

Dated **2024**

- (1) Nottingham City Council**
- (2) Bolsover District Council**

Memorandum of Understanding

This Memorandum of Understanding (MoU) is dated [] 2024

Between

- (1) **NOTTINGHAM CITY COUNCIL** of Loxley House, Station Street, Nottingham NG2 3NG (**NCC**); and
- (2) **BOLSOVER DISTRICT COUNCIL** of The Arc, High Street, Clowne, Derbyshire S434JY (the **Partner**).

together the “**Parties**” and each a “**Party**”.

BACKGROUND

- (A) Following a competitive tender process, NCC have appointed **Integrated Environmental Solutions Ltd (Consultant)** to deliver the Consultancy Services for the benefit of NCC and the Partner.
- (B) This MoU sets out the relationship of the Parties in relation to the Consultancy Agreement, the LAEP Process and the obligations of the Parties under this MoU.
- (C) It is the Parties’ intention that NCC has no obligation to place orders with the Consultant under this MoU, the Consultancy Agreement or at all.
- (D) By the terms of this MoU, the Parties acknowledge that NCC will undertake the Activities set out in this MoU and that the East Midlands Combined County Authority will pay the Consultancy Funds to NCC on behalf of the Partner to enable them to carry out the Activities.
- (E) This MoU establishes the responsibilities of the Parties and the general principles for their cooperation in the LAEP Process.
- (F) This MoU is not intended to be legally binding and no legal obligations or legal rights shall arise between the Parties from the provisions of the MoU. However, the Parties enter into the MoU intending to honour their obligations.

1 Interpretation

1.1 Unless the context otherwise requires, references to this MoU shall be construed as a reference to this MoU as varied or amended in accordance with its terms. Reference to a person includes a legal entity, words importing a gender include all genders and words importing the singular include the plural and vice versa.

Activities means agreed activities set out in **Error! Reference source not found.** and “Activity” shall be construed accordingly dependent on NCC;

Confidential Information means any information which has been designated as confidential by either Party 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:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of a duty of confidence by either Party);
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information;

Consultancy Agreement means the consultancy agreement entered into on [**DATE**] with the Consultant for the provision of the Consultancy Services;

Consultancy Funds means the funds transferred to NCC by the East Midlands Combined County Authority for the purpose of paying the Consultant;

Consultancy Services the services provided by the Consultant in a consultancy capacity for NCC as more particularly described in the Consultancy Agreement;

Consultant means Integrated Environmental Solutions Ltd.;

Data Protection Legislation all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, replaced or updated from time to time and the applicable guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.

Fast Followers means the Co-County Carbon Co-ordination Project. A partnership project to co-ordinate local authority net-zero related activity in the East Midlands Combined County Authority area. This project is funded by UK Research and Innovation via Innovate UK; The participating Local Authorities are: Derbyshire County Council, Nottinghamshire County Council, Derby City Council, Nottingham City Council, Broxtowe Borough Council, Gedling Borough Council and Rushcliffe Borough Council. An

officer from each participating Local Authority sits on the Project Board.

Intellectual Property Rights	means patents, utility models, inventions, trade marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, know-how, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
LAEP Delivery Plan	means the LAEP Delivery Plan set out in Appendix 2;
LAEP Process	means the local area energy plan as more specifically described in the LAEP Delivery Plan;
Personal Data	have the meaning given in the UK GDPR;
Processing	have the meaning given in the UK GDPR; and
UK GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

2 Parties' responsibilities:

- 2.1 NCC will manage the Consultancy Contract on behalf of the Partner and to pay the Consultancy Fee to the Consultant pursuant to the terms of the Consultancy Agreement.
- 2.2 The Partner will engage with NCC and the Consultant in accordance with the terms of this MOU.

3 Objectives and principles of collaboration and the parties' responsibilities

- 3.1 The Parties agree that the following are the objectives of the MoU (the **Objectives**):
 - 3.1.1 to ensure the effectiveness of the Consultancy Agreement in delivering the Consultancy Services;
 - 3.1.2 to improve the provision, and development, of the Consultancy Services delivered through the Consultancy Agreement;
 - 3.1.3 to operate in a way that allows for genuine co-operation, sharing of best practice and improvement of the Consultancy Services delivered under the Consultancy Agreement to produce the best outcome of the LAEP Process; and

- 3.1.4 to share information and experience between the Parties required in connection with the Consultancy Agreement.
- 3.2 The Parties will adopt the following principles (**Principles**) at all times in respect of this MoU to deliver the Objectives to:
 - 3.2.1 be accountable to each other for performance of their respective roles and responsibilities as set out in this MoU;
 - 3.2.2 act in a timely manner in relation to the LAEP Process;
 - 3.2.3 ensure sufficient and appropriately qualified employees and other necessary resources are available and (in the case of employees) authorised to fulfil the responsibilities set out in this MoU; and
 - 3.2.4 have open and honest conversations regarding the effectiveness of the Consultancy Agreement and LAEP Process.
- 3.3 Each Party agrees to:
 - 3.3.1 be just and true to the other Party and act in good faith;
 - 3.3.2 report as soon as practicable to the other Party any matters of which it becomes aware which may affect the effective working of the Consultancy Agreement or the LAEP Process;
 - 3.3.3 always respect the need to maintain the obligations of confidentiality and the need to avoid conflicts of interest, facilitate best practice and the sharing of information and knowledge.
- 3.4 NCC agrees it will maximise the benefits of the Consultancy Agreement until termination of this MoU.
- 3.5 The Partner agrees that it will:
 - 3.5.1 give all reasonable assistance to NCC to allow the best possible service to be delivered under the Consultancy Agreement;
 - 3.5.2 give all reasonable assistance to NCC to ensure that NCC can comply with NCC's obligations under the Consultancy Agreement;
 - 3.5.3 in a timely manner, to provide all data and information requested by NCC required for the Consultant to carry out its obligations under the Consultancy Agreement and the LAEP Process; and
 - 3.5.4 to actively participate in the LAEP process and to undertake all required actions required under the LAEP Delivery Plan.

4 Liaison between the parties

- 4.1 Formal contact between the Parties will be through (the **Representatives** and each a **Representative**):

NCC: Net Zero Innovation and Deliver Manager

PARTNER: [REDACTED].

- 4.2 Any Party may change their Representative at any time by notifying the other in writing.
- 4.3 The Representatives and the project board for Fast Followers will make up the board (the **Board**).
- 4.4 The NCC Representative will be the Chair of the Board.
- 4.5 The Board shall:
 - 4.5.1 meet at least monthly;
 - 4.5.2 be responsible for the strategic decisions, oversight and monitoring of the relationship of the Parties under this MoU;
 - 4.5.3 be responsible for any matter relating to this MoU;
 - 4.5.4 approve any amendments or variations of the Activities;
 - 4.5.5 resolve any conflict reported to them by NCC and any direct complaint made by any Party; and
 - 4.5.6 document key decisions in writing.
- 4.6 Representatives and the project board from Fast Followers in attendance will have only one vote each on any matter, if agreement cannot be reached on any matter, the Chair of the Board will hold the casting vote.
- 4.7 Board meetings will be held virtually unless agreed otherwise.
- 4.8 The NCC Representative shall ensure that members of the Board are sent papers for meetings (including but not limited to an agenda and details of any specific resolutions to be put to the meeting) not less than two Business Days before the date of such meeting.
- 4.9 The Parties may agree in writing at any time to change the composition of the Board.
- 4.10 The Board will invite senior officials from each Party and NCC to a six monthly review of the performance of the Consultancy Agreement in relation to the requirements and activities of the Parties.

5 Intellectual Property

This MoU does not transfer any interest in any Intellectual Property Rights in the information or any other material shared between the Parties. All Intellectual Property Rights developed or created by a Party shall be owned by that Party.

6 Charges and liabilities

6.1 Each Party shall bear its own costs and expenses incurred in complying with its obligations under this MoU.

6.2 All Parties shall remain liable for any losses or liabilities incurred due to their own or their employees' actions and no Party intends that any other Party shall be liable for any loss it suffers as a result of this MoU.

7 Confidential information

7.1 Each Party understands and acknowledges that it may receive or become aware of Confidential Information of the other Party (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 Activities or otherwise.

7.2 Except to the extent set out in this clause 7 or where disclosure is expressly permitted elsewhere in this MoU, each Party shall treat the other Party's Confidential Information as confidential and safeguard it accordingly (which shall include complying with any protective markings on documents and instructions supplied by the other Party). In particular, neither Party will do anything that may place the other Party in breach of a duty of confidence owed to a third party. A Party receiving Confidential information shall not disclose Confidential Information to any non-Crown bodies without the prior consent of the other Party.

8 Protection of personal data

8.1 The Parties will enter into a data sharing agreement whenever Personal Data is shared as part of the Activities.

8.2 Each Party warrants that it shall comply with its obligations under the Data Protection Legislation in respect of Personal Data it shares with, or has received from, the other Party pursuant to this MoU.

8.3 Each Party must ensure that Personal Data collated or exchanged under this MoU is not transferred outside the UK without the prior agreement of the other Party.

9 Term and termination

9.1 This MoU shall commence on the date of this MoU and (subject to earlier termination on the terms of this MoU) shall continue for the duration of the Consultancy Agreement.

9.2 Either Party may serve notice to terminate this MoU by giving not less than three months' written notice to the other Party.

- 9.3 Each Party agrees that it will provide all reasonable assistance to one another both to allow the termination of this MoU.
- 9.4 Should this MoU be terminated, the Parties will co-operate during any handover arising from the expiry or termination of this MoU. Such co-operation shall extend to allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary, within legal constraints, to the other Party or such other third party (or parties) authorised to take over all or part of the Activities in order to achieve an effective transition without disruption to routine operational requirements.

10 Conflict Resolution

- 10.1 Any dispute between the Parties arising out of or in connection with this MoU shall in the first instance be resolved amicably between the Parties through the Board. If no resolution is reached, the Parties will refer the dispute to the Head of Midlands Net Zero Hub/Director.
- 10.2 Should the Parties not be able to resolve the dispute in accordance with clause 10.1, the Parties will refer the dispute to the Centre for Effective Dispute Resolution (CEDR) with each Party bearing its own costs.
- 10.3 The following senior personnel (at Director level) are responsible for managing disputes for their own Party including giving instructions in relation to clause 10.2:
- 10.3.1 For NCC: Director of Environment and Sustainability
 - 10.3.2 For the Partner: [insert]

11 Enforceability

The Parties agree that the provisions of this MoU and its Appendices are not legally binding and enforceable.

12 Miscellaneous

- 12.1 This MoU does not confer any rights on any third party. Nothing in this MoU shall be interpreted as limiting, superseding, or otherwise affecting any Party's normal operations in carrying out its statutory, regulatory or other duties. This MoU does not limit or restrict either Party from participating in similar activities or arrangements with other entities.
- 12.2 The Parties reserve the right to vary the requirements of the MoU should this become necessary at any time, following discussion between the Parties and any such variation will be confirmed in writing.

SIGNATORIES

The duly authorised representatives of the Parties affix their signatures below.

Signed for and on behalf of **NOTTINGHAM CITY COUNCIL**

Signature: _____

Name: _____

Position: _____

Date: _____

Signed for and on behalf of **BOLSOVER DISTRICT COUNCIL**

Signature: _____

Name: _____

Position: _____

Date: _____

