

Dated

2010

- (1) THE COUNCIL OF THE CITY OF SUNDERLAND
- (2) THE BOROUGH COUNCIL OF GATESHEAD
- (3) THE COUNCIL OF THE CITY OF NEWCASTLE UPON TYNE
- (4) THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE
- (5) THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE
- (6) NORTHUMBERLAND COUNTY COUNCIL
- (7) HARTLEPOOL BOROUGH COUNCIL
- (8) MIDDLESBROUGH BOROUGH COUNCIL
- (9) REDCAR AND CLEVELAND BOROUGH COUNCIL
- (10) STOCKTON ON TEES BOROUGH COUNCIL
- (11) DURHAM COUNTY COUNCIL
- (12) DARLINGTON BOROUGH COUNCIL

NORTH EASTERN PURCHASING ORGANISATION (NEPO)

SHARED SERVICES ARRANGEMENT

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BACKGROUND

- (A) By an Arrangement dated 11 April 2000 (the "Previous Arrangement"), the Parties (excluding Durham and Darlington) agreed to establish and participate in a joint committee to provide a procurement hub service known as the North Eastern Purchasing Organisation ("NEPO").
- (B) The Parties have now decided to enter into this Arrangement, which supersedes the Previous Arrangement and all of the terms and provisions contained therein, and now includes Durham and Darlington as Parties to the Arrangement.
- (C) Under this Arrangement the Joint Committee will continue to facilitate the delivery, and monitor the performance, of the NEPO Service and the Parties acknowledge that NEPO will act as a central purchasing body (as provided for in the Public Contracts Regulations 2006).
- (D) Gateshead agrees to continue to act as the host authority of the NEPO Service on behalf of all Parties in accordance with the terms of this Arrangement during the Transition Period.
- (E) The Parties have entered into this Arrangement in reliance on the enabling powers given to local authorities to undertake arrangements of this nature in sections 101, 102, 103, 112 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts; together with the general power within section 2 of the Local Government Act 2000 and the supporting provisions within section 111 Local Government Act 1972.

OPERATIVE PROVISIONS

1. INTERPRETATION

In this Arrangement:

- 1.1 the following expressions have the following meanings unless inconsistent with the context:

"Arrangement" this Arrangement and includes all Schedules and appendices;

“Associate Member”	shall mean those members who at the date hereof are currently Associate Members of NEPO or who currently benefit from subsisting contractual arrangements
“Best Value Duty”	the duty imposed on the Parties by Part 1 of the 1999 Act under which the Parties are under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the guidance issued from time to time by the Secretary of State for Communities and Local Government;
“Business Day”	any day other than a Saturday or Sunday or a bank or public holiday in England;
“Change in Law”	any change in law (which shall include laws, regulations, statute or statutory provision) which comes into effect after the Commencement Date that specifically impacts upon the delivery of the NEPO Service or increases the cost of providing the NEPO Service;
“Commencement Date”	28 October 2010;
“Confidential Information”	any information which has been designated as confidential by any Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of any Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

“Constitution”	the NEPO constitution as set out in Schedule 2;
“Contribution”	the sums payable as further detailed in Schedule 3 by each of the Parties reflecting the cost of provision of the NEPO Service;
“Deficit”	any operating deficit arising for the NEPO Service after discharging all NEPO Costs;
“DPA”	Data Protection Act 1998;
“Employees”	the employees employed wholly or mainly in the provision of the NEPO Service;
“Exempt Information”	any information or class of information relating to this Arrangement which may fall within an exemption to disclosure under FOI Legislation;
“FOI Legislation”	the Freedom of Information Act 2000 and subordinate legislation made under this and the Environmental Information Regulations 2004;
“Host Authority”	Gateshead, or such other Party or Parties acting jointly as provided for in clause 4.2;
“Information Request”	a request for information under the FOI Legislation;
“Intellectual Property Rights”	all patents, trademarks, copyrights, moral rights, rights to prevent passing off, rights in design and all other intellectual and industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them and, in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world;
“Joint Committee”	a committee of elected members from the

Parties which will be responsible for ensuring and overseeing the delivery of the NEPO Service with a view to its economical, efficient and effective discharge;

“Leaders and the Elected Mayors Board”	The Leaders and the Elected Mayors Board of ANEC, the Association of North East Councils
“Local Authority”	as defined in section 270 Local Government Act 1972
“Pension Scheme”	the Local Government Pension Scheme
“Personal Data”	Personal Data as defined in section 1 of the DPA;
“Public Body”	as defined section 1(4) of the Local Authorities (Goods and Services) Act 1970 ;
“NEPO Officers”	those officers appointed by the Joint Committee to manage the day to day operation of the NEPO Service;
“NEPO Service”	the service as set out in this Arrangement and as further detailed in Clause 5 and Schedule 1 and such other services as may be agreed between the Parties from time to time;
“Officer Advisory Board”	the officer advisory board as identified in the Constitution;
“Rebate Receipts”	the sums received as a result of the rebate charges funded by suppliers related to the purchase of goods, works and services under any contract with that supplier;
“Relevant Transfer”	shall mean a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or modified from time to time;

“Section 151 Officer”	the officer designated by a Local Authority as the person responsible for the proper administration of its financial affairs, as required by section 151 of the Local Government Act 1972;
“Surplus”	any operating surplus arising from the NEPO Service after discharging all NEPO Costs;
“Transition Period”	the period from the Commencement Date until 31 March 2012;
“TUPE”	the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“VAT”	value added tax;
“Year”	each consecutive period of twelve (12) calendar months’, the first commencing on 1 April and ending on 31 March;
“1999 Act”	the Local Government Act 1999.

- 1.2 references to any laws, regulations, statute or statutory provision, statutory post or position include, unless the context otherwise requires, a reference to the laws, regulations, statute or statutory provision, statutory post or position as amended, supplemented, replaced, modified or re-enacted;
- 1.3 references to persons will be construed so as to include bodies corporate, unincorporated associations and partnerships and references to any organisation shall include any statutory successor bodies;
- 1.4 references to clauses and Schedules are to clauses of and Schedules to this Arrangement and references to paragraphs are to paragraphs in the Schedules in which such references appear;
- 1.5 the Schedules form part of this Arrangement and will have the same force and effect as if expressly set out in the body of this Arrangement;

1.6 the headings to the clauses of this Arrangement and to the paragraphs of the Schedules will not affect its construction;

1.7 references to singular in this Arrangement includes the plural and vice versa and references by way of male pronoun shall include references to female pronouns and vice versa.

2. ESTABLISHMENT OF THE JOINT COMMITTEE

2.1 In exercise of their powers under sections 101(5), 102 and 103 of the Local Government Act 1972, sections 19 and 20 of the Local Government Act 2000 and all other enabling powers the Parties hereby create the Joint Committee with effect from the Commencement Date.

2.2 The Joint Committee shall operate and conduct its business in accordance with the terms of this Arrangement and the Constitution as set out at Schedule 2.

2.3 Each of the Parties agree that, in consideration of the mutual arrangements and undertakings set out in this Arrangement, that the Parties have granted the rights and accepted the obligations in this Arrangement and that the Joint Committee shall, for and on behalf of itself and the Parties, provide the NEPO Service.

2.4 Each of the Parties warrants that they have all necessary approvals under their constitutions and are duly authorised to enter into this Arrangement in exercise of the powers conferred upon them by the Local Government Acts 1972 and 2000 and every other power so enabling them.

3. COMMENCEMENT AND TERM

3.1 The NEPO Service shall commence on the Commencement Date and shall continue in full force and effect until the Joint Committee is terminated in accordance with the provisions of this Arrangement.

4. THE HOST AUTHORITY

4.1 Gateshead have agreed to act and shall act as the Host Authority for the Transition Period. By 31 March 2011 the Leaders and the Elected Mayor's Board will have reviewed the options available to it for an alternative Host Authority and made an appropriate decision such that if Gateshead are not to continue as Host Authority after the Transition Period they shall have 12 (twelve) months' notice of such decision.

4.2 In the event that the Host Authority no longer wishes to act as host, or the Leaders and the Elected Mayor's Board agrees that an alternative Party or Parties shall assume the role of Host Authority, that new Host Authority or Host Authorities shall be appointed in accordance with the Constitution.

4.3 The Parties agree that, subject to the provision of clause 9, the Host Authority (or where applicable the Host Authorities) shall be the accountable body for the NEPO Service. The Host Authority shall (and in the case of more than one Party acting as the Host Authority the Joint Committee shall determine the responsibilities of each Party) comply with the requirements of clause 6.1 and :

4.3.1 provide suitable accommodation to enable NEPO to operate;

4.3.2 employ all relevant staff (including the Employees);

4.3.3 hold relevant assets (including the Assets and money);

4.3.4 enter into contracts (which include provisions to enable such contracts to be novated to any successor Host Authority where possible without consent),

on behalf of the Parties for the purposes of providing the NEPO Service

5. **THE NEPO SERVICE AND PARTICIPATION OF THE PARTIES**

5.1 The objectives of the NEPO Service are as set out in Schedule 1.

5.2 In order to meet and further those objectives each of the Parties is participating on the basis that they will actively participate in and use contracts negotiated by NEPO for the benefit of the Parties. When the Joint Committee is setting the business plans and priorities for the NEPO Service or an individual contract procurement is proposed each Party shall first be consulted on the proposed procurement and thereafter will be required to confirm its commitment or otherwise to a contract procurement and will only be able to withdraw its participation in that specific procurement in accordance with the time limits and other provisions set out in an Opt Out Protocol to be agreed by the Joint Committee for that purpose by 31st March 2011.

5.3 If the Joint Committee requires data from the Parties to enable it to make suitable business planning and strategic decisions then each of the Parties will provide such data as may reasonably be required in a timely and open manner to enable the NEPO Service to meet its objectives.

- 5.4 NEPO shall only carry out work and utilize NEPO resources on contracts that are made available to all parties, other than in cases where a single party requests NEPO to carry out a specific piece of work on its behalf, for which it will be liable to pay the full economic cost of such work
- 5.5 The Joint Committee may request that Parties support the delivery of the NEPO Service by the provision of specific resources as part of the NEPO Service for projects as identified from time to time and such provision will be provided by the relevant Party, subject to that relevant Party's agreement, on a cost reimbursement basis for the development and on-going management of the contract. Any such services shall be part of the NEPO Service and any costs incurred in their provision shall be NEPO Costs and will be subject to the same quality management procedures as apply to NEPO contracts. It is not the intention of the parties that any staff involved in providing such services are Employees nor that the provision of such services shall give rise to legal liabilities or further legal relationships between the parties
- 5.6 The Joint Committee shall from time to time adopt and keep under review an Operational Protocol for the administration of contract procurements on behalf of NEPO (such protocol shall be prepared by the Host Authority in consultation with the Parties for its approval by 31st March 2011); the protocol shall comprise procedural arrangements for the establishment of purchasing frameworks, the issue of tenders and associated notices and advertisements, and harmonised contract documentation and shall include a process under which the Parties shall confirm their commitment to arrange particular procurements as referred to in clause 5.2.
- 5.7 Where the Joint Committee does not have an agreed protocol or procedure on an appropriate matter the procedures of the Host Authority shall apply.
- 5.8 For the avoidance of doubt no Party shall be required to make any commitment prior to agreement of the Opt Out Protocol and the Operational Protocol .

6. **NEPO'S OBLIGATIONS**

- 6.1 The NEPO Service shall be provided:

- 6.1.1 in accordance with the terms of this Arrangement (subject to the overall direction of the Joint Committee);
- 6.1.2 in accordance with all relevant laws and best practice;
- 6.1.3 using all reasonable skill, care and diligence;
- 6.1.4 deploying personnel who are competent, qualified, experienced and properly trained to undertake the work assigned to them;
- 6.1.5 in accordance with any other standards applicable to the NEPO Service from time to time during this Arrangement; and
- 6.1.6 deploying good quality materials and assets, which are fit for purpose and utilising appropriate techniques and standards.

7. COST OF THE NEPO SERVICE AND CONTRIBUTION

- 7.1 The Parties shall make the Contributions during the Transition Period.
- 7.2 In the event that the NEPO service in respect of any Year operates at a Surplus or a Deficit then the Joint Committee agree to distribute that Surplus or collect that Deficit in accordance with the provisions of Schedule 3.

8. INVOLVEMENT OF OTHER LOCAL AUTHORITIES AND PUBLIC BODIES

- 8.1 The Joint Committee shall, by unanimous agreement, have the power to admit other Local Authorities and Public Bodies as new Parties to this Arrangement, on such terms and with such rights as it shall think fit.
- 8.2 Every new Party shall provide prior written confirmation that it will:
 - 8.2.1 participate actively in the management and development of the delivery of NEPO Services;
 - 8.2.2 agree to delegate any relevant functions to the Joint Committee;
 - 8.2.3 agree to be bound by the terms and conditions set out in this Arrangement.
- 8.3 A new Party shall have the following rights:

8.3.1 to commission NEPO Services;

8.3.2 subject to the Joint Committee's decision and approval to nominate 2 (two) members with full voting rights to the Joint Committee or such representative(s) (if any) as it shall think fit.

9. **REPORTING AND ACCOUNTABILITY**

9.1 The NEPO Officers shall make all general day to day decisions as to the general management and operation of the NEPO Service subject to this Arrangement and the overarching management by the Joint Committee as detailed in Schedule 2.

9.2 The Joint Committee shall provide a biannual report to the Leaders and the Elected Mayor's Board and such other reports as it considers necessary from time to time.

9.3 The Host Authority will be responsible for providing all executive and central support service for the NEPO Service including but not limited to finance and treasury, legal, human resources, information technology and clerkship and administrative support for the Joint Committee necessary to enable the NEPO Service to operate efficiently and effectively.

9.4 The Parties shall be responsible for ensuring that they have taken all reasonable steps to provide for the accuracy of all documentation and information supplied in connection with the provision of the NEPO Service and, subject to NEPO having first applied a reasonable level of validation to the said documentation and information, shall pay and fully indemnify the Host Authority for any reasonably foreseeable extra costs or expenses occasioned by any discrepancies, errors or omissions therein.

9.5 In all of their proceedings the Parties and the Joint Committee will follow generally accepted principles of good governance and the broad attributes of openness, integrity and accountability and act in accordance with the Constitution.

10. **STAFF**

10.1 The Employees shall be employed by the Host Authority on behalf of the Parties and the Host Authority shall make all payments in relation to the remuneration, benefits, entitlements and outgoings in respect of all Employees, including

without limitation all wages, holiday pay, bonuses, commission, payment of PAYE, national insurance contributions, pension contributions and otherwise.

- 10.2 The Host Authority agrees to recognise in accordance with TUPE the trade unions representing Employees.
- 10.3 The Host Authority shall comply with its obligations under TUPE (including without limitation the obligation to inform and consult under Regulation 13) in respect of each Relevant Transfer pursuant to this Arrangement.
- 10.4 In the event that the Host Authority changes and responsibilities pass to another Party or Parties, this shall constitute a Relevant Transfer and the contracts of employment of any Employees shall have effect (subject to Regulation 4(7) and (8) of TUPE) thereafter as if originally made between those employees and the new host authority.
- 10.5 On the termination of this Arrangement, the parties agree that it is their intention that TUPE shall apply in respect of the NEPO Services or the provision thereafter of any service equivalent to the NEPO Services but the position shall be determined in accordance with TUPE and relevant law and any subsequent Arrangement between the parties at the date of termination as the case may be.
- 10.6 If TUPE does not apply on termination of this Arrangement, the Parties shall seek to ensure that any new provider or new providers of the NEPO Services or any service equivalent to the NEPO Services shall offer employment to the persons employed by the Host Authority in the provision of the NEPO Services immediately before the date of termination of this Arrangement. If an offer of employment is made in accordance with this clause 10.6 the employment shall be on the same terms and conditions as applied immediately before the termination of this Arrangement including full continuity of employment, and in accordance with the Transfer of Employment (Pension Protection) Regulations 2005.
- 10.7 The parties acknowledge and undertake to ensure that the Employees will, on completion of a Relevant Transfer, as contemplated by this Arrangement, retain membership of, or retain the right to join, the Pension Scheme and that the Employees will, where permitted by the Local Government Pension Scheme Regulations 1997, have continuity of service for the purposes of entitlement to pension under the Pension Scheme.

11. LIABILITIES UNDER THIS ARRANGEMENT

- 11.1 Except as provided for in clause 11.2 and save where a local authority has not participated in the contract in question the Parties shall be equally liable for any claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Arrangement or the carrying out of the NEPO Service including, but not limited to, any death or personal injury, loss of or damage to property, financial loss.
- 11.2 Each Party shall be solely liable for and shall indemnify the other Parties against any claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Arrangement (and for the avoidance of doubt this shall include contracts entered into by a Party pursuant to a framework agreement procured through the NEPO Service) including, but not limited to, any death or personal injury, loss of or damage to property, financial loss incurred solely as a result of any negligent act error default or omission by that Party or any breach of law or the obligations of that Party under this Arrangement
- 11.3 Associate Members at the date hereof shall continue as associate members and be liable under existing contractual arrangements for so long as those arrangements shall subsist but not further or otherwise unless subsequently admitted under this Arrangement.

12. NOTICE TO WITHDRAW PARTICIPATION IN THE ARRANGEMENT

- 12.1 Any Party that wishes to withdraw its participation in the Arrangement shall serve a minimum of 6 (six) months' notice of its intention to do so to the Clerk to the Joint Committee to expire on 31 March in any given Year.
- 12.2 Any Party that gives notice to withdraw its participation in the Arrangement will be required to pay the reasonable administrative costs and any other actual costs incurred by the NEPO Service arising solely as a direct result of the withdrawal, as notified to them by the Joint Committee. For the avoidance of doubt, any such cost will be in addition to the NEPO Costs payable in accordance with Schedule 3 for the period up to the date of withdrawal.
- 12.3 In the event that a Party serves notice of its intention to withdraw its participation in the Arrangement, an extraordinary meeting of the Joint Committee will be called in accordance with paragraph 5.5 of the Constitution at which the Parties will review the continuing viability of the Arrangement, and

discuss and agree whether they wish to continue to receive the NEPO Service, and if so upon what terms the NEPO Service will continue.

- 12.4 If the Joint Committee determines that the Arrangement will continue upon the withdrawal of a Party's participation then the Joint Committee reserves the right to review and increase or decrease as appropriate the Contribution.
- 12.5 If the Joint Committee determines that the Arrangement will not continue then the Arrangement shall be terminated in accordance with clause 13, and subject to the notice period detailed in clause 13.2, or such shorter period as may be determined by the agreement of all Parties.

13. **TERMINATION**

- 13.1 Upon the agreement of all Parties to this Arrangement, this Arrangement may be determined in accordance with this clause 13.
- 13.2 Where the Arrangement is terminated pursuant to this clause 13 then the Joint Committee shall serve notice of termination on all Parties providing a minimum 6 (six) months' period of notice to enable the NEPO Service to be wound down, or such shorter period as may be agreed between the Parties.
- 13.3 During the notice period determined in accordance with clause 13.2 the Host Authority shall:
 - 13.3.1 continue to conduct itself as the Host Authority and to carry out such role under this Arrangement;
 - 13.3.2 continue to fulfil the obligations in connection with the provision of the NEPO Service, subject to compliance with such conditions as to performance, reporting, monitoring or otherwise as agreed between the Parties;

all on the basis that the Host Authority's reasonable costs incurred pursuant to this clause 13, which shall constitute NEPO Costs, continue to be reimbursed by continued payment of the Contribution.

- 13.4 Subject to clause 10.6, it shall be the duty of all the Parties to seek to minimise any losses arising from the termination of this Arrangement and the Parties shall use their reasonable endeavours to offer alternative employment to any staff employed by the Host Authority in the provision of the Services.

13.5 Subject to clause 13.4, upon termination of this Arrangement for any reason those assets, resources and liabilities held by the Host Authority are to be applied in the following manner:

13.5.1 any Surplus (and in order of use those Rebate Receipts relating to purchases made by organisations who are not a Party shall be applied first) will be firstly applied to discharge any outstanding obligations and/or liabilities under the Arrangement;

13.5.2 thereafter the remaining Surplus (if any) or Deficit will be distributed or paid in accordance with Schedule 3.

13.6 In the event of termination of this Arrangement:

13.6.1 any Party shall supply to any other Party when requested any information which the other Party requires for the continuing provision of the NEPO Services;

13.6.2 any Intellectual Property Rights created under this Arrangement shall be owned by the Parties in equal proportions and each of the Parties shall have the ability to use such rights in any continuing service provision, subject to the Parties obtaining necessary third party licences and permissions.

13.7 The provisions of clauses 17 shall survive termination of this Arrangement whether pursuant to this clause 13 or otherwise.

14. **CHANGE IN LAW**

14.1 If a Change in Law occurs or will occur during the term of this Arrangement the Joint Committee shall notify the Parties of the likely effects of that change, including:

14.1.1 whether any change is required to the NEPO Service, the Contribution or the Arrangement; and

14.1.2 whether any relief from compliance with the Host Authority's obligations is required.

14.2 As soon as practicable after any notification in accordance with clause 14.1 the Joint Committee shall discuss and agree the matters referred to in that clause

with a view to settling any changes necessary to the Arrangement, except that any changes to the Contribution will be dealt with in accordance with Schedule 3.

15. CONFLICTS OF INTEREST

15.1 The Parties shall take appropriate steps to ensure that neither the Parties nor any employee, servant, agent, supplier or sub-contractor is placed in a position where in the reasonable opinion of the Joint Committee there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Parties or such persons and the duties owed to NEPO under the provisions of the Arrangement. The Parties will immediately disclose to the Joint Committee full particulars of any such conflict of interest which may arise together with proposals as to the measures they will take to resolve that conflict.

16. BEST VALUE OBLIGATION

It is agreed and acknowledged that the NEPO Service will be delivered in line with the Parties' Best Value Duty and the Joint Committee shall, throughout the Arrangement term make arrangements to secure continuous improvement in the way in which the NEPO Service is provided, having regard to a combination of economy, efficiency and effectiveness.

17. CONFIDENTIALITY

17.1 Each Party: -

17.1.1 shall treat all Confidential Information belonging to any other Party or arising in connection with this arrangement as confidential and safeguard it accordingly; and

17.1.2 shall not disclose any Confidential Information belonging to any other Party or arising in connection with this arrangement to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Arrangement or except where disclosure is otherwise expressly permitted by the provisions of the Arrangement.

17.2 The Parties shall take all necessary precautions to ensure that all Confidential Information obtained from the Host Authority under or in connection with the Arrangement:

- 17.2.1 is given only to such of the staff and professional advisors or consultants engaged to advise it in connection with the Arrangement as is strictly necessary for the performance of the Arrangement;
 - 17.2.2 is treated as confidential and not disclosed (without prior approval) or used by any staff or such professional advisors or consultants otherwise than for the purposes of the Arrangement.
- 17.3 The Parties shall not use any Confidential Information it receives from the Host Authority otherwise than for the purposes of the Arrangement.
- 17.4 The provisions of clauses 17.1 and 17.2 shall not apply to any Confidential Information received by one Party from any of the others:
- 17.4.1 which is or becomes public knowledge (otherwise than by breach of this clause);
 - 17.4.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
 - 17.4.3 which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - 17.4.4 is independently developed without access to the Confidential Information; or
 - 17.4.5 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure.
- 17.5 Nothing in this clause shall prevent the Parties disclosing any Confidential Information obtained from the Parties:
- 17.5.1 to any government department. All government departments receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department; or
 - 17.5.2 to any person engaged in providing any NEPO Service for any purpose relating to or ancillary to the Arrangement;

provided that in disclosing information under clause 17.5.2 the Party discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

17.6 Nothing in this clause shall prevent any Party from using any techniques, ideas or know-how gained during the performance of the Arrangement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

18. **DATA PROTECTION**

18.1 The Parties shall at all times comply with the DPA, including maintaining a valid and up to date registration or notification under the DPA covering any data processing to be performed in connection with this Arrangement and their responsibilities as data processors and/or data controllers.

18.2 The Parties shall only undertake processing of Personal Data reasonably required in connection with the operation of this Arrangement.

18.3 The Parties shall not transfer any Personal Data to any country or territory outside the European Economic Area.

18.4 The Parties shall not disclose Personal Data to any third parties other than:

18.4.1 in response to a data subject access request;

18.4.2 to employees and contractors to whom such disclosure is necessary in order to comply with their obligations under this Arrangement; or

18.4.3 to the extent required to comply with a legal obligation.

19. **FREEDOM OF INFORMATION**

19.1 The Parties recognise that as public authorities, as defined by FOI Legislation, information relating to this Arrangement may be the subject of an Information Request.

19.2 The Parties shall assist each other in complying with their obligations under FOI Legislation, including but not limited to assistance without charge in gathering information to respond to an Information Request.

- 19.3 Any Party shall be entitled to disclose any information relating to this Arrangement in response to an Information Request, save that in respect of any Information Request which is in whole or part a request for Exempt Information:
- 19.3.1 the Party which receives the Information Request shall circulate the Information Request and shall discuss it with the other Parties;
 - 19.3.2 the Party which receives the Information Request shall in good faith consider any representations raised by other Parties when deciding whether to disclose Exempt Information; and
 - 19.3.3 the Party which receives the Information Request shall not disclose any Exempt Information beyond the disclosure required by FOI Legislation without the consent of the Party or Parties to which it relates.
- 19.4 The Parties to this Arrangement acknowledge and agree that any decision made by a Party which receives an Information Request as to whether to disclose information relating to this Arrangement pursuant to FOI Legislation is solely the decision of that Party. A Party will not be liable to any Party to this Arrangement for any loss, damage, harm or detrimental effect arising from or in connection with the disclosure of information in response to an Information Request.

20. **RELATIONSHIP OF THE PARTIES**

- 20.1 Each of the Parties is an independent local authority and nothing contained in this Arrangement shall be construed to imply that there is any relationship between the Parties of partnership or principal/agent or of employer/employee. No Party shall have any right or authority to act on behalf of another Party nor to bind another Party by contract or otherwise except to the extent expressly permitted by the terms of this Arrangement.

21. **COSTS**

The costs incurred in connection with the negotiation, preparation, execution, completion and implementation of this Arrangement shall be accounted for as a NEPO Cost.

22. **SEVERABILITY**

If any provision of the Arrangement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Arrangement shall continue

in full force and effect as if the Arrangement had been executed with the invalid, illegal or unenforceable provision eliminated.

23. **VARIATION**

Any variation to this Arrangement must be made in accordance with the Constitution.

24. **FAIRNESS**

In the event that any circumstance arises during the term of this Arrangement which is not within the contemplation of the Parties at the date hereof and not provided for in this Arrangement either expressly or impliedly then the Parties agree that such matter shall be resolved fairly and in a spirit of mutual cooperation consistent with furthering the NEPO Service objectives and, so far as is possible, without detriment to the interests of any of the Parties.

25. **DISPUTE RESOLUTION**

25.1 The Parties to this Arrangement undertake and agree to pursue a positive approach towards dispute resolution which seeks to identify a solution at the lowest operational level that is appropriate to the subject of the dispute and which avoids legal proceedings and maintains a strong working relationship between the Parties.

25.2 In the event of any dispute or difference between the Parties relating to this Arrangement, the matter shall be referred to the Officer Advisory Board.

25.3 In the event that the reference to the Officer Advisory Board does not resolve the dispute, the matter will be referred to and settled by arbitration, in which case a single arbitrator will be appointed by agreement by the Parties or in default of agreement, nominated on the application of any of the Parties by the Secretary of State where the dispute or difference relates to costs and expenses arising under this Arrangement or by the President of the Law Society of England and Wales in respect of any other matter.

26. **NOTICES**

26.1 Any demand, notice or other communication given by one Party to another under, or in connection with the matters contemplated by this Arrangement will be in writing.

26.2 Any such demand, notice or other communication shall be addressed to the recipient and sent to the address, of such other Party as stated below for the purpose and marked for the attention of the person so stated or such other address and/or marked for such other person's attention as such other Party may from time to time specify by notice given in accordance with this clause to the Party giving the relevant notice or communication to it. Such details are: -

Sunderland:

The section 151 officer
Civic Centre
Burdon Road
Sunderland
SR2 7DH

Gateshead:

The Strategic Director, Legal & Corporate Services
Civic Centre
Regent Street
Gateshead
Tyne and Wear
NE8 1HH

Newcastle:

The section 151 officer
Civic Centre
Barras Bridge
Newcastle upon Tyne
NE99 2BN

North Tyneside:

The section 151 officer
Quadrant
Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

South Tyneside:

The section 151 officer

Town Hall and Civic Offices
Westoe Road
South Shields
NE33 2RL

Northumberland:

The section 151 officer
County Hall
Morpeth
NE61 2EF

Durham:

The section 151 officer
County Hall
Durham
DH1 5UL

Darlington:

The section 151 officer
Town Hall
Feethams
Darlington
Co Durham
DL1 5QT

Hartlepool:

The section 151 officer
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Middlesbrough:

The section 151 officer
Town Hall
Middlesbrough
TS1 2QQ

Redcar and Cleveland:

The section 151 officer
Town Hall
Fabian Road
South Bank
TS6 9AR

Stockton on Tees :

The section 151 officer
Municipal Buildings
Church Road
Stockton-on-Tees
TS18 1LD

26.3 Any notice or other communication to be given by any Party to any other Party under, or in connection with the matters contemplated by this Arrangement shall be given by letter delivered by hand or sent by first class pre-paid post, and shall be deemed to have been received: -

26.3.1 in the case by delivery by hand, upon delivery at the address provided for in this clause 26; or

26.3.2 in the case of pre-paid first class post on the second Business Day after the day of posting; or

26.3.3 any notice or communication not received on a Business Day or received 17.00 hrs local time on any Business Day in the place of receipt shall be deemed to have been received the following Business Day.

27. **ASSIGNMENT**

The Parties shall not assign or transfer or purport to assign or transfer any of its rights or obligations hereunder without the prior written consent of the other Parties.

28. **FURTHER ASSURANCE**

Each Party shall co-operate with the others and execute and deliver to the others such other instruments and documents and take such other actions as may be

reasonably requested from time to time in order to carry out, evidence and give effect to the terms of this Arrangement.

29. **LAW AND JURISDICTION**

This Arrangement shall be governed by and construed in accordance with the laws of England and each of the Parties hereto submits to the exclusive jurisdiction of the English Courts.

SIGNED BY the duly authorised representatives of the Parties on the date stated at the beginning of this Arrangement.

SCHEDULE 1

THE NEPO SERVICE OBJECTIVES

The objectives of NEPO are as follows:

1. Lead or facilitate on collaborative procurement for the Parties through a commercial approach to its procurement activities, determining appropriate procurement strategies, adding value, removing duplication and streamlining the procurement landscape through common policies, procedures, systems and processes.
2. To work innovatively and at pace to deliver the required outcomes for the Parties.
3. To generate a positive impact for local sub regional and regional communities and suppliers.
4. Seek ways to maximise financial savings for the Parties.
5. Co-ordinate the management of regional procurement strategies to ensure a consistent approach and equitable distribution of effort between the Parties.
6. Deliver efficient and effective collaborative procurement arrangements including contract management for all Parties.
7. Continually seek new areas of collaboration, e.g. social care, construction etc.
8. Understand the needs of individual Parties and the sub regions, paying particular attention to the diversity of, and impact on, the local and sub regional economy when considering sourcing strategy outputs.
9. Build on existing links to provide more streamlined and integrated support to other regional bodies, e.g. the regional development agency, any local enterprise partnership etc., as appropriate.
10. Help to energise the supply market and recommend appropriate approaches to market.
11. Stimulate common alignment of master and sub-categories of spend between the Parties to develop strategic category sourcing strategies, understand

markets and thus build innovative solutions to ensure the Parties meet their Best Value Duties.

12. Research, develop, stimulate and create regional supply markets for current and future requirements and improving market intelligence, with particular regard to energising local sub regional and regional business development and opportunity, working with the third sector and small medium enterprises.
13. Become a regional centre of best practice for all collaborative procurement activity.
14. Implement and maintain a rigorous and transparent performance management framework.
15. Keep under review opportunities to collaborate with other public sector organisations to enhance efficient procurement.
16. Keep under review the capacity and capability of professional procurement officers in the region; provide tailored training and development opportunities.
17. Provide on demand and at economic cost, discretionary procurement services to a Party, if required.
18. Contribute to national public sector procurement agendas through the organisation's membership of regional and national purchasing consortia and purchasing frameworks and other public bodies and agencies.
19. Report through the Leaders and the Elected Mayor's Board (or similar), performance and savings, at appropriate intervals, expected to be no more than bi-annually.

SCHEDULE 2

CONSTITUTION

CONSTITUTION OF THE JOINT COMMITTEE

1. NAME

- 1.1 The Joint Committee shall be known as the North Eastern Purchasing Organisation ("NEPO").

2. INTERPRETATION

- 2.1 In this Constitution and in the Arrangement, the following expressions have the following meanings unless inconsistent with the context:

2.1.1 "Annual General Meeting" shall mean the annual general meeting of NEPO;

2.1.2 "Associate Member" shall mean those members who at the date hereof are currently Associate Members of NEPO or who currently benefit from subsisting contractual arrangements

2.1.3 "Best Value Duty" shall mean the duty imposed on the Councils by Part 1 of the 1999 Act under which the Councils are under a statutory duty to continuously improve the way their functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the guidance issued from time to time by the Secretary of State for Communities and Local Government;

2.1.4 "Business Day" shall mean any day other than a Saturday or Sunday or a bank or public holiday in England;

2.1.5 "Chair of the Joint Committee" shall mean the Member who is appointed to chair the Joint Committee;

2.1.6 "Change in Law" shall mean any change in law (which shall include laws, regulations, statute or statutory provision) which comes into effect after the Commencement Date that specifically impacts upon the delivery of the NEPO Service or increases the cost of providing the NEPO Service;

2.1.7 "Clerk to the Joint Committee" shall mean the officer who is designated by the Host Authority for the time being to provide administrative and secretarial support for the Joint Committee;

2.1.8 "Commencement Date" shall mean 28 October 2010;

- 2.1.9 "Confidential Information" shall mean any information which has been designated as confidential by any Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of any Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;
- 2.1.10 "Contribution" shall mean the sums payable as further detailed in Schedule 3 to the Shared Services Arrangement by each of the Parties reflecting the cost of provision of the NEPO Service;
- 2.1.11 "Councils" shall mean those local authorities which appoint elected members to the Joint Committee, as set out in section 4 of this constitution;
- 2.1.12 "Deficit" shall mean any operating deficit arising for the NEPO Service after discharging all NEPO Costs;
- 2.1.13 "Director" shall mean the officer designated by the Joint Committee to have responsibility for the day to day management of the Shared Services Arrangement;
- 2.1.14 "DPA" shall mean the Data Protection Act 1998;
- 2.1.15 "Employees" shall mean the employees employed wholly or mainly in the provision of the NEPO Service;
- 2.1.16 "Exempt Information" shall mean any information or class of information relating to this Arrangement which may fall within an exemption to disclosure under FOI Legislation;
- 2.1.17 "FOI Legislation" shall mean the Freedom of Information Act 2000 and subordinate legislation made under this and the Environmental Information Regulations 2004;
- 2.1.18 "Host Authority" shall mean the Council designated as Host Authority under the provisions of the Shared Services Arrangement from time to time;
- 2.1.19 "Information Request" shall mean a request for information under the FOI Legislation;
- 2.1.20 "Intellectual Property Rights" shall mean all patents, trademarks, copyrights, moral rights, rights to prevent passing off, rights in design

and all other intellectual and industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them and, in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world;

- 2.1.21 "Leaders and the Elected Mayors Board" shall mean the Leaders and the Elected Mayors Board of ANEC, the Association of North East Councils
- 2.1.22 "Local Authority" shall mean as defined in section 270 Local Government Act 1972
- 2.1.23 "Member" shall mean a member of the Joint Committee;
- 2.1.24 "NEPO Cost" shall mean all costs incurred in the operation of the NEPO Service, including but not limited to costs in relation to accommodation, staff, assets, administration, utilities and any other costs notified by the Host Authority to the Parties from time to time;
- 2.1.25 "NEPO Officers" shall mean those officers appointed by the Joint Committee to manage the day to day operation of the NEPO Service;
- 2.1.26 "NEPO Service" shall mean the service as set out in the Shared Services Arrangement and such other services as may be agreed between the Parties from time to time;
- 2.1.27 "Officer Advisory Board" shall mean the officer advisory board as identified in this constitution;
- 2.1.28 "Pension Scheme" shall mean the Local Government Pension Scheme;
- 2.1.29 "Personal Data" shall mean Personal Data as defined in section 1 of the DPA;
- 2.1.30 "Public Body" shall mean as defined in section 1(4) of the Local Authorities (Goods and Services) Act 1970
- 2.1.31 "Rebate Receipts" shall mean the sums received as a result of the rebate charges funded by suppliers related to the purchase of goods, works and services under any contract with that supplier;
- 2.1.32 "Relevant Transfer" shall mean a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or modified from time to time;

- 2.1.33 "Section 151 Officer" shall mean the officer designated by a Local Authority as the person responsible for the proper administration of its financial affairs, as required by section 151 of the Local Government Act 1972;
 - 2.1.34 "Shared Services Arrangement" shall mean the arrangement entered into by the Councils to establish and participate in a joint committee to provide a procurement hub service known as the North Eastern Purchasing Organisation (NEPO);
 - 2.1.35 "Surplus" shall mean any operating surplus arising from the NEPO Service after discharging all NEPO Costs;
 - 2.1.36 "Transition Period" shall mean the period from the Commencement Date until 31 March 2012;
 - 2.1.37 "TUPE" shall mean the Transfer of Undertakings (Protection of Employment) Regulations 2006;
 - 2.1.38 "VAT" shall mean value added tax;
 - 2.1.39 "Vice Chair of the Joint Committee" shall mean the Member who is appointed by the Joint Committee to be its Vice Chair;
 - 2.1.40 "Year" shall mean each consecutive period of twelve (12) calendar months', the first commencing on 1 April and ending on 31 March;
 - 2.1.41 "1999 Act" shall mean the Local Government Act 1999.
- 2.2 References to any laws, regulations, statute or statutory provision, statutory post or position include, unless the context otherwise requires, a reference to the laws, regulations, statute or statutory provision, statutory post or position as amended, supplemented, replaced, modified or re-enacted;
- 2.3 References to persons will be construed so as to include bodies corporate, unincorporated associations and partnerships;
- 2.4 References to singular includes the plural and vice versa and references by way of male pronoun shall include references to female pronouns and vice versa.
3. **OBJECTIVES**
- 3.1 The objectives of the Joint Committee are to:
- 3.1.1 Lead or facilitate on collaborative procurement for the Councils through a commercial approach to procurement activities, determining appropriate procurement strategies, adding value, removing

duplication and streamlining the procurement landscape through common policies, procedures, systems and processes;

- 3.1.2 Work innovatively and at pace to deliver the required outcomes for the Councils as set out in an approved business plan;
- 3.1.3 Generate a positive impact for local sub regional and regional communities and suppliers;
- 3.1.4 Seek ways to maximise financial savings for the Councils;
- 3.1.5 Co-ordinate the management of regional procurement strategies to ensure a consistent approach and equitable distribution of effort between the Councils;
- 3.1.6 Deliver efficient and effective collaborative procurement arrangements including contract management for all the Councils;
- 3.1.7 Continually seek new areas of collaboration e.g. social care, construction etc;
- 3.1.8 Understand the needs of individual Councils and the sub regions, paying particular attention to the diversity of, and impact on, the local and sub regional economy when considering sourcing strategy outputs;
- 3.1.9 Build on existing links to provide more streamlined and integrated support to other regional bodies,e.g. the regional development agency/local enterprise partnership etc., as appropriate;
- 3.1.10 Help to energise the supply market and recommend appropriate approaches to market;
- 3.1.11 Stimulate common alignment of master and sub-categories of spend between the Councils to develop strategic category sourcing strategies, understand markets and thus build innovative solutions to ensure the Councils meet their Best Value Duty;
- 3.1.12 Research, develop, stimulate and create regional supply markets for current and future requirements and improving market intelligence, with particular regard to energising local sub regional and regional business development and opportunity, working with the third sector and small medium enterprises;
- 3.1.13 Become a regional centre of best practice for all collaborative procurement activity;

- 3.1.14 Implement and maintain a rigorous and transparent performance management framework;
- 3.1.15 Keep under review opportunities to collaborate with other public sector organisations to enhance efficient procurement;
- 3.1.16 Keep under review the capacity and capability of professional procurement officers in the region; provide tailored training and development opportunities;
- 3.1.17 Provide on demand and at economic cost, discretionary procurement services to a Councils, if required;
- 3.1.18 Contribute to national public sector procurement agendas through NEPO's membership of regional and national purchasing consortia and purchasing frameworks and other public bodies and agencies;
- 3.1.19 Report through the Leaders and the Elected Mayor's Board (or similar), performance and savings, at appropriate intervals, expected to be no more than bi-annually.

4. **MEMBERSHIP OF NEPO**

- 4.1 Each of the following Councils (hereafter referred to as "the Councils") shall appoint two Members (being elected members of that Council) as its nominated Members of the Joint Committee:
 - 4.1.1 The Council of the City of Sunderland ("Sunderland");
 - 4.1.2 The Borough Council of Gateshead ("Gateshead");
 - 4.1.3 The Council of the City of Newcastle upon Tyne ("Newcastle");
 - 4.1.4 The Council of the Borough of North Tyneside ("North Tyneside");
 - 4.1.5 The Council of the Borough of South Tyneside ("South Tyneside");
 - 4.1.6 Northumberland County Council ("Northumberland");
 - 4.1.7 Hartlepool Borough Council ("Hartlepool");
 - 4.1.8 Middlesbrough Borough Council ("Middlesbrough");
 - 4.1.9 Redcar and Cleveland Borough Council ("Redcar and Cleveland");
 - 4.1.10 Stockton on Tees Borough Council ("Stockton");
 - 4.1.11 Durham County Council ("Durham");

- 4.1.12 Darlington Borough Council (“Darlington”).
- 4.2 Each of the Councils shall appoint its Members to the Joint Committee by giving notice in writing to the Clerk to the Joint Committee.
- 4.3 A Local Authority which is admitted as a new Party to the Shared Services Arrangement shall have the right to appoint two of its elected members as its nominated Members of the Joint Committee and shall do so by giving notice in writing to the Clerk to the Joint Committee.
- 4.4 A Public Body which is admitted as a new Party to the Shared Services Arrangement shall have such representation (if any) as the Joint Committee shall think fit
- 4.5 Each Council may nominate one or more substitute Members to attend any meeting in place of an appointed Member from that Council, subject to notice being given to the Clerk to the Joint Committee before the start of the meeting.
- 4.6 Each Member of the Joint Committee shall be appointed to the Joint Committee annually, subject to the following:
- 4.6.1 Each of the Councils may remove any of its appointed Members or substitute Members of the Joint Committee and appoint a different Member or substitute to the Joint Committee by giving written notice to the Clerk to the Joint Committee.
- 4.6.2 A Member shall cease to be a Member of the Joint Committee if he or she ceases to be a Member of the Council appointing him or her.
- 4.7 Any casual vacancies howsoever arising shall be filled by the Council from which the vacancy arises by notice in writing sent to the Clerk to the Joint Committee.
- 4.8 Each Member of the Joint Committee shall act in the overall interests of the Joint Committee.
- 4.9 Each Member of the Joint Committee shall comply with the Members’ Code of Conduct and relevant training programmes of their Council when acting as a Member of the Joint Committee.
- 4.10 The Host Authority or Authorities shall be appointed by the Joint Committee.

5. **MEETINGS OF THE JOINT COMMITTEE**

- 5.1 The functions of the Joint Committee shall be to :
- 5.1.1 Develop, approve and keep under review long term strategies setting out the future direction of NEPO;

- 5.1.2 Approve annually the medium term business plans, annual budgets and annual accounts (including the annual governance statement following consideration by the Audit Sub-Committee);
- 5.1.3 Agree the level of annual contributions from member councils;
- 5.1.4 Adopt this constitution and then to consider, approve and keep under review at the Annual General Meeting the constitution and Shared Services Arrangement of NEPO, including its standing orders, financial procedure rules and the officer delegation scheme and to carry out such actions as are required by these rules save that in the inaugural year the said documents shall be prepared by 31st March 2011;
- 5.1.5 Appoint annually at the Annual General Meeting an Executive Sub-Committee, and receive minutes or reports highlighting any areas that require action by the Joint Committee;
- 5.1.6 Appoint annually at the Annual General Meeting an Audit Sub-Committee and a Scrutiny Sub-Committee of 'Non-Executive' Members and receive minutes or reports highlighting any areas that require action by the Joint Committee and on completed scrutiny reviews;
- 5.1.7 Approve and keep under review the code of corporate governance and associated documents, including a register of corporate and commercial risk, following recommendations by the Audit Sub-Committee;
- 5.1.8 Receive reports as appropriate from the Chair of the Officer Advisory Board on issues of concern to member councils that cannot be resolved directly with the Director;
- 5.1.9 Delegate to an Executive Sub-Committee a duty to keep business operations under continuous review through a robust performance management framework, and take such actions as are necessary to adhere to approved business plans and annual budgets;
- 5.1.10 Approve an annual programme of Scrutiny Reviews, following a recommendation by the Scrutiny Sub-Committee;
- 5.1.11 Approve the senior management structure;
- 5.1.12 Provide for the appointment of the Director through an appropriate ad-hoc Appointments Sub-Committee of up to 5 members, and make appropriate arrangements for his/her annual appraisal by the Executive Sub-committee;

- 5.1.13 Keep under review the scope and cost of 'accountable body' duties provided by member councils, and the location, scale and standard of staff accommodation;
- 5.1.14 Appoint the Host Authority or Authorities on such terms and for such period(s) as it considers appropriate;
- 5.1.15 Receive reports from the Director on changes to the national procurement landscape, and its potential effects on the economic, social and environmental wellbeing of the region, and to make such amendments to strategic plans as are appropriate;
- 5.1.16 Receive reports and take action to resolve potential skill shortages in the procurement field through the development of a regional development and training programme;
- 5.1.17 Receive an annual report from the Director containing summary details of previous year's contracts and any significant changes in business planning for the following year;
- 5.1.18 Support and promote the creation of appropriate partnership arrangements, including other public sector buying organisations, the OGC, CLG and the regional development agency;
- 5.1.19 Keep under review the corporate identity and branding of NEPO;.
- 5.1.20 Ensure that an appropriate member development programme is provided to facilitate the work of the Joint Committee and its sub-committees;
- 5.1.21 Provide member councils with an annual report on NEPO's activities;
- 5.1.22 Exercise such other responsibilities as are provided for under this constitution.

and in the case of any of these functions (save for those functions set out in 5.1.2, 5.1.3, 5.1.4 and 5.1.14) the Joint Committee may in its discretion delegate the same to the Executive Committee

5.2 The Joint Committee shall hold an Annual General Meeting to carry out the following business:

- 5.2.1 To elect the Chair of the Joint Committee when the post is vacant;
- 5.2.2 To elect the Vice Chair of the Joint Committee when the post is vacant;

- 5.2.3 To determine the date, time and venue of meetings of the Joint Committee and the Executive Sub-Committee for the following year.
- 5.3 The Joint Committee shall hold its next Annual General Meeting on 28 October 2010. In 2011 and every future year when the Joint Committee exists, the Joint Committee shall hold its Annual General Meeting in June.
- 5.4 The Joint Committee shall hold ordinary meetings quarterly unless otherwise determined by the Joint Committee.
- 5.5 The Clerk to the Joint Committee may call extraordinary meetings of the Joint Committee by giving at least three clear days' written notice to the Members of the Joint Committee for the purposes of resolving urgent matters arising between the quarterly meetings of the Joint Committee. The Clerk to the Joint Committee must call a meeting of the Joint Committee if at least half of the Councils in membership request it.
- 5.6 Each Member shall have one vote. . Each Member may arrange for his/her vote to be exercised by any Member or substitute Member whom his/her Council appoints to the Joint Committee or nominates as a substitute. For the avoidance of doubt no officer shall be allowed to exercise a vote.
- 5.7 The Clerk to the Joint Committee shall send to all Members of the Joint Committee copies of the agenda for each meeting of the Joint Committee no later than five clear Business Days before the date of the relevant meeting. This shall not apply to extraordinary meetings of the Joint Committee which the Clerk to the Joint Committee calls at less than five clear Business Days notice, in which case the Clerk to the Joint Committee shall send to all Members of the Joint Committee printed copies of the agenda as soon as reasonably practicable and shall make copies available at the meetings.
- 5.8 The Clerk to the Joint Committee shall arrange for written minutes to be taken of each meeting of the Joint Committee. The Clerk to the Joint Committee shall circulate the minutes to Members of the Joint Committee no later than 14 Business Days after the date of the relevant meeting and shall present them to the Joint Committee at its next meeting for approval as a correct record. If the Joint Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the Chair.
- 5.9 A meeting of the Joint Committee shall require a quorum of one half of the Members who are entitled to attend and vote, provided that at least half of the Councils are represented.
- 5.10 If at the expiration of 15 minutes after the time specified for a meeting a quorum shall not be present, then unless otherwise agreed by the majority of members present, no meeting shall take place and the meeting shall stand

adjourned until the day and time fixed for the next ordinary meeting unless an extraordinary meeting is, in the meantime, convened for the purpose in pursuance of this constitution.

- 5.11 If, during any meeting of the Joint Committee the Chair, after counting the number present declares that there is not a quorum present the meeting shall stand adjourned until the next ordinary meeting unless an extraordinary meeting is convened for that purpose.
- 5.12 The order of business shall be indicated in the agenda for the meeting and shall be in accordance with the procedure rules adopted by the Joint Committee.
- 5.13 Subject to the provisions of any enactment, all matters other than a question of whether to admit a Local Authority or Public Body as a new Party to the Shared Services Arrangement or a request for a change to the Joint Committee's constitution or a proposal to vary the terms of the Shared Services Arrangement coming or arising before the Joint Committee shall be decided by a majority of the Members of the Joint Committee who are entitled to vote immediately present and voting thereon. A decision to admit a Local Authority or Public Body as a new Party to the Shared Services Arrangement or to vary the terms of the Shared Services Arrangement shall require unanimous agreement of all Members. A decision to change the constitution of the Joint Committee shall require the agreement of Members representing at least two thirds of the Councils present and able to vote and shall be taken in accordance with paragraph 12 of this constitution.
- 5.14 Subject to the provisions of any enactment, in the case of an equality of votes the Chair shall have a second or casting vote but before exercising this, the Chair shall consider whether it is appropriate to defer the matter to the next meeting of the Joint Committee.
- 5.15 Any Member of the Joint Committee may request the Joint Committee to record the votes of individual Members of the Joint Committee on a matter for decision.
- 5.16 A Member when speaking shall address the Chair. If two or more Members wish to speak, the Chair shall call on one to speak. While a Member is speaking other Members shall remain silent.
- 5.17 A Member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
- 5.18 Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing that the Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances

suggest that this course would facilitate the proper conduct of the Joint Committee's business.

- 5.19 If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
- 5.20 When a motion is under debate by the Joint Committee no other motion shall be moved except the following: -
- 5.20.1 To amend the motion;
 - 5.20.2 To adjourn the meeting;
 - 5.20.3 To adjourn the debate;
 - 5.20.4 To proceed to the next business;
 - 5.20.5 That the question be now put;
 - 5.20.6 That a Member be not further heard;
 - 5.20.7 By the Chair that a Member do leave the meeting;
 - 5.20.8 A motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public;
 - 5.20.9 To postpone consideration of the item.
- 5.21 A Member may move without comment at the conclusion of a speech of another Member, "That the Committee proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Committee do now adjourn", on the seconding of which the Chair shall proceed as follows: -
- 5.21.1 On a motion to proceed to next business; unless in his opinion the matter before the meeting has been insufficiently discussed put to the vote the motion to proceed to the next business;
 - 5.21.2 On a motion that the question be now put; unless in his opinion the matter before the meeting has been insufficiently discussed he shall first put to the vote the motion that the question be now put ;
 - 5.21.3 On a motion to adjourn the debate or the meeting; if in his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.

- 5.22 Any motion moved under paragraph 5.20 (to amend the motion; to adjourn the meeting; to adjourn the debate; to proceed to the next business; that the question be now put; that a Member be not further heard; by the Chair that a Member do leave the meeting; a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public; to postpone consideration of the item) must be seconded but it need not be reduced to writing. The mover may speak upon it but the seconder shall not be permitted to speak beyond formally seconding it. Upon any such motion being made, the mover of the substantive motion under debate at the time such motion is made may (without prejudice to his or her ultimate right of reply if the motion be not carried) be heard in reply for a period not exceeding five minutes, immediately after which the question shall be put without further debate.
- 5.23 If any motion mover under paragraph 5.20 (to amend the motion; to adjourn the meeting; to adjourn the debate; to proceed to the next business; that the question be now put; that a Member be not further heard; by the Chair that a Member do leave the meeting; a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public; to postpone consideration of the item) is lost it shall not be competent to move a motion in the same or similar terms within a period of 30 minutes thereafter.
- 5.24 If a motion to adjourn the meeting is carried, the business on the agenda undisposed of shall be printed on the agenda of the next ordinary meeting or of such meeting as shall be specified.
- 5.25 If a motion to adjourn the debate is carried, the discussion shall be resumed at the next ordinary meeting, when the Member who moved the adjournment of the debate shall be entitled to speak first.
- 5.26 If a motion "that the question now be put" is carried, the motion or amendment under debate shall, subject to the right of reply of the mover of an original motion, be forthwith put.
- 5.27 When a motion to proceed to the next business is carried the question under discussion shall be considered as dropped.
- 5.28 A motion or amendment may be withdrawn by the mover with the consent of his or her seconder and of the Joint Committee, which consent shall be signified without debate, and no Member may speak upon it after the mover has asked permission for its withdrawal unless such permission shall have been refused.
- 5.29 Paragraphs 5.22 to 5.28 and 5.30 to 5.31 of this constitution may be suspended so far as regards any business at the meeting.
- 5.30 The following rules shall apply to the conduct of debate at meetings: -

- 5.30.1 Members arriving after a meeting has commenced or departing before a meeting has concluded shall show due respect to the Chair.
 - 5.30.2 No speech shall exceed ten minutes in the case of a mover of a motion or five minutes in any other case except by consent of the Chair.
 - 5.30.3 A Member who speaks shall direct his remarks strictly to the motion under discussion or to a personal explanation or a question of order. A point of order shall relate only to an alleged breach of a requirement of this constitution and the Member shall immediately specify the requirement and the way it has been broken. No Member may impute improper motives or use offensive expressions in reference to any Member.
 - 5.30.4 The ruling of the Chair on a point of order or the admissibility of a personal explanation shall be final and shall not be open to discussion.
 - 5.30.5 A member shall not address the meeting more than once on the same motion or amendment except upon a point of order or to offer a personal explanation. The mover of an original motion may, however, reply but he or she shall confine himself or herself strictly to answering points raised by previous speakers and shall not introduce a new matter into debate. After the reply the question shall be put forthwith.
 - 5.30.6 The Chair shall call the attention of the Member to continued irrelevance, tedious repetition, unbecoming language or any breach of order on the part of a Member and shall direct such a Member, if speaking, to discontinue his or her speech or, in the event of disregard of the authority of the Chair, to retire for the remainder of the meeting.
- 5.31 Where there are more than two persons nominated for any position to be filled by the Joint Committee and, on a vote being taken, no person receives more than half the votes cast, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken and so on until a majority of the votes cast is given in favour of one person.
- 5.32 If a Member of the Joint Committee has any personal interest in any contract, proposed contract or other matter, and is present at a meeting at which the contract, proposed contract or other matter is the subject of consideration, he or she shall, at the meeting and as soon as practicable after its commencement, disclose the fact and if the interest is also a prejudicial interest shall not take part in the consideration or discussion of the contract, proposed contract or other matter or vote on any question with respect to it but shall withdraw from the meeting whilst it is being discussed and voted on.

- 5.33 If it comes to the knowledge of an officer employed by any of the Councils that a contract in which he or she has a pecuniary interest, whether direct or indirect (not being a contract to which he or she is a party), has been, or is proposed to be entered into by the Host Authority on behalf of the Joint Committee, he or she shall as soon as practicable give notice in writing to the Joint Committee of the fact that he or she is interested therein.
- 5.34 No Member may at a meeting raise any matter of which prior notice has not been given to the Chair and the matter shall not, in any event be introduced unless the Members on being informed of it agree. If the Members do agree the matter may be raised only in the form of a question which, on an oral answer being given, shall be regarded as disposed of at that meeting and no decision binding the Joint Committee on any course of action shall be taken on any matter so raised.
- 5.35 The ruling of the Chair shall not be open for discussion.
- 5.36 Any member of the Councils who is not a Member of the Joint Committee is entitled to attend the Joint Committee but he/she shall not be entitled to vote, shall not take part in the consideration or discussion of any business, save by leave of the Chair and comments will be recorded only on the direction of the Chair.
- 5.37 Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 38.
- 5.38 The public may be excluded from a meeting of the Joint Committee during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information as defined in section 100A(3) of the Local Government Act 1972 or exempt information as defined in section 100I of the Local Government Act 1972 would be disclosed to them.
- 5.39 Subject to clause 5.40 any meeting of the Joint Committee which has sat continuously for three hours shall stand adjourned unless the majority of the Members present, by vote, determine to continue to sit.
- 5.40 The Chair may, at any time, if he or she thinks it desirable in the interest of order, adjourn a meeting for a time to be named by him or her.

6. CHAIRING THE JOINT COMMITTEE

- 6.1 The Joint Committee shall appoint a Chair of the Joint Committee at every Annual General Meeting when the office of Chair is vacant.

- 6.2 The Joint Committee shall appoint a Vice Chair of the Joint Committee at every Annual General Meeting when the office of Vice Chair is vacant.
- 6.3 The Chair and Vice Chair shall be appointed from the Members of the Joint Committee and shall hold office for a period of two years, subject to the following:
- 6.3.1 The Chair and Vice Chair shall vacate their office as Chair or Vice Chair as applicable if he or she ceases to be an elected member of the Council which appointed him or her to the Joint Committee; or that Council terminates his or her appointment as a Member of the Joint Committee, or if his or her appointment as a Member of the Joint Committee expires and he or she is not re-appointed as a Member of the Joint Committee with immediate effect.
- 6.4 If there is a vacancy in the office of Chair or Vice Chair between the date of the Annual General Meetings of the Joint Committee, the Joint Committee shall appoint a Chair or Vice Chair as applicable at the next meeting of the Joint Committee.
- 6.5 If there is a quorum of members present but neither the Chair nor the Vice-Chair is present, the Members present shall designate one Member to preside as Chair for that meeting.

7. **THE EXECUTIVE**

- 7.1 The Joint Committee shall appoint an Executive Sub-Committee of 12 Members of the Joint Committee at each Annual General Meeting comprising those Members from each Council who have executive responsibility for procurement or the Council's nominated procurement champion.
- 7.2 The Executive Sub-Committee shall have the responsibility to:
- 7.2.1 Review the performance of NEPO in achieving its objectives through an examination of performance data and relevant performance indicators;
- 7.2.2 Determine and recommend to the Joint Committee a suite of performance indicators, including an annual target of rebate income and reduced prices that are expected for the following financial year;
- 7.2.3 Receive reports on spending against approved budgets and make such decisions as are necessary to ensure year-end targets are achieved;
- 7.2.4 Keep under review the division of work of a regional nature between NEPO and member councils, to ensure as far as possible an equitable distribution or a fair allocation of costs;

- 7.2.5 Examine periodically the take up of regional contracts by member councils, examine reasons for opt outs, and report its conclusions to the Joint Committee;
 - 7.2.6 Appraise the performance of the Director;
 - 7.2.7 Take urgent decisions where it is not practicable to call a full meeting of the Joint Committee, subject to reporting any decisions made, and the reasons for the urgency, to the next meeting of the Joint Committee.
- 7.3 The Executive Sub-Committee shall meet quarterly.
- 7.4 The Executive Sub-Committee shall appoint a Chair and Vice Chair of the Executive Sub-Committee at its first meeting.
- 7.5 The Chair and Vice Chair shall hold office for a period of two years, subject to the following:
- 7.5.1 The Chair and Vice Chair shall vacate their office as Chair or Vice Chair as applicable if he or she ceases to be an elected member of the Council which appointed him or her to the Joint Committee; or that Council terminates his or her appointment as a Member of the Joint Committee, or if his or her appointment as a Member of the Joint Committee expires and he or she is not re-appointed as a Member of the Joint Committee with immediate effect.
- 7.6 The Clerk to the Joint Committee shall send to all Members of the Executive Sub-Committee printed copies of the agenda for each meeting of the Executive Sub-Committee no later than five clear Business Days before the date of the relevant meeting.
- 7.7 The Clerk to the Joint Committee shall arrange for written minutes to be taken of each meeting of the Executive Sub-Committee. The Clerk to the Joint Committee shall circulate the minutes to Members of the Executive Sub-Committee no later than 14 Business Days after the date of the relevant meeting and shall present them to the Joint Committee at its next meeting for approval as a correct record. If the Executive Sub-Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the Chair.
- 7.8 A meeting of the Executive Sub-Committee shall require a quorum of one half of the Members who are entitled to attend and vote.

7.9 The order of business shall be indicated in the agenda for the meeting and the meeting shall be conducted in accordance with the procedure rules adopted by the Joint Committee.

8. **OVERVIEW AND SCRUTINY ARRANGEMENTS**

8.1 The Joint Committee shall appoint a Scrutiny Sub-Committee of 6 Members.

8.2 The Scrutiny Sub-Committee shall have the responsibility to:

8.2.1 Prepare and submit to the Joint Committee for approval an annual programme of scrutiny reviews;

8.2.2 Conduct scrutiny reviews in accordance with the approved programme;

8.2.3 Call witnesses and receive evidence as appropriate for each review;

8.2.4 Prepare a report following each review, setting out conclusions and recommendations, for submission to the Joint Committee;

8.2.5 Review periodically the response of senior managers to completed reviews;

8.2.6 Carry out reviews requested by the Executive Sub-Committee and the Joint Committee;

8.2.7 Present the findings of its reviews to the Joint Committee;

8.3 The Scrutiny Sub-Committee shall present its proposed programme of reviews to the Joint Committee every year and shall not undertake any reviews until it has the approval of the Joint Committee.

8.4 The members of the Scrutiny Sub-Committee shall be Members of the Joint Committee who are not a member of the Executive or the Audit Sub-Committees of the Joint Committee .

8.5 The Scrutiny Sub-Committee shall meet quarterly or more frequently when the Chair of the Scrutiny Sub- Committee decides this is necessary or on the written requisition of 3 members of the Scrutiny Sub-Committee. The Chair of the Scrutiny Sub-Committee shall ask the Clerk to the Joint Committee to call a meeting of the Scrutiny Sub- Committee by sending to all Members of the Scrutiny Sub-Committee printed copies of the agenda for each meeting of the Scrutiny Sub-Committee no later than five clear Business Days before the date of the relevant meeting.

8.6 The Scrutiny Sub-Committee shall appoint a Chair and Vice Chair of the Scrutiny Sub-Committee at its first meeting.

- 8.7 The Chair and Vice Chair shall hold office for a period of two years, subject to the following:
- 8.7.1 The Chair and Vice Chair shall vacate their office as Chair or Vice Chair as applicable if he or she ceases to be an elected member of the Council which appointed him or her to the Joint Committee; or that Council terminates his or her appointment as a Member of the Joint Committee, or if his or her appointment as a Member of the Joint Committee expires and he or she is not re-appointed as a Member of the Joint Committee with immediate effect.
- 8.8 The Clerk to the Joint Committee shall send to all Members of the Scrutiny Sub-Committee printed copies of the agenda for each meeting of the Joint Committee no later than five clear Business Days before the date of the relevant meeting.
- 8.9 The Clerk to the Joint Committee shall arrange for written minutes to be taken of each meeting of the Scrutiny Sub-Committee. The Clerk to the Joint Committee shall circulate the minutes to Members of the Scrutiny Sub-Committee no later than 14 Business Days after the date of the relevant meeting and shall present them to the Scrutiny Sub-Committee at its next meeting for approval as a correct record. If the Scrutiny Sub-Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the Chair.
- 8.10 A meeting of the Scrutiny Sub-Committee shall require a quorum of one half of the Members who are entitled to attend and vote.
- 8.11 The order of business shall be indicated in the agenda for the meeting and the meeting shall be conducted in accordance with the procedure rules adopted by the Joint Committee.

9. **AUDIT**

- 9.1 The Joint Committee shall appoint an Audit Sub-Committee of 6 Members.
- 9.2 The Audit Sub-Committee shall have the responsibility to:
- 9.2.1 Provide the Joint Committee with a reasonable assurance of the efficient and effective operation of the overall internal control environment within NEPO, through a systematic appraisal of its framework of internal controls, processes and data quality;
- 9.2.2 Consider the internal audit plans of the accountable body insofar as they relate to NEPO;
- 9.2.3 Recommend an annual governance statement to the Joint Committee for inclusion in the annual statement of accounts;

- 9.2.4 Ensure that the highest standards of probity and public accountability are demonstrated in the letting of contracts and by member councils;
 - 9.2.5 Ensure that an appropriate risk management strategy has been drawn up, to monitor that risk management procedures are being carried out effectively and to monitor key risks;
 - 9.2.6 Keep under review the actions of the Director in developing a code of corporate governance, including policies and procedures relating to anti-fraud and corruption;
 - 9.2.7 Review annually its terms of reference and report any additions and amendments to the Joint Committee;
 - 9.2.8 Submit to each Annual General Meeting of the Joint Committee a report of its activities during the previous year.
- 9.3 The members of the Audit Sub-Committee shall be Members of the Joint Committee who are not a member of the Executive or Scrutiny Sub-Committees of the Joint Committee.
- 9.4 The Audit Sub-Committee shall meet quarterly and additionally when the Chair of the Audit Sub-Committee decides this is necessary. The Chair of the Audit Sub-Committee shall ask the Clerk to the Joint Committee to call a meeting of the Audit Sub-Committee by sending to all Members of the Audit Sub Committee printed copies of the agenda for each meeting of the Audit Sub-Committee no later than five clear Business Days before the date of the relevant meeting.
- 9.5 The Audit Sub-Committee shall appoint a Chair and Vice Chair of the Audit Sub-Committee at its first meeting.
- 9.6 The Chair and Vice Chair shall hold office for a period of two years, subject to the following:
- 9.6.1 The Chair and Vice Chair shall vacate their office as Chair or Vice Chair as applicable if he or she ceases to be an elected member of the Council which appointed him or her to the Joint Committee; or that Council terminates his or her appointment as a Member of the Joint Committee, or if his or her appointment as a Member of the Joint Committee expires and he or she is not re-appointed as a Member of the Joint Committee with immediate effect.
- 9.7 The Clerk to the Joint Committee shall send to all Members of the Audit Sub-Committee printed copies of the agenda for each meeting of the Audit Sub-Committee no later than five clear Business Days before the date of the relevant meeting.

- 9.8 The Clerk to the Joint Committee shall arrange for written minutes to be taken of each meeting of the Audit Sub-Committee. The Clerk to the Audit Sub-Committee shall circulate the minutes to Members of the Audit Sub-Committee no later than 14 Business Days after the date of the relevant meeting and shall present them to the Audit Sub-Committee at its next meeting for approval as a correct record. If the Audit Sub-Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the Chair.
- 9.9 A meeting of the Audit Sub-Committee shall require a quorum of one half of the Members who are entitled to attend and vote.
- 9.10 The order of business shall be indicated in the agenda for the meeting and the meeting shall be in accordance with the procedure rules adopted by the Joint Committee.

10. **OFFICER ADVISORY BOARD**

- 10.1 The role of the Officer Advisory Board is to facilitate effective links between officers of the Councils to ensure that the regional agenda is being pursued effectively and that the Joint Committee is meeting the objectives of each Council.
- 10.2 Each Council shall nominate one of its officers to be a member of the Officer Advisory Board. Any officer nominated by a Council shall be the Council's chief executive or a senior director with line responsibility for procurement.
- 10.3 The Officer Advisory Board shall appoint a Chair and Vice Chair from amongst the chief executive representatives.
- 10.4 The Officer Advisory Board shall meet when the Chair of the Officer Advisory Board decides this is necessary. The Chair of the Officer Advisory Board shall ask the Clerk to the Joint Committee to call a meeting of the Officer Advisory Board by sending to all members of the Officer Advisory Board by e-mail copies of the agenda for each meeting of the Officer Advisory Board no later than five Business Days before the date of the relevant meeting.

11. **EMPLOYEES**

- 11.1 The Director shall be authorised by the Joint Committee to:
- 11.1.1 Determine the establishment (other than the senior management structure) and manage the Employees so far as is necessary to facilitate the efficient management of the Joint Committee;
- 11.1.2 Negotiate terms and execute contracts in the name of the Host Authority;

- 11.1.3 Appoint staff within a budget agreed by the Joint Committee;
 - 11.1.4 Incur expenditure of a non-staff nature within a budget agreed by the Joint Committee;
 - 11.1.5 Research, develop and implement all relevant system requirements for the Joint Committee, including all future developments of the procurement portal and the setting of minimum requirements in respect of how the portal is used and data captured;
 - 11.1.6 Represent the Joint Committee in national discussions concerning procurement activity and take decisions in the interests of the Joint Committee concerning the participation of the Councils in national contracts;
 - 11.1.7 Determine which contracts to lead on behalf of consortia and which national contracts to recommend to councils in the region;
 - 11.1.8 Take decisions in the name of the Joint Committee where the Director has professional or managerial responsibility but this does not include decisions on any matters which have been reserved to the Joint Committee or a sub-committee of the Joint Committee;
 - 11.1.9 In consultation with the Chair and Vice Chair of the Joint Committee take decisions on matters of urgency between the meetings of the Joint Committee and the Executive Sub-Committee provided the decision is reported to the next meeting of the Joint Committee for information;
 - 11.1.10 Agree severance terms in accordance with the policies for the time being of the Host Authority.
- 11.2 The Host Authority shall designate one of its officers to undertake the role of Clerk to the Joint Committee.

12. **CHANGES TO THE CONSTITUTION**

- 12.1 No change may be made to the constitution of the Joint Committee unless it has been agreed at a meeting of the Joint Committee by Members representing at least two thirds of the Councils.
- 12.2 Each of the Councils may request a change to the constitution of the Joint Committee by sending to the Clerk to the Joint Committee:
 - 12.2.1 Details in writing of the proposed change to the constitution;

12.2.2 A request in writing for the Clerk to include the proposed change to the agenda for the next meeting of the Joint Committee.

12.3 When the Clerk to the Joint Committee receives a request for a change to the constitution of the Joint Committee, he or she shall add this to the agenda for the next meeting of the Joint Committee unless the next meeting is the Annual General Meeting. If the next meeting is the Annual General Meeting the Clerk to the Joint Committee shall add the request to the agenda for the next meeting after the Annual General Meeting.

12.4 If the Joint Committee agree to a change to the constitution of the Joint Committee, the change shall take effect immediately after it has been agreed. The Clerk to the Joint Committee shall prepare a new version of the constitution as soon as reasonably practicable after the change has been agreed and shall circulate this to each Council. The costs associated with preparing and circulating the new version of the constitution shall be shared equally between the Councils.

13. **OTHER PROCEDURE RULES**

13.1 The Joint Committee may from time to time adopt such financial, procurement and other procedure rules as it may determine from time to time. In the event that the Joint Committee does not have an agreed policy or rules on an appropriate matter then the policy or rules of the Host Authority shall apply as appropriate to the Joint Committee from time to time.

13.2 In respect of contractual arrangements, the Joint Committee shall comply with the operational protocol for the administration of contract procurements which the Joint Committee has adopted under the provisions of the Shared Services Arrangement or any other operational protocol for the administration of contract procurements which the Joint Committee may from time to time adopt.

SCHEDULE 3

CONTRIBUTION, SURPLUS AND DEFICIT

1. Contribution

- 1.1 For the year ending 31 March 2011 each of the Parties shall make a fixed contribution equivalent to the contribution each made during 2009/2010. The balance of the NEPO Costs shall be funded by a payment received from the NEIEP (North East Improvement Efficiency Partnership).
- 1.2 For the year 1 April 2011 to 31 March 2012 the parties shall make a fixed contribution equivalent to the contribution each made during 2009/2010 and (to the extent that there is no third party funding available in respect of the NEPO costs) the Host Authority shall apply the Rebate Receipts (and in order of use those Rebate Receipts relating to purchases made by organisations who are not a Party shall be applied first) to cover the remainder of the NEPO Costs.

2. Surplus

- 2.1 In the event of a Surplus in any Year the Host Authority shall provide a breakdown of the Surplus specifically identifying:
 - 2.1.1 Rebate Receipts available for distribution which will be distributed having regard to each Party's use of each contract in respect of which the Rebate Receipt arises by reference to their financial purchase volumes under that contract;
 - 2.1.2 general surplus (which for the avoidance of doubt includes Rebate Receipts attributable to purchases made by organisations not party to this Arrangement) which will be distributed in equal proportions.

3. Deficit

- 3.1 In the event of a Deficit in any Year each Party will be responsible to pay an equal proportion of that Deficit.

4. **Payment terms**

4.1 In respect of each Year, the Host Authority shall carry out an annual reconciliation of the NEPO costs and any income received and confirm to each Party no later than 30 June. Any Contribution, Surplus or Deficit due to or from each Party shall be made no later than 31 July following the end of the Year.

4.2 The Parties agree that so far as permitted by law they shall not charge VAT on any amounts payable under the terms of this Arrangement as a non-business supply arising out of an administrative event.

5 **Review**

5.1 The Joint Committee will review the provisions in Schedule 3 by 31st March 2011 with a view to implementation of revisions by 1st April 2012.

SIGNED by)
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as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
CITY OF SUNDERLAND)

SIGNED by)
as authorised representative for and on)
behalf of **THE BOROUGH COUNCIL**)
OF GATESHEAD)

SIGNED by)
as authorised representative for and on)
behalf of **THE COUNCIL OF THE CITY**)
OF NEWCASTLE UPON TYNE)

SIGNED by)
as authorised representative for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF NORTH TYNESIDE)

SIGNED by)
as authorised representative for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF SOUTH TYNESIDE)

SIGNED by)
)
as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
COUNTY OF NORTHUMBERLAND)

SIGNED by)
)
as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF MIDDLESBROUGH)

SIGNED by)
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as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF REDCAR AND)
CLEVELAND)

SIGNED by)]
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as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF STOCKTON ON TEES)

SIGNED by)
)
as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
COUNTY OF DURHAM)

SIGNED by)
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as authorised representatives for and on)
behalf of **THE COUNCIL OF THE**)
BOROUGH OF DARLINGTON)