

**West of England Partnership
Joint Transport Executive Committee
24 April 2009**

Annual Business

Purpose of the Report

1. To consider the Constitution of the Joint Committee, the Joint Working Agreement, the Officers and advisors to the Joint Committee and proposed future meetings.

Background and Proposals

2. The following documents, agreed by the local authorities in the West of England, are appended to this report for members to consider and note:
 1. Constitution of the Joint Committee
 2. Joint Working Agreement

Officers and Advisors to the Joint Committee

3. The proposed officers and advisors will be provided at the meeting.

Meetings to be proposed at the 2009/10 Annual Meeting of the Joint Committee

4. The following dates and venues for meetings at start time of 10.30 am are proposed:

16 July 2009 - BAWA, Southmead Road, Filton
1 October 2009 - the Campus, Weston-super-Mare
12 November 2009 - the Council House, Bristol
17 December 2009 - the Guildhall, Bath
4 February 2010 - BAWA, Southmead Road, Filton
18 March 2010 - the Campus, Weston-super-Mare
5. Any request for additional meetings in the light of new requests would be reported to the Joint Transport Executive Committee at the earliest opportunity.

Recommendation

That the Joint Committee considers and notes the:

- a) Provisions of the Constitution of the Joint Committee adopted by the local authorities in the West of England
- b) Provisions of the Joint Working Agreement adopted by the local authorities
- c) Officers and advisors to the Joint Committee - to be confirmed at the meeting
- d) Dates, times and venues of meetings to be proposed at the 2009/10 Annual meeting of the Joint Transport Committee.

Appendices

Appendix 1 - Constitution of the Joint Transport Executive Committee

Appendix 2 – Joint Working Agreement

Author: Terry Wagstaff, Chief Executive, West of England Partnership Office
Tel. 0117 922 2639 e mail: terry.wagstaff@westofengland.org

Background Papers

Strengthening Partnership Governance, Report to West of England Partnership Board, 14 March 2008

Strengthened Governance Arrangements, Report to West of England Partnership Board, 4 July 2008

**The Bath and North East Somerset Council, Bristol City Council, North Somerset Council
and South Gloucestershire District Council
Joint Transportation Executive Committee**

Constitution

This Constitution has been approved by Bath and North East Somerset Council, Bristol City Council, North Somerset District Council and South Gloucestershire District Council as the Constitution of the Joint Transportation Executive Committee.

1 Establishment of the Joint Transportation Executive Committee

- 1.1 The Joint Transportation Executive Committee shall be the “Bath and North East Somerset Council, Bristol City Council, North Somerset Council and South Gloucestershire District Council Joint Transportation Executive Committee”.
- 1.2 The Joint Transportation Executive Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000 by the Executives of Bath and North East Somerset Council, Bristol City Council, North Somerset Council and South Gloucestershire District Council.

2 Objectives of the Joint Transportation Executive Committee

- 2.2 The purpose of the Authorities in establishing the Joint Transport Committee is to develop and implement a Strategy to alleviate traffic congestion, cope with anticipated population and traffic growth and to meet local transport and development needs and to promote the economic, social and environmental improvement of their areas, which Strategy shall comprise a Local Transport Improvement Programme of local transport projects pursuant to the Highways, Transport and Planning functions of the Authorities.

3 Powers Delegated to and matters reserved from the Joint Transportation Executive Committee

- 3.1 The Joint Transportation Executive Committee shall have such powers as may from time to time be delegated to the Joint Transportation Executive Committee by the Executives of the Authorities or of any of the Authorities, including the following
 - 3.1.1 To receive recommendations from each of the Authorities for local transport projects to be included within the Local Transport Improvement Programme, and to develop and determine the Local Transport Improvement Programme on the basis of such recommendations, and to revise that Local Transport Improvement Programme from time to time. For clarification it is stated that the Joint Transportation Executive Committee may not include a local transport project within the Local Transport Improvement Programme except on the recommendation of the Authority or the Authorities within whose area(s) the project lies.
 - 3.1.2 To recommend to the Executives of each of the Authorities any changes to the Joint Local Transport Plan which are necessary to accommodate and support the Local Transport Improvement

- Programme, for recommendation by the Executive of each Authority to its Council for approval
- 3.1.3 To prepare draft joint bids for funding for recommendation to the Executives of each of the Authorities for approval and to accept any funding offers and conditions received as a consequence of such bids
 - 3.1.4 To manage any funds and to allocate them from time to time to each of the Authorities to enable each Authority to implement specific local transport projects in accordance with the Local Transport Improvement Programme
 - 3.1.5 To monitor the implementation of the Local Transport Improvement Programme and report regularly to the Authorities thereon
 - 3.1.6 To make such returns and provide such information as may be required by the Department for Transport
- 3.2 In so far as any powers may from time to time be delegated to the joint Transportation Executive Committee, the following functions are matters reserved to each of the Authorities making such delegation and shall not be within the powers of the Joint Transportation Executive Committee:
- 3.2.1 All non-executive functions of any of the Authorities
 - 3.2.2 Any decision which is contrary to or not wholly in accordance with the budget approved by each Authority for the Joint Transportation Executive Committee, or is contrary to an approved policy or strategy which has been approved as part of the Policy and Budget Framework of that Authority.
 - 3.2.3 Any decision in respect of which the Chief Executive of any appointing Authority has notified the Secretary to the Joint Transportation Executive Committee in writing of the Authority's formal objection to the proposed decision in accordance with Paragraph 3.3 (below).
 - 3.2.4 Approval or amendment of any Joint Working Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities' transportation functions
- 3.3 The delegation of powers from each Authority to the Joint Transportation Executive Committee is subject to the limitation that all decisions taken by the Joint Transportation Executive Committee in accordance with delegations from each Authority shall only take effect 5 clear Working Days after the relevant meeting of the Joint Transportation Executive Committee, and shall be ineffective if the Chief Executive or Leader of any of the Authorities has given notice in writing to the Chief Executives of the other Authorities and to the Secretary to the Joint Transportation Executive Committee within such period of 5 clear Working Days.
- 3.4 Such matters shall within a further 15 clear working days be referred to and considered by a meeting of the Leaders of the Authorities (or their deputies) (who may make such recommendations to the next meeting of the Joint Transportation Executive Committee on the matter as they think fit) before being reconsidered by the Committee.

- 3.5 Where an Authority has made such objection in respect of a matter, and the Joint Transportation Executive Committee has then reconsidered the matter and come to a decision, that second decision shall take effect immediately and no Authority can then make an objection in respect of that second decision.
- 3.6 Without prejudice to the provisions of Paragraph 3.3 above, where the Joint Transportation Executive Committee fails to reach agreement on any matter, any member of the Joint Transportation Executive Committee may require the Secretary of the Joint Transportation Executive Committee to refer the matter to an urgent meeting of the Leaders of the Authorities. Where the matter is not resolved within 10 clear working days of such reference by such means, the matter comes back to the joint Transportation Executive Committee for resolution, subject to any dispute resolution procedure which the authorities may have agreed to apply in respect of that matter.
- 3.7 The following decisions shall be reserved for the Joint Transport Committee and shall not be delegated to officers
 - 3.7.1 Approval of an offer of funding for a Local Transport Improvement
 - 3.7.2 A decision to proceed with the procurement of a Contract for a Local Transport Improvement
 - 3.7.3 The decision on the evaluation criteria for a Contract
 - 3.7.4 The decision to award a Contract

4 Membership and Appointment of the Joint Transportation Executive Committee

- 4.1 The Joint Transportation Executive Committee shall comprise 4 Members, being one member appointed from the Executive of each of the Authorities.
- 4.2 Each member of the Joint Transportation Executive Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.3 The appointment of members of the Joint Transportation Executive Committee to fill any vacancy for such members shall be made by the Executives of each Authority –
 - 4.3.1 as soon as practicable following the adoption of this Constitution by the Executive of that Authority;
 - 4.3.2 as soon as practicable after the appointment of the Executive of that Authority in accordance with that Authority's Constitution; and
 - 4.3.3 as soon as practicable after a vacancy arises in respect of a seat on the Joint Transportation Executive Committee to which the Executive of that Authority has the power to make an appointment.
- 4.4 A member of the Joint Transportation Executive Committee shall cease to be a member of the Joint Transportation Executive Committee, and a vacancy shall automatically arise, where –
 - 4.4.1 The member resigns from the Joint Transportation Executive Committee by giving notice in writing to the Secretary to the Joint Transportation Executive Committee

- 4.4.2 The member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as, a member of the appointing Authority, or a member of the Executive of the appointing Authority;
- 4.4.3 The member is removed from membership of the Joint Transportation Executive Committee by notification in writing from the Leader of the appointing Authority to the Secretary of the Joint Transportation Executive Committee;
- 4.4.4 The member fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the Joint Transportation Executive Committee, unless the failure were due to some reason approved by the Joint Transportation Executive Committee before the expiry of that period.
- 4.5 All appointments to membership of the Joint Transportation Executive Committee shall be made by notification in writing from the Leader or the Chief Executive of the appointing Authority to the Secretary of the Joint Transportation Executive Committee.
- 4.6 Upon being made aware of any member ceasing to be a member of the Joint Transportation Executive Committee, the Secretary of the Committee shall write to that member confirming that he/she has ceased to be a member of the Joint Transportation Executive Committee, and notifying the appointing Authority and the other members of the Joint Transportation Executive Committee accordingly.
- 4.7 Each Authority may appoint at any time an Alternate Executive Member of the Joint Transportation Executive Committee on the same terms as the Authority's appointed member of the Joint Transportation Executive Committee, who may attend any meeting of the Joint Transportation Executive Committee with all the powers of the Authority's appointed member in the event that the appointed member is unable to attend a particular meeting.

5 Chair and Vice-Chair of the Joint Transportation Executive Committee

- 5.1 At the first meeting of the Joint Transportation Executive Committee after the annual meetings of each Authority in any year, the Joint Transportation Executive Committee shall elect a Chair of the Joint Transportation Executive Committee and a Vice-Chair of the Joint Transportation Executive Committee for the following year from among the members of the Joint Transportation Executive Committee.
- 5.2 By convention, if the Chair of the Joint Transportation Executive Committee in any year is a member of one of the Authorities, the Chair of the Joint Transportation Executive Committee for the next year would normally be a member of another of the Authorities.
- 5.3 The Chair and the Vice-Chair of the Joint Transportation Executive Committee shall each hold office until:
 - 5.3.1 A new Chair or Vice-Chair of the Joint Transportation Executive Committee is elected in accordance with Paragraph 4.1 above,
 - 5.3.2 He/she ceases to be a member of the Joint Transportation Executive Committee, or

- 5.3.3 He/she resigns from the office of Chair or Vice-Chair by notification in writing to the Secretary of the Joint Transportation Executive Committee.
- 5.4 Where a casual vacancy arises in the office of Chair or Vice-Chair of the Joint Transportation Executive Committee, the Joint Transportation Executive Committee shall at its next meeting elect a Chair or Vice-Chair, as the case may be, for the balance of the term of office of the previous Chair or Vice-Chair.
- 5.6 Where, at any meeting or part of a meeting of the Joint Transportation Executive Committee, both the Chair and the Vice-Chair of the Joint Transportation Executive Committee are either absent or unable to act as Chair or Vice-Chair, the Joint Transportation Executive Committee shall elect one of the members of the Joint Transportation Executive Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

6 Secretary to the Joint Transportation Executive Committee

- 6.1 The Joint Transportation Executive Committee shall be supported by the Chief Executive of the West of England Partnership in his capacity as Secretary to the Joint Transportation Executive Committee.
- 6.2 The functions of the Secretary of the Joint Transportation Executive Committee shall be:
- To maintain a record of membership of the Joint Transportation Executive Committee
 - To notify the Proper Officer of each appointing Authority of any anticipated decisions to be taken by the Joint Transportation Executive Committee over the year (whether or not key decisions) and updated on a monthly basis, to enable such decisions to be included in the Forward Plans of each appointing Authority as required by the Local Authorities (Access to Information)(England) Regulations 2001 and in accordance with their respective constitutions
 - To carry out such notification to and consultation with members of the appointing Authorities as may be necessary to enable the Joint Transportation Executive Committee to take urgent decisions which have not been included in the Forward Plans of appointing Authorities
 - To notify the Proper Officers of the Authorities of the dates, times and venues of meetings and to publish the dates times and venues
 - To summon meetings of the Joint Transportation Executive Committee in accordance with Paragraph 7 below
 - To prepare and send out the agenda for meetings of the Joint Transportation Executive Committee in consultation with the Chair and the Vice-Chair of the Committee and the Authority Lead Officers
 - To keep a record of the proceedings of the Joint Transportation Executive Committee
 - To take such administrative action as may be necessary to give effect to decisions of the Joint Transportation Executive Committee
 - To undertake such other functions as may be determined by the Joint Transportation Executive Committee
 - To ensure the West of England Partnership Board receives copies of the Joint Transportation Executive Committee's forward plan, agenda and minutes.

7 Convening of Meetings of the Joint Transportation Executive Committee

7.1 Meetings of the Joint Transportation Executive Committee shall be held at such times, dates and places as may be notified to the Members by the Secretary to the Joint Transportation Executive Committee, being such time, place and location as –

7.1.1 the Joint Transportation Executive Committee shall from time to time resolve

7.1.2 the Chair of the Joint Transportation Executive Committee, or if he/she is unable to act, the Vice-Chair of the Joint Transportation Executive Committee, shall notify to the Secretary of the Joint Transportation Executive Committee, or

7.1.3 The Secretary of the Joint Transportation Executive Committee, in consultation where practicable with the Chair and Vice Chair of the Joint Transportation Executive Committee, shall determine in response to receipt of a request in writing addressed the Secretary of the Joint Transportation Executive Committee:

- From and signed by two members of the Joint Transportation Executive Committee, or
- From the Chief Executive of an appointing Authority

which request sets out an urgent item of business within the functions of the Joint Transportation Executive Committee.

7.2 The Secretary of the Joint Transportation Executive Committee shall settle the agenda for any meeting of the Joint Transportation Executive Committee after consulting, where practicable:

7.2.1 The Chair of the Joint Transportation Executive Committee

7.2.2 The Vice-Chair of the Joint Transportation Executive Committee

7.2.3 The Authority Lead Officers and the Head of Joint Transport

and shall incorporate in the agenda any items of business and any reports submitted by –

- any two members of the Joint Transportation Executive Committee in accordance with Paragraph 7.1.3 above
- the Leader of any of the Authorities
- The Chief Executive of any of the Authorities
- the Chief Finance Officer to any of the Authorities
- the Monitoring Officer to any of the Authorities
- such other officers as the Joint Transportation Executive Committee may determine for this purpose

8 Procedure at Meetings of the Joint Transportation Executive Committee

8.1 The Joint Transportation Executive Committee shall, unless the member of the Joint Transportation Executive Committee presiding at a meeting or the Joint Transportation Executive Committee determines otherwise, conduct its business in accordance with the Executive Decision-Making Procedure Rules set out in the Appendix to this Constitution.

- 8.2 A meeting of the Joint Transportation Executive Committee shall be inquorate and shall not be able to discharge any business unless there are present at least 3 members.
- 8.3 The Chair of the Joint Transportation Executive Committee, or in his/her absence the Vice-Chair of the Joint Transportation Executive Committee, or in his/her absence the member of the Joint Transportation Executive Committee elected for this purpose, shall preside at any meeting of the Joint Transportation Executive Committee.
- 8.4 Whilst the Joint Transportation Executive Committee shall seek, wherever possible, to work on a principle of consensus, decisions of the Joint Transportation Executive Committee shall be determined by a majority of the members of the Joint Transportation Executive Committee present and voting. In the event of an equality of votes, the person presiding shall have a second or casting vote.
- 8.5 Any decision of the Joint Transportation Executive Committee is subject to the limitation set out in the delegations from each Authority at Clause 3.3 and 3.4 above

9 Attendance at Meetings of the Joint Transportation Executive Committee

- 9.1 Notwithstanding that a meeting or part of a meeting of the Joint Transportation Executive Committee may not be open to the press and public, the members and officers specified in Clause 9.2 below of each Authority shall be entitled, in person or by another officer nominated by that officer, to attend all, and all parts, of such meetings, unless the particular member or officer has a conflict of interest as a result of a personal interest in the matter under consideration.
- 9.2 The following are the elected members and officers who shall have a right of attendance in accordance with clause 9.1 above:
- elected Members of the Authorities
 - the Chief Executive of any of the Authorities
 - the Chief Finance Officer to any of the Authorities
 - the Monitoring Officer to any of the Authorities
 - any person appointed by the Joint Transportation Executive Committee to manage particular projects
 - the officers of each Authority with responsibility for transportation functions
 - any other officer of the Authorities at the request of any member of the Joint Transportation Executive Committee

10 Effect of Call In

- 10.1 Within 5 clear days of publication on the West of England Partnership website, a decision of Joint Transportation Executive Committee can be called in.
- 10.2 If a decision of the Joint Transportation Executive Committee is called in, it shall not be implemented Save where the decision on the call in
- is to support or take no further action or
 - where the initial call in does not take place within 20 working days, or
 - any referral following the initial call in does not take place within 40 working days of the initial call in
- 10.3 The Joint Transportation Executive Committee will consider representations received as a result of a call in before taking a final decision on the matter concerned.

11 Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules

The Joint Transportation Executive Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of Bristol City Council

12 Amendment of this Constitution

This constitution can only be amended by agreement of all the Authorities.

13 Definitions

In this Constitution, the following words and phrases shall have the meanings set out below:

“The Authorities” means Bath and North East Somerset Council, Bristol City Council, North Somerset District Council and South Gloucestershire District Council

“Local Transport Improvement Programme” means the programme of local transport improvement projects as may from time to time be recommended by the Joint Transportation Executive Committee to and approved by each of the Authorities for the purpose of the Joint Local Transport Plan.

“Policy and Budget Framework” means the plans and strategies approved by the Council of each of the Authorities for the purpose of Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as may be amended or replaced from time to time

“The West of England Partnership” means the joint strategic organisation established by the Authorities, and “the West of England Partnership Board” means the Leader-level forum within the West of England Partnership

Appendix

Joint Transportation Executive Committee Executive Decision Procedure Rules

1 Application

These procedure rules apply to all meetings of the Joint Transportation Executive Committee, and to decisions of individual Joint Transportation Executive Committee Members and executive decisions taken by officers under powers delegated from the Joint Transportation Executive Committee.

2 Allocation and Delegation of Functions

(a) Sub-delegation

Except in respect of Key Decisions, where the Joint Transportation Executive Committee is responsible for the discharge of a function, it may arrange for the discharge of that function by an officer

(b) Resumption of delegated functions

Where a function has been delegated by the Joint Transportation Executive Committee it may at any time resume responsibility for the discharge of that function by notice in writing to the person or body to whom the function has been delegated, with a copy to the Secretary.

Where an officer has been given delegated powers in respect of a function, he/she may at any time refer the matter up for decision to the person or body from whom the power has been delegated.

3 Meetings

(a) The Joint Transportation Executive Committee shall meet as necessary for the effective discharge of its functions.

(b) The Joint Transportation Executive Committee shall meet at such time, date and location as may be determined by the Joint Transportation Executive Committee or by the Chair of the Joint Transportation Executive Committee and notified to the Secretary.

(c) Where the Scrutiny Committee has requested the Joint Transportation Executive Committee or a Sub-Committee to reconsider a decision, the decision-taker(s) shall meet and reconsider the decision within 20 working days of the decision of the Scrutiny Committee.

(d) Meetings will normally be held at such locations as the Joint Transportation Executive Committee shall determine, but with the intent that the meetings shall rotate around the Authorities.

4 Summons and Agenda Procedure

(a) All meetings of Joint Transportation Executive Committee shall be summoned by the Secretary.

- (b) Except in cases of special urgency, at least 5 clear working days before the meeting, the Secretary shall prepare and send to each committee member, the Leaders of the Authorities, members of the appropriate joint scrutiny committee, appropriate officers and the media an agenda setting out:
- A The identity of the body
 - B The time, date and location of the meeting
 - C The business to be transacted at the meeting, including:
 - I Any reports and recommendations from a constituent Council
 - II Any reports or recommendations from the Joint Transportation Executive Committee
 - III Any notices of motion to, or referred to, the body
 - IV Any petitions to, or referred to, the body
 - V Any reports to be made by statutory officers
 - VI Any matters which the Chair has notified to the Secretary for inclusion in the agenda
 - VII Any reports to be made by other officers appropriate to the proper discharge of the body's business.
 - VIII Consideration of the Joint Transportation Executive Committee's work programme
 - IX Where practicable, an indication that the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of the meeting.
- (c) No business may be transacted at a meeting which is not specified in the agenda or supplementary agenda for the meeting unless the Chair of the Joint Transportation Executive Committee agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the statement of decision.
- (d) The agenda shall be accompanied by any reports and documents necessary for the decision-taker(s) to discharge his/her business effectively. Each such report shall be in such standard form as the Secretary may prescribe and shall include a list of all background documents which the author of the report has relied upon in compiling the report. As a matter of principle, any written report relating to a matter included in the agenda should be made available and circulated at the same time as the agenda, but where this is not practicable because of the urgent nature of the matter, the agenda will state that the report is to follow and the report will be circulated as soon as possible after the circulation of the agenda for the meeting.
- (e) All reports shall be developed following appropriate consultation (including with Leaders and other stakeholders)

5 Rights of Attendance and Audience

- (a) Agendas of the Joint Transportation Executive Committee and reports, except those marked "Not for Publication", will be available for inspection on request by the public at the offices of the constituent Authorities during normal office hours.
- (b) The presumption is that all meetings of the Joint Transportation Executive Committee and of any Sub- Committees shall be open to the public.

- (i) Where the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of a meeting, he/she shall so indicate on the agenda and may withhold from the press and public any report or background paper which would disclose confidential or exempt information.
- (ii) The Joint Transportation Executive Committee must exclude press and public from any part of a meeting at which confidential information is likely to be disclosed
- (iii) The Joint Transportation Executive Committee may exclude press and public from any part of a meeting:
 - A at which exempt information is likely to be disclosed; or
 - B at which officers will provide a briefing to members on a matter on which a decision is likely to be taken on the matter within the next 28 days;
- (e) All documents which are open to public inspection, will normally be available at least five clear days before the relevant meeting. Where a report is not available when the agenda is published, the report shall be made available for public inspection when it is made available to members of the authority.
- (f) The rights of Members of any of the constituent authorities shall be as set out in the protocol at annex A
- (g) Public participation at meetings shall be in accordance with the protocol at Annex B

6 Urgent Decisions

(a) Urgent Decisions

Subject as below, the Joint Transportation Executive Committee shall not take a decision which has not been included in the Forward Plan of each of the Authorities (so far as the same is necessary under their respective constitutions) for the period in which the decision is to be taken unless at least 5 clear working days' notice of that decision has been given to the Chairman of the relevant Scrutiny Committee of each constituent authority setting out the reasons for urgency

(b) Special Urgent Decisions

The Joint Transportation Executive Committee shall not take a Special Urgent Decision unless notice of the intended decision has been given by the Secretary to the Chairman of the relevant Scrutiny Committee of each constituent authority and he/she, or in his absence the Chairman of Council, or in his/her absence the Vice-Chairman of Council, has notified the Secretary that he/she agrees that the decision is specially urgent.

(c) Reporting Urgent and Special Urgent Decisions

The Secretary shall ensure that a report listing all Urgent Decisions and Special Urgent Decisions is presented to the next convenient meeting of the Scrutiny Committee of each constituent authority

7 Departure Decisions

- (a) The Joint Transportation Executive Committee shall not take a decision which is contrary to or not wholly in accordance with the appropriate Authority's approved Budget or the authority's approved plan or strategy for borrowing and capital expenditure, and which is not within the approved virement limits, but shall refer the proposed decision to appropriate Council for determination
- (b) The Joint Transportation Executive Committee shall not take a decision which is contrary to the appropriate Authority's Policy Framework, but shall refer the proposed decision to the appropriate Council for determination
- (c) Paragraphs (a) and (b) shall not apply where the decision -
 - (i) is urgent (in the sense that the interests of the authority, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were to be deferred until the next ordinary meeting of Council) and
 - (ii) the Secretary has notified the Chairman of Scrutiny Committee of the relevant constituent authority or, if he/she is unable to act, the Chairman of Council or, if he/she is unable to act, the Vice-Chairman of Council of the intended decision and the reasons for urgency and that Councillor has notified the Secretary in writing that he/she agrees that the matter needs to be determined as a matter of urgency.
- (d) In each instance where any urgent decision is taken under Paragraph (c) above, the decision taker(s) shall as soon as reasonably practicable after the making of the decision, submit a report to each relevant constituent Council setting out the particulars of:
 - (i) the decision which has been taken
 - (ii) the reasons why the decision was urgent, and
 - (iii) the reasons for the decision itself.
- (e) The Secretary shall ensure that a report setting out each urgent departure decision is presented to the next convenient meeting of the relevant Scrutiny Committee.

8 Rules of Procedure

- (a) Who presides?

The Chair shall preside at meetings of the Joint Transportation Executive Committee. In his/her absence, the Vice-Chair shall preside. In the absence of both Chair and Vice-Chair, the meeting shall be inquorate.

- (b) What business is to be transacted?

At each meeting of the Joint Transportation Executive Committee the following business will be transacted:

- (i) Apologies for absence
- (ii) Declarations of interest
- (iii) Matters arising from the minutes of the previous meeting
- (iv) Matters set out in the agenda for the meeting.

- (c) The person presiding at a meeting shall conduct the meeting in accordance with these Procedure Rules.
- (d) The person presiding at the meeting may vary the order of business at the meeting.
- (e) The person presiding at the meeting may invite any person, whether a member or officer of the Joint Transportation Executive Committee or a third party, to attend the meeting and to speak on any matter before the meeting.

9 Quorum

The quorum for a meeting of the Joint Transportation Executive Committee shall be three members of whom at least one shall be either the Chair or the Vice-Chair

10 Record of Attendance

All Joint Transportation Executive Committee Members present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of the meeting.

11 Disorderly Conduct

- (a) If, in the opinion of the person presiding, any member of the Joint Transportation Executive Committee misbehaves at a meeting by persistently disregarding the ruling of the person presiding, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Joint Transportation Executive Committee, the person presiding may move not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.
- (b) If, in the opinion of the person presiding, the member persistently misbehaves after such a motion has been carried, the person presiding may require the removal of the member for such period as the person presiding shall determine. The person presiding may if necessary adjourn or suspend the sitting of the Joint Transportation Executive Committee.
- (c) If a member is required to leave a meeting under this Procedure Rule, the member is not entitled to vote during the period of exclusion.
- (d) If a member of the public or Councillor who is not a Joint Transportation Executive Committee Member interrupts the proceedings at any meeting, the person presiding may issue a warning. If the interruption continues the person presiding may order the person's removal from the room or chamber in which the meeting is being held.
- (e) In case of general disturbance in any part of the chamber open to the public the person presiding may order that part cleared. If the person presiding considers it necessary, he may adjourn or suspend the sitting of the Joint Transportation Executive Committee.

12 Voting

- (a) Matters under consideration shall be determined by a majority vote of those members present and voting

- (b) Voting is generally by a show of hands.
- (c) Any Joint Transportation Executive Committee Member may ask for a vote to be recorded, individual votes will then be taken by way of a roll call and recorded in the minutes so as to show how each member present and voting gave his vote.
- (d) Any Joint Transportation Executive Committee Member may ask that his/her individual vote be recorded in the minutes.
- (e) Whenever a vote is taken by show of hands and not by roll call, the person presiding shall ask for those in favour, and those against to vote in turn. He will then ask those abstaining from voting to indicate accordingly. Any member may ask for the number of those in favour, the number of those against and the number of those abstaining to be recorded in the minutes.
- (f) A member may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- (g) If a member arrives before the casting of votes has been commenced he/she is entitled to vote.
- (h) Immediately after a vote is taken any member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- (i) A matter shall be considered to be approved if it receives the votes of a majority of those members entitled to vote who are present and voting. In the event that the votes cast for and against a proposal are equal, the person presiding, will have a second and/or casting vote. There shall be no restriction on the manner in which the casting vote is exercised.
- (j) Where there are more than two persons nominated for any position to be filled by the Joint Transportation Executive Committee, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.
- (k) A member may not vote on any matter in which their Authority is not a direct participant.

13 Recording the Decision

- (a) At the Joint Transportation Executive Committee,
 - (i) The person presiding shall be responsible for ensuring that the Secretary is clear as to the decision taken and the reasons for that decision.
 - (ii) The Secretary shall then, as soon as reasonably practicable after the end of the meeting, prepare a statement of the decisions taken at the meeting, including:
 - A The Joint Transportation Executive Committee and other

- members of the constituent Councils attending the meeting
- B Any disclosures of personal or prejudicial interests
- C The decisions taken
- D Whether the decision is urgent and should be implemented directly
- E A summary of the reasons for the decision
- F The options which were considered at, but rejected by, the meeting

The Secretary may consult the person presiding at the meeting as to the matters to be recorded in the minute.

- (c) Where the statement of decision(s) would disclose confidential or exempt information, the Secretary shall produce a formal statement of decisions of the meeting and a summary of the decisions taken at the meeting excluding such confidential and exempt information but providing a coherent account of the matters decided.
- (d) Where the decision is a decision upon a reconsideration of a decision on a "Call-In" by a Scrutiny Committee, the Secretary shall be responsible for reporting that reconsideration decision to the Scrutiny Committee
- (e) The Secretary shall be responsible for circulating the statement of decisions to officers of the authority responsible for the implementation of the decision(s).

14 Implementing decisions

- (a) Decisions shall not be implemented until 5 clear days from the publication of the statement of decision(s) of the meeting or the decision¹.
- (b) Paragraph (a) shall not apply where
 - the matter is urgent (in accordance with paragraph 6), or
 - Joint Transportation Executive Committee determines that the interests of one or more of the constituent authorities, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were not to be implemented directly.
- (c) Where a non-urgent decision is called in by a Scrutiny Committee before it is implemented, implementation of the decision will be deferred until the decision-taker has had the opportunity to consider any request from the Scrutiny Committee for the re-consideration of the matter.

¹ Note that such a deferment of implementation is determined by the Joint Transportation Executive Committee and can be withdrawn if the Joint Transportation Executive Committee is of the opinion that such a deferment prevents the effective discharge of executive functions.

Annex A

RIGHTS OF MEMBERS OF CONSTITUENT AUTHORITIES

INSPECTION OF/ACCESS TO DOCUMENTS

All Members of the Authorities have the right to access all documents which contain material relating to items considered at meetings of the Committee.

They also have the right to inspect any other document or have access to any information which they need to properly perform their duties as a Member of one of the participating Authorities. These rights are, however, subject to the following:

- A Member is not entitled to inspect any document, or have access to any information, relating to a matter in which he/she has a prejudicial interest (where this specifically relates to a financial interest), or where the Member is acting against the Council in a professional capacity. (This does not, however, remove the basic right which that Member would have as a member of the public.)
- In cases where information requested by a Member should not, in the opinion of the Proper Officer, be disclosed, (eg it does not appear to be required to enable the Member to properly perform their duties, or is of a highly sensitive or personal nature or otherwise exempt), the relevant Proper Officer may, with good reasons (which should be explained to the Member), refuse access to a document or other information.
- If a Member is not satisfied with this decision, he/she may refer it to the Monitoring Officer of his/her Authority. If a Member remains dissatisfied with the ruling of the Monitoring Officer he/she may ask for the matter to be considered by the Committee. The ruling of the Committee is final.

The rules summarised above are complex and based on statutory provisions and case law. If there is any conflict between these rules and the legal provisions, the latter apply.

QUESTIONS

Members may address questions to the Chair of Committee. Written notice of the question shall be given 3 working days before the meeting:

The Chair in responding to the question may;

- Answer the question himself
- Ask an officer to answer the question
- Offer a written answer
- Decline to answer and give his/her reasons

The questioner may ask only one supplementary question, regardless of the number of original questions they asked. The supplementary question must be on the same subject as the original question.

PETITIONS

A Member may present a petition at Committee meeting or and speak to it for no more than 5 minutes.

The petition may relate to an item on the agenda or a matter relating to the responsibilities of the Committee. Notice of the subject matter of the petition shall be given by 12 noon on the working day before the meeting.

RIGHT TO ATTEND AND PARTICIPATE IN MEETINGS

A Member has the right to attend and speak at any Committee meeting. Notice of the topic(s) concerned shall be given by 12 noon on the working day before the meeting if the member wishes to speak at any Committee meeting.

The Chair will give Members who have notified their wish to speak the opportunity to speak at the commencement of the meeting to contribute their views on any agenda item or other matter within the remit of the Committee.

The right to attend remains available when the meeting is considering private (or exempt) business. This is provided that the Member has a legitimate need to be in attendance, and that the attendance does not involve any conflict of interest, which may constitute a prejudicial interest as defined by the Code of Conduct. In such cases the member may not attend, speak or vote at the meeting.

The Chair will exercise discretion on the overall time allowed for members' participation. This will take into account the issues members wish to raise and the other business of the meeting.

In managing the meeting the Chair has discretion over the management of the participation arrangements

Annex B

PUBLIC PARTICIPATION

WHO CAN USE THE SCHEME?

The scheme is open to any resident, council taxpayer or business ratepayer of the constituent Authorities, or any person affected by decisions to be taken by the Committee.

The scheme is also open to a representative of a business or voluntary organisation or parish council operating in the four authorities' areas.

WHAT ARE THE OPPORTUNITIES FOR PARTICIPATION AT MEETINGS?

The agenda for each meeting will provide an opportunity at the beginning of the meeting for items from the public to be heard.

The opportunities for participation are:-

- TO PRESENT A PETITION on any matter on the meeting agenda or relating to the Committees responsibilities
- TO MAKE A STATEMENT expressing views about a matter on the meeting agenda or relating to the Committees responsibilities
- TO ASK A QUESTION on any matter relating to the Committees responsibilities. The questioner may ask only one supplementary question, regardless of the number of original questions they asked. The supplementary question must be on the same subject as the original question

By participating in this way, it is assumed that consent is given to the recording in the minutes of the meeting the name and details of any person making a submission.

A copy of any written submission will also be included with the agenda papers for the meeting which are placed in an official minute book (the public record) and will also be included on the West of England Partnership web site with the other documents relating to the meeting.

PERIOD OF NOTICE

Written notice must be given by any person wishing to present a petition, make a statement by noon on the working day before the meeting. Written notice of any question to be asked must be given 3 working days before the meeting. This will enable any appropriate advice and assistance to be given and for officers to make any necessary arrangements in liaison with the chair of the meeting so that the fullest possible opportunity can be given for participation.

TIME LIMITS

No individual submission will normally be allowed more than 5 minutes time at a meeting, in the interest of fairness to all those who may wish to address the meeting.

The Chair of a meeting will exercise discretion on the overall time allowed for public participation either at the beginning of a meeting or in connection with any particular item. This will take into account the issues people wish to raise and the other business of the meeting.

BALANCE

The Chair will, if necessary, make a judgement at the meeting to try to ensure that those who are making submissions on opposite points of view on the same subject are treated equally

QUESTIONS ON SUBMISSIONS

It is necessary for councillors to have a complete understanding of the issues raised by the public. At the discretion of the Chair, members will be allowed to ask factual questions only of a person making a submission.

WRITTEN COPIES OF SUBMISSION

Also to assist understanding, those making statements to meetings may wish to provide a written text or summary of the points mentioned. This should be passed to the clerk to the meeting.

ACTION THE MEETING MAY TAKE

All submissions must be made at the beginning of the meeting.

The Chair has discretion over the order in which to take statements, petitions and questions.

If necessary and convenient to the other business, the Chair or the meeting itself may agree to advance an agenda item which is subject to submissions in the order of proceedings.

In relation to a matter not on the meeting agenda, it may be possible for an officer to give a brief response. Otherwise, the matter will either be noted or referred for consideration to the relevant officer.

The meeting will decide on the most appropriate course of action and will take advice from Officers in doing this.

It is not normal practice to write to individuals afterwards. However, if someone making a submission requires a formal response, the officer named on the agenda page will (subject to being provided with contact details) provide a written response within 7 working days.

WHAT FALLS OUTSIDE THE SCHEME

There are some matters that need to fall outside the scope of this scheme. These are:

- an individual's circumstances where it would be inappropriate for details to be aired in public;
- contractual matters;
- allegations against individual councillors or officers (in such cases the Council's complaints or code of conduct procedures must be used);
- no defamatory, frivolous or offensive submissions will be allowed.

Joint Working Agreement

Bath and North East Somerset Council

And

Bristol City Council

And

North East Somerset Council

And

South Gloucestershire Council

Joint Working Agreement

For the Development, Procurement and Management of

Local Transport Improvements

allocation of funding has been made to the relevant Authority by the Joint Transportation Executive Committee

References to **“the Authorities”** shall be taken as references to Bath and North East Somerset Council, Bristol City Council, North Somerset Council and South Gloucestershire Council, and **“the Authority”** shall mean one of the Authorities

“The Authority Lead Officer” shall mean the officer of each Authority appointed by that Authority in accordance with Clause 9 of this Agreement to ensure that that Authority provide sufficient support to secure the effective delivery of the Strategy

“The Chair” means the person elected as Chairman of the Joint Transportation Executive Committee for the purpose of the Local Government Act 1972

“The Charging Schemes” means such road pricing schemes and/or schemes of workplace parking levies as shall have been approved or implemented by the Joint Transportation Executive Committee

“The Commencement Date” means the date on which this Agreement is executed by the Authorities

“The Constitution” means the constitution of the Joint Transportation Executive Committee as set out in Schedule F to this Agreement

“Contract” means any external contract entered, or proposed to be entered by the Authorities or any of the Authorities for any Project

“The Delegated Powers” means the powers delegated by each Authority to the Joint Transportation Executive Committee in accordance with this Agreement

“The Head of Joint Transport” means the officer appointed by such appropriate collective arrangement between the Authorities as may exist from time to time to act as the co-ordinating officer in respect of the Strategy

“An Independent Decision” is a decision taken by an Authority which is within the Delegated Powers which that Authority has delegated to the Joint Transportation Executive Committee

“The Joint Delivery Organisation” is an organization which the Authorities propose to establish as a centre of excellence for the commissioning, design and delivery of local infrastructure projects

“The Joint Transportation Executive Committee” means the Joint Transportation Executive Committee established by the Authorities in accordance with the Constitution as set out in Schedule F

“Joint Local Transport Plan” means such plans and programmes as may from time to time be approved by the Authorities for the purpose of defining their intended local transport improvements as part of each Authority’s strategic plan framework under the Local Government Act 2000, and which may in turn be reflected in Local Scheme Bids, the Joint Strategy for Transport Innovation Fund, a Multi-Area Agreement for Transport, a Joint Public Transport Strategy and other policy documents and bid documents including the Joint Transport Investment Policy and Programmes as may from time to time be approved or adopted by the Authorities

“Law” means:

- (a) any applicable statute or proclamation or any delegated or subordinate law;
- (b) any enforceable community right within the meaning of section 2(1) of the European Communities Act 1972;
- (c) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales

“The Lead Authority” means the Authority which, in accordance with this Agreement, the Joint Transportation Executive Committee has appointed to carry out a particular function on behalf of the Joint Transportation Executive Committee

“Local Determination Matters” means any matter relating to the implementation of an approved local transport improvement

“The Local Transport Improvement Programme” means the programme of local transport improvement projects as may from time to time be recommended by the Joint Transportation Executive Committee to and approved by each of the Authorities for the purpose of the Joint Local Transport Plan

“Loss” includes any loss and liability directly suffered by the Authority together with any damage, expense, liability or costs reasonably incurred in contesting any claim to liability and quantifying such loss and liability

“The Members” means the members of the Joint Transportation Executive Committee, and “Member” shall mean a member of the Joint Transportation Executive Committee

“The Officers” means the officers of the Authorities who are engaged upon the Strategy, and “Officer” shall mean an officer of an Authority who is engaged on the Strategy

“Policy and Budget Framework” for an Authority comprises the plans and policies approved by the Council of that Authority for the purpose of Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended or replaced

“Procurement Phase” means in respect of any Contract procured in respect of any Project, the period from commencement of the procurement process until the earlier of the execution of the Contract or the commencement of the Contract

“The Programme Board” shall mean the Board comprising the Officers set out in Clause 8.2.4

“Project” means any project comprised in the Local Transport Improvement Programme

“Project Initiation Document” means a document approved by the Joint Transportation Executive Committee in accordance with Clause 8 of this Agreement which brings together the key information required in respect of each Project

“Protocol” means the Protocol at Schedule D

“The Reserved Matters” means the decisions so specified in paragraph 3.7 of the Constitution

“Senior Responsible Officer” means that officer nominated by the Authorities to be the lead officer for the Strategy and/or any Project

“The Service Phase” means in respect of any contract procured in respect of any Project, the duration of such contract

“The Strategy” means the shared object of the Authorities to develop, secure agreement of and implement the Local Transport Improvement Programme to secure funding and to make such funding available to enable the Authorities to implement Approved Projects

“The Strategy Costs” shall mean the costs incurred by the Joint Transportation Executive Committee, the Programme Board and the Authorities at the instruction of the Joint Transportation Executive Committee in pursuance of the Strategy, in accordance with the definition set out in Schedule A to this Agreement

“The Strategy Expiry Date” means the date 25 years after the date of this Agreement

“Strategy Funds” mean any funding secured by the Authorities from the Department of Transport, other government departments or agencies and the European Union for the purpose of the development and/or implementation of the Strategy or any part of the Strategy

“Strategy Initiation Document” means a document approved by the Joint Transport Executive Committee in accordance with Clause 8 of this Agreement which brings together the key information required to start the Strategy

“TIF Bid” means an application (including all stages of such an application) by the Authorities to the Department for Transport for Transport Innovation Fund funding

“West of England Partnership” means such joint strategic organisation of the Authorities as shall be operated by the Authorities from time to time

“Working Day” means any day other than weekends and Bank Holidays.

- 1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- 1.3 Words importing the singular include the plural words importing any gender include every gender, the words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.
- 1.4 Reference to Clauses and Schedules are references to clauses and schedules of this Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears.
- 1.5 The Clause and paragraph headings and titles appearing in this Agreement are for reference only and shall not affect its construction or interpretation.

2 Term

- 2.1 This Agreement shall come into effect on the Commencement Date and shall continue in force in respect of the Authorities until the Strategy Expiry Date, unless this Agreement is terminated earlier in accordance with the terms of this Agreement.
- 2.2 The Authorities agree that, five years before the Strategy Expiry Date, the Joint Transportation Executive Committee will consider and recommend to the Authorities whether the Agreement should be extended or arrangements agreed

between the Authorities to deal with the continued funding of Approved Projects undertaken by the individual Authorities in accordance with this Agreement.

3 General Principles

- 3.1 This Agreement has been entered into by the Authorities to establish and effect provisions for the preparation and delivery of the Strategy and to clarify the Authorities' responsibilities in respect thereof and to each other.
- 3.2 The Authorities will work together in good faith and in an open, co-operative and collaborative manner for the duration of this Agreement and in compliance with the Protocol. The Authorities' members and officers will use all reasonable endeavours to work together in the spirit of mutual trust in order to endeavour to procure the successful implementation of the Strategy and will respond in a timely manner to all relevant requests from the other Authorities and from the Joint Transportation Executive Committee.
- 3.3 Each of the Authorities will work together to secure the implementation of the Approved Projects within the Local Transport Improvement Programme in broad order of priority, notwithstanding that such local transport needs may arise or such local transport projects may fall outside the areas of the particular authority or authorities and to secure that the Strategy Funds are devoted to the implementation of the Local Transport Improvement Programme.
- 3.4 Each of the Authorities hereby represents to the other that it has obtained all necessary consents sufficient to ensure the delegation of functions provided for by this Agreement for the purposes of the Strategy
- 3.5 The Authorities shall use all reasonable endeavours to procure that their respective members and officers who are involved in the Strategy shall at all times act in the best interests of the Strategy and in accordance the Authorities' Policy and Budget Frameworks. The Authorities expressly acknowledge that their members and officers involved in carrying out activities under this Agreement or otherwise in connection with the Strategy will have regard to the benefits to all the Authorities and accordingly may act in conflict with their duty to their own Authority, and the Authorities hereby authorise them to act in such a manner.
- 3.6 The Authorities commit to share data and knowledge relevant to the Strategy where appropriate.
- 3.7 Whist this Agreement details the arrangements between the Authorities for the management of the Strategy, the Authorities agree to work together in good faith to agree such further inter-authority arrangements as may be required to secure the effective implementation of any particular local transport scheme which requires the joint participation of two or more of the Authorities for its implementation. In this context it is noted that the Authorities are considering the establishment of a Joint Delivery Organisation to provide the resource and expertise required for the effective implementation of the Local Transport Improvement Programme
- 3.8 The Authorities acknowledge that the Local Transport Improvement Programme is merely one area where joint working between some or all of the Authorities may be beneficial, and that the Authorities may from time to time wish to extend the scope of joint working and the functions of the Joint Transportation Executive Committee to encompass additional areas of joint working

4 Status of this Agreement

- 4.1 The Authorities agree that this Agreement shall take the form of a legally binding relationship and mutual commitments between them created by this Agreement shall from the date hereof be construed accordingly.

5 The Joint Transportation Executive Committee

- 5.1 The Authorities agree to constitute the Joint Transportation Executive Committee on the terms set out in the Constitution.
- 5.2 In appointing members to the Joint Transportation Executive Committee, each Authority will, unless there are over-riding reasons to the contrary, appoint as its representative the member of the Executive of that Authority who has portfolio responsibility for local transport functions within that Authority.
- 5.3 Each Member of the Joint Transportation Executive Committee shall have responsibility for championing the Strategy within their own Authority and for securing, as far as possible that any matter which is recommended to that Authority by the Joint Transportation Executive Committee for decision shall be considered and determined expeditiously and having due regard to the benefits to all of the Authorities of the implementation of the Strategy.
- 5.4 The Reserved Matters shall not be matters within the powers of the Joint Transportation Executive Committee.
- 5.5 The Executives of each of the Authorities shall seek to secure that the function of Overview and Scrutiny of the functions and actions of the Joint Transportation Executive Committee shall be co-ordinated between the Authorities, such that scrutiny can take place for each of the Authorities on one occasion, rather than being undertaken separately by each Authority

6 Functions of the Joint Transportation Executive Committee

The functions of the Joint Transportation Executive Committee shall be as set out in the Constitution together with such other functions as may from time to time be delegated to the Joint Transportation Executive Committee by some or all of the Authorities.

7 Powers delegated to and reserved from the Joint Transportation Executive Committee

- 7.1 The Executive of each Authority hereby delegates to the Joint Transportation Executive Committee the Delegated Powers set out in Clause 7.2
- 7.2 The Delegated Powers shall comprise the executive functions and powers of that Authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the functions of the Joint Transportation Executive Committee as detailed in, and subject to such limitations and conditions set out in the Constitution.
- 7.3 The powers delegated to the Joint Transportation Executive Committee are delegated from the Executives of each Authority, and must therefore not be exercised in a manner which is contrary to the Policy and Budget Framework of the relevant Authority (which includes the Joint Transport Local Plan) or contrary to or not wholly in accordance with the approved Budget of the relevant Authority

- 7.4 The powers delegated to the Joint Transportation Executive Committee must be exercised in accordance with any conditions imposed by any body providing funding for that element of the Strategy and/or Project
- 7.5 The Joint Transportation Executive Committee shall not include within the Local Transport Improvement Programme any local transport project which has not been proposed by the Executive of the Authority or the Authorities within whose area or areas that project would be implemented.
- 7.6 Whilst the Joint Transportation Executive Committee has the power to determine the Local Transport Improvement Programme and to make funding available to an Authority for the implementation of a Approved Project, the implementation of any Approved Project remains the responsibility of the Authority or Authorities within whose area the particular Approved Project lies, and no power is delegated to the Joint Transportation Executive Committee to implement any Approved Project.
- 7.7 The Executive of an Authority may at any time delegate additional powers to the Joint Transportation Executive Committee.

8 Programme Officers

- 8.1 The Authorities shall appoint one officer from each of the Authorities (who may be the Authority Lead Officer) who shall work together with the Head of Joint Transport to prepare a Project Initiation Document in respect of each Project and a Strategy Initiation Document in respect of the Strategy for approval by the Joint Transportation Executive Committee.
- 8.2 The Project Initiation Document or Strategy Initiation Document (as the case may be) shall make provision for
- 8.2.1 the management of the Project or Strategy (as the case may be) at officer level, under the direction of the Joint Transportation Executive Committee
 - 8.2.2 the appointment of one or more officers to be engaged (whether full or part time) on the Strategy and/or Project;
 - 8.2.3 the secondment of officers from one or more of the Authorities, full or part-time, to be engaged on the Strategy and/or Project;
 - 8.2.4 the establishment of a Programme Board of officers and the Head of Joint Transport, with the power to invite other officers, consultants and representatives of partner organisations to attend, for the purpose of managing the Strategy and or Project, together with the terms of reference and powers delegated from the Joint Transportation Executive Committee to that body;
 - 8.2.5 the terms of references and powers to be delegated to individual officers by the Joint Transportation Executive Committee and/or the Programme Board;
 - 8.2.6 the identification of a Project budget including the procurement costs, service costs and Strategy Costs and their allocation between the Authorities (in accordance with the principles set out in Schedules to this Agreement)

- 8.2.7 recommendation as to any further functions to be delegated by the Authorities to the Joint Transportation Executive Committee
 - 8.2.8 proposals for legal, financial and technical advisors;
 - 8.2.9 definition of which officers may enter contracts on behalf of the Authorities on instruction of the Joint Transportation Executive Committee;
 - 8.2.10 the appointment of an Authority as Lead Authority for various functions in connection with the Strategy and /or Project;
 - 8.2.11 definition of the project management system to be used on the Project and/or Strategy.
- 8.3 The Head of Joint Transport shall be responsible for
- 8.3.1 leading the development of the Strategy in conjunction with the Authority Lead Officers and the Programme Board for recommendation to the Joint Transportation Executive Committee; and
 - 8.3.2 co-ordinating the preparation and submission of bids for external funding for the Strategy and/or Project.
- 8.4 The Senior Responsible Officer shall be responsible for monitoring the progress of any Project, (including monitoring the expenditure against budget), and regularly reporting thereon to the Programme Board and the Joint Transportation Executive Committee

9 Authority Lead Officers

- 9.1 Each Authority shall appoint one of its officers to be the Authority Lead Officer in respect of the Strategy and in respect of any Project.
- 9.2 Each Authority Lead Officer shall be responsible to the Joint Transportation Executive Committee for ensuring that his/her Authority provides the support necessary to secure the effective achievement of the Strategy and/or the delivery of any Project. In this context, "support" shall include the involvement and time of capable officers, the provision of information and the prompt consideration of matters referred to his/her Authority for determination
- 9.3 An Authority shall, unless there are over-riding reasons to the contrary, appoint as its Authority Lead Officer the officer who has responsibility for local transport functions within that Authority.

10 Liabilities, Immunity and Indemnities

- 10.1 Compliance with grant conditions
 - 10.1.1 Where any Authority receives Strategy Funds that Authority shall be responsible for ensuring that it complies strictly with any conditions or requirements which the funding agency has attached to such funding and shall be liable to the other Authorities for any losses resulting to those other Authorities as a result of any failure to comply with such conditions.

10.1.2 Where such funding agency requires some or all of the Authorities to be jointly and severally liable for repayment of such funding (in the event of a failure to comply with such funding conditions or requirements) the Authorities shall provide the necessary assurances.

10.2 Member and Officer Liability

10.2.1 When working as a member of the Joint Transportation Executive Committee, the members shall be deemed to be working on behalf of their own Authority even where the particular matter under consideration relates to or also relates to one or more of the other Authorities.

10.2.2 When working on the Strategy and/or a Project, officers shall be deemed to be working on behalf of both their employing Authority, and made available and working on behalf of one or more of the other Authorities under Section 113 of the Local Government Act 1972.

10.2.3 In consequence of the above, both members and officers shall be treated as falling within the statutory immunity provided by Section 265 of the Public Health Act 1875, as amended, in respect of their actions or omissions in respect of the Strategy.

10.3 Losses to each Authority

10.3.1 An Authority shall not have any liability to any other Authority in respect of any Loss which that other Authority may suffer solely as a consequence of any action or omission by any Officer, whilst that Officer is working on the Strategy and/or Project on behalf of the Authorities collectively or the Joint Transportation Executive Committee.

10.4 General Indemnity

10.4.1 Subject to Clause 10.3.1, each Authority shall indemnify each other Authority in respect of, and pay to each other Authority upon demand, any Loss suffered by that other Authority as a consequence of the first Authority failing to comply with the terms of this Agreement

10.4.2 Any liability not specifically apportioned elsewhere under this Agreement shall be apportioned equally between the Authorities (unless otherwise agreed).

11 Lead Authority

11.1 The Lead Authority for any function shall act on behalf of the Authorities in respect of that function.

11.2 The Lead Authority shall act under the direction of the Joint Transportation Executive Committee and the Programme Board.

11.3 Where the Lead Authority for any function reasonably incurs any costs or liability in discharging its functions as Lead Authority, the officer of the Lead Authority discharging that function shall inform the Programme Board promptly of that cost or

liability and such cost or liability shall be apportioned between the Authorities pursuant to Clause 14.

- 11.4 Where any person enters any contract or communicates with any prospective bidder, bidder or contractor on behalf of the Authorities, he/she shall make it clear in any such contract or communication that he/she does so on behalf of the relevant Authorities.

12 Intellectual Property

- 12.1 All intellectual property in any material created by or on behalf of the Strategy shall be owned jointly by the Authorities and shall be available equally to each Authority.
- 12.2 Each Authority warrants that any intellectual property created by its officers for the purposes of the Strategy will not infringe any third party's intellectual property rights.
- 12.3 Each Authority shall indemnify each other Authority against any loss arising out of any dispute or proceedings brought by a third party alleging infringement of its intellectual property rights by use of the first Authority's intellectual property for the purpose of the Strategy.
- 12.4 Where existing intellectual property of an Authority has been used for the purpose of the Strategy, that Authority agrees that, if the Strategy does not proceed, it will if requested licence the other Authorities on commercial terms (to be agreed) to use that intellectual property for the purpose of its waste disposal functions.

13 Application of Strategy Funding

- 13.1 The Authorities agree that all Strategy Funds received by an Authority shall be held on trust for the Authorities and shall be expended only in accordance with the instructions of the Joint Transportation Executive Committee.
- 13.2 The Joint Transportation Executive Committee shall apply the funding only for the purpose of the expenses of the Joint Transportation Executive Committee and the Programme Board, and for the furtherance of the Strategy

14 Cost Allocation

- 14.1 Whereas it is the intention of the Authorities that the costs incurred by the Authorities in respect of the Strategy shall be met from the Strategy Funds, there will be an initial period when the Strategy Costs exceed the Strategy Funds received. During this period, the Authorities shall share the costs reasonably incurred by any Authority in furtherance of the Strategy in accordance with the Strategy Costs Allocation Scheme set out in Schedule A.
- 14.2 The Authorities shall share the costs reasonably incurred by a Lead Authority in respect of any Procurement Phase of any Project in accordance with the Procurement Costs Allocation Scheme set out in Schedule B.
- 14.3 The Programme Board shall recommend to the Joint Transportation Executive Committee, and the Committee shall agree, a scheme for the allocation of the costs reasonably incurred by any Authority in respect of the Service Phase of any contract, having regard to the principles set out in Schedule C to this Agreement.

15 Remediation and Dispute Resolution

- 15.1 Where an Authority is of the opinion that one or more of the other Authorities is failing to comply with the provisions of this Agreement in respect of any matter to work together in good faith and in an open, co-operative and collaborative manner, the Authorities shall use their best endeavours to resolve any such matter amicably without resort to the formal remediation and dispute resolution procedures set out below.
- 15.2 Notwithstanding Clause 15.1, above, at any time the Chief Executive of any Authority ("the first Authority") may serve on the Chief Executive of any one of the other Authorities a "Default Notice", alleging that that Authority ("the second Authority") has failed to comply with its obligations under this Agreement, setting out any suggested remedial action and any damage which the first Authority has or is likely to suffer as a result of the alleged failure.
- 15.3 An Authority ("the second Authority") in receipt of a Default Notice shall have 14 days within which to serve on the Chief Executive of the first Authority a "Counternotice", setting out in respect of every matter contained in the Default Notice, proposals for the remediation of the alleged failure and making good any loss which the first Authority may have suffered or may suffer as a result of the failure, or the reasons why that alleged failure is disputed.
- 15.4 Within 14 days of receipt of a Counternotice, the Chief Executive of the first Authority shall send to the Chief Executive of the second Authority a "Notice of Acceptance" of any proposals contained in the Counternotice in so far as those proposals are accepted by the first Authority, and may send a "Notice of Dispute" in so far as no proposal satisfactory to the first Authority is contained in the Counternotice, setting out in respect of each proposal which is not accepted by the first Authority why it is considered to be unacceptable.
- 15.5 Where any proposal in a Counternotice is accepted in a Notice of Acceptance, the second Authority shall implement that proposal.
- 15.6 Where any matter is contained in a Notice of Dispute remains unresolved, it shall fall to be dealt with under the Disputes Procedure set out in Clause 15.8 to 15.11.
- 15.7 Each Authority serving any notice under this clause 15 on another shall send a copy to the Head of Joint Transport, the Senior Responsible Officer and the Chief Executives of all the other Authorities.
- 15.8 In the event of any dispute arising between the Authorities (including the service of a Notice of Dispute), as a matter of urgency, the Authorities will first attempt to settle the issue in dispute by referring the matter as follows:
- (a) Initially to a meeting of the Authority Lead Officers
 - (b) If the Authority Lead Officers fail to resolve the dispute to the Joint Transport Executive Committee
 - (c) If the Joint Transport Executive Committee fails to resolve the matter to a meeting of the Leaders of the Authorities.
- 15.9 If dispute is not resolved by such means within 14 days of reference under Clause 15.8(c), the Authorities will attempt to settle the issue in dispute ("Dispute") by mediation in accordance with the Centre for Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the

Authorities. To initiate a mediation, any Authority may give notice in writing (a "Mediation Notice") to any one or more of the others requesting mediation of the Dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Authorities, asking them to nominate a mediator. The mediation shall commence within twenty (20) Working Days of the Mediation Notice being served. If there is any point in respect of the conduct of the mediation upon which the Authorities are unable to agree within ten (10) Working Days from the date of the Mediation Notice, CEDR will, at the request of one of the Authorities, decide that point for the Authorities, having consulted with them. The Authorities will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or, in the absence of such determination, such costs will be shared equally.

- 15.10 None of the Authorities may commence any court proceedings in relation to any Dispute until they have attempted to settle it by mediation under Clause 15.9 and/or such mediation has terminated. The Authorities will take no further steps in the court proceedings until any such mediation commenced under Clause 15.9 has terminated. Nothing in this Clause shall prevent an Authority from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.
- 15.11 If the Dispute has not been resolved by the mediation procedure detailed in Clause 15.9 within one (1) month of the initiation of such procedure, the Dispute shall be referred to the courts for resolution.

16 Withdrawal, Independent Decision-Making and Indemnity for Consequences thereof

- 16.1 Each Authority acknowledges that, if it withdraws from this Agreement or from any Project within the Local Transport Improvement Programme that withdrawal is likely to cause loss of income and additional cost to the remaining Authorities including, but not limited to, the loss of funding from the Department for Transport and the loss of any economies resulting from the joint working between the Authorities in the implementation of Local Transport Improvements.
- 16.2 Any Authority may
- (a) withdraw from this Agreement by giving notice in writing of its intention to withdraw to each of the remaining Authorities. Such notice shall be no less than twelve months' notice expiring at any time.
 - (b) withdraw from any Project by giving notice in writing of its intention to withdraw to each of the remaining Authorities. Such notice shall be no less than three months' notice expiring at any time.
- 16.3 Similarly, each Authority acknowledges that if it takes any decision within the powers delegated to the Joint Transportation Executive Committee (an "Independent Decision"), such decision may cause loss to one or more of the other Authorities
- 16.4 Subject to Clause 16.5 and 16.6, each Authority agrees that in the event that it gives notice of withdrawal to the other Authorities under Clause 16.2, or takes an Independent Decision, it will use its reasonable endeavours to minimise, and will indemnify the remaining Authorities against, any loss or additional expense which such remaining Authorities may suffer as a result of its Independent Decision or withdrawal from this Agreement or Project.

- 16.5 Where an Authority takes an Independent Decision, it shall be liable to each of the other Authorities for any loss suffered by the remaining Authorities as a consequence of the Independent Decision
- 16.6 Where any Authority withdraws from this Agreement or from any Project –
- 16.6.1 The withdrawing Authority shall remain liable to the remaining Authorities for any proportion of any relevant Strategy Funds received by the withdrawing Authority after the date of withdrawal as set out in Schedule E hereto.
 - 16.6.2 The withdrawing Authority shall remain liable to the remaining Authorities to indemnify them against any loss of income (including the repayment of any Strategy Funds) or increased or additional costs and expense in accordance with the provisions set out in Schedule B hereto.
 - 16.6.3 Any obligations which the withdrawing Authority has entered into to the remaining Authorities in pursuance of any funding provided or to be provided by the Joint Transportation Executive Committee for any Local Transport Improvement shall remain in force
 - 16.6.4 The obligations of each remaining Authority to each other in respect of the furtherance of the Strategy shall continue notwithstanding the withdrawal from the Agreement by any Authority;
 - 16.6.5 The Agreement shall remain in force in respect of any liability of the withdrawing Authority to indemnify the other Authorities under this Clause 16 of the Agreement;
 - 16.6.6 The Disputes Procedure set out in Clause 15 of this Agreement shall remain in force in respect of any of the matters arising from the performance of or withdrawal of any Authority under this Agreement.
 - 16.6.7 16.6.7 Clause 17 of this Agreement (confidential information) shall continue without limit of time and shall survive the termination of this Agreement;
 - 16.6.8 All parties will seek to minimise costs arising from any party withdrawing

17 Confidential Information

- 17.1 Subject to Clauses 19 the Authorities shall at all times use their reasonable endeavours to keep confidential and ensure that such information is used only for the purpose of the Strategy (and to procure that their respective employees agents consultants contractors and sub-contractors shall keep confidential and shall use such information only for the purpose of the Strategy) all Confidential Information concerning the Strategy or the business and affairs of the other Authority which may now or at any time hereafter be in its possession and shall not disclose it except with the consent of the other Authority, such consent not to be unreasonably withheld.
- 17.2 For the purpose of this Agreement “Confidential Information” means any information imparted to either Authority or their employees agents consultants contractors or sub-contractors (“the Receiving Party”) which was imparted to the Receiving Party

on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or to the knowledge of the Receiving Party was obtained by the other Authority on the basis that it was to be kept confidential or is of commercial value in relation to the Strategy but shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Party.

- 17.3 This Clause shall not prevent the disclosure of any Confidential Information relating to the Strategy which is reasonably disclosed for the furtherance of the Strategy or the promotion of the Strategy provided that the Authority or person disclosing the information takes all steps that are commercially practicable to preserve the confidentiality of the information and shall not prevent the disclosure of any Confidential Information where required by law.

18 Compliance with Laws

- 18.1 The Authorities shall at all times comply with all Laws including but not limited to the Data Protection Act 1998 and will, where appropriate maintain a valid and up to date registration or notification under such Laws.
- 18.2 Each Authority shall indemnify and keep indemnified the other Authority against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by the other Authority in respect of any breach of this Clause by the Authority and/or any act or omission of any employee, agent, consultant, contractor or sub-contractor.
- 18.3 Each Authority shall grant to the other Authority the right of reasonable access to all records of Personal Data relevant to the Strategy, as defined in the Data Protection Act 1998, and shall provide reasonable assistance at all times during the currency of this Agreement to ensure the quality and security of data collected.

19 Freedom of Information Act 2000 and Environmental Information Regulations 2004

- 19.1 Each Authority acknowledges that the other Authorities are subject to the requirements of the Freedom of Information Act 2000 ("FoIA") and the Environmental Information Regulations 2004 ("EIR") and each Authority shall where reasonable assist and co-operate with the other Authorities (at their own expense) to enable each other Authority to comply with these information disclosure obligations.
- 19.2 Where an Authority receives a request for information under either the Freedom of information Act 2000 or the Environmental Information Regulations 2004 in relation to information which it is holding on behalf of any of the other Authority in relation to the Strategy, it shall (and shall procure that its sub-contractors shall) refer the request for information to the other Authorities as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
- 19.2 Any Authority notified of a request by any other Authority shall
- 19.2.1 provide the other Authority with a copy of all information in its possession or power in the form that the Authority reasonably requires within ten Working Days (or such longer period as the Authority may specify) of the Authority requesting that information; and

- 19.2.2 provide all necessary assistance as reasonably requested by the other Authority to enable that Authority to respond to the request within the time for compliance set out in the FOIA or the EIR.
- 19.3 Where an Authority receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 which relates to the Agreement or the Strategy, it shall inform the other Authorities of the request for information as soon as practicable after receipt and in any event at least two Working Days before disclosure and shall use all reasonable endeavours to consult with the other Authorities prior to disclosure and shall consider all representations made by the other Authorities in relation to the decision whether or not to disclose the information requested.
- 19.4 Each Authority shall be responsible for determining in its absolute discretion whether any information requested under the Freedom of Information Act 2004 or the Environmental Information Regulations 2004:
 - 19.4.1 is exempt from disclosure under the FOIA or the EIR;
 - 19.4.2 is to be disclosed in response to a request for information.
- 19.5 Each Authority acknowledges that the other Authorities may be obliged under the FOIA or the EIR to disclose information:
 - 19.5.1 without consulting with the other Authorities where it has not been practicable to achieve such consultation; or
 - 19.5.2 following consultation with the other Authorities and having taken their views into account.

20 Severance

- 20.1 If any condition, provision or Clause of this Agreement shall become or shall be declared by any court of competent jurisdiction to be void, invalid, illegal or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

21 Entire Agreement

- 21.1 This Agreement constitutes the entire agreement and understanding of the Authorities and supersedes any previous agreement between the Authorities relating to the subject matter of this Agreement.

22 Waiver

- 22.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 22.2 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement.
- 22.3 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent an Authority from subsequently requiring compliance with the waived obligation.

23 General

- 23.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all laws may at all times be fully and effectually exercised as if the Authorities were not party to this Agreement and as if this Agreement had not been made.
- 23.2 The Authorities shall only represent themselves as being an agent partner or employee of any of the other Authorities to the extent specified by this Agreement and shall not hold themselves out as such nor as having any power or authority to incur any obligation of any nature express or implied on behalf of any of the other Authorities except to the extent specified in this Agreement.
- 23.3 This Agreement shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.
- 23.4 This Agreement is personal to the Authorities and no authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under this Agreement.
- 23.5 No person other than the Authorities shall be entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 23.6 Any notice required or permitted to be given by an Authority to the other Authority under this Agreement shall be in writing and addressed to the Chief Executive of the other Authority at its principal office.
- 23.7 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each party has executed at least one counterpart and the Agreement has been dated.
- 23.8 Amendments to this Agreement must be agreed in writing and signed by all the Authorities.

IN WITNESS hereof the parties hereto have executed this Agreement as a Deed the day and year first written

The Common Seal of **Bath and North East Somerset Council** was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of **Bath and North East Somerset Council**

.....Authorised Signatory

The Common Seal of **Bristol City Council** was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of **Bristol City Council**

.....Authorised Signatory

The Common Seal of **North Somerset Council** was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of **North Somerset Council**

.....Authorised Signatory

The Common Seal of **South Gloucestershire Council** was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of **South Gloucestershire Council**

.....Authorised Signatory

Schedule A

Strategy Cost Allocation

(Clause 14)

- 1 Until such time as the Strategy Costs can be met from the Strategy Funds, the Strategy Costs shall be shared equally between the Authorities.
- 2 For this purpose the Strategy Costs shall comprise:
 - 2.1 The salary and on-costs reasonably incurred by the Lead Authority in employing any officers specified for this purpose by the Programme Board.
 - 2.2 The salary and on-costs reasonably incurred by the Authorities in employing and supporting any officers specified for this purpose by the Programme Board (including any officers of the Partnership) calculated pro rata in respect of the time which they actually spend working on the Strategy on behalf of the Joint Transportation Executive Committee.
 - 2.3 "On costs" shall be calculated in accordance with standard CIPFA best value accounting practice
 - 2.4 Costs incurred for the purposes of the Strategy on the instruction of the Joint Transportation Executive Committee or the Programme Board, including, but not limited to -
 - 2.4.1 consultant's fees;
 - 2.4.2 advertising costs;
 - 2.4.3 costs of holding meetings of the Joint Transportation Executive Committee and Programme Board; and
- 3 For this purpose, the Strategy Costs shall not include:
 - 3.1 The salary and on-costs incurred by the Authorities in employing any officer in so far as that officer actually spend time working on the Strategy on behalf of their employing Authority.
 - 3.2 The salary and on-costs incurred by any officer of any Authority when not working on the Strategy.
 - 3.3 Costs incurred by any Authority in undertaking any remedial action arising under Clause 15 of the Agreement.
- 4 Each Authority shall be responsible for securing that any Strategy Costs incurred by that Authority are notified to the Programme Board.
- 5 The Programme Board shall arrange for –
 - 5.1 Receipt of all notifications of claimed Strategy Costs and confirming that such Costs have been properly incurred for the purpose of this Schedule.

- 5.2 Maintaining a record of all such accepted claims for Strategy Costs and calculating on a quarterly basis any payment required from one Authority to the other to achieve the principle set out in Paragraph 1 above.
 - 5.3 Providing the Programme Board and each Authority with a monthly statement of Procurement Cost expenditure against the budget approved for the Procurement Phase of the Strategy by the Joint Transportation Executive Committee, including a statement of the payment (“Equalisation Payment”) required to be made by either Authority to achieve the principle set out in Paragraph 1 above.
- 6 Within 30 days of receipt of a statement from the Programme Board to the Joint Transportation Executive Committee, each Authority shall make any Equalisation Payment to the other Authority as set out in that statement. Such statements shall be sent monthly, or at such other intervals as may be agreed by the Programme Board

Schedule B

Procurement Cost Allocation

(Clause 14.2.)

- 1 The costs of undertaking the Procurement Phase of any Project shall be pooled and shared between the Authorities involved in the Project in accordance with the percentages agreed in the Project Initiation Document.

In assessing the respective shares of the Authorities in respect to any Project regard shall be had to the following

- the respective benefit to be derived under the Project.
- where a Project is exclusively within and to the benefit of one Authority that Authority shall bear the full cost.

- 2 Procurement Costs shall comprise:

- Advisers' fees, expenses, disbursements and charges, (including as appropriate any tax payable in relation thereto) relating to the Procurement Phase;
- Administration, advertising and publication costs relating to the Procurement Phase;
- The salary and on-costs incurred by any Authority in employing any officers (other than the Lead Officer but including any seconded officers whether full or part time) on behalf of all of the Authorities in connection with the Procurement Phase, where such employment has been agreed by the Lead Officers;
- The costs of arranging or hosting meetings relating to the Procurement Phase and costs of other administrative arrangements relating to the Procurement Phase;
- The administrative costs of termination and winding up of the Procurement Phase;

(together described as "**Procurement Costs**").

"**On costs**" shall include, but not be limited to, Employers National Insurance, employers' pension contributions, costs of providing working tools, telephones, computers and ICT services, hardware, software and facilities, costs of providing office accommodation, travel and subsistence costs and redundancy, termination costs and payments made at the end of employment.

- 3 For this purpose, the Procurement Costs shall not include:

- 3.1 The salary and on-costs incurred by the Authorities in employing any officer in so far as that officer actually spend time working on the Project on behalf of their employing Authority.
- 3.2 The salary and on-costs incurred by any officer of any Authority when not working on the Project.

- 4 Each Authority shall be responsible for securing that any Procurement Costs incurred by that Authority are notified to the Programme Board. Any Authority wishing to invoice the others for Procurement Costs shall:

- Maintain a record of all Procurement Costs incurred and calculate on a periodic basis any payment required from the other Authorities to achieve the principle set out in paragraph 1 above.
- Provide the Authority Lead Officers with a periodic statement of Procurement Cost expenditure (set out against any budgets approved from time to time by the Lead Officers for the Procurement), including a statement of the payment (“Equalisation Payment”) required to be made by the other Councils to achieve the principle set out in paragraph 1 above.

5 The Programme Board shall arrange for –

- 5.1 Receipt of all notifications of claimed Procurement Costs and confirming that such Costs have been properly incurred for the purpose of this Schedule.
- 5.2 Maintaining a record of all such accepted claims for Procurement Costs and calculating on a quarterly basis any payment required from one Authority to the other to achieve the principle set out in Paragraph 1 above.
- 5.3 Providing the Programme Board and each Authority with a quarterly statement of Procurement Cost expenditure against the budget approved for the Procurement Stage of the Project by the Joint Transportation Committee, including a statement of the payment (“Equalisation Payment”) required to be made by the Authorities to achieve the Principle set out in Paragraph 1 above.

6 Within 30 days of receipt of a quarterly statement from the Programme Board to the Joint Transportation Executive Committee, each Authority shall make any Equalisation Payments to the other Authorities as set out in that statement.

7 If an Authority disputes the amount of an Equalisation Payment it shall nevertheless pay the sum claimed and that payment shall not be regarded as its agreement or acknowledgement that the amount claimed from it was correctly calculated. Any disputes shall be dealt with in accordance with Clause 15.

Schedule C

Service Cost Allocation

(Clause 14.3)

- 1 This Schedule sets out the Principles upon which the Programme Board will develop and recommend to the Joint Transportation Executive Committee for approval a scheme of allocation of the costs incurred or to be incurred by the Authorities in the course of the Service Stage of any Project.
- 2 The Principles shall apply separately to each Contract entered by each Authority or by a Lead Authority on behalf of the Authorities in pursuance of any Project as follows:
 - 2.1 In assessing the respective shares of the Authorities in respect to any Project regard shall be had to the following
 - the respective benefit to be derived under the Project.
 - where a Project is exclusively within and to the benefit of one Authority that Authority shall bear the full cost.
 - 2.2 Each Authority shall be directly responsible for any charges imposed by the Contractor in respect of that Authority's failure to accord with the provisions of the Contract.
 - 2.3 Each Authority shall be entitled to receive and retain any payments made by the Contractor under its Contract in respect of any loss suffered by that Authority as a result of any failure by the Contractor to accord with the provisions of the Contract. Where the Contract has been entered into by a Lead Authority, that Authority shall ensure that any payments are passed on to the affected Authorities promptly.
 - 2.4 Subject to and in accordance with the principles in clause 14.1 and 14.2 each authority shall indemnify each other Authority in respect of, and pay to each other Authority upon demand, any loss suffered by that other Authority as a consequence of
 - the first Authority failing to comply with the terms of this Agreement,
 - withdrawing from this Agreement or any Project,
 - taking an Independent Decision in respect of any matter relating to a Project.
 - 2.5 Insofar as an Authority acts as a Lead Authority during the Service Phase, then it will be reimbursed in the same manner as during the procurement phase, namely in accordance with Schedule B.
- 3 Any liability arising from a breach by an Authority of any Contract or this Agreement (as the case may be) or any negligent act or omission in relation to such obligation shall be the responsibility of the defaulting Authority to the extent of such breach, however in the event that the responsibility is a shared one between the Authorities (so that it is not reasonably practicable to ascertain the exact responsibility between the Authorities) or the responsibility arises on a no fault basis then the responsibility shall be divided amongst the Authorities in the same proportions as they contribute to the costs under Schedule B above.

Schedule D

Protocol

1. Each Authority shall act towards the other Authorities fairly and properly at all times in relation to the Strategy and any Projects.
2. The Authorities will work together in good faith and in an open, co-operative and collaborative manner for the duration of this Agreement.
3. The Authority members and officers will work together in the spirit of mutual trust in order to endeavour to procure the successful implementation of the Strategy and any Projects and will respond in a timely manner to all relevant requests from the other Authorities.
4. The Lead Authority shall, as far as practicable, ensure that the other Authorities are fully informed and able to access information as to the conduct of the Strategy and the Projects
5. The Authorities agree that any advisory work that is specific to only one Authority shall be called off by that Authority at their own cost, unless agreed otherwise.

Schedule E

Liability on Early Termination

(Clause 16)

- 1 In the event that any Authority give notice to the other Authorities under Clause 16 of this Agreement, the withdrawing Authority shall indemnify the remaining Authorities in accordance with the provisions of this Schedule.
- 2 The withdrawing Authority shall forthwith pay over to one of the remaining Authorities any monies which it holds in trust for the Strategy and/or Project(s).
- 3 The withdrawing Authority shall remain liable to each of the remaining Authorities for the relevant proportion of any Strategy Funds which it receives after the date of its withdrawal.
- 4 In the event that the withdrawing Authority at any time before the Strategy Expiry Date alter or terminate any Charging Scheme, the withdrawing Authority shall remain liable to each of the remaining Authorities under Paragraph 1 hereof up to the Strategy Expiry Date as if the Charging Scheme had continued without such alteration or termination.
- 5 Where the withdrawal of the withdrawing Authority causes any loss of income from the Department for Transport, (or triggers the requirement to repay any Strategy Funds) the withdrawing Authority shall be liable to each of the remaining Authorities for any such lost income or repayment.
- 6 Where the withdrawal of the withdrawing Authority causes the termination of any joint arrangements for the provision of expertise in the implementation of Local Transport Improvements, the withdrawing Authority shall remain liable to each of the remaining Authorities for any additional costs incurred by those remaining Authorities as a consequence of that termination
- 7 The relevant proportion for the purpose of Paragraphs 3 and 4 above shall be the proportion which the population of that remaining authority bears to the aggregate of the populations of all the Authorities at the date of the notice of withdrawal
- 8 For the avoidance of doubt, the indemnity shall include
 - a) a reasonable contribution towards development and project costs (including fees and charges) incurred in the preparation of the Strategy and the Local Transport Improvements Programme (and in individual Projects),
 - b) lost opportunity costs,
 - c) the financial implications of withdrawal of any Strategy Funds (in whole or in part) and
 - d) abortive internal costs of the remaining Authorities (including any special Lead Authority costs and expenses) and
 - e) abortive costs and expenses of the West of England Partnership.

Schedule F

The Constitution