

## Appendix H: Collaborative agreements

*Example collaborative agreement 1: Simple form of agreement where no recompense is required.*

An AGREEMENT is made this                    day of    [month]                    200X BETWEEN:

The ENVIRONMENT AGENCY ( the “Agency”) of Manley House, Kestrel Way, Sowton, Exeter EX2 7LQ and the XXXXXXXX PARISH COUNCIL (the “Council”) of the Village Hall, XXXXXXXX, Devon.

It has been AGREED as follows:

- 1 The Agency shall supply and install flood defence gates (the “gates”) to assist with the protection of the village of XXXXXXXX.
- 2 The Agency shall provide the Council with an Operation Manual and relevant training that sets out the method for the safe and proper operation of the gates.
- 3 The Agency shall be responsible for the future maintenance of the gates.
- 4 The Agency shall install and keep in good order the necessary telemetry equipment to provide a flood warning to the Council.
- 5 The Council, as consideration for the provision, installation and maintenance of the gates, shall be wholly responsible for the operation of the gates in accordance with the instructions provided in the current Operation Manual.
- 6 The Council shall be responsible for providing the manpower necessary to satisfactorily operate the gates for a period of twenty years from the signing of this Agreement and thereafter unless agreed otherwise by the parties.
- 7 Neither party will be liable to each other for any reason arising out of the operation of, or the failure to operate the gates.
- 8 The Agency will accept responsibility in the event that a person trained by the Agency to operate the gates is injured due to negligent maintenance of the gates by the Agency.
- 9 In the event that the Council fails to operate the gates at the appropriate time, the Agency will endeavour to send its operational staff to assist. The Agency will not accept any liability however, for failure by its staff to attend on site to assist with operating the gates.
- 10 The Agency and the Council will review the terms of this Agreement at intervals not exceeding five years. In the event that a dispute arises which they cannot satisfactorily resolve, they may refer such dispute to an arbitrator to be agreed between them or failing agreement, to be appointed by the Institution of Civil Engineers.

Signed:

By and on behalf of the ENVIRONMENT AGENCY

By and on behalf of the XXXXXXXX PARISH COUNCIL



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- 1.3 **“The Project Objectives”:** Are as set out in Appendix 3.
- 1.4 **“Associated Schemes”:** Means any scheme between the Project Partners or two or more of them and relating to The Project Objectives.
- 1.5 **“The Consultant”:** Means [consultants name] or a nominated representative pursuant to a contract between the [clients name] and [consultants name] for the co-ordination of the pilot study into the feasibility of Project Objectives.
- 1.6 **“Project Group”** : means the group comprising one representatives from each of the Project Partners or such other equal number of representatives from each of the Project Partners as the Project Group may by majority vote agree
- 1.7 **“the Project”** means the [project name] as detailed in the Project Specification, the Project Objectives and the Project Budget Profile
- 1.8 **“the Project Specification”** means the Specification set out in Appendix 1 hereto
- 1.9 **“IPR”** means intellectual property rights of whatsoever nature
- 1.10 **“Foreground IPR”** means any IPR created as a result of the Project

## 2 THE AGREEMENT

- 2.1 The Project Partners shall provide such staff time and resources within their respective Roles as herein below set out as are necessary to facilitate the Project Objectives. This will include the required project management and technical expertise to deliver the required outputs on time, cost and with the appropriate quality. The Project Partners will take account of the Project Specification and Key Milestones as set out in Appendix 1, and the Funding/Expenditure profile as set out in Appendix 2.

### 3 ROLES

#### 3.1 The Agency will:

- Provide the financial administration for distribution of the [clients name] funded monies for the Project.
- Provide the required staff time (to include provision of a Project Manager) to assist completion of the project within programme.
- Be the lead partner for this Project.
- Be responsible for the management of all procurement activities and project management.
- Provide representation on the Project Group.
- Be nominated as “Employer” in respect of any contracts entered into with third parties.
- Ensure that all contractor liaison will be undertaken using the Agency procurement guidelines.

#### 3.2 XXXXXX Council will:

- Provide the required staff time to enable completion of the project within programme.
- Provide representation on the Project Group.
- Provide representation on external meetings and briefings.
- Provide historical data on types of flooding and areas of flooding.
- Undertake an assessment of available hydraulic modelling for use in an integrated model.
- Assist with report writing.
- Undertake hydraulic modelling of integrated catchments and assessment of climate change on the catchment.
- Provide such survey information and data collection for all sources of flooding as is reasonably practicable.

#### 3.3 XXXXXX XXXX Water will:

- Provide such staff time as is reasonably practicable to enable completion of the project within programme.
- Provide representation on the Project Group.
- Identify the main point of contact at XXW.
- Be the facilitator to obtain assistance and data from others.
- Provide representation at external meetings and briefings.
- Provide such data, analysis and reporting as is reasonably practicable.

### 3.4 The Project Manager will

- Co-ordinate the delivery of the Project in liaison with the Project Group.
- Develop and be responsible for all project management and implementation including project specifications and sub-contracting of works.
- Prepare relevant reports and information relating to the financial and budgetary monitoring and implementation of the project and all Associated Schemes.
- Promote the project through press releases and contribute to all publicity and interpretation by mutual agreement with the Project Group.

### 3.5 The Project Group will

- Make all decisions involving expenditure relating to the Project Objectives
- An officer of the Agency shall Act as chairman.
- Except as specifically provided in this agreement any decision of the Project Group involving expenditure of funds shall be unanimous, but in the absence of a unanimous decision, the decision shall be adjourned to the next meeting and if no unanimous agreement is reached the decision shall be on a majority of those attending with the chairman having the casting vote.

## 4 **TERMS AND CONDITIONS**

The agreement is subject to the following terms and conditions:

### 4.1 **Obligations of the Project Group**

- 4.1.1 The Project shall be completed in accordance with the Project details as described in Appendix 1. All projects and schemes carried out under the banner of the [project name] by any of the Project Partners shall be with the agreement of the Project Group.
- 4.1.2 The Project Group must agree all changes to the Project Specification, any Associated Schemes and any changes thereto.
- 4.1.3 Nomination of any Contractor and the subsequent award of a required Contract will be by the Agency with agreement of the other Project Partners.
- 4.1.4 The Agency will be responsible for financial administration of any Contract. This will include maintaining detailed project income and expenditure accounts and related documentation such as invoices, which are to be maintained by the Project Manager.

4.1.5 It will be the responsibility of the Project Manager to ensure appropriate records are kept and these records shall be available to all Project Partners for audit purposes if necessary.

4.1.6 Following agreement by the Project Group, the Agency will settle all bills through the Agency's normal financial procedures and against specified and agreed project budgets and targets.

4.1.7 Upon the signing of this Agreement, the Project Group shall agree the details of the Project Specification set out in Appendix 1 and the Funding/Budget Profile in Appendix 2.

4.1.8 This arrangement shall be one of collaboration and shall not in any way constitute a partnership nor a joint venture neither shall any of the Project Partners act or purport to act as principal agent employer or employee of the others

## 4.2 Payment

4.2.1 Expenditure by XC and XXW on the Project will be refunded by the Agency on submission of an invoice. The date for the submission of any invoice by XC or XXW shall be at the discretion of XC or XXW respectively after reference to the Project Group. Invoices shall state the number of hours worked together with the associated rates.

4.2.2 The Project Partners reserve the right to audit project procedures at any time during and following the Project.

4.2.2 In the event of a shortfall in anticipated funding by the [client] the project will terminate on a date as agreed by the partners and any unused funds will be paid to the Project Partners pro-rata their outstanding costs.

4.2.3 A retention of 10% shall be applied by the Agency to all payments payable on the completion of the Project.

## 4.3 Press Releases & Publicity

4.3.1 None of Project Partners shall make any public announcement disclosure or statement concerning this project without the prior consent of both of the other parties.

4.3.2 The Project Group shall all agree in writing (including e-mail, fax or letter) any press release or any other associated publicity relating to the Project, prior to the release being made.

4.3.3 All statements, press releases and any other printed material issued by the Project Partners in relation to the Project will include the words [project name] where appropriate.

4.3.4 The written announcements, wherever possible, will be published on not less than 80% post consumer waste recycled paper.

#### 4.4 Completion

The Project shall be completed in accordance with the Project Specification set out in Appendix 1.

#### 4.5 Intellectual Property

4.5.1 The parties shall make available for use in the project all necessary drawings, documents, models, and designs but the copyright and all intellectual property rights in them and shall belong to and remain with the respective Project Partner.

4.5.2 Each of the Project Partners shall be responsible for obtaining the appropriate IPR in respect of all matters which it uses for the Project or makes available to the other Project Partners and hereby warrants that no infringement of third party IPR has taken place in providing the material for the use in the Project; and indemnifies the other parties against third party claims resulting from the use by other Project Partners of any licensed IPR. Provided always that where a Project Partner is unable to obtain any IPR necessary for the benefit of the other Project Partners it shall exercise such rights as it has for the benefit of the Project and advise the other Project Partners of any such limitations.

4.5.3 Any resulting intellectual property from the project shall be jointly owned by the parties as tenants in common in equal shares and the Project Partners will be given free and unfettered use of the Foreground IPR for their internal statutory or other purposes and will be permitted to develop it further for such purposes.

4.5.4 The Agency shall to the extent that the other Project Partners are lawfully able be given free and unfettered use of the Foreground IPR for its internal statutory or other purposes and will be permitted to develop it further for such purposes.

4.5.5 The Agency's normal course of business does entail interaction with a variety of contractor's consultants and other agents including Local and Central Government, with whom we may have statutory duties to disclose information.

## 4.6 Termination

The Agreement may be terminated as hereinafter provided and, subject to any accrued rights and liabilities the obligations on the parties thereafter shall cease in any of the following circumstances (“the termination conditions”):-

- 4.6.1.1 If any party fails to support the Project Manager, in accordance with this Agreement,
- 4.6.1.2 If agreement is unreasonably withheld to changes which may be necessitated in order to complete the Project to budget or timetable, or to accommodate changing site conditions.
- 4.6.1.3 If the Agency or other project partners fail to provide the required staff time and resources as set out in the Project Specification as described in Appendix 1 (as amended by any changes that have been agreed by the Project Group).
- 4.6.2 In the event that the Project Manager believes that a termination condition has occurred he shall call a meeting of the Project Group to determine whether such a condition exists or has occurred. The decision shall be by simple majority of the Project Group provided that any aggrieved party may refer the decision to arbitration as set out in Clause 4.9 hereof.

## 4.7 Liability & Insurance

- 4.7.1.1 The Project Partners shall be responsible for their own insurance liabilities under this project.
- 4.7.1.2 In undertaking this Project the Project Partners will ensure they have appropriate insurance cover
- 4.7.1.3 Any equipment/ items purchased by the individual partners for the delivery of the Project will remain the property of the respective partner. They will also be responsible for the maintenance and insurance of the equipment/ items.

## 4.8 Dispute Resolution

All disputes or differences, which shall at any time, arise between the Project Group whether during the term of this Agreement or afterwards relating to this Agreement or its construction shall be referred to a single Arbitrator to be agreed upon by the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Arbitrators on the application of the first party to apply in accordance with the Arbitration Act 1950 or any statutory modification or re-enactment of it for the time being in force.

#### 4.9 Jurisdiction

This Agreement shall be governed by English law.

#### 4.10 Spirit of Co-operation and Partnership

The key to the success of this “partnership” approach to the work will be the communication skills and the attitude of the organisations and individuals involved.

In signing up to this Agreement the partners agree to participate in the project in a spirit of co-operation, openness and understanding. Decisions will be taken for the good of the Project as a whole and due consideration will be given to the mutual benefit of all signatories.

If differences of opinion develop with regard to the direction of the Project or to its scope, early resolution will be sought. In order to maximise the potential for this, the Project Partners and their representatives on the Project Group will ensure that:

- all communications are constructive, comprehensive, timely and open
- issues are raised as soon as they arise
- all parties to discussions aim to reach agreement for the project good rather than for individual partner gain
- the aim of fulfilling the project objectives, as set out in Appendix 3 of this document, remains of paramount importance.

Signed by:

.....

for and on behalf of

XXXXXX Council

date:.....

Signed by:

.....

for and on behalf of

XXXXXX XXXX Water Ltd

date:.....

Signed by

.....

for and on behalf of the

XXXXXXXXXX Agency

date:.....

## **APPENDIX 1 – PROJECT SPECIFICATION [PROJECT NAME]**

### **Description of Project:**

A collaborative project involving the XXXXXXXXXXXX Agency, XXXXX XXXX Water Ltd and XXXXXXX Council, to provide the necessary survey data and to undertake the appropriate modelling, for the [project name].

### **Project Partners**

"XA"	XXXXXXXXXX Agency
"XC"	XXXXXX Council
"XXW"	XXXXXX XXXX Water Ltd

### **Strategic and Long term Aims of the Project**

The strategic and long-term aim of the project is to ensure an agreed, integrated and sustainable approach is taken for the future management of flooding in [location name].

## Agreed Outcomes and Key Deliverables

Target Date	Project Month	Description of Milestone
30/11/2006	0	[client] award of study
31/12/2006	1	Set up Partnerships
22/02/2007	3	Data review of historical information
19/03/2007	4	Establish suitable model techniques
25/08/2007	9	Complete modelling
17/10/2007	11	Complete engagement of public awareness
21/02/2008	15	Completion of draft action plan
15/04/2008	17	Final report

## APPENDIX 3 – THE PROJECT OBJECTIVES

### 1. Understand the interaction between different types of flooding in [location name] (Milestone 3)

- All partners will contribute historical information to the data review to achieve understanding of the interaction between different types of flooding.

### 2. Model some of the combined flood risk (Milestones 4 & 5)

- All partners will assess and develop the model techniques to be applied in order to study the effects of combined flood risk on the area.

### 3. Improved public awareness of the risks and engagement on the actions to take (Milestone 6)

- All partners will participate in engaging and informing the public through meetings, literature and all areas of the media, as to the risks that exist and the actions to take. The partnership will hold at least two public meetings for stakeholders.

### 4. Develop Action Plan for ongoing investigations and work (Milestone 7)

- All partners shall contribute to an initial Draft Action Plan, which will provide a way forward for the future in terms of assessing the effects of flood risk and ensuring public awareness and associated actions to take. The Plan will identify clear roles and responsibilities for each Partner and a timetable for key actions.

### 5. Produce information to assist other investigation work (Milestones 3, 4 & 5)

- This will be achieved from the data review of the historical information, together with the information obtained from the application of the modelling techniques that have been identified.

**6. Investigation into the standardisation of Design Standards within the partnership (Milestone 7)**

- The partners will discuss the means of achieving this at the regular Project Group meetings, and investigate within their separate organisations the criteria currently used, with a view to achieving standardisation.

**7. Consider the impact of climate changes on all sources of flooding (Milestones 5, 6 & 7)**

- From the data review of the historical information that is available, and the application of the modelling techniques to be applied, the varying effects of climate change on all sources of flooding will be considered and assessed. The latest climate change scenarios will be used.

**8. Establish lessons learnt from the Partnership. (Milestones 7 & 8)**

- Throughout the program there will be a regular review and monitoring of the roles, responsibilities and actions undertaken by all partners, together with the solutions as determined and results obtained. Any and/or all lessons learnt will be identified within the final report and addressed as necessary.