

**THIS AGREEMENT** is made the                      day of                      2002

**BETWEEN:**

- (1) **WIRRAL BOROUGH COUNCIL** of Town Hall Brighton Street Wallasey Wirral Merseyside CH44 8ED and
- (2) **SEFTON BOROUGH COUNCIL** of Town Hall Southport Merseyside PR8 1DA and
- (3) **LIVERPOOL CITY COUNCIL** of Municipal Buildings Dale Street Liverpool L69 2DH and
- (4) **HALTON BOROUGH COUNCIL** of Town Hall Heath Road Runcorn Cheshire WA7 5TD and
- (5) **KNOWSLEY BOROUGH COUNCIL** of Municipal Buildings Archway Road Huyton Knowsley Merseyside L36 9UX and
- (6) **ST HELENS BOROUGH COUNCIL** of Town Hall St Helens WA10 1HP and
- (7) **THE MERSEY PARTNERSHIP** (a company limited by guarantee and registered under companies registration number:02753023) whose registered office is situate at Cunard Building Pier Head Liverpool L3 1ET

**1. DEFINITIONS AND INTERPRETATION**

1. In this agreement the following words and phrases shall have the following meanings:
  - 1.1 “Board” means the board of governance of the Scheme constituted in accordance with the Memorandum of Agreement
  - 1.2 “Executive Team” means the Executive Team as described in the Performance Plan (or as agreed from time to time by the Board) to be set up and maintained to administer the affairs of the Board and the Scheme
  - 1.3 “Financial Year” means the period of twelve months commencing on the first day of April and expiring on the thirty-first day of March in any year during the continuation of this agreement

- 1.4 “Four Councils” means Wirral Sefton Liverpool and Halton when hereinafter referred to together
- 1.5 “Funding Agreement” means the agreement of even date herewith and made between the Northwest Development Agency (1) and Wirral (2) a copy of which is annexed hereto and marked “the Funding Agreement”
- 1.6 “Funding Application” means the application for funding for the Scheme made by TMP (on behalf of the Six Councils and itself) to the Northwest Development Agency dated the                      day of                      2002 a copy of which is annexed hereto and marked “the Funding Application”
- 1.7 “Halton” means the party of the fourth part
- 1.8 “Knowsley” means the party of the fifth part
- 1.9 “Liverpool” means the party of the third part
- 1.10 “Memorandum of Agreement” means the Memorandum of Agreement a copy of which is annexed hereto and marked “the Memorandum of Agreement”
- 1.11 “Northwest Development Agency” means the Regional Development Agency for the Northwest of England of P.O. Box 37 Kings Court Scotland Road Warrington Cheshire
- 1.12 “Performance Plan” means the plan for the delivery of the Scheme a copy of which is annexed hereto and marked “the Performance Plan” and any other Performance Plan authorised by the Board throughout the period of this agreement
- 1.13 “Scheme” means the Mersey Waterfront Regional Park Scheme an initiative to significantly improve the region’s international image to attract and retain skilled and talented people to live and work in the region to increase visits from tourists and residents and to promote the region as a place in which to invest all as more particularly described in the Performance Plan
- 1.14 “Sefton” means the party of the second part
- 1.15 “Six Councils” means Wirral Sefton Liverpool Halton Knowsley and St Helens when hereinafter referred to together and “Council” shall be construed accordingly

- 1.16 “St Helens” means the party of the sixth part
- 1.17 “TMP” means the party of the seventh part
- 1.18 “Wirral” means the party of the first part
- 1.19 Words importing one gender shall be construed as importing any other gender
- 1.20 Words importing the singular shall be construed as importing the plural and vice versa
- 1.21 The clause and paragraph headings in the body of this agreement and in the schedules do not form part of this agreement and shall not be taken into account in its construction or interpretation
- 1.22 The definitions set out in the Schedules to this agreement shall apply to the whole of this agreement to the extent that the context so permits
- 1.23 Reference to a clause a schedule or a paragraph in the body of this agreement and in the schedules shall be a reference to a clause schedule or paragraph in this agreement unless provided otherwise

## **2. Background**

- 2.1 The “Action Plan for the City Region 2002 - 2005” (a sub-regional programme prepared by TMP that sets out the priorities for Northwest Development Agency investment in the Merseyside region up to 2005) identified the Scheme as the most likely project to create a step change in the economic fortunes of Merseyside
- 2.2 The Scheme seeks to transform energise and connect the Mersey waterfront and all its assets to produce a unique sense of place which acts as a key attractor for people to live work visit and invest in Merseyside
- 2.3 The Funding Application has been submitted to and approved by the Northwest Development Agency
- 2.4 The Northwest Development Agency has indicated its support for the Scheme
- 2.5 The Northwest Development Agency has entered into the Funding Agreement
- 2.6 The Six Councils have agreed to enter into this agreement to give effect to the proposals in the Performance Plan

### **3. Powers**

- 3.1 The Scheme will achieve the promotion or improvement of the economic social and environmental well-being of the areas served by the Six Councils and accordingly the Six Councils have powers to enter into this agreement and to take part in the delivery of the Scheme by virtue of the Local Government Act 1972 Section 111 the Local Government Act 2000 and all other relevant enabling powers and TMP has the power to enter into this agreement and to take part in the delivery of the Scheme by virtue of its Memorandum and Articles of Association
- 3.2 The Six Councils have each passed resolutions or otherwise made decisions in accordance with their respective Constitutions authorising the execution and completion of this agreement and the Board of Directors of TMP has passed a resolution agreeing to enter into this agreement

### **4. Six Councils and TMP to work together**

The Six Councils and TMP hereby agree as follows:

- 4.1 To work together and use reasonable endeavours (subject to the terms of this agreement) to: -
- 4.1.1 implement the Performance Plan and
  - 4.1.2 draw up and agree any amendments to the Performance Plan as may be required from time to time in order to achieve the aims and objectives of the Scheme and
  - 4.1.3 draw up and agree performance plans for subsequent years of the Scheme and agree any amendments thereto as may be required from time to time in order to achieve the aims and objectives of the Scheme
- 4.2 To work together in a spirit of mutual support and understanding
- 4.3 To acknowledge and accept the duty of utmost good faith towards each other in all dealings relating to and arising from this agreement
- 4.4 To set up and maintain the Board in accordance with the terms of the Memorandum of Agreement

- 4.5 To sign and to procure that their nominees to the Board shall sign the Memorandum of Agreement
- 4.6 To set up and maintain the other decision making and advisory groups envisaged by the Performance Plan and the Memorandum of Agreement

**5. Wirral as Accountable Body**

- 5.1 On the date of this agreement Wirral shall enter into the Funding Agreement
- 5.2 The Six Councils and TMP hereby agree that Wirral shall act as the Accountable Body (as that term shall be defined in the Funding Agreement) for the Scheme and Wirral hereby agrees to do so
- 5.3 Wirral agrees to put in place effective financial arrangements for safeguarding and monitoring the expenditure of any public funds allocated to the Scheme and the Six Councils and TMP shall and shall use reasonable endeavours to procure that the members of the Board who they shall nominate shall have due regard to the advice and/or opinions given by Wirral and its advisors in this regard
- 5.4 Wirral's Constitution (including the Rules of Procedure set out therein) shall apply to all of Wirral's dealings on behalf of the Scheme/Board
- 5.5 For the avoidance of doubt Wirral shall not be obliged to act on behalf of the Board if it believes that to do so would be a breach of Wirral's Constitution the terms of the Funding Agreement or the law generally and in these circumstances shall notify the Board of such its decision

**6. The Four Councils' contributions**

- 6.1 The Four Councils shall each make the following contributions towards the management and revenue costs of the Scheme: -
- 6.1.1 **“Staff Time” to the value of forty-two thousand five hundred pounds (£42,500.00) in each of the Financial Years 2002/03 2003/04 and 2004/05 to a total value of one hundred and twenty-seven thousand five hundred pounds (£127,500.00) and**

**6.1.2 “Match Funding” in connection with the marketing of the Scheme to the value of twenty thousand pounds (£20,000.00) in each of the Financial Years 2002/03 2003/04 and 2004/05 to a total value of sixty thousand pounds (£60,000.00)**

6.2 In this clause 6:

6.2.1 the term “Staff Time” shall mean the involvement of staff of each of the Four Councils in the Technical Advisory Groups the Board and the general development of the Scheme which for the avoidance of doubt shall include the implementation and monitoring of individual projects

6.2.2 the term “Match Funding” shall mean monies from each of the Four Councils’ existing marketing budgets allocated to and spent upon joint Scheme marketing campaigns

6.3 Each of the Four Councils shall be responsible for providing evidence of expenditure of Staff Time and Match Funding throughout the life of the Scheme and shall provide such evidence to Wirral on the first day of April the first day of July the first day of October and the first day of January in each Financial Year to enable connected claims to be processed and made and as soon as practicable after the end of each Financial Year shall also provide to Wirral copies of records kept of such expenditure audited by the District Auditor

## **7. TMP’s contribution**

7.1 TMP shall make available at its offices at Cunard Building Pier Head Liverpool (or anywhere else that the Board shall agree) all necessary office space furniture and equipment to enable the Executive Team to carry out its duties and responsibilities properly and efficiently

7.2 TMP shall make available at its offices at Cunard Building Pier Head Liverpool (or anywhere else that the Board shall agree) space and furniture for the meetings of the Board as required in the Memorandum of Agreement

## **8. TMP’s obligations**

TMP accepts a joint and equal responsibility (with the Four Councils) for any breach of contract or other claim arising out of any agreement act or omission arising as a direct result of a decision of the Board other than when that decision relates to a grant assisted project

**9. The Four Councils' obligations**

9.1 The Four Councils accept a joint and equal responsibility (with each other and with TMP) for any breach of contract or other claim arising out of any agreement act or omission arising as a direct result of a decision of the Board other than when that decision relates to a grant assisted project

9.2 Each of the Four Councils shall be responsible for the provision to Wirral of monitoring information in respect of any project for which it is made responsible in accordance with the provisions of clause 13 throughout the life of the Scheme and thereafter for so long as Wirral shall be required to provide such monitoring information to funders or other bodies and shall provide such evidence to Wirral on the first day of April the first day of July the first day of October and the first day of January in each Financial Year

9.3 The Four Councils and TMP shall set up and maintain the Executive Team

**10. Wirral's authority to act**

The Six Councils and TMP hereby authorise Wirral to do the following on behalf of the Board:

10.1 to enter into any agreements, contracts and/or assurances in order to give effect to the decisions of the Board and Wirral (subject to the terms of this agreement) hereby agrees to do so

10.2 to make grant or funding applications authorised by the Board in respect of the Scheme (but not for any central government grant or borrowing consent that would limit any individual Council's ability to raise funds unless expressly authorised by the Council concerned)

10.3 to receive and hold funds on behalf of the Board

- 10.4 to hold land and other property on behalf of the Board
- 10.5 to employ agents to carry out appraisals of projects for which grant applications have been submitted to the Executive Team where Wirral deems it appropriate either on grounds of expediency or where Wirral is the applicant or has an interest in the project and within a reasonable time after each occasion that it employs such an agent or agents Wirral shall report to the Board that it has done so
- 10.6 to make payments (including the payment of grants salaries and other expenses incurred by the Four Councils over and above the Four Council's contributions referred to in clause 6) on behalf of the Board out of funds received from the Northwest Development Agency and other funding sources for this purpose
- 10.7 to institute proceedings on behalf of the Board for the enforcement of contracts agreements and other rights and obligations and for the recovery of monies due in connection with the Scheme

## **11. Staffing issues**

- 11.1.1 TMP shall employ the Executive Team
- 11.1.2 The Executive Team shall be employed upon TMP's terms of employment including all personnel policies
- 11.1.3 The Executive Team shall be based at the offices of TMP at Cunard Building Pier Head Liverpool
- 11.1.4 The Executive Team shall be employed exclusively for the purposes of the Scheme
- 11.1.5 The Executive Team's contracts of employment (so far as possible) shall be limited to the period of this agreement/the Scheme
- 11.2 Any member of the Executive Team already employed by a Council or TMP shall retain their terms and conditions of employment including all personnel policies
- 11.3 Wirral shall employ two members of staff (a Finance and Monitoring Officer and an Appraisal Officer) to carry out or to procure the appraisal of projects for which grant



applications have been submitted to the Scheme and who (for the avoidance of doubt) shall not be a part of the Executive Team

- 11.4 The two members of staff so employed shall be employed upon Wirral's terms of employment including all personnel policies
- 11.5 The two members of staff so employed shall be employed within Wirral's Regeneration Team based at Egerton House Tower Road Birkenhead or anywhere else required by Wirral and shall be responsible to the Executive Manager of Wirral's Regeneration Team
- 11.6 The two members of staff so employed shall be employed exclusively for purposes of the Scheme
- 11.7 The contracts of employment of the two members of staff so employed (so far as possible) shall be limited to the period of this agreement/the Scheme
- 11.8 For the avoidance of doubt the Mersey Maritime Sector Champion (as that term is defined in the Performance Plan) is not a member of the Executive Team but shall act as a consultant and advisor to the Executive Team and the Board

## **12. Wirral's obligations**

- 12.1 To act as Accountable Body (as that term is hereinbefore defined) for the Scheme and comply with the obligations placed on it as Accountable Body
- 12.2 To appraise or to procure the appraisal of projects for which grant applications have been submitted to the Executive Team and in so doing to exercise all due skill and care
- 12.3 To seek and accept the support of the Northwest Development Agency except where it is inconsistent with the other terms of this agreement or contrary to law
- 12.4 To accept a joint and equal responsibility (with Sefton Liverpool Halton and TMP) for any breach of contract or other claim arising out of any agreement act or omission arising as a direct result of a decision of the Board other than when that decision relates to a grant assisted project

## **13. Responsibility to Monitor Projects**

- 13.1 The Council in whose administrative area:
- 13.1.1 any development (as defined by Town and Country Planning Act 1990 Section 55) to be financially assisted is to take place or
- 13.1.2 any facilities or services the provision of which is to be financially assisted are to be provided
- shall be responsible for the monitoring of the delivery of such project and of any outcomes and/or outputs required therefrom and for the delivery of information to Wirral as provided by clause 9.2
- 13.2 Where any development (as defined by Town and Country Planning Act 1990 Section 55) to be financially assisted is to take place or any facilities or services the provision of which is to be financially assisted are to be provided in the administrative area of more than one Council then each such Council shall be responsible for the monitoring of the delivery of such project and of any outcomes and/or outputs required therefrom and for the delivery of information to Wirral as provided by clause 9.2 insofar as such relates to its own administrative area
- 13.3 Wirral shall provide the responsible Council or Councils with a copy of the relevant grant application the appraisal of that application and of any agreement entered into in respect of the delivery of the project between the recipient of the grant and Wirral
- 13.4 A responsible Council shall notify Wirral immediately it becomes aware of or suspects any financial or other irregularities in connection with a project or that that project will not or is unlikely to achieve the outcomes and outputs required of it

#### **14. Indemnities**

- 14.1 A Council or Councils in whose administrative area:
- 14.1.1 any development (as defined by Town and Country Planning Act 1990 Section 55) to be financially assisted is to take place or

14.1.2 any facilities or services the provision of which is to be financially assisted are to be provided

shall indemnify and keep indemnified Wirral from and against any valid claim made against Wirral by an appropriate funding body for the repayment of any finance advanced to Wirral in its capacity as Accountable Body for the Scheme and that project in particular save where such claim arises as a direct result of negligence or wilful default on the part of Wirral its employees agents or contractors

14.2 Where any development (as defined by Town and Country Planning Act 1990 Section 55) to be financially assisted is to take place or any facilities or services the provision of which is to be financially assisted are to be provided in the administrative area of more than one Council then the indemnity to Wirral shall be in the same proportions as the amount of financial assistance intended to be expended in the relevant administrative areas as a part of the particular project (including associated costs and expenditure) bears to the total sum intended to be expended upon that project PROVIDED ALWAYS that (in aggregate and including a notional contribution from Wirral where part of such expenditure shall be made in Wirral's administrative area) the indemnity shall in any event amount to 100% of any valid claim

14.3 Where the instigator and/or beneficiary of any project to be financially assisted is the Board then the Four Councils and TMP shall jointly and equally (but not severally) indemnify and keep indemnified Wirral from and against any valid claim made against Wirral by an appropriate funding body for the repayment of any finance advanced to Wirral in its capacity as Accountable Body for the Scheme and that project in particular save where such claim arises as a direct result of negligence or wilful default on the part of Wirral its employees agents or contractors PROVIDED ALWAYS that (for the avoidance of doubt) in calculating

any sums payable under this indemnity a notional equal contribution from Wirral shall be taken into account

- 14.4 Wirral shall not claim under the indemnity in clause 14.1 unless it has used reasonable endeavours to recover all or part of the sums due from a recipient of grant assistance PROVIDED ALWAYS that if reasonable endeavours shall include the institution of legal proceedings against such recipient of grant assistance (subject to the relevant Council or Councils having first been consulted as to the merits of such proceedings) that Council or Councils shall indemnify Wirral against any costs incurred by Wirral in bringing those proceedings
- 14.5 Wirral shall notify a relevant Council in writing as soon as reasonably practicable after it becomes aware of any circumstances that may cause it to claim against the indemnity in clause 14.1
- 14.6 Wirral shall notify Sefton Liverpool Halton and TMP in writing as soon as reasonably practicable after it becomes aware of any circumstances that may cause it to claim against the indemnity in clause 14.3
- 14.7 Any claim made by Wirral pursuant to clauses 14.1 and 14.4 shall be paid by the relevant responsible Council within 14 days after a written demand therefore supported by appropriate documentation
- 14.8 Any claim made by Wirral pursuant to clauses 14.3 shall be paid by Sefton Liverpool Halton and TMP within 14 days after a written demand therefore supported by appropriate documentation
- 14.9 Interest shall be payable upon any sums due to Wirral pursuant to clauses 14.1 14.3 or 14.4 at the base lending rate of HSBC Bank Plc from and including the fifteenth day after a written demand is made up to and including the date upon which payment is received by Wirral
- 14.10 Sefton Liverpool Halton and TMP (to the intent that they shall be jointly and equally but not severally liable) hereby indemnify and shall keep indemnified Wirral from and against all costs liabilities and expenses arising out of the

employment or the lawful termination of the employment of the two employees employed by Wirral to appraise or procure the appraisal of projects for which grant applications have been submitted to the Scheme PROVIDED ALWAYS that (for the avoidance of doubt) in calculating any sums payable under this indemnity a notional equal contribution from Wirral shall be taken into account

14.11 The Four Councils (to the intent that they shall be jointly and equally but not severally liable) hereby indemnify and shall keep indemnified TMP from and against all costs liabilities and expenses arising out of the employment or the lawful termination of the employment of the Executive Team (excluding the two employees employed by Wirral to appraise or procure the appraisal of projects for which grant applications have been submitted to the Scheme) PROVIDED ALWAYS that (for the avoidance of doubt) in calculating any sums payable under this indemnity a notional equal contribution from TMP shall be taken into account

**15. No partnership**

For the avoidance of doubt there is no trading or other formal partnership (as defined by the Partnership Act 1890 or the Limited Liability Partnerships Act 2000) between the Six Councils between the Six Councils and TMP or between the members of the Board or between any of them

**16. Period of agreement**

This agreement shall be deemed to have started on the                      day of 2002 and (save for the provisions of clauses 6.3 9.3 13 and 17) shall terminate on the 31<sup>st</sup> day of March 2005.

**17. Renewal of this agreement**

Nine months before the end of the agreement Wirral will write to all the other Councils seeking their proposals on the renewal of this agreement for a further period including any proposed revisions

**18. Failure to renew the agreement**

- 18.1 It is acknowledged that a failure to renew this agreement may lead to redundancy and other costs and liabilities and it is agreed that such costs and liabilities shall be shared by the Four Councils and TMP
- 18.2 It is further agreed that the Four Councils and TMP will use reasonable endeavours to avoid and minimise the costs and liabilities arising from termination on the date set including if appropriate a limited renewal of the agreement redeployment of staff to individual Councils or TMP and the assignment of contractual and other liabilities to individual Councils or TMP
- 18.3 Within nine months of actual termination Wirral will produce closing accounts
- 18.4 Any loss or surplus shown in those accounts including any assets (including intellectual property rights) or termination costs shall be divided between or be borne by the Four Councils and TMP equally. Any surplus shall only be paid to the Four Councils and TMP after the Northwest Development Agency and any other appropriate funding source shall confirm in writing that it has no claim thereon and after the deduction from any Council's share of the amount of any contribution that should have been made by that Council but has not been so made or expended over the period of this agreement

**19. Dispute resolution**

In the event of any dispute between the Six Councils and/or TMP about the terms of this agreement their interpretation or implementation then the parties in dispute shall first ensure that their respective Chief Executives shall meet to discuss and seek a resolution of the dispute and then failing a resolution of the dispute consider referring the matter for mediation. In default of agreement on the identity of a mediator that mediator shall be appointed and the terms of appointment to be fixed by the Chief Legal Officer to another Council not involved in the dispute. The parties to the dispute shall share the costs of the mediation equally. If mediation is not agreed then the parties shall then consider agreeing an arbitration process

before commencing legal proceedings. The parties to the dispute shall share the costs of any arbitration equally.

**20 Notices**

Any notice to be given under this agreement shall be in writing and shall be sent by recorded delivery post to the address of each party hereinbefore written

**SIGNED** by an Authorised Officer for

**WIRRAL BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**SEFTON BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**LIVERPOOL CITY COUNCIL**

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**SIGNED** by an Authorised Officer for

**HALTON BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**KNOWSLEY BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**ST HELENS BOROUGH COUNCIL**

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**SIGNED** by an Authorised Signatory for

**THE MERSEY PARTNERSHIP**

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MERSEY WATERFRONT REGIONAL PARK PARTNERSHIP

**MEMORANDUM OF AGREEMENT**

In this Memorandum (and in the schedule hereunder written) the following words and expressions shall (where the context so admits) have the following meanings: -

**“Accountable Body”** means the body accountable to the Northwest Development Agency for the acts of the Partnership pursuant to the agreement (in terms to the reasonable satisfaction of Wirral) (“the Funding Agreement”) to be entered into by the Council with the Northwest Development Agency by which the Northwest Development Agency shall agree to provide funds for the Scheme upon the terms and conditions set down in the Funding Agreement

**“Associate Members”** means those Members of the Partnership who have not subscribed to this Memorandum or who, having withdrawn from it, still wish to be Members of the Partnership

**“Board”** means the Mersey Waterfront Regional Park Partnership Board

**“Code of Practice”** means the Code of Practice set out in the Schedule hereunder written

**“Council”** means Wirral Borough Council

**“Full Members”** means those Members of the Partnership who have, or who at any time hereafter shall, subscribe to this Memorandum

**“Members of the Partnership”** means those persons and/or bodies from the public, private, community or voluntary sectors who shall from time to time express support for the Mersey Waterfront Regional Park Scheme and agree to be associated with it

**“Partnership”** means the Mersey Waterfront Regional Park Partnership and shall (unless the contrary is expressly provided) include both Associate Members and Full Members

**“Mersey Waterfront Regional Park Area”** means the area (shown edged in red on the plan annexed hereto) that spans the River Mersey estuary coast and parts of the two adjoining estuaries of the River Dee and the River Ribble. This includes approximately seventy miles of coastline from Southport via Liverpool to Fiddlers Ferry beyond Runcorn and around the whole of the coast of Wirral

**“Mersey Waterfront Regional Park Scheme”** means the project to be delivered by the Partnership to bring about the regeneration of the Mersey Waterfront Regional Park Area in accordance with the Mersey Waterfront Regional Park Performance Plan 2002/2005

**“Mersey Waterfront Regional Park Partnership”** means the informal partnership formed between the Full Members and the Associate Members to deliver the Mersey Waterfront Regional Park Scheme

## **Whereas**

The purpose of this Memorandum is to set out briefly the roles and responsibilities of the Partnership, the Members of the Partnership, the Board the Council and the Accountable Body.

This Memorandum is not intended to be an exhaustive exposition of the roles and responsibilities of the Partnership, the Members of the Partnership, the Board, the Council and the Accountable Body.

**IT IS AGREED** as follows: -

### **1. *The Mersey Waterfront Regional Park Partnership***

- (a) In joining together there is no intention to create a legal, financial or other relationship between the Members of the Partnership. For the avoidance of doubt the Partnership is and will be an informal partnership between persons and/or bodies from the public, private, community and voluntary sectors.
- (b) Those persons or bodies subscribing to this Memorandum shall be Full Members but the list of Members of the Partnership thereby created shall not be closed and membership of the Partnership shall be open to all persons and/or bodies from the public, private, community and/or voluntary sectors who from time to time shall wish to be a Member of the Partnership and if such person or body shall be invited by the Board to subscribe to this Memorandum and shall so subscribe then such person or body shall become a Full Member.
- (c) Members of the Partnership shall be bound by the terms of this Memorandum and the Code of Practice.
- (d) The Members of the Partnership accept that all decisions made by the Partnership or the Board on its behalf must be in accordance with the Constitution of the Council the Funding Agreement and the statutory and other regulatory requirements affecting the Council and the Accountable Body.

### **2. *The Mersey Waterfront Regional Park Partnership Board***

- (a) The Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership and the Northwest Development Agency shall each nominate one person to be a member of the Board in accordance with the provisions of this Memorandum and the Code of Practice.
- (b) In addition the chairperson of each of the Technical Advisory Groups (as hereinafter defined) shall be a member of the Board in accordance with the provisions of this Memorandum and the Code of Practice.
- (c) The Board may invite other persons to become members of the Board but so that at no time shall the Board exceed fourteen (14) members.
- (d) The Board will be constituted and will operate in the manner provided in this Memorandum including for the avoidance of doubt the Code of Practice.

- (e) The person nominated by the Northwest Development Agency shall attend meetings of the Board as an observer only. He or she may take part in any debates or discussions but shall not be entitled to take part in any vote.
- (f) The Board will be responsible for taking decisions in order to produce a coherent strategy and policy for the Mersey Waterfront Regional Park Scheme.
- (g) The Members of the Partnership shall use reasonable endeavours to procure that the members of the Board shall accept that all decisions made by the Board must be in accordance with the Constitution of the Council the Funding Agreement and the statutory and other regulatory requirements affecting the Council and the Accountable Body.
- (h) For the avoidance of doubt there is no intention to create a legal, financial or other relationship between the members of the Board or between the Partnership and the Board.

### **3. *Technical Advisory Groups***

The Members of the Partnership shall appoint from amongst their employees with particular areas of expertise or interest three sub-groups (to be known as Technical Advisory Groups) to focus on the thematic development of:

Estuary Development and Management  
Tourism Sport and Leisure and  
Mersey Maritime.

Members of each Technical Advisory Group shall act as Champions (identifying and progressing project ideas) Advisors (providing technical advice on particular project proposals or the wider Mersey Waterfront Regional Park scheme (including annual business planning)) and Appraisers (carrying out initial scoping of project proposals)

### **4. *Delivery and Maintenance Group***

The Members of the Partnership shall appoint from amongst their employees a sub-group (to be known as the Delivery and Maintenance Group) to oversee the practical delivery of projects. This group shall comprise one employee representative from each delivery partner who shall be responsible for overseeing projects for which their respective organisation is the lead partner. Members of the Group shall ensure that progress is made against agreed targets and within predetermined milestones ensuring that the agreed standards of the Mersey Waterfront Regional Park Scheme are achieved and that the projects are delivered on time and to budget.

### **5. *Executive Team***

- (a) An Executive Team (“Executive Team”) shall be set up and maintained as described in the initial plan for the delivery of the Mersey Waterfront Regional Park Scheme and approved by the Board (“Performance Plan”) or as may be agreed from time to time by the Board
- (b) The Executive Team will ensure that the Mersey Waterfront Regional Park Scheme is delivered in accordance with the Funding Agreement this Memorandum (including for the avoidance of doubt the Code of Practice) the

agreed Performance Plan, published regulations, rules and guidance and the strategy determined by the Board.

- (c) The Executive Team will inform the Technical Advisory Groups the Delivery and Maintenance Group and the Board of the relevant standing orders and statutory requirements from time to time of the Council.
- (d) The Executive Team shall liaise between the Partnership, the Board the North West Regional Development Agency, the Government Office, the European Commission, any other government or other external body and the Council.
- (e) The Executive Team shall provide an administrative service to the Board the Delivery and Maintenance Group and the Technical Advisory Groups.

## **6 *The Council's Role Within the Partnership***

- (a) The Partnership hereby agree that the Council shall act as the Accountable Body for the Partnership and the Council hereby agrees to do so.
- (b) The Council agrees to put in place effective financial arrangements for safeguarding and monitoring the expenditure of public money and the Members of the Partnership and the members of the Board shall have due regard to the advice given by the Council and its advisors in this regard.
- (c) The Partnership hereby authorises the Council to enter into any agreements, contracts and/or assurances on its behalf in order to give effect to the decisions of the Board.

**ALL FULL MEMBERS** shall sign this Memorandum to signify that they have read and understood its contents and to indicate that they agree to be bound by the Memorandum and for the avoidance of doubt the Code of Practice for the duration of their membership of the Partnership and for a period of six months thereafter.

THE SCHEDULE hereinbefore referred to: -

### CODE OF PRACTICE

**It is intended that the Mersey Waterfront Regional Park Partnership acting by the Mersey Waterfront Regional Park Partnership Board shall have collective responsibility for the strategic direction and management of the Mersey Waterfront Regional Park Scheme as set out in all relevant Mersey Waterfront Regional Park strategic plans and as such must have due regard to the terms of this Code of Practice.**

#### **1. The Constitution of the Board, its formalities etc**

- (a) It is intended that the Mersey Waterfront Regional Park Scheme be delivered by the Partnership represented by the Board supported by an Executive Team and three Technical Advisory Groups to be known as The Estuary Development and Management Technical Advisory Group The Tourism Sport and Leisure Technical Advisory Group and The Mersey Maritime Technical Advisory Group.

- (b) The Council will act as Accountable Body for the Partnership
- (c) The Board will comprise of up to fourteen Board Members ('Board Members') being one Board Member nominated to represent each of the Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership the Northwest Development Agency the chairperson of each of the Technical Advisory Groups and any other person who the Board shall invite to join the Board provided that the Board shall at no time comprise more than fourteen (14) Board Members.
- (d) The Board will meet at least quarterly and (subject only to this restriction) the Partnership will from time to time agree and/or review the frequency dates and times of these meetings.
- (e) Board Members (unless removed or replaced as hereinafter provided) shall serve throughout the duration of the Mersey Waterfront Regional Park Scheme
- (f) The Chair and Vice Chair of the Board shall be chosen by the Board from amongst its number.
- (g) Each Board meeting shall be accurately minuted with the minutes being available for inspection by the general public in accordance with the provisions of the Access to Information Act.
- (h) A quorum at any meeting of the Board shall be seven voting Members [including representatives of at least two from the Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council or St Helens Borough Council]
- (i) The Board can co-opt as many non-voting members as required to attend meetings to provide additional expertise as requested.
- (j) A representative of the Northwest Development Agency will be invited to attend all meetings as an observer with no voting rights.
- (k) The Board will seek to achieve consensual agreement through debate and where necessary will make final decisions on the basis of a simple majority vote with the Chair having the casting vote.
- (l) [The Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council and The Mersey Partnership [(acting together)] may veto any decision of the Board. This provision of the Code of Practice shall not be capable of deletion waiver or amendment by the Board without the prior written consent of the Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council and The Mersey Partnership]

## **2. Alternative Members, Replacements and Dismissals**

- (a) A Board Member (not being a representative nominated by the Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership the Northwest Development Agency nor the chairperson of one of the Technical Advisory Groups) who is absent from three consecutive Board meetings without

reasonable excuse may be removed from their position as a Board Member by a resolution of the Board. Such a Board Member shall be given not less than fourteen days prior written notice that a motion to bring about his or her removal from the Board is to be debated at a meeting of the Board. He or she shall be given an opportunity to address the Board at that meeting but shall not be entitled to vote upon the motion to remove him or her. A resolution of the Board to remove such a Board Member must be supported by not less than two-thirds of the Board Members present at the meeting and entitled to vote.

- (b) The Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership and the Northwest Development Agency shall use reasonable endeavours to ensure that their respective nominated Board Members shall attend all meetings of the Board and that in the event that for any reason such person shall be unable to attend a meeting of the Board a deputy or suitable alternative representative is sent in his or her place.
- (c) The Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership and the Northwest Development Agency shall be entitled to replace their representative on the Board at any time by notice in writing to the Chairperson of the Board and to send a deputy or alternative representative to a meeting of the Board if the Board Member nominated by them is not able to attend that meeting for any reason.
- (d) The chairperson from time to time of each of the Technical Advisory Groups shall be the nominated Board Member. Immediately upon his or her resignation or removal as chairperson of the relevant Technical Advisory Group such a Board Member shall cease to be a Board Member and shall be replaced as a Board Member by the incoming chairperson of the appropriate Technical Advisory Group. Each Technical Advisory Group shall be entitled to send a deputy or alternative representative from among the members of the appropriate Technical Advisory Group to a meeting of the Board if the chairperson of that Technical Advisory Group is not able to attend that meeting for any reason.
- (e) Any Board Member who in the opinion of the Board acts dishonestly or not in accordance with this agreed Code of Practice shall be removed from their position as a Board Member by a resolution of the Board. Such a Board Member shall be given not less than fourteen days prior written notice that a motion to bring about his or her removal from the Board is to be debated at a meeting of the Board. He or she shall be given an opportunity to address the Board at that meeting but shall not be entitled to vote upon the motion to remove him or her. [A resolution of the Board to remove such a Board Member must be supported by not less than a two-thirds of the Board Members present at the meeting and entitled to vote.]
- (f) When any Board Member who is not a representative nominated by the Council Sefton Borough Council Liverpool City Council Halton Borough Council Knowsley Borough Council St Helens Borough Council The Mersey Partnership the Northwest Development Agency nor the chairperson of one of the Technical Advisory Groups resigns or is removed from the Board the Members of the Partnership shall nominate a replacement maintaining at all times the constitution of the Board as referred to in paragraph [1 c] above.
- (g) Every Board Member shall sign this Memorandum as soon as reasonably practicable after he or she shall become a Board Member pursuant to this

Memorandum and Code of Practice and in any event before he or she shall take part in any vote at a meeting of the Board to the intent that he or she shall thereby acknowledge that he or she has read this Memorandum and Code of Practice and agrees to be bound by the provisions hereof including (for the avoidance of doubt) the Code of Practice

### **3. Responsibilities of Members of the Partnership and Board Members**

- (a) Board Members are expected to carry out their duties to the highest standards of professionalism and integrity bringing experience, judgment and critical detachment to their duties and must not be influenced by business or personal relationships external to their Partnership duties.
- (b) Board Members are expected to attend regular meetings of the Board and any sub-group to which they are appointed by the Board as well as any other meetings where their presence can reasonably be expected.
- (c) Members of the Partnership and Board Members must always act in good faith and in the best interests of the Partnership, the Board, the Mersey Waterfront Regional Park Scheme as a whole and the local community and economy and must have due regard to the fact that they are administering Public funds.
- (d) Members of the Partnership and Board Members shall not use information gained in the course of their public service and in exercising their responsibilities as a Member of the Partnership and/or a Board Member for personal gain nor seek to use the opportunity of public service to promote their own private interests.
- (e) Members of the Partnership and Board Members (unless obliged to do so by law or with the consent of a person authorised to give it) shall not disclose to a third party any confidential information gained as a consequence of their being a Member of the Partnership and/or a Board Member for any purpose whatsoever.
- (f) A Member of the Partnership and/or a Board Member who misuses information gained by its/his/her position as a member of the Partnership or Board Member may be liable for breach of confidence at Common law and/or to be removed from membership of the Partnership and/or the Board.
- (g) Members of the Partnership and Board Members must use their best endeavours at all times to avoid any occasion for suspicion and any appearance of improper conduct.
- (h) Clauses 3a to 3g inclusive shall apply where appropriate to Members of the Partnership and Board Members and any deputies or alternative representatives.
- (i) Board Members and Members of the Partnership must, when informed by officers of the Council and/or the Executive Team, have due regard to the Funding Agreement, the Constitution of the Council, all statutes, any rules and regulations affecting the Council as Accountable Body and must ensure that any decision made by the Board is in complete conformity with these.

#### **4. Conflicts of Interest**

##### ***Personal Interests***

- (a) A Member of the Partnership or a Board Member must regard himself/herself/itself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under clauses 4 (g) and (h), or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, rate payers or inhabitants of the Mersey Waterfront Regional Park Area, the well-being or financial position of himself/herself/itself, a relative or a friend or -
- (i) any employment or business carried on by such persons;
  - (ii) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (iii) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5000; or
  - (iv) any body listed in sub-clauses (i) to (v) of clause 4(h) in which such persons hold a position of general control or management.
- (b) In this clause 4 -
- (i) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
  - (ii) “partner” in clause 4 (b)(i) above means a member of a couple who live together.

##### ***Disclosure of Personal Interests***

- (c) (i) A Member of the Partnership or Board Member with a personal interest in a matter who attends a meeting of the Board or of the Partnership at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (ii) Subject to clause 4 (e)(i)(b) a Member of the Partnership or Board Member with a personal interest in any matter who has been party to any decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

##### ***Prejudicial Interests***

- (d) (i) Subject to clause 4 (d) (ii) a Member of the Partnership or Board Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member of the Partnership’s or Board Member’s judgement of the public interest.



(ii) A Member of the Partnership or Board Member may regard himself/herself/itself as not having a prejudicial interest in a matter if that matter relates to -

- (a) another relevant authority of which he/she/it is a member;
- (b) another public authority in which he/she/it holds a position of general control or management;
- (c) a body to which he/she/it has been appointed or nominated by such an authority as described in clauses 4(d)(ii) (a) and (b) as its representative;

***Participation in Relation to Disclosed Interests***

(e) (i) A Member of the Partnership or Board Member with a prejudicial interest in any matter must -

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting; and
- (b) not exercise any voting rights in relation to that matter; and
- (c) not seek improperly to influence a decision about that matter.

(f) For the purpose of this clause 4 “meeting” means any meeting of -

- (a) the Partnership;
- (b) the Board; or
- (c) any of the Partnership’s or Board’s sub-committees including for the avoidance of doubt the Technical Advisory Groups and the Delivery and Maintenance Group.

***Registration of Financial and Other Interests***

(g) Within 28 days of his/her/its becoming a Member of the Partnership or a Board Member a Member of the Partnership or Board Member must register his/her/its financial interests in the register maintained by the Director of the Executive Team by providing written notification to the said Director of -

- (i) any employment or business carried on by him or her or it;
- (ii) the name of the person who employs or has appointed him/her/it, the name of any firm in which he/she/it is a partner, and the name of any company for which he/she/it is a remunerated director;
- (iii) the name of any person, other than a relevant authority, who has made a payment to him/her/it in respect of his/her/its election or any expenses incurred by him/her in carrying out his/her duties;

- (iv) the name of any corporate body which has a place of business or land in the Mersey Waterfront Regional Park Area, and in which the Member of the Partnership or Board Member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
  - (v) a description of any contract for goods, service or works made between any relevant authority of which he/she/it is a member, any public authority in which he/she/it holds a position of general control or management, or a body to which he/she/it has been appointed or nominated by such an authority as described in clauses 4(d)(ii) (a) and (b) as its representative and himself/herself/itself or a firm in which he/she/it is a partner, a company of which he/she/it is a remunerated director, or a body of the description specified in sub-clause (iv) above;
  - (vi) the address or other description (sufficient to identify the location) of any land in which he/she/it has a beneficial interest and which is in the Mersey Waterfront Regional Park Area;
  - (vii) the address or other description (sufficient to identify the location) of any land where the landlord is any relevant authority of which he/she/it is a member, any public authority in which he/she/it holds a position of general control or management, or a body to which he/she/it has been appointed or nominated by such an authority as described in clauses 4(d)(ii) (a) and (b) as its representative and the tenant is a firm in which he/she/it is a partner, a company of which he/she/it is a remunerated director, or a body of the description specified in subparagraph (iv) above; and
  - (viii) the address or other description (sufficient to identify the location) of any land in the Mersey Waterfront regional Park Area in which he/she/it has a licence (alone or jointly with others) to occupy for 28 days or longer.
- (h) Within 28 days of his/her/its becoming a Member of the Partnership or a Board Member a Member of the Partnership or Board Member must register his/her/its other interests in the register maintained by the Director of the Executive Team by providing written notification to the said Director of his/her/its membership of, or position of general control or management in, any -
- (a) body to which he/she/it has been appointed or nominated by his/her/its employer or by another public authority as its representative;
  - (b) public authority or body exercising functions of a public nature;
  - (c) company, industrial and provident society, charity, or body directed to charitable purposes;
  - (d) body whose principal purposes include the influence of public opinion or policy; and
  - (e) trade union or professional association.
- (i) A Member of the Partnership or a Board Member must within 28 days of becoming aware of any change to the interests specified under clauses 4(g) and (h), provide written notification to the Director of the Executive Team of that change.

**Registration of Gifts and Hospitality**

- (j) Members of the Partnership and Members shall not accept any gifts or hospitality arising out of their membership of or relationship with the Partnership, the Board, the Mersey Waterfront Regional Park Scheme or the Council other than reasonable hospitality supplied by such persons or bodies and shall not accept any gifts or hospitality from any persons or bodies applying or seeking to apply for a grant or involved or potentially involved in any transaction connected with the Mersey Waterfront Regional Park Scheme.

**General**

- (k) Members of the Partnership and Board Members must declare any personal interests during any discussion or correspondence with officers of the Council or its agents, the Executive Team or its agents and Board Members or representatives of the Board or its agents.
- (l) Members of the Partnership and Board Members shall review their membership/chairmanship if their personal circumstances are likely to result in so many declarations of interest that their value as a member/chair will be affected or are likely to result in a weakening of public confidence in the duty of Members of the Partnership or Members to work solely in the public interest.
- (m) Whenever Members of the Partnership or Board Members are unsure of the seriousness of a potential conflict of interest they shall err on the side of caution.

***(This is a legal document. If you do not understand any of the terms of this Memorandum you should seek legal advice. Do not sign this Memorandum if you do not intend to be bound by the terms of it.)***

**SIGNED** by an Authorised Officer for

**WIRRAL BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**SEFTON BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**LIVERPOOL CITY COUNCIL**

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**SIGNED** by an Authorised Officer for

**HALTON BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**KNOWSLEY BOROUGH COUNCIL**

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**SIGNED** by an Authorised Officer for

**ST HELENS BOROUGH COUNCIL**

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**SIGNED** by an Authorised Signatory for

**THE MERSEY PARTNERSHIP**

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