between the Five Councils. If the Five Councils cannot agree the identity of the arbitrator within 10 Working Days of one or more of the Five Councils proposing at least two possible appropriate arbitrators to the others of the Five Councils the arbitrator is to be appointed by the President or next most senior officer available of the Law Society on the application of one or more of the Five Councils.

### **23. ASSIGNMENT AND SUBCONTRACTING**

- 23.1 None of the Five Councils may transfer assign mortgage or pledge its rights or obligations under this Agreement.
- 23.2 None of the Five Councils may subcontract any of its obligations under this Agreement except with the consent of the others of the Five Councils (such consent not unreasonably to be withheld or delayed) but any Council who so subcontracts is to be liable for the performance of its subcontractors.
- 23.3 No rights under this Agreement are to devolve by operation of the law or otherwise on any receiver administrative receiver liquidator or assignee.

### **24. GOVERNING LAW AND ENFORCEMENT**

- 24.1 The formation construction performance validity and all aspects of this Agreement are to be governed by English law and subject to Clause 22.6 each of the Five Councils agree to submit to the exclusive jurisdiction of the courts of England and Wales.
- 24.2 The rights and remedies given by this Agreement are cumulative and do not exclude any other rights or remedies given by law under this Agreement.



## 25. NOTICES

25.1 Notices or other communications under this Agreement will be duly served if given in writing and sent to the nominated representative of the Five Councils or to JC Members or to officers of the 2015 Joint Committee and shall be deemed to have been served in accordance with the following table with the date of service and method of proof being as set out therein.

<b>Method of service</b>	<b>Date of service</b>	<b>Proof of service</b>
Personal delivery to the nominated representative.	Day of delivery.	Proof of handing to the nominated representative.
Personal delivery of a letter addressed to the nominated representative at the address for service.	Day of delivery if before 16.00 on a Working Day otherwise 10.00 on the next Working Day thereafter.	Proof of delivery.
First class letter addressed to the nominated representative at the address for service.	48 hours after posting if that is a Working Day otherwise 10.00 on the next Working Day thereafter.	Proof of posting unless returned through the Post Office undelivered service within 21 days of posting.
Facsimile addressed to the nominated representative at the address for service.	Day of transmission if before 16.00 on a Working Day otherwise 10.00 on the next Working Day thereafter.	Transmission report showing a successful transmission to the correct number plus proof of posting of a hard copy.
Electronic mail addressed to the	Date of transmission if before 16.00 on a	Delivery receipt

nominated representative's electronic mail address	Working Day otherwise 10.00 on the next Working day thereafter	
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- 25.2 Each of the Five Council's address for service is the address set out at the start of this Agreement or such other address as it may notify to the other of the Five Councils and the Secretary in writing.
- 25.3 The nominated representative for the receipt of notices under this Agreement is the Chief Executive of each of the Five Councils or such other person as the relevant Council may nominate by written notice to the others of the Five Councils and to the Secretary.

## 26. COSTS

Except in so far as the costs of the preparation negotiation and completion of this Agreement shall be within the One-off Costs each of the Five Councils shall bear their own costs in relation to the negotiation and completion of this Agreement.

**IN WITNESS** whereof each of the Five Councils have executed and delivered this Agreement as a Deed on the above date.

## **SCHEDULE 1**

### **PART I**

#### **JC Services**

The JC Services shall comprise the statutory functions of each of the Five Councils under each of the following enactments: -

- (a) **Local Government Finance Act 1988** Part III sections 43 to 51 and 62 to 67;
- (b) **Local Government Finance Act 1992** Part I Chapter I sections 43 to 51, sections 62 to 67, section 103 and Schedule IX;
- (c) **Social Services Contributions and Benefits Act 1992** Part VII section 123 and sections 130 to 137;
- (d) **Social Services Administration Act 1992** sections 5, 6, 7, 7A, 16, 75, 76, 110A, 110AA, 111, 112, 113, 139E, 139F, 139G, 139H, 140, 140A, 140B, 140C, 140D, 140E, 140EE, 140F and 140G and Regulations made under sections 7A and 76;
- (e) **Local Government Act 1972** section 111(1) (in so far as it relates to anything done thereunder that is calculated to facilitate or is incidental or conducive to the discharge of any statutory function or functions referred to in subparagraphs (a) to (d) above);
- (f) **Tribunals, Courts & Enforcement Act 2007** in so far as it relates to enforcement of debts for Council Tax, Non Domestic Rates and other debts collected by the ARP
- (g) Any other statutory functions of the Five Councils which relate directly or indirectly to the collection of council tax and non-domestic rates and/or the administration of housing benefit council tax benefit and other relevant benefits.
- (h) The collection and/or enforcement of any other debt as agreed in writing by each of the Five Councils.

## **SCHEDULE 1**

### **PART II**

#### **JC Services**

The JC Services of the Five Councils in respect of the collection and administration of council tax and non-domestic rates (business rates) and the payment of housing and other benefits shall comprise the following services:

1. Council Tax including calculation of tax base
  - 1.1 Billing
  - 1.2 Recovery including enforcement
2. Business Rates including granting rate relief
  - 2.1 Billing
  - 2.2 Recovery including enforcement
3. Benefits Administration including recovery of overpayments
4. Anti-Fraud measures

## SCHEDULE 2

### Baseline Budget – 2015/16

	<b>7(5)Partners 2015-16 £</b>	<b>4 (3) Partners 2015-16 £</b>	<b>Total 2015-16 £</b>
Breckland Council	1,590,842	281,525	1,872,367
East Cambridgeshire Council	923,914	167,441	1,091,355
Fenland Council	1,151,977	0	1,151,977
Forest Heath Council	785,400	136,689	922,089
St Edmundsbury Council	1,121,313	224,491	1,345,804
Suffolk Coastal	1,185,218	0	1,185,218
Waveney Council	1,643,273	0	1,643,273
	<b>8,401,937</b>	<b>810,146</b>	<b>9,212,083</b>

### Agreed ARP Budget for the provision of the JC Services on behalf of the Five Councils for the 2019/2020 Financial Year

<b>2019-20 Budget</b>			
	<b>5 Partners</b>	<b>3 Partners</b>	<b>Total</b>
	<b>2019-20 Budget</b>	<b>2019-20 Budget</b>	<b>2019-20 Budget</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Breckland Council	1,624,756	218,377	1,843,134
East Cambridgeshire Council	926,615	130,174	1,056,789
East Suffolk Council	2,985,568	0	2,985,568
Fenland Council	1,235,369	0	1,235,369
West Suffolk Council	1,957,656	280,673	2,238,330
	<b>8,729,965</b>	<b>629,224</b>	<b>9,359,189</b>

## **SCHEDULE 3**

### **ANGLIA REVENUES PARTNERSHIP**

#### **Accountancy Protocol**

#### **1.0 INTRODUCTION**

- 1.1 The formulation of these budget policies and procedures has been written with reference to details contained within this Agreement.
- 1.2 Any issues resulting from any of the Five Councils not approving the budget approved by the 2015 Joint Committee should be pursued in accordance with the arrangements detailed within this Agreement.

#### **2.0 RECAP OF MAIN BUDGET ISSUES FROM THIS AGREEMENT**

- 2.1 The baseline budget was set in 2015/16 and was split between all seven (now Five) Councils for the majority of agreed costs and income, however a small part of the baseline budget was split between Breckland, East Cambridgeshire and West Suffolk Councils only (Three Councils). The agreed items which are charged only to these Three Councils are:
- Rent & Rates at the Thetford Offices
  - Magistrates Court Costs
  - Fax Machines
  - Support service recharges from Breckland & West Suffolk agreed in advance
- 2.2 A draft budget for each Financial Year subsequent to the 2015/16 baseline split is prepared by the ARP Management Team in collaboration with the Heads of Finance and Chief Finance Officers of the Five Councils respectively and submitted to the Treasurer for consideration and thereafter submitted to the Section 151 Officers of each of the Five Councils, by 30<sup>th</sup> October in each year. The draft budget for the next Financial Year shall be based upon the budget for the previous Financial Year with the agreed Three Councils and Five Councils baseline split, updated for any anticipated changes considered necessary and shall take account of:-
- The cost of employees required to perform the JC Services during the relevant Financial Year
  - The agreed goods, services, plant etc. required to be procured during the Financial Year
  - The share of cost of the accommodation occupied by the employees of the ARP for the Three Councils split only
  - The cost of implementing any change in the legal or other requirements affecting the performance of the JC Services
  - Any capital requirements
  - Any agreed changes to the JC services to be provided in connection with the performance of the JC Services
  - Indexation
  - Support services agreed in advance

- Any projected under spend or over spend for the current Financial Year that may be required to be taken into account in the budget for the next Financial Year.
  - Income receivable in respect of costs that are charged to the partnership
- 2.3 The draft budget shall also have appended to it a Schedule detailing the payments estimated to be required by each of the Five Councils during the relevant Financial Year.
- 2.4 After being considered by the Section 151 Officers the draft budget shall be submitted to the Treasurer for consideration and then to the 2015 Joint Committee for approval and thereafter submitted to each of the Five Councils so as to be received by them no later than 31st December in each year.
- 2.5 In the event that the budget for the current Financial Year requires amendment to meet any over spend or increase in the costs of the performance of the JC Services by the ARP for that year the ARP Management Team shall report thereon to the 2015 Joint Committee.
- 2.6 The ARP Management Team shall report as soon as practicable on any deficit or surplus arising during the current or immediately preceding Financial Year as compared with the approved budget, first to the Section 151 Officers and subsequently to the 2015 Joint Committee. Any such deficit shall be met, or any such surplus shall be dispersed, by reference to this Accountancy Protocol.

### **3.0 THE BUDGET**

#### **3.1 Introduction**

The budget must be set in line with the arrangements and timetable detailed in this Agreement.

#### **3.2 The process**

- The Five Councils will hold a “Client” account and a “Partnership” account
- Costs chargeable to the “Partnership” account (taking into account the three & Five partner splits detailed in 2.1 above) are:
  - Employee related expenses
  - Transport related expenses
  - Premises related expenses
  - Supplies and services
  - Any Support Service costs agreed in advance by the Five Councils as chargeable to the “Partnership” account because of the obvious service/benefit provided
  - Any income that is received in respect of costs that are chargeable to the “Partnership” account.
- Costs chargeable to the “Client” account are:
  - Support Services not specifically agreed as chargeable to the “Partnership” account

- Income not received in respect of costs that are chargeable to the “Partnership” account
- Corporate costs not directly attributable to the work of the 2015 Joint Committee and the ARP.

3.3 Once all of the costs are identified the Council who will be making the various payments should be clearly identified. This will form the basis of future budget monitoring and control.

3.4 It will be necessary for the OIB to review each budget line each Financial Year to confirm the following:

- the basis of calculation is acceptable to each of the Five Councils and
- the reasonableness of the cost and the benefits to the 2015 Joint Committee and the ARP.

#### **4.0 TREATMENT OF COSTS**

4.1 “Partnership” account costs must adhere to the following principles:

- Costs must be based on actual usage/cost
- Costs must be directly attributable to the work of the 2015 Joint Committee and the ARP
- Costs are assessed on an annual basis in accordance with Value for Money Objectives

4.2 The annual budget of the 2015 Joint Committee must not include any corporate or client costs or previously un-agreed costs from any of the Five Councils.

4.3 The annual budget of the 2015 Joint Committee will include the costs chargeable to the “Partnership” account as set out under Paragraph 3.2 of this Accountancy Protocol.

#### **5.0 APPORTIONING THE PARTNERSHIP BUDGET**

5.1 The “Partnership” account will be apportioned to each of the Five Councils: by taking the agreed baseline (detailed in Schedule 2) & apportioning any increase or decrease in costs between the councils, in accordance with paragraph 2.1, in the following proportions:

<b>2019-20 Budget apportionment (based on 1 August 2019)</b>			
	<b>5 Partners (Excl Bailiff)</b>	<b>3 Partners</b>	<b>5 Partners Bailiff Only</b>
Breckland Council	17.89%	34.90%	20.60%
East Cambridgeshire Council	10.55%	20.60%	9.81%
East Suffolk Council	35.23%	0.00%	33.22%
Fenland Council	13.53%	0.00%	10.99%
West Suffolk Council	22.80%	44.50%	25.38%



Costs and income from Enforcement Agent activity (Tribunals, Court and Enforcement Act 2007) will be shared in relation to the percentage of liability orders passed, in respect of each of the Five Councils, to an Enforcement Agency Service

- 5.2 These percentages are based on a combination of caseload data, which include the number of hereditaments, the number of businesses chargeable to business rates and the number of benefits claimants (and in the case of the Enforcement Agency liability orders passed for enforcement). This data will be reviewed annually on 1 August, and the new percentage data used with respect to the budget for the following Financial Year.
- 5.3 The Treasurer shall prepare a Schedule setting out the payments due from each of the Five Councils, taking into account each Council's share of the ARP budget and the costs incurred by each Council. This Schedule shall be agreed by the OIB. Amounts due shall be payable in equal instalments on the first Working Day of each month.
- 5.4 Any new capital acquisitions shall be jointly funded by the Five Councils in accordance with the percentages set out in Paragraph 5.1 of this Accountancy Protocol, or amended in accordance with Paragraph 5.2 of this Accountancy Protocol.

## **6.0 BUDGET MONITORING AND CONTROL**

- 6.1 The Treasurer will act as the lead for monitoring and control of the budget which will be undertaken as follows:
- The budget will be set as detailed in Paragraphs 1 and 2 of this Accountancy Protocol.
  - Payments will be made by the relevant Council as identified when setting the budget (as provided in Paragraph 3.3 of this Accountancy Protocol).
  - Within 7 Working Days of the end of the quarter, each of the Five Councils will provide the Treasurer with a Schedule of payments made against the annual budget of the 2015 Joint Committee.
  - The Treasurer will compile an overall position against budget and raise any queries with the each of the other Councils.
  - The Treasurer will compile a quarterly monitoring report to the OIB and the 2015 Joint Committee, showing actual against budget and a forecast position for the year end.

## **7.0 BUDGET CHANGES AND AMENDMENTS**

- 7.1 Budget changes may result from:
- a) New initiatives
  - b) Additional expenditure not previously identified
  - c) Over spends
  - d) Additional Government funding received during the year
  - e) Under spends

- 7.2 Budget changes a)-d) above should be dealt with as detailed in Paragraphs 2.4 and 2.5 of this Accountancy Protocol.
- 7.3 In these cases each of the Five Councils will share this cost in addition to the fixed fees in the ratio as detailed in Paragraph 5.1 of this Accountancy Protocol.
- 7.4 Budget changes resulting from Paragraph 8.1d) of this Accountancy Protocol should be reported to the 2015 Joint Committee once confirmation of the under spend is confirmed.
- 7.5 In all cases variations to the budget involving changes to or additions to a previously agreed budget will need reporting to the 2015 Joint Committee for approval and thereafter to each of the Five Councils for approval in line with each of the relevant Council's Standing Orders and Terms of Reference regarding budgets.

## **8.0 ASSETS**

- 8.1 Any new assets shall be procured by one of the Five Councils (as determined by the 2015 Joint Committee) on behalf of and at the cost of the 2015 Joint Committee (subject to the standing orders of the procuring Council and any applicable procurement legislation) and shall be owned by the Five Councils jointly in proportion to the percentages set out in Paragraph 5.1 of this Accountancy Protocol for the purposes of the 2015 Joint Committee.
- 8.2 A register of assets shall be maintained by the Treasurer showing the ownership, the date of their allocation to or purchase for the purposes of the 2015 Joint Committee for use by the ARP and the date of disposal of all assets allocated to or used by the 2015 Joint Committee formerly used by the previous Joint Committee.

## **SCHEDULE 4**

### **General Legal Advice and Services**

Subject to the 2015 Joint Committee deciding otherwise the Legal Advice and Services will include and be provided by the following of the Five Councils:-

#### **West Suffolk**

- 1.1 Securing outstanding liability orders for unpaid council tax and business rates by obtaining a charging order on the property and registering the same;
- 1.2 Where a charging order has been made by the court, applying for an order for sale when instructed to do so;
- 1.3 Investigating the possibility of collecting outstanding liability orders for both council tax and business rates by way of insolvency proceedings and commencing such proceedings when instructed to do so;
- 1.4 Advising generally on alternative methods of enforcement; and
- 1.5 Advising in connection with the recovery of overpaid housing benefit and other benefits and commencing proceedings when instructed to do so.

#### **Any of the Five Councils**

- 2.1 General Constitutional Advice to be the Council whose Monitoring Officer has been appointed
- 2.2 Commencing and conducting fraud prosecutions, although at the Commencement Date this is provided by external Solicitors, as previously arranged through ARP, or in respect of West Suffolk Council - by their Council, and may change at the request of one of the Five Councils to undertake their own prosecutions/or all of the prosecutions on behalf of the Five Councils.

## Conduct of Claims

- 3.1 If one of the Five Councils (“**the Notifying Council**”) receives a notice demand letter or other document concerning such a claim for which the Notifying Council may be entitled to be indemnified under this Agreement the Notifying Council shall notify the others of the Five Councils in writing as soon as reasonably practicable and in any event within twenty (20) Working Days of its receipt.
- 3.2 The Notifying Council shall be free at any time to give notice to the others of the Five Councils that it is retaining or taking over conduct of any defence dispute compromise or appeal of any claim made by a third party in connection with any matter described in Paragraph 3.1 or any incidental negotiations. On receipt of such notice the others of the Five Councils shall promptly take all reasonable steps necessary to transfer the conduct of such claim to the Notifying Council and shall provide to the Notifying Council all reasonable co-operation access and assistance for the purposes of considering and resisting such claim. If the Notifying Council gives any notice pursuant to this Clause then the others of the Five Councils shall be released from any future liability under its indemnity in respect of such claim.
- 3.3 If one or more of the others of the Five Councils pays to the Notifying Council an amount in respect of an indemnity and the Notifying Council subsequently recovers (whether by payment discount credit saving relief or other benefit or otherwise) a sum which is directly referable to the fact matter event or circumstances giving rise to the claim under the indemnity the Notifying Council shall immediately repay to the other or others of the Five Councils the lesser of:-
- 3.3.1 the sum recovered (or the value of the saving or benefit obtained) less any out of pocket expenses and costs properly incurred by the Notifying Council in recovering it; and
- 3.3.2 the amount paid to the Notifying Council by the others of the Five Councils in respect of the claim under the relevant indemnity.
- 3.4 There is no obligation on the Notifying Council to pursue a recovery under Paragraph 3.3. The other or others of the Five Councils is to be repaid only to the extent that the amount of recovery aggregated with the amount paid by the other or others of the Five Councils exceeds the Notifying Council’s losses.

3.5 Each of the Five Councils shall comply with the requirements of any insurer who may have an obligation to consider any claim made in respect of any liability arising under this Agreement.

The Common Seal of **BRECKLAND DISTRICT COUNCIL** was affixed hereto in the presence of ) ) )

The Common Seal of **EAST CAMBRIDGESHIRE DISTRICT COUNCIL** was hereto affixed in the presence of ) ) )

**Head of Legal and Democratic Services**

The Common Seal of **FENLAND DISTRICT COUNCIL** was hereunto affixed in the presence of ) ) )

**Authorised Signatory**

The Common Seal of **WEST SUFFOLK COUNCIL** was affixed hereto in the presence of ) ) )

**Authorised Signatory**

The Common Seal of **EAST SUFFOLK COUNCIL** was hereunto affixed in the presence of ) ) )

**Authorised Signatory**