

THIS AGREEMENT is made on the 8th day of September 2011

BETWEEN: BARNSLEY METROPOLITAN BOROUGH COUNCIL of the first part; THE BOROUGH COUNCIL OF BOLTON of the second part; THE CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL of the third part; THE BOROUGH COUNCIL OF CALDERDALE of the fourth part; DONCASTER ^{SDF} ~~METROPOLITAN~~ BOROUGH COUNCIL of the fifth part; THE COUNCIL OF THE BOROUGH OF KIRKLEES of the sixth part; KNOWSLEY METROPOLITAN BOROUGH COUNCIL of the seventh part; NORTH YORKSHIRE COUNTY COUNCIL of the eighth part; the ROTHERHAM BOROUGH COUNCIL of the ninth part; ST HELENS BOROUGH COUNCIL of the tenth part; THE COUNCIL OF THE CITY OF WAKEFIELD of the eleventh part; WIGAN BOROUGH COUNCIL of the twelfth part; THE COUNCIL OF THE CITY OF YORK of the thirteenth part.

WHEREAS:

(1) The above parties are referred to in this Agreement as 'the Founder Member Authorities' collectively and as 'Founder Member Authority' individually, irrespective of whether they were founding members on formation of the Yorkshire Purchasing Organisation in 1974 or became members thereafter

(2) The Yorkshire Purchasing Organisation (referred to in this agreement as YPO) was established in 1974 to maintain effective, efficient and economical arrangements for the supply of goods, materials and services.

(3) This agreement replaces an earlier agreement agreed in 2001, relating to the governance of YPO, and will govern the operation of YPO from 8th September 2011

IT IS HEREBY AGREED AS FOLLOWS:

1. OBJECTIVES AND PURPOSE OF YPO

- (1) YPO shall be a procurement organisation, maintaining effective, efficient and economical arrangements for the supply of goods, materials, works and services, by providing excellent quality, service and competitive prices, whilst optimising the profits available for distribution to its members and customers.
- (2) YPO shall (unless agreed otherwise by at least two thirds of the Founder Member Authorities) be a public sector organisation committed to professional, open, sustainable, caring relationships with its members, customers, staff and suppliers, and in doing so shall help the UK public sector by delivering a high quality service which saves them time and money.
- (3) In conducting its business, YPO shall:
 - (i) Provide all the general supplies and services required by local government and other public/third sector bodies, as permitted under legislation;
 - (ii) Optimise profitability by delivering cost effective services that contribute to customers' efficiency;
 - (iii) Ensure through periodic reviews that the effectiveness, efficiency and profitability of YPO is at least comparable with that of other similar organisations;
 - (iv) Utilise profits to support business investment, to reward membership and to incentivise usage;

- (v) Be informed by, and be consistent with, the innovation and efficiency plans of the Founder Member Authorities and those of regional bodies;
- (vi) Play a constructive role in helping to shape, and benefit from, developments in the national procurement agenda.

2. POWERS OF YPO

In conducting its business as defined in paragraph 1 above, YPO shall at all times

- (i) act within the powers conferred to it by law including but not limited to the Local Authorities (Goods and Services) Act 1970, Sections 101 and 102 of the Local Government Act 1972 and The Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (in relation to to the joint discharge of functions) together with Section 111 of the Local Government Act 1972 and to the extent it confers specific power to enter into Contracts Section 1 of the Local Government (Contracts) Act 1997, and Regulation 22 of the Public Contract Regulations 2006 (all as amended from time to time) and
- (ii) comply with all other relevant law.

3. MEMBERSHIP OF YPO

- (1) There shall be three types of YPO membership – a Founder Member Authority; an Associate Member Authority and an Ordinary Member
- (2) Founder Member Authorities shall participate in YPO under a joint committee arrangement established in exercise of the Founder Member Authorities powers under Sections 101 and 102 of the Local Government Act 1972 and The Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000

- (3) No further 'Founder Member Authorities' shall be permitted under this Agreement or otherwise
- (4) Each Founder Member Authority shall appoint annually two of its elected members as members of YPO (who may also act as a substitute for each other) and each Founder Member Authority shall also be entitled to appoint two additional substitute members. A substitute Member may attend meetings (including sub-committee meetings) of YPO in place of an appointed member who is unable to attend. It shall be the responsibility of each Founder Member Authority to arrange such a substitution on their own behalf.
- (5) Each Founder Member Authority shall have one vote at Management Committee meetings of YPO, and these votes shall be of equal standing
- (6) The Founder Member Authorities shall select by majority vote in the Management Committee one of their number to act as Lead Authority, with the role and functions specified in SECTION 4 of this agreement.
- (7) A vote to replace the Lead Authority shall take place at the written request of the Lead Authority or at the written request of at least one third of the Founder Member Authorities, setting out their reasons for requesting a vote to take place.
- (8) With the agreement of two thirds of the Founder Member Authorities, via a resolution of the Management Committee, YPO may grant Associate Membership, in accordance with SECTION 8 of this agreement.
- (9) All individual customer account holders shall be Ordinary Members of YPO, in accordance with SECTION 9 of this Agreement.

4. ROLE OF THE LEAD AUTHORITY

The Lead Authority for the time being is the Council of the City of Wakefield, which shall perform the following functions on behalf of the Founder Member Authorities:

- (1) Provide the Management Committee with appropriately qualified staff to carry out the roles of Section 151 Officer and Monitoring Officer in relation to YPO;
- (2) Act as employer for all staff of the Management Committee, including the Board of Directors, and to provide such Human Resources input as the Lead Authority considers necessary for the effective discharge of this responsibility;
- (3) Provide an effective internal audit service at a level agreed between the Section 151 Officer and the Audit Sub-Committee of the Management Committee, including such attendance by Auditors at the Audit Sub-Committee as is necessary to properly discharge this responsibility;
- (4) Provide effective Committee Administration services to the Management Committee and appropriate sub-committees, at a level considered necessary by the Monitoring Officer;
- (5) Provide effective banking and resource management services on behalf of YPO;
- (6) Consult Founder Member Authorities on changes to Financial Procedure Rules, Standing Orders, Delegation Schemes and this Agreement, and make recommendations to the Management Committee;
- (7) Chair the Strategic Officers Advisory Group;

- (8) Assist the Management Committee to monitor the performance of the Managing Director;
- (9) Have the authority to defer any proposal to incur expenditure or let any contract by the Board of Directors, pending the outcome of a report to the Management Committee or the Executive Sub-Committee of YPO as appropriate

and shall charge the cost of such services to the Management Committee.

The performance of the Lead Authority will be considered by the Strategic Officers Advisory Group annually and formally reviewed at least every five years.

5. PROCEDURE RULES AND SCHEMES OF DELEGATION

- (1) The Management Committee and Board of Directors shall operate at all times in accordance with approved:
 - (i) Financial Procedure Rules;
 - (ii) Standing Orders;
 - (iii) Contract Standing Orders;
 - (iv) Officer Delegation Scheme.

- (2) Any proposed amendments to the documents in 5(1) shall be subject to:
 - (i) A period of at least 8 weeks prior consultation with Founder Member Authorities by the Monitoring Officer;
 - (ii) A report to the Management Committee by the Monitoring Officer setting out the results of the consultation, and making recommendations;

(iii) The agreement of at least two thirds of the total membership of the Management Committee.

6. JOINT COMMITTEE ARRANGEMENTS

- (1) The democratic management of YPO shall be vested in the Joint Committee, which shall be known as the Management Committee of YPO.
- (2) The Management Committee shall meet at least 3 times per year in March, June (AGM) and November, and such other times as agreed from time to time by the Chair of the Committee. Each meeting shall have a duration of a maximum of 2 hours unless otherwise agreed by a majority of the Management Committee.
- (3) Quorum and substitution arrangements for the Management Committee shall be as set out in this document and the approved Standing Orders of YPO.
- (4) The remit of the Management Committee shall be that agreed by YPO Management Committee held on 25 September 2009 – minute 23 (4), and be subject to a review at each Annual General Meeting of the Management Committee.
- (5) The Management Committee shall appoint annually from its membership those sub-committees that it considers necessary to discharge its duties and responsibilities under this Agreement, and shall include at least an Executive Sub-Committee and an Audit Sub-Committee and a Scrutiny Sub-Committee.
- (6) Prior to each Management Committee meeting, the Lead Authority shall convene a meeting of officers, drawn from the Founder Member Authorities, to be known as a ' Strategic Officers Advisory Group', with a

remit to examine draft reports to the Management Committee, raise issues of concern relating to YPO business and to facilitate the pre-briefing of members. It shall be the responsibility of each Founder Member Authority to make available, wherever possible, an officer of director or appropriate status to attend such meetings.

7. CODE OF CORPORATE GOVERNANCE

- (1) The Management Committee shall keep under review its code of corporate governance and associated documents, including the register of corporate risk, following recommendations by the Audit Sub-Committee.
- (2) YPO managers and such other officers as may be required shall agree to attend on request the scrutiny committees of the Founder Member Authorities to assist in their assessment of the effectiveness of YPO operations and assurance procedures.

8. ASSOCIATE MEMBERSHIP

- (1) At the time of this Agreement, Associate Membership is granted to Leeds City Council and the Metropolitan Borough of Bury.
- (2) Associate Members will be entitled to a share of dividend payments under SECTION 10(3)(ii) of this Agreement for annual levels of usage in excess of the usage level in the full calendar year immediately prior to Associate Membership being granted, in accordance with a scheme to be drawn up annually by the Management Committee.
- (3) Associate Members shall not receive a vote, or be entitled to attend 'in confidence' parts of Management Committee meetings.
- (4) Associate Members will be invited to attend an annual meeting with the Executive Sub-Committee, or participate in such other means of

discussion as are agreed by the Management Committee, and a report on the outcome of such discussions shall be presented to each Annual General Meeting of the Management Committee.

9. ORDINARY MEMBERSHIP

- (1) All individual customer account holders shall be Ordinary Members of YPO.
- (2) Ordinary Members shall be entitled to a share of dividend payments under SECTION 10(3)(iii) of this Agreement in accordance with a scheme to be drawn up annually by the Management Committee.
- (3) Ordinary Members shall not receive a vote, or be entitled to attend 'in confidence' parts of Management Committee meetings.

10. PAYMENT OF DIVIDENDS

- (1) In March of each year, upon receipt of the pre-audit accounts for the previous year the Management Committee shall determine the level of dividend to be paid (if any) but any dividend so determined will not be paid until the accounts have been completed and approved by the s151 Officer.
- (2) The overall dividend sum to be distributed (if any) shall be drawn from accumulated reserves, after deducting a sum which takes account of known risks, to ensure that YPO remains a going concern during the forthcoming year, and after deducting the cost of any development proposals agreed by the Management Committee.
- (3) The distribution formula shall contain the following elements:
 - (i) A cash sum to be divided equally between the Founder Member Authorities to reflect their risk of ownership;

- (ii) A cash sum to reward usage of YPO products and services in all modes of supply (including framework contracts) by the Founder Member Authorities and Associate Members with the weightings between types of membership and modes of supply being determined by the Management Committee;
 - (iii) A sum to reward usage of Ordinary Members in the form of a credit voucher against future purchases.
- (4) The weightings attached to 3(i) to 3(iii) above shall be agreed annually by the Management Committee.

11. APPOINTMENT OF STAFF

- (1) The Management Committee shall determine the size, scope and conditions of service of the Board of Directors of YPO, after receiving appropriate professional advice from the Lead Authority.
- (2) The Management Committee shall appoint annually an 'Appointments Committee' with responsibility for the appointment and disciplinary procedures of the Board of Directors and appraising the performance of the Managing Director.
- (3) The Board of Directors shall make arrangements to establish and appoint all other staff in accordance with the approved budget and officer delegation scheme, and to ensure that its HR policies and procedures are in accordance with best practice.
- (4) All staff shall be employed by the Lead Authority on behalf of YPO on terms and conditions agreed by the Lead Authority, subject to SECTION 11(1) of this Agreement.

- (5) The Board of Directors shall make such arrangements with Trades Unions to facilitate effective employee relations, through the periodic Joint Consultative Committee, and the Lead Authority shall be entitled to attend meetings of the Committee as it sees fit.

12. ASSETS

- (1) All existing and future assets shall vest in the Lead Authority in trust for the Founder Member Authorities on terms to be agreed by the Management Committee.

13. WITHDRAWAL OF MEMBERS

- (1) A Founder Member Authority wishing to withdraw from membership of YPO shall give to the Lead Authority at least 12 months' written notice expiring on the 31 December. A Founder Member Authority withdrawing shall be responsible for an equal share of any deficit that is held in the accounts in the financial year of withdrawal, but shall not be entitled to any dividend payment under SECTION 10(3)(i) of this Agreement, or a share of any assets held in trust by the Lead Authority under SECTION 12(1) of this Agreement.
- (2) Associate Members under SECTION 8 of this Agreement can do so in writing without a notice period, but will not be entitled to any dividend payment under SECTION 10(3)(ii) of this Agreement for the financial year in which the withdrawal takes place.

14. TERMINATION

Notwithstanding the provisions of SECTION 13(1) of this Agreement, if two thirds of the Founder Member Authorities agree, following a resolution by the Management Committee, this Agreement may be terminated on the 31 December in any year.

- (1) The terms of termination shall require:
 - (i) The payment of any outstanding dividend to Associate Members under SECTION 10(3)(ii) of this Agreement which would have been paid out had the termination not taken place;
 - (ii) Any accumulated deficit to be borne by the Founder Member Authorities equally;
 - (iii) Any accumulated surplus in the YPO accounts, and the realised value of any assets held in trust by the Lead Authority under SECTION 12(1) of this Agreement, to be shared equally between the Founder Member Authorities.

15. AMENDMENT

- (1) If two thirds of the Founder Member Authorities agree, following a resolution by the Management Committee, this Agreement may be amended at any time upon terms agreed by the Founder Member Authorities.

16. LITIGATION

- (1) The institution and defence of necessary litigation by YPO arising out of the exercise of its responsibilities shall be undertaken in a representative capacity by the Lead Authority, or such other Founder Member Authority as appointed by the Lead Authority.
- (2) The Lead Authority, or such other Founder Member Authority undertaking the litigation, shall be indemnified by the Founder Member Authorities.

17. INTERPRETATION AND ARBITRATION

- (1) In applying the terms of this Agreement, all parties shall act reasonably

- (2) Where a fraction of Membership is referred to in this Agreement, this should be rounded up to the nearest whole number.
- (3) If at any time any dispute or difference shall arise between the Founder Member Authorities or any of them respecting any matters arising out of this Agreement or the meaning or effect of this Agreement or anything herein contained or the rights or liabilities of any of the Founder Member Authorities the dispute or difference shall be referred to and settled by a single arbiter to be appointed by the Founder Member Authorities but if they cannot agree to be nominated by the Local Government Association.

Service Director
Legal & Governance
County Hall
WAKEFIELD
WF1 2QW

Dated

8th September

2011

The Councils of the County of North Yorkshire and the Districts of Barnsley,
Bolton, Calderdale, Doncaster, Kirklees, Knowsley, Rotherham,
St Helens, Wigan and the Cities of Bradford, Wakefield and York

A G R E E M E N T

Management Agreement – Yorkshire Purchasing Organisation

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