

- (18) **Lindsey Marsh Internal Drainage Board** of Wellington House, Manby Park, Louth, Lincs, LN11 8UU (hereinafter referred to "LMIDB")
- (19) **Witham Fourth Internal Drainage Board** of 47 Norfolk Street, Boston, Lincolnshire, PE21 6PP (hereinafter referred to as the "WFIDB")
- (20) **The King's Lynn Consortium of Internal Drainage Boards** of Kettlewell House, Austin Fields, King's Lynn, Norfolk, PE30 1PH (hereinafter referred to as the "KLC")

1. Recitals

- 1.1 The Wash and North Norfolk Coast European Marine Site shown outlined on the plan attached consists of a Special Area of Conservation (SAC) designated under the “Habitats Directive” (European Council Directive 92/43/EEC) and three Special Protection Areas (SPA) designated under the Birds Directive (Council Directive 79/409/EEC) which created a network of protected wildlife areas across the European Union, known as the Natura 2000 series. These Directives have been incorporated into UK law by the Conservation (Natural Habitats etc) Regulations 1994.

- 1.2 The parties to this agreement fully recognise the nature conservation importance of the Wash and North Norfolk Coast (hereinafter referred to as “the W&NNC”) and the statutory obligations placed upon them by the legislation referred to above. In order to assist in meeting these obligations the “Wash and North Norfolk Coast Management Group” jointly prepared “The Wash and North Norfolk Coast European Marine Site Management Scheme’. Dedicated staff time is now required to implement the management scheme and an implementation officer (hereinafter referred to as the “Project Manager”) will be employed by ESFJC and financially supported by the partners.

- 1.3 This agreement aims to establish the funding of the Wash and North

Norfolk Coast European Marine Site Management Project (hereinafter referred to as “the Project”) to implement the Wash and North Norfolk Coast European Marine Site Management Scheme (hereinafter referred to as “the Management Scheme”) and sets out the arrangements for running the Project, the purpose of which is set out in Clause 5.1 below.

1.4 ESFJC are to take the lead and employ the Project Manager to implement the Project. The Project is to be funded by those “Relevant Authorities” listed in Clauses 7.1.3.1 to 7.1.3.13.

1.5 The Project will work closely with other complementary initiatives, for example The Norfolk Coast Project and The Wash Estuary Management Project.

1.6 The area within which the Project will operate is the statutorily designated areas of the European Marine Site, but on occasions will also include the wider adjoining areas in relation to specific issues, for example water quality, where a wider working area may be required to maintain favourable condition of an interest feature within the Project’s area.

2. Definitions and Interpretations

2.1 The provisions of Schedule 1 shall be incorporated herein and shall have

effect as if expressly set out herein.

- 2.2 Reference to clauses, sub-clauses and Schedules are to clauses and sub-clauses of and Schedules to this Memorandum of Agreement.

3. Nature of Agreement

- 3.1 Nothing in this Memorandum of Agreement will be construed as creating a partnership or joint venture although the Parties enter into this Memorandum of Agreement in good faith and in the spirit of co-operation.

- 3.2 No Party will represent itself as being agent of any of the other parties nor is authorised to commit the other parties unless expressly authorised by this Memorandum of Agreement.

4. Term

- 4.1 Subject to Clause 18 this Agreement shall run from the Commencement Date to the Completion Date or for such further period as may be agreed in writing between the parties.

5. Project Objectives

5.1 The purpose of the Project is to deliver the requirements placed upon Relevant Authorities and local agencies to implement the U.K. Habitats Regulations as these affect the W&NNC, in particular to maintain/achieve favourable conservation status for the interest features for which the area has been designated, and also to contribute to the sustainable development of the area. This should be achieved by working with all stakeholders for the area to implement The Management Scheme. There are several strategic goals which provide a framework for the tasks of the Project:

5.1.1 Implementing and reviewing a Management Scheme for the area.

5.1.2 Reporting as appropriate on the achievements of the Project.

5.1.3 Delivering EN conservation objectives for the marine site interest features.

5.1.4 Undertaking a condition monitoring programme.

5.1.5 Promoting the Project and the sustainable use of the area, including the exercising of traditional activities. (See paragraph 1.6 of the Management Scheme.)

6. Employment of the Project Manager

6.1 The Project will be implemented through a Project Manager appointed to the staff of the ESFJC and funded through the project. A job description for the Project Manager is set out in Schedule 2.

6.2 ESFJC agree to:

6.2.1 employ the Project Manager on the local government salary scale 6-S02, the conditions of service being those for APT & C staff, including a probationary period for a new entrant to the local government service;

6.2.2 provide or seek the provision of appropriate office accommodation and administrative services and, where appropriate, professional and technical services; and

6.2.3 pay travelling costs at rates established in the local government Scheme of Car Allowances.

6.3 The appointment is for a period of 3 years, to be reviewed during 2007/08 jointly by the participants to this Memorandum of Agreement as part of the

overall review of the Project.

6.4 The Project Manager will be line managed by the ESFJC Clerk and Chief Fishery Officer, directed by the Core Management Group (hereinafter referred to as the “CMG” – see clause 7.3) and will be expected to maintain regular contact with the other partners to this agreement. The Project Manager must submit a written report at regular intervals (at least six-monthly) to meetings of the Wash and North Norfolk Coast European Marine Site Full Management Group (hereinafter referred to as the “FMG” – see clause 7.2), to the Full Management Board (hereinafter referred to as the “FMB” – see clause 7.1) and to the CMG.

7. Administrative Arrangements – The Administrative Arrangements will be delivered through the FMB, FMG and CMG. The details of these groups are set out below.

7.1 The FMB

7.1.1 The FMB will oversee progress on implementing the Project through the Project Manager. The FMB will receive an annual report at least 2 weeks prior to an Annual General Meeting (hereinafter referred to as the “AGM”) and discuss and agree the report at an AGM. At an AGM a costed annual work programme

and any increase in resources therein will be discussed and agreed before commitment to the next financial year.

7.1.2 In carrying out its work the FMB will continue to foster a spirit of mutual co-operation and partnership between all parties to the Project.

7.1.3 The FMB will be chaired by the lead authority, be serviced by the Project Manager and consist of the following listed below:-

Council	7.1.3.1	two elected Members of the Boston Borough Council
	7.1.3.2	two elected Members of the East Lindsey District
Council	7.1.3.3	two representatives of English Nature
	7.1.3.4	two elected Members of the King's Lynn and West Norfolk Borough Council
Council	7.1.3.5	two elected Members of the Lincolnshire County
	7.1.3.6	two representatives of the Environment Agency
Council	7.1.3.7	two elected Members of the Norfolk County Council
	7.1.3.8	two elected Members of the South Holland District
Council	7.1.3.9	two elected Members of Fenland District Council
	7.1.3.10	two elected Members of Internal Drainage Boards (to represent all other Lincolnshire and Norfolk IDBs relevant to the European Marine Site)
Council	7.1.3.11	two representatives of ESFJC
	7.1.3.12	two elected members of the North Norfolk District
	7.1.3.13	two ports representatives to represent the King's Lynn Conservancy Board, the Port of Boston, the Wells Harbour Commissioners and Port of Fosdyke

all of whom will be entitled to vote on all issues affecting the Project.

- 7.1.4 The following parties shall be entitled to attend FMB meetings but shall not be entitled to vote on financial or constitutional issues:
- | | | |
|-----------------|---------|---|
| | 7.1.4.1 | one representative from Common Rights Holders |
| | 7.1.4.2 | one representative from Norfolk Coast Project |
| Project | 7.1.4.3 | one representative from Wash Estuary Management |
| | 7.1.4.4 | one representative of MOD |
| | 7.1.4.5 | one representative from Crown Estates |
| | 7.1.4.6 | one representative from DEFRA |
| Schedule 1.1.4) | 7.1.4.7 | each of the chairmen of Advisory Groups (see |

7.1.5 The Board will meet twice a year or more frequently if necessary, and be advised by members of the FMG.

7.1.6 Except for the provisions of Clause 7.1.7 below any decision, agreement or approval to be made by the FMB in respect of the Project shall be decided by votes taken at a FMB meeting. Such meetings shall be convened on not less than 14 days' written notice given to each of the parties. The necessary quorum for such a meeting shall be not less than 12 representatives in number of the parties entitled to vote at the time present in person or by proxy. At such meetings each Representative will be entitled to 1 vote each and resolutions shall be carried by a simple majority.

7.1.7 Where any decision, agreement or approval is to be made by the FMB which relates to a change in any financial contribution made

by any or all of the Relevant Authorities or of a constitutional nature this shall be decided by votes taken at a FMB meeting of the Relevant Authorities and the decision or approval of all of the Relevant Authorities is required and shall only be resolved by a unanimous vote of all of the Relevant Authorities. Such meetings shall be convened on not less than 14 days' written notice given to each of the Relevant Authorities.

7.1.8 Any Party to this agreement may appoint another Party his proxy to vote on his behalf at any meeting. The instrument appointing a proxy shall be in writing and deposited with the Chairman of the FMB at least 1 day before the meeting.

7.1.9 Representatives of other interests not directly represented on the FMB may be invited to attend meetings on an *ad hoc* basis as appropriate but will not be entitled to vote.

7.1.10 It is anticipated that the members of the FMB, besides representing the interests of their appointing body, will represent a broader constituency of views in order to act as an integrated and cohesive partnership in pursuing the best interests of the Project area as a whole.

7.1.11 The FMB will elect a Vice Chairman to stand for a two yearly office.

The Vice Chairman may stand for election for a total of two office periods (i.e. four years) when a break in office will be enforced.

This will not preclude a previous vice chairman from being nominated again after a break in office.

7.2 The FMG

7.2.1 Organisational representation on the FMG will be as listed in Clauses 7.1.3 and 7.1.4 above, except that officers will represent the Relevant Authorities in place of elected members. Each organisation should nominate representatives directly responsible for the delivery of their organisation's interests within the Project area, all of whom will be entitled to vote. Representatives of other interests not directly represented on the FMG may be invited to attend meetings on an *ad hoc* basis as appropriate but may not vote. Elected Members on the FMB may also attend but may not vote.

7.2.2 The FMG will take the lead role in ensuring the delivery of the Management Scheme and will be represented by the CMG on routine business. The FMG will give guidance on questions of policy and strategic issues, both for the work of the Project

directly and as relevant to the participating authorities and organisations.

7.2.3 The FMG will be responsible for incorporation of the Project priorities into their organisations' daily work programmes. The FMG will also help set the Project Manager's work priorities and review the outcomes achieved through the Project. The FMG will regularly review the Management Scheme on behalf of the FMB and recommend changes as appropriate.

7.2.4 The FMG will meet at least twice a year, more frequently if necessary, and be advised by members of the CMG.

7.2.5 The FMG should be chaired by the same person who chairs the FMB. The FMG should elect a Vice Chair.

7.3 The CMG

7.3.1 The CMG will set annual work programmes, review and report on progress and issues to the FMB and FMG. The CMG will meet prior to each FMB meeting and otherwise as necessary, and will consist of officers representing:

Eastern Sea Fisheries Joint Committee
A port authority (to represent all the port authorities)
A district council (to represent all the district councils)
English Nature
Lincolnshire County Council
The Environment Agency
Norfolk County Council
An Internal Drainage Board (to represent all other
Lincolnshire and Norfolk IDBs)

If officers cannot attend then replacements where possible will be sent.

7.3.2 Schematic relationship between FMB/FMG/CMG

Full Management Board (FMB)	
Composition:	Officers, elected members, representatives of user groups & other partner organisations, plus project manager. Chaired by the lead authority (or other elected body.) Meets twice a year.
Role:	Accountable under legislation & protocols Agrees policy and direction Bids for project support within relevant authority/other partner organisations Represents project within same Responsible for management scheme & its progress Delegates executive function to Full Management Group

Full Management Group (FMG)

Composition: As for FMB, less elected members (members welcome at their own discretion.) Chair as for FMB. Meets as FMB, or as required.

Role: Acts in an executive capacity for Board, individually/collectively taking forward agreed policy & programme as required

Liaises with & briefs elected members, principals/colleagues/groups & other relevant committees/groupings

Reports to & advises FMG/FMB on behalf of those they represent

Delegates corporate elements of executive function to Core Management Group

Core Management Group (CMG)

Composition: A subgroup of the relevant authorities within FMB/FMG, plus the project manager. Chair as for FMB/FMG. Meets 4/5 times a year, or as required.

Role: A working group taking forward functions delegated from FMG

Sets programme & manages project manager

Reports to & advises Full Management Group

8 Financial Arrangements

8.1 The Project's annual cost for core and output funding will be shared between the various participants to this Memorandum of Agreement, as set out below:

Boston Borough Council	£ 2,500
East Lindsey District Council	£ 2,500
King's Lynn and West Norfolk Borough Council	£ 2,500
Lincolnshire County Council	£ 2,500
Norfolk County Council	£ 2,500
South Holland District Council	£ 2,500
Fenland District Council	£ 2,500
North Norfolk District Council	£ 2,500
Internal Drainage Boards(excluding Kings Lynn Consortium)	<u>£ 1,400</u>
Sub Total	<u>£ 21,400</u>
English Nature	£ 10,000
Environment Agency	£ 5,000
Sub Total	<u>£ 15,000</u>
Total	£ 36,400 p.a.

8.2 ESFJC will make contribution in kind equal to the value of £6,000 p.a.

The King's Lynn Conservancy Board will make contribution in kind equal to the value of £1,000 p.a. The Port of Boston will make contribution in kind providing alternative venues for FMG/B and advisory group meetings and access to marine craft for site visits (all subject to requirement and availability) or other facility as agreed with

them. The Wells Harbour Commissioners will make contribution in kind providing accommodation for North Norfolk Coast Advisory Group meetings, access to marine craft and their Leisure Users Advisory Committee (all subject to requirement and availability) or other facility as agreed with them. The King's Lynn Consortium of IDBs will make contribution in kind through access to their conservation staff, conference room and Geographic Information System (GIS) (subject to requirement and availability) or other facility as agreed with them. The MoD will make in kind contributions as agreed when able.

8.3 The estimated budget for each of the three years of the project is set out in Schedule 3 which will be reviewed annually by the FMB to take account of increased pay and prices.

8.4 The Parties recognise that their contribution stated in Clause 8.1 and 8.2 does not take into account inflation. Accordingly the Parties agree to increase their contribution annually in line with whatever inflationary index their organisation uses (and in default the Retail Price Index) PROVIDED THAT the contribution payable will never decrease below the amount set out in Clause 8.1 and 8.2

8.5 Contributions by participants in the Project will be made to the ESFJC annually on the 1st April of each year in advance of expenditure as

invoiced. The ESFJC Clerk and Chief Fishery Officer will be responsible for proper accounting and budget management on behalf of the FMB.

8.6 Any financial payments legally due to staff under the Redundancy Payments Act 1965, Employment Protection (Consolidation) Act, as amended by the Trade Union Reform and Employment Rights Act 1993, or other relevant legislation on termination of employment shall be met by the ESFJC. Costs for public and employer's liability premiums and payments in the event of industrial injury should be met in the same way by the ESFJC.

9. Statutory Duties

9.1 Nothing in the Memorandum of Agreement shall prejudice or affect any of the statutory bodies which is a party to this Memorandum of Agreement in the exercise of their functions, duties, powers, rights, jurisdictions and obligations conferred, arising or imposed under any legislative provision, enactment, byelaw or regulation whatsoever.

9.2 Nothing in the Memorandum of Agreement shall operate as a statutory approval, consent or licence from any of the parties to this Agreement as may be required to effect the terms of this Memorandum of

Agreement or achieve the objectives of this Project.

10. Assignment

10.1 No Party may assign or transfer all or any part of its rights or obligations under this Memorandum of Agreement without the prior consent in writing of the other Parties.

10.2 For the purpose of the Contracts (Rights of Third Parties) Act 1999 nothing in this agreement confers or purports to confer on a Third Party any benefit or right to enforce a term of this Agreement.

11. Waiver

11.1 No failure or delay by the Parties in exercising any right, power or privilege under this Memorandum of Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right power or privilege.

11.2 The rights and remedies provided in this Memorandum of Agreement are cumulative and not exclusive of any rights and remedies provided

by the law. No waiver will be effective unless made in writing.

12. Data Protection

12.1 Where a Party processes personal data (as defined in Section 1 (1) of the Data Protection Act 1998) in carrying out the Project that Party shall take such appropriate technical and organisational measures as are necessary to comply with the seventh data protection principle set out in Part 1 of the Data Protection Act 1998 to protect against unauthorised or unlawful processing of data and against accidental loss or destruction of or damage to personal data.

13. Entire Agreement

13.1 This Memorandum of Agreement shall supersede all arrangements or agreements relating to all matters which are in it and which were previously entered into or made between the Parties hereto relating to the Project and all such arrangements or agreements are hereby terminated.

14. Mutual Assurance

14.1 Each of the Parties undertakes with the others that it has full power

and authority to enter into this Memorandum of Agreement.

15. Health & Safety

15.1 In carrying out this Memorandum of Agreement ESFJC will pay due regard to and will comply with all relevant health and safety legal obligations.

16. Dispute Resolution

16.1 All disputes under or in connection with this Memorandum of Agreement shall be referred first to the CMG who will make recommendations to the FMB.

16.2 If the FMB are unable to resolve the dispute within 30 days from it being referred to them, the dispute shall be referred to the Parties' respective senior Managers or Directors.

16.3 If the Parties' respective senior Managers or Directors are unable to resolve the dispute, it shall be referred to the Centre for Effective

Dispute Resolution.

16.4 This procedure shall be binding on all the Parties as to the procedure but not the outcome. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties.

16.5 The Parties shall bear their own costs of the dispute resolution procedure but the costs and expenses of mediation shall be borne equally.

17. Insurance

17.1 ESFJC shall insure and maintain insurance against Employer and Public liability to the value of £5,000,000

18. Termination

18.1 Unless terminated in accordance with clause 18.2.1 below in accordance with clause 4 this Memorandum of Agreement shall terminate on the Completion Date

18.2 Any of the Parties to this Memorandum of Agreement may reduce or withdraw funding after giving six months' notice, in writing to the Chief Executives of all the participating authorities.

18.2.1 In the event that one or more of the Parties gives notice in accordance with clause 18.2 above the FMB shall convene a meeting as soon as reasonably practicable in accordance with clause 7.1.7 to decide if this Memorandum of Agreement shall terminate and agree the time scale of such termination.

18.3 In the event of termination of this Memorandum of Agreement the ESFJC will be liable to meet the net costs (after disposal of any assets). Any surplus surviving will be returned to the organisations signed up to this Memorandum of Agreement (*pro rata*).

19. Variation

19.1 This Memorandum of Agreement may be amended by mutual consent, and will be subject to review prior to April 2008 and any subsequent period of renewal as appropriate.

Schedule 1.

1.1. The following terms should have the following meanings:

1.1.1. 'the Parties' – means the parties to this Memorandum of Agreement.

1.1.2. 'Commencement Date' – means the 1st April 2005

1.1.3. 'Internal Drainage Boards' – means the SHIDB, the BSIDB, the WDIDB, the LMIDB, the WFIDB and the KLC

1.1.4. 'Advisory Group' – means the body of representatives from local interests, user groups formed to advise the FMG and FMB. There are three such advisory groups based at Boston, King's Lynn and Wells-next-the-Sea

1.1.5. 'Completion Date' means the 31st March 2008

Signed for and on behalf of the

.....

in the presence of:-

Witness signature

Witness name

Witness address

.....
Witness occupation

Schedule 2.

Job Description for the post of Project Manager for the Wash and North Norfolk Coast Special Area of Conservation Project Manager

Main duties and Responsibilities

Management Scheme

1. Co-ordinate and facilitate with relevant authorities and advisory groups the implementation of the management scheme for the European marine site.
2. Progress priority actions contained in the management scheme. These will include:
 - Co-ordination and facilitation of actions arising from the management scheme which are the responsibility of several relevant authorities and require liaison between them, the advisory groups and other stakeholders to ensure consistency and compatibility across the site and between relevant authorities and advisory groups.
 - Co-ordination and facilitation of actions arising from the management scheme which are not the direct responsibility of any one relevant authority but require liaison between them, the advisory groups and other interests.
 - Generation of products required for the successful implementation of management measures. For example, the production of codes of conduct requiring liaison with all interests to ensure compatibility across the site and to reduce duplication of effort by relevant authorities, advisory groups and other stakeholders.

Administration

1. Provide a secretariat for the full management group including the production of written communications and organisation of meetings for the members, full management and core management groups.
2. Facilitate the work of the three advisory groups, and provide a point of contact between the advisory groups, relevant authorities, responsible managing organisations and other stakeholders.
3. Facilitate the establishment and, as required, meetings of the scientific panel working with the chairman of the lead authority.

Reporting

1. Produce an annual report to the members of the full management group and the advisory groups. This will include information on:

- Each relevant authority's implementation of existing management measures to ensure compliance with the Habitats Regulations.
 - Progress made with the development of new management measures to address actions arising from the management scheme.
 - New issues developing across the site to be addressed in the forthcoming year.
 - Changes made to the Regulation 33 advice issued by English Nature.
2. Review annually the management scheme with relevant authorities, advisory groups and others to take account of changing issues and management needs across the site as required by the UK Habitats Regulations. This will require considerable liaison between the parties involved and lead to the production of additional information to be contained in the management scheme.
 3. Undertake (with/without consultants) a major review of the management scheme within an agreed time scale to comply with the requirements of the UK Habitats Regulations and subsequently issue a second edition.
 4. Review annually the additional information contained in the annexes produced to accompany the management scheme. This will require consultation with relevant authorities, advisory groups and other interests to ensure the information is accurate and up-to-date.
 5. Maintain the project's joint budget and produce an annual financial statement to the relevant authorities.
 6. Develop and manage the project plan, submitting progress reports for review by the Project's secretariat (to be established).

Publicity

1. Prepare publicity products associated with the project including web site administration.
2. Undertake general promotion and education work in order to:
 - Raise awareness of the environmental importance of the Wash and North Norfolk Coast European Marine Site
 - Raise awareness of the management needs of the site
 - Encourage a sustainable approach to the use of the site's environmental resources.

Liaison

1. Liaise with English Nature to ensure appropriate consultation on changes to Regulation 33 advice and to ensure changes are disseminated to interested parties.
2. Liaise with the Project Officers of the Wash Estuary Strategy Group and of the Norfolk Coast AONB Project to ensure the work of the Management Scheme complements that of the Wash Estuary Management Plan and the Norfolk Coast AONB Management Plan.
3. Deal with general enquiries from the public, local organisations and relevant authorities and pass on to the correct relevant authorities for action.

SCHEDULE 3

European Marine Site Project Manager Projected Costs 2005 to 2008

	Projected Future Costs (est. at 07.04) as @ FY 2005-06	
	£	£
Expenditure		
Admin support Advisory Groups	750.00	
Accommodation for Project Manager	2,150.00	*
Equipment Hire Telephone FAX Photocopiers etc	850.00	*
Conference Fees inc Accommodation etc	1,000.00	
General Travel & Subsistence	2,500.00	
Training	1,000.00	
Admin Support	3,000.00	*
Stationery Postage Telephone Photocopies	1,500.00	
Scientific Panel support & costs	1,000.00	
Publicity and Associated Printing Costs	3,500.00	
Total Cost of Administration		17,250.00
Project Manager's Salary	22,350.00	**
Employer's NI and Pension Costs	4,600.00	
		26,950.00
Total Cost for Project		44,200.00
ADD Inflation Contingency		1,375.00
		45,575.00
LESS Contributions 'in kind' by ESFJC*		-6,000.00
Projected Amount to be Funded		39,575.00

**NB Projected Future Cost of Project Manager's Salary is based on the Actual Salary 2004/05 (adjusted for inflation). No allowance has been made here for the award of annual increments in future years commensurate with the National Salary Scales for Local Government Services

Indicated 'Likely' Funding for future years

English Nature	10,000.00	
Environment Agency	5,000.00	
Norfolk County Council	2,500.00	
Lincolnshire County Council	2,500.00	
East Lindsey District Council	2,500.00	
Boston Borough Council	2,500.00	
South Holland District Council	2,500.00	
BCKLWN	2,500.00	
North Norfolk District Council	2,600.00	
Five IDB's	1,388.90	
Fenland District Council	2,500.00	
Total Possible Funding		36,488.90
Estimated Shortfall		-3,086.10
Unspent Balance Brought Forward (from first year of Project)		25,800.00
Surplus available for contingencies ***		22,713.90

*** e.g. possible redundancy, management scheme review process if required

THE WASH AND NORTH NORFOLK COAST EUROPEAN SITE MANAGEMENT PROJECT - MEMORANDUM OF AGREEMENT

Summary of Terms and Meanings

Clause 9.1

This Clause ensures that a statutory body which is a party to this Agreement will not have its discretion fettered, which maybe unlawful. Any duty a statutory body is required to discharge (as a matter of law) is unaffected by the Memorandum of Agreement.

Clause 9.2

Many statutory bodies have regulatory roles. The best way to illustrate this is by way of an example. In respect of the Environment Agency if, a watercourse needed to be culverted in respect of the project, the mere fact that the Agency had entered into this Agreement does not mean that the Agency's consent has been granted implicitly. Accordingly, in this example, an application to the Agency would have to be made in the usual way.

Clause 10.1

This Clause ensures that the parties to the Agreement are unable to change their roles without the consent of all the other parties, by assigning their interest to each other. For example, the Agency and the ESFJC, could change roles simply by entering into a Deed of Assignment and not involving the other parties, assign their respective roles under the Agreement, if it were not for this clause.

Clause 10.2

This provision ensures that third parties (anybody who is not a party to this Agreement), cannot enforce any of the provisions of the Memorandum of Agreement against any of the parties of the Memorandum of Agreement.

Clause 11.1 and 11.2

In the Law Contract the term waiver is most commonly used to denote the granting of a concession by one party to a contract by not insisting on the precise performance by the other party of a duty under the contract, whether before or after any breach of the term waived. Such a concession may be made by a formal document, in which case it will be in effect of variation of the Agreement, or wavier may be implied from a party's conduct. An implied wavier may arise where there is a positive and intentional act or concession by a party with knowledge of all the relevant circumstances, and where the other party acts on reliance on that concession. The purpose of this Clause is to make it clear that any failure or delay in exercising a right under the Agreement will not constitute a wavier of that right, unless all the parties agree the wavier in writing.

Clause 12

As information may pass between the parties covered by the Data Protection Act, the purpose of this Clause is just to bring to the attention of all parties' their duties and obligations under the said Act.

Clause 13

A legal contract may be formed between parties by one written document, or by a number of

documents (including letters and other written terms) taken together, or by oral statements or by a mixture of oral and written statements. Accordingly, it is essential, particularly where there has been a period of negotiation leading up to the contract, (such as in this case) that the parties are quite clear as to whether the contract should consist of the final written Agreement alone or should also include other documents or statements made by other parties. In the absence of expressed provision, it would generally be a matter of construction whether a document forms part of a contract or whether a statement by parties is to be regarded as a contractual term or a representation or a statement having no legal effect. Therefore Clause 13 states that the parties intend the details of their relationship to be governed solely by the formal document they have now drawn up.