

SHARED SERVICES AGREEMENT

Between

Essex Police, Fire and Crime Commissioner Fire and Rescue Authority

and

Bedfordshire Fire and Rescue Authority

For the Provision of

Command and Control Mobilising Service

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This agreement is made the _____ day of _____ 2018

Between

- (1) **ESSEX POICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE AUTHORITY** of Kelvedon Park, Rivenhall, Witham, Essex CM8 3HB (Essex); and
- (2) **BEDFORDSHIRE FIRE AND RESCUE AUTHORITY** of Southfields Road, Kempston, Bedford MK42 7NR (Bedfordshire) and

(each a "Party" and together referred to as the "Parties")

Recitals

- a. Essex have completed a procurement process to select suppliers to provide and maintain a command and control system including ICCS and Mobilising System and intend to enter the Control System Contract with the contractors on or before the date of this agreement
- b. The Control System Contract contains the requirements as to the command and control centre agreed between the Parties
- c. Essex shall host Bedfordshire's Control System
- d. The Parties acknowledge that the functions to be performed by both Parties under this Agreement are critical in nature and that they will work together to ensure that these functions are delivered in a suitable manner

IT IS AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, the Recitals and Schedules, the following definitions shall apply unless otherwise expressly stated.

Agreement	means this agreement and all Schedules;
Authority Obligations	has the meaning set out in the Control System Contract;
Background IPR	means all Intellectual Property Rights in any material or in any work (in whatever format) which exists as at the Commencement Date;
Best Value	means the statutory framework for the planning, delivery and continuous improvement of local authority services;
Budget	means the estimated budget for the provision of the Control System in each Financial Year, as described in Schedule 2;

Business Continuity Plan	means the plan prepared by Essex and Bedfordshire for ensuring that the Services continue to be provided in the event of disruption including but not limited to technology or other failure, severe weather, pandemic, or dealing with major and large scale incidents;
Call Challenge Protocol	means during any period where either Essex or Bedfordshire receives calls on behalf of the other, the agreed call challenge protocols for challenging callers to establish whether or not mobilisation of resources is appropriate will be used;
Change	means a change to the terms of this Agreement which must be dealt with via the Change Control Procedure;
Change Control Procedure	means the procedure for changing this Agreement, as set out in Schedule 3;
Change in Law	means any change in any Law which impacts on the performance of the Services and which comes into force after the Commencement Date;
Code of Connection	means a mandatory set of requirements to which compliance must be demonstrated before connection can be made to a Government or other Organisations networks;
Contractor Related Party	has the meaning as set out in the Control System Contract;
Contractors	means Remsdaq and Frequentis with whom Essex has entered into the Control System Contracts;
Control	means the fire control facilities including the human and physical resources to operate the command and control systems
Control Staff	means any individual employed by Essex or Bedfordshire to work within their control rooms undertaking mobilising and other Control related functions;
Control System	means the command and control software and hardware supplied by the Contractors and Essex;
Control System Contract	means the Agreement dated 24 February 2014 and the Supplementary Agreement dated June 2016 made between Essex Fire Authority (1) and Remsdaq (2); and the Agreement dated 24 February 2014 and made between Essex Fire Authority (1) and Frequentis (2);

Commencement Date	means 24 November 2016;
Confidential Information	means any information or data in whatever form, disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by 1 (one) Party (the "Discloser") to the other (the "Recipient") in connection with this Agreement which by its nature is confidential or which the Discloser acting reasonably states in writing to the Recipient is to be regarded as confidential, or which the Discloser acting reasonably has marked 'confidential' (including, business affairs, operations, products, finances, plans, designs, processes, research, development, know how, personnel, but which is not Personal Data, or information to which the FOIA would apply;
Bedfordshire Costs	means the Budget costs borne exclusively by Bedfordshire, details of which are set out in Schedule 2;
DPA	means the Data Protection Act 1998;
Executive Governance Board	means a board established in accordance with the provisions of Clause 10 and Schedule 4;
Exit Strategy	means the strategy to be followed by the Parties on termination or expiry of this Agreement as described in Schedule 5;
Expert	means a person appointed in accordance with Clause 27;
Failover Conditions	means a loss of systems or infrastructure;
Fallback Events	means a situation in which Essex or Bedfordshire are prevented from providing the Services at their respective Primary Control;
Fallback Services	means control-related activities during Spate Conditions and Fallback Events and Failover Conditions;
Financial Year	means the period from the 1 April of one year to the 31 March of the following year during the term of the Agreement;
First Line Maintenance	means <ul style="list-style-type: none"> (a) recording and classification of received incidents; (b) basic support and troubleshooting; (c) where possible, undertake an immediate effort in order to restore a failed ICT service as quickly as possible; (d) if no solution can be achieved, transfer the incident to expert technical support groups (Second Line Maintenance) or Control System suppliers (Third Line Maintenance);
FOIA	means the Freedom of Information Act 2000;
Foreground IPR	means all Intellectual Property Rights in any material or

	in any work (in whatever format), which is brought into existence as part of the Services to be provided under this Agreement after the Commencement Date;
Governance Boards	means the boards established in accordance with the provisions of Clause 10 and Schedule 4;
Hosting Services	means the provision of all necessary buildings by Essex and the provision of all necessary hardware, software, security and infrastructure by Essex and Bedfordshire to accommodate and run the Control System;
ICCS	means the Integrated Communication and Control System utilised by Essex and Bedfordshire to take emergency calls and maintain operational voice communications within their respective Controls;
Implementation Services	has the meaning set out in the Control System Contract;
Intellectual Property Rights	means all patents, trademarks, service marks, registered designs or any applications for any of the foregoing, copyright (including in any text, computer coding, algorithms, applets, or in any other constituent elements of any work produced as a part of the commissioning or provision of the Services), design right, database rights, topographical rights, unregistered trademarks or other intellectual or industrial property rights, look and feel in any work produced under this Agreement, and all knowhow whether subsisting in the United Kingdom or anywhere else in the world;
Law	means: <ul style="list-style-type: none"> (a) any applicable statute or proclamation or any delegated or subordinate legislation or regulation; (b) any enforceable EU right within the meaning of Section 2 (1) European Communities Act 1972; (c) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; and (d) guidance; and in each case in force in England and Wales or in England;
Loss	means all costs (including the costs of enforcement) expenses, liabilities, injuries, direct loss, damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments howsoever caused incurred or suffered by a Party;
Material Change	means any change that results in a change to the service provided and/or financial commitment above normal capacity or agreed budgets, non-exclusive

	examples of which are set out at Clause 19;
Mobilising Instructions	means the set of rules which each Essex and Bedfordshire sets and works to in relation to the mobilising of resources both within their respective boundaries and cross border;
Mobilising Service	means Mobilising System; ICCS; and Hosting Services;
Mobilising System	means the system utilised by Essex and Bedfordshire to mobilise and manage resources within their respective Controls;
Operational Governance Board	means the board of that name established in accordance with the provisions of Clause 10 and Schedule 4;
Personal Data	has the meaning set out in the DPA;
Primary Control	means the Control premises and equipment (hardware and software) normally used to operate the command and control system and which consists of a primary control in Essex at Essex County Fire HQ, Kelvedon Park and a primary control in Bedfordshire at Bedfordshire Fire and Rescue HQ in Kempston;
Quarter	means a rolling period of three calendar months running from 1 April each year, and "Quarterly" shall be construed accordingly (and the Parties acknowledge that the first Quarter of the term may be a part Quarter);
Remediation Plan	means a plan produced by Essex and Bedfordshire in accordance with the provisions of Clause 5.3;
Secondary Control	means the business continuity arrangement premises located at Ongar capable of providing functionality of the Primary Control;
Services	means the Support and Maintenance Services, the Hosting Services and the Fallback Services
Service Equipment	means the hardware and software forming the command and control system and which includes, but is not limited to, the Mobilising System, the ICCS, the data connections, power supplies and telephony systems;
Software	means the software necessary to provide the Services from the Commencement Date as described in Schedule 1;
Spate Conditions	means circumstances when the number and frequency of emergency calls directed to either Primary or Secondary Control exceeds the capacity to answer calls within an acceptable time;
Support and Maintenance Services	means the services provided under the Control System Contract excluding the Implementation Services;
System Assets	has the meaning set out in the Control System Contract;

Term means the term of this Agreement calculated in accordance with Clause 2 and as extended in accordance with Clause 2.2, if applicable;

Working Day means any day other than a Saturday or Sunday or public holiday in England and Wales;

- 1.2 A reference to any Act of Parliament or to any Order, Regulation, Statutory Instrument or the like shall include a reference to any amendment or re-enactment whether taking effect before or after the Commencement Date.
- 1.3 Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
- 1.4 Headings are for convenience only and are not to be taken into consideration interpreting this Agreement.
- 1.5 References to Schedules and Appendices are references to Schedules and Appendices of this Agreement and a reference to a paragraph is a reference to the paragraph in the Schedule containing such a reference.
- 1.6 The Schedules shall be deemed to form and be read and construed as part of this Agreement.

2 TERM AND EXTENSION

- 2.1 This Agreement shall take effect on the Commencement Date and shall continue unless or until:
 - 2.1.1 terminated by either Party giving not less than 18 (eighteen) months' written notice to the other Party; or
 - 2.1.2 terminated otherwise in accordance with the provisions of this Agreement; or
 - 2.1.3 the expiry or termination (for whatever reason) of the Control System Contract.
- 2.2 The Parties may, by agreement, extend the Term for a period or periods of up to 5 (five) years and shall use their reasonable endeavours to reach agreement on whether or not to extend no later than 18 months prior to the expiry of the Term.

3 THE CONTROL SYSTEM CONTRACT

Bedfordshire acknowledge that Essex have entered into the Control System Contract with the Contractors and that the Control System Contract includes provision for Support and Maintenance Services for Bedfordshire's Control.

4 SUPPORT AND MAINTENANCE SERVICES

- 4.1 The Parties shall comply with their respective obligations under Schedule 1 Part A and within this Agreement.

- 4.2 Essex will use all reasonable endeavours to ensure the provision of the Support and Maintenance Services by the Contractor in accordance with the Control System Contract and Schedule 1 Part A.
- 4.3 The Parties will provide First Line Maintenance on their respective Controls.
- 4.4 Bedfordshire shall not take any action or fail to take any action, or permit anything to occur which would cause Essex to be in breach of its obligations under the Control System Contract and will indemnify and keep indemnified Essex in respect of any cost claim or liability arising from any breach of the Control System Contract caused by Bedfordshire.
- 4.5 The Parties shall log all their respective First Line Maintenance activities onto a log to be held centrally by the Parties.

5 FALL BACK SERVICES

- 5.1 The Parties shall deliver the Fallback Services in accordance with Schedule 1 Part B and in accordance with their own individual Mobilising Instructions and in accordance with the provisions of this Agreement.
- 5.2 The Parties shall ensure that the Fallback Services operate in accordance with the relevant requirements of the Fire and Rescue Services Act 2004.
- 5.3 If either party identifies a Fallback Event or a Failover Condition they shall:
 - 5.3.1 notify the other Control;
 - 5.3.2 take immediate action to mitigate and resolve the Mobilising Service issue;
 - 5.3.3 provide a Remediation Plan where the Parties shall agree any other actions that may be appropriate; and
 - 5.3.4 carry out the actions identified in any Remediation Plan in accordance with its terms.
- 5.4 At all times both Parties shall ensure that:
 - 5.4.1 their staff, contractors and agents involved in the provision of the Fallback Services are suitably qualified, adequately trained and capable of providing the applicable Fallback Services;
 - 5.4.2 in exceptional circumstances Fallback Services are provided using alternative staff (e.g. in the case of pandemic) to ensure business continuity; and
 - 5.4.3 there is an adequate number of staff to provide the Fallback Services.
- 5.5 Where appropriate both Parties shall comply with the terms of each other's community/integrated risk management programme.

6. HOSTING SERVICES

- 6.1 Essex shall supply the Hosting Services in accordance with Schedule 1 Part C and the provisions of this Agreement.

- 6.2 Bedfordshire shall provide all reasonable assistance and co-operation to Essex in the delivery of the Hosting Services.

7. GENERAL OBLIGATIONS

- 7.1 The Parties shall have a Business Continuity Plan in place throughout the Term and shall assist and support one another in business continuity.
- 7.2 The Business Continuity Plan shall describe agreed standards for the maintenance of the Services and shall include (but not be limited to):
- 7.2.1 the maximum tolerable period of disruption;
 - 7.2.2 the recovery time objective; and
 - 7.2.3 the maximum tolerable data loss.

8. PAYMENT

- 8.1 Bedfordshire shall pay Essex for the Services in accordance with the provisions of Schedule 2 to this Agreement.
- 8.2 Essex shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate this Agreement under Clause 16 for failure to pay undisputed charges.

9. EQUIPMENT & SOFTWARE

- 9.1 Bedfordshire acknowledge and agree that the Service Equipment is the property of Essex and that Essex have been granted a licence to use Software under the Control System Contract.
- 9.2 Bedfordshire shall have licence to use the System Assets for the purpose of the Operational Services once Essex has taken ownership of the same from the Contactors.
- 9.3 Bedfordshire shall have licence to use the Software for the purpose of the Support and Maintenance Services to the extent that Essex is able to provide the same to Bedfordshire under the Control System Contract.
- 9.4 Essex shall not replace or modify the Service Equipment or Software without first providing reasonable notice to Bedfordshire who shall provide its consent, which shall not be unreasonably withheld.
- 9.5 Essex shall be entitled to undertake routine upgrades to the Service Equipment, Software or hardware provided that it shall provide reasonable notice to Bedfordshire in advance if this is likely to affect the Services, Bedfordshire shall provide its consent which shall not be unreasonably withheld.

10. GOVERNANCE BOARDS

- 10.1 The Parties shall establish an Operational Governance Board and an Executive Governance Board in accordance with the provisions of Schedule 4 and whose role will be that set out in schedule 4.
- 10.2 The Governance Boards shall be made up of representatives appointed by both Parties in accordance with Schedule 4.

- 10.3 The Governance Boards shall be entitled to establish their own procedures.
- 10.4 The Parties shall co-operate and provide such information, reports and data as is reasonably required by the Governance Boards to allow the Governance Boards to perform their roles.

11 CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 11.1 Both Parties shall, and shall ensure that their employees and agents shall, at all times keep confidential and secret and will not disclose to any person other than a person so authorised by the other Party any Confidential Information provided that:

the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Agreement.
- 11.2 The provisions of this Clause 11 shall not apply to any Confidential Information which:
 - 11.2.1 is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or
 - 11.2.2 is obtained by a third party who is lawfully authorised to disclose such information; or
 - 11.2.3 is authorised for release by the prior written consent of the Discloser of such Confidential Information to the Recipient; or
 - 11.2.4 the disclosure of which is required to ensure the compliance of either party with this Agreement; or
 - 11.2.5 is required to be disclosed to the professional advisors, including auditors, lawyers, independent consultants, advisors, insurers and bankers of each Party provided that the Recipient ensures that the person receiving the Confidential Information is made aware and agrees to be bound by the terms of this Clause 11.
- 11.3 Nothing in this Clause 11 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise required by any Law.
- 11.4 The Parties shall comply with the FOIA, the Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under Section 45 and 46 of the FOIA respectively) and the Environmental Information Regulations 2004 to the extent that they apply to the Parties under this Agreement.
- 11.5 The Parties agree that:
 - 11.5.1 the provisions of this Clause 11 are subject to the respective obligations and commitments of the Parties under the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under Section 45 and 46 of the FOIA respectively) and the Environmental Information Regulations 2004; and
 - 11.5.2 the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the recipient of the relevant request referred to in Clause 11; and
 - 11.5.3 where a Party is managing a request as referred to in Clause 11 the other Party shall cooperate with that Party and shall respond within 5 (five) working days of any request by that Party for assistance in determining how to respond to a request for disclosure.

- 11.6 The Parties shall:
- 11.6.1 notify the other Party of any request for information relating to the Services or the subject matter of this Agreement, as defined under Section 8 of the FOIA, as soon as practicable after receipt and in any event within 5 (five) working days of receiving a request for information;
 - 11.6.2 provide the other Party with a copy of all information relevant to each and every such request in its possession or power in the form that the Parties require within 5 (five) working days (or such other period as the Parties may specify) of the Parties requesting that any such information;
 - 11.6.3 provide all necessary assistance as reasonably requested by the Parties to enable the Parties to respond to a request for information, as defined under Section 8 of the FOIA within the time for compliance set out in Section 10 of the FOIA; and
 - 11.6.4 comply with their respective Regulation of Investigatory Powers Act 2000 policies.

12 DATA PROTECTION

- 12.1 The Parties acknowledge their respective duties under the DPA and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.
- 12.2 Each Party in performing relevant Services under this Agreement:
- 12.2.1 shall create and keep up to date such records as it is reasonable and prudent to create including providing details to the other Party of how its duties under the DPA are being performed;
 - 12.2.2 shall keep the records stored electronically in accordance with statutory requirements and appropriate guidance in relation to storing the records;
 - 12.2.3 shall take reasonable steps to ensure the security of all records at all times and safeguard the records from unauthorised access or tampering;
 - 12.2.4 shall ensure that a comprehensive recovery system is in place in the event of partial or complete failure of the computer system;
 - 12.2.5 shall register under the DPA to the full extent required for the purposes of this Agreement and maintain such registration to comply in full with the provisions of the DPA and to procure compliance by relevant officers, agents and employees with this Clause 12;
 - 12.2.6 shall take all reasonable steps to ensure that its officers, employees, agents and sub-contractors have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data held or processed by the Party and its officers, employees, agents and sub-contractors and that it has taken, or will take at all material times all reasonable steps to ensure the reliability of any of its officers, employees, agents and sub-contractors which will have access to Personal Data processed as part of the Services;
 - 12.2.7 undertake that it will act only on the instructions of the other Party in relation to the processing of any Personal Data made available by or on behalf of that other Party in connection with the Services (or otherwise);

- 12.2.8 undertake that it will only obtain, hold, process, use, store and disclose Personal Data as is necessary to perform its obligations under this Agreement and that such data will be held, processed, used, stored and disclosed only in accordance with the DPA and any other applicable Law; and
- 12.2.9 undertakes to allow the other Party access to any relevant premises on reasonable notice to inspect its procedures, technical and organisational measures.
- 12.3 The Parties shall use all reasonable efforts to assist each other to comply with the DPA. The Parties shall assist each other in complying with subject access requests served under Section 7 of the DPA and the Parties shall consult with each other prior to the disclosure of any Personal Data in relation to such requests.
- 12.4 This Clause 12 shall survive the termination or expiry of the Agreement howsoever caused and shall continue thereafter in full force and effect.
- 12.5 Both Parties shall ensure that records are kept for the accessing of information and data under the requirements specified in the Regulation of Investigatory Powers Act 2000 Part II, and Access to Communications Data

13 BEST VALUE

Each Party shall co-operate as far as practicable with the other to meet their respective Best Value duties under the Local Government Act 1999 in connection with the relevant Services.

14 INSURANCE

- 14.1 Both Parties may maintain in force insurance policies to cover its relevant potential public and professional liabilities in connection with this Agreement.
- 14.2 Should a Party rely on insurance to mitigate against any potential financial Losses the other Party may request documentary evidence to confirm that all insurance policies are fully maintained and that the premia on them are fully paid.
- 14.3 This Clause 14 shall survive in all respects the expiry of this Agreement or its termination for any reason.

15 INTELLECTUAL PROPERTY RIGHTS

- 15.1 Ownership of all Background IPR shall remain with the respective owner but each Party hereby grants the other Party a perpetual, irrevocable, royalty free licence to use such of its Background IPR as necessary to enable it to fulfil its functions under this Agreement.
- 15.2 Foreground IPR shall belong absolutely to the Party that creates it from the moment it is created, but that Party hereby grants to the other Party a perpetual, irrevocable, sub-licensable licence to use the Foreground IPR for the purposes of this Agreement during the Term and this licence shall continue after the Term in order to enable either party or any Replacement Service Provider to continue to provide control services.

16 TERMINATION

- 16.1 Without prejudice to the remainder of this Clause 16 and subject to the Parties complying with the Exit Strategy either Party shall be entitled to terminate this Agreement at any time without liability to the other Party by giving such other Party written notice of termination in accordance with Clause 2.1.1.
- 16.2 Without prejudice to any other right or remedy it may possess and notwithstanding the provisions of Clause 27 (Dispute Resolution) either Party shall be entitled upon the happening of any of the following events to serve no less than 18 (eighteen) months' written notice to terminate this Agreement:
- 16.2.1 if any payment or act made or to be made or any matter or thing done or to be done, under this Agreement that is material to this Agreement is, or is reasonably anticipated by either Party to be ultra vires in respect of either Party; and/or
 - 16.2.2 if the other Party commits a material breach of this Agreement which in the reasonable opinion of the first Party is not capable of remedy; and/or
 - 16.2.3 if the other Party having committed a remediable breach or persistent breach does not rectify such breach within three months or such other period as may be reasonably agreed by the parties of a written notice from the first Party requiring such rectification; and/or
 - 16.2.5 if the other Party repeats a remediable breach having already received a remediation notice for that breach or for a breach substantially similar to that breach; and/or
 - 16.2.6 where there is a Change in Law which directly or indirectly results in any material matter contemplated by this Agreement.
- 16.3 Either Party is entitled to terminate the Agreement pursuant to Clause 18 (Prevention of Corruption).

17 EFFECTS OF TERMINATION

- 17.1 With effect from:
- 17.1.1 the termination of this Agreement in accordance with Clause 2.1.3;
 - 17.1.2 the service of any notice of termination of this Agreement by either Party to the other Party pursuant to Clause 16;
 - 17.1.3 the start of the period of 18 (eighteen) months immediately prior to the expiry of this Agreement; and
 - 17.1.4 the expiry or termination of this Agreement for any reason whatsoever and for a period of 6 (six) months following such expiry or termination;

the Exit Strategy shall apply, and the Parties shall undertake all actions and give each other such assistance to ensure a smooth, orderly and effective transfer and ongoing provision of the Services and to minimise any disruption of such Services and shall not take any action to prejudice or hinder the same until the termination process is complete.

18 PREVENTION OF CORRUPTION

- 18.1 If either Party or any of its employees or officers or anyone acting on their behalf (with or without that Party's knowledge):
- 18.1.1 makes a gift or some other consideration to any person with the intent of obtaining some benefit in relation to the Agreement; and/or
 - 18.1.2 puts pressure on any person with the intent of obtaining some benefit in relation to the Agreement; and/or
 - 18.1.3 commits any offence under the Bribery Act 2010; and/or
 - 18.1.4 commits any other similar offence under any subsequent legislation;
- the other Party shall have the right to terminate the Agreement on giving no less than 18 months' notice except where in the reasonable opinion of that enforcing Party:
- 18.1.5 the action or offence described in Clauses 18.1.1 to 18.1.4 is an isolated and infrequent incident; and
 - 18.1.6 the other Party has taken reasonable steps to avoid the commission by any of its officers, employees or anyone acting on its behalf of any such action or offence and the other Party has taken reasonable steps (including where appropriate the dismissal of any employee or officer) to prevent the future commission by any of its employees or officers or anyone acting on its behalf of any such action or offence; and
 - 18.1.7 such action or offence has not been authorised, endorsed or condoned by the enforcing Party.

19 CHANGE

- 19.1 The Parties shall review the operation of the arrangements and all or any procedures or requirements of this Agreement in preparation for a Change in Law affecting the arrangements so as to ensure that the arrangements comply with such Law and where either Party considers that a Change in Law requires a Material Change, the provisions of Clause 19.2 shall apply.
- 19.2 Any requirement for a Material Change shall be subject to the Change Control Procedure.
- 19.3 The Parties agree that business as usual shall not constitute a Change for the purposes of the Change Control Procedure and shall be accommodated within the usual operation of the Control System.

20 ASSIGNMENT AND SUB CONTRACTING

- 20.1 Neither Party shall assign or transfer or purport to assign or transfer to any other person any of its rights or obligations under this Agreement, nor shall it subcontract any of its rights or obligations without the prior written consent of the other Party.
- 20.2 The Parties shall be entitled to transfer this Agreement to a statutory successor taking over the relevant statutory responsibilities.
- 20.3 The Parties acknowledge and agree that the Support and Maintenance Services will be provided by the Contractors.

21 SEVERANCE

- 21.1 If at any time any provision of this Agreement or part of any provision is found by any court or other authority of competent jurisdiction to be or becomes illegal, invalid or unenforceable for any reason, such provision or part provision, to the extent required, shall be deemed to be omitted from this Agreement and shall not affect the legality, validity or enforceability of the remaining provisions in the Agreement.
- 21.2 If a provision of this Agreement or part of any provision is found illegal, invalid or unenforceable the Parties shall negotiate in good faith to amend such provision or part provision such that, as amended, the provision or part provision is legal, valid and enforceable, and, to the greatest extent possible, achieves the Parties' original intentions on entering into this Agreement.

22 WAIVER

- 22.1 The rights and remedies of either Party in respect to this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by such party to the other nor by failure or delay by the said party in ascertaining or exercising of any such rights or remedies.
- 22.2 Any waiver by either party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.
- 22.3 No waiver shall be effective unless it is communicated in writing to the other Party.

23 THIRD PARTY RIGHTS

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

24 NOTICES

- 24.1 Except as otherwise expressly provided in this Agreement, no notice or other communication from one Party to the other shall have any validity under the Agreement unless made in writing by or on behalf of the Party sending the communication.
- 24.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (delivered by hand or sent by post, registered post or by the recorded delivery service), electronic mail or by facsimile transmission. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 (two) Working Days after the day on which the letter was posted, or 4 (four) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.
- 24.3 For the purposes of Clause 24.2 the address of each Party shall be:
For Bedfordshire: Bedfordshire Fire and Rescue Headquarters, Southfields Road, Kempston, Bedford MK42 7NR
For Essex: Essex County Fire and Rescue Service Headquarters, Kelvedon Park, Rivenhall, Witham, Essex CM8 3HB
- 24.4 Either Party may change its address for service by serving a notice on the other Party in accordance with this Clause.

25 REPRESENTATION AND WARRANTY

Each Party represents and warrants to the other Party that at the Commencement Date it has full power and authority to enter into and perform its obligations under this Agreement.

26 FURTHER ASSURANCES

The Parties shall carry out, agree and execute all further documents, deeds, agreements and consents as may be necessary to carry out the provisions of this Agreement and bring this Agreement into full force and effect.

27 DISPUTE RESOLUTION PROCEDURE

27.1 The Parties shall attempt, in good faith, to resolve any dispute promptly by negotiation which shall be conducted as follows:

27.1.1 the Parties shall endeavour to notify each other of any anticipated disputes so that any potential dispute can be avoided by negotiation between them;

27.1.2 the Parties shall endeavour to resolve any failures to agree matters or any disputes by direct negotiations between senior representatives of both Parties;

27.1.3 notwithstanding any other provisions of this Clause 27, the Parties shall comply with the provisions of the dispute resolution procedure set out in this Clause 27.

27.2 If a dispute cannot be resolved in accordance with Clause 27.1 the following procedure shall apply:

27.2.1 the dispute shall be referred to the Operational Governance Board;

27.2.2 if the Operational Governance Board fails to resolve the dispute within 14 (fourteen) days of the date referral, either Party may refer the dispute to the Executive Governance Board;

27.2.3 if the Executive Governance Board fails to resolve the dispute within 14 (fourteen) days of the referral date, either Party may refer the dispute to the Chief Fire Officers;

27.2.4 if the Chief Fire Officers fail to resolve the dispute within 14 (fourteen) days of referral the Parties shall refer the dispute for Expert determination.

An Expert is a person appointed in accordance with this Clause 27 to resolve a dispute under this Agreement.

27.3 The Parties shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of his/her appointment.

27.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the Parties within a maximum of 2 (two) months of the matter being referred to the Expert.

- 27.5 The Parties are entitled to make submissions to the Expert and will provide the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 27.6 Each Party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel as the other Party reasonably requires to make a submission under this Clause 27.
- 27.7 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the dispute which may include any issue involving the interpretation of any provision of this Agreement. The Expert's written decision on the matters referred to him/her shall be final and binding on the Parties in the absence of manifest error or fraud.
- 27.8 Each Party shall bear its own costs in relation to the reference to the Expert. The Expert's fees and any costs properly incurred by him/her in arriving at a determination shall be borne by the Parties equally or in such other proportions as the Expert shall direct.
- 27.9 Nothing in this Clause 27 shall prevent either Party from instigating legal proceedings.

28 ENTIRE AGREEMENT

- 28.1 This Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 28.2 Each Party acknowledges and agrees that in entering into this Agreement it does not rely on, and shall have no remedy in respect of, any statements, warranties, representations, warranties or understandings (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than is expressly set out in this Agreement as a warranty.

29 GOVERNING LAW

- 29.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales.
- 29.2 Subject to the provisions of Clause 27 (Dispute Resolution) of this Agreement, both Parties agree the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Agreement.

30 VARIATION

There shall be no variation to this Agreement without the prior written consent of both Parties.

31 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement

THIS DOCUMENT is executed as a Deed and delivered on the date stated at the beginning of the deed.

EXECUTED AS A DEED by)
affixing the COMMON SEAL of)
BEDFORDSHIRE FIRE AND RESCUE)
AUTHORITY by)
In the presence of:

Authorised Signatory



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EXECUTED AS A DEED by)
affixing the COMMON SEAL of)
ESSEX POLICE, FIRE AND CRIME)
COMMISSIONER FIRE AND RESCUE)
AUTHORITY by)
In the presence of:

Authorised Signatory

