

DATED

2014

THE DURHAM, GATESHEAD, NEWCASTLE UPON TYNE, NORTH TYNESIDE,
NORTHUMBERLAND, SOUTH TYNESIDE and SUNDERLAND COMBINED AUTHORITY

And

THE COUNTY COUNCIL OF DURHAM, THE COUNCIL OF THE BOROUGH OF
GATESHEAD, THE COUNCIL OF THE CITY OF NEWCASTLE UPON TYNE, THE
COUNCIL OF THE BOROUGH OF NORTH TYNESIDE, NORTHUMBERLAND COUNTY
COUNCIL, THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE and THE
COUNCIL OF THE CITY OF SUNDERLAND

Vivienne Geary
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North Tyneside Council
Quadrant
The Silverlink North
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North Tyneside
NE27 0BY

DEED OF OPERATION

This Deed is made on day of 2014

between:

(1) The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority (“the NECA”)

and

(2) The County Council of Durham, The Council of the Borough of Gateshead, The Council of the City of Newcastle Upon Tyne, The Council of the Borough of North Tyneside, Northumberland County Council, The Council of the Borough of South Tyneside and The Council of the City of Sunderland (“the Constituent Authorities”)

WHEREAS:

- (A) On 15 April 2014 the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority was established as a Combined Authority for the Combined Area and the Tyne and Wear Integrated Transport Area was dissolved and the Integrated Transport Authority abolished (“the ITA”).
- (B) The functions of the NECA are those functions conferred or imposed on it, or delegated to it, by the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014, (“the Order”) or by any other enactment, including all the functions of the ITA which transferred to the NECA on the abolition of the ITA.
- (C) The functions of the NECA include those transport functions of the Durham and Northumberland Constituent Authorities transferred to the NECA by Article 8 of the Order.
- (D) The functions of the NECA include those economic development and regeneration functions set out in Schedule 2 to the Order which are to be exercised concurrently with the Constituent Authorities.
- (E) The Constituent Authorities were established as local authorities by the Local Government Act 1972 with all the functions of City, Metropolitan Borough and County Councils, and in particular the Constituent Authorities are the local highway authority and local traffic authority for their area.
- (F) The Parties wish to co-operate with each other in the exercise of their functions and in particular their transport and economic development and regeneration functions.

THIS DEED witnesses as follows:

1. Definitions

In this Deed –

- 1.1 “the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Deed of Operation” means this Deed made between the NECA and the Constituent Authorities and entered into on even date as amended from time to time.
- 1.2 “the NECA” means the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority
- 1.3 “the NELB” means the North East Leadership Board comprising of the Members of the NECA.
- 1.4 “the Constituent Authorities” means The County Council of Durham, The Council of the Borough of Gateshead, The Council of the City of Newcastle Upon Tyne, The Council of the Borough of North Tyneside, Northumberland County Council, The Council of the Borough of South Tyneside and The Council of the City of Sunderland.
- 1.5 “the Order” means the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014.
- 1.6 “the Parties” means the NECA and the Constituent Authorities.
- 1.7 “the Monitoring Officer” means such person as shall be appointed by the NECA pursuant to Part 3.5 of the Constitution.
- 1.8 “the TNEC” means the Transport North East Committee being a joint committee established by the Parties.
- 1.9 “the TWSC” means the Transport North East (Tyne and Wear) Sub-Committee.
- 1.10 “DCC” means the County Council of Durham.
- 1.11 “NCC” means Northumberland County Council.
- 1.12 “Nexus” is the executive body of the NECA for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the LDEDCA 2009.
- 1.13 “The Delivery Agencies” means DCC, NCC and Nexus
- 1.14 “NELEP” means the North East Local Enterprise Partnership.
- 1.15 “the Combined Area” means the administrative areas of the 7 Constituent Authorities.
- 1.16 “the Constitution” means the Constitution of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority.

- 1.17 “the Tyne and Wear Authorities” means the Authorities of the Council of the Borough of Gateshead, the Council of the City of Newcastle Upon Tyne, the Council of the Borough of North Tyneside, the Council of the Borough of South Tyneside and the Council of the City of Sunderland
- 1.18 “the 2012 Regulations” means the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
- 1.19 “the LGA 1972” means the Local Government Act 1972.
- 1.20 “the LDEDCA 2009” means the Local Democracy, Economic Development and Construction Act 2009

2. Interpretation

- 2.1 Clause, Schedule and Paragraph headings shall not affect the interpretation of this Deed;
- 2.2 The Schedule and Appendices form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedule and Appendices.
- 2.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 2.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.5 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 2.6 A reference to “this Deed” or to any other Deed, Agreement or document referred to in this Deed is a reference to this Deed or such other, Deed document or Agreement as varied from time to time.
- 2.7 References to Clauses, Schedules and Appendices are to the Clauses, Schedules and Appendices of this Deed and references to Paragraphs are to Paragraphs of the relevant Schedule.
- 2.8 No person other than a Party to this Deed shall have any rights to enforce any term of this Deed.
- 2.9 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 2.10 If any court or competent authority finds that any provision of this Deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Deed shall not be affected.

3. Functions Retained by the NELB

- 3.1 In the absence of specific delegations to other bodies referred to in the Constitution (including committees and sub-committees of the NELB), all functions remain with the NELB.
- 3.2 Only the NELB will exercise the following functions which will require a unanimous vote in favour by all seven Constituent Authority members (or substitute members acting in place of those members)
1. The adoption of, and any amendment to, or withdrawal of any Growth Plan included in the Budget and Policy Framework of the NECA's Constitution;
 2. The adoption of, and any amendment to, or withdrawal of any local transport plan under section 108(3) of the Transport Act 2000;
 3. The approval of, and any amendment to, the NECA's annual budget;
 4. The setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder;
 5. The allocation by the NELB of local transport plan funding to the individual Constituent Authorities and Nexus, and the approval of all other capital and revenue matters relating to the NECA's transport budget save where such matters have been expressly delegated to another body;
 6. The approval of, and any amendment to, or withdrawal of growth schemes set out in any adopted Growth Plan, including the local major schemes devolved funding;
 7. The approval of, and any amendment to, or withdrawal of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the NECA;
 8. The approval of, and any amendment to, or withdrawal of such other plans and strategies as determined by the NELB and included in the Budget and Policy Framework of the NECA's Constitution;
 9. The transfer of any further functions by the Constituent Authorities to the NECA;
 10. The appointment of any individual co-optees to the NELB;
 11. The use of the general power of competence by the NECA beyond the powers provided within the LDEDCA 2009.
 12. The approval of any amendment to the NECA's Constitution which has not been delegated to the Monitoring Officer (see Part 3.6 Scheme of Delegation of Functions to Chief Officers in the NECA's Constitution).
 13. The appointment of a statutory chief officer (Head of Paid Service, Monitoring Officer and Chief Finance Officer); and

- 14 The designation of the Combined Authority's Head of Paid Service
- 3.3 Other functions reserved to the NELB do not require a unanimous vote and include (but are not limited to):-
15. The approval of (and any amendment to or withdrawal of) all other major transport schemes (including such matters as Quality Contract Schemes and/or Voluntary Partnership Agreements);
 16. The approval of (and any amendment to or withdrawal of) a public transport strategy;
 17. Influence and/or co-ordination of strategic investment in the highway network across the combined area;
 18. Co-ordination, with the statutory Highway Authorities, of the development of a joint highway management plan;
 19. Strategic influence of the development and operation of air, rail, road, river, sea and public transport networks,
 20. The approval of (and any amendment to or withdrawal of) transitional transport arrangements following the formation of the NECA;
 21. The approval of (and any amendment to or withdrawal of) formal partnership agreements and arrangements with external partners and other stakeholders (e.g. central government, MPs/MEPs, rail franchisors/franchisees) on strategic transport issues;
 22. The approval of the policies and strategies to be included in the policy framework;
 23. The approval of the NECA's annual accounts;
 24. The appointment/selection of the Overview and Scrutiny Committee and any other committee or sub-committee as considered by the NELB as appropriate to discharge its functions;
 25. The appointment/selection of a Chair and Vice Chair(s) of any joint committee, committee or sub-committee;
 26. The appointment of co-opted members to any of its joint committees, committees or sub-committees;
 27. The appointment of the Independent Person as required by the Localism Act 2011;
 28. The appointment of any independent expert adviser for the NECA or any of its joint committees, committees or sub-committees;
 29. The designation of the Thematic Leads.

30. The dismissal of a statutory chief officer (Head of Paid Service, Monitoring Officer and Chief Finance Officer) and the appointment or dismissal of any deputy of such a statutory chief officer and the appointment or dismissal of any non-statutory chief officer or any deputy of such a non-statutory chief officer.

4. Transport functions of the Transport North East Committee (TNEC)

The following transport functions have been delegated by the NELB to the TNEC (and the TNEC shall be able to exercise these functions provided that it does not cause the NECA to incur any expenditure other than that which the NELB has authorised for such purposes):

1. Monitoring the NECA's transport budget;
2. Approval of releases from the NECA's transport funding for capital schemes within the agreed capital programme and the agreed budget (as defined by the NELB) for the scheme concerned;
3. Formulation, development and monitoring of procedures for public consultation on, and lobbying for, the NECA's transport policies including taking responsibility for the active promotion of the Combined Area's transport interests;
4. Monitoring and overseeing the activities and performance of DCC and NCC in the discharge of the transport functions delegated to them by the NELB
5. The functions delegated to the TNEC also include those functions set out at Part 6 below and are delegated to TNEC on the strict understanding that they are exercisable in practice by the TWSC, a subcommittee of the TNEC.

5. Transport Functions Referred to the Transport North East Committee (TNEC)

The NELB shall seek the advice and recommendations of the TNEC on such transport matters as the NELB considers appropriate which shall include (but are not limited to): -

1. The NECA's revenue budget for transport and the setting of any transport levy;
2. The borrowing limits of the NECA in relation to transport matters pursuant to section 3 of the Local Government Act 2003;
3. The capital programme of NECA and the Delivery Agencies;
4. The development of policies for the promotion and encouragement of safe, efficient and economic transport facilities and services and the production of any Local Transport Plan pursuant to sections 108-112 of the Transport Act 2000;
5. Formulation of general policies with respect to the availability and convenience of public passenger services pursuant to section 9A (5)-(7) of the Transport Act 1968

6. Determination of issues arising from the rail franchising process;
7. The development of policies, setting of budgets and operational arrangements in connection with the NECA's Transport Studies Function

6. Transport functions of the Transport North East (Tyne and Wear) Sub-committee (TWSC)

The following transport functions have been delegated by the NELB to the TNEC and sub-delegated to the TWSC in respect of the area of the Tyne and Wear Authorities (and the TWSC shall be able to exercise these functions provided that it does not cause the NECA to incur any expenditure other than that which the NELB has authorised for such purposes):

1. Considering and recommending to NELB the creation and development of:-
 - (i) Quality Partnership Schemes pursuant to sections 114-123 of the Transport Act 2000; and
 - (ii) Quality Contracts Schemes pursuant to sections 124-134 of the Transport Act 2000;
2. Implementing Concessionary Travel Schemes pursuant to sections 93 -105 of the Transport Act 1985;
3. Implementing Ticketing Schemes pursuant to sections 135-138 of the Transport Act 2000
4. Determining the local bus information to be made available, and the way in which it should be made available, pursuant to sections 139-143 of the Transport Act 2000;
5. Determining the operation, performance and development accessible transport provision (including the provision of grants) pursuant to section 106 of the Transport Act 1985;
6. Monitoring and overseeing the activities and performance of Nexus (including but not limited to the power pursuant to section 15(6) of the Transport Act 1968 to give to Nexus such directions as appear appropriate to secure the observance of the rights of the NECA);
7. Ensuring that Nexus secures the provision of appropriate public passenger transport services pursuant to section 9A(3) of the Transport Act 1968;
8. Ensuring that Nexus implements those actions given to it for promoting the economic, social and environmental well-being of the Combined Area and its residents pursuant to section 99 of the Local Transport Act 2008;
9. Determining variations in charges for transport services or facilities provided by Nexus, pursuant to section 15(2) of the Transport Act 1968;
10. Authorising:-

- (i) The disposal of any land by Nexus pursuant to section 10(1)(xxiii) of the Transport Act 1968
 - (ii) The acquisition of any land by Nexus pursuant to section 10(1)(xx) of the Transport Act 1968; and
 - (iii) The development of any land by Nexus pursuant to section 10(1)(xxii) of the Transport Act 1968
11. Determining the operation, performance and development of tendered bus services, bus stations/stops, and passenger transport services pursuant to section 10(1)(1)(via) of the Transport Act 1968;
 12. Monitoring the performance of the Metro service and recommending appropriate action;
 13. Monitoring the operation and performance of bus, ferry and local rail services and influencing accordingly.
 14. Dealing with any other matter which has been transferred from the former Tyne and Wear ITA to the NECA under Article 6 of the Order, unless the matter has been explicitly reserved to the NELB in the foregoing provisions.

Further transport functions may be delegated to the TWSC by the NELB as it considers appropriate.

7. Transport functions of DCC and NCC

The following transport functions have been delegated by the NELB to DCC and NCC in relation to their respective administrative areas (and each County Council shall be able to exercise these functions provided that it does not cause the NECA to incur any expenditure other than that which the NELB has authorised for such purposes):

1. Considering and recommending to NELB the creation and development of:-
 - (i) Quality Partnership Schemes pursuant to sections 114-123 of the Transport Act 2000; and
 - (ii) Quality Contracts Schemes pursuant to sections 124-134 of the Transport Act 2000.
2. Implementing Concessionary Travel Schemes pursuant to sections 93 -105 of the Transport Act 1985;
3. Implementing Ticketing schemes pursuant to sections 135-138 of the Transport Act 2000
4. Determining the operation, performance and development of accessible transport provision (including the provision of grants) pursuant to section 106 of the Transport Act 1985;
5. All obligations of County Councils relating to mandatory travel concessions pursuant to sections 145A to 150 of the Transport Act 2000;

6. Those functions of County Councils set out in Part IV of the Transport Act 1985 (Passenger Transport in areas other than Integrated Transport Areas) under:

Section 63 – functions of local Councils with respect to passenger transport

Section 81 – provision, maintenance and operation of bus stations

Section 82 – bus stations: restriction on discriminatory practices

8. Appointment of Chair and Vice Chairs of the NELB

- 8.1 The Chair and Vice Chairs of the NELB will be appointed at the annual meeting of the NELB which will take place as soon as practicable after the Constituent Authorities have held their annual meetings.
- 8.2 Notwithstanding Clause 8.1 above, the Chair and Vice Chairs will hold their respective positions for a term of 2 municipal years commencing on the day of their appointment.
- 8.3 The Chair and Vice Chairs may continue to hold their respective positions for a further period of not more than 2 years from the last date of their initial term of 2 years with the agreement of the other members of the NELB.

9. Establishment of the TNEC

- 9.1 Pursuant to Section 101(5) of the LGA 1972, and Regulations 9, 10, 11 and 12 of the 2012 Regulations, the Parties agree to enter into arrangements to discharge certain of their functions relating to transport jointly and for this purpose to establish a joint committee to be called the Transport North East Committee (“the TNEC”).
- 9.2 The TNEC may establish Sub-Committees.
- 9.3 Each Constituent Authority shall appoint two members to be a member of the TNEC with one such member having portfolio responsibility for transport within the Constituent Authority.

10. Transport Functions Undertaken by Nexus

- 10.1 Subject to the monitoring and oversight of the TWSC, Nexus will discharge in the Tyne and Wear Authority areas the functions and responsibilities that fall to it under the following legislation –

Transport Act 1968;

The Tyneside Passenger Transport Area (Designation) Order 1969;

Tyneside Metropolitan Railway Act 1973;

Tyne and Wear Passenger Transport Act 1979;

Transport Act 1983;

Transport Act 1985 – Parts III, IV and V

Tyne and Wear Passenger Transport Act 1989;

Railways Act 1993;

The Railways (Class and Miscellaneous Exemptions) Order 1994;

The Tyne and Wear Passenger Transport (Sunderland) Order 1994;
Transport Act 2000 – Part II;
Railways Act 2005;
Local Transport Act 2008

- 10.2 Nexus will discharge in the Tyne and Wear Authority areas any functions and responsibilities given to it by further legislation or any amendments to the legislation set out in Clause 10.1 above.

11. Other Provisions.

- 11.1 The TNEC and the TWSC will conduct business in accordance with the Rules of Procedure set out in Part 4 of the Constitution.
- 11.2 The costs and liabilities incurred by the TWSC will be met by the Tyne and Wear Authorities.
- 11.3 The NECA will meet such costs and liabilities as are reasonably attributable to the exercise of the functions of the NELB delegated or referred to the TNEC, TWSC, DCC or NCC subject to the provisions of the Order and the Indemnity set out in Clause 14 below.
- 11.4 Where a Constituent Authority nominates a member to a Committee of the NECA, the NELB will accept that nomination.

12. Transport Protocols

- 12.1 The Parties will draw up and agree detailed Protocols in relation to the operation and discharge of transport functions by the NELB which will be annexed to this Deed when agreed.
- 12.2 The Transport Protocol relating to DCC and NCC is at Appendix 1 of this Deed.
- 12.3 The Parties will keep the Protocols under regular review and may revise them from time to time and shall submit any such revised, new or further Protocol, to the NELB for consideration and approval.
- 12.4 Protocols drawn up agreed or revised under this Clause will not override anything provided for or required by this Deed and will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the LGA 1972 and the 2012 Regulations.

13. Funding of Transport Functions Transferred by the Order

- 13.1 The costs of the NECA reasonably attributable to the exercise of its transport functions will be met by means of three separate levies issued by the NECA to the Tyne and Wear Authorities, DCC and NCC.

14. Indemnity

- 14.1 The Tyne and Wear Authorities shall indemnify the County Councils in respect of any costs, claims, liabilities or expenses that may arise to the County Councils as a consequence of their participation in or membership of the NECA to the extent that they arise as a consequence of any decision for the provision of transport within any part or the whole of the former ITA area, and not within the area of the County Councils.
- 14.2 Each County Council shall indemnify the Tyne and Wear Authorities in respect of any costs, claims, liabilities or expenses that may arise to the Tyne and Wear Authorities as a consequence of the Tyne and Wear Authorities participation in, or membership of, the NECA to the extent that they arise as a consequence of any decision for the provision of transport within any part or the whole of the County Council areas, and not within the area of any of the Tyne and Wear Authorities.
- 14.3 In the absence of any agreement to the contrary;
- (i) the carrying out of any works relating to any property or assets which transferred to the NECA from the ITA by operation of the Order which continue to be applied to any transport functions within the Combined Area by the NECA, and any associated costs, will be a matter for and the responsibility of the Tyne and Wear Authorities to determine as between them; and
 - (ii) the carrying out of any works relating to any property or assets which may be deemed to have transferred to the NECA from either of the County Councils by operation of the Order, and which continue to be applied to any transport functions within the Combined Area by the NECA, and any associated costs, will be a matter for and the responsibility of the County Council within whose boundaries such property or assets are situate.
 - (iii) any income or revenue which is derived from assets, functions or operations which transferred from the ITA to the NECA by virtue of the Order (including but not limited to the Tyne Tunnels) shall be ring-fenced for use within the area of the Tyne and Wear Authorities;
 - (iv) any income or revenue which is derived from functions or operations which transferred from either DCC or NCC (“the Transferring Authority”) to the NECA by virtue of the Order or which are derived from assets relating to or connected with such functions or operations shall be ring-fenced for use within the area of the Transferring Authority.
- 14.4 Each Constituent Authority shall indemnify the NECA and each other Constituent Authority in respect of any costs, claims, liabilities and expenses that may arise from the exercise by any of them, or any group of them, prior to the date of the coming into being of the NECA of any statutory power or duty the responsibility for which has passed to the NECA or any statutory power or duty exercised concurrently between the NECA and the Constituent Authorities.
- 14.5 Nothing in this Clause 14 of this Deed shall extend to indemnify any party to the extent that any liability in respect of which indemnification is sought has been

caused or contributed to by any act or omission of the party seeking the benefit of this indemnity.

- 14.6 It is acknowledged by the parties that all costs claims and liabilities that may arise in respect of the pension funds for the Tyne and Wear authorities and DCC and NCC will be calculated in accordance with Article 5 (4) of the Order.
- 14.7 The Indemnity set out in Clause 14.1 to 14.6 and Clause 14.3 shall be reviewed as considered appropriate by the Constituent Authorities. The Indemnity and Clause 14.3 shall be reviewed in any event if it is proposed that Nexus (or any body in the role of Executive Body of the NELB) should operate beyond the geographical boundaries of the Tyne and Wear Authority areas.

15. The DCC and NCC Property

- 15.1 It is acknowledged by the parties that DCC and NCC retain any and all rights in any property or assets associated with the delivery of any of their respective transport functions on behalf of the NECA, and that they retain, without limitation, the rights to dispose of, develop and raise income and revenue from such property or assets. If any court or tribunal decide that Article 11(4) of the Order has the effect of transferring any such property to the NECA, the NELB undertakes to transfer such property or assets back to the relevant County Council at a nominal consideration as soon as is reasonably practicable following the finalisation of any procedures or requirements required to be entered into or undertaken to enable any transaction to be for a nominal consideration.

16. Accountable Body for the NELEP

- 16.1 Each of the Constituent Authorities shall indemnify the NECA in equal proportions for all and any costs, claims, liabilities and expenses that may arise from the NECA acting as the Accountable Body for the NELEP, unless the costs, claims, liabilities and expenses are incurred as a result of a negligent act or default of one or more Constituent Authorities, in which case only that or those Constituent Authorities shall indemnify the NECA.

17. Economic Development Protocols

- 17.1 The Parties will draw up and agree detailed Protocols in relation to the discharge of the economic development functions set out in Schedule 2 of the Order which are exercisable by the NECA concurrently with the Constituent Authorities, having regard to the provision in Article 12(3) of the Order that any requirement in any enactment for a Constituent Authority to exercise such a function may be fulfilled by the exercise of that function by the NECA.
- 17.2 The Parties will keep the Protocols under regular review and may revise them from time to time and shall submit any such revised, new or further Protocol, to the NELB for consideration and approval.
- 17.3 Clause 12.4 above applies to Protocols drawn up, agreed or revised under this Clause as it does in relation to Protocols under Clause 12 above.

17.4 The Economic Development Protocols will be annexed to this Deed as and when agreed between the Parties.

18. Regeneration Protocols

18.1 The Parties will draw up and agree detailed Protocols in relation to the discharge of the Regeneration functions set out in Schedule 2 of the Order which are exercisable by the NECA concurrently with the Constituent Authorities, having regard to the provision in Article 12(3) of the Order that any requirement in any enactment for a Constituent Authority to exercise such a function may be fulfilled by the exercise of that function by the NECA.

18.2 The Parties will keep the Protocols under regular review and may revise them from time to time and shall submit any such revised, new or further Protocol, to the NELB for consideration and approval.

18.3 Clause 12.4 above applies to Protocols drawn up, agreed or revised under this Clause as it does in relation to Protocols under Clause 12 above.

18.4 The Regeneration Protocols will be annexed to this Deed as and when agreed between the Parties

19. Economic Development and Regeneration Functions

19.1 The economic development and regeneration functions set out in Schedule 2 of the Order are –

The power under section 144 of the LGA 1972 (the power to encourage visitors and provide conference facilities).

The duties under sections 15ZA, 15ZB, 15ZC, 17A, 18A (1)(b), 514A and 560A of the Education Act 1996 (duties and powers related to the provision of education and training for persons over compulsory school age).

The duty under section 69 of the LDEDCA 2009 (duty to prepare an assessment of the economic conditions of the local authority's area).

19.2 It is agreed that the function under Section 69 of the LDEDCA 2009 (duty to prepare an assessment of economic conditions) will be exercised by the NECA, and that pursuant to the Order any requirement for the Constituent Authorities to exercise this function will be fulfilled by its exercise by the NECA.

20. Overview and Scrutiny Arrangements

20.1 The NELB will establish an Overview and Scrutiny Committee to enable the Constituent Authorities to exercise an overview and scrutiny role in relation to the decisions and activities of the following bodies –

- (a) the NELB
- (b) the TNEC
- (c) the TWSC
- (d) any other committees, sub-committees or joint committees of the above
- (e) Nexus

- (f) DCC and NCC in relation to transport functions delegated to them
- (g) the NELEP to the extent that they agree or otherwise at such time that the NECA becomes the Accountable Body for the NELEP and the review relates to the fulfilment of the role of Accountable Body by the NECA

20.2 The Constituent Authorities will make arrangements (whether by standing orders or otherwise) enabling questions on the discharge of the functions of the NECA to be put to that Constituent Authority's representative on the NELB and for such questions to be answered by that representative at a meeting of full Council of that Constituent Authority.

21. Review of the Constitution

21.1 Notwithstanding the requirements contained within the Constitution of the NECA at Part 1 Section 18 "Review and Revision of the Constitution" that Parties agree to undertake an interim review of the operation of the Constitution and report the outcome of the review to the NELB 6 months following the establishment of the NECA or as soon as possible thereafter. A further review will be carried out 6 months after the completion of the interim review and reported to the NELB and thereafter shall be undertaken annually in accordance with the requirements of the Constitution.

22. Review of Arrangements

22.1 The Parties will undertake, pursuant to Section 111 of the LDEDCA 2009, a joint review of the matters set out in Clause 21.2 to be commenced, whichever is the earlier of:

- (a) The fifth anniversary of the commencement date of the NECA; or
- (b) Immediately after notice is given by a Constituent Authority requesting a joint review, provided that such notice is not given before the third anniversary of the Commencement date of the NECA.

22.2 The matters are –

- (a) A matter in respect of which an Order may be made under any of sections 104 to 107 of the LDEDCA 2009
- (b) A matter concerning the NECA or Nexus that the NELB has power to determine
- (c) Any other matter contained in this Deed

22.3 The provisions of this Clause are without prejudice to the statutory rights of one or more of the Parties to undertake their own review at any time.

22.4 The joint review referred to in Clause 22.1 and 22.2 will be undertaken in accordance with Schedule 1 of this Deed.

23. Amendments to this Deed

23.1 This Deed may be amended following agreement in writing by all the Parties.

23.2 The operation of this Deed will be subject to an annual review.

24. Dispute Resolution

24.1 Any dispute between the Parties arising out of this Deed which cannot be settled shall be referred to the Heads of Paid Service of the Parties to the dispute who will negotiate to resolve the matter in good faith.

25. Termination

25.1 This Deed will terminate as necessary and at a time agreed by all of the Parties following a joint review carried out in accordance with Clauses 22.1, 22.2 and 22.4.

25.2 This Deed will be terminated by the making of an Order by the Secretary of State under sections 104 to 107 of the LDEDCA 2009

26. Notices

26.1 Any notice, demand or other communication required to be served on the NECA under this Deed shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post or email or facsimile transmission to the NECA's Monitoring Officer at the Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside NE27 0BY. If so sent, any such notice, demand or other communication shall, subject to proof to the contrary, be deemed to have been received by the NECA's Monitoring Officer at the time of personal delivery or on the second working date after the date of posting or transmission as the case may be.

26.2 Any notice, demand or other communication required to be served on one or more of the Constituent Authorities under this Deed shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post or email or facsimile transmission to the Monitoring Officer(s) of the Constituent Authority(ies) concerned. If so sent, any such notice, demand or other communication shall, subject to proof to the contrary, be deemed to have been received by the Constituent Authority(ies) concerned at the time of personal delivery or on the second working date after the date of posting or transmission as the case may be.

IN WITNESS whereof the Parties have caused this Deed to be executed the day, month and year first before mentioned.

The Common Seal of **THE DURHAM, GATESHEAD, NEWCASTLE UPON TYNE, NORTH TYNESIDE, NORTHUMBERLAND, SOUTH TYNESIDE and SUNDERLAND COMBINED AUTHORITY**

Was affixed hereunto in the presence of :-

Monitoring Officer

EXECUTED as a **DEED** (but not delivered until the date of it) by the affixing of the Common Seal of **THE COUNTY COUNCIL OF DURHAM** By Order :-

Authorised Sealing Officer
(A permanent Officer of the County Council)

The Common Seal of **THE BOROUGH COUNCIL OF GATESHEAD**

Was affixed in the presence of :-

Mayor

Solicitor to the Council

Executed as a deed by affixing
The common seal of **THE COUNCIL
OF THE CITY OF NEWCASTLE
UPON TYNE**
in the presence of :-

Lord Mayor

Assistant Director Legal Services/
Senior Solicitor

The Common Seal of **THE COUNCIL
OF THE BOROUGH OF NORTH
TYNESIDE**
Was affixed in the presence of :-

Chair of the Council

Authorised Signatory

The Common Seal of **NORTHUMBERLAND
COUNTY COUNCIL**
Was hereunto affixed in the presence of :-

Authorised Officer

The Common Seal of **THE COUNCIL OF
THE BOROUGH OF SOUTH TYNESIDE**
Was hereunto affixed in the presence of :-

Mayor

Head of Legal Services

The Seal of **The COUNCIL OF THE
CITY OF SUNDERLAND**
Was hereunto affixed in the presence of:

Authorised Officer

SCHEDULE 1

1. Introduction

- 1.1 The Order establishing the NECA may be changed by a further Order made by the Secretary of State under Sections 104 to 107 of the LDEDCA 2009 in accordance with the statutory procedure in the LDEDCA 2009.
- 1.2 Section 111 of the LDEDCA 2009 provides that any one or more of the Constituent Authorities or the NECA may undertake a review relating to the whole of the NECA or one or more areas of the NECA. Such a review can be on one or more of the matters in respect of which an order can be made under Sections 104 – 107 of the LDEDCA 2009 including changing the boundaries of a combined authority by adding or removing an area to or from an existing combined authority (with the relevant Authority's consent). No change can be made to the areas included in the combined authority without an Order of the Secretary of State following such a review and the publication of a scheme by the Authority or Authorities carrying out the review.
- 1.3 The Constituent Authorities wish to record the arrangements which have been agreed between them for the conduct of any future review in relation to the NECA or any one or more areas of the NECA under sections 111 and 112 of the LDEDCA 2009.
- 1.4 The Constituent Authorities in particular wish to acknowledge the intention to review the future integration of transport provision and arrangements across the Combined Area.

2. Agreement to Undertake a Joint Review

- 2.1 The Constituent Authorities will develop a set of indicators (the indicators) based on the priorities in the NELB's Strategy (and any delivery plan developed thereunder) which will be agreed by each Constituent Authority and which may be used by the NELB and Constituent Authorities to assist in assessing performance of the NECA including use in any review under Section 111 of the LDEDCA 2009.
- 2.2 The Constituent Authorities will undertake a joint review with the NECA to be commenced on whichever is the earlier of:-
 - (a) the fifth anniversary of the commencement date of the NECA; or
 - (b) immediately after a Constituent Authority serves notice on the NECA and other Constituent Authorities requesting a joint review provided that such notice is not given before the third anniversary of the commencement date.
- 2.3 The matters which will be considered in any joint review are those matters set out in Section 111(3) of the LDEDCA 2009, which in particular will include:
 - (i) Performance of the NECA against the indicators;

- (ii) Performance of the NECA in improving the exercise of the relevant statutory functions, economic conditions and transport in the NECA's area and in the area of individual Constituent Authorities;
- (iii) Costs and value for money;
- (iv) Constitutional arrangements including membership and voting;
- (v) Functions of the NECA;
- (vi) The boundaries of the NECA;
- (vii) Relationship of the NECA to its executive delivery body, Nexus;
- (viii) The progress towards the greater integration of the transport functions across the combined area; and
- (ix) Any other criteria reasonably considered relevant by any of the Constituent Authorities or the NELB.

2.4 The Constituent Authorities will procure that in any joint review an independent person is commissioned to consider those matters set out in Paragraph 2.3 above and to report on:

- (i) The performance of the NECA against the indicators and other review criteria, and
- (ii) Any changes to the NECA's functions, area, constitutional arrangements which would be likely to improve:
 - (a) the exercise of statutory functions relating to transport, economic development and regeneration or
 - (b) the effectiveness and efficiency of transport and the economic conditions in the area of the NECA or an area of a Constituent Authority.

Any representations, reports and other information submitted by a Constituent Authority will be taken into account in the review.

3. Separate Authority Review

3.1 In the event that a Constituent Authority decides either alone or together with another Constituent Authority to undertake a review under Section 111 of the LDEDCA 2009 which is not a joint review as provided for in Paragraph 2 above, each Constituent Authority agrees as follows:

- (i) each Constituent Authority undertaking such a review will give notice to the other Constituent Authorities and the NECA setting out the matters which are to be the subject of the review;
- (ii) each Constituent Authority (whether or not undertaking such a review) will provide and will procure that the NECA provides such information or independent reports including the reports referred to at Paragraph 2.4 above

as are reasonably required by the reviewing Constituent Authority or Authorities in order to conduct such a review.

4. General

- 4.1 If one or more Constituent Authorities or the NECA, having undertaken a joint review as provided for in Paragraph 2 or a separate review as provided for in Paragraph 3, publishes a scheme under Section 112 of the LDEDCA 2009 proposing the removal of an area or areas from the area of the NECA (with the consent of the Constituent Authority(ies) for the area or areas), each of the remaining Constituent Authorities will take all reasonable steps to support the removal of the said area(s) from the area of the NECA including in any response to the Secretary of State in the course of his/her consultation on any proposed order.

Appendix 2

Protocol for the Exercise of Transport Functions By Durham County Council and Northumberland County Council

This protocol has been made on the day of 2014 between:

The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority (“NECA“)

and

The County Council of Durham; Northumberland County Council; the Council of the Borough of Gateshead; the Council of the City of Newcastle Upon Tyne; the Council of the Borough of North Tyneside; the Council of the Borough of South Tyneside and the Council of the City of Sunderland (“The Constituent Authorities”)

Background

1. The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order that establishes the NECA provides for the transfer of the functions from the County Council of Durham (“Durham County Council”); and Northumberland County Council (referred to collectively as “the County Councils”) under parts 4 and 5 of the Transport Act 1985 and Part 2 of the Transport Act 2000 to the NECA.
2. The Constitution of the NECA and the Deed of Operation made between the NECA and the Constituent Authorities provides that the transport functions listed in Clause 4 in this Protocol will be delegated by the NECA to the respective County Councils.
3. The purpose of this Protocol is to set out the respective roles of the NECA and the County Councils in relation to the discharge of the transport functions delegated to the County Councils.

The Role of the NECA

4. The NECA, through the North East Leadership Board (“the NELB”), will delegate the following functions (“the delegated functions”) to the Executive of Durham County Council and the Policy Board of Northumberland County Council :-
 1. Considering and recommending to the NELB the creation and development of:-
 - (i) Quality Partnership Schemes pursuant to sections 114-123 of the Transport Act 2000; and

- (ii) Quality Contracts Schemes pursuant to sections 124-134 of the Transport Act 2000.
- 2. Implementing Concessionary Travel Schemes pursuant to sections 93 - 105 of the Transport Act 1985;
- 3. Implementing Ticketing Schemes pursuant to sections 135-138 of the Transport Act 2000;
- 4. Determining the operation, performance and development of accessible transport provision (including the provision of grants) pursuant to section 106 of the Transport Act 1985;
- 5. All obligations of County Councils relating to mandatory travel concessions pursuant to sections 145A to 150 of the Transport Act 2000
- 6. Those functions of County Councils set out in Part 4 of the Transport Act 1985 (Passenger Transport in areas other than Integrated Transport Areas) under:

Section 63 – functions of local Councils with respect to passenger transport

Section 81 – provision, maintenance and operation of bus stations

Section 82 – bus stations: restriction on discriminatory practices

The Role of the County Councils

- 5. The Executive and Policy Board of the County Councils will meet on a date as soon as reasonably practicable after the delegation of the delegated functions by the NECA. On meeting, the Executive and Policy Board will receive a report on the exercise of the delegated functions and will decide if any functions will be carried out by officers and upon what basis. Functions carried out by officers will be exercised subject to consultation with the relevant portfolio holder of the Executive or Policy Board and /or the Leader.
- 6. The relevant Portfolio Holder will provide reports when required to the Transport North East Committee of the NECA advising on how the delegated functions have been exercised, are to be exercised, and how any exercise or planned exercise of functions meets or will meet the policies and strategies set by the NECA.
- 7. The Executive and Policy Board of the respective County Councils through delegation to officers will support, advise and assist in the development of plans and strategies on a regional and sub-regional basis including the Local Transport Plan and a Strategic Transport Plan.

IN WITNESS whereof the Parties have caused this Deed to be executed the day, month and year first before mentioned.

The Common Seal of **THE DURHAM, GATESHEAD, NEWCASTLE UPON TYNE, NORTH TYNESIDE, NORTHUMBERLAND, SOUTH TYNESIDE and SUNDERLAND COMBINED AUTHORITY**
Was affixed hereunto in the presence of :-

Monitoring Officer

EXECUTED as a **DEED** (but not delivered until the date of it) by the affixing of the Common Seal of **THE COUNTY COUNCIL OF DURHAM** By Order :-

Authorised Sealing Officer
(A permanent Officer of the County Council)

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in the presence of :-

Lord Mayor

Assistant Director Legal Services/
Senior Solicitor

The Common Seal of **THE COUNCIL
OF THE BOROUGH OF NORTH
TYNESIDE**
Was affixed in the presence of :-

Chair of the Council

Authorised Signatory

The Common Seal of **NORTHUMBERLAND
COUNTY COUNCIL**
Was hereunto affixed in the presence of :-

Authorised Officer

The Common Seal of **THE COUNCIL OF
THE BOROUGH OF SOUTH TYNESIDE**
Was hereunto affixed in the presence of :-

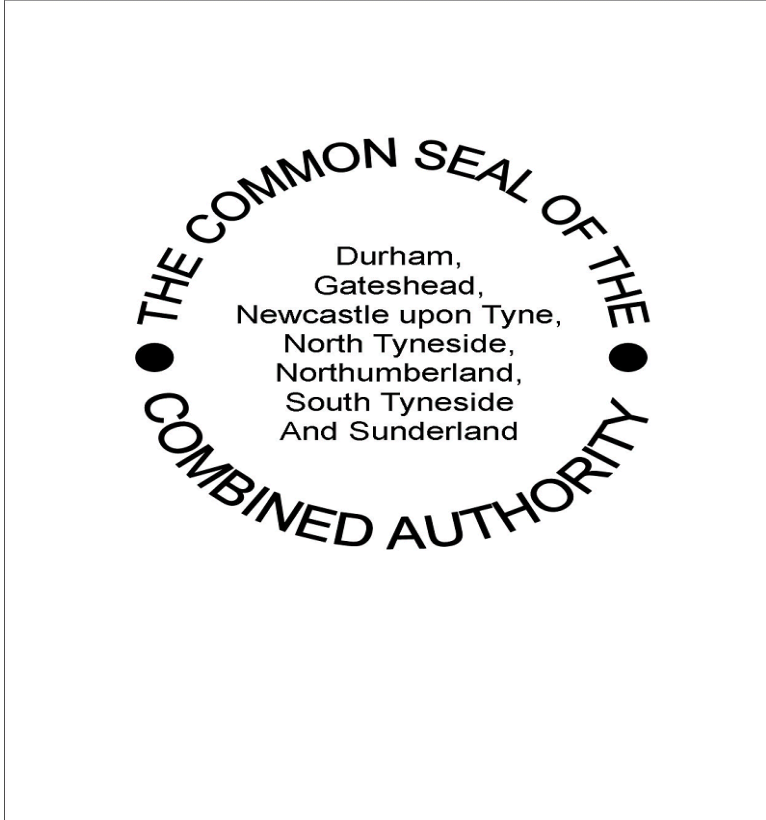
Mayor

Head of Legal Services

The Seal of **The COUNCIL OF THE
CITY OF SUNDERLAND**
Was hereunto affixed in the presence of:

Authorised Officer

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