



Oversight and Governance

Chief Executive's Department

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Published 16/12/22

Delegated Decisions

Delegated Executive/Officer Decisions

Delegated Executive and Officer decisions are published every week and are available at the following link - <https://tinyurl.com/ms6umor>

Cabinet decisions subject to call-in are published at the following link - <http://tinyurl.com/yddrql6>

Notice of call-in for non-urgent decisions must be given to the Democratic Support Unit by 4.30 pm on Friday 23 December 2022. Please note – urgent decisions and non-key Council Officer decisions cannot be called in. Copies of the decisions together with background reports are available for viewing as follows:

- on the Council's Intranet Site at <https://modgov/mgDelegatedDecisions.aspx>
- on the Council's website at <https://tinyurl.com/jhnax4e>

The decision detailed below may be implemented on Friday 23 December 2022 after 4.30pm if it is not called-in.

Delegated Decisions

I. Council Officer Decision - Anthony Payne, Strategic Director for Place:

- I.1. Plymouth and South Devon Freeport – Memorandum of Understanding **(Pages 1 - 46)**

EXECUTIVE DECISION

made by a Council Officer



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL COUNCIL OFFICER

Executive Decision Reference Number – COD33 22/23

Decision	
1	Title of decision: Plymouth and South Devon Freeport – Memorandum of Understanding
2	Decision maker (Council Officer name and job title): Anthony Payne, Strategic Director for Place
3	Report author and contact details: Kevin McKenzie, Policy and Intelligence Advisor. E: kevin.mckenzie@plymouth.gov.uk T: 01752 304318
4a	Decision to be taken: To sign the Freeport Memorandum of Understanding (which will also be countersigned by the Section 151 Officer).
4b	Reference number of original executive decision or date of original committee meeting where delegation was made: L47 21/22
5	<p>Reasons for decision:</p> <p>The decision is necessary as the £25m Seed Capital Grant from the Government is an essential component of the Freeport funding package which will deliver:-</p> <ul style="list-style-type: none"> • Land assembly and remediation; • Essential transport infrastructure; • A Marine Innovation Centre and Mobility Hub. <p>If the decision is not taken now payment of our capital grant could be delayed. This could have some potential knock on impacts on our delivery schedule that would have potentially serious consequences for the programme, i.e. a shorter window for businesses on our Freeport tax sites to claim tax benefits.</p> <p>Leader's executive decision dated 3/03/2022 delegated authority to Strategic Director for Place to sign the Freeport Memorandum of Understanding and associated agreements with Government and partners - setting out government expectations, funding arrangements, outputs and partner obligations.</p>
6	<p>Alternative options considered and rejected:</p> <p>Alternatives considered - The terms under which the Seed Capital grant are made are set by the Government so no alternative arrangement was considered.</p>
7	<p>Financial implications and risks:</p> <p>I. Associated with this decision.</p> <p>The risks associated with the decision were considered in detail in the Leader's Executive decision taken in March 2022.</p> <p>Since this decision was taken market conditions have been volatile. Inflation and base interest rates have increased significantly and are considered likely to continue to do so over the short to medium term.</p> <p>Borrowing requirements have increased from £10.2m to £10.7m in our latest forecast as part of an</p>

overall programme cost plan of £27.998m. This is still subject to grant funding award from Department for Levelling Up, Housing & Communities.

The Authority's treasury management adviser Arlingclose forecasts that Bank Rate will continue to rise in 2022 and 2023. Arlingclose expects Bank Rate to rise to 4.25% by June 2023 from current 3% position in November 2022.

Sensitivity testing undertaken on our Full Business Case (FBC) financial model and based on a 10% increase in costs indicated that a significant level of price inflation could be absorbed.

However programme viability is marginal at current interest rates and whilst there is some scope for rate increases it may not be sufficient to absorb borrowing costs if rates were to rise as predicted and that was sustained over the long term.

Current modelling assumes a rate of 4.35% with annual repayment £0.530m funded from retained business rates and/or eligible Section 31 funding through award of freeports business rate relief so is dependent on achieving the required occupancy levels within cost plan.

The risk to borrowing costs for 1% rate increase is £0.090m and £0.025m for additional borrowing requirement £0.500m for 50 years.

Both combined risk with increasing interest rates, collectible business rates and occupancy levels within Oceansgate and South Yard tax site would require financial resources to be identified within Councils Medium Term Financial Plan.

Several of the capital programmes envisaged in our Full Business Case (FBC) have not yet reached a level of maturity where costs are wholly predictable

Each programme will be subject to an individual Business Case and appraisal by Plymouth City Council as the accountable body. Where a programme is not considered viable the partners can agree to put forward an alternative through the programme change request route provided in the MOU.

2. Associated with the Freeport and set out in the Executive Decision.

The MTFP contains some resources in the initial years of the scheme both for revenue and capital. In the medium term there are proposals to engage in wider corporate borrowing, these to be funded from retained NNDR which will be received by The Council as Section 31 grant. Clearly The Council and Partners will need to ensure that available resources are not over committed at that point in the overall scheme.

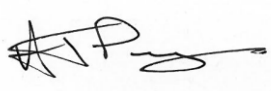
- The anticipated uplift in NNDR income from the areas designated as Freeport Tax and Customs sites in the Full Business Case will be retained and ring fenced for a period of 25 years,
- Retained NNDR and rental income and legacy from Oceansgate phase 1 and 2 will be directed in the first instance to service borrowing, and, only in the event of a surplus, for future investment in the Freeport as may be agreed by the Local Authority partners.
- The Medium Term Financial Plan already makes some provision for financial support.
- Revenue funding will be required to support the establishment of 4.5 new posts and other Freeport running costs.
- For the first five years this will be generated through fees and charges levied on landowners, supplemented with direct grant support from central government.
- A successful Levelling Up Fund to support the Freeport is anticipated.

There are risks but we have carefully assessed them and we are confident that they can be managed. The rewards are proportionately large, a vibrant economy delivering quality jobs, and new skills provision to ensure that residents in our most left behind wards can benefit.

The governance arrangements are designed to deal effectively with these risks. The principle financial risks were set out in a high level risk assessment in the body of the report which accompanied the executive decision. All project related risks, including financial risks, are reviewed regularly to ensure they are appropriately mitigated.

8	Is the decision a Key Decision? (please contact Democratic Support for further advice)	Yes	No	Per the Constitution, a key decision is one which:
		x		in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			x	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million
		x		is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.
8b	If yes, date of publication of the notice in the Forward Plan of Key Decisions	10/11/2022 Issue details - Plymouth and South Devon Freeport - Modern Council		
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:	<p>We have set out a number of strategic objectives in the Plymouth Plan that a freeport could help us to achieve.</p> <p>SO2 - Strengthening Plymouth's role in the region SO3 - Delivering the international city</p> <p>SO11 – Delivering high quality development</p> <p>SO12 – Delivering infrastructure and investment</p> <p>The Freeport could also assist us to deliver priorities in our Corporate Plan: -</p> <ul style="list-style-type: none"> ▪ Strongly supports the delivery of economic growth that benefits as many people as possible. <p>Strongly supports the delivery of quality jobs and skills.</p>		
10	Please specify any direct environmental implications of the decision (carbon impact)	Our Full Business Case sets out our ambitious plans to ensure that the Freeport contributes positively to our Climate Emergency Action Plan setting an overarching target that is consistent with our commitment to achieve a carbon net zero position by 2030.		
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support for advice)
		No	x	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair signature:		Date	

Scrutiny Committee name:			
Print Name:			
Consultation			
I3a	Are any other Cabinet members' portfolios affected by the decision?	Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>
		(If no go to section I4)	
I3b	Which other Cabinet member's portfolio is affected by the decision?	Freeport impacts will be wide ranging and are likely to affect all Cabinet member's portfolios.	
I3c	Date Cabinet member consulted	The report underpinning the Executive Decision was discussed with all Cabinet members on 15/03/2022.	
I4	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes	<input type="checkbox"/>
		No	<input checked="" type="checkbox"/>
		If yes, please discuss with the Monitoring Officer	
I5	Which Corporate Management Team member has been consulted?	Name	Anthony Payne
		Job title	Strategic Director for People
		Date consulted	23/02/2022
Sign-off			
I6	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS84 22/23
		Finance (mandatory)	DJN.22.23.319
		Legal (mandatory)	MS/14.12.22/394 61
		Human Resources (if applicable)	
		Corporate property (if applicable)	
		Procurement (if applicable)	
Appendices			
I7	Ref.	Title of appendix	
	A	Briefing report	
	B	Memorandum Of Understanding	
Confidential/exempt information			
I8a	Do you need to include any confidential/exempt information?	Yes	<input type="checkbox"/>
		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for	

		No	<input checked="" type="checkbox"/>	publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below.				
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							
Background Papers								
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
Leader Executive Decision – PASD Freeport								
Council Officer Signature								
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.							
Signature				Date of decision		16.12.22		
Print Name	Anthony Payne							

Briefing Report – Plymouth and South Devon Freeport, Memorandum of Understanding.

INTRODUCTION AND BACKGROUND

In March the Leader signed an Executive Decision which enabled work to continue to establish the Plymouth and South Devon Freeport. Over the summer this has enabled a number of key milestones to be achieved.

- The Plymouth and South Devon Freeport Company Ltd has been established with an Interim Chair and Board of Directors.
- Statutory instruments have been laid giving legal force to our Tax Site boundaries.
- Our Outline Business Case was signed off and HMRC have authorised our Primary Customs Site.
- Our Full Business Case was signed off on 7th December 2022.

The next step is to agree a Memorandum of Understanding with Government on which basis they will release seed capital funding to enable us to being to deliver capital works.

KEY POINTS

The Memorandum of Understanding is not a legally enforceable contract. It sets out Government expectations of what we will deliver and how they will support us. These expectations are based on our Full Business Case and the associated strategies for Investment and Trade, Innovation and Skill.

We have been given an opportunity to amend the document and the current form has been agreed by the Freeport members following consultation and legal opinion from lawyers for each of the three Local Authority partners.

The position for Plymouth is that we are required to indicate our acceptance on two levels.

- As the accountable body for the Freeport
- As the relevant billing authority for Plymouth

As a Member of the Freeport Company we will also be a party to the agreement by virtue of our membership of the Governing Body. It is proposed that the Chair of the Board of Directors will sign the agreement on behalf of the governing body. As the document is not legally binding this is not a reserved matter for the members.

Accountable Body

The Leader's executive decision accepted the relevant recommendation and gave authority for Plymouth City Council to accept the role of Accountable Body for the Freeport.

“Agree the role of Plymouth City Council as the accountable body for the Plymouth and South Freeport with responsibility for administering the £25m government seed funding”

To serve as the Accountable Body Plymouth City Council will need to discharge certain functions for which we will be held to account by government.

These will include: -

- oversight over funding;
- governance and Nolan principles;
- accept and distributing the funding and the use freedoms and flexibilities.

A further Leader's Executive Decision will be required to accept the grant offer when it is in hand, and it is proposed that this will provide an opportunity to clarify the operation of the Accountable Body functions.

RECOMENDATION

The Leader's executive decision delegated authority to the Strategic Director for Place to sign the Freeport Memorandum of Understanding and associated legal agreements with Government and partners, setting out government expectations, funding arrangements, outputs and partner obligations.

It is recommended that Strategic Director of Place gives authority for the Memorandum of Understanding to be signed.

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MEMORANDUM OF UNDERSTANDING

Between

The Secretary of State for Levelling Up, Housing and Communities

-and-

Plymouth City Council

As the Accountable Body for the Plymouth and South Devon Freeport

-and-

Plymouth and South Devon Freeport Company Limited

As the Governing Body responsible for the delivery of the Freeport

-and-

Plymouth City Council and South Hams District Council

**As the Billing Authorities responsible for collecting business rates in Freeport
Tax Sites**

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Attached

- Appendix 1: Plymouth and South Devon Freeport FBC with Annexes
- Schedule 1: Spend Profile
- Schedule 2: Progress Milestones
- Schedule 3: Communications Partnership Pack for Freeports
- Schedule 4: Freeports Performance Management, Security Audit and Assurance Framework ('the Freeports Framework')
- Schedule 5: Monitoring and Evaluation Indicators and Guidance
- Schedule 6: The Plymouth and South Devon Freeport Memorandum and Articles of Association and Members Agreement"

Version history

Version	Date agreed	Update summary
1.0		

1. Introduction

1.1. Purpose

- 1.1.1. This Memorandum of Understanding ('MoU') sets out the terms, principles and practices that will apply to the working relationship between: the Department for Levelling Up, Housing and Communities ('DLUHC'); Plymouth City Council ('the Accountable Body'); and the Plymouth and South Devon Freeport Governing Body ('the Governing Body') (collectively 'the Parties'), regarding the delivery and administration of the Plymouth and South Devon Freeport ('the Freeport'), including the use of Seed Capital grants; the use of Capacity Funding grants; and Plymouth City Council and South Hams District Council (collectively 'the Billing Authorities') for collecting business rates in the Freeport tax sites.
- 1.1.2. These parties have agreed to collectively deliver a public policy intervention – the Plymouth and South Devon Freeport – with aims rooted in the public good. This carries with it certain expectations of the Parties, their behaviour, and the consideration they will give to those aims given the financial and other public support they stand to receive from His Majesty's Government of the United Kingdom of Great Britain and Northern Ireland ('HMG'). This MoU details those expectations and provides for a shared understanding of what it means to participate in the delivery of public policy.
- 1.1.3. Eight prospective Freeports in England were announced at the March 2021 Budget. The Plymouth and South Devon Freeport was successful in its bid to become a Freeport, as set out in the Freeports bidding prospectus.¹
- 1.1.4. An Outline Business Case ('OBC') and a Full Business Case ('FBC') were developed to demonstrate how the Freeport will achieve the policy objectives set by HMG.
- 1.1.5. Following submission and appraisal of its OBC, HM Treasury ('HMT') tax site assessment and HM Revenue & Customs ('HMRC') authorisation of a custom site, the Freeport became operational on 13 October 2022. An operational Freeport is a Freeport with designation of at least one tax site and one customs site, and an approved OBC.
- 1.1.6. On 22 April 2022 the FBC for the Freeport was received by DLUHC. Following consultation with DLUHC and other government departments, on 14 November 2022 HMG approved the FBC and DLUHC notified the Freeport of the outcome. A copy of the FBC and its Annexes are attached at Appendix 1, unlocking Seed Capital from Financial Year ('FY') 2022/23 to FY2024/25.
- 1.1.7. HMG has approved the FBC on the understanding that the Accountable Body and Governing Body will oversee the development of individual business cases for Seed Capital projects in accordance with best practice

¹ <https://www.gov.uk/government/publications/freeports-bidding-prospectus>

principles, namely those outlined in the HMT Green Book (2020),² IPA Cost Estimating Guidance and Cabinet Office's The Construction Playbook^{3 4}, but utilising a streamlined methodology for publicly adopted infrastructure elements to reflect the inherent competence of the respective transport authorities.

1.1.8. Following FBC approval, DLUHC provided the Plymouth and South Devon Freeport with the following list of outstanding actions that should be achieved within the agreed timeframes. DLUHC will review the status of these actions through the processes set out in Section 6 of this MoU:

- a) Proceed with the plans for the Freeport Company to procure a CSO for additional custom sites within the Freeport, mitigating the risk should Burrington Way cease to operate after 12 months.
- b) Continue to strengthen the security and illicit activity risk assessment with partners.
- c) Work with DLUHC to further develop and finalise the details of the Retained Business Rates Strategy prior to the designation of tax sites for the purpose of business rates retention.
- d) Work with DLUHC and the M&E provider to agree expected M&E input and output targets as required per Schedule 5.

1.1.9. This MoU formalises the key commitments made by the Freeport throughout the FBC and outlines what support it can expect from DLUHC and other HMG departments, including the Department for Business, Energy and Industrial Strategy ('BEIS'), Department for Education ('DfE'), the Department for Work and Pensions ('DWP'), Department for International Trade ('DIT'), HMT, and HMRC.

1.1.10. While this MoU is not legally enforceable, it is expected that all parties will aim to, as far as possible, honour their obligations under this memorandum, as per Section 7 of this MoU.

1.2. Definitions

1.2.1. **It is agreed that:**

- a) Plymouth City Council is the Accountable Body for the Plymouth and South Devon Freeport. "Accountable Body" means the local authority organisation(s) accountable for the delivery and administration of

² HM Treasury, The Green Book (2020), <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

³ Infrastructure and Projects Authority, Cost Estimating Guidance (2021), <https://www.gov.uk/government/publications/cost-estimating-guidance>

⁴ Cabinet Office, The Construction Playbook (2020), <https://www.gov.uk/government/publications/the-construction-playbook>

Freeport Seed Capital and Capacity Funding grants and for ensuring the good functioning of the Freeport Governing Body.

- b) The Governing Body is the Plymouth and South Devon Freeport Company Ltd [The Freeport Company] as described in its Memorandum and Articles of Association and Members Agreement (Appended as Schedule 6). “Governing body” means the primary governance body accountable for delivering the Freeport and achieving its strategic objectives. The use of retained business rates and the allocation of retained business rates surpluses in accordance with the Plymouth and South Devon Policy for Retained Business Rates is reserved to the members of the Freeport Company in accordance with their reserved powers (A8 and A10) as set out in Schedule 6.
- c) Plymouth City Council and South Hams District Council are the Billing Authorities. “Billing Authority” means the local authority(s) responsible for the collection of business rates within a Freeport designated tax site. In the South Hams District Council Area the allocation of business rates will be governed by the Sharing Agreement between South Hams District Council and Devon County Council (Annexe J(iii) of the Full Business Case). The Billing Authorities will be accountable for the use of the retained business rates within their own Local Authority Area.
- d) “Freeport” means the area, and related operations within, outlined in maps provided to, and agreed by, HMG during the business case approval process. These maps are published on GOV.UK⁵.
- e) “Operational Freeport” means a Freeport with designation of at least one tax site and one customs site, and an approved OBC.
- f) “Tax Site” means Freeport tax sites that are designated and recognised in law as geographical areas where businesses can benefit from tax reliefs to bring investment, trade and jobs to regenerate regions across the country that need it most. Freeport tax site maps are published on GOV.UK⁶.
- g) “Seed Capital” means the capital grant which is HMG’s contribution towards capital investment for the delivery of the Freeport proposal. This is disbursed through the Accountable Body.
- h) “Capacity Funding” means the revenue grant which is HMG’s contribution towards day-to-day resources and administration for the delivery of the Freeport proposal. This is disbursed through the Accountable Body.

⁵ <https://www.gov.uk/government/publications/maps-of-uk-freeports>

⁶ <https://www.gov.uk/government/collections/maps-of-freeports-and-freeport-tax-sites>

- i) “Spend Profile” means the forecast spend of grants as set out in the Schedule 1: Spend Profile, demonstrating how grants will be spent and the assumptions on how projects will be financed.
- j) “Financial Year” means the Government’s financial year which runs from 1 April to the 31 March each year.
- k) “Confidential Information” means any information which has been designated as confidential by any of the parties in writing or that ought to be considered as confidential (howsoever it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets and all personal data and sensitive personal data within the meaning of applicable legislation. Confidential Information shall not include information which:
 - i. was public knowledge at the time of disclosure (otherwise than by breach of a duty of confidence by any of the parties);
 - ii. was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
 - iii. is required to be disclosed by applicable laws or regulations of a stock exchange or regulatory authority or by order or ruling of a court or administrative body of competent jurisdiction;
 - iv. is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
 - v. is independently developed without access to the Confidential Information.
- l) “Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies.
- m) “Data Protection Legislation” means (i) the UK GDPR as amended from time to time; (ii) the Data Protection Act 2018 as amended from time to time; (iii) regulations made under the Data Protection Act 2018; (iv) all applicable law about the processing of personal data.
- n) “UK GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

2. Governance

2.1. Roles and Responsibilities

- 2.1.1. Plymouth and South Devon Freeport Governing Body is accountable to DLUHC for the delivery of the Plymouth and South Devon Freeport and achieving its strategic objectives as set out in Sections 4 and 5 of this MoU and the approved FBC, attached at Appendix 1. Where the Governing Body is accountable for an aspect of Freeport delivery, but contracts this out, it is incumbent upon the Governing Body to put in place the necessary mechanisms to hold partners to account for the Plymouth and South Devon Freeport's delivery.
- 2.1.2. Plymouth City Council is the Accountable Body for the Plymouth and South Devon Freeport and is accountable to DLUHC for the use of Seed Capital, Capacity Funding grants and for ensuring the good functioning of the Freeport Governing Body. The Accountable Body is required to be a member of the Governing Body.
- 2.1.3. Plymouth City Council and South Hams District Council are the Billing Authorities who are responsible for the collection of business rates within a Freeport designated tax site. The accountability of the Billing Authorities and use of retained business rates is set out in Section 3.7.
- 2.1.4. DLUHC as the HMG body accountable for coordinating the delivery of the Freeports Programme, agrees to support the Parties in the delivery of commitments as set out in the FBC, and particularly in the realisation of the strategic objectives as set out in Section 5 of this MoU.
- 2.1.5. The Parties agree to work together, cooperate in good faith and fully participate in the delivery of the Freeport as articulated through the FBC, attached at Appendix 1, in addition to this MoU, or any subsequent revisions to the FBC agreed through the change process as referenced in Section 6.10 of this MoU.
- 2.1.6. For the avoidance of doubt, the relevant Parties shall be accountable to DLUHC for the acts of its external delivery partners if delivering public money, including any consequences of poor performance arising from their conduct, as per Section 7.3 of this MoU.

2.2. Freeport governance

- 2.2.1. The Governing Body will adopt the governance structures for the delivery of the Freeport as set out at 5(a) in the Management Case of the FBC and relevant governance annexes attached at Appendix 1, including:
- a) Plymouth and South Devon Freeport Board of Directors which makes decisions and implements the Annual Delivery Plan within the Scheme of Delegation

- b) Trade and Investment Advisory Board which has responsibility for oversight and delivery of the Trade and Investment Strategy, the members will nominate an accountable Director to represent this group on the Freeport Board of Directors
- c) Skills Advisory Board which has responsibility for oversight and delivery of the Skills Plan, the members will nominate an accountable Director to represent this group on the Freeport Board of Directors.
- d) Member Steering Group which provides Strategic Direction, agrees the Scheme of Delegation and Annual Delivery Plan
- e) Innovation Advisory Board which has responsibility for oversight and delivery of the Skills Plan, the members will nominate an accountable Director to represent this group on the Freeport Board of Directors
- f) Security and Compliance Sub Committee which is responsible for all security and compliance functions.
- g) Seed Capital sub-Committee which is responsible for oversight of the Seed Capital Programme
- h) Infrastructure Group (South Yard and Port) which is responsible for oversight of site infrastructure and transport in the Plymouth Local Authority Area
- i) Infrastructure Group (Langage/Sherford) which is responsible for oversight of site infrastructure and transport in the South Hams/Devon Local Authority Areas.
- j) The Board will be chaired by a private sector Chair appointed by the founder members for a three-year term and include representatives as set out below: one director each (the Local Authority Directors) nominated by Plymouth City Council, South Hams District Council and Devon County Council and appointed by the Chair of the Board; one Director each (the Landowner Directors) nominated by Princess Yachts, Langage Energy Park Limited as well as the landowner at Sherford and appointed by the Chair of the Board; Additional directors may be co-opted by the Board which may include a Port Operator, University and Business Organisation.

2.2.2. The Governing Body will notably, in this regard:

- a) Commit to appropriate levels of transparency, propriety, and inclusivity with respect to governance and adherence to the Seven

Principles of Public Life ('the Nolan Principles'⁷). This includes but is not limited to the publication of board papers, minutes, and register of members' interests to ensure any actual or perceived conflicts of interest are recorded and managed appropriately. Where publication of board papers, minutes and registers of members and directors' interest are subject to commercial confidentiality, the Accountable Body will need to set out a process for determining the publication criteria for commercial confidentiality with the Governing Body. This will need to provide the rationale that balances protecting commercial interests directly connected to the objectives against the wider public interest in transparent Freeport governance. This should be aligned with established regulatory standards such as Schedule 12a of the Local Government Act 1972 and principles⁸ set out by the Information Commissioners Office ('ICO'). All items need to be maintained if not publicly published and must be provided to DLUHC if requested for assurance purposes.

- b) Within reasonable endeavours, ensure that sufficient financial and human resources are available to support the successful delivery of the Freeport; and
- c) Inform the DLUHC Freeport Lead (see Section 2.3.1) of any changes to these governance structures and if required, take any changes through the change process referenced in Section 6.10 of this MoU and as per Schedule 4 of the Freeports Framework.

2.2.3. The Governing Body will adopt the structures referred to in Section 2.2 within the timeframes set out in the FBC Management Case. The Governing Body will inform their DLUHC Freeport Lead of any changes to these timeframes.

2.2.4. The Accountable Body will:

- a) Be accountable for any HMG Freeport-specific grant funding if paid through a Section 31 grant and unless stated otherwise, including monitoring and reporting against the use of these funds, upholding procurement practices, as per Section 3.5 of this MoU;
- b) Maintain appropriate records relating to Freeport delivery, including, but not limited to project plans and risk registers for HMG funded activity; and

⁷ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

⁸ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/section-43-commercial-interests/#publicinterest>

- c) Ensure the Governing Body operates in line with appropriate levels of transparency, propriety and inclusivity, abiding by the Nolan Principles, as referenced above in Section 2.2.2(a).

2.2.5. The Billing Authorities will:

- a) Be accountable to DLUHC for the management of the retention of Business rates in line with the Local Government Accountability System.
- b) Be responsible for allocating all business rates collected on the Freeport tax sites to the decision-making process and purposes outlined in the FBC.

2.2.6. The Governing Body, the Accountable Body and the Billing Authorities agree to work collaboratively and proactively to manage any actual or perceived conflicts of interest in decision-making as set out in the Management Case of the FBC, and in particular on the use of Seed Capital, Capacity Funding and collected business rates. The Governing Body, the Accountable Body and the Billing Authorities agree to provide DLUHC with evidence of these processes when requested as part of the Freeports Framework as set out in Section 6 of this MoU.

2.2.7. The Governing Body, the Accountable Body and the Billing Authorities are required to manage any disputes in relation to Section 2.2 through a locally agreed process.

2.3. Ways of working

2.3.1. The Freeport will be assigned a lead within the DLUHC Freeports Delivery Team who will act as a central interface for the Governing Body to interact with HMG on the delivery of the Freeport and its strategic objectives ('DLUHC Freeport Lead'). This will help ensure that the Freeport is receiving the expertise and input it needs from across HMG departments to enable the Freeport to deliver against its FBC. In addition, DLUHC will support Freeports through:

- a) Continuous improvement and policy learning, for example by using monitoring and evaluation to generate evidence and insights to inform improvements in Freeport delivery and adaptation of policy;
- b) Providing sector support, exploring areas where Freeports strongly align with national and sectoral economic strategies;
- c) Exploring opportunities to access further benefits across HMG, considering areas to leverage policies, schemes, and support for the

Freeport;

- d) Cross-programme collaboration, enabling opportunities for Freeports to collaborate, facilitating lesson-learning and shared programme learning;
- e) Providing sufficient specialist and technical resource to support the delivery of the programme until 31 March 2025. DLUHC is unable to provide commitment beyond the current Spending Review period, though they commit to consulting with the Freeport on plans beyond 31 March 2025 when it is right to do so;
- f) DLUHC will ensure the Freeport is consulted should there be the opportunity for any new benefits related to the programme.

2.3.2. BEIS will hold quarterly meetings with the Freeport innovation lead(s) to understand progress on the innovation strategy and the barriers to innovation the Freeport is facing. BEIS will help the Freeport address these barriers where possible, including ensuring the Freeport is connected to the correct teams across government to provide them with support.

2.3.3. On trade and investment, the Freeport will be supported by the DIT in leveraging the export and support services which the Department offers to provide additionality above and beyond what the Freeport is able to deliver itself.

2.3.4. The DIT Freeports team will act as the central contact point for accessing DIT services and capabilities, and the Freeport will endeavour to ensure regular dialogue with DIT through bi-monthly check-in meetings. DIT will ensure the Freeport is consulted in relation to strategic investment and export promotion activity conducted by DIT and will ensure the Freeport is notified of enquiries relating to the Freeport arising from DIT lead generation activity.

2.3.5. The Freeport is responsible for maintaining capability to independently support exporters and the end-to-end investor journey, including functions for prospecting and generating leads, enquiry handling, project management and support, as well as the management and retention of existing investors. The Freeport is encouraged to notify DIT of investment enquiries and requests for export support in order for DIT to provide targeted support on projects on an on-going basis. This will involve the Freeport's lead for Trade and Investment liaising closely with their DIT partnership manager; who, where appropriate, will ensure a virtual team from across DIT is brought together in support of prospective investors from when they express an interest in locating in the Freeport to when their investment lands. DIT will work collaboratively with the relevant official

within the Freeport to agree arrangements for providing this information. This is the standard manner in which DIT works with investment promotion agencies to manage and support investment projects and enables DIT to help investors access any relevant support. Accessing DIT resource and support is contingent on the Freeport sharing information on investment and export enquires as they arise.

- 2.3.6. The Freeport will engage with the Freeport Security Forum as per Section 2.5.5 and 2.5.6 of this MoU, in line with the requirements of the annual Freeport security audit. This is a cross-government group consisting of security stakeholders from the Home Office, Border Force, National Crime Agency, the Police, DfT, HMT and HMRC.

2.4. Public sector equality duty

- 2.4.1. Recognising its role regarding the public sector equality duty under the Equality Act 2010, the Accountable Body commits to ensuring the Governing Body complies with Public Sector Equalities Duty.
- 2.4.2. The Parties commit to using this data to help ensure that the Freeport is optimised to advance equality and foster good relations by highlighting any key areas for improvement, ensuring that adverse aspects of Freeport delivery relating to equality are mitigated and limited, and ensure that any opportunities to reduce inequalities are maximised.

2.5. Risk management and security

- 2.5.1. The Governing Body will ensure the documentation and active management of all overall delivery risks related to the Freeport and the dedication of proportionate resources to ongoing risk management.
- 2.5.2. The Governing Body commits to ensuring suitable escalation to address, mitigate and resolve significant risks through the governance procedures put in place and will flag any escalation of risk to DLUHC.
- 2.5.3. The Governing Body will regularly and thoroughly maintain the Freeport's risk register(s) and will inform DLUHC of risks, associated mitigations, progress and removal through the measures set out in the Management Case of the FBC.
- 2.5.4. Recognising HMG's priority to ensure Freeports uphold the UK's reputation of high standards for tax integrity and probity, port security and combatting illicit activity, the Parties commit within the scope of Freeport activities to fully support and cooperate with HMG in honouring the obligations set out in the OECD Code of Conduct for Clean Free Trade

Zones,⁹ and the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

2.5.5. The Governing Body commits to ownership and management of the security and illicit activity risk assessment at Annex B of the FBC and to coordinating the implementation of an appropriate risk management and mitigation plan on this basis. Recognising this, and the commitment from Freeport customs site operators to counter illicit activity included in Annex H of the FBC, the Governing Body commits to the establishment, ownership and management of the appropriate structures, governance arrangements, and establishing effective processes for coordinating the management of security risks outlined in the Management Case of the FBC. This includes coordinating active management across physical, personnel and cyber domains and working with HMG and other relevant agencies as required.

2.5.6. The Governing Body will carry out an annual audit of Freeport security measures in place and any breaches with local security stakeholders as required by the Freeports Framework.

2.6. Data retention and intellectual property

2.6.1. Documents and data should be retained by the relevant Parties for a minimum of 7 years. Where relevant data is held by third parties, the Governing Body should seek mechanisms to be put in place to ensure they also keep documents and data for a minimum of 7 years and provide the information to the Governing Body if required.

2.6.2. If requested, the Governing Body will work within reasonable endeavours to enter into an intellectual property licensing agreement whereby the Freeport will grant DLUHC a perpetual royalty-free licence to use the OBC(s) and FBC(s). Agreement would be gained from all Parties and participating organisations/ partners before publication and any published documents would be subject to commercial confidentiality.

2.6.3. The Governing Body will manage the Freeport's data and its stakeholders' data effectively and commit to complying with Plymouth City Council's data retention policies and Data Protection Legislation.

2.6.4. The Parties will process any personal data in compliance with the Data Protection Legislation. HMG will manage any data provided by the Freeport effectively and commit to complying with Data Protection Legislation.

2.7. Communications and Branding

⁹ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0454>

- 2.7.1. DLUHC has provided the Governing Body with a Communications Partnership Pack for Freeports attached at Schedule 3. This is to support consistent messaging when communicating about the Freeport, including where public funds are being used or other government support has been provided, and the UK Freeports programme as a whole. The Pack also sets out how DLUHC will work in partnership with the Freeport on joint communications and engagement activity. New iterations of this pack will be made available as the programme – and the associated messaging and branding – evolve. The Parties should work to best endeavours in adopting the guidelines set out in the Pack and subsequent additions.
- 2.7.2. The Governing Body should work to best endeavours to inform DLUHC of major upcoming events, public announcements, and publications, in good time, where possible. Where appropriate, DLUHC will use HMG platforms to promote and support the work of the Freeport.

3. Financial Arrangements

- 3.1. The Governing Body will aim to deliver the Freeport in line with the Financial Case as set out in the FBC. DLUHC recognises that the Financial Case may adjust as the Freeport develops. If significant changes are to be made to the Seed Capital or Capacity Funding, DLUHC should be notified in advance through the change process set out in Section 6.10 of this MoU.
- 3.2. The Governing Body commits to the Freeport being no longer reliant on HMG Capacity Funding and self-funded by FY2025/26, enabled by Capacity Funding available from FY2021/22 through to FY2024/25, or alternative means where necessary.

3.3. Freeport Seed Capital and Capacity Funding

- 3.3.1. The Seed Capital (capital grant) is part of HMG's capital investment for delivery of the Plymouth and South Devon Freeport proposal. The Capacity Funding (revenue grant) is to support the Freeport to ensure there is sufficient organisational capacity in place for the set up and delivery of the Freeport. DLUHC expects the Freeport, overseen by the Accountable Body to use the allocated funding for activities outlined in the approved FBC attached at Appendix 1 and that the relevant evidence of spend and delivery is provided to DLUHC through the reporting requirements as set out in Section 6 of this MoU. DLUHC expects the Governing Body to fully support and cooperate with the Accountable Body to deliver the Seed Capital and Capacity Funding to achieve the objectives of the Freeport.
- 3.3.2. As part of its support for the Freeport, DLUHC considered the FBC for the Freeport proposal at South Yard Tax Site; Langage and Sherford Tax and Customs Site; Octagon Roundabout and Millbay Ferry Port and agreed to allocate Seed Capital (paid as capital grant funding) up to £25m Seed Capital over FY 2022/23 to 2024/25 and Capacity Funding (paid as revenue grant funding) up to a total of £1m from FY2021/22 to FY2024/25. An indicative

allocation for each year, based on the FBC and any additional information provided to DLUHC to date is set out in Table 1 below. The profile of grants should be aligned to planned delivery and spend arrangements during that FY. There will be opportunities to request changes to the proposed profile of this funding through the process referenced in Section 6.10 of this MoU. As DLUHC will need to consider the financial profile across the overall Freeports Programme, adjustments may not always be possible.

Table 1

Financial Year	Seed Capital (capital grant)	Capacity Funding (revenue grant)
2021/22	-	£487,500 (paid prior to MoU being signed)
2022/23	£9,183,000	£467,460 (paid prior to MoU being signed)
2023/24 (Indicative)	£12,089,000	£45,040
2024/25 (Indicative)	£3,728,000	-
Total 2020/21 – 2024/25	£25,000,000	£1,000,000

3.3.3. The FBC sets out the details of projects comprising the delivery of the Freeport, including their: budget; Spend Profile; scope; key assumptions; outputs; timeline; key milestones; and risks. Together these project parameters set out what is expected by the Parties, and these are set out in Table 2 below.

Table 2

Funded Projects
<ul style="list-style-type: none"> • Mobility Hub (South Yard): £3.75m* <p><i>The Mobility Hub (which is a multi-story car park backing directly onto the MOD land) effectively provides the physical barrier between the Innovation Centre and the MOD land which is a security requirement as well as providing much needed parking provision.</i></p> <ul style="list-style-type: none"> • Innovation Centre (South Yard): £1.95m* <p><i>The Innovation Centre builds on existing investment at South Yard and is key to creating the critical mass for the Freeport's Innovation Hotbed. It is a fundamental part of the Freeport proposition and requires investment ahead of need as it must be operational by the time new tenants are</i></p>

	<p><i>operating on the tax sites. Seed funding will Contribute to site remediation and demolition along with the provision of drainage and utility services to develop an Innovation Centre.</i></p> <ul style="list-style-type: none"> • Re-routing MoD Cabling (South Yard): £1.56m <p><i>Re-routing of the MOD cabling is an essential part of the construction process, without which the development would not proceed.</i></p> <ul style="list-style-type: none"> • Princess Yachts Factory, Site Remediation (South Yard): £0.9m <p><i>Enables a key anchor tenant to bring forward a new factory which will create 450 jobs by closing a viability gap where the private sector return would not be sufficient.</i></p> <ul style="list-style-type: none"> • Langage Spine Road Extension Phase 1: £5.95m* <p><i>Provides new plot access which includes a spine road extension, enabling access to the Langage tax site.</i></p> <ul style="list-style-type: none"> • Land Assembly Plot Purchases (Langage): £3.5m <p><i>Land assembly to bring the land in to an efficient ownership structure.</i></p> <ul style="list-style-type: none"> • Core Infrastructure (Langage): £1.125m <p><i>Core infrastructure is required to enable the site to be developed.</i></p> <ul style="list-style-type: none"> • Cycle and Pedestrian Bridge to connect Sherford and Langage: £3.669m* <p><i>A new cycle and pedestrian bridge will provide access across the A38 for residents in Sherford and Plympton, allowing pedestrian and cycle access to the tax sites from both communities. This would not be commercially funded, as the main benefits are via positive externalities (clean transport, connecting residents).</i></p> <ul style="list-style-type: none"> • Access Roads (Sherford): £0.984m <p><i>Enables road access to the Sherford tax site.</i></p> <ul style="list-style-type: none"> • Core Infrastructure (Sherford): £0.216m
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	<p><i>Core infrastructure is required to enable the site to be developed.</i></p> <ul style="list-style-type: none"> • Octagon Roundabout: £0.1m <p><i>Improvements have, for many years, been needed to the Octagon roundabout to enable access for larger articulated HGVs. These improvements would not be possible without public sector intervention as the benefits are public goods.</i></p> <ul style="list-style-type: none"> • Port Infrastructure, Millbay Ferry Port: £1.3m <p><i>The Freeport will be attracting high value industries with export potential. These industries need excellent maritime access for importing raw materials and components and exporting finished products. This requires investment in port infrastructure now ahead of demand which would be an uncertain proposition for a private investor like ABP.</i></p>
Spend Profile	Schedule 1: Spend Profile
Project Outputs & Outcomes	The Governing Body will deliver on the outputs and outcomes presented in the FBC, but a final, more detailed set of project outputs and outcomes will be agreed through the setup of quarterly reporting as set out in Section 6 of this MoU.
Projected Timeline & Key Milestones	Appendix 1: FBC Annex C – Project Plan
Risk Management	Appendix 1: FBC Annex D – Risk Register

3.3.4. As per the requirements of the English Freeports Full Business Case Guidance¹⁰ (section 4.5, page 15), the Accountable Body is expected to oversee the development of the projects and appraise project business cases for all Seed Capital funded projects. The process the Parties will approve these business cases will be via the Plymouth and South Devon Freeport Member Steering Group, which includes the Accountable Body, and subsequently approved through the annual business cycle by the Freeport Board. The investments as highlighted in the FBC are at different stages of maturity, and as such the Freeport will draw on the Infrastructure and Project Authority's Gate Review Process as the basis for formally approving them but tailored to the level of maturity of the individual investment. This will involve the following key stages as detailed on page 84 of the FBC as Appendix 1 with the Member Steering Group signing off at Gate 3. They will be informed and supported by the Local Authorities' capital programmes teams who will

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1072199/English_Freeports_Guidance_-_Full_Business_Case.pdf

undertake gate reviews on an on-going basis to enable the investments to proceed at pace.

- 3.3.5. The FBC identified the projects marked above with an asterisk as not fully developed at the time of signature of this MoU. The Accountable Body must take these projects through the steps outlined in Section 3.3.4 prior to any Seed Capital funding being released for these projects. The Accountable Body must notify DLUHC once these projects have been approved locally. DLUHC may release an initial payment to the Accountable Body to support the development of these projects if requested.
- 3.3.6. By agreeing to this MoU, the Accountable Body and the Governing Body commit to full compliance with the process referred to in the 3.3.4 subsection, unless changes have otherwise been mutually agreed as per the change process set out in Section 6.10 of this MoU.
- 3.3.7. Reporting and assurance on project progress shall be carried out through the Freeports Framework, as set out in Section 6 of this MoU.

3.4. Grant Arrangements

- 3.4.1. Seed Capital and Capacity Funding (see Table 1) will be issued to the Accountable Body as non-ringfenced grant payments under Section 31 of the Local Government Act 2003, for expenditure as set out in Table 2 above.
- 3.4.2. The Accountable Body will manage grant payments to deliver and operate the Freeport, including the financial and fraud risks associated with this and upholding the principles of Managing Public Money. The Accountable Body reserves the right to enforce risk management systems or audit the Freeport Governing Body where the delivery of public money pertains.
- 3.4.3. Grant payments to the Accountable Body will normally be made annually by DLUHC, towards the beginning of each FY, as agreed between DLUHC and HMT. Annual amounts for each FY will be agreed in principle by the Parties before the payment is made.
- 3.4.4. The Accountable Body (or Governing Body, if delegated to them by agreement of the Accountable body and Governing Body) will provide quarterly project, financial, and risk reporting to DLUHC, demonstrating spend against the previous funding and that outputs are being delivered, including site delivery, in line with the approved FBC, as per Section 6.3 of this MoU. This should include updates on the development or approval of the individual business cases for any Seed Capital projects not locally approved prior to the approval of the FBC.
- 3.4.5. The release of subsequent Seed Capital and Capacity Funding will be subject to an annual review as outlined in the Freeports Framework and set out in Section 6 of this MoU. DLUHC reserves the right to make appropriate adjustments to payments and may withhold payments where it has significant concerns regarding the delivery of the Freeport, as per Section 7 of this MoU.

3.4.6. Should the Accountable Body wish to amend the annual Spend Profile at Schedule 1 of this MoU for the following financial year, the Accountable Body will give notice to DLUHC by the last working day of September of the previous financial year. Requests for amendments will be considered by DLUHC, with DLUHC's approval of such requests subject to the availability of resources. There are no guarantees that such requests will be accommodated.

3.4.7. The Accountable Body will consult in good faith with the Governing Body on matters related to the delivery of grants to end users and strive to amicably find a mutually acceptable resolution of any differences, with due transparency and expeditiousness.

3.5. Procurement

3.5.1. On the use of public funds, the Accountable Body will ensure:

- a) It is compliant with all relevant regulations and best practice standards;
- b) That value for money is achieved; and
- c) That the Freeport objectives as set out in Section 5 are delivered.

3.5.2. Before releasing public funding associated with the Freeport Programme to Freeport delivery partners, the Accountable Body will assure themselves that all relevant regulations and approved standards have been met by Plymouth City Council, South Hams District Council, Devon County Council (as the three Local Authority partners running the majority of the procurements), Sherford Consortium, Princess Yachts, Associate for British Ports and Ministry of Defence (the private sector partners running a smaller number of procurements), including that value for money is achieved, and that the policy objectives are, in its estimation, likely to be delivered. Where not directly procuring goods or services, the Accountable Body will satisfy themselves that they are content with the approach taken.

3.6. Subsidy Control

3.6.1. Before releasing public funding associated with the Freeport Programme to end users in the Freeport, the Body granting the subsidy will satisfy itself that doing so is compliant with UK legislation on subsidies.

3.7. Collected Business Rates

3.7.1. Under paragraph 39(1) (designation of areas) of schedule 7B to the Local Government Finance Act 1988 – local retention of non-domestic rates, the Freeport tax sites are to be classed as a designated area with effect from 1 April 2023 for a fixed term of 25 years from the date the tax site was designated for the purposes of tax relief. The Billing Authorities, signatory to this MoU, will retain 100% of the collectible business rates in

excess of a baseline to be agreed between DLUHC and the Billing Authorities prior to the tax sites being designated in the regulations for business rates retention purposes. That baseline will be fixed in the regulations. DLUHC reserves the right to not designate the Freeport tax sites for the purposes of business rates retention until further satisfactory detail has been provided on the intended use of retained rates where this has been requested.

- 3.7.2. The Billing Authorities, in collaboration with the Governing Body, will use business rates retained locally from the Freeport tax sites to promote the Freeport and the Freeports Programme's objectives within the Freeport geography or wider 'travel to work area', and for activity which:
- a) Would not otherwise occur;
 - b) Requires public funding; and
 - c) Is most appropriately funded from collected business rates, rather than other public funding, as per the Freeport's Retained Business Rates Strategy.
- 3.7.3. The Billing Authorities and the Governing Body will ensure the collected business rates fund will be used to promote the Freeport's objectives within the Freeport geography and Travel to Work Area, as per the Freeports Business Rates Relief Policy, Annex J(iv) of the FBC, as well as through the detailed investment plan for retained rates (the Retained Business Rates Strategy) to be provided to DLUHC following the approved FBC.
- 3.7.4. The Billing Authorities and the Governing Body will ensure that strategic decisions relating to the use of collected business rates will be made by the Freeports Members Steering Group. The Billing Authorities will be accountable for the use of retained business rates in accordance with the Members Agreement, the Business Rates Retention Policy and bilateral agreements between South Hams District Council and Devon County Council. This includes the prioritisation and selection of projects for funding, and where ownership of the business rates policy lies, including how it is to be reviewed and evaluated. The Freeport Chief Executive Officer will be accountable for recommending an annual delivery plan to the board which will set out any expectation in relation to the allocation of retained business rates. The Freeport Operations Manager and Freeport Finance Manager will be responsible for the development of the plan and the Freeport Business Growth and Investment Director will be responsible for ensuring that all stakeholders are consulted at an early developmental stage and kept informed of its development.
- 3.7.5. As per the FBC, the Billing Authorities will allocate all rates collected on Freeport tax sites above the baseline set in the regulations to the Freeport, meaning they will be subject to the decision-making process and used for the purposes outlined in the FBC. It is noted that Plymouth City Council will be borrowing £10.2m between 2022/23 and 2024/25, South Hams, £4.6m

between 2022/23 and 2023/24 and Devon County Council, £14.3m between 2024/25 to 2026/27 against retained business rates income to fund Freeport infrastructure projects. The Billing Authorities will also use retained business rate income to fund debt charges, lifecycle costs and a share of the Freeport operating costs. Any surpluses will be reinvested back into the Freeport, as agreed through the annual delivery plan, each going to Skills, Innovation and Carbon net zero projects.

- 3.7.6. Plymouth City Council and South Hams District Council will manage the retained business rates as per the Retained Business Rates Strategy including any financial and fraud risks associated with this and upholding the principles of Managing Public Money.

4. Freeport Delivery

4.1. Progress Milestones

- 4.1.1. Overall Freeport progress milestones will be set out by DLUHC and will be agreed with all Freeports. In cases where a progress milestone is not applicable to the Freeport, DLUHC will mutually agree a revision or completion of that particular milestone with the Freeport.
- 4.1.2. The Governing Body is accountable to HMG for delivery of the Freeport according to agreed progress milestones. Progress milestones, attached at Schedule 2, will be monitored through regular check-in meetings, data reporting and contribute to the annual review process, as set out in Section 6 of this MoU.
- 4.1.3. The Governing Body and DLUHC will mutually agree any changes to the progress milestones or timescales.

4.2. Tax Sites

- 4.2.1. The Governing Body is accountable to HMG for delivery of South Yard, Sherford, Langage tax sites including optimising development of tax sites which:
- a) Aligns with the Freeport's target sectors, which are advanced manufacturing and engineering with a particular focus on marine, defence and space including low carbon applications and the objectives, and vision as set out in the FBC
 - b) ;
 - c) Would not have occurred without Freeport tax site status and is not displaced from elsewhere in the UK; and

- d) Occurs within the period for most Freeport tax reliefs (i.e., prior to October 2026)¹¹

4.2.2. To achieve this, the Governing Body will:

- a) Uphold as directed by the Members of the Freeport Company in accordance with their reserved power (A5) as set out in Schedule 3 of the Members Agreement, the Plymouth City Council South Yard; Princess Yachts South Yard; Carlton Power Langage; Langage Energy Park Limited Langage and Sherford Consortium Compliance Agreements in the Management Case of the FBC, ensuring that those sites support the objectives of the Freeport, including the clustering of businesses with a focus on the Freeports target sectors; support the aim to attract new businesses to the Freeport and wider region, as well as existing businesses that intend to expand their operations and are likely to benefit from the Freeport levers and further generate supply chain opportunities across the Freeport Outer Boundary, Travel-To-Work Area and across the wider South West.
- b) Monitor and report to DLUHC on compliance with the aforementioned Compliance Agreements.
- c) Exercise the incentives and discretionary use of business rates relief in relevant scenarios of noncompliance as defined in the Commercial Case of the FBC;
- d) Monitor and report to DLUHC on the delivery of the tax sites listed in the FBC as part of the formal data reporting requirements, as set out in Section 6 of this MoU; and
- e) Inform DLUHC of any delays to the delivery of the tax sites.

4.2.3. If existing Freeport tax sites are converted to Investment Zone status, or any Investment Zones sites are to be designated within an existing Freeport outer boundary after the FBC has been approved, the Freeport Governing Body, Accountable Body and Billing Authorities must submit a formal change request as per Section 6.10 of this MoU. Freeports should note, that changes may be required to the FBC and MoU in light of this before the request is approved.

4.3. Customs Sites

¹¹ <https://www.gov.uk/government/publications/statement-on-the-designation-of-freeport-tax-sites/statement-on-the-designation-of-freeport-tax-sites>

4.3.1. The Governing Body will:

- a) Work closely and collaboratively with HMRC and customs site operators to support the delivery of customs sites;
- b) Oversee, monitor, and report to DLUHC on the delivery of the customs sites of Burrington Way, Langage and Sherford and the Project Plan at Annex C of the FBC;
- c) Inform DLUHC of any delay to the delivery of the customs sites; and
- d) Make all reasonable efforts to deliver the customs sites to the standards and to the timescales as set out in the FBC. More information on these requirements can be found in the English Freeports Full Business Case Guidance¹²(section 6.5.3, page 25). This also sets out how the Governing Body's responsibilities sit alongside HMRC's ongoing processes to audit Customs Site Operator compliance.
- e) Make all reasonable efforts to ensure that each customs site always has a fully functioning Customs Site Operator and will act quickly to ensure that a replacement is appointed in as short a time as possible if for any reason this not the case.
- f) Make all reasonable efforts to ensure there is a business operational utilising Freeport customs procedure within 12 - 18 months of designation noting potential implications for HMGs support if this requirement is not met, as set out in Section 7.3 of this MoU.
- g)

5. Strategic Delivery

5.1. As the HMG body accountable for leading the delivery of the Freeports Programme, DLUHC will provide the Governing Body with support to coordinate with HMG on strategic areas of Freeport delivery, including with: BEIS, DfE, DWP and DIT.

5.2. DLUHC will facilitate across HMG to enable a coordinated approach to the support, guidance and interaction between HMG and Freeports, to ensure support is targeted and appropriate to the needs of each Freeport. The support offered will be tailored to the needs of each Freeport and will include, but is not limited to, capacity support, technical assistance, coordinating the resolution of

¹²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1072199/English_Freeports_Guidance_-_Full_Business_Case.pdf

common or external issues faced by Freeports and working collaboratively to act on common opportunities or interests for Freeports.

5.3. Net Zero

5.3.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Net Zero strategy at 1g in the Strategic Case of the FBC, including:

- a) Delivering on the ambition of acting as an exemplar whereby working with local partners delivers a net zero emissions target for the area covered by the Freeport's outer boundary and wider region significantly ahead of 2050.
- b) Acting as a catalyst to help accelerate the implementation of existing technologies (such as electric vehicles and hydrogen) as well as pioneering new solutions through the Freeport Innovation Hotbed, acting as a test bed for pioneering and lower carbon construction methodologies for industrial designs that promote circular economy measures.
- c) Deliver or support the Freeport proposals which directly contribute to the net zero ambition as outlined in the FBC including a 10MW Green Hydrogen Generation Plant at Langage; Pedestrian and Cycle Bridge connecting Sherford and Langage; Mobility Hub at Langage; Port Infrastructure Improvements and the Innovation Centre at South Yard.
- d) Follow through on your plans to meet the Freeport Net Zero requirements: Engagement/ collaboration with local partners; Minimising the carbon footprint of investments funded by Freeport Seed Capital at the start and reducing to net zero by the Freeport target date; Attracting further investment in clean growth/net zero technologies and supply chains; Providing an increased number of jobs or improvements in the skills base in the green economy; A sustainable procurement policy.

5.3.2. The Governing Body will be supported by BEIS's Local Net Zero team which will provide a first point of contact and manage support for the delivery of the Freeport's Net Zero plans. This support may be through ongoing engagement, providing guidance and advice on Net Zero topics and will be either with officials across HMG or through the appropriate Local Net Zero Hub.

5.4. Innovation

- 5.4.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Innovation strategy at Annex L of the FBC, including
- a) Utilising the benefits of Freeport status to drive innovation into the marine, defence and space sectors, leveraging existing initiatives such as Ocean Futures, the South West Regional Defence and Security Cluster and South West Centre of Excellence for Satellite Applications.
 - b) Bringing together business, strategic, and knowledge partners to support the development and adoption of innovative technologies, products, processes and services to position the Freeport as a national and global leader in space, defence, and marine technologies.
 - c) Using Freeport tax incentives and innovation facilities to stimulate innovation particularly at Technology Readiness Levels 5/6 and above and support End-User Derived Innovation.
 - d) Collaborate with other areas, both within the UK and overseas to create 'technology bridges' for mutual advantage.
 - e) Levering the University of Plymouth's Cyber-SHIP Lab and the partnerships with Border Force, National Office of Counter Terrorism to ensure that new thinking is developed that safeguards the risk of smuggling, whilst embracing the efficiencies that increased digitisation of smart ports creates. Supporting to create Smart Port solutions to deal with these modern risks and pilot these in the Port of Plymouth within a Smart Port Lab.
 - f) Deliver on the Innovation Strategy, including the development of a marketing and communications plan to highlight the benefits to global businesses of the Freeport's Innovation Strategy and encourage inward investment into the region; the development of a Freeport Innovation Service - to accelerate the innovation opportunities to businesses locating in the tax sites, their local supply chains (including SMEs), research agency alignments and to ensure Freeport businesses are best represented and leading projects within wider regional clusters; and commercialisation - to ensure that the innovation actors in the Freeport will work together to ensure opportunities are translated in commercial realities.
 - g) Deliver and support the Innovation Centre at South Yard.
 - h) Working with the Freeport Regulatory Engagement Network ('FREN') to deliver on the immediate priorities of Regulatory

flexibility in Smart Sound Plymouth ('SSP') to establish an innovation space that unlocks the potential for SSP to be leveraged as a regulatory sandbox and certification area of new solutions in the rapidly evolving legal and regulatory landscape. Regulatory freedom to encourage international original equipment manufacturers to engage in localised experimentation and explore the limits and challenges of Maritime Awareness System interoperability for collision avoidance between technologies and develop potential solutions and standards that could in turn influence regulations themselves. Clean Maritime initiatives to address core structural Naval Architecture aspects, safety cases and on-going maintenance and Smart Ports digital infrastructure and increasing autonomy in marine, road and rail that could have the potential to introduce greater efficiencies into Port operation.

- i) Ensuring the Freeport Business Growth and Investment Director, as the FREN co-ordinator works closely with the Freeport Innovation Service Team to ensure that regulatory matters in all innovation plans are understood for the Freeport businesses and that these businesses are aware of the FREN. In addition, the Business Growth and Investment Director will liaise with the marine, defence and space sectors clusters -and their innovation leads to proactively seek projects that are experiencing similar regulatory issues (or who are progressing well with regulators) to combine and focus efforts leveraging the FREN. The Freeport Business Growth and Investment Director will profile the current FREN activity for the Freeport and exhibit key deregulation and new regulation success stories which have enabled innovation. These two roles will ensure that the FREN becomes a key part of our overall proposition and international marketing collateral. The Business Growth and Investment Director will also join Freeport wide meetings and hold regular meetings with FREN counterparts.

5.4.2. Innovate UK's Southwest Regional Manager will attend the Plymouth and South Devon Freeport Innovation Service and Innovation Board on the Freeport's request to provide advice on the development and implementation of the Freeport's innovation strategy, informed by their in-depth understanding of the region's innovation ecosystems. The Regional Manager will help upskill the Freeports Business Growth and Investment Director to ensure they are aware of available funding opportunities and the existing support on offer in the region to help businesses innovate.

5.4.3. BEIS, alongside the Innovate UK Regional Manager for the Southwest, will actively promote relevant innovation support and funding schemes to the Freeport with advice on how to apply. BEIS will support DLUHC and the Freeport to develop targeted communications aimed at promoting the

Freeport as an attractive prospect for innovative businesses. BEIS, alongside DLUHC, will promote Freeports across HMG to raise awareness of the benefits Freeports have to offer for research, development and innovation focussed activity. BEIS will work with other government departments to explore potential opportunities to expand schemes, and pilot new initiatives within Freeports.

5.4.4. The FREN, as part of HMG's offer on innovation, will engage with the Freeport regularly to review progress of engagement with the FREN to address regulatory barriers. Where criteria are met and resource available, it will support the Freeport to address regulatory barriers in their innovation endeavours and help identify challenges in doing so. It will support the Freeport to address these barriers, including through establishing connections with regulators and other relevant stakeholders to explore approaches.

5.4.5. The Freeport will support the FREN with identifying and testing specific regulatory areas of opportunity and development relating to their innovation objectives. The Freeport will work with relevant regulators, businesses and partners through the FREN to advance this, including through regular sharing of knowledge, information and lessons learned.

5.5. Regeneration and Levelling Up

5.5.1. The Governing Body commits to reasonable endeavours in owning, updating and devoting appropriate resources to support the delivery of Regeneration and Levelling Up objectives.

5.5.2. DLUHC will provide Levelling Up support to Freeports including by: (1) supporting Freeports to develop their business rate investment schemes - including exploring options for borrowing against future business rates income; (2) supporting Freeports to develop their planning strategy and explore optimal planning tools and innovative progression routes; (3) facilitating a joined-up conversation between the Freeport and HMG about regeneration and placemaking; (4) supporting Freeports to implement custom incentives in the initial designated sites; (5) facilitating monitoring and reporting of site delivery progress; and (6) providing strategic advice and support to overcome specific challenges in Freeport delivery, if they arise.

5.5.3. While Local Planning Authorities ('LPAs') retain their statutory powers and responsibilities with regards to planning, the Freeport Governing Body is accountable to HMG for supporting tax site LPAs to create a supportive planning environment and holding them to the commitments at 5.5.4. This includes:

- a) Agreeing planning delivery goals and resourcing commitments with Freeport tax site LPAs and establishing the necessary local governance and risk management structures to oversee delivery of these goals and manage planning risks.
- b) Providing Freeport tax site LPAs with the necessary (financial or other) support to deliver these targets, as agreed between the Freeport Governing Body and the LPAs.
- c) Engaging and supporting Freeport tax site LPAs to engage with UK government planning support.
- d) Reporting quarterly to DLUHC as per Section 6.3.

5.5.4. While LPAs retain their statutory powers and responsibilities with regards to planning, the Billing Authorities, where they also function as Freeport tax site LPAs, commit to:

- a) Using reasonable and appropriate endeavours to deliver a planning environment that supports appropriate investment on Freeport tax sites, including by exploring innovative uses of planning tools, and learning from best practice and from other LPAs and sharing expertise and experience with other Freeport tax site LPAs.
- b) Appropriately resourcing this work and agreeing planning delivery goals, and necessary support to deliver them, with the Freeport Governing Body.

5.6. Skills and Workforce Development

5.6.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Freeport Skills Plan at Annex N of the FBC, including:

- a) Operationalising the Skills Board which will have responsibility for the Freeport Skills Plan and its delivery, providing the Freeport Board with assurance and oversight of skills and workforce development activity. The Group will align and work alongside the wider skills and employment activities across the region and liaise and support the Devon Local Skills Improvement Plan, contribute to the work and objectives of the emerging Devon County Deal and support the Skills Advisory Panel.
- b) Operationalising the Freeports Skills and Workforce Development Team, including commissioning or recruiting a Freeports Skills

coordinator role to lead delivery and partnership alignment.

- c) Drawing down existing funding to maximise wider programme and project funding already present within the local areas and coming forward through new mechanisms. This includes drawing upon recovery and implementation funding from the two upper tier authorities around skills and workforce development; flexible support funding from Job Centre Plus; UK Shared Prosperity Fund and other relevant sources as and when they occur.
- d) Drawing upon wider existing provision and leverage existing capacity against the needs of the Freeport, including: working closely with FE, HE and training provider partners around emerging skills funding (notably Bootcamp, Adult Education Budget and other strands of mainstream DfE funding) to fulfil local needs; alignment of large-scale employment programmes such as RESTART to support those further from the market into relevant opportunities, and wider partners who may be successful through development such as the UK Shared Prosperity Fund within the Plymouth and Devon area. This will also include working with business partners within the Freeport around their own staff investment and development plans, with a focus on maximising private sector resources.
- e) Working with key employers to supply training, work experience and apprenticeships to ensure that residents in Plymouth and South Devon's most deprived areas reap the benefits of the Freeport.
- f) Ensure the skills plans contributes to creating a workforce capable of supporting the Freeport development, including STEM skills, Skilled trades, Production/ manufacturing skills; Logistics and supply chain; Business administration roles; IT and Digital.
- g) Deliver on the identified priorities within the Skills Plan in Annex N of the FBC, page 25.

5.6.2. HMG will work with Freeports to deliver their skills delivery ambitions.

5.7. Trade and Investment

5.7.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Trade and Investment Strategy at Annex K of the FBC, including:

- a) Operationalising the Plymouth and South Devon Trade and Investment Task Force group comprising local and national representatives and informed by the new UK Export Strategy,

focusing its early work the identification of target markets and businesses, working with DIT's Knowledge Lab to explore hotspots of activity across the globe that align to the defined focus sectors.

- b) Build on and enhance the work that has been delivered through DIT's High Potential Opportunity ('HPO') programme in the South West, specifically the Marine Autonomy HPO.
- c) Develop marketing collateral in line with the Marketing and Communications Strategy to communicate the Freeports offer in its entirety to potential investors, highlighting the strength of the focus sectors and the wider support available to businesses specifically around encouraging export activity (Export Academy and through the Plymouth and Devon Chamber of Commerce). This marketing collateral will be used to engage identified businesses with targeted communications but also to stimulate interest in the Freeport more broadly within targeted markets. In order to manage the activity, the Freeport will work with DIT's regional team (Head of Trade – South West England) to agree a process for engaging with and landing potential investors and additionally for triaging relevant support into businesses to ensure the activity creates a long-term boost to the local and national economy and an on-going levelling up of the region.
- d) Delivering on the Trade and Investment Activity outline in Table 15 of the FBC and detailed further in Annex K – including Investor Targeting; Target and Lead Generation and Engagement; Landing; Retaining and Overseeing and Managing.

5.7.2. The Freeport is responsible for building and maintaining their own trade and investment capabilities that should be able to operate independently of DIT to support the end-to-end investment journey and support exporters, while drawing upon DIT's expertise and influence where this is additive. The Freeport is responsible for developing and executing their investment strategy and for supporting site-specific projects, while keeping DIT informed of their activity.

5.7.3. DIT's support for the delivery of the Trade and Investment Strategy will be guided by the requirements set out in Annex K of the FBC. All DIT services relevant to the delivery of the Freeport's Trade and Investment Strategy will be extended to the Freeport, within existing budgetary constraints.

5.7.4. DIT will maintain responsibility for articulating and promoting the UK Freeports offer globally. DIT will also support Plymouth and South Devon Freeport to articulate and promote the proposition specific to Plymouth and

South Devon Freeport to target export and investment markets. DIT's activities will provide additionality to Plymouth and South Devon's own independent promotional strategy and activities and will neither limit nor replace them.

6. Performance Management, Assurance and Evaluation

6.1. DLUHC will carry out ongoing monitoring of Freeports to assist with delivery, assure the use of public funds and evaluate the impact of the programme.

6.2. DLUHC has issued:

6.2.1. The Freeports Framework, attached at Schedule 4 to this MoU, which sets out the reporting requirements Freeports are expected to adhere to enable these processes to take place; and

6.2.2. Monitoring and Evaluation Indicators and Guidance, attached at Schedule 5 to this MoU, to assist Freeports with accurately collecting primary data needed as part of the ongoing monitoring and evaluation and to provide information on the overall evaluation approach.

6.3. The Governing Body and the Accountable Body will collaborate with DLUHC on the processes and reporting requirements set out in the Freeports Framework. This includes committing to:

6.3.1. Monthly check-ins with the DLUHC Freeport Lead to provide updates on Freeport delivery and operations progress, risk, and governance;

6.3.2. Granting observer status to the DLUHC Freeport Lead at the Freeport Governing Body meetings and inviting other HMG departments on a case-by-case basis where necessary;

6.3.3. Reporting quarterly to update in such a format as DLUHC reasonably requires on Freeport site delivery and Seed Capital funded projects progress; the Project Plan and Delivery Milestones (FBC Annex C, at Appendix 1); Spend Profile (Schedule 1); and any live issues and proposed mitigations. These quarterly updates will have particular focus on tax site and infrastructure delivery progress;

6.3.4. Data reporting formally twice a year on inputs, outputs, and outcomes as outlined in Schedule 5, Monitoring and Evaluation Indicators and Guidance and

6.3.5. Participating in a formal annual conversation with HMG to frame the quantitative evidence provided as per Section 6.3 and provide qualitative updates on the status and effectiveness of the delivery of the strategies of

the Freeport on or around such date as DLUHC shall propose.

- 6.4. DLUHC will carry out an annual performance and assurance review of the Freeport's operations, which will be informed by information and data provided through the processes detailed in the Freeports Framework and in this section. This review will inform decisions with regards to any improvement plan or intervention, including the release of future benefits, as per Section 7.3 of this MoU. Where non-delivery or non-compliance is identified, HMG will always as a first resort work with the Freeport with the aim of resolution as per Section 7.3.1.
- 6.5. The Governing Body will be responsible for coordinating the primary level data collection from end users of the Freeport with regards to reporting requirements set out in this MoU including Schedule 4: Freeports Framework and Schedule 5: Monitoring and Evaluation Indicators and Guidance. Freeports should work to best endeavours to agree data sharing agreements with end users of the Freeport to ensure the data required is provided. DLUHC and the external M&E provider shall assist the Governing Body and if required the Accountable Body where possible on the required primary level data collection process and requirements, and the Parties will cooperate in full to satisfy these requirements.
- 6.6. DLUHC will lead the programme-level evaluation for Freeports, which will include a process, impact and value for money evaluation. The Governing Body and the Accountable Body will not be required to lead any wider data collection for the evaluation beyond what is referenced in Section 6, though are expected to assist DLUHC or external suppliers where deemed appropriate by DLUHC for monitoring and evaluation purposes. This may involve working to reasonable endeavours and where appropriate to support site access or arranging interviews with wider Freeport stakeholders.
- 6.7. DLUHC reserves the right to quality assure the data provided and conduct Freeport site visits, Freeport Governing Body office and Accountable Body office and records verifications within reasonable endeavours. This may include spot checks on governance structures and processes related to the collection, storage and utilisation of said data. DLUHC will aim to notify the Governing Body and the Accountable Body within a reasonable timeframe to allow for resource planning if a visit is required, but depending on the nature of the visit, this may be at short notice.
- 6.8. In line with the above requirements, the Governing Body will endeavour to promptly share information at appropriate times, as and when requested by DLUHC. The Accountable Body will endeavour to promptly share the required information most notably on HMG funding to the Governing Body to allow for a timely return of the required data.

- 6.9. DLUHC reserves the right to publish relevant, general and/or aggregated data from the Freeport's reporting discussed herein and use it to inform public statements to communicate the outputs, outcomes, and impact of the Freeports Programme. Where this may relate to commercially sensitive information, DLUHC will work closely with the Governing Body to first determine if the data can be public and then if so, determine appropriate handling measures with respect to the use of such data, for example aggregation or anonymisation of data sets to manage commercially sensitive data. The Governing Body will be consulted and notified in advance of any proposed publications by DLUHC.
- 6.10. The Governing Body will notify DLUHC of any significant proposed changes to the approved FBC, in line with the parameters and process set out in the Freeports Framework. If relevant, this proposed change shall follow the formal change request process set out in the Freeports Framework. DLUHC will work to best endeavours to respond to formal change requests within a reasonable timeframe that will not inhibit the delivery of the Freeport.

7. Ongoing Management

7.1. Duration and Review

- 7.1.1. This MoU covers the duration of Freeports being a public policy and is subject to annual review by the Parties through the annual review process. This may result in amendments or extensions to this MoU by mutual agreement through a formal change request, as set out in Section 6.10 of this MoU, for example to manage the grant profile, ongoing tax reliefs and collected business rates, leading to this document being replaced by an updated version. Amendments to this MoU may only be made by mutual agreement in writing between the Parties through a formal change request.
- 7.1.2. The MoU will be formally reviewed prior to 31 March 2025 to consider the end of the HMG grant payments and delivery of the Seed Capital funded projects.
- 7.1.3. This MoU will come into effect upon signature by the Parties and will remain in effect until it is terminated by the Parties by full mutual agreement in writing. DLUHC reserves the right to exercise the options set out in Section 7.3 of this MoU in the event of a proposed early termination by the Parties, where appropriate.

7.2. Resolution of disputes

- 7.2.1. In the event of a dispute arising as to the interpretation or application of this MoU, the Parties will commit to discussion aimed at resolution.

7.2.2. This MoU is not legally enforceable. It describes the understanding between the Parties for delivery of the Freeport. The Parties to this MoU are responsible for ensuring that they have the necessary systems and appropriate resources in place to comply fully with the requirements of this MoU.

7.2.3. The Parties agree to all due, reasonable, and appropriate transparency, open book working and a duty of good faith regarding all matters relating to the Freeport, and this MoU.

7.3. Managing poor performance

7.3.1. Freeport delivery will be managed through the processes set out in the Freeports Framework. Should an issue arise, DLUHC will first attempt to resolve it in collaboration with the Governing Body and if applicable the Accountable Body. For persistent issues which are recorded at the annual review or are the result of other assurance activities DLUHC will seek to agree a tailored improvement plan with the Governing Body and the Accountable Body as outlined in the Freeports Framework.

7.3.2. DLUHC's support for the Freeport is contingent on compliance with this MoU, Appendixes', and Schedules. DLUHC support of the Freeport may be withdrawn where there are significant concerns with the Freeport, for example including but not limited to the following scenarios where there is:

- a) Consistently poor progress against agreed delivery commitments and/ or limited commitment to full and effective Freeport delivery;
- b) Evidence of the misuse of public funds;
- c) An inability to manage the governance of potential security risks and illicit activity associated with the Freeport;
- d) Non-compliance with commitments on retained business rates and/or tax site delivery;
- e) Failure to comply with the minimum requirements of a Freeport (for example, failing to establish an operational customs site), as set out in HMG Freeports policy documentation;
- f) Activity or negligence leading to the risk of exposure to the wider Freeports Programme to reputational risk (for example, through failures of governance).

7.3.3. The Governing Body, Accountable Body and Billing Authorities accept and agree to all the terms having made full and proper enquiry before

agreeing to the statements contained in this MoU.

7.3.4. DLUHC will not resort to performance measures as a first response to address concerns relating to Freeport delivery, except in the high-risk areas of continued concern. Where appropriate, HMG will consider:

- a) Engagement with relevant government officials (for example, additional bespoke meeting to understand and rectify problems)
- b) Increased frequency and/or depth of assurance testing
- c) Delay or reduction of Seed Capital funding and/ or revenue capacity funding: to ensure probity of public funds, funding may be partially or fully withheld until improvements in the Freeport are made. The specific amount and type of funding withheld will depend on the circumstances of the Freeport and the specific concerns which need to be addressed. As part of this process, consideration will be given to the impact that withholding funding may have on the delivery of Freeport projects and operations alongside the risk posed to DLUHC, other government departments and the Accounting Officer of making payments
- d) Withholding or delaying government support (including but not limited to investment promotion and the use of government branding)
- e) Exclusion from future government benefits (for example, support in accessing future funding)
- f) Revoking current policy levers and benefits

8. Freedom of Information

8.1. Each party will provide to the other parties any information in its possession that may be reasonably requested by the other parties, subject to any confidentiality constraints, safeguards and statutory rules on disclosure. Each party will consult the other parties before making to any third party any significant disclosures of information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 in relation to this MoU.

8.2. The requirements in Section 8 and Section 9 (Confidential Information) below are subject to any HMG requirements as to transparency which may apply to either or all Parties from time to time.

9. Confidential Information

- 9.1. Each party understands and acknowledges that it may receive or become aware of Confidential or Commercially Sensitive Information of the other parties (which may include information where the other party owes a duty of confidence to a third party) whether in the course of performance of the key commitments as set out in the FBC or otherwise.
- 9.2. Except to the extent set out in this Section 9 or where disclosure is expressly permitted elsewhere in this MoU (see section 6.9), each party shall treat all the other parties Confidential or Commercially Sensitive Information as confidential and safeguard it accordingly (which shall include complying with any protective markings on documents and instructions supplied by the other parties). In particular, none of the parties will do anything that may place the other parties in breach of a duty of confidence owed to a third party. A party receiving Confidential or Commercially Sensitive information shall not disclose Confidential or Commercially Sensitive Information to any non-Crown bodies without the prior consent of the other parties.
- 9.3. The obligations of confidentiality in Section 9 shall continue to apply notwithstanding termination of this MoU.

Signed by the Freeport Governing Body Chair on behalf of the Governing Body:

Name:

Date:

Signed by the Section 151 Officer on behalf of the Accountable Body:

Name:

Date:

**Signed on Behalf of the Billing Authority (if more than one Billing Authority),
copy and paste this section) :**

Name:

Date:

**Signed on Behalf of the Secretary of State of for Levelling Up, Housing and
Communities:**

Name:

Date:

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