

**DATED**

ACCOUNTABLE BODY TRANSITIONAL AGREEMENT

between

**Greater Cambridge and Greater Peterborough Enterprise Partnership Limited**

and

**Cambridgeshire County Council**

and

**Cambridgeshire and Peterborough Combined Authority**

**THIS AGREEMENT** is dated [DATE]

## **PARTIES**

- (1) Greater Cambridge and Greater Peterborough Enterprise Partnership Limited a company limited by guarantee with company registration number 07553554 whose registered office address is the Incubator, Alconbury Weald, Enterprise Campus, Huntingdon, Cambridgeshire, PE28 4WX ("**the GCGP**");
- (2) Cambridgeshire County Council of Shire Hall, Castle Street, Cambridge, CB3 0AP ("**CCC**"); and
- (3) Cambridgeshire and Peterborough Combined Authority ("**the Combined Authority**") of The Grange, Nutholt Lane, Ely, CB7 4EE.

## **BACKGROUND**

- (A) The GCGP is a company limited by guarantee and is currently the Local Enterprise Partnership in the Greater Cambridge and Greater Peterborough area.
- (B) It is intended that the GCGP will enter into a business transfer agreement with the Combined Authority dated 29 March 2018 but with effect from 1st April 2018.
- (C) It is also intended that a new Local Enterprise Partnership will be formed as an unincorporated association ("**the New LEP**") with effect from 1st April 2018, and its Board will provide strategic advice to the Combined Authority in supporting continued economic growth.
- (D) On 19th December 2017 the Board of the GCGP voted unanimously for the adoption of a strategy to facilitate the above processes with the intention of the GCGP being placed (or placed and delete being) into Members' Voluntary Liquidation with effect from 29 March 2018. It is currently intended that the Members' Voluntary Liquidation will be effected in as soon as reasonably practicable after the effective date.
- (E) At a meeting of the Combined Authority's Board on 20 December 2017, it was unanimously agreed that the Combined Authority would become the Accountable Body for all business growth funding streams from 29 March 2018. The Combined Authority has therefore agreed to become the Accountable Body with effect from 29 March 2018.
- (F) At a meeting of the Combined Authority's Board on 28 February 2018 it was subsequently resolved that it would become the accountable body for the Greater South-East Energy Hub with immediate effect.

- (G) CCC as the current Accountable Body has formally agreed in a letter to BEIS dated 19 March 2018 to relinquish its responsibilities as Accountable Body within the timeframes described above.
- (H) The parties have agreed to effect the change of Accountable Body on the following terms.

**IT IS HEREBY AGREED** as follows:

## **1. INTERPRETATION**

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

"Accountable Body" means a Local Authority who receives and accounts for grant funding paid by Government on behalf of a Local Enterprise Partnership;

"Bank Account" means the account with details as follows:

Account Name: Cambridgeshire & Peterborough Combined Authority

Bank Name: Barclays Bank

Address: Barclays Bank, 1 Church St, Peterborough, PE1 1XB

Account Number: 50718645

Sort Code: 20-67-45;

"Business Day" shall mean a day other than a Saturday or a Sunday on which banks are generally open for business in England;

"Business Transfer Agreement" means the agreement which the GCGP and the Combined Authority intend to enter into on 29 March 2018 relating to the transfer of the business of the GCGP;

"Completion" means the change in Accountable Body contemplated by this Agreement;

"Current Accountable Body Agreement" means the agreement made between the GCGP and CCC on 18 March 2016 contractually governing the relationship between CCC as the current Accountable Body and the GCGP;

"Funds" shall mean the funds held by CCC as Accountable Body on behalf of the GCGP as set out in Schedule 1;

"Liabilities" means all claims, liabilities, and obligations, whether or not presently known to the parties or to the law including but not limited to claims arising from rights acquired from third parties, and whether in law or equity, that a party ever had, may have or hereafter can, shall or may have to any of the other parties;

"Records" means all stationery, books, records, accounts, and other information used in the fulfilment by CCC of the roles and responsibilities of the Accountable Body.

"Relevant Contracts" means any contracts other than the Current Accountable Body Agreement to which CCC is a party and which arise out its acting as Accountable Body for the GCGP.

1.2. In this Agreement unless otherwise stated:

1.2.1. words importing the masculine gender only shall include the feminine gender and the neuter and vice versa;

1.2.2. words importing the singular number only shall include the plural number and vice versa;

1.2.3. words importing persons shall include natural persons, firms, companies, bodies corporate and any entity or group of persons capable of recognition as a legal entity;

1.2.4. a reference to a statute or statutory provision includes a reference to any statutory amendment, consolidation or re-enactment of it and all orders, regulations, instruments or other subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) made under it, both to the extent in force from time to time; and any statute or statutory provision of which it is an amendment, consolidation or re-enactment;

1.2.5. references to clauses, sub-clauses and Schedules are to clauses, sub-clauses and Schedules of this Agreement;

1.2.6. a reference to "including", "includes" or "included" shall be read as if it is followed by the words "without limitation";

1.2.7. if the time for giving any notice, making any payment or doing any other act required or permitted by the Agreement does not fall on a Business Day, then the time for giving the notice, making the payment or doing the other act shall be deemed to be on the next Business Day; and

1.2.8. the headings in this Agreement shall not form part of, nor be used in the interpretation of the Agreement.

## **2. TRANSFER OF ACCOUNTABLE BODY STATUS**

The parties hereby agree that Accountable Body status in respect of all remaining growth funding streams relating to the GCGP will transfer from CCC to the Combined Authority with effect from 1st April 2018.

### **3. THE CURRENT ACCOUNTABLE BODY AGREEMENT**

- 3.1. GCGP and CCC hereby each severally warrants to the Combined Authority that it is not aware of any default committed by it under the Current Accountable Body Agreement.
- 3.2. CCC shall as soon as reasonably practicable after every other party to a Relevant Contract has consented to its being novated from CCC to the Combined Authority execute any document reasonably required to novate such Relevant Contract to the Combined Authority, PROVIDED THAT no payment is required of CCC and the document is in a form approved by CCC.
- 3.3. The GCGP and CCC hereby each severally warrants to the Combined Authority that it will until such time as the Current Accountable Body Agreement is terminated in accordance with Clause 3.5 below, to the extent not inconsistent with the terms of this Agreement, comply with all the terms and conditions of the Current Accountable Body Agreement.
- 3.4. The GCGP and CCC hereby agree that the Current Accountable Body Agreement shall be deemed varied to the extent necessary to give effect to this Agreement. If there is any inconsistency between the terms of this Agreement and the Current Accountable Body Agreement the terms of this Agreement shall prevail.
- 3.5. The GCGP and CCC agree that the Current Accountable Body Agreement shall be terminated with immediate effect upon Completion.
- 3.6. Upon termination of the Current Accountable Body Agreement the GCGP and CCC shall be released from all Liabilities to each other under this Agreement and/or the Current Accountable Body Agreement.

### **4. TERM AND TERMINATION**

This Agreement shall commence on the date of signature by the parties and shall, save in relation to Clause 3.2, expire 12 months from the date of this Agreement.

### **5. TRANSFER OF FUNDS**

The Funds shall be transferred by the CCC by electronic funds transfer for value to the Combined Authority on Completion to the Bank Account.

## **6. INDEMNITY**

In consideration of and with effect from the transfer of the Funds in accordance with Clause 5, the Combined Authority agrees to indemnify CCC against any reasonable financial liabilities to which it may be or become subject as a result of its having acted as the Accountable Body and which it notifies to the Combined Authority before the expiry of this Agreement under Clause 4 unless such liability has been caused or substantially contributed to by a breach by CCC of its obligations under the Current Accountable Body Agreement or by its wilful neglect.

## **7. RECORDS**

CCC shall, for a period of 12 months after Completion, allow the Combined Authority and its agents to have reasonable rights of access to and authority to take copies of any Records relevant to the fulfilment of its roles and responsibilities as an admitted body.

## **8. FURTHER ASSISTANCE**

Subject to the terms of this Agreement, CCC agrees that it will for a period of 12 months after Completion provide such further assistance as may reasonably be required to assist the Combined Authority in meeting its role and responsibilities as the Accountable Body to include the delivery of documents and/or the provision of any other information requested either verbally or in writing

## **9. MISCELLANEOUS**

- 9.1. This Agreement including the Schedule may only be varied by written agreement of the parties.
- 9.2. Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement.
- 9.3. This Agreement shall be governed by and construed in accordance with English law and each party without affecting the dispute procedure under Clause 9.4 below agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

9.4. The Combined Authority and CCC shall attempt to resolve any disputes or differences between them by negotiating in good faith, in the first instance through day to day consultation. If they fail to resolve a dispute within 21 days from it arising, either such party may refer the matter for determination to a meeting of the following representatives of the parties:

- . CCC - Chief Executive
- . Combined Authority - Chief Executive

If the dispute is not resolved within 28 days of its referral to the above group, then those parties agree to identify, within 14 days thereafter, a suitable independent third party as an expert or as a facilitator of consideration of the dispute. The identity of this third person may vary in order to provide the parties with flexibility to select a person who is appropriate to the particular circumstances of the issue but by way of example, this may include another local authority, legal Counsel or a mediator. Once the parties have agreed on a suitable third person, they will refer the matter to that third person within 14 days of agreement and will use their best reasonable endeavours to ensure that the dispute is considered as quickly as possible thereafter and in any event, within 21 days of referral. The parties will have the flexibility to decide on the terms of reference of the relevant third person.

9.5. Any notice to be given in connection with this Agreement shall be in writing and (without prejudice to proof that it has been effectively given in any other manner) shall be deemed duly served if delivered at or posted by recorded delivery to the address of the party concerned which is set out in this Agreement or such other address for service as that party may have notified to the other party in accordance with the provisions of this Clause. Any such notice shall be deemed to be served if delivered personally, on the day on which it is delivered or if posted, at 9am on the second Business Day after the day of posting. Evidence that the notice was properly addressed stamped and put into the post shall be conclusive evidence of service.

9.6. If any provision of this Agreement is held to be unenforceable or illegal, in whole or in part, such provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall remain unaffected.

9.7. This Agreement may be executed in any number of counterparts and by each of the parties as separate counterparts, each of which, when executed and delivered, shall be deemed to be an original but all the counterparts together shall constitute one and the same agreement.

9.8. The benefits of this Agreement shall continue for the benefit of the successors or assignees of each of the parties.

9.9. This Agreement is personal to the parties and neither it nor any benefit arising under it may be assigned without the prior written consent of the other parties and no party shall purport to assign or transfer the same.

9.10. A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement PROVIDED THAT this does not affect any right or remedy of the third party that exists or is available apart from that Act.

**SIGNED** by or on behalf of the parties on the date which first appears in this Agreement.

**Greater Cambridge and Greater  
Peterborough Enterprise  
Partnership Limited**

Signature: .....  
Name: .....  
Position: .....  
Date: .....  
Witness:  
Name  
Address  
Occupation

Signed for and on behalf of  
**Cambridgeshire County Council**

Signature: .....  
Name: .....  
Position: .....  
Date: .....

Signed for and on behalf of  
**The Cambridgeshire and  
Peterborough Combined Authority**

Signature: .....  
Name: .....  
Position: .....  
Date: .....

## SCHEDULE 1

### FUNDS

#### Schedule 1: Funds held by CCC as Accountable Body for GCGP LEP as at 29-03-18

<b>Growth Deal Capital</b>	
15-16 Allocation of Funds	£21,100,000.00
16-17 Allocation of Funds	£29,939,252.00
17-18 Allocation of Funds	£12,346,916.00
	<b>£63,386,168.00</b>
<i>less</i>	
15-16 project expenditure	-£4,031,303.25
16-17 project expenditure	-£14,880,362.46
17-18 project expenditure	-£23,178,757.32
4% topslice of funds	-£2,535,446.72
	<b>-£44,625,869.75</b>
<i>add</i>	
16-17 capital loan repayments received	£375,000.00
17-18 Loan repayments received	£625,000.00
	<b>£1,000,000.00</b>
<b>Balance to be transferred</b>	<b>£19,760,298.25</b>

<b>Growth Deal revenue topslice</b>	
4% topslice of Growth Deal capital funds	£2,535,446.7 2
	<b>£2,535,446.7</b> 2
<i>less</i>	
15-16 claimed programme costs	-289,418.02
16-17 claimed programme costs	-585,341.78
17-18 claimed programme costs	-470,555.35
	<b>-1,345,315.15</b>
<b>Balance to be Transferred</b>	<b>£1,190,131.5</b> 7

Growing Places Fund (GPF)		Revenue	Capital
			10,685,674.0
	GPF capital grant 1	0.00	0
	GPF capital grant 2	0.00	4,213,287.00
	GPF revenue grant 1	1,001,177.00	0.00
	GPF programme cost grant	218,075.00	
		<b>1,219,252.00</b>	<b>14,898,961.00</b>
<i>less</i>			
	2% topslice of Revenue grant 1 and capital grant 2	-20,023.54	-84,265.74
	GPF programme cost grant paid to LEP	-218,075.00	0.00
	12-13 project expenditure	0.00	-2,607,490.00
	13-14 project expenditure	0.00	-4,936,115.98
	14-15 project expenditure	0.00	-7,373,560.68
	15-16 project expenditure <sup>1</sup>	-81,130.00	-296,250.00
	16-17 project expenditure <sup>1</sup>	-422,119.89	-336,617.76
	17-18 project expenditure <sup>1</sup>	-610,913.83	-291,387.47
		<b>-1,352,262.26</b>	<b>15,925,687.63</b>
<i>add</i>			
	13-14 loan repayments	0.00	4,100,000.00
	14-15 loan repayments	0.00	1,262,891.00
	15-16 loan repayments	0.00	2,687,000.00
	16-17 loan repayments	0.00	8,000.00
	17-18 loan repayments	0.00	799,447.67
		<b>0.00</b>	<b>8,857,338.67</b>
	<b>Balances to be transferred<sup>2</sup></b>	<b>-133,010.26</b>	<b>7,830,612.04</b>

<sup>1</sup> Capital project expenditure includes revenue expenditure that can be funded by loan repayments as projects commenced before Government issued guidance on the eligible use of loan receipts.

<sup>2</sup> The negative revenue figure represents over commitment of revenue funding to be repaid by EZ receipts. The total amount committed to 31 March 2018 is £1,907,000.

Total balance to be transferred	
	£19,760,298.2
Growth Deal Capital	5
Growth Deal Topslice	£1,190,131.57
Net GPF	7,697,601.78
<b>Total</b>	<b>£28,648,031.60</b>